

MEMORANDUM


Regulatory Commission of Alaska

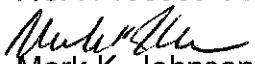
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TO: Representative Ralph Samuels
Chair
Legislative Budget and Audit Committee

DATE: June 30, 2004

FROM:  Rosalie Nizich
RCA Process Coordinator

THROUGH: 
Mark K. Johnson
Chair

SUBJECT: Quarterly Report for
April 1 - June 30, 2004

Under AS 42.05.175(g), the Commission is required to file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under AS 42.05.175(f).

The Commission reports the following order was issued following consent from the parties of the statutory timelines of AS 42.05.175:

Order U-03-66(4)/U-00-18(34), *Order Affirming Bench Order Adopting Procedural Schedule, Granting Motion Adopting Orders Governing Discovery, Accepting Stipulation on the Issues, Issuing Discovery Orders, Allocating Costs, and Closing Docket U-00-18*, dated April 27, 2004.

The following orders were issued by the Commission for good cause under AS 42.05.175(f):

Order U-03-12(1), *Order Addressing Application, Requiring Filing, and Extending Statutory Timeline*, dated May 18, 2004.

Order R-01-1(11), *Order Extending Statutory Timeline*, dated June 30, 2004.

Attachments

1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

3 Before Commissioners:

Mark K. Johnson, Chair
Kate Giard
Dave Harbour
James S. Strandberg
G. Nanette Thompson

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7 In the Matter of the Application Filed by
PERSONAL PAGE, INC. for a New Certificate
8 of Public Convenience and Necessity to
Provide Prepaid Local Exchange Service in
9 Anchorage and Fairbanks

U-03-12

ORDER NO. 1

10
11 ORDER ADDRESSING APPLICATION, REQUIRING FILING, AND
12 EXTENDING STATUTORY TIMELINE

13 BY THE COMMISSION:

14 Summary

15 Our analysis suggests that Personal Page, Inc. (PPI)'s proposed service,
16 as described in its application does not conform to Alaska law and would not be in the
17 public interest. We give PPI notice of this analysis and allow it an opportunity to be
18 heard. We extend the statutory timeline for issuing a final order in this docket for an
19 additional sixty days.

20 Background

21 On March 26, 2003, PPI filed an application to amend Certificate of Public
22 Convenience and Necessity (Certificate) No. 451¹ to acquire authority to provide

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24 ¹PPI is currently authorized under Certificate No. 451 to provide
25 telecommunications radio common carrier (RCC) paging service in the areas of
26 Anchorage, Wasilla, and Kenai. See Order U-93-19(1), dated January 21, 1994.
Docket U-93-19 is entitled *In the Matter of the Application by PERSONAL PAGE, INC.,
for a Certificate of Public Convenience and Necessity To Provide Telecommunications
(Radio Common Carrier Paging) Public Utility Service.*

1 prepaid local exchange telephone service in Anchorage and Fairbanks. PPI stated that
2 its proposed service will be offered to all interested customers but that it is specifically
3 designed for those who have been denied service by the incumbent local exchange
4 carrier (ILEC). The application was found to be incorrect.²

5 We informed PPI that the information required by 3 AAC 53.210(a)(1)
6 through (a)(18) must be provided from entities proposing to provide local exchange
7 telephone service unless a waiver is granted. We required PPI to provide the required
8 information by June 3, 2003.³ On May 28, 2003, PPI filed the requested information;
9 and on July 23, 2003, it filed a corrected balance sheet and income statement and a
10 revised tariff.

11 The application was publicly noticed on July 30, 2003 with a deadline of
12 September 9, 2003 for comments. No comments were received. We later found that
13 PPI failed to disclose its affiliated interests as required by 3 AAC 53.210(a)(7)⁴ and
14 required PPI to provide information regarding its affiliated interests by November 23,
15 2003.⁵ On November 5, 2003, PPI filed supplemental information in compliance with
16 the Letter Order (LO300767). On November 24, 2003, PPI filed information to clarify
17 the terms and conditions of its proposed service. PPI stated that, among other things, it
18 will provide prepaid local service in which the customer must prepay the first month of
19 service plus an additional one month before initiation of service.

