

R-15-004, Other Reporting Requirements Regulations
Decisional Matrix Following Comments in Response to Order R-15-004(4)
Prepared for the May 10, 2017 Public Meeting

Changes to Staff Matrix After Order R-15-004(4) Comments (pp. 1-20)

3 AAC 52.320(a). Information to be furnished (Quality of service failures).

3 AAC 52.320(a): This section requires telephone utilities (IXCs that are not COLR are exempt from this requirement)¹ to self-report all instances where it fails to meet surveillance levels for quality of service standards. Surveillance levels are established in:

- *Out-of-service trouble standards.* If a telephone utility fails to clear 95 percent of the time all out-of-service troubles within 48 hours for locations accessible by highway, or five days elsewhere (3 AAC 52.280(d));
- *Operator handled calls.* When toll operators are answering calls on an average of less than 85 percent of the time within 10 seconds, or when the average answer time is greater than four seconds (3 AAC 52.300(a)).
- *Call attempts.* When five percent or more of call attempts encounter blockages or equipment failures (3 AAC 52.310(e)).

Option 1 Current Regulations	Option 2 Order R-15-004(3) & Order R-15-004(4)	Option 3 RAPA
(a) Each telephone utility shall report to the commission, in accordance with 3 AAC 48.095, all instances where the quality of service it provides fails to meet the surveillance levels specified in these standards for three consecutive months. That report must be filed with the commission within 30 days following the three-month period during which the surveillance levels have not been attained.	(a) Each telephone utility shall report to the commission, in accordance with 3 AAC 48.095, all instances where the quality of service it provides fails to meet the surveillance levels specified in <u>3 AAC 52.280(d), 3 AAC 52.300(a), and 3 AAC 52.310(e)</u> [THESE STANDARDS] for three consecutive months. That report must be filed with the commission within 30 days following the three-month period during which the surveillance levels have not been attained.	(a) Each telephone utility shall report to the commission, in accordance with 3 AAC 48.095, all instances where the quality of service it provides fails to meet the surveillance levels specified in <u>3 AAC 52.280(d), 3 AAC 52.300(a), or 3 AAC 52.310(e)</u> [THESE STANDARDS] for three consecutive months. That report must be filed with the commission within 30 days following the three-month period during which the surveillance levels have not been attained.

Staff believes that the biggest concern expressed at the Technical Conference was AT&T and GCI stated that it is difficult to understand which Telephone Service Standards subsections apply to the IXC COLR and which ones apply to the LECs. To address these concerns and to perhaps clarify a bit, per 3 AAC 52.200(a) the Quality of Service Standards provided in 3 AAC 52.200 – 3 AAC

¹ Exempt per 3 AAC 52.385(a).

52.340 apply to all telephone utilities subject to regulatory jurisdiction of the Commission.² 3 AAC 52.385(a) provides that the provisions of 3 AAC 52.200 – 3 AAC 52.340 do not apply to an IXC who is not a COLR. However, a carrier that owns or controls IXC facilities in the state has to clear troubles with emergency services at all hours and locations (3 AAC 52.280(b)) and file the Capital Program and Planning Statement (3 AAC 52.330).³ Going back to when the Commission addressed IXC market structure issues in docket R-98-001, Staff then admitted that many of the provisions of (3 AAC 52.200 – 3 AAC 52.340), the Quality of Service Standards, do not apply to IXCs as these standards were designed for LECs.⁴ However, Staff at the time also stated that AT&T Alascom, as the dominant carrier is required to comply with the 3 AAC 52.200 – 3 AAC 52.340, and these requirements should be continued to apply to AT&T Alascom when it was made IXC COLR (and also apply to any other IXC made a COLR).⁵ Specifically to the individual standards, Staff made clear that the three Quality of Service Standards that have surveillance level requirements (3 AAC 52.280(d), 3 AAC 52.300(a), and 3 AAC 52.310(e)) were meant to apply to the IXC COLR only, as far as IXCs go.⁶ In **Option 2**, Staff recommended to retain 3 AAC 52.320(a) with a revision to identify which of the quality of service standards have surveillance levels for carriers comply with. As the quality of service standards are still in force, it would be important for the Commission to know (through self-reporting by the IXC COLR and the LECs) when a carrier is performing below the standards.

Order R-15-004(3) Comments:

AT&T was disappointed that Option 2 only went as far as specifying what surveillance levels a carrier is required to maintain. AT&T recommended 3 AAC 52.320(a) be deleted in its entirety. Retaining the self-reporting requirements means AT&T still has to comply with outdated underlying service standards. AT&T argued that eliminating this regulation would not limit the Commission’s authority in regards to trouble report clearing,⁷ operator service answering times,⁸ or call blockages.⁹ GCI agreed with AT&T that the underlying “service and safety standards” regulations needed a review.

However, RAPA felt the best way to protect the public interest is to require the carriers to report this information if they are below the service quality levels. RAPA disagreed with AT&T who felt that if there is a trend of customer complaints of service quality standards, the Commission could open up an investigation. RAPA believed that without the reporting requirement, the carriers may not retain or have the necessary information in a usable format, which could hamper an investigation of the issue.

² 3 AAC 52.200(a). Per 3 AAC 52.200(b), some Quality of Service standards (none of which have reporting requirements) even apply to telephone utilities that are exempt from regulation under AS 42.05.711.

³ 3 AAC 52.385(a).

⁴ Order R-98-001(7)(July 24, 2001) at Appendix A, page 21.

⁵ Order R-98-001(7)(July 24, 2001) at Appendix A, page 21.

⁶ Order R-98-001(7)(July 24, 2001) at Appendix A, page 24-25.

⁷ 3 AAC 52.280(d).

⁸ 3 AAC 52.300(a).

⁹ 3 AAC 52.310(e).

Staff's Response to R-15-004(3) Comments:

While understanding AT&T's arguments, Staff points out that the quality of service standards are still in force, and Staff is not prepared to make judgment or a recommendation on the standards in this docket.

Order R-15-004(4) Comments:

AT&T strongly continues to recommend 3 AAC 52.320(a) be deleted in its entirety. Retaining the surveillance reporting requirements means telecoms are still required to comply with outdated rules. This is one example where the Commission should evaluate whether the underlying regulation is still needed. For instance, the surveillance level for operator handled calls. Demand for operator services have drastically declined and is of less importance to consumers as they are using wireless phones and other means to make calls previously handled by operators.¹⁰

RAPA points out that the way the regulation is drafted, the quality of service must fall below all three of the surveillance levels for three consecutive months before a report is to be generated. Since the surveillance levels address different quality of service issues, it seems unlikely that the intent was to trigger a report only when all three of the surveillance levels had not been met at the same time. RAPA suggests an edit to the proposed regulation by replacing the "and" with an "or." RAPA's proposal is reflected in **(Option 3)**.¹¹

Staff recommendation: Option 3. Staff continues to recommend retaining 3 AAC 52.320(a) with a revision to identify which of the quality of service standards have surveillance levels the carriers are to be compliant. As the quality of service standards are still in force, it would be important for the Commission to know (through self-reporting by the IXC COLR and the LECs) when a carrier is performing below the standards. Staff agrees with RAPA's edit, which is reflected in **Option 3**.

¹⁰ AT&T Comments at 2-3.

¹¹ RAPA Comments at 2.

3 AAC 52.320(b). Information to be furnished (Service disruptions).

3 AAC 52.320(b): Current regulations require telephone utilities (IXCs that are not COLR are exempt from this requirement)¹² to report as soon as reasonably possible any specific occurrence or development which disrupts service to five percent or more of the subscribers in a particular exchange, or which has a significant adverse effect on toll network performance.

Option 1 Current Regulations	Option 2 Order R-15-004(4)	Option 3 AT&T	Option 4 Staff Proposal
(b) Each telephone utility shall report as soon as reasonably possible to the commission, in accordance with 3 AAC 48.095, any specific occurrence or development which disrupts the service to five percent or more of its subscribers in a particular exchange or which has a significant adverse effect on toll network performance. A failure of the automatic number-identifying	(b) Each telephone utility shall <u>notify the commission</u> [REPORT] as soon as reasonably possible [TO THE COMMISSION], in accordance with 3 AAC 48.095, <u>preferably by e-mail at TelecomOutages@alaska.gov</u> [ANY SPECIFIC OCCURRENCE OR DEVELOPMENT WHICH DISRUPTS THE SERVICE TO FIVE PERCENT OR MORE OF ITS SUBSCRIBERS IN A PARTICULAR EXCHANGE OR WHICH HAS A SIGNIFICANT ADVERSE EFFECT ON TOLL NETWORK PERFORMANCE. A FAILURE OF THE AUTOMATIC NUMBER-IDENTIFYING EQUIPMENT OR A FAILURE OF 25 PERCENT OR MORE TRUNKS IN ANY TRUNK GROUP FOR A PERIOD OF MORE THAN ONE HOUR IS CONSIDERED A SIGNIFICANT DISRUPTION OF SERVICE] <u>any outage defined in 47 C.F.R. 4.5(a), as revised as of July 1, 2017, of at least 30 minutes duration that affects 25 percent or 100 end users of an exchange, whichever is less; causes isolation of working lines in any exchange from 911 access; or causes a complete loss of extended area service (EAS) or toll trunk groups in a central office. The notification shall include</u>	(b) Each telephone utility, <u>other than an intrastate interexchange carrier</u> , shall <u>notify the commission</u> [REPORT] as soon as reasonably possible [TO THE COMMISSION] <u>[, IN ACCORDANCE WITH 3 AAC 48.095], preferably by e-mail at TelecomOutages@alaska.gov</u> [ANY SPECIFIC OCCURRENCE OR DEVELOPMENT WHICH DISRUPTS THE SERVICE TO FIVE PERCENT OR MORE OF ITS SUBSCRIBERS IN A PARTICULAR EXCHANGE OR WHICH HAS A SIGNIFICANT ADVERSE EFFECT ON TOLL NETWORK PERFORMANCE. A FAILURE OF THE AUTOMATIC NUMBER-IDENTIFYING EQUIPMENT OR A FAILURE OF 25 PERCENT OR MORE TRUNKS IN ANY TRUNK GROUP FOR A PERIOD OF MORE THAN ONE HOUR IS CONSIDERED A SIGNIFICANT DISRUPTION OF SERVICE] <u>of any outage defined in 47 C.F.R. 4.5(a), as revised as of July 1, 2017, of at least 30 minutes duration that affects 25 percent or 100 end users of an exchange, whichever is less; causes isolation of working lines in any exchange from 911 access; or causes a complete loss of extended area service (EAS)-or toll trunk groups in a central office. The notification shall include</u>	(b) Each <u>local exchange carrier [TELEPHONE UTILITY]</u> shall <u>notify the commission</u> [REPORT] as soon as reasonably possible <u>preferably by e-mail at TelecomOutages@alaska.gov</u> [TO THE COMMISSION, <u>IN ACCORDANCE WITH 3 AAC 48.095</u> , ANY SPECIFIC OCCURRENCE OR DEVELOPMENT WHICH DISRUPTS THE SERVICE TO FIVE PERCENT OR MORE OF ITS SUBSCRIBERS IN A PARTICULAR EXCHANGE OR WHICH HAS A SIGNIFICANT ADVERSE EFFECT ON TOLL NETWORK PERFORMANCE. A FAILURE OF THE AUTOMATIC NUMBER-IDENTIFYING EQUIPMENT OR A FAILURE OF 25 PERCENT OR MORE TRUNKS IN ANY TRUNK GROUP FOR A PERIOD OF MORE THAN ONE HOUR IS CONSIDERED A SIGNIFICANT DISRUPTION OF SERVICE] <u>any outage defined in 47 C.F.R. 4.5(a), as revised as of July 1, 2017, of at least 30 minutes duration that affects 25 percent or 100 end users of an exchange, whichever is less; causes isolation of working lines in any exchange from 911 access; or causes a complete loss of extended area service (EAS) or toll trunk groups in a central office. The notification shall include</u>

¹² Exempt per 3 AAC 52.385(a).

<p>equipment or a failure of 25 percent or more trunks in any trunk group for a period of more than one hour is considered a significant disruption of service.</p> <p>(c) . . .</p>	<p>(1) <u>the date and time of onset of the outage;</u> (2) <u>the geographic areas affected by the outage;</u> (3) <u>cause of the outage and estimated restoration time, if known; and</u> (4) <u>the number of customers affected.</u></p>	<p>(1) <u>the date and time of onset of the outage;</u> (2) <u>the geographic areas affected by the outage;</u> (3) <u>cause of the outage and estimated restoration time, if known; and</u> (4) <u>the number of customers affected.</u></p> <p><u>(c) Each intrastate interexchange carrier shall notify the commission as soon as reasonably possible, preferably by e-mail at TelecomOutages@alaska.gov of any outage defined in 47 C.F.R. 4.5(a), as revised as of July 1, 2017, that requires reporting to the FCC pursuant to 47 C.F.R. 4.9(b) or any outage that does not meet this threshold that causes a toll trunk outage of at least eight hours in duration. The notification shall include</u></p> <p>(1) <u>the date and time of onset of the outage;</u> (2) <u>the geographic areas affected by the outage; and</u> (3) <u>cause of the outage and estimated restoration time, if known.</u></p> <p><u>(d) [(C)] . . .</u></p>	<p>(1) <u>the date and time of onset of the outage;</u> (2) <u>the geographic areas affected by the outage;</u> (3) <u>cause of the outage and estimated restoration time, if known; and</u> (4) <u>the number of customers affected.</u></p> <p><u>(c) Each intrastate interexchange carrier shall notify the commission as soon as reasonably possible, preferably by e-mail at TelecomOutages@alaska.gov of any outage defined in 47 C.F.R. 4.5(a), as revised as of July 1, 2017, that requires reporting to the FCC pursuant to 47 C.F.R. 4.9(b), as revised as of July 1, 2017, or any outage that does not meet this threshold that causes a toll trunk outage of at least eight hours in duration. The notification shall include</u></p> <p>(1) <u>the date and time of onset of the outage;</u> (2) <u>the geographic areas affected by the outage; and</u> (3) <u>cause of the outage and estimated restoration time, if known.</u></p> <p><u>(d) [(C)] . . .</u></p>
--	--	---	---

Staff believes some sort of disruption of service report or notification is necessary for the telecommunications industry, as the IXC COLRs and the LECs have minimum service standard obligations to uphold.¹³ It is also important for the Commission from consumer protection and public safety standpoints to have information on service disruptions. It gives the Commission’s Consumer Protection Section advance notice about possible upcoming customer calls or complaints, or from the press if a news story breaks out. In addition, information from outages helps the Commission monitor quality of service.

Order R-15-004(1):

¹³ Order R-98-001(7), Appendix A at 25.

When the Commission opened this docket, Order R-15-004(1) asked industry whether the service disruption reporting requirements of 3 AAC 52.320(b) should be modified or eliminated. GCI stated, and AT&T agreed that it is unclear as to which portions of the current regulation are applicable to LECs and which are applicable to IXCs.¹⁴ GCI recommended that the FCC standard for network outage reports be adopted, and require carriers to file the same report with the Commission as they would with the FCC.¹⁵ AT&T cautioned that if GCI was proposing to adopt the federal outage reporting requirements located in 47 C.F.R. Part 4, the Commission should recognize that the information provided in these reports would need to be kept confidential.¹⁶

Staff's Proposal for the Technical Conference:

Based on industry comments filed in Order R-15-004(1), specifically GCI's suggestion to look at the federal service disruption outage reporting obligations, Staff brought forward a proposal for discussion at the Technical Conference. Staff believed that if it were possible to align the state reporting obligations with the federal obligations, outage reporting could be streamlined and the burden on carriers of having to file separate state and federal reports that are currently based on different parameters could be lightened. Currently under state regulations, outage reports are required when there is a service disruption for 5% of subscribers in an ***exchange for duration of one hour or longer***, whereas in federal regulations for ETCs (per 47 C.F.R. 313(a)(2)) the trigger point to report is **10%** of end users in a ***service area for 30 minutes' duration***. Staff's proposal for the Technical Conference revised 3 AAC 52.320(b) to essentially incorporate the outage reporting parameters under in 47 C.F.R. 54.313(a)(2), which is used by ETCs when they file their annual reports to the FCC in July (Staff note: this proposal is not shown in the above Matrix).¹⁷

Technical Conference:

At the Technical Conference, ACS pointed out that adopting the federal ETC outage reporting requirements may not give the Commission the information it really wanted, as the FCC requires the reporting of outages affecting **10%** of end users in the telecoms' ***service area***, whereas under current state regulations the Commission receives information on outages that hit **5%** of the end users of an ***exchange***. ACS thought that the Commission might want to know when a whole community is out of service. If the federal regulations were used, there could be scenario where an outage that affects an entire community would not trigger a report because the total number of customers does not constitute 10% of a carrier's service area.¹⁸ The Rural Coalition agreed, stating that the FCC is only looking for major catastrophic outages, so if the federal regulations are adopted, the Commission will likely receive less outage information than it does

¹⁴ *Comments of GCI*, filed August 12, 2015 ("GCI Order R-15-004(1) Comments") at 5-6; and *Reply Comments of AT&T*, filed August 27, 2015 ("AT&T Order R-15-004(1) Reply") at 2-3. In addition, GCI commented that it was unclear whether the term "significant adverse effect on toll traffic" in the current regulation was meant to define a service disruption or was only an example of one. GCI also argued that the current standards were flawed, as it is possible to for 25% or more of trunks in a trunk group to fail without a disruption in service.

