

HOUSE FINANCE COMMITTEE
June 24, 2002
3:13 PM

TAPE 2nd SS HFC 02 - 1, Side A
TAPE 2nd SS HFC 02 - 1, Side B
TAPE 2nd SS HFC 02 - 2, Side A
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TAPE 2nd SS HFC 02 - 3, Side A
TAPE 2nd SS HFC 02 - 3, Side B

CALL TO ORDER

Co-Chair Mulder called the House Finance Committee meeting to order at 3:13 PM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

Representative Carl Moses

ALSO PRESENT

Representative Gretchen Guess; Representative Beth Kerttula; Representative Reggie Joule; Representative John Coghill; Representative Jeannette James; Representative Gary Stevens; Representative Drew Scalzi; Representative Pete Kott; Dana Tindall, Sr. Vice President, GCI; Daniel Dieckgraeff, Vice President, Finance and Rates, ENSTAR, Natural Gas Company; Eric Yould, Executive Director, Alaska Rural Electric Cooperative Association (ARECA); Jim Rowe, Executive Director, Alaska Telephone Association; Marie Darlin, Volunteer Coordinator, AARP, Juneau; Joe Griffith, General Manager, Chugach Electric; Bruce Davison, President, Chugach Board of Directors; Wes Carson, Alaska Communication System; Nanette Thompson, Chair, Regulatory Commission of Alaska

PRESENT VIA TELECONFERENCE

William M. Nugent, President, National Association of Regulatory Utility Commissioners; David W. Wirick, National Regulatory Research Institute; Kristy Catlin, Government

Relations, American Telephone and Telegraph; Dean Thompson; Matthew Fagnani, NANA Development Corporations, Arctic Utilities, Anchorage; Bucky Wright, General Manager, Aurora Energy, Fairbanks.

SUMMARY

HB 3001 "An Act setting timelines for issuance of final orders by the Regulatory Commission of Alaska, amending the authority of the Commission to enter compromise settlement orders, and extending the Commission's termination date to June 30, 2006; and providing for an effective date."

CSHB 3001 was REPORTED out of Committee with a "do pass" recommendation and with a fiscal impact note by the Department of Community and Economic Development.

#hb3001

HOUSE BILL NO. 3001

"An Act setting timelines for issuance of final orders by the Regulatory Commission of Alaska, amending the authority of the Commission to enter compromise settlement orders, and extending the Commission's termination date to June 30, 2006; and providing for an effective date."

Vice-Chair Bunde MOVED to ADOPT work draft, 22-LS1841\C. There being NO OBJECTION, it was so ordered.

In response to a question by Representative Hudson, Co-Chair Mulder noted that the Regulatory Commission of Alaska has already been funded in the operating budget.

WILLIAM M. NUGENT, PRESIDENT, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (NARUC), provided information relating to HB 3001. He noted that the question is whether the Regulatory Commission of Alaska should be continued should it sunset. He noted that there are two questions that should be addressed [in order to derive an answer]. The first question is: "Do you want a regulatory body to operate in Alaska, protecting the rate payers and the shareholders who have invested in an Alaskan utility?" This becomes a question of operation under a traditional rate of return regulation or whether a choice is being made to restructure the industry. He noted that he could not answer the that question. The second question is: "Do you want this Commission?"

Mr. Nugent observed that Alaskan commissioners are well regarded by their colleagues outside of the state. They aggressively push Alaskan issues. He thought that if the previous questions were answered in the affirmative that the

Commission should be reauthorized now. He added that if the decision was to discontinue the life of the Regulatory Commission of Alaska that it would still be prudent to extend its operation at this time. Regulated companies that require authorization from the Commission to operate and change the terms and conditions of their service offerings and rates would be left in a questionable position with the failure to extend. He noted that entities need to know where to get information regarding regulation.

Mr. Nugent pointed out that the attention of the existing Commission would be diverted by the uncertainty if it's continuation after June 30, 2003 was in question. He observed that the Regulatory Commission of Alaska could lose staff [due to their uncertainty] and pointed out that issues concerning continuance would be the same as for any private industry whose future was somewhat cloudy.

Representative John Davies questioned if Mr. Nugent was familiar with the Telecommunications Act. Mr. Nugent affirmed that he had dealings with the Telecommunication Act. He discussed the latitude of states once they have decided that a market should be competitive to set rules about bundling and rates of return. Congress left the policy issues largely with the Federal Communications Commission (FCC) and a substantial burden on state Commissions, who are typically closer to each of the telephone companies operating around the country to analyze and set total element long-run incremental costs (TELRIC) rates and to off comments to the FCC as to how competition was developing in the state. This often involved extensive proceedings, as occurred in Maine, between the telephone companies and the various local exchange carriers as to how competition was to develop. State commissions are charged to oversee competition, which was envisioned and embodied in agreements, and to monitor service quality standards to assure that the public receives the services for which they have agreed to pay. He noted that the entrance of numerous competitors due to the Telecommunication Act, which created a new competitive environment, has complicated issues. There has been a three-fold increase in the volume of cases in Maine during the past 11 years.

In response to a question by Representative Croft, Mr. Nugent observed that Verizon is the dominant provider in the state of Maine. It's service territory covers 85 percent of the state. Verizon is dominant in all of the urban centers and has approximately 90 percent of the subscribers throughout their service area.

Representative Croft questioned if there is a dominant carrier in most areas throughout the nation. Mr. Nugent noted that there is a larger proportion of competition among

smaller carriers in New York State, particularly in New York City.

Representative Croft stated that he is interested in what could be done in establishing public policy on competition and its limits or constraints. He noted that states could do generally what they want in regards to the federal act if they fulfill the two requirements. Mr. Nugent explained that the federal act restricted the dominant carrier until recently from entering interstate long distance service. In order to win the right to enter the competition they were to support a change in the nature of local telephone service so that other local exchange carriers could come in to enter the market. Competition for customers at the local level was to be balanced by the opportunities for big companies to enter into interstate service. Within that context, the idea of protecting service quality remains with the state. If the dominant carrier locally wants to be an interstate carrier they must open their market to local competition. States are asked to offer comments to the FCC as to the manner of operation allowing local competition. Typically, states in preparing their comments to the FCC, negotiate certain assurances with the dominant local carrier to ensure that a competitive environment would exist. He noted that the state of Maine negotiated for a rapid response team to decide real matters of competition between small local exchange companies seeking to enter and grow in the market and Verizon.

Representative Croft asked if the ultimate hook over a local exchange carrier is a report to the federal government that they have not conducted themselves competitively. Mr. Nugent noted that the matter of entry is the issue. The state continues to regulate according to state law. The gatekeeper access to interstate service, which is subject to federal law, is based on the company's willingness to support the development of a competitive environment for local service.

Representative Croft questioned if a state could declare that they have moved past the point of monopoly. Mr. Nugent noted that there is nothing in the federal regulations that requires a state to continue to regulate local telephone companies.

Representative Croft asked if there is any local market where the dominant carrier has less than 85 percent of the market. Mr. Nugent promised to provide the information.

Representative Hudson observed that the commissions are present to assure consumer access and fair cost. He asked how the Maine commission is overseen. Mr. Nugent noted that there is a standing legislative oversight committee in Maine. Their commission meets at least once a week. He felt

that their commission does a good job. He suggested that the same process goes on throughout the country.

Representative Lancaster asked if other regulatory commissions oversee the same industries as Alaska. Mr. Nugent thought that 40 - 45 states have multi-purpose commissions that oversee electricity, gas, and telecommunications industries. Some states divide out gas, such as Texas. Maine has 1.2 - 1.3 million people and receives approximately 1,000 cases a year. Cases include consumer complaints but are typically requests for: authority to serve, changes in task, approval of special contracts, and rate cases. There is a working backlog but they have not missed their statutory deadline. There are 57 employees including 3 commissioners in Maine.

Co-Chair Mulder referred to issues pertaining to timelines. He asked what would be Maine's timeline for a complex case, such as an electrical utility that impacts 70 percent of the residents in the state. Mr. Nugent noted that, by statute, rate cases must be resolved over a 9-month period. However, arrangements have been made to work over a longer period. He gave examples of some rate cases in Maine. The timeline can be as long as a year or as short as five months. Some issues are turned around in a week to 10 days, such as licensing applications, special contract reviews and other routine matters with a special urgency to meet market conditions. The Maine regulatory commission has a budget of \$5.25 million dollars. A million dollars of the budget is available for consultants in areas where ongoing expertise is not needed.

In response to a question by Representative Hudson, Mr. Nugent guessed that 30 of the 1,000 cases are dismissed as frivolous. He noted that even frivolous cases require a fairly careful investigation under Maine law. He noted that approximately 5 cases are completely frivolous.

Representative Hudson asked what would be the greatest negative impact of sun-setting the Regulatory Commission of Alaska. Mr. Nugent observed that responsibilities would have to be reassigned by the legislature. He thought that it would require the development of special court expertise. The legislature might be lead back to the creation of another commission. He expressed concern that consumers in a relatively confusing market place may find themselves without an entity to resolve disputes.

Vice-Chair Bunde questioned how fairness would be achieved when a delay would cost one side or another money. Mr. Nugent noted that the docket would be moved along tightly and a timeline would be developed. He acknowledged that some cases are difficult and some persist for a multi-year period.

Co-Chair Mulder noted that the next testifier would be David W. Wirick, National Regulatory Research Institute. Mr. Wirick did a review of the Alaska Public Utilities Commission in 1998 and a second report on the Regulatory Commission of Alaska, June 13, 2000.