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23 ²PPI initially filed an application to amend Certificate No. 451 but should have
filed an application for a new certificate for its proposed service.

24 ³See Letter Order L0300318, dated April 3, 2003.

25 ⁴In its application, PPI failed to disclose that it is an affiliate of Communications
Equipment and Service, Inc.

26 ⁵See Letter Order L0300767, dated October 24, 2003.

Discussion

We find the application submitted by PPI is unacceptable. We will address those areas in which the application is contrary to our statutes and regulations and will allow PPI an opportunity to respond.

Application for a Certificate

AS 42.05.241 requires that we find an applicant fit, willing, and able to provide the utility services applied for and that the services are required for the public convenience and necessity before we issue a certificate. In addition, we must evaluate an entity's proposed service in light of the legislative policy set out at AS 42.05.145, which states:

A utility that provides local exchange or interexchange telecommunications service in the state affects the public interest. Regulation of these utilities shall . . . seek to maintain and further the efficiency, availability, and affordability of universal basic telecommunications service.

Fit, Willing and Able

PPI has not demonstrated that it has met the fit, willing, and able standard of AS 42.05.241, and its proposal may be contrary to the public interest. We determined that the rates proposed by PPI and set out in the chart below may not be just and reasonable, and PPI may not be in compliance with the following regulations:

- (a) 3 AAC 52.230(b),
- (b) 3 AAC 52.450(c)(1),
- (c) 3 AAC 53.620,
- (d) 3 AAC 53.705(d)(2), and
- (e) 47 C.F.R. 51.209(b)

(a) 3 AAC 52.230(b) – Subscriber Billing

3 AAC 52.230(b) requires that bills to subscribers must be rendered monthly and must contain a clear listing of all adjustments and other nonrecurring charges. In addition, this regulation states that one flat monthly charge may be shown

1 for all local service furnished under the same telephone number and that this charge
2 may be billed one month in advance. PPI stated that it will not provide bills to its
3 customers. PPI's proposal not to bill its subscribers suggests that it may not be willing
4 to provide service in compliance with the requirements of 3 AAC 52.230. PPI has not
5 sought waiver of this requirement nor demonstrated that a waiver would be appropriate.

6 (b) 3 AAC 52.450(c)(1) - Disconnection of Service

7 3 AAC 52.450(c)(1) requires that a utility shall, at least fifteen (15) days
8 before the scheduled date of disconnection, mail or deliver to the customer a written
9 notice of its intent to disconnect service. In addition, a copy of the termination notice
10 must be simultaneously forwarded to any third party designated by the customer on a
11 service application. PPI stated that it will notify its customers by mail ten (10) days
12 before the termination of prepaid service. PPI's proposed notification period is less than
13 that required by the regulations.

14 (c) 3 AAC 53.620 - Provision of directory assistance

15 A local exchange carrier is responsible for providing directory assistance
16 to its subscribers on a continuous basis, either on its own or through the resale of
17 directory service provided by the statewide directory assistance bureau. PPI stated that
18 it will not provide directory assistance to its customers. While the regulation still
19 requires that a local exchange carrier allow its subscribers at least two free directory-
20 assistance calls per line per monthly billing period, the intent of PPI not to provide
21 directory assistance service to its customers indicates its unwillingness to comply with
22 the regulations.

23 (d) 3 AAC 53.705(d)(2) - Modernization requirements

24 3 AAC 53.705(d)(2) requires that a telephone company provide custom-
25 calling features that, at a minimum, include call waiting, call forwarding, abbreviated
26 dialing, and three-way calling. PPI's proposal to provide custom calling not responsive

1 to the standard requirements of this regulation indicates the inability of PPI to provide
2 efficient telecommunications service consistent with our modernization requirements.

