

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman  
Alyce A. Hanley  
Dwight D. Ornquist  
Tim Cook  
James M. Posey

In the Matter of the Consideration )  
of Rules Governing the Provision ) R-97-8  
of Telecommunications Relay Service )  
in Alaska ) ORDER NO. 1  
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**ORDER WAIVING PROVISIONS OF 3 AAC 51.030(a); ADOPTING 1998  
UNIVERSAL ACCESS SURCHARGE RATES FOR TELECOMMUNICATIONS  
RELAY SERVICE; ISSUING NOTICE OF INQUIRY; AND  
ESTABLISHING HEARING AND FILING SCHEDULE**

BY THE COMMISSION:

Background

By Order R-91-1(3),<sup>1</sup> dated July 12, 1991, the Commission initially adopted regulations governing the provision of dual-party telecommunications relay service (TRS) for the deaf,<sup>2</sup> hard of hearing, and speech impaired. The adopted regulations were

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<sup>1</sup>That Order was issued in the proceeding entitled: *In the Matter of the Consideration of Regulations To Provide Telecommunications Service for the Deaf, Hard of Hearing, and Speech Impaired.*

<sup>2</sup>Under 3 AAC 51.199(a)(4) "telecommunications relay service" means a process by which a deaf, hard-of-hearing, or speech-impaired person utilizing a text telephone (TT) [currently referred to as Telecommunications Device for the Deaf or TDD] or other nonvoice terminal device may communicate over the telecommunications network with a voice terminal device user, and vice-versa, through the assistance of a relay system.

modified to reflect statutory changes and reissued for comment in Order R-91-1(5), dated June 8, 1992, and those modified regulations were readopted by the Commission in Order R-91-1(6), dated September 29, 1992. 3 AAC 51.010 – 51.999.

The TRS regulations require, among other things, that a prospective TRS provider must first obtain a certificate of public convenience and necessity from the Commission. By Order U-91-73(1),<sup>3</sup> dated January 21, 1992, the Commission selected GCI COMMUNICATION CORP. (GCICC) as Alaska's monopoly TRS provider. Under 3 AAC 51.030 GCI's provision of TRS is subject to an annual cost review by the Commission.

By Order U-95-33(3),<sup>4</sup> dated October 15, 1996, the Commission, among other things, approved a stipulation between GCICC, the Commission Staff (Staff), and the Alaska Association of the Deaf (AAD) which, among other things, set GCICC's TRS rates for 1996 and 1997 at \$.27 per month for residential and single-line businesses and \$.54 per month for multi-line businesses. In the stipulation, the parties also agreed that:

[I]t would be appropriate for the Commission to issue a Notice of Inquiry as to the future provision of TRS,

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<sup>3</sup>That Order was issued in the proceeding entitled: *In the Matter of the Application by GCI COMMUNICATION CORP. for a Certificate of Public Convenience and Necessity To Operate as a Telecommunications (Relay Service) Public Utility in Alaska.*

<sup>4</sup>That Order was issued in the proceeding entitled: *In the Matter of the Investigation into the 1995 Revenue Requirement Proposed by GCI COMMUNICATION CORP. for 1996 Universal Access Surcharge Rates for Telecommunications Relay Service and the Quality of That Service.*

including such issues as: the status of TRS as a competitive bid award; the appropriate means of monitoring UAS<sup>5</sup> rates, i.e. bid/budget or revenue requirement; the future of TRS in the post-Telecommunications Act of 1996<sup>6</sup> period; and any other appropriate issues raised on comment.

On June 2, 1997, GCICC filed its annual budget of operations whose costs will be recovered through the UAS for Commission review as provided under 3 AAC 51.030. Based on its 1997 budget, GCICC requested that the current rates of \$.27 per month for residential and single-line businesses and \$.54 per month for multi-line businesses remain at the same level for 1998.

Staff reviewed GCICC's filing and on June 23, 1997, submitted its analysis and recommendation (Report) thereon. A copy of Staff's Report is attached to this Order as an Appendix.

Staff recommended that the Commission waive investigation of GCICC's 1998 TRS rates and, instead, issue a Notice of Inquiry (NOI) regarding the TRS issues identified by the parties in the stipulation filed in Docket U-95-33. Specifically, Staff recommended that the proposed NOI seek comment on the following questions:

1. Should the Commission continue to regulate TRS through rate-base, rate-of-return regulation?
  - a. If so, what changes should be made to existing regulations?

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<sup>5</sup>UAS is Universal Access Surcharge.

<sup>6</sup>Hereinafter, the Act, referring to 47 U.S.C. 151 *et seq.* as amended by the Act.

b. If not, what alternative methods of regulation should the Commission consider (e.g., competitive-bid award to a single firm, allowing multiple vendors, etc.)?

2. For commentors proposing an alternative method of regulation, what administrative and rule changes might be required? For example, what kind of organization would be required to administer the collection and distribution of TRS revenues? Interested persons should be invited to submit draft regulations supporting their proposed alternatives.

