TO: Senator Gene Therriault  
Chair  
Legislative Budget and Audit Committee  

DATE: April 26, 2005  

FROM: Rosalie Nizich  
Commission Section Manager  


THROUGH: Kate Giard  
Chairman  

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 timeline of AS 42.05.175:

Order U-04-22(8)/U-04-23(8), dated January 28, 2005; Anchorage Water & Wastewater Utility’s Notice of Second Waiver of AS 42.05.175(c), filed December 22, 2004; and Attorney General’s Waiver of Statutory Deadline, filed December 21, 2004.

The Commission further reports the following order was issued extending the statutory timeline for good cause under AS 42.05.175(f):

Order U-04-7(6), dated March 11, 2005.

Attachments
STATE OF ALASKA
THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

In the Matter of the Formal Complaint filed by
ALASKA EXCHANGE CARRIERS ASSOCIATION, INC., Against ALASCOM, INC.,
d/b/a AT&T ALASCOM Concerning Orders
U-97-120(4) and (5) and Payment of Access
Charges for Alaska-to-Alaska Calling Card
Traffic

ORDER DENYING PETITION FOR RECONSIDERATION, FINDING
AMENDMENT AND REQUEST FOR ADDITIONAL TIME TO RESPOND
TO AMENDMENT MOOT, TAKING OFFICIAL NOTICE OF FEDERAL
COMMUNICATIONS COMMISSION DECISION, VACATING DECISION
TO DISMISS, AND EXTENDING STATUTORY TIMELINE TO ALLOW
FURTHER CONSIDERATION OF COMPLAINT

BY THE COMMISSION:

Summary
We deny AECA\textsuperscript{1} and GCI's\textsuperscript{2} petition for reconsideration of our Order
dismissing this complaint. We find AECA and GCI's amendment to the petition for
reconsideration and AT&T's Alascom's\textsuperscript{3} request for additional time to respond to the

\textsuperscript{1}Alaska Exchange Carriers Association, Inc.
\textsuperscript{2}General Communication Corp. d/b/a GCI Communications, Inc. and d/b/a GCI.
\textsuperscript{3}Alascom, Inc. d/b/a AT&T Alascom.
amendment moot. We take official notice of the FCC\textsuperscript{4} Order.\textsuperscript{5} On our own motion, we vacate our decision in Order U-04-7(5)\textsuperscript{6} that dismissed AECA's complaint and we continue our investigation. We find good cause to extend the statutory timeline for this Docket.

**Background**

In Order U-04-7(5), we dismissed without prejudice AECA's complaint against AT&T Alascom\textsuperscript{7} for nonpayment of intrastate access charges on its "enhanced" prepaid calling card calls. We determined that the impending FCC ruling on AT&T Alascom's petition for a declaratory ruling on the jurisdictional nature of its "enhanced" prepaid calling cards could impact the proceeding before us.\textsuperscript{8} We concluded that the most efficient method to address this proceeding was to rule after the FCC had issued its opinion; however, the statutory timeline would not allow us to do so.\textsuperscript{9} We dismissed AECA's complaint without prejudice to refiling after the FCC issued its ruling.\textsuperscript{10}

\textsuperscript{4}Federal Communication Commission.


\textsuperscript{6}Order U-04-7(5), Order Dismissing Complaint Without Prejudice, dated January 24, 2005.

\textsuperscript{7}Complaint of the Alaska Exchange Carriers Association, Inc. for Resolution of AT&T Alascom Payment Obligation Issues as Established by the Commission in Docket U-97-120, filed January 22, 2004.

\textsuperscript{8}In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133. The petition essentially requested that the FCC find under current law that certain prepaid calling card calls were not subject to the state jurisdiction due to inclusion of an advertisement during the call set up.

\textsuperscript{9}See n.6 at 2.

