

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 Consider-)	
ation of Reform of Intrastate)	R-97-5
Interexchange Access Charge)	
Rules)	ORDER NO. 8
_____)	
In the Matter of the Consider-)	R-97-6
ation of Intrastate Universal)	
Service)	ORDER NO. 8
_____)	
In the Matter of the Selection of)	
an Administrator of the Alaska)	U-98-168
Universal Service Fund and Other)	
Implementation Issues)	ORDER NO. 2
_____)	

**ORDER ADOPTING REGULATIONS AND MANUAL AMENDMENTS;
ADDRESSING IMPLEMENTATION ISSUES; AND REQUIRING FILINGS**

BY THE COMMISSION:

By Order R-97-5(7)/R-97-6(7)/U-98-168(1), dated November 23, 1998, the Commission adopted changes to regulations and to the Intrastate Interexchange Access Charge Manual (hereinafter "Access Charge Manual" or "Manual"); opened Docket U-98-168 to consider the selection of an administrator for the Alaska Universal Service Fund (AUSF); and established various filing requirements. The requirements included that the Municipality of Anchorage d/b/a

Anchorage Telephone Utility a/k/a ATU Telecommunications (ATU) and GCI Communication Corp. d/b/a General Communication, Inc., d/b/a GCI (GCI) file by December 1, 1998, tariff revisions to adopt nontraffic sensitive access charge rates, that the Alaska Exchange Carriers Association, Inc. (AECA) file by December 1, 1998, any necessary tariff revisions, and that AECA sponsor an industry workshop, if necessary, to address any unresolved issues.

The Commission also directed all participants to the Joint Consensus Regarding Certain Issues, filed August 24, 1998, to submit a joint plan of action by December 7, 1998, that would permit the AUSF to be operational by January 1, 1999. As the Commission stated in the Order, the various filing requirements were designed to assist in the implementation of the new access charge and universal service systems by January 1, 1999. (Order R-97-5(7)/R-97-6(7)/U-98-168(1), p. 4.)

On December 1, 1998, ATU and GCI each filed Carrier and Area Specific Bulk Bill (CASBB) tariffs to collect nontraffic sensitive access charge costs as required by Order R-97-5(7)/R-97-6(7)/U-98-168(1). ATU and GCI each filed supplements to clarify those filings.

On December 1, 1998, AECA filed a motion for extension of time until December 11, 1998 to file its revised tariff.

On December 3, 1998, the Commission issued a further Public Notice regarding a Special Public Meeting to be held on

December 10, 1998, for the purpose of: (1) taking written and oral public comment on the issues raised by Commission Staff's September 15, 1998, report relating to the adoption of a cost-recovery mechanism called a "carrier and area specific bulk bill", and the Department of Law's September 14, 1998, memorandum addressing legal issues regarding an Alaska universal service fund (AUSF); and (2) considering revisions made by the Regulatory Attorney, Department of Law, to the regulations and access charge manual changes submitted to the Department of Law on November 24, 1998, as adopted by Order R-97-5(7)/R-97-6(7)/U-98-168(1).

On December 7, 1998, the industry participants to the joint consensus filed a motion for extension of time to submit a joint plan of action as required by Order R-97-5(7)/R-97-6(7)/U-98-168(1).

On December 10, 1998, the Commission held a Special Public Meeting to consider any further comments received pursuant to the Public Notice and also to consider changes to the Manual and Regulations that had been suggested by the Office of the Attorney General. At that meeting the Commission adopted the changes suggested by the Regulations Attorney, as discussed further below.

Also on December 10, 1998, participants in the prior Joint Consensus submitted, in compliance with the Commission's directives in Order R-97-5(7)/R-97-6(7)/U-98-168(1), a Joint

Consensus on Implementation Issues (hereinafter "Implementation Consensus").

On December 11, 1998, AECA filed its revised tariff in compliance with Order R-97-5(7)/R-97-6(7)/U-98-168(1). That revised tariff eliminates the provisions related to the weighting of retail minutes for allocation of the bulk bill and substitutes provisions consistent with the new regulations to allocate the bulk bill based on access minutes originating or terminating with AECA pool members.

