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Petition Initiative

June 5, 1989



**General
Communication
Incorporated**

The Honorable Stephen A. McAlpine
Lieutenant Governor
Box AA
Juneau, Alaska 99811

Dear Lt. Governor McAlpine:

With this letter we are filing 98 separate "Initiative Sponsor Application[s] and Testaments." Eighty-one of these contain the signature and voter information pertaining to 31 sponsors. The other 17 contain the signatures and voter information pertaining to 80 sponsors. Together with this letter these documents constitute an application for a proposed initiative entitled "An Act Relating to Intrastate Long Distance Telephone Competition."

Pursuant to AS 15.45.030, our initiative committee consists of the following three sponsors:

Ronald A. Duncan
4150 West 82nd Avenue
Anchorage, Alaska 99502

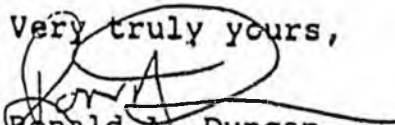
Dan K. Coffey
3231 Knik
Anchorage, Alaska 99518

Stephen G. Frank
1125 Sunset Drive
Fairbanks, Alaska 99709

Pursuant to AS 15.45.090 (2), the Lieutenant Governor is required to prepare an impartial summary of the subject matter of the proposed bill. Attached to this letter is a draft summary which we have prepared for the Lieutenant Governor's consideration.

Also attached to this letter is our proposed bill. Copies of the proposed bill are also attached to each of the sponsor's signature pages as required by AS 15.45.020.

Very truly yours,


Ronald A. Duncan
President

SUMMARY

The proposed bill would allow competition in in-state long distance telephone service. The bill would accomplish this by allowing new companies to provide long distance telephone service by filing a notice with the Alaska Public Utilities Commission and posting a surety bond to guarantee financial responsibility.

To assist in implementing long distance telephone competition, the proposed bill would require the Alaska Public Utilities Commission to establish a system of access charges. The companies providing in-state long distance telephone service would pay these charges to local telephone companies for each long distance telephone call.

To the extent permitted by the Alaska Constitution, the Alaska Public Utilities Commission would be authorized to establish a fund to provide financial support, where necessary, to ensure the provision of in-state long distance telephone service throughout the State at reasonable rates.

Under the proposed bill, the rates charged by the new companies providing competitive service would not be regulated. For companies presently authorized to provide in-state service, the Alaska Public Utilities Commission would have the power to deregulate the rates charged on those long distance routes where competitive service is available. The bill would also give the Alaska Public Utilities Commission the power to reimpose regulation on the rates charged on any route upon a finding that competitive

service is no longer being offered on that route.

In order to prevent a company from using its profits ^{on} noncompetitive, regulated routes to unfairly reduce the rates charged on competitive, deregulated routes, no company would be permitted to shift its costs between the regulated and unregulated portions of its service.

To further ensure fair opportunity to all companies wishing to provide in-state long distance telephone service, the bill would prohibit restrictions on the resale of telecommunications services so that one company may send its calls over the facilities of another if it wishes to do so.

STATE OF ALASKA
THE LEGISLATURE

FOUCHY STATE CAPITOL
JUNEAU ALASKA 99801
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 21, 1989

SUBJECT: Intrastate competition in telecommunications
(Work Order No. 6-0689)

TO: Senator Steve Frank

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 makes findings concerning telecommunications services in the state.

Sections 2 - 4 exempt utilities and services that are exempt under AS 42.13, enacted by section 5 of the bill, from regulation by the Alaska Public Utilities Commission (APUC) or by municipalities to the extent of the exemption granted under AS 42.13.

Section 5 adds a new chapter concerning regulation of intrastate exchange or interexchange telecommunications service.

Sec. 42.13.010 permits entities that did not hold APUC certificates of public convenience and necessity to provide intrastate telecommunications service on January 1, 1989, and that are not affiliated with a certificated entity, to provide interexchange service without being certificated. The entity must first file a notice concerning services and rates. Entities providing service under this section are not subject to regulation by the APUC. The definition section, sec. 42.13.300, defines "interexchange service" and "intrastate service."

Sec. 42.13.020 requires in subsection (a) that the APUC deregulate telecommunications services if an interested party requests and the requirements of the section are met. The commission may also act on its own motion to deregulate a service. The section applies to public utilities holding certificates of public convenience and necessity to provide intrastate telecommunications service. The commission must provide notice of the application and an opportunity for a hearing. The service is deregulated if the commission finds that the entity or affiliate of the entity does not have market power in that telecommunications service and is not affiliated with an entity having market power in that telecommunications service.

Under the rest of the section, the exemption applies only to the services exempted under (a). The APUC is directed to determine the fully distributed cost of the exempted and regulated services provided by the entity. The rates for regulated services may not include recovery of any of the costs of the exempted service. Rates for regulated services may increase only if the direct costs of the regulated service increase.

Sec. 42.13.030 sets out the notice that entities must file before providing an exempted service. The contents include the entity's name, address, a description of services and prices, and proof of the purchase of a bond required by the chapter. The notice must be kept up to date.

Sec. 42.13.040 permits the APUC to require that an entity that has been exempted under the chapter begin complying with regulatory requirements of AS 42.05 if the APUC finds that the entity has gained market power in a telecommunications market. The reimposition of regulation applies only to the extent a service or entity has market power.

Sec. 42.13.050 directs the APUC to establish a system for access charges to be paid by interexchange service providers to local exchange carriers. The local exchange carriers set the amounts by a tariff filing.

Sec. 42.13.060 directs the APUC to establish an intrastate telecommunications service universal service fund. The local exchange carriers maintain the fund. The purpose of the fund is to provide financial support as necessary to ensure that interexchange service is provided throughout the state at reasonable rates. The fund is to be used to reduce

exchange access charges and surcharges. The APUC may approve a tariff that reduces the charges and surcharges to zero if necessary to accomplish the purpose of the fund. The commission may change the method by which money from the fund is distributed if the change is necessary to achieve the purposes of the section. However, under section 8 of the bill, the commission must wait for two years after the fund is established before it may make changes.

Sec. 42.13.070 permits the APUC to authorize the local exchange carriers to form an association to help administer the access charges and the universal service surcharges.

Sec. 42.13.080 requires entities providing or proposing to provide interexchange service to post a surety bond payable to the local exchange carrier association or the carriers themselves. The bond is to be in an amount equal to 90 days estimated intrastate exchange access charges and surcharges.

Sec. 42.13.090 prohibits an entity from putting limitations on the resale of a telecommunications service. If a service is resold, the reseller receives credit for applicable exchange access charges if the credit is necessary to prevent double payment of the charges.

Sec. 42.13.100 prohibits entities from discriminating among customers or entities in providing access, service, or interconnection and requires entities to permit connection or the furnishing of a service when the public convenience and necessity require and the result will not cause substantial injury or a substantial detriment to the service.

Sec. 42.13.200 directs the APUC to refer to decisions of courts interpreting state and federal laws concerning monopolies and restraints of trade when determining whether an entity has market power under the chapter.

Sec. 42.13.300 defines terms used in the chapter.

Section 6 changes the current exemption from regulation under the state antitrust laws. The exemption for all public utilities holding certificates of public convenience and necessity is changed to remove utilities providing interexchange telecommunications service. The antitrust laws will apply to the provision of interexchange telecommunications service.

Senator Steve Frank
Page 4
February 21, 1989

Section 7 extends the termination date of the Alaska Public Utilities Commission to 1993.

Section 8 limits the APUC's power to change the method for distribution of the universal service fund for two years after the establishment of the fund.

Section 9 directs the APUC to adopt the regulations to establish the exchange access charges and the universal service fund on or before January 1, 1990.

Section 10 sets an effective date of January 1, 1990, for the sections creating the exemptions from APUC regulation and reimposition of regulation, requiring bonding, and prohibiting restrictions on resale of services and for the limitation of the exemption from the antitrust laws.

Section 11 makes the exchange carrier association section and the extension of the termination date of the APUC take effect immediately.

The remaining parts of the bill do not have a special effective date.

If I may be of further assistance, please advise.

TC:lmb
L7/021

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET p.1

SPONSOR: Senate State Affairs

SUBJECT: SB 206 - Intrastate Phone Competition

START/END TIME: 1:30 pm - 4:00pm DATE: 10-31-89

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	R. Niwa REA	6912 Fairweather Dr Anch 99518	349-5001		✓	
2	John McGill Alaska	210 E Bluff Rd ANCH	264-7796		✓	
3	Barbara Gruenster / Alascom	210 E. Bluff Rd Anch	264-7752		✓	
4	JULIAN L MASON Alascom	1130 West 6th	276-4331	✓		
5	A.W. Saupe / Alascom	1130 W. 6th Anch	276 4331		✓	
6	Hisaie Ubi / GELI	2550 Denali St	265-5615		✓	
7	Dana Timball	2550 Denali	265-5600		✓	
8	Rick Solie - Sen. Steve Frank - Fairbanks		452-3421		✓	
9	STEVE FRANK	1125 SUNSET FRANKS AK	452-3421	✓		
10	CHARLES CAMPBELL	410 L ST SUITE 1000	276-6222		✓	
11	RON DUNCAN	2550 DENALI ST #1000	265-5600	✓		
12	Deborah Williams	510 L St #500 99501	276-2713		✓	
13	W D PYRON	4300 B St Suite 300	563-2199		✓	
14	D. D. Bois	" " "	" "		✓	
15	Kathleen Whiteaker	APUC 420 L St. 99501	276-1222		✓	
16	Ted Morinski	" " "	" "		"	
17	Susan Knowles	✓	✓	✓		
18	Carolee Guss	✓	✓		✓	

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET p.2

SPONSOR: SON ST Aff
 SUBJECT: SB 206 - phones
 START/END TIME: 130-400 DATE: 10-31-89

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Peter Soroklov	420 L St. 99501			✓	
2	Asmley Reed	510 L St #210 Avc ⁹⁹⁵⁰¹			✓	
3	J. Jackson	420 L St 99501			✓	
4	LORRAINE PLAGA	420 L ST 99501			✓	
5	G. PALMER	201 E. 56th 99518			✓	
6	Bernadette B Murray	3940 Arctic Blvd 99505			✓	
7	Elizabeth M. Johnson	103# W 4th, suite 200 99501			✓	
8	Tuckerman Babcock	Rep. Loren Lemay			X	
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						

10/31/89 Hearing

PHONES

1:30-4:00 pm

Contacts

GCI: ^{2550 Denali, #1000} Dana Tindell / Ron Duncan 265-5611 Anch 99503
⁵⁸⁶⁻³³⁴⁶ Sen Frank (Rick Soli) 452-3421
 Reed Stoops, Jim Clark, Ed Dankworth

Alascom: ^{279-5350 / FAX 258-3527} Ashley Reed, Jerry Reinwand, Alex Miller, ⁵⁸⁶⁻¹⁷⁷⁶ Kim Hutchinson
 John McGill, Barbara Greenstein 264-7796

APUC: ^{not prepared to comment on initiatives} Susan Knowles / Kathy Whittaker 276-6222

ATA: Gordon Parker 563-4000
 Steve Hamlen, Unicorn 561-1674

Other: Dave K, Ken Anderson - Lt. Gov. 3520
 AG - Jim Baldwin 3600
 Jean Kassen, OMB 3568

~~AK Consumer Advocacy A~~ Analysis North Alan Mitchell
 Alaska's Utility Consumer Advocate
 911 W. 8th Ave., Suite 204
 Anchorage, 99501

Teleconference Sites: Anch Soldotna
 Eby
 Jru

Phones - notes

at AG - available in 2 wks - ?
Alascom petition not certified by Lt Gov yet
Both petitions allow competition but in different way.

