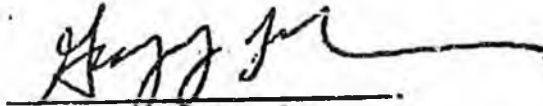


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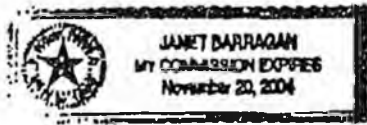
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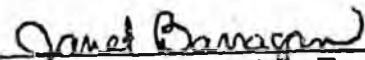
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11. This concludes my statement.

  
\_\_\_\_\_  
Gregory F. Chapados

SUBSCRIBED AND SWORN to before me this 13<sup>th</sup> day of August,  
2003.



  
Notary Public in and for Texas  
My commission expires on: 11-20-04

GCI Communication Corp.  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503  
(907) 265-5660

18

**STATE OF ALASKA**  
**THE REGULATORY COMMISSION OF ALASKA**

Before Commissioners:

Mark K. Johnson, Chair  
Dave Harbour  
Kate Giard  
James S. Strandberg  
G. Nanette Thompson

In the Matter of the Commission Review of )  
Rules and Regulations Governing )  
Telecommunications Rates, Charges Between )  
Competing Telecommunications Companies, )  
and Competition in Telecommunications )

R-03-3

**THE RURAL COALITION'S REPLY COMMENTS**

The Rural Coalition submits the following reply to the comments and proposed rules filed on July 16, 2003, by the Alaska Telephone Association ("ATA"), Alaska Communications Systems ("ACS"), AT&T Alascom ("ATTA"), and GCI Communications Corp. d/b/a General Communications, Inc. ("GCI") (collectively the "Commentors").

**I. Introduction**

The Commentors have raised a variety of issues in response to the Policies of House Bill ("HB") 111 and within the ambit of local competition regulation. However, the Commentors are not a homogeneous group, nor do their comments speak to the same aspects of local competition. ATTA raised issues of competition with respect to

**DORSEY &  
WHITNEY LLP**  
1031 WEST 4th Avenue  
Suite 600  
Anchorage, AK 99501  
(907) 276-4557

interexchange service. GCI and ACS addressed mainly those issues surrounding UNE-based local competition in certain urban areas in which these two companies compete. In contrast, the Rural Coalition, as well as the ATA, have addressed local competition in rural and remote Alaska - geographically, the largest portion of the State.

It is in rural and remote regions where local competition regulations have been most neglected and where the most work needs to be done. Indeed, the existing rules do not encompass service areas beyond Anchorage, Fairbanks, and Juneau; nor do they contemplate the type of competition currently evolving in more rural regions of the State. This omission must be remedied.

The Rural Coalition agrees in principle with some concepts raised by the Commentors. It also disagrees with the limited (and insufficient) approach advocated by others - most notably GCI. But it is the areas that are completely absent from the comments of GCI, ACS, and ATTA, which may be the most important with respect to competition in rural and remote regions in Alaska.

In its reply comments, the Rural Coalition responds to the issues raised by other Commentors (Sections II, IV and V below), emphasizes the unique aspects of local competition addressed in the Rural Coalition's proposed rules (Section III below), and explains why these aspects are vital to local competition regulation in Alaska.

## II. The status quo is not acceptable

The Legislative mandate of HB 111 requires a "hard look" at the entire set of Commission's competition rules, not a cosmetic fix. The proposed rules of other Commentors – in particular, GCI – do not go far enough.

The local competition rules adopted in this docket must define a "competitive service area" (which the current rules do not) and must establish among competitors fair and equal regulations, tariffing standards, and rate-adjustment flexibility.<sup>1</sup> The end result must ensure, among other things, that incumbent carriers are not placed at a competitive disadvantage.<sup>2</sup> These objectives cannot be reached without a fundamental restructuring of the existing local competition regulations.

For example, the majority of Commentors agree that the dominant/nondominant distinction under the existing local competition rules is no longer workable. The ATA explained that the threat an incumbent LEC "might be held to a higher 'dominant carrier' threshold than that required of a new, perhaps far more affluent, entrant" creates the spectre of unfair competition and is a disincentive to investment.<sup>3</sup> ACS declared: "[i]n a competitive market, the incumbent lacks market power and must be declared non-dominant."<sup>4</sup> Likewise, ATTA deemed the concept of dominance "outdated" and

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<sup>1</sup> HB 111, Policy Nos. 4, 6, 8.

<sup>2</sup> HB 111, Principle No. 3.

<sup>3</sup> ATA Comments, p. 3.

<sup>4</sup> ACS Comments, p. 7.

inappropriate in a competitive marketplace.<sup>5</sup> The Rural Coalition agrees, and its proposed rules eliminate the dominant/nondominant disparity once the parameters of a "competitive service area" are met.

GCI alone has asked the Commission to maintain the current notions of dominance. As support, GCI points to 20-year old discussions on "market power". A lot has happened both in the telecommunications industry and in telecommunications regulation since 1985. The Telecommunications Act of 1996 controls market power and anticompetitive conduct through mechanisms such as interconnection and structural separation rules. The Federal Communication Commission ("FCC") has found (in connection with an order referenced by GCI) that as long as these rules are attended to, dominant carrier regulation is both unnecessary and "possibly counterproductive".<sup>6</sup> In addition to being disfavored, GCI's approach also maintains incumbents as the dominant carriers for an undefined period of time,<sup>7</sup> which is directly contrary to HB 111 Policy No. 2; and relies on the grant of a certificate of public convenience and necessity as the triggering event to determine whether the incumbent will be granted nondominant

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<sup>5</sup> ATTA Comments, p. 4.

<sup>6</sup> *In the Matter of Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, 12 F.C.C.R. 15,756, FCC 97-142, rel. April 18, 1997, Separate Statement of Commissioner Susan Ness, ¶ 3.

<sup>7</sup> See GCI's proposed rule 3 AAC 53.220(b).

status,<sup>8</sup> which ignores the entry of wireless carriers that do not require a certificate to compete for local exchange customers.

In any event, GCI's proposed "market power" approach is redundant. The malady that GCI is seeking to cure by creating a cumbersome "market power" analysis and clinging to the outmoded dominant/nondominant distinction is the threat that: "a carrier 'with market power is able to engage in conduct that may be anticompetitive or otherwise inconsistent with the public interest'".<sup>9</sup> The Commission already has ample authority to prohibit conduct or deny rates that are anticompetitive or prejudice a carrier or customer. *See, e.g.*, 3 AAC 53.240 (and the Rural Coalition's proposed amendment to the same). Consequently, GCI's approach is both inappropriate and unnecessary.

GCI has also taken too narrow a view with respect to rate reductions. GCI suggests that the Legislature's mandate that "all carriers may unilaterally reduce consumer rates" must somehow be limited to existing rates, and that new service packages cannot be included. There is no support for GCI's approach. This is a transparent attempt to saddle incumbent LECs with disproportionate regulatory restrictions and provide competitors with an unfair advantage with respect to bundled or repackaged services. Again, the only rationale that GCI proposes for such a restriction is that the Commission must retain authority to "address any such terms and conditions

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<sup>8</sup> See GCI's proposed rule 3 AAC 53.220(b).

<sup>9</sup> GCI Comments, p. 10.

that might be unduly discriminatory and otherwise unreasonable".<sup>10</sup> As explained above, the Commission already has such authority, and, consequently, GCI's proposal is unnecessary.

In sum, GCI's minor tweaks to the Commission's existing rules, that give lip service to the Legislature's policies but in fact retain the existing regulatory structure, simply perpetuate the very flaws that compelled the Legislature to order change in the first place. This proceeding calls for a more thoughtful and comprehensive approach to the Commission's local competition rules and requires a structural change as set forth in the Rural Coalition's proposed rules.

### **III. Rules regarding ETC designation are imperative**

Both GCI and ACS focused their comments on how to address the regulatory problems that have arisen in Anchorage, Fairbanks, and Juneau. While some of the competitive issues raised may be important, the Commission cannot simply focus on the "problems-of-the-day" in Alaska's urban centers if it is to accomplish the mandate of HB 111. Instead, the Commission must determine what rules must be changed and/or created to permit the long-term, healthy regulation of local competition *throughout* Alaska.

Wireless carriers already actively compete with incumbent local exchange carriers ("LECs") in the more populated pockets of rural Alaska. A growing number of carriers are also seeking ETC status. Since 2002, four wireless carriers have petitioned

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<sup>10</sup> GCI Comments, p. 15.

for ETC designation in rural service areas, including: (i) AP&T Wireless, Inc., which petition was subsequently withdrawn; (ii) Alaska DigiTel LLC, which petition was argued before the Commission in May of this year, (iii) ACS Wireless, Inc., which petition has been noticed for comment, and, most recently, (iv) Dobson Cellular Systems, Inc., which petition asks the Commission to grant Dobson ETC status in portions of rural service areas throughout Alaska. There is no reason to believe that this trend will cease. In short, competition in rural Alaska between incumbents and stand-alone wireless networks already exists.

This type of competition raises the immediate problem of unfairly disadvantaging incumbent LECs unless the Commission acts to broaden the scope of existing local competition regulations and eliminates inappropriate disparities. FCC Commissioners have recently expressed their concern that "the ETC designation process – and in particular the public interest analysis – has been conducted in an inconsistent and sometimes insufficiently rigorous manner".<sup>11</sup> The Commissioners have also explained the importance of establishing appropriate ETC regulation to ensure that "companies that have traditionally invested in infrastructure to serve rural and high cost areas are not subject to a framework that unintentionally undercuts their ability to perform their critical universal service function".<sup>12</sup> This is exactly the type of "unfair

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<sup>11</sup> *Federal-State Joint Board on Universal Service, ORDER AND ORDER ON RECONSIDERATION, FCC 03-170 (rel. July 14, 2003), Joint Statement of Commissioners Kathleen Q. Abernathy and Jonathan S. Adelstein, ¶ 4.*

<sup>12</sup> *Id.*

competitive disadvantage” to incumbents that the Alaska Legislature has asked the Commission to expunge in this docket.