On December 29, 1998, the Commission held a further Special Public Meeting to consider further changes in the Manual and the regulations which were necessary to conform the language to the intent of the Commission. On that same date, participants in the Implementation Consensus submitted a Replacement for Joint Consensus on Implementation Issues (hereinafter "Replacement Implementation Consensus.")

Discussion

I. Access Charge and Manual Amendments:

At the Special Public Meeting of December 10, 1998, the Commission adopted the changes to the regulations and Manual which had been suggested by the Office of the Attorney General. The changes, with two exceptions, were editorial changes for clarity and to conform the wording contained in the Department of Law's

Drafting Manual for Administrative Regulations, 13th Edition
(September 1998).

The first substantive change suggested by the Office of the Attorney General concerned the determination of the administrator of the AUSF. The Attorney General recommended replacing the word "select" with the word "approve" in 3 AAC 53.310, so that the regulation would provide that the Commission will "approve", rather than "select", the administrator. The Commission has considered this change and determined that it should be adopted. In adopting this change, it is the Commission's understanding and intent that the Commission's authority to determine the appropriate administrator, and reject any inappropriate administrator, is in no way diminished. Instead, much as is the case when the Commission receives applications for a certificate of public convenience and necessity, the decision to "approve" any application rests with the Commission.

The other substantive change suggested by the Office of the Attorney General was the addition of a new section, 3 AAC 48.442, permitting a delayed implementation of the provisions regarding DEM weighting. It appears that all of the necessary steps to transfer DEM weighting from access charges to the universal service fund may not be accomplished by the effective date of the regulations. Accordingly, the section

permitting a delayed implementation date will enable the Commission and participants to coordinate the transfer of DEM weighting from access charges to universal service, and the Commission has determined that the additional section should be adopted.

The remaining changes suggested by the Office of the Attorney General, editorial and clarifying in nature, have also been reviewed by the Commission, and the Commission has determined that they should be adopted.

At the Special Public Meeting held on December 29, 1998, the Commission considered two changes which are necessary to conform the language of the regulations to the intent of the Commission and all participants. First, the category "local exchange services" was inadvertently omitted from the list of services in 3 AAC 53.340(a) that are subject to the universal service surcharge, and "access to interexchange services" was unnecessarily included in the list. Given the intent of the Commission and all participants in these proceedings to assess the universal service surcharge on all intrastate end user revenues of communications carriers that make use of the public network, including local exchange carriers, the addition of "local exchange services" is appropriate. Given the fact that revenue for access to interexchange service is not an end user revenue, "access to interexchange services" should be deleted.

Second, 3 AAC 340(e) should be reworded to reflect the fact that a monthly billing of the universal service payment by the universal service fund administrator is not necessary. The percentage AUSF surcharge will be determined and approved by the Commission. After it is determined, each carrier that is required to pay into the universal service fund must pay, monthly, that percentage of its intrastate end user revenues. A billing by the administrator is not necessary. Instead, each intrastate carrier subject to the charge should simply be required to remit the appropriate percentage of its intrastate end user revenues each month. Section 3 AAC 340(e) is reworded to reflect the collection methodology.

The Commission finds that the foregoing modifications of the regulations and Manual changes adopted are appropriate. Accordingly, the changes to the Commission's regulations, attached hereto as Appendix A are adopted.

II. Implementation Issues:

A. Effective Date

The parties to the Implementation Consensus and the Replacement Implementation Consensus requested that the effective date for all access charge reforms, other than the shift in weighted DEM from the access charge system to the AUSF system, be January 1, 1999. Those parties stated that, whether or not the new regulations are technically in effect as of January 1, 1999,

they would voluntarily accept access charge reforms as of that date. The parties further stated that the shift in weighted DEM should be effective March 1, 1999.