If voters approve, ^(90 days?) automatically becomes law.

SO PRESSURE IS ON LEG. TO DO SOMETHING THIS ¹⁹⁹⁰ SESSION IF DON'T LIKE EITHER ~~INITIATIVE~~ INITIATIVE.

Confusion: what if both initiatives pass?

what is "substantially similar"? If pass leg. similar to 1 initiative, & the other initiative is approved by the voters - what happens?
if voters approve initiative, leg. can't change for 2 yrs.

^{Temples & Interested Citizens}
Alascom (etc.) has sued over components of GCI initiative as unconstitutional. Knowles thinks likely GCI will sue over Alascom initiative once it's ~~certified~~ certified.
→ initiative can't appropriate \$ (universal service fund)

Baldwin - Supreme Ct. says AG can revise initiative - don't know if will. Concern = the repealer in the Alascom initiative.

Joel Kothberg
DATE?

Long-distance telephone service in Alaska: issues and choices

A consumer guide from the Alaska
Consumer Advocacy Program

This consumer guide was prepared with the support of the State of Alaska, Department of Commerce and Economic Development. However, any opinions, findings, conclusions or recommendations expressed herein are those of the authors and do not necessarily reflect the views of the State of Alaska.

I. Introduction

Long-distance telephone service in Alaska is at a crossroads. As a result of a decision by the Federal Communications Commission, Alaskans may choose between competing long-distance carriers for interstate and international service.

Before the Alaska Public Utilities Commission (APUC) at this time is the issue of whether telephone companies should be allowed to compete in offering intrastate long-distance service. The issue is not an easy one to decide, as it involves complicated systems, and its resolution will affect both long-distance and local telephone consumers and both urban and rural Alaskans.

Connected to the question of competition in Alaska, and at the same time separate from it, are issues of how long-distance companies serving Alaska should be regulated, whether they should be regulated at all, how local telephone companies should be compensated by long-distance carriers for connections, and how the costs of local and

long-distance service should be apportioned among telephone companies and their customers. One purpose of this booklet is to help Alaskan telephone consumers understand these issues. It is not a purpose of this booklet to advance positions adopted by ACAP on these issues.

The booklet also contains some suggestions about how to choose among options in long-distance service. In preparing this portion of the booklet, the ACAP staff discussed the various long-distance calling plans with representatives of Alascom and GCI and consulted information provided in local telephone directories. Consumers are encouraged to make use of these sources. Consumers who need help with telephone service may also contact the APUC staff. The APUC's address and telephone number is:

Alaska Public Utilities
Commission
420 L Street, Suite 100
Anchorage, Alaska 99501
276-6222

II. Intrastate competition in long-distance telephone service: should we have it?

Consumers accustomed to the free market system that operates elsewhere in the American economy may find

this an odd question. After all, have not most of us been told in school, through the news media, and from political leaders, family, and friends, that the American economy is superior to those of other countries because it offers freedom of choice? Doesn't competition in goods and services always provide the best products and services at the lowest possible price? Why should this not also be true of telephone service?

At present, Alascom is the sole provider of intrastate long-distance service, although GCI has applied to the APUC for a certificate to provide service and proposed rules to govern competition. GCI and other advocates of competition contend that it offers the same benefits to telephone customers as are afforded other consumers. They state that competitive offering of interstate and international service has already lowered rates for Alaskans and brought improved technology and service. They also argue that no utility company answerable to shareholders is likely to lower rates unless it is under competitive pressure or is legally required to do so.

Those who have doubts about competition in long-distance service point to the high cost and complexity of telephone systems, arising from the interconnectedness of those systems and their high

degree of dependence upon sophisticated technology as grounds for caution.

These people insist that competition among telephone companies cannot be compared to competition between supermarkets or automobile companies. They cite the confusion, difficulties with service, and higher local telephone bills consumers have experienced since the break-up of AT&T as examples of what can go wrong when telephone companies are allowed to compete.

These problems are compounded, it has been argued, in a state such as Alaska, in which a large percentage of the population is concentrated in a few urban areas and the rest are scattered throughout the state in small villages. The inhabitants of these villages, many of whom have small incomes derived mainly from seasonal work, are especially dependent upon affordable in-state long-distance communication.

Alascom and others argue that the company is able to offer affordable service around the state only through statewide averaging of its rates. They say that Alascom averages rates by using revenues generated above cost on some of its routes to maintain reasonably priced rates on routes in other areas of the state, particularly in rural Alaska.

Alascom notes that at present potential competitors are interested only in providing service in areas around Anchorage, Fairbanks, and Juneau, and that if it has to offer competitive rates in just those areas, it will no longer be able to average rates across the state and to provide financial support to rural customers to keep their rates down. The rates of rural customers, Alascom says, will rise dramatically, perhaps to unaffordable levels.

GCI and supporters of competition counter these arguments by insisting that available data shows the rural portion of Alascom's system to be largely self-sustaining. They say that revenues generated above cost have been used mainly to support below-cost rates for short distances in the Anchorage area and probably the Fairbanks and Juneau areas, as well. This support mechanism, they note, will begin to disappear if a new rate design proposed by Alascom and now being considered by the APUC is approved. That rate design will raise rates for short-distance routes and lower rates on the longer-distance routes.

Has competition been beneficial to Alaska? GCI does offer competitive rates, and even Alascom admits that GCI has made substantial gains in customer growth and market share since it began

operations in 1982. In addition, both Alascom and GCI have reduced rates markedly in recent years. In weighing these events, consumers should examine closely implications in company advertisements that every rate reduction by Alascom has been the result of competitive pressure from GCI or that Alascom offered rate reductions just because it decided customers should have them.

GCI insists that competition has been a factor in Alascom rate reductions. Alascom responds that it has reduced rates mainly in response to FCC orders. In the 1970's the FCC ordered interstate rate integration for Alaska and three other off-shore jurisdictions. Under rate integration long distance telephone companies were required to reduce their interstate rates in stages to levels comparable to those in the continental United States.

GCI in response points to a 1980 agreement between Alascom and AT&T, approved by the FCC, that delayed the introduction of the final stage of rate integration until December, 1986. (A large part of the interstate revenues received by Alascom through this deferral of the final reduction was channelled into a transitional supplement fund, the purpose of which was to support intrastate rates and operations.) GCI argues that Alascom did

not decide to move into the final stage of rate integration until it observed GCI making gains in market share.

Another change ordered by the FCC brought interstate long-distance rate relief at the expense of local telephone consumers. This change is the federal end-user access charge, now set at \$3.60 a month, which every local telephone customer now pays. The federal access charge recovers system costs previously paid by long-distance customers.

Other events besides competition and FCC orders have played their part in reducing rates. In 1987, long-distance telephone companies and other utilities reduced their rates in order to comply with the legal requirement that they account for a reduction in income tax expense resulting from the federal 1986 Tax Reform Act. Alascom reduced its intrastate rates additionally in that year by recovering through operator assistance

charges costs it had previously recovered through basic rates.

Would intrastate competition work in Alaska? To answer this question, the Alaska Public Utilities Commission is exploring what the costs are of providing local and long-distance telephone service. The APUC is also trying to decide who among various classes and groups of customers is paying these costs at present and who should be paying them. With answers to these questions, the APUC will decide whether it is possible to have competition which offers benefits to Alaskans without imposing unreasonable costs on any class or group of customers.

As suggested above, part of the debate is about which customers within Alascom's system are paying the costs of the system. Another part of the debate, discussed further in the next section, is about how the costs of telephone service should be apportioned between long-distance and local customers.

III. What costs of the telephone system should local subscribers pay?

Alascom has asked the APUC to shift 40 percent of certain costs it now pays to local telephone companies. If the cost shift were passed on in its entirety to local telephone consumers, it could mean an

additional \$4 monthly charge on each local bill in the state. Alascom has suggested that the impact of the cost shift could be eased if local companies absorbed it in their profit margins or distributed

more or less of it to different customer classes. The new charge would be called a subscriber line charge.

The rationale advanced for the subscriber line charge is the same as was offered for the monthly federal access charge. The FCC approved the federal access charge when long-distance companies offering interstate service said that they were paying costs of the physical plant of the local telephone exchange (usually designated as "non-traffic sensitive", or NTS, costs) that should properly be paid by local users.

The carriers said these NTS costs would have to be paid even if there were no long-distance service. In addition, the carriers argued that once they were relieved of these costs, they could reduce their rates, a desired result in itself and one which would help them to meet competition in the form of customer "bypass" to alternative methods of long-distance communication. If they could not meet this bypass threat, the carriers declared, they would lose major customers, and those who remained on their systems, chiefly residential and other smaller users, would pay higher rates to make up for the loss.

In defending its cost shift proposal, Alascom says if it did not have to pay the costs it wants to transfer to local com-

panies, it could make an overall reduction in rates of 20 percent. It says it, too, is facing bypass threats which could lead to higher rates for its customers. Alascom also argues that without the shift, if it had to meet an intrastate competitor offering basic service, it and its customers would be unfairly burdened by extra costs in rural areas that its competitors did not want to serve.

Opponents of the cost shift say that it is fair for Alascom to pay the costs it wants to shed, because if there were no local telephone system, Alascom would not be able to connect its long-distance calls. They say Alascom has not shown that reduced rates would keep on its system the customers it fears it will lose to bypass. Alascom, they insist, has not shown who among its customers would benefit most from rate reductions. The concern is that large-volume customers, including government agencies and businesses, would reap the biggest gain. At the same time, residential and other small users, who have no options besides basic telephone service, would suffer a net loss from the shift.

An issue currently before the APUC which poses many of the same questions as those raised by the Alascom cost shift proposal is that of separation of costs between local and

long-distance companies. The FCC has rules which control which costs of the telephone system shall be paid by local telephone subscribers and which by interstate long-distance customers. In recent years, FCC rules have transferred an increasing share of system costs from interstate carriers to local exchanges. The basis for this transfer has been largely the same as that behind the federal access charge, namely that a claimed subsidy of local users by long-distance customers must be reduced.

The impact of this transfer on the costs borne by local users in rate increases has been substantial (up to \$7 million for customers of Anchorage Telephone Utility), and to lessen the impact on high-cost local exchanges, including those in Alaska, the FCC has ordered the creation of universal service funds, which channel subsidy monies from lower-cost to high-cost exchanges.

The APUC recently adopted rules patterned after the FCC regulations which control apportioning of costs between local and intrastate telephone companies. The rules made no dramatic change in the respective cost burdens of local and intrastate companies or the eligibility of local companies for federal subsidy funds, and no action was taken to create a statewide universal service fund.

