

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 Tariff Revision, Designated as TA94-3, Filed by the GTE ALASKA INCORPORATED for an Interim and Permanent Rate Increase and Rate Redesign )  
 ) U-97-87  
 ) ORDER NO. 1  
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**ORDER SUSPENDING PERMANENT OPERATION OF TARIFF REVISION; GRANTING INTERIM RATE INCREASE; GRANTING INTERIM RATE REDESIGN, IN PART; DESIGNATING A SUBSET OF COMMISSION STAFF A PARTY; ESTABLISHING HEARING AND FILING SCHEDULES; AND APPOINTING HEARING OFFICER**

BY THE COMMISSION:

Background

On September 20, 1996, GTE ALASKA INCORPORATED (GTE) filed a tariff revision, designated as TA94-3, requesting an interim and permanent rate increase and an interim and permanent rate redesign. The Commission Staff (Staff) reviewed the filing and determined that it is in compliance with the requirements of 3 AAC 48.275(a) and 3 AAC 48.275(h).<sup>1</sup>

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<sup>1</sup>GTE granted requests by Staff for two extensions of the notice period of this filing to the extent that the statutory (continued...)

GTE's filing was noticed to the public on September 26, 1996, with a closing date of October 28, 1996, for the submission of statements in support of, or in opposition to, the proposed tariff revision. Comments were filed by three GTE customers opposing rate increases proposed by GTE.

#### Discussion

On November 15, 1996, the Commission considered GTE's filing and Staff's recommendation thereon, together with the comments filed in response to the public notice. On that date the Commission accepted the recommendation of Staff to suspend the permanent operation of the filing and grant the interim and refundable rate increase and rate redesign proposed by GTE. A copy of Staff's recommendation is attached to this Order as an Appendix, and a discussion of the Commission's decision follows.

#### **Interim Rates**

The standards which the Commission applies in assessing requests for interim rate relief accompanying requests for permanent rate relief were discussed in detail in Order U-86-20(3), issued July 16, 1986, *In the Matter of the Filing of a Tariff Revision, Designated as TA140-121, by the MUNICIPALITY*

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<sup>1</sup>(...continued)  
notice period ended November 15, 1996.

OF ANCHORAGE d/b/a MUNICIPAL LIGHT AND POWER DEPARTMENT for an Interim and Permanent Rate Increase.

As stated in that case, the threshold consideration is whether or not a final determination on the permanent rate request is likely to be forthcoming from the Commission within a reasonable period of time. Where the Commission schedules a hearing on permanent rate relief and anticipates final determination within the initial statutory suspension period or a short time thereafter, this is presumptively considered such a reasonable period, and the Commission will generally apply a "probable success" test for interim rate relief.

Under this test, the utility must first make a *prima facie* showing of the need for the requested rate relief. This *prima facie* case must consist of a recital of evidence sufficient to support (but not necessarily obligate) a favorable finding that the rate increase is just and reasonable in the absence of evidence to the contrary. At a minimum, the evidence must include a filing in conformance with 3 AAC 48.275(a), plus sufficiently detailed showings with respect to any issues which statute, regulation, or prior Commission order requires the utility to make an affirmative showing. See, e.g., AS 42.05.511(c), regarding affiliated interest transactions.

Second, the utility must demonstrate probable success on the merits of its request. In other words, the utility must

show that more likely than not it will prevail on final hearing on those issues which preliminary analysis indicates are present in the proceeding.

Applying these principles to the present proceeding, the Commission in this Order is scheduling a hearing before the end of the suspension period to establish permanent rates. By all present indications, the Commission should be able to issue its final determination within a short time after that hearing. Consequently, there is no current concern with an unduly protracted proceeding, and the appropriate test remains the "probable success" standard.

With respect to a *prima facie* showing, Staff reviewed the filings submitted by GTE in this case and found them to be satisfactory for further processing. Staff concluded that the utility's submissions contain filings in conformance with 3 AAC 48.275(a) and 3 AAC 48.275(h), as applicable. Accordingly, the Commission concurs that a *prima facie* case is present with respect to a proposed rate increase and rate redesign.

Concerning the merits of the proposed filing, in its preliminary analysis of TA94-3 Staff recommended that the permanent operation of the filing be suspended to allow time for an in-depth analysis. Staff advised the Commission that the utility's filing raises the following issues that are likely to

be contested at the final hearing, for the reasons discussed in Staff's analysis:

1. the appropriateness of GTE's proposed uniform or "postage stamp" rates for its entire service area;

2. whether GTE's proposed operating expenses require further proforma adjustments to reflect a normalized expected recurring level of operating expenses for its local exchange and local special access jurisdictions;

3. the appropriateness of GTE's use of a simple average to compute rate base rather than a 13-month average;

4. whether GTE's motion to keep its entire cost-of-service study (COSS) confidential should be granted; and

5. whether GTE's cost-of-service study appropriately allocates its revenue requirement to all of its local exchange services.