In order to implement revised access charges effective January 1, 1999, ATU and GCI had, as required by Order R-97-5(7)/-R-97-6(7)/U-98-168(1), submitted CASBB tariffs for nontraffic sensitive access charge costs on December 1, 1998, with an intended effective date of January 1, 1999. Those tariffs are based on the approach approved by the Commission. AECA submitted, on December 11, 1998, a revised tariff to reflect textual changes required by the amended regulations and Manual. AECA's tariff revision provides that the bulk bill will be allocated among interexchange carriers based on unweighted access minutes originating or terminating with pooled companies, rather than on retail market share. The parties also agreed in the Replacement Implementation Consensus that the actual revenue requirement and rates to be filed by AECA, based on the recently completed access charge proceedings, would not include the revenue requirement or associated demand of ATU and that, after January 1, 1999, neither ATU nor GCI would participate in the AECA pool.

The Commission has determined that the proposal in the Replacement Implementation Consensus to implement all access charge reforms on January 1, 1999, other than the shift in DEM weighting, should be approved. The Commission observes that, each

year, the new access charge rates and revenue requirements are not filed with the Commission until well after January 1, but those rates are effective for services rendered after January 1 that are actually billed in February or March. Very similarly in this instance, the bills for service rendered after January 1, 1999, will not be issued until February or March, at which time the regulations and Manual amendments will be fully effective.

The Commission has determined that good cause exists to implement the changes on January 1, 1999. Because of the departure of ATU from the AECA pool and other modifications to the access charge system, and because access charge rates are determined on an annual basis, significant administrative and computational problems would arise if the regulations are implemented at any date other than January 1. Accordingly, the Commission approves the consensus proposal to implement the changes on January 1, 1999.¹

The Commission has also considered the proposal in the Replacement Implementation Consensus to delay until March 1, 1999, the shift of weighted DEM support from access charges to the universal service fund. The Commission agrees with the participants in the consensus that it will take some time for a universal service fund administrator to be approved, collect

¹The Commission will consider the specific changes to AECA's, ATU's and GCI's tariffs at its January 22, 1999 tariff action meeting.

necessary data, determine a surcharge, obtain Commission approval, and then collect and distribute funds to cover weighted DEM support. As a practical matter, this simply cannot be accomplished by January 1, 1999. Accordingly, the Commission agrees that the shift in weighted DEM support should be implemented on March 1, 1999.

B. Administrator of AUSF

In the Implementation Consensus and (by reference) in the Replacement Implementation Consensus, the participants provided the Commission with the Certificate of Incorporation, the Articles of Incorporation, and the Bylaws of the Alaska Universal Services Administrative Company (AUSAC), as well as a contract between AUSAC and AECA for administrative services. Those documents were adopted by reference in the Replacement Implementation Consensus. Mr. Moninski, President of AUSAC Board of Directors, also explained at the Public Meeting that the AUSAC had held the initial meeting of its Board of Directors and had taken a series of actions, and planned many additional actions, necessary for the proper implementation of an intrastate universal service fund. Mr. Moninski listed the members of the AUSAC Board of Directors, which includes representatives from diverse interests in telecommunications in the state. Both GCI and AT&T, which will be the largest contributors to the fund, provided

comment favorable to the formation and continuation of AUSAC as the AUSF administrator.

The Commission has considered the consensus regarding AUSAC, as well as the comments at the Special Public Meeting. The Commission will accept the Implementation Consensus, together with its attached documents, as an application by the AUSAC for approval as the administrator of the AUSF on a temporary basis.

Independently, the Commission also recognizes that the "start-up" processes involved in the early stages of administration of the intrastate universal service fund are numerous, complex, and time-consuming. The Commission finds that, particularly at this early stage, it is necessary and desirable to approve an administrator of the universal service fund that has experience in telecommunications and that has the confidence of the entities that will pay into the fund. The Commission further finds that the AUSAC, with its diverse representation of telecommunications carriers and support of the industry, possesses these attributes. Clearly, as required by the regulation 3 AAC 53.310(b), the AUSAC has the ability to operate the fund in a neutral and impartial manner and the skills to bill, collect, and distribute the necessary funds.

