HB
168

HOUSE COMMITTEE REPORT

FILE

(11)
Date Referred: March 13, 1990 FURTHER REFERRALS:

Date of Committee Action: 3/22/90

The FINANCE Committee considered: HB 168

HOUSE BILL NO. 168 LOCAL EXCHANGE PHONE COS./TARIFF FILINGS

"An Act relating to simplified regulation of local exchange telephone utilities; and relating to suspending the operation of tariff filings."

RECOMMENDATIONS:
[X] be replaced with CS HB 168(L&C) [X] the same title [ ] a new title
[ ] have attached amendment(s)
[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the ____________ Committee

ADOPTS: ____________ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact ________
[X] zero fiscal note H FIN CMTE.
[ ] zero with analysis ________

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) ________
[ ] zero fiscal note(s) ________
[ ] zero fn/analysis ________

SIGNING DO PASS:
Carson
Wallis
Rieger
Phillips
Swackhammer
Shultz
Ulmer

SIGNING: (Check approp. column)

Name	Do Not Pass	No Rec	Amend
Koponen		X	

Chairman's Signature
Carson

Adopted

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 168 (L&C)
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date: 3/22/90
Title: Local exchange telephone utilities/tariff filings
Sponsor: Boucher
Requestor: House Finance Committee

Agency Affected: Commerce & Economic Dev.
BRU: APUC
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Finance Committee — Phone: 465-3727
Division: Co-Chairman Ron Larson [signature] — Date: 3/22/90

Approved by Commissioner: Co-Chairman Lyman Hoffman [signature] — Date: 3/22/90
Agency:

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 3/13/90
Referred: Finance

6-0777J

Original sponsor(s): State Affairs Committee

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 168 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to simplified regulation of local
7 exchange telephone utilities; and relating to sus-
8 pending the operation of tariff filings."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 42.05.381(e) is amended to read:

11 (e) The commission shall adopt regulations for electric coopera-
12 tives and for local exchange telephone utilities setting a range for
13 adjustment of rates by a simplified rate filing procedure. A cooper-
14 ative or telephone utility may apply for permission to adjust its
15 rates over a period of time under the simplified rate filing procedure
16 regulations. The commission shall grant the application if the coop-
17 erative or telephone utility satisfies the requirements of the regu-
18 lations. The commission may review implementation of the simplified
19 rate filing procedure at reasonable intervals and may revoke permis-
20 sion to use the procedure or require modification of the rates to
21 correct an error.

22 * Sec. 2. AS 42.05.421(a) is amended to read:

23 (a) When a tariff filing is made containing a new or revised
24 rate, classification, rule, regulation, practice, or condition of
25 service the commission may, either upon written complaint or upon its
26 own motion, after reasonable notice, conduct a hearing to determine
27 the reasonableness and propriety of the filing. Pending the hearing
28 the commission may, by order stating the reasons for its action,
29 suspend the operation of the tariff filing. For a tariff filing that

1 does not change the utility's revenue requirement or rate design, the
2 suspension may last for a period not longer than six months beyond the
3 effective date established in the tariff filing unless the commission
4 extends the period for good cause. For a tariff filing that changes
5 the utility's revenue requirement or rate design, the suspension may
6 last, unless the commission extends the period for good cause, for a
7 period not longer than
8 (1) [AN INITIAL PERIOD NOT LONGER THAN] six months before
9 an interim rate equal to the requested rate goes into effect and not
10 longer than 12 months before a permanent rate goes [BEYOND THE TIME
11 WHEN IT WOULD OTHERWISE GO] into effect if the annual gross revenues
12 of the utility making the filing are more than $3,000,000; and
13 (2) [NOT LONGER THAN] 150 days before an interim rate equal
14 to the requested new rate goes into effect and not longer than one
15 year before a permanent rate goes into effect if the annual gross
16 revenues of the utility making the filing are $3,000,000 or less.

March 6, 1990

STATEMENT OF ALASKA TELEPHONE ASSOCIATION ON THE LABOR AND COMMERCE CS FOR HOUSE BILL 168

A. House Labor & Commerce Committee Substitute

The Labor and Commerce CS makes two changes to the State Affairs CS:

1. The words rate design are included in Sec. 2(a). Alaska Telephone Association agrees with this amendment.

2. In Sec. 2(a)(1), it would require an interim rate to be approved within twelve (12) months of a rate case filing and a permanent rate within eighteen (18) months. Alaska Telephone Association opposes this change.

At its February 1 public meeting, the Commission agreed that twelve (12) months is the norm for action on rate cases. We agree with the two Commissioners voting to endorse the bill that to state eighteen (18) months in statute would result in changing the norm to eighteen (18) months. That is not progress.

B. Amendment #1

Amendment #1 would define "goo cause" to include insufficient staff or money to comply. Alaska Telephone Association has concerns about this language as it appears to weaken the bill. We are convinced that the phrase "for good cause" contained in the State Affairs CS has legal standing and is sufficient to allow for extensions for a variety of acceptable reasons.

C. Amendment #2

Amendment #2 would allow the Commission six months to respond once the proceeding is completed. Alaska Telephone Association does not support this amendment simply because it is the length of proceedings about which we are concerned. It would do little good to require a decision within six months if the proceedings stretched on for fourteen months prior to completion.

ALASKA Telephone ASSOC.
6 MARCH 1990
GORDON PARKER

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON CSHB 168 (State Affairs)

April 26, 1989

The following comments are submitted in response to the House State Affairs Committee substitute for HB 168:

Section 1:

The Commission continues to oppose extension of the simplified rate filing procedure to local exchange companies (LECs) for several reasons:

1. The policy premise for establishing a simplified rate filing procedure for electric cooperatives does not apply to all LECs. AS 42.05.381(e) effectively transfers some regulatory responsibility to the elected boards of directors of electric cooperatives. These boards represent, and are otherwise accountable to, ratepayers. If ratepayers object to the rates which are implemented by the boards, they can change directors through the electoral process. In any event, any "excess profits" which may result under this reduced regulatory scheme ultimately flow back to ratepayers through capital credit distributions.

2. LEC regulation is more complex because it involves the separation of costs and revenues between local, intrastate toll, and interstate toll services. Therefore, there are some inherent limits on simplification which are not present with electric cooperatives.

3. The Commission is currently addressing the issue of simplification of regulation for all small utilities through a generic proceeding and believes that this approach is more appropriate and more targeted than what has been proposed in Section 1.

4. There is no historic basis for justifying simplification of ratemaking for LECs, given the small number of LEC rate cases there has been over the last 10 years. However, the Commission understands the concern of the LECs that they may be facing rate cases in the future due to cost increases resulting from decisions made by the Federal Communications Commission and pending before this Commission. The Commission believes that this problem is specific and short-term in nature and can best be addressed in conjunction with the actual rulemaking proceedings.

5. If this regulatory scheme is good policy for the LECs, it is difficult to imagine why an argument could not be made that it is equally applicable to all other types of utilities. This logic and conclusion effectively results in little or no utility regulation in Alaska.

Section 2:

While the form and substance of this section have been improved, the Commission believes that the time frames set forth in proposed AS 42.05.421(a)(1) are too short. At a minimum, it is recommended that they be increased to 12 months and 18 months.

The basis of this suggestion is the recognition that fully adjudicated rate cases involving large utilities cannot realistically be completed in less than one year's time. Within 45 days of receiving a request from a utility for a rate increase, the Commission performs an initial evaluation of the filing; determines whether the request should be suspended for investigation and hearing; and, if so, grants an interim rate increase. The

processing of a rate case which is suspended for full adjudication includes any or all of the following steps:

1. preparation of utility prefiled testimony,
2. auditing by Staff and intervenors,
3. discovery and depositions by Staff and intervenors,
4. preparation of Staff and intervenor prefiled testimony,
5. discovery and depositions by utility,
6. preparation of utility prefiled reply testimony,
7. preparation of statements of issues,
8. public hearings,
9. preparation of briefs and reply briefs,
10. deliberations and decision-making by Commission,
11. drafting of decision,
12. distribution, editing, and meeting on decision,
13. publication of decision,
14. computation by utility of revenue requirement in conformance with decision,
15. comment by Staff and intervenors on the correctness of utility's revenue requirement computation,
16. issuance of final rate determination, and
17. preparation and processing of petitions for reconsideration at varying decision phases.

The Commission operates more like the Supreme Court than the Superior Court or a state agency because the decision-making process involves bringing together three to five people. This necessarily expands the time necessary for coordination and disposition of decisions. The Supreme Court typically allows at least six months for issuing opinions after the record is closed in a case, and the Commission requires a similar amount of time to finalize decisions in complex rate proceedings. In is also important to consider that the Commission's decisions may be appealed to the courts and must be legally and technically sustainable.

CSHB 168

Local Exchange Phone Utilities/Tariff Filings

The committee substitute for HB 168 has substantially reduced the APUC's original estimate of fiscal impact. However, a review of both sections 1 and 2 of CSHB 168 reveal that some level of augmented resources will still be necessary if this bill is enacted. Section 1 contributes to this impact in the creation of a new rate review procedure for telephone utilities. While a simplified filing may require less analysis than a traditional rate case, these filings will be made with much greater frequency and are likely to be utilized by a significant number of regulated telephone utilities. The combination of this effect will contribute to a positive fiscal impact.

Although section 2 of the bill now provides for the exercise of Commission discretion in extending the processing time for cases based on "good cause", the obvious intent of this section is that the Commission should improve its turnaround time for tariff review and decision making. Although it is difficult to quantify, it is clearly necessary to enhance the level of staff resources available to achieve the intent of this provision.

The APUC estimates that the combined impact as noted above will result in the need to add three positions to its authorized staffing. Proposed additions include a Utility Finance Analyst II, a Utility Tariff Analyst II, and an Administrative Support Technician III.

Item 3

STATE OF ALASKA

STEVE COWPER, GOVERNOR

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DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 168

February 21, 1989

The Commission opposes Section 1 of HB 168. This Section extends the simplified rate filing procedure currently allowed for electric cooperatives under AS 42.05.381(e) to all local exchange telephone companies (LECs). The existing law was premised on the elected board of directors of electric cooperatives assuming responsibility for rate changes. The proposed bill would extend this ratemaking option to all LECs regardless of their ownership or size. Rate increases for electric cooperatives are limited to 8 percent per year or 20 percent over three years under Commission regulations which can be modified, if necessary. HB 168 would allow LECs to increase their rates by 10 percent per year by statute. The level of rate increases permitted under a simplified filing procedure should not be established by statute, and, in any event, 10 percent annually is too high. It would allow LECs to double their rates in less than 8 years without significant regulatory oversight. In addition to the above, the Commission questions whether LEC regulation is amenable to this simplified process given the complexities of separating costs and revenues between local, interstate and intrastate toll services. Lastly, if this regulatory scheme is good policy for the LECs, it is difficult to imagine why an argument could not be made that it is equally applicable to all other types of utilities. This

logic and conclusion effectively results in no utility regulation in Alaska.

The Commission also can not support Section 2 in its present form. Any deadlines for Commission action must be established with due consideration of the resources available to the Commission to perform its duties and of the consequences of any inability to do so. Also, any deadlines should have some provision for extensions under extenuating circumstances. While a fixed time period may be desirable and achievable in most instances, the time periods established under the bill are too short and too restrictive for a number of reasons:

(1) Given budget cuts in recent years, the Commission is presently overloaded without imposing any additional time constraints on its performance.

(2) It is not appropriate to size the Commission Staff (per the attached fiscal note) in order to assure that cases that are particularly large or complex, or that happen to be filed contemporaneously, can be handled within a narrow time period. Rather, it is preferable to use scheduling flexibility to smooth out workload where necessary.

(3) To the extent that cases currently take longer than one year to process, it is just as likely to be a function of utility delay as it is regulatory delay. If the Commission were bound by a one year time frame, it would have to be much more stringent with respect to the quality of utility filings and requests for extension of time. In addition, it would not be a desirable

result if permanent rate requests were either rejected or accepted prior to completion of Commission review simply because the time period had run out.

(4) Any utility which requests interim rate relief and meets certain minimal standards is granted an interim rate increase within 45 days of filing its request. Requiring a second interim within six months is an administrative and regulatory burden and increases the likelihood that a refund may be necessary. The Commission believes that the provision to increase an interim rate to the level of the permanent rate request should not be exercised until one year has passed, so this additional financial protection would be invoked only in those instances where rate cases had been unduly protracted.

While the Commission continues to prefer the existing statutory language, it would suggest that if the approach in Section 2 is adopted, the provisions be clearly targeted at tariff filings in which utilities request general rate increases to offset a revenue shortfall. In addition, the time frames should be enlarged after due consideration of the Commission's duties and resources and the actual impact of both existing and proposed deadlines on utilities. Lastly, there should be a provision for extending the full time period under extenuating circumstances. Attached is alternative draft legislation for Section 2 addressing some of the Commission's concerns.

Attachment

HB 168

AS 42.05.421 is amended to read:

(a) When a tariff filing is made containing a new or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing. Pending such a hearing the commission may, by order stating the reasons for its action [SUSPEND THE OPERATION OF THE TARIFF FILING FOR]:

(1) suspend the operation of any tariff filing which does not include an increase in the utility's revenue requirement for an initial period not longer than six months beyond the time it would otherwise go into effect, and for such additional periods as appropriate;

(2) suspend the operation of a tariff filing which includes an increase in the utility's revenue requirement for a period not longer than 12 months before an interim rate increase equal to the requested rate increase goes into effect and, absent good cause shown, not longer than -- months before a permanent rate increase goes into effect if the annual gross revenues of the utility making the filing are more than $3,000,000; and

(3) suspend the operation of a tariff filing which includes an increase in the utility's revenue requirement for a period [2]

not longer than <u>5 months</u> [150 DAYS] before an interim rate <u>increase</u> equal to the requested [NEW] rate <u>increase</u> goes into effect and, <u>absent good cause shown</u>, not longer than one year before a permanent rate increase goes into effect if the annual gross revenues of the utility making the filing are $3,000,000 or less.

From: Peter Sokolov
Commissioner
APUC

ALASKA PUBLIC UTILITIES COMMISSION

ADDITIONAL COMMENTS ON HB 168*

FEBRUARY 26, 1990

Subsection AS 42.05.381(e)

The Commission wishes to reiterate and emphasize that it fully supports the concept of "simplified rate filing procedures"; however, it opposes this bill because of a question of timing and knowing how to precisely effect such simplification. Any system that would continue to protect the ratepayer and truly be simpler requires considerable effort to develop on the part of the Commission as well as the industry. Thus far, the principal proponent has not come up with any specific approach. (In the original version of this bill the Alaska Telephone Association (ATA) proposed automatic annual rate increases up to 10 percent which was unacceptable to the Commission, especially in an industry where costs are generally decreasing).

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*Commissioner Daniel Patrick O'Tierney was out of State and did not participate at the February 23, 1990, public meeting in which the Commission discussed these additional issues. Commissioner Whiteaker is on leave until shortly before the effective date of her resignation on March 2, 1990, and also did not participate.

As the ATA has testified, major changes are occurring in the way local exchange company (LEC) costs are allocated between intERstate, intRAstate, and local jurisdictions, and indeed the shifts are unfavorable for some of the companies. ATA failed to mention, however, that except for the Anchorage Telephone Utility, GTE Alaska, and Telephone Utilities of Alaska, all other local telephone companies are eligible for the Federal Universal Service Fund that was explicitly established to mitigate the impact of the cost allocation changes on local rates of small telephone companies. For example, in the case of Matanuska Telephone Association which was cited in ATA's testimony to the Committee on February 22, 1990, there are cost shifts to the local jurisdiction of nearly $3 million from intERstate toll and almost $2 million from intRAstate toll. The Universal Service Fund, however, cancels the impact of these shifts to the extent that the resulting impact on local rates is only one cent per month.[1]

Currently, the regulation of telephone companies, both local and long distance, is in a highly evolutionary state. In the fall of 1990, LECs will file access charges,

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[1]Comments presented in the fall of 1989 by Commission Staff which were based on data supplied by ATA on August 18, 1989, in Docket R-88-3.

and the Commission is very hopeful that data attained in conjunction with access charges will provide the majority of the data needed in rate cases. The extent to which access charge data can simplify rate proceedings will only be known after the initial filings are made and analyzed. The Commission also remains open to consider other approaches. Incentive rates and variations of the FCC "price cap system" are used in other states; however, experience has shown that most such systems turned out to be considerably more complex and controversial than initially expected.

Most other states have already dealt with access charges and competition several years ago, and now are experimenting with new approaches to telephone company ratemaking. Due to the uniqueness of the Alaska network, the issues of access charges and competition are only now being addressed. The competition issue alone is exceedingly complex. Consequently, the Commission believes that it is essential that the majority of its efforts be devoted to these issues during the next year.

The Commission wishes to apprise the Legislature that due to shifts in cost allocations, local exchange costs of some companies will experience considerable decreases while others will see considerable increases. Consequently, allowing utilities to automatically raise rates would inadequately

protect ratepayers of some telephone companies but would provide insufficient revenues for other telephone companies. In its testimony to the Committee, the Commission tried to be very direct and call attention to the vagueness of the word "simplification." Rather than legislation, the Commission believes it needs an honest and cooperative discussion with the industry about a specific "simplification" approach that could reasonably maintain the same level of protection of the ratepayer as is being given now. In any event, should the Legislature desire to include telephone companies in AS 42.05.381(e), the Commission urges that, unless a specific approach is thoroughly examined, the legislation be stated in as general terms as possible.

Section AS 42.05.421(a):

In response to the suggestion made by Representative Gruenberg, the Commission offers the attached modifications to AS 42.05.421(a) to impose a time limit to the Commission's decisionmaking. As previously explained, the Commission does not believe that the changes requiring interim rate increases are warranted since interim rate relief based on a "probable success" criterion is routinely granted within 45 days of the utility's filing.

The Commission wishes to reemphasize that the attached modification to AS.42.05.421(a) only addresses the time frame after the case is taken under advisement by the Commission. The Commission has direct control over this time frame and considers the proposal reasonable.

Alternatively, the Commission requests that the Legislature adopt an 18-month time limit for the overall case with a "for good cause" exception to account for the most unusual circumstances. While the 12-month limit advocated by the ATA is an admirable goal, the Commission has limited control over the timeframe that some of the individual steps may require. The Commission requests that the Legislature either adopt the 6-month limit following the time the case is referred to the Commission or the 18-month time limit for the overall case and not both. Implementing both restrictions may handicap the Commission from effectively discharging its duties.

The Commission's proposed amendment is as follows:

AS 42.05.421(a) is amended to read:

(a) When a tariff filing is made containing a new or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written

complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing. Pending the [SUCH A] hearing the commission may, by order stating the reasons for its action, suspend the operation of the tariff filing for a period not to extend more than six months after the matter is referred to the commission for opinion or decision

[(1) AN INITIAL PERIOD NOT LONGER THAN SIX MONTHS BEYOND THE TIME WHEN IT WOULD OTHERWISE GO INTO EFFECT IF THE ANNUAL GROSS REVENUES OF THE UTILITY MAKING THE FILING ARE MORE THAN $3,000,000; AND

(2) NOT LONGER THAN 150 DAYS BEFORE AN INTERIM RATE EQUAL TO THE REQUESTED NEW RATE GOES INTO EFFECT AND NOT LONGER THAN ONE YEAR BEFORE A PERMANENT RATE GOES INTO EFFECT IF THE ANNUAL GROSS REVENUES OF THE UTILITY MAKING THE FILING ARE $3,000,000 OR LESS].

PD
GB

STATE OF ALASKA

STEVE COWPER, GOVERNOR

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DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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February 1, 1990

Representative Dave Donley, Chair
House Labor and Commerce Committee
Alaska State Legislature
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

This is in response to your letter of January 15, 1990, regarding the Commission's position on the simplified rate filing process and time limits set forth in HB 168 and on the status of the reconsideration petitions on the Commission's jurisdictional cost separations decision.

The Commission held a public meeting on the proposed particular modifications to AS 42.05.421(a). All Commissioners agreed that the regulations adopted for electric cooperatives cannot directly be applied to telephone utilities and that data attained in conjunction with access charges could provide a basis for simplifying local exchange carrier (LEC) rate cases. However, the Commissioners disagreed as to how and when simplified ratemaking regulations should be addressed.

The majority of the Commission (Commissioners Knowles, Sokolov and Foster) opposed the addition of LECs to AS 42.05.381(c) at this time. The minority, Commissioners Whiteaker and O'Tierney endorse the proposed modification to AS 42.05.381(c).

