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CATEGORY 1977

TITLE JOINT PUBLIC HEARINGS OF THE ALASKA STATE LEGISLATURE ON SCR 3,
4, 5 AND HCR 11, 12, 13, THE PROPOSED SALE OF ROYALTY GAS,
JANUARY 31, 1977 - FEBRUARY 7, 1977, JUNEAU, ALASKA

PUBLISHER Legislature

PUB DATE 1977

SUBJECT oil; gas; SCR 3, 1977; SCR 4, 1977; SCR 5, 1977; HCR 11, 1977;
HCR 12, 1977; HCR 13, 1977; contracts, contractors; pipeline;
revenue

COMMENTS 6vol.

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Admin.

JOINT PUBLIC HEARINGS
of the
ALASKA STATE LEGISLATURE
on

SCR 3, 4, 5 and HCR 11, 12, 13

"THE PROPOSED SALE OF ROYALTY GAS"

January 31, 1977 - February 7, 1977

Juneau, Alaska

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Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

SENATE SPECIAL COMMITTEE TO CONSIDER THE SALE OF ROYALTY GAS

John Rader, Chairman
Mike Colletta
Chancy Croft
John Huber
Clem Tillion

HOUSE SPECIAL COMMITTEE ON THE SALE OF ROYALTY GAS

Clark Gruening, Chairman
Chat Chatterton
Joe Hayes
Joe McKinnon
Charlie Parr

SCR 3, 4, 5 Second Referral - Senate Resources
Third Referral - Senate Finance

HCR 11,12,13 Second Referral - House Finance

1 from Anchorage, and Charlie Parr from Fairbanks, and I'm
2 Clark Gruening, the chairman of the House Special Com-
3 mittee to consider this gas sale.

4 SENATOR RADER: We had hoped that we would have a place at
5 the table for every legislator who was interested and I --
6 in the Senate I asked for persons to let me know and only
7 Senator Kerttula let me know. I do see some legislators
8 in the audience that I would like to recognize. I see
9 Representative Haugen, I see Senator Sumner, Representative
10 Haugen stand up perhaps, Sumner, Representative Bill
11 Miles, Senator Willis, Senator Bradley, and if there is
12 anyone else here, and Representative Miller, Senator
13 Hackney.

14 We will not take questions from the floor except
15 for legislators. Any legislator who has a question though,
16 whether he is seated at the table or not, will be permitted
17 to ask questions of the witness if he desires. But,
18 because we do want a full transcript of this, I'd ask the
19 legislator to perhaps come forward and if there is an
20 empty seat here, take it for such period of time as he
21 is asking questions. I do want to extend that privilege
22 to all of you who are here if you have any questions. We
23 will not permit questions though from non-legislators.
24 If you have a question, you are going to have to get some
25 legislator to ask it for you or else it probably won't be

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1 asked.

2 The -- we would like to have everyone sign in
3 that is here. We want to keep a record of attendance,
4 if we can, and who you represent. If you wish to testify,
5 please leave your name with the person at the desk or
6 with any of our staff members here. Elke Kallab, Elke
7 would you stand up. Elke -- if you do wish to testify
8 and are not the list, leave your name with Elke or search
9 her out. If you give it to me, it may get lost. If you
10 give it to Elke, why I'm sure it won't be.

11 We found out -- our original schedule was for two
12 days here and one day at the Baranof. We have found out
13 that this is available for three days so all of our meetings
14 here are scheduled for today, tomorrow and Wednesday. I'm
15 hopeful that both the House and the Senate will conclude
16 their sessions so that we will be able to have an eleven
17 o'clock session here starting tomorrow, going to twelve
18 with an hour for lunch, coming back at one and going until
19 four thirty or five or exhaustion wipes us out, whichever
20 first occurs. But, of course, our meetings in the mornings
21 and during the days will be subject to the House and
22 Senate meetings on the hill and these committee meetings
23 will of course be subject -- it has a lower priority than
24 do those meetings. I expect, however, that we will be
25 able to convene though tomorrow at eleven o'clock. Those

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1 of you who are wishing -- yes. Those of you who want
2 transcripts, would you leave your name with the court
3 reporter. Prior to building you a transcript, we'll
4 try to give you a price on it so you'll have a chance
5 to back out. If you'll leave your name with her and
6 an address, we will try to work out some sort of a
7 situation here so that we can give you an estimate of
8 the price on the transcript and then she'll contact you
9 at the address you indicate and if you want to buy one,
10 you can. I don't think we are going to be able to
11 print up enough to handle everything at public expense,
12 we'll have to look into that. But, if you want a
13 transcript leave your name with the court reporter.

14 This room is over capacity, I'm sure. I'm going
15 to ask that you refrain from smoking. We'll try to take
16 a break at least every hour. I don't like to interrupt
17 the witness in the middle of his testimony or a question --
18 a line of questioning that is being pursued, but subject
19 generally to the convenience of the proceedings at the
20 time, we'll try to take a break every hour to give you
21 a chance to take a smoke and stretch your legs.

22 We have a tentative agenda that we have developed.
23 It is only tentative. We'll take any witness out of
24 order. We're here to accommodate you for your travel
25 plans and your other commitments. We know that a lot of

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1 you have things to do other than to be here. If you
2 wish to be taken out of order, let me know and I'll try
3 to accommodate you as soon as I understand what your
4 problem is.

5 It's a public meeting, of course, and everyone
6 is welcome to attend and everyone will be welcome to
7 testify. I suppose that if it went on for three weeks
8 there probably wouldn't be very many people here to listen
9 to you, but there will be someone here to listen.

10 I can't think of -- Representative Gruening, can
11 you think of any other remarks or ground rules we need
12 to establish?

13 REP. GRUENING: I'd like to introduce Representative Al
14 Osterback who is sitting on the Senate side but is
15 representing us in the House.

16 SENATOR RADER: Incidentally, from the Senate's point of
17 the side, we have both the Resources and Finance people
18 on our side. They have referrals of the resolutions
19 after the select committees and there may be some public
20 testimony taken by those committees at a later date.
21 That will be up to the chairmen of those committees to
22 determine whether or not they need it.

23 I have been contacted by a congressional delegation
24 and told them that I would read their testimony verbally
25 into the record and therefore I am going to do that,

1 although I think that in some instances we will receive
2 written testimony which will not be read unless it is
3 absolutely -- unless someone insists on it, some committee
4 member.

5 But, we have a wire from United States Senator
6 Mike Gravel.

7 (Whereupon Exhibit 1 was duly read into
8 the record.)

9 That exhibit will be exhibit number one. The
10 reporter will not retype exhibits which are read into
11 the minutes. We will make them exhibits and they will
12 be xeroxed when we make our copies to try to save on the
13 expense.

14 Exhibit number two, which the reporter need not
15 copy but which will be appended to the transcript is a
16 wire from United States Senator Ted Stevens.

17 (Whereupon Exhibit 2 was duly read into
18 the record.)

19 And that will be exhibit two. Representative Don
20 Young called me less than twenty minutes ago from
21 Washington, informed me that he had directed that his
22 testimony be hand carried from Washington and that it left
23 Washington Friday evening. I have been informed since
24 then that it was sent to Washington, because of a telecopying
25 process -- sent to Anchorage and that the airplane cannot

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1 leave Anchorage and that the reason that that testimony
2 is here is because of the Anchorage airport and not the
3 Juneau airport. I'm sure we will receive that testimony
4 in the course of the hearings and when we do, it will
5 likewise be read into the record.

6 REP. GRUENING: Senator?

7 SENATOR RADER: Representative Gruening.

8 REP. GRUENING: If I might be permitted a brief remark, it
9 seems to me that this -- these three contracts that are
10 before us now represent the single largest sale of our
11 natural resources since the Prudhoe Bay lease sale and I
12 hope -- I urge the legislators to hold sacred no sacred
13 cows in approaching the assumptions upon which this --
14 these three contracts are based. And, as the Senators
15 have pointed out, the principal reason that we are
16 considering these contracts today is to effect a political
17 decision in Washington, not to raise revenue for the State.
18 So, I would urge everyone to focus on at least what I
19 believe to be the principal question, what are we giving
20 up by entering this contract, if anything, and what are
21 we getting in return for the State -- for the people of
22 this state.

23 SENATOR RADER: Unless there are any further remarks, we'll
24 go back to our schedule here. I'll ask Commissioner Martin
25 if he would present his testimony and those of his

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1 associates in whatever order he approves. Commissioner,
2 how would you like to handle questioning?

3 COMMISSIONER MARTIN: I'd like to ask Attorney General Gross
4 and Commissioner Gallagher to join me here and I'll
5 introduce the other individuals, Mr. Chairman.

6 SENATOR RADER: Would you want us to defer until the end
7 of your presentation for questions or ask questions as
8 we go along?

9 COMMISSIONER MARTIN: I think it would be most useful because,
10 as I'll explain, we have a fairly brief presentation, to
11 defer questions until the end, and then just have a
12 continuous question period after that.

13 SENATOR RADER: Does anyone on the committee object to that
14 procedure, any legislators object? That will be the way
15 we'll proceed then.

16 COMMISSIONER MARTIN: Is Mr. Gallagher here? I thought I saw
17 him earlier. Do you want to come up, Sterling?

18 Mr. Chairman, I have spoken, as you know, pre-
19 viously to a joint meeting of the two special committees
20 at least, and to both of the Chairmen of the two special
21 committees and, as I understand it, we have some options
22 for procedure, and I want to explain that before I begin.
23 We discussed either having a prolonged briefing by the
24 Administration in which as many as eight or ten individuals
25 could participate and give really very detailed information

1 with regard to every phase of this as opposed to a more
2 summarized presentation followed by questions. And my
3 understanding of the consensus of those -- the choice
4 between those two and which I checked with you earlier
5 this morning, was that a more summarized statement of
6 the administration's position, in view of the fact that
7 we have already submitted a tremendous amount of written
8 material to the committees, would be preferred. So, if
9 that's all right, I'll proceed in that vein.

10 Now, my attention today is to first read a state-
11 ment sent down by Governor Hammond, followed by a statement
12 by Attorney General Gross, who is a chairman of the
13 State's Gas Line Task Force, and then to -- then allow
14 the committee to simply ask questions of all the individ-
15 uals that are here. And, let me very quickly indicate
16 who is here and how I think we can be of assistance to
17 the committee's informational needs today. Governor
18 Hammond has asked me to be a principal spokesman on this
19 issue and to attempt to see that you get the answers that
20 you need, both here and otherwise, and I'll be pleased
21 to serve in that capacity. With me here today, in
22 addition to Attorney General Gross, who is the chairman
23 of the Task Force and who was also responsible for putting
24 together our FPC case, is Commissioner Gallagher, who
25 done a -- Commissioner of Revenue, who has done a great

1 deal of work on the economics associated with the various
2 line proposals and with the royalty gas contracts. Also
3 here, and I'll just ask these individuals to raise their
4 hands so you can identify them, is Mr. Bob LeResche, -- Dr.
5 Bob LeResche, who is the coordinator -- the Director of
6 Division of Policy & Planning in the Governor's office
7 and was basically the substantive coordinator of the
8 comparative route study done on the gas line issue. Also
9 here is E.Z. Gilbreth, who is the Director of the Division
10 of Mineral & Energy Management, the Department of Natural
11 Resources, who is responsible at least for representing
12 here today, the work that the State has done on royalty
13 gas demand and is also in charge of our effort on the
14 unitization of the Prudhoe Bay field. In summary, he is
15 in charge of our management function with regard to the
16 Prudhoe Bay field.

17 Also here is Mr. Hoyle Hamilton, who is Director
18 of the Division of Oil and Gas Conservation. Mr. Hamilton
19 is in charge of the field operation for the State,
20 pursuant to the State's conservation statute, and is the
21 individual who is coordinating our work on the reservoir
22 simulation study and other aspects of the performance
23 of the reservoir.

24 Also here is Assistant Attorney General Fred
25 Boness, who is the individual at the Department of Law

1 who coordinates legal oil and gas work, assisted me
2 staunchly throughout the negotiation of this contract
3 and is also the coordinator from Juneau of the State's
4 work in the FPC case. He's really our man on this issue.

5 And finally, Jack Byrd, who is sitting on the
6 end there. Jack is a -- I think safe to say a nationally
7 known consultant. He is an attorney, a nationally known
8 legal consultant in the area of natural gas. He is an
9 FPB attorney and has served as our gas contracting
10 consultant, particularly on matters of price and FPC
11 regulations throughout the negotiations.

12 There are other individuals involved who -- to
13 a lesser extent who can also be here to assist from time
14 to time but this is basically the team. I might say,
15 Mr. Chairman, that we really want to thank the committee
16 for making an effort to consolidate its hearings. We
17 have a number of individuals here who are going to be
18 difficult to get in one room on very many occasions and
19 we appreciate the fact that you allowed us the privilege
20 of making at least our factual presentation on this in
21 one -- in one instance. Mr. Byrd and Mr. Boness, par-
22 ticularly, will have demands on their time in the next
23 couple weeks will make it very difficult to get our
24 entire group together very often, but we'll try to
25 cooperate with the committee as far as we can to see

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1 that we can get the people you need to be available.
2 With that, I would like to read a statement that was
3 sent down by Governor Hammond to the committee and then
4 ask Av Gross to give a statement of his own.

5 "Members of the Committee, members of my Adminis-
6 tration are here today to discuss a proposal of great
7 importance to the future of the State. Because your
8 review of this proposal should be as thorough as possible,
9 I would like to preface the more detailed comments of
10 others with my own statement. My objective is to lend
11 perspective regarding the issues involved, and to define
12 elements important to your ultimate decision.

13 Like the Native Claims Settlement Act, the Trans-
14 Alaska Oil Pipeline and 17 D(2) Lands, the issue of North
15 Slope natural gas transportation and use is a critical
16 decision for Alaska. Present national energy emergencies
17 and last year's passage of the Natural Gas Transportation
18 Act of 1976 leave little room to doubt that a national
19 decision on the gas transportation system is imminent.
20 The question is: what, if any, will, can and should --
21 what role, if any, will, can and should we play in that
22 decision to best protect our own interests within the
23 constraints imposed by overriding national interests?

24 After first analyzing various alternatives, my
25 Administration concluded that the best, most expeditious

1 transportation system from both the state and national
2 viewpoint was that which would take gas from Prudhoe
3 Bay to tidewater in Prince William Sound. This
4 legislature reflected a similar conclusion in a resolution
5 adopted two years ago. Polls indicate that almost --
6 indicated that almost eighty-five percent of the people
7 of Alaska stood solidly behind that choice. The
8 congressional delegation concurred. Such support was not
9 given lightly. Unlike the oil pipeline, the gas pipeline
10 route had been widely discussed through the state, both
11 in the media and through public meetings, before a decision
12 was made. That decision is one which can be supported on
13 principle as well as politics.

14 Having made the decision on which route to support,
15 we actively participated in Federal Power Commission
16 hearings; successfully advanced the unprecedented amendment
17 to protect later state uses of royalty gas, and took our
18 case to the people in the Lower 48 in an effort to offset
19 the considerable opposition. After all, nearly all major
20 distribution companies favored the Arctic Gas consortium.
21 Mid-western states, which had sought a Trans-Canada oil
22 pipeline, argued that the gas pipeline should go directly
23 to them. After participating in this process for some
24 time, and in light of legislative expression and congressional
25 consultation, I felt it necessary to do more to gain support

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1 for our position from outside the state. That conclusion
2 led to the royalty gas contract you see before you now.

3 The major purpose of these contracts is to build
4 a national constituency in support of the Trans-Alaska
5 line while protecting and enhancing the in-state uti--
6 lization of Alaskan royalty gas wherever possible so long
7 as consistent with national needs. We believe the
8 proposed contracts protect the state's interests as fully
9 as possible under the circumstances. We are not, as
10 some suggest, simply trying to buy lobbyists in Washington.
11 That could have been done simply through hiring qualified
12 personnel. The royalty contract does far more. It gives
13 people throughout most other states an interest in seeing
14 that the Trans-Alaska route is approved. A decision on
15 this matter will ultimately be made by the President
16 and the Congress. Their overriding concern will be in
17 the national interest. Overriding national interest can
18 be demonstrated best if the largest number of people
19 possible directly benefit from approval of the Trans-
20 Alaska line.

21 Our actions in bringing forth these contracts
22 are what I believe the people of Alaska, the legislature
23 and the congressional delegation believed we should do.
24 I suspect that if my administration had not negotiated the
25 best contracts possible and advanced them under these

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1 circumstances and then given them to you, we would surely
2 be asked by many of you where the royalty gas sale
3 proposals were rather than being questioned about
4 proceeding. As your legislative resolution indicated
5 to use "all resources at my command" to further a Trans-
6 Alaska gas pipeline route. Certainly, there are politics
7 involved in any such contractual agreements. However,
8 there is nothing at all wrong with political forces being
9 countered by political forces when the politics one uses
10 coincide with principle. So long as we believe the Trans-
11 Alaska route truly is in the state's and the nation's
12 best interests, we would be remiss should we not garner
13 what support we can so long as we do not do violence to
14 propriety or principle in the process.

15 My instructions for our negotiators were to seek
16 the best contract possible for the state to carry out the
17 policies articulated and to do so on a time schedule
18 which would allow the legislature the earliest possible
19 opportunity to review this alternative. After reviewing
20 the results of the negotiations, I concluded it to be in
21 the best interests of the state that this alternative be
22 advanced. That decision won the endoresement of a broad
23 spectrum of the Alaska public and the congressional
24 delegation and was, as well, accorded approval of the
25 Royalty Board as mandated by statute.

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1 In negotiating the contracts, the State recovered
2 a good price; it protected the future in-state use of
3 gas; it gave the State the best opportunity to utilize
4 and protect its royalty gas pursuant to the amendment
5 we drafted and proposed to Congress for protection of our
6 royalty gas; and at the same time we've gained support
7 for the state's position on the gas pipeline debates.
8 Moreover, the contracts are consistent with the direction
9 the legislature gave to the administration when it not
10 only indicated its support for the Trans-Alaska route but
11 later appropriated money to aid in the negotiation of
12 contracts.

13 Some concerns have been raised concerning the
14 so-called "flexibility provision" in the contract. That
15 clause would permit the state through the governor to
16 change its position on the route issue at some subsequent
17 time. Some assert that no flexibility at all should be
18 possible and that the state should lock itself into an
19 all or none position in support of the Trans-Alaska route.
20 I think this is self-destructive, for I am sure that
21 nearly every person in the state would agree that if we
22 cannot have the El Paso route, the Alcan route is far more
23 desirable than the Arctic Gas route. And they would want
24 the State to be able to do what it can to gain the next
25 best choice should our first choice be impossible or unwise.

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1 Other persons suggest that while flexibility is desirable,
2 any change of position should only be made with the
3 concurrence of the legislature. Normally I have great
4 sympathy with legislative participation in policy decisions
5 of the nature -- of this nature and my record bears it
6 out, but in this case you must recognize the realities of
7 the situation. Our support for the Trans-Alaska route
8 is strong and will not waiver unless and until it becomes
9 clear that that route cannot succeed. That point, if it
10 comes at all, will probably come at some time later in
11 the pipeline decision--perhaps in the closing debate in
12 Congress. Decisions will have to be made quickly if they
13 are to have any impact at all. I can assure you that if
14 I have to make a decision to shift our support from the
15 El Paso route to the Alcan route it will be only after a
16 clear consensus has emerged from our Congressional Delegation
17 that such a shift was necessary and after a similar
18 consensus had emerged through consultation with the State
19 legislative leadership. We would all recognize it to be
20 in the best interest, I think, if that -- in our best in-
21 terest, I think, if that moment arose. But, reconvening
22 the legislature and seeking a new full-scale debate on
23 the question would simply be unrealistic considering that
24 we might be dealing with decisions which would have to be
25 made in literally hours or days. If there were time, I

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1 would honor a request by the legislative leadership to
2 call a special session, but I cannot support a requirement
3 for a mandatory session under any circumstances, for it
4 would tie our hands unnecessarily and perhaps jeopardize
5 the best interests of the state. I hope you will consider
6 these contracts very carefully. I have tried to have
7 them available for you at the onset of the session so that
8 you might move quickly on them, but I do not want in any
9 way to pressure you into a decision before you are
10 satisfied that the contracts are in the state's best
11 interests. At the same time, you know and I know the
12 timetable of the federal decision, and waiting an un-
13 reasonable period of time before giving your endorsement
14 to what we have done may indicate on a national level that
15 our support is vacillating or, for that matter, that our
16 support will not be translated into meaningful action in
17 enough time to have an impact. I am sure you are aware
18 of these factors just as I am, and thus will deal with the
19 contracts reasonably and expeditiously.

20 I hope this brief review clears the air on certain
21 aspects of the decision before you. Members of my
22 administration will be available to you today and later
23 to answer questions which led up to the contracts. I
24 have instructed them to stay here as long as they are
25 needed by the committee and to answer the questions you

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1 have. Some of them will have additional statements to
2 make concerning the contracts. And, the Governor expresses
3 his thanks, Senator Rader.

4 At this time I would like to ask Attorney General
5 Gross to make a statement, the only other prepared
6 statement we'll be making today, which indicates the
7 work that was done by the Gas Line Task Force.

8 ATTORNEY GENERAL GROSS: Thank you, Commissioner Martin.

9 As the Governor has just indicated in his statement, one
10 of the major purposes for the contracts before you is
11 to build national support in favor of the Trans-Alaska
12 pipeline route. I think it is fair to say that approval
13 or disapproval of this contract by the legislature will
14 be interpreted in large part as approval or disapproval
15 of the Governor's decision to support the Trans-Alaska
16 line. Since that is the case, it seems to me incumbent
17 upon the administration to outline for you why we have
18 come to the conclusion that support for the all-Alaska
19 line is in the state's best interest. You have an enormous
20 amount of material before you that has already been
21 furnished by the administration to justify its decision,
22 but it is perhaps fitting as we begin these hearings
23 that I briefly outline how we have reached this point in
24 the decision-making process.

25 As one of the first acts of his administration,

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1 Governor Hammond appointed me as chairman of the Gas
2 Pipeline Task Force. The purpose of that group was to
3 gather and analyze the available data on alternative
4 pipeline routes and then to recommend to the Governor
5 which route was in the state's best interest. The Task
6 Force was composed of commissioners from the departments
7 which would have involvement in the construction of a
8 gas pipeline, such as Community and Regional Affairs,
9 Revenue, Natural Resources, Highways and Commerce. Mr.
10 Champion, the Pipeline Coordinator, served on the
11 committee, as did Lowell Thomas, the Lieutenant Governor.

12 In candor, there were enormous pressures on the
13 task force. A review of the files indicated that little,
14 if any, prior substantive analysis had been done of the
15 alternate route proposals. Accordingly, we had to develop
16 the information on which our decisions were based from
17 scratch. The members of the task force had little prior
18 expertise in gas pipeline regulation matters or the kinds
19 of decisions which were relevant to choosing a particular
20 route. We had to gain that knowledge before we could
21 make any kind of an intelligent decision. Finally, we
22 were put under a lot of pressure by the schedule of
23 events having to do with the pipeline route decision.
24 The FPC hearings were about to begin and if the state was
25 to take any meaningful position, it was necessary that we

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1 make a prompt decision on what position we would take in
2 those hearings.

3 We tried to arrive at a position fairly and
4 honestly. By that I mean we tried to evaluate the data
5 made available to us in an unbiased fashion. We did not
6 try to reach a politically popular result just for the
7 sake of that popularity. The Governor instructed us to
8 reach a position that we could rationally support, and
9 we knew we had to do that since if we were to promote
10 our case before the FPC and in the national forum, a
11 decision based purely on political considerations would
12 be quickly and obviously exposed for exactly what it
13 was. We may have made mistakes, Mr. Chairman, in our
14 deliberations, but I can assure you that they have not
15 been through lack of commitment or effort to do what
16 was best for the state.

17 Initially we had but two alternative route
18 proposals--the Arctic Gas route and the El Paso route.
19 In analyzing those choices, we used information provided
20 by the companies both to us and in their filings before
21 the Federal Power Commission. That information was
22 subjected to the scrutiny of various departments which
23 evaluated the information with a view toward testing its
24 authenticity. We commissioned an economic study on the
25 alternative routes. Evaluating all the evidence, the

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1 task force concluded unanimously that from both economic
2 and environmental viewpoints, the El Paso route was
3 clearly the best for the state. We recommended it to
4 the Governor and he accepted our recommendation, committing
5 the state to supporting that choice.

6 The reasons for the choice are, I think, now
7 obvious, at least in retrospect. From an economic stand-
8 point, the El Paso route generated a great deal of in-
9 state employment during construction and created a number
10 of long-term job opportunities within the state. The
11 El Paso project meant a greater amount of capital in-
12 vestment in the state. It also provided opportunity for
13 in-state use of gas, a matter of critical importance.
14 The Arctic Gas route provided little lasting economic
15 base for the state. Environmentally the Arctic Gas route
16 intruded on the Arctic Wildlife Range, one of the last
17 undisturbed wilderness areas in Alaska, while the El Paso
18 route for the most part utilized an existing pipeline
19 corridor developed for the Alyeska route. Every single
20 major environmental group involved in this matter joined
21 us in our support of the El Paso route as opposed to
22 the Arctic Gas route. It was one of the few issues on
23 which those who promote rapid development in our state
24 and those who are strict conservationists agreed.

25 Finally, very real questions have been raised as

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1 to whether the Arctic Gas route can even be built, at
2 least in the foreseeable future. Native land claims
3 problems in Canada are very real right now. And, as we
4 all know, from our personal experience, those claims can
5 have very real impact.

6 Now, approximately a year after our initial
7 decision and a good part of the way through the presen-
8 tation of the case before the Federal Power Commission,
9 a new route alternative developed. That was the route from
10 Prudhoe Bay to Fairbanks, and then down the Alcan Highway.
11 That is the route that is now known as the Alcan proposal,
12 and it has some real benefits for Alaska. For instance,
13 it permits in-state use of royalty gas (though it does not
14 bring the gas to tidewater), and it provides a greater
15 long-term economic base in the state than is provided by
16 the Arctic Gas route. Environmentally the Alcan route
17 uses existing pipeline corridors to Fairbanks and then
18 follows the highway to the Canadian border, with minimal
19 environmental impact. Environmental groups started to
20 split with the surfacing of this proposal. Some of them
21 now advocate the Alcan route.

22 The Governor asked at that time that the task
23 force re-evaluate our position in light of the Alcan
24 proposal, and we did so, using basically the same process
25 as we used to reach our original decision. The task

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1 force concluded after substantial study, including two
2 additional comprehensive economic analyses, that while
3 the Alcan route was far better than the Arctic Gas route,
4 it still was not as beneficial to the state as the El
5 Paso route. In long-term employment, for instance, the
6 El Paso proposal will create nearly one thousand more
7 jobs in the state than the Alcan proposal. On a net
8 basis, the El Paso route will produce approximately Five
9 Hundred and Twenty-five Million Dollars in income for the
10 state treasury during the effective life of the line, as
11 opposed to approximately Three Hundred and Fifty-seven
12 Million Dollars for the Alcan route. Only the El Paso
13 route will take gas to tidewater where prospective use of
14 our royalty gas will probably be greatest. Moreover,
15 from a national viewpoint, our analyses indicate that the
16 El Paso route can give as much as One Billion Dollars
17 more net benefit to the nation, primarily through the
18 fact that more of the project is built with American
19 labor and materials, and is subject to only United States
20 taxation.

21 Environmentally the case between Alcan and El Paso
22 is very close. The task force favored El Paso since it
23 used existing corridor technology. Now, that is important,
24 since it means that we can use the wealth of material
25 that we have developed on rivers, tundra, and wildlife

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1 as the Trans-Alaska pipeline was built. Moreover, we
2 would, in effect, channelize our pipeline development in
3 the state. But there are real benefits to Alcan as well.
4 It is a purely subjective judgment and I would not
5 seriously quarrel with any of you who felt that Alcan was
6 the better environmental choice, but, in my view, it is
7 not so much better as to countervail the substantial
8 economic benefits which flow to the state if the Trans-
9 Alaska pipeline route is selected.

10 As chairman of the task force, it was my basic
11 function to coordinate the efforts of the various depart-
12 ments involved. I do not pretend to be an expert on the
13 various studies which have been done, technical aspects
14 of construction or difficult questions involving environ-
15 mental matters. We have here today, however, people who
16 can answer those questions, and Commissioner Martin and
17 I can direct your questions to the people who can best
18 respond to them. We are available to help you in any way
19 we can in explaining what we have done and why. I think
20 we have made the right decision and I hope we can convince
21 you that we have made the right decision. Thank you.

22 COMMISSIONER MARTIN: Mr. Chairman, I'm -- having said a
23 great deal on these contracts in prepared statements and
24 the other night before Senator Gruening's committee, I'm
25 not going to make a prepared statement in addition to

1 that made by the Governor and Attorney General Gross, but
2 I'm prepared to answer what questions I can and direct
3 your others to any other individuals we have here who can
4 help. Thank you very much.

5 SENATOR RADER: Thank you, Commissioner, Attorney General.

6 Have we any questions from any members?

7 REP. GRUENING: Somebody has got to start here.

8 SENATOR RADER: Mr. Gruening?

9 REP. GRUENING: I think this goes to Mr. Gross. In the
10 comparative evaluation it stated -- November of '76,
11 there is a letter, December 2nd, 1976, to the Governor
12 in which on page three of that letter, on the bottom of
13 the third paragraph, Chairman Gross makes these remarks:
14 "I think Alaska would agree that if we reached a point
15 where support of the El Paso route was no longer feasible,
16 the state should throw its support behind the Alcan route.
17 The only real question is at what point." And then in the
18 next paragraph you suggest a number of points at which
19 that support might be switched, and one of them was the
20 decision of the Federal Power Commission Hearing Judge.
21 And that decision, as I understand it, will be made
22 tomorrow, and I don't know what the decision will be, but
23 let's assume that it is not favorable to the all-Alaska
24 Route. Is it your position now that that is not an
25 important stage at which we should consider the -- our

1 first choice or is it important as you see it?

2 ATTORNEY GENERAL GROSS: Well, it is certainly important,
3 Representative Gruening. I think that since I wrote this
4 letter we have had an opportunity to discuss with both
5 the Congressional Delegation and the people involved in
6 the effort in Washington, what the impact will be of
7 an adverse decision before the Federal Power Commission.
8 It is my impression, from discussing that with those
9 people, that the fight will still be very much an open
10 one at that stage, that the basic decision is going
11 to be made by the President and the Congress, and that
12 the issue will not be foretold by a Federal Power
13 Commission decision even if it were adverse. So I
14 would say at this point that an adverse decision would
15 not cause me, at least, to recommend to the Governor a
16 re-evaluation of our position.

17 Commissioner Martin has been more in charge of
18 the Washington aspects of this and I think he would be
19 more appropriate to answer that; but that would be my
20 own reflection on what I consider.

21 COMMISSIONER MARTIN: I'd only add, Mr. Chairman, that I think
22 the circumstances that exist now, after the passage of
23 the Alaska Natural Gas Transportation Act, should be noted
24 to be substantially different than that which would exist
25 under ordinary certification processes. As that bill is

1 structured the FPC administrative law judge's opinion
2 ultimately leading to an FPC decision becomes only a part
3 on an overall structure which will involve a number of
4 other federal agencies, the President and Congress prior
5 to the decision. Whereas, under the ordinary circumstances
6 the finding of the judge followed by the Commission would
7 be determinative. So, I think that the circumstances
8 change but I would want to add that we intend to look at
9 that decision and we anticipate, quite frankly, that it
10 will be lengthy, several hundred pages, and we anticipate
11 that it will have a number of subtle and sophisticated
12 points in it. So that I think that it would be very
13 difficult now to say before seeing it what the position
14 would be. But, standing alone I don't think that it
15 represents a -- necessarily a single factor to change the
16 state's position.

17 REP. GRUENING: In this new legislation, what role or what
18 importance would you play on the presidential -- the
19 President's decision?

20 COMMISSIONER MARTIN: Well, all of these are somewhat subjective
21 judgments. My own feeling would be that the way the
22 decision will be made, and I guess I say this from the
23 perspective of my experience somewhat from the oil line
24 as well as this present dispute, Mr. Chairman, is this,
25 that my guess is that the President will take advantage

1 of the fact finding period set up in the bill utilizing
2 the federal agencies as well as the FPC. He will then
3 move toward a position on it without probably taking a
4 final position and then work with members of Congress to
5 see if the issue can somehow be brokered or somehow
6 resolved between the two branches prior to the time that
7 it goes.

8 So my guess is that the President is going to be
9 very important but that he will not send a recommendation
10 to Congress without having a fairly good idea of how it
11 will be returned. His role is unquestionably crucial.

12 REP. GRUENING: What I'm trying to determine, Commissioner,
13 is at what point, interpreting the Governor's remarks
14 today that you read, at what point would he make a re-
15 consideration? If I understood it correctly, he said in
16 Congress. In other words, the President's decision wasn't
17 as important to him -- or I'm trying to understand at
18 just what point you think these considerations that
19 Chairman Gross pointed out earlier are important.

20 COMMISSIONER MARTIN: I don't think that you can identify a
21 single instance but I can give you some examples that
22 would be the sort of thing that would be important. For
23 instance, if we get an early indication that the -- if
24 the President simply does what I suggest, he may not, and
25 that is, takes a position simply within the next sixty or

1 ninety days, stakes out a position and says "I'm going
2 to support the Arctic route" or "I'm going to support the
3 El Paso route", we will know something then that will be
4 definitive. We don't know whether he will do that.

5 Similarly there could be an action taken in
6 Canada, a definitive action which would give us an idea
7 whether Canada has any capability at all to approve any
8 pipeline through its country or whether it will act so as
9 to facilitate it. And I really think that you're not going
10 to get an answer as to a definitive point in time and
11 this is what we think is one of the strengths of the
12 contracts, that it puts us in a position where we can be
13 somewhat flexible in response to that but at the same time
14 have our basic position well established and well supported.

15 SENATOR RADER: Senator Croft?

16 SENATOR CROFT: Could I ask -- I'd like to get back to Attorney
17 General Gross' letter of December 2nd. You said in the
18 last sentence -- the last paragraph of that, "I feel there
19 is every possibility that the Trans-Alaska project will
20 eventually be selected for the transportation of North
21 Slope gas." Do you expect Judge Litt tomorrow to in effect
22 recommend the El Paso route?