Accordingly, the Commission has determined that the AUSAC should be given temporary operating authority to act as the administrator of the universal service fund. This authority

includes all the powers of the permanent administrator, including the authority of the AUSAC, and its initial Board of Directors, to conduct meetings, approve Bylaws, elect officers, approve notices by members of their intent to participate in AUSAC, execute the contract with AECA, calculate the initial surcharge rates, bill carriers, and collect and distribute funds. The authority is revocable at any time, and the grant of this temporary operating authority shall not be considered a factor in favor of AUSAC in any subsequent proceeding to approve an appropriate administrator.

C. Other Implementation Issues

The Commission directs AUSAC expeditiously to take steps necessary to implement the AUSF by March 1, 1999. Specifically, by February 1, 1999, the AUSAC shall submit to the Commission its initial annual budget, including the costs of its internal operations (including its contract with AECA) and the cost of funding weighted DEM support and the Lifeline Programs. All local exchange carriers, each of which is directly or indirectly a signatory to the Replacement Implementation Consensus shall, no later than January 1, file with AUSAC a calculation of the amount of its weighted DEM support for 1999. Additionally, by the same date those local exchange carriers shall provide AUSAC with the number of Lifeline customers it currently has and an estimate of the number it will have at the end of 1999.

The AUSAC also needs to proceed promptly to hold a membership meeting to solicit nominations to the Board of AUSAC. Accordingly, no later than the February 1, 1999, the AUSAC shall notice and hold the initial meetings of its membership groups for nominations to the Board of Directors, and the AUSAC shall forward all such nominations to the Commission.

Another step that must be accomplished quickly in order to implement the AUSF is the determination of the amount of total statewide intrastate end user revenues that are subject to the USF surcharge. A determination of this amount is necessary in order to determine the appropriate percentage surcharge. In order to determine this amount, information from all telecommunications public utilities subject to the surcharge regarding annual end user revenues is necessary. Accordingly, all public utilities subject to the surcharge are required to file, no later than January 15, 1999, the amount of their intrastate end user revenues. All public utilities subject to the surcharge must report their intrastate end user revenues for calendar year 1997 on the form attached hereto as Appendix B, which is approved for this initial report of revenues.

The calculation of the AUSF surcharge will be based on the funds necessary, including the funds for weighted DEM support, Lifeline, and administration, and on the total amount of intrastate end user revenues subject to the surcharge. The

information on the necessary funds for weighted DEM support and on the number of Lifeline customers will be provided to AUSAC by January 1, 1999, and the information on the total end user revenues will be provided to AUSAC by January 15, 1999. No later than February 1, 1999, AUSAC shall file with the Commission a calculation of the surcharge amount.

The AUSF surcharge will be a new cost which is not included in existing regulated rates, and regulated companies should be allowed to collect this mandatory charge from ratepayers. Rather than requiring companies to file a full revenue requirement proceeding, the Commission believes that it would be appropriate to allow regulated companies to recover the cost through a surcharge.

This is consistent with and comparable to the collection methodology which is used for the Commission's Regulatory Cost Charge (RCC). If the carrier decides to pass this surcharge on to the customer, the surcharge should be a specific line item on the bill of each end user, labeled the "Alaska Universal Service Fund Surcharge."

The surcharge that regulated companies shall be permitted to include in rates should be at the same percentage as the surcharge submitted by the AUSAC and approved by the Commission. This will ensure that there is neither an undercollection or overcollection of revenues. For the sake of

administrative efficiency, the Commission has determined that the AUSAC should file with the Commission a simplified "tariff" setting out the amount of the surcharge and the terms under which it applies. AUSAC shall file that tariff with the Commission, as part of the filing of the surcharge calculation, on February 1, 1999. Each regulated carrier that intends to pass the surcharge to end users must also file a tariff, but may simply file a tariff concurring in the AUSAC tariff. Any regulated carrier that intends to pass the surcharge on to customers beginning March 1, 1999, shall file its concurring tariff no later than February 5, 1999. The Commission will partially waive the notice period and require modified notice procedures, and the Commission intends to address the tariffs by February 26, 1999, effective March 1, 1999.

