

1 would appear to qualify for nondominant status for retail services (excluding retail line
2 *extensions, construction services, subdivision agreements and excluding access*) under
3 3 AAC 53.220(a)(3) in their respective competitive local exchange markets. Staff's
4 summary table attached as an appendix to this order was based on an estimate of
5 market share for the non-reporting companies. We have reviewed Staff's estimate and
6 believe the estimate is reasonable for purposes of this analysis.

7 We note that both ACS and GCI assert that GCI is a facilities-based
8 carrier in the Fairbanks and Juneau markets.¹⁸ GCI holds Certificate of Public
9 Convenience and Necessity No. 489 and is unaffiliated with ACS. The FCC also
10 asserts GCI is a facilities-based carrier in the Fairbanks and Juneau markets.¹⁹ All
11 factors considered, ACS-F and ACS-AK (Juneau study area only) qualify for
12 nondominant status for retail services (excluding retail line extensions, construction
13 services, subdivision agreements and excluding access) under 3 AAC 53.220(a)(1) in
14 their respective competitive local exchange markets.

15 Status of ACS-AK for the non-Juneau markets

16 In its compliance filings, ACS Companies stated that ACS-AK is not
17 requesting nondominant status for the Ft. Wainwright or the Eielson exchanges.²⁰ The
18 compliance filing indicated that ACS-AK may file a petition in the future for
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24 ¹⁸ACS Compliance Filing at 6-7.

25 ¹⁹ACS Compliance Filing at 6.

26 ²⁰ACS Compliance Filing at 3.

1 nondominant status for Ft. Wainwright and Eielson exchanges under 3 AAC 53.220(e).
2 *We retain the dominant carrier status of ACS-AK in the non-Juneau study areas for all*
3 *services.*

4 Treatment of 3 AAC 53.220(c) Services

5 ACS does not request nondominant carrier status for line extensions,
6 construction services, subdivision agreements, or interexchange access services in any
7 exchange. Under 3 AAC 53.220(c), the level and nature of facilities ownership
8 determines whether any ACS company is nondominant for services.²¹

9 Based on the data compliance filings and Staff's table for the non-
10 reporting companies, we conclude that each of the ACS companies owns greater than
11 50 percent of the facilities used to provide local exchange service to customers in each
12 of their exchanges. We therefore find that none of the ACS companies are
13 nondominant with regard to line extension services; construction services, subdivision
14 services agreements, and access service.

15 Level 3 Late Filing

16 In Order U-05-55(2), we required certificated local exchange carriers
17 operating in the certificated service area of the ACS Companies' to file data by
18 October 17, 2005. Level 3 filed its response on November 2, 2005 with no request to
19 accept late filing. On our own motion, we accept Level 3's late filing as it allowed us to
20 use accurate date for Level 3, rather than an estimate.

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²¹3 AAC 53.220(c) states: "[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 dominant carrier with regard to the following services...."

1 ACS Motion for Decision

2 ACS requested that we issue a decision in this proceeding since the
3 record in this docket is complete.²² We reached a decision on the substantive issues in
4 this proceeding and grant ACS's motion for decision.

5 This order constitutes the final decision in this case. This decision may be
6 appealed within thirty days of the date of this order in accordance with AS 22.10.020(d)
7 and the Alaska Rules of Court, Rule of Appellate Procedure (Ak. R. App. P.) 602(a)(2).
8 In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to
9 file a petition for reconsideration as permitted by 3 AAC 48.105. If such a petition is
10 filed, the time period for filing an appeal is then calculated under Ak. R. App. P.
11 602(a)(2).

12 ORDER

13 THE COMMISSION FURTHER ORDERS:

14 1. Effective February 16, 2006, ACS of Anchorage, Inc. d/b/a Alaska
15 Communications Systems, ACS Local Services, and ACS is designated a nondominant
16 carrier for the provision of retail services in its competitive local exchange market
17 excluding line extension services, construction services, and subdivision agreements,
18 and excluding access services.

19 2. Effective February 16, 2006, ACS of Fairbanks, Inc. d/b/a Alaska
20 Communications Systems, ACS Local Services, and ACS is designated a nondominant
21 carrier for the provision of retail services in its competitive local exchange market
22 excluding line extension services, construction services, and subdivision agreements,
23 and excluding access services.

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25 ²²ACS Motion for Decision Alternative Motion for Pre-Hearing Conference, filed
26 January 20, 2006 at 3.

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

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3. *Effective February 16, 2006, ACS of Alaska, Inc. d/b/a Alaska Communications Systems, ACS Local Services, and ACS is designated a nondominant carrier for the provision of retail services in the Juneau study area of its competitive local exchange market excluding line extension services, construction services, and subdivision agreements, and excluding access services.*

4. The November 2, 2005 late filing by Level 3 Communications, LLC is accepted.

5. The motion for decision filed by ACS of Anchorage, Inc., d/b/a Alaska Communications Systems, ACS Local Service, and ACS, ACS of Fairbanks, Inc., d/b/a Alaska Communications Systems, ACS Local Service, and ACS and ACS of Alaska, Inc. d/b/a Alaska Communications Systems, ACS Local Service and ACS on January 20, 2006, is granted as further discussed in the body of this order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 22nd day of February, 2006.

