



Division of Legislative Audit

Report Digest #08-20067-11



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SUMMARY OF: A Sunset Review on the Department of Commerce, Community, and Economic Development (DCCED), Regulatory Commission of Alaska (RCA), October 16, 2010

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the RCA. The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if it has been operating in an effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the RCA should be reestablished. Currently, under AS 44.66.050(a)(3), the RCA will terminate on June 30, 2011, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

In our opinion, the RCA fulfills a public need and is serving Alaskans by:

- Assessing the capabilities of utility and pipeline companies to safely serve the public;
- Evaluating tariffs and charges made by regulated entities;
- Verifying the pass-through charges to consumers from electric and natural gas utilities;
- Adjudicating disputes between ratepayers and regulated entities;
- Providing consumer protection services; and
- Performing financial reviews of utilities for the State's power cost equalization program.

Under AS 44.66.010(a)(3), the RCA is scheduled to terminate June 30, 2011. We recommend the legislature extend the RCA's termination date until June 30, 2019.

FINDINGS AND RECOMMENDATIONS

The prior sunset audit recommended improvements in three areas: (1) establishing timelines for matters not covered by statute; (2) establishing standards for certain aspects of discovery; and (3) clarifying terms used in statute that relate to established timelines for certain formal proceedings.

In May 2007, HB 209 amended the statutory timelines in AS 42.05.175 to include a new section for other adjudicated matters. The amendment also modified the timeframes from months to days. The concerns related to this part of the prior audit recommendation have substantially been addressed.

The concerns related to discovery standards have not been addressed, but the RCA is currently in the process of evaluating industry and public input on discovery regulations.

The third part of the prior audit recommendation states that the RCA should clarify terms used in statute that relate to established timelines for certain formal proceedings. Specific terms include complete applications, tariff filings, formal complaints and petitions. The RCA adopted new regulations specific to complete and incomplete applications. The RCA management stated that no regulations were adopted for the terms complete tariff filings, formal complaints, and petitions.

The prior recommendation also suggested that an alternative solution could be to clarify terms by developing the

practice of issuing an order to memorialize the date when the initial record is considered complete. The RCA did implement this practice by issuing an initiating order on each matter which calculates and identifies the statutory deadline. Parties disputing the calculation of the statutory deadline may petition the RCA for reconsideration within 15 days of the initiating order. Under this revised procedure, the statutory deadline is known and communicated to all parties early in the proceeding.

In summary, the overall recommendation has been partially resolved.



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