DAVID W. WIRICK, NATIONAL REGULATORY RESEARCH INSTITUTE (NRRI) testified via teleconference. The NRRI is the official research arm of NARUC. The 1998 report on the APUC found that there were a number of areas in need of attention including the: commissioner's staff, the commissioner, the commissioner's relations, the time limits of orders (the estimated backlog was between 500 - 750 orders), the quality and speed of orders, increases in consumer complaint, questions about the adequacy of consumer protection section staffing, project filing and management information systems.

Mr. Wirick discussed the follow-up review conducted in April 2000 on the Regulatory Commission of Alaska. The review was at the request of Commissioner Thompson. The report was based on interviews with commissioners, staff and stakeholders. The report found substantial improvement in each of the areas identified as needing attention in the 1998 report. The report concluded that the Regulatory Commission of Alaska was fairing far better than their predecessor. Vertical communications had been improved. Docket backlog was being worked on. An environment of mutual respect among commissioners was established. Orders were moving more quickly and were improved, but still needed some work. An attempt was being made to end an over emphasis on process and to streamline administrative process. The consumer protection section had also been provided more resources and appeared to be less stressed. Some areas of concern remained, such as the high workload. He expressed concern that it would be difficult for any agency to sustain the workload over time. He also expressed concern regarding the continued evolution of the public advocacy section and the role of advisory staff. Staffing and the role of the public protection section were discussed. There was a heavy reliance on the efforts of the chairman. He summarized that there were tremendous positive changes.

Vice-Chair Bunde asked if there is a rule of thumb template regarding the commission size, number of commissioners, and staff relating to the population size regulated. Mr. Wirick did not have a working ratio.

Vice-Chair Bunde summarized that one of the concerns regarding the Regulatory Commission of Alaska is the lack of staff and compensation. Mr. Wirick noted that compensation was not addressed.

Vice-Chair Bunde questioned the parameters of time limitations. Mr. Wirick thought that 9 to 12 months is the general limit applied to state actions.

Representative John Davies noted that Mr. Wirick had concerns that the Regulatory Commission of Alaska had a high workload. Mr. Wirick pointed out that the report indicated that the workload was related to the backlog of cases and that the commission was attempting to work through the backlog. He could not comment on the current workload.

Co-Chair Mulder noted that the Regulatory Commission of Alaska has been accused of having a difficult time in making decisions in complex cases in a timely manner. Mr. Wirick stated that he did not observe anything that would indicate that the Commission would have difficulty making timely decisions. There was a good working relationship and interest by the commissioners to understand the complex issues before them.

Representative Croft noted that there have been complaints that the Commission files temporary, rather than final, orders. Mr. Wirick did not find that the Commission issued temporary orders. He did not have a list of stakeholders. Representative Croft stated that he would like to know the entities that were interviewed.

Representative Hudson asked how good management could be assured and questioned the staff size. Mr. Wirick noted that state's staffing size range from 25 - 1,000. Staffing size varies regarding to function.

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In response to a question by Representative Hudson, Mr. Wirick noted that the Commission is a fairly independent body. There is legislative oversight of budget function in every commission that he is aware of.

KRISTY CATLIN, GOVERNMENT RELATIONS, AMERICAN TELEPHONE AND TELEGRAPH, testified via teleconference in support of HB 3001. She noted that AT&T Alascom supports the reauthorization of the RCA.

We support this reauthorizing for 4 years, or for the longest period possible, such as the 2 years contained in this committee's draft bill.

With the current state of telecommunications and market forces in this state, not reauthorizing the Commission and allowing it to go into its wind-down year, or even a short reauthorization (for example: a one year reauthorization) may not necessarily serve the best interests of the process. Regulated industries need the

attention of the Commission; Critical decisions must be made within the next year, otherwise the telecommunications infrastructure of this state will be in serious jeopardy. For those decisions to be made, it is best for the Commission to have its attention directed toward regulatory matters rather than toward reauthorization, which would resurface in either case again in January. For these reasons, AT&T Alascom supports a minimum reauthorization of 2 years.

The RCA, if it is allowed to do so, is in the best position to deal with complex regulatory issues because of the expertise it has developed in the areas over which it regulates. This expertise does not come easily or quickly. Amassing this expertise takes a great deal of time and effort on the part of the Commissioners themselves, but also on the part of Commission staff and all affected industry players. If you play a sunset out to its logical conclusion, the prospect of educating another Commission is daunting and introduces a great deal of uncertainty for all involved.

This committee has expended a great deal of effort to create language that all interested parties can accept. AT&T Alascom has reviewed the language. With slight modification to include an interexchange (or long distance) carrier in the make-up of the advisory committee, AT&T Alascom supports the amended language. Without an IXC representative, a huge portion of the RCA's regulated market is left out of the discussion, Without an IXC representative on the committee; Alascom could not support the amendment.

Co-Chair Mulder noted that an amendment was being drafted to address the shortcoming discussed by Ms. Catlin,

MATTHEW FAGNANI, NANA DEVELOPMENT CORPORATIONS, ARCTIC UTILITIES, ANCHORAGE, testified via teleconference in support of HB 3001. Arctic Utilities has some important issues that must be brought before the Regulatory Commission of Alaska for approval. He expressed concern that movement of the Commission to a sunset mode would prevent it from taking on their new case. A delay would have a significant financial cost to their company. Arctic Utilities supports a minimum extension of two years. He urged that the committee considered natural gas, water, electrical, sewage companies and other non-telecommunication companies in their decision.

BUCKY WRIGHT, GENERAL MANAGER, AURORA ENERGY, FAIRBANKS, testified via teleconference. He observed that they are a small local utilities in Fairbanks regulated for heat and electric. He expressed support for the proposed committee substitute and a minimum extension of 2 years. Issues that

come before the Regulatory Commission of Alaska affect their company. He emphasized the importance of timely resolution.

Mr. Wright noted that the proposed committee substitute provides provision for monthly meetings and an advisory committee. The advisory committee terminates once its work is completed. The committee would provide a report and address issues in the legislation. He spoke in support of the advisory committee and its termination and questioned if the committee could extend their scope. He suggested that monthly meetings might be excessive.

DANA TINDALL, SR. VICE PRESIDENT, LEGAL, REGULATORY, AND GOVERNMENTAL AFFAIRS, GCI, Juneau, testified in support of HB 3001. She noted that GCI would support a 4-year extension. She maintained that the Regulatory Commission of Alaska is a good commission and vastly superior to the former Alaska Public Utilities Commission. She acknowledged that the Commission could be improved and maintained that the timelines and advisory committee would be beneficial. She pointed out that there is a learning curve in new commissions. Starting over would not fix any of the problems of those that have spoken against reauthorization. She observed that the Commission has tried to resolve the backlog and that sunseting would cause further delays.

Ms. Tindall observed that the Telecommunications Act directed the FCC to come up with a set of rules and regulations. The FCC rules and regulations say how rates should be set between carriers; how arbitrations should be conducted; and to what extent they should be unbundled. State legislatures or state regulatory commissions can work to increase competition but may not decrease completion. She maintained that the Regulatory Commission of Alaska is necessary for business stability. Any utility in need of public financing for capital funds needs a regulatory commission or there is too much doubt and funding would be jeopardized. There is no reason that any legislative changes that need to be made to the Regulatory Commission of Alaska can't be made at any time. Reauthorization does need to be held up in order to make changes. It is not worth the cost to the industry and the state in instability and the cost to consumers.

Representative Croft asked where flexibility exists for state policy. Ms. Tindall replied that, unless utilities come to agreement themselves during the 135-day mediation window, then rates that are set pursuant to the total element long run incremental cost structure (TELRIC). The rate that a new competitor pays an incumbent telephone company are long run, which means that they are rates that a new entrant with the most cost effective and least cost technology would face to build a new network in the market.

The FCC sets this. The TELRIC cannot be changed and has been upheld by the US Supreme Court.

In response to a question by Co-Chair Williams, Ms. Tindall spoke in support of monthly meetings. She observed that communication where all parties are present or have an opportunity to be present could only improve things.

Co-Chair Williams asked if there had been trouble with some of the competitor's claims or reports.

Ms. Tindall responded that there has been decisions that they would have liked to see go the other way. The time lines would be helpful. She noted that the timelines are very quick for regulatory proceedings and suggested that there may be due process complaints. In general, GCI is supportive of the timelines.

Co-Chair Williams asked if the timelines would affect the speed of the decisions being made. Ms. Tindall replied that the timelines could go either way.

Representative Hudson asked for GCI's professional assessment of the Commission. Ms. Tindall stated that the Commission is good at prioritizing work in the consumer's interest. Prioritizing means that not everything can be done at once. She noted that the Alaska Public Utilities Commission was not functioning well. The Regulatory Commission of Alaska has a good prioritization of proceedings and good focus on consumer issues.

Vice-Chair Bunde asked what should be changed regarding the Regulatory Commission of Alaska. Ms. Tindall responded that more authority should be delegated to the hearing officers in order to spread the workload and empower them to speed up decisions.

Co-Chair Mulder referred to settlement agreements. Ms. Tindall explained that as long there is a right of finding that the settlement is in the public interest it would be a good thing. She stated that she would be concerned if the Commission was forced to take any settlement agreement.

Representative Lancaster inquired if there were problems with the education level of the hearing officers. Ms. Tindall did not think this was an issue and voiced support for the quality of the hearing officers.

Representative Croft asked if water and electricity could be declared competitive and brought outside of the cost shifting requirements.

Ms. Tindall observed that an incumbent telephone company could petition to be declared non-dominant. There will

always be a need for some regulations under the Telecommunications Act. Telephone systems must be able to call one another. There needs to be regulations to call from company to company. She doubted if states could do away with telecommunication regulations, but they could treat individual competitors with less regulatory oversight if they make a competitive finding.