The majority's reasoning is based on the premise that regulation is inherently more complex for LECs than for other utilities because it is necessary for them to perform cost separation studies to divide their revenues, expenses, and investment between local exchange, intrastate and interstate toll services and among their regulated and unregulated services. The majority believes, however, that after some experience is gained with access charge

filings which are due to be filed for the first time in the fall of 1990, these filings may provide a logical starting point for simplifying rate cases for all, or at least for the smaller, LECs.

In addition, the Commission is now developing regulations that may introduce intrastate toll competition within the next year. If this were to occur in addition to the implementation of access charges, the majority believes that it would be somewhat unrealistic to expect that simplified ratemaking regulations could be developed and adopted within the same timeframe. However, this does not preclude the primary advocate of this bill, the Alaska Telephone Association, from filing proposed regulations with the Commission to achieve its purpose (AS 44.62.220 - .230.) Not only would this likely advance the timetable but also it would give the Commission the industry's preferred position as a starting point for evaluating simplification options at a later time.

Time Limit:

The amendments in AS 42.05.421(a) apply to all utilities. Given the "good cause" exception in the current version of the bill, the Commission does not oppose the six month time limit imposed on tariff filings that do not change utility rates. In this regard, the Commission proposes the following textual changes: "For a tariff that does not [INCLUDE AN INCREASE IN] change the utility's revenue requirement or rate design, the suspension may last for a period not longer than six months beyond the effective date established in the tariff filing unless the commission extends the period for good cause. For a tariff filing that includes [AN INCREASE] a change in the utility's revenue requirement or rate design, the suspension period may last for a period not longer than . . . "

Also, given the "for good cause" exception, the Commission also does not oppose a time limit for a permanent rate to go into effect for utilities grossing more than $3,000,000. There was disagreement, however, as to what that time interval should be. Commissioners Whiteaker and O'Tierney concur with the proposed 12 month time limit before a permanent rate goes into effect, reasoning that complex cases, which are considerably less frequent than routine rate cases or rate design cases, are likely to

qualify under the "for good cause" exception. Commissioners Knowles, Sokolov and Foster endorse an 18 month time limit which would allow the Commission to complete all but the most unusual cases within the statutory time limit. In the view of the majority, the lengthy State procurement procedures for hiring consultants that are sometimes needed in the more complex rate cases, the time required for Staff audit, discovery and depositions, hearings, briefs, deliberations, preparation of a substantive order, and subsequent calculations makes the 12 month limit simply too right. The Commission will, of course, continue its objective to complete the vast majority of rate cases within less than one year.

Given the majority endorsed the 18 month time limit, the Commission was unanimous in recommending that the proposed six month time limit before an interim rate EQUAL to the requested rate be increased to 12 months.

Interim rate increases are currently granted within 45 days after a utility files for a change in rates; however, these are not necessarily equal to what the utility requests. Normally, the Commission grants interim increases on a probable success criterion. That is, the Commission eliminates from the interim amount those items which, upon a preliminary analysis, more likely than not will be disallowed on final hearing. An interim increase may also be modified during any time it is in effect if circumstances dictate. Thus, requiring a further interim that equals the utility's request increase as six months introduces unnecessary administrative complexities into the process without countervailing benefits.

The Commission also believes that both AS 42.05.4212(a)(1) and (2) should be clarified with respect to which requested rate becomes the permanent rate when both an interim rate and permanent rate have been requested by as utility.

Reconsideration:

By a three to two vote, the Commission adopted a 20 percent factor for allocation of certain non-traffic sensitive costs to intrastate toll service. (Order R-88-3, dated November 17, 1989.) On December 1, 1989, the Alaska Telephone Association

(ATA) filed a petition for reconsideration of this decision, and on December 11, 1989, Alascom, Inc. filed in opposition to ATA's position. The procedures for handling reconsideration petitions are clearly set out in 3 AAC 48.105, a copy of which is attached to this letter for your convenience. This regulation gives the Commission 30 days from the filing of a petition to order reconsideration and further provides that no action on a petition during the time allowed for reconsideration results in automatic denial. The ATA petition was effectively denied on December 31, 1989, under this automatic provision.

I hope this adequately responds to all of the questions in your January 15 letter. However, if you need more information or further explanation of the Commission's views, please be sure to let me know.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION

Peter Sokolov

Peter Sokolov
Chairman

Authority: AS 42.05.141 AS 42.05.451
AS 42.05.151 AS 42.06.140(a)

3 AAC 48.105. PETITIONS FOR RECONSIDERATION. Within 15 days after an order of the commission is served, a party may file a petition for reconsideration of that order setting out specifically the grounds upon which the petitioner believes the order is unreasonable, erroneous, unlawful, or otherwise defective. The petitioner may also submit a proposed order designed to cure the alleged defects of the commission's order. A party opposing a petition for reconsideration has 10 days after the date on which the petition is filed with the commission to respond. The commission's power to order reconsideration expires 30 days after the date on which the petition for reconsideration is filed with the commission. If the commission takes no action on a petition for reconsideration within the time allowed for ordering reconsideration, the petition is automatically denied. The commission may order reconsideration in writing of all or part of the record in a proceeding together with any additional evidence and argument which may be permitted either in writing or orally. The mere filing of a petition for reconsideration does not excuse the petitioning party from compliance with a decision or order of the commission. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90)

Authority: AS 42.05.141
AS 42.05.151
AS 42.06.140(a)

3 AAC 48.110. INTERVENTION. (a) Petitions for permission to intervene as a party will be considered only in those cases that are to be decided upon an evidentiary record after notice and hearing. Any person who has a statutory right to be made a party to that proceeding will be permitted to intervene. Any person whose intervention will be conducive to the ends of justice and will not unduly delay the conduct of the proceeding will, in the commission's discretion, be permitted to intervene. The commission does not grant formal intervention, as such, in nonhearing matters, and any interested person may file documents authorized under 3 AAC 48.010 — 3 AAC 48.170 without first obtaining permission.

(b) In passing upon a petition to intervene, the following factors, among others, will be considered:

(1) the nature of the petitioner's right under statute to be made a party to the proceeding;

(2) the nature and extent of the property, financial, or other interest of the petitioner;

(3) the effect on petitioner's interest of the order which may be entered in the proceeding;

HB168

Alaska Telephone Association
201 E. 56th Avenue / Suite 230
Anchorage, Alaska 99518
(907)563-4000 / FAX (907)562-3776

Claude Zike
President

Gordon Parker
Executive Director

March 1, 1990

To: Rep. Donley
Ginger Baim
From: Gordon Parker
Re: CSHB 168

Following is a discussion of the latest position paper from the APUC regarding HB 168. I hope this is helpful to you.

If you have any questions, please don't hesitate to call.

Thanks for all your assistance and patience.

COMMENTS OF ATA REGARDING 2/26/90 APUC POSITION PAPER ON HB 168

I am unable to comment on anything which occurred at the February 23 public meeting of the commission as we received no notice that it was being held.

ATA did originally draft a specific simplified approach providing for a range of rates concept, i.e., a company could make rate adjustments which fell within a predetermined range (which we established at ten per cent) and the approach was unacceptable to the commission. This is a concept in use in several other states and one which is working well. It in no way implies an automatic rate adjustment. Built into the system are opportunities for consumers, staff or the commission itself to review the process and stop the process if appropriate.

The document also implies that costs to the telephone industry are coming down. This is a misconception. It would be correct to say that the costs of the system which relate to those pieces of equipment which are driven by the continual reduction in the costs of electronics are going down. However, these are capital costs which show up as reductions in a company's depreciation expense. While these costs are going down, there are continuing pressures due to rapid technological change resulting in a shorter depreciable life. In other words, an electronically driven switch used to cost, say $750,000 and its effective life was, perhaps, 20 years. That same switch today may cost $600,000 but will be outmoded in 15 years, thereby compressing the time available for the company to recover its investment.

While the costs associated with electronics goes down, the reduction is offset by increases in the enhanced features built into the switches, i.e., software. In fact, companies are being required to make investments in some enhanced features not because of customer demand but because they are forced to. Protocol Seven is a good example. In rural areas, there is little market for the enhanced features provided by Protocol Seven. However, as the nationwide network is shifting to Protocol Seven in the near future, Alaskan companies will be required to follow suit in order to have continued access to national data bases which provide billing verification.

It should also be noted that the electronic component is only part of a company's system. The other parts, i.e., buildings, cable, vehicles, tools, etc., are all increasing with inflation.

As with any business, labor is a significant cost of doing business. Labor costs are not going down. Perhaps more significant is the cost of providing benefits. As the legislature is aware, and as a trustee of an insurance plan I can personally testify, the cost of providing benefits is reaching a state of crisis. Other items necessary to the operation of a business, i.e., travel, stationery, furniture, etc., are all increasing to us just as they are to other businesses.

In summary, it appears that in making the statement that costs in the telephone industry are decreasing, the commission is taking an extremely narrow view at one category of costs and considering neither the shortened period available for depreciation nor the costs associated with other categories.

As we have consistently advised the legislature, the problem we are facing is one of cost shifts. The FCC has ordered that only 25 per cent of a telco's costs can be recovered from the interstate toll jurisdiction. The APUC has ordered that only 20 per cent of a telco's costs can be allocated to the intrastate toll jurisdiction. That means that 55 per cent of the costs must be borne by the local ratepayer. Some telcos must act to adjust their rates. We think it to be in the public interest to develop a method to accomplish those adjustments which will reduce the cost and complexity to telcos, to the commission itself and to the customers.

The commission mentions the interstate universal service fund as a source of revenue which will mitigate some of the costs being shifted to the local rate from the interstate and intrastate toll rates. Again, the commission doesn't go far enough. In many instances, the USF will mitigate the effect of the shifts, but not for all companies. Anchorage Telephone Utility, serving 115,000 of the 246,000 customers in the state, receives no USF assistance. The net effect of the shifts to ATU customers is approximately $11.00 per

month. Likewise, the net effect to customers of Fairbanks Municipal Utility System and Cordova Telephone Cooperative, both recipients of USF assistance, will be approximately $6.56 and $4.37, respectively.

We have also consistently warned the commission that they should not make decisions affecting the future based on the existing support from the USF. That fund is being eroded rapidly. At the interstate level, the long distance companies and the larger local companies (Bell companies) are actively seeking to lessen their payments to that fund. Simply put, we do not expect that assistance to continue indefinitely.

The commission is correct in noting that implementation of access charges on January 1, 1991, will bring with it significant increases in data filed with the commission. As ATA testified on February 22 and as Commissioner Whiteaker stated in the commission meeting of February 1, these filings will be, essentially, rate case filings. The conclusion Commissioners Whiteaker and O'Tierney drew was that the commission will have more data on the telephone industry than on any other utility under their jurisdiction and therefore simplified ratemaking should be less complex for the telephone industry than for any other utility.

The commission argues that "simplification" is a vague word but then concludes by urging the legislature to pass legislation which is "stated in as general terms as possible." I am not sure which the commission wants. As noted above, we originally offered a very detailed procedure based on similar procedures which have been successful in other states. That was rejected by the commission. We came back with the general language which now exists in CSHB 168, expressing our willingness to leave the definition of "simplified" to the commission. Being unsure whether the commission prefers a "specific" or a "general" approach, I don't know what more I can say. I would note, however, that it is much too late in the session to attempt to start over with consideration of a "specific" approach.

Donley
3/1/90
Page four

Regarding the commission's comments on section two of CSHB 168:

It appears to me that of the commission's proposed amendment would create a system which is worse than what we have now. The six month limit would apply only to issuance of a decision after the proceeding is completed. The proceeding is the source of our concern. Under the commission's proposed amendment, a proceeding could continue for two years and the clock wouldn't start running until it was completed. That is no help at all to us.

The commission has also proposed changing the 12 months in section two to 18 months. At its February 1 meeting, the commission agreed that 12 months is the norm except for the extraordinary instance. To establish an 18 month period would, in my opinion and in the opinion of the two commissioners voting to endorse the bill, change the norm from 12 to 18 months. We have long since agreed to the allowance of extensions for good cause. Essentially, that phrase, in my opinion, grants the commission wide latitude in exceeding the 12 months proposed.

Alaska State Legislature

Please enter into the record my testimony to the *Labor & Commerce* committee name

committee on *CSHB 168*, dated *3/24/88*.
bill/subject

As a very small telephone company owner I'm pleased to support this bill which streamlines rate cases. Our company, Summit Telephone Company (33 customers) has not yet had a rate case, but it won't be long before we do. There are many horror stories about high costs of small company rate cases. This bill will simplify the procedure and reduce the costs to us and our subscribers.

Signed: *Perry Stoop*
Testifier

Summit Telephone Company
Representing (Optional)

571 Azula Street, Fairbanks AK 99712
Address

(907) 452-1012
Phone No.

HB168 File

OTZ TELEPHONE COOPERATIVE, INC.

P.O. BOX 324
KOTZEBUE, ALASKA 99752
(907) 442-3114

March 31, 1989

Representative Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

I appreciate the opportunity afforded me and other local exchange companies to address the House State Affairs Committee regarding HB168, "An Act Relating to Simplified Regulation of Local Exchange Telephone Utilities."

I understand that this bill will now come before the Labor and Commerce Committee of which you are also a member. I look forward to an opportunity to add further testimony or provide clarification of any questions which this committee may have. For your information, I am enclosing a copy of my previous testimony before the House State Affairs Committee.

Please contact me if I can assist you in any way with your further study of this legislation. I firmly believe that simplified regulation is a goal long overdue, and one which will become increasingly critical as the local telephone companies face the extensive changes and challenges ahead.

Sincerely,

Loren J Karro

Loren J. Karro
General Manager

cc: OTZ Board of Directors
Gordon Parker, Executive Director, ATA

enclosures\

LJK:lc

Testimony before House State Affairs Committee
March 23, 1989 (via teleconference in Kotzebue)

My name is Loren Karro, and I am the General Manager of OTZ Telephone Cooperative. OTZ, a member owned, full service telephone company, serves 1,535 telephone lines and twelve separate exchanges within the Northwest Arctic Borough.

The local exchange companies in Alaska are asking the legislature to recognize that changes in the nature of telephony have increased the need for them to be able to react to changing revenues within a reasonable amount of time and without costly regulatory burdens.

As has been stated by other involved parties, the precedent for decreased regulatory requirements has already been set. In the last five years, 25 states have passed legislation to decrease the regulation of or to deregulate telephone services. In not one state, in not one instance, has experience with decreased regulation led to a tightening of regulatory controls. On the contrary, most states have reacted by extending the deregulation to a greater number of companies and to cover a greater number of circumstances. Legislation passed in 1986 provided for relaxed filing standards for electric cooperatives in Alaska.

Comments filed by the Alaska Public Utilities Commission warn of possible outrageous rate increases which might happen under this

legislation. However there is no experience, in Alaska or in those other states that have allowed for relaxed regulation, that any company has or even could so abuse their powers. In fact, a study by a leading national journal of communications and regulation states that "Less regulation ...does not mean [the telcos] will undertake unreasonable rate increases or let service quality deteriorate. Rather, lower regulatory costs mean lower rates."

The Commission further comments that LEC regulation may not be amenable to simplified regulatory processes because of the intricacies of the separations procedures which divide costs and revenues between local, interstate and state toll services. I assert that it is <u>because</u> of the intricacies of and critical changes to these processes that the local companies so desparately need simplified rate and regulatory procedures. There are numerous docketts at both the federal and state level, any one of which could critically impact the revenues of the local exchange companies. Costs are continually being shifted from the toll to the local service sector, and local service companies need to be able to react to these changes. These changes are totally beyond the control of the local telco; they may present increased expenses or decreased revenues which are not due to lack of efficiency, improper operating procedures or poor investment decisions on the part of the telco.

Present tariff change filings result in serious financial burdens to the companies. One small local exchange company spent over $100,000 on their last rate case. This amounted to over $80 per

subscriber for that one filing! In imposing financial burdens such as this, it may well be asked whose interest the Commission is trying to protect. These costs are then added to the revenue requirements of the phone company, and thus further increase the rates needed from the subscribers.

The second part of HB 168 simply establishes a time limit in which the Commission must act. This area has been a bone of contention with the utilities for years. If a phone company finds itself with a revenue shortfall and must file for a tariff change, they at present may well spend an inordinate amount of money and well over a year before the Commission approves the change. By this time the financial burden on the company has increased, the financial shortfall has been exacerbated by another year of insufficient rates, and further changes to the revenue stream beyond the control of the company may have already occured. It does not seem to me that asking for a years limit for examination of and action on a simplified tariff filing is unreasonable. The APUC has proposed adding the phrase "ability to extend this period for good cause". Such a phrase is a legalize caluse which is written so as to allow a "liberal interpretation", and could result in rendereing this portion of the bill uneforceable.

The Commission says that such a time limitation would require increased staffing of the Commission. In fact, the simplified rate filing process means simplification for both the telco and the regulatory commission. Instead of going through full public hearings, voluminous filings and extensive involvement, the

Commission staff would be able to review the abbreviated filing, check that the utility is acting in accordance with the regulations, and that the percentage change is not beyond the threshold allowed. It would appear that such a process would greatly reduce the regulatory burden for all parties involved. The Indiana legislature has suggested a smaller staff for their public utility commission because of the reduced work due to the introduction of simplified tariff filings.

Alaskan local exchange companies such as OTZ are close to their subscribers, and are under the significant pressure of community accountability in all their actions. We have historically acted responsibly to keep local rates affordable and to pursue the goal of universal service. However, cost shifts from the national to the Alaskan ratepayers which will be culminated in 1992, and continuing shifts from the toll to the local sector on both the federal and state level, mean additional revenue requirements beyond the control of the local operating companies. The local exchange industry is uniques among utilties in this respect. We need to be able to react to these changes in a timely manner, and without extensive filings which would cause additional financial burdens to the subscribers. The telecommunications industry today is anything but static; and the industry in those states which have already enacted regulatory simplification has shown that it can and does act both responsibly and responsively to the needs of its subscribers. The Commission's fears are ungrounded and reactionary.

I would be happy to provide additional information to the committee, and will send a copy of my comments to anyone who wishes them. I appreciate the opportunity to testify before you.

OTZ TELEPHONE COOPERATIVE, INC.

P.O. BOX 324
KOTZEBUE, ALASKA 99752
(907) 442-3114

March 31, 1989

Shirley Genteurann
Kobuk River Lodge & General Store
Ambler, AK 99786

Dear Shirley:

Thank you for your letter about the need for a payphone in Ambler.

We agree that a payphone is needed. Our old switching equipment did not allow for payphones, but we no longer have that limitation.

Our policy is to install a payphone in a location that is open to the public as many hours as possible, and is agreed to by the city council. Your store would seem to be a convenient location, however we need a letter from either the mayor or the city council requesting it be put there. Perhaps you can speak to them and have them send a letter of request.

We do have a supply problem in obtaining payphones, as long back orders are common. However, if the city agrees we will work with you to get a payphone installed as soon as possible.

Sincerely,

Loren J. Karro
General Manager

LJK:lc

Item 4

ALASKA TELEPHONE ASSOCIATION

POSITION PAPER ON H.B. 168, AN ACT RELATING TO SIMPLIFIED REGULATION OF LOCAL EXCHANGE TELEPHONE UTILITIES; AND RELATING TO SUSPENDING THE OPERATION OF TARIFF FILINGS

Since the implementation of the consent decree requiring AT&T to divest itself of its local exchange telephone companies in 1984, the telecommunications industry has been completely restructured. The old system of settlements, that is, cost recovery through negotiated agreements between local exchange companies (LECs) and interexchange carriers (IXCs), has been done away with at the interstate level in favor of a new system of carrier access charges, that is, charges paid by IXCs to LECs for access to the local loop. Competition in the provision of interstate, interexchange services has become practice.

This restructuring has resulted in a rethinking of standard methods of regulation, both at the federal and the state level. Since 1984, 25 states have passed legislation pertaining to deregulation of telecommunications exchange services. Most of the legislation pertains to the provision of interexchange services. Very few omit the maintenance of universal service as a continuing goal. Most of them do, however, consider, to varying extents, the effect on basic local service.

Indiana, for instance, enacted legislation which allows a LEC

serving less than 6,000 access lines or a representative group of their customers to petition for deregulation in the areas of rates, charges and financing. Missouri deregulated rates of cooperative telephone companies. Oregon deregulated rates for LECs with fewer than 15,000 lines. Virginia provided for relaxed regulation for small investor owned LECs. Texas provided for a range of rates concept for certain LECs, whereby rates could be altered within a predetermined range without the expense and time involved for a full rate case.