23 ATTORNEY GENERAL GROSS: No.

24 SENATOR CROFT: What has happened to date to make you think
25 there is every possibility that that route will be

1 selected?

2 ATTORNEY GENERAL GROSS: I think the indications I have,
3 Senator Croft, primarily revolve about the Canadian
4 situation. I think that the Canadian situation is going
5 to be a great deal more formidable than the administrative
6 law judge contemplates and that the land claims issue --
7 the national situation in Canada at the present time are
8 going to create a climate in which a Trans-Canadian route
9 of any kind is going to be difficult. And I think that
10 will be a highly determinative force on a national level.

11 SENATOR CROFT: Mr. --

12 SENATOR RADER: Senator?

13 SENATOR CROFT: Unless somebody else has another question. I
14 was going to ask in that regard that the Anchorage Times
15 of Saturday had reference to a treaty that had been
16 recently concluded with Canada and somebody had said that
17 that treaty had no material effect on the pipeline debate.
18 Do you believe that's correct and exactly what does that
19 treaty do?

20 ATTORNEY GENERAL GROSS: I do believe that is correct but I
21 think Commissioner Martin can better explain it if that
22 is all right.

23 COMMISSIONER MARTIN: Well, I think that it has some effect.
24 I don't think that it is going to be determinative in any
25 way. That's -- the treaty that was signed and now

1 subsequently has to be ratified in each country, is
2 basically a formalization of the ad referendum agreement
3 that was made earlier and that agreement really doesn't
4 resolve any of the difficult questions that confront
5 Canada on this issue. It tends to be more of an agreement
6 to agree than anything else. I can have Assistant Attorney
7 General Boness describe the terms of that treaty, I'm
8 sure you are already familiar with them, but I don't think
9 that treaty in any way is an agreement for a Trans-
10 Canadian pipeline, either Alcan or Arctic.

11 SENATOR CROFT: The reason I ask is because I had heard that
12 there was going to be a move on the part of our congressional
13 delegation to fight this because it did have implications.
14 You would expect then no fight out of our congressional
15 delegation as a result of it?

16 COMMISSIONER MARTIN: I would think that they might oppose it
17 but my own indication is that they share the view that I
18 just expressed regarding the treaty, that it essentially
19 establishes more normalized working relations between the
20 United States and Canada on sort of a broad range of
21 issues, but it does virtually nothing to materially advance
22 either an Alcan or Arctic route.

23 SENATOR CROFT: Mr. Chairman, would you expect that the
24 administration in conjunction with the Congressional
25 Delegation and the purchasers of the North Slope gas would

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1 then oppose that treaty in Congress?

2 COMMISSIONER MARTIN: I really wouldn't take a position on
3 that. Our position throughout has been not to obstruct
4 relationships with Canada nor to highlight differences
5 between Alaska or the U.S. and Canada on this issue. I
6 think the bigger issue really is simply the Canadian
7 self-interest and the internal Canadian problems in terms
8 of approving it. But, without examining in detail, my
9 preliminary guess would be no, that we would not make
10 major efforts to oppose it, if any.

11 SENATOR RADER: Any other questions? Mr. Parr?

12 REP. PARR: Yes. I believe my question would be for
13 Commissioner Martin. In reading the Governor's statement,
14 Mr. Martin, the purpose of this is to build a constituency
15 in the Lower 48. Now, the Governor in dealing with the
16 reason for not getting legislative concurrence in his
17 switch said that a decision to shift, and these are
18 almost his exact words, would have to be reached quickly
19 and perhaps in hours or days and therefore it wouldn't
20 be possible to get the legislature back into it. I
21 would like to know what credibility you think we would
22 have if on July 3rd we are supporting the El Paso route
23 and July 4th we are supporting the Alcan, not only what
24 credibility we'd have but what credibility our presumed
25 allies would have?

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1 COMMISSIONER MARTIN: Mr. Parr, as I see it there are really
2 two situations that might exist to change the state's
3 position on this issue. One could occur any time and one
4 could occur, as I see it, only relatively early in the
5 debate. The one that could occur relatively early would
6 involve the substantive merits of the routes themselves
7 and that is the emergence of facts, whether those facts
8 are deregulation of gas or other factors, which would
9 just simply change the substantive judgment of Alaskans
10 on which routes are in its best interest.

11 The second factor which I think could occur at
12 any point, would be the development of facts which
13 indicate that our first choice, El Paso, simply cannot
14 succeed and that we would lose to Arctic, a third choice,
15 unless we changed our support to a second.

16 Now, in terms of your question about credibility,
17 I think that most of the early development with regard
18 to new substantive aspects will happen probably during
19 the time -- or a good part of it will happen during the
20 time that the legislature is considering this issue and
21 should be very much a part of our debate.

22 With regard to the second factor, I think that
23 anytime we switch, based on the fact that El Paso can
24 no longer prevail, we are simply -- we are not impairing
25 credibility because we are not changing our mind about

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1 which is the best route. We are simply saying that the
2 best route can't succeed and we're changing our allegiance
3 of support to the one that is the next best in our
4 interest. So, I think that either the State or the
5 companies could make that argument.

6 REP. PARR: Then you would say that the people down in
7 Tennessee or wherever who were supposedly writing their
8 Congressman in support of the El Paso route would under-
9 stand that they were being asked to switch the next day
10 as to writing their Congressman to support the Alcan
11 route?

12 COMMISSIONER MARTIN: I don't think that they would know, Mr.
13 Parr. I think that it is a very difficult situation.
14 I mean, there is no question in my mind that you have --
15 that your point is valid to some extent. The logical
16 extension of it, however, is that we lock ourselves into
17 a single avenue of support at this time and give ourselves
18 no avenue to get out of it if circumstances do change.

19 REP. PARR: Thank you.

20 ATTORNEY GENERAL GROSS: Representative Parr, I think -- is
21 it any more -- is it any different than in any political
22 process where a position is reached where a compromise
23 must be made which some person may not wish independently
24 but, forced to it is, nonetheless, required to make a
25 compromise? It happens in the Legislature, it happens in

1 the Congress, it happens all the time and I don't think
2 it is a question of credibility. It is a question of
3 you seeking the best thing you can get for your constituents.
4 View it to the extent you can and I don't think it is a
5 question that will be not credible, it's simply dealing
6 with reality.

7 COMMISSIONER MARTIN: Representative Parr, I'd like to add
8 one other thing when you asked about your constituency
9 in Tennessee. Under those circumstances they are not
10 going to lose the gas if the position changes. I mean
11 those same people who have been writing the letters are
12 going to be getting the gas but getting it through a
13 system which can succeed rather than through one that may
14 be a hopeless -- you know, a loser and can't succeed at
15 some later time. So those individuals will still have
16 the gas supply.

17 REP. PARR: May I reply?

18 SENATOR RADER: You still have the floor.

19 REP. PARR: Well, in reply to Mr. Gross, I see his point and
20 after all we all know that politics is the art of
21 compromise, right? But, that is a little bit different
22 from what I was talking about, I think. We were talking
23 about persuading a bunch of ordinary people who are just
24 who are not politicians but to support our cause by
25 persuading their politicians, right? And I think that is

1 quite a bit different from the fact that we in the
2 legislature and in the Governor's office and everywhere
3 else all have to accept compromise as a political fact
4 of life. I think there is quite a little difference
5 there.

6 ATTORNEY GENERAL GROSS: I think Commissioner Martin's point
7 is well taken. If the compromise will still protect the
8 interests of those individuals, I think they would support
9 it.

10 REP. PARR: Mr. Chairman, well, of course and if that's the
11 case, what we ought to do is make it pretty clear, "look,
12 we want you to support whatever the State of Alaska wants
13 supported, so you can get the gas. not that we want you
14 to support El Paso so you can get the gas." Right? We
15 were telling them that El Paso is the best route, okay?

16 ATTORNEY GENERAL GROSS: Right.

17 REP. PARR: And they are supposed to honestly believe that
18 and try and persuade their congressmen, not just because
19 they are going to get the gas because that is purely a
20 selfish motive and if that is the way we are going to
21 play it, we ought to know it. But I felt we were going
22 to persuade them that El Paso was the best route and
23 then we come along and say, "well, no soap, boys, now it's
24 Alcan we have to go for." That's all I have Mr. Chairman.

25 SENATOR RADER: Mr. Chatterton?

1 REP. CHATTERTON: Mr. Chairman, Mr. Commissioner, on November 22
2 1976, why the Alaska Royalty Oil and Gas Development
3 Advisory Board met and did indeed approve your determi-
4 nation to waive the competitive bid process and sub-
5 sequent to that why you as required by statute set forth
6 some findings and conclusions. And I realize fully,
7 Commissioner, that you were operating within a time
8 frame, that you had to come up with something prior to
9 the early portion of the first session of the Tenth
10 Legislature. But, you in effect say that one of the
11 rationales for not having any competitive bidding as far
12 as intrastate use of gas is that no specific proposals
13 for such purchases were forthcoming. Now, and in your
14 judgment, how far on down through the future calendar
15 time do you think that situation would remain in effect?

16 COMMISSIONER MARTIN: My experience thus far with the royalty
17 oil and gas, Representative Chatterton, would indicate
18 that rather than a highly competitive situation arising,
19 what will happen is that a series of possible users of
20 royalty oil or gas will develop. Now these may be small
21 utilities, Golden Valley or some other electric cooperative,
22 they may be municipal -- municipalities that go toward
23 some gas system or a system that uses oil as a fuel for
24 electrical generation or other purposes, or there may be
25 large users that develop from major petrochemical or other

1 projects, and it may be that as those uses develop or
2 we define uses that are beneficial to the state, that
3 we can structure competitive sales to reach particular
4 objectives but that they will be largely predicated on
5 individual development or uses that may be competitive.
6 For instance, in the case of Golden Valley Electric,
7 it is very unlikely that we would expose Golden Valley
8 Electric to a highly competitive sale which might be at
9 the expense of consumers along with somebody else who
10 had come in to compete with Golden Valley Electric. Now,
11 we have not made any final determination on this but I
12 think we'll see that situation confronted. So, I don't
13 foreclose the possibility of competitive sales but I
14 think it will arise in the context of a lot of individual
15 proposed uses that will have to face a competitive sale
16 on one of those proposals.

17 REP. CHATTERTON: My follow-up question, Mr. Chairman. Is
18 it further and under your finding speaking to interstate
19 sale of gas -- you say, "under present legal and regulatory
20 circumstances a competitive sale based on price competition
21 is not feasible because the price at which natural gas
22 may be sold in interstate commerce is controlled by the
23 Federal Power Commission." And, I ask you, Commissioner,
24 how far into the future can you guarantee the citizens
25 of Alaska that "present legal and regulatory circumstances"

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1 will make it -- will keep the situation so that you
2 cannot ask for competitive bids for interstate sale?

3 COMMISSIONER MARTIN: Well, I don't think I can give you a
4 figure of guarantee and I doubt that you would force me
5 to come up with it in a short period of time. Under the
6 new administration I'm sure you are aware that the
7 President has indicated his desire to move toward de-
8 regulation. Exactly how reliable that makes an absolute
9 promise for deregulation is anyone's guess and I think
10 it is something that might well be granted with our
11 congressional delegation. I do think that the situation
12 is unpredictable. The odds are now substantially higher
13 in favor of deregulation occurring than they were before
14 President Carter made that statement.

15 In terms of this contract, we would be again
16 benefiting by prices realized from the Prudhoe Bay
17 field if we went to a deregulated situation. I know
18 that later in this week there is going to be additional
19 testimony on the price provision that deals with de-
20 regulation and I'm hopeful that perhaps at sometime we
21 can come back and have a discussion which I think will
22 be complex and an interesting discussion on what that
23 means. And, I think that there will be -- that we are
24 largely protected under a deregulated or regulated
25 situation to get the highest price from that field. I

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1 will not tell you that there may not be circumstances
2 that can arise that are unforeseeable at this time which
3 may not make some differences and I want to discuss that
4 with the committee. But, basically speaking, I think
5 that this contract ties itself to the highest price,
6 whether or not deregulation occurs.

7 REP. CHATTERTON: Thank you, Mr. Commissioner, thank you.

8 SENATOR RADER: Any further questions? Senator Croft?

9 SENATOR CROFT: I'm curious in regard to the use of political
10 influence exactly where you expect that political
11 influence to fall? Whom are we trying to effect?

12 ATTORNEY GENERAL GROSS: Political influence, I think the
13 Governor's words, I think, are more apropos. I think
14 he called it "building a national constituency". I
15 think what he is trying to do, Senator Croft, is to give
16 people in other states as well as Alaska, an interest in
17 seeing the Trans-Alaska pipeline route approved. Now in
18 as they are influenced, as they desire that route, hope-
19 fully their congressional representatives will also desire
20 that route. Hopefully there will be more of a national
21 constitutency as would influence the President in his
22 decision. That is the type of thing we are talking about.

23 SENATOR CROFT: You don't anticipate these contracts having
24 any effect on the FPC then?

25 ATTORNEY GENERAL GROSS: I think that frankly the contracts

1 have come too late to influence the FPC decision except
2 as it indicates a commitment of the gas. But in terms
3 of building a constituency for the pipeline, no. I think
4 the FPC decision is probably already written.

5 COMMISSIONER MARTIN: Each of the buyers, Senator, did
6 intervene in the FPC in favor of the Trans-Alaska route
7 but I think beyond that it is certainly not a political
8 situation with the FPC from here on out. They'll be
9 participating in the standard legal procedures of the
10 FPC and doing so on behalf of the Trans-Alaska route.

11 SENATOR CROFT: As an educated guess, is it fair to assume
12 that you anticipate that Judge Litt tomorrow will basically
13 rule in favor -- or recommend in favor of the Arctic
14 route and that the FPC in its full commission hearing,
15 which decision they have to make prior -- or on or before
16 May 1st will likely follow his recommendations?

17 COMMISSIONER MARTIN: Well, the former question with regard
18 to Judge Litt's decision is difficult to guess. The only
19 way that you can guess is the way in which the Judge has
20 asked his questions and made his statements during the
21 hearing. In my own view that has tended to follow a strong
22 bias toward the Arctic route and some dissatisfaction
23 with both of the other alternatives. So, I -- my honest
24 personal expectation is he will rule in a fairly compli-
25 cated decision probably, in favor of the Arctic route

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1 and the decision will be somewhat complex beyond that.

2 In terms of the FPC following his decision, I
3 think that's just too speculative to really guess. I
4 believe there is one and possibly two seats vacant on
5 the FPC. The way those seats are filled will have a
6 tremendous impact on that and I think that the information
7 that is produced outside of the FPC proceeding from here
8 on out will also have an impact on it, and that is one
9 case in which I think the State will want to participate.
10 As you may know, during that period of time the ex parte
11 rule is waived for some purposes and a great deal of
12 information will be made available to FPC commissioners
13 in addition to that which is made available for the record
14 itself. So, I just think it is too unpredictable to know.

15 SENATOR CROFT: Do you think then that these contracts may
16 have an effect on the FPC?

17 COMMISSIONER MARTIN: I think they'll have a substantive
18 effect and I think it will be important that the people
19 that we have working for us will be able to produce new
20 information and hopefully develop better information on
21 the routes but I don't think they will have a political --
22 To answer your questions in terms of politics, I doubt if
23 it will have a political effect. I think, Senator, it is
24 very important to say a couple things here to at least
25 give my own personal opinion with regard to this idea

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1 about politics being at the heart of it. I don't share
2 that view. First of all, someone said earlier, I think
3 it was Clark, that what is important is what you get and
4 what you give up. In terms of what you get, I think we
5 spend too much of our time really dealing with thinking
6 the only thing we get is political support. As I see it,
7 there are really four major things, some of them having sub-
8 parts that we get. One is, we get a good price for this
9 gas and we get it, I think, according to a term that gives
10 us the best protection we can get aside from getting a
11 premium. We may at a later time be able to get a premium
12 and I'm -- I've said that throughout this entire consideration.
13 It's a matter of whether or not you want to withhold this
14 action waiting for that time to possibly arise. It is not
15 here now and we can't get it now, but we get a good price.

16 Secondly, we get a contract which very closely
17 follows the theory that Mr. Moody advanced last year and
18 that could be followed to protect our royalty gas. We get
19 in-state protection of gas by a total take back provision,
20 which I think most people agree is extraordinary in its
21 coverage of future in-state uses and to protect. That may
22 or may not be something we can accomplish later.

23 Third, we get, I think, a reasonable exercise of
24 the rights that we gain through the amendment that passed
25 the Gas Transportation Act and last years Congress. There

1 has been some disagreement over whether or not this is
2 the way and the time in which that should be exercised.
3 I personally believe it is a reasonable way and a reason-
4 able time to exercise it, and I think the Congressional
5 Delegation agrees with that.

6 And, fourth, and only fourth do we get the
7 support for the pipeline that we are talking about and
8 even there, that support while it has a political aspect,
9 that is it builds a constituency in a certain area and
10 it puts people on our side working for it. It also has
11 a substantive aspect, Senator Croft, in that these
12 companies, Tenneco and Southern, are companies with great
13 resources in terms of their substantive capability,
14 whether it is LNG or offshore operations and the way in
15 which they merge into the El Paso system in a logical
16 distribution pattern. They bring a great deal more to
17 it than politics. So, I think that while it is unques-
18 tionable that there will be political or other -- you
19 know, something to be characterized as political support.
20 There is much more to the contract than that that is of
21 benefit to the state.

22 SENATOR CROFT: Mr. Chairman, could I reply to that? The
23 phrase "political support" did not originate with me.

24 COMMISSIONER MARTIN: I understand.

25 SENATOR CROFT: I don't know whether it did with you or the

1 Attorney General but on page twelve of the Governor's
2 speech dated November 12th, he says, "Gaining political
3 support at this critical stage of the pipeline proceedings
4 is the major reason for acting now on royalty gas, but
5 there are other reasons also." And then on page fifteen
6 he says, "The primary objective of this sale is to gain
7 additional support for the pipeline route the State
8 supports."

9 COMMISSIONER MARTIN: I understand that and I think it is
10 fair to characterize it as a primary reason, or the primary
11 reason, but I'm trying to make it a point ---

12 SENATOR CROFT: The primary reason is political support?

13 COMMISSIONER MARTIN: That -- in my view, it is not. I think
14 in my view there are many reasons and they are all of
15 somewhat equal character. I think the Governor said that,
16 and that is his view, that he thinks it is a primary
17 reason.

18 ATTORNEY GENERAL GROSS: I think you may be getting into a
19 semantic difficulty here. I think what you read,
20 Senator Croft, said the reason for selling the gas
21 now is to generate political support, and I think that's
22 unquestionably accurate and the Governor stressed it.
23 That is the reason we are doing it now as opposed to
24 doing it a year from now, that a year from now it will
25 have no impact in gaining us any support for our position

1 in the Trans-Alaska pipeline dispute. I think Commissioner
2 Martin is stressing that the contract itself whenever
3 made, also has certain highly desirable features to it,
4 which he has stressed. And I think that is absolutely
5 accurate too.

6 SENATOR CROFT: Could I ask one more question and then Mr.
7 Chatterton has one. To what extent does either the
8 Federal Power Commission or the United States Congress
9 have authority or the possibility of allocating this gas
10 wherever it goes anyway? Couldn't they simply say, "we
11 approve this route and we determine that 2.5 billion
12 cubic feet a day are to be sold east of the Mississippi
13 River"? And doesn't -- I mean, doesn't Congress have the
14 power to allocate that gas rather than them having to
15 say, "We're going to approve a route because then a
16 supplier may buy it through some contract"?

17 COMMISSIONER MARTIN: Well, Senator, I think you know partially
18 what the answer to that is. That is the stuff with
19 which interstate commerce clause battles are made between
20 states and the federal government. Under some circumstances
21 I would say, yes. Under the -- as you know, oil is
22 allocated and I don't suppose that there is any over-
23 riding reason that they couldn't do that. The circumstances
24 would have to exist to do so.

25 Let me just point out on the other side, though,

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1 that we were successful in drafting a proposal and
2 our delegation was even more successful in gaining the
3 passage of the amendment which gave Alaska the right to
4 utilize its gas in-state. So that I think all you can do
5 is judge that subjectively as a political possibility.
6 In other words, a legislative congressional possibility.
7 Right now, I think, that given the gas shortage in the
8 Lower 48, how we react, responsibly or not to that in
9 Alaska, has a great deal to do with that. How other gas
10 producing states react has something to do with that.

11 In my view, the passage of the amendment was a
12 hopeful sign and it may be one that we can capitalize on
13 and protect future in-state uses. But -- the question
14 is simply, can they do it? I would say, sure.

15 SENATOR CROFT: I have some additional questions but I notice
16 Mr. Chatterton wants the floor.

17 SENATOR RADER: First of all, anybody who has not yet asked a
18 question, who would like to, we'll open it up to everyone
19 before we get to -- Mr. Chatterton, then.

20 REP. HAYES: Mr. Chairman?

21 SENATOR RADER: Mr. Hayes?

22 REP. HAYES: Commissioner Martin, just one item of clarification.
23 The statement regarding the primary purpose of the
24 contract which had to do with political considerations,
25 that was the Governor's position and not yours?

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1 COMMISSIONER MARTIN: Yes, sir.

2 REP. HAYES: I read it in the transcript of your Royalty Oil
3 and Gas Development Advisory Board of November 22nd,
4 where I got the impression that it was your opinion.

5 COMMISSIONER MARTIN: My view is that -- just to clarify it,
6 Mr. Hayes, is that all of these purposes are extremely
7 important and that is one of them. Whether it is not
8 the most important or not, or the primary purpose, is that
9 I think it is subjective judgment. I think each of them
10 are important, in a combination they make up a very good
11 argument.

12 SENATOR RADER: Mr. Chatterton?

13 REP. CHATTERTON: Thank you, Mr. Chairman. I'm sorry, Mr.
14 Commissioner, but I would like to recall your memory and
15 see if you still stay. Going back to those findings
16 that I referred to that you made following the November
17 board meeting, why you do say that the "primary objective
18 of the proposed" -- "presently proposed sales to improve
19 and strengthen the position of the state with respect to
20 the decision process for the system to transport North
21 Slope natural gas" and I gather --

22 COMMISSIONER MARTIN: Well, Mr. Chatterton, I'd stand by that
23 statement.

24 REP. CHATTERTON: Yes, I think that is what you said here.

25 ATTORNEY GENERAL GROSS: Mr. Chatterton, as one who has been

1 involved in this from the Gas Pipeline Task Force point
2 of view, I think when you say "political influence", what
3 you are really saying is that it is a roundabout way of
4 saying any influence. This is a political decision which
5 is going to be made in the larger sense. A political
6 decision as to policy consideration clashing to produce
7 a decision as to where this pipeline route is going to
8 be built. If the state is going to have any influence
9 in this, it is going to have to have political influence
10 in this. That's -- we either have the choice of doing
11 nothing and watching it happen, or we have the choice of
12 becoming actively involved and trying to influence the
13 decision. The Governor made the latter choice.

14 SENATOR RADER: Senator Poland, then Senator Bradley.

15 REP. BRADLEY: Representative.

16 SENATOR RADER: Representative Bradley.

17 REP. BRADLEY: You don't know what an insult that is.

18 SENATOR RADER: I didn't mean to insult you, Representative.
19 Senator Poland?

20 SENATOR POLAND: As long as we are on this political issue,
21 one of the things that has bothered me about the switch
22 provision in there is what incentives do these three
23 companies particularly have when they're going -- as I read
24 the contract, they're going to get the gas no matter what
25 route.

1 COMMISSIONER MARTIN: You have made a common error, Senator
2 Poland, I believe in reading the contracts, because they
3 will not get the gas no matter which route it is. I
4 have talked to a number of legislators who have made the
5 same error reading the contracts.

6 The gas will only be given -- if they are support-
7 ing the position that the state supports and if that
8 position prevails so that if the state never changes its
9 position from El Paso and Alcan is certificated, none --
10 these contracts will simply be void.

11 If the state changes its position to a second
12 route, let's say Alcan, and one of the companies refuses
13 to switch at the time the state does so and then Alcan
14 prevails, or the other route prevails, they similarly
15 lose the gas. So, the only circumstances under which they
16 get gas is if they are supporting the state position and
17 if that position prevails. Under all other circumstances
18 the contracts would be void, so they have an undeniable
19 incentive to be with the state on the prevailing position.

20 SENATOR POLAND: Excuse me, Commissioner, I didn't express
21 myself well because I understood that the state had to
22 switch its position for their contracts still to be in
23 power. But, if the state does -- I mean, they have no
24 incentive to particularly work to hold the state on the
25 all-Alaska position.

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1 COMMISSIONER MARTIN: I would think they would have the
2 incentive of wanting to prevail since that is the
3 position we are going to take and the position we believe
4 would prevail.

5 SENATOR POLAND: Mr. Chairman, I have one other question that
6 I would like to ask the Commissioner.

7 SENATOR RADER: You still have the floor.

8 SENATOR POLAND: The state has the right to take back whatever
9 gas it needs for in-state use, including the exchange of
10 Prudhoe Bay gas for other gas elsewhere in Alaska. If
11 the exchange gas is used in Alaska and including lique-
12 faction of the gas provided the liquid gas is used in
13 Alaska, now, does this mean that we cannot sell gas to a
14 third party for liquefaction and export?

15 COMMISSIONER MARTIN: Let me ask. Yes, that is right. I
16 wanted to make sure that I had followed your question.

17 SENATOR POLAND: Then if we want to use those things we have
18 to go into that business ourselves?

19 COMMISSIONER MARTIN: I want to be sure I understand your
20 question, Senator Poland. Would you run that by one more
21 time? I'm not sure I understood it.

22 SENATOR POLAND: Does this mean that we can't use -- we can't
23 sell to a third party for liquefaction and export?

24 COMMISSIONER MARTIN: That is right, we could not do that.
25 In my view that is right but we could sell for liquefaction

1 and use. The statement we make is protected from all
2 in-state uses except liquefaction for export. What you
3 are suggesting is a way that we might essentially cheat
4 that provision. What we have sold in these contracts,
5 I have made it clear in all my statements, is the -- the
6 one thing we have sold is gas that is surplus to state
7 needs and the sole judge of state needs is the state
8 itself through its statutory process. But, anything that's
9 surplus the state needs by our own choice is committed
10 under those contracts and what you're suggesting is a
11 way to -- essentially to surrogate that bargain, if the
12 bargain is to sell gas that's surplus.

13 SENATOR POLAND: In other words, you don't consider that the
14 state needs the liquids?

15 COMMISSIONER MARTIN: This has -- I assume -- I didn't under-
16 stand your question to have anything to do with gas
17 liquids, Senator Poland. I can discuss that -- I didn't
18 think -- were you asking about gas liquids?

19 SENATOR POLAND: No, I asked on this other and then I'm also
20 interested in -- what about the liquids? Because your
21 answer --

22 COMMISSIONER MARTIN: Well, the liquids have been the subject,
23 I think, of some misunderstanding. Under the terms of
24 this contract Alaska has a full right to the liquids from
25 this gas. Let me give it to you in practical terms. It

1 first has a right -- and this has nothing to do with the
2 notice provisions under the contract, it has a right to
3 take those liquids and do whatever it wishes with them,
4 including exporting them or any use in Alaska and to take
5 them at any point where those liquids are taken from the
6 gas, whether it's in Alaska or outside.

7 In addition to that, it has the right to take the
8 liquid -- the gas off itself and take the liquids from
9 the gas and to use it in Alaska. The only limitation is
10 not in the contract but it is a practical economic
11 limitation as to whether or not those liquids will actually
12 be taken out in Alaska or whether or not the state can
13 justify the building of a plant to take out the liquids
14 itself for only the royalty share. Now, it's been
15 suggested and I think by several people, that one of the
16 things the state did not do in this contract is to use
17 the contract to coerce in some way or to negotiate for
18 the fact that the liquids of all of the gas would be
19 taken out in Alaska. That is accurate, we did not. But
20 I can assure you that we would not have been able to get
21 this contract if that were our objective. Now, if the
22 legislature believes or other believe that that should
23 be our objective, to force the eight-eighths on us -- every-
24 one to take out their liquids in Alaska, we can take a
25 run at doing that but that is not one of the objectives

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1 of the contracts. Other than that, we have a full right
2 to our liquids anywhere they come out or we want to take
3 them.

4 SENATOR RADER: Representative Bradley?

5 REP. BRADLEY: Commissioner Martin, is the State of Alaska
6 engaged -- and this is somewhat in following the four or
7 five or six or eight questions regarding political clout,
8 is the State of Alaska embarking on some sort of un-
9 precedented new morality or new ethics or something that
10 is unusual that's ever been done -- that's never been
11 done by any other states. I mean it doesn't -- I'm --
12 this is somewhat rhetorical. It doesn't appear to me
13 that way but some people have commented on bad morality
14 and some people have -- and of course when people mention
15 politics, I guess in a lot of cases they're talking about
16 it as being bad. I don't feel that way and I don't think
17 some people do but -- are we entering into some sort of
18 new era of sin regarding our resource development?

19 COMMISSIONER MARTIN: Well, I have never heard the point
20 raised by anyone until raised by one -- raised by
21 Lieutenant Governor Boucher at the Royalty Board and
22 raised just in the last week. Those are the two occasions
23 on which I heard the issue raised in the whole last year
24 or so that this issue has been discussed and quite frankly
25 has been very openly known.

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1 My own view of that is, no, we are not entering
2 into any new period and we don't intend to. I don't
3 think there is a specific precedent for a state doing
4 what we have done. Let me try to answer the question
5 this way in terms of what was involved. First of all,
6 other states don't fool around with -- you know, even
7 the kind of contract we have, which is I think a
8 reasonably complex answer to a problem that is itself
9 complex, they just simply spend money and they pay people
10 money to go down and lobby people in Washington and
11 lobby people elsewhere to do what they want.

12 Secondly, I think it is very important to remember
13 that we are not coercing the national will using our
14 resources. If we were in a position of saying, "we want
15 the Trans-Alaska pipeline and we are not going to let
16 our gas leave this state to go to the people in the
17 Lower 48 under any circumstances except the certification
18 of this route", I would think then we would be in a
19 coercive and somewhat morally questionable position.
20 What we're saying is we're expressing a preference for
21 the route we want and we're making a contract that would
22 award gas only to companies that help us get that route.
23 If the route fails the contract -- the only implication
24 of that is that the route fails. The implication of it
25 is not that the people in the Lower 48 who may need it,

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1 are deprived of some portion of our surplus gas, so we're
2 not coercing.

3 And finally let me just say that there is only
4 certain tests of what may or may not be politically or
5 ethically acceptable actions and I think that a year of
6 public debate on which that question simply was not
7 raised, followed by what I would say is ongoing consul-
8 tations with our Congressional Delegation with regard to
9 their perception of the way this would be heard in
10 Washington. This indicated to me that they consider it
11 to be a highly proper and in fact, a desirable course of
12 action and not one, which at least to them, has indicated
13 moral questions.

14 SENATOR RADER: We have gone a little bit more than an hour.
15 We will take a ten minute break and we'll strictly limit
16 it to ten minutes. We will bang it back to order in ten
17 minutes sharp. We're adjourning -- or recessing.

18 (Whereupon the hearing was recessed at

19 3:30 p.m. and reconvened at 3:40 p.m.)

20 SENATOR RADER: Representative Rhode has to leave the hearing
21 and asked to be permitted to ask a question. Mr. Rhode?

22 REP. RHODE: Thank you, Mr. Chairman. I have just one question
23 and I'll be satisfied with a short answer. Under the
24 present law, as I understand it, we have the privilege
25 of taking our one-eighths share of the gas out of this

1 line at any place and anytime. Now, if this contract is
2 not approved -- or I should say, if this contract is
3 approved and the Congress repeals that privilege, where
4 do you stand with this contract?

5 COMMISSIONER MARTIN: Representative Rhode, the Congressional
6 amendment indicates that we have that right and it orders
7 the Federal Power Commission to approve any contract that
8 does that. If we have approved this contract and if the
9 amendment is repealed prior to the time we get that FPC
10 approval, it's our legal belief that we are not protected,
11 that we would then have to rely on FPC approval without
12 the amendment. That is still possible but the chances
13 of it being approved at that point are substantially less.

14 SENATOR RADER: Mr. Gruening had an exhibit, I believe.

15 REP. GRUENING: I have an exhibit but I would like to ask
16 some questions based on facts that appear in this. The
17 exhibit numbered exhibit three is based on Tenneco's
18 interstate natural gas pipeline market areas and it has
19 some figures on the states that are served and the amount
20 of gas that they provided these states. And based on
21 that the staff for the House Special Committee has come
22 up with some figures that show that Tenneco's share of
23 its twenty-five states that they serve is about ten per-
24 cent. In other words, they provide about ten percent of
25 the natural gas to these twenty-five states in 1975.

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1 Tenneco's share of royalty gas under these
2 contracts, based on those same figures, would be less
3 than three-tenths of a percent. Now, that is fifty
4 percent of our royalty gas. You put that in juxtaposition
5 with the fact that there is twenty trillion cubic feet
6 consumed in the United States in 1975, what impact is
7 this going to have on building a constituency? It
8 appears to me -- doesn't it -- it appears to me and does
9 it appear to you, Commissioner, that the amount of royalty
10 gas we're committing really is infinitesimal when you are
11 trying to deal with the energy gas shortage problem that
12 we have?

13 COMMISSIONER MARTIN: I think you can only answer that in
14 terms of the -- you know, rather than looking at the
15 numbers and I do agree with your analysis. I'd like to
16 see the figures but I understand what you are saying,
17 three trillion cubic feet. And, in fact the entire
18 Prudhoe Bay, which is let's say twenty-six to thirty-one
19 trillion cubic feet, about one years supply in the United
20 States. People forget that. We're very limited by the
21 importance of any amount, getting our royalty amount.
22 But the true measure of it is the level of interest and
23 the level of support it engenders and it seems to me that
24 in terms of the effort that it has generated and the
25 support that it has generated and the interest it has

1 generated, we're making it go pretty far, but we can't
2 be right, we can't make it go any farther than the basic
3 amount and that is somewhat limited. That is about all
4 I can say.