Whether any significant change will be made in the future will undoubtedly depend in part on whether additional costs will be shifted from interstate to local service and whether the APUC adopts the cost shift proposal of Alascom. As noted above, decisions on long-distance rate design, separations and cost shifts help define the cost of delivering long-distance service. When that cost has been adequately defined, a decision will be made on whether the service can be competitively offered at rates that will benefit consumers.

IV. Rate of return v. price-cap regulation: which should we have?

Another important issue for long-distance consumers, particularly as it relates to the question of competition, is whether long-distance companies should be regulated by

the rate of return method or under a price-cap system.

Rate of return regulation, the method traditionally used for long-distance companies, involves setting rates which will give the company a

reasonable rate of return, or profit margin. This method entails a close examination of company expenses to determine whether they are reasonable and estimating a risk factor for the company which should be reflected in the return paid to investors. Making these decisions can be a long, expensive process, requiring the company to hire experts to support its estimates. In addition, deciding what a reasonable profit margin for a regulated utility should be is universally acknowledged to be a somewhat subjective judgment.

An alternative to rate of return regulation recently approved by the FCC for AT&T is price-cap regulation. The price-cap system establishes ceilings for rates charged by AT&T and permits the company to charge customers up to those limits. The ceilings can be adjusted upward to allow for increases in operational expense, upward or downward for changes in expenses beyond company control, such as taxes, and downward by productivity (2.5 percent) and consumer benefit (.5, percent) factors. Alascom recently proposed that the FCC approve a price-cap system for interstate companies operating in Alaska.

Under price-capping, there is no intensive FCC examination of a company's expenses and rate of return as long as

the company stays within the price ceilings. The proponents of the system say it will save the company and its customers unnecessary regulatory expense. They argue that the customers can depend upon competition to keep prices down to their lowest reasonable levels. They say the company bears the risk if the costs of doing business exceed the price caps.

Those who question the wisdom of ending rate-of-return regulation say that the greater risk for consumers is that they will lose the assurance that companies will be required to pass through in rates the full savings actually achieved by cost reductions and increased productivity. They argue that consumers have benefited from the traditional method. Between 1934 and the breakup of AT&T the real price of telephone service, allowing for inflation, has fallen 64 percent. They observe that AT&T has not had difficulty attracting investment capital, even with an authorized rate of return which over the past three decades was between one and two percentage points below that of the Standard & Poor's 400 average.

Opponents of price-capping argue further that competition in interstate telephone service nationally, with a small number of providers, has produced only relatively small differences in rates among companies.

This kind of competition, they say, cannot be relied upon to ensure protection of consumer interests. They also point to an element of the Alascom proposal which would allow complete recovery of major new Alascom investments approved by the FCC. They sug-

gest this provision could be used to recover hundreds of millions of dollars in costs associated with putting in place planned investments which include a new satellite and an underwater trans-Pacific cable.

V. What can consumers do?

Consumers can get involved in these issues by writing to the APUC to let it know what they think the Commission should do about the costs of long-distance and local service and whether competition in intrastate service should be allowed. The Commission files on these questions are open to public inspection and are useful sources of information. Consumers may ask for public hearings on these issues, a request to which the APUC has been responsive in the past.

The state legislature last session became involved in the question of intrastate competition, and bills on the issue are

still pending for further consideration. SB 242 would create a legislative presumption against competitive entry in telecommunications service unless the APUC first found that the existing utility was not providing adequate service and was unlikely to improve to a satisfactory level within a reasonable period of time. SB 206 would require the APUC to allow intrastate competition, as would similar legislation introduced in the House of Representatives. Consumers may want to obtain copies of these bills from legislative information offices and contact their legislators about them.

VI. Rates and Discounts

Rates in this booklet reflect two 1989 rate changes for each of the interstate long distance companies. These revisions occurred subsequent to the issuance of the Anchorage Telephone Utility directory issued in May 1989. Long distance rates change over time,

so for the particular rates in effect at the time of calling, ACAP recommends that customers contact company marketing representatives or operators. For GCI dial 264-5400; for Alascom dial 0 or 264-7391.

Telephone Company Rate Comparisons for Direct Long Distance Dialing

From Anchorage, AK Area to	Charge 1st Minute		5 Minute Call	
	Alascom	GCI	Alascom	GCI
Seattle, WA	\$.26	.25	1.26	1.25
Los Angeles, CA	\$.26	.25	1.26	1.25
Denver, CO	\$.26	.25	1.26	1.25
Minneapolis, MN	\$.26	.25	1.26	1.25
Dallas, TX	\$.31	.30	1.51	1.50
New York, NY	\$.31	.30	1.51	1.50
Honolulu, HI	\$.66	.64	3.26	3.20
Vancouver, BC	\$1.58	1.42	7.50	6.74
Calgary, AL	\$1.58	1.42	7.50	6.74
Toronto, ON	\$1.95	1.75	9.35	8.39
Mexico City, Mexico	\$2.25	1.95	11.25	9.75
Toyko, Japan	\$3.75	3.65	18.75	15.65
Seoul, Korea	\$3.75	3.65	18.75	15.65
London, United Kingdom	\$3.00	2.40	15.00	12.00
Sydney, Australia	\$3.50	3.40	17.50	14.60

The table above offers rate comparisons for Alascom and GCI as of June 1, 1989.

The simplest way to save money while calling long distance is to call during the time of day or week when the rates are the lowest. Diagrams found in the peach-colored pages in the front of local telephone directories show how rates are structured. In every time zone, the prime

time for using interstate long distance telephone services coincides with the business day. During commercial hours beginning at 8:00 AM and ending at 4:59 PM from Monday through Friday, full day rates apply. Once the workday ends, long distance telephone users may enjoy an evening rate discount of 33% from 5:00 PM to 10:59 PM on Monday through Friday and for part of

late Sunday afternoon. The night and weekend rate discount of 48% is available from 11:00 PM to 7:59 AM on Monday to Friday, all day Saturday, and most of Sunday.

For an Alaskan long distance telephone user, placing and concluding calls to the Lower 48 before 7:59 AM in the morning saves 48% from the full day rate everyday of the week. This means that many calls to outside businesses may be placed at reduced night rates from Alaska. Calling long distance all day Saturday and on Sunday before 5:00 PM also saves 48% off of full day rates; many callers do not realize that after this time on Sunday the rate goes up to the evening rate, or 33% off of full day rates.

Alaskans who are frequent long distance callers may be able to save a substantial amount of money by using special package discount plans. Most of these plans sell discounted blocks of time at off-peak hours with additional bargain time blocks available at even better rates. GCI and Alascom both offer package discount plans for long distance telephone calls that are made each month. As of June 1, 1989 the discount plans of

the two companies compare as shown on page 12.

One important part of economical telephone use is knowledge of the rate structures of telephone companies. An equally important aspect is the customer's knowledge of his or her calling patterns. Choosing the least expensive form of service requires the customer to know the times of the day and the days of the week when he or she makes the most calls, the amount of time in an average call, the total time spent per month in making calls, and the places usually called.

The customer should calculate whether, given his or her calling plan, he or she will actually save money under the plan selected. Not making this calculation can mean that the customer may end up paying for more service than he or she needs.

In addition to offering rates for telephone services and discount plans for callers, both Alaskan interstate telephone companies offer a wide variety of services for the convenience of long distance telephone users. The table on page 13 shows the special services each company offered as of June 1, 1989.

Telephone Services Offered to Long Distance Subscribers as of June 1, 1989

Service	Alascom	GCI
Direct Dialing	■	■
Person-to-Person	■	
Billing Balance from Customer Representative	■	■
Special Discounts for Hearing and Speech Impaired Alaskans	■	■
Instant Credit Allowance for a Bad Connection (1 minute)	■	■
Instant Credit Allowance for a Bad Connection (3 minutes)	■	■
Interstate Credit Card	■	■
Interstate 800-Toll Free Calls	■	■
International Calls	■	■
International 800-Toll Free Calls	■	■
Collect Call Services	■	
3rd Party Billing	■	
Conference Calling	■	
Emergency Assistance	■	
Marine Radio	■	
Directory Assistance for Interstate and International Calls	■	
Alaska Switched Data Network	■	
Billing via Local Telephone Exchange (except where optional calling plan chosen)	■	

ALASKA PUBLIC UTILITIES COMMISSION

Comments on SB 206

October 31, 1989

In March of this year, the Commission submitted its initial comments on SB 206. At that time the Commission stated that it needed to address a number of interrelated issues affecting the operation of the telecommunications industry in Alaska before deciding the intrastate toll competition question. The issues and work plan for accomplishing this comprehensive restructuring of the industry were also described in detail.

The purpose of today's comments is to summarize the actions which have been taken by the Commission since last March and which are scheduled for the immediate future.

There are four major issues which logically precede the competition question: cost separations, access charges, subscriber line charges, and the Alascom rate design. Following is a brief description of the scope of each issue, the status of its resolution, and its relationship to a decision on intrastate toll competition.

(1) Cost Separations:

(a) The Issue: Each local telephone company provides three types of service-- local, state toll, and interstate toll. The toll services are provided in conjunction with an interexchange company, such as Alascom or GCI. Pricing of toll and local services requires that the local telephone companies divide or separate their costs between these three services. The Federal

Communications Commission (FCC) has already decided what costs are interstate. State commissions have been left with the task of determining how the remaining costs will be divided between state toll and local services.

(b) Status: In 1988 the Commission determined how the costs under the state's jurisdiction would be separated between local and state toll services with one significant exception. The Commission reserved a final decision on assignment of non-traffic sensitive (NTS) costs pending an evaluation of the impact of other accounting and cost separations changes on local telephone companies. These costs are about 70 percent of the local telephone companies' state toll costs.

In May and June 1989, statistical data, comments, and reply comments on NTS cost separations were filed with the Commission. A public hearing was held in June and proposed regulations issued in July. Comments and reply comments on the regulations were received in August and September. At public meetings held later in September, the Commission adopted the proposed regulations with minor corrections, and an order confirming that decision will be issued later this week.

(c) Impact on Competition: The cost separations decision defines the largest single cost of providing toll service in Alaska, namely, the cost of access to local telephone subscribers. Both Alascom and any prospective competitor must know this cost in order to do business and price their services. This information is also critical to an assessment of the affordability of state toll services, with and without competition.

(2) Access Charges:

(a) The Issue: The local telephone companies' costs assigned to state toll services are paid by the interexchange companies that use the local systems to complete toll calls. Currently, this payment is made through private settlement

agreements between each local telephone company and Alascom. The FCC replaced settlements with a system of tariffed access charges. These charges compensate local telephone companies for the costs of completing interstate toll calls. At issue is whether a similar access charge system should be adopted for paying the local telephone companies for their state toll costs.

(b) Status: Comments on the desirability of adopting the federal access charge system were filed with the Commission in February, March, and April of 1989. The Commission subsequently proposed regulations adopting access charges modeled after the FCC's rules in May. Comments on the proposed regulations were filed in June, and a public hearing, which lasted almost one week, was held in July, 1989. At public meetings in September and October, the Commission decided that settlements should be replaced by access charges and worked out the substantial number of mechanical details of implementing such a system. The order including the 27 page Alaska Intrastate Interexchange Access Charge Manual was issued last week.

