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ATTORNEYS AT LAW

7 April 2006

Ex Parte

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as amended, for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage LEC Study Area,* WC Docket No. 05-281.

Dear Ms. Dortch:

On April 6, 2006, Tina Pidgeon of General Communication, Inc., John Nakahata of this firm, and undersigned counsel met with Denise Coca, Pamela Megna, Jennifer Ruppert, and Carol Simpson of the Wireline Competition Bureau in connection with the above-captioned proceeding. In that meeting, GCI discussed matters raised in its filings in the proceeding, and distributed the attached materials.

In accordance with FCC rules, a copy of this letter is being filed electronically in the above-referenced docket.

Sincerely yours,

Brita D. Strandberg
Counsel to General Communication, Inc.

cc: Denise Coca
Pamela Megna
Jennifer Ruppert
Carol Simpson

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony Price
James S. Strandberg

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 ORDER NO. 16

ORDER ADOPTING REGULATIONS

BY THE COMMISSION:

At our Public Meetings held on June 8 and June 9, 2005, we adopted regulations addressing a variety of telecommunications related matters including tariff policies, depreciation practices, local competitive market rules, and interexchange competitive market rules.[1]

We then transmitted those regulations to the Department of Law (DOL) for review. During its review, the DOL proposed revisions to clarify vague language and remove internal inconsistencies. DOL also provided stylistic changes complying with the *Drafting Manual for Administrative Regulations* adopted by the Department of Law under AS 44.62.050.

[1]R-03-3(14), *Order Adopting Regulations*, dated June 22, 2005.

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

We incorporated the DOL revisions and adopted final regulations with those modifications at our August 5, 2005 Public Meeting. The regulations are attached as an Appendix to this Order.

ORDER

THE COMMISSION FURTHER ORDERS, that, the regulations set out in the Appendix attached to this Order are adopted.

DATED AND EFFECTIVE at Anchorage, Alaska, this 5th day of August, 2005.

BY DIRECTION OF THE COMMISSION

(S E A L)

Regulatory Commission of Alaska
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Chapter 48. Practice and Procedure.

Article 2. Utility and Pipeline Tariffs.

Section

200. Scope of regulations
210. (Repealed)
220. Filing of tariff
230. Billing and contract forms
240. Delivery of tariff
250. Tariff on file for public inspection
260. Public notice of utility tariff inspection privilege
270. Advice letters
275. Supporting information
277. Uniform system of accounts
280. Notice and effective date
290. Response to notice
300. Waiver of statutory notice
310. Suspension and rejection of tariff filings
315. Telecommunications utility rate reductions
320. Effective tariff controlling
330. Format of tariff sheets
340. Tariff sheet designation
350. Separate tariff for each utility
360. General arrangement and content of tariff
370. Content of rules and regulations
380. Content of rate schedules
390. Provisions of special contract
400. Adoption notice
410. Tariff of acquired utility or pipeline carrier
420. Uniform deposit practices
425. Depreciation practices for local exchange carriers
430. Jurisdictional separations
440. Rates for interexchange access
442. Delayed implementation of regulatory provisions relating to DEM weighting

3 AAC 48.220 (a) and (e) are amended to read:

3 AAC 48.220. Filing of tariff. (a) An original and 10 copies of each utility tariff filing must be on file with the commission at least 45 days before the tariff may take effect unless the commission, by order, authorizes the filing to take effect in less than 45 days after the date of filing**, or unless another commission regulation provides for a different filing method or time period**. An original and 10 copies of each initial pipeline tariff filing shall be on file with the commission at least 90 days before it may become effective unless the commission, by order, authorizes the filing to become effective in less than 90 days from the date of delivery. An original and 10 copies of each revised pipeline tariff must be on file with the commission at least 30 days before the tariff may take effect unless the commission, by order, authorizes the filing to take effect in less than 30 days after the date of filing. Each filing must be transmitted to the commission by means of consecutively numbered letters designated as "Tariff Advice Letter No. 1, 2, 3, etc." Every advice letter must contain the applicable information set out in 3 AAC 48.270**, unless another commission regulation provides otherwise**. If a utility or pipeline carrier desires an effective date before the end of the statutory notice period for a filing, the utility or pipeline carrier shall request an earlier effective date and set out the reasons in the tariff advice letter. The utility or pipeline carrier shall attach rate studies or supply other information pertinent to the filing. If interim approval of a tariff filing is sought, that request must also be set out in the tariff advice letter.

. . .

(e) Every tariff on file with and approved by the commission is considered to be lawful until revised in accordance with the procedures established by law, [AND] 3 AAC 48.200 — 3 AAC 48.430**, and other commission regulations**. (Eff. 11/16/73, Register 48; am 6/29/84, Register 90; am 8/6/92, Register 123; am _____/_____/_____, Register _____)

Authority:	AS 42.05.141	AS 42.05.371	[AS 42.06.140(a)]
	AS 42.05.151	AS 42.05.391	**AS 42.06.140**
	AS 42.05.231	AS 42.05.411	AS 42.06.350
	AS 42.05.241	AS 42.05.411	AS 42.06.390
	AS 42.05.361	AS 42.05.421	

3 AAC 48 is amended by adding a new section to read:

3 AAC 48.315. Telecommunications utility rate reductions. (a) A telecommunications utility may reduce a retail rate without commission approval after notice of a tariff filing submitted by the utility in accordance with applicable filing requirements and notice procedures of this chapter, 3 AAC 52, and 3 AAC 53.

(b) Notwithstanding (a) of this section, the commission may act on rates proposed as follows:

(1) in a local exchange area not designated as a competitive local exchange market under 3 AAC 53.205, the commission will either deny or require modification of rates proposed by a local exchange carrier if the proposal violates an applicable statutory requirement of AS 42.05;

(2) in all other areas, a telecommunications utility proposal to reduce retail rates must comply with the applicable requirements of 3 AAC 52.370, 3 AAC 53.240, or 3 AAC 53.243.

(c) The provisions of 3 AAC 48.275(a) do not apply to a telecommunications utility submitting a tariff filing involving a rate reduction that is not associated with a rate increase. This subsection does not prevent the commission or its staff from requesting information necessary to review compliance with (b) of this section.