5 REP. GRUENING: Commissioner, unless the -- you know, the
6 emotionalism of the crisis that is presently in the
7 Lower 48, you know, upsets Congress to the degree that
8 they don't look at these facts, won't Congress really
9 look at the total energy picture and determine that if
10 they are going to solve the gas problem, it is not going
11 to be through, you know, picking a pipeline route, but
12 reallocating the gas on a major basis as legislation is
13 already introduced to do?

14 COMMISSIONER MARTIN: I mean it is a subjective judgment.

15 I think that that is a possibility but right now we have
16 a gas line procedural act that sets up an exactly
17 opposite procedure to reach a decision on the route. So,
18 that if you have to bet on what is the most expectable
19 thing to happen, I would put my trust in the fact to
20 carry out the terms of the gas line procedural act and
21 try to reach a decision on the route. Now, whether or not
22 allocation comes with that, I don't know. It's -- it's in-
23 tangible.

24 REP. GRUENING: What I'm trying to get at though is what are
25 we actually receiving by selling the gas now? In other

1 words, I understand your concern and I think the contract
2 really has addressed itself to a lot of the points in
3 terms of price, but even the best attorneys can't see
4 six, seven, ten years in the future. So, if we're
5 getting very marginal influence -- in other words, if
6 Congress looks at it and says, "this isn't going to
7 make it -- a lot of difference, this commitment one way
8 or another" and this constituency really won't exist.

9 I'm trying to determine whether we really are
10 building a constituency.

11 COMMISSIONER MARTIN: Clark, I've never tried to change what
12 I think was the basic position on what we get in terms
13 of support for the route. It is a subjective judgment.
14 It could be analyzed, as you have done it, by trying to
15 figure out the amount of gas as it compares to something
16 else or it can be done by talking about whether Tenneco's
17 a good or bad company or any other number of ways. I
18 can only judge it myself in terms of what it appears
19 to be doing and what it appears that it would do in
20 that decision. And I've tried to apply the judgment of
21 many people doing it. To me, the fact that our Congres-
22 sional Delegation has to make that fight thinks that it
23 is one of the most important things that we can do and
24 they believe that it is crucially important to win the
25 debate is a very important factor and goes beyond what

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1 we can find on paper to demonstrate that it is not an
2 important factor. So what we get, it seems to me, is
3 more than just the figures on the paper but what people
4 think they can make out of that. Right now that appears
5 to be important.

6 REP. GRUENING: Will the companies' own decision on which
7 route to support have an effect? I relate back to
8 Senator Poland's earlier question in that what is the
9 incentive of these companies to lobby for the first
10 choice, El Paso, when in fact they know that the state
11 would accept a certification of the Alcan line. I mean
12 I don't think logically or reasonably we'd reject that
13 certification if it was the only one and why not -- what's
14 -- I mean, won't they be in the drivers seat in deter-
15 mining which one they want --

16 COMMISSIONER MARTIN: Well, we would accept it. We would
17 accept it but the question is whether or not we will be
18 supporting it at the time. That is what we're left with.
19 It may well be that we conclude throughout the procedure
20 that El Paso's in our best interest and that the companies
21 stay with us throughout and that that route simply loses.

22 I made an error earlier and I want to correct it.
23 I said that the contracts would terminate. The contracts
24 may be terminated rather than they would terminate. It's
25 policy that we would terminate it and I said it that way

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1 because if it's policy then that would be the case.
2 But under any circumstances, they're under incentive to
3 support the state position because they must be with that
4 position when it prevails.
5 ATTORNEY GENERAL GROSS: If I might add to that, the Congres-
6 sional Delegation, Representative Gruening, can shift
7 its support to an Alcan route without the Governor shifting
8 his support. That the result that even if an Alcan
9 route prevailed in Congress, these companies would not
10 receive the royalty gas.

11 SENATOR RADER: Any further questions?

12 REP. GRUENING: Not at this time.

13 UNIDENTIFIED VOICE: Would you explain that again, please?

14 ATTORNEY GENERAL GROSS: Sure. The Congressional Delegation
15 could in the end end up voting for somebody supporting
16 an Alcan route. If the Governor did not formally shift
17 the state support under the contract to the Alcan route,
18 these companies would not receive any gas because they
19 would not be -- they would not be in support of the route
20 that the state would be supporting and that route would
21 not be successful. So long as the state stayed with
22 support of the El Paso route.

23 SENATOR RADER: Representative --

24 COMMISSIONER MARTIN: I think --

25 SENATOR RADER: Excuse me, sir.

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1 COMMISSIONER MARTIN: I was just going to say that I think
2 that is an entirely appropriate question to ask the
3 buyers and I'm sure you will, in terms of how they're
4 basing their activities and their judgment. There is no
5 question in my mind that based on the activity that has
6 already been undertaken and based on the preference of
7 the buyers and based on what would be done -- you know,
8 even during the time that the legislature is working on
9 this, that a case for support of the El Paso route is
10 being put together. It has been put together basically
11 without any difference of opinion from many people in the
12 state for some time.

13 I think questions about how difficult it is to
14 change are appropriate but nevertheless we think we may
15 reach that time.

16 REP. GRUENING: I have just a comment on -- the hypothetical
17 that the delegation would be for one line and the Governor
18 the other is pretty improbable. If I understand what you
19 said earlier is that if the delegation -- whatever they
20 say goes as far as you're concerned, they're --

21 COMMISSIONER MARTIN: No.

22 REP. GRUENING: No?

23 COMMISSIONER MARTIN: What the Governor said is pretty clear.
24 He said that we may reach a time at which it is appropriate
25 to change. If it looks like El Paso can't prevail and

1 we'll lose to Arctic without -- unless we switch our
2 support to Alcan. He'd base his decision to change on
3 the consensus of the delegation and legislative leader-
4 ship and gave his pledge in his statement, as I under-
5 stand it, to call a special session after consultation
6 with the legislative leadership if time permits.

7 ATTORNEY GENERAL GROSS: I suppose as a scenario you are
8 suggesting that the companies behind the scenes could be
9 working in support of an Alcan route, which they hope
10 would ultimately prevail, under the assumption that
11 eventually the state would have to come over to that
12 when they saw that the El Paso route would collapse.
13 I think the state would probably take it amiss if it
14 found that the people who were receiving the gas under
15 the contract who had been committed to supporting a
16 Trans-Alaska route were actually working under the scenes
17 to support an Alcan route. I think that would probably
18 affect the state's decision as to what it did and I
19 don't think the companies would in any sense do that.
20 I don't think that they would act in such a fashion.

21 REP. GRUENING: I can't believe the state in a myth would
22 then forego the opportunity -- In other words, you are
23 saying that it would -- if it found that, it would not --
24 it would reject the contract, if it found that they
25 weren't living up to snuff, in your view?

1 ATTORNEY GENERAL GROSS: Well, I suppose what you are asking
2 is would the state approve it after the fact. I mean
3 if the Alcan proposal was then approved by Congress,
4 would the state switch its support so it could give the
5 royalty gas to these people. If that is what you are
6 asking I can't imagine why that decision would be made
7 just for that. I don't know.

8 SENATOR RADER: Representative Chatterton, I'm going to tend
9 to go to persons who have not previously asked a
10 question, however, Representative Chatterton did want
11 to have a follow-up on something that occurred before
12 the recess and then I'm going to start recognizing
13 persons who have not yet spoken. Representative
14 Chatterton?

15 REP. CHATTERTON: Thank you, Mr. Chairman. Commissioner,
16 I sense that there is a consensus of agreement amongst
17 this group with your statement that the primary objective
18 of these gas sales contracts are to strengthen our end
19 in the decision making process that you get an all-
20 Alaska line. Just before we broke for coffee I very
21 admirably -- I think I heard you speak to the point
22 that you would in no way want to coerce any decision as
23 far as Alaska gas is concerned to the South 48. Now,
24 as I say, I think that is admirable and I share that
25 position with you. Now my question to you, Mr. Commissioner,

1 is very simply this: That if subsequent testimony before
2 here develops that the city gate price in Columbus,
3 Ohio, would be lower by some route other than the all-
4 Alaska line, would you still favor these contracts?

5 COMMISSIONER MARTIN: Well, I don't know.

6 ATTORNEY GENERAL GROSS: Can I respond to that, Representative
7 Chatterton?

8 REP. CHATTERTON: Please.

9 ATTORNEY GENERAL GROSS: For one thing, I think that the
10 price in Ohio probably is going to be lower by another
11 route than the all-Alaska line. I think that the
12 evidence which has developed indicates that the delivered
13 price of the gas down below will probably be the cheapest
14 by the Arctic Gas route, next by the Alcan route and
15 finally by the El Paso route. So, the decision already
16 has been made to make -- to support that and that is
17 for a number of reasons. Some environmental, having to
18 do with environmental considerations other than purely
19 economic ones, the other having to do with political
20 problems with building the lines themselves. Now the
21 Arctic Gas, for instance, the model for Arctic Gas is
22 constructed under the assumption of certain provisions
23 for construction -- Arctic construction, using snow
24 roads. Our people in the state government believe that
25 that is a totally unfeasible way of constructing the

1 line and that as a practical matter if Arctic Gas is
2 certificated they will end up spending a great deal more
3 building the line than they anticipate spending at this
4 time, that their cost overruns will be substantially
5 greater and that therefore their cost of delivery will
6 be substantially more.

7 Similarly, the political problems in Canada may
8 mean that the lines may not be able to be constructed
9 until many years in the future, beyond the point at
10 which the gas under the El Paso proposal could be
11 traveling southward. So, price is one consideration.
12 An additional factor is the point that construction of
13 an all-Alaska line will be using American labor and
14 materials, it will be constructed wholly within the
15 United States and the net economic benefit of that for
16 the country is higher than using a gas Arctic proposal.
17 So, there are other economic benefits to the country
18 than just the price of delivered gas.

19 REP. CHATTERTON: Thank you.

20 SENATOR RADER: Representative Meekins?

21 REP. MEEKINS: Commissioner Martin, following up on what
22 Senator Poland asked you about, the liquefaction, invoking
23 the take back provision in order to commit our royalty
24 gas to a third party for liquefaction and export, you
25 indicated, as I understand it, that that would not be

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1 possible in this contract. Is that correct?

2 COMMISSIONER MARTIN: That is right.

3 REP. MEEKINS: What about taking back our royalty gas for
4 purposes of using -- to then recommit it to a third
5 party in order to give an incentive for the location of
6 a petrochemical industry?

7 COMMISSIONER MARTIN: We could not take it back if they
8 subsequently exported it but we could certainly take it
9 back to be used in such a facility.

10 REP. MEEKINS: But we could not -- for instance, if that
11 exactly was our purpose, to increase the incentive if
12 necessary, for a location of a petrochemical industry
13 at tidewater for export to the Lower 48 or elsewhere,
14 we could not do that under this contract?

15 COMMISSIONER MARTIN: That is right and that's a very -- I
16 think a very important question. It is one of the
17 alternative courses that I think ought to be very carefully
18 considered by the legislature. I tried to point this out
19 before. What we have committed in this contract and it's
20 a fairly -- in other words, I said this last year to this
21 committee. You really have to sell something in order to
22 get anything back. Now, the only thing that we have
23 committed is whatever gas is surplus to any state needs
24 in the future and is going to be exported. So that the
25 only -- the only really meaningful arrangement that will

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1 be difficult to enter into with regard to that surplus
2 gas in the future is one where someone comes to us and
3 says "we will build you a petrochemical plant in five
4 years if you will let us export your surplus gas for five
5 years and then use it." That we would not be able to do
6 but what we would be able to do is to take it back and
7 commit it to that plant in five years, as soon as they
8 are ready to build.

9 Incidentally, we have looked at -- in the oil
10 situation we have looked at a couple contracts and we are
11 still actively looking at them, where they proposed to
12 do this kind of thing. In other words, to take an export
13 for a period of time and then tie it back to a -- what I'd
14 say a possible refinery at some later time. And, at
15 least thus far we haven't found anything that looks like
16 a good deal for the state.

17 REP. MEEKINS: Thank you.

18 SENATOR RADER: Representative Rudd?

19 REP. RUDD: Mr. Martin, I would like to follow up on
20 Representative Rhode's question having to do with the
21 possibility that Congress would repeal the Alaska
22 exemption.

23 SENATOR RADER: Representative, would you speak a little
24 louder, please?

25 REP. RUDD: I'd like to follow up Representative Rhode's

1 question on the possibility that Congress will repeal the
2 Alaska exemption. If that happens, does it depend on
3 Congress as to whether or not they make it retroactive
4 or would our contracts, if we had entered into them,
5 then be void?

6 COMMISSIONER MARTIN: Well, let me be very clear. We don't
7 believe as a legal matter that simply entering into the
8 contract now gives us any special protection. We believe
9 we not only have to enter into the contract but we have
10 to advance it to the FPC using that provision in order
11 to gain protection. Congress could do basically anything
12 it wants and there is no reason -- at the time that it
13 repealed it, it would act retroactively. My feeling
14 would be that if it wanted to repeal it, it would vary.
15 It would not be likely that they would be in a mood to
16 make it retroactive to pick up this contract.

17 REP. RUDD: But you feel even if they don't make it retro-
18 active that our contracts are in danger at that point?

19 COMMISSIONER MARTIN: Well, I discussed this the other night
20 with the House Special Committee. It's again a subjective
21 judgment, what the risk of repeal of that provision is.
22 I made the statement that Congressmen have said they are
23 going to try to repeal it. I have no question but what
24 some attempt will be made. Whether or not it will be
25 successful is a purely subjective judgment and I've tried

1 to poll our delegation on that on a continuing basis
2 and they have no strong feeling for it other than the
3 fact that they believe that an attempt will be made and
4 that there is some risk of repeal.

5 REP. RUDD: And may I ask you, how much weight did this
6 possibility of repeal carry in your negotiations in the
7 contract? In other words, how much weight did you give
8 to the idea that you wanted to get something started
9 before --

10 COMMISSIONER MARTIN: It carried -- it carried very little
11 in my personal opinion, Representative Rudd. What it
12 did do, not the threat of repeal, but what the provision
13 did was change somewhat my position on the issue of the
14 contracts themselves. This is one reason I stress other
15 values of the contract other than the political aspects.
16 Last year I testified before Senator Rader's committee
17 and others that I was quite skeptical about the meaning
18 of any of these contracts because I thought that they
19 had almost no chance of ever being realized because it
20 was doubtful the FPC would ever approve of a take back
21 provision absent some Congressional assistance.

22 But once Section 13(b) was enacted, it increased
23 substantially, in fact it increased almost to the extent
24 of making it virtually certain, that we could get approval
25 of such a provision if we could put one together, get

1 it advanced and approved and put it before the FPC while
2 the provision was in place. But, it came along late
3 enough that it really didn't change the nature of the
4 negotiations a great deal. We were working on the
5 contracts and quite frankly if we had finished the
6 contracts and Congress had not acted to put that provision
7 in as they did in the closing hours, I would -- we might
8 be advancing the contracts to the legislature right now
9 but I would be saying to you quite honestly that they
10 would have a very low chance of being approved in the
11 FPC. Now I can say to you I think they have a very good
12 chance of being approved in the FPC.

13 REP. RUDD: May I ask just one more?

14 SENATOR RADER: Certainly.

15 REP. RUDD: Do you think that there is an element of time
16 that is involved here, that we must move rapidly?

17 COMMISSIONER MARTIN: Judgment with respect to time again is
18 subjective but I personally think there are two things
19 to be said. One, I think that we have a responsible
20 attempt together to try to utilize the benefits of that
21 provision. I think that the way we have done it is
22 responsible and I think we're capable of selling it.
23 Obviously our delegation agrees because they think they
24 can live with the results of this contract and preserve
25 the amendment. Whether or not we can wait and bank on the

1 fact that the amendment will stay in place and go to some
2 other kind of arrangement is simply a calculated risk that
3 everyone will just have to take.

4 SENATOR RADER: Senator Huber?

5 SENATOR HUBER: Thank you, Mr. Chairman. I think my question
6 is mostly for Guy.

7 SEANTOR RADER: Senator, you are going to have to speak up.
8 I am certain they can't hear you.

9 SENATOR HUBER: All right, Senator, I'll speak up. I think
10 my question is mostly for Guy. We have -- in the gas
11 contracts themselves there is a provision that says
12 pretty close like this, that there is no front end money
13 but that whatever the highest price paid by anybody that
14 is allowable by the FPC or if in case the FPC isn't
15 controlling it, whatever the highest price is that is
16 paid to any of the producers in the field will be what
17 the price is to the Alaska royalty share. Is that roughly
18 correct?

19 COMMISSIONER MARTIN: I think so. Let me defer to our two
20 price experts. They're with me on that.

21 SENATOR HUBER: Well, in effect that says that if anybody else
22 who has a share that is proportionate to ours, let's say
23 that ARCO has twice twelve and one-half, they probably
24 have got a little more than that, or twenty-four percent,
25 and they get Fifty Million Dollars of head-end money.

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1 Proportionately if any head end money is allowed by any-
2 body, shouldn't we have had a provision that also bounces
3 back and says that we'll get the highest price per cubic
4 foot, no head end money unless anybody else gets head end
5 money, if anybody else gets head end money, we'll get a
6 proportionate amount in accordance with our percentage.
7 Wouldn't that protect the State of Alaska a lot better
8 on price?

9 COMMISSIONER MARTIN: No, we don't have such a provision and
10 it could be something that could be negotiated for,
11 Senator.

12 SENATOR HUBER: Is it still negotiable?

13 COMMISSIONER MARTIN: Well, not under the present circumstances.

14 I would say that it would have to be capable of being
15 passed through in the rate base. I will tell you this,
16 that if that could not be passed through either in the
17 ARCO situation or in ours, these contracts would not be
18 possible. In other words, the company -- we may be able
19 to negotiate some other kind of a deal but I don't believe
20 we could have negotiated these contracts -- included that
21 provision unless it could have been passed through
22 totally.

23 SENATOR HUBER: Well, Mr. Chairman, I --

24 COMMISSIONER MARTIN: And it is not legal to pass it through
25 now.

1 SENATOR HUBER: I could foresee the possibility under de-
2 regulation that they may allow front end payments and
3 in which case other people would quickly negotiate
4 them, being they don't have them, and we would be left
5 out in the cold at the lower price. And it don't look like
6 the contracts protect us sufficiently in that area.

7 COMMISSIONER MARTIN: I don't think the terms of the contracts
8 as they are presently drafted would include that. That
9 is right, sir.

10 SENATOR RADER: Senator Croft?

11 SENATOR CROFT: Commissioner, before we leave the subject,
12 you made the statement that no front end payment could
13 be built into the rate base. Is that -- is that statement
14 actually correct? Aren't there circumstances in which it
15 can be built into the rate base?

16 COMMISSIONER MARTIN: The -- yes.

17 SENATOR CROFT: And in that regard we have not gotten the
18 highest possible price for our gas, isn't that correct?

19 COMMISSIONER MARTIN: Jack, do you want to answer that?

20 MR. BYRD: Under the present FPC rules --

21 SENATOR RADER: Mr. Byrd, why don't you sit down and identify
22 yourself for the record? You'll be the first new voice
23 here and --

24 MR. BYRD: Thank you, Senator. I'm Jack Byrd from Kansas.
25 Under the present FPC rules if front end money is advanced

1 and included by the pipeline to advance freight rates,
2 then you -- whoever sells the gas takes a penalty on the
3 price.

4 SENATOR CROFT: That is right, but what as to companies that
5 are not regulated by the FPC?

6 MR. BYRD: On intrastate purchasers?

7 SENATOR CROFT: Right.

8 MR. BYRD: They could still do it.

9 SENATOR CROFT: So there could have been intrastate purchasers
10 not subject to FPC regulations who would have bought this
11 gas and could have paid us front end money --

12 MR. BYRD: Still can, under the contract.

13 SENATOR CROFT: And there are utilities in California that
14 could do that?

15 MR. BYRD: Well, no, not in California.

16 SENATOR CROFT: Where are they?

17 MR. BYRD: The only intrastate purchaser you would have
18 would be in Alaska and you could still sell -- withdraw
19 gas to an intrastate purchaser in Alaska and demand front
20 end money, if you want.

21 COMMISSIONER MARTIN: And you could not do that and sell to --
22 as you suggested, we disagree that you could do that to
23 anyone in California because the transportation would be
24 regulated, Senator, and the same provisions would apply.

25 SENATOR CROFT: The transportation, but would the distribution

1 with the utility itself, if it bought the gas not for re-
2 sale to somebody else, would that sale itself be regulated
3 as well as the transportation tariff?

4 MR. BYRD: The only provision I know of in which you can do
5 that now would be under order 533, the transportation
6 provision. The direct sale to an industrial customer for
7 a high priority use, not for resale, a distribution company
8 cannot do that.

9 SENATOR CROFT: But somebody that used it themselves could
10 pay front end money?

11 MR. BYRD: Right. They could pay a premium price, they are
12 exempt from regulation under the FPC.

13 SENATOR CROFT: Thank you.

14 SENATOR RADER: Representative Hayes -- excuse me, were you
15 through with your --

16 MR. BYRD: One other point, the transportation of any such
17 moving of gas from Alaska to California would have to be
18 certified by the FPC. They would have no control over
19 the price paid if it was not for resale and it was used
20 for a high priority industrial use.

21 SENATOR CROFT: A higher price than what we have in these
22 contracts could be paid in that situation?

23 MR. BYRD: Yes. But we have a provision in here that if any
24 of our working interest owners sells theirs under that
25 kind of a rule, these -- then our prices go up.

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1 SENATOR CROFT: Yes, but whether they do or not, we could
2 have sold our gas conceivably -- legally sold our gas for
3 a higher price than what we have in these contracts.

4 COMMISSIONER MARTIN: Only by pursuing a completely different
5 objective. We don't deny that, Senator. I mean, the
6 fact is that we could have chosen a number of different
7 objectives including not selling and waiting to do it
8 later after deregulation. So, we think there are a number
9 of possibilities in not carrying out these objectives
10 we're doing it.

11 SENATOR CROFT: I understand that. But if I could, just so
12 that we understand the policy questions that are involved,
13 this sale does involve a sale of our gas at not the highest
14 possible price?

15 COMMISSIONER MARTIN: That is a great overstatement, Senator
16 Croft.

17 SENATOR CROFT: But isn't it correct?

18 COMMISSIONER MARTIN: No. It's correct but in the context
19 of a number of other things. It's correct in the context
20 of selling the gas for other purposes in this, but selling
21 it for the purposes that we have attempted to carry out
22 here, we believe that we have gotten the highest price.
23 If we sold it for other purposes in which we subjected
24 all other considerations to price, I think it is possible
25 we could have gotten a higher price, yes.

1 SENATOR CROFT: As I understand it, if we sell it primarily
2 for political purposes, we got the highest possible
3 price.

4 SENATOR RADER: Representative --

5 COMMISSIONER MARTIN: You are still wrong, Senator. I mean
6 I think he is wrong factually, Senator. Maybe we ought
7 to respond. Let me ask Mr. Boness to do it. He is
8 characterizing my answers.

9 MR. BONESS: Senator Croft, the FPC regulates two things. It
10 regulates transportation and it regulates the sale. In
11 a direct sale -- do not have to have -- a direct sale is
12 not regulated. In that sense you seem to be suggesting
13 that the FPC -- the higher price could be paid or front
14 end money could be paid. However, the FPC has the power
15 to prevent that kind of sale from taking effect by virtue
16 of its control over the transportation aspects of the
17 pipeline. The Transco case was a case which involved
18 essentially that set of facts, where a sale took place,
19 the shipment of the gas was to be over an interstate
20 pipeline to be sold -- to be delivered, I believe, between
21 Texas and New Jersey. The Federal Power Commission said
22 they don't like the terms under which that sale takes
23 place, therefore we are not going to approve the trans-
24 portation. They had no authority over the sale itself
25 but they did have authority over the transportation.

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1 Whenever you are talking about moving the gas outside of
2 Alaska, you're not within the realm of 13(b), and the
3 Federal Power Commission would have authority over whether
4 or not to approve the sale. They couldn't regulate the
5 price but they could absolutely preclude the sale.

6 MR. BYRD: Plus the fact that under the contract, if Atlantic
7 Richfield or one of our -- one of the lessees up here
8 sold royalty -- or sold their gas under 533 and got a
9 higher price, then our gas from those leases would
10 escalate up to that price.

11 COMMISSIONER MARTIN: Jack, but Senator Croft's question
12 was going to our gas.

13 SENATOR CROFT: My question is, regardless of what they do
14 with ours -- with theirs, what could we have done with
15 ours?

16 COMMISSIONER MARTIN: Yes, I understand.

17 SENATOR CROFT: And as I understand the answer, it is we
18 could have gotten a higher price but Commissioner Martin
19 feels there were other factors that weigh into the
20 decision that means that it was not in our interest to
21 do it, and secondly, it might have been unlikely that
22 we would have gotten a higher price. It is legally
23 possible.

24 COMMISSIONER MARTIN: That's -- yes.

25 SENATOR RADER: Mr. Hayes?

1 REP. HAYES: Thank you. I was wanting to pursue that line
2 of questioning that Senator Croft was just pursu^{ing},
3 regarding just how much we might be paying for -- by
4 giving up alternative sales that might have some front
5 end money involved for this political clout that we're
6 going to get from the three gas companies that are
7 purchasing our royalty gas. But it is probably not a
8 figure that you can put any -- that you can put an exact
9 number on, however, I think testimony indicates that
10 under certain circumstances that we are giving up some --
11 something of value. Whatever that is, I don't know, but
12 we are pursuing this on the basis -- that there is no
13 front end money possible on the basis that the payment
14 of front end money for interstate sale would not allow
15 the incorporation of the front end money in the price
16 scheduling. But, isn't it possible that -- I'll ask
17 this to Commissioner Martin, isn't it possible or con-
18 ceivable that a purchaser for interstate sale purposes
19 might be willing to give up to the State of Alaska a
20 portion of his anticipated profit in the way of front
21 end money, regardless of whether he's ever passed it on?
22 And in that event there is a possibility of getting the
23 premium price.

24 COMMISSIONER MARTIN: Representative Hayes, yes. I think
25 it is conceivable that we could have structured a

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1 situation where maybe even in a -- you know, maybe a
2 competitive situation or maybe a situation where we
3 simply just solicited people to do that, that we could
4 have gotten some amount. In other words if the question
5 is how much would some interstate buyer eat of their
6 proceeds, I think the answer -- our determination
7 basically is that it would be generally quite a small
8 amount and secondly that it was certainly not possible
9 with these buyers. And quite frankly, it was not con-
10 sistent with at least the purpose of the contract which
11 had to do with getting the best and strongest support
12 for the pipeline route.

13 I might just say that our process in attempting
14 to do that was to try to work with the available buyers
15 we have and then to consult pretty much continuously
16 with the delegation of others to try to see who could
17 give us the greatest amount of help. So that trading
18 all those things off, I don't think we got a realistic
19 expectation of getting a small enough front end.

20 SENATOR RADER: Any members who have not yet asked questions,
21 first?

22 SENATOR HUBER: I'd like to pursue this same thing.

23 SENATOR RADER: Well, Mr. Carpenter has not yet had a
24 question. Mr. Carpenter, unless you want to waive --

25 REP. CARPENTER: I'll yield. I'll yield to the Senator.

1 SENATOR HUBER: Well, I think we was to a point, Mr. Chairman,
2 and I'd like to pursue the same thing being I started
3 this.

4 SENATOR RADER: Proceed.

5 SENATOR HUBER: We have picked our purchasers that we have
6 contracts with that are now going for approval from a
7 certain group of purchasers. These are pipeline trans-
8 porters, not users, for instance. A user has different
9 rules applied to him. If we had sold six percent to
10 Pacific Gas and Electric and six percent to Wentworth
11 Brothers for making into methanol and certain other
12 things and certain other people -- for users there is
13 different set of rules applied. Would you care to discuss
14 that and have you shown in your deliberations consideration
15 for these other type of contractors -- or these other
16 type of purchasers?

17 COMMISSIONER MARTIN: Only to this extent, Senator, that we
18 dealt to some extent with everyone who came to us with
19 an offer to deal with us. We made some tough decisions
20 as to who we would work with. To finally go through, and
21 we consulted broadly to try to get the ones that could
22 do the most good. These are the ones that ended up in
23 our final judgment being that. Now, we're willing to
24 stand with that. We did not consider Wentworth Brothers
25 nor did Wentworth Brothers approach us with the idea of

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1 buying under these terms and adding their support to
2 the pipeline that we favor, nor the other one you mentioned.

3 SENATOR HUBER: I'm trying to get back to the basic considera-
4 tion of whether we're getting the highest price, which
5 this contract says we are. What it really says is that
6 we're getting the highest price from a certain class
7 of buyer only, those who are in the pipeline transporta-
8 tion distribution business, and cannot enter into -- by
9 FPC rule, cannot enter into another phase of the business.
10 Isn't that right?

11 MR. BYRD: Whoever bought it would have to have the certi-
12 fication of the FPC to get it transported, and if you'd
13 sell it to Pacific Gas and Electric for boiler fuel
14 you'd never get a certificate.

15 SENATOR HUBER: Well, I didn't say for boiler fuel, you
16 said that.

17 MR. BYRD: I don't know what they would do with it. It would
18 have to be for a high priority industrial use and not
19 for resale.

20 SENATOR RADER: Mr. Carpenter.

21 REP. CARPENTER: I'm departing from the present line of
22 questioning.

23 SENATOR RADER: Did somebody wish to pursue this line of
24 questioning, or were you through?

25 SENATOR HUBER: Mr. Carpenter yielded to me, Mr. Chairman,

1 and I thank him very much. So we can continue.

2 SENATOR RADER: I think Mr. Meekins wanted to pursue the
3 same line of questioning. You have the floor, Mr. Meekins.

4 REP. MEEKINS: Thank you, Mr. Chairman. Just to clarify
5 that then, there are trade-offs here involved, and there
6 are some things we give up in order to have this contract.
7 One of those, I understand, is a small premium (in your
8 view), a fairly small premium, if that premium comes
9 out of profits of the companies because it can't be
10 passed through into the rate base; is that correct?

11 COMMISSIONER MARTIN: Under future circumstances, the size
12 of it is unknown.

13 REP. MEEKINS: If there was deregulation?

14 COMMISSIONER MARTIN: These questions, you know, stand in
15 the present time frame. It may well be under deregulation
16 there are different terms in the future, we could
17 restructure it and do something else. That has to be
18 balanced against how important it is, how important the
19 gas line decision is to the use of the amendment in
20 Congress and so on. So our view is that for now this
21 is a good alternative. It may be that under changing
22 circumstances that the premium could be larger, or the
23 price could be unregulated.

24 REP. MEEKINS: Right. That's a possibility; we don't know
25 it as yet ---

1 COMMISSIONER MARTIN: That's right.

2 REP. MEEKINS: -- whether that's going to be the case. But
3 in any case, that small premium, in your view a small
4 premium, is one of the trade-offs, and I'm not quite
5 sure if the higher price by sale to users or not -- I
6 seem to get contradictory information -- on the one
7 hand, it seems that the FPC would not approve transpor-
8 tation of such a sale, and on the other hand it seems
9 like they would. I'm not sure what ---

10 COMMISSIONER MARTIN: I think Mr. Byrd's answer is the proper
11 one, for certain high priority users they would have a
12 chance of getting approval of the transportation. For
13 most users, and certainly any large scale ones that are
14 not priority, they would have virtually none.

15 REP. MEEKINS: So what you're saying is it is conceivable
16 to some scale to get a higher price if that sale was
17 to a high priority use and, therefore, it would be
18 approved.

19 COMMISSIONER MARTIN: Yes, it's possible, and it may have
20 been possible to accomplish, but we had no indication
21 that it was and no offer.

22 REP. MEEKINS: Thank you.

23 SENATOR RADER: Any further questions along this line?
24 Senator Croft.

25 SENATOR CROFT: When was the decision that prohibited

1 building advance payments into the rate base?

2 MR. BYRD: It became effective November 5.

3 SENATOR CROFT: Of '76?

4 MR. BYRD: '76.

5 SENATOR CROFT: So that it is true that if this sale had
6 been entered into possibly a year ago we could have
7 gotten a higher price?

8 MR. BYRD: No. That November 5 date affected only advance
9 payment or interest free loans that were made prior
10 to an order that came out abolishing it, but it was
11 the end of 1975. But there were a lot of advances,
12 advance payment contracts, that still had not been
13 executed, or advancements had not been made. Those
14 were not abolished. Then the order coming out effective
15 November 5, in 770-A they say that if the producer
16 draws those down and the purchaser puts them in rate
17 base, then the producer has to decrease his price, pay
18 the carrying charges on it.

19 SENATOR CROFT: Then is it correct that if these contracts
20 had been entered into in 1975 we could have gotten a
21 higher price?

22 MR. BYRD: It would have been legal to extract ---

23 SENATOR CROFT: Front end money.

24 MR. BYRD: -- an advance payment.

25 SENATOR RADER: Any further questions on this line of

1 questions?

2 SENATOR HUBER: Just one, Mr. Chairman.

3 SENATOR RADER: Senator Huber.

4 SENATOR HUBER: Then in a deregulated system, and we look
5 like we're headed toward deregulation now, some of the
6 gas that will be in the deregulated system will be gas
7 that has had front end money paid on it from Prudhoe Bay
8 gas that's had front end money paid on it, and is also
9 paying a certain rate to the field gas, which is
10 apparently what we're getting, and if we had just held
11 our gas until deregulation we could sell it for any
12 price we wanted to make up for that, couldn't we?

13 COMMISSIONER MARTIN: Yes, assuming, Senator, that deregu-
14 lation occurs, that we can structure the kind of contract
15 that allows us to take back, and that that contract is
16 approved, then you can be in a similar circumstance and
17 you get more money and sort of have, you know, guns and
18 butter at the same time. But you have to make all those
19 assumptions to get there, and I think some of them are
20 at least speculative.

21 SENATOR HUBER: These early sales, the amount that goes in
22 is a very large amount of the sale price too, isn't it?

23 COMMISSIONER MARTIN: I'm sorry?

24 SENATOR HUBER: These early sales that were made that were
25 approved, the front end money really amounts to a large

1 amount.

