

ALASKA LEGISLATURE

2328

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

"offers" and reply comments and, when necessary, affidavits, site visits, and formal hearings for the presentation of evidence and oral argument. The primary arbitrator's recommended decisions on an individual issue or subissue basis were filed with the Commission as rendered between November 12 and November 27, 1996.

II. ARBITRATED ISSUES

Issue No. 1: Scope of service eligible for wholesale discount

Background

This issue involved the scope of ATU's services that should be available for resale at wholesale rates. ATU's position was that only its currently tariffed service offerings, excluding such offerings as "grandfathered" services, should be available for resale. GCICC's position was that all ATU services should be subject to resale at wholesale rates, except promotions of less than ninety days and means-tested offerings.

On November 11, 1996, the primary arbitrator issued an award on this issue in favor of GCICC. Among other things, the primary arbitrator concluded that:

GCI's proposed decision more closely follows the findings, decisions, and rationale articulated by the Federal Communications Commission (FCC) in its First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Docket No. FCC96-325 (8/1/96) (hereafter "First Report and Order"), paragraphs 863-877 and 935-971, as well as in 47 C.F.R. 51.613 and 51.615, than does ATU's proposed decision.

A copy of the award is attached to this Order as Appendix A and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation to adopt the scope of services eligible for resale as set forth in GCICC's Proposed Decision on the Scope of Services Eligible for Resale at Wholesale Rates, October 11, 1996, at pages 1-2.

Accordingly, the Commission accepts the primary arbitrator's award to GCICC regarding the scope of the services eligible for resale. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 2: Wholesale Discount Rate

Background

This issue involved the rate of wholesale discount on ATU's services available for resale at wholesale rates. Both parties proposed similar wholesale discount rates after the first two years of competition; however, GCICC proposed a single rate (23.52 percent) that would go into effect immediately, while ATU proposed

a phased-in approach with a rate of 8.7 percent in year one, 17.4 percent in year two, and 26.1 percent in year three and thereafter.

On November 20, 1996, the primary arbitrator issued an award on this issue in favor of ATU. Section 252(d)(3) of The Act requires wholesale rates to be based on retail rates "excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided." The primary arbitrator noted that the parties agreed that the statutory reference to costs that "will be avoided" should be interpreted to mean costs that "reasonably can be avoided." Based upon this interpretation and upon evidence presented by ATU that it will be difficult to avoid all ultimately avoidable costs within the first two years, the primary arbitrator determined that ATU's position was more reasonable.

A copy of the award is attached to this Order as Appendix B and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation on this issue. Accordingly, the Commission accepts the primary arbitrator's award to ATU regarding the wholesale rate of discount. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. It is also noted that both ATU and GCIICC have agreed that the wholesale discount rate is to be an interim rate. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 3: Definition of Unbundled Network Elements

Background

This issue involved the definition of unbundled network elements, specifically: loops, transport, switching, signaling, and directory assistance. GCICC's positions on these issues tracked almost exactly with the FCC's interpretations of Section 251 of the Act. ATU's position essentially agreed with GCICC's definitions of signaling and directory assistance but included more restrictive definitions for loops, transport, and switching.

The primary arbitrator awarded in favor of GCICC on transport,⁵ switching,⁶ and directory assistance,⁷ in favor of ATU on signaling.⁸ The arbitrator's award on loops adopted a mutual stip-

⁵"GCI's proposed offer better serves the pro-competition purposes of the Telecommunications Act and more closely resembles the FCC's First Report and Order at paragraphs 439-449." Glenn Cravez, Award Regarding Unbundled Elements - Definitions: Transport - Issue No. 3A2, p. 2.

⁶"[T]he primary difference between the parties on the definition for the unbundled switching element is whether 'vertical features' (such as custom calling, CLASS features, and Centrex) are included in the switching offer. ATU argues that the vertical features should not be included, and GCI argues that they should be included.

The FCC has concluded that vertical features should be included." Glenn Cravez, Award Regarding Unbundled Elements - Definitions: Switching - Issue No. 3A3, p. 1.

⁷"In ATU's Reply Comments on Unbundled Elements, October 30, 1996, at page 5, ATU indicated that 'for now, ATU can agree with the definition provided by GCI.'" Glenn Cravez, Award Regarding Unbundled Elements - Definitions: Directory Assistance - Issue No. 3A4, p. 1.

⁸"There are no material disagreements between the parties about the definition for this element. ATU's offer includes a diagram of the SS7 network architecture." Glenn Cravez, Award Regarding Unbundled Elements - Definitions: Signaling - Issue No. 3A3, p. 1.

ulation of the parties that reflected a compromise as to technical feasibility. The compromise recognizes that approximately 960 (or 3 percent) of ATU's access lines incorporate dated technology that makes the unbundling of loops problematic, and ATU has agreed not to further deploy this type of limited architecture in the future.

Copies of the award discussed above are combined and attached to this Order as Appendix C; which, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with each of the primary arbitrator's separate recommendations on this issue. Accordingly, the Commission accepts the primary arbitrator's awards regarding the definitions of the unbundle network elements: loops, transport, switching, signaling, and directory assistance. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 4: Collocation

Background

This issue addressed the scope of ATU's collocation obligations, which included the following three subissues: the availability of physical collocation at ATU's premises; the legal definition of "premises"; and the pricing and terms under which GCICC will be allowed to collocate.

A) Definition of premises:

According to the FCC,

'Premises' refers to an incumbent [local exchange carrier's (LEC's)] central offices and serving wire centers, as well as all buildings or similar structures owned or leased by an incumbent LEC that house its network facilities, and all structures that house incumbent LEC facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures.

The principal disagreement with regard to the definition of premises centered on whether the FCC's definition of premises should be interpreted more broadly, as proposed by GCICC, to include "any unused and usable ATU property adjacent to the structures" or less broadly as proposed by ATU to include only the buildings and structures. Based upon an FCC conclusion⁹ that LECs should not be required to lease or construct additional space for collocation when existing space is used up because the competitive LEC has recourse to virtual collocation, the primary arbitrator determined that GCICC's proposal was too broad and awarded this subissue to ATU.

B) Availability of physical collocation at premises:

⁹FCC First Report and Order at paragraph 585; see also 47 U.S.C. § 332 (12/15/96)
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ATU's position was that physical collocation was available only at the North and East wire centers. GCICC's position was that physical collocation was available at all the locations at which it sought collocation: Central, East, North, South, West, Rabbit Creek, and O'Malley wire centers. The primary arbitrator determined that space was available for collocation at all the wire centers except Central and O'Malley.

C) Price of physical collocation:

Based upon mutual stipulation of the parties, the primary arbitrator awarded a rate of \$5 per square foot for collocated space, plus an additional \$71 per month for each 15 ampere increment of power.

A copy of the collocation award is attached to this Order as Appendix D and, by this reference, is incorporated herein.

Discussion:

A) Definition of premises:

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's separate recommendations on this subissue. Accordingly, the Commission accepts the primary arbitrator's awards regarding the definitions of premises, subject to the following clarification. The Commission interprets "premises" not to mean merely the actual room containing the switch and main distribution frame but rather to include, at a minimum, any area within or on the buildings and structures referenced in the FCC definition of "premises."

Accordingly, as clarified, the primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

B) Availability of physical collocation at premises:

Based on its review of the record in this proceeding, the Commission concurs with, and accepts, the primary arbitrator's recommendations regarding the following wire centers: North, East, South, West, and Rabbit Creek. The primary arbitrator's award regarding these wire centers is adopted as the Commission's findings of fact and conclusions of law. Acceptance of this

awards is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Although the Commission agrees with the primary arbitrator's decision that space is available at most wire centers for physical collocation, the primary arbitrator's decision regarding the issue of space for collocation at the Central and O'Malley wire centers is not accepted. In light of the Commission's clarification of the definition of "premises," the Commission finds that ATU has a duty to provide space for collocation at the Central and O'Malley wire centers. However, if ATU wishes to demonstrate to the Commission that space is not available, it may do so.

C) Price of physical collocation:

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation on this subissue. Accordingly, the Commission accepts the primary arbitrator's award regarding the price of collocation.

The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

D) Type of equipment to be collocated for purposes of interconnection and access to unbundled elements:

As noted in the introduction section of this Order, following the arbitrator's award on collocation a dispute arose regarding the type of equipment to be located at the incumbent local exchange carrier's (ILEC's) premises. The Commission finds that equipment for interconnection is allowed to be collocated in or on the premises of the ILEC. Furthermore, if the ILEC objects that a particular piece of equipment is not allowed to be collocated pursuant to The Act and subsequent rules and regulations adopted by the FCC, then the ILEC is obligated to demonstrate to the Commission that the equipment is not "necessary" (as defined by the FCC's First Report and Order at paragraph 579) within a reasonable time of having notice of the proposed equipment.

Accordingly, the Commission adopts Exhibit K(ii) to the Interconnection Agreement as more reflective of the terminology in 47 C.F.R. 51.5. However, neither party should conclude that the type of equipment (i.e., remote terminal equipment) that GCICC has proposed to collocate at ATU's premises is not permitted. To the contrary, ATU has the burden to show that it should not be allowed.

Issue No. 5: Pricing of unbundled network element pricing

Background

This issue focused on the initial pricing of ATU's unbundled network elements. ATU's proposal was based largely on its existing local and interstate access tariffs, without adjustment. GCICC's proposed rates were an attempt to approximate forward-looking costs based upon the best available evidence. While the primary arbitrator found that neither party developed forward-looking cost studies, he determined that GCICC's proposed rates were based upon a closer approximation of forward-looking costs than ATU's, which relied more heavily on historical embedded costs.

