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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Megan Saupe, Regulatory Commission of Alaska
FROM: April Simpson, Office of the Lieutenant Governor 
465.4081
DATE: June 15, 2023
RE: Filed Emergency Regulations: Regulatory Commission of Alaska

Regulatory Commission of Alaska Emergency Regulations re: Alaska Universal Service Fund (3 AAC 53.300(b))

Attorney General File:	Emergency Regulations
Regulation Filed:	6/15/2023
Effective Date:	7/1/2023
Expiration Date:	October 28, 2023 unless made permanent by the adopting agency
Print:	247, October 2023

cc with enclosures: Colleen Bailey, Department of Law
Laura Barson, Regulatory Commission of Alaska
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Regulatory Commission of Alaska finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

Affordable and reliable telecommunications services are essential to the public peace, health, safety, and general welfare of the people of Alaska. Consumers, particularly those living in rural Alaska, are highly dependent on telecommunications services to maintain family connections and access to emergency services, medical specialists, state and federal government, educational and business opportunities, and a variety of other critical needs. Local telephone networks maintained and operated by local exchange carriers are a crucial part of telecommunications service. They provide infrastructure for delivery of local, long distance, and wireless telephone calls.

The Alaska Universal Service Fund (AUSF) was established in 1999 under the authority of AS 42.05.840.¹ Since inception, the AUSF has been providing financial support of various kinds to local exchange carriers operating local telephone networks in Alaska. For the calendar year ended December 31, 2022, the AUSF disbursed \$13,186,512.19 in financial support to a total of 27 eligible local exchange carriers which provide telephone service to Alaska communities off the road system and to less populated areas of Alaska on the road system.²

The Alaska Universal Service Fund is subject to expiration on June 30, 2023.³ Eligible local exchange carriers who received disbursements of the AUSF in 2022, have made the following statements that speak to the impact of the June 30, 2023, expiration:

- Alaska Communications⁴ states that it received support from the AUSF and that its remote customers have an ongoing need for AUSF support for local rates to ensure that local service will remain affordable.⁵

¹3 AAC 53.300 – 3 AAC 53.399.

²<http://www.ausac.org/public.htm> (last visited May 31, 2023) (2022 AUSAC Annual Summary, 2022 Period ENS Support Paid in 2022 and 2021 Period Annual ENS Support Paid in 2022). Eligible local exchange carriers identified by the administrator of the AUSF included: ACS of Alaska – Ft. Wainwright, ACS of Alaska – Juneau, ACS Fairbanks, ACS of the Northland – Glacier State, ACS of the Northland – Sitka, Adak, AECA ENS Admin Fee, Alaska Telephone Company, Arctic Slope Telephone Association Cooperative, Bristol Bay Telephone Cooperative, Bettles Telephone Company, Bush-Tell, Circle Telephone Company, Cordova Telephone Cooperative, Copper Valley Telephone Cooperative, GCI, Interior Telephone Company, Ketchikan Public Utilities, Matanuska Telephone Association, Mukluk Telephone Company, North Country Telephone Company, Nushagak Electric & Telephone Cooperative, OTZ Telephone Cooperative, Summit Telephone Company, United KUC, United Utilities, Yukon Telephone Company.

³3 AAC 53.300(d).

⁴Alaska Communications or ACS is an eligible local exchange carrier receiving AUSF distributions and is identified by the administrator of the AUSF as ACS of Alaska – Ft. Wainwright, ACS of Alaska – Juneau, ACS Fairbanks, ACS of the Northland – Glacier State, and ACS of the Northland – Sitka.

⁵*Alaska Telecom Association Comments Regarding Proposed Repeal of the Alaska Universal Service Fund Program*, filed May 5, 2023, Exhibit A (ATA, Ex. A) at 17-21

- Alaska Telephone Company, Bettles Telephone Company, and North Country Telephone Company state they were authorized to receive \$856,410 from the AUSF for the period ended December 31, 2022, and that the loss of that support would have a material impact on financial operations forcing a possible increase in local phone rates by 53.5%.⁶
- Arctic Slope Telephone Association Cooperative states that it received \$452,667 from the AUSF for the period ended December 31, 2022, and that the loss of that support would have a material impact on financial operations forcing a possible increase to local phone rates by \$12-\$13 per line per month.⁷
- Bristol Bay Telephone Cooperative states it received \$181,520.76 for the period ended December 31, 2022, which represented 6.4% of its total revenue, and loss of that support would have a material impact on financial operations forcing a possible increase in local phone rates by 43%.⁸
- Copper Valley Telephone Cooperative states it received \$1.3 million for the period ended December 31, 2022, which represented 7% of its total revenue, and loss of that support would have a material impact on financial operations forcing a possible increase in local phone rates by 100%. Copper Valley Telephone Cooperative also states that it would be unable to raise local telephone rates by more than 50% due to benchmarks established by the Federal Communications Commission.⁹
- Interior Telephone Company states that it received \$660,000 from the AUSF for the period ended December 31, 2022, which represented 7% of its total revenue, and the loss of that support would have a material impact on financial operations forcing a significant raise in local phone rates.¹⁰
- Ketchikan Public Utilities states that it received \$556,662 from the AUSF for the period ended December 31, 2022, which represented 26% of its total local network revenues, and the loss of that support would have a material impact on operations forcing the implementation of cost cutting measures that would negatively affect service quality and response times for outages.¹¹
- Matanuska Telephone Association states that it received \$3,050,791 from the AUSF for the period ended December 31, 2022, which represented 36% of its total voice plan revenue, and the loss of that support would have a material impact on financial operations forcing a possible increase to local phone rates by 56%.¹²

⁶ATA, Ex. A at 1

⁷ATA, Ex. A at 6-8.