2 COMMISSIONER MARTIN: There were some large advance payments,
3 that's right.

4 SENATOR HUBER: Thank you.

5 SENATOR RADER: Representative Gruening.

6 REP. GRUENING: Commissioner, if, given the fact we have an
7 active Congress allowing us to take back our gas for
8 in-State use and if we assume that the primary goal was
9 not to affect a political decision on the line, how long
10 could the State wait safely to decide what to do under
11 contract or how it wanted to sell its gas?

12 COMMISSIONER MARTIN: Mr. Chairman, there's only a subjective
13 answer to that question. It could be years or it could
14 be terminated during the next year. It seems to me that
15 what we have now is a good alternative to take advantage
16 of, and it may be that we want to pass that one up and
17 try to structure another one.

18 REP. GRUENING: If I understand what you were saying earlier,
19 we don't gain any rights by entering the contract in
20 terms of this amendment. I mean, the amendment is there.

21 COMMISSIONER MARTIN: We only gain rights by having the
22 contract approved by the FPC at a time that the amendment
23 is in place. So our question is, how long will we have
24 the amendment in place, and I made it very clear the
25 other night that I'm not trying to create an atmosphere

1 of fear that it will be repealed. I honestly don't know
2 if it will be repealed. I'm almost certain an attempt
3 will be made to repeal it, and what we have is an
4 opportunity now to take advantage of it while it's in
5 place.

6 REP. GRUENING: Do you read that amendment as allowing the
7 FPC to do anything other than approve the take back
8 provisions in the contract?

9 COMMISSIONER MARTIN: Yes, I think they might be able to
10 approve -- well, let me ask to be certain of that. I think
11 they would be able to approve something of a sale. They
12 could approve a direct application, couldn't they?

13 MR. BONESS: They could approve.

14 COMMISSIONER MARTIN: I guess the answer is, there are other
15 formulations that they can approve.

16 REP. GRUENING: Well, like price. But I'm talking about the
17 take back.

18 COMMISSIONER MARTIN: No, I'm talking about the take back.
19 I mean, I think that there would be other ways to
20 approach them other than a sale configuration, but
21 I'm not certain what those would be at this time. I'm
22 not saying there aren't other avenues that you could
23 approach the FPC with using 13-B. The question is
24 really, how long you'll have the ability to use 13-B and
25 whether or not this is a satisfactory way or not to

1 exercise the privileges. If this one were approved,
2 putting aside all other things, it would give the State
3 unprecedented protection for its royalty gas never before
4 enjoyed by any state; there's no question about that.
5 Whether or not we could do it in a better or more success-
6 ful way, I don't know. It's pretty hard for me to
7 imagine a more comprehensive coverage of future in-State
8 use than this one. I can think of a few ways to do it,
9 but not very many.

10 REP. GRUENING: Despite that do you think there's a danger
11 that the FPC may not approve?

12 COMMISSIONER MARTIN: No, I think that 13-B pretty much
13 mandates FPC approval.

14 REP. GRUENING: Where the slippage might occur is in their
15 approval of the price, the pricing arrangements under
16 the contract; is that what you're referring to?

17 COMMISSIONER MARTIN: I'm sorry if I'm not making myself
18 clear, Mr. Gruening.

19 REP. GRUENING: No, I understood what you said before, but
20 if that last statement of mine about the pricing isn't
21 correct ---

22 COMMISSIONER MARTIN: Would you repeat it? I'm sorry, I
23 didn't understand.

24 REP. GRUENING: I do understand correctly that as you see,
25 the FPC would have to approve the take back provisions

1 in this contract, these contracts, under the Congressional
2 Act.

3 COMMISSIONER MARTIN: Right.

4 REP. GRUENING: Is there a problem then with the pricing
5 provisions of the Act in terms of the FPC approving them?

6 COMMISSIONER MARTIN: I don't see any, Mr. Chairman.

7 MR. BONESS: Again, the amendment addresses the problems
8 related to transportation aspects of the FPC's juris-
9 diction. Even though the State is not subject to FPC
10 jurisdiction for purposes of sale, the FPC could have
11 prevented the State from getting, either effect to the take
12 off provision in the contract or entry into the contract
13 because it didn't like the prices the State was getting;
14 the State had extracted a price higher than the price
15 which the FPC approved. They could have prevented the
16 transportation aspects of it. The amendment, Section
17 13-B, prohibits the FPC from doing that with respect
18 to transporting the gas for intrastate uses. There is
19 no problem with respect to the FPC regulating a sale
20 which is the price provision, and under the amendment
21 we're free with respect to both taking off and the price.
22 Absent the amendment, we have to convince the FPC to
23 authorize the transportation of the gas for use in the
24 State.

25 REP. GRUENING: Reading the amendment, do I understand

1 correctly, the FPC could disapprove pricing arrangements?

2 MR. BONESS: No.

3 REP. GRUENING: Under the contract, they cannot?

4 MR. BONESS: Not under that amendment. They have to give
5 effect to the transportation and they have no other
6 basis for disapproving of it.

7 REP. GRUENING: Maybe I should follow this up because the
8 last part of that amendment says that the FPC shall only
9 review the justness and reasonableness of the rate charge
10 for such transportation.

11 MR. BONESS: Yes, I apologize. I should have picked up on
12 that was what you were concerned about. What it addresses
13 is the notion of the transportation charges for moving
14 the gas, say, as far as Fairbanks or as far as Valdez.
15 Obviously, intrastate transportation of gas is going
16 to affect the overall tariff for everybody else, and the
17 FPC is given authority to review that rate and make sure
18 that it's just and reasonable. That is really for the
19 State's protection and also for the protection of all
20 the other shippers on the line, to make sure that costs
21 are allocated between interstate and intrastate shipping
22 in a just and reasonable fashion.

23 COMMISSIONER MARTIN: Rather than going to the price paid
24 for the gas itself.

25 MR. BONESS: But it's like the price of a ticket for moving

1 on the line, is what we're talking about, not the price
2 of the sale of the gas.

3 REP. GRUENING: But do you see any danger, other than the
4 fact we're losing, maybe losing options on dealing with
5 which route we want, in delaying then a decision on
6 how we want to sell the gas? Put aside the question,
7 just for a moment, of which route we're trying to affect;
8 is there any danger in delay, because I understand it
9 you don't buy the theory that without the amendment
10 that there's much advantage in getting the FPC to approve
11 a contract?

12 COMMISSIONER MARTIN: Well, I don't reject it, but I don't
13 think that -- you know, Dr. Moody thinks that's a
14 controlling theory, and I don't think it is. I think
15 there are still problems, but I think it's a valid
16 theory, it's something that could be tried. You only
17 made one exclusion. You said that if we exclude the
18 purpose of helping the line.

19 REP. GRUENING: Yes. I know that's a major exclusion, but ---

20 COMMISSIONER MARTIN: Even if you exclude that, then there
21 would be a great value in attempting to take advantage
22 of 13-B before it's lost. There would also be an
23 advantage, some advantage, I would think, in this
24 contract over others in terms of price. I'm not saying
25 we couldn't do better, depending where our objectives are,

1 but there are advantages in each of those four categories
2 I indicated you would be giving up. There are also
3 improvements that you might seek in another direction
4 if you take out one of the objectives. If you take
5 out the political assistance objective, you might be
6 able to substitute another one.

7 SENATOR RADER: Mr. Carpenter now.

8 REP. CARPENTER: Thank you, Mr. Chairman.

9 SENATOR RADER: You've been very patient.

10 REP. CARPENTER: After all this time, I really wish that
11 my question were an exciting one, but it's not. It
12 relates to a technical provision in the sales agreement,
13 in Article Five, which addresses quality. In Section One
14 we mention that the gas to be delivered by the seller
15 to the buyer at the delivery points shall conform to
16 the quality specifications, etc. But in the preceding
17 paragraph, Article Four, Section Four, we say the
18 seller shall retain the right to receive all liquids
19 removed from the gas prior to its delivery to the
20 pipeline, etc. My question is this: if the liquids are
21 removed as provided in that section in Article Four,
22 I understand that the quality specifications will drop
23 because the btu content will change. Doesn't Section One
24 of Article Five negate Section Four of Article Four?

25 COMMISSIONER MARTIN: Representative Carpenter, I've heard

1 that concern expressed before, and we've looked at it.
2 Mr. Boness, I think, can answer that question.

3 MR. BONESS: Yes. 5.1 deals with the delivery point, which
4 is a point on the North Slope prior to the time the
5 gas will be put in the pipeline, and our gas will be
6 at the same quality, wherever our delivery point to,
7 as the gas the producer is moving along that stream and,
8 therefore, we don't have to do anything special to it.
9 Once the gas is put on the pipeline to move south we
10 will have the opportunity to take that gas off and
11 change it without being in violation of 5.1, because
12 5.1 addresses only the question of the quality of gas
13 at the delivery point.

14 REP. GRUENING: I see.

15 COMMISSIONER MARTIN: We looked at that carefully, and when
16 I heard it the first time it sounded like it was a good
17 argument. But it looks like it only applies to that one
18 point.

19 REP GRUENING: I see.

20 SENATOR RADER: I have one question, myself. Do you have
21 staff that will be able to analyze the decision of the
22 Trial Judge if it comes out today or tomorrow and be
23 able to report back to us, at least in a summary sense,
24 the day after tomorrow perhaps, as to whether or not
25 that decision does, in fact, substantially affect the

1 posture of the situation?

2 COMMISSIONER MARTIN: You are looking at the group that will
3 probably try to do that, and Mr. Byrd, and Mr. Boness
4 and others will probably try to do that, and we'll try
5 our very best to get a report back.

6 SENATOR RADER: So we'll expect to hear from you perhaps
7 Wednesday then on that item?

8 COMMISSIONER MARTIN: If we get the decision in a form that
9 we can analyze I think we can do that, sir.

10 ATTORNEY GENERAL GROSS: Senator Rader, we do have Washington,
11 D.C. counsel that are, of course, participating for us
12 in the hearing, and I anticipate that they should have a
13 report to us probably by tomorrow night as to at least
14 a summary of what's happening, and we'll share it with
15 the committee.

16 SENATOR RADER: You will share it?

17 ATTORNEY GENERAL GROSS: Yes.

18 SENATOR RADER: There were some other questions. Mr. Swanson,
19 did you have a question?

20 REP. SWANSON: I never said a word.

21 SENATOR RADER: Anybody who has not? Senator Hohman and
22 then Senator Sumner.

23 SENATOR HOHMAN: I was calling your attention to Senator
24 Sumner.

25 SENATOR RADER: Senator Sumner.

1 SENATOR SUMNER: Mr. Chairman, I'd like to ask the Commissioner,
2 I get the impression from Senator Croft that maybe
3 Senator Croft is still under the impression that the
4 State could have got a higher price for its gas. I'd
5 really like to put that to rest. Do you think there is
6 any real probability, under any circumstances, that
7 reflect reality at all, that the State should have
8 negotiated for a higher price in this contract or in
9 other contracts?

10 COMMISSIONER MARTIN: Generally, no; but only if it had picked
11 a completely different objective related to only price
12 itself.

13 SENATOR SUMNER: Mr. Chairman, I'm not so concerned about
14 picking a different objective if it's real. Is it real
15 to expect that the State could have gotten more money?

16 COMMISSIONER MARTIN: I think it's, yes -- real isn't exactly
17 it -- I think it would have been unlikely that we would
18 have gotten more money.

19 SENATOR SUMNER: On a scale of one to ten, where would you
20 say?

21 COMMISSIONER MARTIN: I couldn't give you that, I don't know.

22 SENATOR SUMNER: Well, it creates some serious doubts.

23 COMMISSIONER MARTIN: I would be pleased to do this, Senator
24 Croft and Senator Sumner -- you know, I understand your
25 question, and I'll look back at the transcript to get

1 the intent of it rather than trading back characteriza-
2 tions of one another's answers. I would be pleased to
3 look at that and give you something at least indicating
4 what I think the alternatives were for getting a higher
5 price and the probabilities. Would that be acceptable
6 to the Chair?

7 SENATOR RADER: It would be, although I'm sure the committee
8 would like to share in that dialogue. Do you mean
9 tomorrow, perhaps?

10 COMMISSIONER MARTIN: Tomorrow or Wednesday. I mean, we'll
11 look at it and give you back an answer that's more
12 definitive.

13 SENATOR RADER: Senator Croft, does that sound all right to
14 you?

15 SENATOR CROFT: Maybe in the meantime you could tell me, as
16 well, whether you initiated any contact with anybody
17 that might have paid a higher price and asked them to
18 bid as well.

19 COMMISSIONER MARTIN: No, I don't think that we did, because
20 we weren't pursuing that as the principal objective.

21 SENATOR SUMNER: Mr. Chairman, let me continue for just one
22 minute then.

23 SENATOR RADER: Senator Sumner.

24 SENATOR SUMNER: Do you think at this time it's worthwhile
25 to postpone this contract in view of the merits of the

1 contract and what you're aware of at the present time
2 that it can buy in the form of developing an expanded
3 constituency for support in the South 48?

4 COMMISSIONER MARTIN: No, I don't.

5 SENATOR SUMNER: And on a scale of one to ten, how sure are
6 you of that position regarding that? I'm really interested
7 in knowing where your impact is.

8 COMMISSIONER MARTIN: I don't know where on a scale of one
9 to ten, but I'm quite sure that that's right, I think,
10 this objective as opposed to that one, is more important
11 to pursue at the present time.

12 SENATOR SUMNER: Then would it follow that you believe that
13 to the benefit of most Alaskans that the sale, that the
14 contracts you've drawn here relating to the sales of
15 royalty gas, is the best under most reasonable circum-
16 stances?

17 COMMISSIONER MARTIN: Yes.

18 SENATOR SUMNER: Thank you, Mr. Chairman.

19 SENATOR RADER: Senator Huber.

20 SENATOR HUBER: One short one to get in perspective again,
21 one short little question came up. The class of people
22 that we dealt with here, the three companies that we have
23 sold to, are they, under FPC type language, are these
24 the type of customers that are called common purchasers--
25 the regulations that apply to common purchasers?

1 MR. BYRD: They're natural gas companies that are under the
2 jurisdiction of the Federal Power Commission.

3 SENATOR HUBER: For instance, I am aware that all three of
4 these companies do not sell any gas to anyone, they
5 purchase the gas here and sell the gas to other gas
6 companies that sell the gas, at exactly the same price
7 they purchase it at, plus their transportation charges.
8 Isn't that correct?

9 MR. BYRD: I don't know whether any of them are burner tip
10 distributors or not.

11 SENATOR HUBER: The only thing I wanted to know so I can
12 analyze it, are all three of these classed as common
13 purchasers by the FPC?

14 MR. BYRD: I don't know what you mean by common purchasers.
15 They're all natural gas companies under the regulation
16 of the Federal Power Commission. They buy gas and
17 transport it for resale.

18 SENATOR HUBER: Could you try to find the answer?

19 COMMISSIONER MARTIN: Could you say what you mean by common
20 purchasers? What statutes would you reference?

21 SENATOR HUBER: FPC requires that pipeline companies be
22 both common carriers and common purchasers. That's not
23 true in oil pipelines but it is true in gas pipelines.
24 I don't know about the next term, whether it's a
25 correct one or not. Rather than analyzing it against

1 specific purchasers, maybe somebody who sells to customers
2 in Northwest Michigan, for instance, and then in turn
3 purchases from Tenneco or something.

4 MR. BYRD: I'm not familiar, Senator, with the terms "common
5 purchaser" and "common carrier". There are natural
6 gas companies and there are distribution companies.
7 Distribution companies normally buy gas at the city gate
8 from the natural gas companies, which these three
9 companies are, and then they distribute it to the burner
10 tip and sell it. They're under the jurisdiction of
11 the State Commission. I don't know of any place in
12 the Natural Gas Act where it refers to common purchasers
13 or common carriers. They are not common carriers.
14 They're natural gas companies and pipeline companies that
15 are moving gas interstate for resale. They do move the
16 gas interstate that's not for resale, it's sold directly
17 to an end user, and they do do that. But that still
18 doesn't make them common purchasers or common carriers.

19 SENATOR HUBER: So you can't list whether these three
20 class as common purchasers or some other term?

21 MR. BYRD: As we use common purchasers in oil proration in
22 the Lower 48, because you have to purchase commonly or
23 equally from all the producers, but that doesn't apply
24 to natural gas pipelines. There's no use of the term
25 "common carrier" or "common purchaser" in the Natural

1 Gas Act that I'm familiar with.

2 SENATOR RADER: Any further questions? Mr. Parr.

3 REP. McKINNON: I had a couple questions, Senator.

4 SENATOR RADER: Oh, excuse me, Mr. McKinnon, did you have

5 a question?

6 REP. McKINNON: No.

7 SENATOR RADER: Mr. Parr.

8 REP. PARR: Going back to what we were talking about a while

9 ago, other possible sales and so forth, who is buying

10 the other seven-eighths, the producers' gas?

11 COMMISSIONER MARTIN: At the present time, Mr. Parr, I don't

12 have the precise percentages. There is one contract

13 which is valid, that's the Columbia contract we discussed

14 at length the other night, which is approximately thirty

15 percent. I'll be honest, I haven't been able to nail

16 down the figure, but that's roughly accurate. And we

17 believe that there's a small contract, and I can't recall,

18 but it's less than one percent.

19 REP. PARR: Who is that?

20 COMMISSIONER MARTIN: Texas Eastern, we think. So far as

21 we know, it's less than one percent. Those are the two

22 that are still outstanding. The Columbia contract is the

23 one we discussed at length at the hearing the other night.

24 REP. PARR: I realize, of course, that we're talking now

25 about contracts which we know have been signed and are a

1 matter of public record and so forth. Do we have any
2 information as to where this gas is going that is not
3 a matter of public record, officially signed contracts,
4 etc.? I would assume some of your high-powered experts
5 would probably know.

6 COMMISSIONER MARTIN: Mr. Parr, I asked them -- in fact,
7 after we had our conversation the other night in the
8 committee, I attempted to find out. I wanted to know
9 essentially if there was industry scuttlebutt or, you
10 know, just information that was around that there were
11 contracts. My best information, and it's limited by
12 what is on the record, is that there are no others
13 and there are no shadow contracts as far as I know that
14 commit the gas, that people are waiting for the certifi-
15 cation decision or for price information to firm up
16 before those contracts are made. I've heard various
17 rumors, but I know of no information with regard to
18 other contracts.

19 REP. PARR: Mr. Chairman, I have just one other question.

20 SENATOR RADER: You still have the floor, Mr. Parr.

21 REP. PARR: Would it be your assumption that either one of
22 the three companies that are involved in this is one
23 of the three companies that is probably getting a good,
24 large share of the producers' gas as well?

25 COMMISSIONER MARTIN: The company, our purchasers?

1 REP. PARR: These three.

2 COMMISSIONER MARTIN: No. In fact, my information is that
3 none of them have made any commitments, informally or
4 otherwise, any other contracts for any other part of it.

5 REP. PARR: Were there any of the other companies who were
6 interested in getting our royalty gas whom we even know
7 or have reason to assume were getting producer gas?
8 Now, the only one you know for sure is Columbia. Did,
9 for example, Columbia try to get in on the royalty gas
10 deal as well?

11 COMMISSIONER MARTIN: No, they did not come to us. Northwest
12 attempted to get into the royalty gas and, so far as I
13 know, is attempting to buy producer gas, without success.

14 REP. PARR: I guess that leads up to my final question, Mr.
15 Martin, and that is that I presume there were a lot of
16 companies back in '75 that put up a lot of money and
17 made all sorts of deals of lending money, and various
18 other ways, in order to get this gas on the North Slope,
19 and the FPC, I guess, or the courts, or somebody put the
20 Kibash on this; right? These people were interested in
21 getting large amounts and so forth. What is it that
22 these companies such as Tenneco and Southern and El Paso
23 actually have to gain by getting such minute amounts?
24 I get the impression, or apparently at least as far as
25 we know, that they have not tried to get the producer gas.

1 One would assume that ---

2 COMMISSIONER MARTIN: No, I didn't say that, Mr. Chairman.

3 I thought you asked if they had it. I think they're all
4 making substantial efforts to buy as much gas as they
5 possibly can, as are a number of others.

6 REP. PARR: Is the amount of gas that is available from the
7 royalty gas really significant? I mean, it's one-eighth
8 less whatever we keep, right?

9 COMMISSIONER MARTIN: Representative Parr, again I'd just
10 very briefly say, I think part of that is going to
11 have to be judged by how important people think it is.
12 I urge you to direct that question also to the producers
13 and to the Delegation. They think it's important;
14 three trillion cubic feet of gas, or whatever percentage
15 they get, they believe it to be important, and I think
16 it's a mistake to assume that that amount of gas is
17 minuscule or unimportant. It is an important supply of
18 gas, given the fact that we're talking about very limited
19 gas supplies. The thing that holds this contract
20 together, obviously, is that they believe that we will
21 not be using great amounts of our royalty gas, and
22 we believe that we will be using it all. Those beliefs
23 are in conflict and we think that we have the ability
24 to take it back if we want it. If they didn't have
25 confidence they would get a substantial portion of it

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1 they wouldn't invest their time and effort in the contract.

2 REP. PARR: Mr. Chairman.

3 SENATOR RADER: Certainly.

4 REP. PARR: I guess the thing that kind of bothers me is
5 that in the initial commitments by the producers, at
6 least the information I've seen, no one of these three
7 companies was listed as getting it. There were a number
8 of other companies listed. Now, these other companies
9 would also have an interest in the route taken.
10 Presumably, they were buying an awful lot more gas.
11 I don't know how they compare in size to the three
12 companies we're dealing with, but they must be pretty
13 large, and presumably would have the money and the
14 expertise for a lot of political clout. It just sort
15 of disturbs me -- we keep acting as if this one-eighth
16 is going to be the tail wagging the dog.

17 COMMISSIONER MARTIN: Mr. Parr, if I can suggest, there are
18 some very important differences. For instance, we had
19 a prolonged discussion the other night about the Columbia
20 contract. There's quite a great difference between the
21 Columbia commitment and ours. The fact, I think Mr.
22 Gruening used the words, "Let's don't play the constituency
23 game," -- well, we think it could conceivably be very
24 important. The difference between the Columbia contract
25 and this one is this: Columbia is going to get that gas

1 whatever way the route goes. They're going to get the
2 gas whether it goes El Paso, or Alcan, or Arctic. In
3 fact, they're on record with the FPC as saying that,
4 that they think they'll get the gas just as well through
5 any route. Our contract is different in that ours is
6 the only contract, and may remain the only contract,
7 where our buyers only get it if they back the successful
8 route that's also backed by the State. So where we are
9 different from them is that we have gained support in
10 addition to simply committing our gas, generally speaking.

11 REP. PARR: Do you think the statement you just made about
12 Columbia is true of the other major companies that were
13 trying to buy the producer gas?

14 COMMISSIONER MARTIN: I would guess it would be, yes.

15 REP. PARR: In any event, it doesn't make any difference
16 which route is chosen, they get the gas?

17 COMMISSIONER MARTIN: I don't know of any of those contracts
18 that limit it.

19 REP. PARR: Thank you.

20 SENATOR RADER: Senator Croft and then Representative
21 Chatterton.

22 SENATOR CROFT: I just want to pursue what Representative
23 Parr was talking about. There is nothing that prohibits
24 Tenneco from negotiating with the other owners of gas at
25 Prudhoe Bay to purchase gas; is that right?

1 COMMISSIONER MARTIN: No.

2 SENATOR CROFT: And as far as you know, more than fifty
3 percent of the gas at Prudhoe Bay is uncommitted?

4 COMMISSIONER MARTIN: That's accurate.

5 SENATOR CROFT: And for Tenneco to decide that it no longer
6 wants to support the Alaska route, the only penalty under
7 the contract is it doesn't get the Alaska gas. So,
8 quite conceivably, since it's not prohibited from
9 negotiating with other owners of gas, it could enter
10 into an agreement, perfectly legal under the contract,
11 with somebody that would furnish them more gas than
12 the State, and the condition of that would be to support
13 some other route in Congress.

14 COMMISSIONER MARTIN: That would be possible, but unlikely.

15 SENATOR CROFT: But it's not prohibited by the contract?

16 COMMISSIONER MARTIN: No.

17 SENATOR CROFT: Thank you.

18 SENATOR RADER: Mr. Chatterton.

19 REP. CHATTERTON: Thank you, Mr. Chairman. Commissioner,
20 I've been told, rightly or wrongly, that some of the
21 routes proposed need as an economic threshold a daily
22 through-put on the magnitude of two billion to 2.4
23 billion cubic feet per day, and over probably a twenty-year
24 period, in order to be economically viable. Is what
25 I've been told roughly right, in your opinion?

1 COMMISSIONER MARTIN: That's right.

2 REP. CHATTERTON: At what point in time, Mr. Commissioner,
3 are you willing to guarantee to anyone that is willing
4 to build a transmission line that you will make available
5 from the Prudhoe Bay pool 2.4 billion cubic feet a day
6 of pipeline gas, available for them without jeopardizing
7 ultimate recovery?

8 COMMISSIONER MARTIN: The point at which that could be
9 guaranteed (if you want to stay with that word) is
10 probably several years away, Mr. Chatterton. And I want
11 to make it clear that that will be a guiding pivotal
12 decision. That decision will be determined, as opposed
13 to the decision with regard to the route. We intend to
14 carry out the conservation statute of the State, and it's
15 my feeling that the way it will go, roughly, is that
16 an initial off-take rate will probably be approved based
17 on a reservoir simulation study. A subsequent decision
18 will be based on early field history, and decisions past
19 that time will be based on the field performance to date.

20 REP. CHATTERTON: A follow-up question. Do you have any
21 feeling whatsoever that any good business-minded company
22 would commit funds for rolling of steel for pipelines,
23 or for permits, or you name it, until they were completely
24 assured of a steady supply of gas and with no possibility,
25 in other words, beyond all reasonable doubt, that they

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1 would steadily have that supply of gas, it would not be
2 cut off for conservation purposes?

3 COMMISSIONER MARTIN: If I can get myself there for just a
4 second -- your question is just about as complicated
5 and confusing as some of my answers, Representative
6 Chatterton.

7 REP. CHATTERTON: I learned from you, Commissioner.

8 COMMISSIONER MARTIN: So, I'm willing to take the rap for
9 that. Let me say this: I think that, you know, putting
10 it your way, maybe no one would do it. But I think, as
11 a practical matter, what is likely to happen is that a
12 number of reservoir simulation studies and the early
13 field history will be extremely indicative of the way
14 in which that field is going to perform, and those who
15 are interested, who are certificated and interested
16 in building a pipeline, are going to have to make a hard
17 decision in regard to the reliability of that information.
18 But, my own opinion is they are not going to get a
19 guarantee because no one can guarantee how a field will
20 perform, and our conservation statute is rather clear in
21 terms of which demands to make that field operate
22 properly. So I think that there is a possibility, yes,
23 the people will invest based on what they believe, based
24 on sound information will be the deliverability figures
25 through that route. As you may know, this was a point

1 of substantial controversy between the State and the
2 Administrative Law Judge of the FPC, in which he
3 demanded with, quite frankly, some anger that we guarantee
4 him a figure. And I spent eight hours on the stand
5 one day basically answering the questions for him that
6 I just answered to you, saying that I couldn't and
7 wouldn't give him a guarantee, at which point he con-
8 cluded that we were obstructing the line because I
9 wouldn't give him a once and for all figure.

10 REP. CHATTERTON: Thank you, Commissioner.

11 SENATOR RADER: Mr. Meekins.

12 REP. MEEKINS: Thank you, Mr. Chairman. I'm trying to
13 approach this through the cost benefit analysis that
14 Representative Gruening indicated, that we should look
15 at it in terms of what we're giving up and what we're
16 getting. I want to come back to the question about
17 location of a petrochemical industry at tidewater. As
18 I've been approaching this, it seems to me one of the
19 benefits of a line reaching all the way to tidewater is
20 to increase the competitiveness of petrochemical products
21 in Lower 48 markets and other markets because they
22 wouldn't have to include in their costs the costs of
23 overland transport and trans-shipment. So what I'm
24 wondering is, does the contracts' prohibition against
25 taking back the royalty gas and using it for an incentive

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1 to locate reduce the possibility or the likelihood of
2 a petrochemical industry locating in Alaska.

3 COMMISSIONER MARTIN: I really don't know if it reduces it
4 or not. I think it limits our flexibility in regard to
5 what we can offer, and maybe in that sense it does
6 reduce it, Representative Meekins. How much is something
7 I don't know. Let me say this: we've looked at that
8 question seriously as we can in trying to consider
9 various options before Royalty Board, and thus far at
10 least there has been a pretty low level of confidence
11 in the kind of deal where someone comes to you and says,
12 "Let us export for blank-number of years, during which
13 time we'll do a feasibility study or attempt to take some
14 type of action, and at the end of that period if it looks
15 good, build a refinery or a petrochemical plant."
16 So I think it may well reduce the options, but it
17 reduces one that thus far has not been particularly
18 attractive.

19 REP. MEEKINS: Do you know if any of the companies that are
20 in the contract that are getting the commitment of our
21 royalty gas are also in the business of petrochemical
22 products?

23 COMMISSIONER MARTIN: Yes, I'm certain there are subsidiaries
24 of Tenneco. I prefer for them to answer themselves.
25 There are probably subsidiaries in some cases.

1 REP. MEEKINS: Thank you.

2 SENATOR RADER: Any further questions?

3 REP. HAYES: I have one question, Mr. Chairman.

4 SENATOR RADER: Mr. Hayes.

5 REP. HAYES: Was the gas company mentioned that owns thirty
6 to forty percent -- what's the name -- Columbia Gas?

7 I've heard that they were so interested in getting that
8 quantity of gas, or in tying it up from SOHIO that they
9 went so far as to make a loan, an interest free loan of
10 several hundred million dollars as an incentive, or
11 whatever their purpose was. Anyway I understand it
12 was tied in with the right to buy that gas, and my
13 question is, when we were looking for purchasers for our
14 royalty gas did we contact them and, if so, what was
15 their reaction?

16 COMMISSIONER MARTIN: I can't say. I don't think we did
17 contact Columbia Natural Gas, Mr. Hayes. They were
18 unquestionably aware of the proceeding, and I made a
19 number of public statements indicating that we wanted
20 to hear proposals from anyone interested in engaging
21 in this type of contract with a take back provision and
22 supporting the Trans-Alaska route.

23 MR. BYRD: I might make one comment. There's been a lot of
24 talk about the front end loan and interest free loans.
25 You want to keep in mind that those are made to producers

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1 for development and exploration, and I question whether
2 or not they would ever be made to a royalty owner that
3 doesn't really spend money for development of the acreage.
4 All of them that I'm familiar with have gone to producers,
5 and they have a commitment to develop, and then when
6 the gas is developed the advancer has the priority to
7 buy. I've never known of one to go to a royalty owner.

8 SENATOR HUBER: Mr. Chairman.

9 SENATOR RADER: Senator Huber.

10 SENATOR HUBER: Shouldn't that answer have been predicated
11 also that this is maybe the only state that's able to
12 take its gas in kind instead of otherwise?

13 MR. BYRD: Texas and New Mexico are taking theirs.

14 COMMISSIONER MARTIN: We're not the only state.

15 SENATOR HUBER: Well, we're virtually, aren't we?

16 COMMISSIONER MARTIN: Just a couple other little ones like
17 Texas.

18 SENATOR HUBER: Like Texas? Is that relatively recent though?

19 MR. BYRD: They've had the right for several years but they
20 haven't exercised it.

21 SENATOR HUBER: They haven't exercised it though, have they?

22 MR. BYRD: They are now, and so is New Mexico.

23 SENATOR HUBER: They're doing it now, but they haven't
24 been up until very recently.

25 MR. BYRD: That's right.

1 SENATOR HUBER: Mr. Chairman, I was taken by the remark
2 that a producer could expect this, but a royalty owner
3 couldn't, especially under the condition that the royalty
4 owner takes his gas in kind. If you will excuse me,
5 sir, it appeared to me, the separation, to be completely
6 ridiculous.

7 SENATOR RADER: Mr. Gruening.

8 REP. GRUENING: I just want a clarification of that last
9 statement. Isn't the reason Columbia Gas would pay a
10 cash bonus is to get a certain amount of gas committed,
11 it could care less what the producer does with it.
12 I mean, isn't the primary motivation of the gas company
13 to get the gas, and that's why they pay the bonus?

14 MR. BONESS: Representative Gruening, after the discussion on
15 Thursday night I attempted to find out additional
16 information about the Columbia sale. The Columbia sale
17 was entered into in 1971 ---

18 SENATOR RADER: Mr. Boness, would you speak up a little
19 bit more?

20 MR. BONESS: The Columbia sale was initially entered into
21 between SOHIO and Columbia in 1971. It involved actually
22 six separate documents -- well, at that time it involved,
23 I believe, four separate documents, two of which were
24 amended in 1974. I don't have all of those documents,
25 but those that I did have available I made available

1 to the committee's staff.

2 It's a very complicated arrangement, and the
3 basic purpose of it was to make money available for
4 development of the reservoirs and to insure that gas
5 would be produced at some time. When it was entered into
6 in 1971 the thought was the oil pipeline would be built
7 at an early date and gas would be moving many years ago.

8 In '74 when it was realized that the gas wasn't
9 going to move, some amendments were made to insure that
10 the gas would eventually move. The purpose behind the
11 advance payment orders, just in terms of the FPC policy,
12 was to encourage exploration for gas. That's the reason
13 (Mr. Byrd pointed out) it goes to producers and not
14 royalty owners. Royalty owners don't explore for gas,
15 producers do. It was to encourage the exploration of
16 gas and a commitment to that gas to the interstate market.
17 It was made at a time when oil companies were saying
18 the reason they couldn't explore was they didn't have
19 enough money to go out and explore.

20 Eventually, when the FPC reviewed that decision
21 pursuant to a court order, it concluded that particularly
22 with respect to Alaska the gas was going to be committed
23 in the interstate market in any event and, therefore,
24 advance payments with respect to Alaska were inappropriate.

25 In response to an earlier question by Senator

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1 Croft, whether had the State entered into this advance
2 payment, into this contract, we could have gotten front
3 end money at an earlier time, the answer is only if we
4 had entered it between 1973 -- there were two orders
5 dealing with advance payment -- I believe August, but
6 I'd have to check the month. There were two orders,
7 and when the FPC issued its decision of December 31, 1976,
8 it ordered a show cause order with respect to those that
9 were entered into prior to 1973.

