

**HB**

**183**

**HFIN**

**FILE**

# Alaska State Legislature



Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
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Committees:  
Chair  
Fisheries  
Utilities  
Restructuring  
Member  
Transportation  
State Affairs

## UTILITY RESTRUCTURING COMMITTEE

May 11, 1999

Representatives Bill Hudson-Chair, John Cowdery- Vice Chair, Pete Kott, Norman Rokeberg, Brian Porter, John Davies and Ethan Berkowitz, Joe Green-alternate

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### CS HB 183(L&C) version K Sponsor Statement Alaska Public Utilities Commission restructuring

HB 183 restructures the APUC to create responsibility, and accountability through a strong chair. It allows the chair to hire and fire employees, and hire outside legal consultants.

The Bill removes the requirement that the Legislature concur with the Governor on the removal of a Commissioner.

Currently the Commissioners have background requirements as follows: an attorney, an engineer, an accountant and 2 public seats. This legislation deletes the specific background requirements.

This legislation does not allow more than 2 commissioners from the same political party. Ethics standards are added.

The Bill requires the APUC to report by February 1 to the Legislature as to the Commission activities for the year, including timeliness of docket activity.

The Bill adds timelines for action and allows the use of an arbitrator, and addresses consumer complaints. It also encourages the use of an arbitrator.

The effective date is immediate.

If you have any question please call me, or Committee Aide Walter Wilcox.

**Section 1:**

- A. Gender correction from chairman to chair.
- B. Election of chair.

**Section 2: Removal of a Commissioner. The Governor will be able to remove a Commissioner for cause, without Legislative approval.**

**Section 3:**

- A. No more than 2 members of the Commission may be from the same party. Commissioners may not change parties during the year prior to appointment or reappointment.
- B. A Commission member may not participate in:
  - 1. political campaigns or fundraising, or lobbying activitiesRequirements for background equivalent to degrees repealed.

**Section 4: The Chair, rather than the Commission may establish offices for the APUC.**

**Section 5: The chair, rather than the Commission may employ temporary legal counsel.**

**Section 6: The chair, rather than the commission may hire outside consultants, employees and experts with the approval of the Commission.**

**Section 7: Fixes dates for action and requires priority hearings**

**Section 8: Adds procedural deadlines. Adds mediation and arbitration.**

**Section 9: Regarding consumer complaint resolution.**

**Section 10: Provides for formal hearing arbitrator.**

**Section 11: In addition to the annual report the APUC will present to the Legislature the commission activities, and timeliness of docket activity for the previous year.**

**Section 12: Repeals actual experience equivalent to a degree.**

**Section 13: Encourages implementation of a management information system.**

**Section 14: Regarding removal rights of sitting Commissioners.**

**Section 15: Defines effective date of Section 7.**

**Section 16: Immediately effective date.**

**Please call Rep. Hudson or Walt Wilcox if there are any questions. 6820**

# ALASKA PUBLIC UTILITIES COMMISSION

## Annual Report

Fiscal Year 1998



**Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
Anchorage, Alaska 99501-1963**

**telephone: (907) 276-6222**  
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**FY98 statistical data will be available at APUC's web site shortly after  
the release of this printed volume.**

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

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February 5, 1999

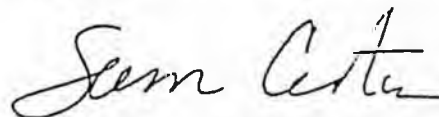
Honorable Brian Porter  
Speaker of the House  
and  
Honorable Drue Pearce  
President of the Senate

Dear Speaker Porter and President Pearce:

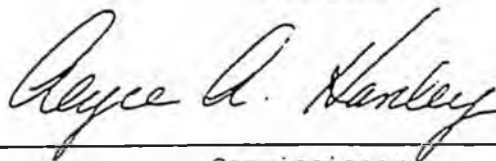
On behalf of the Alaska Public Utilities Commission, we are pleased to submit to the Alaska State Legislature the Twenty-ninth Annual Report of the Alaska Public Utilities Commission, covering the fiscal year ending June 30, 1998. This is filed pursuant to AS 42.05.010 and AS 42.06.020.