For interim purposes, Staff noted that GTE had requested that only a portion of its requested permanent increase be implemented on an interim basis (13.25 percent). Further Staff noted the analysis of GTE's rates in its recent access-charge proceeding in Docket U-96-57, and, in view of that analysis, Staff did not propose any adjustments for interim rate purposes.

Therefore, Staff recommended that GTE be granted its interim revenue requirement<sup>2</sup> increase of 13.25 percent and that GTE's request for interim implementation of its rate redesign be approved.

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<sup>2</sup>Staff's recommended interim revenue requirement for GTE is \$4,431,414 and consists of operating expenses, including income taxes, totaling \$3,773,018 and a return on rate base of \$658,396.

Based on its review of GTE's filing and Staff's recommendation thereon, the Commission concluded that Staff's recommendation to allow GTE an interim revenue requirement for its combined local exchange and local special access jurisdiction should be accepted. As to GTE's request for interim approval for its rate redesign, the Commission observes that it is standard policy that rate redesign not be allowed on an interim basis absent a showing of good cause. In this instance, the Commission concurs with Staff's analysis that GTE's implementation of its proposed postage-stamp rates on an interim basis will avoid customer confusion in the long run.

If the interim increase granted herein were applied to current rates rather than on the redesigned rates proposed by GTE, when a permanent rate increase/rate design is granted that includes implementation of postage-stamp rates, some customers would experience further substantial increases while others would experience rate decreases. The result would be contrary to the Commission's goal of rate stability. With approval of GTE's requested interim rate redesign, any subsequent changes to the utility's permanent revenue requirement and rate redesign simultaneously will impact all customers within a class uniformly, resulting in less confusion. Accordingly, the Commission accepted

Staff's recommendation to grant GTE's request for interim approval of its rate redesign.<sup>3</sup>

In approving interim, refundable rates, the Commission may at its discretion require an escrow account or bond to assure the availability of refund monies. (AS 42.05.421(c).) In exercising its discretionary powers not to require GTE to escrow funds or post a bond, the Commission will require the utility to refund any revenue gained from the interim rate increase which exceeds the revenue which would have been derived during the same period at the level of permanent rates ultimately granted in this proceeding.

The Commission has determined that GTE has demonstrated probable success of prevailing at final hearing only to the extent recommended by Staff in its preliminary analysis of GTE's filing. For the contested issues, the utility has not established that it is likely to prevail on the merits at final hearing; at best, those matters are currently in a state of equipoise. Those issues will be addressed in the setting of permanent rates for GTE in this proceeding.

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<sup>3</sup>Staff recommended approval of the utility's tariff sheets to effect this interim rate change, subject to certain revisions (see pp. 2 and 15-16 of Staff's recommendation appended to this Order). Staff will correct, as applicable, and return under separate cover validated copies of the tariff sheets to GTE.

In considering a schedule for this case, the issue of GTE's request for confidential treatment of its entire COSS must be addressed prior to hearing rather than as an issue at hearing. Delaying a ruling on confidentiality would affect the manner in which filing and hearing are conducted. That is, if the material is indeed confidential, then the portion of prefiled documents related to the COSS must be filed under seal and the portion of the hearing dealing with the COSS must be conducted *en camera*. On the other hand, if the material is not confidential, the filing and hearing processes are open to the public.

The Commission has delayed issuance of this Order so that Staff could prepare a recommendation on the confidentiality issue of GTE's COSS. However, rather than further delay the processing of the case, the Commission will establish a deadline for such a recommendation from Staff. Staff must file its recommendation on GTE's request for confidential treatment of its COSS by May 30, 1997, and serve that recommendation on GTE. The utility will have seven days in which to respond to that recommendation.

In establishing the schedule for disposition of this proceeding, it is necessary at this juncture to suspend TA94-3 for the full one-year period<sup>4</sup> authorized under AS 42.05.421(a)(1)<sup>5</sup>.

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<sup>4</sup>A six-month suspension of TA94-3 would expire May 15, 1997;  
(continued...)

Because the full interim increase of 13.25 percent on the rate redesign requested by GTE under TA94-3 has been granted, the six-month, interim-rate provision of AS 42.05.421(a)(1) is not an issue. Nonetheless, while granting that requested interim rate relief, given the timing of the issuance of this Order and the fact that a hearing in this matter cannot be scheduled until September 3, 1997, GTE may wish to request additional interim rate relief under TA94-3. Such request will, of course, be subject to the probable-success analysis as discussed above.

In this proceeding, the Commission will designate an advocacy team consisting of specific members of its Staff, to be named a party in this case, while other members of the Staff will serve as advisors to the Commission. As a party, the Advocacy Staff will investigate all relevant issues; will, as necessary, present the results of its investigation to the Commission in testimony; and may submit stipulations of agreed issues for the

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<sup>4</sup>(...continued)  
the one-year suspension of TA94-3 expires November 15, 1997.