(d) In taking any action under this section, the commission may, consistent with principles of state and federal antitrust law, act to preserve fair competition, prevent predatory pricing, and prohibit an unjust or unreasonable bundled service.

(Eff. _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.145 AS 42.05.151

3 AAC 48 is amended by adding a new section to read:

3 AAC 48.425. Depreciation practices for local exchange carriers. (a) The Federal Communications Commission's *Depreciation Ranges Adopted in CC Docket No. 98-137*, dated December 17, 1999, is adopted by reference and is used as the depreciation ranges in this section. A local exchange carrier may use depreciation projection lives and future net salvage levels from the depreciation ranges for the carrier's property accounts for purposes of developing intrastate depreciation rates. Depreciation rates developed using the depreciation ranges shall be filed with the commission, and those depreciation rates may go into effect

without commission approval if the filing meets the requirements of (f) of this section and the filing is not suspended under (g) of this section.

(b) A local exchange carrier requesting a depreciation projection life or net salvage level not included in the depreciation ranges shall obtain commission approval of its proposed depreciation rates before placing the rates in effect.

(c) The commission will consider the actual useful life of depreciated equipment and facilities in establishing depreciation rates.

(d) When proposing depreciation rates, a local exchange carrier has the burden of proof to demonstrate that its proposed depreciation or amortization expenses are adequate, but not excessive, in accordance with AS 42.05.471, and in accordance with generally accepted accounting principles.

(e) Regardless of whether the depreciation ranges are used, the rates proposed in a depreciation study filed under this section become effective if

(1) after publishing notice of the depreciation study in a newspaper of general circulation in the affected service areas of the local exchange carrier, the commission does not receive opposing comments within the comment period of the commission's public notice; and

(2) the commission does not take action within six months after the filing date of a complete depreciation study.

(f) A local exchange carrier may apply depreciation rates developed from the depreciation ranges without commission approval 90 days after the filing of a complete depreciation study that complies with the requirements established in this subsection. The depreciation rates proposed under this subsection are presumed to

be adequate, but not excessive, if the proposed rates and study comply with the following requirements:

(1) the proposed depreciation rates are based on a depreciation study that uses the remaining life method of depreciation;

(2) the proposed depreciation rates are based on a depreciation study that uses the straight-line method of depreciation;

(3) the depreciation ranges are used for all property accounts of the carrier;

(4) after publishing notice of the depreciation study in a newspaper of general circulation in the affected service areas of the local exchange carrier, the commission does not receive opposing comments within the comment period of the commission's public notice;

(5) the depreciation study clearly demonstrates the procedures and methods by which the proposed depreciation rates were developed, and that (b) of this section does not apply;

(6) the proposed change in the intrastate depreciation expense does not exceed eight percent from the carrier's previous year's intrastate annual depreciation expense when adjusted to eliminate changes in expense that result from changes in plant account balances; however, the carrier must demonstrate in its filing that the adjustment is just and reasonable.

(g) Notwithstanding (f) of this section, for good cause shown, the commission may issue an order instituting an investigation and suspending the depreciation proposal submitted under (f) of this section. The commission may either approve,

deny, or require modification to the carrier's proposal to ensure that adequate, but not excessive, depreciation rates apply in accordance with AS 42.05.471. (Eff. _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.411 AS 42.05.431
AS 42.05.151 AS 42.05.421 AS 42.05.471
AS 42.05.381

Editor's note: A copy of the Federal Communication Commission's *Depreciation Ranges Adopted in CC Docket No. 98-137*, dated December 17, 1999, is available for inspection at the offices of the Regulatory Commission of Alaska as specified in 3 AAC 48.010(a).

3 AAC 48.820 is amended by adding new paragraphs to read:

(51) "bundled service" means an offering combining two or more services, one of which is a local or intrastate interexchange service, for a package price that may include a discount or some other benefit; "bundled service" does not include a combination of local service offerings at a package price, or a combination of intrastate interexchange service offerings at a package price;

(52) "local exchange carrier" means a local exchange telephone utility certificated to provide local exchange telephone service. (Eff. 1/13/73, Register 44; am 1/19/80, Register 73; am 6/29/84, Register 90; am 6/27/92, Register 122; am 7/12/92, Register 123; am 1/10/99, Register 149; am 5/5/2000, Register 154; am 3/21/2003, Register 165; am 4/24/2004, Register 170; am 11/24/2004, Register 172; am ___/___/____, Register ____)

Authority:	AS 42.04.070	AS 42.05.361	AS 42.06.055
	AS 42.04.080	AS 42.05.391	AS 42.06.140
	[AS 42.04.150]	AS 42.05.411	AS 42.06.350
	AS 42.05.141	AS 42.05.431	AS 42.06.370
	AS 42.05.151	AS 42.05.441	AS 42.06.380

Chapter 52. Operation of Public Utilities.

Article 4. Criteria for Intrastate Interexchange Telephone Competition.

Section
350. Applicability, finding, purpose, and waiver
355. (Repealed)
358. Registration
360. Certificates of public convenience and necessity
361. (Repealed)
363. **(Repealed)** [DETERMINATION OF DOMINANT STATUS]
365. Discontinuance, suspension, or abandonment of service
367. Online tariff of registered entities
370. Retail rates
375. Wholesale service and rates
376. Promotions
377. Detariffing of prepaid calling card services
380. Reporting, verification, and auditing requirements
385. Standards of service
390. Miscellaneous provisions
399. Definitions

3 AAC 52.363 is repealed:

3 AAC 52.363. Determination of dominant status. Repealed. (Eff. 3/16/91, Register 117; repealed _____/_____/_____, Register _____)

3 AAC 52.365(a) is amended and (b) is repealed to read:

3 AAC 52.365. Discontinuance, suspension, or abandonment of service. (a) An intrastate interexchange carrier [WITH LESS THAN 25 PERCENT MARKET SHARE BOTH STATEWIDE AND AT A SPECIFIC LOCATION] may **not** discontinue, suspend, or abandon telecommunications service **without commission approval under AS 42.05.261** [AT THAT LOCATION AFTER GIVING 30 DAYS' NOTICE UNLESS THE COMMISSION FINDS THAT THE PUBLIC CONVENIENCE AND NECESSITY REQUIRES THAT CARRIER TO CONTINUE SERVICE]. A carrier **that files a request with the commission** [SEEKING] to discontinue, suspend, or abandon service under **AS 42.05.261** [THIS SECTION] shall give **written** [THE REQUIRED] notice **of that request** [, IN WRITING], to

(1) **repealed** __/__/____ [THE COMMISSION];

(2) the carrier's subscribers at the location where the carrier proposes to discontinue, suspend, or abandon service; and

(3) each local exchange carrier and interexchange carrier serving the location where the carrier proposes to discontinue, suspend, or abandon service.