⁸ATA, Ex. A 24-27.

⁹ATA, Ex. A at 9-10.

¹⁰ATA, Ex. A at 13-14.

¹¹Comment of D. Lindgren on behalf of the City of Ketchikan d/b/a Ketchikan Public Utilities, Telecommunications Division, filed May 5, 2023.

¹²Matanuska Telecom Association's Comments in Response to Notice of Proposed Repeal of the Alaska Universal Service Fund Program, Exhibit A, filed May 5, 2023.

- Mukluk Telephone Company states that it received \$203,000 from the AUSF for the period ended December 31, 2022, which represented 4% of its total revenue, and the loss of that support would have a material impact on financial operations forcing a significant raise in local phone rates.¹³
- Nushagak Electric & Telephone Cooperative states it received \$234,745.36 from the AUSF for the period ended December 31, 2022, which represented 9% of its total revenue, and loss of that support would have a material impact on financial operations forcing a possible increase in local phone rates of \$207.92.¹⁴
- Summit Telephone Company states it received \$139,822 from the AUSF for the period ended December 31, 2022, which represented 8% of its total revenue and loss of that support would have a material impact on financial operations forcing an increase in local phone rates by \$67.35 per line per month. Summit Telephone Company also stated that it would be unable to raise local phone rates by \$67.35 due to benchmarks established by the Federal Communications Commission.¹⁵

These representations demonstrate that the imminent expiration of the AUSF may result in increased rates to consumers making telecommunications services unaffordable. These representations further demonstrate that the imminent expiration of the AUSF may have a material impact on financial operations causing decreased investment in local exchange network facilities which would negatively impact service quality and response to services outages. We therefore find that the impending expiration of the AUSF constitutes an emergency as it impacts consumer access to affordable and reliable telecommunications services.

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¹³ATA, Ex. A at 15-16.

¹⁴ATA, Ex. A at 28-30.

¹⁵ATA, Ex. A at 2-3.

ORDER CERTIFYING ADOPTION

I certify that the Regulatory Commission of Alaska under the authority of AS 42.05.840, adopted at its June 7, 2023, meeting the attached 12 pages of regulation changes as an emergency regulation to take effect July 1, 2023, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: June 14, 2023

Keith Kurber II Digitally signed by Keith Kurber II
Date: 2023.06.14 10:17:28 -08'00'

Keith Kurber II, Chairman

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on June
15, 2023, at 12:47 p.m., I filed the attached regulation according to the provisions of
AS 44.62.

for *April Simpson*
Nancy Dahlstrom, Lieutenant Governor

Effective: July 1, 2023.

Register: 247, October 2023.

Expires October 28, 2023
unless made "permanent"
by the adopting agency

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

EMERGENCY REGULATIONS

Register 247, October 2023 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 53.300(b) is amended to read:

(b) The purpose of 3 AAC 53.300 - 3 AAC 53.399 is

[(1)] to

[(A)] promote the efficiency, availability, and affordability of universal telephone service in this state through the establishment of the Alaska Universal Service Fund (AUSF);

[(B) RECALCULATE THE RATES AND CHARGES OF INTRASTATE TELECOMMUNICATIONS UTILITIES SO AS TO MAKE EXPLICIT ANY SUBSIDIES THAT HAVE PREVIOUSLY BEEN IMPLICIT; AND

(C) IMPLEMENT STATE PARTICIPATION IN FEDERAL PROGRAMS FOR THE SUPPORT OF UNIVERSAL SERVICE UNDER 47 U.S.C. 254 OF THE FEDERAL COMMUNICATIONS ACT, AS AMENDED BY THE TELECOMMUNICATIONS ACT OF 1996 (P.L. 104-104);] and

[(2)] not to raise revenue for the maintenance of government service offered to the general public.

3 AAC 53.300(c) is repealed:

(c) Repealed 7 / 1 / 2023.

3 AAC 53.300(d) is amended to read:

(d) The provisions of 3 AAC 53.300 - 3 AAC 53.399 do not apply after **June 30, 2026**

EMERGENCY REGULATIONS

Register 247, October 2023 COMMERCE, COMMUNITY, AND EC. DEV.

[JUNE 30, 2023. THE COMMISSION WILL COMMENCE A COMPREHENSIVE REVIEW OF THE AUSF NOT LATER THAN JUNE 30, 2021]. (Eff. 1/10/99, Register 149; am 12/20/2018, Register 228; am 7 / 1 / 2023, Register 247)

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

3 AAC 53.310(c) is amended to read:

(c) If more than one applicant applies under (a) of this section, the commission may [WILL, IN ITS DISCRETION,] approve the applicant who meets the qualifications of (b) of this section and is best able to administer the AUSF.