Representative Croft questioned the impact of a non-dominant local exchange determination.

Ms. Tindall observed that ACS, as a dominant local exchange company, could lower rates, but not raise them without going through a full rate case. If they were deregulated as a non-dominant carrier, then they would have the ability to raise rates as well. This is the only difference, along with certain bundling requirements (which aren't enforced anyway) of regulatory treatment between dominant and non-dominant carriers in the local telephone business today. Market power is the standard for determination of dominance. Market power does not just go on market share. It is the ability to raise or lower rates and control price. It also has to do with whether or not an entity has control over a bottleneck facility.

Ms. Tindall explained that in the lower 48 states that Bell marketing companies are not allowed to compete in the long distance market until their local telephone market is opened to competition. This is because they have control over a bottleneck facility and control over the loop that goes to customers' homes. A long distance carrier has to go through the local telephone company to be able to carry its calls. The Bell operating company, which owns the loop, has control over the long distance market because they have control over this essential facility that the long distance carrier has to use. Alaska has the same situation but because the local Alaskan companies are independents they fall through the cracks. Alaskan independent telephone companies have always been able to go into the long distance business. Incumbent local telephone companies still have control over the majority of those loops when competition begins. When a customer in Juneau, where competition is just beginning, decides to switch from ACS (which has 100 percent of the market) to GCI, ACS has to physically unplug the customer from its switch and connect them to GCI's switch. A set market share for control is difficult to set. The dominant carrier in Anchorage doesn't have as large a share. She did not think that GCI would oppose a petition by ACS to be deregulated as a non-dominant carrier.

In response to a question by Representative Croft, Ms. Tindall stated that 9 out of 10 local competition cases have been upheld. She observed that GCI opposed a tariff of the Alaska Exchange Carriers Association. The Commission

rejected the tariff without a hearing and the Superior Court remanded it back for a hearing.

DANIEL DIECKGRAEFF, VICE PRESIDENT, FINANCE AND RATES, ENSTAR, NATURAL GAS COMPANY, testified in support of HB 3001. He noted that ENSTAR provides natural gas for heat to about half of Alaska's population and serves over 109,000 homes. ENSTAR strongly supports a minimal 2-year reauthorization of the Regulatory Commission of Alaska as an essential governmental function. He spoke in support of the timelines and new settlement language and pointed out that frequent sunset reviews are disruptive. Time and resources are taken by sunset reviews, which create staff uncertainty, Commission and financial markets. He maintained that changes could be proposed and made without sunsetting the Commission. He noted that the Regulatory Commission of Alaska has many important issues before it. He stressed that abolishment of the Commission would result in a new education process, wasted time, lost expertise, and cases would pile up.

In response to a question by Representative Hudson, Mr. Dieckgraeff noted that there are annual gas cost adjustments and adjustments for growth, which come before the Commission each year. Rate cases are infrequent. He noted that 1991 was the last time that they had a rate case before the Commission.

Representative Hudson asked if rates for Regulatory Commission of Alaska administrative costs were in line with the service. Mr. Dieckgraeff noted that costs have been changed for the better.

Co-Chair Mulder reiterated that there have been complaints regarding the Commission's ability to make complex decisions. Mr. Dieckgraeff noted that they have had three cases before the Commission. The first was issued in 1999 and resolved in 1999. The second case was resolved in less than 45 days. The third case before the Commission was resolved in a year, which was within the timeline established by the Commission. They have a complicated case currently before the Commission. He pointed out that the Commission is working through a 700 case backlog.

ERIC YOULD, EXECUTIVE DIRECTOR, ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION (ARECA), in support of a 2-year extension. He noted that ARECA members generate approximately 90 percent of the power in the state of Alaska. The Board of Directors advocates a two-year extension of the Regulatory Commission of Alaska, contingent on a number of concerns being addressed. He noted that HB 3001 addressed some of those ARECA's concerns. The proposed committee substitute adopts timelines, provides a two-year sunset and creates a committee that would act over the

course of one year to address many of the issue raises in ARECA's resolution of February 22, 2002.

Mr. Yould presented suggestions for change. He noted that the timelines would only apply to dockets opened after July 1, 2002. He expressed concern that dockets currently in the system would be regulated to secondary status. He suggested that the Regulatory Commission of Alaska be required to review the dockets in the system and adopt a completion time for each, consistent with the timelines.

Co-Chair Mulder questioned how a meaningful and realistic timeline could be established. Mr. Yould suggested the following language: The Regulatory Commission of Alaska shall review all dockets initiated before July 1, 2002 and issue a date within the timelines in section 1 above for completion in accordance with the provisions of section 1. He gave an example of a service jurisdiction case where there is no more than a six-month period of time in which the docket should be complete. An appropriate timeline would be established based on the percentage of completion.

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Co-Chair Mulder questioned if more staff is needed to reduce the backlog. Mr. Yould hesitated to support additional funds to reduce the backlog. He suggested that better management by the Commission would reduce dockets better and added that the Commission needs to know when to end the public process.

Mr. Yould observed that the advisory committee is heavily loaded with representatives from telephone entities. He suggested that an additional member be selected from the electrical utility industry.

Representative Croft suggested that timelines could start from July 1, 2003. Mr. Yould stressed that it would depend on where the case was in the process. Adopting the time lines from July 1, 2003 might slow a large case already in the system.

Representative Hudson expressed concern regarding the backlog. He questioned if it would be better to bring additional resources to expedite the backlog. Mr. Yould stated that it is difficult to say, but pointed out that almost every community has it's own central station generation.

Representative Foster referred to an audit by the Division of Legislative Audit (copy on file.) The report suggests that the Regulatory Commission of Alaska should either require small water and sewage facilities to be certified or establish a meaningful exemption system by regulation. He pointed out that certifying 220 villages would increase the

backlog. Mr. Yould noted that the same level of economic regulation as large utilities would make rural utilities almost inoperable.

JIM ROWE, EXECUTIVE DIRECTOR, ALASKA TELEPHONE ASSOCIATION, testified in support of HB 3001. Rural communities receive \$75 million dollars in federal funds annual for rural companies. The Commission is needed to identify utilities in rural communities to the FCC and to assure the FCC that the money is being used for the purposes for which it was intended. He urged a minimum 4-year extension. He stressed the need for a regulatory commission. He acknowledged that he has disagreed with many of the Commission's decisions due to their interpretation of the Telecommunications Act. He did not attribute any of the Commission's decisions to inappropriate bias nor did he question their integrity or their ability to do their job. He expressed concern regarding section 7. He observed that the makeup of the Commission is broad, but pointed out that if GCI is represented that ACS should also be represented on the advisory committee. He felt that the legislation was better before the addition of section 7. He stressed the need for a regulatory commission and maintained that the public interest is being protected. He spoke in support of a strong chair.

Representative Foster questioned if the Regulatory Commission of Alaska worked to create monopolies in rural areas. Mr. Rowe pointed out that fuel is more expensive in rural areas; only universal service brings telecommunication service to rural areas. There is not a great deal of profit to be made in rural areas. The \$75 million dollars in federal support to Alaska comes from the rest of the United States, as a means to provide national service. There is a huge cost of providing services to rural areas.

Representative Croft referred to the universal services issue. Mr. Rowe clarified that regulatory agencies must certify that federal regulations are being met in order to receive universal funding. He noted that Alaska companies would not exist without the \$75 million dollars in federal support.

Co-Chair Mulder questioned if entities are afraid to speak their mind before the Commission. Mr. Rowe did not think that there was intimidation. He pointed out that two public meetings are scheduled a month, which have been open. He found the workshops helpful. He thought that monthly meetings may be burdensome. He suggested quarterly meetings.

MARIE DARLIN, VOLUNTEER COORDINATOR, AARP, JUNEAU testified in support of the legislation of the Regulatory Commission of Alaska. She noted that their members rely on the RCA just as they rely on the AARP.

We believe the RCA offers our members and all Alaskans the best opportunity to achieve the following basic consumer protections:

The ability to make informed CHOICES about utility services. The assurance that sales practices and advertisements are FAIR, so that they do not confuse, mislead or frighten the public.

And, the Regulatory Commission of Alaska reassurance that consumers receive ACCURATE information, communicated clearly and in plain language so we understand our rights and remedies.

The RCA assures consumers the right to affordable rates and access to such basic necessary service as utilities and communications.

Ms. Darlin pointed out that more than half of their members are over 65 years of age and the issue is very important to them. She emphasized the need for affordable and rural access. She noted that the Regulatory Commission of Alaska protects consumer rights and spoke in support of a minimum 2-year reauthorization.

BRUCE DAVISON, PRESIDENT, CHUGACH BOARD OF DIRECTORS, noted concerns regarding the Regulatory Commission of Alaska.

The legislation creating the RCA included routine sunset provisions, calling for an expiration date of July 1, 2003. If the RCA is not reauthorized this year, it must begin a year long phase-down period. During this period, the 2003 legislature could still consider an appropriate fix for the process as an alternative to outright elimination.

As President of the Board of Alaska's largest electric utility, I believe the RCA needs to accomplish its mission in a timelier, less-costly manner. We need to address the RCA's delays in deciding matters, the manner in which the RCA controls its proceedings, and its apparent reluctance to decide issues. These factors carry a hefty price tag for Chugach consumers at every level.

To date, Chugach Electric has provided over 60,000 pages of information to each of the four parties involved in a legal discovery process in our pending rate determination proceedings. At least another such "discovery" is scheduled. Producing this amount of paper is a costly and monumental task!

In other dealings with the RCA, we frequently find that important issues are not resolved. We end up considering the same issues in multiple proceedings. In our current case, we are again considering a financing issue that has been considered twice before. This type of repetition is costly and unnecessary.