(c) Impact on Competition: While there are a number of other good reasons for adopting access charges, it appears to be universally accepted that such a compensation arrangement is essential if state toll competition is allowed. This position is reflected in SB 206 and in GCI's initiative. Thus, the Commission's decision to implement access charges has eliminated a potential structural impediment to state toll competition.

(3) Subscriber Line Charges:

(a) The Issue: Another mechanism for recovering non-traffic sensitive costs which have been assigned to state toll services is to institute what are called subscriber line charges (SLCs). SLCs have been adopted by the FCC to recover some of the interstate toll NTS costs and are currently imposed on all telephone consumers' monthly bills (\$3.50 per line for residential and single-line business customers and \$6.00 per line for multi-line business customers). The SLCs have the effect of

shifting costs from per minute rates for toll service to a flat monthly charge for all customers. It was a logical extension of the Commission's cost separations and access charge inquiries to consider whether SLCs should be adopted. In addition, SLCs were proposed in the Alascom rate design proceeding.

(b) Status: In 1988, the Commission received comments and conducted a public hearing on SLCs. In 1989, in conjunction with proceedings on Alascom's rate design, cost separations, and access charges, the Commission received additional comments on SLCs. At a public meeting in September, the Commission decided that SLCs should not be adopted; the decision will be formalized by order in November.

(c) Impact on Competition: The resolution of this issue further helps to define what costs are associated with state toll service and whether or not those costs will be collected through toll usage rates. The decision also addresses one of Alascom's major rate design proposals.

(4) Alascom Rate Design:

(a) The Issue: After computing the total revenues that a utility is allowed to earn, it is necessary to determine what rates it will charge for each type of service in order to collect those revenues. This is the focus of Alascom's rate design proceeding. The decision involves consideration of not only the cost of state toll services but also non-cost factors such as the value and availability of service to consumers, historical rates, and competitive alternatives.

(b) Status: In February of 1989, the Commission had two weeks of public hearings on Alascom's rate design. A number of the issues in that case were related to the other telecommunications issues described above, and, with their resolution, a rate design decision is now anticipated in November.

(c) Impact on Competition: The rate design proceeding provides information on the cost of providing toll services in Alaska and the interrelationship between Alascom's rate design and competition.

With work on these four issues substantially concluded, it is now possible for the Commission to direct its attention to the state toll competition question. The Commission currently plans to convene a special public meeting on this question and the regulations proposed by GCI for implementing competition on Monday, November 27, at 1:30 p.m. It is the Commission's objective to issue a decision after that meeting which clearly articulates the Commission's policy position and any procedural plan necessary to implement that position.

INTRA-STATE LONG DISTANCE TELEPHONE COMPETITION

This bill amends the law relating to long distance phone competition within Alaska. If a company has not offered in-state service before 1990, it must get approval from the Alaska Public Utilities Commission. To be approved, a company must show that the new service benefits the whole state, reduces rates and improves service where there is competition, and does not harm service in other areas. Where there is any competition, companies may set their own rates. This bill would repeal laws enacted by another initiative about in-state phone service if that initiative is approved by the voters.

Regarding the
Alascom initiative...

MEMORANDUM

State of Alaska

Department of Law

TO: Steven McAlpina
Lieutenant Governor

DATE: October 23, 1989

Sandi Stout
Director
Division of Elections

FILE NO: 663-90-0130

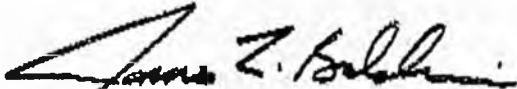
TEL. NO: 465-3600

SUBJECT:

Second initiative
petition relating to
intrastate telephone
competition (90-ALAS)

STATE OF ALASKA
RECEIVED
OCT 23 1989
LIEUTENANT GOVERNOR

FROM:


James L. Baldwin
Assistant Attorney General

At your request we reviewed a proposed initiative measure relating to intrastate long distance telephone competition (90-ALAS). This is the second initiative measure purporting to impose competition in the long distance telephone call marketplace. In July of this year, we approved another measure (89-TELE) that purports to require competition between telephone companies offering intrastate long distance telephone service. 1989 Inf. Op. Att'y Gen. (July 27, 663-89-0573). Although the initiative measures relate to the same subject matter, each uses a different approach to accomplish the common goal. For the reasons set out in this memorandum, we determine that the initiative is in the proper form for the purposes of AS 15.45.080. However, there are two legal issues that you should be aware of regarding the validity of the initiative.

At this stage of the initiative process our review is limited to the form and procedural matters set out in AS 15.-45.080, which provides:

The lieutenant governor shall deny certification upon determining in writing that

(1) the proposed bill to be initiated is not in the required form;

(2) the application is not substantially in the required form; or

(3) there is an insufficient number of qualified sponsors.

The division of elections confirms that the application was subscribed by the required number of qualified sponsors. We have reviewed the application and find that it is substantially in the required form.

An essential part of our review is to determine if the bill to be initiated is in the proper form. The elements of form that an initiative bill must satisfy are set out in AS 15.45.040, which provides:

The proposed bill shall be in the following form:

- (1) the bill shall be confined to one subject;
- (2) the subject of the bill shall be expressed in the title;
- (3) the enacting clause of the bill shall be:
"Be it enacted by the People of the State of Alaska;"
- (4) the bill may not include subjects restricted by AS 15.45.010.

We conclude that the bill relates to a single subject, has a proper descriptive title, and a proper enacting clause. The provisions of AS 15.45.010 embody the restrictions placed on the use of the initiative by the Alaska Constitution. Article XI, section 7 of the Alaska Constitution provides:

The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.

In our July memorandum, we opined that initiative #89-TELE, relating to intrastate telephone competition, was a proper subject for the initiative. That conclusion applies equally to the subject matter of this initiative.

However, in the July opinion we failed to consider whether the initiative includes provisions that may relate to another of the prohibited subjects set out in the Alaska Constitution. Because both initiatives purport to set procedures and standards for the Alaska Public Utilities Commission, it could be argued that the effect is to improperly define the jurisdiction of the APUC which at times acts very much like a court.

The APUC is a quasi-judicial agency in the executive branch of state government. At times it acts very much like a

Steven McAlpine, Lieutenant Governor
Sandi Stout, Director, Division of Elections
663-90-0130

October 23, 1989
Page 3

court. The APUC has pending before it a proceeding in which the question of allowing competition for intrastate long-distance telephone service is at issue. As explained above, article XI, section 7 of the Alaska Constitution provides that the initiative may not be used to "define the jurisdiction of courts." Enactment of either of the initiatives would materially alter the rules under which the current proceeding is conducted. Nevertheless, for the reasons set out below, we believe that neither initiative will enact law that "define[s] the jurisdiction of courts."

Section 7 expressly uses the word "court". The discussion of this provision in floor debates during the constitutional convention focused on preventing interference with the judicial branch of state government. 4 Proceedings of the Alaska Constitutional Convention 2978-88 (Jan. 24, 1956) (hereinafter Proceedings). A review of other sections of the constitution lends force to the presumption that the framers knew how to make special provision for quasi-judicial agencies when they intended to. See, e.g., Alaska Const. art. 3, secs. 22 and 26. We therefore conclude that the restriction applies only to initiatives affecting the courts of the judicial branch of state government and does not apply to initiatives directed to quasi-judicial agencies of the executive branch.

The bill contains a section that raises another legal question. If enacted, the bill would repeal the provisions of the initiative #89-TELE also relating to the same subject. Depending on when the petitions are filed with the division of elections, both measures could appear on the same ballot. It is also possible that each could receive a majority of the ballots cast on the questions. If they do, does 90-ALAS repeal #89-TELE, so that, although approved by a majority of the voters, 89-TELE is never given effect? We believe the answer to this question is "yes."

The initiative process is established by the Alaska Constitution. The constitution describes the direct law-making power retained by the people as follows:

Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI.

Alaska Const. art. XII, sec. 11. The plenary law-making powers of the legislature implied in article II are limited in the article on initiative, referendum, and recall. A provision there expressly provides that "[a]n initiated law ... may not be

Steven McAlpine, Lieutenant Governor
Sandi Stout, Director, Division of Elections
663-90-0130

October 23, 1989
Page 4

repealed by the legislature within two years of its effective date." Alaska Const. art. XI, sec. 6. The primary question is whether the limitation on legislative repeal of an initiative applies also to the people. We believe that it does not limit the power of the people to repeal a law enacted by the initiative. This appears to be an instance when a restriction on the law making power of the legislature is "clearly inapplicable" to the exercise of the direct law-making power reserved to the people.

This office has consistently interpreted the article on initiative, referendum, and recall in a manner that permits the initiative to be used to repeal existing law. 1975 Op. Att'y Gen. No. 7 (April 14). In the 1975 formal opinion, we expressly recognized that an initiative may be used to repeal law previously enacted by initiative. We believe that it is not a substantial step to extend this interpretation to the repeal of initiated law that may be approved by the voters on the same ballot.

The purpose of the framers in adopting the two-year ban on repeals was to prevent the legislature from destroying a measure having broad popular support. To preserve the initiative process, it was considered important to limit the legislature's power to interfere with the effect of initiated law. Delegate Smith expressed this view as follows:

[T]he only value for the initiative and referendum procedure is if there is a clear channel for enactment of legislation by the people. That is if it goes directly from the people bypassing the legislature. If you give the legislature the power to block that channel, then you just as well as have no initiative and referendum at all.

2 Proceedings 1011 (Dec. 17, 1955). The two year period was set with the thought in mind that a succeeding legislature would be able to consider repeal of initiated law. 2 Proceedings 1184, 1185 (Jan. 4, 1956). Under the committee proposal finally adopted by the convention, the legislature retains the power to amend and thereby ameliorate the effects of an initiated law, but it cannot destroy it during the two-year period of the prohibition.

During the floor debates of the convention, Delegate Taylor of the committee on direct legislation made the following statement:

[T]here would be nothing to prevent the people, if they felt that the act that they had initiated was

wrong, . . . they . . . by the appropriate
petition, can repeal it.

2 Proceedings 937 (Dec. 16, 1955), 1187 (Jan 4, 1956), 2950 (January 24, 1956). The foregoing legislative history provides extrinsic evidence in support of an interpretation that the prohibition against repeal applies only to the legislature and not to the people when they directly repeal initiated law. Case law in other jurisdictions is of little help in interpreting our constitutional provisions because the cases were decided based on constitutional or statutory provisions that do not readily compare.

We recognize that arguments can be made that a simultaneous repealer is not appropriate to the initiative process. The sponsors have one year to file their petition. It is not certain whether the sponsors of this initiative will be able to file the petition before the upcoming legislative session so that the measure will appear on the 1990 general election ballot. Claims that the repealer will cause confusion for the voters and may complicate interpretation of the initiated law are abstract questions at this time. As to the matters at hand, the constitutional and statutory provisions pertaining to the use of initiatives must be liberally construed, Zoucher v. Engstrom, 528 P.2d 456 (Alaska 1974). Directly stated, even though the repealer may well raise issues that would be ripe for litigation upon enactment of the initiative, we believe that it does not cause the initiative to be in an improper form.