(b) Repealed _____/_____/_____. (Eff. 3/16/91, Register 117; am 9/1/2002, Register 163; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.810
AS 42.05.151 AS 42.05.711 AS 42.05.990
AS 42.05.221

3 AAC 52.370(b) and (d) are amended and (c) is repealed to read:

(b) A certificated [NONDOMINANT] carrier shall maintain a current tariff of retail rates and all special contracts for retail rates on file with the commission. **The** [A] certificated [NONDOMINANT] carrier may modify retail rates**, offer new or repackaged services,** and implement special contracts for retail service without approval of the commission after 30 days' notice to the commission **of a** [. A] tariff filing [BY A CERTIFICATED NONDOMINANT CARRIER MUST BE] submitted in accordance with 3 AAC 48.220, 3 AAC 48.240, and 3 AAC 48.270. A tariff filing by a registered entity must comply with 3 AAC 52.367 unless it is a special contract. A special contract filed by a registered entity must be submitted in accordance with 3 AAC 48.220, 3 AAC 48.240, and 3 AAC 48.270. A modification in retail rates must be consistent with (a) of this section.

(c) Repealed _____/_____/_____.

(d) Notwithstanding (b) [OR (c)] of this section, the commission will disapprove and require modification of rates that are not just and reasonable or that grant an unreasonable preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage.

(Eff. 3/16/91, Register 117; am 7/8/93, Register 127; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.711
AS 42.05.151 AS 42.05.431 AS 42.05.990
AS 42.05.221

3 AAC 52.375(b), (d), and (g) are amended and (c) is repealed to read:

(b) The certificated [DOMINANT] carrier shall maintain a current tariff of wholesale rates and all special contracts for wholesale rates on file with the commission. The [DOMINANT] carrier may reduce wholesale rates without approval of the commission after 30 days' notice to the commission of a tariff revision submitted in accordance with 3 AAC 48.220, 3 AAC 48.240, and 3 AAC 48.270. A tariff revision [BY THE DOMINANT CARRIER] to increase wholesale rates, to offer new or repackaged wholesale services, or to implement special contracts for wholesale service is subject to the provisions of **3 AAC 48.220, 3 AAC 48.240, 3 AAC 48.270, and 3 AAC 48.280 — 3 AAC 48.410 and must also include quantitative data, including cost-of-service data, in support of the proposed rates** [3 AAC 48.200 — 3 AAC 48.442].

(c) Repealed _____/_____/_____.

(d) Notwithstanding (b) [OR (c)] of this section, the commission will disapprove and require modification of wholesale rates that are not just and reasonable or that grant an unreasonable preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage.

. . .

(g) A [NONDOMINANT] carrier that [HAS LESS THAN 25 PERCENT STATEWIDE MARKET SHARE AND] does not own or control transmission facilities is exempt from the requirements of this section if the carrier has not received a bona fide request for intrastate wholesale service. If the carrier exempt under this subsection receives a bona fide request for intrastate wholesale service, the carrier

shall comply with (a) — (f) of this section or apply to the commission for a continued exemption. (Eff. 3/16/91, Register 117; am 7/8/93, Register 127; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.711
AS 42.05.151 AS 42.05.431 AS 42.05.990
AS 42.05.221

3 AAC 52.380(e) is amended to read:

(e) An interexchange carrier that owns or controls interexchange facilities in the state [AND HAS MORE THAN 25 PERCENT MARKET SHARE] shall file annually with the commission a report identifying occurrences of the carrier's noncompliance with the state telecommunications modernization plan set out in 3 AAC 53.700 — 3 AAC 53.720. The carrier shall also identify progress toward compliance with the deadline requirements of 3 AAC 53.700 — 3 AAC 53.720. (Eff. 3/16/91, Register 117; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.431
AS 42.05.151 AS 42.05.241 AS 42.05.990

3 AAC 52.385(a) is amended to read:

3 AAC 52.385. Standards of service. (a) The **provisions** [APPLICATION] of 3 AAC 52.200 — 3 AAC 52.340 **do not apply to an interexchange carrier who is not a carrier of last resort under 3 AAC 52.390(c) and is not assigned any**

responsibilities of a carrier of last resort, [TO NONDOMINANT CARRIERS IS WAIVED] except that a carrier that owns or controls interexchange facilities in the state [AND HAS MORE THAN 25 PERCENT MARKET SHARE] shall comply with **3 AAC 52.280(b) and** 3 AAC 52.330 **for its interexchange carrier operations**. (Eff. 3/16/91, Register 117; am 9/1/2002, Register 163; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.711
AS 42.05.151 AS 42.05.241 AS 42.05.990

3 AAC 52.390(a), (c), and (e) are amended, (b) is repealed, and new subsections are added to read:

3 AAC 52.390. Miscellaneous provisions. (a) The **provisions** [APPLICATION] of

(1) 3 AAC 48.230 **do not apply to an interexchange carrier; however, the commission may require changes to a billing or contract form if that form is confusing or misleading to customers, or is contrary to the public interest; and**

(2) [,] 3 AAC 48.275, 3 AAC 48.277, and 3 AAC 48.430 **do not apply to an interexchange carrier** [TO NONDOMINANT CARRIERS IS WAIVED].

(b) Repealed _____/_____/_____.

(c) **The incumbent interexchange carrier is** [A DOMINANT CARRIER IS RESPONSIBLE FOR PROVIDING INTRASTATE INTEREXCHANGE TELEPHONE SERVICE AS] the carrier of last resort **unless the commission by order changes**

the carrier's responsibilities under this subsection. **Upon petition or on its own motion and after an opportunity for a hearing, the commission may reassign carrier of last resort responsibilities, in whole or in part, to one or more facilities-based intrastate interexchange carriers. A carrier or carriers of last resort for unserved areas will be designated by the commission based on the public interest and on the carrier's capability to serve**.