I believe that the existing process is inefficient and our members are not receiving value from the regulatory processes before the RCA. Chugach members pay for the operation of the RCA in their monthly electric bill through the regulatory cost charge - \$360,000/year. In addition, base electric rates are also impacted by these inefficiencies (that is, costs are driven up by the expenses of outside counsel and the heavy costs of finding, organizing and packaging documents in the discovery process to the tune of \$800,000/year. In a typical year, Chugach employees spend 7,700 hours - not including outside consultants and attorneys. CEA loses \$200,000/month in lost revenues because RCA has not ruled on our permanent rate increases.) The Chugach Board of Directors and management has an obligation to its members to assure that costs incurred are for the benefit of its members. The current high costs of regulation and more importantly, the diversion of key staff resources, are benefiting no one.

Chugach is not the only utility that has concerns with the RCA. Others have noted that the RCA has a larger budget and more people than its predecessor, the APUC, but still operates too slowly. The executive director of ARECA, (Alaska Rural Electric Cooperative Association) stated in a recent letter to House Finance Co-Chairman Eldon Mulder: "...the regulatory process is still broken and must be fixed. The present process costs the electric utility industry much time and ... money to run the regulatory gauntlet."

I firmly agree. In fact, we prefer no economic regulation, as the elected boards of co-ops are perfectly capable of balancing the needs of the association with the needs of the member/owners. In fact, in 31 of the 46 states that have co-ops, there is no economic regulation, as it is optional.

I appreciate the willingness and involvement the Senate Judiciary Committee has shown toward addressing the problems that plague the RCA's ratemaking process and welcome a more thorough examination of all the issues involved. Addressing the ineffectiveness of the RCA's current regulatory process will ultimately benefit all consumers. I believe there are solutions to the problems we are encountering. These solutions can be

worked out before the next legislative session convenes.

JOE GRIFFITH, GENERAL MANAGER, CHUGACH ELECTRIC, testified in support of a review of the ruling process. He stated that Chugach does not think that the Regulatory Commission of Alaska looks anything like the Easter Bunny and acknowledged that money [from requested rate increases] would come from the pockets of their consumers. He observed that Chugach Electric is a big electric utility and that there are experiences across the board. There are experiences on both sides of the question. He clarified that they are not complaining about rulings, but are asking for a review of the processes by which the rulings are derived. He noted that money lost [because RCA has not ruled on their permanent rate increases] is taken directly out of the economy of the entire Railbelt area.

Mr. Griffith recalled the most difficult case they faced, which was opened in 1996. The case was under APUC and was the product of a settlement agreement. The agreement worked for about a year before the Regulatory Commission of Alaska was established and picked up the case. He explained that they were then in the process of dealing with three simultaneous rate cases. He emphasized that rate cases are demanding undertakings for a company that is in business, not to do rate cases, but to provide electric service. The first hearing was held in September 2001. He acknowledged that the Regulatory Commission of Alaska inherited the case. A decision was given six months later in March 2002. The rate review still in process.

Mr. Griffith reviewed the 2000 Test Year Rate Case, in which they are currently involved. He stated that he can document \$600,000 dollars in direct expenditures associated with the case. The case was filed in July 2001 and he does not think that there would be a decision prior to the next spring.

Mr. Griffith did not believe the Commission controls their proceedings well. He pointed out that the Chugach Electric Company has created over 60,000 pages of discovery for four participants after two rounds. They submitted approximately 5,000 pages last week in the third round and he anticipated that there would be a fourth round and possibly more. He felt that the Commission has the tendency to make the least permanent decision in many circumstances, so nothing goes away. Issues are not resolved and "any time you show back up in front of the Commission somebody can bring this back up and the problems resurfaces and you have to litigate it again." He noted that a financing issue that they thought had been resolved twice before was now back before them. He explained that the Commission dealt with the financial issue once before in a separate docket: deciding whether or not to investigate a claim. It was closed, finding no basis for a

claim, but they allowed consideration of the issue in the case that has been open for six years. The claim was again rejected but is now back in the year 2000 Test Year Case. He suggested that the Commission has a problem with finality. The Regulatory Commission of Alaska sets the price of the service and the service as been sold at the time of generation, therefore it is difficult to go back and fix the problem. He noted that the utility cannot recoup for the Commission's inability to rule on increases. "We don't get that bite of the apple if we didn't make our authorized rate of return in the past, we don't get a second chance, but we can be order to go back and pay it back to the customers..."

Mr. Griffith clarified that they are not saying, "Throw them out." He acknowledged that the Commission provides a good public forum and that they are needed to adjudicate boundary issues. He maintained that a "good, hard scrub of the process and procedures" is needed. He maintained that one way to fix the problem is to "keep the heat on the process that they are now, I think, are feeling fully, that is the last year in existence." He pointed out that similar occasions occurred in 1994 and 1998. He urged the Committee to make the operations more efficient and effective.

Co-Chair Mulder noted that Mr. Davison had not offered testimony in other hearings on the legislation. Mr. Davison responded that the Board was reluctant to take a public position on the issues, "for what we felt are some very obvious reasons". He pointed out that they "live or die" by the decisions of the Regulatory Commission of Alaska. He explained that the Board decided to act after it had conducted a fairly extensive analysis of the internal costs that they and their ratepayers experienced due to the actions of the Regulatory Commission of Alaska. The decision was not easy and was debated in many executive meetings. Their first public position was in conjunction with the ARECA resolution, which was passed in February. He assured the Chairman that they were not contacted by outside entities, asking them to come forward.

Co-Chair Mulder questioned if Chugach has specific recommendations to make, which the Committee could use to address their concerns.

Mr. Davidson recommended that the oversight committee be established before a decision is made regarding [reauthorization of] the Regulatory Commission of Alaska. After a six-month review, the [advisory] committee could offer a recommendation to the legislature. The committee could identify conditions for reauthorization. He added that the legislation does not provide a hammer over the Regulatory Commission of Alaska. He maintained that timelines and reporting requirements are optional and under the discretion of the Regulatory Commission of Alaska.

Co-Chair Mulder responded that Mr. Davidson underestimated the ability and willingness to of the legislature to respond to concerns as expressed by those that are regulated. He noted that the House Finance Committee has reflected in legislation reasonable concerns brought before it. He stressed that the Committee would act on specific suggestions. He maintained that timelines are as strong as possible and pointed out that a timeframe has been included to evaluate the timelines. He observed that it is fair to bring forth criticism, but pointed out that it is also fair to offer suggestions. He noted that no other entities have had difficulty with the Regulatory Commission of Alaska's ability to make timely decisions. He questioned why Chugach is different.

Mr. Griffith was not sure that Chugach Electric was different. He acknowledged that the company has complex issues and large wholesale customers that have a motivation to delay rate increases. They have not received a rate increase since 1994. He stated that he could provide records demonstrating excessively long delays by the Regulatory Commission of Alaska and maintained that delays are a matter of record. He reiterated that the fact that they have large wholesale issues is the likely reason the Regulatory Commission of Alaska finds it more difficult to deal with their issues. He added that telephone wars, if they are broken down begin to look similar.

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Vice-Chair Bunde pointed out that if reauthorization is delayed that the Regulatory Commission of Alaska would go into a wind down mode. He questioned if it would be counter productive. Mr. Davidson felt that further review would be worth a six-month delay. Vice-Chair Bunde clarified that the Chugach Electric Company has reported its monthly loss [due to a delay in the rate increase] at \$200 thousand dollars.

Co-Chair Mulder pointed out that the advisory committee would be composed of the same entities that had testified in support of reauthorization. Mr. Griffith expressed confidence that the advisory committee would come back with a reasonable answer. He indicated that Chugach Electric is willing to accept the decision of the advisory committee. Mr. Davidson stressed the importance of allowing Chugach Electric to have input to the [advisory] committee.

Co-Chair Williams observed that testimony indicated that there had been workshops and asked if Chugach Electric had participated. Mr. Griffith stated that they had not found the workshops productive.

Co-Chair Williams emphasized that communications help resolve issues. Mr. Griffith stressed that it is with great trepidation that anyone speaks against a commission that controls their regulation. He noted that they cannot talk to the Commission once a rate case is before them.

Co-Chair Williams asked how the heat could be kept on the issue if the Commission is shut down. Mr. Griffith responded that it would add a measure of concern to the body that is being scrutinized by virtue of knowing that they have a finite date by which something has to happen. He referred to the reorganization of 1994 and concluded that there was little disruption. Co-Chair Williams pointed out that if the Regulatory Commission of Alaska is not reauthorized that they would shut down and not be talking to anyone in order to fix problems. Mr. Griffith stressed that it did not happen that way in 1994 when the same thing happened to the APUC.

Representative Hudson pointed out that the Alaska Public Utilities Commission transitioned immediately into the Regulatory Commission of Alaska. If that Commission is sunsetted, there needs to be another place to go. He reminded them that there is no other regulatory agency to take over the current cases. He stated that he was "nervous" about sunsetting the Commission without consideration of all the pending cases.

Mr. Griffith stated that his point was on the 1994 reauthorization of the APUC, in which the same process and same decision point was based. He stressed that it worked out okay. He acknowledged that the Regulatory Commission of Alaska was standing in the wings in 1998. Many of the cases [before the APUC in 1998] are still not adjudicated. He clarified that they are not saying sunset them in the strict sense of the word: "chop off their head as we did with APUC." He stated that they are saying: "let's fix the administrative problem we are having there." He acknowledged that other people might not be having problems, but asserted that it has cost the Railbelt a lot of money and heartache to resolve the issues.