A summary of the initiative measure is attached for your consideration. A copy of the summary was supplied to the initiative committee for review on October 19, 1989. Counsel for sponsors represented that he would confirm his review and approve the wording of the summary. A copy was also provided to sponsors of the competing initiative. The summary is appropriate for placement on the circulating petition.

JLB:nb

87-10-015 210
Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Falks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

Sandra

A G E N D A
INTRASTATE PHONE COMPETITION

TC BACKUP

October 31, 1989
1:30 p.m. - 4:00 p.m.
Anchorage LIO, 3111 C Street

- I. Introduction
 - ✓ Senator Steve Frank, Sponsor, SB 206, An Act relating to intrastate competition in telecommunications
- II. Status of Alaska Public Utilities Commission Decision on Intrastate Competition
 - ✓ Susan Knowles, APUC Chairwoman
- III. Proposed Ballot Initiatives on Intrastate Competition
 - ✓ Ron Duncan, President, GCI
 - ✓ ~~John McGill, Executive Vice President and General Manager, Alascom~~ *Julian Mason* attorney
- IV. The Initiative Process
 - ✓ Jim Baldwin, Department of Law
- V. Public Comment (approximately 3:00 p.m. - 4:00 p.m.)
 - none*

THE HEARING WILL BE TELECONFERENCED TO SELECT SITES. PLEASE CONTACT SENATOR PAT POURCHOT (561-7623) IF YOU WOULD LIKE TO TESTIFY.

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 * DELIVER TO: LIOCINE *
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 * ORIGINAL *
 * SENT: 10/31/89 TIME: 13:43 *
 * FROM: LTCCKTN *
 * SUBJECT: (S) STA; PL#1; TELECOMM; 10-31 *
 * PRINT DATE: 10/31/89 TIME: 13:43 *
 * *

T/C NO: 89-10-015
 DATE: OCTOBER 31, 1989
 SPONSOR: SENATE STATE AFFAIRS
 SUBJECT: SB 206, INTEREXCHANGE TELECOMMUNICATIONS SERVICES
 MODERATOR: JUNE ROBBINS
 SITE: [REDACTED]

PARTICIPANT LIST

 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

[REDACTED]

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. [REDACTED]	KETCHIKAN PUBLIC UTILITIES 2930 TONGASS, KETCHIKAN AK	99901 225-1000	
2. [REDACTED]	KETCHIKAN PUBLIC UTILITIES 2930 TONGASS, KETCHIKAN AK	99901 225-1000	

TESTIFIED:
 UNABLE:
 OBSERVED:
 TOTAL:

START TIME: END TIME:

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 * DELIVER TO: LIOCINE *
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 * *
 * ORIGINAL *
 * SENT: 10/31/89 TIME: 13:40 *
 * FROM: LIOCMAT *
 * SUBJECT: SEN STAFFAIRS;SB260 *
 * PRINT DATE: 10/31/89 TIME: 13:40 *
 * *

T/C NO: 89-10-015

DATE: 10/31/89
 SPONSOR: SENATE STATE AFFAIRS
 SUBJECT: INTEREXCHANGE TELECOMMUNICATIONS SERVICES
 MODERATOR: MARY
 SITE: [REDACTED]

FINAL STATS

 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

[REDACTED]

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
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1.	[REDACTED] MTA, POUCH 5050, PALMER 99645, 745-9412/260		
2.	[REDACTED] MTA POUCH 5050, PALMER 99645, /260		
3.			
4.			
5.			

TESTIFIED: 0
 UNABLE: 0
 OBSERVED: 2
 TOTAL: 2

START TIME: 1:30PM END TIME:

phil

QUESTIONS

ALASCOM: Given trends in telecommunications technology, isn't intrastate interexchange competition inevitable?

[If no, the answer will probably be something to the effect that Alaska is demographically unique from the rest of the U.S..]

[If yes, it would be interesting to get their opinion of what change in technology or circumstances would be needed to make competition viable.]

ALASCOM, GCI: What would be your reaction if the APUC said "Intrastate competition is permitted subject to the following two conditions:

1. All carriers proposing to provide service must provide service (originating and terminating) to all the communities currently served by Alascom, and
2. Carriers must provide state wide average rates (by mileage band).

APUC: Has the Commission examined the GCI petition thoroughly enough to determine whether it is a workable model (specifically, is the universal service fund mechanism workable)?

What are the administrative costs of the plan?

Do the administrative costs outweigh the public benefits [costs] of competition?

APUC, ALASCOM: The Alascom initiative includes a number of conditions under which the Commission could issue a certificate [to provide competitive long distance service]. One of those conditions includes the promotion of economic efficiency.

Is "economic efficiency" a strictly defined concept, either in the bill or by the Commission?

GCI: Under the GCI initiative, currently certificated companies could be excluded from competition if they have or gain market power.

How does GCI define market power (i.e., percent of market, ability to control price)?

APUC: In the past, some Commission members have expressed the opinion that they, given their expertise and study of the problem, are in the best position to judge the costs and benefits of competition and the framework that should be adopted if competition is found to be a favorable option. However, it appears that the Commission is rapidly running out of time in which to make a decision before other forces and events take the decision out of your hands.

When can the legislature reasonably expect a decision from the Commission?

Additional Questions

Predatory pricing

APUC: The Alascom initiative differs from the GCI initiative in that Alascom would be free to engage in price competition on any route where the Commission permits other carriers to provide service. Under the GCI initiative Alascom could price compete only on a showing that they lack market power on a particular route.

Under the Alascom initiative would it be possible for Alascom to engage in below cost pricing?

If so, would the commission have the authority to prevent it?

Universal Service Fund

APUC: How do you envision the universal service fund would operate under the GCI initiative? Specifically, how would the supplemental access charge for this fund be calculated?

On which routes would the charge apply?

Who would be the beneficiaries and how would you determine the amount going to each beneficiary?

Note: I told you previously that under the GCI initiative Alascom could not be deregulated. That is incorrect. They would be allowed to compete subject to a showing that they did not have "market power" (a concept that would need some formulation) on the route on which they wanted to compete. Furthermore the costs of providing service on that route could not be charged to Alascom's rate base. The calculation of those costs would have to be based on fully distributed cost principles (which means that they would include part of the common costs of the Alascom network rather than just the incremental or marginal cost of the competitive route).

TO: Pat
FROM: Sandra
DATE: August 1989

INTRASTATE TELEPHONE COMPETITION

Well, I reviewed all the materials available to me and had a long conversation with Kathy Whittaker, APUC -- and I'm not sure I learned anything new. It almost boils down to who you believe! In my mind, the major policy concern is what impact decreased rates on urban/suburban routes (which is an expected outcome of competition) will have on the rates on rural routes.

The rhetoric about Sen. Frank's bill (SB 206) is that it would prevent raising rural rates. However, what the bill says is simply that revenues from noncompetitive routes cannot be used to subsidize competitive routes; it doesn't say that rural rates can't be raised.

What isn't clear is whether current rural rates reflect actual costs. If they don't, which Alascom claims is the case (of their 25,000 routes, they say 19,000 are subsidized), Alascom might seek to raise rural rates to accurately reflect costs. However, because SB 206 requires that APUC continue to regulate noncompetitive routes, I suppose they could deny the rate increase. Alascom argues that prohibiting them from raising rates would be confiscatory and would have a terrible impact on rural service, and that it is inherently unfair to regulate one provider and not the other.

SB 206's solution is establishment of a universal service fund (into which all customers would indirectly pay) to compensate Alascom on noncompeting routes on which costs exceed revenues.

According to Alascom, if rural rates are increased to reflect costs, the increase will be dramatic. They cite Shishmaref's current rate of \$.80/min. compared to actual cost of (\$11.00/min.). GCI claims that the current urban to rural subsidy is minimal, which would suggest that rural rates already reflect actual costs. According to GCI, Anchorage, Fairbanks, and Juneau generate \$10.9 million in excess revenue; of this \$7.3 million subsidizes suburban rates and \$3.6 million subsidizes rural rates.

I have requested clarification on current costs and rates; it may be hard to get a satisfactory answer. Is it possible to determine route specific costs? If it is, is it fair to ask that Alascom make this information public? And if they do make it public, is there any way to verify it? That's why it kind of boils down to who you believe!

Alascom says that without statewide rate averaging (i.e. the subsidy system they currently use) they cannot offer affordable

service in the bush. The goal of the telephone network since its inception, both nationally and in Alaska, has been "universal service" -- which requires keeping rates at a level that can be afforded by all. While this concept has been applied in the Lower 48 primarily to local service (long distance rates subsidize local rates to keep local rates low), in rural areas of Alaska where "normal" business and personal contacts require the use of long distance, universal long distance service has been an important goal. If rates are doubled or tripled, universal service is probably no longer an achievable goal.

The other issue raised by rate deaveraging is one of equity. I can see it now -- "telephone cost assistance"....

Continuation of a monopoly would eliminate these concerns over rural rates, but it raises the issue of whether Alascom's current rates are "fair". ACAP looks at the fact that in the early 1980's Alascom "invested" \$100 million in its parent company, Pacific Telecom, and in 1987 invested another \$100 million. ACAP argues that this "cash in excess of current cash needs" should have gone to reduce rates, and has sued APUC over the investment of \$51 million. The court has ruled in favor of APUC; ACAP has appealed to the state Supreme Court.

GCI argues that competition would lead to fair rates, and notes recent decreases in Alascom's interstate rates to make their point. Alascom, however, attributes their recent rate cuts to federal rate integration (which required that rates reflect the nationwide average rate; Alaska's rates are subsidized by AT&T and federal access charges (which established a flat fee for service, essentially reallocating costs formerly included in long distance charges)).

The issue is complicated not only because it's so technical, but because federal deregulation is so recent. The FCC left much of the implementation of competition to the states -- APUC hasn't sorted through it all. The issues APUC is still addressing, and that they insist need to be resolved before the issue of competition can be decided are outlined below. (This approach is in contrast to the FCC, who decided in favor of competition prior to addressing the technical details.) But first a little background:

BACKGROUND

Prior to divestiture of AT&T (which occurred in 1984 as a result of a series of court and FCC decisions), there were one national long distance company (AT&T), 22 local Bell Operating Companies owned by AT&T, and thousands of independent local companies. The local companies installed the plant and equipment, the costs of which (known as "non-traffic sensitive" costs) were shared through a process called "separations" (AT&T negotiated with each local phone company a fee for use of the local company's

equipment) and costs were recovered through a system of "settlements and division of revenues" (revenues were essentially shared among the monopoly members).

After divestiture, there was a need to base rates on economic costs. A system of "access charges", under which long distance companies pay local companies established fees for use of their equipment, was devised by the FCC:

1. LATAs (Local Access and Transport Areas) were established. The entire state of Alaska is one LATA; several states have several LATAs. OCC's (Other Common Carriers, like GCI) need state permission to provide intraLATA or interLATA (intrastate) service.