3 AAC 53.310(d) is amended to read:

(d) The commission may [WILL, IN ITS DISCRETION,] withdraw its approval of the administrator if good cause is shown or the commission determines that the approval is no longer in the best interests of the AUSF.

(Eff. 1/10/99, Register 149; am 7 / 1 / 2023, Register 247)

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

EMERGENCY REGULATIONS

Register 247, October 2023 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 53.320(a) is amended to read:

3 AAC 53.320. Budget approval; administrative costs. (a) In order to meet the requirements of AS 42.05.820 - AS 42.05.890 [AS 42.05.800 - AS 42.05.890], the budget for administrative costs, including compensation of the administrator, must be approved by the commission.

3 AAC 53.320(b) is amended to read:

(b) Not [NO] later than October 1 of each year, [IN ACCORDANCE WITH 3 AAC 48.095,] the administrator shall submit the proposed budget described in (a) of this section to the commission for approval for the following year.

(Eff. 1/10/99, Register 149; am 7/31/2011, Register 199; am 11/6/2016, Register 220; am

7 / 1 / 2023, Register 247)

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

3 AAC 53.330(a) is amended to read:

3 AAC 53.330. Reports, audits, and separation of money. (a) To maintain approval under 3 AAC 53.310,

(1) the administrator shall keep the amount allocated for universal service support in the AUSF in an account separate from other money under the control of the administrator;

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(2) the AUSF and the accounting practices of the administrator are subject to a yearly audit by an independent accounting firm [AND MAY BE SUBJECT TO AN ADDITIONAL AUDIT DURING THE YEAR BY THE COMMISSION, IF ORDERED BY THE COMMISSION]; the AUSF and the accounting practices of the administrator are subject to a close-out audit at the end of the administrator's term;

(3) [THE ADMINISTRATOR SHALL REPORT ANNUALLY TO THE COMMISSION, IN ACCORDANCE WITH 3 AAC 48.095, AN ITEMIZATION OF MONTHLY ADMINISTRATIVE COSTS, INCLUDING EXPENSES, RECEIPTS, AND PAYMENTS ASSOCIATED WITH THE ADMINISTRATION OF THE AUSF;] the administrator shall provide the commission full access to the data collected under or prepared through the administration of the AUSF;

(4) the administrator shall report quarterly to the commission [, IN ACCORDANCE WITH 3 AAC 48.095,] on the disbursement of money from the AUSF along with any recommended changes to the universal service surcharge factor; [THE ADMINISTRATOR SHALL KEEP SEPARATE ACCOUNTS FOR THE UNIVERSAL SERVICE SURCHARGE COLLECTED AND UNIVERSAL SERVICE SUPPORT DISBURSED]; and

(5) at the request of the commission, the administrator may audit one or more public utilities required to pay the universal service surcharge and one or more public utilities that have received disbursements from the AUSF; the administrator shall establish procedures to verify universal service surcharge payments in to the AUSF and universal service support

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disbursed from the AUSF; the administrator may suspend or delay disbursements for universal service support to a public utility if that utility fails to adequately verify the amount of universal service support claimed [, OR IF THE COMMISSION ISSUES AN ORDER TO SUSPEND OR DELAY DISBURSEMENT].

3 AAC 53.330(c) is repealed:

(c) Repealed 7 / 1 / 2023 . (Eff. 1/10/99, Register 149; am 11/6/2016, Register 220; am 12/20/2018, Register 228; am 7 / 1 / 2023 , Register 247)

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

3 AAC 53.340 is amended to read:

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

- (1) cellular telephone and paging services;
- (2) mobile radio services;
- (3) operator services;
- (4) personal communications services (PCS);

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- (5) special access service;
 - (6) wide area telecommunications service (WATS);
 - (7) toll-free service;
 - (8) 900 service;
 - (9) message telephone service (MTS);
 - (10) private line service;
 - (11) telex;
 - (12) telegraph;
 - (13) video services;
 - (14) satellite service;
 - (15) resale of intrastate services;
 - (16) pay phone services;
 - (17) local exchange services;
 - (18) any [THE] network access fee assessed on end users [IN ACCORDANCE WITH SECTION 109 OF THE *ALASKA INTRASTATE INTEREXCHANGE ACCESS CHARGE MANUAL*, ADOPTED BY REFERENCE IN 3 AAC 48.440];
 - (19) interconnected Voice over Internet Protocol (VoIP).
- (b) Notwithstanding (a) of this section, a public utility providing intrastate telecommunications services in the form of open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services is not required to pay the universal service surcharge.
- (c) A public utility providing a service for which a universal service surcharge payment

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is due shall provide to the administrator a verified accounting of its annual gross revenues from intrastate end users. [THE ACCOUNTING SHALL BE SUBMITTED ON A FORM DESIGNATED BY ORDER OF THE COMMISSION AS THE AUSF WORKSHEET. THE PUBLIC UTILITY SHALL SUBMIT THE COMPLETED AUSF WORKSHEET TO THE ADMINISTRATOR TWICE A YEAR. THE FIRST AUSF WORKSHEET IS DUE MARCH 31 OF EACH YEAR, CONTAINING DATA FOR THE PRIOR CALENDAR YEAR. THE SECOND AUSF WORKSHEET IS DUE SEPTEMBER 1, OF EACH YEAR, CONTAINING DATA FOR THE SIX-MONTH PERIOD FROM JANUARY 1 THROUGH JUNE 30 FOR THE CURRENT CALENDAR YEAR. IF A PUBLIC UTILITY'S PAYMENTS TO THE AUSF IN A CALENDAR YEAR WOULD BE LESS THAN \$100, THAT PUBLIC UTILITY IS NOT REQUIRED TO SUBMIT A PAYMENT OR THE AUSF WORKSHEETS FOR THAT CALENDAR YEAR, UNLESS THE PUBLIC UTILITY HAS RECEIVED UNIVERSAL SERVICE SUPPORT FROM THE AUSF IN THAT CALENDAR YEAR.]