<sup>5</sup>AS 42.05.421 provides in pertinent part:

(a) . . . For a tariff filing that changes the utility's revenue requirement or rate design, the suspension may last, unless the commission extends the period for good cause, for a period not longer than

(1) six months before an interim rate equal to the requested rate goes into effect and not longer than 12 months before a permanent rate goes into effect if the annual gross revenues of the utility making the filing are more than \$3,000,000; . . .

Commission's approval. The Advocacy Staff will act under the direction of the Commission's Executive Director. Throughout the proceeding the Advocacy Staff, as well as other parties, will avoid any communications with commissioners or their advisory Staff related to the merits of any subject which is or may become an issue in the proceeding.

Individual members of the Advocacy Staff will be named by the Executive Director. Within one week of the date of this Order, the Executive Director will provide the names of the advocacy Staff to all parties to this proceeding.

The Commission believes that it would be conducive to a fair and expeditious disposition of this proceeding to schedule a public hearing on GTE's proposed rate increase and rate redesign and to establish dates for submission of prefiled testimony (including exhibits), witnesses lists, and statements of issues. The parties are specifically placed on notice that they will be precluded from introducing evidence at hearing that should have been prefiled. Exceptions to this rule will be granted only if there is an adequate showing of good cause why the evidence was not prefiled and a showing that the evidence is necessary for a complete evidentiary record. This rule will be strictly enforced.

The Commission further believes that appointment of a hearing officer will further expedite resolution of this proceeding and, thus, will appoint Patricia Clark to serve as

hearing officer, as provided for under AS 42.05.171 and 3 AAC 48.165.

**ORDER**

THE COMMISSION FURTHER ORDERS:

1. The permanent operation of the tariff revision, designated as TA94-3, filed by GTE Alaska Incorporated is suspended for an initial period ending November 15, 1997.

2. An investigation is instituted into the reasonableness and propriety of the subject tariff filings.

3. GTE Alaska Incorporated is granted interim approval to implement uniform "postage stamp" rates for its local exchange services, effective December 1, 1996.

4. GTE Alaska Incorporated is granted, on an interim and refundable basis, a combined local exchange and local private line revenue requirement of \$4,431,414, consisting of operating expenses, including income taxes of \$3,773,018, and a return on rate base of \$658,396, effective December 1, 1996.

5. GTE Alaska Incorporated is granted an interim and refundable rate increase of 13.25 percent to its redesigned local exchange rates and local private line services, effective December 1, 1996.

6. GTE Alaska Incorporated shall maintain records of each customer paying the interim rates approved by the Order. The

utility will be required to refund any revenues collected under the interim rate structure in excess of revenues which would have been derived during the same period if permanent rates had been in effect. If the rates which the Commission subsequently allows on a permanent basis are greater than rates allowed on an interim basis, the resultant revenue deficiency may not be collected by GTE Alaska, Inc.

7. A subset of Commission Staff is made a party to this proceeding. The Commission's Executive Director will notify the Commission and all parties to this proceeding of the names of the subset of Commission Staff named as advocates in the proceeding by May 22, 1997.

8. By 4 p.m., May 30, 1997, the Commission Staff shall file a recommendation on the request by GTE Alaska Incorporated to grant confidential status to its cost-of-service study.

9. By 4 p.m., June 9, 1997, GTE Alaska Incorporated shall file its response, if any, to the recommendation by Commission Staff filed under Ordering Paragraph No. 8 above.

10. A public hearing<sup>6</sup> in this proceeding shall convene at 9 a.m., September 3, 1997, in the Commission's hearing room at

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<sup>6</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 the hearing, please contact Christy Hilde at 907-276-6222 or TTY 907-276-4533 at least one week before the hearing to make the necessary arrangements.

1016 West Sixth Avenue, Suite 305, Anchorage, Alaska. At the hearing, GTE Alaska Incorporated shall bear the burden of proving that its proposed tariff revision, designated as TA94-3, and its underlying cost-of-service study is just and reasonable in all respects.

11. By 4 p.m., June 20, 1997, GTE Alaska Incorporated shall submit its list of witnesses and prefiled direct testimony for each witness so designated.

12. By 4 p.m., July 21, 1997, the Commission Advocacy Staff shall file its list of witnesses and prefiled direct testimony for each witness so designated.

13. By 4 p. m., August 8, 1997, GTE Alaska Incorporated shall submit its list of reply witnesses and prefiled reply testimony for each witness so designated.

14. By 4 p.m., August 22, 1997, GTE Alaska Incorporated and the Commission Advocacy Staff each shall file a list of witnesses in the order of their appearance and a statement of issues. If the parties agree, the statement of issues may be filed jointly. Otherwise, each party shall file its separate statement of issues.

15. Patricia Clark is appointed to serve as Hearing Officer in this proceeding.

DATED AND EFFECTIVE at Anchorage, Alaska, this 15th day of May, 1997.

BY DIRECTION OF THE COMMISSION

s( S E A L )