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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Laura Barson, Regulatory Commission of Alaska

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** August 16, 2023

**RE:** Filed Permanent Regulations: Regulatory Commission of Alaska

Regulatory Commission of Alaska regulations re: Repeal of Alaska Universal Service Fund (3 AAC 53.300 - .399)

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Attorney General File:	2023200129
Regulation Filed:	8/16/2023
Effective Date:	7/1/2023 & 9/15/2023
Print:	247, October 2023

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Law**

CIVIL DIVISION

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August 15, 2023

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: *3 AAC 53.300 - .399: RCA - Repeal of Alaska Universal Service Fund*  
Our file: 2023200129

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached emergency regulations of the Regulatory Commission of Alaska against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The emergency regulations were made permanent with additional amendments by the Regulations Commission of Alaska after the close of the public comment period.

The emergency regulations concern the Alaska Universal Service Fund (AUSF) under AS 42.05.840 and include an extension of the fund's sunset date to June 30, 2026.

The emergency regulations took effect July 1, 2023; they expire October 28, 2023, unless they are made permanent.

The June 14, 2023, emergency adoption order, the June 19, 2023, public notice, and the August 14, 2023, certification of adoption order for the permanent amendments all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR  
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

Digitally signed by  
Rebecca C. Polizzotto  
Date: 2023.08.15  
14:25:22 -08'00'

RCP/scw

CC w/enclosure: Laura S. Barson  
Department of Commerce, Community and Economic Development

Steven C. Weaver, Assistant Attorney General  
Department of Law

### CERTIFICATION OF COMPLIANCE

I, Keith Kurber II, Chairman, certify that, as required by AS 44.62.260 in order to make the attached 12 pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulations:

Title 3 of the Alaska Administrative Code (3 AAC 53.300 – 3 AAC 53.399)  
dealing with the establishment of a universal service fund.

These regulations originally were filed as emergency regulations on June 15, 2023.

In considering the public comments, the Regulatory Commission of Alaska paid special attention to the cost to private persons of the regulatory action being taken.

Date: August 14, 2023

Keith Kurber II  
Digitally signed by Keith Kurber II  
Date: 2023.08.14 09:29:14 -08'00'

Keith Kurber II, Chairman

### FILING CERTIFICATION

I, April Simpson for Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on August 16, 2023, at 3:56 p.m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson  
for Nancy Dahlstrom, Lieutenant Governor

Register: 247, October 2023.

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF REGULATORY COMMISSION OF ALASKA

The attached <sup>8</sup>~~12~~ pages of regulations, dealing with the Alaska Universal Service Fund, are certified to be a correct copy of the regulation changes that the Regulatory Commission of Alaska adopted at its August 9, 2023, meeting, under the authority of AS 42.05.840 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Regulatory Commission of Alaska paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: August 14, 2023

Keith Kurber II

Digitally signed by Keith  
Kurber II  
Date: 2023.08.14 09:28:33  
-08'00'

Keith Kurber II, Chairman

FILING CERTIFICATION

I, Airil Gimpson for Nancy Dahlstrom Lieutenant Governor for the  
State of Alaska, certify that on August 16, 2023 at 4:00 P.m.,  
I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
for Nancy Dahlstrom, Lieutenant Governor

Effective: September 15, 2023

Register: 247, October 2023.

**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**

The emergency amendment of 3 AAC 53.300(b) is made permanent to read:

(b) The purpose of 3 AAC 53.300 - 3 AAC 53.399 is to promote the efficiency, availability, and affordability of universal telephone service in this state through the establishment of the Alaska Universal Service Fund (AUSF); and not to raise revenue for the maintenance of government service offered to the general public.

The emergency repeal of 3 AAC 53.300(c) is made permanent:

(c) Repealed 7/1/2023.

The emergency amendment of 3 AAC 53.300(d) is made permanent to read:

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

The emergency amendment of 3 AAC 53.310(c) is made permanent to read:

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

The emergency amendment of 3 AAC 53.310(d) is made permanent to read:

(d) The commission may withdraw its approval of the administrator if good cause is

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

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]

The emergency amendment of 3 AAC 53.320(a) is made permanent, and that subsection is further 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, the budget for administrative costs, including compensation of the administrator, must be approved by the commission.

The emergency amendment of 3 AAC 53.320(b) is made permanent to read:

(b) Not later than October 1 of each year, 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; am 9 / 15 / 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]

The emergency amendment of 3 AAC 53.330(a) is made permanent, and that subsection is further 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;

(2) the AUSF and the accounting practices of the administrator are subject to a yearly audit by an independent accounting firm; 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 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 on the disbursement of money from the AUSF along with any recommended changes to the universal service surcharge factor[;]; 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 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.

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

The emergency repeal of 3 AAC 53.330(c) made permanent:

(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; am 9 / 15 / 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]

The emergency amendment of 3 AAC 53.340 is made permanent, and that section is further 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);
- (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 network access fee assessed on end users;
- (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 is due shall provide to the administrator a verified accounting of its annual gross revenues from intrastate end users. **If a public utility's payments to the AUSF in a calendar year are 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 administrative costs. 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 adjustments to the universal service surcharge factor on a quarterly basis, as necessary, as described in 3 AAC 53.330. 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 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; am 9 / 15 / 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]

The emergency amendment of 3 AAC 53.346 is made permanent 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

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

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]

The emergency amendment of 3 AAC 53.350 is made permanent 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]  
[AS 42.05.145] [AS 42.05.711] AS 42.05.840  
[AS 42.05.151]

The emergency amendment of 3 AAC 53.399 is made permanent to read:

**3 AAC 53.399. Definitions.** 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) "universal service surcharge" or "surcharge" means a rate paid by a public utility for the use of the public telecommunications network;
- (4) "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;
- (5) "local exchange carrier" has the meaning given in AS 42.05.890;
- (6) "interconnected Voice over Internet Protocol" has the same meaning as set out in 47 C.F.R. 9.3. (Eff. 1/10/99, Register 149; am 1/28/2005, 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]