Since that first round of state action, there has been enough passage of time to determine the effect on consumers and the LECs. That effect has been universally good. In an article in the January issue of Telematics: The National Journal of Communications Business and Regulation, Warren G. Lavey and Ronald W. Gavillet track the progress of these moves toward less regulation. This excellent article concludes: "While measuring the success of these efforts is difficult, all indications are positive. No legislature or commission with experience in lighter burdens for small companies has subsequently increased or reimposed regulatory requirements. On the contrary, Iowa, Minnesota, South Dakota and Virginia have raised the maximum number of access lines for small telephone company exemptions, and the Wisconsin Public Service Commission has recommended the same action."

The states referred to in the Lavey-Gavillet article have adopted differing size limitations for relaxed regulation. Looking briefly at the list, we find the following:

Illinois - 15,000
Indiana - 6,000
Iowa - 15,000
Minnesota - 30,000
Missouri - 25,000
Montana - 5,000
Nebraska - All Companies
Ohio - 15,000
Oklahoma - 15,000
Oregon - 15,000
South Dakota - 10,000
Texas - 5,000
Utah - 5,000
Virginia - Gross Revenues Less Than $10 Million
West Virginia - 2,500
Wisconsin - 7,500

There are two differences between these states and Alaska which come to mind in terms of the size and structure of LECs. First, the companies in Alaska are much smaller overall than in any of the other states. There are 22 LECs providing service in Alaska. Of those, all but two would be eligible for relaxed or streamlined regulation in Minnesota; 19 in Missouri; 17 in Illinois, Iowa, Ohio, Oklahoma or Oregon; 15 in Montana, Texas, Utah or Wisconsin; and 13 in West Virginia. Of the four largest companies in Alaska (that is, over 20,000 access lines), three are consumer or municipally owned.

Second, Alaska has heretofore not been subjected directly to competition in telecommunications services to the extent these other states have felt. The question of intrastate competition is being pressed, however. Additionally we have

been and are being subjected to cost shifts as a result of the interstate competitive market. Stated simply, costs that were previously borne by ratepayers nationwide are, over an eight year transition period which ends in 1992, be shifted back to ratepayers within the state. How those costs will, in turn, be divided between intrastate toll ratepayers and local ratepayers has not yet been determined.

We know that costs are being shifted from interstate to intrastate and that companies will have to seek rate adjustments. We also know that if companies are obligated to go through a full rate case to make the necessary adjustments, the result will be simply additional costs to customers. It should be noted that we are not asking for deregulation. We are only asking in HB 168 that the Commission be directed to devise a simplified proceeding to allow all companies to move quickly and with a minimum of cost to react to these pressures which are outside of their control. We are asking for a procedure which has worked well in other states and, since its implementation for electric utilities, has worked well in Alaska.

The second section of HB 168 simply requires the Commission to complete its review of a rate filing within one year. As we note above, the pressures on LECs are coming quickly and the days when lengthy delays can be afforded are gone. We do not believe that 12 months is unreasonable. Again looking at

other states, we find several with considerably shorter

limitations: Arkansas - Currently developing range of rates system providing for ten days notice.

Kentucky: Rates are automatically allowed on an interim & refundable basis after six months.

Nebraska: Commission must act within five months if consume objection is received.

Pennsylvania: Nine months on major rate cases.

South Dakota: Except for Bell, no Commission action required.

Wisconsin: Unlimited time for action for companies over 7,500; six months allowed for smaller companies upon complaint. It should be noted that the Wisconsin Commission supports legislation which would provide a seven month limitation for companies under 50,000 access lines.

Georgia: Rate allowed on interim & refundable basis after five months.

Ohio: Rate allowed on interim & refundable basis after nine months.

New York: 11 months limit. Company can voluntarily agree to extend.

Iowa: Ten months on major rate cases; can be extended under certain circumstances.

Washington: 11 months.

Oregon: Six months with 60 day extension.

Florida: Eight months.

Utah: Eight months.

In summary, the companies providing local exchange telephone service note the transitory nature of the industry today. They advise the legislature that there is a necessity to revise the system of regulation to provide for reduced costs and more prompt reaction. The industry asks that the

Commission be directed, through HB 168, to promulgate and implement regulations which provide for a streamlined rate adjustment proceeding for all companies, with proper provision for consumer protection and based on a predetermined range of rates. The industry further asks, through passage of HB168, that the Commission be required to respond to rate filings and issue a decision within one year.

LOCAL EXCHANGE TELEPHONE COMPANIES CERTIFICATED IN ALASKA

Company	Access Lines
Anchorage Telephone Utility	112,241
Telephone Utilities of the Northland	34,648
Matanuska Telephone Association	25,744
Fairbanks Municipal Utilities System	23,361
Telephone Utilities of Alaska	15,013
GTE of Alaska	11,234
Ketchikan Public Utilities	7,003
Copper Valley Telephone Coopertive	2,932
United Utilities	2,588
Interior Telephone	2,086
National Utilities	1,551
OTZ Telepone Cooperative	1,542
Nushagak Telephone Cooperative	1,286
Arctic Slope Telepone Association Cooperative	1,256
Cordova Telepone Cooperative	1,185
Bristol Bay Telephone Cooperative	894
Mukluk Telephone	537
Bush-Tell	411
Yukon Telephone	320
North Country Telephone	90
Bettles Telephone	50
Summit Telephone	40

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Telematics

THE NATIONAL JOURNAL OF COMMUNICATIONS BUSINESS AND REGULATION

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Regulation of Small Exchange Telephone Companies: Lighter Burdens in 17 States

By Warren G. Lavey and Ronald W. Gavillet

Small exchange telephone companies face several disadvantages in attempting to provide services comparable in rates and quality to those of large exchange telephone companies.

Because they serve fewer subscribers and low-density (rural) areas, most small companies are unable to gain the economies of scale and density evident in this industry. Moreover, these carriers usually serve a lower proportion of "premium" subscribers, such as businesses and users of custom-calling features.[1]

Regulatory burdens can add to the operational disadvantages of small exchange telephone companies. These burdens include the expenses of filing tariffs, preparing cost support, witnesses attending and briefs for rate changes, and the costs of reports on operations and financial performance. On a per subscriber basis, these regulatory activities typically impose heavier burdens on small telephone companies than on their large ones.[2]

Heavy regulatory burdens are neither inevitable nor essential to effective regulation of small exchange telephone companies. This paper reviews legislative and regulatory developments in seventeen states that impose lighter burdens on small exchange telephone companies than on large ones. Although the intent is similar across these states, they differ in what qualifications are necessary for lighter burdens, the nature of the exemptions, and when and how the exemptions were enacted.[3]

While measuring the success of these efforts is difficult, all indications are positive. No legislature or commission with experience in lighter burdens for small companies has subsequently increased or reimposed regulatory requirements. On the contrary, Iowa, Minnesota, South Dakota and Virginia have raised the maximum number of access lines for small-company exemptions, and the Wisconsin Public Service Commission has recommended the same action. The Chairperson of the Iowa Utilities Board recently observed that small companies in that state have performed well under lighter regu-

Continued on page 2

Warren G. Lavey is a partner and Ronald W. Gavillet is an associate at the Chicago office of Skadden, Arps, Slate, Meagher & Flom. The authors are grateful for the research assistance of Lisa Barbieri in the preparation of this article.

ARTICLES

Rewriting the "Computing Devices Rules": The FCC's Ongoing Struggle To Regulate Design in a Dynamic Industry
By Lawrence J. Movshin 7

The FCC's efforts to protect communications services from computer interference has been marked by informal regulatory oversight. A more comprehensive regulatory proceeding is being closely watched to see if the Commission can anticipate developments in a rapidly changing industry.

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latory burdens in terms of both rates and service quality. Additionally, subscribers served by small companies have almost universally endorsed continuation of lighter burdens.

The U.S. Department of Commerce recently concluded that regulatory burdens on small rural telephone companies should be further reduced:

> [T]he current trend toward reducing regulatory burdens on small rural communications companies should be continued, and indeed, accelerated. It is difficult enough to operate a very small, independent telephone system in a remote rural area without the Government imposing an array of regulatory requirements essentially designed for much larger entities. And while the elimination of virtually all regulation may pose some risks, they likely are far smaller in rural areas, where company and community tend to be even more closely tied than is true in larger population locales.[4]

More states should lighten the regulatory burdens for small companies, and those states which have already done so should further limit the burdens of filing data and responding to commission inquiries.

Rationale for Lighter Regulatory Burdens

Decisions by legislatures and regulatory commissions to impose lighter regulatory burdens on small companies have been justified on the basis of (1) community accountability, and (2) cost-benefit analysis.

Community Accountability. Subscribers served by small companies typically have closer social and economic contacts with the companies' owners and managers than do subscribers served by large companies. The greater community accountability ("peer pressure") of companies decreases the need for review by regulatory commissions. Statements from Iowa, Illinois and Oregon illustrate this rationale for lighter burdens.

As the Chairperson of the Iowa Utilities Board stated:

> In large part, Iowa's success with deregulation of small LECs [local exchange carriers] is due to the nature of life in rural, small town Iowa. Typically, the small LEC provides service only to its own local community or, in addition, to a few neighboring communities. The manager and board of directors of a small LEC are the neighbors and friends of their customers. The immediacy of that relationship keeps the management and ownership closely in tune with and responsible to the customers. In effect, those small LECs are subject to a far more intrusive form of regulation—local public pressure—than that exercised by the IUB. Without the strong and special sense of community found in rural Iowa, I don't believe deregulation of telephone rates would be nearly as effective.[5]

Similarly, the Illinois Commerce Commission noted that "for small local exchange carriers, informal community pressure will prevent unnecessary rate increases."[6] Also, in granting several requests by small companies not to keep tariffs on file, the Oregon Public Utilities Commission observed that the service areas for these companies are "small and compact [and] the customers likely have more direct influence on rates and service than the customers of large utilities."[7]

Cost-Benefit Analysis. Cost-benefit analysis weighs in favor of less regulation for small companies. Fewer subscribers cause higher costs per subscriber from certain regulatory burdens for small companies. The costs of many activities (*e.g.*,

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a rate case or a report on service quality) vary relatively little with differences in the size of exchange telephone companies. Consequently, the cost of some regulatory activities are more likely to outweigh its public benefits; this supports lighter burdens for small companies.

This cost-benefit justification for lighter regulatory requirements recognizes that ratepayers served by small companies benefit from less regulation. Less regulation of these companies does not mean that they will undertake unreasonable rate increases or let service quality deteriorate. Rather, lower regulatory costs mean lower rates.

The cost-benefit rationale appears in a legislative finding in Minnesota,[8] a recommendation for legislation by the Wisconsin Public Service Commission,[9] a report of the Illinois Commerce Commission,[10] and an order of the Oregon Public Utilities Commission.[11]

Success of Lighter Regulatory Burdens on Small Companies

The states' successful experience with lighter regulatory burdens on small exchange telephone companies is indicated by three factors: (1) actions in five states to increase the maximum size of telephone companies qualifying for lighter burdens; (2) a statement from one state on the performance of small companies under lighter burdens; and (3) endorsements from subscribers served by almost all small companies subject to lighter burdens for continuation of such regulation.

Maximum Size. First, four states have raised the maximum size of telephone companies qualifying for lighter burdens, and a fifth state's Commission recently recommended similar action. Expansion of these provisions indicates that the states were satisfied with their experience.

When enacted in 1981, Minnesota's provision was limited to companies serving fewer than 2,500 customers; this covered 56 companies. In 1984, 18 more companies were included when the threshold was raised to 15,000 customers. In 1987 the legislature extended the provision to companies with fewer than 30,000 customers.[12]

threshold - # subscribers # access lines Gross Rev.

Similarly, Iowa raised its exemption from 2,000 access lines (enacted in 1963) to 15,000 access lines and customers (enacted in 1983). The increase exempted six additional companies from rate regulation.[13] South Dakota increased its exemption from 7,000 subscribers in 1979 to 10,000 subscribers in 1987.[14] In 1987, Virginia expanded the availability of streamlined regulation from companies with less than $10 million in gross revenues to include companies with gross revenues between $10 and $30 million that are not subsidiaries of an interstate holding company.[15] Along the same lines, the Wisconsin Commission proposed to raise its maximum qualification from 7,500 customers to 9,000 access lines.[16]

Performance Review. Another positive measure is regulators' direct assessment of how small companies have performed under lighter burdens. The Chairperson of the Iowa Utilities Board recently concluded that:

> Iowa's experience with deregulation of its small LECs has been positive. Their average local service rates are at or below the rates of the five rate-regulated companies, their service levels are perceived as adequate as noted in the fact that service complaints registered with the IUB on a per capita basis for the small LECs are no higher than for rate-regulated companies. Furthermore, it's our impression that the nonrate-regulated LECs have done as good a job as their regulated brethren in updating equipment.[17]

This positive review of small companies' rates, service quality, and technological advances is based on 25 years of experience with lighter regulation in Iowa.

Subscriber Endorsements. A third positive indication appears in states that give subscribers served by small companies an opportunity to elect to have their carriers subject to heavier regulation. Subscribers have almost universally endorsed continuation of lighter requirements for small companies.

South Dakota[18] and Nebraska[19] enacted provisions to permit such elections in 1982, but neither state has had a petition filed calling for an election. A similar provision in Oklahoma was enacted in 1986, but also has not been used by subscribers.[20] Since 1986, approximately 40 small companies in Wisconsin have been subjected to lighter burdens;[21] rate regulation has been reapplied to only one company there as a result of a subscriber petition.[22]

State-by-State Review

Here is a summary of the status of small exchange telephone company regulation in 17 states with lighter regulatory burdens.

Alaska. Companies with gross revenues less than $50,000 annually may elect to be exempt from all regulation unless 25 percent of the subscribers petition for regulation.[23] Carriers with gross revenues less than $325,000 must obtain certification from the Commission but may opt out of all other

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regulations,[34] provided they receive support from a majority of their subscribers voting in an election.[35]

Illinois. Companies that are not a subsidiary of a holding company outside of Illinois and serve fewer than 15,000 subscribers may have streamlined tariff review.[36] However, an investigation into a rate change may be held upon petition by five percent of the affected subscribers or on a motion by the Commission. Currently, 37 small companies are covered by this provision.[37] The Illinois Independent Telephone Association has stated that Commission staff often requests small companies to provide cost support and other data related to tariff filings.[38] Illinois has not streamlined the annual reports that must be filed by small companies.

Indiana. Companies serving fewer than 6,000 access lines may, upon petition, be exempt from Commission approval requirements for rates, charges, and financing.[39] Tariffs and annual reports must still be filed by these carriers.[40] Regulation may be reimposed upon petition by 10 percent or 500 (whichever is less) of the subscribers.[41]

Iowa. Companies serving fewer than 15,000 access lines and fewer than 15,000 customers are not subject to rate regulations, including exemption from rate of return restrictions.[42] Annual reports and tariffs are still filed by these carriers, and service quality is still regulated. Approximately 150 small carriers are covered by this provision.

Minnesota. Companies serving fewer than 30,000 subscribers are not subject to general rate case requirements.[43] Tariffs and annual reports must still be filed, and service quality and depreciation schedules continue to be regulated.[44]

Missouri. Since 1987, companies serving fewer than 25,000 subscriber access lines have received streamlined review of rate and tariff changes.[45] Hearings for rate increases are not mandatory, and a decision must be issued within 150 days.

Montana. Companies serving fewer than 5,000 subscribers in the state are not subject to rate regulation, but proposed rates can be reviewed upon petition by 10 percent of the subscribers or by the consumer counsel.[46] The Commission does not require these carriers to file tariffs.

Nebraska. All exchange companies have enjoyed significant rate flexibility since January 1, 1987.[47] Hearings for basic rates are necessary for carriers serving fewer than 50,000 access lines only if 5 percent of their subscribers complain; rate changes for carriers serving 50,000 to 250,000 access lines are reviewed only if 3 percent of their subscribers complain; carriers serving over 250,000 access lines have a hearing only if 2 percent of subscribers complaint.[48]

Another statute provides that exchange companies serving fewer than 5,000 subscribers are not subject to rate regulation unless (1) at least 51 percent of the subscribers petition to apply rate regulation to the carrier; (2) 5 percent of the subscribers petition to apply rate regulation to a specific rate change; or (3) rate increases exceed 30 percent in a given year.[39] Rate regulation can later be removed if at least 51 percent of the subscribers petition.[40]

Ohio. In December 1988, Ohio enacted legislation allowing the Commission to exempt a telephone company having fewer than 15,000 access lines from regulation, except as to (1) procedures for abandoning facilities and dealing with service complaints, (2) requirements of adequate service and facilities, just and reasonable charges, minimum service standards, filing rate schedules and charging of schedule rates, and (3) authority of the Commission to order changes in utility operations. A small telephone company must apply for such an exemption.[41]

Oklahoma. Companies serving fewer than 15,000 subscribers are not subject to rate regulation unless 51 percent of the subscribers petition to change the status of the carrier's regulation.[42] In a specific rate case, however, rate regulation may be imposed if the rate increase exceeds $2.00 per access line, or if 15 percent of the subscribers petition to apply rate regulation to that specific rate case.[43] Tariffs are filed by these carriers, but the reasonableness of the rates is not reviewed unless rate regulation is applied.

Oregon. Companies serving fewer than 15,000 access lines and not affiliated with any other Oregon utility are exempt from rate review and financing approval provisions.[44] However, if 10 percent or 500 subscribers (whichever is less) petition within 10 days of the effective date of the proposed rate increase, a hearing will be held.[45] There has yet to be a hearing as a result of subscriber petitions.

South Dakota. Companies serving fewer than 10,000 subscribers are exempt from regulation.[46] However, if 5 percent or 25 subscribers (whichever is greater) petition, an election among all subscribers to return the carrier to regulation will be held.[47] Those carriers exempt from regulation are not required to file annual reports or tariffs with the Commission, but are still subject to service quality regulations.

Texas. Companies serving fewer than 5,000 access lines may change rates under streamlined procedures.[48] The Commission has discretion whether to investigate the rate change. However, the Commission will investigate an increase if 5

port of the Interagency Task Force on Telecommunications Regulation 52 (Dec. 1986).

9. The Wisconsin Commission proposed the following statement of legislative intent:

> The legislature finds that the telecommunications industry is in a state of transition, providing new sources of competition and experiencing changes in technology, public policy and federal regulatory and judicial initiatives which are revolutionizing the industry. To respond to those changes and to recognize their small consumer base and volatile earnings, small telecommunications utilities shall be given a lesser degree of regulation than other local exchange carriers, unless the other local exchange carriers are subject to competition. It is the intent of the Legislature to give small telecommunications utilities greater flexibility and to reduce their regulatory burdens, costs, and delays by permitting those companies to establish their rates for service, depreciation rates, profit sharing and classifications without commission review, investigation and approval.

Letter from C. Thompson (Chairman) to Hon. R. Shoemaker (State Representative) (Jan. 5, 1988).

10. "This provision also reduces the regulatory costs that are incurred by the company (and hence the ratepayers) and the Commission in traditional rate cases." Illinois Commerce Commission, *supra*, at 5.

11. *See, e.g., Petition of Pine Telephone System, Inc.* Order No. 85-1215 (Or. Oct. 18, 198[illegible]) ("Relief from the [tariff] filing requirements should reduce Pine's costs and increase its flexibility, allowing more efficient operations and lower rates for monthly service.").

12. Minn. Stat. Ann. § 237.075, Subd. 9; Minnesota State Planning Agency, *supra*, at 52-53.

13. Iowa Code Ann. § 476.1; D. Nagel, *supra*.

14. S.D. Codified Laws Ann. § 49-31-5.1 (1987 Amendment).

15. Va. Code § 56-531 (1987 Amendment).

16. Letter from C. Thompson, *supra*.

17. D. Nagel, *supra*, at 6.

18. S.D. Codified Laws Ann. § 49-31-5.2.

19. Neb. Rev. Stat. § 75-609.01(5).

20. Okla. Stat. tit. 17 § 137(F).

21. Wis. Stat. Ann. § 196.213, 215.

22. *See* Letter from Wisconsin Public Service Commission to C. Schroeder, Peoples Telephone Company (May 11, 1988).

23. Alaska Stat. § 42.05.711(e).

24. *Id.* § 42.05.711(f).

