

SB

184

AMENDED TITLE: CSSB 184(L&C)

AN ACT EXTENDING THE TERMINATION DATE OF THE ALASKA TRANSPORTATION COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/06/83 IN (H) LABOR & COM

SB 184 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/18/83	01	0433	FIRST READING -- COMMITTEE REPORTS
04/13/83	02	0682	L&C -- CS03
04/13/83	03	0682	L&C F/NOTE EQUALS ZERO
04/15/83	04	0710	L&C LETTER OF INTENT
04/25/83	05	0800	RLS -- OTHER04 TAKEN UP IMMEDIATELY
04/25/83	06	0801	SECOND READING
04/25/83	07	0802	POSTPONED UNTIL 04/26/83 BY UNAN CONSENT
04/26/83	08	0813	L&C C/ ADOPTED BY UNAN CONSENT
04/26/83	09	0813	POSTPONED UNTIL 04/27/83 BY UNAN CONSENT
04/27/83	10	0823	SEN LETTER OF INTENT ADOPTED
04/27/83	11	0824	SUPPL LETTER ADOPTED BY DIV 14-06-00
04/27/83	12	0824	ADVANCED TO 3RD READING BY UNAN CONSENT
04/27/83	13	0824	THIRD READING
04/27/83	14	0825	PASSED BY DIV 16-04-00
04/27/83	15	0825	EFFECTIVE DATE VOTE SAME AS PASSAGE

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SB 184 HOUSE ACTION
DATE SEQ PAGE

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/28/83	16	1085	FIRST READING -- COMMITTEE REPORTS
05/06/83	17	1206	TRAN -- DP04, NR04 LABOR & COMMERCE RULES

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A PERFORMANCE REVIEW OF THE
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION

April 1, 1982

Audit Control Number

08-092-0069-R

Commissioner, Department of Commerce
and Economic Development

Charles R. Webber

Deputy Commissioner, Department of
Commerce and Economic Development

Edward Eboch

Members of the Alaska Transportation Commission

Chairman
Commissioner
Commissioner

Keith Miller
Walter Kubley
H.D. Scougal

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

April 1, 1982

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW OF THE
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION

April 1, 1982



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Review.	1
Organization and Function.	2
Report Conclusion.	3
Findings and Recommendations	5
Analysis of Public Need.	17
Appendixes:	
A. Revenues Compared with Expenditures.	22
B. Program Activity	23
Agency Response:	
Alaska Transportation Commission	24

PURPOSE OF THE REVIEW

In accordance with the provisions of Title 24 of the Alaska Statutes and the "sunset" provisions of AS 44.66, we conducted a performance review of the Alaska Transportation Commission (ATC) to determine if the Commission should be allowed to terminate on June 30, 1983, or be continued in its existing form, or if alternatives exist to better accomplish its purpose. We reviewed the operations of ATC to determine if they were conducted in an effective, efficient, and economical manner.

The policy and audit approach utilized by the Division of Legislative Audit for Performance Review can best be described as "audit by exception."

This methodology focuses audit effort on areas of an auditor's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

ORGANIZATION AND FUNCTION

The Alaska Transportation Commission (ATC) was established by AS 42.07.011 in 1969 to supervise and regulate transportation in the State of Alaska. The Commission is authorized by AS 42.07.121 to administer the Air Commerce Act of 1960 and the Motor Freight Carrier Act. The Bus Transportation Act and the Ferry Transportation Act which were formerly administered by ATC were repealed by Chapter 115, SLA 1980. ATC is responsible for ensuring that all transportation activities under its jurisdiction provide safe, adequate service at reasonable rates and that sound economic conditions prevail in the industry.

The Commission consists of three members appointed by the Governor and confirmed by the Legislature. The Commissioners are appointed for staggered six-year terms with one member designated as chairman for a two-year period. In addition, ATC has a staff of twenty-seven including two hearing examiners, the executive director, the administrative support section, the tariff section, and the enforcement section. ATC also has an assistant attorney general assigned to it under a reimbursable services agreement with the Department of Law.

The Commission functions as a quasi-judicial body and may conduct formal hearings on contested applications, complaint and accusation matters, and rate matters. The Commission may delegate its authority to conduct hearings to a hearing examiner. The tariff section reviews rate changes. Significant changes are brought to the Commission's attention for formal action. The enforcement section investigates consumer and carrier complaints, participates in public hearings, conducts field surveys and safety inspections, and engages in other activities necessary to maintain satisfactory compliance by regulated carriers. If violations of statutes or regulations occur, civil penalties may be assessed.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Commission practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these decisions, the legislative oversight committees should take into consideration the findings and recommendations presented in this report, so that the potential impact of policy changes can be evaluated.

Report Conclusions

In our opinion, the Alaska Transportation Commission should be allowed to terminate on June 30, 1983, and the regulation of transportation should be administered through a transportation section within the Alaska Public Utilities Commission. Based on our review, we have concluded that the existing policies and procedures of ATC for administering the regulatory process do not ensure the public interest is served in an effective, economical manner and in accordance with legislative intent (see Recommendation No. 1).

However, whether or not the Legislature deems that continuing ATC in its present form is in the public's best interest, several changes need to be implemented to effectively serve the public. Those areas in need of change are described below.

Temporary authority has been granted by ATC in violation of statutory requirements. Further, required findings of fact and conclusions of law are not written in accordance with State regulations and in light of Superior Court order (see Recommendation No. 2).

Improvement is needed in the manner in which ATC approaches its economic regulation mandate and enforcement responsibilities. Economic regulation should include procedures to review and analyze financial data of individual carriers and classes of carriers. Rate changes filed by carriers should be supported with documentation which ATC should analyze to determine the reasonableness of the rate increase or decrease. After ATC has determined a carrier is fit, willing, and able to serve the Alaskan public and authority to operate is granted, ATC must enforce the provisions of the air and motor carrier transportation acts. Untimely processing of citations, complaints, and accusations undermines the enforcement efforts as does insufficient procedures to ensure the payment of assessed civil penalties (see Recommendations No. 3, No. 4, No. 5, and No. 7).

In order to aid the staff in improving procedures in the areas of economic regulation and enforcement, the Commissioners should write orders for matters not heard by the hearing examiners (see Recommendation No. 6). Also, bulk-type commodity carriers (dump truck operators) should be exempted from economic regulation to eliminate the processing of unnecessary paperwork (see Recommendation No. 8). Regulations should be promulgated in a timely manner to clarify procedures for the staff and the public (see Recommendation No. 9).

The amount by which ATC's expenditures exceeded its revenues increased by 20 percent from Fiscal Year 1978 through Fiscal Year 1981. However, statutory fees have not increased for 10 to 14 years (see Recommendation No. 10).

