

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Investigation of Alascom, Inc.
Interstate Transport and Switching Services
Alascom, Inc. Transmittal No. 1278
Revisions to Tariff FCC No. 11
CC Docket No. 95-182

ORDER

Adopted: October 30, 2003

Released: October 30, 2003

By the Chief, Pricing Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. On September 26, 2003, Alascom, Inc. (Alascom) filed Transmittal No. 1278 to revise its Tariff FCC No. 11 rates for switching and transport services provided to other common carriers within the state of Alaska and between Alaska and the continental United States. The proposed rates are scheduled to become effective on October 31, 2003. Under this transmittal, Alascom proposes to reduce its per minute transport and switching rates for service to intra-Alaska bush and non-bush locations (that is, between Alaska local exchange carrier offices and Alascom's switching center) and bush and non-bush transport rates for traffic between Alaska and the continental United States (that is, between Anchorage and Portland, Oregon). In this order we suspend the effectiveness of Transmittal No. 1278 for one day, impose an accounting order, set it for investigation, and consolidate the investigation of Transmittal No. 1278 with the investigation of Alascom's original Tariff FCC No. 11, and all subsequent annual revisions to this original tariff.

1 Since Alascom filed its first Tariff FCC No. 11 in 1995, the Bureau has suspended each annual Tariff FCC No. 11, imposed an accounting order, and instituted an investigation. After instituting an investigation of Alascom's first Tariff FCC No. 11 in 1995, the Bureau consolidated the investigations of subsequent annual transmittals with this initial investigation. See Alascom, Inc., Tariff FCC No. 11, Transmittal No. 790, CC Docket No. 95-182, Order, 11 FCC Rcd 3703 (Com. Car. Bur. 1995) (1996 rates) (Transmittal No. 790 Suspension Order); Transmittal No. 807, CC Docket No. 95-182, Order, 11 FCC Rcd 10833 (Com. Car. Bur. 1996) (also 1996 rates); Transmittal No. 852, Order, 12 FCC Rcd 3646 (Com. Car. Bur. 1997) (1997 rates); Transmittal No. 921, Order, 13 FCC Rcd 187 (Com. Car. Bur. 1997) (1998 rates); Transmittal Nos. 921, 937, 941 and 942, Order, 13 FCC Rcd 4659 (Com. Car. Bur. 1998) (also 1998 rates); Transmittal No. 993, Order, 13 FCC Rcd 25055 (Com. Car. Bur. 1998) (1999 rates); Transmittal No. 1088, Order, 15 FCC Rcd 6 (Com. Car. Bur. 1999) (2000 rates); Transmittal No. 1184, Order, 16

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## II. CONTENTIONS

2. On October 14, 2003, General Communication, Inc. (GCI) filed a petition to suspend and investigate the above transmittal. GCI asks the Commission to suspend Alascom's Transmittal No. 1278, enter an accounting order, order an investigation of Alascom's proposed tariff, and consolidate this investigation with the pending investigation of Alascom's prior Tariff FCC No. 11 transmittals.<sup>2</sup> GCI claims that Alascom's proposed rates are excessive and unjustified because Alascom has failed to identify any changes made to the Cost Allocation Plan (CAP) underlying its proposed rates to address "deficiencies" in the CAP that GCI alleges were identified in Alascom's *Petition for Waiver* of its annual tariff filing requirement.<sup>3</sup> GCI further contends that, while Alascom's latest rates represent reductions from previous rates, Alascom has done nothing to narrow the gap between bush and non-bush switching rates. GCI claims that such a gap is unjustified because Alascom provides switching for both bush and non-bush areas through a single switching center in Anchorage.<sup>4</sup> Finally, GCI claims that the lack of detail in Alascom's cost support makes it difficult to analyze the proposed rates, and urges the Commission to require Alascom "to provide the CAP, all cost models and its cost study in electronic format for full analysis."<sup>5</sup>