25. *Id.* § 42.05.712.

26. Ill. Ann. Stat. ch. 111 2/3, ¶13-504.

27. Illinois Commerce Commission, *supra*, at 5

28. Personal communication from Illinois Independent Telephone Association to authors.

29. Ind. Code Ann. § 8-1-2-88.5.

30. *Id.* § 8-1-2-88.5(e),(f).

31. *Id.* § 8-1-2-88.5(d).

32. Iowa Code Ann. § 476.1.

33. Minn. Stat. Ann. § 237.075, Subds. 3, 9.

34. Minnesota State Planning Agency, *supra*, at 53.

35. Mo. Ann. Stat. § 392.230(4),(5).

36. Mont. Code Ann. § 69-3-902, 907.

37. Neb. Rev. Stat. § 86-803.

38. *Id.* § 86-803(3).

39. *Id.* § 75-609.01.

40. *Id.* § 75-609.01(5).

41. Ohio Rev. Code § 4927.04.

42. Okla. Stat. Tit. 17 § 137(B),(F).

43. *Id.* § 137(B)(2),(3).

44. Or. Rev. Stat. § 757.870.

45. *Id.* § 757.870(6).

46. S.D. Codified Laws Ann. § 49-31-5.1, 5.2.

47. *Id.* § 49-35-5.2.

48. Tex. Rev. Civ. Stat. Ann. Art. 1446c Sec. 43B.

49. *Id.* Sec. 43B(6)(c).

50. Utah Code Ann. § 54-7-12(6).

51. Utah Admin. R. § 750-344.

52. *See Union Telephone Company*, Case No. 87-054-01 (Utah Dec. 31, 1987).

53. Va. Code Ann. § 56-531, 532.

54. *Id.* § 56-532.

55. *See Adopting Rules to Implement the Small Investor-Owned Telephone Utility Act*, Case No. PUC860017 (Va. Sept. 19, 1986).

56. W. Va. Code § 24-2-4a.

57. Wis. Stat. § 196.213.

58. *See* Letter from Wisconsin Public Service Commission to C. Schroeder, *supra*.

59. *See* Letter from C. Thompson, *supra*.

percent of the affected subscribers petition, if the gross revenues increase 2.5 percent, or if any one rate increases 25 percent annually.[49]

Utah. Companies serving fewer than 5,000 access lines are not required to enter into hearings to support rate increases.[50] However, a hearing may be held on the Commission's motion or if 10 percent of the subscribers challenge the rate increase. Twelve of the state's 14 exchange carriers are covered by this provision.

The Commission has adopted rules to implement this statute,[51] and has held proceedings pursuant to this provision. The normal proceeding involves three steps. First, a streamlined rate filing is made. Next, the Commission reviews and audits the figures informally. Third, a community hearing is held. If over 10 percent of the subscribers complain, a formal hearing will be convened.[52]

Virginia. Companies with gross operating revenues of less than $10 million, or with gross operating revenues of $10-30 million and not a subsidiary of an interstate holding company, have streamlined tariff review.[53] However, on the Commission's motion or petition of the lesser of 5 percent or 150 subscribers, a hearing will be required for any rate change.[54]

The Commission's rules address notice requirements and minimum support for rate changes, and remove the annual informational filing requirements.[55] Seven of the nine small companies have filed rate changes using these streamlined procedures. The Commission has never suspended rates on its own motion, nor held a hearing based on customer complaints.

West Virginia. Tariff suspension periods are shorter for companies serving fewer subscribers; tariffs for carriers serving fewer than 2,500 customers cannot be suspended more than 125 days.[56]

Wisconsin. Companies serving fewer than 7,500 customers may elect flexible rate regulation.[57] The flexible regulation includes pricing limitations and provisions allowing customers to petition for review of rate changes and for reapplication of rate regulation. The Commission may also investigate rate changes. Only one of the approximately forty carriers covered by this provision has had rate regulation reapplied as a result of a customer election.[58]

The Commission has proposed guidelines to the legislature addressing the Commission's exercise of its discretion to investigate rate changes.[59] In addition, the Commission is recommending raising the small-carrier definition from 7,500 to 9,000 customers, and limiting customer elections for regulation to one per 12-month period.

Conclusion

The reasons for relieving small exchange telephone companies from certain regulatory burdens are strong, and there is a positive record from lighter burdens on small companies in 17 states.

Additional deregulation of small companies appears justified. One such action would further limit the need for cost support and hearings when small companies change rates, and further limit reports from small companies. For example, some states that now allow commission staff on its own initiative to request additional information from small companies could limit such inquiries to instances when a substantial percentage of the affected subscribers petition the Commission. A second action along these lines would raise the maximum size of companies for which small-company exemptions are available. Finally, additional states could adopt lighter regulatory burdens for small companies.

NOTES

1. *See* W. Lavey, *Factors Influencing Investment, Costs, and Revenues of REA Telephone Companies* (Harvard Program on Information Resources Policy 1982).

2. When the Federal Communications Commission decided to reduce certain regulatory burdens for small but not large exchange carriers, the Commission reasoned that "large companies have sufficient administrative resources and economies of scale to satisfy burdens of existing tariff filing requirements. These advantages are not available to the small telephone companies." *Regulation of Small Telephone Companies*, 2 FCC Rcd 3811, at 3812 (1987). *See also* United States General Accounting Office, *Telephone Communications: Issues Affecting Rural Telephone Service*, 27-30 (1987).

3. All of the regulatory burdens analysed here involve procedures for changing rates and reporting operational and financial results. This paper does not address certain widespread measures such as allowing small companies to use average cost schedules for toll compensation (rather than preparing individual cost studies), and to use fewer accounting classifications.

4. National Telecommunications and Information Administration, *Telecom 2000: Charting the Course for a New Century* 94 (1988).

5. D. Nagel, *A Case Study of Iowa's Experiences in Implementing Deregulation* 6 (unpublished speech Sept. 26, 1988).

6. Illinois Commerce Commission, *1987 Annual Report on Telecommunications* at 5 (1988).

7. *Petition of Halix Telephone Co.*, Order No. 88-584 at 2 (Or. May 31, 1988). *See also Petition of Eagle Telephone System*, Order No. 88-581 at 2 (Or. May 12, 1988); *Petition of Midvale Telephone Exchange, Inc.*, Order No. 88-585 at 2 (Or. May 31, 1988); *Petition of Pine Telephone System, Inc.*, Order No. 88-1215 (Or. Oct. 18, 1988).

8. "The cost of regulation was believed to outweigh the benefits which the customers of these small companies were receiving." Minnesota State Planning Agency, *Re-*

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Claude Zike
President

Gordon Parker
Executive Director

February 15, 1990

To: Rep. Boucher
Rep. Donley
From: Gordon Parker
Re: Transcript of APUC Public Meeting on HB 168

Enclosed is the transcript of the public meeting held by the APUC on HB 168. The discussion was held on February 1. I apologize for the delay. The commission could not provide the transcript. They did provide tapes of the discussion and one of our typists did the transcription. The project was further delayed because the first tapes we received were inaudible.

I realize the transcript is lengthy; but I thought the discussion important enough that you should have the chance to review it.

From my viewpoint, there are 19 particular points of which I think you should be aware. I list them below for our information.

1) Page one: The discussion began with Chairman Sokolov stating that the bill requires the implementation of existing regulations providing for simplified ratemaking procedures for electric utilities to be expanded to cover telephone companies. Commissioner Whiteaker correctly pointed out that the bill actually only requires the commission to implement a simplified procedure for telcos without reference to what that procedure should be. Sokolov agreed that he had misinterpreted the bill.

2) Page three: Whiteaker states that the commission is in a better position to provide public protection regarding telcos than with any other utility. She correctly points out that the decision made by the commission adopting a 20 per cent allocator in the separations docket will require some companies to adjust rates. She states her belief that "...it is incumbent upon this commission to find a simplified process for changing rates...recognizing that thee are other safeguards for the public and there are procedures that can be put into place and ... probably do a better job of safeguarding the public than perhaps we have done with these local telcos."

3) Pages four-five: Sokolov said he can see the necessity for a simplified procedure for small companies but not for large companies. Whiteaker argued that she can find no difference between small and large companies regarding this issue. She said she wants to avoid having significant rate increases and would prefer smaller increases more frequently.

4) Page seven: Whiteaker argues that the commission, with the implementation of intrastate access charges, will have much more information about telcos and increasing the level of regulation.

5) Page nine: Sokolov and Whiteaker again argued the small companies versus large company issue. Whiteaker again pointed out that it's the large companies that need help. "It's Anchorage and Fairbanks that are going to have their rates...who probably need their rates...[to] change every year because of the commission's decision to go to a 20 per cent allocator."

6) Page ten: Whiteaker argued strongly that the new access charge system guarantees more public protection regarding telcos than for any other utility under the commission's jurisdiction. "...we are going to be regulating and providing more public protection in an area this commission has not done before which then makes simplification not only more feasible from a resource standpoint but also from a public protection standpoint than it would be otherwise. And I think it makes the local telephone companies distinct from other utilities as a result of that."

7) Page 11: Commissioner Knowles argued that the commission hasn't yet had experience with access charges to determine if the level of protection is sufficient. Whiteaker questioned why Knowles tied a different form of ratemaking to a lesser standard of public protection. She argued that the new system of access charges is not a lesser standard of protection.

8) Page 12: Whiteaker defined what she believes a simplified process would consist of and states that she believes such a process is necessary to facilitate annual rate changes because she believes annual rate changes need to be facilitated.

9) Page 13: Whiteaker states that "there's something wrong when the public process is thwarted by the expense of rate cases." She argues that a process which holds down rate increases for years then allows the public to be hit with significant increases isn't right. "I don't think that's doing our job. I think that's sort of thwarting what our purpose is."

10) Page 13-14: O'Tierney brought an end to a discussion over what is meant by "simplified": "...simplified will be what the commission regulates it to be."

11) Page 15: Knowles argued that a simplified procedure for telcos would be much more complex than it was for electric utilities. Whiteaker disagreed, arguing that the commission could wind up with a much simpler procedure than that allowed for electrics.

12) Page 16: O'Tierney correctly pointed out that deregulation is not under discussion with HB 168.

13) Page 17: Sokolov having mentioned the current open docket regarding simplified procedures for small companies, Whiteaker made public that APUC staff was currently working under the direction that the docket was to exclude telcos.

14) Page 20: Hearing Officer Jim Jackson, O'Tierney and Whiteaker discussed the applicability of a simplified procedure to telcos in light of the additional filings which will be made under access charges.

15) Page 21: Whiteaker argued that the commission should be in favor of a simplified procedure because it can help them do their jobs easier. "You know we could turn this around in our favor and say yeah, we're supporting this because without this we even need more bodies to deal with what is going [on] and what we expect to happen."

16) Pages 23-24: Whiteaker argued again that a simplified procedure is right for telcos because it is an industry with access charges and which the commission knows rate adjustments are needed. Sokolov objected that he didn't know that. Whiteaker responded: "You know about Anchorage and Fairbanks because you made a decision that ensures it [the 20 per cent allocator in the separations docket]." Sokolov said he didn't want to reargue that issue [the 20 per cent allocator].

17) Page 25: Whiteaker: "I think that utilities are suggesting something that this commission actually needs to do...easier in the long run."

18) Page 28: Knowles argued that the commission is being pushed into doing something prematurely by one constituency. Whiteaker responded: "What I think is fortunate in this instance is that we have a situation where we're being asked to prioritize something that is probably in our best interest to prioritize."

19) Page 29: O'Tierney moved to endorse the bill; Whiteaker seconded. O'Tierney and Whiteaker voted yes; Sokolov, Knowles and Foster voted no.

The remainder of the transcript relates to section two in which the commission suggests changes the 12 months now in the bill to 18 months. You will note on page 39 that, when asked if 18 months was acceptable to industry, I replied that as part of an overall package we were willing to discuss 18 months but that the commission was offering no sort of compromise at all in light of its action on section one.

I hope you find this material helpful. I am available if you have any questions.

UPUC Special Meeting
2/1/90

HB 168

Sokolov: Special Public meeting to consider the ... for House Bill 168. Presently participating are Commissioners Foster, Knowles, Whiteaker, O'Tierney, and myself, Peter Sokolov. The bill has two sections and I think that they are mutually exclusive so that we can discuss them one at a time. And so by - in the first section, the proposal is to extend the simplified rating procedure that is now in effect for electric cooperatives for all telephone companies which includes municipal, cooperative and private telephone companies. Any comments?

Whiteaker: Well, first I'm confused about the description you gave. You said it was to extend the simplified rating procedure of the cooperatives.

Sokolov: No that is used for electric cooperatives - all telephone companies.

Whiteaker: Ok, extend the simplified rate making for electric co-ops to all telephone companies. I guess -

Sokolov: Well, it's what the bill says. "The Commission shall adopt declarations for electric cooperatives setting and arranging for adjustment of rate by simplifying rate case filing procedures" is how it reads now and the proposed language change is still - "The Commission shall adopt declarations for electric cooperatives and local exchange telephone companies setting ... for adjustments for simplified ...

Whiteaker: I read - I just don't interpret the same way you do. I'm questioning it why you interpret it as an extension of the procedures for the electric co-ops. I see it as saying we have to adopt simplified procedures for electric co-ops and we have to adopt simplified procedures for local telephone companies. To me it doesn't mean what you are saying.

Sokolov: So that -

Whiteaker: I may admit that you are misinterpreting this but that's why I had my question.

Sokolov: Ok, I might have misinterpreted it.

Whiteaker: Based on what I have gathered that seems to be the general interpretation of people here may be putting on it based on some response. I guess I don't understand --

Sokolov: So you interpret it as 2 separate sets of regulations.

Whiteaker: Well, yes I do. I would confirm. I think it's always been - at least I've always understood there would be regulations from David or ... which to me makes it much more acceptable. Yes, I can understand you can not apply the same principals to the electric co-ops ... the telephone companies that you can to the electric co-ops. They have different situations on the policy premise for simplifying either I think are different. The public protections that are there in either case are different, but I don't think those differences preclude the ability to simplify. I think I am in agreement with a lot of your premises, but ... anyway I think we have to decide where we are starting. And we're starting from somehow we are being asked ... really dealing with the issue of whether there will be simplified rate making -

Sokolov: Let's go over the second one and discuss that.

Whiteaker: That causes me to ask a question about rate making for electric co-ops - a little history. Do we have any statutory intent language on there? Does anyone know? Does it ... that it's because they have ... because it ... more ... because they are owned by their membership and all that they are. Or is it fairly broad? The reason I am asking the question is because I know there is some concern in the ... the local telephone companies are getting a simplified rate making process that is somehow there's either a question or implication with respect to extension of all utilities. And as I look at the statute as it exists I don't see anything in the statutory language regarding electric co-ops that they are somehow distinguished from other utilities and therefore that's why they have simplified procedures. I am wondering if there's any statutory intent language that expresses that distinction.

Sokolov: ... the statute itself by limiting electric cooperatives ... to companies -

Whiteaker: Well, if that's the case, then wouldn't it be inherent in the statute itself that it was limited to electric co-ops and local exchange telephone utilities?

Knowles: But then I think you are concurring with what Peter's point is vis a vis a suggestion that there's an implicit parallel situation vis a vis the basics of co-ops that you mentioned. I don't know, Kathy, whether - I don't know whether there is or was or is passed a specific paragraph of legislative intent. However, I can assure that ... back to you in committee meetings, etcetera etcetera we would find that the arguments that were raised in support of this in committee and generally before the legislature do specifically refer to the characteristics of cooperatives

and the democratic processes that are inherent in cooperatives. I don't ...

Whiteaker: Which is good. Because you don't want a statute that appears to be preferential to one type of utility because it has some reasoning behind it. And I feel the same way about the telephone companies with respect to what would be the policy premise.

... I think that a couple of years ago I would have felt differently about this proposal than I do today. I think the big change is that we have adopted access charges and as a result of that there's going to be annual revenue requirement filings that come before this commission. Granted they are not going to necessarily be reviewed as they would in rate case proceeding, but nevertheless it is a rate case proceeding. It is an overall state-wide rate proceeding and even though these - the costs that are the focus in that proceeding are the costs that are being allocated to intra-state they nevertheless come from total costs and we will have total costs. So we are in a position with respect the to local telephone companies of having excellent information that can provide - for variance analyses to be performed. They provide an ability to institute an investigation on a regular basis. They provide us with, what I think may become a necessity, which is a need to institute a routine as far as audits go. And that type of situation, I think, provides a distinction for local exchange companies that will not be there for water and sewer and for electric utilities etc., etc., etc. And given the separation changes that are implemented giving a five years' progress - progression to a basic allocation factor of 20% which at least a few utilities will be a substantial change in each year. I really think it is incumbent upon this commission to find a simplified process for changing rates - possibly each year for these utilities - recognizing that there are other safe-guards for the public and there are procedures that can be put into place and are probably do a better job of safe-guarding the public then perhaps we have done with these local telecos. We haven't been in here in years and years. So I see a distinction - I think that distinction could be obvious in our own comments and that the record would be there.

Sokolov: I am somewhat cautious about that ... regard to access charges ... gain some experience. That ... the access charges will basically give all the information we want in a rate case and on the other side simplify. You're making the access charges ... I don't think that was our intent with the access charges.

Whiteaker: I think you can amend the report. You can do variance analyses with the annual report.

Sokolov: The variance analysis I am very cautious about telephone utilities because there are tremendous changes in technology ... changes in technology affect the operating cost and the investment. What used to cost $20,000 costs $10,000 today. Fiber optics comes in. The costs are changing like ... so variance analysis - the additional variables that come in I think that variance analysis may not satisfy -

Whiteaker: I'm not talking about doing this for 10 years. And with access charges, the main thing I am talking about there that facilitates this is actually setting up a routine audit. It's my opinion that every telephone company ought to be audited every third year. And ... if you have something like that because of access charges, then all you have are two years where you are not auditing a utility, but that doesn't mean to me that they shouldn't have the opportunity to vary their rates within some reasonable limit based on analyzing the trends for your 2 to 3 year period ... which you either go from your access charge boundary or your report. I think annual reports - and I agree with you that you cannot accommodate major changes in technology. Essentially real variances in rate base are rate making, but I don't think that's your point. I think that your rules can establish the parameters under which rates can change under simplified classes - and to me that's revenues and expenses.

Sokolov: ... new technology ... I'm not - I don't think that the main impact is on rate base. The main impact is operating expenses because what it took 10 people to do before now will take 1 person to do.

Whiteaker: But you still have to have some investment associated with it - that triggers it.

Sokolov: So - I want to be rather clear, I think we have proceed through simplified rate making system for small companies. It is high time and we have to do it. But for the larger companies that have a ... interest like General Telephone or TUNI/TUNA ... involved in a simplified system. I mean what I have trouble with is what we define as a simplified system. If there are very definable changes in separations in something like that, I guess we could consider ... when you look at telephone companies some like a few cost-rate adjustments ... I haven't explored it all. I am not saying that I'm for or against. They are ideas that should be explored. For the smaller utilities I fully agree because the smaller utilities they just don't have the resources to come

in repeatedly ... rate case like a Bush Tel or somebody of that size. But -

Whiteaker: But what are those sources? I don't understand the distinction between small and large utilities. All I hear is there is a different motivation for small utilities ... costs so much for them to be regulated. I don't -

Sokolov: Small utilities are fairly simple ... the filing is not that complex. So you can - I think it's manageable. But the larger utilities are unique and their uniqueness - I think a rate proceeding for a Bush Tel and TUI that files depreciation studies ...

Whiteaker: You can control that. We have already discussed the policy issue of whether depreciation studies that file with rate cases. I thought the general conclusion was that you don't have to file them with rate cases but that they are filed at any other time and treated separately. I really don't understand where there should be a distinction between large and small utilities. I think regulations can be written which provide for appropriate safe-guards. And affiliated interest for example, if you audit a management contract or some administrative contract ... affiliated interest, if that is audited every three years, where is the great ... in the other two years if you can see what those figures are - if you know what they are and if you say things can not vary more than x amount in order to consider a simplified rate making process. And if you say you can't vary your rates by more than x percent a year. I'm trying to avoid the situation of having significant rate increases, for example every three years -

Knowles: I do think the institution under access charge environment does present an opportunity to reexamine telephone rate making. But I think we're not there yet. The reason I think we're not there yet is because I do think we have let the dust settle on the access charge system. I mean it has yet to go through its first iteration. I think we also have some fundamental policy questions to deal with. One is whether we would become ... doing local rate making on the same policy premises that we are using for access charges. Another is as you recall there was a great reluctance and presently we will not be provided access to the local ... operation. That was something I think was arguable ... to us by the participants ...