In conclusion, we believe the time is right for ATC to be combined with the Alaska Public Utilities Commission, since the above changes in policies and procedures need to be made regardless of which commission administers the transportation regulation acts and a transition between agencies generally results in these types of changes.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Alaska Transportation Commission should become a section within the Alaska Public Utilities Commission (APUC).

Based on our performance review of ATC, we conclude the public interest would be better served if the Commission was eliminated and regulation of the transportation industry was administered through a transportation section within APUC. Our conclusion was derived, in part, from the following circumstances:

1. The existing policies and procedures of the Commission for administering the regulatory process of the transportation industry do not ensure that the public interest is served in an effective and economical manner and in accordance with legislative intent (see Recommendations No. 2 through No. 7).
2. As shown in Appendix B of our report, the workload of ATC has decreased from 1978. The combination of several factors has resulted in this decrease, i.e., deregulation of buses and tow trucks, compliance by carriers with reporting requirements, elimination of motor vehicle safety inspections at scale houses, and insufficient and ineffective enforcement activities as noted in Recommendations No. 4 and No. 5 of this report.
3. The present statutes and regulations need to be revised (see Recommendations No. 2, No. 8, No. 9, and No. 10).

In a prior Legislative Audit report entitled, "A Performance Review of the Alaska Pipeline Commission, July 11, 1980," we recommended the three Alaskan regulatory commissions, Alaska Public Utilities Commission, Alaska Pipeline Commission (APC), and ATC, be combined. Since that report, APC was merged into APUC.

We included in our previous report the results of a survey questionnaire to utility regulatory commissioners in other states which showed that:

- a) Twenty-six of the responding thirty-two states (81 percent) felt the advantages of a single regulatory agency outweigh those of maintaining two or three separate agencies. Some of the advantages noted were: centralization of expertise; cost savings due to economies of scale and elimination of unnecessary duplication; in general a more efficient use of resources.

- b) Twenty-eight of the responding states (87 percent) felt commissioners can realistically develop the expertise to render decisions in fixed, transportation and/or pipeline utility cases.

Also we compared in our prior report the regulatory scheme utilized by Alaska with the schemes utilized in the other forty-nine states. An update of that analysis is presented below:

Regulatory Scheme	States Used by		Commissioners			Employees Range		
	No.	%	No. on Comm.	No. of States	%	Hi	Lo	Avg.
One Regulatory Commission	40	80%	1	1	2.5%	982	17	168
			3	25	62.5%			
			5	12	30.0%			
			7	2	5.0%			
			40	100.0%				
Two Regulatory Commissions	8	16%	6	6	75.0%	705	24	229
			8*	1	12.5%			
			9	1	12.5%			
				8	100.0%			
Three Regulatory Commissions	2	4%	8	1	50.0%	845	445	645
			12	1	50.0%			
				2	100.0%			

* Alaska

During a period of transition of management control there is usually a natural tendency for the new management to reshape and reorganize policies, procedures, and staffing. Since the present policies and procedures utilized for transportation regulation are in need of re-examination and change, we believe the time is right for ATC to be combined with the APUC.

Prior to carrying out the merger, a management study should be undertaken to determine correct staffing levels and organization for a combined commission. We believe the functions of the reorganized commission could be carried out by a five-member commission. The present qualifications as stated at AS 42.05.040 should be retained with one consumer position changed to specify qualifications which would bring to the commission the expertise needed for regulation of transportation, e.g., transportation economics.

Recommendation No. 2

Temporary authority should be granted in accordance with statutes.

Alaska statutes provide for issuance of temporary authority in the following circumstances:

1. Motor Carriers: (AS 42.10.210) when an emergency exists because existing transportation agencies cannot supply the necessary service. Temporary permits may not exceed a 90-day period.
2. Air Carriers: (AS 02.05.060) when an emergency requires, a carrier may be exempted from requirements of statutes and regulations if enforcement of such requirements would result in an undue burden on the carrier by reason of the emergency or unusual circumstances affecting the operation and if enforcement of the requirements is not in the public interest.

In tests of 32 applications for temporary authority we found 22 which did not meet the above criteria. ATC has defined "emergency" loosely enough to allow temporary authority to be granted even though no true emergency exists. Further, 4 temporary permits for motor carriers exceeded the 90-day statutory limitation.

Of the 22 cases mentioned above, 8 related to temporary transfers of authority. Because of the difficulties sometimes encountered in transfers of ownership of businesses, there may be some justification for treating transfers differently by allowing the granting of temporary authority. However, ATC should seek a statutory amendment to allow this procedure and, in the meantime, comply with the present statutes governing the granting of temporary authority.

Another procedure noted is that the Commission has granted temporary authority to applicants in the interim while the applicant awaits a decision for permanent authority. Although the Commission has decreased the processing time of applications since our last review, the present processing times still tend to encourage the use of temporary authority as a stop-gap measure. We determined the average processing time was approximately five months for permanent authority applications with 1981 orders which did not require a hearing. Fifteen percent of those tested took more than one year to process.

In addition, the ATC has a policy of allowing applicants who submit applications for both permanent and temporary authority at the same time to pay a single application fee instead of a separate fee for each application. This is also in violation of statutes and results in an unfair advantage to those who submit both applications simultaneously.

Review of applications for temporary authority also revealed the following:

1. Temporary authority to operate was granted via telegram without prior findings of fact and conclusions of law in 15 of 19 cases tested.
2. In 4 of 19 cases tested no order with the required findings and conclusions was subsequently prepared.
3. Telegraphed authority preceded publication in the ATC Journal in 10 of 13 cases.
4. Two of 7 cases involving telegraphed authority could not be found on any Commission meeting agenda.

Although efforts to reduce "red tape" and accommodate applicants are commendable, we are in agreement with Superior Court Order No. 76-6441, *Weaver Brothers and Copper Freight Lines vs. Alaska Transportation Commission*, which held that telegraphed authority violates provisions of Alaska Statute 42.10 and Title 3, Chapters 60 and 64, of the Alaska Administrative Code and that grants of authority without findings, conclusions, or written orders are an abuse of discretion per se. While the Commission may exempt applicants from meeting the usual requirements in emergency situations, it may not exempt itself from statutes and regulations governing the conduct of its business which require written findings of fact and conclusions of law, and proper notice of proceedings and actions.

It appears that the Commission has allowed policies regarding granting of temporary authority to evolve independently from statutory constraints. Regulations governing policies and procedures which include specific practices for handling requests for temporary authority in compliance with statutes have been in the development stage since 1978. In February 1981 they were approved by the Commission and sent to the Department of Law for review (see Recommendation No. 9).

We recommend that the Commission grant temporary authority in accordance with statutes and regulations, in light of the Superior Court Order cited above.

Recommendation No. 3

The economic regulatory procedures of ATC should include financial analysis of data submitted by the carriers.