A copy of the award is attached to this Order as Appendix E and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with each of the primary arbitrator's separate recommendations on this issue. Accordingly, the Commission accepts the primary arbitrator's awards regarding the pricing of the unbundled network elements. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 6: Interconnection

Background

This issue involved the type of interconnection that GCICC will receive and the rate for reciprocal compensation and termination of traffic. By letter dated November 15, 1996, GCICC informed the arbitrator that the parties had agreed to these issues. Regarding the first, the parties agreed to utilize "one way trunking exclusively until an alternate agreement is reached or until six months of experience has been gathered following GCICC's entry." Regarding the second, the parties agreed that the rates for reciprocal transport and termination of local traffic would mirror the rates awarded for unbundled switching and transport elements (Issue Nos. 5B and 5C). The primary arbitrator's award adopted the parties' stipulation on these two issues.

A copy of the award is attached to this Order as Appendix F and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with each of the primary arbitrator's recommendations on this issue. Accordingly, the Commission accepts the primary arbitrator's awards regarding the type of interconnection and the rate for reciprocal compensation and termination of traffic. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that,

for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 7: Definition of support elements

Background

This issue involved the definition of unbundled operation support elements, which consist of the following: ordering and provisioning; billing; maintenance; and testing. The dispute regarding this issue involved not so much the functional definition of each element but rather the question of how and when each item would be provided. GCICC's position was that these elements should be unbundled and accessible through real-time, electronic interfaces. ATU maintained that the systems currently used to provide these elements are either entirely manual or cannot be accessed by third-parties. The stipulated solution to this issue involved adoption of GCICC's proposed definition while recognizing that, initially at least, some of these elements will have to be provided manually.¹⁰

¹⁰"[A]ccess to each of the operations support systems shall be provided through the best means practically available, leading to the use of an electronic interface." Interconnection Agreement, Exhibit I, Agreed Decision(s) on the Definitions of Support Elements and Quality of Service.

"To this end, GCICC will be required to fax/print information to ATU and, in many cases, ATU will need to respond to GCICC manually." GCICC's Discussion of Identified Issues, December 9, 1996, p. 9.

A copy of the award is attached to this Order as Appendix G and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation to adopt the resolution (Agreed Decision(s) on the Definitions of Support Elements and Quality of Service) proposed by the Parties (letter, dated November 27, 1996, from Mark R. Moderow to the Arbitrator). Accordingly, the Commission accepts the primary arbitrator's award to adopt the parties' stipulated resolution regarding the definition of support elements. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 8: Pricing of support elements

Background

This issue involves the pricing of the support elements defined in Issue No. 7. GCICC made, and ATU generally agreed, with the following proposal:

GCICC proposes that ATU recover its cost to provide operations support systems across the various unbundled operations support elements, based on the number of queries. To the extent that all of the requested services

are actually provided by ATU, it is possible that a separate direct cost could be developed by functional element. To the extent that only a part of the access requested in GCICC's proposed decisions is furnished or the costs of such elements have been included in wholesale costs or other unbundled network costs, apportionment would be necessary.

This proposal was adopted by the primary arbitrator. This award appears to have been further refined by the parties in the Interconnection Agreement. GCICC stated in its December 3, 1996, pleading that through the Interconnection Agreement "GCICC and ATU have adopted the unbundled network element rates for the necessary line charges that will [be] used to maintain the dedicated voice/fax line and port/line charges that will be used to provision the network status information."

A copy of the award is attached to this Order as Appendix H and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation on this issue. Accordingly, the Commission accepts the primary arbitrator's award regarding the pricing of operations support elements. In addition, the Commission accepts the further refinement of this issue as reflected in the Interconnection Agreement. The primary arbitrator's award, as further refined by the Interconnection Agreement, is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award

is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 9: Quality of Service

Background

This issue involved the definition of the quality of service requested by GCICC. The parties stipulated to a common definition of "quality of service,"¹¹ that recognizes "limitations in the systems of ATU and accommodat[es] interactions at inception, and going forward, while avoiding complex feasibility determinations." GCICC pleading, December 3, 1996, p. 17. The arbitrator's award adopts the stipulated definition.

A copy of the award is attached to this Order as Appendix G and was earlier, by reference, incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation on this issue. Accordingly, the Commission accepts the primary arbitrator's award regarding quality of service. The primary arbitrator's award is adopted as the Commission's findings

¹¹Agreed Decision on the Definition of Support Elements and Quality of Service, attachment to GCICC letter dated November 27, 1996.

of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 10: Number Portability

Background

This issue involved the type of interim number portability solution that would be implemented between ATU and GCICC, the recovery of cost of such solution, and the "meet point" resolution of access charges. These issues were agreed to in major part as reflected in the parties' November 15, 1996, Reply Comments. The only unresolved issue involved the intrastate access portion of rate sharing; however this issue has since been resolved by the parties in principle (see Intrastate Access Proposal filed by GCICC on December 21, 1996). The primary arbitrator's award reflects the parties stipulation as of November 15, 1996.

A copy of the award is attached to this Order as Appendix I and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendation on this issue. Accordingly, the Commission accepts

the primary arbitrator's award regarding number portability. The primary arbitrator's award, as refined by the Commission's adoption of GCICC's Intrastate Access Charge Proposal (see discussion below under *Implementation Schedule*) is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 11: Access to Rights of Way

Background

This issue involves the scope of GCICC's access to poles, ducts, conduits, and rights-of-way (generally referred to as rights-of-way). The disagreement on this issue centered on whether GCICC would have access to fee property owned by ATU. The primary arbitrator's award was in favor of GCICC as set forth in GCICC's November 8, 1996, pleading at page 3.

A copy of the award is attached to this Order as Appendix J and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendations on this issue. Accordingly, the Commission accepts the primary arbitrator's award regarding access to poles, ducts,

conduits, and rights-of-way. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. As noted in the introduction section of this Order, despite both parties acceptance of the primary arbitrator's award, disagreement remains regarding the interpretation of this award. The Commission believes that its clarification of the definition of collocation "premise" (Issue No. 4B) and its decision regarding the availability of collocation space (Issue No. 4A) may well render moot the parties disputed interpretation of the arbitrator's rights-of-way award. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 12: Dialing Parity

Background

This issue involved dialing parity. There appeared to be little, if any, disagreement on this issue. Based upon the parties' November 15, 1996, reply comments, the primary arbitrator adopted ATU's initial offer on this issue as reflected in ATU's November 8, 1996, pleading at page 5.

A copy of the award is attached to this Order as Appendix K and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendations on this issue. Accordingly, the Commission accepts the primary arbitrator's awards regarding dialing parity. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

Issue No. 13: Notice of Changes

Background

This issue involves notices by ATU and GCICC of network changes. As in the case of dialing parity, the parties came to an agreed solution to this issue in the course of their November 8 and 15, 1996, pleadings to the primary arbitrator. The arbitrator's award to GCICC, as set forth in GCICC's November 8, 1996, pleading at page 3, and as modified at page 5 of GCICC's November 15, 1996, pleading, reflects the parties' stipulation.

A copy of the award is attached to this Order as Appendix L and, by this reference, is incorporated herein.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with the primary arbitrator's recommendations on this issue. Accordingly, the Commission accepts the pri-

mary arbitrator's award regarding notice of changes. The primary arbitrator's award is adopted as the Commission's findings of fact and conclusions of law. Acceptance of the award is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the award.

III. IMPLEMENTATION SCHEDULE

As discussed in the introduction section of this Order, the parties have proposed an immediate effective date for their Interconnection Agreement. Both parties agree that wholesale competition can begin on day one. GCICC also believes that alternate facilities-based competition can commence on day one and that facilities-based competition through access to unbundled network elements can begin shortly after collocation is available. ATU has suggested in its December 9, 1996, comments that access charge and universal service reform represent hurdles to facilities-based competition. At the Commission's December 10, 1996, hearing, however, the parties appeared to have reached a conceptual solution to the intrastate access charge issue. This solution was formalized in a written filing made by GCICC on December 11, 1996.

The Commission accepts GCICC's intrastate access charge proposal dated December 11, 1996. In accepting GCICC's intrastate access charge proposal, it must be noted that the Commission anticipates that access charge and universal service reform will

occur during 1997. If this effort is not completed by January 1998, the Commission will determine whether it is appropriate to extend the GCICC access charge proposal beyond the original ending date.

The Commission therefore concludes that the application of an immediate effective date and the incorporation of the primary arbitrator's awards into the Interconnection Agreement adequately addressed the Commission's statutory requirements regarding an implementation schedule.

THE COMMISSION FURTHER FINDS AND CONCLUDES:

1. The Commission finds that its decisions as reflected in Ordering Paragraph No. 1 below are in compliance with Sections 252(c)(1) and (2) of the Telecommunications Act of 1996.

2. The Commission finds that the application of an immediate effective date and the incorporation of the primary arbitrator's awards into the Interconnection Agreement comply with Section 252(c)(3) of the Telecommunications Act of 1996.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The recommended decisions of the primary arbitrator regarding Issue Nos. 1 through 13, as modified, clarified, and more fully discussed in the body of this Order, are accepted with the exception of the primary arbitrator's recommended decision on Issue No. 4A, which is rejected in part, as more ful

discussed herein. Acceptance of the recommended decisions is subject to the express condition that, for the purpose of establishing the services eligible for resale in the future, no issue should be considered to have been finally determined or adjudicated by virtue of Commission acceptance of the recommended decision.

2. All prices adopted pursuant to this Order are temporary in nature and will require a full study based upon a cost methodology to be determined by this Commission.

