

**SCR**

**26**



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**TESTIMONY OF JOHN R. AYERS**  
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Hearing of the Senate Judiciary Committee  
SCR 26  
April 15, 1998

Thank You Mr. Chairman. Mr. Chairman, Members of the Committee:

I am testifying today in support of Senate Concurrent Resolution No. 26 because I feel strongly that the State of Alaska should not charge different prices for rights-of-way that are not based upon market values for the use, and conditions of use, of those rights-of-way. Much has been said about history and past practice by the administration. No doubt much more will be said in an attempt to continue with a policy that is not relevant to the specific issue of rights-of-way for telecommunications infrastructure in today's environment. My point being that in the past the State charged minimal rates to encourage development of utilities that were monopolies. Such is not the case today for telecommunications which exist in a competitive environment; in such a market, the value of the use of the right-of-way should be determinative. Moreover, I do not understand how the dichotomy between needing to balance State Government finances by increasing revenue or decreasing spending and charging below market rates for the use of valuable State rights-of-way can be purported to be sound fiscal policy by the Administration.

I believe that significant price differentials for rights-of-way between the same locations because of inconsistent and outmoded State policies will only harm consumers in the long run. As a consultant to telecommunications companies in Alaska, and as a long time participant in the telecommunications industry, I do not want to see one firm being handed a competitive advantage of any magnitude vis-à-vis another similarly situated firm. Competitive advantage should be the logical outcome of superior execution in the marketplace. The State of Alaska should be striving to insure that a predictable, competitively neutral environment results from its policies, for it is in this way that the State can best insure consumers have access to fiber optics and services derived from fiber optics at fair and reasonable prices.

As I understand it, the Administration currently has the legal authority to grant rights-of-way across State lands at prices based on fair market value of the use of the right-of-way. However, if the Administration wants the Legislature to enact a statewide pricing methodology/policy, which the Governor indicated in a March 11, 1998 letter, I believe that the Administration should grant pending applications for rights-of-way on an interim basis at fair market prices and allow the Legislature to address this issue during the next legislative session. This way, the Legislature will have sufficient time to conduct a careful and thorough investigation of this issue and, in the interim, the State of Alaska will not face

the prospect of litigation under the federal Telecommunications Act of 1996 from companies which have been granted rights-of way at discriminatory prices.

Whatever the State of Alaska decides to do, I believe that the pricing policy finally adopted should be applied to rights-of way across all State lands, including Railroad lands, and that all telecommunications companies should be charged the same price for rights-of way between the same locations under the same conditions of use. My favorite quote came to mind as I considered my testimony before you today. It comes from a book by Theodore Levitt called, appropriately to our discussion, THE MARKETING MODE. It goes something like this, "There comes a time in the life of every organization when it must abandon principle and do what's right." Mr. Chairman, this is a time to do what's right.

Thank you for the opportunity to testify.

# e. Net, Ltd.

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## Fax Transmission

FROM *John Aiers* TO *Senate Judiciary Committee*  
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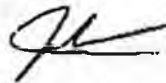
*Sen. Taylor*

*My testimony that I was unable to cross  
examine. For your information.*

*Thanks and Regards*



*P.S. Thanks also. Nice to hear from you.*



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210 East Bluff Drive  
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April 14, 1998

The Honorable Robin Taylor, Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Sent Via Facsimile to 907-465-3922

Dear Senator Taylor:

It is my understanding that Senate Concurrent Resolution No. 26, sponsored by the Senate Judiciary Committee, relating to the policy on use of a state right-of-way for fiber optic cables, will be the subject of a public hearing before your Committee on April 15, 1998. I would like to take this opportunity to comment on this resolution.

AT&T Alascom has reviewed SCR 26 and would like to state for the record that we believe that rights of way across state lands for fiber optic cable projects should be granted under existing state standards. In the event that there are two conflicting state standards, the standard that encourages infrastructure development and competition should prevail.

Thank you for allowing me the opportunity to present AT&T Alascom's view on this matter and we look forward to participating in further discussions regarding this issue.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Herman".

Laurie Herman  
External Affairs Director