Representative Croft summarized that the best result for Chugach Electric would be for the legislature not to regulate their rate structure and instead rely on the coop structure to regulate the rate. Members would determine whether their operations were efficient and whether rates were too high. Mr. Davison agreed. Representative Croft noted that Chugach Electric proposes that they be excluded from the jurisdiction of the Regulatory Commission of Alaska. Mr. Davison agreed and pointed out that 21 other states have done so.

Co-Chair Mulder note that it would be a significant policy change. He believed it was worthy of exploration and consideration, but noted that it could not be done in a three-day period.

Representative Lancaster commented that they need someplace to go next. He agreed nothing would be accomplished by sunseting the Regulatory Commission of Alaska. Mr. Griffith agreed it would be difficult to get the issues all together in a short time period but emphasized that it would be possible to put together a review group that would be able to address the issue before January 2003 to look at complaints and successes. He did not think that there would be a six-month hiatus. He emphasized that the starting point would be an assumption of reauthorization, but that the administrative process would look at goals and objectives in terms of timelines.

Representative Lancaster observed that they had not made these proposals during hearings of the Senate Judiciary Committee and thought that it should have been brought forward earlier. He referred to the \$300 thousand dollar study. Co-Chair Mulder clarified that the study was approved in FY 02 and the RFP has been issued.

Representative John Davies thought that as a coop, they had the ability to seek exemption from economic regulation by a vote of the membership. Mr. Griffith replied that they had not sought authorization [for exemption from economic regulation]. He did not think that the situation was sufficiently broken to warrant a vote. He acknowledged that it would be a "tough sell" to convince members. It is still an option.

Representative Whitaker summarized that section 7 was not acceptable to the Chugach Electric Company and that all decisions should be held in abeyance. Mr. Davison clarified that section 7 would be in conjunction with the Commission. He did not mean to suggest that all decisions be held in abeyance. The concept of section was acceptable, however, they would like several changes. Section 7 would allow the chair of the Regulatory Committee to appoint the [advisory] committee. He would prefer that the committee be appointed by a combination of the legislative and executive branches, which would be more neutral in his view. He pointed out that electric utilities would only have one voice out of the seven positions. The Commission would still have two of the seven positions. He would prefer two electric utility members and no members of the Commission. He could see no reason to have two Commission members on a committee that is trying to decide what changes should be made to the Commission. He added that the deadline under section (d) is October 31, 2003, which is 18 months. He felt that the

advisory committee could perform a satisfactory job in a shorter period of time.

Representative Whitaker asked if they understood the difficulty of the legislature's ability to determine changes needed to regulate the operations. Mr. Griffith stressed that there is no one better to assess how they are being regulated than those that are regulated. Representative Whitaker stressed that the consumer has to be protected. He reiterated his question regarding section 7 and asked if Chugach had a problem with keeping the Commission in effect while solutions are worked out. He thought that it would be a dynamic process, working toward a more positive result. Mr. Griffith stated that the problem with section 7 is that the chair is appointing the committee to investigate themselves. He acknowledged that otherwise it could work and business could continue as usual.

Representative Foster referred to the cost of discovery and losses from rate cases. He asked if these expenses are being passed on to the consumers. Mr. Griffith replied that the total regulatory bill runs 1.5% of their total revenues. Thirty-one states do not have regulations and are not excluded. Representative Foster questioned what besides supply and demand would protect consumers. Mr. Griffith noted that cooperatives have elected boards, which must answer to their electorate.

Representative Whitaker referenced economic issues not subject to regulations. He questioned if Chugach Electric would recommend that the wholesale sale of power not be subject to regulation. Mr. Griffith affirmed and maintained that their board is capable of setting their rates. He noted that consumers could purchase power from other entities. He discussed entities, which buy power from Chugach Electric. He stated that they would run the typical rate case and hold similar hearings themselves. The Superior Court would be available for adjudication.

In response to a question by Representative Whitaker, Mr. Griffith did not think it was realistically possible to keep members at a lower rate schedule than wholesale customers.

Representative Croft observed that cooperatives currently have the ability to opt in or out of regulation. Mr. Griffith explained that Title 10 requires an affirmative vote to withdraw from regulation under the state entity. The option to return would remain by vote.

Co-Chair Mulder noted that the Legislative Budget and Audit Committee produced a report on the Commission's ability to meet their mission. He pointed out that Chugach Electric had the ability to make comments to the Legislative Budget and

Audit Committee. Mr. Griffith stated that they expressed their concern to the auditor.

WES CARSON, ALASKA COMMUNICATION SYSTEM, testified in opposition to the reauthorization of the Regulatory Commission of Alaska. He maintained that the regulatory status quo is unacceptable. He emphasized that their concerns and concerns expressed by many other utilities throughout Alaska must be addressed by the Legislature in a thorough and comprehensive manner before the RCA is re-authorized.

Mr. Carson noted that his testimony would relate primarily on the four ACS local telephone companies that build and maintain the Public Switched Telephone Network, serving 75 percent of the State's population. These ACS companies are: ACS of Anchorage (formerly ATU); ACS of Fairbanks (formerly FMUS); ACS of Alaska (serving Juneau); and ACS of the Northland (serving the highest cost and most remote of our service areas).

Mr. Carson discussed their concerns relative to substantive telecom policy and law. He discussed the Anchorage Interconnection Agreement. The Interconnection Agreement between General Communications, Inc. ("GCI") and Anchorage Telephone Utility ("ATU") was approved by the Alaska Public Utility Commission ("APUC") in January 1997 [in Order U-96-89 (9)]. It established the terms for local telephone competition in Anchorage, including the rate that would be charged for the ("UNE") loops. The UNE loop is the telephone circuit or line connecting a customer with the Public Switched Telephone Network.

In the 1997 order, the APUC established a temporary UNE loop rate of \$13.85 per month. In the Commission's own words, "all prices in the arbitrated interconnection agreement are temporary in nature and will require a full study based upon a cost methodology to be determined by this Commission at a later date."

Mr. Carson noted that ACS of Anchorage, Inc., as the successor to ATU, sought, but failed to obtain, an agreement with GCI for new cost-based rates. ACS then asked the RCA to set new rates in January 2000, arguing that the then three-year old rate of \$13.85 was so low as to effectively subsidize competition in Anchorage. This non-compensatory rate, gives GCI a cost of goods advantage over ACS.

The RCA, on March 6, 2000, opened a docket to set new rates, and expressly recognized that the existing rates were both temporary and "not based upon an accepted forward-looking cost methodology." Nevertheless, the RCA took no action on the open docket. Finally, a year and a half after requesting

new forward-looking rates, ACS asked for at least a new "temporary" rate.

The RCA held a hearing during the latter part of 2001 in which ACS submitted extensive evidence supporting a UNE loop rate of \$24.00 per month. Mr. Carson observed that ACS requested an "interim and refundable" increase. This means that in the event a finally adjudicated rate was less than the interim rate, ACS would refund to GCI any overpayment – thereby protecting GCI from economic harm. At the hearing, GCI's counsel made an oral representation – unsupported by any cost studies submitted in connection with the hearing – that their models could not justify a rate greater than \$14.92. The RCA agreed with GCI, despite the absence of any supporting evidence, and issued an order granting an interim refundable rate of \$ 14.92.

Mr. Carson stressed that after five and a half years ACS has never had a rate in compliance with federal law. In fact, ACS has been unable to obtain even a schedule for resolving this matter. And, as their submitted cost studies indicate, ACS is still not receiving adequate compensation for UNE loops.

Mr. Carson discussed the termination of ACS rural exemptions. Telephone companies are classified as "rural" under the Telecommunications Act when their costs are very high. With a rural exemption companies do not have to interconnect and lease their loops and other facilities to competitors. State Commissions may terminate a rural exemption, but only, if the state Commission finds that it is technically feasible, is not unduly economically burdensome, and would be consistent with universal service to do so.

Mr. Carson observed that GCI requested in 1997 that the APUC terminate rural exemptions. The APUC placed the "burden of proof" on GCI and found that the economics of interconnection competition would be unduly burdensome on the companies. The APUC therefore ruled that the exemption should be preserved.

Mr. Carson explained that GCI appealed the order and the Alaska Superior Court remanded the case back to the APUC with the instruction to place the burden of proof on ACS. The APUC did so, then terminated the rural exemptions of the ACS companies and ordered interconnection with GCI on June 30, 1999. He noted ACS appealed the APUC's decision to the new Regulatory Commission of Alaska and without a hearing; the RCA sustained the termination of the rural exemption.

In July 2000, the 8th Circuit Court of Appeals, in a decision that was binding on all other circuits, held that the burden of proof must be on the competitor, not the rural

telephone company, and that the economic burden on the rural telephone company associated with competitive entry had to be considered.

Mr. Carson observed that GCI appealed the decision to the U.S. Supreme Court to review on the specific issue of burden of proof. The U.S. Supreme Court denied the GCI request, leaving the 8th Circuit's decision on these matters as the law of the land. Yet the RCA refused to comply with the law, stating: "The 8th Circuit's ruling on the assignment of the burden of proof in a rural exemption proceeding does not persuade us to revisit that issue here." He maintained that this was a clear case of the RCA ignoring a federal decision that did not comport with its own policy to force competition in rural areas. He noted that ACS has appealed the matter to the Alaska Supreme Court, where it is now pending review.

Mr. Carson noted that the Regulatory Commission of Alaska also terminated the exemption for ACS' most rural company, ACS of the Northland, despite GCI's testimony in 1997 and again in 1999 that it was seeking interconnection only in North Pole and not anywhere else in the ACS of the Northland service territory. He emphasized that there has not been any specific evidence introduced on the impacts of competition relative to the economic burden resulting from interconnection or regarding universal service in small communities such as Seldovia, Ninilchik, Delta Junction and Nenana.