2. 25% of non-traffic sensitive costs must be allocated to interstate rates. The allocation of the remaining 75% is left to the states. Questions that must be answered:

Who should pay? (local or intrastate toll)

How much should they pay? (base on amount of use, subjective value of service, market price)

How will they pay? (flat rate, per minute rate)

APUC has adopted a workplan for addressing these issues, and expects to have them all decided by October 1989. They will then tackle competition itself, and say they will have "something definitive" -- a white paper, proposed regulations, or an absolute decision -- by December 1989.

STATUS OF APUC'S WORK ON COMPETITION

1. Access Charges

This is the charge by the local company to the interexchange carrier (Alascom, GCI) to recover the 25% of non-traffic sensitive cost allocated to interstate service. The current system of settlement agreements (private contract between each local company and Alascom) won't work with competition. FCC requires that there be a non-negotiable published tariff that all interexchange carriers must pay. APUC should issue their final order by November 1, 1989.

2. Cost Separations

This is the allocation of 75% of the non-traffic sensitive costs between local service and intrastate service and whether or not to establish a universal service fund. APUC is soliciting final comments now.

3. Subscriber Line Charges

These charges are used at the federal level to recover a share of the costs allocated to interstate services -- currently all consumers pay a flat fee regardless of use. A similar system could be established for intrastate services, or all intrastate costs could be recovered through a per-minute rate. APUC has closed comment; a decision is imminent.

4. Alascom's Rate Design

Hearings on Alascom's intrastate rates are underway. As part of the proceedings, in June APUC granted a longhaul rate decrease. Alascom proposed that this be offset by a shorthaul rate increase -- MatSu Telephone Association has appealed. An adjudicatory hearing will be held in early fall.

CONCERNS WITH ALLOWING INTRASTATE COMPETITION IN ALASKA

Per Ben Johnson, APUC consultant:

With a small number of competitors, the intrastate market is likely to remain an oligopoly with results that are little better than an unregulated monopoly. For effective competition, probably need 5-6 firms competing, no one firm dominant, and prices controlled by the market rather than by actions of individual firms.

As a general rule, when traffic volumes are very small and few channels are required to carry the traffic, the route will be a natural monopoly. If there are competing firms, none can fully exploit the economies of scale. Though price competition might seem strong while rivals are jockeying for market share, the situation would be highly unstable. Weaker firms, unable to sustain prolonged price wars, would eventually be driven from the market and the market would most likely return to a natural monopoly or an oligopoly with 2-3 firms cooperating to keep prices high so each can cover its costs. It's possible that all carriers would eventually abandon the route.

Similar concerns existed regarding interstate competition in Alaska. At the time of divestiture of AT&T, the FCC looked separately at Alaska. They decided in favor of competition, but are continuing to work out problems with it. The primary issue is that federal law requires Alaska's interstate rates to be nationwide averages, which are much lower than the actual cost of calls from Alaska. In fact, AT&T says it costs \$100 million more to serve Alaska than the revenues derived. This represents an indirect subsidy to Alascom.

When GCI entered the interstate market, they complained that they couldn't compete against Alascom's subsidized rates. The FCC granted GCI cost relief in the form of lower rates for its use of AT&T facilities; this represents a subsidy to GCI. The whole issue of "nationwide average rates" in Alaska is pending before the Joint Board of Federal and State Commissioners. A decision may be made as early as this fall; the outcome is not expected to directly affect the intrastate competition issue, but it does raise questions about the effectiveness of competition in Alaska.

THE BALLOT INITIATIVE

GCI is circulating a petition now; need 20,343 signatures by August 1990. They hope to have the signatures in time for presentation to the legislature this session so the issue can make it on the 1990 ballot. Petition sponsors are Ron Duncan, Steve Frank, and Dan Coffey.

The proposal would require that APUC establish access charges, authorize APUC to establish a universal service fund (to the extent allowed by the Constitution - ??), prohibit regulation of rates charged by new companies, authorize APUC to deregulate Alascom on competitive routes, prohibit cost shifting between regulated and unregulated routes, and prohibit restrictions on resale of services so one company may send its calls over the facilities of another if it wishes to.

SB 206

SB 206 contains many of the same provisions as the ballot initiative. Many parties that have reviewed the bill have problems with it. Alascom objects to the definition of "intrastate", the lack of definition of "market power", and the fact that they'd be regulated while their competitors would not be. Both APUC and ACAP object to a bill that gets into the mechanics of competition. They suggest that the Legislature simply adopt a resolution encouraging APUC to resolve the issue as expeditiously as possible.

If you intend to move a bill out of committee, we would need to do some serious work on it.

LONG DISTANCE INTRASTATE TELEPHONE COMPETITION
A COMPARISON: TWO BALLOT INITIATIVES ("GCI" AND "ALASCOM") AND SB 206FINDINGSGCI and SB 206

Call for "affordable" service.
Call for competition "whenever possible".

Calls on APUC to maintain/supervise universal service fund.

ALASCOM

Calls for "reasonably priced" service.
Calls for competition when in the "overall, long-term economic interest of all citizens of the state".
Calls on APUC to oversee competition.

PROCEDURE FOR INITIATING COMPETITIONGCI and SB 206

Requires notice be filed with APUC.

ALASCOM

Requires certificate of public convenience and necessity be obtained from APUC with finding that would reduce rates, enhance services, promote economic efficiency, and wouldn't jeopardize universal service by raising rates.

REGULATION OF SERVICESGCI and SB 206

New companies would not be regulated by APUC.
Currently certificated companies could apply for deregulation; APUC would grant if the company lacked market power.
Rates for regulated service could not include recovery of costs for deregulated service.
Rates on regulated service could not be raised unless direct cost of doing business increased.
Regulation would be imposed if a company gained/regained market power.

ALASCOM

On competing routes, no companies would be regulated.

UNIVERSAL SERVICE FUND

GCI and SB 206

Funded through access charges set by APUC and paid by intrastate long distance providers to local phone companies; to provide financial support to ensure long distance service at reasonable rates.

GCI - If constitutional.

ALASCOM

Not addressed.

OTHER

GCI and SB 206

Prohibit restrictions on resale of telecommunications service so one company could send its calls over facilities of another.

State antitrust laws would apply to provision of intrastate long distance service by existing providers.

ALASCOM

Not addressed.

EFFECTIVE DATE

GCI

Initiative takes precedence over existing law if there's a conflict.

ALASCOM

Same as GCI; plus, approval of initiative automatically repeals the GCI initiative.

30/264/1047 907 99595441# 2

Alascom Initiative

A BILL

For an Act entitled: "An Act relating to the creation of competitive long distance telephone services within Alaska."

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. AS 42.05 is amended by adding a new article to read:

ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE TELEPHONE SERVICES.

SEC. 42.05.801. FINDINGS AND PURPOSE. It is the policy of the State of Alaska that:

(1) reasonably priced, modern, reliable long distance telephone services should be universally available to citizens throughout Alaska;

(2) long distance telephone services within Alaska should be provided by competitive companies whenever competition is in the overall, long-term economic interest of all the citizens of the State;

(3) the benefits of long distance telephone services competition should be shared by consumers throughout the State;

(4) there should be an orderly transition to competition in long distance telephone services;

(5) there should not be conflicting laws and regulations governing competition in long distance telephone services; and

(6) the Alaska Public Utilities Commission should oversee competition in long distance telephone services to insure that the competition is fair to the consumers.

SEC. 42.05.811. APPLICATION TO PROVIDE COMPETITIVE LONG DISTANCE TELEPHONE SERVICES. A public utility shall not offer any intrastate long distance telephone service after the effective date of this bill unless (1) it obtains a certificate under this section and AS 42.05.821 or (2) it was authorized by the commission under AS 42.05.221-42.05.281 before January 1, 1990 to provide intrastate long distance telephone services. A public utility that was not authorized by the commission before January 1, 1990 to provide intrastate long distance telephone services and that proposes to provide such services must file with the commission the application for a certificate required by AS 42.05.221 - 42.05.231.

SEC. 42.05.821. CONDITIONS OF ISSUANCE OF A CERTIFICATE TO PROVIDE COMPETITIVE LONG DISTANCE TELEPHONE SERVICES. A certificate may not be issued unless the commission makes the findings required by AS 42.05.241 and also finds that issuing the certificate:

(a) will reduce rates and enhance services on the routes the applicant proposes to serve;

(b) will promote economic efficiency;

(c) will not cause rate increases that jeopardize the universal availability of affordable long distance telephone services; and

(d) will be in the long-term best interests of the entire State.

SEC. 42.05.831. RATE AND TARIFF FLEXIBILITY. (a) When a certificate is granted to an applicant in accordance with AS 42.05.811-42.05.821, the applicant, and all other long distance telephone companies that have been granted certificates by the commission, are no longer required to comply with the provisions of AS 42.05.361-42.05.431 on any route on which two or more long distance telephone companies are authorized to provide long distance telephone services. The commission may grant further exemption from regulation under AS 42.05.711(d), provided that all long distance telephone companies that are authorized to compete with each other are granted the same exemption.

(b) A long distance telephone company that is exempted in whole or in part by AS 42.05.831 from complying with AS 42.05.361-42.05.431 may not be regulated by a municipality under AS 29.35.060 and 29.35.070.

(c) If a long distance telephone company that is exempted by AS 42.05.831 from complying with AS 42.05.361 - 42.05.431 ceases to qualify for an exemption, the commission may, after notice and

an opportunity to be heard, require that the long distance telephone company comply with AS 42.05.361 - 42.05.431.

SEC. 42.05.841. DISCRIMINATION PROHIBITED. Local exchange telephone companies shall comply with the provisions of AS 42.05.391 when providing access, service, and interconnection to long distance telephone companies.

SEC. 42.05.851. SEVERABILITY. If any provision or portion of any provision of this bill, including but not limited to AS 42.05.861(b), is declared invalid by a court of competent jurisdiction, the invalid provision or portion of a provision shall be considered stricken from the bill and the remainder of the bill shall remain in full force and effect.

SEC. 42.05.861. APPLICATION OF INCONSISTENT LAW. (a) If any provision of this bill conflicts with any provision of an Alaska statute, this bill shall take precedence and the conflicting provision of the statute shall not apply to public utilities providing long distance telephone services.

(b) If the bill entitled "An Act relating to intrastate long distance telephone competition" that amends AS 42 by adding a new Chapter 12 is enacted, that bill is repealed.

Section 2. AS 29.35.070(a) is amended to read:

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may

regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted in whole or in part from regulation under AS 42.05.711(a) or (d) - (k) or is exempted by AS 42.05.831 from complying with AS 42.05.361 - 42.05.431.

Section 3. Statement of Intent. In the event that Section 42.05.861(b) of this bill is determined to be invalid and is stricken from the bill, it is the intent of the people that the provisions of any similar bill shall be construed, to the extent possible, in harmony. It is the further intent of the people that, in the event of irreconcilable conflict between similar bills, competition in long distance telephone services be encouraged, but that competition not result in rate increases that jeopardize the universal availability of affordable long distance telephone services.

A BILL

For an Act entitled: "An Act relating to intrastate long distance telephone competition."

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. AS 42 is amended by adding a new chapter to read:

CHAPTER 12. INTRASTATE LONG-DISTANCE TELEPHONE SERVICE.