3. What changes, if any, to TRS are required as a result of the Act?

4. Any other pertinent issues raised on comment that are appropriate to this proceeding.

#### Discussion

At its June 25, 1997, Public Meeting, the Commission considered Staff's Report in this case to determine whether to waive further review of the 1997 TRS budget filed by GCICC pursuant to 3 AAC 51.030 and instead focus the Commission's resources on investigating possible changes to its TRS regulations (3 AAC 51.010 -- 3 AAC 51.199). The Commission determined that Staff's recommendations are persuasive and that it is in the public interest to waive further investigation of GCICC's TRS costs and allow the current UAS to remain in effect for 1998 pending a final determination in this proceeding.

The Commission concurs with Staff that the potential for a significant reduction in the current UAS rates and an improvement in service quality is more likely to result from a change in the method of procuring TRS services than from a rate case. Accordingly, traditional treatment of GCICC's annual budget filing as a revenue requirement request is waived at this time, and the current UAS rates will remain in effect for 1998 pending a Commission decision in the rulemaking proceeding initiated herein.

The Commission also believes that adjudication of long-standing TRS issues such as alleged cross-subsidization, service quality standards, and annual cost filing requirements could potentially be avoided through adoption of an alternative to rate-base, rate-of-return regulation. Finally, the Commission finds that the questions identified by Staff form an appropriate scope of inquiry for the initial phase of this investigation.

The Commission seeks comments in reply to the questions delineated in the body of this Order and by Staff in its Report and invites those comments by October 9, 1997. The Commission also encourages commentors to submit proposed draft regulations or regulations amendments in support of their positions. This is particularly encouraged in anticipation of addressing the issues presented here in an expedited manner.

Inasmuch as this is a regulation proceeding, commentors are not required to serve their comments on the other entities set out on the service list of this Order. However, all interested

persons may review the comments filed in this proceeding and submit comments in reply thereto if they so wish. Any person wishing to file reply comments may file them with the Commission by November 6, 1997.

**ORDER**

THE COMMISSION FURTHER ORDERS:

1. The provisions of 3 AAC 51.030(a) requiring filing by GCI Communication Corp. of its annual budget of operations for 1997 is waived.

2. The currently effective GCI Communication Corp. Universal Access Surcharge rate of \$.27 per month for residential and single-line businesses and \$.54 per month for multi-line businesses shall remain in effect for 1998 pending Commission adoption of an alternative system of rules governing the provision of Telecommunications Relay Service.<sup>7</sup>

3. By 4 p.m., October 9, 1997, interested persons may file with the Commission written comments and proposals in response to this notice of inquiry. Commentors should address the specific questions more fully delineated in the body of this Order and whether and to what degree the Commission should consider regulation amendments with respect to the issue of Telecommunications Relay Service, as more fully set out below.

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<sup>7</sup>The Commission notes that ordinarily a separate docket would be opened for the purpose of establishing the 1998 Universal Access Surcharge. However, in this instance given the Commission's decision to retain the 1997 surcharge rate and waive further investigation, no separate docket will be opened.

a. Should the Commission continue to regulate Telecommunications Relay Service through rate-base, rate-of-return regulation?

i. If so, what changes should be made to existing regulations?

ii. If not, what alternative methods of regulation should the Commission consider (e.g., competitive bid award to a single firm, permitting multiple vendors, etc.)?

b. For commentors proposing an alternative method of regulation, explain what administrative or regulatory changes would be required. For example, what sort of organization would be required to administer the collection and distribution of Telecommunications Relay Service revenues? Interested persons are invited to submit draft regulation amendments supporting their proposed alternatives.<sup>8</sup>

c. What changes, if any, to the current regulatory oversight of Telecommunications Relay Service are required as a result of the Telecommunications Act of 1996?

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<sup>8</sup>If proposed draft regulations include amendments to current regulations, they should be submitted in legislative drafting style, i.e., proposed deletions to current language should be indicated in [BRACKETS AND ALL CAPITAL LETTERS] and additions to current language should be underlined.

d. Any other issues that are appropriate to this proceeding.

4. By 4 p.m., November 6, 1997, interested persons may file with the Commission reply comments in response to initial comments filed in accordance with Ordering Paragraph No. 3 of this Order.

5. A public hearing<sup>9</sup> in this proceeding shall commence at 9 a.m., November 20, 1997, in the Commission's hearing room at 1016 West Sixth Avenue, Suite 305, Anchorage, Alaska, for the purpose of taking public comment on the issues identified in Ordering Paragraph No. 3 of this Order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 5th day of September, 1997.

BY DIRECTION OF THE COMMISSION

( S E A L )

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<sup>9</sup>If you are a person with a disability who may need a special accommodation, auxiliary aid, or service or alternative communication format in order to participate in this hearing, please contact Christy Hilde at 1-907-276-6222 or TDD 1-907-276-4533 at least two weeks before the hearing to make the necessary arrangements.