DATED AND EFFECTIVE at Anchorage, Alaska, this 16th day of December, 1996.

BY DIRECTION OF THE COMMISSION

(S E A L)

SECTION 21

G. NANETTE THOMPSON
2131 LORD BARANOF DR.
ANCHORAGE, AK 99517

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DATE 2/11/00

PAY TO THE
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First National Bank
of Anchorage

MEMO

7/6-8/00 TRIP

G. Nanette Thompson

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SECTION 22

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT

REGULATORY COMMISSION OF ALASKA

701 WEST EIGHTH AVENUE, SUITE 300
ANCHORAGE, ALASKA 99501-3469
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June 17, 2002

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
Alaska State Legislature
State Capitol, MS 301
Juneau, Alaska 99801-1182

Re: Requested Information Regarding E-mails

Dear Senator Taylor:


During the Senate Judiciary Committee meetings last week, you requested copies of e-mails from me to members of the utility industry requesting that they testify in support of the RCA's reauthorization. I do not recall sending any e-mails to any utility asking for their support. Instead I recall responding to inquiries from utilities about what was going on and what they could do to help. My response was generally that they should contact members of the legislature to voice their opinions.

To comply with your request, I searched through the Sent Mail portion of my e-mail box. There are no e-mails that fit that description. I also checked with our Information Systems department to determine if it was possible to retrieve messages that were moved to Trash after they were read. As of the time this memo is written, I do not have a conclusive answer as to whether that is possible and, if it is, what must be done to obtain and sort through them. As soon as the Information Systems technicians let me know what is possible, I will provide you with an update.

I started posting the Sunset Update on our website after I received so many of those inquiries that they were becoming time consuming. If there are any e-mails that fit the committee's description, they are likely to convey the same information that is in the Sunset Updates. Copies of those updates are attached for your information.

Sincerely,

REGULATORY COMMISSION OF ALASKA



G. Nanette Thompson
Chair

cc: Members of the Senate Judiciary Committee
The Honorable Rick Halford, Senate President
RCA Commissioners

Subject: Sunset Updates

Date: Mon, 17 Jun 2002 15:03:01 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

CC: Keith H Norton <keith_norton@rca.state.ak.us>

Here are the pages which have been posted.

Craig

The Senate Judiciary committee moved its hearing on the Regulatory Commission of Alaska to Wednesday, June 12, beginning at 1 pm.. and Thursday, June 13, beginning at 10 a.m. The hearings will be at the Legislative Information Office and are open to the public.

The Anchorage Legislative Information Office is located at 716 W 4th Avenue, Suite 200, Anchorage, AK 99501-2133.

Phone: (907) 269-0111

Fax: (907) 269-0229

TDD: (907) 269-0260

Anchorage_LIO@legis.state.ak.us

RCA Sunset Update – 5/9/02

In a letter to Senator Robin Taylor dated May 8th, Governor Tony Knowles expressed his strong support for immediate action on the RCA's Sunset legislation (CS for HB 333). The bill is currently pending in the Senate Judiciary Committee

(chaired by Taylor) and no hearing is scheduled before the end of the regular session.

Knowles committed to call a special legislative session to consider the RCA's sunset legislation if the Legislature fails to act during the remainder of the regular session.

An electronic copy of Knowles' letter can be found at: http://www.state.ak.us/rca/hot_topics/govoffice.pdf

RCA Sunset Update—May 13, 2002

The House amended SB 115 yesterday to include extension of the RCA. They modified the language of HB 333 to extend the agency for two years instead of four, and added a provision to make the bill effective on the date that the Commissioner of Administration awards the contract for study of the telecommunications industry that was funded last year. The referenced RFP is Statewide Telecommunications Study Consultant Rfp 2002-0200-3329. It is available through the state's on-line public notice system.

RCA Sunset Update - 5/17/02

The legislature adjourned without acting on the RCA's sunset bill. The Governor has identified action on the agency's reauthorization as a priority in the special session that convenes today. Because all bills died at the end of the regular session, our bill needs to pass through both bodies again. If you would like to comment, please contact your legislative representatives at <http://www.legis.state.ak.us/poms/>

Sunset Update –June 4, 2002

Governor Knowles has called a special session of the Legislature for June 24, 2002, to vote on reauthorization of the RCA. If the RCA is not reauthorized before July 1, 2002, the agency expires under state law and we will begin the process of closing the agency.

The Senate Judiciary Committee has scheduled hearings on June 11 beginning at 1:30 and June 12 beginning at 10 in the Anchorage Legislative Information office. The notice indicates that a teleconference bridge will be available.

If you are concerned about the RCA's reauthorization you may contact the members of the Alaska legislature and/or appear at the hearing to offer testimony. When they are not in session, the electronic public opinion message system does not work, but their interim contact information is at: <http://www.legis.state.ak.us/infodocs/infodocs.htm>

RCA Sunset Review

The RCA was recently audited by the Legislature's Division of Budget and Audit in preparation for a periodic review of its activities by the legislature. The auditor concluded that the agency was performing well and its operations should be extended to July 1, 2006.

A complete copy of the audit report is available at:

<http://www.legaudit.state.ak.us/pages/digests/2002/20013diag.htm>

HB 333, which extends the RCA to June 30, 2006, passed the House April

22nd and is currently in the Senate Judiciary Committee, chaired by Senator Robin Taylor. HB 333 has not been scheduled for hearing. Without action on this bill in the Senate Judiciary Committee, the bill will not pass to the Senate floor for a vote and the RCA will be sunsetted. The agency will be required to wind down its current operation beginning July 1, 2002 and close its doors on June 30, 2003. Sunsetting the RCA will have an enormous impact on all utilities, pipelines and consumers of utility and pipeline services in Alaska.

If you would like to comment on this legislation, you may send a Public Opinion Message to your legislators at:

<http://www.legis.state.ak.us/poms/>

[RCA Home Page](#)

Craig Hice <Craig_Hice@RCA.State.AK.US>

Subject: sunset web page letter

Date: Mon, 17 Jun 2002 16:02:58 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>,
Keith H Norton <keith_norton@rca.state.ak.us>

One more sunset web page

May 20, 2002

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
Alaska State Legislature
State Capitol, MS 301
Juneau, Alaska 99801-1182

Re: SB 2010

Dear Senator Taylor:

When we met on May 8 to discuss HB 333 you opined that sunsetting the agency would have little effect because the next governor and legislature could revive the agency. Since that meeting, the legislature adjourned without extending the agency operations and I have begun planning for the agency's sunset year. If the legislature does not reauthorize the agency, there will be a significant impact on utilities, consumers and the state's budget before the next legislature has the opportunity to act.

Under state law, the RCA "expires" if it is not reauthorized by July 1, 2002. AS 44.62.010(a). The agency may continue for one year after termination "for the purpose of concluding its affairs." AS 44.62.010(b). As Chair, I have the legal obligation to begin winding down agency operations on July 1, 2002 with the goal of closing the agency by July 1, 2003.

I plan to meet with staff and industry in June to discuss the timing of the wind down process. The RCA's operations during the sunset year is the topic for discussion with industry representatives at the next Bench and Bar scheduled for June 5, 2002. We will inform them of the following impacts of sunset, and discuss the sequence and timing of the following actions:

1. Cessation of Work on Regulations Dockets. Continuing to work on new regulations would be pointless without an agency to administer them. All pending regulations dockets; including pole attachments, access charges, Public

Advocacy Section regulations and small water and sewer utility certifications, would be closed. Both the PAS regulations docket and the proceeding on small water and sewer utility certifications were opened this year at the suggestion of the legislative auditor.

2. Transition of PCE Administration to Another State Agency. The RCA determines the level of PCE funding due to eligible communities. We collect the cost of administering that program from the utilities that benefit from it. We will transfer administration of that program to another state agency that will need general fund support to continue this work.

3. Not Reviewing New Applications. The RCA reviews applications for new utilities and pipelines and requests to transfer operating authority to insure that the applicant is fit, willing and able to offer service and that the proposed service is in the public interest. Last year we received 73 such applications. We would stop review of all applications, and not accept new ones. This would impact developers who install and request certification of the water and sewer utilities they install in new subdivisions and applications for new oil and gas pipelines.

4. Concluding Existing Caseload. We will evaluate the existing caseload and prioritize it based on public interest and time required to resolve each case. We will try to conclude as many as we can before the agency closes. Loss of staff that seek more stable employment will diminish our ability to conclude cases.

5. Not Accepting New Cases. We will evaluate all new filings to determine if they can be concluded in our sunset year and whether doing so would serve the public interest. New complaints and tariff filings we cannot handle will be returned to the utilities, pipeline companies and consumers with an explanation that we are unable to process them because the legislature terminated the agency. The following types of matters will not be handled after the RCA ceases to exist:

- **Consumer Complaints** - The RCA handled over 600 consumer complaints last year.
- **Federal Funding Certifications** - Under federal law, the RCA must certify local telephone companies' eligibility for federal universal service reports before funding is distributed. Telephone companies received more than \$70 million last year under these programs, enabling them to serve high cost areas of the state.
- **Rate changes** Without regulatory oversight, it is not clear whether utilities and pipelines are free to serve whichever customers they choose at prices they are free to set without review, or if they must stay at the current prices indefinitely. This uncertainty is likely to negatively affect all utilities' ability to attract investment capital. Every consumer of a utility service statewide is at risk of seeing a rate increase or their service terminated.

In summary, a sunset year will dramatically impact utilities and utility consumers statewide beginning July 1, 2002 when the RCA terminates. The regulatory and legal confusion is likely to undermine utilities' efforts to obtain financing for new projects and impact consumers of all utility and pipeline services statewide. As responsibilities are transferred to other state agencies that lack the ability to collect the costs of their operations from consumers, there will be additional demand on state general funds. I urge your prompt endorsement of SB 2010.