SEC. 42.12.010. FINDINGS AND PURPOSE. The people of the State of Alaska declare that:

(1) modern, efficient, affordable, and universally available long distance telephone services are essential to the people of the state;

(2) long distance telephone services should be provided by competing suppliers wherever possible;

(3) technological advances, reduced costs, and increased consumer choices for long distance telephone services resulting from competition will enhance the state's economic development and play a critical role in the state's economic future; and

(4) universal long distance telephone service should be maintained through the vigilance of the Alaska Public Utilities Commission, and where necessary, by appropriate additional legislative action.

Sec. 42.12.020. COMPETITIVE LONG DISTANCE TELEPHONE SERVICE. A telephone company that was not certificated under AS 42.05.221-42.05.281 to provide intrastate service on January 1, 1989, and

that is not affiliated with a telephone company certificated to provide intrastate service, may provide long distance telephone service after filing with the commission the notice required by AS 42.12.040. The long distance telephone service provided by an entity providing interexchange service under this section is exempt from regulation under AS 42.05.

Sec. 42.12.030. DEREGULATION OF SERVICES. (a) Upon the request of an interested party or on its own motion, the commission shall exempt from regulation under AS 42.05 the intrastate long distance service provided by an entity certificated under AS 42.05.221 - 42.05.281 to provide such service or by an affiliate of an entity certificated to provide such service if the commission finds, after notice and opportunity for hearing, that the entity or affiliate lacks market power in the telecommunications service and is not affiliated with an entity having market power in the telecommunications service.

(b) The exemption provided by this section applies only to the intrastate long distance telephone services exempted under this section. All other services remain subject to regulation under AS 42.05.

(c) When a service is exempted under this section, the commission shall determine the fully distributed cost of the exempted service and the fully distributed cost of the services not exempted from AS 42.05 that are provided by the entity. In determining the respective fully distributed costs of service, the commission shall rely where possible on the methodology and

procedures set out in the Jurisdictional Separations Procedures adopted by the Federal Communications Commission.

(d) After exemption of a service, the cost of a regulated service recoverable for rate-making purposes may not include any part of the fully distributed cost of an exempted service and the rates for a regulated service may not include recovery of all or part of the fully distributed cost of an exempted service.

Sec. 42.12.040. NOTICE. (a) A telephone company exempted from regulation under this chapter or providing a service that is exempted from regulation under this chapter shall file a notice with the commission before providing an exempted long distance service. The notice shall contain:

(1) the name of the telephone company that will provide the service and the address of the telephone company's principal place of business in the state;

(2) a description of each interexchange service to be provided and the price to be charged for each service; and

(3) proof that the telephone company has posted the surety bond required by AS 42.12.090.

(b) A telephone company that changes its name, address, services provided, prices charged, or surety bond shall file a revised notice with the commission within 30 days after the change.

(c) The prices and services filed under this section are not subject to approval by the commission.

Sec. 42.12.050. REIMPOSITION OF REGULATION. The commission

may regulate a telephone company providing service under AS 42.12.020 if it finds that the telephone company has, or is affiliated with a telephone company that has, market power in a telecommunications market. The commission may reimpose regulation on a service that was exempted from regulation under AS 42.12.030 if it finds, after notice and opportunity for hearing, that the provider of the service or an affiliate of the provider has market power in the service. After reimposition of regulation, the telephone company or service is subject to AS 42.05 with regard to a service in which the entity has market power and is exempt from AS 42.05 with regard to a previously exempted service in which the telephone company lacks market power.

Sec. 42.12.060. EXCHANGE ACCESS CHARGES. The commission shall establish, by regulation, a system of nondiscriminatory access charges to be paid by long distance telephone service providers for using the facilities of local exchange carriers in originating and terminating intrastate communications. Under the regulations, the exchange carrier association or the local exchange carriers shall file with the commission a tariff showing the rates and other terms under which access service is provided. The association or carriers shall file revised tariffs annually on the date set by the federal Communications Commission for the annual filing of revised interstate exchange access charges or on another anniversary date set by the commission.

Sec. 42.12.070. UNIVERSAL SERVICE FUND. To the extent permitted under Article IX, Section 7, of the Alaska Constitution,

the commission may establish, by regulation, an intrastate long distance universal service fund funded through the access charges or other means to be determined by the commission and maintained by the exchange carrier association established under AS 42.12.080 or, if one does not exist, by exchange carriers. The purpose of the fund will be to provide financial support, where necessary, to ensure the provision of long distance telephone service at reasonable rates throughout the state.

Sec. 42.12.080. EXCHANGE CARRIER ASSOCIATION. The commission may authorize the formation of an association of exchange carriers to assist in administering the system of access charges and may authorize the association to file tariffs and to engage in pooling of exchange access costs and revenue if necessary to achieve the purposes of this chapter.

Sec. 42.12.090. SURETY BOND FOR ACCESS CHARGES. A telephone company providing or proposing to provide long distance telephone service shall post a surety bond in an amount equal to 90 days estimated intrastate exchange access charges. The surety bond shall be payable to the exchange carrier association under AS 42.12.080, if one exists, or to the exchange carriers providing exchange access to the telephone company.

Sec. 42.12.100. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS SERVICES PROHIBITED. A telephone company may not prohibit or restrict the resale of telecommunications service. If an interexchange telecommunications service is resold, the reseller shall receive credit in an appropriate amount for an applicable

exchange access charge if the credit is necessary to prevent double payment of the access charges.

Sec. 42.12.110. DISCRIMINATION IN SERVICE PROHIBITED. A telephone company that provides intrastate exchange access or other intrastate telecommunications service or interconnection to a customer or other entity shall,

(1) provide the access, service, or interconnection on a nondiscriminatory basis to all other customers or entities that request the access, service, or interconnection; and

(2) permit connection to be made and service to be furnished between a system or facility operated by it and a system or facility operated by another when the public convenience and necessity require the connection and the connection will not result in substantial injury to the owner or other users of the system or a substantial detriment to the service provided by the owner of the system.

Sec 42.12.120. DETERMINATION OF MARKET POWER. In determining whether an entity has market power under this chapter, the commission shall refer to reported court and administrative agency decisions interpreting state and federal laws concerning monopolies, restraints of trade, and the telecommunications industry.

Sec 42.12.130. DEFINITIONS. In this chapter,

(1) "commission" means the Alaska Public Utilities Commission established in AS 42.05.010;

(2) "interexchange service" means intrastate telecommunications service provided between exchanges served by a class 5 end office;

(3) "intrastate service" means intrastate exchange or interexchange telecommunications service provided to the public;

(4) "local exchange carrier" or "exchange carrier" means a carrier that provides service within a local exchange and interconnects with interexchange carriers for the origination and termination of long distance communications;

(5) "long distance telephone service" or "long distance service" means intrastate interexchange telecommunication service provided to the public;

(6) "telephone company" means an entity providing or proposing to provide exchange or interexchange telecommunications service to the public.

* Sec. 2 AS 29.35.070(a) is amended to read:

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a), [OR] (d) - (k), or (m).

* Sec. 3. AS 42.05.711(1) is amended to read:

(1) A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a), [OR] (d) - (k), or (m) is

not subject to regulation by a municipality under AS 29.35.060 and 29.35.070.

* Sec. 4. AS 42.05.711 is amended by adding a new subsection to read:

(m) A utility or service that is exempt under AS 42.12 is exempt from this chapter to the extent stated in AS 42.1 2.

* Sec. 5. AS 45.50.572(d) is amended to read:

(d) AS 45.50.562 - 45.50.596 do not apply to public utilities that [which] have been issued a certificate of public convenience and necessity under AS 42.05 to the extent the utility provides services other than interexchange telecommunications service. The sections shall apply to the provision of interexchange telecommunications service.

* Sec. 6. The commission shall adopt the regulations required by AS 42.13.060, enacted by Sec. 1 of this Act, within three months of the effective date of this Act.

* Sec. 7. Severability. If any provision of this Act or portion of a provision is declared by a court of competent jurisdiction to be invalid, for any cause, such invalid provision or portion of it shall be considered to be nonexistent and the remainder of this chapter shall continue in full force and effect.

* Sec. 8. Repeal of Inconsistent Law. In case of conflict between provisions of this Act and other provisions contained in the Alaska Statutes or the provisions of any administrative regulation, the provisions of this Act shall take precedence.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

May 2, 1990

Members of the House of Representatives;

The Senate State Affairs Committee passed out CS SB 206 on May 2nd. This bill represents a compromise between GCI and Alascom on the issue of intrastate competition. In addition, the APUC has voted its unanimous support of this bill. Specifically, the bill requires the APUC to adopt regulations authorizing and establishing intrastate long distance telephone competition by February 14, 1991. This legislation is intended to be substantially similar to both ballot initiatives on intrastate competition, thereby removing both initiatives from the ballot. If the legislation is found by the Lt. Governor to be substantially similar to only one or neither of the initiatives, the legislation would be repealed.

I am bringing this to your attention because of your interest in this issue. I commend this bill to you and urge your support. I would be happy to stop by your office to discuss it further with you and to answer any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Senator Pat Pourchot

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

L & C

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 5.2.90

3/6/89

Mr. President:

SA

Committee considered

SB 206

intrastate competition in telecommunications; continuing the existence of the Alaska Public Utilities Commission; efd

and recommended:

- replace with (CS) SB 206 same title
- attached amendment(s) and new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

*Fiscal Note
Pending - APUC*

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tom Kelly
Gene Smith
Al Adams

Pat Paul M. Lopez
 Chairman signature and recommendation

Committee backup attached

May 2, 1990

The Honorable Pat Pourchot
Alaska State Legislature
Capitol, Room 504
P. O. Box V
Juneau, Alaska 99811



Dear Senator Pourchot:

On behalf of GCI, I want to thank you for your tremendous efforts regarding CS 206 (attached). GCI supports CS 206 as introduced on May 2, 1990, subject to the following representations being made by both GCI and Alascom:

(1) GCI will not seek, nor support, any amendments or direct or indirect changes to the May 2, 1990 version of CS 206. We will withdraw our support of CS 206 if such amendments or changes are made, and ask you and others to do the same. Furthermore, we will withdraw our support of CS 206 if any attempt is made to amend the APUC's regulatory authority through other bills this year.

(2) GCI supports the finding that CS 206 is substantially similar to 89-TELE and 89-ALAS. In this regard, we will not challenge in court, or elsewhere, a determination that CS 206 is substantially similar to both initiatives. Conversely, if a determination is made that CS 206 is not substantially similar to either initiative or to both initiatives, we will challenge that determination in court and argue that CS 206 is substantially similar to both initiatives. Furthermore, if any third party challenges the substantial similarity of CS 206 to either or both initiative, we agree to intervene in the lawsuit to support the position that CS 206 is substantially similar to both initiatives.

(3) We will not challenge the legality, including the constitutionality, of CS 206. If any third party challenges the legality of CS 206, we agree to intervene in the lawsuit and support the position that CS 206 is legal.

(4) We agree to meet with members of the State Senate and House to communicate the representations contained in this letter at your earliest convenience.