¹⁵ GCI Order R-15-004(1) Comments, at 5-6.

¹⁶ AT&T Order R-15-004(1) Reply, at 2-3.

¹⁷ Decisional Matrix Following Comments in Response to Order R-15-004(1) (October 27, 2015), at 9-10. Staff's proposal had two options. One option spelled out the reporting parameters of 47 C.F.R. § 54.313(a)(2); the alternative option was to adopt 47 C.F.R. 54.313(a)(2) by reference.

¹⁸ October 26 through 29, 2015, Technical Conference Transcript ("TC Transcript") at 141-142.

currently.¹⁹ GCI suggested having different trigger points, such as 30-minute outages that affected everyone, and a longer timeframe (such as 12 hours) that affected 10% of customers.²⁰ ACS offered that a reporting threshold of 50% of end users in an exchange for one or two days might be reasonable.²¹

AT&T and GCI felt it made good sense to have separate outage reporting requirements for the LECs and IXC.²² Staff had noted that the FCC's outage reporting requirements for wireline carriers under 47 C.F.R. 4 apply to both LECs and IXCs, and it was Staff's goal to see if it was possible for the Commission to have one requirement for IXCs and LECs at the state level as well.

GCI stated that it might be useful to have the utility call-in an extended outage, so the Commission would not have to wait for a report to be in written form.²³ The ALJ mentioned that this sort of notification process is being proposed in the outage reporting revisions for the electric utilities.²⁴

Post Technical Conference: Order R-15-004(3) Proposal (not shown in Matrix):

For the Order R-15-004(3) proposal, Staff incorporated some of the suggestions offered at the Technical Conference:

- (1) Staff raised the reporting threshold to 10% of end users in an exchange up from the 5% threshold stated in the current regulation. This was to match the 10% reporting trigger point in the annual federal ETC reporting requirements, although the federal requirement is 10% of the end users of a telecom's *service area* (not 10% of an exchange). Staff realized in theory, that this may trigger more reporting at the state level than the ETCs normally would have to report when they file the summary of outages in their annual reports to the FCC;
- (2) The duration of the outage was lowered from one hour to 30 minutes to match the FCC's trigger point in the ETC outage reporting requirements (47 C.F.R 54.313(a)(2));
- (3) Combining GCI's idea about telephoning- in outage information with what is being proposed in the outage reporting regulations for the electric utilities, the revised proposal required the telecoms to make the initial notification of an outage to the Commission via e-mail **and** a phone call as soon as reasonably possible;
- (4) The information the Commission would like to see in outage report was spelled out. Staff used the FCC's ETC reporting requirements in 47 C.F.R. 54.313(a)(2)(A) – (D) & (F)); and
- (5) Staff introduced a new sub-section 3 AAC 52.320(b)(2) that required carriers to file a follow-up report 30 days after the discovery of the outage. This proposed provision has since been removed.

Comments on Staff's Order R-15-004(3) Proposal:

AT&T "strongly believes" the reporting threshold proposed needed to be changed. AT&T argued that the proposed regulation established an entirely new reporting threshold that is different from either of the federal outage reporting thresholds for wireline carriers (47 C.F.R. 4.9(f)) and ETCs (47 C.F.R. 54.313(a)(2)), and is not appropriate for reporting information "as soon as

¹⁹ TC Transcript at 143-144.

²⁰ TC Transcript at 153-154.

²¹ TC Transcript at 145.

²² TC Transcript at 154-155.

²³ TC Transcript 149-150.

²⁴ TC Transcript at 150.

reasonably possible” to the Commission. Citing to 47 C.F.R. 4.9(f), **AT&T** pointed out that the FCC threshold for wireline carriers only requires immediate reporting for major outages, outages impacting major population centers, or critical facilities such as 911. **AT&T** brought up the point ACS made at the Technical Conference, that adopting the FCC wireline rules (under 47 C.F.R. Part 4) may mean that very few outages would be reported to the Commission, and suggested that when hearing this seemingly prompted Staff to then recommend using the FCC’s annual outage reporting requirements for ETCs (47 C.F.R. 54.313(a)(2)). **AT&T** argued that the FCC’s ETC outage report²⁵ is an annual report that is filed six months after the reporting period has ended, and is basically a summary report. It does not provide the same level of detail that the outage reports the wireline carriers are required to file with the FCC under 47 C.F.R. Part 4.

AT&T, stating that it recognizes the Commission’s need to be made aware of major outages in urban areas and outages of extended duration in rural areas, recommended a two-part alternative. The first reporting threshold is based on the FCC outage reporting for wireline carriers (47 C.F.R. 4.9(f)), that **AT&T** said would address any large outage impacting a substantial portion of the state or urban areas. Then to capture outages of an extended duration in rural areas, a second reporting threshold would be established requiring carriers to report any outage lasting more than 12 hours. **GCI**, in its opposition to AT&T’s proposal, believed that we (Commission and industry) were having difficulty developing an appropriate reporting standard because we are trying to apply the same standard to both IXCs and LECs. For example, an IXC outage is likely to affect all customers of a small village, whereas a LEC may experience an outage that is limited to only a portion of an exchange, affecting few customers. **GCI** argued that under AT&T’s proposal, any LEC outage that affected only a few people in Anchorage would have to be reported if the outage lasted more than 12 hours. In its response to AT&T’s proposal, **RAPA** stated that AT&T explained neither how the FCC threshold was appropriate for Alaska’s unique situations, nor how a 12-hour threshold represented a suitable level of service.

ACS in its comments stated that it understood the need for the Commission to be aware of outages, but questioned the relevance of reporting to this degree. In a village of 25 customers, with a 10% reporting threshold, the carrier would have to report any service disruption when only 3 customers were out of service. **ACS** asked what does the Commission really need to know? **ACS** recommended a reporting matrix of the requirements of different sized communities, or a report based on critical infrastructure outages, e.g., school, health, or community center. **GCI** stated that at this point in the proceeding it might be difficult to come up with language that satisfied all. **GCI** agreed with ACS that if the appropriate standard is defined by a percentage of users in an exchange, it should differ depending on the number of subscribers in the exchange, and believed ACS’s suggestion of different standards for different sized communities was an improvement over the proposed regulations. **GCI** ran with ACS’s suggestion, and proposed that the reporting thresholds be set at outages of 30 minutes duration that affect more than 25% of end users in an exchange of 500 or fewer end users, or affecting 10% of end users in an exchange of more than 500 end users.

GCI wondered why it would be necessary to report service disruptions both by e-mail **and** by telephone (No. 5)? **GCI** suggested that either the method of reporting be one or the other, by choice of the carrier, or by which form of notice the Commission believed was best. **AT&T** agreed that outages should be reported either by e-mail or by telephone, not both. **RAPA** stated that GCI in its suggestion to limit the notice to either e-mail or telephone did not argue that reporting by both methods was unduly burdensome or particularly difficult. **RAPA** believed appropriate outage information should be provided to the Commission, and it was reasonable for that notification to include both written and oral notice.

The **Rural Coalition** stated that there was significant industry opposition to the proposed regulations for outage reporting, and believed that based on the comments made by AT&T, ACS and GCI, there was a disconnect between industry and the Commission Staff, demonstrating that the proposed regulations were in need of significant revision. The **Rural Coalition** urged the

²⁵ 47 C.F.R. § 54.313(a)(2).

Commission to continue to review this regulation and determine what information is necessary, how it can be reported in the least burdensome way, and what the appropriate time is for reporting the information.

RAPA stated that the proposed reporting requirement for service disruptions of 30 minutes in duration that affects 10% of the end users in an exchange should be retained.

Staff's Analysis on Order R-15-004(3) Comments:

Staff appreciated AT&T's comment that the reporting threshold that Staff proposed in Order R-15-004(3) is neither of the federal reporting thresholds (47 C.F.R. 4.9(f)) or 47 C.F.R. 54.313(a)(2)). Staff realized that if its proposal (at the time) were to be adopted, it would lead to different reporting obligations for the carriers at the state level and the federal level, and therefore would not meet Staff's goal to reduce redundant reporting, if it were possible. Staff also appreciated AT&T's comment that the FCC ETC outage reporting requirement may not be appropriate for "as soon as reasonably possible" reporting, because the information gleaned from this report would be on outages that occurred six to 18 months before the report is filed, and the fact that the ETC outage report is basically a summary.

In response to GCI's comments about the difficulty we were having in developing an outage-reporting obligation because Staff was trying to establish one standard to fit both the IXC COLR and the LECs, Staff points out that the FCC has one standard that is applicable to wireline carriers, both IXCs and LECs.²⁶ However, while Staff continues to believe that it would be preferable to develop one standard to apply to both the IXC COLR and the LECs, this may not be possible or practical in Alaska. Staff believes there should be a balance between reducing onerous reporting - under current regulations, an outage of **any** duration affecting 5% of the end users in an exchange must be reported -- and reducing redundant reporting. If the Commission were to fully adopt the FCC rules, one report would satisfy both the state and federal obligations, but as commenters have expressed, the FCC is only looking for information on major outages. As ACS pointed out at the Technical Conference, the Commission may want to know if an outage affects an entire exchange, which may not end up being reported if the FCC thresholds are used.²⁷ Under the FCC's wireline outage reporting rules, an outage lasting 30 minutes would only have to be reported if it was potentially going to affect 30,000 end users.²⁸ In an exchange of 1,250 customers, an outage would have to be at least 12 hours in duration before it would have to be reported.²⁹

AT&T proposed a two-threshold approach to trigger outage reporting. The first threshold of 900,000 user minutes or 1,350 DS3 minutes³⁰ was based on two of the FCC outage reporting trigger points for wireline carriers (47 C.F.R. 4.9(f)(1) & (2)). AT&T stated this would trigger reporting of major outages impacting a substantial portion of the state or urban areas, and would trigger reports at both the federal and state levels. AT&T's proposal however did not incorporate the other two criteria for wireline carriers to report an outage at the federal level: (1) an outage that

²⁶ 47 C.F.R. § 4.9(f).

²⁷ 47 C.F.R. § 4.9(f)(1). Generally, a report is generated if an outage potentially affects 900,000 user minutes.

²⁸ 30 minutes x 30,000 end users = 900,000 user minutes.

²⁹ 720 minutes x 1,250 end users = 900,000 user minutes.

³⁰ A DS3 supports 672 voice channels (1,350 X 672 = 907,200 user minutes).

affected special offices and facilities,³¹ or (2) an outage that affected 911 facilities.³² The second threshold of AT&T's proposal was for a report to be generated for **any** outage that was more than 12 hours in duration. Staff is uncertain which report would be more burdensome for the carriers and/or more useful to the Commission, one that shows any outage of 12 hours in duration under AT&T's proposal, or a report showing outages of any duration affecting 5% of an exchange, which is the standard under the Commission's current regulations. Staff suggests that perhaps a report under either requirement is onerous. Staff also notes that neither GCI nor RAPA endorsed AT&T's proposal. If the Commission chooses to go with AT&T's proposal (or some variation of it), Staff recommends rather than 12 hours, the trigger point ought to be set at some interval no longer than 8 hours in duration. Staff feels that an outage of 8 hours or more is in-line with the Commission's Quality of Service Standards under 3 AAC 52.270(b), which requires the IXC COLR and the LECs to maintain at least eight hours of back-up power.³³ Staff feels that any outage outlasting the carrier's back-up power supply would become a concern to the Commission.

ACS noted that in Staff's Order R-15-004(3) proposal, at the 10% threshold, in an exchange of 25 end users, any outage of 30 minutes or longer affecting as few as 3 customers would be required to be reported.³⁴ Both GCI and ACS suggested different trigger points depending on the size of the exchange affected. Although ACS did not offer a specific recommendation, GCI suggested setting the standards to require reporting of outages lasting more than 30 minutes that affect more than 25% of end users in an exchange of 500 or fewer end users, or affecting 10% of end users in exchange of more than 500 end users. Through its research, Staff could not find any consensus on the outage reporting requirement thresholds required by other state Commissions. Some states generally follow the FCC's approach and base their reporting trigger points on outages affecting a certain number of potential user minutes,³⁵ whereas, other states use a combination of a percentage of subscribers in an exchange (or a percentage of total subscribers a carrier serves) or a set number of subscribers, similar to the thresholds that GCI suggested.³⁶ While Staff welcomed GCI's idea, the thresholds it proposed did not add up. Under GCI's proposal, in an exchange of 400 end users, a report would be triggered if an outage affects **100** customers (400 X 25%), but in a larger exchange of 600, an outage report would be generated if only **60** end users were affected (600 X 10%).

Staff agreed when GCI questioned why a carrier should have to report service disruptions both by e-mail and by phone/in-person as was proposed? Staff believes that the important issue here is to receive the notification "as soon as reasonably possible," and that the carrier should concentrate its efforts on resolving the issue at hand, taking care of the outage, instead of taking the extra time necessary to make a second outage notification over a different medium.

³¹ 47 C.F.R. § 4.9(f)(3). 47 C.F.R. § 4.5(b) defines *Special offices and facilities* as major military installations, key government facilities, nuclear power plants, and those airports that are listed as current primary (PR), commercial service (CM), and reliever (RL) airports in the FAA's National Plan of Integrated Airports Systems (NPIAS).

³² 47 C.F.R. §4.9(f)(4). 47 C.F.R. § 4.5(e) generally defines an outage that affects a 911 special facility as a loss of communications to a PSAP that potentially affects 900,000 user minutes and lasts 30 minutes or more.

³³ ETCs also have a requirement to maintain at least 8 hours of back-up power under 3 AAC 53.410(a)(12)(A).

³⁴ Staff would like to point out that under current regulations (any outage affecting 5% of end users in an exchange) an outage of **any** length that affected **one** customer is required to be reported (5% of 25 subscribers = 1.25 subscribers). Point being, the reporting requirements proposed in Option 2 if they were to be adopted, would have been less onerous than the requirements under current regulations.

³⁵ For instance, Maine and New Hampshire follow the FCC threshold of 900,000 user minutes. California ratchets the threshold down to 75,000 user minutes.

³⁶ For instance: Kentucky, Nebraska, Oregon, Pennsylvania, South Dakota, and Texas.

Staff's Order R-15-004(4) Recommendation:

For the Order R-15-004(4) proposal (**Option 2**), Staff moved away from the FCC reporting requirements. Staff found that with the uniqueness of the overall Alaska network, with its non-contiguous networks, and small pockets of population, etc., it is not practical to use the FCC outage reporting rules for state outage reporting. Staff believes that the Commission should be made aware if an entire isolated village's telephone system was down, and is concerned that if the FCC rules were used in this scenario, the outage may go unreported. Staff also understands ACS's concern with Staff's previous proposal, which would have required a filing of a report when the outage affected so few people in an exchange. Then after researching what other states require, Staff realized that the previous proposal did not go far enough in addressing the reporting of outages affecting toll facilities or 911 facilities.

Highlights of Staff's Order R-15-004(4) proposal, **Option 2**:

- (1) To address GCI's concern about the previous proposal's requirement of having to file an outage notification twice, once by sending an e-mail and then again through a telephone call (or in person), **Option 2** provided that sending an e-mail was the preferable method to notify the Commission of an outage. An e-mail address: TelecomOutages@alaska.gov would be set up to broadcast e-mails to all Consumer Protection Staff and Common Carrier Staff (at a minimum). Staff believes an e-mail ensures more of the Commission Staff is made aware of the outages and quicker too, than if notifications were sent by a telephone call or an in-person visit. This would especially be true if the outage is discovered outside the Commission's normal business hours. Although e-mail is preferred, Staff does not want to preclude a carrier from using other methods to notify the Commission, if it is necessary. For example, if the e-mail server is down, the Commission would want the carrier to have other options to notify the Commission such as telephonically or in person, if that is the most practical and expeditious means for communicating the outage in that particular situation. Staff feels the important issue to consider is getting the Commission notified of outages as soon as possible, and not haggling over the method required to communicate it.
- (2) Staff kept the 30-minute duration threshold for reporting, but added the FCC definition of "outage" by citing to 47 C.F.R. Part 4, with the citation to federal regulations conforming to the State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations*.³⁷
- (3) Staff was persuaded by ACS's and GCI's arguments to develop trigger points based on the size of the exchange. Commissions in other states take this approach. **Option 2** proposed a reporting threshold of 25% of end users (consistent with GCI's suggestion of a percentage in the smallest of exchanges) or 100 end users, "whichever is less".³⁸ This essentially means in exchanges smaller than 400 subscribers, an outage report would be generated when 25% or more of end users were out of service, and in exchanges larger than 400 when 100 or more end users are out of service.
- (4) Staff found that other state Commissions have a provision for reporting outages that affect 911 facilities.³⁹ **Option 2** added similar language.⁴⁰

³⁷ State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 88.

³⁸ Examples of other states thresholds are the lessor of: 25% or 750 end users (South Dakota); 5% or 2,500 end users (Pennsylvania); 10% or 500 end users (Kentucky).

³⁹ For instance: California, Colorado, Maine, Nebraska, New Hampshire, Oregon, South Dakota, Texas, and Washington.

⁴⁰ Staff borrowed language from Nebraska's regulations. Nebraska Public Service Commission, *Service Outage Reporting Requirements*, dated November 6, 2012. Section 5(e): "Any service outage of company operated 911 equipment or facilities which causes isolation of working lines in any exchange from 911 access for 30 minutes or longer."