Whiteaker: What do you mean we aren't going to be granted access to - ... requires it.

Knowles: It will be in the files ... but it will not be part of the information filed with us. We will have access to it in the sense of auditing information, but it is not being filed with us in any kind of institutionalized review form. I also think ...

Whiteaker: I'll have to look at that because that's not my understanding.

Knowles: I also think that you were talking about - the simplification that you were talking about is a considerable expansion of both company and commission resources over the status quo. Admittedly the status quo is an endangered species because of the rate of change the industry is facing. But to institutionalize - you know a regularized audit program and to have interim filings - which I know staff at least of the electric co-ops thinks, from their perspective, there is still a fair amount of work involved. There is a lot less from the commissioner perspective because we're going to ... hearings. But there's still a fair amount of work involved. We've also had the closest comparable experience as far as a more complex utility is the Chugach experience. And I think Chugach fell right on the boarder of being acceptable candidate for simplified rate making because it did have a separation ... aren't there with your smaller electric co-ops. So I guess for me anyway, the bottom line is I think to consider simplification for LECs in a meaningful way. I ... we can go through the exercise ... statute ... regulations for simplified procedures which aren't terribly simply is something in my mind is maybe a year or so away. And should be looked at seriously after we have considerably more experience with this sort of new system.

Whiteaker: With respect to Chugach is there any routine audit? I haven't looked at the regulation -

Knowles: They have to provide their - you know the audit they do. They have to provide a cost of service study every year so that we can keep track of the allocations between retail and wholesale which is an extraordinarily - extra requirement that we would not normally impose.

Whiteaker: So doesn't that cause ... when you say they're on the borderline, but I don't see where the public protection has lost if they are using the simplified process given the - I guess -

Knowles: Borderline in that they have additional requirements - they have a lot of other schedules - you know we have our minimal ... they have a whole slew of other schedules they have to provide - the annual cost of service study, the audit - I don't mean to suggest in any manner that

it is not an economy effort relative to what rate cases that took literally years to adjudicate. But they have a filing requirement that is materially greater than let's say MEA which is a much more simplified version.

Whiteaker: I understand.

Knowles: So simplification becomes less simple as the organization becomes more complex.

Whiteaker: If I can respond to your other comments with respect to resources and ... the dust not having settled on the access charge ... much less settled. First, I think that the telephone companies are already required to make whatever this extraordinary filing is. And they are going to making some extraordinary filing every year which requires that they separate their costs at a minimum between jurisdictions. There is no way you can have access charges without separating costs between jurisdictions.

Knowles: I agree.

Whiteaker: And having that go somewhere. I'm not sure it comes to us in the actual access charge tariff filing.

I think it does but maybe we ... because I think I argued against it - against getting all that information - I think I lost. But I don't think that it really matters that we have to ... exactly how much effort is going to go into access charges or what's going to be done with the information. I see it as a vehicle for allowing simplifying rate making and all I'm doing is recognizing that this information is going to be available one way or another. That the utilities are going to be doing analyses every year and that we are going to be regulating in an area that we have never regulated before. We haven't got involved in ... but if this commission as far as expenditure resources thinks that it is somehow going to be getting these filings and that is going to sail through in a matter of three months and be implemented, I suggest that it's kind of fooling itself. And I think what I'm suggesting, although it may be an initial expenditure of resources to get organized is simply that. It is forcing the commission to get organized and recognize that it's going to have a lot more work on its plate and that if you organized up front, it's going to go a lot more smoothly. I think you're going to spend a lot less resources if you have a routine audit of the utilities and if you have simplified filings for the interim years. You're going to be spending a lot more resources on the complaints that come in

every year, on staff having no guidance with respect to what level of detail it looks at anything. We are going to wind up hiring consultants because it is too much work for staff. I think if it's organized up front, it's going to be less work in the long run.

Sokolov: You can organize all you want if you don't have the resources. For example, this year we have a ... for access charges. If we get those three people, we can organize and proceed ...

Whiteaker: ... tie simplification for local rate making, and I would change this to be for local subscriber rates of exchange telephone utilities because you certainly don't want it for access charges. I think it could be argued that access charge is a local rate.

O'Tierney: Could I add something here ...

Whiteaker: Excuse me ... I think that time ... new ... we have access charges that's going to require a lot of work in the access charges if we do get our people on access charges, then yes it makes a lot of sense to simplify the general subscriber rates but I think ... anyway you were saying ...

O'Tierney: Well, I guess my first question is there a concern that simplification means somehow less meaningful or effective oversight or review or is the question exactly what form simplification should take because ... when I just look at this without a great deal ... apparently this has been around the block a few times, this bill, and bounced back and forth, but what this is doing is essentially requiring the commission to adopt some regs to set a range for adjustment by simplifying the procedure - leaving it to the commission to determine what that procedure might be. I realize that language obviously invokes to some extent what - I suppose at least in the minds of the commission - what was developed for the electric co-ops. I'm not sure that it requires that it be a carbon copy of that. ...

Sokolov: Carbon copy ... that's not possible anyway. ... to me to start with the word simplification is a marketing word - what does it really mean? ... should make it simpler for both the companies and the commission ... going to simplify the rate making by asking for more resources ... on both parts.

O'Tierney: That's the next question I ask myself. Then I looked at ... the comments of the ATA from April of '89 and they said that simplification meant the ability to adjust under predetermined conditions and through an established procedure which avoids the expense and

extensive time involved in the so-called complete rate case - you know full blown hearing, etc., etc. and later in that they say that the simplification process has the intent of allowing prompt reaction reducing costs and administrative burdens. So, in my point of view ... quick on their feet and not have to incur a full blown rate examination.

Sokolov: I feel for smaller companies this we should do. And if you noted with the ATA filing that they give an example of 16 telephone companies and depending on the uniqueness of each state the limits of when a telephone company qualifies for simplification that should those limits change - each of the 16 examples cited that it's enough to limit and the really large companies do not fall under the simplification. This is some of --

Whiteaker: I just don't understand the distinction between large and small utilities. The small utilities we do a expeditiously and as inexpensively as we can anyway and then we go through an extra step - we try to avoid hearings, so on an so forth. It's the large utilities that need help. It's Anchorage and Fairbanks that are going to have their rates - who probably need to have their rates ... change every year because of Commission's ~~Pearson's~~ decision to go to a 20% allocator. The small utilities are not the ones that are going to need to be in here ... a year. I suggest to you if you make Anchorage and Fairbanks go through some huge proceeding every year, we'll discourage them from coming in because of the onerous proceeding then I don't think we're serving the public interest.

O'Tierney. Let me interject because you're taking the examination one step further. The first question is whether simplification of some sort makes sense for the industry. The second question may be whether or not it should apply to all or some, or small or large, or blue or red companies ... You're arguing for all of it ...

Whiteaker: I'm suggesting ...

O'Tierney: You're arguing for ...

Whiteaker: ... expense to the industry at this point in time because we've implemented access charges which facilitates protection of the public interest and with simplification and because of commission' decision in Part 36 which are going to require that these utilities come in - their going to ... financially liable utilities and ... properly they are going to be required to come in and ... as a result of this commission's decisions.

Sokolov: There's is nothing wrong with a utility coming in with a rate case and have a - saying this year ... this is the requirement, next year we're going to do that much more because of all the shifts in separations and this is the rest of it where money changes and I think we will, at least I will, look favorably at ... this change occurs, incorporate it like to FCRA.

Whiteaker: I don't think they can rely on that Peter. I don't think they can rely on that. You're one commissioner, it's not in the rules, it's not in the regulations and this commission has not operated that way in the past in my experience.

O'Tierney: May I just ask - is what you're saying is given the compliance requirements and review thereof in the access charge context that in conjunction with that you will not be able to have a simplified rate review process for general purposes. Is that - ... provide you with a sufficient level ...

Whiteaker: I'm saying that whatever level of review that allows for - access charge allows for we are going to be regulating and providing more public protection in an area this commission has not done before which then makes simplification not only more feasible from a resource standpoint but also from a public protection standpoint than it would be otherwise. And I think it makes the local telephone companies distinct from other utilities as a result of that.

Sokolov: I would be much more comfortable with your position next year or so when I see what the access charge filing and the whole thing looks like and ...

O'Tierney: It will take us that long to develop the rates.

Whiteaker: Why? What are you going to see? What - I just don't understand that. What is the big unknown out there? It's a matter of this commission deciding - making some policy decisions like we're going to audit these utilities every third year.

Knowles: Don't we need to as a first matter decide whether we are comfortable regulating local exchange rates ... adjustments and the standard access charge proceedings because I think we're coming at the same thing from two different directions. As you said earlier, Kathy, ... was basically an unregulated environment about the complaints. When we moved into, and adopted, an access charge system, I think we tried to, at least as a first cut, compromise or consider both the fact that we

were obviously materially increasing the level oversight, but we were trying to do in a manner that was not as administratively encumbersome as 275A filing. And also wanted to recognize that annual quality of it. But we consciously -

Whiteaker: I don't think that happened though.

Knowles: I think it did. We consciously made some compromises over the standards the standards we would presently apply in a rate proceeding - in our projections, of traffic, of certain rate base investment that would be coming in, etc. I think we have to arrive a comfort level as a matter of fundamental policy whether or not that approach is workable and fulfills the public protection function for local rates which normally did have a higher level of scrutiny because they are truly the monopoly service. People moderate their long distance calling ... that's where I think some experience with access charges seems ... getting staff's reaction to the data. And it does provide some meaningful feedback in terms of then using that data for auditing purposes.

Whiteaker: I don't understand why you're tieing a different form of rate making to some lesser standard of public protection. The fact that we will be considering projections - and by the way, we did put some limits on those protections, we didn't say you could use a future test year - it was a historical test year, it limits how far you go with rate base - there were some little limits on these projections, in fact they would probably be facts by the time you were doing the audit. And that to me is not a lesser standard of review. The fact that it's not an old, old test year that isn't updated to current situation does not -

Knowles: It's different - I don't whether it's less or not but I think it's a different standard. And I think we have to assess whether that standard is acceptable. That's why -

Whiteaker: But if it's not you change it. Let me ask you this -
Knowles: That's where experience - I'm not going to change it before I've experienced it.

Whiteaker: This isn't telling you how to do simplified rate making either. If you wind up with a historical access charge here with absolutely no projections, I don't see where it eliminates ...

Knowles: ... up or down

Whiteaker: But maybe that gets back to -

Knowles: Go ahead, I'm sorry.

Whiteaker: wanted to pose a hypothetical. What if you have a situation where you have an access charge filing, which we have every year, and it's - you get it in 1990 and it's based on an '89 test year updated for demand and all that sort of thing ... current as much as possible to 1990 and goes a little bit into projections into 1991. If you get a revenue requirement filing in 1990, how different is it going to be -

Knowles: I can't tell you.

Whiteaker: It seems to me that you would still end up with a utility, if it's done its work for access charges, trying to get those same projections through in a normal 275A filing and if on the other hand you used two different standards you end up with a mismatching between what you're doing for local rates and what you're doing for inter-state rates.

Knowles: I think part of this question gets back to what Daniel said and that is what is the definition of simplification. I really think there's an illusion here more than a reality. And in part whether we adopted your approach right this moment and have rates ready to notice and adopted them as well, I'm not sure whether the constituency that is advocating this necessarily views that as simplification. I really do think that people do use the electric - I've heard testimony from some of the industry representatives, I really do think the electric co-op regs do set some sort of a standard that people consider. Now -

Whiteaker: Isn't that where our comments and testimony come in?

Knowles: Absolutely. But I mean, what is simplification?

Whiteaker: The way I would define our goal in doing simplification, it would be allow the possibility of ... rate changes within some specified range without the need for a full revenue requirement filing based on the fact that access charges filings are required and that there will be some routine total investigation on a rotational basis on these companies. I would do it facilitate the annual rate changes because I think they need to be facilitated.

Sokolov: So if ... a company like ATU ... you know how complicated it was ... so what would you - let's say you have the annual adjustment for 2 years, the third year what would you do? You -

Whiteaker: They're going to have an audit.

Sokolov: An audit as in depth, an audit as in ... as the APU regulates one?

Knowles: And a rate case?

Whiteaker: I think it depends on what you find. And I think it depends --

Sokolov: ...

Whiteaker: Well, you're going to be auditing. In the course of the audit you find that there are rate adjustments that need to be made then you have some reaction, I would supposed, that would be anticipated by the utility. If you're talking about a rate decrease, then it seems to me that you would be happy ... anyway and if you find a rate increase, I don't think we would need to initiate that in the first place because the utility will know that the audit will probably just assume to be able to raise their rates. And certainly as large as that utility is you can't expect to not audit them for years on end - not without having some significant impact on the total rates - I mean rates for everyone in state. And as far as ... you know what worries me, I think there's something wrong when the public process is thwarted by the expense of rate cases. And yes, I can sit here and say, if we don't do this, Anchorage and Fairbanks will probably not be in here every year to change their rates, even if they should change because they don't want to go through the grief and the expense of doing it. But to me that's not - that - you can say great that holds the rates down for people for two years but then the get socked on the third year with 15% instead of 5% a year. I don't - one, I don't think that's doing our job. I think that's sort of thwarting what our purpose is. And I don't think -

Sokolov: The third year would you do the same type of audit that we did in the ATU case?

Whiteaker: Potentially, Peter, yes. But how long was it since ATU was in here? Maybe you'd find that they didn't need as extensive audit as that because you know what they sent in before. Maybe you don't need to do certain areas as what - as you did the last time. ... how much work any of this is.

O'Tierney: Let me just add here - I don't know ... we may be asking what we would do at the end of the full regulation drafting noticing period of analysis, commentary, etc. I don't know if anyone can do that here in a two minute response. But I don't know that's really the obligation at this point in time. Well, it's - what this language suggests is that the commission shall adopt setting a range with a "simplified rate filing

procedure." I just want to observe we certainly reacted to legislation with just itsy-bitsy technical comments as opposed to taking on full bore the policies, premises, and whatnot. I don't know in reaction to this ... possible of doing it at all. I think simplified is - simplified will be what the commission regulates it to be. I think given what we're looking at here, and it also states that the commission will review implementation of whatever that simplified procedure is determined to be by virtue of the regs that we will pass and that they may be revoked, the implementation or modified - I guess it doesn't state either at large or with respect to a particular utility presumably. It's pretty hard to ...

Foster: Let me ask a question in terms of regulation process. What would anyone anticipate in terms of a length of the process of actually getting regulations out? Hypothetical that this is passed.

Whiteaker: I talking about starting now when everything ...

Foster: For example, the bill passed and signed into law this summer, it would be about a year from that point in time?

...

Knowles: The co-ops were very quick - I think it was within 90 days.

Whiteaker: ...

Knowles: But this is much more complex -

Whiteaker: A year because I think there's lots of things that need to be sorted out. It's my own feeling that a regular audit ought to be done every third year. ... You can argue about that for a few days and whether it should be three years or five years or two years ...

Foster: And so the ...

Knowles: That's right - and there's always a time involved in seeking comments ... maybe nine months. I would say nine months minimum. I think ... it seems to me that the heart of the matter is if we don't think we can produce an exercise or a procedure I think is a better word that will allow for some level of quasi-automatic readjustments that we should oppose this. I think that's really - I don't think we're going to simplify filing in any manner resembling what we were able to do for electric co-ops. They have REA forms, they have - it's just a whole different

situation. I don't think the telephone industry lends itself to simplification in that manner. To me it boils down to the rate adjustment ... and if you don't think there's any prospect of coming up with a procedure that we do that, then I think in good conscience we shouldn't support this because I think that's truly the benefit that the advocates hope to get out of it, and might get out of it. Because otherwise I think a lot of the procedures, although they may be economies, because they tie into other things that are new since we last commented on this bill, will still be relatively complex compared to the other ...

Whiteaker: I don't disagree with you with respect to supporting automatic - some sort of automatic rate adjustments - but I do disagree that there can't be some simplified filing process. I think that annual reports, some sort of forms that supplement the - that take off of the annual access charge filings - I think there are methods of doing that. But you might also say - might prefer even a lesser standard of review than are given to co-ops. I don't know. I think there's a wide range of possibilities.

Knowles: I agree with you fully, but I think ... so that ... much narrower than it was for electric co-ops - a lot more possibilities there. I guess I include access charge filings, Kathy, as indicative of the lack of simplification. I mean they can be used for different purposes, and in that sense ... but they are still relatively complex filings.

Whiteaker: Which are those?

Knowles: The access charge filings.

Whiteaker: But they're ... anyway.

Knowles: That's right ...

Whiteaker: So they might facilitate simpler filings and simpler procedures than the co-op situation did. And actually I think the only thing that may make this seem more complicated than co-op is that I think under the co-op situation there really was only one direction to go. I think there are a real wide range of possibilities here which at first make it appear more complicated - which it may be as far as instituting the regulation itself - but you may ultimately end up with a simpler process. But there are probably more adjustment schemes here than were ... price caps ... something that is getting a whole lot of national attention in a whole lot of ways which would suggest that the types of adjustments would be a whole creative exercise unto themselves.

...

O'Tierney: Let me just ask in terms of the summary of simplification activity which was Exhibit A to the ATA's comments, their filing. ... Some of these are simplifications in that they talk about not subject to general rate case requirements or what's another comment ... would use ... not subject to hearings that type of thing. ... somewhat indicative of what simplification means. But others of these ... are really deregulation, aren't they? In fact half of these to the extent that they talk about not subject -the language used is not subject to regulation.

Woman: Do you have an example?

O'Tierney: Which one of these? ... I just went through and annotated these ...

Woman: ...

O'Tierney: Well it doesn't say, it just says not subject to rate regulations.

Woman: Oh, you're talking about ...

O'Tierney: ... which is a different proposition from what we're talking about here ...

...

Woman: ...

O'Tierney: ... This is interesting but ... that's not what we're talking about. We're not talking about rate deregulating. We're talking about whether or not there's a - whether or not we can develop - the charge would be adopt regs, set a range, using a simplified procedure. Beyond that I think the frontier's ours to explore, isn't it?

Sokolov: We have a proceeding now ...

Whiteaker: For little ones ...

Sokolov: For little ones, yes. And we have a proceeding in effect for the little ones, for all of them ... and I think those regs should go on the front burner and we should work with those regs because ... telephone companies ... electric utilities ... desperately need rate simplification ... As far as the telephone companies, if we file the access charge

information, what prevents a company from saying this is my access charge information, this is my rate case? ...

Knowles: They'd have to get a waiver of 275A for starters. ...

Whiteaker: Can I ask you a question about your small utility proceeding? As I recall, whether it was the order that went out that included this, I don't know, I certainly know that in the meeting involving - I recall the docket manager - who was the docket manager? - (Carolyn Guess) - saying that she felt telephone utilities should be excluded from what was being considered in small utility rate making. And it was my understanding that the direction that staff was at least given as far as coming up with some simplified procedure. That it in fact did not consider - would not consider telephone companies. I don't know whether that changed since then.

Knowles: I think maybe you've got it reversed in a sense I thought staff as it was looking at the whole subject ... felt most comfortable advancing a proposal for telephone companies. It was beginning it's internal analysis with why utilities.

...

Whiteaker: Well whoever ...

Knowles: ... emanated from staff ... my understanding that small utility rate making was going forward - or if it was going forward at all it wasn't for small telephone companies.

Sokolov: ... when Joe Franco looked at the telephone - or whoever worked on staff in his section - that they said telephone was more complicated - but this is pre-access charge filings. ... The access charge decision does present a vehicle to go forward just like the IA forms were a vehicle for the simplified cooperative ... that the access charge filing ...

Whiteaker: Do you think that you can come up with one set of regulations for all types of utilities that happen to be small?

Knowles: Probably not.

Whiteaker: I don't think so. I think you're better off working on simplification for telephone and forget about this small versus large stuff and then when you look at moderate utilities you may have to do away with rate base

regulation. You know a lot of utilities ... rate base regulation ... go very well together. You may be looking at operating ratios, all sorts of different types of things ... if you really want to look at what these companies need I don't think you're going to do it in a generic, simplified rate making packet. I just don't think its going to work.

Knowles: My suggest is that we don't let a course of development in that docket which is yet to be truly framed. We shouldn't consider anything that happened in that docket as eliminating any and all avenues of inquiry to us because we simply haven't advanced that discussion far enough.