. . .

(e) No implicit modification or waiver of any statutory or regulatory requirements is intended by 3 AAC 52.350 — 3 AAC 52.399 [FOR EITHER DOMINANT OR NONDOMINANT CARRIERS]; absent specific modification or waiver, all statutory and regulatory requirements remain in effect [FOR BOTH DOMINANT AND NONDOMINANT CARRIERS].

. . .

(m) On or before March 31 of each year, an interexchange carrier shall file a financial report of the carrier's intrastate interexchange operations in the state for the previous calendar year. Non-interexchange operations must be excluded from the financial report. The financial report must include detailed information regarding

(1) gross revenues;

(2) sale for resale revenues;

(3) billing and collection revenues; and

(4) directory assistance revenues.

(n) On or before March 31 of each year, an interexchange carrier that under (c) of this section is a carrier of last resort or is assigned a responsibility of a carrier of last resort shall file

(1) the prior year's end-of-year balances for plant in service, net plant, and expenses associated with providing interexchange service in the state for

(A) satellite and earth station radio system facilities;

(B) microwave and other non-satellite-related radio facilities;

(C) circuit equipment;

(D) metallic-based cable and wire facilities; and

(E) non-metallic-based cable and wire facilities; and

(2) a description of any change from the previous year's filing in the carrier's accounting standards or procedures that affects the financial data required in this subsection.

(o) On or before March 31 of each year, an interexchange carrier shall file with the commission a map or a listing identifying each location where the carrier owns or controls interexchange facilities and identifying each type of facility that is sited at each location. After an initial filing, absent changes to the facilities map or listing, the interexchange carrier shall file verification that no changes to the map or listing have occurred. If the interexchange carrier does not own or control an interexchange facility in the state,

(1) a map or listing is not required; and

(2) on or before March 31 of each year, the carrier shall provide verification that it does not own or control an interexchange facility in the state. (Eff.

3/16/91, Register 117; am 7/8/93, Register 127; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am 8/27/2004, Register 171; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800
AS 42.05.145 AS 42.05.291

3 AAC 52.399(2), (8), and (10) are repealed, (6) is amended, and new paragraphs are added to read:

(2) repealed _____/_____/_____;

. . .

(6) "local exchange carrier" means a **local exchange telephone utility** [CARRIER] certificated to provide local exchange telephone service;

. . .

(8) repealed _____/_____/_____;

. . .

(10) repealed _____/_____/_____;

. . .

(17) "affiliate" has the meaning given "affiliated interest" in AS 42.05.990;

(18) "control" by a carrier refers to the ability of the carrier or its affiliate to direct the use of facilities regardless of whether the carrier directly owns the facilities. (Eff. 3/16/91, Register 117; am 9/1/2002, Register 163; am 5/18/2003,

Register 166; am 4/24/2004, Register 170; am 8/27/2004, Register 171; am

_____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800

AS 42.05.145 AS 42.05.291

Chapter 53. Telecommunications.

Article 4. Local Exchange Competition.

Section

200. Applicability of local exchange competition provisions, purpose, and waiver
205. Competitive local exchange markets
210. Local exchange telephone service: certificate of public convenience and necessity
220. Determination of dominant **or nondominant carrier** status
230. Discontinuance, suspension, or abandonment of service [BY NONDOMINANT CARRIER]
240. Retail **services for which there is a dominant carrier** [RATES]
243. Retail services for which there is no dominant carrier
245. Competive entry rate modification
250. Wholesale service and rates
260. (Repealed)
290. Miscellaneous provisions
295. Bundled services
299. Definitions

3 AAC 53.200(a) and (b) are amended and a new subsection is added to read:

3 AAC 53.200. Applicability of local exchange competition provisions, purpose, and waiver. (a) The provisions of 3 AAC 53.200 — 3 AAC 53.299 apply to all local exchange carriers that furnish local exchange telephone service within **a competitive local exchange market as designated under 3 AAC 53.205** [THE ANCHORAGE SERVICE AREA AND ANY OTHER SERVICE AREA AS ORDERED BY THE COMMISSION]. **The provisions of 3 AAC 53.210, 3 AAC 53.245, 3 AAC 53.290(a)(3), and 3 AAC 53.220(d) apply in noncompetitve areas also.**

(b) The purpose of 3 AAC 53.200 — 3 AAC 53.299 is to allow competition in **providing** [THE PROVISION OF] local exchange telephone service to the extent possible while maintaining and promoting universal local exchange telephone service**, fair treatment of competitors and consumers, and a modern telecommunications infrastructure**.

. . . .

(d) The provisions of 3 AAC 53.220, 3 AAC 53.240, 3 AAC 53.243, 3 AAC 53.245, 3 AAC 53.290(b), 3 AAC 53.290(f), and 3 AAC 53.290(h) do not apply to a local exchange carrier exempt from regulation under AS 42.05.711. (Eff. 6/21/98, Register 146; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.990
AS 42.05.151 AS 42.05.711

3 AAC 53 is amended by adding a new section to read:

3 AAC 53.205. Competitive local exchange markets. For purposes of 3 AAC 53.200 — 3 AAC 53.299, a competitive local exchange market is, as designated by an order of the commission, a local exchange or a group of local exchanges within one certificated service area where multiple unaffiliated telecommunications providers are certificated to provide local exchange service. However, upon petition or on its own motion, the commission by order may designate an area as a competitive local exchange market or a noncompetitive area based on the nature and extent of competition available, including competition by a competitor that is not certificated. (Eff.___/___/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800
AS 42.05.145 AS 42.05.291

The lead-in of 3 AAC 53.210(a) is amended to read:

3 AAC 53.210. Local exchange telephone service: certificate of public convenience and necessity. (a) **In competitive local exchange markets and in noncompetitive areas, an** [AN] entity proposing to provide local exchange telephone service in competition with an existing local exchange carrier must file an application for a certificate of public convenience and necessity that includes

. . .