Mr. Carson discussed the Interconnection Agreements in Fairbanks and Juneau. As a result of the termination of the rural exemption, ACS was been compelled to permit GCI to interconnect and lease UNE. In sharp contrast to its dilatory handling of the ACS request for legal UNE loop rates in Anchorage, the RCA very promptly set rates for Fairbanks and Juneau in response to a request by GCI. The actual ACS cost for an average loop in Fairbanks is about \$33.50. The RCA, however, set a UNE loop price for Fairbanks of \$19.19 - giving GCI a cost of goods that is just 57% of the ACS cost.

At the time it terminated the rural exemptions, the Regulatory Commission of Alaska stated that "negotiations regarding appropriate UNE pricing can achieve an acceptable level of economic impact" and promised that it would play a continuing supervisory role to ensure that the "economic burdens borne by the incumbent carrier in a market where local competition is newly introduced are not too great." The Company testified in the Fairbanks rural exemption proceeding that economic harm would result from a UNE loop rate as low as \$27.30. The RCA flatly rejected the Company's economic harm argument, declaring: "That UNE price is unrealistically low." He maintained that the RCA then

promptly arbitrated a rate of \$19.19.

Mr. Carson discussed rate case proceedings. He maintained that many utilities have expressed concern about the level of effort and resources required to adjudicate rate cases before the Regulatory Commission of Alaska. He observed that ACS shares this concern. The current ACS rate cases were mandated to commence on July 1, 2001. He anticipated that a rate sometime in 2003, based on data that will then be three years old. This matter has already cost ACS roughly \$1.8 million to adjudicate the case and they expect the full proceeding to cost approximately \$3.0 million.

Mr. Carson pointed out that earlier this month, the Regulatory Commission of Alaska issued a depreciation decision in the rate case proceedings that appears to conflict with the U.S. Supreme Court's decision this May in Verizon v. FCC. The U.S. Supreme Court criticized attempts to minimize depreciation and slow depreciation rates, yet that is precisely what the RCA has ordered. The depreciation rates established by the RCA for ACS are not only much lower than the rates employed by its competitors, but these rates appear to be significantly lower than any other telephone utility in Alaska. In fact, they appear to be lower than any known depreciation rate for any telephone utility, big or small, anywhere in the country.

Mr. Carson maintained that this is exactly the opposite result from what one would expect in the most competitive marketplace in the nation where there is heightened pressure to modernize equipment or lose customers. The effect of this decision will be to leave ACS burdened with capital tied up in stranded, obsolete facilities while the competitors invest in newer technologies. Many utilities have expressed fears that testimony against the four-year re-authorization of the RCA could result in retaliatory rulings by the Commission in the future. He questioned if ACS has been the first victim.

Mr. Carson stressed that the "quid pro quo" for the regulation imposed on the ACS companies should be an opportunity to earn a return on their investment. The RCA can compel ACS to build and serve - but they have no way to assure a return on their investment. He stressed that the Commission claimed "sovereign immunity" when ACS sought to have a matter under the Telecommunications Act reviewed by a federal district court. He asked: "Where is justice when the Commission refuses to be held accountable for their decisions? And why wouldn't state Commissioners absolutely want to have the fullest review of their decisions to make sure that what they are doing is in compliance with the Telecom Act and appropriate policy and public interest?"

Mr. Carson observed that ACS has continued to invest in the network in the hope that the Regulatory Commission of Alaska would, through their current rate case proceeding and the Anchorage UNE proceeding, permit them to earn a reasonable return on their investment. He observed that they had been disappointed thus far.

Mr. Carson explained that ACS was seeking depreciation rates of 9.30 percent, which is comparable to their primary competitor's depreciation rate. He pointed out that GCI argued against their depreciation rate - not the RCA's Public Advocacy Staff. Staff relied entirely on GCI to formulate a position and the RCA reduced ACS's rate from the existing 7.80 percent to 4.78 percent, which was remarkably close to the GCI recommendation of 4.49 percent.

Mr. Carson expressed concern with the frequency in which the RCA seems to side with GCI. He stated that they had reviewed Commission decisions on disputed issues before the RCA from July 1999 to the present. In those matters where GCI advocated a position, the RCA ruled in GCI's favor 81.3 percent of the time.

Mr. Carson stated that legislators must carefully review the current regulatory regime before reauthorizing the RCA. "The Legislature must assure that state regulation of utilities promotes the public interest, and that every utility receives fair and open, unbiased, and rational treatment that encourages continued investment in Alaska's infrastructure."

Mr. Carson noted that ACS makes the following recommendations to the Legislature relative to the proposed reauthorization of the RCA:

1. Immediately establish a Legislative Oversight Committee to monitor the RCA's actions and to formulate recommendations for consideration in the 2003 legislative session. The charter of the Legislative Oversight Committee should be to assure that regulatory policy is aligned with long-term public interest, that regulatory processes are completed in a timely fashion, that due process is afforded to all, and that substantive law is being applied appropriately.

2. Use the findings and recommendations of the Legislative Oversight Committee, along with testimony provided in these and related legislative committee hearings, to guide the 2003 Legislature's deliberations of the proposed re-authorization of the RCA. The Legislature should also utilize the State Telecommunications Study as it considers the appropriate statutory, regulatory and policy directions

necessary to guide the regulators in telecommunications matters (see attachments).

3. Require that the chair of the RCA be rotated, so as to spread the responsibilities and prevent a single Commissioner from exercising undue influence.

Mr. Carson stated that they were concerned about a perceived bias against ACS and the possibility of retribution against ACS by the RCA in current and future regulatory orders as a result of their testimony. "Consequently, and in light of the significant power currently vested in the RCA's chair, we think it would be appropriate for another commissioner to be appointed to the position of chair and to ask that Commissioner Thompson disqualify herself from matters relating to ACS." [Mr. Carson's entire written testimony is on file.]

Co-Chair Mulder questioned why ACS did not offer their comments earlier in the process. Mr. Carson stated that they were reluctant to offer criticisms and acknowledged that they had lost an opportunity to make comments. They were contacted and interviewed, late in the session, by a reporter of the Anchorage Daily News. He maintained that after they expressed their concerns publicly other utilities stepped forward.

Co-Chair Mulder noted that he had heard that [ACS] did not have to worry about the House side because they had a block on the Senate side and that they would not consider any testimony on the House side. Mr. Carson responded that he had meet with and briefed several House members including Representative Murkowski and Representative Berkowitz.

Co-Chair Mulder noted that ACS is the first entity that had debated or argued against decisions as opposed to process. He pointed out that the legislature is not the decision makers "in this game; just like we may be angry at times with the Board of Fish because we don't always appreciate and support their decisions. None the less, as a Body, we have delegated that authority to them." The authority for regulatory oversight has been delegated to the Regulatory Commission of Alaska. He questioned how he could address concerns reflected based on decisions.

Mr. Carson responded that it would be appropriate for the Legislature to offer policy direction to guide the Regulatory Commission of Alaska, so that they are not in the position of establishing policy, but rather implementing it. He observed that the Telecommunication Act at the federal level was a sweeping change in philosophy and pointed out that has been no corresponding change at the state level. He maintained that it would be appropriate for the Legislature

to consider both statutory change and policy direction to guide the Regulatory Commission of Alaska.

Vice-Chair Bunde summarized that ACS and Chugach Electric have problems [with the Regulatory Commission of Alaska].

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Mr. Carson clarified that they are not proposing that the current people be thrown out. He acknowledged that there are some good and talented people there that are well intentioned and trying to the best thing for the state. He suggested that if policy were made by the legislature and the statutes were clear, that then there would be direction for the regulatory Commission.

Vice-Chair Bunde noted that there is a fine line between providing legislative oversight and micro managing.

Co-Chair Mulder questioned how much state communication standards could deviate from the federal Telecommunication Act. Mr. Carson emphasized that he is not suggesting that anything be written contrary to the Telecommunication Act. There are certain discretionary decisions the Regulatory Commission of Alaska has made that might be appropriately addressed in statute, including many procedural and due process issues.

Representative Croft noted that the original legislation was a sunset renewal of an agency. He questioned if the Legislative Budget and Audit Committee auditor had contacted ACS during the audit process. Mr. Carson stated that he did not know of any contact. In response to a question by Representative Croft, Mr. Carson noted that ACS is still the dominant carrier, but that they have less than 60 percent of the residential market. He spoke to the issue of dominant carrier and carrier of last resort. He noted that they have wrestled with these issues. As carrier of last resort they are required to build facilities to new subdivisions. There is no reciprocal obligation on their competitors. If they were relieved of carrier of last resort and dominant status there might be a bidding process with contractors to see who would build out to a subdivision. Under current law, they would be precluded from the kind of access given to their competitors. Competitors are not required to allow ACS on to their network.

Representative Croft concluded that if ACS petitioned to remove the dominant carrier status that they would lose the obligation to have others ride on their wires but they would not gain the right to ride on their competitor's. Mr. Carson clarified that under the Telecommunications Act as the incumbent local exchange company they are required to interconnect in Anchorage. Dominant status is not the issue.

He explained that if they were relieved of dominant status and carrier of last resort obligation, and were effectively deregulated for rates, than they could compete more nimbly against GCI and AT&T. A process similar to the FCC requirements for interstate rates would be appropriate. Rates would be posted on websites and be in effect 24 hours later.

Representative Croft questioned the affect of a change in their dominant status. Mr. Carson stated that he would respond in writing. Representative Croft questioned if the legislature, as state policy makers, could establish a different rate or depreciation structure than the one used by the Regulatory Commission of Alaska. Mr. Carson explained that federal law does not mandate the depreciation rate; the state commission establishes it. The state legislature could establish principals by statute that would govern the setting of the depreciation rate or structure.