D. Implementation of Lifeline Support

The new regulations authorize state support for "Lifeline" service for eligible subscribers, and this support will result in an additional federal contribution to eligible Lifeline customers. 3 AAC 53.350(c). This support will promote universal service statewide by enabling additional subscribers to obtain basic local telephone service at a lower rate.

Federal regulations require the Commission to adopt eligibility criteria, based solely on income or directly related to income, for participation in the state Lifeline program. 47 CFR § 54.409(a). The federal regulations also set out the

criteria for eligibility in states that do not provide state Lifeline support. 47 CFR § 54.409(b).

The Commission has previously accepted the federal eligibility criteria. Those federal criteria are already included in the approved tariffs of the eligible telecommunications carriers that receive federal Lifeline support for their customers.

The Commission had determined that the federal eligibility criteria are also appropriate for participation in the state Lifeline program. As required, those criteria are based directly on income or are directly related to income. Accordingly, the Commission and AUSAC will use the federal criteria set out in 47 CFR § 54.409(b) for determining participation in the state program.

These criteria will continue to be included in the approved tariffs of eligible telecommunications carriers. Those carriers will be required to submit tariff revisions, retaining those criteria, and also setting out the further rate reductions that will result from the state program and the additional federal contribution.

Upon approval of the tariff revisions setting out the additional rate reductions, the Commission will file a letter with the federal Universal Services Administrative Company (USAC) and the Federal Communications Commission (FCC) confirming that the

Commission has approved the additional reduction in local rates.² Each carrier should submit a proposed letter along with its tariff filing.

Each eligible telecommunications carrier shall submit its tariff revision to reflect the additional local rate reductions, along with a proposed letter for the Commission to send to USAC and FCC no later than February 5, 1999, with an effective date of March 1, 1999.

ORDER

THE COMMISSION FURTHER ORDERS:

1. As more fully discussed in the body of this Order, the changes to the Commission's regulations attached hereto as Appendix A are adopted.

2. The Commission approves the provision of the Replacement for Joint Consensus on Implementation Issues to implement all changes in the access charge system, except for the shift of weighted dial equipment minutes support, on January 1, 1999. This provision is approved as a stipulation of the parties.

3. The Commission approves the provision of the Replacement for Joint Consensus on Implementation Issues to implement the shift of weighted dial equipment minutes support

²This letter is required by the Public Notice announcing the procedures established by the FCC's Common Carrier Bureau for participation in the Lifeline Program, DA97-1892, released September 29, 1997.

from the access charge system to the Alaska Universal Service Fund on March 1, 1999.

4. The Commission grants the Alaska Universal Services Administrative Company temporary operating authority to act as the administrator of the universal service fund. This authority includes all the powers of the permanent administrator, including the authority of the Alaska Universal Services Administrative Company, and its initial Board of Directors, to conduct meetings, approve Bylaws, elect officers, approve notices by members of their intent to participate in the Alaska Universal Services Administrative Company, execute the contract with the Alaska Exchange Carriers Association, calculate the initial surcharge rates, bill carriers, and collect and distribute funds. The authority is revocable at any time, and the grant of this temporary operating authority shall not be considered a factor in favor of the Alaska Universal Services Administrative Company in any subsequent proceeding to approve an appropriate administrator.

5. By February 1, 1999, the Alaska Universal Services Administrative Company shall file its initial annual budget, including the costs of its internal operations and the cost of universal service fund programs.

6. By January 1, 1999, all local exchange carriers shall file with Alaska Universal Services Administrative Company a calculation of the amount of their weighted dial equipment

minutes support for 1999 and shall also file the number of Lifeline customers they currently have and an estimate of the number they will have at the end of 1999.

7. By February 1, 1999, the Alaska Universal Services Administrative Company shall notice and hold the initial meetings of its membership groups for nominations to the Board of Directors, and the Alaska Universal Services Administrative Company shall forward all such nominations to the Commission.

8. By January 15, 1999, all public utilities subject to the universal service fund surcharge are required to file with Alaska Universal Services Administrative Company the amount of their intrastate end user revenues, using the form attached hereto as Appendix B, which is approved for this initial report of revenues.