Sincerely,

ALASKA

REGULATORY COMMISSION OF

G. Nanette Thompson

Chair

cc: Members of the Alaska Legislature

Governor Tony Knowles

Alaska Rural Electrical Cooperative Association

Alaska Telephone Association

Craig Hice <Craig_Hice@RCA.State.AK.US>

[Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

Subject: [Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

Date: Mon, 17 Jun 2002 16:05:36 -0800

From: Keith Norton <keith_norton@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

Dawn,

Here is the original email for the update that Craig just sent.

Keith

Subject: Re: [Fwd: [Fwd: sunset update for 5/20] Do this first!]

Date: Mon, 20 May 2002 11:42:49 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Keith Norton <keith_norton@rca.state.ak.us>

CC: Christin M Krieger <christin_krieger@rca.state.ak.us>

Ok it is out there please double check and make sure this is what we wanted.

Craig

Keith Norton wrote:

Craig,

Here is the text of the "Update"...

To: Keith H Norton <keith_norton@rca.state.ak.us>, Christin M Krieger

----- Original Message -----

Subject: sunset updatefor 5/20

Date: Mon, 20 May 2002 10:26:48 -0800

From: Nanette Thompson <nanette_thompson@rca.state.ak.us>

Organization: Regulatory Commission of Alaska

To: Dawn Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

The House moved HB 2001 over to the Senate over the weekend where it was

sent with the companion bill, SB 2010, to the Senate Judiciary committee. A letter explaining the consequences of sunseting the RCA was sent to the legislature this morning.

[Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

| (Add link to letter)

SECTION 23

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

G. Nanette Thompson, Chair
Bernie Smith
Patricia M. DeMarco
Will Abbott
James S. Strandberg

In the Matter of the Consideration of the)
Provision of Electrical Service to the Klawock)
Area Currently Certificated to TLINGIT-HAIDA)
REGIONAL ELECTRICAL AUTHORITY AND)
ALASKA POWER COMPANY)

U-94-2
ORDER NO. 36

ORDER ALLOCATING COSTS AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We allocate costs of the proceeding, and close Docket U-94-2.

Background

On January 31, 1994, the Commission issued Order U-94-2(1) opening an investigation into the provision of electrical service in and around Klawock, establishing a filing and hearing schedule, and appointing a hearing officer.

On June 25, 2001, after a hearing, we accepted a stipulation entered into between Tlingit-Haida Regional Electrical Authority (T-HREA), Alaska Power Company (APC), the City of Klawock (Klawock), and the Public Advocacy Section (PAS).¹ The stipulation resolved all outstanding issues between the parties. Our acceptance of the

¹ *Stipulation to Resolve Phase II Valuation Issues*, May 21, 2001 (Stipulation).

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

1 stipulation was subject to the express condition that for the purpose of establishing the
2 value of plant, the appropriate ratemaking treatment of acquired plant, or any other
3 issue addressed in the stipulation in the future, no issue should be considered to have
4 been finally determined or adjudicated by virtue of our acceptance of the stipulation.

5
6 Discussion

7 In *Tlingit-Haida Regional Electrical Authority v. State*,² the Alaska
8 Supreme Court affirmed our authority under AS 42.05.221(d) to "direct that Alaska
9 Power purchase the existing Klawock facilities as a condition of its exclusive
10 certification."³ The stipulation described the terms by which APC purchased the
11 distribution plant used to provide electrical service to customers in Klawock from
12 T-HREA.

13 The only matter remaining in this proceeding is the allocation of costs
14 under AS 42.05.651 and 3 AAC 48.157. The allocable costs total \$23,468.04 for
15 expenses associated with the fees of field travel (\$14,141.18), hearing room rental
16 (\$75.00), telephone/teleconference (\$110.48), court reporting (\$4,628.94), and other
17 professional services (\$4,512.44).

18 In allocating costs under AS 42.05.651, we must consider the regulatory
19 cost charges (RCCs) paid by the parties under AS 42.05.254 and we may consider the
20 results, ability to pay, evidence of good faith, other relevant factors and mitigating
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²15 P.3d 754 (2001).

25 ³*Id.* at 766.

1 circumstances. Under AS 42.05.254(a), exempt utilities are required to pay the actual
2 cost of services provided to them by the Commission.⁴

3 The parties in this docket are APC, T-HREA, the PAS, and Klawock.
4 APC is a certificated, regulated utility. Because it pays RCCs, we will not allocate any
5 of the costs of this proceeding to APC. Costs of the PAS are included in the
6 Commission's budget. T-HREA is a certificated utility, but is not economically
7 regulated and does not pay RCCs. Klawock is a political subdivision that intervened
8 on behalf of its citizens.
9

10 This proceeding started in 1994 under another commission,⁵ and most
11 costs were incurred before April 24, 1995. Before this Order, the parties did not have
12 notice of the amount of the costs incurred. We find no evidence of bad faith by any
13 party in this proceeding. The contentious proceeding reflected serious concerns by all
14 parties about the economic impact of electricity prices that would result from the
15 Commission's decision. We recognize that T-HREA was hurt financially when it lost
16 the right to serve Klawock. Any costs allocated to T-HREA would be borne by
17 customers whose rates have already been impacted by that decision. Klawock, like
18 other parties, has already incurred significant expenses to advocate for its citizens in
19 this matter. Because these costs occurred so long ago, they are probably not
20 anticipated in either Klawock or T-HREA's budget. We have a duty to allocate costs
21
22

23 ⁴Under AS 42.05.254(i)(2), "'exempt utility' means a public utility that is
24 certificated by the commission under AS 42.05.221 – 42.05.281 but, in accordance
25 with AS 42.05.711, is exempt from other regulatory requirements of this chapter."

26 ⁵Alaska Public Utilities Commission (APUC), our predecessor agency.

1 so that utilities that pay RCC do not pay the expenses we incur when we address the
2 problems of non-RCC utilities. We do have discretion to forego collection of expenses
3 from utilities where specific circumstances warrant.

4
5 For this case, it is clear both Klawock and T-HREA's participation in the
6 dispute before us consumed our resources and the expense was borne by the RCC-
7 paying utilities. However, the Klawock issue really began when T-HREA sought to
8 clear up an overlapping certificate issue that was created by Commission action. The
9 facts surrounding this are complex and the root cause of the docket cannot be easily
10 ascribed to any single party.

11
12 Given the age of the allocated costs and the specific circumstances
13 surrounding this proceeding, in the interest of equity between parties, we exercise our
14 discretion and do not allocate costs to either Klawock or T-HREA for this docket.

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16 With that determination, all outstanding substantive and procedural
17 matters have been disposed of in this proceeding. Accordingly, Docket U-94-2 should
18 be closed.

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ORDER

THE COMMISSION FURTHER ORDERS:

1. The allocable costs of this proceeding will be borne by the Commission.
2. Docket U-94-2 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 29th day of April, 2002.

BY DIRECTION OF THE COMMISSION
(Commissioners G. Nanette Thompson, Chair, and
Bernie Smith, not participating)

(SEAL)

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
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1 In the Matter of the Application by FAIRBANKS
2 SEWER & WATER, INC., for Authority To
3 Acquire a Controlling Interest in COLLEGE
4 UTILITIES CORPORATION, Holder of Certificate
5 of Public Convenience and Necessity No. 97
6 Authorizing Provision of Water Public Utility
7 Service

U-96-118

ORDER NO. 9

6 In the Matter of the Application by FAIRBANKS
7 SEWER & WATER, INC., for Authority To
8 Acquire a Controlling Interest in COLLEGE
9 UTILITIES CORPORATION, Holder of Certificate
10 of Public Convenience and Necessity No. 37
11 Authorizing Provision of Sewer Public Utility
12 Service

U-96-119

ORDER NO. 9

11 In the Matter of the Application by GOLDEN
12 VALLEY ELECTRIC ASSOCIATION, INC., To
13 Amend Certificate of Public Convenience and
14 Necessity No. 13 To Extend Its Electric Utility
15 Service Area and To Acquire the Electrical
16 System of the CITY OF FAIRBANKS d/b/a
17 FAIRBANKS MUNICIPAL UTILITIES SYSTEM,
18 Providing Electric Public Utility Service under
19 Certificate of Public Convenience and Necessity
20 No. 116, and of the Cancellation of Certificate of
21 Public Convenience and Necessity No. 116 Once
22 the Service Area Expansion and Acquisition Have
23 Been Effectuated

U-96-120

ORDER NO. 12

18 In the Matter of the Joint Application To Transfer
19 Certificate of Public Convenience and Necessity
20 No. 117, Authorizing Provision of Telecom-
21 munications (Local Exchange) Public Utility
22 Service, from the CITY OF FAIRBANKS d/b/a
23 FAIRBANKS MUNICIPAL UTILITIES SYSTEM to
24 PTI COMMUNICATIONS OF ALASKA, INC.

U-96-121

ORDER NO. 9

23 **ORDER FINDING MOTIONS FOR WITHDRAWAL AND**
24 **SUBSTITUTION OF COUNSEL MOOT, ALLOCATING COSTS,**
25 **AND CLOSING DOCKETS**

26 BY THE COMMISSION:

U-96-114(9)/U-96-115(9)/U-96-116(13)/U-96-117(13)/U-96-118(9)/U-96-119(9)/-
U-96-120(12)/U-96-121(9) - (05/17/02)

Page 2 of 12

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Summary

All requirements for compliance with prior orders in these dockets have been met, and there are no further substantive issues to be decided. Pending motions for withdrawal and substitution of counsel are moot. We identify the allocable costs incurred in these dockets and explain why we do not require any party to pay them. We close these dockets.