3 (e) 47 C.F.R. 51.209(b)

4 47 C.F.R. 51.209(b) provides:

5 A LEC shall implement toll dialing parity through a presubscription process
6 that permits a customer to select a carrier to which all designated calls on a
7 customer's line will be routed automatically. LECs shall allow a customer to
8 presubscribe, at a minimum, to one telecommunications carrier for all
interLATA toll calls and to presubscribe to the same or to another
telecommunications carrier for all intraLATA toll calls.

9 In addition to the regulations stated above, 47 C.F.R. 54.101 states that
10 access to toll service is a universally needed service. While 47 C.F.R. 54.101 does not
11 strictly apply to PPI, it illustrates the importance of customer access to toll services.
12 Section 254 of the Telecommunications Act of 1996⁶ states that "Consumers in all
13 regions of the Nation . . . should have access to telecommunications and information
14 services, *including interexchange services.*"⁷ In addition, the Alaska Legislature found,
15 in part, that "universally available local and long distance telephone service is essential
16 to the people of the state." See AS 42.05.800.

17 Federal law requires that a local carrier shall "implement toll dialing parity"
18 that permits the customer to "select a [toll] carrier to which all designated calls on a
19 customer's line will be routed automatically."⁸ Our regulations at 3 AAC 52.333 similarly
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24 ⁶Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amending
25 the Communications Act of 1934, codified at 47 U.S.C. §§ 151 *et seq.*

26 ⁷47 U.S.C. 254(b), emphasis added.

⁸47 C.F.R. 51.209(b).

1 require a local carrier to provide access to 2-PIC⁹ intrastate interexchange services
2 upon request of an interexchange carrier (IXC) for interconnection, with 1-plus, no-plus,
3 and 0-minus IXC calls routed to the incumbent IXC pending conversion to 2-PIC
4 dialing.¹⁰ While it is unknown whether PPI has or will receive a request from an IXC to
5 interconnect, our regulations illustrate the Commission's concern that customers should
6 have the ability to make 1-plus long distance calls from their local phones.

7 In contrast, PPI proposed that it will block access to toll service. PPI's
8 failure to provide convenient 1-plus access to toll service to its customers, in addition to
9 local service, reflects on PPI's fitness and willingness to serve.

10 PPI's inability or unwillingness to comply with AS 42.05.381,
11 3 AAC 52.230(b), 3 AAC 52.450(c)(1), 3 AAC 53.620, and 3 AAC 53.705(d)(2)(a)
12 reflects on its fitness and willingness to serve in compliance with applicable statutes and
13 regulations. Under AS 42.05.241, we may deny issuance of a certificate to an unfit,
14 unwilling, or unable applicant.

15 Rates to be Just and Reasonable

16 PPI's proposed rates appear excessive and not in compliance with
17 AS 42.05.381. The extreme difference between PPI's proposed rates and the market

18 ⁹3 AAC 52.340(72) provides:

19 "2-PIC" means that a telephone customer may select, for each access line,
20 an intrastate interexchange carrier that is different from the customer's
21 presubscribed interstate interexchange carrier and, after selection, may
22 connect to that intrastate interexchange carrier by dialing 0-plus, no-plus, or
23 1-plus before the telephone number for an intrastate interexchange call or by
24 dialing 0-minus.

25 ¹⁰3 AAC 52.333(a) provides:

26 As set out in (b) - (c) of this section, a local exchange telephone utility
providing service to an exchange shall install and maintain plant, equipment,
and facilities necessary to provide 2-PIC dialing in that exchange upon
receipt of a bona fide request for interconnection."

rates raises significant issues as to whether the proposal complies with the just and reasonable rate requirements of AS 42.05.381. As shown in the chart below, PPI's customers would appear to pay double the monthly rates ACS-AN¹¹ and ACS-F¹² charge their customers for fewer service offerings.