The purpose of the Motor Freight Act (AS 42.10) is to provide stabilized service and rate structure; to foster sound economic conditions among carriers; to promote adequate, economical, and efficient service, and reasonable, nondiscriminatory charges. The purpose of the Alaska Air Commerce Act of 1960 (AS 02.05) includes the responsibility to pro-

mote adequate, economical, and efficient air service, and reasonable, nondiscriminatory charges. Both acts give ATC the authority to suspend and investigate tariffs filed by carriers and to grant, deny, or modify those tariffs.

We determined that ATC is not adequately performing its duties to satisfy the above mandates for economic regulation. The following are areas in which ATC should improve its procedures in order to ensure sufficient economic regulation of carriers under its jurisdiction:

A. Processing of applications should include financial analysis of the carriers' financial statements and financial data.

Of 70 application files for permanent and temporary authority tested, 44 did not contain evidence that the staff had analyzed the carriers' financial statements or other financial data submitted. The remaining 26 files contained a form utilized by the staff in reviewing financial data which, in general, was incomplete. Further, these forms do not require pertinent ratios, such as the operating ratio (operating expense/operating revenues), which indicates reasonableness of the proposed rates, and the current ratio (current assets/current liabilities), which indicates the carrier's ability to meet short-term debts. According to the staff, the reason the form no longer shows ratios is that they assume the financial data received from the applicants may be inaccurate and, therefore, ratios would be meaningless. Yet, ATC does not verify items reported on the financial statements.

In the orders granting authority to carriers, ATC includes statements in their findings and conclusions which refer to the carrier's fitness to provide service and to the economic feasibility of the proposed services. However, based on the above review there is either no analysis or insufficient analysis performed to support these statements.

ATC should establish procedures for verification of items on the financial statements, such as cash balances, accounts receivable, accounts payable, and ownership of equipment. The present form used for review of financial data should include ratios and the analyses should be performed on a consistent basis.

B. ATC should require supporting documentation of tariff changes for review and analysis.

Documentation supporting tariff changes is not required to be submitted by carriers or tariff agents. According to the staff, the two tariff specialists review the

tariff filed by the motor carriers and if anything questionable is noted, they discuss the problem. At times they meet with the tariff agent to discuss the tariff. A clerical employee reviews the tariff changes filed by the air carriers and compares the revised rates with the rates of other carriers with similar aircraft in the same geographical location. However, we found no written documentation of these reviews.

We also reviewed the docket files for calendar years 1980 and 1981 and found that only one rate investigation case had been initiated by the staff. However, no action was taken on this case. According to a staff memo in the file, the case was closed because they were "unable to obtain a quorum of commissioners to discuss" the case. During the same two-year period 1,358 tariff changes were filed with the Commission for review.

We recommend ATC require carriers to submit financial data which supports the rate change. The financial data, including pro forma costs and revenues, should be analyzed. The analysis should include, but not be limited to, the comparison of rates for similar commodities in the same geographical location and the calculation of the operating ratio as an indicator of the reasonableness of the proposed rates. The Federal motor carrier regulatory agency (the Interstate Commerce Commission) has determined an operating ratio of approximately 94 percent to be reasonable for motor carriers. Other state regulatory agencies, such as the Colorado Public Utilities Commission, also utilize this ratio as an indicator in determining the reasonableness of rates.

C. Annual and quarterly financial reports should be analyzed.

Requirements for submission of annual reports from motor carriers and quarterly reports from air carriers are being enforced. However, data collected on these reports is not being correlated or analyzed. One class of motor carriers is not required to submit their annual report up to a year after the close of the reporting period. It is inefficient to use resources to ensure compliance with reporting requirements when the information is not being used and is allowed to become stale.

ATC is in the process of entering data on the computer from air carriers' 1979 through 1981 quarterly reports. However, this financial data does not include the costs of operations for air taxi operators. In our 1978 audit report, we recommended the air taxi operator quarterly report form be revised to include costs of operations. Presently, ATC has only a pencil draft of a revised form.

ATC should revise its annual and quarterly report forms to include an income statement which includes operating costs as well as revenues, an abbreviated balance sheet, and other relevant data. These report forms should not contain excessive information but rather only data relevant to the needs of ATC.

Recommendation No. 4

Complaints and accusations should be investigated and processed in a timely manner and accurate records of the complaint resolution process should be maintained.

Tests of 36 complaints and accusations acted upon in 1981 revealed the following:

1. Processing of complaints and accusations involving hearings took an average of 9 months.
2. Processing of complaints and accusations which did not require a hearing took an average of 4 months.
3. The average age of complaints and accusations in process at December 31, 1981, was 8 months.
4. Seven had no record of the date initiated.
5. Four had dates out of logical processing sequence, e.g., date of order preceded date initiated.
6. Ten were not listed on any Commission meeting agenda.
7. Investigation files did not contain documentation of communications with those involved, i.e., memoranda, activity log, etc.

During 1981, 254 complaints were logged and four staff members in the enforcement section were assigned to investigate these complaints. This resulted in an average of 1.5 complaint cases per week per staff member. Based on this caseload, processing and documentation of investigations should be complete, accurate, and timely. While complaints involving hearings may require a longer processing time than those without hearings, processing time could be decreased if orders were completed as soon as possible after the hearing.

Recommendation No. 5

The number of field surveys performed each year should be increased and should include a limited financial/compliance audit of accounting records.

Of approximately 630 regulated carriers, 38 were surveyed in 1981. This is a decrease from 58 out of approximately 600 in 1978. All 38 surveys were performed on air carriers;

none were performed on motor carriers. Four enforcement personnel were assigned to conduct the 38 surveys in 1981, resulting in an average of 9.5 surveys per person per year. The average survey takes about one day to complete. These surveys emphasized review of tariffs and verification of employment status where leased aircraft and owner pilots were involved.

ATC should perform field surveys on motor carriers as well as air carriers, and such surveys should include equipment safety inspections and verification that prescribed standard accounting systems are in use. Both motor carrier and air carrier surveys should include comparison of rates charged and authorized tariffs and may also include verification of annual reports by tracing report data into accounting records.

Recommendation No. 6

The Commissioners and hearing examiners should write all the formal written decisions (orders) on docketed matters before ATC.

Based on a review of the paperflow, discussions with the Commissioners, and a test of 36 files, we determined that orders are written by either the hearing examiners or the staff. The hearing examiners write the orders relating to matters heard by them. Staff members write all other orders for the Commissioners.

Requiring the staff to write the orders for citation or other enforcement matters creates the potential for violation of ATC's ethical regulations. Those regulations [3AAC 60.10(a) & (h)] prohibit parties in a matter pending before ATC from communicating privately, directly or indirectly, with the Commissioners or hearing examiners about such matters or arguing the merits of those cases without their adversaries present or without notice to them. Violation of this rule occurs when the staff participates in a hearing and subsequently drafts the order for the Commissioners' decision.