10 That included, I believe, four different companies
11 El Paso, Columbia, -- I'm afraid I can't mention the
12 other two. Only the contractor Columbia dealt with
13 North Slope gas. All of the advance payment contracts
14 which had been entered into, and they had been for
15 virtually all of the gas, were ordered to refund the money.
16 So all of those contracts were refunded and, of course,
17 the gas companies were not allowed to put in the rate
18 base the terminated contract. The Columbia one, the
19 show cause order was issued, they filed the response in
20 March, and nothing has happened since then.

21 The Columbia contract, as a practical matter,
22 could be terminated. Columbia has out, I believe, a
23 Hundred and Seventy-Five Million Dollars in advance
24 payments. Their net cash flow, I believe, is around
25 a Hundred and Three Million Dollars, according to the

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1 transcript, and obviously if a company has out a Hundred
2 and Seventy-Five Million Dollars and can't put it in
3 its rate base, it's going to be in a very difficult
4 situation. Columbia witnesses testifying in the FPC
5 proceeding testified that probably they would have to
6 terminate the contract if they were ordered to refund
7 the money.

8 REP. GRUENING: That question really went to the willingness
9 of the gas company to pay it in order to get the gas.
10 I can understand why the FPC wouldn't want it maybe
11 paid if it weren't going to be used for exploration and
12 development, but as far as the gas company went, their
13 prime motive was to get the gas.

14 SENATOR HUBER: Mr. Chairman, may I get back with Fred?

15 SEANTOR RADER: Were you through, Mr. Gruening?

16 REP. GRUENING: Yes.

17 SENATOR RADER: Senator Huber.

18 SENATOR HUBER: Mr. Boness, right exactly where you left off,
19 in the case of deregulation, which looks like it's
20 imminent right now in Congress, or appears to be at
21 least, wouldn't it be, if we approved these contracts,
22 only our commitment with these three contractors that
23 would prevent us from receiving a price that would allow
24 us to recover proportionately what other people got
25 in front end payments, by getting a higher price for our

1 royalty gas, because in effect others have got front end
2 payments -- or did some of them, at least Columbia did.
3 Wouldn't it be our contracts in case of the deregulation
4 that would stand in the way of us doing that?

5 MR. BONESS: Do you mean the Columbia contract? That's the
6 only one where advance payment happened.

7 SENATOR HUBER: No. For instance, right now Columbia has
8 a contract that had front end, and apparently they'll
9 get the highest field price that's allowed by the FPC
10 to be paid for that. Isn't it true that for the State of
11 Alaska to get that same higher price, including the front
12 end money, our contracts will be standing in the way of
13 that provided the gas is deregulated?

14 MR. BONESS: Let me start with the regulated situation.
15 In the regulated situation there is a penalty that takes
16 into account the fact that in the price, if everybody
17 else was getting the highest price, Columbia would be
18 paying something less because they'd already had some
19 money.

20 In the deregulated situation it depends on what
21 the contract between Columbia and SOHIO provides. I'm
22 not completely familiar with that contract, but I suspect
23 that Columbia will not be paying the same price for the
24 gas it receives that some other pipeline company will be
25 paying from somebody that had not advanced front end

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1 money. In other words, I believe the Columbia contract
2 more than likely takes into account the fact that, if
3 deregulation occurs, some money has been paid already
4 and, therefore -- say, Texas Eastern may be able to pay
5 Arco a higher price than Columbia will be paying SOHIO.

6 SENATOR HUBER: You'd believe that we would be protected
7 by this highest field price clause where they wouldn't be?

8 MR. BONESS: Yes, sir.

9 SENATOR HUBER: Thank you, Fred.

10 SENATOR RADER: Any further questions of these witnesses?

11 SENATOR CROFT: Mr. Chairman.

12 SENATOR RADER: Senator Croft.

13 SENATOR CROFT: So that I can get in context some of the
14 questions that Representative Meekins has been asking,
15 is it true -- and I guess maybe Mr. Byrd would be the
16 one that might know this best, or Fred -- is it true
17 that once the route is certified that there is going to
18 be a tariff, in effect, approved for that basic facility?
19 Whatever the plan that's submitted at that time, that's
20 going to set that; is that basically correct?

21 MR. BONESS: Once the route is selected by the President
22 and approved by the Congress, it will go back to the FPC
23 and they will establish a tariff at that time.

24 SENATOR CROFT: Based on that particular facility?

25 MR. BONESS: That's right.

1 SENATOR CROFT: And any additions, changes, in that facility,
2 any spurs off that facility, would then have to stand
3 on their own weight in terms of economic viability; is
4 that correct?

5 MR. BONESS: Well, any spur off the line would have to be
6 certified first by the FPC in the new Section Seven
7 proceeding.

8 SENATOR CROFT: And when you tried to certify that spur,
9 would the FPC then go back and re-establish the tariff
10 for the whole line with that spur as an addition, or would
11 it keep the tariff on the existing line and set a new
12 tariff for that spur?

13 MR. BONESS: I believe it would set a new tariff for the spur.
14 The tariff sets a price for transportation between point
15 "A" and point "B".

16 SENATOR CROFT: Right, and with regard to the El Paso line
17 as it's proposed now, the tariff would be between Prudhoe
18 Bay and Valdez, is that correct, and there would be
19 intermediate tariffs for points in between?

20 MR. BONESS: Yes.

21 SENATOR CROFT: But there wouldn't be any other tariffs
22 in Alaska established except along the route of that line?

23 MR. BONESS: There would also be a separate tariff for the LNG
24 facility.

25 SENATOR CROFT: Right. But suppose somebody wanted to take a

1 portion of that to the Delta area, to Anchorage, or
2 wherever, and you had to construct a small line in order
3 to do that? The tariff for that small line would have to
4 be such as to pay for that entire facility, is that
5 correct, the entire spur?

6 MR. BONESS: That spur would be regulated by the State
7 Pipeline Commission, not by the Federal Power Commission.

8 SENATOR CROFT: And it would have to be economically viable
9 by itself; you wouldn't go back and get the FPC to come
10 up with a new tariff for the Prudhoe Bay to Valdez line;
11 is that correct?

12 MR. BYRD: It depends on where the sale was made. If the
13 sale was made by the State to somebody at a point where
14 the spur was going on, then that would be intrastate
15 and the FPC would already have collected their proportionate
16 share to get it there, and from the point of sale off
17 the certificated FPC line to Anchorage, say, that would
18 be a State regulated project and it would have to stand
19 on its own feet.

20 SENATOR CROFT: So my question is, to what extent, in order
21 to make sure that we have the maximum potential for
22 developing and using the gas intrastate -- shouldn't we
23 insist that any spurs be built into the basic line and,
24 thus, reflected in the overall tariff to pay for that
25 line rather than waiting until a later date and having

1 those spurs which then have to be economically justified
2 by themselves alone?

3 MR. BYRD: I question if the FPC would certificate on this
4 main line a facility solely for the movement of intra-
5 state gas. The legislation that was passed prohibits
6 them from preventing a take off and preventing the
7 transportation through the facility to the point of
8 take off, but I think from that point on it would be
9 an intrastate project.

10 SENATOR CROFT: But suppose that we wanted to build a spur
11 to Anchorage because, for some reason, it was more
12 suitable to an LNG type of operation or to a petro-
13 chemical operation than Point Gravina is? Then that
14 spur would have to stand on its own, would it not?

15 MR. BYRD: Yes.

16 SENATOR CROFT: But that if we built that in at this point,
17 prior to certification if we insisted on the spur, it
18 could be built in the overall tariff.

19 MR. BYRD: But the interstate shipper wouldn't pay any part
20 of it.

21 SENATOR CROFT: Why not?

22 MR. BYRD: The FPC just wouldn't let them. The interstate
23 shippers are only going to pay their proportionate share
24 of the cost of the pipeline and whatever facilities are
25 built that go on into interstate commerce.

1 SENATOR CROFT: Yes, and suppose you had a petrochemical
2 complex that did send it on into interstate commerce at
3 Anchorage so that it would be a part of interstate's
4 interests?

5 MR. BYRD: You're thinking about a cryogenic plant at
6 Anchorage that would move liquid gas on to the 48 States.
7 I question whether the FPC or El Paso, either one, would.
8 Under our contracts we couldn't do that, we couldn't
9 take the gas out to liquefy it and move it to the 48
10 States. If we were going to use the gas in a petro-
11 chemical plant we could take it and move it to Anchorage
12 or some other point, but we would pay the tariff from
13 the North Slope to the point of the take off, and we'd
14 pay the intrastate transportation, or our purchaser
15 would, for moving it from the point off on the FPC
16 certificated line over to Anchorage, and that spur
17 wouldn't be FPC jurisdiction.

18 SENATOR CROFT: Was the question of any type of spurs to be
19 constructed by El Paso considered during the negotiations?
20 Were they requested to make any change with regard to
21 their line?

22 COMMISSIONER MARTIN: Not during negotiations, Mr. Croft, but
23 we have demanded on several occasions that they or other
24 companies add spurs, or come forward with a proposal
25 of spurs, for instance, in the case of Haines or some

1 other place, and they have refused steadfastly to do that.

2 SENATOR CROFT: As I understand it, they're going to be
3 back Tuesday or Wednesday. I have some additional
4 questions, the hour is getting late.

5 SENATOR RADER: Well, we can -- if it's in the nature of a
6 general examination, then maybe we ought to pursue
7 them the first thing in the morning. I do expect you
8 to be back though probably -- first of all you said you
9 would like to be able to sum up anything that might
10 develop and secondly, you hope to report to us on the
11 decision if it can be analyzed. What's your desire,
12 Commissioner?

13 COMMISSIONER MARTIN: We're fine. We're in good shape until
14 about Thursday of this week, Senator, and then we'll be
15 sending -- I think Jack will have to return and Fred
16 will be heading to Washington to work on the reply brief
17 in the FPC, so Wednesday will be fine.

18 SENATOR RADER: Would you prefer that instead of tomorrow?

19 COMMISSIONER MARTIN: We'll be glad to come back and spend
20 any amount of time. Tomorrow is also fine.

21 SENATOR RADER: Any other questions of these witnesses? If
22 not, we will tentatively start out with Tenneco, Southern
23 and El Paso tomorrow, hopefully at 11:00 o'clock, or
24 as soon thereafter as the House and Senate adjourn.

25 (Whereupon the hearing adjourned at 5:00 p.m.)

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1
2 SENATOR RADER: The Joint Committee Hearings of the House
3 and Senate Royalty Gas Sale Committees will come to order.
4 We invited Commissioner Martin and such other persons
5 as he might deem appropriate to respond in any manner,
6 that they see fit, to questions that have been raised
7 that they think should be dealt with, or supplementary
8 information. Particularly did we want to get from you
9 an analysis of the opinion from the Trial Judge from
10 your point of view as to what it says and what it
11 doesn't say, and such other matters as you think may
12 be pertinent to the committee.

13 I think the best thing would be for you and
14 Mr. Boness, or either of you, directly to give us sort
15 of a rundown on where you think we are and then start
16 the questions, if that would be all right to do.

17 COMMISSIONER MARTIN: Yes, sir. Thank you, Senator Rader.

18 I should say that after talking to you last week I've
19 not come prepared to give you a full briefing and run-
20 down on the FPC Judge's opinion. In fact, my under-
21 standing of last week was that once the thing was
22 cancelled on Friday that we had moved beyond that, and
23 the decision has been well distributed up here now.
24 We can do that in rough form but, quite frankly, we
25 didn't come prepared to do that; we came prepared to try

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1 to respond to some of the questions that were raised and
2 to take all your questions.

3 SENATOR RADER: I would appreciate your doing it just in
4 rough form then as to your understanding generally, just
5 for purposes of the committee. I know I haven't seen
6 a copy of the decision, and I know that either you or
7 Mr. Boness will have read it in full and analyzed it,
8 and I would like to know what effect it has, if any,
9 on these hearings, and on your position or on a position
10 that we should take or might want to take.

11 COMMISSIONER MARTIN: Senator, let's take it on this way.
12 I think we can say that Fred has read the opinion, at
13 least largely. It's awfully long, and I have not gotten
14 all the way through it. I have read certain parts of
15 it, and I think we can give you a brief summary. Let's
16 just start by having Fred run down some of the key points
17 that are in the decision and then maybe we can talk
18 about the meaning of them.

19 SENATOR RADER: Excuse me. I see Senator Kerttula. Senator,
20 would you like to -- you're certainly welcome if you'd
21 like to join us up here for the questioning.

22 SENATOR KERTTULA: Thank you, Senator Rader. If I have
23 something I'll come up there. Thanks very much.

24 SENATOR RADER: Or you can stand and address the questions
25 there, if you wish, from your seat. Yes, Mr. Nakak,

1 also. Would you care to join us?

2 MR. NAKAK: Not presently.

3 SENATOR RADER: Proceed, Commissioner.

4 COMMISSIONER MARTIN: I'll let Fred just give a brief run-
5 down of the things.

6 MR. BONESS: I would like to start by indicating just a
7 little bit about the procedure, what will happen now.
8 The opinion, as you know, was issued on February 1.
9 We have thirty days in which to file a brief of exceptions.
10 Basically what that means is that the Judge throughout the
11 opinion says, "I find Arctic Gas will be able to construct
12 from snow roads in the time frame they've projected,"
13 and numerous other findings of that nature.

14 The State doesn't believe that that can be done.
15 It will have a number of exceptions to findings of the
16 Judge. We will have thirty days in which to file the
17 brief, and the purpose of my going back to Washington,
18 D.C. is to work with our attorneys back in Washington
19 to prepare that brief, and all the other parties will
20 be doing the same. Once that brief is filed, the Judge's
21 decision, the whole record and those briefs will go to
22 the Commission.

23 They will issue a decision, a recommendation to
24 the President on May 1. The opinion itself is very long,
25 it's four hundred and thirty pages with about another

1 seventy pages of appendices, some of which are also
2 pertinent to the decision and must be read to understand
3 the decision itself. It's organized into a number of
4 sections, there's a Gas Supply Section, a Construction
5 and Logistics Section, an Environmental Section, a Tariff
6 Section, a Financing Section; and within each of those
7 sections the Judge addresses generally what Arctic Gas
8 says it can do, what he believes they can do, what
9 El Paso says they can do, what he believes they can do.
10 There is some discussion in each section of Alcan
11 although, rather interestingly, the Judge at times just
12 seems to ignore the Alcan proposal altogether. He never
13 praises it, he occasionally criticizes it, but in general
14 he just doesn't treat the Alcan proposal in anywhere
15 near the same length as he treats the El Paso and Arctic
16 Gas proposals.

17 I have not read all of the decision. I'm half
18 way to three-quarters of the way through the decision.
19 There are a number of places where the State of Alaska
20 is mentioned in terms of the positions it has taken.
21 We will have things to respond. As you may know or may
22 have heard, the Judge asserts that the State is a person
23 under the Natural Gas Act and that our sales will have
24 to be certificated by the Federal Power Commission.

25 As I indicated on Thursday night to Representative

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1 Gruening's committee a week ago, we are intervening in
2 other cases -- we have intervened in other cases which
3 address that issue and which may form the precedent for
4 what would be the eventual finding in the Alaska proceeding.
5 But, in any event, I would point out that the Judge's
6 position is contrary to the position taken by the Office
7 of General Counsel for the Federal Power Commission,
8 and it will be a legal issue which will ultimately be
9 resolved, I feel quite certain, by the courts.

10 I don't believe the Judge's assertion that
11 jurisdiction exists is really in any particular fashion
12 detrimental to the State's position. It is really based
13 more on an assertion that it just must be so rather than
14 on any serious legal analysis, in my opinion.

15 I believe I would prefer to leave it there rather
16 than going into the number of specific issues that the
17 Judge addresses unless it would be the committee's pleasure
18 that I attempt to do that.

19 SENATOR RADER: Of course, the inquiry here is, should we
20 or should we not pass the resolutions approving the sale.
21 Is there anything in the decision from the point of view
22 of the State that would impinge upon our decision as to
23 one way or another in that regard, in your view -- or
24 in your recommendation to us in that regard?

25 COMMISSIONER MARTIN: I would stick by the statement that we

1 made earlier, Mr. Chairman. This decision, once the
2 procedural bill passed last year, is made less important
3 than it would be under ordinary circumstances, and I'm
4 not going to change that position because of the way
5 the decision came out. On the other hand, the strength
6 of the decision, it seems to me, points out two things
7 very clearly. One is that the State has a tremendously
8 long way to go to support either of the two routes that
9 are in the State's interests; and the second thing it
10 points out, and I want to mention this in the statement
11 that I'm going to make to you today, is that this is
12 a terrifically Federally oriented decision and points
13 out, sort of in the most vivid terms, the kinds of
14 things that we may be running up against in attempting
15 to protect the future in-State use of our gas and running
16 up against in terms of Federal jurisdiction over our gas.

17 So those two things very much, in my view,
18 make what we're considering here more important -- in my
19 view, make it substantially more important that we take
20 action at an early time, and make it more important
21 that we do what we can to support the El Paso route.

22 SENATOR RADER: I really didn't mean to open the questions
23 at this stage. However, inasmuch as I have, do other
24 members of the committee have any questions particularly
25 concerning the decision, and then we would go into the

1 other. Senator Croft.

2 SENATOR CROFT: I do on that point. One of the reasons these
3 contracts were announced on November 12 was so that they
4 could become a part of the record, and both the staff
5 report which was issued in December, and Judge Litt's
6 decision which came out in February thus considered those
7 contracts. What did the staff report and what did Judge
8 Litt say about these contracts? What effect did the
9 contracts have on their decisions?

10 COMMISSIONER MARTIN: I think they had pretty much the effect
11 that I thought, and that was less effect on the FPC
12 proceeding than they'll have on any subsequent proceeding.
13 I stated that before publicly, and that was a point I
14 made basically in trying to take additional time before
15 they were introduced. I think that they didn't affect
16 the decision a great deal, nor did I expect it to.

17 SENATOR CROFT: What did Judge Litt say about the contracts?

18 COMMISSIONER MARTIN: I don't recall that he treated them
19 in length at all.

20 SENATOR RADER: Any further questions on the decision?

21 Representative Parr.

22 REP. PARR: Mr. Martin, you used the term "Federally oriented"
23 a minute ago. Do you mean that this was the same thing
24 as what sometimes is called "In the National interest"?

25 COMMISSIONER MARTIN: Well, I don't know what sort of semantics

1 you're after, Mr. Parr.

2 REP. PARR: I'm not looking for semantics, Mr. Martin.

3 You said "Federally oriented" and I don't understand
4 the term.

5 COMMISSIONER MARTIN: Let me try to explain that. It seems
6 to me that the best that the State of Alaska can hope
7 to come out of this is with some agreed understanding
8 between the Federal Government and the State with regard
9 to the State's ability to use the royalty gas of their
10 own. That understanding, in my view, would be to acknowl-
11 edge that because of Alaska's production of these resources
12 and distance from other markets, the needs we have in
13 the State, that we will have a somewhat free hand to
14 use our own resources.

15 At worst, on the other hand, the Federal Govern-
16 ment will assert total jurisdiction over not just the
17 gas that comes out of Prudhoe Bay, but the royalty gas
18 that comes out of Prudhoe Bay, and direct that that gas
19 be sent somewhere else other than Alaska.

20 Now, that's a whole spectrum of possibilities
21 with respect to the gas that we own. When I say Federally
22 oriented, in this context I'm referring to the fact that
23 Judge Litt took the position that they should have
24 virtually total control not over just the Prudhoe Bay
25 gas but our State owned gas as well.

1 REP. PARR: In other words, what you're saying is Judge Litt
2 said that the Federal Government would have the power
3 then to decide where the gas would be most needed, including
4 our royalty gas.

5 COMMISSIONER MARTIN: That's right.

6 REP. PARR: And then to send it there.

7 COMMISSIONER MARTIN: And went much further than that to
8 advocate the repeal of Section 13-B and immediate asser-
9 tion of Federal jurisdiction over our gas right from
10 the wellhead.

11 REP. PARR: Thank you.

12 SENATOR RADER: Any other questions? Representative Gruening.

13 REP. GRUENING: Commissioner and Mr. Boness, is there anything
14 in the decision that indicates why he thinks 13-B ought
15 to be repealed?

16 COMMISSIONER MARTIN: Yes. He discusses it, not at length,
17 but he basically makes the assertion that the Federal
18 Government again should control all of the gas in the
19 national interest rather than just the seven-eighths that
20 belong to the producers, and really indicates that the
21 Federal Gas Act, in his opinion, has applicability to all
22 of it and that then all of the Federal powers given to
23 the Federal Power Commission under its act would apply.

24 REP. GRUENING: You mentioned just earlier that the decision
25 behooved us to move faster on these contracts. I think

1 that was your comment. What is there in the decision
2 that compels us to do that?

3 COMMISSIONER MARTIN: Basically the fact that it pointed
4 up the terribly uphill battle that the State faces in
5 supporting either one of its two routes, and it seems
6 to me that it just emphasizes the need for whatever
7 additional assistance we can get from these contracts
8 or the support that comes as a result of them.

9 REP. GRUENING: You recall that in the task force evaluation
10 that there was mention of the fact that at some point
11 the State would consider switching its support to Alcan,
12 and now having been asked that question, and the decision
13 hadn't come out yet -- now that it's out is there any-
14 thing in that decision that would give the Administration
15 cause to reflect and to change their position?

16 COMMISSIONER MARTIN: I think we'll continue to consider it,
17 and we'll probably be discussing it this week, but my
18 present reading of the situation is that the decision
19 would not indicate a change is necessary.

20 REP. GRUENING: You will be discussing the possibility of
21 switching support next week?

22 COMMISSIONER MARTIN: Yes, but I don't think that there is
23 any strong possibility that we'll change.

24 REP. GRUENING: But that matter will come up?

25 COMMISSIONER MARTIN: I should say, that matter is under

1 just continual scrutiny and discussion because we want
2 to make sure that whatever is in the State's best
3 interests is protected. But I think it highly unlikely
4 that we'd want to change because of this decision.
5 In fact, our present directive is for Mr. Boness to go
6 to Washington and prepare a brief opposing the recommen-
7 dations made by Judge Litt.

8 SENATOR RADER: Any further questions on the decision?
9 Representative Miles.

10 REP. MILES: Regarding Judge Litt's advocacy of repeal of
11 the exemption, Commissioner, has anybody been in contact
12 with our Congressional Delegation to gain a feel of how
13 Congress feels since the Litt decision came down, and
14 are you familiar with ---

15 COMMISSIONER MARTIN: Well, I've been in contact with the
16 staff of our Delegation. I think I've been in contact
17 with all of the staff since that time, not only on that
18 question or precisely on that question. But I've dis-
19 cussed this issue, although not personally with any
20 of the Delegation. What I'm learning from them is that
21 it's really too early to assess what happened in Congress
22 as a result of that decision. I don't think they've
23 really digested it really anymore than we've been able
24 to here. But they see the decision as damaging to the
25 El Paso and Alcan case.

1 REP. MILES: But they don't have any strong feeling on the
2 exemption either?

3 COMMISSIONER MARTIN: No.

4 SENATOR RADER: Senator Croft.

5 SENATOR CROFT: Could I -- just so we get it in perspective,
6 the State had certain points that it wanted to make
7 in the FPC hearing. One was support of the El Paso
8 route, two was, I guess, some support of Alcan just
9 so the State could keep that option open, three was
10 to convince Judge Litt that we were not a person within
11 the meaning of the Natural Gas Act and thus were not
12 under the terms of it. Obviously, we didn't want him
13 to come out for repeal of 13-B. Could you list the
14 major objectives that the State had in its participation
15 before the FPC? Just kind of run through it as to how
16 we came out under his decision.

17 COMMISSIONER MARTIN: I don't think a list is necessary,
18 Senator Croft. I'll just say that you listed at least
19 the major ones, and there are a number of minor ones.
20 My thought is that Judge Litt's decision went very much
21 against the State's interests.

22 SENATOR CROFT: On all of the major points?

23 COMMISSIONER MARTIN: On the major points.

24 SENATOR CROFT: On the most of the minor ones too?

25 COMMISSIONER MARTIN: Yes.

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1 MR. BONESS: Senator, I'd like to respond to that. What I
2 believe you stated are really the ultimate objectives
3 that the State's case took. But, in fact, there are a
4 number of specific kinds of points which come up during
5 the hearing; for example, the question of whether Arctic
6 Gas would be able to construct its line from snow roads
7 was debated at length. That's a much finer question.
8 It goes to the State's objective because part of the
9 reason the State opposes Arctic Gas is that it is going
10 to involve substantial delays and substantial increases.
11 The State put on considerable testimony on that point.

12 El Paso hired special consultants to put on
13 considerable testimony on that point. Mr. Latts, who
14 was the Federal Government pipeline person, put on
15 testimony to the effect that it couldn't be done, and the
16 Judge essentially rejected all of that testimony.

17 There are a number of other kinds of things like
18 that, the question of whether adequate water would be
19 available to manufacture snow if, indeed, they were
20 going to use snow roads; the question of whether snow
21 fences would be adequate. It really breaks down into
22 a number of very specific kinds of things.

23 With respect to the El Paso proposal, questions
24 with respect to the amount of gravel available and a
25 number of things like that. And the Judge, in my opinion,

1 as far as his opinion that I've read, really accepted
2 Arctic Gas' arguments in almost all cases and ignored
3 the arguments of the State and others with experience
4 in the gas pipeline construction here in Alaska.

5 COMMISSIONER MARTIN: I might just add to that, I think
6 your question -- I don't think you assume this, but it
7 may create the implication that it was sort of the State
8 against these others. But the State was merely a part
9 of a much larger presentation, whereas the bulk of the
10 evidence was put on by El Paso, by Alcan, or some of
11 the other parties who were intervenors to the case.
12 Although we took a major role on most of these issues,
13 we were not (let's say) the leading case.

14 SENATOR CROFT: On some of them we were the only people
15 that were really interested in it, and that is particularly
16 true with regard to whether the State is a person
17 within the interpretation of the Natural Gas Act.

18 MR. BONESS: Senator, if I may respond to that one. The
19 State filed a brief on that very early in the proceeding.
20 No one filed a brief in opposition to that and, in fact,
21 I believe you would not find that in the record at all
22 except occasionally the Judge making a comment, "Well,
23 whether the State is or isn't a person, will you tell
24 us what you're going to do?"

25 The legal merits of that question were never

1 discussed or debated in the hearing at any point and,
2 quite frankly, I'm a little bit surprised to find as
3 much discussion of the issue in the Judge's opinion as
4 there is. I think it was, if anything, a gratuitous
5 effort on the part of the Judge to make sure that the
6 State does not get powers beyond those which he believes
7 we should have.

8 SENATOR CROFT: But in terms of that, in terms of 13-B,
9 in terms of the regulation of rates within the State,
10 which I think you, Commissioner Martin, made reference
11 to Tuesday when we had the first summary of Judge
12 Litt's decision, all of those points were basically
13 points that it was not particularly an adversary situation,
14 and yet he recommended against us on all of those as
15 well; is that correct?

16 COMMISSIONER MARTIN: Exactly right, and that's exactly
17 why I answered Mr. Parr's question that it was a very
18 overtly Federally oriented decision. On the question of,
19 let's say, rates he treated it very lightly in the
20 decision in most cases, much more lightly than I thought
21 he would given the fact I had been on the stand for
22 eight hours on that issue one day. But, you're right,
23 he took it on his own initiative to deal with those
24 issues, as Fred says, gratuitously.

25 SENATOR RADER: Any further questions just on the decision?

1 Commissioner, why don't you go ahead and give us your
2 general presentation?

3 COMMISSIONER MARTIN: Thank you, Senator. Last week, Mr.
4 Chairman, the committee had comprehensive hearings on
5 the gas line route issue and on the contracts, and as
6 the opening witness for the State and the spokesman
7 designated by the Governor, I took the approach basically
8 of attempting to lay the contracts and the route preference
9 decision before this committee, and to do so, at least
10 in my own view, for my own part without heavy advocacy
11 or really without a series of conclusionary statements.
12 I, in fact, didn't make an opening statement. And I did
13 that for several reasons that are somewhat important to
14 me and I think to the proceedings.

15 One is, I think this issue is critical, and I
16 believe it to be (like you) basically non-adversary and
17 non-partisan.

18 Secondly, to a very large extent I served as not
19 just the negotiator for the State, but the negotiator
20 for the Legislature as well as the Executive on this
21 matter, and I wanted the committee to have the best
22 opportunity to understand factually what the contracts
23 did as opposed to having to deal initially with a large
24 number of the conclusions or implications that might
25 spring from the contracts.

1 And I also wanted to hear, as a negotiator,
2 very much what other people had to say about the
3 contracts because no matter how substantial the level
4 of care is, and it was substantial on these contracts,
5 there is always a great deal more to be learned, par-
6 ticularly from the consultants and others that have an
7 opportunity to examine these contracts in a clear,
8 objective light. Basically I guess what I wanted to do
9 was to see how well the contracts and the route preference
10 stood on their own merits and to get an indication for
11 my own part how well we did.

12 I've never said to this committee, and I'm not
13 going to start saying today, that State decisions on this
14 issue are clear-cut. Yet I heard a number of people
15 say statements last week that were amazingly absolute,
16 in my view. Virtually any course that we take, Senator,
17 and I wouldn't want the committee to be mistaken about
18 this, is going to have substantial trade-offs, it's going
19 to have risks associated with it, and it's going to have
20 both advantages and disadvantages. I think that although
21 there are a number of people that really don't like to
22 hear this kind of conclusion, I think that the differences
23 between the alternative courses that are available to us
24 are going to depend very much on subjective judgments
25 made not just by myself or by the Governor, but by members

1 of this committee. Some things are going to be, and
2 remain, difficult to quantify. I think they're going
3 to have to be worked out subjectively by all of us
4 working together. That's very true of these contracts.

5 Now, my opinion after seeing the hearings for a
6 week, Senator, is that they were very useful. They
7 were comprehensive, and on balance I think they developed
8 some good information on very complex issues. There
9 were a number of factual errors made, and we're going to
10 try to be able to respond to those today. There were
11 some very legitimate differences expressed with regard
12 to State policy objectives that might be pursued. There
13 were some wide ranging political judgments expressed.
14 I think there was some good, expert consultation supplied
15 to the committee.

16 We paid close attention to the hearings. We had
17 them monitored throughout your consideration, and I
18 think we came away with a pretty good idea of what it
19 was we ought to do in future response to this committee.

20 I'm going to say some things in my statement
21 today and I'm going to be prepared to respond to questions,
22 and it may well be that we'll turn in additional written
23 information at a later time if we feel that everything
24 hasn't been covered.

25 It was a little hard to tell, looking at the

1 testimony last week, what the most shocking piece of
2 testimony was. It was probably a toss-up between Arlon
3 Tussing telling us that the entire State and its
4 leadership have been tricked into believing that we
5 have any role in this decision at all; it could have
6 been Mr. Dallas telling us we made a big mistake by
7 not coercing a gasoline plant in Fairbanks as a part
8 of these contracts; or it might have been that the
9 buyers couldn't assign a dollar for dollar value
10 to what it was they proposed to do.

11 But let me say that, at least from my personal
12 judgment, the most shocking piece of evidence before
13 the committee last week was probably Judge Litt's decision.
14 It was something that didn't happen here at all. In the
15 terms of the sort of significance that we have to deal
16 with in these hearings, it seemed to me that, as I said
17 earlier in response to Mr. Croft's question -- it seems
18 to me that we learned from that decision a great deal
19 more about the uphill battle we have to face and a good
20 deal more about the sorts of Federal orientation that
21 we're likely to meet as this issue is developed in
22 Congress.

23 What I'd like to do today, Mr. Chairman, is to
24 continue in the role of elaborating on the contract
25 factually and to respond to your questions. But I'd also

1 like to do one other thing that I feel somewhat compelled
2 to do in the role that I've tried to fulfill for the
3 State, and that is to try to add at least some perspective
4 to the issue based on my own judgment and on my experience
5 as a negotiator for this contract and on my experience
6 in dealing with this issue on behalf of the State
in the Federal context. I've spent time on this issue,
8 both for this Administration and for the last one,
9 and think that the committee probably can benefit from
10 at least what some of my judgments, again admitting
11 that they're only subjective, with some of the others
12 that have been made, to add my words to theirs.

13 In other words, I feel that after hearing a
14 great deal of useful testimony last week, I think that
15 it will be useful for me to at least give you the benefit
16 of my advice as well as the information I can supply.
17 First, I want to make it clear that I believe after
18 hearing everything, and you always hear these things
19 with a certain amount of trepidation as a person who
20 negotiates it, particularly in the context of our statute,
21 I want to share with you my belief that both the contract
22 and the route preference held up remarkably well during the
23 course of the hearings last week. No witness, with the
24 exception of those who favor another route, such as Mr.
25 Ward, Mr. Thompson or Mr. Tussing, made any substantial

1 allegation that the best route for Alaska was anything
2 but the Trans-Alaska route.

3 In addition to that, the clear-cut consensus
4 of the consulting experts hired by the Legislature was
5 that these are good contracts achieving some objectives
6 now which may not be reasonably expected to be surpassed
7 or even equalled later. Third, on taking into account
8 all that was discussed last week, I believe that no
9 questions have been raised which cannot be reasonably
10 answered and none that persuaded me on balance that
11 these contracts do not best achieve a series of crucially
12 important objectives for the State.

13 Now, beneath all of the specifics which have
14 been raised is the overall issue raised best by Mr.
15 Gruening, "What do we get and what do we give up?"
16 Slightly below that is a similar question, and I think
17 it went unspoken in many cases last week, "Can't we do
18 better in the future if we just wait now?" The answers
19 to those questions are complex and they depend on many
20 variables, and rather than cite them all, let me give you
21 an example of what I mean.

22 To the question, "What do we get," the variable
23 is, "What do we want?" And I think that what we want
24 is something that people have not been clear in addressing
25 beyond the words and the implications that were created

1 by public opinion and legislative actions and adminis-
2 trative actions since last year.

3 What do we want? It might be price, it might be
4 in-State use in the future, it might be the route that's
5 best for Alaska, it might be a lump sum payment, it
6 might be total future flexibility with regard to this
7 gas for the next three or four years. But in any case,
8 at some point what we want has to be defined rather
9 clearly. In my view it was defined rather clearly at
10 the time we led up to these contracts, and we ought to
11 establish that ground again.