The current rules neglect: (i) the ETC designation process, (ii) the changes an incumbent LEC must be permitted to undergo prior to the designation of a second ETC (e.g., deaveraging, removal of implicit subsidies), and (iii) local competition in rural service areas if multiple ETCs are designated. ETC issues have also been excluded from concurrent Commission proceedings on local competition rules.<sup>13</sup> With multiple ETC applications pending and rural incumbent LECs increasingly facing unfair regulatory disparities, ETC issues can no longer be ignored. The ETC provisions set forth in the Rural Coalition’s Proposed Rules must be addressed in the current proceeding to ensure that the principles set forth in HB 111 are realized.<sup>14</sup>

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<sup>13</sup> See *In the Matter of the Consideration of the Revision to the Regulations Governing Competitive Local Exchange Market in Alaska*, R-02-6(2), February 19, 2003, p. 2 (“We are not seeking comment on issues concerning . . . eligible telecommunications status . . .”) (quoting R-02-6(1), November 21, 2002).

<sup>14</sup> As part of the Alaska DigiTel proceeding, the Rural Coalition argued that the Commission should defer ruling on ADT’s application, or any ETC application in rural and remote service areas in Alaska, until the Federal-State Joint Board on Universal Service made its recommendation and the FCC ruled on ETC designation issues, including filing requirements and the public interest showing. *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-46, FCC 02-307, rel. November 8, 2002. The RCA chose not to defer consideration and instead proceeded through a hearing on public interest issues. Now that the Commission has decided to move ahead with considering ETC applications, it is vital that ETC regulations be put in place immediately. The number of ETC petitions is mounting and regulation of designation and entry must be defined to ensure that such processes occur in a sufficiently rigorous and competitively neutral manner.

#### IV. Depreciation

Several Commentors addressed Legislative Policy No. 5 regarding the methods used to calculate depreciation. ACS proposed that the Commission adopt a streamlined approach, but deferred specific details on how such an approach might be put into practice.<sup>15</sup> The Rural Coalition agrees that a streamlined method for calculating depreciation would be useful, and describes below how such a method could be implemented. The Rural Coalition also has prepared proposed rules memorializing this method, attached as Exhibit A.

As an initial matter, it is clear that any method of depreciation must be prospective in nature – as opposed to solely focused on historical experience. While GCI appears to acknowledge that Policy No. 5 does not require that depreciation rates be based on historical experience alone, GCI's proposed rules in practice are almost entirely retrospective. GCI, for example, would require a carrier to analyze equipment and facilities retired in the previous four years. GCI's focus on historical experience is mistaken and has been previously disavowed by the FCC:

In 1980, the Commission departed from its previous practice of relying largely on historical experience to project equipment lives and began to rely on analysis of company plans, technological developments, and other future oriented studies.<sup>16</sup>

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<sup>15</sup> ACS Comments, p. 25 (proposing an "administratively simple, yet substantively more appropriate way to set depreciation rates in regulated [sic] proceedings").

<sup>16</sup> *In the Matter of 1998 Biennial Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers*, REPORT AND ORDER, CC Docket No. 98-137, FCC 99-397, rel. December 30, 1999, ¶ 5.

It is also apparent that any depreciation methodology adopted by the Commission should be streamlined. The Commission's current approach has resulted in substantial delays as depreciation studies filed with the Commission in practice have taken as much as two years (or more) to process. The value of a streamlined approach has already been recognized by the FCC and other state commissions.

To simplify the depreciation calculation, the FCC established a pre-approved set of prescribed depreciation ranges:

In order to simplify this process, the Commission has prescribed ranges of acceptable values for projected lives and future net salvage percentages . . . . The ranges are treated as safe harbors, such that carriers that incorporate values within the ranges into their depreciation filings will not be challenged by the Commission. Carriers that submit life and salvage values outside the prescribed range must justify their submissions with additional documentation and support.<sup>17</sup>

The Rural Coalition believes that the FCC's streamlining approach has merit and has drafted a set of proposed rules that incorporate the concepts of a pre-approved rate table, as well as the specific requirements of Policy No. 5.

The Rural Coalition's proposed rules on depreciation have three major components:

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<sup>17</sup> *In the Matter of Federal-State Joint Board on Universal Service, TENTH REPORT AND ORDER, CC Docket No. 96-45, FCC 99-304, rel. November 2, 1999, ¶ 426.*

(1) Pre-approved rate table<sup>18</sup> and streamlined approval process. If a carrier selects depreciation rates from within an approved range for any or all of its property accounts, the carrier's new depreciation rates go into effect immediately without the need for further review by the Commission. To the extent that the carrier requests depreciation rates that are outside the pre-approved ranges, the carrier will submit additional information in support of its proposed depreciation rate, which the Commission then considers for approval within a defined timeframe.

(2) Interim booking policy. This provision addresses those situations where additional information and studies are submitted in support of a proposed depreciation rate. To rectify the problems associated with the processing time of depreciation studies, the Rural Coalition recommends that the Commission adopt an interim booking policy whereby a carrier may book proposed depreciation rates subject to true-up upon final Commission action.

(3) Special amortization. For those situations when a substantial portion of a property account or subaccount is retired earlier than anticipated, and the reserve for that account is less than the amount to be retired, the Rural Coalition's proposed rules incorporate a special amortization, whereby the carrier can recover for the undepreciated assets over a period of time.

## V. Additional issues

### A. Significant competition

Both ACS and GCI seized upon the term "significant" in Legislative Policy No. 8, and advocated separate definitions of what "significant" might mean. The Rural Coalition takes no position on the appropriateness of a distinction between mere "competition" and "significant competition" in urban areas.<sup>19</sup> However, such a two-tiered approach to defining competition is unsuitable to rural and remote Alaska.

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<sup>18</sup> The Rural Coalition proposes that a depreciation rate table be established by collaboration between the Commission and interested stakeholders, and be finalized prior to or concurrent with the promulgation of the rules adopted as part of this docket. This process can be facilitated by considering those depreciation rates that have already been approved for Alaska carriers and the rate ranges established by the FCC.

<sup>19</sup> The Rural Coalition is dubious that the proposed definitions could reasonably be quantified.

In the absence of universal service funding, the economies of scale necessary to provide local exchange service throughout rural and remote service areas are insufficient to support a single carrier, let alone multiple carriers. As the ATA explained, the advent of competition may immediately compromise the already challenging circumstances by which rural customers receive affordable service if disparities in the regulatory regime are not alleviated. Consequently, once a second carrier is granted a certificate to provide local exchange service and begins to serve customers, or once a second ETC is designated,<sup>20</sup> such competition in a rural service area is significant without a separate competitive trigger. Any disproportionate restrictions on the incumbent LEC (including those restrictions on raising rates) must be removed without delay.

B. Competitive neutrality.

The ATA has correctly highlighted the need for regulatory parity. The Rural Coalition agrees with this focus on parity and has structured its proposed regulations to provide safeguards to ensure that an incumbent carrier is not put at a competitive disadvantage by rules that are unfair.

To ensure fairness, the Commission must consider that an incumbent LEC and a competitive entrant may not be similarly situated. Local competition rules must be structured accordingly. Unlike a competitive entrant, a rural incumbent LEC has costs

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<sup>20</sup> An ETC is obligated to provide supported services to any requesting customer within a service area and must advertise its services. Thus, actual competition exists upon ETC designation whether or not the carrier has existing customers.

associated with operating and maintaining a ubiquitous network and bears carrier of last resort obligations. In addition, technology differences (wireless/wireline) may result in materially different capital costs between an incumbent LEC and a competitive entrant, unequal investment risk, and disproportionate amounts of capital tied up in infrastructure. These types of differences should be considered when adopting rules, to ensure that regulations are not just equal in form but are also fair and competitively neutral in impact.

C. TELRIC pricing

The Rural Coalition generally supports ACS' approach with regard to TELRIC principles and agrees that fair payment must be the touchstone of UNE pricing. Federal guideline permit the Commission sufficient latitude to establish an Alaska-appropriate model that incorporates and balances both the concepts of embedded and forward-looking costs.

VI. **Conclusion**

For all the foregoing reasons, the Rural Coalition respectfully requests that the Commission adopt the regulations proposed Rural Coalition.

Dated this 13<sup>th</sup> day of August, 2003.

DORSEY & WHITNEY LLP  
Attorneys for the Rural Coalition

By: Heather A. Grahame  
Heather H. Grahame

DORSEY &  
WHITNEY LLP  
1031 WEST 4th Avenue  
Suite 600  
Anchorage, AK 99501  
(907) 276-4557

**EXHIBIT A**  
**THE RURAL COALITION'S PROPOSED RULES<sup>1</sup>**

**I. NEW RULES ON DEPRECIATION**

**3 AAC Section 53.\*\*\*. DEPRECIATION RATES**

**(a) General.** Local telecommunications carriers shall use depreciation rates approved by the commission to determine depreciation expense and provide for accumulated depreciation (also referred to as depreciation reserve). For purposes of this section, depreciation rates used prior to December 31, 2003 and those in effect on December 31, 2003 shall be deemed appropriate for use unless subsequently modified by the Commission.

**(b) Simplified depreciation rate changes.** If a local exchange carrier selects depreciation rates from within the approved ranges developed by the commission for any or all of its property accounts, the carrier's selected depreciation rates may go into effect upon written notice to the Commission.<sup>2</sup>

**(c) Other depreciation rate changes.** Any local exchange carrier requesting a change in depreciation rates not otherwise covered by (a) or (b) of this section must obtain commission approval. Any such change in depreciation rate shall be based on the actual useful life of depreciated equipment and facilities.

**(1) Considerations.** In making its approval decision under this section, the commission shall consider whether the new depreciation rates promote deployment of new technology and infrastructure, as well as any company plans, technological developments, and other studies provided by the local exchange carrier.

**(2) Depreciation method.** Depreciation rates may be based on any reasonable method of depreciation; however the commission may consider upon its own motion an alternative method of depreciation on a case-by-case basis.

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<sup>1</sup> Amendments are delineated by underlining, deletions by ~~strikethrough~~.

<sup>2</sup> The Rural Coalition proposes that a depreciation rate table be established by collaboration between the Commission and interested stakeholders, and be finalized prior to or concurrent with the promulgation of the rules adopted as part of this docket. This process can be facilitated by considering those depreciation rates that have already been approved for Alaska carriers and the rate ranges established by the FCC.

