

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3 AAC 53.300(c) is repealed:

(c) Repealed 7 / 1 / 2023.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**

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[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]

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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).]