12 To the question, what do we want, my own fear is
13 that one of the things that comes out of the hearings
14 last week is that the answer of too many people is
15 "everything." I just want to make it clear, both as an
16 advisor and a negotiator, I don't think we can expect
17 to get everything, and perhaps we didn't in these contracts.
18 But I don't think we can answer that question by saying,
19 "Everything."

20 Over all, and I want to make this very clear
21 because I believe the hearings narrowed in many cases
22 to an investigation of specific values, pro or con,
23 that were inherent in the contract. Let me make clear
24 what my own feeling as your advisor is on this matter.
25 Over all, what I believe we got in the contracts is a

1 balanced package of terms on key objectives for the State.
2 In my view the objectives are right, the terms are solid,
3 and there exists real risk that such a package cannot
4 come together in the future in exactly this way.
5 That may not mean, in your own mind, that you should do
6 it. But I want you to be clear that my feeling is that
7 that's my conclusion, and it will be difficult to put
8 this kind of package together again in this way.

9 I believe that many of the statements that were
10 made last week missed the balanced nature of these con-
11 tracts, and I believe they missed the present opportunity
12 they represent, and I believe that there was a certain
13 misconception with regard to what we can absolutely rely
14 on to be accomplished in the future.

15 What you get, in other words, is an approach
16 with many facets and many aspects to it, which is avail-
17 able now, and one which provides a whole series of terms
18 giving protections for the State which may or may not be
19 available later, but achieving this combination at a
20 later time, if it does represent desirable alternatives
21 and desirable objectives, may not be a dependable
22 assumption.

23 I do not propose to speak to you in absolute
24 terms as some did last week because I don't think this
25 is an absolute issue. I am going to lay out, however,

1 some of the benefits and risks as I see them, and to
2 give you the opportunity to work with me to try to balance
3 those risks and benefits, to look at these contracts
4 as a unit rather than in looking at them, as we did
5 last week in so many instances, as a series of specific
6 issues, all of which can be considered, I think according
7 to the assumption that we can achieve the same combination
8 again or whether we can't achieve it again.

9 First, in these contracts the State gets a
10 reasonable approach, in my view, to a decision on this
11 entire issue, and it gets it within the formidable
12 constraints of our royalty process. Now, our statute
13 is wise in the public interest, and I've said so before;
14 but it's cumbersome and it's politically charged. It's
15 a one-year cycle or perhaps somewhat less in which the
16 Administration, the Commissioner of Natural Resources
17 and others must either guess or ascertain what the public
18 will and the legislative will is with regard to royalty
19 oil or gas, then must work through the businesslike
20 task of negotiating an entire contract to deal with
21 these issues, and then must go through two levels of
22 review, which can be extremely time consuming, during
23 which time the circumstances that favor or disfavor any
24 deals so made can change.

25 The present contracts, in my opinion, have done

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1 very well in this process, and they're based on a
2 reasonably identifiable public and legislative will.
3 In other words, we started with a reasonably good idea
4 of what was desired and we went through at least a very
5 large percentage of the complicated and cumbersome nature
6 of our process in fairly good form, and we're still
7 proceeding in that, in my view. Now, how well this
8 process works in the future is going to have a great
9 deal with how well it works in this instance and how
10 well all of us work with the process, and that has
11 nothing to do with whether the contracts are approved
12 or not. It has to do with the way in which we deal
13 with them.

14 To reject these contracts now, particularly
15 without a good understandable, specific basis of
16 guidance as to where we go next, leaves us with a process
17 which is neither rapid nor flexible, our royalty process,
18 and perhaps without clear direction, and still facing
19 the same problems which we believe were answered very
20 successfully in this contract. So I think that there's
21 an inherent risk in starting over again without clear
22 guidance. If we have the clear guidance and we have
23 the time, then it may well be a different case. But I
24 think that we have an alternative now that it's going
25 to be difficult to duplicate given the nature of the

1 process. I think it's a risk of rejection you should
2 clearly face; that is, very simply, the risk of putting
3 together a deal in this form and of this nature again.

4 Second, in these contracts we did get the best
5 price for royalty gas sold under any reasonably foresee-
6 able circumstances. I say that after listening to
7 testimony last week, hearing your consultants deal with
8 it very thoroughly. Quite frankly, after the strong
9 testimony that your own consultants gave, I'm hopeful
10 that this issue is put largely to rest. If it is not,
11 simply let me say that I believe that it should be,
12 and that the State can say with some certainty that it
13 did get the best price that it can reasonably expect to
14 get under any foreseeable circumstances.

15 For you to reject these contracts on this basis,
16 you must conclude that it is not only technically possible
17 to get a better price later, but that it is probable or
18 even possible that we can better or even equal what is
19 presently available to us.

20 For the record, my advice to you is that it is
21 not a risk worth taking, and it's not a possibility
22 that you can or should rely on, and not something you
23 can assure the people of the State is capable of
24 accomplishment. Remember that under these contracts
25 we tie the price the State gets for its gas to the best

1 price coming from the Prudhoe Bay oil field, oil and
2 gas field, so that if only one buyer gets a terrific
3 deal on his gas we're tied to that price. So we have
4 the benefit of virtually every other good negotiation
5 for gas from that field.

6 Third, there is the issue of in-State use.
7 What we get, again in a balanced package, is a negotiated
8 term in this contract that allows us to sell our gas
9 but not really to sell it, to take back virtually every
10 cubic foot of gas that we can use for Alaska's future.
11 So far as I am aware, this term is without precedent
12 in gas purchase history. The driving force for the term,
13 in my view, is uncertainty; uncertainty about what we will
14 ever use, which allows both the buyer and the seller to
15 make of it what they wish.

16 To reject this contract, you must accept the
17 risk that this total take-back term can be equalled or
18 surpassed later. I do not know how, quite frankly, it
19 can be surpassed. And as your negotiator, I can advise
20 you that I believe there are substantial risks to be
21 acknowledged if you were to act in the belief that such
22 a term can simply be renegotiated equally. I think there
23 are a number of reasons that indicate that it will be
24 quite difficult to establish such a term again.

25 Fourth, there is the protection of the take-back

1 provision itself. What we get, in my view, is the best
2 foreseeable opportunity that Alaska will have to protect
3 its ability to use gas in the State. We not only have
4 negotiated the best possible take-back provision, simply
5 the right to take back all of the gas, but we are able to
6 advance it for Federal approval at probably the most
7 advantageous time foreseeable for doing so..

8 To reject the contract now, I believe that you
9 must accept the risk that Section 13-B will remain
10 unchallenged and on the books and that at some later
11 time you will be not only able to negotiate the same
12 kick-back term, but that we will have the same or better
13 chance to get it approved at the Federal level. My
14 opinion, and again I'm acting in an advisory capacity
15 here, is that our best chance to avoid that risk is
16 by acting now.

17 And fifth, there is just the question of the route
18 itself. On the one hand we had Arlon Tussing, a good
19 friend on whom I've shared many opinions on this issue,
20 who basically indicated that we should fold our tents
21 and wait quietly for the end on the gas line issue.
22 On the other hand, we have the Congressional Delegation
23 and the Governor stating in no uncertain terms, as I
24 see it, that the State does have a definite role in this
25 gas line proceeding and that these contracts are important

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1 to the outcome, that the combination of buyers is right,
2 and that the decision should be made as reasonably
3 quickly as possible.

4 For my own part, again giving you the benefit
5 of my feeling about this, I certainly want to come down
6 on the side of saying I think we do have a role in this,
7 and I say it from the perspective of participating
8 both in the Native Land Claims and Trans-Alaska Pipeline
9 decisions in Washington. I think it's simply fallacious
10 to assume the State has no role whatever and that we
11 should simply accept what comes our way. Again, I
12 would reiterate that what I say about the route is totally
13 separate from all the other points about the protections
14 that we may be able to gain from these contracts.

15 To reject these contracts, in my view, you
16 have to be willing to accept the risk that the additional
17 help afforded by the buyers either won't be any help
18 at all or that it won't help enough, and accept the
19 fact that no matter what your individual reasons, your
20 action in rejecting these contracts is going to be
21 perceived broadly as a rejection of the Trans-Alaska
22 route. For my own part, given the fact that the contracts
23 will be void if we lose, given the fact that they are
24 clearly of extreme importance to our Congressional
25 Delegation, given the fact that they will be void if

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1 the full take-back scheme is not approved Federally,
2 given the fact that we will be doing all we can to
3 develop the in-State uses which could conceivably mean
4 that we never really sell a cubic foot of gas, that is,
5 get something for nothing; given those facts, I don't
6 think the risk of rejecting the additional assistance
7 makes a great deal of sense.

8 In conclusion, I would say that after a full
9 week of testimony a number of specific points have been
10 raised, but no one has yet suggested a concrete com-
11 prehensive alternative to the kind of advantages that
12 are suggested by these contracts.

13 Now, I'm going to be pleased to answer your
14 questions, but I hope that that additional subjective
15 judgment helps you at least to understand what I think
16 is important about the contracts.

17 Thank you, Mr. Chairman.

18 SENATOR RADER: Senator Huber.

19 SENATOR HUBER: Thank you, Mr. Chairman. Commissioner Martin,
20 would you care to comment on whether the course that we
21 embark upon with these contracts is anywhere as near
22 strong enough to win the route decision, especially in
23 light of Judge Litt's decision? Might not we be relying
24 on too little too late? Might not the contracts' greatest
25 drawbacks be that they stand in the way of an all-out

1 effort, such as that outlined by Jess Barry of Anchorage
2 when he talked to us Friday?

3 COMMISSIONER MARTIN: I'm sorry that I didn't read that
4 statement, but it seems to me that you're going to
5 get the maximum amount of effort that we can expect to
6 see from these contracts as they're presently framed.
7 In my view that would be my position, Senator Huber,
8 and it seems to me that we can always say that we're
9 later than we would like to be. Had not legislative
10 approval been necessary, had it not been as difficult
11 as it was to negotiate what I think are good contracts,
12 we may very well have been able to go earlier. But it
13 seems to me that we have an opportunity to do the right
14 thing now.

15 SENATOR HUBER: You're not familiar with Jess Barry's
16 proposal that he made before us Friday then?

17 COMMISSIONER MARTIN: Is it the proposal to eliminate the
18 flexibility provision in the contract?

19 SENATOR HUBER: No. It's a total proposal to get behind
20 it much harder. He likened it onto the way Alaska got
21 behind the Tennessee Plan to become a State, and he
22 meant getting with El Paso and joining with them, using
23 the State's bonding ability and everything else to help
24 in building the line so that we had something really
25 to sell to the people of the Lower 48, that Alaska is

1 getting in there to get them the energy they need.

2 COMMISSIONER MARTIN: I'd say two things, Senator. I haven't
3 read the proposal in detail. I'd be glad to do it.

4 I think that there will probably be things that we should
5 consider that would be of even more assistance. But if
6 I understand what you're saying, nothing that he proposes
7 in any way conflicts with the value or the benefits of
8 engaging in this contract.

9 SENATOR HUBER: That part may be true. Thank you.

10 SENATOR RADER: Representative Hayes.

11 REP. HAYES: Mr. Martin, on Friday Mr. Moody, who was
12 retained by this group, testified regarding one provision
13 in the contract which has been discussed as being one
14 of the major pluses, and that was the take-back provision.
15 He indicated that the contract was so strong in favor
16 of the State, particularly in that respect, that when the
17 producer/owners get around to financing the project
18 they may very well be faced with the problem, in dealing
19 with the financial institutions, of coming back to the
20 State and asking for some subordination or some relief
21 relating to that particular paragraph of the contract.
22 Have you taken that into consideration, or do you have
23 any opinion on it as far as ---

24 COMMISSIONER MARTIN: I've heard that point, Representative
25 Hayes, and, of course, it came up in negotiations as the

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1 buyers attempted to tell us that we may, indeed, be
2 driving too hard a bargain. But it seems to me that
3 that again does not supply a reason to vote against the
4 contract, but only a fact that we may have to acknowledge
5 in the future. My own view is that he over-stated the
6 possibility of that happening. But, in any sense, I
7 think we ought to acknowledge it; but it doesn't give
8 me any pause at all in going ahead with the contracts.

9 REP. HAYES I think he made a statement to deal with
10 the alternative, which would not be entering into any
11 contract, and by not entering into any contract you would
12 not be put into the position of having to commit your
13 royalty gas. But then I think he, on the other hand,
14 said that if the State doesn't have their act together
15 by that time, by the time the pipeline is built, that
16 we may very well lose it anyway, the FPC may take it.
17 Do you agree with that?

18 COMMISSIONER MARTIN: That's the point I guess I was getting
19 at, and I would say this: a number of factors are going
20 to have to develop. Certification is the first of
21 several. Beyond certification, for which financing will
22 be a part, there will actually be the putting together
23 of a package to build whatever pipeline is certificated.
24 I think the State gives up nothing by going with these
25 contracts now that it can't adjust to and have a reasonable

1 opportunity to adjust to at a later time.

2 REP. HAYES: Thank you.

3 SENATOR RADER: Representative Gruening.

4 REP. GRUENING: Commissioner, can we infer from what you've
5 said that the Administration would not take kindly to any
6 suggestions of amendment to this contract? Do you see
7 any -- in other words, let me just say the consultants
8 did suggest some areas where the contracts weren't
9 perfect and there were some areas where we could lose
10 something in terms of price.

11 COMMISSIONER MARTIN: So far as I'm aware, Mr. Gruening,
12 none of the consultants suggested amendment. They sug-
13 gested in many cases clarifications which they felt
14 would be useful, and we'll attempt to supply those. Our
15 position on amending the contract is that if it's in
16 the public interest to do so, we're not totally closed
17 to the possibility. The Legislature should be advised
18 that amendments are a rejection of the present contracts.
19 Our procedure doesn't provide for amendments, but merely
20 approval or disapproval by the Legislature. We'll take
21 into consideration the reasons, if they're stated in
22 a unified manner, that a rejection is undertaken and
23 attempt to renegotiate the contract if it seems desirable
24 to do so. At the present time, frankly, we have not yet
25 had pointed out to us in any unified way suggestions for

1 amendments of the contract which would cause us to believe
2 they ought to be amended. I'm not saying we're closed
3 to it, but I'm saying it has implications for timing
4 and it has implications for future decisions on this
5 which we'll just have to discuss.

6 REP. GRUENING: Have you considered a special bill to allow
7 an expedited procedure for amendment?

8 COMMISSIONER MARTIN: I've given it some thought and I'm
9 not unwilling to discuss it. But as I've said before,
10 the way in which the Legislature deals with these
11 contracts is going to have a great deal to do with what
12 happens in the future in the royalty process. I think
13 you are well familiar with my view, that that's going
14 to have to be done in a way that doesn't create the
15 impression of the Legislature renegotiating the contracts.
16 I think that if you do that you'll simply find that
17 future individuals occupying my office are not going to
18 be willing to put anything on the line in negotiations.

19 REP. GRUENING: I'd like to call your attention to the
20 statutory provisions I think that govern you and the
21 Royalty Board, and I don't know if you were here but
22 you probably had an observer when Red Boucher made his
23 comments on a finding of surplus and immediate, domestic--
24 along with domestic and industrial needs for the royalty
25 gas. He stated that he was aware of no study that had been

1 submitted in accordance with the statute; in other words,
2 a report showing an immediate and long-range domestic
3 and industrial needs of the State for royalty gas. Is
4 that a correct assessment, or what reports or report
5 have been submitted in accordance with the statute?

6 COMMISSIONER MARTIN: There are really two answers to that
7 question. First, I don't believe it's a correct statement.
8 Two items have been submitted to the Legislature to
9 fulfill that requirement. The first is this analysis,
10 which is included in all the legislative packets.
11 I understood that it got left out of a few, but eighty
12 came over to the Legislature. The second was, this
13 document here, which wasn't in all the packets but
14 which was given to the Chairmen, at least to Senator
15 Rader, which is the background document for this.
16 And this document, Mr. Chairman, is a lengthy bibliography
17 which indicates the nature of all backup information
18 dealing with surplus gas.

19 Now, these things do exactly what the statute
20 demands, and that is to analyze the present and future
21 demands for surplus royalty gas. I'll go one step
22 further than that. The Legislature has a question before
23 it. I think we could spend a good deal of time deciding
24 whether or not this is exactly what you had in mind for
25 your report. In my mind it's unquestionable that this

1 deals with what we have, what the future may bring, and
2 what kind of surplus we have. So it's a technical decision
3 for the Legislature, which gives you every ability to
4 deal with the issue of future surplus. I should also
5 say that the Legislature received a copy of the Royalty
6 Board minutes and the indications of the Royalty Board's
7 consideration of this in which this was also well
8 discussed, and all of these documents referenced.

9 But as a further point, let me just say that
10 that point as a technical objection is exactly the kind
11 of thing that the Legislature should avoid to use as
12 an escape hatch for this kind of decision. The plain
13 and simple fact of the matter is that these contracts
14 take care of the surplus provision by definition.
15 There is no question that the future uses of royalty
16 gas in these contracts are protected by the terms of
17 the contract itself. Any future use -- and those future
18 uses are unknown -- is protected by the terms of the
19 contract. So that the analysis itself, while it's
20 interesting and fulfills the terms of the statutes,
21 is really not necessary to appreciate the fact that
22 we don't sell any future gas that's not surplus.

23 REP. GRUENING: Mr. Martin, I don't think it was the intention
24 of that question or any of the Legislators here in
25 raising that, to find an escape. I think we're looking

1 to see whether you and the Board have complied with the
2 law.

3 COMMISSIONER MARTIN: I understand.

4 REP. GRUENING: We have to examine, you know, it's our role
5 to examine that.

6 COMMISSIONER MARTIN: I understand, and I wasn't suggesting
7 that. I'm saying that -- I wasn't suggesting that motive.
8 I was suggesting that I think that it's not an appropriate
9 one, either in terms of being fulfilled or in reading
10 the contract fairly. I might say that I've asked Mr.
11 Boness, as well, to look at the material that was
12 submitted and to consider whether or not he thinks it's
13 reasonable in terms of fulfilling the law, that the
14 procedure might not have been fulfilled, and I'd ask
15 him to talk to that.

16 REP. GRUENING: No, let me just mention, you stated that
17 the take-back provisions in the contract -- the inference
18 was that that made the subject irrelevant as far as
19 surplus ---

20 COMMISSIONER MARTIN: No, I didn't say irrelevant.

21 REP. GRUENING: The inference was that the take-back pro-
22 visions had something to do with the compliance with
23 the statute, and it's just my reading that whether or
24 not there are take-back provisions in the contract
25 wouldn't have any effect on whether we find, in fact,

1 that you complied with the need to find a surplus.
2 COMMISSIONER MARTIN: I'm in agreement with you on that.
3 I didn't mean to suggest that they avoid the need for
4 fulfilling the requirement. I don't think they do.
5 But I think, to a large extent, the relationship between
6 those two ought to be understood in terms of the
7 objective of the statute, which is to protect us from
8 contracting away anything that is not surplus.

9 REP. GRUENING: These two reports, these are the documents
10 in which you place your reliance for compliance with
11 the statute?

12 COMMISSIONER MARTIN: That's right.

13 MR. BONESS: Representative Gruening ---

14 SENATOR CROFT: Could I ask? D

15 SENATOR RADER: Senator Croft.

16 SENATOR CROFT: That particular statute, 38.05.184(d), that's
17 what we're referring to; right?

18 It says, "The Commissioner shall make public, in
19 writing, the specific findings and reasons on which his
20 determination is based and shall, within 10 days of the
21 convening of a regular session ..." -- I must have missed
22 that in my copy. Did you, yourself, Commissioner, make
23 specific findings?

24 MR. BONESS: Senator Croft, that refers to specific findings
25 in writing, I believe, for waiving of the competitive

1 bid provision; is that not correct?

2 SENATOR CROFT: That's not correct. "...with: 10 days of
3 the convening of a regular session of the legislature,
4 submit a report showing the immediate and long-range
5 domestic and industrial needs of the state for oil and
6 gas and an analysis of how these needs are to be met."

7 MR. BONESS: That's right, that's the statute.

8 SENATOR CROFT: My question is, where are the specific findings
9 by the Commissioner?

10 MR. BONESS: These documents.

11 SENATOR CROFT: I thought those were done by the staff.

12 COMMISSIONER MARTIN: They were submitted as a part of the
13 information submitted from my office to the Legislature,
14 and by the Governor.

15 MR. BONESS: Senator Croft, you're not suggesting that the
16 Commissioner, himself, personally has to perform the
17 economic analysis, are you?

18 SENATOR CROFT: Yes. It seems to me that the Supreme Court
19 in the Kachemak Bay decision would probably read that
20 statute the same way.

21 MR. BONESS: Well, I would not recommend that. If you
22 look at the ---

23 SENATOR CROFT: That was the argument the State was making
24 in the Kachemak Bay case, wasn't it, that the Director
25 of the Division of Lands didn't actually have to do it?

1 MR. BONESS: Senator, I'd prefer not to debate that point.

2 I would point out that almost all of the statutes dealing
3 with the responsibilities of the Department of Natural
4 Resources refer only to two persons, the Commissioner
5 of Natural Resources and the Director of the Division
6 of Lands. As a legal matter, I would not render an
7 opinion that said that those two individuals had to
8 perform all of the tasks now being performed by however
9 many people are employed in that agency.

10 SENATOR CROFT: But isn't that the question we're talking
11 about with regard to whether 38.05.184(d) has been
12 complied with?

13 MR. BONESS: Yes, it is, and I believe these documents do
14 comply with that.

15 SENATOR CROFT: Then you are rendering a legal opinion that
16 that statute has been complied with?

17 MR. BONESS: That's right.

18 SENATOR RADER: Any further questions?

19 SENATOR CROFT: I had some additional questions. Commissioner,
20 with regard to your statement that, "We have gotten the
21 best price we could reasonably expect to get under the
22 circumstances," one of the things that Mr. Moody said
23 was that we are conceding by these contracts that the
24 State sale price is limited to the amount which the
25 Commission will permit the buyers to retain in their

1 jurisdictional rates. Do you mean by saying that we've
2 got the best price reasonably possible that we had no
3 chance of making the argument before the FPC and won't
4 be able to make the argument successfully before the FPC
5 that we are not a person within the meaning of the
6 Natural Gas Act?

7 MR. BONESS: No, Senator, it does not mean that at all.

8 SENATOR CROFT: Are we going to concede the point before
9 the FPC that we are a person?

10 MR. BONESS: No, we are not. We definitely are not going
11 to concede that point.

12 SENATOR CROFT: Do you think we have a reasonable chance
13 of prevailing on that?

14 MR. BONESS: Yes, I do.

15 SENATOR CROFT: And if we do prevail on that point then our
16 rates are not limited by the FPC?

17 MR. BONESS: No, I can't agree with that.

18 SENATOR CROFT: Isn't that what Mr. Moody said?

19 MR. BONESS: No. Let me tell you what I believe Mr. Moody
20 had in mind. Mr. Moody and Mr. Swanson both addressed
21 the question to the effect that the State might argue
22 in the rate setting proceeding which will occur sometime
23 in the future before the Federal Power Commission, that
24 the State might have a special argument to the effect
25

1 that royalty gas should receive a higher price than
2 working interest gas because the State is a state, and
3 the money received by the State will go to public
4 purposes. I'm afraid I don't recall what Mr. Swanson
5 and Mr. Moody's assessment of that is. I believe their
6 assessment was that that's pretty unlikely, although
7 I'm afraid I don't know whether they told the committee
8 that or I just recollect that from conversations with
9 them. But I am willing to state that it's my opinion
10 that that outcome is extremely unlikely, and there are
11 two reasons for it. First of all, in effect, what you're
12 doing is, you're saying that the working interest owners
13 have put money in at risk and have incurred certain
14 costs, they should receive a price less than the State,
15 where the State hasn't incurred any costs, hasn't put
16 any money at risk in terms of the development or
17 exploration of the field, and yet should receive a
18 higher price simply because it's going to put its money
19 to a public purpose presumably, and the oil companies
20 are not.

21 Furthermore, when you analyze that through, what
22 you're really saying is the purchasers of gas are going
23 to be paying a higher price for that gas which is sold
24 by the State of Alaska. I think when you carry that
25 argument through, what you're really saying is consumers

1 in New York and in the East are transferring money to
2 the treasury of the State of Alaska, and I think when
3 the argument is cast in those terms it's unlikely to be
4 persuasive at the Federal Power Commission. There is
5 no obligation on the Federal Power Commission to so find
6 that State owned royalty gas should receive a higher
7 price, and I just personally do not believe that there
8 are many compelling arguments that can be made to cause
9 the FPC to associate a higher price with respect to
10 State royalty gas than other gas.

11 SENATOR CROFT: I had thought that the position of the State,
12 Mr. Chairman, was that sales of royalty gas are not to
13 be regulated by the Federal Power Commission.

14 MR. BONESS: That's right.

15 SENATOR CROFT: And that was what Mr. Moody was also suggesting.

16 MR. BONESS: That's right.

17 SENATOR CROFT: And if they're not regulated, then a price
18 higher than what they allow could be obtained?

19 MR. BONESS: Only if you can find somebody to pay it.

20 SENATOR CROFT: That's correct, and what you're saying is
21 you think that there may well be -- we may well win
22 with regard to this point before the Federal Power
23 Commission if we don't execute these contracts, but
24 that we can't find anybody to pay the higher price?

25 MR. BONESS: I think that's a part of the problem.

1 SENATOR CROFT: And who did we negotiate with to determine
2 if they would pay a higher price?

3 COMMISSIONER MARTIN: We didn't negotiate with anybody,
4 Senator Croft, but we've solicited nation-wide two times
5 to attempt to find buyers who would come and negotiate
6 with us on those or any other terms to provide for in-State
7 use or for other purchases of our gas, and we haven't
8 found people who will do it. So the answer is, we didn't
9 negotiate with anybody, but we didn't find anybody to
10 negotiate with.

11 MR. BONESS: I would go beyond that, Senator. We still
12 confront another legal problem, and Mr. Moody did concur
13 on this, and that is the problem of sales to people
14 who are not regulated by the Federal Power Commission
15 and whom you seem to be suggesting might be willing to
16 pay a higher price.

17 SENATOR CROFT: No, no. What I'm talking about is because
18 this sale is not regulated. That's the State's position,
19 isn't it?

20 MR. BONESS: That's correct.

21 SENATOR CROFT: Do you agree with Mr. Moody that we are now
22 conceding that the FPC does regulate the price?

23 MR. BONESS: No, I certainly do not. In fact, Mr. Byrd
24 pointed out that the contracts were drafted to make sure
25 that there was no argument available to the Federal

1 Power Commission that the State was placing itself in
2 a position identical to that of the producer. We tie
3 ourselves to the price the pipeline companies are allowed
4 to include in their jurisdictional rate base. We do
5 not, although as a matter of convenience it's easy to
6 think of us as tying ourselves to the producers, and
7 indeed in many ways we do, as a legal matter I believe
8 we protected ourselves from an argument that these
9 contracts constitute an admission that we're subject
10 to the Federal Power Commission's jurisdiction because
11 of the way it's drafted.

12 SENATOR CROFT: So that you disagree with his statement
13 that we are conceding the point of FPC regulation?

14 MR. BONESS: Senator, I never understood Mr. Moody to say
15 that we were conceding we were subject to jurisdiction.
16 I understood him to say that we would find ourselves
17 being indirectly regulated by the Federal Power Com-
18 mission with respect to price. I agree with that, I
19 believe it's inescapable for us. But if you're talking
20 about a technical, legal matter, I do not believe
21 we have conceded it.

22 SENATOR CROFT: We've conceded that the only price that
23 these buyers can pay is what can be built into their
24 rate base?

25 MR. BONESS: That's correct.

1 SENATOR CROFT: And so that we have, in effect, given any
2 authority that we have to try and determine a rate.

3 MR. BONESS: That's correct.

4 SENATOR CROFT: And you'd agree with his point on that?

5 MR. BONESS: Yes, I do.

6 SENATOR CROFT: That whatever authority we had to try and get
7 the highest rate with regard to future sales is given
8 up and our sole rate determination is based upon what
9 third parties agree to?

10 MR. BONESS: The rate will be determined by outside parties,
11 yes.

12 SENATOR CROFT: Do you also agree with his point that there
13 is no price at this time and that if the status quo
14 remains that you will have to go back and renegotiate
15 these contracts in order to get a price?

16 MR. BONESS: No. If the status quo remains, there will be
17 no gas produced in Prudhoe Bay. The producers haven't
18 entered into contracts.

19 SENATOR CROFT: If the status quo with regard to no deregula-
20 tion, his point in item number three ---

21 MR. BONESS: If gas continues to be regulated the price that
22 Prudhoe Bay gas may be sold in interstate commerce for
23 resale will be set by the Federal Power Commission. It
24 will not be necessary to renegotiate the contracts. We
25 will accept the price that the pipeline companies are

1 allowed to include in their jurisdictional rate base.
2 That price will be determined by the Federal Power
3 Commission. I believe what Mr. Moody said was the
4 State ought to be prepared to participate in that rate
5 setting proceeding.

6 SENATOR CROFT: Maybe I'm missing something. What I'm
7 referring to, so there is no question, if I could,
8 Mr. Chairman, is on his page seven of his report,
9 Item Number Three.

10 MR. BONESS: Neither Section 6.3 nor 6.4 yields a present
11 price for their conditions precedent deregulation has
12 not occurred. Now, it's your suggestion that deregulation
13 does occur.

14 SENATOR CROFT: No, I'm saying if it doesn't. Isn't that
15 what he says, "I am at a loss, therefore, to advise
16 the committee on the sale price which will be applicable
17 at the time of first delivery."

18 MR. BONESS: If the status quo prevails.

19 SENATOR CROFT: Which means no deregulation, I assume?

20 MR. BONESS: All right, and the reason he's at a loss is
21 because -- it relates to the first sentence in that
22 paragraph, which says, "At this time the State cannot
23 determine its sale price because no rates have been set
24 for Alaska gas at this time." That's why he's at a loss
25 to tell you whether you're going to get Twenty Cents

1 or Two Dollars an mcf, because that rate making proceeding
2 has not occurred yet. It will occur before gas flows.

3 SENATOR CROFT: Then what does he mean by, " if the status
4 quo prevails through the time of first delivery"?

5 MR. BONESS: Meaning if no rate making hearing occurs before
6 the time of first delivery there will be no rate established.
7 I believe Mr. Moody went at some length to indicate
8 how the various ways of rate making proceeding could
9 come up. As you recall, he indicated there were a number
10 of ways. The FPC could adopt a rule making proceeding
11 and just decide to establish an Alaska rate as it did
12 for the National rate. The producers could enter into
13 contracts and file those contracts with the Federal
14 Power Commission, and a rate could be established that
15 way. And the third way a rate could be established is,
16 gas would start to flow and the pipeline company would
17 file a tariff, and the purchasers, or the producers'
18 gas would file tariffs for sales of it, and the FPC
19 would then investigate those tariffs and decide whether
20 it is. One of those three ways of rate making will
21 come about. It is most likely that will occur before
22 the gas begins to flow. It's conceivable it will not.

23 SENATOR CROFT: And that's what he's referring to?

24 MR. BONESS: That's right.

25 SENATOR CROFT: When he says the status quo?

1 MR. BONESS: That's right.

2 SENATOR CROFT: And if it doesn't occur, if none of those
3 three things occur, then there will have to be an addendum
4 to the contracts or modification

5 MR. BONESS: There will have to be a rate established at that
6 time, yes.

7 SENATOR CROFT: So as I understand it, with regard to
8 point three, you agree that there is no price in these
9 contracts but you think that by the time the gas is
10 produced there likely will be.

11 MR. BONESS: That's correct.

12 SENATOR RADER: Let me ask a question here. As I understood
13 it -- I think maybe you've answered the question and
14 maybe you haven't, I don't know. These contracts, as
15 I understand it, do not for a moment admit that the
16 State is under the regulation or jurisdiction for purposes
17 of sale of our gas, but what it does recognize is the
18 purchasers are under regulation, because it has to go
19 in a pipeline which is under regulation and that,
20 therefore, we indirectly, because our purchasers are
21 under regulation, that the price that we can get on an
22 interstate commerce carrier here will be regulated because
23 the purchaser is regulated; not because we're regulated;
24 is that correct?

25 MR. BONESS: Yes, it is.

1 SENATOR RADER: There is no way to avoid that for any gas
2 that goes into interstate commerce, is there?

3 MR. BONESS: Any gas that goes into interstate commerce for
4 resale would be the problem with respect to the provisions
5 we're now talking about, the regulation of natural gas
6 companies. Even if we made a sale of gas into interstate
7 commerce which was not for resale, the problem would
8 still exist because of the Federal Power Commission's
9 jurisdiction over the transportation aspects of the
10 pipeline. They could, in effect, veto a sale of gas
11 over which they did not have any direct jurisdiction
12 by vetoing transportation authority, and they have done
13 that in many cases. In fact, I was advised over the
14 weekend that last week the Federal Power Commission, with
15 respect to emergency sales in Tennessee Natural, which is
16 not related in any way to the pipeline we're selling gas
17 to, but in that proceeding they have a special procedure
18 called emergency sales which allows gas to be sold for
19 sixty days in an essentially unregulated fashion. The FPC
20 routinely grants certificates. Nevertheless, Tennessee
21 Natural negotiated a contract for Two Dollars and Seventy-
22 Five Cents per mcf, which the FPC felt was too high and
23 denied that certificate. They can apply the same kind
24 of approach to the State. If we were to negotiate a
25 contract for the sale of gas, for example, for boiler

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1 fuel, which would be a direct use and the FPC wouldn't
2 have jurisdiction over that sale, even assuming we were
3 a person, they could veto and probably would veto the
4 transportation aspects of that arrangement.

5 SENATOR RADER: Senator Croft.

6 SENATOR CROFT: I had a couple more. With regard, Commissioner
7 Martin, to these people that you had asked to bid, as I
8 understand it, competitive bidding and public bidding,
9 you asked for competitive bids?