In a review of citations issued between July 1, 1980, and December 31, 1981, we found this violation had occurred in six of the seven cases reviewed for which a hearing was held. These violations could be avoided if the Commissioners would write their orders. In addition, we determined it took an average of 53 days for an order to be written after a hearing was held for a citation.

During Fiscal Year 1981, there were 198 hours of hearing of which the Commissioners presided over only 27 hours while the hearing examiners presided over the remaining hours. ATC issued 588 orders in Fiscal Year 1981, which would have

resulted in a workload of approximately four orders per week per Commissioner. In addition, ATC has developed canned formats for certain types of orders. In view of the above and the need for the staff to improve their procedures in the areas of financial analysis (see Recommendation No. 3) and enforcement (see Recommendations No. 4 and No. 5), we believe the Commissioners should write the orders pertaining to matters not heard by the hearing examiners.

Recommendation No. 7

ATC should establish procedures for the accountability and collection of civil penalties.

ATC does not maintain accounting records of its civil penalties receivable. In a review of civil penalties assessed during the period July 1, 1980 through December 31, 1981, we determined \$41,075 had not been paid at the date of our review. This represents 45 percent of the total amount of civil penalties assessed and not suspended. In addition, we noted \$1,050 had not been paid on civil penalties assessed prior to July 1, 1980.

The State Administrative Manual (Section 7972) states control is a key factor in handling accounts receivable. Control of accounts receivable consists of determining amounts due from others, billing those persons responsible, recording the amounts due, and collecting those amounts.

The manual (Section 7956) also states it is the responsibility of each agency to maintain established collection periods. Agencies are to send notices 30, 60, and 90 days after the original payment date. After 120-180 days, depending on the amount due, ATC should request assistance from the Attorney General or permission to assign the account to a collection agency.

Recommendation No. 8

Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

Alaska Statutes 42.10.070 and 42.10.080 authorize the Commission to regulate common and contract motor freight carriers, which includes bulk-type commodity carriers (dump truck operators).

The Commissioners and staff believe the dump truck operators should be exempted from certification as to public convenience and necessity and only be regulated as to the safety of operations.

Applications for authority submitted by dump truck operators are routinely granted as we found in a 100 percent review of the applications for original and temporary authority with 1981 orders. In addition, some of these operators request voluntary suspension of authority due to the seasonal nature of their business, which is also routinely granted as shown by a 100 percent review of petitions with 1981 orders.

Currently, Senate Bill No. 862 is in committee in the Legislature, which would exempt dump truck operators from the requirements of showing public convenience and necessity. Considering the need for ATC to improve its procedures in economic and compliance regulation (see Recommendations No. 3 through No. 5) and that, through its own actions of routinely granting dump truck operators authority, the Commission has essentially exempted dump truck operators from economic regulation, we believe the public interest would best be served by allowing the Commission to cease certification of dump truck operators.

Recommendation No. 9

Regulations should be promulgated in a timely manner.

ATC presently has four sets of proposed regulations which need to be adopted into the Alaska Administrative Code. The proposed regulations are as follows:

1. Practice and Procedural Regulations--These regulations were being drafted at the time of our 1978 audit. They were approved by the Commission in February 1981, but have not been filed with the Lieutenant Governor and adopted into the Administrative Code. The hearing process would be improved by these regulatory procedures which also include specific procedures for requests for temporary authority (see Recommendation No. 2).
2. Regulations Governing the Construction and Filing of Tariffs Issued by Carriers--Public hearings for these regulations were held in June and August 1981. The docket page which lists actions taken on the regulations indicated no further action has occurred.
3. Insurance Regulations--After public hearings were held on these regulations in December 1980 and January 1981, the Commission approved them in September 1981. They have not yet been filed with the Lieutenant Governor to be adopted into the Administrative Code.
4. Freight Forwarder Regulations--Beginning in 1978 ATC received applications for authority from freight forwarders. Decisions on these applications were delayed, in part, because ATC did not have regulations governing freight forwarders. In July 1980, ATC promulgated limited regulations (3AAC 64.165 and 3AAC 64.340), but additional regulations were needed.

In an order (No. 81-39) dated February 11, 1981, ATC granted, denied, or dismissed the pending twenty applications. Subsequently, the effective date of the order was stayed until August 31, 1981, and public hearings were held on proposed regulations on August 5, 1981. The Commission approved the regulations on August 8, 1981. On August 28, 1981, another order was issued confirming the effective date of Order No. 81-39. In addition, the order stated, "all forwarders so authorized by Order No. 81-39, as amended, are governed by the regulations and additions thereto as may hereafter be made". Chapter 3AAC 69 technically does not exist as those regulations have not been adopted into the Alaska Administrative Code.

Both ATC and the Department of Law are partially responsible for these delays in adoption of regulations. ATC should review its procedures and make necessary changes to allow more timely adoption of regulations. In addition, ATC should take a more active stance in determining the status of regulations sent to the Department of Law for review to ensure those persons performing the review are aware of the need for timely promulgation.

Recommendation No. 10

ATC should seek legislation to increase fees.

The Alaska Statutes authorize ATC to collect application and registration fees from motor and air carriers as shown in Appendix A of this report. The fees for air carriers have not been increased since 1968. Application and registration fees for motor carriers were established in 1970 and 1972, respectively.

In addition, AS 42.10.240 authorizes the Department of Public Safety to collect the following weight fees for motor vehicles:

- | | |
|--|------|
| A. Motor vehicles of private and exempt carriers weighing over 4,000 pounds | \$25 |
| B. Motor vehicles of common and contract carriers and private carriers not included in (A) above weighing: | |
| 1. 12,000 pounds or less | \$35 |
| 2. 12,001 pounds to 18,000 pounds | 55 |
| 3. Over 18,000 pounds | 75 |

The above weight fees were last revised in 1970.

The amount by which ATC's expenditures exceeded its revenues increased by 20 percent during a four-year period, from Fiscal Year 1978 through Fiscal Year 1981. As noted above, the most recent increase in fees was made 10 years ago and the fees for air carriers have not been increased for 14 years. We recommend these fees be revised to diminish the effects of inflation on the operating costs of ATC.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis indicates both positive and negative attainments of the Alaska Transportation Commission and how its activities relate to the public need factors as defined by AS 44.66.050. This analysis is not intended to be comprehensive in nature.