Again, thank you for your outstanding and crucial role in developing CS 206. We look forward to working with you in the future on overseeing its effective implementation.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron Duncan", written over a circular scribble.

Ron Duncan
President

John E. McGill
Executive Vice President
& General Manager



May 2, 1990

Senator Pat Pourchot
Chairman, Senate State
Affairs Committee
Room 504
State Capitol Building
Juneau, Alaska 99811

Re: The Intrastate Long-Distance Telephone Competition Bill (CS 206)

Dear Senator Pourchot:

This letter supersedes the similar letter I sent to you earlier today. GCI has asked for additional comfort from Alascom, and I am happy to give it.

As I said earlier, I have reviewed the telephone competition bill carefully, including the change to section 810(b) proposed this morning.¹ Alascom wants to compete and believes that this bill will permit competition. Alascom supports the bill and makes the following commitments to you and the legislature:

1. Alascom will not, directly or through a third party, attempt to amend the bill. If amendments are made, Alascom will withdraw its support for the bill. Alascom will also withdraw its support if the APUC's regulatory

¹Section 810(b) contains a provision keyed to facilities owned by long-distance telephone companies on May 1, 1990. Alascom does not know every place in the state where, on May 1, 1990, companies other than Alascom owned and operated facilities to provide interstate long-distance message telephone service. Alascom believes that GCI on May 1, 1990, owned and operated such facilities in Anchorage, Fairbanks, Juneau, Ketchikan, the Kensi-Soldotna area, the Mat-Su area, and Eagle River. GCI may have owned and operated facilities in other places. If necessary, the APUC can determine what other facilities were owned and operated on May 1, 1990, by companies other than Alascom

Senator Pat Pourchot
May 2, 1990
Page Two

authority is changed this year by other bills which affect the purpose, spirit, or intent of this bill.²

2. Alascom will not challenge the legality, including the constitutionality of the bill. If anyone challenges the legality of the bill, Alascom will intervene in the lawsuit and support the legality of the bill.
3. Alascom agrees with and will support the legislative finding that the bill is substantially similar to the initiatives 89-TELE and 89-ALAS. Alascom will not challenge this finding in court or elsewhere and will contest any finding that the bill is not substantially similar to both initiatives.

Senator, I sincerely thank you for your interest and concern. Your efforts have been invaluable, and we deeply appreciate your support.

Sincerely,



John E. McGill
Executive Vice President and
General Manager

whm

²Bills have been introduced which change the APUC's authority but which either do not affect or are consistent with this bill.

Rec'd 5-2-90
Rm 504
2:00 pm

6-0689E
Cramer
5/2/90

Original sponsor(s): SEN. FRANK, Sturgulewski, Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR SENATE BILL NO. 206 (State Affairs)
 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 intrastate long distance tele-
 7 phone competition; permitting deregulation of a class
 8 of utilities or a utility service by the Alaska
 9 Public Utilities Commission; and providing for an
 10 effective date."

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

12 * Section 1. INTENT. (a) This Act is substantially similar to both
 13 initiatives that have been filed with the lieutenant governor concerning
 14 competition in long distance telephone service in the state, thereby re-
 15 quiring removal of the initiatives from the general election ballot under
 16 art. XI, sec. 4, of the Constitution of the State of Alaska. The legisla-
 17 ture intends this Act to be a comprehensive treatment of the issue of
 18 competition in intrastate long distance telephone service and to provide
 19 for competition in a responsible and timely manner.

20 (b) The legislature does not intend the enactment of AS 42.05.850,
 21 enacted by sec. 2 of this Act, to affect pending litigation regarding the
 22 applicability of AS 44.62.310 - 44.62.312 to an association of exchange
 23 carriers required by the commission.

24 * Sec. 2. AS 42.05 is amended by adding new sections to read:

25 ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE
 26 TELEPHONE SERVICE.

27 Sec. 42.05.800. FINDINGS. The legislature finds that

28 (1) modern, affordable, efficient, and universally avail-
 29 able local and long distance telephone service is essential to the

1 people of the state;

2 (2) facilities based, long distance telephone service
3 should be provided competitively wherever possible;

4 (3) technological advances, reduced costs, and increased
5 consumer choices for long distance telephone service, resulting from
6 the adoption of an appropriate competitive market structure, will
7 enhance the state's economic development;

8 (4) the benefits of competition in long distance telephone
9 service should be shared by consumers throughout the state;

10 (5) the commission should oversee competition in long
11 distance telephone service to ensure that the competition is fair to
12 consumers and competitors;

13 (6) the commission should provide for competition in a
14 timely manner and should adopt regulations that eliminate inappropri-
15 ate impediments to entry for long distance carriers fit, willing, and
16 able to provide service.

17 Sec. 42.05.810. COMPETITION. (a) By February 14, 1991, the
18 commission shall adopt regulations that authorize and establish con-
19 ditions governing competition in long distance telephone service.

20 (b) Beginning February 15, 1991, the commission shall accept
21 applications to provide competitive long distance telephone service
22 and shall approve or reject applications within 90 days after the
23 filing of a complete application. The commission shall approve an
24 application upon a finding that the applicant is fit, willing, and
25 able. The authority granted to a fit, willing, and able applicant
26 shall include the authority to provide intrastate long distance tele-
27 phone service using any facilities that the applicant owned and oper-
28 ated on May 1, 1990, to provide interstate long distance message
29 telephone service to the public.

1 (c) Except as provided in (b) of this section, the commission
2 may prohibit installation of facilities for origination or termination
3 of long distance service in a given location only if it determines
4 that installation of the facilities in that location is not in the
5 public interest.

6 Sec. 42.05.820. NO MUNICIPAL REGULATION. A long distance tele-
7 phone company that is exempted in whole or in part from complying with
8 all or a portion of this chapter may not be regulated by a municipal-
9 ity under AS 29.35.060 and 29.35.070.

10 Sec. 42.05.830. EXCHANGE ACCESS CHARGES. In providing for
11 competition under AS 42.05.800 - 42.05.995, the commission shall
12 establish a system of access charges to be paid by long distance
13 carriers to compensate local exchange carriers for the cost of orig-
14 inating and terminating long distance services.

15 Sec. 42.05.840. UNIVERSAL SERVICE FUND. The commission may
16 establish a universal service fund or other mechanism to be used to
17 ensure the provision of long distance telephone service at reasonable
18 rates throughout the state and to otherwise preserve universal ser-
19 vice.

20 Sec. 42.05.850. EXCHANGE CARRIER ASSOCIATION. The commission
21 may require the local exchange carriers to form an association to
22 assist in administering the system of access charges and may require
23 the association to file tariffs and to engage in pooling of exchange
24 access costs and revenue if necessary to achieve the purposes of
25 AS 42.05.800 - 42.05.995.

26 Sec. 42.05.860. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS
27 SERVICES PROHIBITED. A telephone company may not prohibit or restrict
28 the resale of telecommunications service. If an interexchange tele-
29 communications service is resold, the reseller shall receive credit in

1 an appropriate amount for an applicable exchange access charge if the
2 credit is necessary to prevent double payment of the access charges.

3 Sec. 42.05.995. DEFINITIONS. In AS 42.05.800 - 42.05.995,

4 (1) "local exchange carrier" means any carrier certificated
5 to provide local telephone services;

6 (2) "long distance carrier" or "long distance telephone
7 company" means any carrier certificated to provide long distance tele-
8 phone services;

9 (3) "long distance telephone service" or "long distance
10 service" means intrastate, interexchange telephone service.

11 * Sec. 3. AS 29.35.070(a) is amended to read:

12 (a) The assembly acting for the area outside all cities in the
13 borough and the council acting for the area in a city may regulate,
14 fix, establish, and change the rates and charges imposed for a utility
15 service provided to the municipality or its inhabitants by a utility
16 that is not subject to regulation under AS 42.05 unless that utility
17 is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is
18 exempted under regulations adopted under AS 42.05.810 from complying
19 with all or part of AS 42.05.010 - 42.05.721.

20 * Sec. 4. AS 29.35.070(a) is repealed and reenacted to read:

21 (a) The assembly acting for the area outside all cities in the
22 borough and the council acting for the area in a city may regulate,
23 fix, establish, and change the rates and charges imposed for a utility
24 service provided to the municipality or its inhabitants by a utility
25 that is not subject to regulation under AS 42.05 unless that utility
26 is exempted from regulation under AS 42.05.711(a) or (d) - (k).

27 * Sec. 5. AS 42.05.711(d) is repealed and reenacted to read:

28 (d) The commission may exempt a utility, a class of utilities,
29 or a utility service from all or a portion of this chapter if the

1 commission finds that the exemption is in the public interest.

2 * Sec. 6. AS 45.50.572(d) is amended to read:

3 (d) AS 45.50.562 - 45.50.596 apply to long distance telecommu-
4 nications services provided by public utilities. AS 45.50.562 -
5 45.50.596 do not apply to other services provided by public utilities
6 that [WHICH] have been issued a certificate of public convenience and
7 necessity under AS 42.05.

8 * Sec. 7. AS 45.50.572(d) is repealed and reenacted to read:

9 (d) AS 45.50.562 - 45.50.596 do not apply to public utilities
10 that have been issued a certificate of public convenience and neces-
11 sity under AS 42.05.

12 * Sec. 8. AS 42.05.800, 42.05.810, 42.05.820, 42.05.830, 42.05.840,
13 42.05.850, 42.05.860, and 42.05.995 are repealed.

14 * Sec. 9. LEGISLATIVE INTENT FOR SECTIONS 10 - 12. The legislature
15 intends that if, by administrative or judicial order, this Act is deter-
16 mined on or before September 4, 1990, to be substantially similar to only
17 one of the initiatives, 89-ALAS or 89-TELE, or to neither of those initia-
18 tives, the provisions in this Act providing for competition in the pro-
19 vision of long distance telephone service shall be repealed, so that both
20 initiatives shall appear on the ballot for the voters to consider.

21 * Sec. 10. NOTIFICATION. The lieutenant governor shall notify the
22 revisor of statutes immediately after September 4, 1990, of the determina-
23 tions taken concerning the initiatives, and of the existence and status of
24 litigation concerning the placement of the initiatives on the ballot.

25 * Sec. 11. Sections 1 - 3, 5, 6, 9, and 10 of this Act take effect
26 immediately under AS 01.10.070(c).

27 * Sec. 12. Sections 4, 7, and 8 of this Act take effect November 4,
28 1990, only if on September 4, 1990, there is a judicial or administrative
29 determination in force under art. XI, sec. 4 of the Constitution of the

1 State of Alaska that this Act is substantially similar to (1) one, but not
2 to both, of the initiatives on file with the lieutenant governor relating
3 to competition in long distance telephone service, Initiative 89-ALAS and
4 Initiative 89-TELE, or (2) neither of those initiatives. For purposes of
5 this section, a "determination in force" includes either an administrative
6 decision that is not subject to judicial appeal, a final judicial resolu-
7 tion, or an interim judicial order under which the lieutenant governor is
8 directed to print the general election ballots in accordance with a ruling
9 that this Act is substantially similar to only one of the initiatives or to
10 neither of the initiatives.