(3) Contents of petition. Any request made under this section must include the following information:

(A) For each property account or subaccount for which a depreciation rate change is proposed:

(i) the plant in service and the accumulated depreciation as of the requested effective date for the proposed depreciation rates;

(ii) a comparison of current depreciation rates with the proposed rates;

(iii) a comparison of both existing and proposed service lives; and

(iv) reasons for the proposed changes, including estimated useful life, remaining life, and net salvage value;

(B) The requested effective date of the changes; and

(C) The change in annual depreciation expense that would result from adoption of the proposed depreciation rates, expressed both as a dollar amount and as a percentage of current depreciation expense.

(4) Commission decision. The commission shall make its final determination on any petition submitted under this section within 12 months of the date that the carrier submits a complete petition in accordance with subsection (3).

(d) Burden of proof. For proposed changes in depreciation rates, other than those initiated by (a) or (b) of this section, the local exchange carrier shall have the burden of proof to show that depreciation or amortization expense is reasonable and in accordance with sound accounting and economic principles.

(e) Interim booking. Unless otherwise ordered by the commission, a local exchange carrier may book proposed depreciation or amortization expense on an interim basis from the month a proposed depreciation rate is filed with the commission in accordance with (c) of this section until a final decision is reached by the commission. Interim booking shall be adjusted, if necessary, upon final commission approval of depreciation rates. A local exchange carrier shall maintain records to show the interim booking and the adjustments, if any, that were made upon final approval of the rates.

(f) Special amortization. Where all or a substantial portion of a property account or subaccount is retired earlier than anticipated, and the reserve for that account is less than

the amount to be retired less salvage, or in other circumstances when an amortization is appropriate, a local exchange carrier may request special amortization.

(1) If the amortization period is less than or equal to two years, and the annual amount to be amortized is less than or equal to 2% of annual intrastate revenues of the carrier, such amortization shall go into effect upon written notice to the Commission.

(2) If the amortization period is more than two years, or the amount to be amortized is more than 2% of annual intrastate revenues of the carrier, the carrier shall petition the commission for approval of the proposed amortization.

(g) New class of property. When a local exchange carrier needs to establish a depreciation rate for a new class of property, it may adopt a depreciation rate in accordance with (b) or (c) of this section.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Mark Johnson, Chair  
Dave Harbour  
Kate Giard  
James S. Strandberg  
G. Nanette Thompson

In the Matter of the Commission Review of )  
Rules and Regulations Governing )  
Telecommunications Rates, Charges )  
Between Competing Telecommunications ) R-03-3  
Companies, and Competition in )  
Telecommunications )  
\_\_\_\_\_ )

REQUEST TO PROVIDE INFORMATION

During the public hearing in this matter the Commission requested various parties to provide post-hearing responses to certain specific information requests. GCI requests the Commission to accept the following limited responses from GCI to information requests directed to ACS.

During the public hearing in this matter, the Commissioners often emphasized its need for specific factual information, rather than general assertions and arguments, addressing various issues. Furthermore, the Commissioners generally allowed all parties to respond to questions initially addressed to another party. GCI's provision of the following information is consistent with the hearing procedures in both these respects.

GCI Communication Corp.  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503  
(907) 265-5600

1 Commissioner Harbour requested ACS to provide specific information  
2 regarding its net income by line of business for each year since 2000. (Tr. 366-  
3 367) The information attached as Exhibit A shows ACS' operating income for its  
4 local exchange, wireless, directory, Internet, and interexchange (long distance)  
5 businesses for 2000, 2001, 2002, and the first six months of 2003. All of this  
6 information is taken from ACS' publicly filed SEC Forms 10-K and 10-Q. The  
7 exhibit also shows the operating income of each business segment as a percentage  
8 of total operating income. This portion of Exhibit A shows that ACS derives over  
9 80% of its operating income from local exchange service and that both its Internet  
10 and Interexchange (Long Distance) segments produce operating losses. This same  
11 information is shown graphically on Exhibit B.  
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14 The information on Exhibit A and B, summarized above, is provided in  
15 terms of operating income, not net income. The operating income provided is  
16 essentially the same as the commonly used measure called EBITDA. Operating  
17 income, rather than net income, by business segment has been provided because  
18 the difficulty of assigning total company interest expense among segments makes  
19 calculation of net income by segment difficult or impossible. Exhibit A does  
20 include a reconciliation of the total operating income to total company net income.  
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23 During the hearing, Commissioner Giard requested information from  
24 ACS regarding its claims to be efficient compared to other carriers. (Tr. 458) On  
25 this matter, GCI simply references the prefiled testimony of Thomas L.  
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Brand/Arthur Menko, submitted by GCI in Docket U-96-89, which provides specific information regarding the efficiency of ACS in comparison with other carriers.

Respectfully submitted at Anchorage, Alaska this 19<sup>th</sup> day of September, 2003.

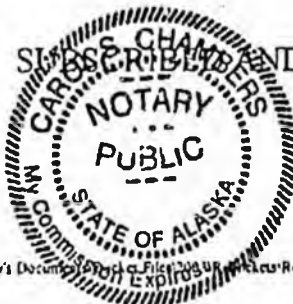
GENERAL COMMUNICATION, INC.

BY: [Signature]  
James R. Jackson  
Its: Regulatory Attorney

**VERIFICATION**

I, James R. Jackson, verify that I believe the statements contained in this pleading are true and accurate.

[Signature]  
James R. Jackson



AND SWORN to before me this 19<sup>th</sup> day September, 2003.

Carol Chambers  
Notary Public in and for Alaska  
My commission expires: 4-2-05

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GCI Communication Corp.  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503  
(907) 265-5600

Revenues	First 6 Months			
	2000	2001	2002	2003
Local	222,268	221,411	226,447	109,211
Wireless	41,155	41,894	43,180	22,277
Directory	29,156	33,870	33,604	11,631
Internet	9,170	13,724	20,847	16,193
Interexchange	11,778	21,316	19,424	10,005
	<u>313,527</u>	<u>332,215</u>	<u>343,502</u>	<u>169,317</u>

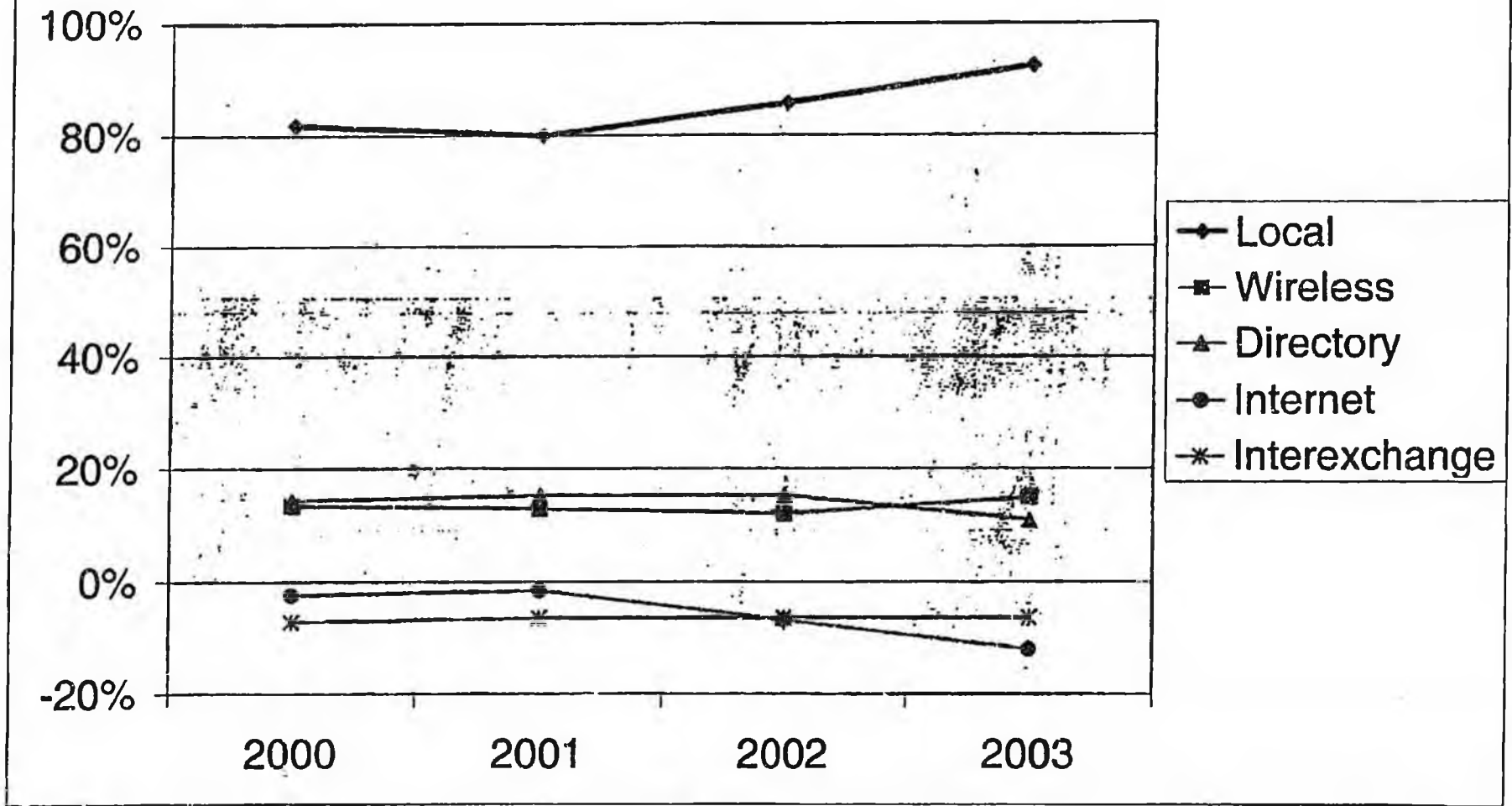
Direct Expenses	First 6 Months			
	2000	2001	2002	2003
Local	131,542	120,465	117,277	55,334
Wireless	26,306	25,649	27,912	13,583
Directory	13,374	14,684	14,170	5,249
Internet	11,785	15,677	29,502	23,186
Interexchange	19,749	29,509	27,547	13,713
	<u>202,716</u>	<u>205,984</u>	<u>216,408</u>	<u>111,065</u>