\textsuperscript{10}See n.6 at 3.
On February 11, 2005, AECA and GCI filed a petition for reconsideration of Order U-04-7(5).\textsuperscript{11} AT&T Alascom did not oppose the petition. On March 2, 2005, AECA and GCI filed an amendment to their petition for reconsideration regarding notification of the FCC decision.\textsuperscript{12} On March 3, 2005, AT&T Alascom filed a request for additional time to respond to AECA’s and GCI’s amendment.\textsuperscript{13}

Discussion

Our regulations provide that within 15 days after an order is served, a party may file a petition for reconsideration of that order setting out specifically the grounds upon which the petitioner believes the order is unreasonable, erroneous, unlawful, or otherwise defective.\textsuperscript{14} We may grant reconsideration in writing of all or part of the record in a proceeding together with any additional evidence and argument which may be permitted either orally or in writing.\textsuperscript{15}

AECA and GCI (petitioners) requested reconsideration of Order U-04-7(5) and argued that the absence of the FCC ruling concerning AT&T Alascom’s “enchanced” prepaid calling card services was not a valid basis for delaying the determination of the underlying substantive issues that the petitioners believed were ripe for a decision in this Docket. The petitioners argued that we should make a determination based on existing Alaska law governing access charges for the prior

\textsuperscript{11}Petition of AECA and GCI for Reconsideration of Order Dismissing Complaint, filed February 11, 2005.

\textsuperscript{12}AECA’s and GCI’s Amendment to Petition for Reconsideration of Order Dismissing Complaint Re: Notification of FCC Decision, filed March 2, 2005.

\textsuperscript{13}AT&T Alascom’s Request for 10 days to Respond to AECA’s and GCI’s Amended Petition for Reconsideration, filed March 3, 2005.

\textsuperscript{14}See 3 AAC 48.105.

\textsuperscript{15}Id.
periods at issue. The petitioners further argued that our dismissal of the complaint was contrary to legislative mandates on timelines for issuing decisions.\footnote{See n.11 at 9.}

We deny reconsideration of Order U-04-7(5). It was reasonable for us to conclude that the FCC ruling would provide guidance to us in deciding the issues in this Docket. The petitioners have not convinced us otherwise. We correctly considered the record in this Docket to be incomplete without the FCC ruling and we had no reasonable expectation that the ruling would be issued prior to the expiration of the statutory timeline for this Docket.

Given the fact that we have denied the petition for reconsideration, we find AECA and GCI’s amendment to the petition for reconsideration moot. We find AT&T’s Alascom’s request for additional time to respond to the amendment also moot.

We take official notice of the FCC Order, released February 23, 2005, addressing AT&T Alascom’s petition. With the issuance of the FCC opinion, our record in this proceeding is now complete and the issues are ripe for our adjudication. On our own motion, we vacate Order U-04-7(5) dismissing AECA’s complaint. We therefore find good cause to extend the statutory timeline for this Docket to allow further consideration of AECA’s complaint. We extend the statutory timeline for 90 days until April 25, 2005.
ORDER

THE COMMISSION FURTHER ORDERS:

1. The petition for reconsideration filed by Alaska Exchange Carriers Association, Inc. and General Communication Corp. d/b/a General Communications, Inc. and d/b/a GCI on February 11, 2005, is denied.

2. The amendment to the petition for reconsideration filed by Alaska Exchange Carriers Association, Inc. and General Communication Corp. d/b/a General Communications, Inc. and d/b/a GCI on March 2, 2005, is moot.

3. The request for additional time to respond to the amendment filed by Alascom, Inc. d/b/a AT&T Alascom on March 3, 2005, is moot.

4. Order U-04-7(5) is vacated.

5. The statutory timeline in Docket U-04-7 is extended for a period of 90 days until April 25, 2005, to allow further consideration of Alaska Exchange Carriers Association, Inc.'s complaint.

DATED AND EFFECTIVE at Anchorage, Alaska, this 11th day of March, 2005.

BY DIRECTION OF THE COMMISSION

( SEAL )