(d) By October 1 of each year, the administrator shall calculate a proposed budget for the estimated total amount of the universal service support payment that will be needed from the AUSF for the following calendar year and for [THE] administrative costs [ANTICIPATED TO BE APPROVED BY THE COMMISSION]. The administrator shall recommend the annual universal service surcharge factor for the following year to cover the proposed budget. The universal service surcharge factor is calculated based on the ratio of the total estimated amount of disbursements for the AUSF to the total annual gross revenues from intrastate end users subject to the universal service surcharge. The administrator shall recommend to the commission

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adjustments to the universal service surcharge factor on a quarterly basis, as necessary, as described in 3 AAC 53.330. [THE RECOMMENDED UNIVERSAL SERVICE SURCHARGE FACTOR AND ADJUSTMENTS MUST BE APPROVED BY THE COMMISSION, BEFORE IMPLEMENTATION BY THE ADMINISTRATOR.] The universal service surcharge factor is capped at and may not exceed 10 percent.

(e) A public utility subject to the universal service surcharge under this section shall remit its monthly universal service surcharge payment to the administrator of the AUSF **not later than** [WITHIN] 15 days after the end of each calendar month.

(f) The administrator must hold universal service surcharge payments required from the AUSF in excess of disbursements for a current month in a low-risk interest bearing account and use the excess for disbursements under 3 AAC 53.300 - 3 AAC 53.399 in a following month.

(Eff. 1/10/99, Register 149; am 1/30/99, Register 149; am 7/31/2011, Register 199; am 3/1/2017, Register 221; am 12/20/2018, Register 228; am 7 / 1 / 2023, Register 247)

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

3 AAC 53.346 is repealed and readopted to read:

3 AAC 53.346. Essential network support for local exchange carriers. A local exchange carrier that previously received essential network support shall receive, on a monthly basis, essential network support in an amount equal to one-twelfth the amount of essential

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network support received for the year ended December 31, 2022. Essential network support is frozen at that level and is subject to reduction under the 10 percent rate cap provided for under 3 AAC 53.340(d). (Eff. 7/31/2011, Register 199; am 10/27/2017, Register 224; am 12/20/2018, Register 228; am 7 / 1 / 2023, Register 247)

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

3 AAC 53.350 is repealed and readopted to read:

3 AAC 53.350. Disbursements from the AUSF. (a) Monthly, subject to the availability of funds, the administrator shall disburse from the AUSF its approved administrative costs and essential network support.

(b) The administrator shall disburse the AUSF in the following order of priority:

(1) administrative costs;

(2) essential network support, oldest claims first, pro-rated among claimants

within a monthly accounting period based on the total unpaid claims for that period.

(c) The administrator may not pay any claim that remains unpaid more than six months after accrual. (Eff. 1/10/99, Register 149; am 1/11/2001, Register 157; am 7/31/2011, Register 199; am 3/17/2018, Register 225; am 12/20/2018, Register 228; am 7 / 1 / 2023, Register 247)

Authority: [AS 42.05.141] [AS 42.05.431] [AS 42.05.800]

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[AS 42.05.145] [AS 42.05.711] AS 42.05.840

[AS 42.05.151]

3 AAC 53.399 is amended to read:

3 AAC 53.399. Definitions. In [UNLESS THE CONTEXT INDICATES OTHERWISE,
IN] 3 AAC 53.300 - 3 AAC 53.399,

(1) "administrator" means the applicant approved by the commission under
3 AAC 53.310 to serve as administrator of AUSF;

(2) "AUSF" means the Alaska Universal Service Fund;

(3) ["ELIGIBLE TELECOMMUNICATIONS CARRIER" MEANS A
TELECOMMUNICATIONS UTILITY ELIGIBLE UNDER 47 U.S.C. 214(e) OF THE
FEDERAL COMMUNICATIONS ACT, AS AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996 (P.L. 104-104);

(4) REPEALED 12/20/2018;

(5) "NONPOOLING COMPANY" MEANS A COMPANY THAT IS NOT A
PARTICIPANT IN THE ACCESS CHARGE POOL ESTABLISHED BY THE ALASKA
INTRASTATE INTEREXCHANGE ACCESS CHARGE MANUAL ADOPTED BY
REFERENCE IN 3 AAC 48.440;

(6) "POOLING COMPANY" MEANS A COMPANY THAT IS A
PARTICIPANT IN THE ACCESS CHARGE POOL ESTABLISHED BY THE ALASKA
INTRASTATE INTEREXCHANGE ACCESS CHARGE MANUAL ADOPTED BY

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REFERENCE IN 3 AAC 48.440;