(Eff. 6/21/98, Register 146; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.711
AS 42.05.151 AS 42.05.241 AS 42.05.990

3 AAC 53.220 is repealed and readopted to read:

3 AAC 53.220. Determination of dominant or nondominant carrier status. (a) A local exchange carrier is a dominant carrier for retail service in an exchange unless the commission orders, upon a petition or on its own motion, that the carrier is nondominant in an exchange

(1) served by a rural telephone company, as defined by 47 U.S.C. 153(37) and where a second unaffiliated certificated facilities-based local exchange carrier offers service to the public;

(2) where the local exchange carrier's and its combined affliates' local exchange market share in the exchange is 60 percent or less; or

(3) where at least two unaffiliated local exchange carriers

(A) are eligible telecommunications carriers; and

(B) each individually have a market share of 20 percent or more in that exchange.

(b) For purposes of (a) of this section, market share is measured by the carrier's percentage of customer connections.

(c) Notwithstanding (a) of this section, a local exchange carrier that owns the only facilities used to provide local exchange service to the majority of customers in a competitive local exchange market is a dominant carrier with regard to the following services provided in that area unless the commission determines otherwise as a result of an investigation or review under (e) or (f) of this section:

(1) line extension services;

(2) construction services;

(3) subdivision services agreements;

(4) interexchange carrier access services, including special access services.

(d) Notwithstanding (a) of this section, during or after the commission's review of a competitor's application for certification or during the commission's review of a competitor's application for eligible telecommunications carrier designation, a carrier or an affected person may petition for review of any carrier's dominant or nondominant carrier status.

(e) Notwithstanding any other provisions of this section, the commission may, after investigation, determine a carrier to be a dominant or nondominant carrier for the provision of a service or group of services.

(f) In conducting a review of an incumbent local exchange carrier's status as a dominant carrier in response to a petition filed under (d) of this section or in response to any other petition for a change in status, the commission will determine whether a local exchange carrier will be unfairly competitively disadvantaged with respect to a service or group of services by considering the following factors:

(1) the market share of the carrier and the competitive entrants, as measured in a manner relevant to the service for which nondominant carrier status is requested;

(2) the number, size, nature, and capabilities of competing carriers;

(3) the existence and nature of barriers to entry in competition for the service;

(4) the availability of reasonably substitutable service;

(5) the availability of alternative competitive facilities;

(6) the existence of safeguards to restrain the exercise of market power;

(7) the number of the carrier's customers transferred to a competitor;

(8) the number of customers projected to be lost to a competitor in the next 12 months after the date the petition is filed; and

(9) other factors relevant to determining whether the carrier will be unfairly competitively disadvantaged, including the existence or absence of consumer complaints related to the service.

(g) A local exchange carrier holding dominant carrier status as of {*effective date of the regulations*} shall retain dominant carrier status until the carrier's status is changed by an order of the commission. A local exchange carrier holding nondominant carrier status as of {*effectivedate of the regulations*} shall retain nondominant carrier status until the carrier's status is changed by an order of the commission.

(h) Upon designation of a competitive local exchange market, a local exchange carrier owning the only facilities providing local exchange service to the majority of customers in the newly designated competitive local exchange market is a dominant carrier for services provided to that area, and all other local exchange carriers serving that area are nondominant carriers until otherwise ordered by the commission. (Eff. 6/21/98, Register 146; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.990
AS 42.05.151 AS 42.05.711

3 AAC 53.230 is repealed and readopted to read:

3 AAC 53.230. Discontinuance, suspension, or abandonment of service. (a) A local exchange carrier may discontinue, suspend, or abandon a local exchange telephone service at a location with commission approval under AS 42.05.261.

(b) A local exchange carrier proposing to discontinue, suspend, or abandon service under (a) of this section must file a plan for the transfer of its customers to another carrier. The plan must be filed with the commission at the same time the carrier files its application to discontinue, suspend, or abandon local exchange telephone service. (Eff. 6/21/98, Register 146; am ____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.711
AS 42.05.151 AS 42.05.241 AS 42.05.990

3 AAC 53.240 is repealed and readopted to read:

3 AAC 53.240. Retail services for which there is a dominant carrier. (a) The provisions of (b) — (d) of this section apply to all retail services in a competitive local exchange market that are not subject to 3 AAC 53.243.

(b) A nondominant carrier shall maintain a current tariff of retail rates and all special contracts for retail rates on file with the commission. A nondominant carrier may modify retail rates and implement special contracts for retail services without approval of the commission after 30 days' notice to the commission of a tariff filing submitted in accordance with 3 AAC 48.220, 3 AAC 48.240, 3 AAC 48.270, and 3 AAC 53.290(f).

(c) A dominant carrier shall maintain a current tariff of retail rates and all special contracts for retail rates on file with the commission. A dominant carrier may reduce retail rates, offer new or re-packaged services, and implement special contracts for retail services without approval of the commission after 30 days' notice

to the commission of a tariff filing submitted in accordance with 3 AAC 48.220, 3 AAC 48.240, 3 AAC 48.270, and 3 AAC 53.290(f). A tariff revision by a dominant carrier to increase a rate is subject to the provisions of 3 AAC 48.200 — 3 AAC 48.430.

(d) Notwithstanding (b) or (c) of this section, the commission will deny and require modification of rates or terms or conditions of service that

(1) are not just and reasonable;

(2) grant a customer an unreasonable preference or advantage; or

(3) subject a customer to an unreasonable prejudice or disadvantage.

(Eff. 6/21/98, Register 146; am _____/_____/_____, Register _____)

Authority:	AS 42.05.141	AS 42.05.241	AS 42.05.711
	AS 42.05.151	AS 42.05.431	AS 42.05.990
	AS 42.05.221		

3 AAC 53 is amended by adding a new section to read:

3 AAC 53.243. Retail services for which there is no dominant carrier. (a) This section applies to retail services other than retail services specified in 3 AAC 53.220(c) or provided for under 3 AAC 53.220(e) if there is no local exchange carrier in the competitive local exchange market with dominant carrier status for the services.

(b) A nondominant carrier shall maintain a current tariff of retail rates and all special contracts for retail rates at the carrier's primary business office and shall provide a summary of the current tariff and the special contracts on the carrier's web

site. The carrier must notify the commission of the Internet address, including any changes to the address.

(c) Without approval of the commission, and after compliance with the requirements of (d) and (e) of this section, a local exchange carrier may implement,

(1) from {*effective date of the regulations*} through June 30, 2010, rate changes that do not involve a proposed increase to a carrier's residential or single-line business basic line charges of more than eight percent in the calendar year;

(2) after June 30, 2010, retail rate changes for local exchange services;

(3) new and repackaged services; and

(4) a bundled service that includes a local exchange service component unless the bundled service also includes a discounted intrastate interexchange component.