- (5) To address long distance service outages, **Option 2** added a provision that a complete loss of toll trunk groups in an exchange would warrant an outage report.⁴¹
- (6) Changed the language on the information carriers are to report when notifying the Commission of an outage. **Option 2** tweaked the reporting from providing a “brief description of outage” to have the carriers provide information on what caused the outage and an estimated time of restoration, if this information is known.⁴² Staff believes it is important for the Commission to know how long the carrier anticipates the outage will last, in case of inquiries from the general public or the press.

Comments on Order R-15-004(4) Proposal (Option 2):

AT&T continues to have concerns regarding the proposed outage reporting requirements. First, AT&T believes there should be different outage reporting triggers for IXCs and LECs. AT&T disputes Staff’s reasoning for making the criteria the same; which was since the FCC does not make a distinction between IXCs and LECs for its outage reporting, why could there not be one set of criteria for state outage reporting as well? AT&T contends that in fact, the FCC rules apply different reporting thresholds for “IXC or LEC tandem facilities”⁴³ outages versus the thresholds for “wireline” providers.⁴⁴ AT&T states that FCC defines a wireline provider as a carrier providing direct connectivity between the serving central office and end user locations.⁴⁵ And since AT&T does not provide the connectivity to end users, it therefore is not subject to the “wireline” outage reporting requirements under FCC rules. AT&T recommended that the Commission clarify which reporting requirements apply to the IXCs versus other wireline providers.⁴⁶

AT&T previously proposed that the reporting requirement threshold be the FCC’s regulations’ trigger point or for any outage lasting over 12 hours in duration.⁴⁷ AT&T acknowledged Staff’s concern with the 12-hour proposal, because as Staff noted the Commission’s quality of service standards require that the IXC COLRs and LECs are to maintain at least eight hours of back-up power.⁴⁸ AT&T now supports a reporting trigger for a trunk outage of eight hours duration for IXCs. AT&T argues that without requiring excessive reporting, this will ensure the Commission is made aware of both a large outage impacting a substantial portion of the state or larger urban areas, and an extended outage in remote locations.⁴⁹

⁴¹ Staff borrowed language from Nebraska’s regulations. Nebraska Public Service Commission, *Service Outage Reporting Requirements*, dated November 6, 2012. Section 5(c): “Complete loss of EAS or toll trunk groups in a central office for 30 minutes or longer.”

⁴² Staff borrowed language from Nebraska’s regulations. Nebraska Public Service Commission, *Service Outage Reporting Requirements*, dated November 6, 2012. Section 1.

⁴³ 47 C.F.R. 4.9(b).

⁴⁴ 47 C.F.R. 4.9(f).

⁴⁵ 47 C.F.R. 4.3(g).

⁴⁶ AT&T Comments at 3-4.

⁴⁷ *Comments and Proposed Revisions of AT&T*, filed January 22, 2016 at 8.

⁴⁸ 3 AAC 52.270(b)

⁴⁹ AT&T Comments at 4-5.

AT&T is also concerned that the proposed regulation is not clear on what an IXC is to report for “the number of customers affected” by an outage.⁵⁰ AT&T states that in the instances where it provides wholesale IXC service which other IXCs resell to end users, AT&T would not necessarily know the number of customers affected by an outage. Further, AT&T argues that the FCC outage reporting does not require IXCs to provide the number of customers impacted by an outage. Moreover, although the ETC annual report requires ETCs to report the number of customers affected by outages as part of their FCC reporting obligations, IXCs are not ETCs. Therefore, AT&T suggests that this requirement be eliminated for IXC outage reporting.⁵¹

Lastly, AT&T believes that the Commission should simply require that the outage information be sent to the Commission via e-mail as suggested in the proposed regulation. Requiring that this be filed pursuant to 3 AAC 48.095 (permissive electronic filing) may only delay the reporting if it has to go through the Commission’s website portal.⁵² AT&T filed a comprehensive proposal reflecting all the modifications it expressed above **(Option 3)**.⁵³ AT&T’s proposal split the outage notification requirements into two sub-sections, one for the LECs (sub-section (b)) and one for the IXCs (sub-section (c)).

GCI says Staff’s Order R-15-004(4) proposal suffers from two related problems. First, GCI believes it is preferable to develop separate reporting standards for LECs and IXCs, than to attempt to develop a single reporting standard for both. Second, GCI repeats its and AT&T’s earlier arguments that it is difficult to determine which portion of the outage reporting regulation applies to LECs and which part applies to IXCs.⁵⁴

Although stating that an outage of 100 customers in the Anchorage may be considered too small, GCI concedes that the four proposed trigger points for outage reporting seem appropriate for LECs. However, applying the same standards on an IXC outage is problematic. IXCs generally do not have anything to do with an isolation of working lines or the loss of EAS. Additionally, unless IXC service is down for an entire exchange, an IXC would not have knowledge about how many end users were affected by an outage. IXCs do not even know the number of access lines a LEC serves in an exchange, so neither would it be able to determine the percentage of customers affected during an outage. GCI states the only outage reporting criteria that clearly seems applicable to IXCs is the complete loss of trunk groups.⁵⁵

Staff’s Response to Order R-15-004(4) Comments:

Staff was persuaded by AT&T’s and GCI’s arguments. AT&T and GCI were persistent since the opening of this docket that there should be separate reporting requirements for IXCs and LECs. Staff once again reviewed the federal outage reporting requirements cited by AT&T, and now more fully understands AT&T’s argument. AT&T’s proposal **(Option 3)** created separate sub-sections highlighting the different trigger points for reporting.

⁵⁰ Proposed 3 ACC 52.320(b)(4).

⁵¹ AT&T Comments at 5.

⁵² AT&T Comments at 5-6.

⁵³ AT&T Comments at 6.

⁵⁴ GCI Comments at 1-2.

⁵⁵ GCI Comments at 2-3.

For LECs: outages of at least 30 minutes duration that affects 25 percent or 100 end users of an exchange, whichever is less; causes isolation of working lines in any exchange from 911 access; or causes a complete loss of extended area service (EAS). Staff agrees that these types of outages would typically be associated with LECs.

For IXC: outages that requires reporting to the FCC pursuant to 47 C.F.R. 4.9(b) or any outage that does not meet this threshold that causes a toll trunk outage of at least eight hours in duration. AT&T also eliminated the reporting of the “number of customers affected” for IXC outages, because IXCs generally do not know the number of end user customers affected by an outage to IXC facilities.

Finally, in **Option 3**, AT&T removed the provision that outage notifications be filed under the permissive electronic filing requirements of 3 AAC 48.095. Since the proposed regulations direct the carriers to send the outage information to the Commission via e-mail, filing this information pursuant to 3 AAC 48.095 may delay the reporting if it has to go through the Commission’s website. Staff agrees with AT&T that the outage information being provided is a “notification” that Staff anticipates will primarily come to the Commission via e-mail, and therefore should not be considered to be a “report” subject to 3 AAC 48.095.

Staff was satisfied with AT&T’s proposal, but tweaked it in **(Option 4)**. First, the term “telephone utilities” was changed to “local exchange carriers” in (b). Staff also revised the citation to federal regulations (47 C.F.R. 4.9(b)) to conform to the State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations*.⁵⁶

Staff recommendation: Option 4. Staff notes that if Option 3 or Option 4 is adopted, Staff recommends that the regulation currently residing in sub-section 3 AAC 52.320(c) should be relocated to as 3 AAC 52.320(d). This will allow the two outage notification requirements to be back-to-back in the regulations under 3 AAC 52.320(b) & 3 AAC 52.320(c).

⁵⁶ State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 88.

3 AAC 52.358(e)(8). Registration.

3 AAC 52.358(e)(8): Unless an intrastate interexchange carrier (IXC) or alternate operator service (AOS) provider is required to have a certificate of public convenience and necessity, this section provides an entity proposing to provide intrastate interexchange telephone service or AOS to register with the commission. As part of the application process to become a registered IXC, an applicant must conform to several provisions in 3 AAC 52.358(e).

Sub section 3 AAC 52.358(e)(8) requires that the IXC registration applicant report all intrastate minutes as required under 3 AAC 52.380. 3 AAC 52.380(f) in turn, requires IXCs and AOS providers to submit calendar year traffic data, disaggregated by month. In addition, when the registered IXC applies to renew its registration each year under 3 AAC 52.358(g), it must verify that it is in compliance with the requirements of 3 AAC 52.358(e).⁵⁷ In the context of 3 AAC 52.358(e)(8), Staff understands this to mean that when a registered IXC applies to renew its registration, the traffic data report under 3 AAC 52.380(f) must be submitted.

As discussed below, Staff proposes to repeal the traffic data filing requirement of 3 AAC 52.380(f). If this provision is deleted, it would make the requirements under 3 AAC 52.358(e)(8) obsolete. Therefore, Staff recommends that 3 AAC 52.358(e)(8) be eliminated.

Option 1 Current Regulations	Option 2 Staff Proposal
(e) An entity registering under this section shall * * * * (7) . . . ; (8) report all intrastate minutes as required under 3 AAC 52.380; and * * * *	(e) An entity registering under this section shall * * * * (7) . . . ; and (8) [REPORT ALL INTRASTATE MINUTES AS REQUIRED UNDER 3 AAC 52.380] repealed XX/XX/201X ; [AND] * * * *

Staff recommendation: Option 2. Staff recommends that sub-section 3 AAC 52.358(e)(8) be repealed, and recommends that 3 AAC 52.358(e)(8) be eliminated regardless of whether the reporting requirement under 3 AAC 52.380(f) is repealed as proposed or not. First, a new registrant into the market would not have any intrastate minutes-of-use to report when it applies to become a registered IXC. In addition, intrastate minute-of-use information only is needed to determine whether the IXC is over the one million intrastate billable minute threshold during the renewal process.⁵⁸ Staff has proposed revisions to 3 AAC 52.358(g) to address this situation (discussed below).

⁵⁷ In addition to 3 AAC 52.358(e), a renewing registered IXC is to also verify that it is in compliance with 3 AAC 52.358(f).

⁵⁸ 3 AAC 52.360(a)(2).

3 AAC 52.385(a). Standards of service.

3 AAC 52.385(a): Provides some exemptions for the standards of service established in 3 AAC 52.200 – 3 AAC 52.340 for certain intrastate interexchange carriers (IXCs). An IXC who is not a carrier of last resort is not subject to 3 AAC 52.200 – 3 AAC 52.340. However, an IXC that owns or controls interexchange facilities in the state does have to comply with 3 AAC 52.280(b)⁵⁹ and 3 AAC 52.330 (the Capital Program and Planning Statement) for its interexchange carrier operations.

As discussed below, Staff proposes to repeal the Capital Program and Planning Statement filing requirement of 3 AAC 52.330 in Order R-15-004(4). If this provision is deleted, it would make the filing requirements under 3 AAC 52.330 for IXCs that own or control IXC facilities (and IXC COLRs) obsolete. Therefore, Staff recommends that the reference to the Capital Program and Planning in 3 AAC 52.385(a) be eliminated. Staff notes that IXCs that own or control IXC facilities are still required to file maps under 3 AAC 52.390(o), but 3 AAC 52.390(o) is outside the regulations exemption range established in 3 AAC 52.385(a).

Option 1 Current Regulations	Option 2 Staff Proposal
(a) The provisions 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 52.381 – 3 AAC 52.384 and is not assigned any responsibilities of carrier of last resort, except that a carrier that owns or controls interexchange facilities in the state shall comply with 3 AAC 52.280(b) and 3 AAC 52.330 for its interexchange carrier operations.	(a) The provisions 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 52.381 – 3 AAC 52.384 and is not assigned any responsibilities of carrier of last resort, except that a carrier that owns or controls interexchange facilities in the state shall comply with 3 AAC 52.280(b) [AND 3 AAC 52.330] for its interexchange carrier operations.

Staff recommendation: Option 2. Staff recommends that sub-section 3 AAC 52.385(a) be revised to remove the reference to 3 AAC 52.330, as the Capital Program and Planning Statement is recommended to be repealed. However, if the 3 AAC 52.330 report remains in regulations in some form when Docket R-15-004 is adopted, Staff recommends that the 3 AAC 52.385(a) remain unchanged.

⁵⁹ 3 AAC 52.280(b) requires utilities to clear troubles associated with emergency services at all hours at all locations consistent with the bona fide needs of customers and the safety of utility personnel.

3 AAC 53.410(a). Designation of eligible telecommunications carriers (ETCs).

3 AAC 53.410(a)(7)(A): This sub-section requires a common carrier filing a request seeking to be designated as an ETC to include a commitment that it will provide service on a timely basis in accordance with the carrier’s original network deployment plan (3 AAC 53.420) as filed in its request for designation and also in accordance to any updates to the plan filed in the carrier’s annual ETC report (3 AAC 53.460(a)(1)). This sub-section contains a reference to a regulation that is proposed to be revised or repealed, so it will need to be revised.

Option 1 Current Regulations	Option 2 Order R-15-004(4)	Option 3 Staff Proposal	Option 4 Staff Alternative Proposal
<p>(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes</p> <p style="text-align: center;">* * * *</p> <p>(7) a commitment to</p> <p>(A) provide service on a timely basis to requesting customers throughout the common carrier's eligible telecommunications carrier service area using its own facilities or a combination of its own facilities and resale in accordance with the common carrier's network deployment plan filed under 3 AAC 53.420 and revised under 3 AAC 53.460(a)(1); and</p> <p style="text-align: center;">* * * *</p>	<p>(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes</p> <p style="text-align: center;">* * * *</p> <p>(7) a commitment to</p> <p>(A) provide service on a timely basis to requesting customers throughout the common carrier's eligible telecommunications carrier service area using its own facilities or a combination of its own facilities and resale in accordance with the common carrier's network deployment plan filed under 3 AAC 53.420 and revised under 47 C.F.R. 54.313(a)(1), as revised as of July 1, 2017 [3 AAC 53.460(A)(1)]; and</p> <p style="text-align: center;">* * * *</p>	<p>(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes</p> <p style="text-align: center;">* * * *</p> <p>(7) a commitment to</p> <p>(A) provide service on a timely basis to requesting customers throughout the common carrier's eligible telecommunications carrier service area using its own facilities or a combination of its own facilities and resale in accordance with the common carrier's network deployment plan filed under 3 AAC 53.420 and reported and certified [REVISED] under 47 C.F.R. 54.316 and 47 C.F.R. 54.321, as revised as of July 1, 2017 [3 AAC 53.460(A)(1)]; and</p> <p style="text-align: center;">* * * *</p>	<p>(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes</p> <p style="text-align: center;">* * * *</p> <p>(7) a commitment to</p> <p>(A) provide service on a timely basis to requesting customers throughout the common carrier's eligible telecommunications carrier service area using its own facilities or a combination of its own facilities and resale in accordance with the common carrier's network deployment plan filed under 3 AAC 53.420 [AND REVISED UNDER 3 AAC 53.460(A)(1)]; and</p> <p style="text-align: center;">* * * *</p>

The proposed revisions to the ETC reporting requirements under 3 AAC 53.460 substitutes the current state ETC provisions with the FCC’s ETC requirements. Staff’s proposal removed the reference to the state requirement and ties the ETC’s future commitments to provide timely service to the federal annual reporting regulations (the progress report on its service quality improvement plan under 47 C.F.R. 54.313(a)(1)). In the Order R-15-004(4) version **(Option 2)** introduced in Order R-15-004(4), Staff tweaked the citation to federal regulations to conform to the State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations*.⁶⁰

Order R-15-004(3) Comments:

No comments received.

Order R-15-004(4) Comments:

No comments received.

Staff’s New Proposal

Staff has since learned that the FCC has removed and reserved paragraph 47 C.F.R. 64.313(a)(1) from its regulations. The FCC eliminated the requirement that the rate-of-return ETCs file a Service Quality Improvement Plan. The FCC stated that the purpose of the five-year plan and the annual updates was to ensure that ETCs use their support in a manner consistent with achieving the universal availability of voice and broadband. With the recent reforms adopted, rate-of-return ETCs are now subject to detailed broadband buildout obligations, which provide a more defined yardstick by which to measure their progress towards the universal availability of voice and broadband in their areas. Therefore, the FCC found that it is unnecessary to file a five-year Service Quality Improvement Plan. The FCC continued, rate-of-return ETCs will no longer be required to file a progress report containing maps and a narrative explanation of “how much universal service was received, and how much was used to improve service quality, coverage or capacity and an explanation regarding any network improvement targets that had not been met.” The FCC concluded that the geocoded location lists that each ETC will be required to submit on an annual basis will provide more precisely targeted information to monitor the ETC’s progress towards meeting their public interest obligations.⁶¹

The elimination of 47 C.F.R. 54.313(a)(1), makes Staff’s proposal that was sent out for comment in Order R-15-004(4) **(Option 2)** undoable. Staff instead substituted the reporting and certification requirements high-cost recipients (including price-cap ETCs) under 47 C.F.R. 54.316, and Alaska Plan participants under 47 C.F.R. 54.321 now must follow **(Option 3)**.

Staff’s alternative proposal **(Option 4)**, simply removes the reference to 47 C.F.R. 54.313(a)(1), which is no longer in federal regulations. Staff feels removing the C.F.R. really does not significantly change what an ETC applicant is committing to do at the state level when it seeks designation as an ETC.

⁶⁰ State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 88.

⁶¹ *Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking*, FCC 16-33, (WC Docket No. 10-90, WC Docket No. 14-58, CC Docket No. 01-92), released March 30, 2016 (“FCC 16-33”) at ¶¶ 216-217.