10 COMMISSIONER MARTIN: No, sir. We went though, two times,
11 by national publication to express interest in having
12 buyers for Alaska royalty oil or gas. In each case we
13 indicated we wanted to have all expressions of interest
14 but that we favored expressions of interest which leaned
15 toward in-State use. I've expressed to this committee
16 and others before that, at least at this time, not a
17 great deal of interest has been expressed. I've given
18 the committee my findings with respect to competitive
19 sales in this situation and I've told them my view that
20 competitive sales are going to be difficult, even though
21 they're desirable, so long as we have fixed stated
22 objectives, and some people would be better than others
23 at fulfilling them.

24 SENATOR CROFT: Is competitive bidding, in your mind, the
25 same as public bidding?

1 COMMISSIONER MARTIN: No, I think that you could make
2 distinctions between the two.

3 SENATOR CROFT: I don't want to be overly technical, but I
4 noticed that the approval of the request of Commissioner
5 of Natural Resources to waive requirements of competitive
6 bidding, that it actually says that, "Now, therefor, the
7 Alaska Royalty Oil and Gas Development Advisory Board
8 hereby grants to the Commissioner of Natural Resources
9 its approval of his request to waive public bidding."
10 What's actually meant was competitive bidding?

11 COMMISSIONER MARTIN: I would think so in that context, yes.

12 SENATOR CROFT: I assume, Mr. Boness, you'd say legally
13 that there is no problem with that?

14 MR. BONESS: Senator, I haven't been involved in the drafting
15 of those. I apologize for the error, but I assure you
16 that it was not my intent and, I suspect, the intent
17 of the Royalty Board to draw any distinction between
18 public and competitive bidding.

19 SENATOR CROFT: But there is a difference between the two?

20 COMMISSIONER MARTIN: There could be in some context; I don't
21 think there is one intended there.

22 SENATOR CROFT: One final question, if I could. Commissioner
23 Martin, before the Royalty Gas Advisory Board, I think
24 you made some apologies to the Governor and said that
25 what you had thought we had done here was harness a team

1 of powerful horses to plow a very rocky field. I'm
2 curious with regard to, say, the Tenneco provision,
3 or the switching provision and Tenneco, who said basically
4 that they didn't think they would be able to switch;
5 do you really believe that with that switching provision
6 you're going to be able to take all of these powerful
7 horses with you if you decide to go in some other
8 direction?

9 COMMISSIONER MARTIN: I've always regretted that statement,
10 right from the time I wrote it, Senator. First of all,
11 we don't intend to switch. I've said that on many
12 occasions.

13 Secondly, it seems to me the situation that
14 would have to exist at the time any switch were desirable
15 would be really quite an extraordinary one. But my
16 point has been continually that I think that it's an
17 important benefit for the State to preserve, simply
18 because of the kind of flexibility that's afforded may
19 turn out to be in our interest at a later time.

20 For political purposes, I think it would clearly
21 be a greater expression of political faith for the
22 Governor, for the Legislature or for others to say,
23 "We're going all or none for one route." Quite frankly,
24 that's the position I take. I think that's where we are
25 going. But it does seem to me that it is at least

1 possible in the future that circumstances could change
2 and that El Paso could be shown to be and concluded to
3 be, by all the important decision-makers in this State,
4 a loser in the process, and it could be at that time
5 that Alcan, which is a second choice, far superior to
6 Arctic, could be at some future time our only remaining
7 alternative. If that situation existed it would not
8 be any lack of credibility that would confront us, because
9 our first choice would simply be out of the field and
10 we would not be saying that it's a worse possibility;
11 we'd simply be saying that that is no longer a possibility
12 and then we could switch the support.

13 SENATOR CROFT: I understand that that wouldn't cause you
14 a credibility problem, but Tenneco said it would cause
15 them a problem. My question is, do you believe that if
16 you switched you'd take Tenneco and El Paso with you?

17 COMMISSIONER MARTIN: My belief is yes, and I haven't read
18 the transcript of their response. But I recall talking
19 at length with our buyers on this issue really to ascertain
20 their level of commitment to the route that the State
21 favored. My feeling was that the buyers that we
22 eventually sold to do have a deep commitment to the El Paso
23 route. I never have heard them address the question
24 that you just said and the context I just did, "What if
25 it were only a choice between Alcan and Arctic, and

1 could you then with credibility switch and support
2 another route?" I would think that their answer would
3 be pretty much the same as mine, and that is, "If those
4 are your two alternatives, yes." You could make a
5 credible argument as between the two alternatives, so
6 I don't even agree with their assessment and I don't
7 think they answered in that context. I may be wrong.

8 SENATOR CROFT: Well, I guess the hearings will show whether
9 they did or not. Let me ask one final question in that
10 regard, with regard to this team of powerful horses,
11 and if it makes you uncomfortable I don't want to belabor
12 it, but I am curious as to exactly why you feel that
13 way with regard to El Paso. I mean, it seems to me,
14 and as Professor Tussing pointed out, that El Paso's
15 primary sales area is California, and yet one of the
16 areas of the country where most resistance to the El Paso
17 project exists, if not the area in which the greatest
18 opposition exists is in the primary market area of one
19 of the three companies with whom you contracted; how
20 can you really say El Paso brings to these contracts a
21 tremendous ability when their track record of two years,
22 more than two years now in California indicates just the
23 opposite?

24 COMMISSIONER MARTIN: Well, I think I tried to address this
25 question with you before, Senator Croft. I'll say two

1 things. One is, that's a subjective judgment I think
2 a number of people are going to have to make on their
3 own. In trying to assess that I've tried to do what I
4 have with the others, and that is to get the broadest
5 consensus as to which companies can help. Our Delegation
6 is unanimous in feeling, to the contrary of what you've
7 just suggested, that El Paso can be of help and should
8 get gas under this contract, and that it will help.

9 It seems to me that in spite of whatever dif-
10 ficulties exist in California, their argument is enhanced
11 by sale of the gas because they then can say that
12 they will not only win the route but will have a gas
13 supply to bring to their constituency, and that's the
14 difference. The difference is that they are put in a
15 position of being able to give gas to their consumers
16 as opposed to simply having a pipeline certificated in
17 their name but with no gas to go through it to their
18 consumers, and that, I suppose, is a very important
19 difference.

20 SENATOR RADER: Representative Parr:

21 REP. PARR: One final question, Mr. Chairman. Mr. Martin,
22 in talking about what went on last week there's one point
23 you went over in kind of a hurry and yet to me it is
24 one of the rather difficult points. The reason that
25 we're talking about going into contracts at this time is

1 very simple; we want to get some political clout,
2 national constituency, call it what you will, right, to
3 help us get the Trans-Alaska route ---

4 COMMISSIONER MARTIN: Mr. Parr ---

5 REP. PARR: Let me finish my question.

6 COMMISSIONER MARTIN: I'm sorry. You asked me "right" and
7 I thought that was the question.

8 REP. PARR: I'm sorry, I'm leading up to it; beg your pardon.
9 That was the reason that we were going into these contracts
10 at all, as I understood it. So we thought, "Well, now,
11 what kind of assistance are these companies going to
12 give us?" The contract, I think, just says actively
13 support; without looking back at it, that's my recollection
14 of what it says. And we tried to get that made a little
15 more specific, and we never got it last week. At least
16 I never heard it. In fact, I think I phrased the question
17 to the gentleman from Tenneco who had told us they had
18 Seven Billion Dollars in assets and did a Five Hundred
19 Million Dollar business. You know, I couldn't quite
20 believe they weren't going to budget something for this
21 effort. They weren't, or at least they haven't.

22 So would you mind commenting on that whole area, please?

23 COMMISSIONER MARTIN: Yes, Mr. Parr. I wish I could somehow
24 communicate to you, in spite of your characterization
25 of the issue, make it clear that my feeling is that that's

1 not the only reason. I tried very hard in my opening
2 statement to lay out a number of areas that I thought
3 were of equal importance in these contracts. So I'm
4 going to lay it on you squarely, that in rejecting these
5 contracts, should you choose to do so -- I want you to
6 know that my view is that regardless of your own character-
7 ization, my feeling is that you would not just be
8 rejecting whatever political clout you choose to assign
9 to these contracts, but one of the best opportunities
10 we have to accomplish all of the other objectives I
11 laid out. Now, in terms of the political issue itself,
12 which is one of many, let me say again, I don't think
13 that you are going to get a quantifiable idea of what
14 these companies will do.

15 Let me try to give you an idea of what I think
16 will happen. First, they've already intervened in the
17 FPC, as I discussed with Senator Croft. I don't think
18 they were the difference, pro or con, in that fight.

19 Secondly, I think each of them will mount
20 substantial efforts in support of the Trans-Alaska
21 pipeline in Congress. Those efforts will consist of
22 the retention of lobbyists, assignment of company
23 personnel, and the development of information within
24 their companies in support of that route, information
25 which, quite frankly, would be very difficult to produce

1 in the volumes and to disseminate in the way that would
2 be useful, without additional parties in the fight.
3 In addition to that I expect that they'll do substantial
4 work in their constituent areas to attempt to indicate
5 to people the benefits of the Trans-Alaska line as a
6 way to bring gas into their areas and will try to
7 mobilize those people at a local level to deal with
8 their Congressmen and Senators on the issue.

9 I also think that they'll participate with
10 El Paso as the design, and the details of any El Paso
11 route through Alaska that are put together. Both Tenneco
12 and Southern have substantial offshore capability and
13 substantial LNG experience. In my view, and I think in
14 the view of others, they have an opportunity to sub-
15 stantially and materially improve the quality of the
16 overall project once it's funded and to prove to Members
17 of Congress and the Administration that they're capable
18 of doing so as it's developed.

19 One of the problems with El Paso that's been
20 pointed out in the past has been that El Paso has not done
21 as well or as complete a job in its homework in terms of
22 design in proposing this route as they could have. I
23 think that both Tenneco and Southern have the capability
24 to substantially improve that.

25 I think that generally categorizes the sorts of

1 things that they're expected to do. My guess is that
2 overall the expenditures, while I can't give you a
3 budget figure either, will be in the over Hundred
4 Thousand Dollar category, and I also believe, it's my
5 personal belief -- and I also believe that this view
6 can only be made subjectively. In trying to deal with
7 my own subjective judgment, I feel compelled not to
8 try to rely on an individual judgment, but to check
9 it with others.

10 I've consulted with the Congressional Delegation
11 from beginning to end on this and they share, generally
12 speaking, the advantages that I outlined. But I don't
13 think that even the Congressional Delegation will be
14 able to give you a dollar for dollar quantification
15 of what will happen. They only know that it's very
16 valuable.

17 REP. PARR: Mr. Chairman.

18 SENATOR RADER: I'm quite certain that we're not going
19 to be able to conclude with the witnesses here. It's
20 12:00 o'clock now. The Senate goes in at 2:00 o'clock
21 and we should be through at 3:00 o'clock. I know that
22 Representative Chatterton has a series of questions that
23 he wants answered, and I think there's still a number
24 of unanswered questions that other members want to
25 dispose. It would be my suggestion that we recess until

1 3:00 o'clock. I don't think there's any point in
2 coming back here at 1:30 for twenty minutes to try to
3 put anything together between 1:30 and the time the
4 Senate goes into session, although I think that we
5 could have a good two-hour shot at it between 3:00 and
6 5:00, or if we want to go we can go beyond that.

7 Does that sound appropriate to the committee?

8 Now, unless I'm interrupting you right in the
9 middle of a series of questions.

10 REP. PARR: No, a very short thing, Mr. Chairman, since I
11 won't be able to be back at 3:00. I've cancelled
12 committee meetings all last week for this and I can't
13 keep on doing it. I'd like to ask one very brief one.

14 SENATOR RADER: Go ahead.

15 REP. PARR: The first thing I'd like to say is to summarize
16 what Mr. Martin just said as I understand it, and I
17 guess this is where we have subjective judgment
18 disagreeing. First, I do think that perhaps my charac-
19 terization is accurate. If it weren't for the chance
20 to get a political clout we would be in no hurry to
21 enter into any contracts, number one.

22 Secondly, that what Mr. Martin has just said,
23 and if you listened to it carefully, he kept saying,
24 "I think," "I believe," and "the Congressional Delegation
25 believes," and he admitted, he said at the end -- not

1 admitted, he said at the end, "This is a subjective
2 judgment." So what we're really face down to is, are
3 we willing to subjectively have faith in these companies
4 to really make a significant effort. They have been
5 unwilling to quantify in any way the number of people
6 they will assign, the number of dollars they will spend,
7 or anything else at all. So we simply either have to
8 have faith in them or not.

9 I'm sorry, Mr. Chairman, to take so long but
10 that's the end of my statement, and I won't be here
11 this afternoon.

12 SENATOR RADER: Do we have any further questions that cannot
13 wait until 3:00 o'clock? We will stand in recess
14 until 3:00 o'clock.

15 (Whereupon the hearing recessed at 12:05 p.m.
16 and reconvened at 3:00 p.m.)

17 SENATOR RADER: The joint hearing will come to order. We
18 have clean copies of two documents which should be made
19 exhibits. The first would be the Federal Power Commission
20 News Release No. 22868. It will be Exhibit 28.

21 (Whereupon Exhibit 28 was duly marked.)

22 SENATOR RADER: That one is entitled "FPC Judge Recommends
23 Approval of Arctic Gas' \$8.5 Billion Alaskan Gas Project."
24 It consists of eleven pages. And Exhibit 29 will be
25 Federal Power Commission News Release No. 22869, entitled

1 "Alaskan Natural Gas Fact Sheet," consisting of four
2 numbered pages and three unnumbered attachments. Give
3 those to the reporter.

4 (Whereupon Exhibit 29 was duly marked.)

5 SENATOR RADER: Exhibit No. 30 is a letter from Ruth A. M.
6 Schmidt, Ph.D. of Anchorage, Alaska, dated January 30,
7 1977, consisting of two pages, addressed to the House
8 Special Committee on Royalty Gas Sale, Attention
9 Representative Clark Gruening. That will be introduced
10 then as Exhibit 30.

11 (Whereupon Exhibit 30 was duly marked.)

12 SENATOR RADER: Did you want this read or just introduced
13 as an exhibit?

14 REP. GRUENING: Introduced as an exhibit. Why don't we make
15 copies for everybody?

16 SENATOR RADER: Besides, I hate to keep our witnesses longer.
17 Senator Poland, why don't you join us up here? It would
18 be more convenient, I think, for participation, and if
19 Colletta or Senator Butrovich come we can make some other
20 arrangements.

21 SENATOR CROFT: Mr. Chairman, I might indicate that at 3:30
22 I'm going to have to go to a Judiciary Committee meeting.
23 When that's over I'll return here.

24 SENATOR RADER: Fine. Under those circumstances, Senator
25 Croft, do you have any particular further questions of

1 these witnesses?

2 SENATOR CROFT: I do, but I think Mr. Chatterton and Mr.
3 Hayes do.

4 REP. CHATTERTON: I'll yield to you.

5 SENATOR CROFT: Let me ask, in light of the fact, Mr.

6 Chairman, that we've now been furnished pages two and
7 three of the Power Commission news release that summarized
8 in ten pages Judge Litt's decision in that regard, (or
9 eleven pages) and the two and three that we had were a
10 part of another press release of the same date from the
11 Federal Power Commission, and the two and three that we
12 now have have some information that refer to prices,
13 which is what my questions were about, Commissioner
14 Martin and Mr. Boness. On page two there's some
15 obviously different language. Instead of describing
16 the El Paso and the Alcan projects he talked about
17 rolled in prices and city gate. But on page three in the
18 next to the last full paragraph of that page and in
19 the last full paragraph, he makes two comments.

20 In the middle of the next to the last full
21 paragraph he says, "The important missing ingredient was
22 sales contracts by any of the thirteen producers who hold
23 interest in Iruahoe Bay reserves." Then at the last of
24 the last full paragraph he says, "The producers, like
25 G. B. Shaw's dinnertime companion, have a price at which

1 they would sell their 'service,' and all their protes-
2 tations to the contrary cannot hide that they are mainly
3 dickering over price. Then on page ten, it seemed to me,
4 he made another reference to the fact that the producers'
5 failure to sign sales contracts indicates where their
6 concern lies.

7 I understand your feeling that the State got
8 the best possible price under the circumstances, but isn't
9 that a pretty clear indication that Judge Litt believes
10 that it's the producers' opinion that if they wait
11 until a later date that they can get the highest price,
12 and his feeling that the reason they are waiting is solely
13 to get a higher price?

14 COMMISSIONER MARTIN: Yes, sir, we think they're dickering
15 with the FPC over price. Let me put that in some perspec-
16 tive in terms of what that means to us. They definitely
17 are trying to deal with the FPC and to maximize their
18 advantage. But let me point out that it may or may not
19 be the case at a later time that they get a better price.
20 For instance, it may be they don't or, on the other hand,
21 it may be that some get a very good price under a
22 deregulated situation and others get a worse price.
23 But whatever that price is, under the contracts we have
24 we're going to get the benefit of the best deal that
25 anybody makes. So we basically tied ourselves to the

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1 very best that anyone can do.

2 The second factor is simply to, I think, look
3 just very briefly at the fact that the significance that
4 he attaches to it beyond that is simply not to regard it
5 as an important influence on the decision, but simply
6 his irritation in not having information in regard to
7 who the buyers will be for financing purposes. So I
8 think that the State still stands in a better situation
9 by having sold and created some kind of an incentive
10 in favor of the route we support, as opposed to these
11 guys who, you know, are going to sell -- just like
12 Columbia -- to people who believe that they'll get the
13 gas whichever way the pipeline goes. Let me ask
14 Mr. Boness to respond a little further.

15 MR. BONESS: Yes. There's a basic difference between the
16 producers and the State that has to be faced up to, and
17 that is, the producers get to decide whether the gas is
18 ever produced or not. The State does not find itself
19 in that position.

20 The producers are telling the Federal Power
21 Commission, "If you don't set a high enough price for us
22 we're not going to sell the gas, we're never going to
23 commit it to the interstate market; we're not going to
24 produce it; we'll continue to reinject it as long as
25 we're allowed to do so." And in that context, they are

1 dickering with the FPC.

2 As you recall, both Rush Moody and Dr. Swanson
3 indicated that the range of the price that could be
4 set for this gas is very wide. That gas could be set as
5 low as Twenty Cents because of the problems associated
6 with establishing gas prices for a reservoir which has
7 both oil and gas in it, or it could be as high as the
8 national price, which is now a Dollar Forty-Two, and
9 conceivably it could be higher. That's the dickering
10 that's going on between the Federal Power Commission
11 and the producers. But the State does not participate
12 in that threshold decision with respect to whether the
13 gas is produced, except for the conservation statute,
14 but you have to realize that's a limited powers kind of
15 statute.

16 If I may, Senator Croft, I would quote to you
17 from a statement made by an attorney for Exxon to the
18 Federal Power Commission at the time the Judge was
19 asking why they wouldn't enter into contracts. I think
20 it really offers a great deal of insight into where
21 the producers are at. And with the committee's indulgence
22 I would do that, if I may.

23 Mr. Erck, (who is the attorney for Exxon) said,
24 "First of all, Exxon's position with respect to the
25 negotiation of definitive gas purchase and sales contracts

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1 concerning the North Slope of Alaska has not changed.
2 If a favorable regulatory climate exists and the
3 State of Alaska has approved a unitization agreement
4 and operating plan at the time the Commission certifies
5 a viable transportation system, Exxon will enter into
6 negotiations leading to the sale of gas from the North
7 Slope pending the resolution of other uncertainties of
8 the Commission. The Commission's removal of such
9 disincentives as Order No. 53 and Opinion 740-B would
10 improve the regulatory environment for gas purchase and
11 sales contracts. Apparently the Commission is not
12 totally unaware of these impediments since it has issued
13 Opinion No. 766 and 767 in Dockets No. (and I won't
14 burden you with those). These are progressive opinions,
15 and hopefully indicate a trend towards improvement of
16 the regulatory climate.

17 "Now, the pervading attitude of the Commission
18 at the time one of the competing projects in this pro-
19 ceeding is certificated is inextricably connected to
20 Exxon's willingness to negotiate definitive gas purchase
21 and sale contracts.

22 "So let me hasten to reaffirm that we do not
23 want to delay this pipeline. It is in our interest
24 that the gas pipeline proceed as fast as possible. And
25 as far as we know -- as far as our willingness to proceed

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1 in light of what I have indicated, we would foresee that
2 gas should be deliverable into the line when it is laid."

3 Senator, as I read that, and other statements
4 of a similar nature have been made, I think the producers
5 are telling the Commission that they want a favorable
6 regulatory climate, and what they are really doing is
7 tying their ability to withhold Prudhoe Bay gas to the
8 overall position that the Federal Power Commission has
9 taken on any number of issues of a regulatory nature,
10 which are not necessarily related at all to Prudhoe Bay
11 gas. They realize that they have the upper hand at
12 this time, and I think they are making the most of it.

13 The State doesn't participate in that kind of
14 dealings with the Federal Power Commission. I think
15 that's what Judge Litt is really referring to. Judge
16 Litt believes it is in the national interest for the
17 producers to commit their gas at this time, and maybe
18 it is; but the producers are taking the position that
19 they want to do everything they can to "create a favorable
20 climate," regulatory climate.

21 SENATOR CROFT: One further question in that regard.

22 Your statement is that we're going to get whatever the
23 comparable private sales will produce, even if the
24 companies are correct in their efforts, that we'll
25 benefit from them. In that regard, what would be your

1 response to Mr. Moody's comment on page eight at the top,
2 number five, when he says by these contracts you have
3 limited yourself to whatever private sales produce and
4 you've given up your capacity to insist on a higher
5 rate?

6 MR. BONESS: That again goes to the question of whether the
7 State can make any separate arguments that it, as a State
8 and owner of royalty gas, should be treated better than the
9 producers. As I indicated this morning, there is
10 certainly no compulsion and legal requirement that the
11 FPC find that because the State will dedicate its share
12 of the revenues to public purposes that the State thereby
13 is automatically entitled to higher revenues. As I
14 indicated, I believe that argument ultimately comes
15 down to requiring consumers in Midwestern and Eastern
16 States and the Lower 48 States generally, to pay a higher
17 price which, in effect, is transferred into the State
18 treasury and I think when cast in those terms, it's an
19 argument very likely not to succeed before the Federal
20 Power Commission.

21 SENATOR CROFT: You do agree with him that through these
22 contracts we're giving up our right to make that argument?

23 MR. BONESS: No, I wouldn't even agree with that, Senator,
24 and here's why -- if, indeed, the argument is a valid
25 argument, then it can be made that our gas purchasers

1 should be allowed to pass that through. Our contract
2 says they can pay us whatever they're allowed to include
3 in the jurisdictional rate base. To the extent that that
4 argument can be made, we can make it and say they should
5 be allowed to include it in their jurisdictional rate
6 base. If the argument has any validity, I believe that
7 would be as valid in that context as in the context of
8 simply establishing a higher price for State royalty gas.

9 SENATOR CROFT: Even if we've tied ourselves to whatever
10 they agreed to privately?

11 MR. BONESS: Well now, you see, that's the point I made
12 this morning. As a general matter, people are saying
13 we are tying ourselves to the producers, and in practice
14 that's usually the case. But as a technical, legal
15 matter, the contract is drafted to allow us to receive
16 whatever price our purchasers are allowed to include in
17 their jurisdictional rate base. If the argument has
18 validity that the State should receive a higher price
19 because of its royalty gas, then that argument can be
20 put forward before the FPC with respect to the price we
21 charge our purchasers, wholly independent of the question
22 of whether or not the FPC can regulate the producers
23 and whether or not they can regulate us.

24 SENATOR CROFT: So your position is that we've not given
25 up on it, even if he feels that we have.

1 MR. BONESS: Well, I haven't discussed that point with Mr.
2 Moody, but I believe what I have said is correct, that
3 we could make that argument and if it does have validity
4 then the purchasers would be allowed to include the rate
5 in their jurisdictional ---

6 SENATOR CROFT: You don't question that he doesn't take that
7 point of view?

8 MR. BONESS: Well, if I had time I would read it, and could
9 I respond to that and say what I think he's saying there?

10 SENATOR CROFT: You haven't had a chance to go through this
11 before?

12 MR. BONESS: I have read it, but I would like to read that
13 again if you're asking me to interpret what Mr. Moody's
14 position is.

15 COMMISSIONER MARTIN: I might also say, Senator, he doesn't
16 address here, but I understood that he addressed, at
17 least in some of his testimony, the probability of
18 that argument, aside from the technical ability of it
19 to ever be made, the probability of it ever succeeding,
20 which, at least in my understanding, he feels is extremely
21 low.

22 MR. BONESS: I have read it and to the extent that I do
23 disagree with him, I believe we can still make the
24 argument in the context of the present contracts, and I
25 believe we have not tied ourselves exactly to the price

1 the producers are allowed to receive. We have tied
2 ourselves to the price the pipeline companies are allowed
3 to include in their jurisdictional rate base. Therefore,
4 I believe we could make the argument that we, as a State,
5 ought to be treated separate and differently.

6 I would also point out that even as a legal
7 matter I am not convinced we would want to make that
8 argument. As Mr. Moody, himself, pointed out, or perhaps
9 it was Dr. Swanson, pointed out the other side of that
10 argument is the State should receive less because the
11 State has incurred no risk and, therefore, it would have
12 to be a well researched and carefully thought out decision
13 to pursue that line of argument, recognizing that if we
14 did pursue it somebody would take the other side of it.

15 SENATOR CROFT: Thank you.

16 SENATOR HUBER: Mr. Chairman, I have something that came up.

17 SENATOR RADER: Senator Huber, go ahead.

18 SENATOR HUBER: I just wanted to get something clear that
19 came up out of Senator Croft's questioning. I believe I
20 understood you to say the companies could withhold the
21 production to gas, and this is the context I wanted to
22 ask it in. Doesn't the State still have the right under
23 lease terms to cancel leases for failure to produce
24 when the ability to do so is possible but not exercised
25 by the lessee? Don't we have that right?

1 MR. BONESS: I believe that's correct, Senator. But if there's
2 no pipeline in which they can deliver the gas then I
3 doubt that we can cancel the lease.

4 SENATOR HUBER: Well, if there's no way to use the gas,
5 let's put it that way.

6 COMMISSIONER MARTIN: That's right.

7 SENATOR HUBER: If there is no way to sell the gas. I hate
8 to see them keep tying this to an FPC controlled pipeline.
9 I wanted to make sure that there wasn't something that
10 was cancelling or changing the provisions that are in
11 the lease that the State has the right to force them to
12 produce.

13 MR. BONESS: You're correct, Senator.

14 SENATOR HUBER: Thank you.

15 SENATOR RADER: Mr. Chatterton.

16 REP. CHATTERTON: Mr. Chairman, thank you. Mr. Commissioner,
17 I have a series of questions that you will have to
18 accept me on faith are not meant to be controversial,
19 argumentative or in any way entrapment questions. Please
20 accept me on faith. The reason for the series of
21 questions will be to put into the record something that
22 I believe should be put into the record from a document
23 that is too much, too voluminous, in the interest of
24 efficiency, to make an exhibit. So I will attempt to get
25 the salient points of that document into the record

1 through the question and answer route.

2 So, I'll start my questions: are you aware of
3 a report that was prepared and presented by H. K. Van
4 Poolen to your Department dated January 1976?

5 COMMISSIONER MARTIN: Yes.

6 REP. CHATTERTON: You also are aware that that report, in
7 effect, includes the comparison of some twenty-nine
8 separate forecasts based on various operating programs
9 and production schedules for the Prudhoe Bay field?

10 COMMISSIONER MARTIN: Yes.

11 REP. CHATTERTON: Are you aware of this section on page five,
12 and I will quote, and I will quote in context. It's
13 on page five of that report entitled "Prediction of
14 Reservoir Fluid Recovery Sadlerochit Formation Prudhoe
15 Bay Field", and again dated January 1976. On page five
16 and under "Qualifications" that the authors placed
17 before here, before you, it says, "The numbers in this
18 report should be considered relative rather than absolute.
19 Reservoir performance predictions on a field without
20 production history are approximate at best. Absolute
21 values should be used with caution, but relative values
22 can be used to compare production schedules with con-
23 fidence", relative to one another, absolute number not.
24 Do you concur with that premise?

25 COMMISSIONER MARTIN: Yes, I concur with that statement.

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1 REP. CHATTERTON: I would now like to ask you if you would
2 concur with this statement which appears on page three
3 of the aforementioned report, and I will quote in con-
4 text. It's under "Summary" of the report, and it's
5 item two under that summary. It says, "The highest oil
6 recoveries were obtained under conditions of an aquifer
7 supplemented by water injection and no gas sales." I'll
8 get the numbers later. Do you concur with that?

9 COMMISSIONER MARTIN: Mr. Chatterton, let me say before I
10 agree to this, I don't have the document before me.
11 I've studied it and ---

12 REP. CHATTERTON: I'm not trying to trip you up.

13 COMMISSIONER MARTIN: I understand you're not and I'm not
14 trying to be defensive against that. I just want to
15 say as a preface to all my answers, I'll give you the
16 best answers I can, but within the context of being the
17 Commissioner and not a technical expert with regard
18 to this study. I believe that that conclusion is right
19 and that sounds accurate from the study, as I recall.

20 REP. CHATTERTON: Maybe we can get it this way. You, as
21 Commissioner for the Department, did accept the report?

22 COMMISSIONER MARTIN: I've accepted the report, and let me
23 say that there is still work being done on that report.
24 As a matter of fact, as you may know, one of the reasons
25 we brought Mr. Hamilton here last week was to update the

1 committee on the new work. The trend of the new work
2 is similar to the work in the report you have in your
3 hands.

4 REP. CHATTERTON: I believe his testimony, or an answer to
5 a question was that trend of the new work that had been
6 accomplished to date indicates that's there is no
7 substantive change to the findings of this report.

8 COMMISSIONER MARTIN: That is accurate.

9 SENATOR HUBER: He didn't testify; isn't that clear?

10 He did not testify, he went back without testifying.

11 REP. CHATTERTON: He answered a question to our Chairman
12 from the floor.

13 SENATOR RADER: I think that's correct. We asked him if
14 the updating material would substantially change the
15 material previously submitted to the committee, and
16 he said that he did not feel that it would make a
17 substantial difference.

18 COMMISSIONER MARTIN: The answer is yes, it generally tends
19 to bear out the work already done.

20 SENATOR RADER: Although he did not take a seat and testify,
21 he stated that from the floor.

22 COMMISSIONER MARTIN: In any event, the answer to your last
23 question is yes, I recall that statement.

24 SENATOR RADER: I'd like to ask the reporter, did the
25 reporter take down that dialogue between me and Mr.

1 Hamilton when I asked him about his testimony, and I
2 think Senator Huber also at the same time suggested that
3 he would be the best judge of whether or not he should
4 testify.

5 MRS. SANDERS: I've taken down everything, but that notebook
6 is not here; it's at my office.

7 SENATOR RADER: If it's important, I'm sure we can get
8 Mr. Hamilton back.

9 REP. CHATTERTON: I do not think it's important as far as
10 I'm concerned, Mr. Chairman. Thank you, I will continue.
11 I would now like to read to you off of page seven of the
12 aforementioned report and under "Recommendations" there
13 are three, and this is half of recommendation number three.
14 In the interest of time I'll read half. I'll read it
15 all if you like. It says, "Although the prediction runs
16 made in this study indicate that early gas sales will
17 generally result in reduced oil recoveries, it should be
18 recognized that important economic factors were not
19 included in any of the boundary conditions." And I again,
20 Mr. Commissioner, call your attention to the "early gas
21 sales will generally result in reduced oil recoveries."
22 Realizing you're not testifying expertly, you do accept
23 that part of the recommendation of the report?

24 COMMISSIONER MARTIN: Yes, that there were not economic
25 parameters set on the various variables.

1 REP. CHATTERTON: Thank you. Now, just to get into the
2 record some numbers, I would now like to go to Table
3 Number One of that report, which is a tabulation of
4 the twenty-nine runs of various operating conditions
5 and production schedules forecast for the field, to
6 give this committee and the record some ideas of the
7 importance of gas sales versus no gas sales.

8 There's actually four different conditions
9 here as far as operating conditions and production
10 schedules. I'll take condition one first for a com-
11 parison. Keeping common will be no aquifer activity.
12 Production will be at the rate, black oil production
13 at the rate of 1.2 million barrels per day. All other
14 conditions will be the same with the exception of gas
15 sales.

16 Run number one gives an estimated cumulative
17 oil recovery from the Prudhoe Bay field of 7.38 billion
18 barrels. That run, there is no gas sales.

19 Run number four is an ultimate economic recovery
20 of 610 billion, that is 1.28 billion barrels less where
21 again all conditions are the same excepting after two
22 and three-quarter years following the commencement of
23 oil production gas production will start at the rate of
24 two billion cubic feet per day. Will you accept this
25 as I've read it correctly?

1 COMMISSIONER MARTIN: I think so, Mr. Chatterton. It sounds
2 like one of the scenarios.

3 REP. PARR: In the interest of time I will not carry this
4 on other than to say that anyone referring to runs seven
5 as compared to runs thirteen will see the same type of
6 difference between ultimate recovery of gas sales
7 versus no gas sales. They will see the same results
8 between runs number ten and number sixteen, no gas
9 sales and gas sales; again the recovery will be lower
10 in this case by the amount of 1.24 billion barrels --
11 not million, billion. And again you'll see the same
12 thing between runs twenty and runs twenty-five. If you'll
13 accept that I will go to the next question, and this
14 ceases to be necessarily non-argumentative or non-
15 controversial or non-entrapping. So it's varied there.

16 My question is one where we have to hypothesize.
17 If we had had gas cap producibility at Prudhoe Bay last
18 week and a transmission system from Prudhoe Bay to the
19 South 48, do you believe that possibly, because of quasi-
20 emergency situations, the South 48 might have called
21 upon Prudhoe Bay gas production even though it might
22 well have been in the disinterest of Alaskans?

23 COMMISSIONER MARTIN: Rather than speculate on what they
24 might have done last week, let me just say that it's
25 clear to me (I consulted with Mr. Boness) the Federal

1 Government certainly has the power in time of national
2 emergency to do that. It seems to me that that is a
3 power limited to extraordinary circumstances which could
4 well exist under certain circumstances. Whether last
5 week's would have qualified, I really don't know.