Whiteaker: I agree with that and I don't think there's a safe-guard or suggest that this is a really viable or likely alternative for the telephone companies.

Knowles: I think it's totally in our power to make it or not. I would concur with you to this extent - I know ... second section that the sponsors of the bill while they trust us totally are not comfortable with having these kinds of things a matter of law. I think that's there approach - they want it to be mandatory as opposed to discretionary. So - it's certainly right now discretionary. We don't need this law in order to do anything with any compliance of our existing statute.

Sokolov: ... I think it's ... first of all do we want to consider whether this ... an automatic annual adjustment.

Whiteaker: How can it?

Knowles: I don't think - what I was expressing in that regard Peter was what I think in my conscious what I have to be considering if I vote on this because I think telephone utilities are relatively complex and will have the benefit of access charge filings to assist in simplification but I really think that the ultimate pay off if you will of people who are interested in this will come from some possibility that there will be some periodic automatic readjustments. If all we did was have access charge filings and move into full blown rate proceedings with witness and the works, I mean if I thought that was the only possible outcome ... I'm not sure in good conscience I shouldn't bring that to somebody's attention because I don't think that's simplification.

Whiteaker: I don't disagree with you at all ... Can't the co-ops adjust ...

Knowles: They can do this quarterly.

Whiteaker: I can see one major difference between telephone and co-ops being I couldn't see this commission adopting regulations that would provide for more than - more frequent than annual. I think ...

...

Knowles: ... virtually impossible to do ...

Whiteaker: ... and I'm not sure it would be worthwhile to do. I think that -

O'Tierney: So, I wonder if there's any comments from ... to the chair. Staff?

Moniski: The only concern - it's not a substantive concern - it may be a psychological concern - ... legislature and the chairman and I ... picked up on the ... I think it's there in terms of how our budget's going to go forward and the difficult of predicting what ... in the future for resources as access charges are implemented as the courts decide the fate of the commission's decision on municipal deregulation as all of those many pieces come together I think simplification in this context ... I think that the legislature will not view this ... they're going to try to make some mental trade offs as they consider simplification vis a vis access charges and municipal deregulation of ... ultimate resources and somehow that equation ... come up with an answer to our resource perhaps resource allocation problem that doesn't quite compute. You're going to see something falling out simplification in terms of our ability to create ... a process that I'm not sure is really there and when you add the other dimensions in, I think it's going to get very confusing for us to convince them of what we believe we ultimately need. I think the chairman touched upon it. That's a concern of mine. It was a concern of mine before this morning's public meeting and I would say it is probably more of a concern after having listened to this discussion.

Whiteaker: People ... are somehow ... message has to get across that these telephone companies have not been coming in. We do not - I don't think it would be too difficult to come up with the statistics that show that there have been infrequent rate case filings by telephone utilities and that in fact you could expect to ask for resources simply as the result of Part 36 decisions and the other separations changes to deal with telephone even of itself. I mean I haven't heard that anybody's proposed that but rather have just tied that to access charges but even without access charges, you could expect more telephone rate activity and simplification may help offset that ... with the access charges still being a project on top of it but it's not going to change the reality.

Kominski: I certainly concur that those other changes may very well drive resource requirements. What I'm not sure I understand yet and maybe this goes back to even if simplification does have a beneficial result of impacting resources beneficially for somebody, it's not clear to me after our experience with electric co-ops that it has got beneficial results on APUC resources and on staff resources in particular. And again I think what happens when the legislature takes a look at simplification they will crank that into their decision making and view it as a potential offset. It is not at all clear to me that it will be an offset as far as our resource requirements.

...

Whiteaker: ... if utilities ... but if they're discourage coming in ... they can't afford it, then I agree with you.

Jackson: My only comment would be I don't know what simplified means but I think one thing you can definitely say that it means is that it means more simple than whatever we use for other utilities. And therefore you would need, in my mind, to have some reason that you should treat local exchange companies differently from Enstar, AEL&P, etc., etc., etc. You know, co-ops the reason was self-governing and all that - I can't come up with any reason personally for local exchange except maybe access charges and I think Kathy's made a good argument in that regard ... access charges as a distinct feature. That may also somewhat cut the both ways because I think you can argue that because they are doing access charges they already have all the information to use for the present procedure without it being as complicated as it now is because now they because they have to do it ... access charges ...

O'Tierney: Just put a ribbon on it and pass it over to the rate case.

Jackson: Pretty much. ...

...

Jackson: Beyond that I just can't see any reason I would state to put local exchange companies in a more simple category than Enstar. But ...

Whiteaker: I don't disagree with you and I said that at the start. And I said that if this was two years ago, I couldn't support this. ... I would support coming up with something for all utilities.

Jackson: Exactly. And the impetus behind this is that we take too long for all rate cases. And I would love it to do things to make all rate cases better and shorter and quicker and ... but whether or not I can distinguish LECs from Enstars, I don't know.

Sokolov: It is basically - from what I hear you saying - is that, as far as the telephone companies, ... to some extent what you're saying is that telephone companies should not be treated differently but since we have access charges, the access charges provides a vehicle by which the rate case can be made different. I mean it provides a lot of ... information that is needed in the rate case. And why duplicate the effort.

Whiteaker: And it does provide - yes, it provides a vehicle for simplified annual rate adjustments and in fact we expect several telephone utilities to need annual rate adjustments which heretofore they have not needed and have not requested. So, you can tie that to Ted's concern about simplification looking like it cuts our need for resources. We can come right out ourselves and say that it will facilitate our ... job which we presently have not had to do in ... not being able to handle with our present resources otherwise. You know we can turn this around in our favor and say yeah, we're supporting this because without this we even need more bodies to deal with what is going and what we expect to happen.

Man: Okay I think we have ... point of information ourselves ... when you're talking about in terms of cutting both ways perhaps it's one - I guess - one point informs that how it cuts is that ... how truly less than a 275A filing are that the requirements are that we impose for access charge purposes. I mean the differential between what 275 requires and then ... the long list of items that we require - is that differential - is that what speaks to how it might cut in either way - whether you put a ribbon on it - if you've got it all here, why can't you file it over there?

Jackson: I think in part - it's conceivable even that there's a difference you have to go through one to get to the other so that the 275 may be an intermediate step, but I think ... I think that's a large part of ...

Whiteaker: I don't totally understand.

Jackson: I think he saying - I think he was asking - as I understood it is the question of whether or not the access charge would make it simpler, in and of itself, would make it simpler to filing a rate case under existing procedures - is that question determined by whether or not

their access charge filing equals 275A filing ... or how much difference there is - however much less so means it's not much less simple.

O'Tierney: Or it means there is that much more to do in the rate case context then in the access charge context.

...

Whiteaker: ... right now the rules for rate making are different from the rules for access charges.

Hickson: Commissioner Sokolov I have just one comment and that's on the timing of the regulation ... how long we have ... you should be well aware of the fact that there is an interest, I believe, ... what regulations are adopted when the legislature convenes next year or where in the process the commission was in the adoption. ...

Whiteaker: It should be very far along in the process right now - well into it. At least to the point where the telephone companies are complaining about it.

...

Jackson: Well I guess ... Ted was talking about. I think you have to consider the whole competitive question. For instance, I'm working on the ... regulations, I'll call them ... if that were to be the road we were to end up going down, then during the same period of time as access charges next year - we already know access charges will be developed - there would be quite a few additional complex things that we would be doing during the September to January period of next year associated with the ... which would both take more staff and would also take staff away from this project.

Whiteaker: Which means a certain amount of prioritizing if that's true, but you also have to recognize that you may also end up with several rate filings early next year absent the knowledge that this is in process that might facilitate them in their rate filings if they ... yeah, it's going to be a lot of work but let's not forget about ... out there that may be offsetting or causing to detour.

O'Tierney: I'm not going to be that swayed by it myself. You create the mix ... as you go ... it's nice ... what I'm hearing is that it's one of those fundamental do you step off on the left foot or do you step off on the right foot in terms of do you need sort of a compelling reason to

adopt rates for simplification or barring any compelling reason why not to should you go ahead and embark not knowing exactly what you might come up with but I think assuming that you have to be at least under the rubric of the simplified rate filing procedure ... at least for your own purposes or in your own mind, it would need to mimic to some extent the automatic rate adjustment mechanism that we regulated in favor of electric co-ops.

Knowles: I think that expectation is there, and will be there. I suppose I should qualify what I am saying because, like you said yourself, ... earlier the regs will be what ...

O'Tierney: We need to be responsible.

Knowles: ... for that matter those features. I can assure you that there will probably be very loud howl from the affected constituents. I mean if that feature was not there and at that point I question whether simplification as conceived by the advocates of this has anything ...

Whiteaker: Well, is there any point simplification that does not provide for some automatic aspect of rate adjustments?

Knowles: I don't know.

I don't know what other point there would be expect to say ok, commission 275A is not really workable anymore, it's time to revise rate making in general. But otherwise ... I don't know what ... purpose of simplification is.

WHITEAKER: It seems to me to provide for some easy form ... of adjusting rates ...

Sokolov: Well, then I have a problem ...

Whiteaker: Because it's a logical mix ... you've got access charges and you have an industry where you know they need rate adjustments. You don't know that about Enstar and the water utilities and all that. You don't know that these companies are likely to need annual rate adjustments. You know that about the telephone companies right now.

...

Sokolov: I don't select the telephone companies -

Whiteaker: You know about Anchorage and Fairbanks because you made a decision that ensures it.

Sokolov: Well, let's not reargue -

Whiteaker: I'm not rearguing, it's a fact.

Sokolov: ... this is not ... telephone companies that don't need ...

Whiteaker: If they don't need it, then they don't really qualify to change their rates do they?

Sokolov: ... automatic adjustment ...

Whiteaker: It has to be. It's not automatic - I'm not assuming that it's automatic in the sense that you're just going to come out with regulations that say that everybody gets their rates changed by 5% a year.

...

Woman: I'm assuming that at least it's going to be reactive to a filing or request of some sort that has to have some measure of justification. I don't think we can be too carried away ...

Sokolov: ... enough of this ... we would be better ... finalize our discussion. I would feel much easier to do that a year from now because we would know what we would see from access charges because the old form ... ECA is supposed to develop uniform forms ... or whatever is being developed so the data's presented in a logical way. ... I don't know right now and secondly to some degree I ... competition with the other regs that we have to come with this year - the access charge filings and other things we have before us. We just can't load the wagon - overload the wagon to ... I think we'll know a heck of a lot more when access charge filing are actually in hand -

Whiteaker: Why can't you support it and say how long you think it would take to realistically implement this with the reasons being - the only reason you think is feasible for telephone companies is because of the annual access charge requirements but in order to come up with a workable process it requires at least finishing the process of ... access charges and seeing what ... fighting with that process.

Knowles: Legislature ... certain day ... access charge regs ...

Whiteaker: That's what I'm saying why not propose -

Knowles: It could be they would say in 6 months -

Whiteaker: It could be they would say that anyway if we don't support it ... just maybe the telephone companies would support the commission with some effective date. I think we stand a better chance ... if they go against this that will happen. I don't think going against this is really a responsible reaction to what the ... industry ...

Knowles: Although I would say this, there is nothing to preclude ATA having - walking in the door tomorrow with a set of regulations which ... two recent examples - we would have to consider ... they could be noticed for the purpose of setting up the procedure that they desire. So there is presently within state law a vehicle for someone who has a particular interest to prod the commission into action. So I do think that we are not the only player in this. There is that opportunity if someone wishes to take it. I would concede there is some work in preparing such a thing.

Whiteaker: We have recently rejected two sets of regulations that have been proposed that didn't happen to fit in to what our work plan was at that moment.

Knowles: And I think that is an issue here as well.

...

Whiteaker: I think that utilities are suggesting something that this commission actually needs to do ... easier in the long run.

Sokolov: Well, how do you want to open this? Leave it as is? Do we suggest any modifications of it? Or do we reject it outright?

O'Tierney: When faced with either endorsing or rejecting a charge to adopt regs to simplify for any given segment industry, I suppose I would endorse. And if there is then to be a useful debate whether or not it should be all-inclusive in terms of lengths ... make some access line cuts or something then maybe that would be the next round. I hate to say that but by way of just starting ... I would make a motion ...

...

Foster: Do you want to assign a time to it ... idea that it goes now or do you want to look at in terms of it is a next step after the first rounds of access charge filings if things go through?

O'Tierney: Well, I suppose the letters weren't directed ... in terms of putting something up here ... can dig in ... however it falls I mean let if fall out. Let's just move on -

Whiteaker: I have no problem with an effective date but I wouldn't put in the context of setting it up to happen after the round of access charges. I mean I can see it having an effective date of July 1 or something like that. ... but I wouldn't - I can't see us having to get ... leaving it open ended and tieing to ... I don't see why the process can not begin before the access charge tariff is approved for example.

O'Tierney: Mr. Chairman let me ask counsel by way of attempt to reframe my motions for clarity purposes to allow for Mark's comment ... something you might suggest in terms of reframing the motion to ... effective date or whatever the hell makes most sense.

Hickson: Well I think the effective date is usually what you find in legislation of this sort that a date certain regulations will be adopted. Or you might find that in the intent language accompanying the piece of legislation. That would perhaps be a better place to include an effective date particularly due to the fact that you have two sections of this bill. So if it is the intent of this commission that latitude be given so that regulations can be adopted after perhaps the first day of the legislative session next year which I think - you have to think that's when they will be wondering what happened to that piece of legislation that they adopted ... You need to tell the legislature and let them perhaps figure it out. I think perhaps it may be best to put it in ... Does that answer your question? The reason I say that is because whoever is truly concerned with this piece of legislation if they are re-elected they are going to walk in and say what the heck happened to those regs. And they ought to be process - if they're in process and the telecos are happy, then big deal. There's not a big deal if you anticipate taking longer than the beginning of the session next year then you ought indicate to the legislature - give them a time when you think you can complete the project. We're under direction, by we I mean the department of law, that regulations need to be adopted within a year from the notice period so you know you're working within that framework.

Whiteaker: What happened on the electric co-op regs? Did we have a date?

Hickson: I don't remember.

...

Hickson: There was incredible pressure ...

...

Man: ... spoken to in the statute ...

Knowles: I don't know why we would want to put a date in. I can see where in our comments on it - I can understand why you would describe and attach it to a certain process but I don't know why unless asked you would put a specific date in. I guess I also don't know that the ramifications of putting a date in and not making it for some reason. I wish someone would start asking about the electric rates again. ... how many years it's been since that ...

Man: I don't know how to handle your comment ... get going ...

Knowles: It doesn't sound like Elizabeth's responding to - I mean if I understand what is being bounced around here is for a date that goes beyond the beginning of the next legislative session which I think a later date rather than a sooner date. Especially if the access charge filing is to be in ... process ... people get a hands on feeling ...

Man: How that will inform the degree and nature of simplification.

Knowles: I mean January 10th, 12th, 9th whatever date it will be will be too soon.

...

Sokolov: Kathy said July of 1991 and in that regard as far as a date ... indicate ... next legislative session because of ... access charges ... but a year later like 1992 ...

Knowles: I think we are debating on ... here - frankly as far as just think this will be adopted and there will not be some expectation of relatively prompt reaction. I just don't think that's what will happen. And if I were affected entity, I'm not sure that I would find that acceptable having argued actively for this legislation.

Whiteaker: All you would have to do is have a regulation that says thou shall not do the simplified process unless you have had a revenue requirement filing that is as recent - as current as 1988 to do one and you're not going to have anyone able to use it. I mean ... anyway you look at it you have to have a basis to move forward on and in discussion with the telephone companies on this last year they acknowledged and they realized that - I mean I don't think that it's reasonable to assume that these companies are going to be going out of their way to undermine effectiveness and credibility of the commission. And they're going to have to have - I think they are going to cooperate

Knowles: I guess I'm not suggesting that but you have said ... concur that there may be some companies who are feeling pressured to come in especially since they haven't been in maybe never. And for those companies ... I've heard testimony ... they are really hoping that this will be the beacon - I think -

Whiteaker: Which it may be -

Knowles: I guess I feel that this is getting to be a bit like a contortionist after something ... We conceptually see merit to an idea here. We are going to be well positioned to implement an idea, but I feel that we are sort of forcing ourselves into a mold because this particular legislation is on the table at this time. ...

Whiteaker: I don't disagree with you but unfortunately I happen to think that's the only way that some things get done - to force them to. ... It prioritizes things. It has an impact as far as prioritizing and that is the one benefit I guess to any constituency that tries to do this sort of thing.

Knowles: ... doesn't necessarily prioritize things ... the legislative process is a very lumpy process. It fills priorities for the group ... it isn't just our ... this is generally for a group that may be advocating something. But whether or not that is a priority in the larger picture may or may not be the case.

Whiteaker: I agree with you.

...

Whiteaker: What I think is fortunate in this instance is that we have a situation where we're being asked to prioritize something that is probably in our best interest to prioritize.

O'Tierney: ... don't even have a second ...

...

Whiteaker: ... I didn't second it because I don't like it.

O'Tierney: Right, well -

Whiteaker: ... the fact that you've split into small versus large utilities. As far as I'm concerned the motion ...

O'Tierney: I just moved ...

Whiteaker: So you're moving either approval or rejection of what is there?

O'Tierney: That's right. It seems to me that ... now that I read the ... regs the - whatever timelines are applicable aren't invoked until a notice period commenced. Is that right?

Hickson: That's right.

O'Tierney: So, to that extent we have control over - at least I think we will have control over how we proceed on this. I'll just ... I'm just going to move that we endorse the legislation as it amends 381(b) -

Whiteaker: I second.

...

Sokolov: My turn? - I feel that it's a year premature so I'm opposed to it.

...

Man: ... roll call vote so ...

...

Sokolov: ... Let's vote

...

Woman: Was that a vote? Was that a no, no, no?

O'TIERNEY: I'm an aye.

WHITEAKER: I'm an aye.

SOKOLOV: I'm a no.

KNOWLES: I'm a no.

FOSTER: I'm a no.

SOKOLOV: Motion fails.

Sokolov: Next step, shall we look at some modifications?

Woman: ... was there another motion with respect ... is that your question?

Sokolov: Yes.

Woman: I don't have one. Do you have one to propose? It seems like if there's one to be generated here it should come from the no's. How could you change this so they would find it acceptable?

Sokolov: This is where ...

Man: I think the problem inherent is when it's limited to ... discussion that you attempt to instill some timeframe on it ... sending a mixed signal that I think may be inappropriate.

Whiteaker: Can I ask a question about this? Isn't it possible that your ... shoved down your throats because you've just sat here and proven that the majority of the commission doesn't want to deal with this in the next year?

Knowles: I don't want my vote being interpreted that way.

Whiteaker: That's why I asked the question.

...

Whiteaker: I think that risk is there.

Knowles: I suppose that risk is always there.

...

O'Tierney: I don't think we have any obligation to and I think we voted on that we ought to - if there's another motion on the issue we ought to ... let's consider that and if not let's we have a second section of legislation I believe.

Woman: That's right.

Woman: So there's no motion.

Sokolov: Let's go with the second part. This is ... the bill proposes ... period may be no longer than 6 months. In other words, this asks that all rate cases for telephone utilities be completed within one year. The second part of this propo· .l is that the - if an interim is requested, it would automatically go into effect after 6 months and that it would be equal to what is requested. Discussion?

Whiteaker: ... you have a lot of ... to deal with all of this ... 8 lines ... I support part of the proposal ...

Sokolov: Let's look at the overall period for a rate case.

Knowles: The non-rate case - the 6 months is for non-revenue requirement proceedings. A filing that does not include an increase in the utility's revenue requirement.

O'Tierney: The decrease might involve ... would that involve a revenue requirement filing?

Man: No they're never done.

...

Knowles: They are done, but pretty rarely. I guess that would ... change in the utility's revenue requirement to generize ...

Sokolov: Let's talk about the non-rate case ...

Whiteaker: ... you've got the non-revenue requirement section and the revenue requirement section ... if you do I would propose changing to say that this does not include a change in the utility's rates - which I think affects revenue requirement and rate design - which otherwise puts rate design in the 6 months category.

Knowles: Can I suggest that we may want to say revenue requirement for rate design rather than rates because there are a lot of non-recurring minor - I think this was designed - part of this came from earlier suggestions we made - I think it was designed to weed out those kinds of minor rate changes from full blown whatever -

Sokolov: Shall we take a vote on that one?