BY DIRECTION OF THE COMMISSION
(Commissioners Dave Harbour and
Mark K. Johnson, not participating.)

(SEAL)

Table 1: Number of customer connections				
	Number of Customer Connections			
Company	Anchorage	Fairbanks	Juneau	Eielson/ Ft. Wainwright ***
ACS	91,341	26,851	16,489	5,400
GCI	71,748	10,359	7,485	10
Excel	0	0	0	0
Level 3	26	0	0	0
SBC-LD	0	0	0	0
VarTec	0	0	0	0
Non-reporting companies (estimated)	30,066	-	-	-
Total of available data:	163,115	37,210	23,974	5,410
Total of available data and estimated non- reporting company data:	193,181	37,210	23,974	5,410
*** Data for ACS for Eielson and Ft. Wainwright is estimated based on historical data submitted to the Alaska Telephone Association.				

Table 2: Percent market share of customer connections.

Company	Number of Customer Connections			
	Anchorage	Fairbanks	Juneau	Eielson/ Ft. Wainwright
ACS	47.28%	72%	69%	99.8%
GCI	37.14%	28%	31%	0.2%
Excel	0.00%	0%	0%	0.0%
Level 3	0.01%	0%	0%	0.0%
SBC-LD	0.00%	0%	0%	0.0%
VarTec	0.00%	0%	0%	0.0%
Non-reporting companies (Staff estimate)	15.56%	0.00%	0.00%	0.00%

Table 3: Reported facilities of local exchange competitors

Company	Extent of Local Exchange Facilities of Competitors			
	Anchorage	Fairbanks	Juneau	Eielson/ Ft. Wainwright
GCI	17% of GCI local customers in Anchorage are served by cable telephony;	4% of its customer connections, none of which are residential; not offering cable telephony	7% of its customers connections, none of which are residential; not offering cable telephony	less than 1% of its customer connections, none of which are residential; not offering cable telephony
Excel	Not operating in Alaska	Not operating in Alaska	Not operating in Alaska	Not operating in Alaska
Level 3	None	None	None	None
SBC-LD	None	None	None	None
VarTec	Not operating in Alaska	Not operating in Alaska	Not operating in Alaska	Not operating in Alaska
Non-reporting companies	Estimated at minimal to none	Estimated at minimal to none	Estimated at minimal to none	Estimated at minimal to none

Table 4: RCC data		
Non Filing Companies	Revenues Subject to RCC	Area Served
Alaska Fiber Star LLC	\$ 7,924	Anchorage, Girdwood, Hope, Indian/Bird
Alascom, Inc.	\$ 1,749,256	Anchorage, Girdwood, Hope Indian/Bird
France Telecom	none reported/ recently certificated	Anchorage, Fairbanks, Ft. Wainwright, Juneau, Eielson
Premiere Network Services	none reported	Anchorage, Girdwood, Hope Indian/Bird, Fairbanks, Ft. Wainwright, Juneau, Eielson
TelAlaska (LEC)	none reported	Anchorage, Girdwood, Hope, Indian/Bird
Comparison to filing companies:		
ACS-AK	\$ 6,022,211	
ACS-AN	\$ 30,063,000	
ACS-F	\$ 10,035,767	
GCI	\$ 21,705,373	
SOURCE: Order U-05-47(2)/P-05-5(2), Appendix A, Pages 6 and 7.		

Explanation of Assumptions:

The above market share table is based in part on an estimate of market share for non-reporting companies.

Only two of the non-filing companies are certificated to serve in the Fairbanks or Juneau Competitive Local Exchange Markets (CLEMs). Of these two companies, one is recently certificated (France Telecom Corporate Solutions, Docket U-05-09), and the other is not listed as having 2004 local revenues subject to the Regulatory Cost Charge (See Order U-05-047(2)/P-05-5(2), Appendix A, Page 6). Staff concludes that for the ACS-F and ACS-AK (Juneau) markets, the non-filing companies are estimated to have no customer connections.

For the Anchorage market, Alascom, Inc. d/b/a AT&T Alascom (Alascom) and Alaska Fiber Star LLC (AFS) are the only two non-reporting companies who appear to have reported intrastate local exchange revenues subject to the Regulatory Cost Charge. Of these two companies, the AFS revenues were minimal (\$7,924) and its market share was estimated at under 66 customer connections (worst case basis) for purposes of the Section 3 AAC 53.220(a)(3) analysis.¹

Alascom is currently only authorized to serve in the ACS-AN area, though it has a pending application to serve in the ACS-AK and ACS-F areas.² Alascom data for the Anchorage market was estimated based on quarterly access line reports filed by Alascom between 2000 and 2003. These reports indicate that Alascom's access line counts varied between about 10,000 and 15,000 per year during that time period. Staff estimated a worst case AT&T Alascom customer connection count of 15,000 for the ACS-AN market.