Operating Income	First 6 Months			
	2000	2001	2002	2003
Local	90,726	100,946	109,170	53,877
Wireless	14,849	16,245	15,268	8,684
Directory	15,822	19,186	19,434	6,382
Internet	(2,615)	(1,953)	(8,655)	(6,993)
Interexchange	(7,971)	(8,193)	(8,123)	(3,708)
	<u>110,811</u>	<u>126,231</u>	<u>127,094</u>	<u>58,252</u>

Segment Operating Income as a Percent of Total	First 6 Months			
	2000	2001	2002	2003
Local	82%	80%	86%	92%
Wireless	13%	13%	12%	15%
Directory	14%	15%	15%	11%
Internet	-2%	-2%	-7%	-12%
Interexchange	-7%	-6%	-6%	-6%
	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>

Reconciliation of Operating Income to Net Income	First 6 Months			
	2000	2001	2002	2003
Operating Income	110,811	126,231	127,094	58,252
Less Unusual Charges	(5,288)			
Less Depreciation and Amortization	(71,755)	(79,108)	(82,940)	(44,691)
Gain/Loss on Disposal of Assets			(2,163)	96,539
Less Goodwill Impairment Loss			(64,755)	
Less Net Interest Expense	(57,950)	(56,907)	(49,501)	(23,913)
Equity in Income (loss) of Investments	(303)	69		
Income Taxes	197	195		
Loss from Discontinued Operations	(917)	(1,718)	(7,632)	(52)
Cumulative Effect of Change in Accounting Principle	-	-	(105,350)	-
Net Income	<u>(25,205)</u>	<u>(11,238)</u>	<u>(185,247)</u>	<u>86,135</u>

### Operating Income by Segment as a Percentage of Total Operating Income



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STATE OF ALASKA  
THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Mark K. Johnson, Chair  
Dave Harbour  
Kate Giard  
James S. Strandberg  
G. Nanette Thompson

In the Matter of the Commission Review of )  
Rules and Regulations Governing )  
Telecommunications Rates, Charges Between )  
Competing Telecommunications Companies, )  
and Competition in Telecommunications )

R-03-3

SUPPLEMENTAL INFORMATION FILED BY THE RURAL COALITION

The Rural Coalition submits for the Commission's review and consideration the following supplemental information on the status of and impact of wireline/wireless competition. See Exhibit A (attached). This information was requested at the recent hearing in this docket by Commissioner Harbour, who specifically solicited any data or information on "the effect of wireless use on the wire network." See Hearing Transcript, pp. 344-355.

The attached information is an excerpt from the Federal Communication Commission's ("FCC") *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Eighth Report, WT Docket No. 02-379, FCC 03-150 (rel. July 14, 2003) ("FCC Annual Report"), 101-106.<sup>1</sup>

<sup>1</sup> The full order is available electronically at the FCC's website, <http://www.fcc.gov>.

DOUGLAS & WHITNEY LLP  
WEST 4th Avenue  
Suite 600  
Anchorage, AK 99501  
(907) 276-4557

While the FCC states that specific data on wireless/wireline competition is largely unavailable, the FCC finds there is "much evidence . . . that consumers are substituting wireless service for traditional wireline communications." See FCC Annual Report, 102. The FCC further finds that the local segment of wireline telecommunications has been "losing business to wireless substitution" and cites one analyst who estimates that "wireless has now displaced about 30 percent of total wireline minutes." See *id.* at 102-103.

The Rural Coalition would be pleased to submit upon request any additional information that the Commission may desire with respect to the Rural Coalition's proposed rules or any other issues in the current rulemaking docket.

DATED this 19<sup>th</sup> day of September, 2003, at Anchorage, Alaska.

DORSEY & WHITNEY LLP  
Attorneys for Rural Coalition

By: *Heather H. Grahame*  
Heather H. Grahame

CERTIFICATE OF SERVICE

This certifies that on September 19, 2003, the following individuals were served via mail:

William Saupe  
Ashburn & Mason  
1130 West 6<sup>th</sup> Avenue, Suite 100  
Anchorage, AK 99501

Jim Rowe  
Alaska Telephone Association  
201 East 56<sup>th</sup> Avenue, Suite 114  
Anchorage, AK 99518

Mark Ayotte  
Briggs & Morgan  
Professional Association  
2200 First National Bank Building  
332 Minnesota Street  
St. Paul, Minnesota 55101

Ted Moninski  
Directory  
Regulatory Affairs  
Alaska Communications Systems  
510 L Street, Suite 210  
Anchorage, AK 99501  
Jimmy Jackson,  
Corporate Counsel  
General Communication Corp. d/b/a GCI  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503

*VP*

---

CERTIFICATION SIGNATURE

Before the  
Federal Communications Commission  
Washington, D.C. 20554

**EXCERPT**

In the Matter of )  
 )  
Implementation of Section 6002(b) of the ) WT Docket No. 02-379  
Omnibus Budget Reconciliation Act of 1993 )  
 )  
Annual Report and Analysis of Competitive )  
Market Conditions With Respect to Commercial )  
Mobile Services )  
 )

**EIGHTH REPORT**

Adopted: June 26, 2003

Released: July 14, 2003

By the Commission: Chairman Powell issuing a statement; Commissioner Copps concurring and issuing a statement.

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Statement of Chairman Powell  
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aimed at the youth portion of the population.<sup>343</sup>

#### d. Wireless/Wireline Competition

101. Once solely a business tool, wireless phones are now a mass-market consumer device.<sup>344</sup> The overall wireless penetration rate (defined as the number of wireless subscribers divided by the total U.S. population) in the United States is now at 49 percent.<sup>345</sup> Industry survey firm Telephia estimated that 53 percent of the total population in 41 major metropolitan areas subscribed to wireless service at the end of 2002, with some areas much higher, including Greenville, SC (71 percent), St. Louis (69 percent), Raleigh, NC (65 percent), Orlando (65 percent), Atlanta (64 percent), Washington DC (64 percent) and Boston (63 percent).<sup>346</sup> In addition, one study found that 56 percent of households in the 27 largest U.S. markets use wireless phone service.<sup>347</sup> Merrill Lynch estimated that, as of June 2002, more than 55 percent of Americans between the ages of 15 and 59 had wireless phones, including 71 percent between the ages of 20 and 34, 69 percent between 35 and 39, 68 percent between 40 and 44, and 65 percent between 45 and 49.<sup>348</sup>

##### (i) Wireless Substitution

102. While specific data is largely unavailable, it appears that only a small percent of wireless customers use their wireless phones as their only phone, and that relatively few wireless customers have "cut the cord" in the sense of canceling their subscription to wireline telephone service.<sup>349</sup> There is much evidence, however, that consumers are substituting wireless service for traditional wireline communications. At a recent Congressional hearing on the health of the telecommunications industry, for example, Blake Bath, managing director of Lehman Brothers, pointed out that while in 1996 wireless made up 5 percent of the sector's revenues, it now accounts for 30 percent.<sup>350</sup> Robert Crandall of the

<sup>343</sup> See Section II.C.2, Resellers, *infra*.

<sup>344</sup> See *Sixth Report*, at 13381.

<sup>345</sup> See note 214, *supra*.

<sup>346</sup> *U.S. Mobile Phone Penetration Reaches 53% of Total Population in December 2002*, News Release, Telephia, Feb. 11, 2003.

<sup>347</sup> *Wireless Phone Penetration Among U.S. Households Slows Down as Fewer First-Time Subscribers Enter the Marketplace*, News Release, J.D. Power and Associates, Sept. 25, 2002.

<sup>348</sup> Linda Mutschler *et al.*, *Initiation Report: From Top to Bottom Line - Part I*, Merrill Lynch, Equity Research, Sept. 19, 2002, at 19. In addition, there is some evidence that wireless penetration is inversely related to household income. According to a 2001 survey conducted by the Energy Information Administration (EIA), a statistical agency of the U.S. Department of Energy, the percent of housing units having cell phones increases with household income: household income less than \$15,000 (23 percent of households with cell phones); \$15,000 - \$29,999 (38 percent); \$30,000 - \$49,999 (54 percent); \$50,000 - \$74,999 (71 percent); \$75,000 or more (82 percent). Energy Information Administration, *2001 Residential Energy Consumption Survey* (visited May 19, 2003) <<http://www.eia.doe.gov/emeu/recs/appliances/appliances.html>>.

<sup>349</sup> See *Seventh Report*, at 13017.

<sup>350</sup> *Health of the Telecommunications Sector: A Perspective from Investors and Economists, before the House Subcommittee on Telecommunications and the Internet*, 108th Cong. (Feb. 5, 2003) (statement of Blake Bath, Managing Partner, Lehman Brothers).

Brookings Institute, also speaking at the hearing, claimed that wireless "has siphoned enormous amounts of traffic from the wireline network."<sup>351</sup> One analyst estimates that wireless has now displaced about 30 percent of total wireline minutes.<sup>352</sup> For the average household, wireless represents 27 percent of total telecommunications expenditures.<sup>353</sup>

103. The long distance, local, and the payphone segments of wireline telecommunications have all been losing business to wireless substitution. Long distance volumes and revenues are down at AT&T, MCI, and Sprint as customers shift to wireless services to make their calls.<sup>354</sup> Verizon, SBC, and BellSouth saw business and consumer access lines fall 3.6, 4.1, and 3.2 percent, respectively, in 2002, for a total decrease of 5.5 million lines, with wireless substitution being a significant factor.<sup>355</sup> Similarly, the number of payphones has declined from 2.7 million in the mid-1990s to about 1.9 million today, in large part due to wireless phones.<sup>356</sup> Even the prepaid calling card business is suffering, as consumers are now "utilizing their wireless phones for the same reasons they once used prepaid phone cards."<sup>357</sup>

104. Certainly, this is due to the declining cost and widespread use of wireless service. In fact, a number of analysts argue that wireless service is cheaper than wireline. According to Blake Bath, "[w]ireless pricing is currently below that of wireline."<sup>358</sup> Merrill Lynch claims that, for many wireless customers making a long distance call in the evening "using a wireless phone would actually be cheaper than using the fixed line phone in most cases."<sup>359</sup> UBS Warburg agrees:

Why use a pay phone, a calling card, or a hotel phone when prices are

<sup>351</sup> *Health of the Telecommunications Sector: A Perspective from Investors and Economists, before the House Subcommittee on Telecommunications and the Internet, 108th Cong. (Feb. 5, 2003) (statement of Robert Crandall, Senior Fellow, The Brookings Institute).*

<sup>352</sup> Cannon Carr and Gregor Dannacher, *Can Wireline Cannibalization Save Wireless ARPU in 2003?*, CIBC World Markets, Dec. 11, 2002, at 8. According to the CEO of Verizon, Ivan Seidenberg, wireless accounts for 30 percent of all voice minutes. Jeffrey Bartash, *Verizon CEO Urges Regulatory Relief*, CBS.MARKETWATCH.COM, Sept. 19, 2002.