I. The extent to which the board, commission, or program has operated in the public interest.

Based on our review we determined the existing policies and procedures of the Commission for administering the regulatory process of the transportation industry do not ensure the public interest is served in an effective, economical manner and in accordance with legislative intent (see Recommendation No. 1).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Slow promulgation of regulations has impeded the Commission's operations (see Recommendation No. 9). Continued regulation of dump truck operators has also hindered the Commission (see Recommendation No. 8). In addition, many of ATC's internal practices and procedures contribute to its inability to operate efficiently and effectively (see Report Conclusion, and Findings and Recommendations).

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

Statutory changes have been made which have raised the amount of civil penalties, conferred cease and desist authority to stop illegal carriers, clarified definitions of certain air carrier classifications, and deregulated bus and ferry transportation. Legislation has been introduced to deregulate dump truck operators (see Recommendation No. 8).

- IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The Commission receives feedback from interested persons through the public hearing process of resolving complaints in the course of regulatory proceedings.

- V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

The Commission publishes a bi-weekly journal which contains information on applications, Commission orders, enforcement actions, tariff changes, scheduled hearings, and other pertinent information. The journal is distributed to subscribers, news media, and other interested parties. Public participation is also encouraged through the hearings process.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

The Commission processes complaints and accusatory cases in an untimely manner (see Recommendation No. 4).

Between June of 1979 and December of 1980 the State Ombudsman's office received and closed 33 complaints regarding ATC. Eight of these cases were discontinued before completion due to lack of resources and the other 25 were referred to ATC or other agencies for further action, or additional information.

- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

The Commission, prior to granting authority to a regulated carrier, must determine whether the carrier is fit, willing, and able to provide adequate, safe, and efficient service. In our opinion, the Commission's ability to present qualified applicants to serve the public is impeded by lack of analysis of information submitted (see Recommendation No. 3).

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

We found no evidence of lack of compliance with State personnel practices or affirmative action requirements.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)
Note 1

Revenue Collected (See Schedule 1)	\$ 26,521
Expenditures	<u>1,453,980</u>
Excess of Expenditures Over Revenues	<u>\$(1,327,459)</u>

Schedule 1
Source of Revenue

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>	<u>Last Year Fee Increased</u>
Civil Penalties (AS 02.05.231 and AS 42.10.394)	Up to \$1,000 or an amount equal to revenue earned as a result of the violation, whichever is greater	When assessed by the Commission	1980
Misdemeanor (AS 02.05.230 and AS 42.10.393)	Up to \$500 for each offense	When assessed by the Commission	1970
Publication Fee	\$ 40	Upon any application	1975
<u>Motor Freight Carriers</u> (AS 42.10.160)			
Application Fee (for permanent, temporary, extension, or transfer)	\$ 50	Upon application	1970
Initial Registration Fee (for interstate and foreign commerce)	\$ 25	At issuance of permit	1972
Renewal Registration (for interstate and foreign commerce)	\$ 10	Annually on renewal date	1977
<u>Air Carriers</u>			
Application Fees (AS 02.05.075—for permanent, temporary, transfer, amendment, or lease) by Gross Take-Off Weight (GTOW):			1968
12,500 lbs. or less	\$100	Upon application	
12,501 lbs. or more	\$200	Upon application	
Registration Fee [AS 02.05.090(f)] by GTOW:			1968
4,000 lbs. or less	\$ 25	Annually	
4,001 lbs. but less than 7,900 lbs.	\$ 50	Annually	
7,900 lbs. but less than 12,500 lbs.	\$100	Annually	
12,500 lbs. but less than 27,000 lbs.	\$150	Annually	
27,000 lbs. but less than 50,000 lbs.	\$300	Annually	
50,000 lbs. but less than 75,000 lbs.	\$400	Annually	
75,000 lbs. or over	\$600	Annually	

Note 1: The records were not audited by us and accordingly, we do not express an opinion on the Commission Revenues Compared with Expenditures.

APPENDIX B

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION
PROGRAM ACTIVITY
For Fiscal Years 1981 and 1978

<u>Activity</u>	<u>1981</u>	<u>1978</u>
New Dockets	372	527
Orders Issued	588	783
Hearings Held	53	125
Citations Issued	28	72
Field Surveys	38	58
Civil Penalties Assessed (Notes 1 & 2)	\$83,500	\$134,915

Note 1: The records were not audited by us and accordingly we do not express an opinion on Commission revenues.

Note 2: The amount of civil penalties was increased from up to \$150 per offense to up to \$1,000 per offense or an amount equal to revenue earned as a result of the violation, whichever is greater, on July 1, 1980.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

JAY S. HAMMOND, GOVERNOR

1000 MACKAY BUILDING
338 DENALI STREET
ANCHORAGE, ALASKA 99501

PHONE: 279-1451

July 30, 1982

RECEIVED

AUG 01 1982

LEGISLATIVE
AUDIT

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
5th Floor, State Office Bldg.
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

Attached is our response to the Preliminary Audit Report:

A Performance Review of the Department of Commerce and
Economic Development, Alaska Transportation Commission,
April 1, 1982.

Our response follows the format of the report as sent to us. We have indicated for each recommendation a statement of agreement or disagreement; methods to be used to implement agreed to recommendations, and dates of expected implementation of recommendations.

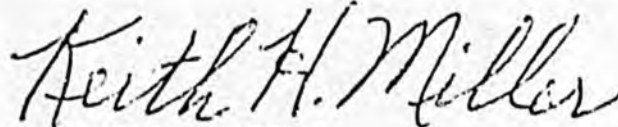
We have maintained the confidential nature of the report.

Copies of our responses have been distributed to the Governor, Commissioner Webber, the Department of Administration, and the State Internal Auditor for their review.

We have not commented on the nine items of "Analysis of Public Need," only those items included in the report.

Very truly yours,

ALASKA TRANSPORTATION COMMISSION



Keith H. Miller
Chairman

KHM/rm

ALASKA TRANSPORTATION COMMISSION'S
Response to:

A Performance Review Of The Department Of
Commerce and Economic Development
Alaska Transportation Commission
April 1, 1982

Commissioner Charles R. Webber
Department of Commerce and Economic Development

Deputy Commissioner Edward Eboch
Department of Commerce and Economic Development

Members of the Alaska Transportation Commission
Chairman Keith H. Miller
Commissioner Walter D. Kubley
Commissioner H. D. Scougal

Report Conclusion

The Alaska Transportation Commission does not agree with the stated conclusion. The recommendations stated do not substantiate the conclusions that the agency as it existed should be terminated on June 30, 1983.

Recommendation 1 is simplistic in that the premise appears to be that since a majority of other states have only one Commission, so should Alaska. There is no effort to analyze the impact that combining the two commissions would have on the public, the regulated industries or the Commissions.