Staff recommendation: Option 3. The FCC is transitioning its focus towards broadband, but the carriers are upgrading and building hybrid networks, networks capable of providing both voice and broadband. Staff feels it is prudent that an ETC applicant make a commitment to the Commission that it will provide timely service when requested in accordance with the plan it filed with the Commission (3 AAC 53.420) and also under the commitments it has made to the FCC.

3 AAC 53.410(a)(7)(B): This sub-section requires a common carrier filing a request seeking to be designated as an ETC to include a commitment that it will file a report as set out in 3 AAC 53.460(a)(3) on each instance in which the carrier cannot fulfill a customer’s request for service and a detailed explanation of the steps taken to provide service. As this sub-section contains a reference to a regulation that is proposed to be revised or repealed, it will need to be revised.

Option 1 Current Regulations	Option 2 (RAPA) Order R-15-004(4)	Option 3 Staff Proposal
(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes * * * * (7) a commitment to * * * * (B) file a report in accordance with 3 AAC 53.460(a)(3) of any instance in which the carrier is unable to fulfill a customer request for service;	(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes * * * * (7) a commitment to * * * * (B) file a report <u>to the commission</u> in accordance with <u>47 C.F.R. 54.313(a)(3), as revised as of July 1, 2017</u> , [3 AAC 53.460(A)(3)] of any instance in which the carrier is unable to fulfill a customer request for service;	(a) A common carrier seeking designation as an eligible telecommunications carrier must file, for each study area or portion of a study area where eligible telecommunications carrier designation is sought, a request that includes * * * * (7) a commitment to * * * * (B) file a report <u>to the commission</u> in accordance with <u>47 C.F.R. 54.313(a)(3), as revised as of July 1, 2017, and 3 AAC 48.095</u> , [3 AAC 53.460(A)(3)] of any instance in which the carrier is unable to fulfill a customer request for service;

The proposed revisions to the ETC reporting requirements under 3 AAC 53.460 substitutes the current state ETC provisions with the FCC’s ETC requirements. In the proposal sent out for comment in Order R-15-004(3) (not shown in Matrix), Staff removed the reference to old 3 AAC 53.460(a)(3) in 3 AAC 53.410(a)(7)(B) and replaced it with 47 C.F.R. 54.313(a)(3). 47 C.F.R. 54.313(a)(3) would require an ETC to file a report of any instance in which a potential customer’s request for service within the ETC’s service areas went unfulfilled, and how ETC attempted to provide service to the potential customer.

Order R-15-004(3) Comments:
Other than RAPA’s suggestion, no other comments were received.

Staff's Response to R-15-004(3) Comments:

Staff revised 3 AAC 53.410(a)(7)(B) to incorporate RAPA's suggestion to clarify that the report is to be filed with the Commission, and tweaked the citation to federal regulations to conform with the State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (**Option 2**).⁶²

Order R-15-004(4) Comments:

No comments received.

Staff recommendation: Option 3. Staff further revised Option 2 to incorporate the Commission's permissive electronic filing rules implemented in Docket R-15-006.

⁶² State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 88.

Unchanged Regulations Proposals Following Order R-15-004(4) Comments (pp. 21-58)

3 AAC 51.030(a). Requirements of telecommunications relay service (TRS) provider.

3 AAC 51.030(a): This Section requires the Telecommunications Relay Service (TRS) provider to file monthly a report with the Commission that includes:

- (1) Number access lines served, TRS surcharges, and TRS revenue collected, and a compilation of the information provided by the LECs under 3 AAC 51.040(k)(1);
- (2) Number of calls and minutes of use processed disaggregated by jurisdiction; and
- (3) A show of conformance with federal speed-of-answer and call-blocking standards specified (answer 85% of all calls within 10 seconds).⁶³

The Commission uses this report to monitor the collection of the TRS surcharge and the balance of the TRS Fund. Staff uses the (total) access line data to trend the residential/single-line and multi-line line counts. The trending analysis is needed to indicate whether the two-tiered TRS surcharge rate needs to be reviewed (currently the surcharge factor on the multi-line businesses is twice the factor of single-line customers).

Staff also reconciles the surcharge amounts that individual LECs report disbursed with the amounts reported collected by the TRS provider. Staff notes that in 2012, the Commission requested all LECs to file a monthly history of their TRS collections and disbursements from 2007 through 2012 to verify the amount reported by the TRS provider at the time.⁶⁴

On several occasions, the Rural Coalition (RC) has asked the Commission to review this reporting requirement.⁶⁵ The RC believes the business line count information this report contains is sensitive data and could cause competitive harm if released, and stated that the RC companies have consistently made substantial efforts to protect this data.⁶⁶ In Docket U-12-088, the RC petitioned to require the TRS provider report the customer line count information in the aggregate rather than individually for each LEC.⁶⁷ The

⁶³ 47 C.F.R. § 64.604(b)(2).

⁶⁴ See for example TR1205369, *Subject: Alaska TRS Fund*, letter from T. Patch to ACS of Anchorage (July 12, 2012).

⁶⁵ Order U-12-088(6)(March 11, 2013) at 3. See also Docket U-14-086. *Rural Coalition Comments Regarding GCI Petition to Rescind Filing Requirements* (July 9, 2014) at 3.

⁶⁶ *Id.*

⁶⁷ Order U-12-008(6) at 3.

Commission denied the request finding that the line count information is publicly available through other sources, and that the remedy sought by the RC would not cure the competitive harm asserted.⁶⁸

Option 1 Current Regulations	Option 2 (RAPA) Order R-15-004(4)
<p>(a) Following the issuance of a certificate of public convenience and necessity to provide TRS in this state, the provider shall file a tariff that incorporates the terms and conditions specified it its application. The TRS provider shall serve in conformance with its tariff until service expires under the terms of the certificate or until the commission decides otherwise. The TRS provider shall file with the commission, in accordance with 3 AAC 48.095, a monthly report that includes the following information:</p> <p>(1) the number of access lines served, TRS surcharges, and TRS revenue collected; the report must include a compilation of the information supplied to the TRS provider by local exchange carriers under 3 AAC 51.040(k)(1) and must specify the surplus revenue account balance;</p> <p>(2) the number of calls processed; the report must specify TRS traffic by number of calls and minutes of use and each category must be further disaggregated by jurisdiction and type if call; for the purpose of this paragraph "jurisdiction" includes local, intrastate toll, and interstate toll;</p> <p>(3) the quality of service offered to customers; the report must show conformance with federal speed-of-answer and call-blocking standards specified in 47 C.F.R. 64.604(b)(2), issued June 21, 2000.</p>	<p>(a) Following the issuance of a certificate of public convenience and necessity to provide TRS in this state, the provider shall file a tariff that incorporates the terms and conditions specified in [IT] its application. The TRS provider shall serve in conformance with its tariff until service expires under the terms of the certificate or until the commission decides otherwise. The TRS provider shall file with the commission a monthly report that includes the following information:</p> <p>(1) [THE NUMBER OF ACCESS LINES SERVED, TRS SURCHARGES, AND TRS REVENUE COLLECTED; THE REPORT MUST INCLUDE A COMPILATION OF THE INFORMATION SUPPLIED TO THE TRS PROVIDER BY LOCAL EXCHANGE CARRIERS UNDER 3 AAC 51.040(K)(1)] <u>the TRS surcharges assessed and the total amount of TRS revenue collected disaggregated by residential, single-line business, and multi-line business access lines based on the report supplied by the local exchange carriers under 3 AAC 51.040(k)(1).</u> [AND] <u>The report</u> must <u>also</u> specify the surplus revenue account balance;</p> <p>(2) the number of calls processed; the report must specify TRS traffic by number of calls and minutes of use and each category must be further disaggregated by jurisdiction and type of [IF] call; for the purpose of this paragraph "jurisdiction" includes local, intrastate toll, and interstate toll;</p> <p>(3) the quality of service offered to customers; the report must show conformance with federal speed-of-answer and call-blocking standards specified in 47 C.F.R. 64.604(b)(2), issued June 21, 2000.</p>

In Order R-15-004(1), the Commission asked if this report contained sensitive information that could cause competitive harm, and if this information was available publicly elsewhere.⁶⁹ ATA commented that companies with multiple study areas have an advantage because they are able to report residential and business line counts across study areas, whereas companies with a

⁶⁸ Order U-12-008(6) at 4-5. Staff reviewed the cites given in Order U-12-088(6), and found that residential, single-line business, and multi-line business access line counts were disaggregated only for companies that filed the Annual Operations Reports (“Form M”), and the Connect America Fund compliance filings. However, the line counts in these reports are based on annual numbers and not on a monthly basis like the TRS report is. The companies that filed the “on-line supplemental” annual report only report the number of residential customers and total number of customers and do not report the number of multi or single-line business customers. The AECA reports cited only provided aggregated company-wide NAF line counts and are not broken out by business and residential.

⁶⁹ Order R-15-004(1) at 5.

single study area are unable to protect their customer line counts.⁷⁰ The Rural Coalition reiterated its argument in U-12-088. It had concerns about the level of detail required, that multi-line business customer counts are sensitive information in today's environment. The Rural Coalition does not believe this granular information is available publicly elsewhere, but mentioned that the Form M provides this type of information albeit on an annual basis, and not on a monthly basis like the TRS report provides.⁷¹ Also in Order R-15-004(1), the Commission asked how the TRS provider could provide this information in a less sensitive way.⁷² AP&T, ATA, RC, and GCI all suggested that the information could be reported to the Commission in the aggregate by each sub-category of the line counts (i.e., residential, single-line business, and multi-line business).⁷³ GCI suggested the simplest way would be for the Commission to direct the TRS provider to report the information in the aggregate.⁷⁴ Staff agreed with the commenters that the monthly access line count information required by 3 AAC 51.030(a) should be aggregated to protect potentially competitive information. Staff does not believe this granular line count data is currently available publicly elsewhere. Staff feels it can sufficiently monitor the TRS fund using aggregated company lines counts. Staff feels the best way to direct the TRS provider to provide aggregated information would be through a revision of the regulations rather than through an adoption order. Directing the TRS provider in an adoption order would require the reader to perform additional research to determine whether the information is required to be submitted in an aggregated or disaggregated format.

At the December 16, 2015 Public Meeting, Staff proposed its version (not shown in Matrix) to the Commission, but per Commissioner's request, Staff rewrote the proposal for 3 AAC 51.030(a) for Order R-15-004(3),⁷⁵ (also not shown in Matrix), and was the version that was offered up for comment.

Order R-15-004(3) Comments:

The Rural Coalition, GCI and RAPA commented that Staff's version in Order R-15-004(3) was confusing, and all offered suggestions to better clarify the language.

Staff's Response to Order R-15-004(3) Comments:

Staff believed that out of all the suggestions, RAPA's edit was the simplest and best solution, as it made it clear that the report is to provide only the total line counts of the three classes of customers: residential, single-line business, and multi-line business. Staff incorporated RAPA's version, and put it out for comment in Order R-15-004(4) (**Option 2**). The revision also contained a couple of typographical corrections of the current regulations.

Order R-15-004(4) Comments:

⁷⁰ *Alaska Telephone Association Comments Regarding Ongoing Reporting Obligations*, filed August 12, 2015 ("ATA R-15-004(1) Comments") at 4.

⁷¹ *Rural Coalition Comments*, filed August 27, 2015 ("RC R-15-004(1) Comments") at 2.

⁷² Order R-15-004(1) at 5.

⁷³ *Alaska Power & Telephone Comments Regarding Ongoing Reporting Obligations*, filed August 12, 2015 ("AP&T R-15-004(1) Comments") at 4; ATA R-15-004(1) Comments at 2; RC R-15-004(1) Comments at 2-3; and *Comments of GCI*, filed August 12, 2015 ("GCI R-15-004(1) Comments") at 4.

⁷⁴ GCI R-15-004(1) Comments at 4.

⁷⁵ December 16, 2015 Public Meeting Tr. At 89.

No comments received.

Staff recommendation: Continues to recommend **Option 2**.

3 AAC 52.300(d). Operator handled calls (Operator answering time studies).

3 AAC 52.300(d): This section requires all LECs and the intrastate interexchange Carrier of Last Resort (IXC COLR) (IXCs that are not COLR are exempt from this requirement⁷⁶) to file promptly after each quarter, monthly summaries of its answering time studies of its operator services.

LECs and the IXC COLR are required to have personnel and equipment in place to answer 90 percent of all calls directed to a toll operator within 10 seconds, and 85 percent of directory assistance and intercept calls within 10 seconds. As explained in Order R-98-001(7), time studies are a way to monitor whether the IXC COLR is cutting corners by failing to adequately staff its operators in an effort to reduce costs.⁷⁷

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(d) Each utility shall make answering time studies of its operator services, using recognized sampling techniques, to the extent and with the frequency necessary to determine compliance with this section. Monthly summaries of these studies, prepared with respect to each appropriate operator grouping, must be filed with the commission promptly after the end of each calendar quarter, in accordance with 3 AAC 48.095.	(d) Repeal.

In Order R-15-004(3) (**Option 2**), Staff recommended that requiring carriers to perform operator answering time studies and then have summaries of them filed quarterly be eliminated. Although Staff thought time studies may be a useful tool to have on hand if a carrier’s operating answering levels are ever questioned, Staff believes that the carriers should be allowed the flexibility to use alternative ways to ensure that the minimum quality standards on operator handled calls are being met and show the Commission that it is in compliance with the standards. Staff had also found that there is issue of enforcement of this regulation. In Order R-89-002(15), the Commission admitted that it has had trouble getting telecoms to follow this provision as far back as 1993.⁷⁸

Order R-15-004(3) Comments:

Although AT&T stated that the elimination of 3 AAC 52.300(d), the reporting obligations to quarterly file answering time studies is beneficial, AT&T asked the Commission to go farther and also review the underlying regulations requiring the IXC COLR to monitor the surveillance levels for answering calls to toll operators (3 AAC 52.300(a)) and the self-reporting required if the surveillance levels are not maintained (3 AAC 52.320(a)) as well. AT&T argued that operator use is decreasing and is less important to consumers, and that the Commission could investigate, if it noticed a trend of customer complaints regarding operator services. GCI agreed with AT&T that the underlying “service and safety standards” regulations needed a review.

⁷⁶ Per 3 AAC 52.385(a).

⁷⁷ Order R-98-001(7)(July 24, 2001), Appendix A at 24

⁷⁸ Order R-89-002(15)(October 20, 1993) at 10.

Response to Order R-15-004(3) Comments:

In response to AT&T's and GCI's request to look at the underlying regulations, Staff was not prepared to make judgment or a recommendation on the demise of operator services in this docket, as the scope of Docket R-15-004 is restricted solely to ongoing reporting obligations. Staff notes that the operator handled call service standards of 3 AAC 52.300 are still in effect. Some incumbent LECs still have not implemented equal access in every community they serve, and some have not implemented equal access at all.⁷⁹ This means that there are still areas of Alaska where the IXC COLR is the only choice for intrastate long distance and toll operator services. The reporting requirement is only triggered if the telecom's operator call answering statistics fall below the standard, and if this happens, Staff believes the Commission would want to know this.

Order R-15-004(4) Comments:

AT&T strongly continues its support for the repeal of this report.⁸⁰

Staff recommendation: Continues to recommend repeal **Option 2**. No further revisions beyond repealing 3 AAC 52.300(d).

⁷⁹ *General Communication, Inc. Petition for Reconsideration*, filed January 27, 2016 regarding FCC's Memorandum Opinion and Order, FCC 15-166 (December 28, 2015).

⁸⁰ AT&T Comments at 2.

3 AAC 52.320(c). Information to be furnished (Results of required tests and summaries of required reports).

3 AAC 52.320(c): This section requires telephone utilities (IXCs that are not COLR are exempt from this requirement)⁸¹ to furnish the results of any required tests and summaries of the required surveillance reports (3 AAC 52.320(a)) and service disruption reports (3 AAC 52.320(b)). The utility must also furnish the commission with any information concerning the utility’s facilities or operations that the Commission may request.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(c) Each telephone utility shall furnish to the commission staff, at the times and on the forms or in the format the commission may require, the results of any required tests and summaries of required reports. The utility also shall furnish the commission with any information concerning the utility's facilities or operations which the commission may request.	(c) Repeal.

Based on the discussion at the Technical Conference, it was evident that it is unclear what this reporting requirement was even meant to do. Staff’s research of the Commission’s goal for implementing this requirement in 1979 proved futile.⁸² Staff feels that the Commission still has the authority to ask a utility under investigation for falling below surveillance levels to furnish test results and information concerning the utility’s facilities or operations without this regulation, so for Order R-15-004(3) Staff recommended to repeal 3 AAC 52.320(c) (**Option 2**).

Order R-15-004(3) Comments:
AT&T supports the repeal of 3 AAC 52.320(c).

Order R-15-004(4) Comments:
No comments received.

Staff recommendation: Option 2. Staff continues to recommend the repeal of 3 AAC 52.320(c).

⁸¹ Exempt per 3 AAC 52.385(a).

⁸² See Orders U-78-045(1) (May 9, 1978) at 1-2 and U-78-045(7) (September 21, 1978). The telephone service standards (3 AAC 52.200 – 3 AAC 52.340) drafted were based on comparable standards from several state commissions, as well as the recommended code of the National Association of Regulatory Utility Commissioners (NARUC), and solicited contributions from the affected utilities.