<sup>353</sup> Based on a survey of the telecommunications bills of 32,000 households for the third quarter of 2002. *TNS Telecoms Data ranks Verizon the Third Largest Long Distance Provider in the U.S., Surpassing Sprint*, News Release, TNS Telecoms, Jan. 7, 2003. The breakdown: Local (26 percent); Local Toll (2 percent); Long Distance (8 percent); Wireless (27 percent); Cable/Satellite (27 percent); Internet (11 percent). *Id.*

<sup>354</sup> Sarah Z. Steeper, *Who Needs Home Telephones? More Users Going All Wireless and That's Cutting Into Revenue For Local Bells and Long-Distance Firms*, INVESTOR'S BUSINESS DAILY, Aug. 8, 2002, at 1.

<sup>355</sup> Reinhardt Krause, *Local Bells Losing Second Lines as Users Go Broadband, Wireless*, INVESTOR'S BUSINESS DAILY, Feb. 11, 2003, at A01.

<sup>356</sup> Yuki Noguchi, *Requiem for the Payphone: As Cell Phone Use Increases, an Icon gradually Dies*, WASHINGTON POST, Dec. 30, 2002, at E1.

<sup>357</sup> *Wireless Threatens Growth for U.S. Prepaid Calling Cards*, News Release, IDC, Dec. 23, 2002.

<sup>358</sup> *Health of the Telecommunications Sector: A Perspective from Investors and Economists, before the House Subcommittee on Telecommunications and the Internet, 108th Cong. (Feb. 5, 2003) (statement of Blake Bath, Managing Partner, Lehman Brothers).*

<sup>359</sup> *NextGen VII*, at 40.

generally higher on a per-minute basis relative to wireless? Also, given that a large number of night and weekend minutes are now regularly included in wireless pricing schemes . . . , it is often cheaper to use your wireless phone while in your home.<sup>360</sup>

#### (II) Wireless Alternatives

105. An increasing number of mobile wireless carriers offer service plans designed to compete directly with wireline local telephone service. The largest of such providers, Leap, under its "Cricket" brand, offers mobile telephone service in 40 markets in 20 states.<sup>361</sup> At the end of the third quarter of 2002, Leap had roughly 1.5 million customers.<sup>362</sup> Leap's service allows subscribers to make unlimited local calls and receive calls from anywhere for about \$30 per month.<sup>363</sup> Leap claims that 26 percent of its customers do not have a wireline phone at home.<sup>364</sup> As discussed above, Leap states that its bankruptcy filing will not interrupt its operations or result in employee layoffs.<sup>365</sup>

106. Other companies offering unlimited local calling plans include: Triton PCS in Virginia, North Carolina, South Carolina, Georgia, and Tennessee (with more than 200,000 subscribers to its unlimited calling plan);<sup>366</sup> Qwest in Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, New Mexico, Utah, and Wyoming;<sup>367</sup> ALLTEL in Arizona, New Mexico, North Carolina, Nebraska, and Arkansas;<sup>368</sup> MetroPCS in California, Florida, and Georgia;<sup>369</sup> Northcoast PCS in Ohio;<sup>370</sup> First Cellular of Southern Illinois in Illinois;<sup>371</sup> Kiwi PCS in North Carolina;<sup>372</sup> Rural Cellular in Vermont, New Hampshire, New

<sup>360</sup> *Wireless 411*, at 54.

<sup>361</sup> *Leap Reports Results for Thrd Fiscal Quarter of 2002*, News Release, Leap, Nov. 13, 2002.

<sup>362</sup> *Id.*

<sup>363</sup> The monthly fee, paid in advance, varies slightly by service area. *See also*, *Seventh Report*, at 13018, note 225.

<sup>364</sup> *Leaping Over Landline: Leap Leads Wireless Displacement Trend*, News Release, Leap Wireless, Jun. 24, 2002.

<sup>365</sup> *See* Section I.A.1.a(i)(c), *Restructurings*, *supra*.

<sup>366</sup> SunCom, *SunCom UnPlan "FREE" Zones* (visited Mar. 28, 2003) <[http://www.suncom.com/maps/suncom\\_unplan\\_maps.html](http://www.suncom.com/maps/suncom_unplan_maps.html)>; Linda Mutschler *et al.*, *Triton PCS Holdings, Inc.*, Merrill Lynch, Equity Research, Mar. 12, 2003, at 2.

<sup>367</sup> Qwest, *Q by Qwest* (visited Apr. 9, 2003) <<http://www.qwestwireless.com/qxq/coverage/>>.

<sup>368</sup> Conversation with ALLTEL sales representative, Mar. 26, 2003.

<sup>369</sup> *See* MetroPCS, *Service & Phone* (visited Apr. 9, 2003) <<http://www.metropcs.com/coverage.shtml>>.

<sup>370</sup> *See* Northcoast PCS, *Service Plans* (visited Apr. 9, 2003) <<http://www.Northcoastpcs.com/NewFiles/Service%20Plans.htm>>.

<sup>371</sup> *See* First Cellular, *Southern Illinois Unlimited* (visited Apr. 9, 2003) <[http://www.firstcellular.com/wireless\\_clear\\_connect\\_d.htm](http://www.firstcellular.com/wireless_clear_connect_d.htm)>.

<sup>372</sup> *See* Kiwi PCS, *Welcome!* (visited Apr. 9, 2003) <<http://www.kiwipcs.com>>.

York, Kansas, Minnesota, Maine, North Dakota, and South Dakota;<sup>373</sup> and Ntelos in Virginia.<sup>374</sup> In addition, for around \$40-\$60 per month, many carriers offer regional or national calling plans with 500 or more "anytime" minutes and over 3000 night and weekend minutes.<sup>375</sup>

**e. Geographical Comparisons: Urban vs. Rural**

107. Since the release of the *Sixth Report*, the Commission has attempted to obtain a better understanding of the state of competition below the national level, in particular in rural areas. The primary difficulty for the Commission in this task is the lack of data specific to rural markets. At its Public Forum held in February 2002, the Wireless Telecommunications Bureau asked participants to address this issue.<sup>376</sup> The Commission continued this inquiry in its *NOI*, where the Commission invited comments on a range of rural issues. In our analysis below, we have attempted to incorporate commenters' suggestions.

**(i) Definition of Rural**

108. As the Department of Education stated in 1994, "few issues bedevil analysts and planners . . . more than the question of what actually constitutes 'rural.'"<sup>377</sup> The difficulties that this question brings are evidenced by the fact that within the federal government, the term rural has been defined in many different ways. The variety of definitions reflects the numerous purposes for which the definitions are used throughout the federal government.<sup>378</sup>

109. The Commission does not have a statutory definition of what constitutes a rural area. The Commission has used RSAs as a proxy for rural areas for certain purposes, such as the current cellular cross-interest rule and the former CMRS spectrum cap, stating that "other market designations used by the Commission for CMRS, such as [EAs], combine urbanized and rural areas, while MSAs and RSAs are defined expressly to distinguish between rural and urban areas."<sup>379</sup> In its *NOI*, the Commission asked the public to comment on how it should define rural for purposes of this report.<sup>380</sup>

<sup>373</sup> See Rural Cellular, *Welcome To Rural Cellular Corporation* (visited Apr. 9, 2003) <<http://www.ruralcellular.com/>>.

<sup>374</sup> See Ntelos, *nTown* (visited Apr. 9, 2003) <[http://www.ntelos.com/P/pdr\\_ntown.html](http://www.ntelos.com/P/pdr_ntown.html)>.

<sup>375</sup> For a sampling of pricing plans, see Linda Mutschler *et al.*, *Wireless Pricing: What Are They Thinking*, Merrill Lynch, Equity Research, Aug. 1, 2002; Colette Fleming *et al.*, *AT&T Wireless Group, Inc.*, UBS Warburg, Equity Research, Feb. 12, 2003.

<sup>376</sup> See *Public Forum Presentations* <<http://wireless.fcc.gov/cmrs-crforum.html#pres>>.

<sup>377</sup> Joyce D. Stern, *The Condition of Education in Rural Schools*, U.S. Department of Education (Jun 1994) [cited in National Center for Education Statistics, *Urban/Rural Classification Systems* (visited Apr. 4, 2002) <<http://nces.ed.gov/surveys/ruraled/definitions.asp>>].

<sup>378</sup> See *Seventii Report*, at 13021.

<sup>379</sup> Biennial Regulatory Review, *Spectrum Aggregation Limits for Wireless Telecommunications Carriers, Report and Order*, 15 FCC Rcd 9219, 9256 at note 203 (1999).

<sup>380</sup> *NOI*, at 24937.

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Mark K. Johnson, Chair  
Kate Giard  
Dave Harbour  
James S. Strandberg  
G. Nanette Thompson

In the Matter of the Commission Review of )  
Rules and Regulations Governing )  
Telecommunications Rates, Charges )  
Between Competing Telecommunications )  
Companies, and Competition in )  
Telecommunications )

R-03-3

ALASKA COMMUNICATIONS SYSTEMS  
NOTICE OF FILING REQUESTED INFORMATION

ACS of Anchorage, Inc. ("ACS-ANC"), ACS of Fairbanks, Inc. ("ACS-F");  
ACS of Alaska, Inc. ("ACS-AK"), ACS of the Northland, Inc. ("ACS-N"), and ACS  
Long Distance, Inc. ("ACS-LD"), hereinafter collectively referred to as ACS, submit  
the following information in response to the Regulatory Commission of Alaska's  
("RCA") inquiries at the September 2-4, 2003 public hearing. ACS has reviewed  
the transcripts and offers the following responses and exhibit list of documents in  
response to the Commissioner's inquiries.