(7)] "universal service surcharge" or "surcharge" means a rate paid by a public utility for the use of the public telecommunications network;

(4) [(8) REPEALED 12/20/2018;

(9)] "exchange" or "local exchange" **means an operating unit established by a utility for communication service within a specific geographic area; the unit usually embraces a city, town, village or community and its environs, and usually consists of one or more central offices together with the associated plant used in furnishing telephone communication service to the general public within that area** [HAS THE SAME MEANING GIVEN IN 3 AAC 48.820];

(5) [(10)] "local exchange carrier" has the meaning given in **AS 42.05.890** [3 AAC 53.299];

(6) [(11) "STUDY AREA" HAS THE MEANING GIVEN IN 3 AAC 53.499;

(12)] "interconnected Voice over Internet Protocol" has the same meaning as set out in 47 C.F.R. 9.3 [.

(13) "REMOTE AREAS" MEANS ALL AREAS OF THE STATE EXCEPT THE ACS-ANCHORAGE INCUMBENT STUDY AREA; THE ACS-JUNEAU INCUMBENT STUDY AREA; THE FAIRBANKS ZONE 1 DISAGGREGATION ZONE IN THE ACS-FAIRBANKS INCUMBENT STUDY AREA; AND THE CHUGIAK 1 AND 2 AND EAGLE RIVER 1 AND 2 DISAGGREGATION ZONES OF THE MATANUSKA TELEPHONE ASSOCIATION INCUMBENT STUDY AREA]. (Eff. 1/10/99, Register 149; am 1/28/2005,

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Register 173; am 7/31/2011, Register 199; am 3/1/2017, Register 221; am 12/20/2018, Register 228; am 7 / 1 / 2023, Register 247)

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

[EDITOR'S NOTE: A COPY OF 47 C.F.R. 54.401 AND 47 C.F.R. 54.411, AS SPECIFIED IN 3 AAC 53.399, IS AVAILABLE FOR INSPECTION AT THE OFFICE OF THE REGULATORY COMMISSION OF ALASKA AS SPECIFIED IN 3 AAC 48.010(a).]

CERTIFICATION OF COMMISSION ACTION

I, Keith Kurber II, Chairman for the Regulatory Commission of Alaska, under penalty of perjury, state the following:

The attached motion dealing with the Alaska Universal Service Fund was passed by the Regulatory Commission of Alaska during its June 7, 2023, meeting.

I certify under penalty of perjury that the foregoing is true.

Date: June 14, 2023

Keith Kurber II

Digitally signed by Keith
Kurber II
Date: 2023.06.14 10:12:59
-08'00'

Keith Kurber II, Chairman

State of Alaska
Anchorage, Alaska

REGULATORY COMMISSION OF ALASKA

SPECIAL PUBLIC MEETING

June 07, 2023



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STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners: Keith Kurber II, Chairman
Robert A. Doyle
Robert M. Pickett
Janis W. Wilson

REGULATORY COMMISSION OF ALASKA

701 West 8th Avenue, Suite 300

Anchorage, Alaska 99501

SPECIAL PUBLIC MEETING

Wednesday, June 7th, 2023

9:00 a.m.

BEFORE COMMISSIONER KEITH KURBER II

Chairman

1 P-R-O-C-E-E-D-I-N-G-S

2 (On record - 9:00 a.m.)

3 CHAIRMAN KURBER: Good morning. This is a Special
4 Public Meeting of the Regulatory Commission of Alaska. It is
5 Wednesday, June 7th, 2023, at 9:00 o'clock a.m.

6 We'll start with Commissioner roll call. Commissioner
7 Pickett?

8 COMMISSIONER PICKETT: Present, East Hearing Room.

9 CHAIRMAN KURBER: Commissioner Doyle?

10 COMMISSIONER DOYLE: Present, East Hearing Room.

11 CHAIRMAN KURBER: Commissioner Wilson?

12 COMMISSIONER WILSON: Present on Webex.

13 CHAIRMAN KURBER: We have four Commissioners present,
14 we have a quorum. The first item on the agenda is Public
15 Participation. Are there any members of the public who would
16 care to address the Commission this morning? If so, please
17 clearly state your name for the record and keep your comments
18 to no more than five minutes. One more time, does anyone care
19 to address the Commission this morning? Hearing nothing, I
20 will close agenda item number one, Public Participation.

21 Agenda item number two deals with R-21-001, In the
22 Matter of the Mandatory Sunset Review of the Alaska Universal
23 Service Fund. Commissioner Pickett, as Commission Docket
24 Manager for this docket, how would you like to proceed?

25 COMMISSIONER PICKETT: Thank you, Mr. Chairman. A lot

1 of things have been in the works since the last Public Meeting
2 and I think I'd like to start with Judge Barson just giving us
3 sort of a high level overlay. I know she's been extremely busy
4 as has the Department of Law, and so with that, Judge Barson,
5 what have you been doing?

6 MS. BARSON: So to refresh, last week, the Commission
7 found that the sunset of the AUSF constitutes a threat to
8 public peace, health, safety and general welfare and that the
9 -- and the remedy of that specific threat requires immediate
10 action.

11 So throughout the past week, Commission staff has been
12 working with the Department of Law in the preparation of
13 emergency regulations for the Commission's consideration today.