Background

We opened these dockets to address the acquisitions and transfers by which the City of Fairbanks d/b/a Fairbanks Municipal Utilities System (FMUS) divested itself of its water and sewer, electric, and telecommunications (local exchange) public utility services. The sale of the FMUS utilities was approved by vote of Fairbanks citizens on October 8, 1996. We approved the joint application for transfer of the respective utilities on September 24, 1997, and set filing requirements.¹

¹See Order U-96-114(5)/U-96-115(5)/U-96-116(5)/U-96-117(5)/U-96-118(5)/U-96-119(5), hereafter Order U-96-114(5), acquisition and transfer of water and sewer utilities; U-96-120(5)/U-97-188(1), extension of service area and transfer of electric utility; and Order U-96-121(5), transfer of telecommunications (local exchange) utility; dated September 24, 1997.

Docket U-97-188 is entitled *In the Matter of the Investigation into the Effect of the Nonfirm Energy Agreement Between Golden Valley Electric Association, Inc., and Chugach Electric Association, Inc., on the Acquisition By Golden Valley Electric Association, Inc., of the Electrical System Formerly Owned by the City of Fairbanks d/b/a Fairbanks Municipal Utilities System.*

1 Discussion

2 Compliance Issues

3
4 *Dockets U-96-114, U-96-115, U-96-116, and U-96-117*

5 FMUS returned the parchments for Certificate of Public Convenience
6 and Necessity (Certificate) Numbers 118 and 290 in Dockets U-96-114 and U-96-115,
7 respectively. All other compliance requirements in Dockets U-96-114 and U-96-115
8 were to be addressed in Dockets U-96-116 and U-96-117, respectively. See Order
9 U-96-114(5), Ordering Paragraph No. 18.

10 Under the provisions of 3 AAC 48.275, we required Golden Heart Utilities
11 (GHU) to file a revenue requirement, a proposed rate design, and a cost-of-service
12 study, using the test year ended December 31, 1998. See Order U-96-114(5),
13 Ordering Paragraph No. 19. We extended this filing requirement deadline by Order
14 U-96-116(6)/U-96-117(6), dated October 3, 1997. GHU filed its revenue requirement
15 and cost of service studies required by that Order as wastewater tariff revision
16 TA11-290 and water tariff revision TA14-118. We suspended TA11-290 and
17 TA14-118 into Dockets U-00-115² and U-00-116,³ respectively. The Commission
18 found that GHU had fulfilled all the compliance requirements for Dockets U-96-116
19 and U-96-117, respectively. See Order U-00-115(1)/U-00-116(1), dated
20 September 14, 2000.

21
22 ²Docket U-00-115 is entitled *In the Matter of the Tariff Revision, Designated as*
23 *TA11-290, Filed by Golden Heart Utilities, Inc., for Its Sewer Division, for a Rate*
Increase and Rate Redesign.

24 ³Docket U-00-116 is entitled *In the Matter of the Tariff Revision, Designated as*
25 *TA14-118, Filed By Golden Heart Utilities, Inc., for Its Water Division, for a Rate*
Increase and Rate Redesign.

1 *Dockets U-96-118 and U-96-119*

2 Compliance issues related to College Utilities Corporation (CUC) in
3 Dockets U-96-118 and U-96-119 and CUC's change in its wastewater rates proposed
4 in tariff revision TA72-37 were suspended into Docket U-00-146⁴ for further
5 investigation. Docket U-00-146 was combined with Dockets U-00-115 and U-00-116,
6 and all substantive and procedural matters related to CUC addressed in Docket
7 U-00-115 were incorporated into Docket U-00-146. See Order U-00-115(3)/-
8 U-00-116(2)/U-00-146(1), dated October 19, 2000. There are no outstanding
9 compliance requirements for Dockets U-96-118 and U-96-119.

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11 *Docket U-96-120*

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FMUS returned the parchment for Certificate No 116 in compliance with
Ordering Paragraph No. 5 in Docket U-96-120(5) on October 31, 1997. Compliance
issues related to Golden Valley Electric Association, Inc. (GVEA) in Docket U-96-120
were suspended into Docket U-00-93⁵ for further investigation. The Commission
found that all matters in Docket U-96-120, other than ratemaking, had been
determined and that Docket U-96-120 should be closed. See Order U-96-120(10)/-
U-00-93(1), dated May 18, 2000.

⁴Docket U-00-146 is entitled *In the Matter of the Tariff Revision, Designated as TA72-37, Filed by College Utilities Corporation, for its Sewer Division, for a Reduction in Sewer Treatment Charges.*

⁵Docket U-00-93 is entitled *In the Matter of the filings by Golden Valley Electric Association, Inc., of Its Revenue Requirement and Cost of Service Studies, As Required by Order U-96-120(10).*

1 Docket U-96-121

2 FMUS returned the parchment for Certificate No. 117 in compliance with
3 Ordering Paragraph No. 6 in Docket U-96-121(5). Revised tariff sheets required by
4 Order U-96-121(5) were filed on October 6, 1997 and November 4, 1997. The
5 Commission approved the sheets on August 14, 1998, except for Sheet 2.7, which
6 was later filed on February 5, 2001. This was later superseded by the filing by ACS of
7 Fairbanks, Inc. (ACS-F)⁶ of a new tariff for Certificate No. 117. We approved the new
8 ACS-F tariff effective April 5, 2001, making the approval of Sheet 2.7 moot. All
9 compliance filings required by U-96-121(5) were moved to Docket U-98-141.

10 Motions for Withdrawal and Substitution of Counsel

11 On July 6, 2001, James D. Linxwiler, Michael S. McLaughlin, and Guess
12 & Rudd, P.C., filed a motion to withdraw as counsel for Fairbanks.⁷ The movants
13 requested that Patrick B. Cole, Deputy City Attorney for Fairbanks, be substituted as
14 counsel. Cole agreed to be substituted as counsel in these matters. Because we are
15 closing these dockets, this motion is moot.

16 Cost Allocation

17 The only matter remaining in these proceedings is the allocation of costs
18 under AS 42.05.651 and 3 AAC 48.157. In allocating costs to the parties in each
19 proceeding, we must consider the regulatory cost charges (RCCs) paid by the parties
20

21 ⁶ALEC Acquisition Sub Corp. acquired a controlling interest in PTI
22 Communications of Alaska, Inc., holder of Certificate No. 117. See Order
23 U-98-141(7), dated April 19, 1999. The certificate was later amended to reflect a
24 name change from PTI Communications of Alaska, Inc. to ACS of Fairbanks, Inc. *via*
Alaska Communications Systems, ACS Local Service, and ACS (ACS-F). See Order
U-00-37(1), dated July 5, 2000.

25 ⁷City of Fairbanks d/b/a Fairbanks' s Municipal Utilities System.

1 under AS 42.05.254, and we may consider the results, ability to pay, evidence of good
2 faith, other relevant factors, and mitigating circumstances. Under AS 42.05.254(a),
3 exempt utilities are required to pay the actual cost of service provided to them by the
4 Commission.⁸

5 The APUC⁹ incurred substantial time and expense in these proceedings.
6 The hearings lasted more than twenty days. The allocable costs total \$91,781.73,
7 including \$73,166.02 for expert witness expenses; \$2,528.67 for in-state transportation
8 and per diem for commissioners and staff participating in the hearings in Fairbanks;
9 \$15,893.60 for court reporting fees; and \$193.44 for newspaper advertising.

10 Based on our Staff analysis, we find fifty percent of the \$91,781.73 total
11 allocable costs, i.e., \$45,890.87, is attributable to the water and sewer dockets. We
12 assign twenty-five percent of the total allocable costs each to the electric and the
13 telecommunications (local exchange) dockets; that is, \$22,945.43 each.

14 *Water and Sewer Dockets - Dockets U-96-114 through U-96-119 - \$45,890.87*
15 *of Allocable Costs*

16 The six parties in the water and sewer dockets are FMUS; GHU; CUC;
17 the Staff Advocacy Team (SAT); intervenor GVEA in Dockets U-96-114 and U-96-118;
18 and intervenor Rate Payers Alliance, Inc. (RPA) in Dockets U-96-114, U-96-115,
19 U-96-116, and U-96-117.¹⁰ See Order U-96-114(3). If we equally divide the
20

21 ⁸Further, under AS 42.05.254(i)(2), "'exempt utility' means a public utility that is
22 certificated by the commission under AS 42 05.221-281 but, in accordance with
23 AS 42.05.711, is exempt from other regulatory requirements of this chapter."

⁹Alaska Public Utilities Commission, our predecessor agency.

24 ¹⁰Order U-96-114(3)/U-96-115(3)/U-96-116(3)/U-96-117(3)/U-96-118(3)/
25 U-96-119(3)/U-96-120(3)/U-96-121(3), dated February 28, 1997, hereafter referred to
26 as Order U-96-114(3).

1 \$45,890.87 allocable costs of the water and sewer dockets among these six parties,
2 each party's share would be \$7,648.48.

3 However, we decline to allocate these costs to any of the parties. CUC
4 and GVEA were certificated, regulated utilities that paid RCCs, and we therefore do
5 not allocate any costs to them. The RPA was a citizens' advocacy group that did not
6 pay RCCs, but performed the important function of bringing a different user viewpoint
7 to the commission. The RPA is no longer in existence; as a practical matter, we
8 expect there are no funds available to pay a cost allocation. For this reason, as well
9 as to encourage consumer advocacy before the commission, we will not allocate any
10 costs to the RPA. The SAT was a subset of commission Staff and was included in the
11 commission's budget. Since the commission itself absorbs any costs allocated to the
12 SAT, it serves no purpose to make this allocation.