(d) In connection with any changes to the services offered by a carrier under (c) of this section, the carrier shall, before offering the service,

(1) post a notice summarizing the new or changed offer on the carrier's web site before offering the service, with the notice remaining on the carrier's web site for at least 30 days after the service change is implemented;

(2) file with the commission an informational filing that includes a copy of the tariff sheets and a letter identifying

(A) existing rates for the service, if applicable;

(B) proposed rates for the service; and

(C) a summary of all rate changes, including the percentage increase or decrease to the rate, for that service during that calendar year;

(3) submit by electronic mail, an electronic version of any revised tariff sheets and cover letter to any consumer that requests electronic mail notification from the carrier.

(e) A tariff revision that does not comply with the requirements of (c) of this section must be submitted under 3 AAC 53.240.

(f) The provisions of 3 AAC 48.220(c) do not apply to special contracts for services where there is no dominant carrier. Unless a petition for confidential treatment is filed under 3 AAC 48.045, a local exchange carrier may implement a special contract without approval of the commission by

(1) posting on the carrier's web site a summary of the services offered, a list of the parties to the special contract, and a statement that the special contract is available for inspection at the commission's office; and

(2) filing with the commission

(A) a cover letter referencing that the informational filing is submitted under 3 AAC 53.243;

(B) an update of the carrier's list of special contracts; and

(C) a complete copy of the new special contract.

(g) A special contract that does not comply with the requirements of (f) of this section or includes a service for which there is a dominant carrier must be submitted under 3 AAC 53.240.

(h) The commission will deny and require modification of rates or terms or conditions of service that

(1) grant a customer an unreasonable preference or advantage; or

(2) subject a customer to an unreasonable prejudice or disadvantage.

(Eff. _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.711
AS 42.05.151 AS 42.05.431 AS 42.05.990
AS 42.05.221

3 AAC 53 is amended by adding a new section to read:

3 AAC 53.245. Competitive entry rate modification. (a) An incumbent local exchange carrier may petition the commission to modify its existing retail local exchange rates to establish new rates for the noncompetitive area if the carrier

(1) is a rural telephone company as defined in 47 U.S.C. 153(37); and

(2) demonstrates that a competitor may enter the incumbent local exchange carrier's service area.

(b) An incumbent local exchange carrier that is not a rural telephone company as defined in 47 U.S.C. 153(37), or that cannot make the demonstration required by (a)(2) of this section, may petition the commission for approval to use the provisions of (d) — (h) of this section to propose modifications of the carrier's existing retail local exchange rates for the noncompetitive areas. The carrier must obtain approval of its petition before filing a rate modification proposal under this section. The commission may grant a petition filed under this subsection if the

carrier demonstrates that using the provisions of (d) — (h) of this section is in the public interest.

(c) A petition for permanent rate modification, filed under this section by an incumbent local exchange carrier, and as approved by the commission, becomes effective only upon approval of the competitor's application for certification or eligible telecommunications carrier designation in the incumbent local carrier's service area.

(d) A petition for a rate modification filed under this section must also be filed in accordance with 3 AAC 48.270, and must include the following:

(1) a reference to this section and a description of the service or group of services that are or may become competitive in one or more portions of the incumbent carrier's service area and, if applicable, the docket number of the competitor's application proceeding;

(2) a study in support of the rate modification; the study must be based on

(A) the incumbent carrier's most recent revenue requirement study or cost-of-service and rate design study, including demand levels from the test year if the revenue requirement study or cost-of-service and rate design study was approved within the previous three years;

(B) a new revenue requirement developed under 3 AAC 48.275; or

(C) on a revenue requirement developed under 3 AAC 53.010 — 3 AAC 53.140;

(3) a detailed description and an explanation of the method used to determine the revenue requirement, demand, and rates proposed for each exchange including

(A) all accounts or subaccounts and the amounts that are directly assigned to each exchange;

(B) all accounts or subaccounts and the amounts that are allocated among the exchanges, together with a description of the allocation methodology and the basis for the factors used; and

(C) an analysis demonstrating that the sum of the revenue requirements for the exchanges in noncompetitive areas plus the exchanges in competitive local exchange markets equals

(i) the total company local revenue requirement approved by the commission within the three previous years; or

(ii) a local revenue requirement developed under either 3 AAC 48.275 or 3 AAC 53.010 — 3 AAC 53.140;

(4) a copy of the carrier's federal universal service fund disaggregation plan filing under 47 C.F.R. 54.315;

(5) an explanation of how the cost allocations and universal service fund assignments used in the proposed rate modification are consistent with or different from the cost allocations and universal service fund assignments from the carrier's federal universal service fund disaggregation plan filing;

(6) supporting data and reasons why the cost differences by exchange cannot or should not be addressed through the current or an amended federal universal service fund disaggregation plan filing;

(7) a description of the operating revenues by exchange based on billing records from the test year used to develop the revenue requirement;

(8) a description of the methodology used to allocate all operating revenues that are not specifically related to an exchange;

(9) existing rates for discretionary services and non-recurring charges;

(10) a cost allocation manual, developed consistent with the cost allocation principles of 47 C.F.R. 64.901, as revised as of October 1, 2004 and adopted by reference, with costs for competitive local exchange markets treated like nonregulated costs; the cost allocation manual must specifiy how the incumbent local exchange carrier will separate nonregulated costs and costs for competitive local exchange markets from regulated costs for noncompetitive areas; the cost allocation manual must remain in effect until completion of the carrier's next general rate case or until otherwise ordered by the commission; however, if an incumbent local exchange carrier received approval under (b) of this section to use the provisions of (d) — (h) of this section to propose modifications to the carrier's existing retail local exchange rates, the carrier is not required to file a cost allocation manual under this paragraph.

(e) A petition for a rate modification filed under this section may include

(1) deaveraged rates for private line services based on differences in cost between exchanges; and

(2) a differential between basic residential rates and business rates within the same exchange area with a detailed explanation and a justification for any change in the differential between basic residential rates and business rates.