The documents cited in the ACS comments and reply comments as  
requested on September 3, 2003 at page 308, line 22 appear as the attached  
Exhibit A.

Alaska Communications Systems  
600 Telephone Avenue, MS65  
Anchorage, AK 99503  
907. 297.3103 • Fax: 907. 297.3153

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ACS also provides the chart comparison of how ACS compares with other similarly situated companies and their cost of provisioning as requested at page, 330, line 3. Exhibit B. A comparison of ATU and ACS shows that the revenue requirement per line using Form M data demonstrates that ACS of Anchorage, Inc., in 2002, the company is 13% more efficient than ATU in 1997 and 9% more efficient than ATU in 1998.

Numerous studies and research including excerpts from FCC wireless competition reports were located. The materials also include the Berkley Study referenced by Professor Lehman on September 4, 2003, page 345, line 24. Exhibit C.

On September 4, 2003 at page 366, line 22 through page 367, line 17, Commissioner Harbour asked several questions of ACS. ACS does not have publicly available analyses that would adequately respond to these questions other than the Form 10-K filed with the Securities and Exchange Commission. Information regarding the local services, interexchange, wireless, Internet, and former directory services can be found in the 2002 business segment reports. ACS includes the business segment pages from its 2002 Form 10-K in response to these questions at Exhibit D.

Given the abbreviated time to respond to Commissioner Giard's inquiry for a listing of tariffing standards used in the lower 48 similar to the proposed regulations that ACS presented in its comments, ACS was not able to review all 48 contiguous states' regulations and tariffing provisions. Transcript Volume 3,

Alaska Communications Systems  
600 Telephone Avenue, M565  
Anchorage, AK 99503  
907.297.3103 • Fax: 907.297.3153

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2 September 4, 2003 at page 418, line 10. Instead, ACS made a review of those  
3 states which would likely have faced competitive issues somewhat similar to those  
4 encountered in Alaska. In that review, ACS did find a number of states that  
5 utilized abbreviated tariffing procedures for local exchange service when  
6 competitive triggers were reached. A listing of those tariffing standards as well as  
7 citations to the regulations is provided at Exhibit E. The competitive triggers  
8 varied in complexity and application as a result of the alternative regulations which  
9 prompted their use.  
10

11  
12 Commissioner Harbour also requested additional information to aid the  
13 RCA in understanding the events after the Illinois decision at Transcript Volume 3,  
14 page 439, line 12. ACS has obtained copies of the briefs filed by both the  
15 appellants and appellees in the consolidated proceeding but due to the  
16 voluminous nature of the briefs has only filed a single copy of those briefs with the  
17 original filing. Exhibit F.  
18

19  
20 In addition to the chart requested at page 330, line 6 as well as page 457,  
21 line 18, Commissioner Giard requested a comparison of ACS's efficiency in  
22 comparison with GCI's. ACS does not have the data necessary to make that  
23 comparison. ACS also believes that such comparison would be of limited value  
24 given the substantial difference in performance obligations imposed on the two  
25 companies.  
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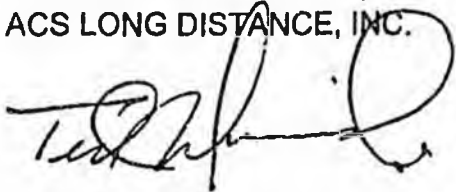
27  
28 <sup>1</sup> For example, as Carrier of Last Resort, ACS is required to build, extend and maintain a network capable of serving all customers in its markets. GCI does not have a similar obligation.

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In response to Commissioner Giard's inquiry on September 4, 2003, page 464, line 20, ACS negotiated its current Collective Bargaining Agreement ("CBA") in 1999 after the acquisition of ATU and the PTI companies on May 14, 1999. The CBA went into effect on November 7, 1999. The current CBA is in effect until December 31, 2006.

Respectfully submitted this 19<sup>th</sup> day of September, 2003,

ACS of ALASKA, INC.  
ACS of ANCHORAGE, INC.  
ACS of FAIRBANKS, INC.  
ACS of the NORTHLAND, INC.  
ACS LONG DISTANCE, INC.



Ted Moninski, Director  
Regulatory Affairs/Carrier Relations

Alaska Communications Systems  
600 Telephone Avenue, MS65  
Anchorage, AK 99503  
907. 297.3103 • Fax: 907. 297.3153

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

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Telecommunications Rates, Charges ) R-03-3  
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Companies, and Competition in )  
Telecommunications )  
\_\_\_\_\_ )

ALASKA COMMUNICATIONS SYSTEMS  
EXHIBIT LIST

EXHIBIT	DESCRIPTION	TRANSCRIPT REFERENCE
A	Documents cited in ACS Comments and Reply Comments	Volume 2, page 308, line 22
B	Chart comparison with how ACS compares with other similarly situated companies and their cost of provisioning	Volume 2, page 330, line 3-6
C	Articles regarding wireless substitution for wireline; the Berkely Study	Volume 3, page 345, line 24
D	Business segment reports from ACS Form 10-K	Volume 3, page 366, line 22
E	List of tariffing standards	Volume 3, page 418, line 10
F	Appellant and appellee briefings	Volume 3, page 439, line 12

Alaska Communications Systems  
600 Telephone Avenue, MS65  
Anchorage, AK 99503  
907. 297.3103 • Fax: 907. 297.3153

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STATE OF ALASKA

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Telecommunications Rates, Charges )  
Between Competing Telecommunications )  
Companies, and Competition in )  
Telecommunications )

R-03-3

SUPPLEMENTAL COMMENTS  
OF ALASKA COMMUNICATIONS SYSTEMS

ACS of Anchorage, Inc. ("ACS-ANC"), ACS of Fairbanks, Inc. ("ACS-F");  
ACS of Alaska, Inc. ("ACS-AK"), ACS of the Northland, Inc. ("ACS-N"), and ACS  
Long Distance, Inc., hereinafter collectively referred to as ACS, submit these brief  
Supplemental Comments in response to Staff's analysis of the issues being  
considered in this proceeding, including related developments associated with tariff  
filings made by ACS-ANC as a non-dominant carrier.

ACS urges the Commission to avoid meaningless efforts to relax regulation  
in competitive markets by way of declaring a carrier "non-dominant". As shown  
below, granting a carrier "non-dominant" status fails to provide any meaningful relief  
from regulation. Rather, the Commission should adopt real regulatory reform by

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allowing markets to work -- and allowing consumers to "vote" for their choice of provider. Only by doing so will consumers realize the true benefit of competition.

Introduction

The Regulatory Commission of Alaska ("RCA" or "Commission") is in the final steps of promulgating draft regulations in time to meet the Legislature's November 15, 2003 deadline as required by CSHB111. ACS recognizes that these proposed regulations will be issued for public comment and that a subsequent phase of this proceeding, one that could take as long as twenty-two additional months to complete, will provide for new opportunities for interested parties to comment. ACS anticipates continuing its active participation in this rulemaking. However, given RCA Staff's R-03-3 recommendations presented to the Commission last month and subsequent related events associated with ACS-ANC's "non-dominant carrier" tariff filings, ACS is compelled to bring isolated and specific issues to the Commission's attention at this time.

Staff's R-03-3 Recommendations

RCA Staff presented approximately 120 pages of analysis and recommendations to the Commission during the initial phase of R-03-3. ACS anticipates submitting a detailed response to most of these items when the Commission's draft regulations are issued for public comment. For purposes of this filing, ACS will focus on two issues: (1) Staff's continued advocacy in favor of dominant carrier regulation; and, (2) Staff's unexplained exclusion of "data services" and "private line service" from consideration for any form of regulatory relief.

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1                    Dominant Carrier Regulation

2  
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11 No better evidence of ACS' critique of these backward-looking regulatory precepts  
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<sup>1</sup> October 22, 29 and 31, 2003.

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<sup>3</sup> TA 457-120

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11 Instead of allowing rate payers the choice of accepting ACS' proposed private line  
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13 subjected to a traditional, dominant carrier determination of "just and reasonable"  
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markets like Anchorage, Fairbanks and Juneau – among the most competitive local exchange markets in the entire country.

Continued Regulation of "Data Services" and "Private Line Services"

Closely related to the comments above is the inexplicable Staff position that even if dominant carrier regulation is relaxed to some limited degree, such relaxation should totally exclude "data services" and "private line services".<sup>9</sup> Were the Commission to adopt such an exclusion, it would constitute one of the most serious flaws of the draft regulations.

First, Staff has not even taken the time to define "data services". Nor has it explained why these services or private line services should be exempt from the otherwise minimal level of regulatory relief being considered in the draft regulations. With GCI offering facilities-based competition – both via its own facilities and via UNEs – in all of the currently competitive markets, "data services" and private line constitute the most fiercely contested segments of these markets.

Of equal importance is the nature of the customers for these services. Data and private line customers tend to be business customers. They are often among the largest and most technologically sophisticated customers. They tend to be

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<sup>9</sup> R-01-02/R-02-06/R-03-03, Telecommunications Policy Issues and Options, Prepared by Communications Common Carrier Staff of the Regulatory Commission of Alaska, October 15, 2003, Section 53-220 – Determination of Dominant Status, p. 9-10 (of 119), proposed Option 3(c):

(c) Notwithstanding (a) a carrier that holds a facilities monopoly for the provision of local loops in a location is dominant in regard to the following services until the Commission directs otherwise: 1) line extension services; 2) construction services; 3) subdivision agreements; 4) interexchange access services; 5) *data services*; 6) *private line services*; and 7) interconnection services not subject to review under federal rules. (emphasis added).

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frequently and directly marketed to by competing carriers. And, when they do not think they are getting competitive telecommunications offers from one carrier, they quickly turn to another. In other words, the data services and private line segment customers are the least likely to benefit from or perceive the need for the protections of the regulatory process.

Even at this "draft regulations" stage of R-03-3, ACS strongly urges the Commission to correct this major error and eliminate reference to "data services" and private line services from any exclusionary language that is being considered.

Conclusion

ACS understands that the Commission is only days away from its November 15, 2003 draft regulations issue date. ACS notes that there are numerous issues it intends to address once the draft regulations have been issued for public comment.<sup>10</sup> However, the questions surrounding the continuation of the dominant/non-dominant carrier model and the exclusion from regulatory relief of what are clearly among the most competitive services in the market today requires a more immediate response. ACS urges the Commission to consider these comments and make the necessary adjustments to its draft regulations in the time that it has remaining to do so.