13 The most difficult question is whether we should allocate costs to FMUS
14 and GHU. When these proceedings began, GHU was not a certificated, regulated
15 utility, and did not pay RCCs. FMUS was a certificated utility exempt from economic
16 regulation that did not pay RCCs. AS 42.05.254(a) provides that exempt utilities must
17 pay the actual cost of the commission's services to them. This provision is intended to
18 assure that RCC-paying utilities do not bear the cost burden of our services to non-
19 RCC paying utilities, but we think that the other statutory factors and the special
20 circumstances of these entities must also be considered.

21 In considering the other statutory factors, we find that GHU and FMUS
22 bore significant costs of their own in advocating for approval of the certificate transfers
23 and were generally successful in demonstrating that the transaction was in the public
24 interest. There is no evidence of bad faith by any party in this proceeding. The
25 citizens of Fairbanks voted to have the public utilities removed from municipal

1 management. Most of the costs in these proceedings were incurred before July 1997
2 by our predecessor commission. Until now, neither GHU nor FMUS had any notice of
3 the amount of the costs incurred. Since 1997, the circumstances of each of these
4 entities have changed. GHU has been paying RCCs since it began utility operations,
5 though it did not at the time of these proceedings. FMUS no longer operates the City
6 of Fairbanks utilities, and we do not know precisely how FMUS' owner, the City of
7 Fairbanks, would fund any cost allocation made to FMUS today. After so much time
8 has passed, the city has probably not budgeted for an allocation of these costs.

9 Based on these factors, especially the amount of time that has passed
10 and the changed circumstances of each of these parties, we determine that no costs
11 should be allocated to any party in these proceedings.

12 *Electric – Docket U-96-120 - \$22,945.43 of Total Costs*

13 The five parties in the electric docket are FMUS, GVEA, the SAT,
14 intervenor Municipality of Anchorage d/b/a Municipal Light & Power Department
15 (ML&P), and intervenor Healy Power, Inc. (HPI).¹¹ See Order U-96-114(3). With five
16 parties, each party's share of the \$22,945.43 in allocable costs would be \$4,589.08.

17 Of these parties, GVEA and ML&P were certificated, economically
18 regulated utilities and paid RCCs, so we do not allocate any costs to them. HPI is not
19 a certificated or regulated utility, and does not pay RCCs. We find that HPI did nothing
20 to prolong these proceedings, and we will bear the costs attributable to HPI. As noted
21 above, the costs incurred by the SAT are already borne by the commission. For the
22

23
24 _____
25 ¹¹HPI stated that it was a qualifying facility under the Public Utility Regulatory
26 Policies Act because of its power sales agreement with GVEA.

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

1 reasons set out in our discussion of the sewer and water dockets, we exercise our
2 discretion not to allocate costs to FMUS.

3
4 *Telecommunications (local exchange) – Docket U-96-121 - \$22,945.43 of Total
Costs*

5 The four parties to the telephone docket are FMUS, PTI Communications
6 of Alaska Inc., the SAT, and intervenor GVEA. See Order U-96-114(3). Each party's
7 share of the \$22,945.43 in allocable costs would be \$5,736.36.

8 For the reasons discussed above, we will not allocate any of the costs to
9 GVEA, the SAT or FMUS. We also decline to allocate costs to PTI. PTI was, at the
10 time of these proceedings, a regulated utility that paid RCCs in the other areas that it
11 then served. But PTI (and the Fairbanks customers it acquired in this docket) did not
12 then pay RCCs on the telecommunications services in the FMUS service area that
13 was the subject of the transfer application in this docket. In addition, PTI's
14 circumstances have changed significantly. PTI has since transferred, through a
15 complex transaction, the Fairbanks telecommunications utility it acquired in this
16 proceeding to ACS-F. See U-98-141(7), dated April 19, 1999. For these reasons, we
17 will not allocate costs to PTI.

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Closing Dockets

Since all compliance issues have either been resolved or filed in later dockets for further investigation, there is no reason to keep these dockets open. We close dockets U-96-114 through U-96-121.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The motion filed by James D. Linxwiler, Michael S. McLaughlin, and Guess & Rudd, P.C., to withdraw as counsel for Fairbanks, and to substitute Patrick B. Cole, Deputy City Attorney for Fairbanks, as counsel is moot.
2. The Commission will bear all costs of these proceedings
3. Docket U-96-114 is closed.
4. Docket U-96-115 is closed.
5. Docket U-96-116 is closed.
6. Docket U-96-117 is closed.
7. Docket U-96-118 is closed.
8. Docket U-96-119 is closed.
9. Docket U-96-120 is closed.

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10. Docket U-96-121 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 17th day of May, 2002.

BY DIRECTION OF THE COMMISSION
(Commissioners G. Nanette Thompson, Chair, and
James S. Strandberg, not participating.)

(SEAL)

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

Re: Allocations

Subject: Re: Cost Allocations

Date: Tue, 14 May 2002 14:42:19 -0800


From: Keith Day <keith_day@rca.state.ak.us>

To: Nanette Thompson <nanette_thompson@rca.state.ak.us>

My question came up as a result of looking at docket R-95-5 in order to close it. It looked like the former commission felt the statute had been changed in a way that gave them more latitude in how they allocated costs and were trying to modify the regs to make addressing allocable costs more of a discretionary matter. The final regs from the AG were somewhat different than what was in Order R-95-5(4). A copy of the order is attached.

Nanette Thompson wrote:

> Lets talk about this next week.
> I agree that we need to have a more uniform procedure for handling this
> issue.
> I know Virginia did some research in connection with a case several weeks
> ago. We need to understand what we have the authority to do now, and what we
> might need to change regulations to do.
>
> Dawn Bishop-Kleweno wrote:
>
>> Something to consider:
>>
>> This morning Keith brought up the subject of cost allocations with
>> Rosalie and myself. As a side note, we discussed the possibility that
>> the next legislative audit might be concerned with our cost allocation
>> procedures, particularly for dockets that span several years. We
>> discussed modifying our procedures to implement yearly cost allocations.
>>
>> Please let us know your thoughts.

 R95005.4	Name: R95005.4 Type: unspecified type (application/octet-stream) Encoding: base64 Download Status: Not downloaded with message
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Subject: Re: Cost Allocations

Date: Tue, 14 May 2002 15:04:02 -0800

From: "Virginia Rusch" <Virginia_Rusch@law.state.ak.us>

To: <dawn_bishop-kleweno@rca.state.ak.us>, <nanette_thompson@rca.state.ak.us>

CC: <josie_morrow@rca.state.ak.us>, <keith_day@rca.state.ak.us>, <nan_thompson@rca.state.ak.us>, <rosalie_nizich@rca.state.ak.us>

Both the cost allocations statutes, AS 42.05.651 and AS 42.06.610 say the commission may allocate costs during a hearing or investigation. These statutes used to say after, but were changed around 1986 to avoid the problem of allocations that come so long after the costs are incurred.

In the recent cost allocation order in the THREA case, and in the FMUS draft still being worked on, one reason the commission feels it is awkward to allocate costs is that so much time has passed that certain parties cannot be expected to have budgeted for a cost allocation from the commission.

It would certainly be a better practice to do some advance planning (and put the parties on notice) where allocations are likely. For example, when the commission receives an application or tariff filing involving a non-RCC paying party, and recognizes that the costs will be significant and incurred over a long time, could it be put on some kind of "tickler" system to come up for cost allocation at the end of an initial year, and again at the end of each subsequent year?

>>> Nanette Thompson <nanette_thompson@rca.state.ak.us> 05/14/02 12:41PM >>>

Lets talk about this next week.

I agree that we need to have a more uniform procedure for handling this issue.

I know Virginia did some research in connection with a case several weeks

ago. We need to understand what we have the authority to do now, and what we might need to change regulations to do.

Dawn Bishop-Kleweno wrote:

> *Something to consider:*

>

> *This morning Keith brought up the subject of cost allocations with*

> *Rosalie and myself. As a side note, we discussed the possibility that*

> *the next legislative audit might be concerned with our cost allocation*

> *procedures, particularly for dockets that span several years. We*

> *discussed modifying our procedures to implement yearly cost allocations.*

>

> *Please let us know your thoughts.*

SECTION 24

Subject: Hearing: TA146-489

Date: Thu, 13 Jun 2002 16:56:32 -0800

From: Lori Kenyon <lorraine_kenyon@rca.state.ak.us>

To: Nan Thompson <nan_thompson@rca.state.ak.us>

CC: Bernie Smith <bernie_smith@rca.state.ak.us>, Jim Strandberg <Jim_strandberg@rca.state.ak.us>, Will Abbott <Will_Abbott@rca.state.ak.us>, Patricia DeMarco <patricia_demarco@rca.state.ak.us>, Robin G Boysen <robin_boysen@rca.state.ak.us>, Dawn Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

At the Senate Judiciary Committee hearing on sunset of the RCA, a question was raised concerning an e-mail message sent by Robin Boysen concerning Transparent LAN Service proposed by GCI Communications Corp. (GCI) in TA146-489. I wanted to confirm that it is the standard practice of the Common Carrier Section that when we review competitive tariff filings, we compare a proposed rate to the going market rates of other carriers in cases when the reasonableness of a rate is in question. If a proposed rate is inconsistent with market rates, we often inform the utility of the fact and ask them to further explain why a rate is reasonable.