TelAlaska Long Distance (TelAlaska), another non-reporting company, is not shown as reporting intrastate local exchange revenues subject to the RCC, however ACS-AN shows the company as purchasing 193 total service resale lines. TelAlaska also has an interconnection agreement with ACS-AN through which it may purchase UNE loops and wholesale services.³ Staff estimated TelAlaska as having (worst case) approximately the same number of customer connections as AT&T Alascom (15,000) in the ACS-AN market.

To the extent the non-reporting companies are pure resellers, their data should already be included in the data submitted by GCI and ACS.⁴ If so, there would be little to no impact related to the non-reporting companies under a Section 3 AAC 53.220(a)(3) analysis.⁵

Based on the above, Staff calculated market share based on a worst case estimate of 30,066 customer connections in the Anchorage market for the non-reporting companies.⁶ Staff's estimate for the non-filing companies would need to be off by over 100,000 customer connections before it would affect the conclusion that ACS-AN met the nondominant carrier standard under 3 AAC 53.220(a)(3) in the Anchorage market.

¹ Assuming \$7,924 annual local revenues results in \$660 monthly revenues, and an estimate of local revenue per customer connection of a minimum \$10 per customer.

² Docket U-05-75

³ See Docket U-04-002.

⁴ See 3 AAC 53.299(12).

⁵ See Exhibit A of the ACS Compliance filing. In addition, 3 AAC 53.299(12) states that "customer connections" of a reporting LEC includes a "line sold to another carrier that uses the line to provide service to a residential or business customer through total service resale."

⁶ Alascom (15,000 connections), TelAlaska (15,000 connections), and Alaska Fiber Star (66 connections).

Coverage in Small Business Markets

Wirecenter	Total Locations	% of Small Business Locations Passed by Telephony-Upgraded Cable Plant - Projected End of 2006	% of Passed Locations Expected to Be Served	% of Covered Small Business Locations Based on End of 2006 Upgrades (Excluding Transition Time)
North	824	78%	25%	20%
Central	423	56%	25%	14%
East	72	75%	25%	19%
West	104	51%	25%	13%
South	415	45%	25%	11%
O'Malley	2	0%	25%	0%
Rabbit Creek	28	68%	25%	17%
Indian	6	0%	25%	0%
Girdwood	20	0%	25%	0%
Elmendorf	N/A	N/A	25%	N/A
Ft. Richardson	N/A	N/A	25%	N/A
Hope+	N/A	0%	25%	0%

Coverage in Enterprise Business Markets

Wirecenter	Total Locations	% of Enterprise Business Locations Passed by GCI Fiber Plant	% of Passed Locations that Are Expected to be Economically Feasible to Serve	% of Covered Enterprise Business Locations (Excluding Transition Time)
North	432	31%	30%	9%
Central	496	38%	30%	11%
East	86	34%	30%	10%
West	90	27%	30%	8%
South	318	16%	30%	5%
O'Malley	1	0%	30%	0%
Rabbit Creek	25	32%	30%	10%
Indian	2	0%	30%	0%
Girdwood	2	0%	30%	0%
Elmendorf	N/A*	N/A	30%	N/A
Ft. Richardson	N/A*	N/A	30%	N/A
Hope+	N/A*	0%	30%	0%

* GCI has no DS1 customers in these wire centers.

+ Hope is served on ACS's network by a DLC served from the South wire center, but lies entirely outside the GCI cable franchise area.

Source: GCI Ex Parte, November 14, 2006

Coverage in Residential Markets

Wirecenter	Total Locations	% of Residential Locations Passed By		% of Residences Able to be Served Within Two Years	% of Residential Locations Covered By	
		Telephony- Upgraded Cable Plant - End of 2005 Construction Season	Telephony- Upgraded Cable Plant - Projected End of 2006		Telephony- Upgraded Cable Plant - End of 2005 Construction Season (customers transitioned as of end of 2006)	Telephony- Upgraded Cable Plant - Projected End of 2006 (customers transitioned as of end of 2007)
North	6992	52%	98%	85%	44%	83%
Central	3743	42%	98%	85%	36%	83%
East	10959	98%	98%	85%	83%	83%
West	9176	55%	94%	85%	47%	80%
South	13594	59%	88%	85%	50%	75%
O'Malley	1401	0%	0%	85%	0%	0%
Rabbit Creek	6390	5%	47%	85%	4%	40%
Indian	101	0%	0%	85%	0%	0%
Girdwood	811	0%	0%	85%	0%	0%
Elmendorf	N/A	N/A	N/A	85%	N/A	N/A
Ft. Richardson	N/A	N/A	N/A	85%	N/A	N/A
Hope+	N/A	0%	0%	85%	0%	0%

+ Hope is served on ACS's network by a DLC served from the South wire center, but lies entirely outside the GCI cable franchise area.

Source: GCI Ex Parte, November 14, 2006