Man: One question before we vote, if we're talking about a 6 month processing standard for ... regulations ... in terms of commission type tariff changes, would that standard, in the commission's mind, apply to things like wholesale as in huge comprehensive changes that have been produced as a result of service and safety standards - those kinds of filings. And of course even before we add service and safety standards, we had utilities who would periodically come in and make major housekeeping changes to their entire tariff with ... standard ...

Whiteaker: I think it would, but I don't know why that's unreasonable. Right now ... operate ... your 6 months suspension period to begin with. And some of those types of filings ... and some of them are in response to commission findings ... which are certainly within the control of this commission as far as ... as far as filing ... and that sort of thing goes. And you also have - we're really talking about - are you talking about 7 1/2 months also? It says ... I assume - this appears to be attached to schedule 45 ... now if it's meant - maybe it needs clarification. I don't know if it's meant to supercede the 45 days and do away with the 45 day requirement. But I would think we don't want to do away with the 45 day requirement.

Knowles: There is also the catch-all standard period for due cause. I think that should be invoked truly on an exception basis, but if we got something ... you're suggesting Ted, I think it may follow from that category. Statistically most of them are SRAs. As you know, if you look at the non-rate case filings, most of them do very easily meet those standards but there will be those exceptions. I think that can be handled with this - within this proposal.

Sokolov: So are we all in agreement with that portion? ...

Whiteaker: ... an increase change ...

Sokolov: Does not include a change in the utility's revenue requirement or rate design. 6 months to process ... or something longer ...

O'Tierney: Yes, that's what ...

Woman: Well, either move it, second, or vote yes whichever is appropriate at this point.

...

Woman: I think we need to move it first.

...

Man: Second it. Let's vote.

Sokolov: Aye.

Knowles: Aye.

Whiteaker: Aye.

Foster: Aye.

O'Tierney: Aye.

Sokolov: And now comes the real difficult part ... includes an increase ... also a change in the utility's ...

Woman: Could you split this into an issue that would ... interim ... at what point a permanent ...

Sokolov: I would like to - what would make more - the sequence - first to look for the overall period. So, this proposes 12 months unless - for good cause more time is required. Discussion.

Foster: Question to staff. ... if go beyond that ... period, what are nature of those case where we are going longer than that?

Man: Only in general terms. I don't have the statistics immediately at hand, but there certainly are numbers of cases that could extend beyond that. They tend to be cases that are submitted by very large utilities that are very complex that may require the assistance of external resources and the time associated with bringing those resources ... in general those are the types of cases ... in fact at one point in time I proposed to the commission as it considered some earlier version of this bill a mechanism the court system uses which is a major case litigation

designation. The court's not obligated to process cases within a timeframe but they oppose some timeframes upon themselves and they do it by distinguishing between major case litigation and other litigation. They fast-track one or the other ...

Whiteaker: Ted, I realize you don't have any statistic in front of you, but could you hazard a guess at how many cases per year might fall into that category out of all the rate related filings that come in?

Man: Numbers that stick in my mind as to just how many of these kinds of cases we get in a year would range anywhere from 5 to 7 on the low end to 15 to 20 on the high end - revenue requirement and rate design type proceedings.

Whiteaker: It used to be up to 24 a year ... they may be going down ... I suggest they're going to go up again.

Man: ... and with the telephone situation they may be going up again. The question really is of that number how many are taking longer to process than a year -

Woman: That aren't related to what might be utility ...

...

Woman: Right, that wouldn't related to a utility coming in and asking for a change or revision or that sort of thing. A lot of the lengthy ones seem to involve that sort of situation which might suggest a different process ... reaction ...

Man: I did an analysis of that and ... because it's so dated. But I did an analysis again on an earlier version of this bill a long time ago. And the order of magnitude number I came up with was about 75% of those cases were being processed in a year because of very old number and it was not a completely scientific analysis but it did - I wanted to ball-park it for myself - about 75% of those cases are processed within a year. Of the 25% that were over a year, I can't tell you whether it was because the utility came in an made a major revision to the filing which required extended periods of time or whether we needed outside consultants ...

Woman: You can ... how many cases a year in the last 3 years for example that had outside consultants on them.

Man: Less than 5.

Woman: Over 3 years.

Man: Looking at this - and I don't know which way this was thought of in Ted's discussion - I think we tend to look - in general we tend to feel that we have met the suspension date if we've come out on a substantive revenue requirement decision. But I think that's pretty tenuous. Without substantive revenue requirement decisions only comes out with decisions that someone has to go take add, subtract, divide, and come up with a percentage rate increase which is not - which the utility doesn't actually ever get to start collecting for another 2 months sometimes depending upon how complex it is. I think probably that 2 month later date could well be considered the date by - I mean that's the action that you have to get done within a certain period of time. I think would be fairly arguable and at that - given the length of time to do those computations in the cases which are the ones you are worried about, it really makes it even more difficult that the time period's shortened.

Woman: You're still talking about that handful of cases too.

Man: Yes.

Sokolov: But in addition we also have to give us perhaps a little leeway - what if we have 2 or 3 or 5 over the course - filed simultaneously and I'm not sure that would qualify under the cause because the commission doesn't have resources. ... Under normal procurement procedures ... you say ok with this one we need a consultant what is the normal period between going to Juneau, jumping through all the hoops, and actually engaging the consultants so we can start - hop a plane and go the ... to audit.

Man: Mr. Chairman if you asked me that question day before yesterday, I would have given you an answer that may have been completely wrong. The game plan is constantly evolving as a result of new procurement code and I found out yesterday that it is evolving even more. We're going to be receiving a 12 point check list which will service as contracts and there are 2 more levels of review in the RFP process that are being added to the procedure as a result of considerable amount of concern on the part of procurement officers at the departmental level, but there's not enough oversight of the process. I'm not sure I know the answer to that question anymore. At one time I would have said typical - normal circumstances - we could bring a contractor on

board in 90 days. That's what I used to quote. I don't think that's possible anymore under normal contracting.

Whiteaker: It's really interesting that I am hearing a lot of emphasis and comment about the exception - I mean about the 5 cases in 3 years - or about a handful more that don't involve consultants that are just very complicated and take a lot of time. Yet, when I think of something that belongs in statute - and I may be totally off base - I think of something that should be handling the norm and allowing for the exception which it seems as though this does just based on the discussion we've had here. In fact, I guess I'd like to hear some discussion about what impact this proposed statute might have on the norm. Right now we have a statute that has a 6 month suspension period. It's an initial 6 month suspension period so - and which we've interpreted I guess to mean that we can have however many additional ones we want. And I don't know whether that 6 month suspension period needs anything any more because of that. And maybe Ted you can tell me that staff really strives to schedule a case and staff's involvement in the case in such a manner that it gets cleared in 6 months. Or maybe you could say that given the resources we don't do that anymore. We used to do that, but given resources we really do that anymore because we know we're not tied to that ... Well it seems to me if you put - if you change this statute and you put a new date in, you run the risk of - that's truly influencing the norm. I can see where 12 months may result in all cases being set up on a track that balances out so that they are completed within 12 months. Whereas if right now the - if the 6 months means anything - right now there's a 6 month track maybe will slow down. Maybe some things th staff would like to do or the commission would like to do, but you know staff really sort of drives these things. So maybe other things will be able to be worked on in the 6 months doesn't mean so much anymore - I mean it's not 12 months. At the same time it scares me to no end to think that someone might propose to put an 18 month, because I'm afraid that really will affect the norm - it will affect those 75% or more of the cases that right now hopefully are on a 6 month track - 5 or 6 month track I should say.

Sokolov: Kathy, from what I hear you it's - if we have to do the regs ... you need a little bit of leeway. I mean if you look at a rate case alone - on a stand alone basis - then you can squeeze it into 12 months, but there's a little bit of leeway we overlap immediately. In the last 2 out of 4 rate cases for telephone utilities, TUA and ATU, they went over 12 months.

Whiteaker: First of all ATU, I think would fall in the exception category for a couple of reasons. One is - let me tell you what happened on ATU - there were a few different things happen - one didn't we have a consultant on ATU? Ok so it's one of the 5 cases in the last 3 years. There was a 6 week hearing - I don't know if we've had any 6 week hearings except in certification proceedings. Plus the hearing was delayed at ... request of the staff and the utility which seems to me also impacts justification for an extension period. And then as I recall, there were several things that were competing for actually making the decision. But I think the decision came itself ...

Man: That will always happen ...

Whiteaker: That's right. But I think - I think ... was leaving then, we had a commissioner who was on the case resign which meant we had to put another panel member on who was responsible - who was just coming back to work - who was responsible for looking at the entire case. It was rather a special situation. Even then we came extremely close to initial - to issuing the initial decision within 12 months. Instead we had to go through the 2 month process that Jimmy's talking about to complete the revenue requirement. ... we came real close to doing it in 12 months, yet there are all sorts of things which would have provided - even under this statute - to get - to certainly be a case that would fall under ... TUA/TUNI had no business being here for all that time. I mean for as many revisions as there were that's a case that could have easily been out the door - sent back to that utility and come back in as a new case. In addition it involved a depreciation filing which since then the commission has determined ought not to come in with rate cases. ... ought to be in regulations somewhere.

Man: Mr. Chair let me back this up just a second - just so I am fully with the program. What we have now is initial period of suspension of 6 months, renewable thereafter with no ceiling?

Man: Yes.

Man: All this would do - what this would do is require a 6 month ceiling - no, absent good cause for extension, this would require a 6 month ceiling on interim determinations ...

...

Man: And a 12 month cap if you will on full disposition absent good cause for extension. ...

...

Man: Only on the overall cap.

Man: So as I hear what you're - I mean I've already heard some other members suggest, I certainly agree, that the good cause ought to be for the exceptions - that's what it ought to be for. I guess what I want to know is what you're making a point about is what the record would suggest the exceptional cases ...

Whiteaker: I made that point but I'm also reacting to ... Peter saying - which frightens me - that maybe things are going to start taking 12 to 18 months on average.

Sokolov: I am not saying that at all.

Whiteaker: That - when you put it in there it changes the standard. You can set ultimates of internal ... but it changes - the people who deal with this commission have a right to know what the norm is and what they could expect or should expect. And the faces and attitudes change.

Sokolov: Up to now we have no ceiling and we process most of the cases within 12 months. I agree in having a ceiling, but I also know if 2 out of 4 rate cases for telephone companies the last 2 are exceptions.

Whiteaker: I think so.

Sokolov: So with all the things happening - if you want a cap, I would go for 18 months on a cap and at the same time maybe add some other incentives for us to process this stuff within 12 months.

Whiteaker: You just voted down simplified rate making.

Knowles: This applies to every utility we regulate. We have to keep that in mind. I don't think we should let it get totally ... this applies to everybody ... we have to keep that in mind.

Whiteaker: I agree.

Man: What's the best objection to - as I understand it that apparently there is some receptivity to 18 even on the part of the industry -

Sokolov: They don't like it but ...

Man:	It's better than nothing.
Sokolov:	... they want something.
Man:	I don't know - is that true Gordon?

...

Parker:	I think that we are willing to consider 18 months as a possibility given other sections of the bill but I would say at this point we've been offered no section 1 and 18 months in section 2 - it is not much of an offer.
Whiteaker:	You know there is only - there's only one thing that I can think of that would support an 18 months ... rather than 12 months, and that's a fear that the exception would become the rule. ... this commission to have the benefit of not being a higher law if the exception becomes the rule. I'll tell you if the exception is going to become the rule, then we ought to be doing something else. We either ought to be going to the legislature and succeeding in getting resources or we need to change the way we regulate because you cannot deal - you can't live with the exception becoming the rule without information and filings becoming so outdated as to not be useful, without pancaking - having it become ...
Man:	Is there some consensus about 12 months for the most part ...?
Knowles:	I'm not sure - I have a couple of concerns about that because one we've already eliminated all non-revenue requirement rate design cases. I think any of those that are on this sort of experimental fast-track we have would fall by the wayside. I'm not sure that every fully adjudicated revenue requirement and rate design case doesn't eventually become that exception that you are talking about. I guess I'd like to ask the attorneys a question as to what the legal standard will be for the good cause because I do not necessarily concur that it is ... any time we have so many a year the costs sprouts up and we get to extend it.
Whiteaker:	I'm not saying that either.
Knowles:	Well, I'd like to hear what the legal standard is for good cause because I think it has some bearing on the discussion as what we are talking about as far as exceptions versus norms.

Hickson: Well it certainly is the issue that will be the focus ... and litigated perhaps and Mr. Jackson and I ... have some concerns regarding what would qualify for good cause. And I can not tell you right now what would qualify for good cause in every case because it's going to turn on the individual case itself and the complexity involved in that case. I can tell you that the courts do not place administrative inconvenience in the same category as say complexity in say an ATU case, an Alascom case or the individual characteristics of the utility and what's before the commission. And so I don't have a list of what's going to qualify. That is going to have to be based on what's filed before you, your expertise in reviewing that, clearly the utilities expectations - Mr. Jackson and I were just talking about what happens if the utility doesn't agree with the commission that this - that ... are good cause ... but the utility doesn't agree the commission is going to have to make a greater showing of why in fact good cause does exist.

...

Woman: We haven't had much problem to getting an utility to agree to an extension.

Hickson: No. In my experience of the cases I've been involved in ...

Whiteaker: ... related to the utility wanting to do something.

Jackson: I don't think that really proves anything. We've been asking for an extension under which the current theory is that we have almost an absolute right to extension and therefore they haven't had a good bargaining position and their bargaining position will change with the legislation.

Whiteaker: I assumed that they were being cooperative and maybe that's a bad assumption on my part ... tend to have some faith that utilities aren't out there just to somehow take advantage of the process.

...

Hickson: My experience has been that the utilities are generally cooperative unless ...

...

Hickson: ... whenever you've got - let's look at the Alascom case, I mean that had been around forever and at varying times the utility was more

cooperative than at other times. But generally speaking we did agree on extension of times due to the complexity, due to the extensive discovery.

Woman: For good cause?

Hickson: I think that whenever you have parties to an action asking for an extension of time that translates as good cause unless the commission decides otherwise and they would do that by denying the extension. Because the parties had not presented you with reasons that amounted to good cause.

Woman: What's the ... like to the 12 months with good cause exception.

...

Woman: That the legal standard for us invoking the good cause exception is not totally clear for starters and two I think it's a burden on the commission for justifying the extension in a context which ultimately will be found legally acceptable to the courts. But I'm just worried about the time line. If you look at - I think it's realistic in a rate proceeding to allow a minimum of 60 to 90 days before the decision goes out. Given our adjudicatory meeting cycle, given the review time, I think if you add to that 30 days for reconsideration, if you add in the two months that Jimmy's saying, I think it's very easy - and this is a standard that's accepted in court circles - for it to take 6 months for us after the proceeding has ended to issue the decision. And I'm not sure that I would feel that using normal procedures to conclude a case constitutes good cause. That only leaves 6 months to do the substantive part of processing the case. I just don't know why we would put ourselves in this position. And I say that without in any manner disagreeing with your administrative objectives because I support them wholeheartedly. But I don't know that that is the issue here. What we have is a statutory constraint that is being proposed to us on every single utility that we would handle a rate case for -

Woman: ... statutory constraint that we used to have. Didn't we use to have 6 months - or was it always an initial 6 months?

Woman: I think it has always been a - there has been several different ...

...

Woman: ... proposal to leave that ...

Whiteaker: I agree with you that the normal administrative process would necessarily follow from the definition of good cause. And I agree with you that there is certainly risk involved with good cause not being clearly defined, however my experience with this commission is this typically turned broad or undefined language to its advantage in its use of its own statute in the past and I can't see why that would be different in the future - until challenged. It also concerns me Susan - as I hear your main concern suggesting that the normal process is very likely to go outside of 12 months, that this might be difficult to live with ...

Knowles: I think that is true Kathy ...

...

Whiteaker: I think we have a bigger problem in cases if other than a handful of cases gets solved outside a 12 month processing, it's a much bigger problem because you're dealing with cases that involved financial figures for the most part and once you cross somebody calendar fiscal year and you get into another fiscal year I think you raise serious questions about the applicability of that case, about the fairness of the whole process, you open it up to more complication because of repeated requests for modifications which causes the case to grow even more and ...

Knowles: ... talking about a handful of cases and the 6 months I am talking about is post hearing. I think it is very conceivable - yes time will go on but I'm not sure - a lot of your arguments - if we were holding the hearing well into the last 6 months of a ... time frame, I think some of your arguments Kathy as to staleness of data might very well be pertinent. But I'm really saying that I think this cuts us too short in that handful of cases that this bill already address - when there is a change in an utility's revenue requirement or rate design. There aren't that many cases that presently fall in that category if you consider the total body of TAs that are filed before this commission. The resources the an entity that makes a filing is able to bring into the process they are - they know they are planning to come in - we don't necessarily know - we don't control how many come in simultaneously. All these things have to be factored in to coming up with what I want to be a good faith statutory closure not a good faith or a beginning of exercising a loophole - but a good faith statutory closure. And I think 18 months is much more realistic and practical.

Whiteaker: I don't know whether it's realistic or not. I think statistic would probably prove that a very large majority of commission cases are

completed within 12 months even considering all the odds and ends in the case ... I'm afraid you put 18 months in here it will change.

...

Man: I think ...

Woman: And I don't know the fear is. I just don't know what the fear is. If that's the way we operate and that's the way we feel we should operate and if we have an exception for good cause and in good faith wouldn't go outside that period if it wasn't good cause anyway, I don't understand why we would risk the possibility of people who don't feel the way we do - of causing the norm to change to something that is really disadvantageous.

Sokolov: I think there should be a maximum which 18 months would provide. What is the fear ... on the regs for simplifying rate cases and everything else ... try to have the attorneys argue before a judge that some - that good cause is the fact is the procurement of a consultant took 6 months.

Whiteaker: But Peter you can't set aside a rate case because you're working on regulations.

...

Sokolov: I'm not setting aside ... you misunderstood me. I'm not saying that I was setting aside the rate case, I'm going over the rate case - I don't want to use resources in arguing what good cause is before every major rate case.

O'Tierney: I have two questions that need answering. Liz, with regard to the good cause ... did I hear you say that would ... be the utility ... that the commission would not be ...

Hickson: I think that whenever you have the utility agreeing to an extension of time ... that would then place you beyond the allowable period of time that certainly adds - I mean who's going to protest ...

O'Tierney: That's my next question.

Hickson: I think that if the utility - let's just say - maybe a typical situation would be staff wants to hire a consultant and you get a utility that figures well, heck I don't want them to have a consultant, so I'm going to oppose

any extension of time that may be necessary ... that doesn't mean that good cause cannot be found by the commission because of that but it would be a complication if the utility opposed. That does not add up to that good cause cannot be ...

O'Tierney: I guess what I'm asking is what you're saying is the extent that staff is a party, staff would be the only - it's the only other option for making - for moving for a basic good cause extension - it's not the utility. If it is the utility ...

Hickson: Who cares.

O'Tierney: ... well ok ... they could be the other movant ...

Hickson: Right. I'm think of a situation ... intervene also -and I'm not speaking to the merits of this piece of legislation here, I'm just trying to give you examples of what might come up. For instance, let's say that you are book up - the hearing calendar is booked up - which fortunately that's not necessarily the situation right now. There have been times in the last 2 1/2 years where we could not slip in one other hearing. Is that sufficient for good cause? Administrative inconvenience is the category I would place that in. I don't know.

Man: ... sounds like administrative impossibility ...

Hickson: It may very well amount to impossibility.

Whiteaker: And something that has to be provided to the utility for its own due process. You can't do the case without the hearing.

Hickson: If you're going to have the hearing. And that's why it's driven by the initial complexity of the case involved.

Whiteaker: But you owe the utility a hearing.

Hickson: Unless you just approve it. I mean we are talking about the extensions, we're talking good cause must be shown, we're talking about an exception. An exception is going to be based on the complexity of the case itself. I think that's where you come into the handful of cases you've discussed. But if I might I have a couple of questions as to this piece of legislation, and if you look under section ... of page 2 line 9 as well as line 14 the words requested rates are used. Now I realize that our existing statute on 1114 uses requested rate. It is unclear to me what requested rate we're talking about. If we're talking about the

interim requested rate or if we're talking about the permanent requested rate. The clarification that I believe you should inform the legislature that needs to be clarified.