14 The draft emergency regulations were prepared basically
15 using two source documents, and from there, a proposal has been
16 created for your review.

17 The first document was a revised regulation proposal
18 that the Department of Law provided to the Commission on May
19 5th in public comments and this was just something that was
20 provided for the Commission's consideration. We received a
21 response from industry to that particular proposal on May 15th
22 and I want to point out that the individuals that endorsed that
23 industry response included 25 out of 34 of our local exchange
24 carrier certificate holders and 23 out of 23 recipients of the
25 AUSF based on the end of fiscal year 2022 endorsed industry's

1 comments.

2 And so essentially what we had from industry was
3 working with the Department of Law regulations that were
4 received on May 5th. Industry went through and had a few
5 revisions that I believe they wanted to see made.

6 And so before you today, there was a table that, if
7 it's not uploaded currently to the internet, it should be
8 available to the public shortly. There is a table in front of
9 you that has the current version of every regulation from
10 53.300 to 53.399, which are our AUSF regs and it has the
11 current regulation, the revised regulation received from the
12 Department of Law for the Commission's consideration on May
13 5th. There is a column that represents industry's response
14 that we received on May 15th. And then the final column is a
15 draft emergency regulation for your consideration and potential
16 adoption today.

17 The draft emergency regulations that have been prepared
18 for consideration largely mirror the Department of Law proposal
19 received on May 5th with two specific modifications. In
20 section 340, subsection (a), that section identifies the
21 revenue sources that feed into the Alaska Universal Service
22 Fund and it was proposed that the Network Access Fee assessed
23 on end users, per the Access Charge Manual, be removed.

24 As a source and that proposal, which came from the
25 Department of Law, met with some concern from industry. And

1 so, if you look in front of you, a draft regulation has been
2 prepared, which does not maintain the current language of
3 53.340(a), but modifies that language slightly to incorporate a
4 Network Access Fee, but to do so differently.

5 The second provision, which has had some modification,
6 is 53.346 and that section discusses the apportionment of
7 distributions of the Alaska Universal Service Fund and the
8 distributions going forward. All reference to COLR and CCL
9 have been eliminated. And so going forward, we have
10 distributions linked to essential network support received by
11 AUSF recipients for the year ended December 31st of 2022.

12 COMMISSIONER PICKETT: Okay, thank you, Judge Barson.
13 And you may not be prepared, but if my recollection is correct,
14 the change in how the NAF is incorporated into the calculations
15 will reduce the overall AUSF contributions and I think somebody
16 in the industry estimated about a million bucks. Does that
17 sound right?

18 MS. BARSON: That is my memory as well.

19 COMMISSIONER PICKETT: Okay. And how that will be
20 apportioned amongst -- is that just a prorata for each of them?
21 I don't know how that's going to affect individual companies,
22 but that's probably nothing we can do about at this time.

23 MS. BARSON: That's correct. The current version of
24 our regulations assesses the Network Access Fee assessed on end
25 users in accordance with section 109 of the Alaska Intrastate

1 Interexchange Access Charge Manual adopted by reference in 3
2 AAC 48.440. That section was removed entirely from our
3 regulations, as proposed by the Department of Law. Industry
4 reincorporated that language in their proposal, which was a
5 response to the Department of Law, and the regulation that's in
6 front of you today for consideration would reincorporate that
7 language in part. That particular provision would be rewritten
8 to say any Network Access Fee assessed on end users.

9 COMMISSIONER PICKETT: Okay. Before we move on, I'd
10 like to see if any of the Commissioners have any specific
11 questions. This is because of the timing and the crunch we're
12 under, it's in a little bit different format than it usually is
13 when we adopt regulations at a Public Meeting. So with that,
14 do Commissioners have questions on any of the specific elements
15 of the draft emergency regulations in the packet? Mr.
16 Chairman?

17 CHAIRMAN KURBER: I have no questions at this time.
18 I'm encouraged that out of the entirety of the document that
19 Judge Barson put forward there was only a couple of areas where
20 there was, as it were, disagreement or bringing up the
21 potential for other options.

22 And I am encouraged about where we're at, at this
23 point, and I do recognize what you said about the format being
24 a little bit different, but I think it's pretty visible and
25 these are -- Judge Barson, these are public documents that are

1 offered to everybody for the Public Meeting, correct? This
2 one?

3 MS. BARONS: Correct.

4 CHAIRMAN KURBER: Okay, great. So I don't have any
5 further questions. Would you like me to toll the panel?

6 COMMISSIONER PICKETT: Yes.

7 CHAIRMAN KURBER: Commissioner Wilson, do you have any
8 questions or comments at this point?

9 COMMISSIONER WILSON: I do not.

10 CHAIRMAN KURBER: Commissioner Doyle?

11 COMMISSIONER DOYLE: I do not. I'm as encouraged as I
12 was when I planted a lot of corn this spring.

13 COMMISSIONER PICKETT: And the soil temperature is
14 what?

15 COMMISSIONER DOYLE: Fifty-five.

16 CHAIRMAN KURBER: Commissioner Doyle, we'll talk
17 afterwards about your encouragement there. Anyway, so back to
18 you, Commissioner Pickett. How would you like to proceed?