6 REP. CHATTERTON: Thank you. The last question, Mr. Chairman,
7 Mr. Commissioner. As Commissioner of your Department,
8 would you be fairly certain that you would support the
9 findings of your Oil and Gas Conservation Committee
10 even though their findings might strongly recommend
11 that there not be any export of associated gas from the
12 Prudhoe Bay field?

13 COMMISSIONER MARTIN: I've been on the record pretty clearly
14 on this, in the FPC, and in this committee, and publicly,
15 Representative Chatterton, saying that I believe the
16 decisions of the committee, so long as they are legitimately
17 guided by the confines of the State Conservation Statute,
18 will be a controlling factor in this matter and not over-
19 turned by other political factors. So in that regard,
20 I have advised, under some pressure by the FPC Hearing
21 Judge, advised the Federal Government that they could
22 not have an absolute guarantee or absolute predictability
23 with regard to rates of production from the Prudhoe
24 Bay field.

25 REP. CHATTERTON: Thank you, Commissioner and Mr. Chairman.

1 SENATOR RADER: Any further questions? Representative
2 Gruening.

3 REP. GRUENING: There is one provision that concerns me and
4 I'm wondering whether the three purchasers, any one
5 of the three purchasers insisted on its inclusion.
6 That has to do with the replacement of gas taken back
7 at one and one half times the rate. Was Tenneco one
8 of the purchasers, or the purchaser to insist on that
9 provision?

10 COMMISSIONER MARTIN: They were the major purchaser to insist
11 on it. The others asked for it and indicated that they
12 wanted it, and we included it in all the contracts to
13 make them uniform. I should point out that this was
14 clearly a term that allowed us to come to an agreement
15 with Tenneco and without it we would have been unable
16 to do so. If they had not been in we might have been
17 able to negotiate the others out of that.

18 I should also indicate, if it's of interest
19 to you, Mr. Chairman, that I assume you appreciate the
20 limitations of that additional fifty percent recovery
21 term.

22 MR. BONESS: No, the first recovery, everybody demanded that.

23 COMMISSIONER MARTIN: Yes, the first recovery, everybody
24 demanded. It's the additional fifty percent that was
25 primarily demanded by Tenneco, was asked by the others,

1 and we included it to make the terms uniform.

2 SENATOR RADER: Any further question of any members, or
3 Senator Poland?

4 COMMISSIONER MARTIN: Senator Rader.

5 SENATOR RADER: Yes, did you wish to sum up?

6 COMMISSIONER MARTIN: Senator, I don't want to make a lengthy
7 summary. I just want to go back a little bit, and I'm
8 not going to review all the points I made this morning
9 but I don't want to leave the committee without trying
10 to stress again that there's no question that the center-
11 piece, or the most important aspect, or the most important
12 aspect of these contracts now relates to the fact that we
13 can get whatever support, political or substantive or
14 otherwise comes to us on the gas line route issue.
15 This is the only time it's important. It may have been
16 important somewhat earlier. It won't be important again.

17 But I do want to add to that that the other
18 provisions in this contract, whether they come from the
19 13-B argument, or Mr. Moody's theory of last year, or
20 the fact that we've negotiated a very good price term,
21 or the fact that we've negotiated good terms for take-back,
22 are extremely important aspects of this contract, and I
23 think the committee must take very seriously the possi-
24 bility that certain of these terms cannot be renegotiated
25 and put in a new contract. I do not think that, as your

1 negotiator you can act with absolute certainty that those
2 terms are going to come our way every time we sit down
3 to negotiate gas contracts. I'm not saying we can't
4 accomplish them again; we'll certainly try to. But I
5 do not want to leave the committee with the impression
6 that they are automatically to be included in any con-
7 tract, or that they can be protected in any subsequent
8 contract at a later time. They came hard and we had some
9 very difficult negotiations to get there.

10 Let me indicate just very briefly, at least on
11 a couple of those points, just to give you an idea of
12 why I think that it may be difficult in the future.
13 If you consider the situation that we'll be in later,
14 there are several factors that deal with the issue of
15 price. One is, of course, the fact that I tried to bring
16 up of the institutional constraints that we have on
17 royalty gas contracting.

18 If we are caught in a crunch where the State
19 does not have a position and does not have a contract,
20 yet we get caught in a situation where perhaps Arctic
21 is certified, if we lose support and if this is a fact,
22 we're losing support and Arctic is certified, we are
23 then under a time pressure that we are not now under and
24 our buyers will know that. They will know that our
25 alternatives are limited and they will know that they

1 have us much more at their mercy than they do at the
2 present time. I'm not saying that will happen, but it
3 could put us in a bargaining position we're not in now.

4 At the same time, if the State is the last
5 one-eighth to sell, if the producers go ahead and sell,
6 consider the alternatives that we face. By selling now
7 and including the term that gives us the best price,
8 we automatically benefit by the very best deal that any
9 producer makes.

10 If we wait and we are one of the last eighths,
11 or we're the last eighth or the last percentage to sell
12 it could very well be the case that one of the producers
13 has made an extraordinarily good deal. It will then be
14 our job to try to make a better deal than they made, and
15 I should point out that that will be a good deal more
16 difficult to equal or surpass than it would be by simply
17 taking advantage of it right now.

18 At the same time, I think that once in-State uses
19 are developed and the present period of uncertainty is
20 past, so that we know what it is we're going to use our
21 royalty gas for, we can offer less to buyers. Under
22 the present circumstances, our buyers think they're going
23 to get most of our gas and we think we're going to use
24 most of it. But as we continue to develop in-State uses
25 they're going to know that they're going to get less.

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1 And in the case of a company like Tenneco, they're
2 interested in fairly substantial volumes of gas. They
3 have other alternatives, as to other gas companies such
4 as Algerian projects, Russian projects or other large
5 fields, and as the amount that they know they will get
6 from us diminishes, I think our field of negotiation
7 diminishes somewhat also.

8 I might also indicate, if there is any action --
9 we've been dealing in these hearings on many occasions
10 with possible but unlikely situations and I've been, I
11 think, fairly frank in admitting what is possible in
12 trying to give you an idea of what is probable. One of
13 the things that may well happen if we wait, and this
14 goes to the idea of future negotiations, is that if
15 Congress is likely to take any action with regard to
16 controlling gas in the future, my guess is that they
17 will take it with respect to uncommitted gas. There is
18 no reason that Congress should reward people who are
19 presently withholding their gas from the market.
20 If I were a Congressman, I would not lean heavily toward
21 the position of favoring the producers who are now
22 dickering with the FPC. I would lean toward favoring
23 the individuals who have committed their gas and attempted
24 to make it known how they're going to put it into the
25 national consumer supply.

1 So I think that all of these factors added up
2 provide extremely cogent reasons for considering that
3 some of these terms may be difficult to immediately
4 recapture. As I say, I'm not saying it can't be done,
5 but I'm saying that it's difficult and we ought to
6 acknowledge those factors. It's a calculated risk
7 that has to be considered. I think the Legislature has
8 to consider it as it considers these contracts.

9 SENATOR RADER: Representative Gruening.

10 REP. GRUENING: That raises a question. You mentioned the
11 disadvantage we might be at in terms of just selling it
12 for the price, for a certain price if the Arctic route
13 is certified. Rush Moody's testimony was that our
14 one-eighth is very crucial to the financing of that line.
15 He, frankly, didn't see under present economics how it
16 could be financed without the eight-eighths. Wouldn't
17 that make you conclude that our one-eighth share would
18 have some leverage in dealing with somebody in selling
19 our gas?

20 COMMISSIONER MARTIN: Yes, but we'll have exactly the same
21 leverage in that regard whether or not we've gone into
22 these contracts. If Arctic is certified it will have to
23 be with the knowledge that it will not have state royalty
24 gas. Whether or not we sign these contracts, that will
25 be the case. There will be, of course, the strong feeling

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1 that they will get our gas one way or the other, but as
2 I see it that argument doesn't go to whether or not these
3 contracts should be approved.

4 REP. GRUENING: And conversely, if El Paso is selected and
5 we don't go into these contracts, do you see any reason
6 to believe that we would be at any disadvantage in dealing
7 with El Paso or anybody else that is building an all
8 Alaska line?

9 COMMISSIONER MARTIN: For some of the reasons I just
10 explained, yes, I think we would be at a greater dis-
11 advantage than we are now, particularly if all of the
12 other buyers have sold or are in the process of selling
13 and that one or more of them have driven a particularly
14 excellent bargain. Under these contracts we have the
15 benefit of that bargain. Without these contracts we
16 would have the duty of trying to come up to it or surpass
17 it and, depending on what that is, it might be a very
18 difficult task.

19 REP. GRUENING: Given the fact that we might know better
20 what our in-State uses are, we may only wish to sell a
21 portion of it; isn't a spot sale, or a sale of a smaller
22 amount, sometimes not able to bring a higher price?

23 COMMISSIONER MARTIN: Mr. Gruening, that's one of the reasons
24 that I've focused on something that I don't think people
25 are too interested in, and that is the institutional

1 constraints under which we operate. To be very frank
2 with you, I don't think our system is set up to do a good
3 job of spot selling of royalty oil or gas and I don't
4 think it will be so long as we have to negotiate with
5 somebody and then go through a Royalty Board and the
6 Legislature. It simply asks the buyer to do too much.
7 It asks them to have the State assess its position,
8 negotiate with them, and then wait for a period of months
9 while economic conditions change, to have it approved.
10 So I think that spot selling, while it's a possibility,
11 represents a dim possibility for ever being a major
12 policy of the State.

13 REP. GRUENING: I might suggest, Commissioner, that one
14 of the reasons this hearing process has been maybe a
15 little longer than it might be is because the contracts
16 are being offered for other than for money return; they're
17 being offered for political purposes.

18 COMMISSIONER MARTIN: Absolutely.

19 REP. GRUENING: They are, as you admit, quite unique, probably
20 very unique.

21 COMMISSIONER MARTIN: That's right.

22 REP. GRUENING: But anyway, I do want to nail down exactly
23 what was behind this report. Could you identify for the
24 record exactly -- this is the report upon which you feel
25 that you're in compliance with this 38.05.184(d), I guess.

1 COMMISSIONER MARTIN: Yes, in the document cited therein.

2 But also we filed, Mr. Gruening, this report here,
3 which is the more formidable statement. The blue document
4 is actually a summary of this one. But it also references
5 all the other documents that are a part of the analysis.

6 REP. GRUENING: So you're saying that all the references
7 on page eleven of this January 7, 1977, report are
8 included as constituting a report showing the immediate
9 and long-range gas needs?

10 COMMISSIONER MARTIN: That's right.

11 REP. GRUENING: This morning it was just the one report, and
12 now it's the whole ---

13 COMMISSIONER MARTIN: No, I think I mentioned the reference
14 reports, Mr. Chairman.

15 REP. GRUENING: Oh, the entire list of references would be
16 included?

17 COMMISSIONER MARTIN: Yes.

18 SENATOR RADER: Do you have anything further? Any further
19 questions of the Commissioner or Mr. Boness? Thank you,
20 gentlemen, both very much.

21 We have the Lt. Governor with us, who said that
22 he would like to make a very, very brief statement.

23 COMMISSIONER MARTIN: Mr. Chairman, I take it the committee
24 is aware of the relative schedules of Mr. Boness and
25 myself; that's been communicated to the committee?

1 SENATOR RADER: I have a schedule and I believe Mr. Gruening
2 has a schedule. Yes, we both have your schedules.
3 I don't know whether Senator Poland has a schedule.
4 SENATOR POLAND: I do.
5 SENATOR RADER: You do.
6 SENATOR POLAND: Yes.
7 SENATOR RADER: And I assume Senator Sackett. Commissioner,
8 I did not give Mr. Sackett a schedule.
9 COMMISSIONER MARTIN: I sent him one.
10 SENATOR RADER: All right, fine.
11 LT. GOVERNOR THOMAS: Mr. Chairman.
12 SENATOR RADER: Lt. Governor.
13 LT. GOVERNOR THOMAS: Thank you very much. I'll be very brief,
14 Members of the Joint Committee. I wanted to just say a
15 word or two regarding the other than monetary aspects of
16 this contract, going to the political, public information,
17 generally gaining support in the rest of the nation for
18 the route, that most of us, I think eighty-five percent
19 of Alaskans, wish to see win out.
20 I just received a copy of a Resolution that has
21 been passed by both Houses of the State of Alabama, and
22 I'd like to turn that over to you, Mr. Chairman. I'll
23 read only the last Whereas and the first Resolve clause.
24 "WHEREAS, this contract must be approved by the
25 legislature of the State of Alaska; now therefore

1 "BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,
2 BOTH HOUSES THEREOF CONCURRING, That the State of Alabama
3 urges the Legislature of our sister state, the State of
4 Alaska, to lend its approval to this contract and to take
5 the necessary steps to the end that the contract will
6 be ratified and the natural gas can be expeditiously
7 transported for use by our citizens and industries."

8 Mr. Chairman, that I think, in conjunction with
9 a letter that you all have received a copy of, the letter
10 from Jerry Beasley, Lt. Governor of Alabama, indicates
11 the kind of friends and allies and support that this
12 contract we're dealing with, our surplus royalty gas,
13 can engender.

14 I have one other point I would like to make,
15 and this is from the point of view of one who expects
16 to go out and do a selling job, radio and television,
17 wherever possible, as I've done before, and that is to
18 say that with the passage of this contract, your endorsement
19 of this contract, we will have an awful lot more horse-
20 power, the ground will be well laid for us to go on.

21 I would say that it's probably not so important
22 that it pass as that it would be very detrimental if it
23 did not pass because our opponents would quickly get
24 the word around the country that the Legislature of Alaska
25 saw fit not to endorse this proposal, and it would be

1 interpreted, I'm sure, and I see really no easy way or
2 any way at all overcome the interpretation that this
3 would show "Alaskans really don't care which way the
4 gas flows." So from that point of view, I would urge
5 you to be as hasty as possible, while at the same time
6 taking plenty of time to deliberate, and having sat
7 where you are I understand that you're moving as rapidly
8 as you possibly can right now; but I think it would be
9 a great assist to all of us who will be out, and our
10 allies such as the people in these other states, in
11 trying to gain approval in Washington of the all-American
12 delivery system.

13 That's all I have to say, Mr. Chairman.

14 SENATOR RADER: Mr. Lt. Governor, can we enter Exhibit 31,
15 the Resolution to which you just made reference?

16 LT. GOVERNOR THOMAS: Yes, sir. I'll leave it right here.

17 SENATOR RADER: That will be Exhibit No. 31 according to my
18 numbering system. Is that correct?

19 MRS. SANDERS: Yes.

20 (Whereupon Exhibit 31 was duly marked.)

21 SENATOR RADER: Just a second. Do you have any questions of
22 the Lt. Governor, or did you wish to submit to questions
23 here?

24 LT. GOVERNOR THOMAS: I'd be happy to, but I'm not the
25 technician regarding the contract.

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1 SENATOR RADER: Does anybody have any questions of the Lt.
2 Governor? Thank you very much, sir.

3 LT. GOVERNOR THOMAS: Thank you.

4 SENATOR RADER: Are there any other persons who desire to be
5 heard on the subject that we've been discussing and
6 hearing so much about the last three or four days?

7 Under the circumstances, these joint hearings
8 are adjourned with no intention to reconvene.

9 (Whereupon the hearing was concluded
10 at 4:00 p.m.)
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11 SENATOR RADER: The committee will take that up at a later
12 date. Commissioner Martin called me and asked if he
13 might take the stand for a few moments this morning to
14 clarify testimony given yesterday or make additional
15 points. Commissioner, glad to have you back.

16 COMMISSIONER MARTIN: Senator, thank you. Then I will be
17 very brief. I know the schedule you have. I really
18 had two purposes. The first I see has been taken care
19 of after coming down. I was concerned -- as you said
20 yesterday, I don't think -- notwithstanding some remarks
21 that were in an adversary proceeding, we want to share
22 everything with the committee. I wanted to bring down
23 the press release from the Federal Power Commission but
24 I see that the committee got it about the same time we
25 did. It was probably a bonanza for the telephone company

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1 this morning, as I think it was telecopied about three
2 different ways. In any case, I have several extra copies
3 of it here and I also have one copy, Senator Rader,
4 of something we're doing now, and that is we're tele-
5 copying up what we think at least are pages that have
6 something to do with the State in the four hundred and
7 thirty-three page or four hundred and thirty page decision.
8 We're making arrangements to have the opinion itself
9 flown up, but it looks like the best we're going to be
10 able to do, even with good weather, is to get it up
11 here on the first plane tomorrow morning from Seattle,
12 which means 9:00 or 10:00 o'clock, as I understand it.
13 We'll take a look at it immediately and try to give you
14 the best summary we can late in your hearings tomorrow
15 afternoon, if that's acceptable to the committee, and
16 try to duplicate copies for everyone as a part of that.

17 I might just say that in looking through the
18 decision, just very briefly, Senator, for those -- has
19 it been distributed? Well, I'll be glad to make these
20 copies available to the committee. I didn't bring
21 enough for everyone, but let me pass them around. I
22 understood that the committee had been distributed
23 copies but ---

24 SENATOR RADER: I don't know whether all the committee has.
25 I see that this area here though all has copies.

1 COMMISSIONER MARTIN: Just very briefly and I don't intend
2 to summarize this at all, Senator Rader. The decision
3 is extremely heavily weighted in favor of Arctic Gas,
4 substantially more weighted than we had expected or I
5 think most had expected. It takes up most of the
6 opinion really dealing with the benefits of Arctic
7 Natural Gas' proposal which is regarded by the judge
8 as superior on most -- on every ground for the permit.

9 And then on page nine near the bottom there is
10 a short summary paragraph dealing with El Paso, which
11 the judge says that, "if Arctic Gas is unable to accept
12 a certificate, El Paso's proposal, with modifications,
13 would also meet the public convenience and necessity."
14 He goes on to call it a "viable" proposal and then
15 criticizes it on a number of grounds following. A short
16 summary of the Alcan route follows on page ten of the
17 lengthy memorandum in which he says, "As to Alcan, Judge
18 Litt said the record does not support even the possibility
19 that a certificate could be granted it. Its design is
20 clearly neither efficient nor economic since the pipeline
21 is undersized." And then goes on to criticize it on a
22 number of other grounds, putting it sort of in a third
23 position in his release. So, I think at the very minimum
24 we can regard both of the choices that we favor as
25 possibilities for Alaska taking a very substantial blow

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1 in this Hearing Judge's opinion this morning, probably
2 Alcan slightly more than El Paso.

3 I also will give you the first five pages of
4 approximately twenty pages we hoped to telecopy yesterday.
5 I don't have copies of these, Senator, which seem to
6 affect the State. And there is some good news and some
7 bad news. I might say in view of the recent letter that
8 you just read from Farmland that there is at least some
9 disagreement on that because, contrary to their assertions
10 that the State is opposed to the economic development,
11 Judge Litt finds that we are so much in favor of it that
12 he finds it irresponsible. So, it's a can't win situation.
13 He thinks we are going too far and Farmland, apparently,
14 not far enough.

15 With very quick reference to that, let me say
16 that so far as I'm aware, we have opened our files one
17 hundred percent to the committee and that communication
18 that Senator Huber talked to has been, so far as I know,
19 either forwarded to the committee or made available to
20 it along with all the other information. I don't want
21 to take the time of other witnesses now to respond to
22 that, but I assure you I'll be more than pleased to do so
23 at an appropriate time.

24 Two very quick points, Senator. First -- and they
25 both relate to what I think were factual misrepresentations

1 based on testimony given yesterday that may have been
2 either members' misunderstandings or my failure to explain
3 myself properly. First, I understand that it was indicated
4 last night in some news reports that people couldn't
5 understand how the state would oppose the treaty. I
6 specifically said yesterday, that without actually seeing
7 the treaty I couldn't take a final position on it, but
8 the state in no way intends to oppose the treaty and
9 in fact supports the enhanced relationship with Canada
10 on all matters including energy matters. And, I want to
11 be very clear about that now. We simply -- I'm not going
12 to say we absolutely won't until I read the words and I
13 don't think you'd expect me to. But I see no chance that
14 we would and we don't want to and we don't intend to. So
15 let that be well understood.

16 Secondly, there apparently was some substantial
17 misunderstanding about whether or not the state could
18 take the gas off under this contract in the state, use it
19 for a petrochemical plant and then export the results
20 of that process. The answer to that is unquestionably
21 "yes". There is no qualification at all that the state
22 must then subsequently utilize all the products from such
23 a process in the state. We have the total right to take
24 the gas off under this contract so long as it is used in
25 the state for some process except liquefaction for export.

1 And there is no limitation on that in terms of utilization
2 of the product.

3 One final very quick matter and that is on the
4 matter of price. We do disagree with some of the
5 characterizations about the state not getting the best
6 price. We do believe that we have gotten the best price
7 under the circumstances and tomorrow, as I indicated,
8 after hearing the testimony of some of your consultants,
9 Senator, we'll be prepared to respond to that at the end
10 of the hearings as the committee sees fit.

11 SENATOR RADER: Are there any questions of the Commissioner?

12 SENATOR HUBER: One quick one.

13 SENATOR RADER: Senator Huber?

14 SENATOR HUBER: Mr. Commissioner, you might ask the judge
15 there when he is finished with his crystal ball, knowing
16 what's in the structure down there, to send it up to you
17 so you can give it to your Department of Oil and Gas
18 so we can get on with determining what we should be
19 taking up there.

20 COMMISSIONER MARTIN: We'll ask them that, Senator.

21 SENATOR RADER: Representative Chatterton?

22 REP. CHATTERTON: Mr. Chairman, Mr. Commissioner, in view of
23 this much stronger position of Judge Litt than what you
24 anticipated yesterday, are you now possibly willing to
25 give reconsideration in exchanging taxpayer's gas for

1 lobbying rights?

2 COMMISSIONER MARTIN: No, sir. We believe the contracts are
3 still a viable and important alternative. This morning
4 I made the comment after seeing the opinion that maybe
5 those yesterday who leaned toward the Alcan route and
6 wanted us to regard the decision as very, very crucial,
7 and we said we think this decision is only a part of the
8 process may now change and say this decision is deter-
9 minative. We still think this decision is an important
10 part but hardly determinative in the final outcome and
11 that the contracts we're advancing may be possibly a
12 little more important by virtue of it, rather than less.

13 REP. CHATTERTON: Thank you.

14 SENATOR RADER: Any further questions of the Commissioner?
15 Senator Croft?

16 SENATOR CROFT: Commissioner, just so I understand it, because
17 I heard your testimony yesterday, did I understand you to
18 say that you testified yesterday that the unequivocal
19 answer is "yes" that we can export those products after
20 they are used in a petrochemical facility? Because I
21 understood you yesterday to say --

22 COMMISSIONER MARTIN: Apparently that was misunderstood and I
23 talked to several people. Most people understood it the
24 way I expressed it a second ago rather than your way,
25 Senator Croft, but I wanted to clear it up today. There

1 is no question under the contract, in my view, that we
2 have the right to take the gas off, to utilize it in
3 Alaska for any purpose except liquefaction for export
4 and then to export the products that are made therefrom.

5 SENATOR CROFT: And can we then export the LNG under the
6 contract?

7 COMMISSIONER MARTIN: No, sir. If we take it --

8 SENATOR CROFT: Does it all have to be used in the state?

9 COMMISSIONER MARTIN: That's what I made clear yesterday.

10 But we can liquefy gas so long as the LNG is being used
11 in the state, so we even have the flexibility to go through
12 liquefaction and then tanker that around and use it in
13 other communities on the coast.

14 SENATOR CROFT: One final question. If -- and this didn't
15 originate with me but somebody else asked me to ask it.
16 If the primary purpose of these contracts is to gain
17 additional support for the El Paso route, why did the
18 state contract with El Paso to give them twenty-five
19 percent of the Prudhoe Bay --

20 COMMISSIONER MARTIN: That is a very good question and I think
21 the answer to it goes very much to the reason that these
22 contracts are a little misleading in terms of totally
23 construing them as pure political support. The fact is
24 that El Paso can benefit just as much from telling its
25 citizens that it has an opportunity to own gas pursuant

1 to its success as any other company. As it was before,
2 El Paso was a sponsor of the gas line which was very
3 much in the state's interest but without any ownership
4 of gas and only a prospective chance of getting it.
5 But under these contracts they too could say that they
6 have an opportunity to supply gas to their constituents
7 where they couldn't have said that before.

8 SENATOR RADER: Any further questions of the Commissioner?
9 Mr. Swanson?

10 REP. SWANSON: Yes. If we lose both these battles, both
11 the El Paso and the Alcan will you switch your support
12 now to Arctic or Tenneco?

13 COMMISSIONER MARTIN: No, sir. The state's position, I think,
14 on that by all its findings is very clear. We believe
15 that the Arctic offers very little benefit to the state
16 and would be a last choice. We have testified to that
17 extensively in the FPC.

18 SENATOR RADER: Any further questions, Mr. Swanson? Mr.
19 Gruening?

20 REP. GRUENING: Yesterday I think a questions was asked by
21 Representative Meekins if a commitment of royalty gas
22 prior to construction, let's say the petrochemical
23 facility in Alaska would not be considered an in-state
24 use. It's a commitment on an arrangement where the gas
25 went out of the state but that was part of the contract

1 under which this construction --

2 COMMISSIONER MARTIN: Yes, sir. I responded to Mr. Meekins
3 that that is the item that we have committed, the export
4 of gas -- of surplus gas is the thing that we have sold
5 under this contract and that kind of a negotiated deal
6 would not be possible.

7 REP. GRUENING: Regardless of whether it was part of a contract
8 to build a petrochemical facility?

9 COMMISSIONER MARTIN: That's right, because that gas would
10 not be used in Alaska. It would be used as an enticement
11 to come. That in fact is the sort of deal that Farmland
12 International offered and it's one of the reasons why
13 it was unacceptable.

14 SENATOR RADER: Representative Chatterton?

15 REP. CHATTERTON: Mr. Chairman, I'm sorry. Commissioner, in
16 answer to a question that you gave here just a moment
17 ago, I think I have got to ask you another question. You
18 answered a question as to whether you would switch your
19 support in any way, in any shape or form to the Arctic
20 Gas proposal and you answered that "no", I believe.

21 COMMISSIONER MARTIN: Yes.

22 REP. CHATTERTON: So, in effect you're really saying -- or
23 reconfirming that the only reason for these gas sales
24 contracts are to gain or buy additional lobbying effort
25 for one or two choices. There is no other advantage to

1 the contracts, is that right?

2 COMMISSIONER MARTIN: No. I think I made it clear yesterday
3 in great detail that I thought there were several advantages
4 to the contract of which that one may very well be the
5 principal one. But the contracts would be, I think,
6 valuable under any circumstances. I think Mr. Swanson's
7 question, does the state intend to switch its support to
8 Arctic in certain circumstances, my answer was "no". The
9 present Arctic proposal would be of very little benefit
10 to the state.

11 REP. CHATTERTON: Thank you, Commissioner.

12 SENATOR RADER: Senator Huber? Incidentally, I want to invite
13 legislators in the audience to seat themselves at vacant
14 places at the table if you desire, with the understanding
15 that if committee members come in that you will relinquish
16 your seat to them. But if you wish to participate, it's a
17 little bit easier and more convenient, you are certainly
18 welcome. There are two seats here and there is one over
19 here to take advantage of that. Senator Huber?

20 SENATOR HUBER: Mr. Chairman, Commissioner, I want to clear
21 up something that looked like, from press reports and so
22 forth last night, it kind of sounded like from the meeting
23 the amendment that was gotten in Congress by our delegation
24 to allow us to withdraw our gas, it seemed like the
25 testimony was such to make one believe that we had no

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1 choice other than that and I think that's what is
2 causing part of the confusion about the Arctic Gas.

3 And would you reaffirm if we never --

4 COMMISSIONER MARTIN: Oh, I understand.

5 SENATOR HUBER: If we never commit our gas, say the Arctic
6 route is chosen and the State of Alaska never commits
7 any of its gas thereby not allowing any of it to flow --
8 to start flowing to the South 48, that it is still our
9 gas under current laws in Congress -- previous laws or
10 current laws, we can't have it confiscated on us until --

11 COMMISSIONER MARTIN: I understand the question now, Senator.

12 I think that is a good question if that is the way you
13 are going. I think that the committee could very well
14 conclude, based on the utilization of Section 13(b) or
15 the theory that Mr. Moody advanced last year, that there
16 might be enough benefits in these contracts to consider
17 going ahead with them or something very much like them
18 under any circumstances. But, as I understood Mr.
19 Swanson's question, he asked if we would switch our
20 support to Arctic and I took it in terms of just an
21 evaluation of the route, my answer would be "no". But
22 yes, I think that it would be a legitimate consideration,
23 given the other benefits of this contract, to at least
24 consider utilizing either the contracts or the format
25 to try to gain the same kinds of protection.

1 I might add that Judge Litt's decision is ap-
2 parently going to be very sobering in that regard because
3 he specifically recommends the repeal of 13(b) and makes
4 it plenty clear that as far as he is concerned, unless
5 there is something like that, the FPC will have no
6 intention whatever of approving any state off take.
7 It's a decision highly influenced by strong national
8 interest.

9 SENATOR HUBER: And, Mr. Chairman, even if 13(b) is repealed,
10 the State of Alaska if it wants to ever use any of this
11 gas, the only choice we would have would be never to
12 commit it in the first place thereby depriving the people
13 of the Southern 48 states of having any portion of it
14 because there is no law that says they can confiscate
15 our gas.

16 COMMISSIONER MARTIN: Well, Senator, that's not the only
17 alternative we would have because as you know, the terms
18 of this contract provide that should the arrangement for
19 off take not be approved by the federal government, the
20 contracts fail. In other words, we are then back to
21 ground zero and have whatever alternatives we might have
22 minus the loss of time which is inherent in attempting to
23 get that approval.

24 SENATOR HUBER: I wanted it clear that the FPC can't just
25 assert our royalty share of gas. It requires us to have

1 committed it in the first place and allowed it to flow
2 before they can assert it even without 13(b)?

3 COMMISSIONER MARTIN: Yes, but not through the contract. It
4 means allowing it to flow, it is different from committing
5 it. It is the first flow of the gas which we believe is
6 the most substantial problem. And so, in the event that
7 these contracts were approved, but not subsequently
8 approved to the federal level in terms of the off-take
9 provisions, we would then be back in the situation where
10 we would have to act before the gas first started to
11 flow to look at our other alternatives. The other
12 alternatives being in-state pipelines or other alternatives.

13 SENATOR HUBER: That's why it would seem that the judge's
14 strong decision for Arctic Gas, as he made it, didn't
15 take into consideration the fact that if he allows Alaska
16 no use of their gas and you may very well get to the
17 point where Alaska says "you don't get our gas then."
18 We certainly haven't taken that stance.

19 COMMISSIONER MARTIN: We haven't taken that position. We
20 think that is not a good position to take in the national
21 decision process at this time, Senator Huber, although
22 I can understand your sentiment in perhaps wanting to
23 get there. We have not taken that tack, attempting to
24 carve out a way to utilize the gas on a cooperative way
25 rather than doing it through confrontation.

1 SENATOR HUBER: That is why I'm disappointed in his deter-
2 mination.

3 COMMISSIONER MARTIN: He incidentally has searched, as you'll
4 see from the release and then later from the decision,
5 substantial state jurisdiction, including the ability
6 for the FPC to allocate and take the gas. So I think that
7 while this doesn't speak to the FPC or to the federal
8 decision making process, there are a number of things of
9 great concern to the state in this contract -- or in
10 this decision.

11 SENATOR HUBER: Thank you, Mr. Commissioner.

12 SENATOR RADER: Any further questions?

13 REP. CHATTERTON: Yes, Mr. Chairman.

14 SENATOR RADER: Mr. Chatterton?

15 REP. CHATTERTON: Mr. Commissioner, if we initially take our
16 royalty gas in value instead of in-kind, do we keep all
17 options open for intrastate usage?

18 COMMISSIONER MARTIN: Mr. Chatterton, rather than whether it
19 is taken in value or kind, the point you must operate
20 from is the point that gas first flows through the pipe-
21 line and if at the time it first flows through the pipe-
22 line and is merged in the interstate stream, we are
23 allowing our gas to flow without any arrangement to take
24 it off -- any approved federal arrangement to take it off.
25 That is the risk of loss of the gas, if at that time we

1 have not taken in-kind and protected it, then the
2 problem would attach.

3 SENATOR RADER: Mr. Parr?

4 REP. PARR: Mr. Commissioner, in this press release on page
5 four, the second paragraph, Judge Litt finds that "The
6 Commission clearly has full jurisdiction over producer
7 wellhead sales in interstate commerce, transport of the
8 gas within Alaska, and transport and sale within the
9 lower 48 states". Now at that second clause, does that
10 mean in the judge's opinion that if we built our own
11 pipeline, let's say from Prudhoe Bay to Anchorage, that
12 the FPC would still have jurisdiction?

13 COMMISSIONER MARTIN: Yes, sir.

14 REP. PARR: Even if it never got into the interstate pipeline?
15 Intrastate pipelines are not regulated by the FPC.

16 COMMISSIONER MARTIN: We're giving you the present state of
17 the law. The judge is apparently making a somewhat
18 extended statement regarding it.

19 REP. PARR: Under existing law, as far as you know, intrastate
20 pipelines are not regulated by FPC?

21 COMMISSIONER MARTIN: Yes.

22 REP. PARR: Is that correct?

23 COMMISSIONER MARTIN: That's right.

24 REP. PARR: And so what the judge is doing is either trying
25 to change it by his statement or interpreting it different

1 than you?

2 COMMISSIONER MARTIN: He has made a number of very extreme
3 statements, obviously taking a very strong position in
4 the case, Mr. Parr.

5 REP. PARR: Thank you.

6 SENATOR RADER: Any further questions of the Commissioner?
7 Thank you very much, Commissioner.

8 COMMISSIONER MARTIN: Thank you for your courtesy. I
9 thought it would be helpful, Mr. Chairman.

10 SENATOR RADER: We appreciate it.

11 COMMISSIONER MARTIN: We will give you additional copies
12 of this today as they come in that are out of the
13 decision. Those are just miscellaneous pages.

14 SENATOR RADER: Well, I think that we will probably rely
15 upon your analysis of this tomorrow rather than our
16 hour by hour report here.

17 COMMISSIONER MARTIN: Those are all out of context.