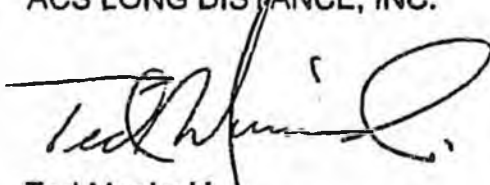
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<sup>10</sup> ACS' specific reference to Section 53.220, Option 3(c) in Footnote 9 should not be construed as concurrence with the other exclusions recommended by Staff. To the extent that the Commission adopts those other Option 3 exclusions, ACS expects to note its objections when it files comments in response to RCA's public notice of the draft regulations.

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Respectfully submitted this of 12<sup>th</sup> day of November, 2003,

ACS of ALASKA, INC.  
ACS of ANCHORAGE, INC.  
ACS of FAIRBANKS, INC.  
ACS of the NORTHLAND, INC.  
ACS LONG DISTANCE, INC.



Ted Moninski  
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THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Mark K. Johnson, Chair  
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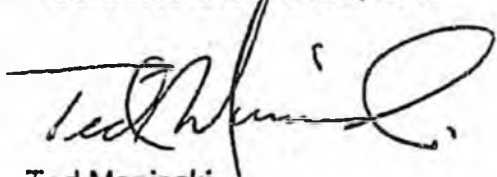
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10 complete, will provide for new opportunities for interested parties to comment. ACS  
11 anticipates continuing its active participation in this rulemaking. However, given  
12 RCA Staff’s R-03-3 recommendations presented to the Commission last month and  
13 subsequent related events associated with ACS-ANC’s “non-dominant carrier” tariff  
14 filings, ACS is compelled to bring isolated and specific issues to the Commission’s  
15 attention at this time.  
16  
17  
18

19 Staff’s R-03-3 Recommendations

20 RCA Staff presented approximately 120 pages of analysis and  
21 recommendations to the Commission during the initial phase of R-03-3. ACS  
22 anticipates submitting a detailed response to most of these items when the  
23 Commission’s draft regulations are issued for public comment. For purposes of this  
24 filing, ACS will focus on two issues: (1) Staff’s continued advocacy in favor of  
25 dominant carrier regulation; and, (2) Staff’s unexplained exclusion of “data services”  
26 and “private line service” from consideration for any form of regulatory relief.  
27  
28

1  
2 Dominant Carrier Regulation

3 As the Commission considered Staff's analysis during the course of the three  
4 Public Meetings that were held,<sup>1</sup> it was obvious that a tension was building between  
5 the continuation of "dominant/non-dominant carrier" regulation and the institution of  
6 some new concept for the appropriate level of regulatory oversight for competitive  
7 markets in Alaska. Initially it appeared that the Commission might actually reach  
8 the correct conclusion that distinctions between dominant and non-dominant  
9 classifications had become meaningless. However, Staff seems to have convinced  
10 the Commission that these "form-over-substance" concepts should be perpetuated.  
11 No better evidence of ACS' critique of these backward-looking regulatory precepts  
12 can be found than the most recent experience of ACS-ANC as it made its initial two  
13 tariff filings pursuant to its interim non-dominant status.<sup>2</sup>

14  
15  
16 In the first filing,<sup>3</sup> ACS-ANC proposed a change to its local private line tariff.  
17 ACS received no feedback from the Staff regarding issues of concern and the  
18 Commission received no comments from the public or potentially affected  
19 customers. Instead of taking the matter to a TA Meeting, as is the typical practice  
20 for tariffs that are being contested, Staff circulated its proposal to commissioners.  
21 Deliberation was conducted off record. ACS-ANC first became aware that there

22  
23  
24  
25  
26 <sup>1</sup> October 22, 29 and 31, 2003.

27 <sup>2</sup> ACS-ANC has filed a Petition for Reconsideration in docket U-03-99 and a supplemental Tariff  
28 Advice Letter in TA 456-120. The Commission is urged to review these documents for further details  
about the two tariff filings referred to in these Supplemental Comments.

<sup>3</sup> TA 457-120

1  
2 was problem with this filing when it received Order No. 1 in Docket U-03-99<sup>4</sup> – an  
3 order suspending permanent operation of TA 457-120 and setting the matter for  
4 further investigation.<sup>5</sup>

5  
6 Although TA 457-120 was submitted by ACS-ANC "as if it were a non-  
7 dominant carrier", Staff expressed concerns that the rates may not be just and  
8 reasonable. Instead of acknowledging the highly competitive characteristics of the  
9 Anchorage local market and deferring to customers to judge the reasonableness of  
10 the new prices, Staff recommended suspension and further regulatory proceedings.  
11 Instead of allowing rate payers the choice of accepting ACS' proposed private line  
12 rate design or seeking the services of an alternative provider, ACS will now be  
13 subjected to a traditional, dominant carrier determination of "just and reasonable"  
14 rates.<sup>6</sup> It is clear that, in the context of TA 457-120, the interim designation of non-  
15 dominance has little or no impact on the way ACS-ANC's tariffs are being  
16 considered.  
17

18  
19 ACS-ANC also submitted another tariff filing "as if it were a non-dominant  
20 carrier". This filing proposed modifications to ACS-ANC's pay telephone tariff.<sup>7</sup> In  
21 this second case, Staff indicated its willingness to recommend approval, but only  
22 after ACS-ANC met certain conditions. First, ACS was required to identify in writing  
23

24 <sup>4</sup> TA 457-120 filed on October 3, 2003; U-03-99(1) issued on October 29, 2003.

25 <sup>5</sup> The Commission also directed that the tariff be implemented on an interim refundable basis. ACS-  
26 ANC is addressing the issues posed in U-03-99(1), including the non-sequitor presented by interim  
27 refundability, in a Petition for Reconsideration filed on November 7, 2003.

28 <sup>6</sup> Although the Commission has not yet requested the submission of cost support for TA 457-120, the  
staff has raised issues about whether ACS-ANC's proposed private line rates meet the test of "just  
and reasonable". Since this test is a rate base, rate of return concept, ACS-ANC anticipates that a  
request for cost support will be forthcoming as the matter is being adjudicated.

1  
2 the sole customer impacted by the tariff change.<sup>7</sup> Staff also required ACS to  
3 represent that the "customer" had been individually informed of the proposed tariff  
4 change and that the "customer" did not object to the change. Setting aside the  
5 rather unusual circumstance that the filing utility and the customer were one in the  
6 same in the case of TA 458-120, it appears that Staff is proposing a whole new set  
7 of tariff compliance obligations that were not imposed on ACS-ANC prior to the  
8 Commission's grant of an interim waiver. In its supplemental TA letter, ACS has  
9 asked the Commission to clarify whether, in the future, it will be required to identify  
10 by name, all affected customers; to individually inform customers of rate changes;  
11 and to seek customers' non-opposition and report on such consent as part of the  
12 tariff review process.  
13  
14

15 Other than moving from a 45-day to a 30-day review process, it is obvious  
16 that there are few, if any real-world distinctions between dominant and non-  
17 dominant tariff filings. In fact, if TA 458-120 ultimately sets any precedents, ACS  
18 may be facing higher regulatory hurdles as a non-dominant carrier than it did as  
19 dominant carrier. All of this suggests that the Commission carefully consider the  
20 Staff's R-03-3 recommendation that the revised regulatory structure continue to be  
21 based on a dominant carrier model. Although time is short, the Commission is  
22 urged to rethink the wisdom of perpetuating the dominant/non-dominant carrier  
23 model and, instead, look to more progressive and meaningful ways to deregulate  
24  
25  
26  
27

---

28 <sup>7</sup> TA 458-120

<sup>8</sup> In this case, the only customer impacted was the unregulated payphone activity of ACS-ANC, itself.

1 markets like Anchorage, Fairbanks and Juneau – among the most competitive local  
2 exchange markets in the entire country.

3  
4 Continued Regulation of "Data Services" and "Private Line Services"

5 Closely related to the comments above is the inexplicable Staff position that  
6 even if dominant carrier regulation is relaxed to some limited degree, such  
7 relaxation should totally exclude "data services" and "private line services".<sup>9</sup> Were  
8 the Commission to adopt such an exclusion, it would constitute one of the most  
9 serious flaws of the draft regulations.  
10

11 First, Staff has not even taken the time to define "data services". Nor has it  
12 explained why these services or private line services should be exempt from the  
13 otherwise minimal level of regulatory relief being considered in the draft regulations.  
14 With GCI offering facilities-based competition – both via its own facilities and via  
15 UNEs – in all of the currently competitive markets, "data services" and private line  
16 constitute the most fiercely contested segments of these markets.  
17

18 Of equal importance is the nature of the customers for these services. Data  
19 and private line customers tend to be business customers. They are often among  
20 the largest and most technologically sophisticated customers. They tend to be  
21

22  
23  
24  
25 <sup>9</sup> R-01-02/R-02-06/R-03-03, Telecommunications Policy Issues and Options, Prepared by  
26 Communications Common Carrier Staff of the Regulatory Commission of Alaska, October 15, 2003,  
27 Section 53-220 – Determination of Dominant Status, p. 9-10 (of 119), proposed Option 3(c):

28 (c) Notwithstanding (a) a carrier that holds a facilities monopoly for the provision of local loops  
in a location is dominant in regard to the following services until the Commission directs  
otherwise: 1) line extension services; 2) construction services; 3) subdivision agreements;  
4) interexchange access services; 5) *data services*; 6) *private line services*; and 7)  
Interconnection services not subject to review under federal rules. (emphasis added).