3. Alascom replies that GCI's criticisms of its tariff are unwarranted because it has expended considerable effort to comply with the Commission's directive to run the CAP model to the best of its ability.<sup>6</sup> Alascom further claims that its latest proposed rates are based on actual capital expenditure and demand data rather than forecasts, providing them additional indicia of reliability.<sup>7</sup> Finally, Alascom claims that "the FCC's original CAP analysis concluded that switching costs are higher in Bush locations."<sup>8</sup>

## III. DISCUSSION

4. We have reviewed the above transmittal, its supporting materials, *GCI's Petition*, and *Alascom's Opposition*. We find that Transmittal No. 1278 raises the same issues regarding rate level, rate structures, and terms and conditions of service as those identified in our prior

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FCC Rcd 19 (Com. Car. Bur. 2000) (2001 rates); *Transmittal No. 1260*, Order, 17 FCC Rcd 24 (Com. Car. Bur. 2001) (2002 rates).

<sup>2</sup> Alascom Inc., Transmittal No. 1278, *Petition of GCI to Suspend and Investigate at 1* (filed Oct. 14, 2003) (*GCI Petition*).

<sup>3</sup> *GCI Petition* at 3-4. See also *Alascom Petition for Waiver of Commission's Rules Regarding its Annual Tariff FCC No. 11*, WC Docket No. 03-18 (filed Jan. 7, 2003).

<sup>4</sup> *GCI Petition* at 7.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> Alascom Inc., Transmittal No. 1278, *Opposition of Alascom to Petition of GCI to Suspend and Investigate at 3-4* (filed Oct. 23, 2003) (*Alascom Opposition*). While *Alascom's Opposition* refers to a Commission directive, we note that the order denying Alascom's waiver petition was issued by the Wireline Competition Bureau. *Alascom Petition for Waiver of Commission's Rules Regarding its Annual Tariff FCC No. 11*, WC Docket No. 03-18, Order, DA 03-2649 (WCB Aug. 13, 2003).

<sup>7</sup> *Alascom Opposition* at 4.

<sup>8</sup> *Id.*

suspension orders for Alascom's annual Tariff FCC No. 11 filings. We also find that Transmittal No. 1278 raises questions regarding the adequacy of Alascom's cost support and the extent to which the rates, terms, and conditions in the proposed tariff comply with the Communications Act and relevant Commission orders.<sup>9</sup> We conclude, therefore, that significant questions of lawfulness exist concerning Alascom's Transmittal No. 1278. Accordingly we suspend the provisions of Transmittal 1278 for one day, set those provisions for investigation, and consolidate the investigation of Transmittal No. 1278 with the investigation initiated in the *Transmittal 790 Suspension Order*. Alascom's proposed rate changes in Transmittal No. 1278 will also be subject to an accounting order to facilitate any refunds that may later be necessary. Our accounting order will ensure that GCI and any other Tariff FCC No. 11 customers will be able to receive refunds of any amounts improperly charged should the Commission ultimately determine that Alascom's tariff is unlawful.

#### IV. *EX PARTE* REQUIREMENTS

5. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

#### V. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to sections 204(a) and 205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a) and 205, and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the revisions to Alascom Inc.'s Tariff FCC No. 11 contained in Transmittal No. 1278 ARE SUSPENDED for one day and an investigation of Transmittal No. 1278 IS INSTITUTED and incorporated with the investigation instituted in CC Docket No. 95-182.

7. IT IS FURTHER ORDERED that Alascom, Inc. SHALL FILE tariff revisions within five business days of the release of this order to reflect this suspension. Alascom, Inc. should cite the "DA" number on the instant order as the authority for the filing.

8. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Alascom, Inc. SHALL KEEP ACCURATE ACCOUNT of all amounts received by reason of the rates that are the subject of this investigation.

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<sup>9</sup> See n.1, *supra*.

9. IT IS FURTHER ORDERED that the petition to suspend and investigate Alascom, Inc.'s Transmittal No. 1278 filed by General Communication, Inc., IS GRANTED to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss  
Chief, Pricing Policy Division  
Wireline Competition Bureau