Mr. Carson explained that the legislature could require that unbundled network element loop rates be established on the carrier's actual forward-looking cost, which they would support. It would be consistent with the Telecommunications Act, FCC regulations, and recent Supreme Court rulings to say that the rates should be based on a forward looking cost or efficient technology. In determining what the model yields, the inputs relative to costs have to reflect the actual rate of the carrier and not be based on the average lower 48 rate, even with an Alaskan cost differential. He mentioned that the actual cost of the carrier should be used and be consistent with the Telecommunications Act.

Representative Hudson thought they were advocating substantive policy and legislative changes to eliminate a string of unfair decisions that affect his company. He stated that he had never seen substantive changes occur in a short period of time. He observed that the testimony will be a part of the public record. He summarized that they are asking the legislature not to reauthorize the Regulatory Commission of Alaska without these substantive changes. He reiterated that it is impossible to make substantive changes in a 3 - 5 day period. The decision must be to determine what should be done with the Commission. He added that it would not be good public policy to sunset the Commission. He concluded that the problem cannot be fixed within this time frame and voiced support for continuation of the Commission.

Representative Whitaker recalled previous concerns voiced by PTI, the previous ACS Company regarding local access, which did not cover the charge of service. He noted that it was made clear during public sessions that ACS would be unable to compete because the amount that could be charged for local access would not cover the cost of operations and

maintenance. He asked why ACS wanted to purchase the company given those voiced concerns. He recalled that ACS indicated that they could offset concerns with efficiency, new services and long distance service. Representative Whitaker noted that everything that ACS anticipated happened.

Mr. Carson pointed out that the old PTI companies in their rural areas offered up wholesale competition, where service would be discounted and allow it to be resold by competitors. This is a different economic effect than the interconnection competition where they are required to lease the UNE loop. He maintained that the economics of telecommunications are arcane and strange. In a wholesale competition arrangement, most of those wholesale structures work. Rural exemptions were terminated. Instead of wholesale competition the issue was interconnection competition. The form of interconnection competition, specifically the UNE loop rates received through arbitration and the Commission were 57% of the actual cost of the loops. There has been a negative financial implication for the properties as a result.

Representative Whitaker reiterated that there were numerous conversations regarding the uncertainties during the sale. There were a number of "negatives" associated with maintaining ownership of the local exchange. He remembered that it was expected that the "landscape" would change significantly. He asked what the "surprise" was that affected the dynamic. Mr. Carson replied that there was a benefit to both the Telephone Company and Alaska because there was certain support being provided to those properties in the lower 48 states. By consolidating those properties jobs could be brought to Alaska and economies of scale would be achieved. These things have happened, but there is a \$33 dollar forward looking cost, which they believe is about the same, but they are only receiving \$19.19. Plus, because GCI has been granted a certain status by the Regulatory Commission of Alaska they also take the universal service fund. This places ACS at a significant disadvantage that could not have been envisioned. There is approximately \$10 dollars in universal service funds per line in Fairbanks that is portable. He explained that GCI pays ACS \$19.19 dollars, but they receive \$10 dollars from the universal service fund that is no available to ACS to build and maintain facilities. Universal service funding, which maintains construction of high cost loops in areas like Fairbanks is diverted to someone that is not building loops, which is a dramatic affect on ACS.

NANETTE THOMPSON, CHAIR, REGULATORY COMMISSION OF ALASKA, spoke in support of the proposal and responded to previous comments. She observed that interexchange carriers are excluded [from the advisory committee], as are pipelines, refuge and steam heat. In response to comments that there

are two representatives of the Commission [on the advisory committee], she clarified that there one is a representative of the public advocacy section, which is independent from the Commission in terms of decision-making. She stressed that it is important to include a representative for consumers, which could be fulfilled by the public advocacy section or another entity. She noted that recommendations were made to divide electric representation between the Railbelt, rural area and ARECA. There are significant differences between the interests of rural electric utilities and those in Railbelt areas. She questioned if other industry organizations should be included if ARECA were included. She reiterated that there is a significant difference between local exchange carriers in urban and rural areas.

Ms. Thompson stated that the provision for regular monthly meetings would be fine, but that they would be scheduled after one of their public hearings. They must balance between the time spent working on cases and process.

Ms. Thompson referred to section 5, prior dockets. There are currently less than 400 open dockets. She thought that it would be more productive to issue orders setting a procedural schedule on any docket open by January 1, 2003.

Ms. Thompson referred to the Commission's appeal record. She noted that any utility could challenge a decision in court. The Regulatory Commission of Alaska has had 11 of its decisions reviewed by judicial bodies. Decisions by the Regulatory Commission of Alaska have been upheld in 10 of 11 cases. The appeal process is an important indicator in how the Commission is doing. The decision that was reversed referred to process and was remanded for further hearings.

Ms. Thompson clarified that the 271 process (referred to by Mr. Nugent) never applied in Alaska. The Anchorage market was opened immediately in 1996 based on Congress's definition of rural verses non-rural market. The rest of the State was not open to competition until the Regulatory Commission of Alaska was petitioned. The Commission issued decisions to open Juneau, Fairbanks and other areas of the state. That decision is pending appeal to the Alaska Supreme Court.

Representative Croft asked if there was a Superior Court determination. Ms. Thompson explained that there were two Superior Court determinations. One was issued the last day that the APUC was in operation. The request was for reconsideration not appeal. All five Commissioners participate in requests for reconsideration and read the whole record. That decision was appealed to the Supreme Court.

Ms. Thompson referenced testimony regarding open dockets. There were 960 open dockets in the previous year. The Commission has 61 employees, but also regulates pipelines and refuge. The Regulatory Commission of Alaska has not asked for increased staff, but has tried to increase the efficiency of the process.

Ms. Thompson discussed two open regulation dockets [which could affect the workload of the Commission]. One would allow interexchange carriers, which are below a certain level, a registration process instead of certification. These cases are a significant burden on the Commission. The second docket is in regards to uncertified water and sewage village systems. The Regulatory Commission of Alaska maintains that many of the village systems do not need the same level of oversight as a WWU. The RCA Alaska has asked questions with a goal toward developing regulations that are more suitable for that scale of system.

Ms. Thompson referred to comments by Chugach Electric. She noted that there is a letter from the Homer Electric Association, which explains the other side of the story (copy on file.) She was not comfortable talking about open dockets. There was an interim rate increase provided for that case in the amount of 2%. She referred to comments by Mr. Carson. They have appealed decisions by the Commission. She did not think that the legislature was the way to settle open and pending appeals and urged that the court be given time to decide the matter.

Ms. Thompson emphasized that decisions are based on the full application of the law. They have the responsibility to make a record. The Commission is not for or against any particular utility; their job is to protect the interest of consumers and to fairly apply the law. The Telecommunications Act states that state commissions are not supposed to be setting interconnection prices based on in bedded costs. Rates are supposed to be based on a forward-looking cost model. The Anchorage case was decided before ACS bought that exchange and shortly after the Telecommunication Act was passed. The FCC had not yet adopted the total element long run incremental cost structure. Years after ACS acquired ATU they were told to change the pricing structure; this continues to be an open docket.

In response to a question by Vice-Chair Bunde, Ms. Thompson pointed out that the [advisory] committee is not just composed of phone companies. It will be up to the members of the Committee to determine if they are protective. Phone wars are not fought amongst all the phone companies in the state. She maintained that there is a balance amongst the industries.

Vice-Chair Bunde noted that ACS assumed the risk. Ms. Thompson agreed. She referred to the efficiencies argument. At the time of the acquisition, the Commission was told that operations would be more efficient. The Commission is supposed to understand what beneficial impacts there were from consolidation.

Vice-Chair Bunde asked about the Commission's agenda. Ms. Thompson replied that her directions come from legislative statute and federal telecommunication law, without bias for or against any company. All decisions are the product of at least three Commissioners. No case is decided by one Commissioner alone.

Vice-Chair Bunde pointed out that there is discontent. He asked for a solution. Ms. Thompson stated that the Commission would like to hear from the utilities on the process. Section 6 is a good idea to formalize the process. She indicated that an Advisory Committee report would be helpful as long as it is balanced and has a specific mission.

Representative John Davies thought that the points of contention is interim versus final decisions. He asked if it is a fair criticism that the Regulatory Commission of Alaska too often comes down with interim decisions that cannot be taken to the bank. Ms. Thompson observed that, under the statute, anyone can ask for an interim rate increase. A decision is made that mostly likely they will prevail and recover at least that much. If they are wrong in the end the consumer would receive the money back. A utility will file for a rate increase knowing that it cannot be granted during the 45-day period due to a lack of information. She observed that ACS received a 24 percent interim rate increase in local rates and 8 percent on the UNE rate. Chugach received a little less than 2 percent.

Representative John Davies asked if there is a way to achieve final decisions quicker. Ms. Thompson replied that it depends on the other parties involved. She noted that requirements for the utilities to file all the information up front could be more stringent. It is not uncommon for the RCA to get schedules without all the information of amended filings. The process could go faster if they received a complete filing on day one. She noted that in the Chugach case that there are other big companies involved that have a right to have a say.

Representative John Davies referred to the UNE loop cost. He summarized that they are being asked to install copper wire without a rate return. Ms. Thompson explained that in-bedded costs are what the utility has spent to put the cost in.