19 COMMISSIONER PICKETT: Well, I would like to make a
20 motion that we adopt the draft emergency regulations identified
21 in our spreadsheet on the far right side at this Special Public
22 Meeting of June 7th, 2023.

23 CHAIRMAN KURBER: Do we have a second?

24 COMMISSIONER DOYLE: Second.

25 CHAIRMAN KURBER: Commissioner discussion. I'll go to

1 Commissioner Wilson first.

2 COMMISSIONER WILSON: I have no comments.

3 CHAIRMAN KURBER: Commissioner Doyle?

4 COMMISSIONER DOYLE: No comment.

5 CHAIRMAN KURBER: Commissioner Pickett?

6 COMMISSIONER PICKETT: No additional comments.

7 CHAIRMAN KURBER: I have no comments either. We'll
8 proceed to a roll call vote. On the motion before us to adopt
9 the draft emergency regulations that are listed under the
10 column on the public document today as draft emergency
11 regulation, June 7th, 2023 Public Meeting, how do you vote,
12 Commissioner Pickett?

13 COMMISSIONER PICKETT: Aye.

14 CHAIRMAN KURBER: Commissioner Wilson?

15 COMMISSIONER WILSON: Aye.

16 CHAIRMAN KURBER: Commissioner Doyle?

17 COMMISSIONER DOYLE: Aye.

18 CHAIRMAN KURBER: And I vote aye as well. The vote is
19 four to nothing, we have adopted the regulation packet as
20 depicted in the public document.

21 Commissioner Pickett, do you have additional things you
22 want to process during your time?

23 COMMISSIONER PICKETT: Just in a real general sense,
24 I've never been through an emergency regs package and I know
25 there's some distinctions and it's just not in terms of notice

1 and other things that we're typically used to doing. So I'd
2 like to turn to Judge Barson and our Assistant Attorney
3 General, if you can help us understand how this is all going to
4 take place in the next few weeks.

5 MS. BARSON: Sure. This is Laura Barson again. Now
6 that the Commission has adopted emergency regulations, staff
7 will move forward. These regulations must be sent to the
8 Lieutenant Governor's Office, they are effective upon filing;
9 however, in this instance, because the program does continue
10 until June 30th, these regulations will go into effect July
11 1st. They will remain in effect for a period of up to 120
12 days, which takes us towards the end of October. I believe
13 it's the 29th.

14 And in the meantime, once the regulations are delivered
15 to the Lieutenant Governor's Office, we will then proceed to
16 move forward to notice these regulations. At the prior Public
17 Meeting, the Commission indicated there is a desire to make
18 these regulations permanent and so, the notice that will issue
19 in the coming week or so will reflect that and so, we are
20 moving forward to a 30-day notice period under the
21 Administrative Procedure Act that will begin in roughly the
22 next seven to 10 days.

23 COMMISSIONER PICKETT: Thank you very much and
24 appreciate all of your hard work. And the one thing I will
25 just mention in passing, I think with the input we're getting

1 from the Department of Law, we've not received the SB 83 regs
2 package back, but I think it's fair to say that the Access
3 Charge Manual has a rather limited life span at this point.

4 So to the people in the audience, that's the next thing
5 that we're going to have to do, and on a longer term basis,
6 there still needs to be statutory changes. So with that,
7 that's all I have, Mr. Chairman.

8 CHAIRMAN KURBER: Commissioner Pickett, do we -- I'm
9 going to ask you this today, but maybe I better address it to
10 Judge Barson. We have a statutory deadline on this regs
11 docket. Is there something we could do today to effectuate an
12 extension of that or would that be better done at a future
13 meeting when we have a more formal execution of the notice
14 period? What guidance do you have for us?

15 MS. BARSON: That is an action that can be taken today.
16 Again, this is Laura Barson for the record. Our timeline for
17 decision is June 29th, 2023, just a few days away and given the
18 fact that the emergency regulations will need to issue for a
19 30-day notice period before the Commission can consider
20 adopting the emergency regulations on a permanent basis. That
21 timeframe is going to extend beyond the statutory timeline for
22 this particular docket.

23 And so I would propose and recommend that the
24 Commission find good cause to extend the statutory timeline in
25 this docket for the maximum period of 90 days, which would give

1 the Commission until September 27th to issue the public notice,
2 to consider the comments that come in, in response to these
3 emergency regulations, to work with the Department of Law for
4 any necessary revisions that may need to occur and to adopt
5 final regulations.

6 CHAIRMAN KURBER: So just to be sure, the tolling
7 doesn't start on the day that we approve the extension, it goes
8 from the date of the end of the docket, is that correct?

9 MS. BARSON: I believe so, yes.

10 CHAIRMAN KURBER: Okay, great. Do we have a motion
11 from the panel on that to that end?

12 COMMISSIONER PICKETT: I will make a motion to that
13 effect, to seek the maximum 90-day extension on this from June
14 29th, 2023.

15 CHAIRMAN KURBER: Do we have a second?

16 COMMISSIONER DOYLE: Second.

17 CHAIRMAN KURBER: Commissioner discussion.
18 Commissioner Wilson, any thoughts or comments on the extension
19 of the docket for 90 days?