3 AAC 52.330. Capital program and planning statement.

3 AAC 52.330: This section requires telephone utilities (IXCs that do NOT own or control IXC facilities are exempt from this requirement),⁸³ as a supplement to their Annual Operating Report (AOR), to file a listing of its projected capital improvements that exceed \$15,000 arranged by major plant category for the current year and projections for the ensuing two years. The filing must include a technical planning statement explaining the reason for constructions and a demand and facility chart for each toll switching facility. When the Commission looked the IXC Market Structure in Order R-98-001(7), Staff stated that the filing of a capital plan would be an important requirement for any carrier that has significant facilities in Alaska.⁸⁴

Option 1 Current Regulations	Option 2 Order R-15-004(4)
In addition to the annual report required by AS 42.05.451(b), a telephone utility shall file annually with this commission, in accordance with 3 AAC 48.095, a listing of its projected capital improvements projects that exceed \$15,000, arranged by major plant categories, for the current year and the ensuing two years. This filing must include a technical planning statement giving the reasoning underlying the construction program and a demand and facility chart for each central office entity or toll switching facility. The commission will prescribe the form or the format of the report. It is understood that changes after filing may be necessary as economic conditions, experience, and further study dictate.	Repeal.

At first, Staff felt this report was useful to inform the Commission to what major intrastate interexchange projects are being built and planned across the state. There is currently no other vehicle for the Commission to get comparable capital improvement planning information from facilities-based IXCs or from LECs that are not ETCs. Earlier versions of Staff’s proposal revised the regulations including:

- Eliminating the reporting requirements for the LECs that are ETCs (IXCs that do not own or control facilities are already exempt) as the Commission should be able to get capital improvement information from these LECs through their FCC 481 ETC reports which are annually filed with the Commission on July 1.
- Changing the term “capital improvements” to “network improvements” to emphasize that the Commission is focused on improvements to the network, and not necessarily to improvements in general support assets such as vehicles, furniture, and computers, etc.
- Adding language clarifying that report should contain network improvements only on facilities located within Alaska.
- Tweaked the technical planning statement to include an explanation regarding any network improvement targets that have not been fulfilled in the prior calendar year (similar to what the ETCs must report in 47 C.F.R. 54.313(a)(2)). However, Staff was later persuaded by AT&T’s argument that just because AT&T may have projected to spend money on network improvements does not mean it is obligated to spend the money.⁸⁵

⁸³ Per 3 AAC 52.385(a), carriers that own or control interexchange facilities in the state are to comply with 3 AAC 52.330.

⁸⁴ Order R-98-001(7)(July 24, 2001) at Appendix A at 25.

⁸⁵ TC Transcript at 167-168.

- Eliminating the requirement to include a demand and facility chart for each central office entity or toll switching facility; the statement that the Commission will prescribe the form or format of the report; and the last sentence of the section about understanding that changes to the plan may be necessary. Staff felt these were unnecessary.
- The earliest Staff version had the monetary reporting threshold removed, which in effect would have required the carriers to file all capital improvements every year similar to what the ETCs report in the FCC Form 481 report. However, Staff was persuaded by AT&T's and ACS's arguments for reinstating a dollar threshold for the reporting of each project.⁸⁶ Staff settled on \$100k as a reasonable threshold, as it believed that the Commission would have been interested only in major projects, and a \$100k threshold would have eliminated the carriers having to report on minor projects.

Order R-15-004(3) Comments:

AT&T claimed that at the Technical Conference AT&T, ACS, the RC, and GCI, all agreed that that this reporting obligation could be eliminated, yet Staff gave no reason why this report should be retained. {Staff note: As noted above, Staff felt this report was useful to alert the Commission on what major intrastate interexchange (e.g., middle mile) projects the IXC's & CLECs were planning to build across the state. There is currently no other vehicle for the Commission to get comparable capital improvement planning information from facilities-based IXC's or LEC's that are not ETC's}. AT&T argued that there is no reason why in today's regulatory environment the Commission needed this granular level of detail on an IXC's network improvements. With long distance rate parity in place, there was no longer a need for the Commission to understand how an IXC is spending its capital, as this no longer has a direct impact on ratepayer's rates. As long as a carrier who is not receiving federal or state universal service funding is still fulfilling its service obligations, it is irrelevant how much or on what parts of the network it invests. Further, the Commission should consider that it would be getting general network information (maps or listings) through what it is being proposed in 3 AAC 52.390(o). However, if the Commission did choose to retain the requirement, AT&T stated at a minimum, that the requirement that the "filing must include a technical planning statement giving the reason underlying the construction program" be deleted. Further, if any sort of reporting requirement was to be retained, the information must be provided confidential treatment.

The Rural Coalition also argued that the reporting obligation be eliminated completely. However, if the obligation were to be retained, the Rural Coalition concurred with the proposed elimination of the Capital Program and Planning Statement filing obligation for ETCs, as the FCC Form 481 report contained far more relevant data for regulators.

GCI also recommended this requirement be repealed, arguing that the filing of an annual network improvement plan was an unnecessary burden on carriers with very little, if any benefit to the Commission or the public. The requirement for carriers to file a plan was leftover from the days of monopoly telephone systems, when the Commission needed to monitor the annual investments of the regulated telephone companies. Today, it is no longer necessary or appropriate for the Commission to monitor the investments of competitive carriers. With Staff's proposal to exempt ETCs from this requirement, GCI observed that the proposed regulations would have applied primarily to IXC's. GCI noted that the report proposed under 3 AAC 52.390(o), which requires IXC's to annually file maps or listings of its network facilities, would provide much the same and more current information regarding the network of an IXC.

RAPA stated that AT&T's and GCI's comments to eliminate this regulation relied in part on the premise that there is competition in every part of the state, which RAPA argued is not correct. RAPA stated that there were times it used the information derived from this report, citing instances of it trying to decide whether to accept a Commission invitation into a docket, or whether to

⁸⁶ TC Transcript at 170-172. AT&T argued that if the Commission wishes to see only major network improvements, then removing the threshold is going the wrong way, as minor improvements would then have to be reported. AT&T also stated that raising the limit from \$15k to \$50k or \$52k and tying it to a CPI would give AT&T a little buffer. ACS felt a threshold of \$100k or \$250k was reasonable. Although Staff likes the concept of tying the dollar threshold to a CPI, it believes going that direction may require constant and continual tweaking of the regulation.

participate in a docket. In such cases, a discovery inside a docket would be insufficient. **RAPA** stated that if a carrier were not required to file this report, it is unlikely that the carriers would maintain this specific information in a readily assessable form.

Staff's Response to Order R-15-004(3) Comments:

Staff was persuaded by the arguments that the Commission would get better information from the map or listing information provided in 3 AAC 52.390(o), and if Staff had to choose between the two reports (this report and 3 AAC 52.390(o)), Staff believed the information gleaned from the 3 AAC 52.390(o) maps listings would be more useful to the Commission. Staff did not endorse AT&T's alternative option that if the report was to be retained the technical planning statement should be eliminated. Staff felt that the reporting should be all or none. If an IXC provided an amount of its planned investments, but did not tell the Commission what the funding is for or why the facilities are being built, the information is useless. Staff notes that industry had concerns about this particular report as far back as the 1970s when the regulations were adopted, "[s]ome witnesses expressed the belief that the detailed reports might be either too burdensome for the utility or might inject the Commission into management prerogatives."⁸⁷

Staff's Order R-15-004(4) Proposal:

For the reasons stated above Staff recommended that 3 AAC 52.330 report be eliminated.

Order R-15-004(4) Comments:

AT&T strongly supports the recommendation to repeal this report.⁸⁸ **RAPA** however, repeated its earlier comments that the 3 AAC 52.330 report should be retained and not repealed. There are times **RAPA** uses the information derived from this report such as when deciding whether to participate in a docket, or whether to accept the Commission's invitation to participate. In such cases, a discovery inside a docket would be insufficient. **RAPA** states that if a carrier is not required to provide this information, it is unlikely the carriers will separately maintain this specific data in a readily assessable form.⁸⁹

Staff recommendation: Continues to recommend the repeal of 3 AAC 52.330, the Capital Programming and Planning Statement. Staff believes that the information gleaned from the 3 AAC 52.390(o) maps and/or listings report from the IXCs, and the ETC reports from the ILECs is more useful to the Commission. Staff also notes the inconsistency in what the carriers are providing in the reports. Staff did not look at all of the recent filings of the 3 AAC 52.330 report, but in the ones that were reviewed⁹⁰ some of the carriers reported exactly the same amounts for all three years (the current year and the two ensuing years) which does not seem realistic. Neither did any of the carriers provide a technical planning statement or a demand and facility chart as

⁸⁷ General Order U-78-045(7), *Order Adopting Regulations and Closing Docket* (September 21, 1978) at 3.

⁸⁸ AT&T Comments at 2.

⁸⁹ RAPA Comments at 2-3.

⁹⁰ Staff reviewed the 3 AAC 52.330 reports filed by AT&T Alaska (Docket U-17-017, filed under seal March 22, 2017); Interior Telephone Company (filed March 31, 2016); United Utilities, Inc., United-KUC, Inc., and Yukon Telephone Company (filed April 1, 2016); ACS Long Distance (filed March 31, 2016); and ACS of Anchorage (filed July 5, 2016).

required in 3 AAC 52.330. Finally, Staff believes that if the Commission wished to build a comprehensive report on what facilities are being built in the state, the 3 AAC 52.330 report would not provide much help, mainly because not all carriers are required to provide information, for example, the economically deregulated LECs, and non-certificated providers do not report.

3 AAC 52.358(g). Registration (Re-registration of registered intrastate interexchange carriers).

3 AAC 52.358(g): This section requires registered IXC to renew their registrations annually by January 31. The registration renewal must include a statement of any changes to the entity’s information; and a verification of compliance with the requirements that the registered IXC is: charging only geographically averaged rates statewide, maintaining an on-line tariff, listing all taxes and fees as separate line items on its bill, notifying customers that they may opt out to receive notice of tariff revisions via e-mail or mail, reporting all intrastate minutes, paying intrastate access charges, not offering untariffed intrastate IXC service, and not tariffing services that it is not prepared to offer.⁹¹

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(g) An entity registered under this section shall, on or before January 31 of each year, renew its registration by filing, in accordance with 3 AAC 48.095, a form prescribed by the commission. The registration renewal must include a statement of any changes to information submitted with the entity's registration, an annual registration renewal fee of \$50, and a verification that the entity is in compliance with the requirements of (e) and (f) of this section.	(g) An entity registered under this section shall, on or before January 31 of each year, renew its registration by filing, in accordance with 3 AAC 48.095, a form prescribed by the commission. The registration renewal must include a statement of any changes to information submitted with the entity's registration, an annual registration renewal fee of \$50, [AND] a verification that the entity is in compliance with the requirements of (e) and (f) of this section, <u>and a verification that the entity did not have more than one million intrastate billable minutes per month for three consecutive months in the previous calendar year.</u>

One of the requirements for an IXC to continue to qualify as a “registered” IXC is that it cannot have over 1,000,000 billable minutes per month for more than three consecutive months (per 3 AAC 52.360(a)(2)). As Staff is recommending to repeal the traffic data reports currently required in 3 AAC 52.380(f) (see below), it will take away the vehicle to which the Commission used (in theory) to determine whether a registered IXC was under the billable minute threshold to remain a registered IXC. Therefore, in Order R-15-004(3) Staff proposed that 3 AAC 52.358(g) be revised to include in the annual registration renewal process the registered IXC verify that it is under the million minute threshold (**Option 2**).

Order R-15-004(3) Comments:

AT&T did not object to changes made to 3 AAC 52.358(g).

Order R-15-004(4) Comments:

No comments received.

Staff recommendation: Option 2. Staff continues to recommend the revision to 3 AAC 52.358(g). Staff points out with the proposed repeals of the 3 AAC 52.320(e) report, and the 3 AAC 52.358(e)(8) requirement for registered IXCs to annually file the 3 AAC 52.320(e) report, it makes the proposed verification introduced in 3 AAC 52.358(g) the only way to monitor the million billable minutes threshold.

⁹¹ Requirements per 3 AAC 52.358(e) and 3 AAC 52.358(f).

3 AAC 52.372. Long distance rate parity [REDUCTIONS FROM ELIMINATION OF CARRIER COMMON LINE RATES].

3 AAC 52.372(a): This section requires IXC's to reduce retail intrastate long distance rates with a goal of achieving rate parity with interstate long distance rates. Docket R-08-003/R-09-003 allowed a five-year transition period for the IXC's to get their intrastate rates to interstate levels or lower. All IXC's are to be at rate parity at December 31, 2015.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(a) To the extent possible and reasonable, and taking into consideration (1) costs of service; (2) changes in calling volumes; (3) changes in intrastate access charge rates; (4) jurisdictional cost differences; and (5) other relevant factors, interexchange carriers shall reduce intrastate long distance rates within a reasonable time after the elimination, under 3 AAC 53.350(c), of the carrier common line charge with the goal of achieving parity between intrastate long distance rates and interstate long distance rates.	(a) To the extent possible and reasonable, and taking into consideration (1) costs of service; (2) changes in calling volumes; (3) changes in intrastate access charge rates; (4) jurisdictional cost differences; and (5) other relevant factors, <u>an</u> interexchange <u>carrier's retail</u> [CARRIERS SHALL REDUCE INTRASTATE LONG DISTANCE RATES WITHIN A REASONABLE TIME AFTER ELIMINATION, UNDER 3 AAC 53.350(C), OF THE CARRIER COMMON LINE CHARGE WITH THE GOAL OF ACHIEVING PARITY BETWEEN] intrastate long distance rates <u>shall be in parity with or lower than its applicable</u> [AND] interstate long distance rates.

In Order R-15-004(3) Staff proposed **(Option 2)**. With the transition period over for the IXC's to be *at* long distance rate parity, Staff proposed that the sub-section (a) be revised to state that at this point retail intrastate long distance rates should be at parity with retail interstate long distance rates (with some tweaking of the language suggested by AT&T). Staff also recommended the heading of Section 52.372 be revised from “**Long distance rate reductions from elimination of carrier common line rates,**” to “**Long distance rate parity**” to more accurately reflect the regulation post-transition period.

Order R-15-004(3) Comments:
AT&T generally supported the revisions to 3 AAC 52.372(a) (Option 2).

GCI suggested that the entire IXC rate parity regulations be repealed. The goal of rate parity has been accomplished and it is time to allow the competitive market forces determine rates going forward. To the extent that cost factors prompt any changes in rates that are not consistent with parity, those changes would be allowed under the factors that the proposed regulation recognizes could affect parity, thus the proposed regulations do not ensure parity. A continuation of the requirement will have no real effect on rates and will impose an unnecessary filing requirement on IXC's.

Staff's Response to Order R-15-004(3) Comments:
Staff kept the requirement that the long distance rates shall be in parity. GCI's comments suggest that the regulations do not ensure rate parity. Staff believes that GCI's argument actually strengthens the reason why the regulation continues to be necessary, and why reports are needed if an IXC's rates are not in parity.

Order R-15-004(4) Comments:
No comments received.

Staff recommendation: Continues to recommend **Option 2**.

3 AAC 52.372(b): This section required IXCs to file a report demonstrating the flow-through of access charge savings or reasonable progress towards achieving parity between intrastate and interstate long distance rates. The last date of the five-year reporting requirement was March 31, 2016.

Option 1 Current Regulations	Option 2 Order R-15-004(4)
(b) No later than three months after the elimination, under 3 AAC 53.350(c), of the carrier common line charge, an interexchange carrier shall file a report describing changes it has made in intrastate long distance rates. For a period of five full calendar years thereafter, no later than March 31 of each year, an interexchange carrier shall file an annual report, in accordance with 3 AAC 48.095, demonstrating the extent to which the carrier reduced intrastate long distance rates in the preceding calendar year in conformance with (a) of this section. The interexchange carrier's annual report must either demonstrate flow-through of access charge savings based upon the methodology developed through industry consensus and set out in the joint report submitted to the commission on December 13, 2001 in Docket R-01-1, or demonstrate reasonable progress towards achieving parity between intrastate long distance rates and interstate long distance rates. Under either approach, the annual report must include a schedule showing the change in dollars and minutes of intrastate long distance from year to year segregated between intrastate residential long distance and intrastate business long distance.	(b) No later than [THREE MONTHS AFTER THE ELIMINATION, UNDER 3 AAC 53.350(C), OF THE CARRIER COMMON LINE CHARGE, AN INTEREXCHANGE CARRIER SHALL FILE A REPORT DESCRIBING CHANGES IT HAS MADE IN INTRASTATE LONG DISTANCE RATES. FOR A PERIOD OF FIVE FULL CALENDAR YEARS THEREAFTER, NO LATER THAN MARCH 31] April 30 of each year, an interexchange carrier [SHALL FILE AN ANNUAL REPORT, IN ACCORDANCE WITH 3 AAC 48.095, DEMONSTRATING THE EXTENT TO WHICH THE CARRIER REDUCED INTRASTATE LONG DISTANCE RATES IN THE PRECEDING CALENDAR YEAR] not in conformance with (a) of this section, <u>shall file a report, in accordance with 3 AAC 48.095, providing the explanation why it is not in conformance.</u> [THE INTEREXCHANGE CARRIER'S ANNUAL REPORT MUST EITHER DEMONSTRATE FLOW-THROUGH OF ACCESS CHARGE SAVINGS BASED UPON THE METHODOLOGY DEVELOPED THROUGH INDUSTRY CONSENSUS AND SET OUT IN THE JOINT REPORT SUBMITTED TO THE COMMISSION ON DECEMBER 13, 2001 IN DOCKET R-01-1, OR DEMONSTRATE REASONABLE PROGRESS TOWARDS ACHIEVING PARITY BETWEEN INTRASTATE LONG DISTANCE RATES AND INTERSTATE LONG DISTANCE RATES. UNDER EITHER APPROACH, THE ANNUAL REPORT MUST INCLUDE A SCHEDULE SHOWING THE CHANGE IN DOLLARS AND MINUTES OF INTRASTATE LONG DISTANCE FROM YEAR TO YEAR SEGREGATED BETWEEN INTRASTATE RESIDENTIAL LONG DISTANCE AND INTRASTATE BUSINESS LONG DISTANCE.]