While we agree that there may be a need for improvement in the existing policies and procedures, the deficiencies are not serious enough to be considered a failure to ensure service to the public or the regulated carriers. As to the comparison of Fiscal 1978 versus 1981 work load by using dockets, orders issued, and hearings held, it should be noted that during fiscal year 1981 the question of sunset was still undecided and many carriers simply did not apply for authority until the legislature acted to continue the agency. A comparison of FY 82 to FY 81 and FY 78 indicates:

<u>ACTIVITY</u>	<u>1982</u>	<u>1981</u>	<u>1978</u>
New Dockets	655	372	527
Orders Issued	693	588	783
Hearings Held	94	53	125

The ATC disagrees that the issuance of temporary authority is as serious as indicated by the audit report. The use of the Superior Court Order as a precedent is unfounded as the case before the Court involved the requirement to notify protestants, not simply the issuance of temporary authorities without written findings.

The Commission has attempted to implement the recommendations of the 1980 Legislative Audit. Additional staff has been requested without success, and, in fact, the FY 82 operating budget was reduced by 5% across the board. There is a definite need for additional accounting positions, enforcement agents, and more legal support from the Department of Law. The merger of the ATC with the APUC is not going to meet the needs of the public.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION NO. 1

The Alaska Transportation Commission should become a section within the Alaska Public Utilities Commission (APUC).

The Alaska Transportation Commission does not agree with this recommendation. The audit recommendations do not support the conclusion that the public interest is not being served by this Commission, and further, there is no basis to conclude that the combination of the two regulatory agencies would result in the public interest being better served.

There is no doubt that the ATC might improve its existing policies and procedures and level of enforcement. However, this recommendation, based on the reasons given, reflects a lack of familiarity with the differences between the legislative policies, objectives and methodology in regulating utility services and the policies, objectives and methodology in regulating transportation services.

To predicate such basic melding of economic regulatory functions simply on the number of States which have one commission as compared with those which have two commissions is overly simplistic.

Nowhere in the recommendation is there any comparison of the regulatory scheme, functions and circumstances of transportation regulation in Alaska relative to other States. For example, the report fails to recognize that only six other States regulate air commerce and air carriers. The six States that regulate air commerce generally regulate only scheduled service and do not significantly regulate contract or air taxi operations. One basic reason for the monumental difference between Alaska and other states is that in the other states the public has the alternative of using other modes of transportation such as auto, bus or train as there exist adequate road and railroad systems while in Alaska the only alternative is the airplane. Alaska's trucking industry is also somewhat unique in that most of the freight is moved within Alaska and the interstate portion of the move is usually a sea leg. Thus, Alaskan trucking firms have limited ability to compete across state borders.

Any such recommendation should be predicated on a thorough review and analysis of the difference in regulatory functions of the two commissions. In overly simplified form, the economic regulations of utilities and utility services is founded on the creation of territorial and functional monopolies and thereafter regulation by the government the performance of the monopoly utility. The regulation of transportation carriers and services is vastly different. The establishment of semi-controlled competition is perhaps the single most important ingredient in transportation regulation.

A review by an independent qualified firm could indeed review the staffing levels organization, and productivity of each commission and evaluate the impact on each commission of their combination. Such a merger must be based on a well organized, properly funded plan or the result could be utter chaos and an inefficient, unmanageable commission.

RECOMMENDATION NO.2

Temporary authority should be granted in accordance with statutes.

The ATC agrees that temporary authorities must be granted in accordance with applicable statutes, but disagrees with the implication that the Commission is issuing temporary authorities without considering the statutory constraints.

The ATC has discontinued the practice of sending telegrams except in extraordinary cases based on the conditions generating the request or location of applicant. We will continue to send telegrams or contact applicants by telephone to indicate a denial of temporary authority.

The Commission has taken steps to put better controls on the request for temporary authorities. 3 AAC 60.430 as amended effective May 28, 1982 requires the applicant to provide a specific statement of the facts which would authorize the Commission to grant relief and an explanation of why it should be granted ex parte without due notice and a hearing if required. If the application does not include the necessary information, no action will be taken.

The Commission concurs that no temporary should be approved or disapproved without written order providing the findings of fact and conclusions. However, we do not agree

that the written order must be prepared before the petitioner is notified or that temporary authorities can be granted only after the publishing period.

The Commission does not agree that Sec. 02.05.060 is as restrictive as the audit recommendation indicates. The Section clearly indicates the ATC is to consider the undue burden on the air carrier caused by either the emergency or the unusual circumstances affecting the operations. Further, the section goes on to specifically state that an emergency as defined in AS 44.62.250 need not be found before issuing an order.

When tied to Sec. 02.05.080, the statute detailing the issuance of air certificates, the authority to grant a temporary appears quite broad. It should be noted that in no case is the applicant granted an exemption from abiding by the same safety or financial responsibilities required of all carriers. The exemption is granted to allow performance of a service pending final approval of an application. Typically, in air, the request is for temporary authority to transfer ownership, to add or delete schedules, to operate from different bases, to add supplemental bases, or to begin operation. It does not appear that approval of such requests carries the implied disservice to the public or the industry that the recommendation indicates. AS 02.05.080 does not require the applicant to prove public convenience and necessity before the issue of certain types of certificates, and, in fact, the statute requires the Proponent to show that the proposed service is contrary to the public interest.

The Commission takes exception to the use of Superior Court Opinion No. 766441, Weaver Bros., Inc., and Copper Freight Line, vs ATC as supporting the opinion that temporary grants cannot be made before written orders are completed. The order is an unpublished opinion concerning a preliminary injunction and would not be considered legal precedent. The Commission interprets the opinion to say that in granting temporary authority under the motor carrier act, after an application has been protested, the Commission must support its decision by written findings. The key issue in the case was not the fact a temporary had been issued, but the fact the Commission granted a temporary without providing the Protestants of record an opportunity to argue their position before the grant was made thus denying them due process. The current Commission definitely recognizes the requirement to guarantee all parties due process and the circumstance that resulted in the cited case would not occur with the current Commission.

The statement on page seven indicating the average processing time of applications for permanent authority that did not require hearing to be five months is, in our opinion, misleading. A review of the 1982 orders issued for application for permanent authority that did not require hearing indicates an average of approximately three months, not five months. It should be noted that the Commission is very much aware of the 120 day rule as required in AS 02.05.070 and has not run over that time limit to date. While there can be delays in processing applications and orders, generally a review of dockets open longer than 120 days will show that either the application was incomplete and required follow-up or that some form of protest was included. In quite a number of cases, the protests are withdrawn a few days before the hearing is actually held. While such dockets may appear to include grants without hearings, the delays caused by having to schedule a hearing, notify all parties, and, in some cases, reschedule the hearing delays the final order. Such delays are clearly beyond the control of the Commission.