20 COMMISSIONER WILSON: No, other than it's absolutely
21 necessary.

22 CHAIRMAN KURBER: Fantastic. Commissioner Doyle?

23 COMMISSIONER DOYLE: Only that we have to find good
24 cause, so it's absolutely necessary.

25 CHAIRMAN KURBER: Yeah. Given the emerg -- I think

1 given the emergency status that we're in, we, by almost
2 definition, have good cause. So Commissioner Pickett?

3 COMMISSIONER PICKETT: No additional comments, just
4 ready to vote.

5 CHAIRMAN KURBER: Okay. Well, we'll move to a roll
6 call vote on the motion before us to extend the statutory
7 deadline of the R docket, R-21-001, In the Matter of the
8 Mandatory Sunset Review of the Alaska Universal Service Fund.
9 We will toll the panel on their position. Commissioner Wilson,
10 how do you vote?

11 COMMISSIONER WILSON: Aye.

12 CHAIRMAN KURBER: Commissioner Doyle?

13 COMMISSIONER DOYLE: Aye.

14 CHAIRMAN KURBER: Commissioner Pickett?

15 COMMISSIONER PICKETT: Aye.

16 CHAIRMAN KURBER: And I vote aye as well, the motion
17 passes four to nothing. Judge Barson, based on this, are there
18 any more actions that we need to do at this Special Public
19 Meeting to effectuate the continued movement of R-21-001?

20 MS. BARSON: Not that I have identified.

21 CHAIRMAN KURBER: Fantastic. I'm going to ask the
22 Assistant Attorney General if she has anything to offer before
23 we conclude this agenda item?

24 MS. EGAN: This is Assistant Attorney General, Erin
25 Egan, I don't have anything to add. I think Judge Barson has

1 covered things pretty thoroughly.

2 CHAIRMAN KURBER: Fantastic, thank you. So with that,
3 we will close out agenda item number two. Agenda item number
4 three is Other Business. I'm going to ask my fellow
5 Commissioners if they have any other business. Commissioner
6 Pickett?

7 COMMISSIONER PICKETT: No.

8 CHAIRMAN KURBER: Commissioner Doyle?

9 COMMISSIONER DOYLE: No.

10 CHAIRMAN KURBER: Commissioner Wilson?

11 COMMISSIONER WILSON: I do not.

12 CHAIRMAN KURBER: I'm going to take a Chair privilege
13 here. Since yesterday, June 6th, it's a pretty hallowed day in
14 American history. It was the 79th anniversary of what was
15 referred to in so many of the stories of the fabled Easy
16 Company from the 101st Airborne Division, Easy Company that was
17 known as the Band of Brothers as the day of days. As a Veteran
18 of three combat deployments myself, I just want to take a
19 special pause here today.

20 As we approach the 80th anniversary, I was in Germany,
21 stationed in Germany in 1984 when President Reagan came over
22 and delivered at Pointe Du Hoc where the second major battalion
23 climbed up cliffs under withering fire and successfully
24 accomplished their mission. And that speech is exceptionally
25 inspiring and very valid even today as we see World War II

1 Veterans step into eternity.

2 My Chair privilege is I want to say some names for the
3 public record of the five Special Forces soldiers that did not
4 come home from my two deployments and one that I met at his
5 memorial service in February of 2008. And in 2007, I was
6 deployed with the 10 Special Forces group, which was my alma
7 mater from active duty to Iraqi Freedom V. Sergeant Major
8 Bradley Conner, Staff Sergeant Robb Rolfing. In February,
9 2008, just a few days after his being killed in action in
10 Afghanistan in January of 2008, I was at the memorial service
11 of Staff Sergeant Robert Miller, known as Robby to his friends
12 who subsequently, two years later, received a Congressional
13 Medal of Honor in a White House ceremony. Of all the hard
14 things I did in my 30 years in the military, standing next to
15 his father with my arm around his shoulder while my wife had
16 her arms around Rob's grandmother and wondering what I might
17 say to console a family who would much rather have had their
18 son than the Congressional Medal of Honor. 2009, Enduring
19 Freedom XIII, which I can say I'm a Veteran of Enduring Freedom
20 I, and of course, we know what happened in 2021 as we left
21 Afghanistan. Master Sergeant Dave Hurt, Staff Sergeant Jeremy
22 Bessa. Thank you for allowing me this Chair privilege.

23 With that, we will conclude agenda item number three,
24 Other Business. Agenda item number four is Executive Session.
25 Does the Assistant Attorney General require an Executive

1 Session this morning?

2 MS. EGAN: Assistant Attorney General, Erin Egan, I do
3 not see a need for Executive Session today.

4 CHAIRMAN KURBER: Agenda item number four is closed.
5 Is there any objection to closing this Special Public Meeting
6 at 9:20 a.m.? Hearing no objection, this meeting is concluded,
7 thank you all for participating.

8 (Off record)

9 (This proceeding was concluded at 9:20)

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June 07, 2023

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I, Sonya Hewes, Transcriber with Accu-Type Depositions,
do hereby certify that the foregoing pages numbers 1 through 15
are a true, accurate, and complete transcript of the
proceedings of the RCA Special Public Meeting held at the
Regulatory Commission of Alaska on June 7th, 2023, as
transcribed by me to the best of my knowledge and ability.

6-7-23
Date

Sonya Hewes
Transcriber
Accu-Type Depositions