Staff was concerned that once long distance rates are at parity and the reporting requirement is allowed to sunset, there is nothing to prevent an IXC from lowering an interstate rate without concurrently lowering the corresponding intrastate rate. If this happens, the long distance rates are no longer in parity. How will the Commission monitor this? Staff was also concerned that most end users in Alaska do not know that intrastate and interstate long distance rates are supposed to be the same. If this were the case, the Commission would never receive any complaints

from end users. Staff's proposal lets the current reporting requirement sunset as was anticipated in R-08-003.⁹² With the long distance rates required to be in parity, Staff's initial proposal (not shown) required IXCs to file a *certification* that their long distance rates remain in parity, or explain why they are not.

In addition, the reporting date was changed to April 30 to coincide with the revised filing dates of other annual reporting requirements being proposed.

Order R-15-004(3) Comments:

AT&T, the Rural Coalition, and GCI all did not support the requirement that an IXC be required to annually certify that it is in compliance with the rate parity regulations as proposed in (3 AAC 52.372(b)).

AT&T claimed that at the Technical Conference GCI, the RC and ACS all agreed that no further reporting was necessary. AT&T argued that utilities are required to comply with numerous regulations, but do not have to annually certify compliance (citing to 3 AAC 52.370(a)⁹³ and 3 AAC 53.770).⁹⁴ The Commission must decide whether this regulatory requirement necessitates certification. AT&T stated that the Commission could request information from the IXC if it suspects it is out of compliance.

The Rural Coalition argued that consumers or other carriers could raise concerns through the existing complaint procedures if they find an IXC's rates are no longer in parity. In addition, the Commission retains the right to review compliance with Commission regulations, and as 3 AAC 52.372(a) requires that an IXC be in parity, there is no need to require IXCs to file certifications. The Rural Coalition stated that Staff's concern that carriers could lower interstate rates below intrastate rates without the Commission knowing is misplaced, as this supposes that that an IXC would willingly disregard the rate parity requirement of 3 AAC 52.372(a). This is hypothetical and there is no precedent to support this concern. The Rural Coalition believed the regulations themselves will keep rates in parity, and that a certification is not a good use of time or resources.

GCI stated that the goal of rate parity has been accomplished and it is time to allow the competitive market forces determine rates going forward. To the extent that cost factors prompt any changes in rates that are not consistent with parity, those changes would be allowed under the factors that the proposed regulation recognizes could affect parity. Thus, the proposed regulations do not ensure parity. A continuation of the requirement will have not real effect on rates and will impose an unnecessary filing requirement on IXCs.

Staff's Response to Order R-15-004(3) Comments:

Instead of requiring an IXC to annually file whether it is or is not in compliance with 3 AAC 52.372(a), **Option 2** made the reporting conditional. An IXC would be required to file a report on April 30, only if its intrastate long distance rates were not at or lower than the interstate long distance rates. Staff took heed to AT&T's argument that there were numerous examples in Commission regulations requiring utility compliance; yet do not require a report certifying such compliance. Staff does feel that one of the major goals in Docket R-08-003 was to get intrastate long distance rates in parity with interstate rates for consumers. With the five-year transition period to get rates into parity concluded, Staff feels that it is important for the Commission to know if there are IXCs not in parity (or that have fallen out of parity) and what the circumstances are preventing them from achieving rate parity.

⁹² Order R-08-003(8)/R-09-003(4)(August 18, 2010) at 18.

⁹³ Statewide geographically averaged rates.

⁹⁴ Maximum charge for public interest pay telephones.

Order R-15-004(4) Comments:
No comments received.

Staff recommendation: Continues to recommend **Option 2**.

3 AAC 52.372(c): This section clarifies that each end user bill that contains a rate that is out of parity will count as a separate violation under the civil penalties statute, which carries a maximum penalty of \$100 per violation.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(c) If an interexchange carrier does not make reasonable progress toward the goal of reducing intrastate long distance rate schedules and plans to interstate levels, each customer bill that includes a rate that does not represent reasonable progress will be considered a separate violation of (a) of this section and subject to civil penalties under AS 42.05.571.	(c) Repeal.

In Order R-15-004(3), Staff recommended the repeal of 3 AAC 52.372(c) (**Option 2**). Now that the IXC's are required to be at rate parity, the mention of a penalty for them not being able to make reasonable progress towards parity is no longer necessary.

Order R-15-004(3) Comments:
No comments or reply comments received.

Order R-15-004(4) Comments:
AT&T strongly supports the recommendation to repeal this sub-section.⁹⁵

Staff recommendation: Option 2. Staff continues its recommendation of the repeal of 3 AAC 52.372(c).

3 AAC 52.372(d): This section references a citation in sub-section 3 AAC 52.372(b). The report was an industry consensus on the methodologies for measuring whether the reductions to the CCL access charges have flowed through to end users.

⁹⁵ AT&T Comments at 2.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(d) For purposes of this section, the joint report submitted to the commission on December 13, 2001 in Docket R-01-1, <i>In the Matter of the Consideration of Reform of Intrastate Interexchange Access Charge Rules</i> , is adopted by reference.	(d) Repeal.

In Order R-15-004(3), Staff recommended the repeal of 3 AAC 52.372(d) **(Option 2)**, as it is no longer necessary with the proposed revision of sub-section (b).

Order R-15-004(3) Comments:

No comments or reply comments received.

Order R-15-004(4) Comments:

AT&T strongly supports the recommendation to repeal this sub-section.⁹⁶

Staff recommendation: Option 2. Staff continues its recommendation of the repeal of 3 AAC 52.372(d).

⁹⁶ AT&T Comments at 2.

3 AAC 52.380(f). Reporting, verification, and auditing requirements (IXC traffic data report).

3 AAC 52.380(f): This section requires IXC and alternate operator service providers to annually submit calendar year traffic data, disaggregated by month.

This requirement was last modified in 2002.⁹⁷ The two reasons given for requiring the report at the time were: 1) to determine if a registered IXC had exceeded its traffic threshold;⁹⁸ and 2) to determine IXC market share.⁹⁹ However, R-03-003 has since removed any reference to IXC market share in the Commission’s regulations, so traffic data is no longer needed for that purpose. For determining if registered IXCs have reached the billable minute threshold, an alternative could be to have the registered carriers provide traffic data when they file to renew their registration each January under 3 AAC 52.358(g).

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(f) An interexchange carrier or alternate operator service provider shall annually submit calendar year traffic data, disaggregated by month, within 90 days after the end of each calendar year. The traffic data must be submitted, in accordance with 3 AAC 48.095, in a format prescribed by the commission.	(f) Repeal.

In Order R-15-004(3), **(Option 2)** Staff recommended the repeal of 3 AAC 52.380(f).

Order R-15-004(3) Comments:

AT&T supports the elimination of this report.

Order R-15-004(4) Comments:

AT&T strongly supports the recommendation to repeal this report.¹⁰⁰

Staff recommendation: Option 2. Staff continues to recommend the repeal of 3 AAC 52.380(f).

⁹⁷ Order R-00-004(4)(December 10, 2002) at 7-8.

⁹⁸ 3 AAC 52.360(a)(2), states that an IXC or alternate operator service provider cannot be a registered IXC, but must apply for a certificate of public convenience and necessity, if it has more than one million intrastate billable minutes per month for three consecutive months.

⁹⁹ For example, market share data was needed for 3 AAC 52.365, which used to have requirements regarding discontinuance, suspension, and abandonment of service for IXCs with greater than 25 percent market share.

¹⁰⁰ AT&T Comments at 2.

3 AAC 52.381(c). Interexchange carrier of last resort (IXC COLR plant investment and expenses report).¹⁰¹

3 AAC 52.381(c): This sub-section requires IXC COLRs to annually file financial year-end balances for plant in service, net plant, and expenses associated with providing interexchange service in the state. This section was implemented in response to the Consolidated Appropriations Act, 2005¹⁰² that directed the Commission that it was no longer able to require IXCs to file reports based on the Uniform Systems of Accounts (USOA).¹⁰³ The Appropriations Act did not prohibit the Commission from requiring any reports from IXCs however, just those based on USOA.¹⁰⁴ Also, the Appropriations Act did not affect the COLR obligations of any carrier. ¹⁰⁵ 3 AAC 52.381(c) only applies to IXC COLRs, because there is a greater level of difficulty associated with IXC COLR responsibilities given the dependency on satellite, remoteness and the number of locations served, broad geographic area served, lack of road system, cost of service without the benefit of universal service funding.¹⁰⁶ The regulation was adopted to assist the Commission in monitoring whether the IXC COLR is providing adequate maintenance expense and plant upgrades to fulfill COLR responsibilities, and whether there is a change in the pattern of plant deployment over time.¹⁰⁷

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(c) On or before March 31 of each year, an interexchange 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	(c) Repeal.

¹⁰¹ Order R-13-001(6) (February 27, 2015). This provision was recently relocated from 3 AAC 52.390(n).

¹⁰² Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809 (2004) (“Appropriations Act”). *See also* FCC-05-214, In the Matter of Investigation of Alascom, Inc. Interstate Transport and Switching Services Tariff FCC No. 11 (CC Docket No. 95-182) *Order* (January 5, 2006) at 3.

¹⁰³ *See* Docket R-03-003, *5th Telecommunications Policy Issues Paper* (June 1, 2005) at 21-23 (“5th Policy Paper”).

¹⁰⁴ *See* Docket R-03-003, *ACS Comments in Response to Workshop Issues and Questions* (March 7, 2005) at 19.

¹⁰⁵ Appropriations Act at § 112, 118 Stat. at 3345, and FCC 05-214 at 3.

¹⁰⁶ 5th Policy Paper at 22.

¹⁰⁷ 5th Policy Paper at 22.

(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.	
--	--

At the Technical Conference, AT&T stated that some of the plant balance information that the Commission gets on this report might be duplicative of what the Commission gets on the annual operations report (AOR). Staff notes that information asked for on the proposed revision of the AOR for IXCs (3 AAC 52.390(m)), is not as granular as the 3 AAC 52.381(c) report. AT&T thought that the maps (3 AAC 52.390(o)) and other things AT&T files may be more useful than this report. In response to an early Staff proposal (not shown in matrix) which required the filing of information in only the IXC’s COLR area, GCI argued that this reporting requirement would be extremely difficult to comply with if the IXC COLR responsibilities get split. In Order R-15-004(3), **(Option 2)** Staff recommended the Commission repeal of 3 AAC 52.381(c). Staff was persuaded by GCI’s and AT&T’s arguments that this regulation would be difficult to comply with and hard to enforce when IXC COLR obligations are split, and that information gathered from IXC COLRs through other reports may be sufficient. Staff believes of the three reports (3 AAC 52.390(m) and 3 AAC 52.390(o)), that 3 AAC 52.381(c) is the least useful.

Order R-15-004(3) Comments:
AT&T supports the elimination of this report for reasons previously stated.

Order R-15-004(4) Comments:
AT&T strongly supports the recommendation to repeal this report.¹⁰⁸

Staff recommendation: Option 2. Staff continues to recommend the repeal of 3 AAC 52.381(c).

¹⁰⁸ AT&T Comments at 2.
R-15-004, Decisional Matrix for May 10, 2017 Public Meeting
Version – Final (May 5, 2017) - sjk
Page 40 of 58

3 AAC 52.390(o). Miscellaneous provisions (IXC facilities report).

3 AAC 52.390(o): This subsection requires IXCs that owns or controls interexchange facilities to annually file a map or listing identifying the location of its facilities and the type of facilities sited at each location. If there are no changes to the map or listing, the IXC must file a verification that no changes have occurred. An IXC that does not own or control interexchange facilities in the state, must annually file verifying this fact.

Option 1 Current Regulations	Option 2 Order R-15-004(4)
(o) On or before March 31 of each year, an interexchange carrier shall file with the commission, in accordance with 3 AAC 48.095, 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.	(o) On or before <u>April 30</u> [MARCH 31] of each year, an interexchange carrier shall file with the commission, in accordance with 3 AAC 48.095, 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,] <u>The map or listing shall include</u> (1) <u>satellite and earth station radio system facilities and links</u> [A MAP OR LISTING IS NOT REQUIRED; AND]; (2) <u>microwave and other non-satellite-related radio facilities and links</u> [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.]; <u>(3) metallic-based cable and wire facilities; and</u> <u>(4) non-metallic-based cable and wire facilities.</u>

For the Technical Conference, Staff recommended to retain the reporting requirement, but eliminated the provision that IXCs that do not own or control IXC facilities have to make a filing (not shown in matrix). Staff believed it unnecessary to require a carrier to file a report annually stating that it does not have any facilities.

At the Technical Conference, AT&T reiterated that it did not object to retaining the report as long as the Commission did not make it more burdensome than what it files today, and that the option to file a map remains. AT&T also asked the Commission to clarify the regulation and define the facilities it wanted to see.

To provide the clarification for the types of facilities that Commission wished to see on the map, Staff in the proposal sent out for comment in Order R-15-004(3) (not shown in matrix) added a list of facilities the Commission would like information on. Staff derived the list from what Staff thought AT&T was currently filing in its maps under 3 AAC 52.390(o). In addition, the filing date was changed from March 31 to April 30, to coincide with the revised filing dates of other annual reporting requirements being proposed.

Order R-15-004(3) Comments:

AT&T did not have a concern with filing maps with the amount of detail that it currently files, but neither did it object if the report was eliminated entirely. AT&T said that it is not clear what was meant by “circuit equipment” or why it is necessary to include this on a map filed with the Commission. A map with too much detail becomes confusing and will need confidential treatment, which limits its usefulness. AT&T’s map currently on file provides sufficient enough detail to fulfill Staff’s stated purpose for retaining the reporting requirement. GCI said it would accept the proposed regulation if it is limited in detail as explained by AT&T, and that this should provide the Commission all the information it needs regarding IXC facilities. GCI also agreed with AT&T that the requirement to include “circuit equipment” on the map was confusing and should be eliminated.

The Rural Coalition was concerned that this amount of detailed information could be competitively sensitive. Noting Staff’s comment that such mapping information would be required when a petition to reassign IXC COLR obligations was opened, the Rural Coalition believed that the Commission should eliminate this annual report and instead rely on the information presented when such an IXC COLR reassignment docket was opened. The Commission should not be creating additional redundant reports. However, if the reporting requirement were to be retained, the Rural Coalition urged the Commission to clarify that IXCs that do not provide interexchange services over interexchange facilities they own or control are not required to make a filing. The current regulations require a carrier without any interexchange facilities to make an annual filing verifying that it still does not own or control any interexchange facilities, whereas, the proposed regulation removes this language (which the Rural Coalition supports). However, the Rural Coalition argued that the proposed regulation is unclear whether a carrier without facilities must make a filing, and urged the Commission to add language clarifying that the reporting obligation only applies to an IXC that owns or controls interexchange facilities and does not apply to IXC resellers. RAPA argued that the RC’s requests for changes should be rejected. Regarding the RC’s concerns that the amount of detailed information required could be competitively sensitive, RAPA stated that the proposed regulation merely provides clarity and certainty by stating what the list must include. RAPA also disagreed with the Rural Coalition claim that clarification was needed on whether the regulation applies only to carriers that own or control IXC facilities. RAPA stated that clarification was not needed as the “owns or controls” language was retained in the proposed regulation.

ACS stated that the requirement does not reflect the discussion held at the Technical Conference. It understood that a map showing where the carrier provided interexchange service would satisfy the Commission’s needs. As a combined facilities-based provider and reseller, ACS would incur considerable expense relative to its small market share to construct such a map. ACS does not have a map that could be used to provide general information about where ACS-LD provides service. ACS recommended the regulation be changed to eliminate the granularity of requirements of proposed 3 AAC 52.390 (o). AT&T agreed that the Commission should eliminate some of the granularity of the reports as ACS suggests. RAPA took issue with ACS’s concern that it does not have a map, and that creating one would be expensive. RAPA argued that the proposed regulation required either a “map or listing,” and that ACS did not appear to have an issue with providing a listing.

Staff’s Response to Order R-15-004(3) Comments:

To address AT&T’s and GCI’s concern of having circuit equipment include on the maps or in the listings, Staff in **Option 2** eliminated the requirement to provide circuit equipment from the proposal. Staff notes that it got the “circuit equipment” language from the 3 AAC 52.381(c).¹⁰⁹ Staff also noted that AT&T has continually been filing maps under 3 AAC 52.390(o) without circuit equipment included, and Staff does not wish to make the reporting requirement more burdensome.

¹⁰⁹ A report where the IXC COLR was to report plant investments and expenses.

Staff did not agree with the Rural Coalition that the Commission is creating an “additional redundant report.” The 3 AAC 52.390(o) reporting requirement has been in place since 2005.¹¹⁰ Staff agreed with RAPA that no clarification is needed as the revised regulation retains the language that this reporting requirement pertains only to facilities the IXCs owns or controls, so Staff did not add the recommend language suggested by the Rural Coalition. As to ACS’s claim that it having to create a map could become expensive, Staff agreed with RAPA that the proposed regulation allows for the IXC to file a “listing” identifying the facilities if it cannot file a map.