	Personal Page, Inc.	ACS-AN	ACS-F
Residential:	1-month \$35.95	\$12.05 per month	\$12.50 per month
	2-month \$65.95		
	3-month \$95.95		
Business:	1-month \$55.95	\$25.50 per month	\$25.75 per month
	2-month \$105.95		
	3-month \$145.95		
Custom Calling Features:			
Caller ID	\$10.00 per month	\$8.60 per month	\$6.00 per month
Call Forwarding, per line	\$7.50 per month	\$4.45 per month	\$2.00 per month
Call Waiting, per line	\$7.50 per month	\$4.45 per month	\$2.00 per month
Activation Charge	\$20.00	\$12.40	\$15.00
Other Charges:			
Service Order Charge			
Residential	\$25.00	\$21.10	\$20.00
Business	\$35.00	\$29.75	\$25.00
Premise Visit Charge	\$75.00	\$49.60	\$30.00

Efficiency, Availability, and Affordability

We are not convinced that there is any public policy benefit in the prepaid local exchange service proposed by PPI. PPI proposed a service that requires

¹¹ACS of Anchorage, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS (ACS-AN)

¹²ACS of Fairbanks, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS (ACS-F).

1 customers to pay inflated initiation fees, (i.e., Activation Fee of \$20.00), and monthly
2 flat-rate service fees substantially in excess of the current market rates. Further, PPI
3 failed to explain how its proposed higher rates are reasonable. We note that PPI
4 proposes to target customers with the least competitive choice due to their credit
5 histories. As PPI proposes prepaid services, there is little increased business risk to
6 justify the high level of rates sought by PPI.

7 While PPI asserted that its proposed service will provide an alternative for
8 customers, particularly those who have been denied service by the ILECs,¹³ the
9 proposed service typically lacks many of the basic protections afforded by our current
10 regulations. As explained in the preceding sections, PPI proposed to provide service
11 inconsistent with the regulatory requirements for providing telecommunications service.
12 We believe that rather than providing customers with an efficient and affordable option,
13 PPI's proposed service instead requires customers to pay higher rates for a
14 substandard service as compared to the rates and services offered by ILECS.

15 PPI also stated that it will not provide subscriber bills to its customers
16 since the service is prepaid. However, our regulations state that each utility must
17 render monthly bills to customers and that each bill must contain a clear listing of all
18 charges. In addition, applicable information set out at 3 AAC 52.430(b) should be
19 included in subscriber bills. Given the high rates involved, it may be especially
20 important to the public interest that the consumers be knowledgeable of the
21 components of their bills. PPI also stated that it will not provide access to directory
22 assistance services; however, our regulations require that a local exchange carrier
23

24 ¹³In its initial filing, PPI stated that the local phone companies are losing about
25 one percent (1%) to three percent (3%) of their customers to bad debt. PPI asserted
26 that its proposed service will provide these customers the opportunity to acquire
telephone service. See Part II, C, *Benefits to the Public*, of Application filed March 26,
2003.

1 provide directory assistance to its subscribers. PPI failed to provide adequate
2 justification for exemption from the regulations regarding directory assistance services.
3 PPI also has not adequately demonstrated why it is consistent with the public interest
4 and applicable law for it to not provide 1-plus access to toll services.

5 PPI stated that it will provide a notice to a customer ten (10) days before
6 the prepaid service expires and that the customer must request another increment of
7 service at least five (5) business days prior to the end of the prepaid period. Otherwise,
8 service would be terminated at the end of the prepaid subscription period. PPI failed to
9 explain why it requires a shorter period for providing notice than the regulations require.
10 PPI also stated that although it will make an effort to maintain the same telephone
11 number for the customer extending the prepaid service, the customer has no assurance
12 of being able to retain the same telephone number. The record indicates a possibility
13 that the customer may have a different telephone number each time it extends services
14 with PPI. PPI's proposed method of service appears to conflict with the public interest
15 and may be inconvenient for customers.