In summation, the Commission does not argue that in the past some temporaries may have been granted in haste, but disagree that the consequences are as serious as indicated and does not feel the temporaries constitute a violation of the public interest. The combination of the new regulations that were implemented May 28, 1982, and closer review of the circumstances supporting the request for temporary authority has resulted in more denials of temporary requests and very often those granted are not done so until after the 10-day notice period.

The question of temporary exemption for both air and motor might very well be the subject of statutory revision especially as applied to transfer. One solution to this continuing problem is to broaden the statute to define the term "emergency" and thereby clarify whether it is to have the aura of dire circumstances or as in AS 02.05 provide for the consideration of the carrier/applicant faced with unusual circumstances.

RECOMMENDATION NO. 3.

The economic regulatory procedures of the ATC should include financial analysis of data submitted by the carriers.

The Commission agrees there is room for improvement in the area of staff review of financial data submitted by carrier and applicants. However, with current staffing it is not possible for the ATC to do a full rate review for every tariff filing. We concur with the recommendation concerning verification of financial statements during the application process.

Specific action that has been taken since the date of the audit are as follows:

A. Processing of applications....

All applications are now reviewed by an accounting technician during the initial processing. If necessary, the staff requests the applicant to provide additional information or explain in writing the financial data submitted.

The ATC staff is in the process of reviewing the financial information form included in the application package. The revised form will provide a better detailing of the entries relating to financial fitness. The revised form should be in use by October 1, 1982.

B. ATC should require supporting documentation of tariff....

In this area it seems that the biggest problem appears to have been a failure to document staff action. With only three tariff specialist, it would not be possible for the ATC to control and set the rates for 200 common motor carriers and 225 air carriers. However, the staff has rejected many tariff filings that do not meet filing requirements and that might be discriminatory toward selected shippers, thereby providing protection to the public. We promptly review any complaint filed by a shipper and exercise our authority to ensure correct charges are made by all parties.

To improve the documentation problem, all tariffs are reviewed and initialed by a tariff specialist. The review is to ensure that all of the tariff rules have been met and that the tariff is in the proper form. A check list has been developed for air carrier tariffs and one for motor tariffs is being designed and should be in use by August 15, 1982.

The Commission agrees there is room for improvement in the area of staff review of financial data submitted by carrier and applicants. However, with current staffing it is not possible for the ATC to do a full rate review for every tariff filing. We concur with the recommendation concerning verification of financial statements during the application process.

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On July 21, 1982, a notice was sent to all air carriers requesting that financial support be provided when a tariff change is requested. A similar notice will be sent to the motor carriers. The staff will review the tariff changes against the indicated cost increases.

On August 2, 1982, an order opening a rate investigation will be sent to all dump truck carriers requesting information necessary to evaluate the current minimum rate.

C. Annual and quarterly financial reports should be analyzed.

All quarterly air carrier reports have been entered on the computer. This information is being used by another state agency, DOT/PF and several federal agencies to evaluate current airport and navigational needs. The origin and destination information is also used by our staff, carriers and applicants to determine economic feasibility for various routes.

The revised quarterly report form will be in use by the end of the year and will include some cost data. We have received some comment from carriers that they do not want to report too much financial information as our reports are public information and can be reviewed by competitors.

As a general comment, the ATC does not agree with the statement that it is not adequately performing its duties to satisfy its statutory mandates relating to economic regulation. The ATC has attempted repeatedly without success to add additional positions necessary to provide more economic analysis and review of the transportation industry. This recommendation, like Recommendation No. 1, fails to recognize the competition that exists between carriers. There appears to be the assumption that tariff filings are based on a sole source availability of carriers. In fact, there is intense competition between carriers and published tariffs reflect the competitive nature of the carriers.

The Commissioners of the ATC take strong exception to paragraph 2, Item "3" which quotes a staff memo in a file of one case which states that the case was closed because the staff was "unable to obtain a quorum of Commissioners to decide" the case. That memo, which is totally without foundation, was written on a Saturday between Commissioner Johnson's last day and Commissioner Scougal's first day. It

is outrageous that this memo, written by a former executive director was allowed to be included in the report. That executive director knew full well if he wanted that item or any other items decided by a quorum that all be had to do was put it on the weekly agenda.

RECOMMENDATION NO.4.

Complaints and accusations should be investigated and processed in a timely manner and accurate records of one complaint resolution process should be maintained.

The ATC concurs that the enforcement effort might be streamlined. However, the processing of accusations will always require considerable time from initiation to completion. The enforcement section must take care to insure that any accusation is based on fact and that there is reasonable assurance that a violation has occurred. Poorly based accusations result in unwarranted cost to the carrier, wasted staff time and a loss of confidence on the part of other carriers in the Commission's ability to enforce its regulations.

Steps have been taken to have the enforcement agents keep better records of the time spent on complaints, investigations and carrier contacts. An effort is being made to train all agents to prepare cases more expeditiously. However, every effort has to be made to ensure that the accused is guaranteed due process and that the staff functions under the same rules as any other party appearing before the Commissioners.

Definite improvement in processing documents necessary to keep cases active is expected. Before the end of the calendar year every agent will have a specific assigned case load and will be held accountable for each step of the processing from beginning to end.

RECOMMENDATIONS NO. 5.

The number of field surveys performed each year should be increased and should include a limited financial/compliance audit of accounting records.

The ATC agrees with this recommendation and expects to see improvement in the number and quality of carrier surveys.

A new motor survey format has been developed since this audit was conducted and is being used. Four motor surveys and eight air surveys have been conducted since May, 1982. The air surveys have always included a sample comparison of issued tickets to tariffs on file. The new motor survey procedures call for an examination of a sample of issued freight bills against tariffs, review of driver records to include owner operator leases and equipment records.

To go into a system of verifying annual reports against accounting records would require additional staff. The Commission is currently not staffed to perform in-depth financial audits of carriers. To perform this task would require at least three full time accountant/auditors.

RECOMMENDATION NO. 6.

The Commissioners and hearing examiners should write all the formal written decisions (orders) on docketed matters before ATC.

The ATC does not disagree with this recommendation. However, it is a very common practice in both court systems and regulatory agencies in virtually every state for the judges or commissioners to assign the prevailing party the task of drafting the order effecting the decision. In fact, in the case cited in Recommendation 2, plaintiff's attorney prepared the order Judge Singleton signed. The commissioner or hearing officer will indicate at the close of accusation or citation hearings that staff is assigned to draft the final order effecting the verbal decision.

As a point of information in May and June of 1982, Commissioner Scougal participated in a joint ICC-ATC hearing in Fairbanks for nine days. In June, Commissioner Miller and Scougal presided over 3 1/2 hours of hearings involving applications for dump truck authority.

RECOMMENDATIONS NO. 7.

ATC should establish procedures for the accountability and collection of civil penalties.