Order R-15-004(4) Comments:

No comments received.

Staff recommendation: Continues to recommend **Option 2**. Staff believes that the Commission should receive annually a facilities report from facilities-based IXCs. With the IXCs lightly regulated, and with Staff now proposing to repeal 3 AAC 52.330 (which required LECs and facilities-based IXCs to annually file a capital improvement plan), 3 AAC 52.390(o) may be the only vehicle the Commission has to gather information on IXC facilities in the state.

¹¹⁰ Order R-03-003(14), *Order Adopting Regulations* (June 22, 2005).

3 AAC 53.190(e). Procedures for changing an authorized telecommunications carrier (“Slamming” report).

3 AAC 53.190(e): This section requires that a LEC¹¹¹ or IXC that files a Slamming¹¹² report with the FCC under 47 C.F.R. 64.1180 to also file a copy of the report with the Commission.

Staff notes that in 2003, the FCC eliminated the report referenced in 47 C.F.R. 64.1180, because the information contained in the report is of little use for investigating allegations of slamming.¹¹³ If the Commission chooses to remove this reporting requirement from its regulations, it will not affect the carriers responsibilities in regards to slamming, as they are required to follow the federal slamming regulations at 47 C.F.R. 64.1100 – 64.1195.¹¹⁴

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(e) A local exchange, intrastate interexchange, or interstate telecommunications carrier that provides service in this state and files a report with the Federal Communications Commission under 47 C.F.R. 64.1180 shall file a copy of that report with the commission.	(e) Repeal.

In Order R-15-004(3) **Option 2**, Staff recommended the repeal of 3 AAC 53.190(e). The FCC report cited in the regulation no longer exists. Previous comments argued that the FCC deems it appropriate to rely on a customer-initiated complaint process to resolve slamming issues.

Order R-15-004(3) Comments:

AT&T supports the elimination of this report for reasons previously stated.

Order R-15-004(4) Comments:

AT&T strongly supports the recommendation to repeal this report.¹¹⁵

Staff recommendation: Option 2. Staff continues to recommend the repeal of 3 AAC 53.190(e).

¹¹¹ Per 3 AAC 52.200(b), the provisions of 3 AAC 53.190 apply to all telephone utilities whether or not they are otherwise exempt from regulation under AS 42.05.711.

¹¹² The unauthorized change of a subscriber’s long distance carrier.

¹¹³ *FCC Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, CC Docket No. 94-129, FCC 03-42, Federal Register, Vol. 68, No.75 (April 18, 2003) at 19155.

¹¹⁴ 3 AAC 53.190(a).

¹¹⁵ AT&T Comments at 2.

3 AAC 53.460. Reporting requirements (Eligible telecommunications carriers (ETCs)).

3 AAC 53.460(a): This section requires any common carrier designated as an Eligible Telecommunications Carriers (ETCs) to annually file information such as updates to network deployment plans, service quality issues, and consumer metrics. The Commission uses the information to certify to the FCC that the ETC is using its high cost fund support for only the provision, maintenance, and upgrading of facilities and services for which the support is intended. The state ETC reports are due March 31 each year. A lot of the information the ETCs are required to file under 3 AAC 53.460 is also contained in their reports filed with the FCC. The FCC requires that ETCs file a copy of the federal ETC reports to the state commissions.¹¹⁶ The FCC filing deadline is July 1.

Option 1 Current Regulations	Option 2 (RAPA) Order R-15-004(4)
<p>(a) A common carrier designated as an eligible telecommunications carrier shall provide on or before March 31 of each year, and in accordance with 3 AAC 48.095,</p> <p>(1) an update of the common carrier's network deployment plan that details services provided within the eligible telecommunications carrier service area and includes</p> <p>(A) maps detailing progress towards meeting network deployment plan targets;</p> <p>(B) the amount of universal service support received;</p> <p>(C) an explanation of how universal service support was used in the previous year to improve service quality, coverage, or capacity;</p> <p>(D) an explanation regarding network improvement targets that have not been fulfilled and identification of any unserved areas; and</p> <p>(E) an explanation of any revisions to the previously filed network deployment plan;</p> <p>(2) a certification that the common carrier provided service throughout its eligible telecommunications carrier service area in the past calendar year to all customers requesting service except as described in (3) of this subsection;</p>	<p>(a) A common carrier designated as an eligible telecommunications carrier <u>in this state that files a report with the Federal Communications Commission under 47 C.F.R. 54.313, as revised as of July 1, 2017,</u> shall provide <u>a copy of that report to the commission</u> on or before <u>July 1</u> [MARCH 31] of each year, [AND] in accordance with 3 AAC 48.095[,]. <u>The filing should be supplemented with</u></p> <p>(1) <u>a report identifying any designated areas that remain unserved;</u> [AN UPDATE OF THE COMMON CARRIER'S NETWORK DEPLOYMENT PLAN THAT DETAILS SERVICES PROVIDED WITHIN THE ELIGIBLE TELECOMMUNICATIONS CARRIER SERVICE AREA AND INCLUDES</p> <p>(A) MAPS DETAILING PROGRESS TOWARDS MEETING DEPLOYMENT PLAN TARGETS;</p> <p>(B) THE AMOUNT OF UNIVERSAL SERVICE SUPPORT RECEIVED;</p> <p>(C) AN EXPLANATION OF HOW UNIVERSAL SERVICE SUPPORT WAS USED IN THE PREVIOUS YEAR TO IMPROVE SERVICE QUALITY, COVERAGE, OR CAPACITY;</p> <p>(D) AN EXPLANATION REGARDING NETWORK IMPROVEMENT TARGETS THAT HAVE NOT BEEN FULFILLED AND INDENTIFICATION OF ANY UNSERVED AREAS; AND</p> <p>(E) AN EXPLANATION OF ANY REVISIONS TO THE PREVIOUSLY FILED NETWORK DEPLOYMENT PLAN;]</p> <p>(2) <u>a report of the common carrier's non-compliance with the requirements set out 3 AAC 53.410(a)(12), with a detailed explanation of the steps being taken to achieve compliance; and</u>[A CERTIFICATION THAT THE COMMON CARRIER PROVIDED SERVICE THROUGHOUT ITS ELIGIBLE TELECOMMUNICATIONS CARRIER SERVICE</p>

¹¹⁶ 47 C.F.R. § 54.313(i).

<p>(3) an explanation of each instance in which a customer was denied supported services and a detailed explanation of the steps taken to provide service;</p> <p>(4) the number of complaints to the commission or the Federal Communications Commission by study area and service area, comparing the number of complaints to the total number of handsets or lines served by the carrier by study area and service area;</p> <p>(5) a certification that the common carrier is in compliance with applicable consumer protection and service quality standards set out in 3 AAC 53.450;</p> <p>(6) a certification that the common carrier complies with requirements set out in 3 AAC 53.410(a) (12) regarding functionality in emergency situations;</p> <p>(7) copies of any outage reports mandated by the commission or the Federal Communications Commission;</p> <p>(8) a certification that the common carrier complies with 3 AAC 53.410(a) (14) by offering one or more calling plans comparable to those of the incumbent local exchange carrier, including a calling plan with at least 500 free minutes of local usage per month; and</p> <p>(9) affidavits of publication from the prior calendar year demonstrating that the common carrier advertised the availability of supported services throughout the eligible telecommunications carrier service area.</p>	<p>AREA IN THE PAST CALENDAR YEAR TO ALL CUSTOMERS REQUESTING SERVICE EXCEPT AS DESCRIBED IN (3) OF THIS SUBSECTION;]</p> <p>(3) <u>a certification that the common carrier advertised the availability of supported services throughout the eligible telecommunications carrier service area in the prior calendar year.</u> [AN EXPLANATION OF EACH INSTANCE IN WHICH A CUSTOMER WAS DENIED SUPPORTED SERVICES AND A DETAILED EXPLANATION OF THE STEPS TAKEN TO PROVIDE SERVICE;</p> <p>(4) THE NUMBER OF COMPLAINTS TO THE COMMISSION OR THE FEDERAL COMMUNICATIONS COMMISSION BY STUDY AREA AND SERVICE AREA, COMPARING THE NUMBER OF COMPLAINTS TO THE TOTAL NUMBER OF HANDSETS OR LINES SERVED BY THE CARRIER BY STUDY AREA AND SERVICE AREA;</p> <p>(5) A CERTIFICATION THAT THE COMMON CARRIER IS IN COMPLIANCE WITH APPLICABLE CONSUMER PROTECTION AND SERVICE QUALITY STANDARDS SET OUT IN 3 AAC 53.450;</p> <p>(6) A CERTIFICATION THAT THE COMMON CARRIER COMPLIES WITH REQUIREMENTS SET OUT IN 3 AAC 53.410(A)(12) REGARDING FUNCTIONALITY IN EMERGENCY SITUATIONS;</p> <p>(7) COPIES OF ANY OUTAGE REPORTS MANDATED BY THE COMMISSION OR THE FEDERAL COMMUNICATIONS COMMISSION;</p> <p>(8) A CERTIFICATION THAT THE COMMON CARRIER COMPLIES WITH 3 AAC 53.410(A)(14) BY OFFERING ONE OR MORE CALLING PLANS COMPARABLE TO THOSE OF THE INCUMBENT LOCAL EXCHANGE CARRIER, INCLUDING A CALLING PLAN WITH AT LEAST 500 FREE MINUTES OF LOCAL USAGE PER MONTH; AND</p> <p>(9) AFFIDAVITS OF PUBLICATION FROM THE PRIOR CALENDAR YEAR DEMONSTRATING THAT THE COMMON CARRIER ADVERTISED THE AVAILABILITY OF SUPPORTED SERVICES THROUGHOUT THE ELIGIBLE TELECOMMUNICATIONS CARRIER SERVICE AREA.]</p>
--	--

The proposals sent out for comment in Orders R-15-004(3) and R-15-004(4) adopted the FCC Form 481 requirements to satisfy the state ETC filing requirements to determine whether the ETCs are using the federal high cost support for its intended purposes. Staff believed that it was overkill for the ETCs to file two reports that essentially ask for the same information. Staff felt that removing this reporting requirement benefited both the Commission and the ETCs. Staff believed that the same or better information was obtained in the FCC 481. Staff also proposed that the

due date of the reports be changed to July 1 to coincide with the federal reporting deadline. Staff's proposal added three add-on requirements for the ETCs in addition to providing the FCC Form 481 report: 1) retaining as a supplement the state requirement that the ETC identify any unserved areas (old 3 AAC 53.460(a)(1)(D)); 2) a requirement that the ETC report any non-compliance with the state back-up power requirements (old 3 AAC 53.460(a)(6)); and 3) revising the proof of advertising requirement from "affidavits of publication" to an annual certification (old 3 AAC 53.460(a)(9)), all discussed below.

New subsection 3 AAC 53.460(a)(1). Identification of any unserved areas (as an add-on). **(Old 3 AAC 53.460(a)(1)(D)).** Staff believed that if every wireless ETC would report as GCI does (i.e., providing the Commission with a list of locations in the study area it is obligated to provide service, indicating whether or not it has facilities there, whether they are roaming, whether it has been deferred, or whether it is a future build, and also a map that shows each location), it would be a huge help in tracking deployments. As Staff has repeatedly asked for this information from wireless ETCs who have reported unserved areas in the past several years, getting such information when the reports come in on July 1, will avoid Staff from having to ask for this information later. In addition, having this information provides the Commission with a great consumer tool to determine which carriers serve which community, and it provides a service footprint reference.

New subsection 3 AAC 53.460(a)(2). Requires a report from an ETC if it is not able to comply with maintaining 8 hours of back-up power (as an add-on). **(Old 3 AAC 53.460(a)(6)).** In the application process for a carrier to become designated as an ETC, state regulations require the carrier to certify that it has and will continue to maintain 8 hours of back-up power (3 AAC 53.410(a)(12)(A)). In addition, the Commission's quality of service standards for which all LECs adhere to, require the carrier to make provisions for 8 hours of reserve power (3 AAC 52.270(b)). Current state ETC regulations require that the ETC to annually certify that it maintained 8 hours of back-up power. This compares to the federal reporting requirement that the ETC certify that it has a "reasonable amount" of back-up power.

Federal regulations require that any central office that directly serves a PSAP must provide back-up power for at least 24 hours at full office load (47 C.F.R. 12.4(c)(2)(A)). However, there does not appear to be any federal back-up power regulations for the wireless carriers. In 2007, The FCC tried to require in the "Katrina Panel Order"¹¹⁷ that cell towers and mobile infrastructure have eight hours of backup power, but this requirement never materialized. In addition, when the state ETC reporting regulations were adopted, several wireless CETCs who had been designated as ETCs prior the reporting requirements were in place, needed additional time to comply with the back-up power requirements of 3 AAC 53.460(a)(6) and 3 AAC 53.410(a)(12)(A).¹¹⁸ As far as Staff knows all the ETCs currently designated in Alaska are now in compliance with 3 AAC 53.410(a)(12)(A).

Staff believes with the FCC's reasonable standard being undefined, if the Commission relied solely on the federal certification in this instance, it would add confusion. However, asking an ETC to certify that it is still maintains 8 hours of back-up on an annual basis as currently required is redundant. So instead of requiring ETCs to continue to file a certification affirming that it is still

¹¹⁷ See *In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket No. 06-119, WC Docket No. 06-63, *Order on Reconsideration*, 22 FCC Rcd 18013, 18035, App. B (2007). These backup power rules, however, were the subject of judicial challenge by several wireless providers and never took effect. They were ultimately vacated by the U.S. Court of Appeals for the District of Columbia Circuit after the Commission notified the court of its intent to adopt revised backup power rules in further rulemaking proceedings. See *CTIA - The Wireless Association v. FCC*, No. 07-1475 (D.C. Cir. filed July 31, 2009).

¹¹⁸ See Orders U-09-110(4)(May 28, 2010), U-09-117(2)(May 7, 2010), and U-10-087(April 18, 2011).

maintaining eight hours of back-up power, Staff in its proposal recommended that ETCs *not* in compliance with 3 AAC 53.410(a)(12)(A) of maintaining eight hours of back-up power requirement must file a report with a detailed explanation of why it is not. This way ETCs in compliance would not be required to make an additional certification with the Commission.

New subsection 3 AAC 53.460(a)(3). Certification that the ETC advertised the availability of supported services throughout the ETC’s service area (as an add-on). (**Old 3 AAC 53.460(a)(9)**). At the Technical Conference, the RAPA was concerned that following the FCC requirements eliminates the proof that the ETCs have advertised the supported services throughout their designated service areas. AT&T Mobility strongly supported the elimination of filing the affidavits as it is onerous, and takes up more than half the report. GCI agreed with AT&T Mobility but said it would not mind filing a certification that it complied with the regulation. In its application to become designated as an ETC, the carrier has certified that within 90 days after designation and annually thereafter advertise in a medium of general distribution the availability of supported, Lifeline, and Link Up services throughout the ETC service area (3 AAC 53.410(a)(11)). Staff felt asking an ETC to certify that again on an annual basis may be redundant. Although the FCC also requires an ETC to advertise the availability of supported services,¹¹⁹ it does not require an ETC to certify this annually. As advertising is a recurring annual requirement per (3 AAC 53.410(a)(11)), and since there is no corresponding federal reporting requirement that an ETC certify that it is advertising, Staff in its proposal recommended that ETCs annually certify that they have advertised the supported services. This would replace the requirement for the ETCs to file “affidavits of publication,” which Staff agrees with AT&T Wireless and GCI is onerous.

Order R-15-004(3) Comments:

The **Rural Coalition** supported using FCC Form 481 as the annual state ETC report, but believed the proposed requirements to be filed in addition to the Form 481 are unnecessary.

Proposed 3 AAC 53.460(a)(1) - Unserved Areas

The **Rural Coalition** did not oppose that the ETCs report any designated areas that remain unserved, but noted that only a limited amount of very small Bush communities remain unserved, therefore this requirement would have very little impact on most ETCs.

Proposed 3 AAC 53.460(a)(2) - Adequate Back-Up Power

The **Rural Coalition** believed that the requirement for an ETC to file a report if it is not in compliance with the emergency back-up power regulations of 3 AAC 53.410(a)(12) is unnecessary, but if this requirement is to be retained it needs clarification. Line 600 of the FCC Form 481 addresses functionality in emergency situations, and Line 610 requires carriers to provide detailed descriptions of how they remain functional in emergency situations. The proposed regulation forces carriers to duplicate a reporting requirement already contained in Form 481, and removing redundant reporting was the basis for relying solely on the FCC Form 481 for state ETC reporting.

RAPA argued that the Rural Coalition’s recommendation to eliminate proposed 3 AAC 53.460(a)(2) should be rejected. **RAPA** disputed the Rural Coalition’s argument that a carrier should not be required to file a supplemental report showing continued compliance that it is able to remain functional in emergency situations under 3 AAC

¹¹⁹ 47 C.F.R. § 54.201(d)(2).

53.410(a)(12), because the same information is required in the FCC Form 481 report. **RAPA** stated that checking a box on the Form 481 report indicating that a carrier has a *reasonable* amount of back-up power to ensure functionality in emergency situations,¹²⁰ is not the same as a carrier showing that it has *8 hours* of back-up power.¹²¹ In addition, the federal report does not include the additional state requirement of a carrier having established procedures in place during an emergency to minimize the service interruption.¹²² Given Alaska’s climate and unique operating conditions, it does not seem reasonable to rely on the FCC’s one-size-fits-all Form 481 requirements.