(f) A local exchange carrier may petition the commission to implement, on an interim and refundable basis, its rate modification proposal in the noncompetitive areas

(1) on the date a competitor is granted a certificate of public convenience and necessity;

(2) when a competitor is designated as an eligible telecommunications carrier in the local exchange carrier's service area; or

(3) on the date a competitor offers services to a customer for compensation, if

(A) a complete petition for rate modification is filed with the commission; and

(B) the commission has not previously approved or denied the petition to modify rates.

(g) Any information required under (d) of this section may also be filed in the docket relating to the competitor's application for certification or for eligible telecommunications carrier designation to aid in the commission's consideration of the application.

(h) Upon petition, or on its own motion, for good cause, the commission may delay or advance the implementation of a rate modification proposal that is the subject of a petition under (f) of this section.

(i) In this section, "general rate case" means a proceeding, initiated by a filing with supporting information described in 3 AAC 48.275, in which the commission reviews the local exchange carrier's costs and revenues to establish rates. (Eff. _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.381
AS 42.05.421

3 AAC 53.250(a) is amended and (b) is repealed to read:

3 AAC 53.250. Wholesale service and rates. (a) A local exchange carrier shall offer all its services for resale to other carriers **consistent with 47 U.S.C. 251 and 252 (Telecommunications Act of 1996)**. [SERVICES MUST BE OFFERED FOR RESALE AT WHOLESALE RATES TO THE EXTENT DETERMINED APPROPRIATE IN VIEW OF THE FACILITIES AND GENERAL SERVICE OFFERINGS OF THE LOCAL EXCHANGE CARRIER.]

(b) Repealed _____/_____/_____. (Eff. 6/21/98, Register 146; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.711
AS 42.05.151 AS 42.05.431 AS 42.05.990
AS 42.05.221

3 AAC 53.290(a), (c) and (f) are amended and new sections are added to read:

3 AAC 53.290. Miscellaneous provisions. (a) **Except as provided in 3 AAC 48.440 and the *Alaska Intrastate Interexchange Access Charge Manual,* adopted by reference in 3 AAC 48.440,** the provisions of

(1) [3 AAC 48.230,] 3 AAC 48.275 [, 3 AAC 48.277, AND 3 AAC 48.430] do not apply to **those services for which the carrier** is a non dominant carrier**;**

(2) 3 AAC 48.230 do not apply to a local exchange carrier; however, the commission may require changes to a local exchange carrier's billing and contract form if that form is confusing or misleading to customers or is contrary to the public interest; and

(3) 3 AAC 48.277 and 3 AAC 48.430

(A) do not apply to a local exchange carrier

(i) after its application for certification to provide local exchange telephone service in competition to an existing local exchange carrier is granted; or

(ii) for services in an area designated by the commission as a competitive local exchange market; and

(B) apply, not withstanding (A) of this paragraph, to a local exchange carrier whose

(i) costs are used as the basis for determining intrastate access charge rate caps; or

(ii) costs or rates are used as the basis for

determining state universal service support under 3 AAC 53.300 — 3 AAC 53.399, excluding the lifeline program.

. . .

(c) The incumbent local exchange carrier is [A DOMINANT CARRIER IS RESPONSIBLE FOR PROVIDING LOCAL EXCHANGE TELEPHONE SERVICE IN ITS SERVICE AREA AS] the carrier of last resort **unless the commission by order changes the carrier's responsibilities under this subsection. Upon petition or on its own motion and after an opportunity for a hearing, the commission may reassign carrier of last resort responsibilities, in whole or in part, to one or more facilities-based local exchange carriers**.

...

(f) **Unless otherwise provided in 3 AAC 53.243, a** [A] local exchange carrier shall publish a public notice of all proposed tariff revisions in a local, general circulation newspaper no later than three days after filing it with the commission. The public notice must contain a general description of the filing that is accurate, written in plain English, and sufficient to alert consumers of tariff revisions that may affect either the rules or rates applicable to them. The notice must include sentences containing the following information: the date the utility made or will make its filing with the commission; the date the revisions are expected to become effective; and a statement that both the proposed revisions and the utility's current tariff are available for review at the utility's office for which an address and office hours are provided. The notice must contain sentences similar to the following: "Any person may file comments on this tariff revision with the Regulatory Commission of

Alaska (address). To assure that the commission has sufficient time to consider the comments before the revisions take effect, (utility name) suggests that you file comments no later than (a specific date, not a weekend or holiday, approximately 7-10 days before the filing takes effect)."

. . .

(h) The provision of 3 AAC 48.270(a) that requires the filing of the estimated number of customers or shippers who will be affected by each separate schedule listed and the estimated annual revenues under both the existing and proposed rates does not apply to a retail service offering of a local exchange carrier unless the carrier proposes to discontinue or increase the rates for a service. However, the commission may require a local exchange carrier filing a tariff under 3 AAC 53.240 to provide that information after the carrier submits its tariff proposal.

(i) On or before March 31 of each year, a local exchange carrier shall file a financial report of the carrier's operations in the state for the previous calendar year. The carrier's out-of-state operations must be excluded from the financial report. The carrier's financial report must include the following detailed information regarding its local exchange operations:

(1) gross revenue;

(2) sale for resale revenue;

(3) access charge revenue;

(4) billing and collection revenue; and

(5) directory assistance revenue.

(j) If the commission, by order, finds that an exchange is no longer served by multiple certificated facilities-based local exchange carriers, the remaining certificated facilities-based local exchange carrier shall be a dominant carrier for all retail services and shall also be the carrier of last resort. The provisions of 3 AAC 48.230, 3 AAC 48.275, 3 AAC 48.277, and 3 AAC 48.430 apply to the remaining certificated facilities-based local exchange carrier. The provisions of 3 AAC 53.240 and 3 AAC 53.243 no longer apply to the remaining certificated facilities-based local exchange carrier. The commission will determine, upon petition or on its own motion, whether the exchange remains a competitive local exchange market. (Eff. 6/21/98, Register 146; am 11/11/2001, Register 160; am 4/24/2004, Register 170; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 AS 42.05.711
AS 42.05.151 AS 42.05.241 AS 42.05.990

3 AAC 53.295(a) is amended and (d) is repealed to read:

3 AAC 53.295. Bundled services. (a) A local exchange carrier that offers service in a competitive **local exchange market** [SERVICE AREA] may bundle services subject to the limitations stated in (b) and (c) of this section.