In the particular instance Robin Boysen was familiar with recently approved changes to the ACS tariff allowing it to discontinue provision of lower bandwidth TLS service. GCI would be unable to provide the 1.5 Mbps service it had proposed in TA146-489 if it were relying on resale of the ACS TLS services. I suggested Robin contact GCI by e-mail to make sure that GCI was aware the ACS services were discontinued. None of the information provided in the e-mail is confidential. The e-mail quoted ACS tariff service information which is required to be publicly on file with the Commission under AS 42.05.361.

State of Alaska
Third Judicial District

Subscribed and sworn to (or affirmed) before me this 17th day of June, 2002, by

Lorraine Kenyon
Lorraine Kenyon
Common Carrier Section

Dorcas M. Kleweno
Notary Public

My commission expires:
5-6-2005

Subject: RE: TA146-489

Date: Mon, 20 May 2002 08:54:30 -0800

From: Jennifer Robertson <jrobertson@gci.com>

To: 'Robin Boysen' <robin_boysen@rca.state.ak.us>

Thank you for the information. Since there is no pending TA meeting. Will you let me know which way this TA goes?

Thanks! Jennifer

-----Original Message-----

From: Robin Boysen [mailto:robin_boysen@rca.state.ak.us]

Sent: Friday, May 17, 2002 3:12 PM

To: Jennifer Robertson

Subject: TA146-489

1. I was reviewing this filing with Lori and she suggested that you might want to know that ACS recently has been restricting their TLS bandwidth availability. In two different filings they basically made 1.5 unavailable as well as 20 and 50 kbps. Though we are actually glad to see more available at the lower levels available to customers, we thought you should be aware of the trend.

2. As I mentioned before, I believe that the sentence under Early Termination of Term Commitment referring to 9.9% termination finance charge does not clearly state what the 9.9% charge is on. At this point I would have to recommend suspension of that aspect of the tariff, pending clarification.

Enjoy the sun!!! robin

TARIFF ACTION MEMORANDUM

February 19, 2002

Date

Date Filed: January 22, 2002

File No.: TA437-120

Name of Utility: ACS of Anchorage, Inc.

Tariff Recommendation:

1. Approve Tariff Sheet Nos. 2.3, 4.2, 4.153-1, 153-2, 4.153-3, 4.153-4, 4.153-5 and 4.175-1, submitted on January 22, 2002, with an effective date of February 22, 2002.
2. Grant the petition for confidential treatment of revenue information filed in support of TA437-120 by ACS of Anchorage, Inc.

Reason(s) for the above-indicated recommendation:

See attached memorandum.

Signed: Robin Boyser
Robin Boyser

Title: Utility Tariff Analyst

Commission decision regarding this recommendation:

	Date (if different from <u>2/21/02</u>)	I <u>CONCUR</u>	I <u>DO NOT CONCUR</u>	I WILL WRITE A DISSENTING STATEMENT *
Thompson	_____	<u>GNT</u>	_____	_____
Smith	_____	<u>BSL</u>	_____	_____
DeMarco	_____	<u>T.D.</u>	_____	_____
Abbott	_____	<u>W. H. H.</u>	_____	_____
Strandberg	_____	<u>JM</u>	_____	_____

- If this column initialed, Staff will contact the Commissioner for the statement; otherwise, the dissent will simply be noted at the close of the By Direction letter or order.

STATE OF ALASKA
The Regulatory Commission of Alaska
701 West 8th Ave., Suite 300
Anchorage, Alaska 99501-3469

M E M O R A N D U M

TO: Commissioners:
2002

DATE: February 19,

G. Nanette Thompson, Chairman
Bernie Smith
Patricia M. DeMarco
Will Abbott
James S. Strandberg

FROM: Robin Boysen, Utility Tariff Analyst

Subject: TA437-120, ACS of Anchorage, Inc. Tariff proposal to add Transparent LAN Service – High Speed Lite (TLS-Lite).

Recommendation

The Commission Staff (Staff) recommends that the Commission:

3. Approve Tariff Sheet Nos. 2.3, 4.2, 4.153-1, 153-2, 4.153-3, 4.153-4, 4.153-5 and 4.175-1, submitted on January 22, 2002, with an effective date of February 22, 2002.
4. Grant the petition for confidential treatment of revenue information filed in support of TA437-120 by ACS of Anchorage, Inc.

Procedural History

On December 20, 2001, ACS-AN filed a tariff revision designated as TA437-120 proposing to add TLS-Lite. Transparent LAN Service—High Speed-Lite is a 768 Kbps transport service interconnection of Ethernet Local Area Networks (LAN's) and can interconnect with Transparent LAN Service-High Speed (TLS). Included with the filing was the information required under 3 AAC 48.270, including the estimated number of customers affected and estimated revenue impact of the filing. Information

regarding the number of customer affected and revenue impact was filed under seal, accompanied by a petition for protected status.

The filing was noticed to the public on January 24, 2002, with a deadline of February 15, 2002 for the submission of comments regarding the proposed tariff revision. To date no comments have been received.

Issues

- a) Should the Commission grant ACS-AN's requests that customer and revenue impact information filed in support of the tariff proposals be afforded confidential treatment?
- b) Should the Commission approve ACS-AN's addition of Transparent LAN-High Speed TLS to their tariff?
- c) Are the terms and conditions of TA437-120 reasonable?

Analysis

Petition for Protected Status (Customer and Revenue Impact Information)

ACS-AN requests protected status be granted for the confidential information filed concurrently in support of TA437-120 pursuant to 3 AAC.48.045 (b). In the petition, ACS-AN claims its Attachment consists of highly sensitive proprietary information about the ACS Transparent LAN-High Speed TLS. ACS-AN asserts that the Attachment reveals detailed information about ACS-AN's customer impact and anticipated revenues. ACS-AN claims that granting competitors access to ACS-AN's customer and revenue information would allow competitor access to marketing information that would be used to take business market share from ACS-AN.

ACS-AN asserts that disclosure of the information would give competitors and potential competitors an unfair advantage by enriching them with the results of ACS-AN market research and calculations regarding ACS-AN services. In addition ACS-AN points out that they must compete in the market place along side other service providers that offer technological alternatives to TLS, such as GCI's "Live Wire" 640 Kbps synchronous service and private networks.

Staff agrees that ACS-AN data concerning the number of customers it believes will be attracted to the TLS is similar to market research that may be of benefit to a competitor. To the extent the revenue data may also reflect ACS-AN demand expectation regarding the proposal, that information also may be somewhat competitively sensitive. Staff therefore recommends that the Commission grant the request for protected status, in that the ACS-AN petition met the two-prong test under 3 AAC 48.045(b) by demonstrating (i) competitive or financial harm; and (ii) that the need for confidentiality outweighed the public interest for disclosure. Further, ACS demonstrated that the information provided was forward-looking.

Transparent LAN Service – High Speed (TLS-Lite)

The following are some of the features of this proposed service:

- Transparent LAN Service – is a 768 Kbps transport service interconnection of Ethernet Local Area Networks (LAN's) and can interconnect with Transparent LAN Service-High Speed (TLS). TLS-Lite is provided over copper facilities and can be provided on a point-to-point or multi-point basis.
- The initial order for TLS-Lite must be for a fixed period of one, three or five years.
- Customers may elect to spread their TLS-Lite non-recurring charges over one year. If the customer elects to terminate their fixed period agreement, the customer must remit any unpaid portion of the non-recurring charges to the Company.
- The non-recurring charge per port connection is \$300.00.
- The non-recurring charge for Line Loop Extender, Per Unit is as follows:
 - 1 Year Term \$550.00
 - 3 Year Term \$350.00
 - 5 Year Term \$250.00

A line loop extender may be required if the customer is located further than 1.7 miles from the serving wire center.

Total Number of Ports	Monthly Recurring Charge – Per Port		
	1 Year	3 Years	5 Years
1	\$280.00	\$245.00	\$215.00
4	\$255.00	\$220.00	\$190.00
6	\$225.00	\$200.00	\$170.00
9	\$205.00	\$180.00	\$160.00
12+	\$185.00	\$160.00	\$140.00

- Ports are priced at the rate for the total number of ports purchased for the term of the service agreement.
- If a fixed period agreement is terminated prior to the end of the period, the customer is responsible for reimbursing the Company the difference between the rates actually charged and the rates that would have been charged, had the actual period been the original service period, plus a 10.5% finance charge, compounded annually.
- If the customer reduces either the number of ports, or total bandwidth, below 70% of their initial fixed period of service agreement, the terminated ports will be considered a termination of the fixed period service agreement and reimbursement will be due the Company on the discontinued ports. In-service ports will be re-rated based on the total number of remaining ports.
- Customers who sign a term contract between February 22, 2002 and May 22, 2002 will receive a waiver of the nonrecurring installation charge for the TLS-Lite port.

Are the Terms and Conditions of TA437-120 reasonable?

a) Are the proposed rates reasonable?

Staff contacted GCI to determine if the "Live Wire" service offered by GCI (see attached RB-2 for description) offers a service and rates that are competitive with this ACS-AN TLS-Lite. GCI says that the live wire product is a DSL product that provides speeds from 256 to 640 Kbps. The GCI marketing department has been marketing this as an alternative to the ACS ATLAS-Lite in Anchorage. A comparison of this GCI service with ACS rates illustrates that, only the ACS customer who signs up for 12 ports for a five year term gets a better rate than that offered by GCI (see table below). The GCI offering is, however, a lesser speed and a different technology.