9. By February 1, 1999, Alaska Universal Services Administrative Company shall file with the Commission a calculation of the proposed surcharge amount together with a simplified tariff setting the amount of the surcharge and the terms and conditions on which the surcharge is applied.

10. By February 5, 1999, each regulated public utility that intends to pass the universal service fund surcharge to end users beginning March 1, 1999, shall file a tariff revision concurring in the Alaska Universal Services Administrative Company universal service fund surcharge tariff. Each tariff shall

provide that the surcharge will be set forth on bills to end users as a separate line item labeled the "Alaska Universal Service Fund Surcharge."

11. The Commission directs Alaska Universal Services Administrative Company and the eligible telecommunications carriers to use the federal criteria set out in 47 CFR § 54.409(b) for determining participation in the state Lifeline program.

12. By February 15, 1999, each eligible telecommunications carrier shall submit a tariff revision to reflect the additional local rate reductions resulting from the state Lifeline program and the additional federal contribution, along with a proposed letter for the Commission to send to the federal Universal Services Administrative Company and the Federal Communications Commission.

DATED AND EFFECTIVE at Anchorage, Alaska, this 30th day of December, 1998.

BY DIRECTION OF THE COMMISSION
(Commissioner Dwight D. Ornquist concurs in result,
with separate statement to follow.)

(S E A L)

3 AAC 53.340(a) is amended and a new paragraph is added, (a)(5) is repealed, and (e) is repealed and readopted, to read:

3 AAC 53.340. UNIVERSAL SERVICE SURCHARGE. (a) A public utility that provides intrastate telecommunications service to the public, or to those classes of users as to be effectively available to the public for a fee, shall pay a universal service surcharge to the AUSF. The public utility must pay the surcharge on its annual gross revenues from end users on the following intrastate telecommunications services:

.....

(5) repealed ___/___/99;

.....

(18) local exchange services.

.....

(e) A public utility subject to the universal service surcharge under this section shall remit its monthly universal service surcharge payment to the administrator of the AUSF within 15 days after the end of each calendar month.

.....

(Eff. 1/10/99, Register 149, am ___/___/99, Register _____)

Register _____, _____ 1999 COMMERCE AND ECONOMIC DEVELOPMENT

Authority: AS 42.05.141 AS 42.05.431 AS 42.05.800
AS 42.05.145 AS 42.05.711 AS 42.05.840
AS 42.05.151

Note to Publisher: Please move the word "and" from after 3 AAC 53.340(a)(16) and place it after 3 AAC 53.340(a)(17).

**Alaska Public Utilities Commission
Universal Service Fund Worksheet**

1	Year of Data:			
2	Filing Period (1/1 -6/30 or 1/1 - 12/31):			
3	Legal Name of Company			
4	d/b/a Names			
5	Mailing Address of Company			
6	Name of preparer			
7	Telephone number of preparer			
8	E-mail of preparer			
9	Mailing address of preparer			
10	Billing Address			
11	Revenues from:	Total Company	Intrastate	
	Local Exchange ¹		Total	From End-users
	Interexchange ²			
	Mobile ³			
	Pay Telephone ⁴			
	Other Intrastate Telecommunications			
	Total			
12	I certify that I am an officer of the above-named company, that I have examined this report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named Company.			
	Signature		Date	

Notes:

1. End-user revenues include monthly service, local calling, connection charges, vertical features, and other local exchange services. End-user revenues do not include state access revenue, intrastate billing and collection revenue, unbundled network element revenues, wholesale services, and revenues from services resold by another LEC.

2. End-user revenues include MTS, toll-free service, 900 service, private line, satellite services, operator and toll calls with alternative billing arrangements (credit card, collect, etc.), pre-paid calling card, and other interexchange service revenues. End user revenues do include wholesale revenues or revenue from retail services resold by another IXC.

3. End-user revenues include cellular, PCS, paging and messaging, mobile radio, and other mobile services.

4. End-user revenues include coin, dial-around, and other pay telephone revenues.