16 Our analysis indicates that the proposed service does not conform with
17 the laws and regulations applying to utilities furnishing local exchange service in Alaska
18 and suggests that PPI is not fit to obtain certification; PPI is apparently unwilling to
19 serve in compliance with applicable law; and granting certification is not in the public
20 interest. It appears that the proposed service will not provide significant benefit to
21 customers because, rather than providing convenient, efficient, and affordable
22 consumer options, PPI proposes what appears to be a sub-quality service at excessive
23 rates.

24 Based on our discussion above, we lack basis for approving PPI's
25 application at this time. We cannot issue a final order denying a right or privilege
26 without allowing the party reasonable notice and an opportunity to be heard.

1 See AS 42.05.181. Therefore, we grant PPI an additional opportunity to respond to
2 those areas of non-compliance discussed above.

3 AS 42.05.175(a)(1) requires that we issue a final order not later than six
4 months after a complete application is filed for an application for a certificate of public
5 convenience and necessity. We would therefore be required to issue a final order in
6 this docket by May 24, 2004. AS 42.05.175(f) provides that we may extend the timeline
7 if good cause exists. Because we are again extending the time within which PPI can
8 supplement its application, we find good cause to extend the statutory deadline for an
9 additional sixty days.

10 **ORDER**

11 THE COMMISSION FURTHER ORDERS, that

12 1. By 4 p.m., May 28, 2004, Personal Page, Inc. shall file a response
13 showing cause for why we should not deny its application for a new certificate of public
14 convenience and necessity to provide prepaid local exchange service in Anchorage and
15 Fairbanks.

16 2. The timeline for a final order to be issued in this docket is extended
17 until July 19, 2004.

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19 DATED AND EFFECTIVE at Anchorage, Alaska, this 18th day of May, 2004.

20 BY DIRECTION OF THE COMMISSION
21 (Commissioners Kate Giard and Mark K. Johnson,
22 not participating)
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25 (S E A L)
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1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

3 Before Commissioners:

Mark K. Johnson, Chair
Kate Giard
Dave Harbour
James S. Strandberg
G. Nanette Thompson

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7 In the Matter of the Consideration of Reform of
8 Intrastate Interexchange Access Charge Rules

R-01-1

ORDER NO. 11

9
10 ORDER EXTENDING STATUTORY TIMELINE

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12 BY THE COMMISSION:

13 For good cause and as authorized by AS 42.05.175(f), we extend the
14 statutory timeline for this proceeding for ninety days.

15 We issued proposed regulations addressing reform of intrastate
16 interexchange access charges and established a procedural schedule for comments
17 and a public hearing.¹ We required comments to be filed by April 15, 2004 and written
18 reply comments to be filed by May 10, 2004.² A hearing was held on May 3, 2004.

19 At our June 2, 2004, public meeting we extended the statutory timeline in
20 this proceeding for ninety days,³ or until September 28, 2004. The additional time
21 permits opportunity to finalize our proposed reforms and allow for increased public
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24 ¹Order R-01-1(8), dated March 1, 2004.

25 ²Order R-01-1(10), dated April 15, 2004.

26 ³Tr. at 150.

1 participation. To facilitate public input and understanding of the process, we invited the
2 participation of the Office of the Attorney General in this proceeding.⁴

3
4 ORDER

5 THE COMMISSION FURTHER ORDERS:

6 1. The statutory timeline for this proceeding is extended ninety days as
7 provided for under AS 42.05.175(f).

8 2. The extended statutory timeline for completion of this proceeding is
9 September 28, 2004.

10 DATED AND EFFECTIVE at Anchorage, Alaska, this 30th day of June, 2004.

11 BY DIRECTION OF THE COMMISSION

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13 (S E A L)
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25 ⁴See letter dated June 8, 2004, to Greg Renkes, Attorney General.
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