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Ms. Thompson discussed in-bedded costs. Phone companies in the state have an in-bedded cost of what they spent to put the facility in. If the facility were to be replaced the assumption would be that they would use the same equipment and spend the same amount. The FCC model uses forward-looking costs. She observed that technology costs are reducing and that technology is expanding. The intent was to encourage companies to innovate and to do things that would lower cost and utilize new technology. A competitor can enter a market by one of three ways: they can build their own facility, purchase wholesale prices, or interconnect and rent the loops. The intent is to set the price so that a competitor would have to make an economic choice. If the price is too high and they can build something cheaper themselves then the existing network is going to lose revenues. The intent was to keep the telecommunication network moving forward.

Representative John Davies asked if there is anyway to make the playing field more level. He suggested that there is a one sided "deal". Ms. Thompson agreed that the notion of dominant versus non-dominant could be reviewed upon petition. The way of regulation has changed and needs to continue to change as markets transition through competition. Consumer complaints have increased dramatically. The Regulatory Commission of Alaska doesn't spend as much time on tariff filings in competitive areas because they assume that if there is a certain level of market penetration then the market will control the cost. It is important to ensure that rates are fair and non-discriminatory. Representative John Davies observed that the Regulatory Commission of Alaska has the authority under federal law.

Representative Foster observed that the Commission has been accused of retaliatory actions. Ms. Thompson noted that there are three commissioners on each case and emphasized that they would not retaliate on any case.

In response to a question by Representative Croft, Ms. Thompson noted that the Telecommunications Acts talks about incumbents and competitive carriers. There is an obligation for incumbents to open up their network. The issue is unresolved. She noted that there has been facilities based competition through alternative technologies. No one else has put in wires.

Representative Croft noted that problems occur if the rate is set too high or too low. Ms. Thompson noted that low prices would not be fair to the incumbent and competitors would not have an incentive to build their own facilities and take advantage of new technology. No one is putting in copper wire except ACS. Representative Croft questioned if

the price in Anchorage is too low. Ms. Thompson did not think that the price was the only issue. She noted that AT&T wireless had a local option for a while. She pointed out that there is a test neighborhood for use of the cable technology in Anchorage. She added that customers are needed in order to build a new network. The intent was that the UNE platform strategy would be transitional, to protect the interest of incumbents by providing them with interim revenue and allow competitors to obtain relationships with customers and establish a base.

Representative Croft observed that federal formulas can be applied differently, but questioned how much discretion the state has to set different formulas or rate structures. Ms. Thompson noted that federal law directs UNE rates. They are applied on a state level, and there is some flexibility within the guidelines set by the FCC and the U.S. Supreme court to figure out what methodology would be used, but the FCC determines what the prices are supposed to reflect. Different states have used different models but they all have to fit the mold. None have used the model developed by ACS. The Commission sets depreciation rates for every utility in the state. The depreciation rate is how a utility recovers their investment. The rate of which they are allowed to recover is based on a number of factors.

Representative Croft questioned if there is more competition in the local exchange in Anchorage than any place else in the United States. Ms. Thompson affirmed that there is more local exchange competition in Anchorage than in any other area. She noted that there were no Bell companies. Alaska did not have to go through the 271 process. She estimated that the national local exchange competition rate was 10 percent.

Representative Croft questioned how much deference is given to the Commission's determination. Ms. Thompson noted that factual decisions are given deference by the court based on the Commission's area of expertise. The court looks at whether the Commission's decisions are supported by the record. The Commission is not given deference on legal decisions.

Ms. Thompson noted that the way the Commission sets UNE prices for the Juneau and Fairbanks markets is on appeal before the state of Alaska Supreme Court.

Representative Croft noted that the docket and number of persons to service the docket is used as a measure of efficiency. He asked if docket is a good measure or if it rewards delay: the bigger the docket the more people that can be justified. Ms. Thompson clarified that she was not only referring to the docket. Consumer cases were also included; the Commission has over 600 consumer cases a year.

She also included suspended tariff proceedings, applications for new services and contested cases. She agreed that staff should not just be based on the number of cases and observed that efficiency should be reviewed. She pointed out that the Commission has a good record on tariff filings and consumer complaints. Contested cases vary and are harder to "peg".

Representative Croft asked if there is any consideration of the failure of the dominant carrier in discussions on protecting consumers. Ms. Thompson responded that there is nothing in the law to cover bankruptcy. She noted that there is a mandate to provide just and reasonable rates and observed that a number of large utilities in other states have faced bankruptcy. The AT&T parent company has been reorganizing and has had serious financial trouble.

In response to a question by Representative Croft, Ms. Thompson referred to claims that the Regulatory Commission of Alaska was the cause of ACS's financial loss. She reviewed their federal regulatory filing and concluded that their records were not consistent with the implied financial woes. Their filing reflected increases in local revenues and a healthy margin, which was not consistent with the notion that they are going out of business.

In response to a question by Co-Chair Williams, Ms. Thompson emphasized that, while discussions on open dockets cannot occur, she is available to talk about process and policy questions such as why it is taking so long to review a case. She noted that a particular docket may not be a high priority of the Commission unless there is communication. She cannot talk about issues of an open case.

Ms. Thompson discussed universal federal funding, which supports telephone services in high cost issues. The issue is portability. The theory is that rural customers are high cost to serve. If a competitor goes into the area to serve the high cost customer they are entitled to support. If they are renting their competitor's facility the amount of support they can receive is capped by what they pay the competitor, yet the competitor uses more than just what they are purchasing to offer service to customers. They have to have customer service and a switch.

In response to a question by Co-Chair Williams, Ms. Thompson explained that the legislature decided in 1999 to strengthen the chair. One of the criticisms of the APUC was that they were so enmeshed in administrative issues that they were not doing their work. The chair cannot be reappointed after 4 years. There is no difference between the chair and the other commissioners in decision-making. The chair is responsible for administration.

In response to a question by Representative Whitaker, Ms. Thompson noted that federal policy applies just and reasonable rates to all utilities. Federal law talks specifically about the methodology for interconnection pricing, which is a matter of sovereignty. Federal law preempts state just and reasonable standards. She observed that states cannot make their markets any less competitive than the Telecommunication Act requires. States can make markets more competitive.

Representative Whitaker questioned if the Regulatory Commission of Alaska has flexibility to deal with the issue of specific rate setting methodology. Ms. Thompson noted that they must meet the standard of forward-looking pricing, but the Commission has some flexibility in designing the formula as long as the result is forward looking.

Representative Lancaster noted that there was discussion before the Senate Judiciary Committee regarding the public advocacy portion. Ms. Thompson explained that the public advocacy section was created in 1999 in response to a suggestion by the legislative auditor. The public advocacy section has proposed regulations that should address many of the issues regarding the role they play. She noted that the Regulatory Commission of Alaska cannot discuss cases with the public advocacy section in any greater detail than other parties.

Co-Chair Mulder noted that he would not offer an amendment relating to interexchange carriers.

Representative John Davies MOVED to ADOPT Amendment 1:

Page 1, line 5:

Delete "Commission chair to establish" Insert
"establishment or'

Page 4, lines 7 .8:

Delete "chair of the Regulatory Commission of Alaska
shall appoint"

Insert "president of the senate, speaker of the house
of representatives, and the governor shall jointly
appoint the members of'

Page 4, line 12:

Delete "chair"

Insert "persons jointly making the appointments"

Vice-Chair Bunde MOVED to AMEND Amendment 1 by adding "limited to" on page 4, line 9 after "reform": reforms limited to the Commission's regulatory process. He observed that limiting discussions to the regulatory process rather than any philosophy or decisions would draw a fence.

Representative Croft stressed that there are significant general public policy questions that could be addressed by a balanced Commission.

Co-Chair Mulder acknowledged his remarks but pointed out that a study has already been funded to provide the same overview. Representative Croft thought that the study was not directed to consider the kinds of policy decisions being discussed.

Representative Whitaker clarified that the Commission would be given specific policy review credentials in regards to economic models and formulations. Representative Croft suggested that the [advisory] committee could tell the agency how it could operate more efficiently and indicate the affects that their decisions are having on the industry and the consumer, which would be interesting both to the legislature and the Commission. Representative Whitaker expressed concern with the specific policy oversight function and felt that they would be second-guessing the Commission.

Representative John Davies questioned the intent of the amendment [to the amendment]. He questioned if the policy embedded in the process would be considered. Co-Chair Mulder interpreted the amendment to the amendment to limit discussions to procedures. Representative John Davies stated that he would oppose the amendment to the amendment if it would limit any discussions on the overall policy. He pointed out that the committee would only make recommendations, and felt that it would be a mistake to limit their review. He noted that it is difficult to separate the facts of a separate case. He observed that the committee could recommend a change of policy.

Vice-Chair Bunde noted that there is very little policy that the group could talk about without retrying the case. He felt that expansion by the advisory group into policy would result in a second utilities commission. He did not want to end up with dueling regulatory commissions and cautioned against micromanagement. He pointed out that much of the discussion before the committee focused on process and emphasized that there could be dueling opinions regarding policy.

In response to a question by Representative Hudson, Co-Chair Mulder clarified that the \$300 thousand dollar study funded in the budget would look at policy issues relating to

telephones. The Regulatory Commission of Alaska would fund the advisory committee. The advisory committee would also sunset at the time the Regulatory Commission of Alaska would sunset. It could be continued.

Representative Davies WITHDREW his OBJECTION. There being NO OBJECTION, the amendment to the amendment was adopted. There being NO OBJECTION, Amendment 1 as amended was adopted.

Co-Chair Mulder noted that he would work with the Commission and Representative Croft to address open dockets that proceeded the new timetables.

Representative Hudson MOVED to report CSHB 3001 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 3001 was REPORTED out of Committee with a "do pass" recommendation and with a fiscal impact note by the Department of Community and Economic Development.

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ADJOURNMENT

The meeting was adjourned at 7:58 PM