1 frequently and directly marketed to by competing carriers. And, when they do not  
2 think they are getting competitive telecommunications offers from one carrier, they  
3 quickly turn to another. In other words, the data services and private line segment  
4 customers are the least likely to benefit from or perceive the need for the  
5 protections of the regulatory process.  
6  
7

8 Even at this "draft regulations" stage of R-03-3, ACS strongly urges the  
9 Commission to correct this major error and eliminate reference to "data services"  
10 and private line services from any exclusionary language that is being considered.  
11

#### 12 Conclusion

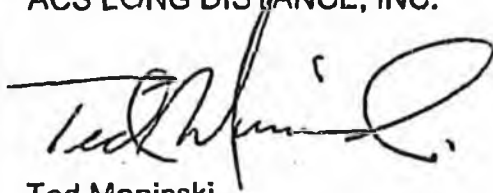
13 ACS understands that the Commission is only days away from its  
14 November 15, 2003 draft regulations issue date. ACS notes that there are  
15 numerous issues it intends to address once the draft regulations have been issued  
16 for public comment.<sup>10</sup> However, the questions surrounding the continuation of the  
17 dominant/non-dominant carrier model and the exclusion from regulatory relief of  
18 what are clearly among the most competitive services in the market today requires  
19 a more immediate response. ACS urges the Commission to consider these  
20 comments and make the necessary adjustments to its draft regulations in the time  
21 that it has remaining to do so.  
22  
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26

27 <sup>10</sup> ACS' specific reference to Section 53.220, Option 3(c) in Footnote 9 should not be construed as  
28 concurrence with the other exclusions recommended by Staff. To the extent that the Commission  
adopts those other Option 3 exclusions, ACS expects to note its objections when it files comments in  
response to RCA's public notice of the draft regulations.

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Respectfully submitted this of 12<sup>th</sup> day of November, 2003,

ACS of ALASKA, INC.  
ACS of ANCHORAGE, INC.  
ACS of FAIRBANKS, INC.  
ACS of the NORTHLAND, INC.  
ACS LONG DISTANCE, INC.



Ted Moninski  
Director, Regulatory Affairs

Alaska Communications Systems  
600 Telephone Avenue, MS66  
Anchorage, AK 99503  
907.297.3103 • Fax: 907.297.3153

**HB**

**1 1 1**

**(File 4 of 5)**

Docket R-03-3

Materials Submitted by the Regulatory Commission of Alaska to the House Judiciary Committee, regarding Implementation of Section 2, Chapter 93, SLA 2003

December 17, 2003

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prepared by Communications Common Carrier Staff, RCA

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25. 09/03/03 Volume II
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PUBLIC MEETING

27. 06/09/03 Recd frm R&R Court Reporter, Inc., Invoice # 141518,  
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set, Disk 1, Ancillary Doc 1
28. 10/08/03 Recd frm R&R COURT REPORTERS, Invoice  
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1, Tapes 3, Notes 1 set, Disk 1
29. 10/22/03 Recd frm R&R COURT REPORTERS, INC., Invoice #  
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October 15, 2003

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Docket R-02-06 Local Market Structure

Docket R-03-03 Legislative Telecommunications  
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## TELECOMMUNICATIONS POLICY ISSUES AND OPTIONS

Prepared by:  
Communications Common Carrier Staff  
Regulatory Commission of Alaska

Richard Gazaway  
Lori Kenyon  
John Paul Manaois  
Phil Treuer

*Note: This paper was prepared to assist the Commission in developing draft regulations to release for public notice. The Staff may revise the views expressed herein in light of comments and information filed in response to that public notice.*

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LOCAL COMPETITION REGULATION CHANGES

R-02-06 and R-03-03

I. Background

In response to a petition from GCI<sup>1</sup> on October 10, 2002, the Commission opened Docket R-02-06 to review changes to its local competition policies and regulations. Comments and reply comments were received in Docket R-02-06. In its reply comments ACS<sup>2</sup> filed a detailed proposal for changes to the regulations. GCI also filed proposed regulation changes, but of a limited nature. Since that time, the Legislature passed HB111 providing additional policy directives.

In response to HB111, the Commission opened Docket R-03-03 to review a variety of changes to telecommunications regulations. Many of those commenting in Docket R-03-03 addressed proposed changes to the local competition regulations. The ACS changes proposed in R-03-03 are for the most part identical to those it proposed in Docket R-02-06.

Unless otherwise noted, all references to options and proposals refer to those developed through Docket R-03-03.

Those who have commented in Docket R-02-06:

ACS	GCI
ATA <sup>3</sup>	RC <sup>4</sup>
AT&T Alascom <sup>5</sup>	UUI/United-KUC <sup>6</sup>

Those who have commented in Docket R-03-03:

ACS Companies	Dobson <sup>7</sup>
ATA	GCI
AT&T Alascom	RC

<sup>1</sup> GCI Communication Corp, Inc.

<sup>2</sup> ACS of Anchorage, Inc.; ACS of Fairbanks, Inc.; ACS of Alaska, Inc., ACS of the Northland, Inc., and ACS Long Distance, Inc.

<sup>3</sup> The Alaska Telephone Association.

<sup>4</sup> The Rural Coalition.

<sup>5</sup> Alascom, Inc. d/b/a AT&T Alascom.

<sup>6</sup> United Utilities Inc. and United-KUC, Inc.

<sup>7</sup> Dobson Cellular System, Inc.

## II. Issues

### a. Section 3 AAC 53.200 – Application and Purpose

#### Relevant Legal Cites:

- o HB111 Policy 4: “a definition of ‘competitive service areas’ shall take into account whether actual competition exists in an area.”

#### Issues:

#### 1) What geographic area should be covered by the local competition regulations (3 AAC 53.200(a))?<sup>8</sup>

- **Option 1:** Broaden the regulations to apply beyond Anchorage to “competitive service areas” (RC) or “competitive service areas as defined by these regulations” (ACS).
  - o **Pro:** Removes antiquated reference to the regulations only covering “Anchorage”.
  - o **Con:** It is unclear whether the carrier or the Commission decides when an area is a “competitive service area”.
- **Option 2:** Apply the regulations to “competitive service areas as ordered by the Commission.” (Staff recommendation):

#### 2) How should the Commission define “Competitive Service Area”?

- **Option 1:** A “competitive service area” is defined as –
  - A community within a certificated local exchange service area.
  - With multiple local providers or CETCs<sup>9</sup> “in which the majority of customers has a choice of service providers.”
  - Will be community-specific. (ACS, proposed 3 AAC 53.299(6))
- o **Pro:** Community specific provision addresses the concern that monopoly areas served by a competitive carrier will be subject to relaxed regulation.

---

<sup>8</sup> Section 3 AAC 53.200(a) states: “The provisions of 3 AAC 53.200 - 3 AAC 53.299 apply to all local exchange carriers that furnish local exchange telephone service within the Anchorage service area and any other service area as ordered by the Commission.”

<sup>9</sup> Competitive Eligible Telecommunications Carriers (CETC).

- Con: May prematurely relax regulation when competition was due solely to a wireless carrier (not necessarily an ETC<sup>10</sup>) capable of serving 50% of the market.<sup>11</sup>
  - Con: The FCC has concluded that while specific data are "largely unavailable, it appears that only a small percentage of wireless customers use their wireless phones as their only phone."<sup>12</sup>
  - Con: Given the above points, this option might not conform with legislative policy that the definition of competitive service area must take into account whether actual competition exists in an area.
- **Option 2: A "competitive service area" is any of the following areas:**
  - ▶ The Anchorage service area.
  - ▶ Any service area where multiple carriers are certificated to provide local exchange service and are actually providing local exchange service.
  - ▶ Any service area or study area where multiple carriers have been designated as eligible telecommunications carriers.
  - ▶ Any area where the rural exemption has been lifted.
  - ▶ Any other service area determined to be a competitive service area by the Commission. (RC)
  - Con: May prematurely relax regulation when competition was due solely to a wireless ETC.
  - Con: May prematurely relax regulation to areas where the rural exemption has been lifted even though competition has yet to develop. After lifting the rural exemption, competitors must still negotiate an interconnection agreement and take other actions necessary to commence service. These actions can take months.
  - Con: Minimal competition in a service area would qualify the area for "competitive service area" status.
  - Con: Given the above points, this option might not conform with legislative policy that the definition of competitive service area must take into account whether actual competition exists in an area.
- **Option 3: A "competitive service area" means:**
  - ▶ [T]he portion or portions of the service area served by a local exchange carrier under a certificate of public convenience and necessity in which retail customers have a choice of facilities-based providers. (GCI)
  - Con: The term "choice of facilities based providers" could include wireless carrier competition and could lead to premature relaxation of regulations.

<sup>10</sup> Eligible Telecommunications Carrier (ETC). ETC designation is required for a carrier to receive universal service funds.

<sup>11</sup> September 4, 2003 Hearing Transcript, page 356.

<sup>12</sup> WT Docket No. 02-379, Eight Report, paragraph 102, FCC 03-150, July 13, 2003.

- o Con: ACS opposes GCI's definition, stating the Legislature did not include the "facilities-based" language and it should not be added to by regulation. ACS states that the Act offered a wide range of ways to compete and "actual" competition should be left open to any form of competition.
  - o Con: Given the above points, this option might not conform with legislative policy that the definition of competitive service area must take into account whether actual competition exists in an area.
- **Option 4: A "competitive service area" is:**
    - the portion or portions of a certificated local exchange service area where multiple carriers are certificated to provide local exchange service and are actually providing local exchange service throughout the area. The Commission may designate an additional area as a competitive service area based on the nature and extent of competition available. (Staff, proposed section 3 AAC 53.299(9))
  - o Pro: This is an attempt to take the best features of each of the above proposals, while eliminating those features that could lead to premature relaxation of regulation.

**3) Should the Commission expand the Purpose of the regulations (3 AAC 53.200(b))?<sup>13</sup>**

- **Option 1: No Change**
  - o Pro: Changes to the Purpose section are not critical to understanding or enforcing the remainder of the regulations.
  - o Con: Does not recognize the new HB111 Legislative principles.
- **Option 2: Expand the Purpose section as follows:**

The purpose of 3 AAC 53.200-3 AAC 53.299 is to allow competition in the provision of local exchange telephone service to the extent possible while maintaining and promoting universal local exchange telephone service; to promote the maintenance and continued development of a modern telecommunications infrastructure; and to ensure that no carrier (including the incumbent carrier) is placed at an unfair competitive disadvantage. (RC)

  - o Pro: Added language recognizes certain Legislative policy goals.
  - o Con: Asks for fair treatment of carriers, but is silent about the consumer.

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<sup>13</sup> Section 3 AAC 53.200(b) states: "The purpose of 3 AAC 53.200 - 3 AAC 53.299 is to allow competition in the provision of local exchange telephone service to the extent possible while maintaining and promoting universal local exchange telephone service."