. . .

(d) Repealed _____/_____/_____. (Eff. 8/27/2004, Register 171; am _____/_____/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800
AS 42.05.145 AS 42.05.291

3 AAC 53.299(1) is repealed, (3), (6), and (8) are amended, and new paragraphs are added to read:

3 AAC 53.299. Definitions. Unless the context indicates otherwise, in 3 AAC 53.200 — 3 AAC 53.299,

(1) repealed _____/_____/_____ ;

. . .

(3) "dominant carrier" means a local exchange carrier **that the commission designates under 3 AAC 53.220 as a dominant carrier for a service** [DETERMINED BY THE COMMISSION TO HAVE MARKET POWER];

. . .

(6) "local exchange carrier" means **a local exchange telephone utility** [CARRIER] certificated to provide local exchange telephone service;

. . .

(8) "recorded authorization" means a voice communication that clearly grants the authority to transfer a customer's local exchange service from one local exchange carrier to another and that may be accurately retrieved for later review;[.]

. . .

(10) "affiliate" has the meaning given "affiliated interest" in AS 42.05.990;

(11) "control" by a carrier refers to the ability of the carrier or its affiliate to direct the use of facilities regardless of whether the carrier directly owns the facilities;

(12) "customer connection" means any connection used to provide local exchange service; "customer connection"

(A) includes

(i) a line sold to another carrier that uses the line to provide service to a residential or business customer through total service resale; and

(ii) each voice line equivalent, if a line is used to provide multiple communication channels to a residential or business customer and is weighted based on the line's voice line equivalent weighting used by a carrier for network access fees; and

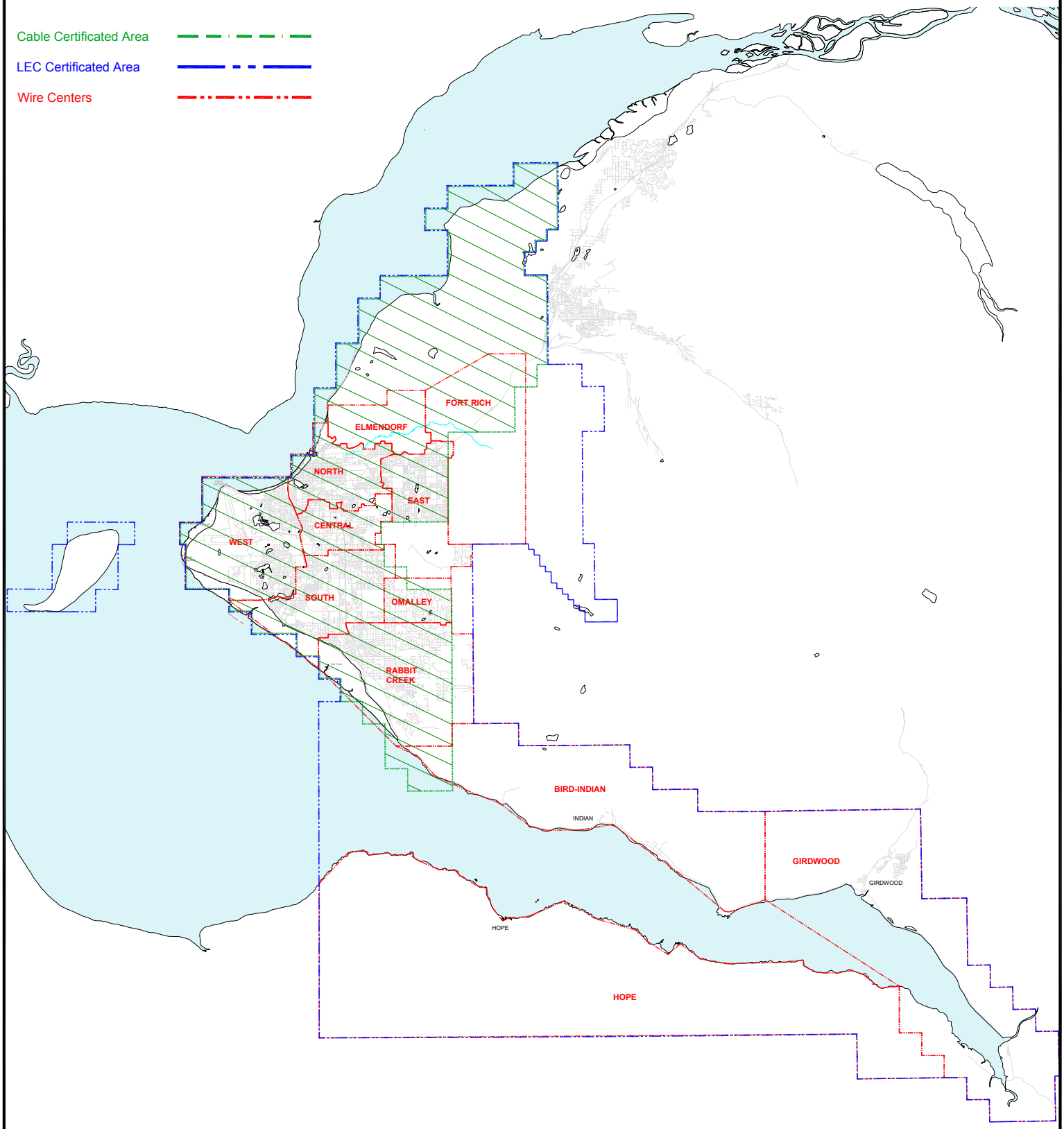
(B) does not include lines sold as unbundled network element loops; and

(13) "eligible telecommunications carrier" is a carrier that is designated as an eligible telecommunications carrier by the commission under 47 U.S.C. 214(e);

(14) "exchange" or "local exchange" has the meaning given in 3 AAC 48.820;

(15) "noncompetitive areas" means one or more areas that are not designated as a competitive local exchange market;

(16) "unaffiliated" means not an affiliate. (Eff. 6/21/98, Register 146; am 4/24/2004, Register 170; am 8/27/2004, Register 171; am _____/_____/_____, Register _____)

Authority:	AS 42.05.141	AS 42.05.151	AS 42.05.800
	AS 42.05.145	AS 42.05.291	AS 42.05.990

GCI Cable Franchise Areas and ACS Wire Centers
Anchorage, AK