Woman:	What we're talking about ... permanent rate.
Hickson:	Well it says before an interim rate equal to the requested rate goes into effect and not longer than 1 year before the permanent rate goes into effect. If you look under 2 requested rate goes into effect not longer than 1 year before permanent rate. I can tell you, based on experience, it is unclear of the intent of this section. At least it is unclear within the Attorney General's Office whether or not that means interim or permanent ...
Woman:	... permanent.
Hickson:	Exactly, so that I'm saying you may understand it. As recently as August of this year, it was unclear and therefore if anyone is modifying, amending, revising this section it would also be nice to take care of this uncertainty. The other is a matter that Commissioner Whiteaker raised and that is whether or not you would tack on the 6 month ... period to the 45 days contained in AS 42.5411. It is unclear and therefore I would ask ...
Woman:	Except the term is the suspension may last. You don't suspend until you have taken that express action within the first 45 days correct?
...	
Hickson:	I think for clarity's sake that you need to bring that to the attention of the legislature.
Woman:	I don't quite understand what needs to be clarified Liz because a thing walks in the door - I mean we have to affirmatively - I mean there's no automatic suspension status. So, I guess I'm just not following what the problem is there. You have to take an action in order to get it in a suspension mode, do you not?
Hickson:	Well, reading the proposed legislation and reading 411 - I mean it may be clearer to some than to others and I think that there's nothing wrong in clarifying ...
...	

Man: ... that was my next question. Was in fact it would be whatever the cap - extension period is - say 12 or 18 or whatever or 50 - but actually you would be plus 45 potentially because you would have to make the suspension take that action until you have 45 - you can do it earlier of course - but ...

...

Man: ... so it would be whatever the cap is plus 45 though - potentially.

Man: The statute specifically says that you are measuring the suspension period from the effective date that's referenced in the tariff filing.

Woman: Oh, that's an interesting quirk.

Man: So it a very precise - as I read it is very precise ...

Woman: So someone comes in and asks for it to be effective the next day, the suspension period then is effective ...

Man: If that were to happen, we would ...

Woman: ... ask for a waiver though ...

Woman: ... because the effective date is ...

Man: Thank you Ted ... means the 45 days is added on. ... effective date has to be 45 days from when they filed.

Man: So just so I'm clear, whatever the cap - whatever the drop dead date is it's going to be plus - that direction of time would be plus potentially up to 45 days.

...

Man: So there's that slight additional slack if you will in terms of the 12 month being tight concern.

Woman: No that doesn't address my 12 months. I mean the 12 months I'm talking about is after we've gone to a TA meeting and - we don't see it until 3 days before a TA meeting - our entire analytical process is done within a 72 hour period. That's really when for us anyway - the decision makers - that's when the clock starts run. It's usually the TA meeting closest to the end of the 45 ... So I guess I see such things as

the post-hearing time and all that as being indifferent as to whether we were able to take that action on day 1 or day 45. The suspension period activities is what I'm referring to.

Whiteaker: I'm a little concerned also. I guess I wouldn't ask for any clarification for the permanent rate reference. I mean it says ... our reaction to it ... done and make our decision ... I don't think it's any advantage to us to say permanent rate equal to the requested rate because to me that's the only possible ultimate clarification that would go beyond what it says now.

Hickson: Commissioner Whiteaker the situation came up that a utility, as you know, may request an interim rate and may request a permanent rate. Sometimes they request only one rate and that's the permanent rate. And the question is what does the existing requested new rate - which one does it go in when they request 2. And all I'm saying is that if the goal is to make the legislation as clear as possible so the public understands what it's talking about, I'm telling you that I have talked to 3 attorneys that don't understand that. And they may or may not have as much expertise as members of the public in general ... there's a problem there.

Woman: At the risk of making you more angry ...

Hickson: Oh, I'm not angry. I'm just saying that there's just a problem with understanding ...

Woman: ... confusion with respect the interim rate equal the request rate. I do not understand the confusion, and would prefer not to ... any further clarification of the later part of the sentence which you included in that which was and not longer than 1 year before a permanent rate goes into effect. I don't think that's related to - right now it's not directly tied to the requested rate - I would just assume that it not be directly tied to the requested rate.

Hickson: I just need an adjective for requested rate.

Woman: ... it relates to the first part of the sentence ...

Hickson: Which requested rate when two are requested.

Woman: Maybe also this relates to the issue of rate design changes at the automatic interim stage. Generally people tend to ask interims in terms of a percentage in order to keep themselves whole in terms of revenue

requirement. But I can also see some interesting complexities emerging there.

...

Sokolov: Well, let's go back to where ...

Man: May I say - I don't have the benefit - if it is a benefit - of a real sense of how long - what normalcy is in terms of processing time. And I - it sounds to me what I'm hearing is that's a critical fact to me. It sounds like what I'm hearing is 12 months is probably about right, but for those cases that are monsters and they take longer. Is that correct so far?

Sokolov: ... I disagree with ... Kathleen is that if you put 18 months we automatically get sloppy ...

Whiteaker: I didn't say that Peter.

Sokolov: Then what did you say?

Whiteaker: I didn't say that we would automatically get sloppy, I said - I suggested ... thinking ... risk that being the overriding factor ...

...

Sokolov: ... risk is that it would take longer for cases to go through this commission than in the past.

...

Whiteaker: ... policy to have statutory language that provides -that in general ...

Sokolov: ... procurement - the possibility that some utility ... demand the 12 months limit to avoid perhaps us going to consultants. I think that administratively we have to keep administratively we have to strive to keep the rate cases going as fast as we can. Not at 12 months ... as we possibly can. But to have this imposition of 12 months that may increase litigation with the utilities - is just extra work.

Knowles: I think also what you might find is if on average they would conclude within 12 months, you'd probably find a bell curve - that is to say that a lot of them would be in the 10 to 14 month period. I'm just guessing. So, therefore I think it puts a slightly different cast on it ...

Man: ... understand and that's only the first line of inquiry for me because I don't know whether it makes sense to institutionalize necessarily by statute what we have been doing. Maybe what we have been doing is way too damn slow. I just don't have a handle on that. That's part of the difficulty that I have. I don't know, maybe that's a biding difficulty for anyone in terms of trying to actually make a determination about are we sufficiently timely or are we not.

Woman: We have one rate case pending versus 10 you're going to find your definition of timely will probably vary accordingly.

Woman: ... I would support the status quo ...

Man: I don't hear anyone ... I think you're taking it to an illogical conclusion under that. I understand what you're saying. It seems to me no one is arguing against a straightjacket of some sort and I can't figure out where the - where's the line ... and I can understand why institution would have some concern about too tight a straightjacket and that's not an illegitimate concern. On the other hand I would not want to institutionalize what's a tardy process to begin with. Where does that leave me? I don't think I'll know until I vote which I'm prepared to do if someone would offer a motion but I don't think I'm the best person to do it because I would frankly only be doing it to move the process. I'm getting tired frankly of - I mean we're giving this a - I think a very solid and deserving review but this is ...

...

Man: ... I mean if someone wants to offer something ...

Man: I'll offer a motion ...

...

Man: Let's take a vote.

Man: And your best shot support of that is what ...

Sokolov: And along with that my best shot is to keep it ... processing rate cases here and not to have more priorities ... otherwise we'd have to go to court and this kind of thing. I mean we have to ...

Woman: The most difficult cases we have - the longest hearing periods a commissioner panel member quitting before the decision, we almost made 12 months.

...

Man: It's clear the question is is 12 months normal or not in terms of some distribution and is that an acceptable number. And I don't have a very good feel for it. I get the sense that there are exceptions and our number of cases that could be complicated in any given question - what is good cause ... getting in to that debate ... how likely is that to come up and how stable do you feel and where you feel you're going to come out. With that my inclination is to take ...

...

Woman: ... let's not suggest that the norm is 12 months and have the influence the decision we are making because the norm is something somewhat less than 12 months so we're - I feel like a character of this is moving that the norm is 12 months and therefore there is not a great deal of being on the edge of administrative problems as a result of that when in fact the norm is probably more in the 6 to 9 month range or the 8 to 10 month range. It doesn't approach 12 months. So let's not suggest the norm is ...

Sokolov: I think considering most of our bills are small ones ... shall we take a vote.

Sokolov: Yes.

Knowles: Yes.

O'Tierney: No.

Whiteaker: No.

Foster: Yes.

...

O'Tierney: I'm getting sluggish of mind - the interim items ... what is before us...

Sokolov: ... when a utility comes before us we have 45 days to do a ... interim and we enact an interim ...

Man: ... is that a regulation?

Knowles: It's a legal standard that has evolved from the court cases on interim rate increases.

Sokolov: What is here before us is that after 6 months an interim would go into effect equal to what the utility requests - so not based on a probable success standard but ... the utility requests.

Man: So, in this is in some respects duplicative, isn't it? We already do - if we make a cut at 45 ... is that ...

Sokolov: It is duplicative except with the probable success ... we may determine certain issues ... that we feel the utility would not prevail ... success. Those issues would have a revenue requirement associated with it and after 6 months that would be added to the interim.

...

Woman: ... potential ...

Woman: ... we've had some requests ...

Man: Given whatever this case load is, how could this be - how could this not be violative - if the case law has spawned a standard that we might ...

Woman: There is nothing in our statute yet that requires us to do this. The statute is silent so therefore we are governed by case law. I assume if the statute were passed it would preempt ...

Man: The case law establishes a standard which we use to limit the amount which we give the utility below what they ask for. ... sort of the only way that works ... standard we have to apply but it doesn't say that we couldn't grant them more liberal

...

Hickson: Basically the court requires that we not place the utility in a compensatory position and that's based on findings that come before the commission. That doesn't mean that you can't give them more.

Woman: That's the minimum.

Hickson: It truly is.

Man: The thing that Liz raised earlier here comes in. The utility comes in and asks for 15% interim and 30% permanent and we give them 10% interim after this period of time does it go - after whatever this period of time is - does it jump up to 15% or does it jump up to 30%?

Woman: I've always interpreted this as the ... you've introduced a wrinkle that frankly had not crossed my mind before you spoke of it. I assume - I've been assuming that it was the objective when section 2 was originally passed and it was the objective of section 1 ... I don't consider them discussed.

Man: The existent language in paragraph 2 already sets up a standard for 150 day standard for interim if you're not one of the big boys. I don't know ho is the greater than 3 million is. Is that just a handful.

Woman: It's more than a handful. I couldn't tell you - list them by name although the annual reports ... look at ...

...

Woman: More than half.

...

Man: Why wouldn't we have something similar for those greater than 3 million as for those -

Woman: ... our opinion on the other provisions ...

Man: ... don't have the benefit of that - don't have a clue ...

Woman: ... run the risk of an unfair rate going into effect before you get a change to do what may be a fairly complicated proceeding. I mean with the smaller utilities there's a real good likelihood that the whole case will be completed - and usually is - within the time frame. So that this is no big threat to the public I don't think to have a rate go into effect that the utilities requested without any review by the commission. Whereas with this other - as people have voted here you're talking about an 18 month process to get permanent rate determination. Well, if within 6 months they get what they asked for, you potentially have the public with a bad rate for a year which I think would be very hard to support.

Woman: I have the impression that we've tried to explain our procedures that people - legislatures who have read this were not aware that within the first 45 days there is typically an interim agreement. Well, at least some do not make that association. So that this I think in some minds has been perceived as the clock's rolling, you're not getting any money here's a protection. But we must review in the context of what we know is the way we operate which is generally an interim ... if there's any showing that it's a reasonable request.

Man: How does this work now with those less than 3 million? Do we apply the case law spawned 45 day -

...

Man: We do that and then we also do the second step.

...

Woman: We treat these 150 days as we presently treat the initial 6 month suspension period. We try our darndest to get the case done.

Woman: And that's what makes the 6 months on the interim so unrealistic. Because what it does is it creates almost a perceived ... to get through the analysis of the case so that this section doesn't get invoked or become operative which given the concerns on how long it takes the case. At a minimum you'd have to change it to 12 months which, you know, that's another way of approaching it, you can say if you change this to 12 months, it gives the commission an incentive to try to get the case done in 12 months ... gives them outside of the 18. That may be one way of taking care of some of my concerns.

Woman: I'm not uncomfortable with that.

Woman: It really creates an incentive because you'd have the permanent request going into effect on an interim basis. And it's in nobody's best ...

Woman: Is that a motion Kathy?

Whiteaker: Yes, I move that ...

Man: Seconded.

Woman: And this be clarified to be the requested permanent rate.

Man:	So we'll be amending the proposed legislation? ...
...	
Man:	I just want to make sure ...
Man:	Are you suggesting 12 months in 1 and 2 or just in 2 or just in 1?
Woman:	Just in 1.
Man:	Just in 1.
Man:	How's it read?
Hickson:	... 12 months before the interim rate equal to the requested permanent requested rate goes into effect and not longer than 18 months before a permanent rate goes into effect - on number 1.
...	
Sokolov:	Far be it from me to object to that. Let's take a vote.
Man:	Unanimous consent.
...	
Sokolov:	Any reconsideration on the 18 rather than the 12? You said some of your concerns ...
Woman:	The motion right now is based on the prior commission vote. The motion is let it read 12 months before an interim rate equal the permanent requested rate goes into effect and not longer than 18 months before a permanent rate goes into effect. As I see it that is the motion because we already passed the other.
Man:	Ok.
...	
Man:	... reconsideration ... would have to be someone who voted in favor of whatever the motion that you'd like to reconsider. So in that case she wouldn't have the capacity to ...
...	

Woman: My vote stands ... given the commission vote on that I am moving that we put the interim to 12. Otherwise I would move to eliminate ...

Sokolov: ... on the 12 can we take another vote ...

...

Woman: ... it's passed ...

Man: ... unanimous consent ...

...

Man: No objection was made.

Man: This completes it.

Woman: Before the meeting is adjourned there is another issue and that is how does the majority intend to represent ... commission. Since we do have 2 of 5 which I consider to be fairly significant voting differently on these two matters.

Man: If I may just remind us that Representative Donley requested that there be a roll call response - he'll get that ...

...

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 168(L&C) No.
PUBLISH DATE: HOUSE 3/13/90

cc

FISCAL NOTE

REQUEST:

Revision Date:
Title: Local exchange telephone utilities/tariff filings
Sponsor: Boucher
Requestor: House Labor & Commerce

Agency Affected: Commerce & Economic Dev.
BRU: APUC
Component: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	132.8	132.8	132.8	132.8	132.8	132.8
TRAVEL	2.5	2.5	2.5	2.5	2.5	2.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	5.4					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	140.7	135.3	135.3	135.3	135.3	135.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
GENERAL FUND	140.7	135.3	135.3	135.3	135.3	135.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: T.S. Moninski II, Executive Director
Phone: 276-6222
Division: Alaska Public Utilities Commission
Date: 3/12/90

Approved by Commissioner: Larry Merculieff [signature]
Date: 3/12/90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
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- Impacted Agency(ies)

LW/dg16437D-1/31290b

ANALYSIS - CSHB 168 (L&C)

LOCAL EXCHANGE PHONE UTILITIES/TARIFF FILINGS

The committee substitute for HB 168 has substantially reduced the APUC's original estimate of fiscal impact. However, a review of both Sections 1 and 2 of CSHB 168 (L&C) reveal that some level of augmented resources will still be necessary if this bill is enacted. Section 1 contributes to this impact in the creation of a new rate review procedure for telephone utilities. While a simplified filing may require less analysis than a traditional rate case, these filings will be made with much greater frequency and are likely to be utilized by a significant number of regulated telephone utilities. The combination of this effect will contribute to a positive fiscal impact.

Although Section 2 of the bill now provides for the exercise of commission discretion in extending the processing time for cases based on "good cause," the obvious intent of this section is that the commission should improve its turnaround time for tariff review and decision making. Although it is difficult to quantify, it is clearly necessary to enhance the level of staff resources available to achieve the intent of this provision.

The APUC estimates that the combined impact as noted above will result in the need to add three positions to its authorized staffing. Proposed additions include a Utility Finance Analyst II, a Utility Tariff Analyst II, and an Administrative Support Technician III.

1.	POSITION TITLE: Administrative Support Technician III	RANGE/STEP: 10	BARG. UNIT: G	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION; STAFF MONTHS: 12; RP NUMBER; PCN NUMBER	BRU PRIORITY	LOCATION: Anchorage	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	22,020	
6.	Benefits	9,753	
7.	Supplemental Benefits		
8.	Fixed Benefits		
9.	TOTAL PERSONAL SERVICES	01	31,773
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	1,800
14.	Other		
15.	TOTAL COST		33,573

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	33,573
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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KEY NUMBER - - - - -

JUSTIFICATION:

In order to process the simplified rate filing for telephone utilities created by this bill and to comply with the intent of this legislation for the Commission to improve the timeliness of tariff processing and decision-making, it is necessary to augment the Commission's support staff with a new Administrative Support Technician III (AST III).

Enactment of CSHB 168 will impact the need for support services agency-wide. As such, the Commission proposes the addition of an AST III to its centralized "pool" of support staff. In this configuration, the added resource can be dispatched to any section which is adversely impacted by implementation of the telephone simplified rate filings or the compression created by the bill's imposition of more stringent processing deadlines.

Unlike the request for new Tariff section staff, this element of the fiscal note is unaffected by the Commission's FY 91 budget submission or amendment. If CSHB 168 becomes law, the addition of an AST III is essential to the Commission's ability to comply with the new requirements.

CSHB 168(L&C) No.
HOUSE 3/13/90

FY 91

REQUEST FOR NEW POSITION
8167M

AGENCY Commerce & Economic Dev.
BRU Alaska Public Utilities Comm.
COMPONENT Operations

Page of
Revised Date

01-1137(7/88)-13

1.	POSITION TITLE: Utility Financial Analyst II	RANGE/STEP: 19A	BARG. UNIT: G	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION / STAFF MONTHS: 12 / RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION: Anchorage	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	40,032	
6.	Benefits	13,680	
7.	Supplemental Benefits		
8.	Fixed Benefits		
9.	TOTAL PERSONAL SERVICES	01	53,712
10.	Travel	02	2,500
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	1,800
14.	Other		
15.	TOTAL COST		58,012

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	58,012
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
KEY NUMBER - - - - -

JUSTIFICATION:

In order to process the simplified rate filings for telephone utilities created by this bill and to comply with the intent of this legislation for the Commission to improve the timeliness of tariff processing and decision-making, it is necessary to augment the Finance Section staff with a new Utility Financial Analyst II (UFA II).

This position will provide specialized analytical services for the larger telephone utilities that will be eligible to participate in the simplified filing procedures implemented by this bill's enactment and subsequent Commission regulations. The Finance staff will also need this additional resource as it attempts to comply with the bill's new and more stringent processing deadlines.

Unlike the request for a Tariff Analyst, this element of the fiscal note is unaffected by the Commission's FY 91 budget submission and amendment. If CSHB 168 becomes law, the addition of a UFA II is essential to the Commission's ability to comply with the new requirements.

REQUEST FOR NEW POSITION
8167M-3

AGENCY Commerce & Economic Dev.
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1.	POSITION TITLE: Utility Tariff Analyst II	RANGE/STEP: 17A	BARG. UNIT: G	PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION / STAFF MONTHS: 12 / RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION: Anchorage	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	34,740	
6.	Benefits	12,526	
7.	Supplemental Benefits		
8.	Fixed Benefits		
9.	TOTAL PERSONAL SERVICES	01	47,266
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	1,800
14.	Other		
15.	TOTAL COST		49,066

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	49,066
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
KEY NUMBER - - - - -

JUSTIFICATION:

In order to process the simplified rate filings for telephone utilities created by this bill and to comply with the intent of this legislation for the Commission to improve the timeliness of tariff processing and decision-making, it is necessary to augment the Tariff Section staff with a new Utility Tariff Analyst II (UTA II).

This position will provide general analytical services for all new tariffs filed under the simplified procedures to be implemented via the bill's enactment and subsequent Commission regulations. This position will also assist existing staff in its efforts to comply with the bill's new and more stringent processing deadlines.

It should be noted that the Commission has submitted a budget amendment for FY 91 which, if approved, would allow the Commission to reallocate funds internally for the purpose of creating a new UTA II. While the primary justification for this request is the impact of major interexchange telecommunications decisions, the budget amendment and this fiscal note could be evaluated together and might result in a request which was less than the two FTE positions that would result if considered separately.

REQUEST FOR NEW POSITION

8167M-5

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CSHB 168(L&C) No.

HOUSE 3/13/90

01-1137(7/88)-13