The Commission agrees that an accounts receivable system is needed for both the collection of civil penalties and other fees. It was expected that a system could be on line by the beginning of July 1982. However, due to workload, the system will not be operational until the end of August.

It should be noted that during the last six months there has been a greater effort in collecting the assessed penalties. Reminder letters are being sent to parties owing money. One major case involving \$7,000 in penalties has been referred to the Department of Law for civil action. The Commission refused to conduct a hearing for one carrier requesting an expanded authority until a delinquent penalty was paid. As an incentive for violators to pay penalties promptly, the Commission now provides in the final order for additional daily late fees if not paid promptly.

RECOMMENDATION NO. 8.

Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

The Commission agrees that dump truck operations should be exempt from economic regulation and has made an effort to get appropriate legislation passed to deregulate dump truck operations. Possibly with the support of a second legislative audit recommendation, the necessary revisions to AS 42.10 will be made.

The ATC does take exception to the comment that the Commission has "essentially exempted dump truck operators from economic regulation." The Commission has attempted to recognize the nature of the dump truck industry in Alaska, and effect its regulation with the least burden possible on applicants and permitted carriers.

Since the audit was performed, a combined dump truck hearing involving some 20 protested applications was held. After 3 1/2 hours of hearing time, the Commission granted four authorities, denied two, six were delayed at request of applicant, and eight were dismissed. Based on the testimony by protestants, it is clear that at least a portion of the dump trucking industry does not believe that it should be deregulated.

RECOMMENDATION NO. 9.

Regulations should be promulgated in a timely manner.

The Commission agrees in part with this recommendation in that regulations should be adopted as promptly as possible. However, it must be understood that the ATC cannot unilaterally issue regulations. Since all of our regulations have a direct impact on the carrier, the adoption process can be lengthy.

Specific action taken on the four sets of proposed regulations cited in the audit is as follows:

1. Practice and Procedural Regulations - These regulations are in effect and appear in Register 82, July 1982.
2. Regulations governing the construction and filing of tariffs issued by carriers. - The regulations are being redrafted and will be proposed by October 1, 1982. The major technical problem was that the proposed regulations attempted to combine motor and air carriers in one set of regs. This is not practical and the new draft will cover each mode separately with air being covered initially.
3. Insurance Regulations. - The proposed regulations are being reviewed and will probably have to be revised. Since the current insurance regulations are basically adequate, it is not expected that the revised regulations will be re-published for hearing until the first of the year.
4. Freight Forwarder Regulations. - The Order adopting the proposed regulations will be published by the end of August.

RECOMMENDATION NO. 10.

ATC should seek legislation to increase fees.

The Commission agrees with the increased fee schedule and would support legislation introduced to that effect. However, it should be noted that fees for motor vehicle licenses have not increased for some years, so possibly the entire fee structure for commercial vehicles should be reviewed.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

JAY S. HAMMOND, GOVERNOR

1000 MACKAY BUILDING
338 DENALI STREET
ANCHORAGE, ALASKA 99501
PHONE: 279-1451

August 2, 1982

RECEIVED
AUG 9 1982

LEGISLATIVE
COUNCIL

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
5th Floor, State Office Bldg.
Pouch W
Juneau, AK 99811

Ref: Errata Sheet #1, Recommendation #6, Pg. 9 of our Response to the Preliminary Audit Report: A Performance Review of the Department of Commerce and Economic Development, Alaska Transportation Commission, April 1, 1982.

Dear Mr. Wilkerson;

Please correct the 4th line, second paragraph to read "...Scougal presided over 3 1/2 hours of hearings involving applications for dump truck authority."

Very truly yours,

ALASKA TRANSPORTATION COMMISSION

Keith H. Miller
Keith H. Miller
Chairman

KHM/jv

Gerald L. Wilkerson, CPA
Legislative Auditor

-2-

August 2, 1982

cc:

Honorable Jay S. Hammond
Governor
3rd Floor, Capitol Bldg.
Pouch A
Juneau, AK 99811

Charles R. Webber
Commissioner
Department of Commerce and
Economic Development
9th Floor, State Office Bldg.
Pouch D
Juneau, AK 99811

Commissioner
Department of Administration
10th Floor, State Office Bldg.
Pouch C
Juneau, AK 99811

John O'Meara, Director
Division of Internal Audit
Pouch AU
Juneau, AK 99811

Edward Eboch
Deputy Commissioner
Dept. of Commerce and
Economic Development
9th Floor, State Office Bldg.
Pouch D
Juneau, AK 99811

COMMITTEE REPORT

HOUSE

LABOR & COMMERCE
~~FINANCE~~

(9)

FURTHER:

4/23/83

Date: 5/4/83

Mr. Speaker:

The Committee on TRANSPORTATION has had CSSB 184(L&C)

"An Act extending the termination date of the Alaska Transportation Commission; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the Labor and Commerce Committee

MEMBERS SIGNING
DO PASS

M.W. Miller

W.C. ...

W.H. ...

...

...

...

...

...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

...

Richard ...

...

...

...

...
CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 184 (L&C)
 Title: Extending termination of ATC
 Sponsor: Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
 Program Category Affected: Consumer Protection
 BRU, Program of Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Catherine Wallen Phone: 465-2504
 Division: Administrative Services Date: _____
 Approved by Commissioner: Richard A. Lyon Date: 5/3/83
 Department: Commerce & Economic Development

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

CSSB 184 (L&C) FISCAL NOTE ANALYSIS

The submitted FY '84 budget request for ATC follows:

Operating Expenditures	FY '83	FY '84
Personal Services	1,356.6	1,293.1
Travel	57.7	61.2
Contractual	182.5	192.2
Commodities	16.2	16.9
Equipment	1.2	-0-
	<u>1,614.2</u>	<u>1,563.4</u>
Capital Expenditures	Ø	Ø
Revenue	145.2	155.2

If the legislation fails to pass and ATC sunsets, there will continue to be a financial impact to the State for the administration of the State's share in the Essential Air Services Program and for verification of insurance registration. The reduced responsibilities would be reflected in the FY '85 budget request. In this case, the budget would be as follows:

Operating Expenditures	FY'83	FY '84	FY '85	FY '86	FY '87
Personal Services	1,356.6	1,293.1	69.6	73.8	78.2
Travel	57.7	61.2	Ø	Ø	Ø
Contractual	182.5	192.2	16.5	17.5	18.5
Commodities	16.2	16.9	2.0	2.1	2.2
Equipment	1.2	Ø	Ø	Ø	Ø
Total Operating	<u>1,614.2</u>	<u>1,563.4</u>	<u>88.1</u>	<u>93.4</u>	<u>98.9</u>
Capital Expenditures	Ø	Ø	Ø	Ø	Ø
Revenue	145.2	155.2	Ø	Ø	Ø
Positions (Full-Time)	30	28	2	2	2