(MRC = Monthly Recurring Charge)

Ports	1 year - MRC per port	3 year - MRC per port	5 year- MRC per port	Non-Recurring Charge per port
ACS-AN 1 @768 Kbps	\$280.00	\$245.00	\$215.00	\$300.00
ACS-AN 4 @768 Kbps	\$255.00	\$220.00	\$190.00	\$300.00
ACS-AN 6 @768 Kbps	\$225.00	\$200.00	\$170.00	\$300.00
ACS-AN @ 9 768 Kbps	\$205.00	\$180.00	\$160.00	\$300.00
ACS-AN 12+ @ 768 Kbps	\$185.00	\$160.00	\$140.00	\$300.00
GCI (Anchorage) 640 Kbps	\$149.00	\$149.00	\$149.00	\$360.00*

*Waived with 3 year term

The market targeted by both the ACS-AN TLS-Lite and GCI Live Wire is the current ATLAS-Lite market. This filing and the proposed rates are a response to the competitive market and appear to be reasonable.

This TA filing also contained provision for a promotion for customers who sign a term contract between February 22, 2002 and May 23, 2002 will receive a waiver of the nonrecurring installation charges.

b) Are the termination penalties unduly punitive?

A customer who terminates service before the end of the agreed upon term, will be required to pay the difference between what the customer has paid and what he would have paid for the term the customer actually took the service plus a 10.5% finance fee compounded annually applied to the amount owed. The practice of requiring customers terminating a contract early to reimburse the utility the difference between the rates actually charged and the rates that would have been charged, had the actual period been the original service period is standard. The 10.5 % finance charge compounded annually is an issue that was adjudicated in Docket U-01-138/U-01-143/U-01-144 on February 21, 2001 and the Commission found it an acceptable charge. Staff finds the terms of the proposed tariff revision reasonable.

Conclusion

Staff recommends that ACS-AN's request for confidential status be granted and that Tariff Sheet Nos. 2.3, 4.2, 4.153-1, 153-2, 4.153-3, 4.153-4, 4.153-5 and 4.175-1 submitted on January 25, 2002 be approved with an effective date of February 22, 2002. 43

138-
P1078

RCA NO. 120 Third Revised Sheet No. 23
Canceling: Second Revised Sheet No. 23

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State of Alaska
Regulatory Commission of Alaska

ACS OF ANCHORAGE, INC.

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Tariff Advice 430-120 Effective November 16, 2001

Issued By: ACS OF ANCHORAGE, INC.

By: Ted Morinski Title: Director, Regulatory Affairs

RCA NO. 120 Fourth Revised Sheet No. 23
Canceling: Third Revised Sheet No. 23

ACS OF ANCHORAGE, INC.

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Tariff Advice 437-120 Effective February 22, 2002

Issued By: ACS OF ANCHORAGE, INC.

By: Ted Morinski Title: Director, Regulatory Affairs

Rec'd
1/22/02

RCA NO. 120
Canceling:

First Revised
Original

Sheet No.
Sheet No.

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4.2

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OCT 22 2001

State of Alaska
Regulatory Commission of Alaska

ACS OF ANCHORAGE, INC.

4 SERVICES

4.1 SERVICES INDEX

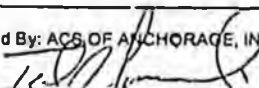
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Tariff Advice 430-120

Effective

November 16, 2001

Issued By: ACS OF ANCHORAGE, INC.

By: 
Ted Moninski

Title: Director, Regulatory Affairs

RCA NO. 120
Canceling:

Second Revised
First Revised

Sheet No.
Sheet No.

4.2
4.2

ACS OF ANCHORAGE, INC.

4 SERVICES

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ACS OF ANCHORAGE, INC.

4.5 PRIVATE LINE
4.5.12 TRANSPARENT LAN SERVICE-LITE ("TLS-LITE") (N)

4.5.12.1 RATES Non-Recurring Charge

4.5.12.1.1 Port Connection - Per Port \$300.00

4.5.12.1.2 Line Loop Extender
1 Year Term \$550.00
3 Year Term \$350.00
5 Year Term \$250.00
The rate is based upon the term of service commitment.

4.5.12.1.3 Contract Term - Month to Month 1 Year Rate + 10%

Month to Month service is only available following the completion of a fixed-period service agreement.

4.5.12.1.4 Contract Term - Per Port - 1, 3, or 5 Years

Total Number of Ports	Monthly Recurring Charge		
	1 Year	3 Years	5 Years
1	\$280.00	\$245.00	\$215.00
2	\$280.00	\$245.00	\$215.00
3	\$280.00	\$245.00	\$190.00
4	\$255.00	\$220.00	\$190.00
5	\$255.00	\$220.00	\$190.00
6	\$225.00	\$200.00	\$170.00
7	\$225.00	\$200.00	\$170.00
8	\$225.00	\$200.00	\$160.00
9	\$205.00	\$180.00	\$160.00
10	\$205.00	\$180.00	\$150.00
11	\$205.00	\$180.00	\$150.00
12+	\$185.00	\$160.00	\$140.00

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ACS OF ANCHORAGE, INC.

4.5 PRIVATE LINE

4.5.12 TRANSPARENT LAN SERVICE-LITE ('TLS-LITE')

(N)

4.5.12.2 TERMS AND CONDITIONS

Transparent LAN Service-Lite ('TLS-Lite') is a 768 Kbps transport service for interconnection of Ethernet Local Area Networks ('LANs'). TLS-Lite is provided over copper facilities and can be provided on a point-to-point or multi-point basis.

TLS-Lite serves as a LAN extension by providing a virtual private circuit that utilizes public transport. The service is bi-directional, providing high capacity service over private virtual circuits. Customers must subscribe to TLS-Lite Port Service or may interconnect with Transparent LAN Service-High Speed ('TLS') as a data link.

The electrical signals provided by TLS-Lite at the network interface meet IEEE 802.3 requirements. At the central office, the network management information is used to maintain network performance and integrity.

4.5.12.2.1 Service Elements

4.5.12.2.1.1 Port Connection - A port connection provides the link from a customer's terminal equipment, to the Company's network supporting TLS-Lite. A port connection includes a network interface, and the related copper facility.

4.5.12.2.1.2 Line Loop Extender - Customers located further than 9,000 feet from the serving wire center may require the use of a line loop extender. Customers located further than 18,000 feet may require the use of two loop extenders.

(N)

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4.5 PRIVATE LINE

4.5.12 TRANSPARENT LAN SERVICE-LITE (TLS-LITE) (N)

4.5.12.2.3 Rate Regulation.

4.5.12.2.3.1 The initial order for TLS-Lite must be for a fixed service period of one, three, or five years. At the end of the initial service period, the customer has 30 days in which to select an additional term commitment for any of the service periods specified, or may elect the month-to-month option. If the customer does not sign a term commitment by the end of the 30-day period, the customer will automatically be charged the month-to-month rate.

4.5.12.2.3.2 Customers may elect to spread their TLS-Lite non-recurring charges over one year. If the customer elects to terminate their fixed period agreement, the customer must remit any unpaid portion of the non-recurring charges to the Company.

4.5.12.2.3.3 A subsequent order to add any TLS-Lite ports to an existing TLS-Lite network must be for a fixed period of one, three, or five years, or for the remainder of the customer's existing fixed-period service agreement. The minimum service period for additional TLS-Lite ports is 12 months.

4.5.12.2.3.4 Ports are priced at the rate for the total number of ports purchased for the term of the service agreement. Customers with 12 or more ports shall pay the 12-port rate.

4.5.12.2.3.5 If the customer increases the number of ports after executing the initial term of service agreement, they have two options:

1. sign a fixed term agreement for only the additional ports; or
2. request that the new ports be added to an existing fixed period agreement (for not less than 12 months) and re-rate the agreement based on the total number of ports in service.

For example, if the customer has four ports under a five-year term and adds one port two years later, the customer may enter a fixed term agreement for one port, for three years, or request the existing fixed term agreement be modified to a five port agreement.

4.5.12.2.3.6 Rates are prospective only when re-rating of fixed term agreements occur because of adding ports, deleting ports, or extending fixed term agreements. (N)

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ACS OF ANCHORAGE, INC.

4.5 PRIVATE LINE

4.5.12 TRANSPARENT LAN SERVICE-LITE (TLS-LITE)

4.5.12.2.3.7 If a fixed period agreement is terminated prior to the end of the period, the customer is responsible for reimbursing the Company the difference between the rates actually charged and the rates that would have been charged, had the actual period been the original service period, plus a 10.5% finance charge compounded annually. For example, if a customer agrees to a five-year term and cancels service after three years, the Company will charge the customer the difference between the five-year rate and the three-year rate for three years, plus a 10.5% finance charge on the shortfall.

4.5.12.2.3.8 If the customer reduces the number of ports below 70% of their initial fixed period service agreement, the terminated ports will be considered a termination of the fixed period service agreement and reimbursement will be due the Company pursuant to Section 4.5.12.2.3.7 on the discontinued ports. In-service ports will be re-rated based on the total number of remaining ports.

4.5.12.2.3.9 Customers may sign a new fixed-term agreement that extends the term commitment beyond their existing fixed-term agreement at any time with no termination liability.

4.5.12.2.3.10 If the Company elects to substitute a customer's TLS-Lite service to a mutually agreed upon service provided by the Company, then the customer is not subject to the termination provisions as outlined in Section 4.5.12.2.3.7.

(N)
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- Static IP address (if requested).
- Vanity alaska.com domain name use (mybusiness.alaska.com and e-mail of me@mybusiness.alaska.com).

*Modem is GCI owned and must be returned if service discontinues.

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Speed	Activation Fee	Price
256K/256K	\$360 (waived with 3 year term)	\$89/mo.
384K/384K	\$360 (waived with 3 year term)	\$99/mo.
640K/640K	\$360 (waived with 3 year term)	\$149/mo.



It's a whole New Internet!

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