Proposed 3 AAC 53.460(a)(3) – Advertising Availability of Services

The **Rural Coalition** also felt that the requirement that an ETC must certify that it has advertised the availability of supported service throughout the service area is unnecessary, and urged the Commission to remove it. In order to be designated as an ETC, a carrier must certify that it will annually advertise the availability of supported services and Lifeline/Link Up throughout its service area (3 AAC 53.410(a)(11)). This is duplicative and does not provide the Commission any additional information.

RAPA offered an edit. A copy of the report should be provided “**to**” the commission, not “**with**” the commission.

Staff’s Response to Order R-15-004(3) Comments:

Nothing in the comments to Order R-15-004(3) persuaded Staff to alter the proposed revisions to 3 ACC 53.460, with the exception of RAPA’s recommended change of providing a copy of the report “to” the commission instead of “with” the commission. Staff also tweaked the citation to federal regulations to conform to the Drafting Manual for Administrative Regulations,¹²³ and added an “and” between (a)(2) and (a)(3). This was put out for comment in Order R-15-004(4) and is presented in **(Option 2)**.

Order R-15-004(4) Comments:

AT&T Mobility strongly supports the recommendation to repeal sub-sections 3 AAC 53.460(a)(4), (5), (6), (7), (8), and (9) of this report.¹²⁴

Staff recommendation: Continues to recommend **Option 2**.

¹²⁰ 47 C.F.R. § 54.313(a)(6).

¹²¹ 3 AAC § 53.460(a)(12)(A).

¹²² 3 AAC § 53.460(a)(12)(C).

¹²³ State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 88.

¹²⁴ AT&T Comments at 2.

3 AAC 53.460(b): Any ETC designated before July 12, 2009 would have made their initial annual report filing in 2010.

Option 1 Current Regulations	Option 2 (RAPA) Order R-15-004(4)
(b) A common carrier designated as an eligible telecommunications carrier before July 12, 2009 must submit an initial annual report that includes a certification that the carrier will comply with 3 AAC 53.410(a) (7), (16), and (17).	(b) A common carrier designated as an eligible telecommunications carrier <u>is required to file with the commission, in accordance with 3 AAC 48.095, an ETC High-Cost Support Self-Certification Affidavit affirming that the high-cost universal service funds received in the previous year and will be received in the future year will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. 254(e) (Communications Act of 1934, as amended) on or before July 1 each year.</u> [BEFORE JULY 12, 2009 MUST SUBMIT AN INITIAL ANNUAL REPORT THAT INCLUDES A CERTIFICATION THAT THE CARRIER WILL COMPLY WITH 3 AAC 53.410(A)(7), (16), AND (17).]

The Order R-15-004(3) proposal added a provision requiring ETCs file a high-cost support self-certification affidavit each year. The affidavit certifies that the ETC in the preceding year and the future year will spend all the federal universal service support for the provision, maintenance and upgrade of the supported services. Every year, the Commission has required this affidavit of all ETCs through Commission Order,¹²⁵ so this would codify a requirement already in place. Staff uses these affidavits to certify with the FCC that the ETCs designated in Alaska are using the high-cost funds for their intended purposes.¹²⁶ Staff believes it is a good idea to codify this requirement as the Commission could avoid having to issue orders requiring this affidavit from all 35 ETCs in the state each year.

Order R-15-004(3) Comments:

RAPA commented that the proposed regulation should be clarified that the affidavit be filed with the RCA. As drafted, with the reference to federal law, it could be confusing where it is to be filed.

Staff's Response to Order R-15-004(3) Comments:

Staff's Order R-15-004(4) proposal (**Order 2**) incorporated RAPA's suggestion to clarify that the affidavit be filed with the Commission. Staff also revised the citation to federal statutes to conform with the State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations*,¹²⁷ and added the permissive electronic filing language (3 AAC 48.095).

Order R-15-004(4) Comments:

No comments received.

¹²⁵ See Order U-15-017(2) et al. *Order Requiring Filing and Amending Docket Captions* (July 15, 2015).

¹²⁶ See for example, Docket U-14-023, *RE: Alaska Qualified Certification of Support for High Cost Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314, WC Docket 10-90, and Statement Concerning Wireless Deployment in Rural Alaska* (September 22, 2014) letter from R. Pickett to FCC and USAC.

¹²⁷ State of Alaska, Department of Law, *Drafting Manual for Administrative Regulations* (August 2015) at 87.

Staff recommendation: Continues to recommend **Option 2**.

3 AAC 53.460(c): An ETC that is a LEC COLR is exempted from filing: (A) maps detailing progress towards meeting network deployment plan targets; and (D) an explanation regarding network improvement targets that have not been fulfilled and identification of any unserved areas.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(c) An eligible telecommunications carrier that is a carrier of last resort for local exchange service is not required to file the information specified in (a)(1)(A) and (D) of this section.	(c) Repeal.

Since the state reporting requirements are being proposed to be eliminated, the exemption should also be eliminated. Therefore, the Order R-15-004(3) proposal (**Option 2**) repealed 3 AAC 53.460(c).

Order R-15-004(3) Comments:
No comments received.

Order R-15-004(4) Comments:
AT&T Mobility strongly supports the recommendation to repeal this sub-section.¹²⁸

Staff recommendation: Option 2. Staff continues its recommendation of the repeal of 3 AAC 53.460(c).

¹²⁸ AT&T Comments at 2.
R-15-004, Decisional Matrix for May 10, 2017 Public Meeting
Version – Final (May 5, 2017) - sjk
Page 51 of 58

3 AAC 53.625(b). Directory assistance providers (Directory assistance contracts).

3 AAC 53.625(b): This section requires that if there is only one Directory Assistance (DA) provider that serves all customers in the state, the DA provider is required to file its contracts and contract amendments for the provision of 411 and (907) 555-1212 dialed directory assistance. This regulation was adopted in Order R-97-007(9) (October 22, 2004). It was thought that when the new DA regulations were put in place, that on Day One there would be only one DA provider, and that the Commission might want to have a greater level of oversight. The agreements would be filed for informational purposes; otherwise, it would be hard to police nondiscriminatory access if the contracts were not publicly available. A LEC would want to know that they were being charged more than other LECs.¹²⁹ GCI confirmed this at the Technical Conference, revealing that when this regulation was adopted in 2004 there was a lot of concern about LECs that used satellite for transport, and that they would be stuck with the high cost of transport. The Commission adopted this regulation to keep an eye on this situation.¹³⁰

Option 1 Current Regulations	Option 2 (RAPA) Order R-15-004(4)
(b) A directory assistance provider may not charge unjust and unreasonable rates for 411 dialed or 907-555-1212 dialed intrastate directory assistance, grant an unreasonable preference or advantage, or subject a customer to an unreasonable prejudice or disadvantage. If only one directory assistance provider serves all customers in the state, that provider shall file, in accordance with 3 AAC 48.095, its contracts and contract amendments for the provision of 411 dialed and 907-555-1212 dialed intrastate directory assistance with the commission. Unless the commission initiates an investigation, a filing under this subsection becomes effective 30 days after filing.	(b) A directory assistance provider may not charge unjust or [AND] unreasonable rates for 411 dialed or 907-555-1212 dialed intrastate directory assistance, grant an unreasonable preference or advantage, or subject a customer to an unreasonable prejudice or disadvantage. [IF ONLY ONE DIRECTORY ASSISTANCE PROVIDER SERVES ALL CUSTOMERS IN THE STATE, THAT PROVIDER SHALL FILE, IN ACCORDANCE WITH 3 AAC 48.095, ITS CONTRACTS AND CONTRACT AMENDMENTS FOR THE PROVISION OF 411 DIALED AND 907-555-1212 DIALED INTRASTATE DIRECTORY ASSISTANCE WITH THE COMMISSION. UNLESSTHE COMMISSION INITIATES AN INVESTIGATION, A FILING UNDER THIS SUBSECTION BECOMES EFFECTIVE 30 DAYS AFTER FILING.]

Staff’s proposal retains the provision that the DA provider may charge unjust and unreasonable rates, but eliminates the need for the DA provider to file contracts. In the latest version introduced in Order R-15-004(4), **(Option 2)**, Staff changed the language to “A directory assistance provider may not charge unjust **or** unreasonable rates” per RAPA’s suggestion, who pointed out that rates are required to be both “just” and “reasonable.”

Order R-15-004(3) Comments:
Other than RAPA’s suggestion, no other comments were received.

¹²⁹ See R-97-007, June 30, 2003 Transcript at 209-211.

¹³⁰ TC Transcript at 260.

Order R-15-004(4) Comments:

No comments received.

Staff recommendation: Continues to recommend **Option 2**. Staff agrees with RAPA that the language should be

3 AAC 53.710. Reporting requirements (State Telecommunications Modernization Plan (STMP)).

3 AAC 52.380(e). Reporting, verification, and auditing requirements (Non-compliance STMP reporting).

The Commission's initial goal in developing a State Telecommunications Modernization Plan (STMP)¹³¹ was to meet the needs of all Alaskans statewide in an efficient, economical, and reasonable manner.¹³² However, the underlying purpose the Commission developed the STMP in 1995, was because the Rural Utilities Service (RUS) would no longer make telecommunications loans to carriers in states that did not have such a plan in place.¹³³ Instead of developing the STMP only for RUS borrowers, which the Commission could have done without prejudice to RUS's approval,¹³⁴ the Commission chose to request all telecommunications providers comply with a STMP that incorporates the RUS standards.¹³⁵

A provision in the RUS regulations requires that amendments to a STMP needs RUS approval.¹³⁶ However, Staff is not certain that if the Commission eliminated the STMP reporting requirements that it would need RUS approval to do so. After all, Staff is not proposing to amend substantive provisions of the STMP. Update: on October 30, 2015, Staff received written confirmation from RUS that we would **not** need its approval to eliminate the reporting requirements as proposed.¹³⁷

3 AAC 53.710(a): This sub-section requires that as a part of the telecommunications provider's annual Capital Program and Planning Statement filing under 3 AAC 52.330 (which applies to LECs and IXC that own or control IXC facilities),¹³⁸ that the telecom identify the capital projects that are planned to meet the requirements of the STMP.

¹³¹ 3 AAC 53.700 – 3 AAC 53.720. The purpose of the STMP was to define requirements for the modernization of the public-switched telephone network; improve the quality and availability of service; assure the rates of services required by the public convenience and necessity are just and reasonable; and rates; and lead to the uniform deployment of an intelligent telecommunications network.

¹³² Order R-95-004(2)(August 25, 1995) at 4.

¹³³ Order R-95-004(5)(November 2, 1995).

¹³⁴ 7 C.F.R. § 1751.101(d).

¹³⁵ Order R-95-004(2)(August 25, 1995) at 4.

¹³⁶ 7 C.F.R. § 1751.105.

¹³⁷ See R-15-004, E-mail from G. Stuckey, dated October 30, 2015.

¹³⁸ Per 3 AAC 52.385(a).

3 AAC 53.710(b): This sub-section requires that the Capital Program and Planning Statement under 3 AAC 52.330, must also include an estimate of the impact of the capital projects planned to meet STMP if the projects are anticipated to increase tariffed rates by 3 percent or more, and the non-traffic sensitive local loop revenue requirement is anticipated to raise by 3 percent or more.¹³⁹

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(a) A telecommunications provider shall include and identify, in its capital program and planning statement required under 3 AAC 52.330, the capital projects planned to meet the requirements set out in 3 AAC 53.705. (b) The capital program and planning statement file under 3 AAC 52.330 must also include an estimate of the impact of the capital projects planned to meet the requirements of 3 AAC 53.705 if the projects are anticipated to increase a telecommunications provider's tariffed rates for service by three percent or more and if the estimated unseparated nontraffic-sensitive local loop revenue requirement is anticipated to increase by three percent or more.	(a) Repeal. (b) Repeal.

The Order R-15-004(3) proposal recommended repealing 3 AAC 53.710 in its entirety (**Option 2**). Staff agreed with the commenters that the report must include an estimate of the impact if the tariffed rates were expected to increase by 3% or more is “out-of-date,” as intrastate retail rates are required to be at parity with interstate rates. Moreover, any plant build-out planned in 2016 and beyond would far exceed the technological specifications that were put in place in 1995.

Order R-15-004(3) Comments:

AT&T supports recommendation to eliminate this reporting requirement. AT&T noted that all of the requirements set forth in the STMP should be reviewed, and likely eliminated, as they are very outdated. GCI agreed that in many instances these regulations are outdated and would benefit from a review.

Order R-15-004(4) Comments:

AT&T Strongly supports the recommendation to repeal this report.¹⁴⁰

Staff recommendation: Option 2. Continues to recommend the repeal of 3 AAC 53.710 in its entirety. If the Commission were ever to update or revise the STMP, the Commission could re-establish reporting requirements. Staff notes that the regulation cited in 3 AAC 53.710 (3 AAC 52.330) is now also being recommended to be repealed.

¹³⁹ 3 AAC 53.710(b).

¹⁴⁰ AT&T Comments at 2.

3 AAC 52.380(e): This section requires an IXC that owns or controls interexchange facilities in the state to annually identify occurrences of the carrier’s noncompliance with the STMP. Carriers are also to identify their progress toward compliance with the deadline requirements of the STMP.¹⁴¹

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(e) An interexchange carrier that owns or controls interexchange facilities in the state shall file annually with the commission, in accordance with 3 AAC 48.095, 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.	(e) Repeal.

The Order R-15-004(3) proposal recommended repealing 3 AAC 52.380(e) (**Option 2**). The deadline requirement for making progress toward compliance with the STMP is long over (by February 13, 2003), so any non-compliance would have been addressed by now. If the Commission were ever to update or revise the STMP, the Commission could re-establish the non-compliance filing requirements at that time.

Order R-15-004(3) Comments:

AT&T strongly supports recommendation to eliminate this reporting requirement.

Order R-15-004(4) Comments:

AT&T strongly supports the recommendation to repeal this report.¹⁴²

Staff recommendation: Option 2. Continues to recommend the repeal of 3 AAC 52.380(e).

¹⁴¹ 3 AAC 53.705(f). The STMP required by February 13, 2003 that a telephone company to capable of providing E911 service; one-party service; end—to-end data transfer rates of at least 28.8 kbps; and switched digital service of at least 56 kbps.

¹⁴² AT&T Comments at 2.

3 AAC 53.840(c) Operation and maintenance requirements (Private pay telephone (PPT) reports).

3 AAC 53.840(c): This section requires a Private Pay Telephone (PPT) service provider to maintain a list of installed telephone instruments in service that includes the telephone number, location, and the instrument’s operator-service provider. This section also requires that the list of the installed telephone instruments be included in the PPT’s annual report.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(c) A private pay telephone service provider shall maintain a list of currently installed instruments that identifies the telephone number, the location, and the operator-service provider for each private pay telephone in service. Upon request, the list shall be made available to the commission and the public. A private pay telephone service provider's annual report to the commission shall include a list of installed telephone instruments at the end of the calendar year.	(c) <u>Upon request, a</u> [A] private pay telephone service provider shall <u>make available</u> [MAINTAIN] a list of currently installed instruments that identifies the telephone number, the location, and the operator-service provider for each private pay telephone in service[. UPON REQUEST, THE LIST SHALL BE MADE AVAILABLE] to the commission and the public. [A PRIVATE PAY TELEPHONE SERVICE PROVIDER’S ANNUAL REPORT TO THE COMMISSION SHALL INCLUDE A LIST OF INSTALLED TELEPHONE INSTRUMENTS AT THE END OF THE CALENDAR YEAR.]

In the Order R-15-004 (3) proposal, **(Option 2)** Staff recommended to eliminate the provision that the PPT provider must submit its list of installed payphones annually, but to retain the provision that the Commission may request the list of payphones as needed. Staff believed that as long as the PPT can produce the list when asked to provide it, there is no need to require the PPT to maintain the list, nor to file it with the Commission annually.

Order R-15-004(3) Comments:
No comments received.

Order R-15-004(4) Comments:
No comments received.

Staff recommendation: Option 2. No change in recommendation.

3 AAC 53.890(e) Complaint procedures; enforcement (Private pay telephone (PPT) reports).

3 AAC 53.890(e): This section requires that the PPT provider’s annual report include a list of complaints received during the year and how the complaints were resolved.

Option 1 Current Regulations	Option 2 Order R-15-004(3)
(e) The private pay telephone service provider's annual report to the commission shall include a list of complaints received during the last year and a description of how the complaints were resolved.	(e) Repeal.

Staff did not feel the Commission needs to annually receive a log of complaints including those that the PPT provider resolved internally and proposed to repeal 3 AAC 53.890(e). Generally, the complaints that the Consumer Protection Section cares about the most are the ones that the PPT provider did not resolve satisfactorily. If non-resolved complaints were filed with the Commission, the Commission would already have these logged. Staff would like to point out that the Commission recently certificated a local inmate calling service provider under the PPT regulations, and Staff would like to keep the option to request complaint information on an as-needed basis. As subsection 3 AAC 53.890(c) already includes a provision that the PPT shall make its records available to the Commission upon request, there is no need to also put such a provision in sub-section (e). In the Order R-15-004(3) proposal (**Option 2**) Staff recommended to repeal 3 AAC 53.890(e).

Order R-15-004(3) Comments:
No comments received.

Order R-15-004(4) Comments:
No comments received.

Staff recommendation: Option 2. Continues to recommend the repeal of 3 AAC 53.890(e).