Respectfully yours,

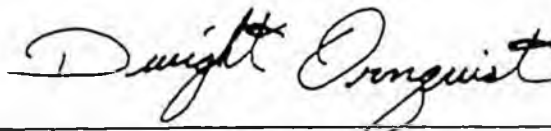
ALASKA PUBLIC UTILITIES COMMISSION



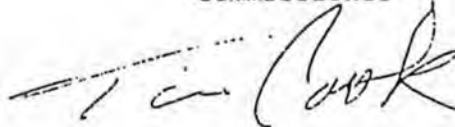
Chairman



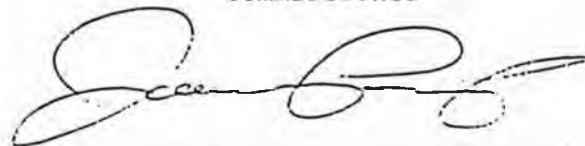
Commissioner



Commissioner



Commissioner



Commissioner

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## **Mission statement**

The Alaska Public Utilities Commission (APUC) protects and promotes the public interest by certifying and economically regulating only qualified public utilities and pipeline carriers. It oversees the availability, affordability and quality of the utility services that are essential to Alaska's economic development.

The Commission does this by making timely decisions that balance the competing interests of various parties fairly, while keeping red tape to a minimum.

**The Commissioners of the Alaska  
Public Utilities Commission**



**Chairman Cotten (center) is flanked (left to right) by Commissioners Posey, Hanley, Ornquist and Cook**

## Message from the Chairman

The utility industries in Alaska and throughout the country are in a period of major change. Major events such as the passage of the Telecommunications Act of 1996, the several proposed pieces of federal legislation dealing with electric industry restructuring along with the restructuring experiences and experiments of states like California have combined to make industry and regulators think in new terms.

We are breaking new ground in Alaska when it comes to competition in the telephone business. In addition to competition, the ownership of the majority of the local phone lines in our state have changed hands or are posed to do so. The APUC has seen a huge increase in filings dealing with disputes, new offerings and transfer of certificate applications. The Commission has also found it necessary to write new regulations to deal with the new competitive environment as opposed to the monopoly system under which we have been operating since before statehood.

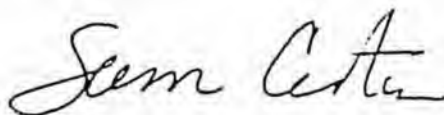
The APUC has been working closely with the State Legislature on many issues, most recently jointly awarding a contract for a study of electricity restructuring in Alaska. The Commission continues to offer its expertise as a resource to the Legislature.

The Alaska Public Utilities Commission has taken steps to improve its ability to deal with a workload that has doubled over the past five years. In addition to adding to our professional staff, the commission is putting more emphasis on training and is improving efficiency through a move toward electronic filing and other technology enhanced operations.

The consumer protection division of the Commission is one of our busiest and most important. Our consumer specialists report 706 consumer complaints, a 23 percent increase over the previous year. As one of the few consumer response sections in state government, we feel it is essential to have more resources in this area.

The number of changes in the utility and pipeline industries in Alaska and the resulting challenges presented to the Commission continue to grow. We are committed to meeting those challenges.

Sincerely,



Sam Cotten  
Chairman

## **Biographies**



**Sam Cotten,  
Chairman**

Commissioner Sam Cotten was appointed by Gov. Tony Knowles on November 13, 1995, and appointed as Chair on August 12, 1996. Chairman Cotten's term ends on March 1, 1999.

Mr. Cotten owns and operates a commercial salmon seining business in lower Cook Inlet. A former Speaker of the House of Representatives and State Senator, Sam Cotten served 16 years in the Alaska State Legislature. Other public and community service has included a position as Commissioner of the Anchorage Planning and Zoning Commission, Chuglak-Eagle River Chamber of Commerce Board of Directors, Anchorage Ski Club Board of Directors, and Harry J. McDonald Memorial Center, Board of Directors. Mr. Cotten served in the U.S. Navy from 1965 through 1969, including two tours of duty in Viet Nam. Mr. Cotten and his wife Martha T. Cotten, M.D. have two sons, Sammy and Gus, and reside in Eagle River and Halibut Cove.

On November 1, 1993, Gov. Walter Hickel appointed Commissioner Alyce Hanley to one of the consumer seats of the APUC, with a term expiring March 1, 2000.

Mrs. Hanley served as Representative in the Alaska State Legislature from 1985 through 1991. She was a member of the Anchorage School Board from 1981 through 1984. In Anchorage, Mrs. Hanley has been a volunteer in numerous organizations. She was serving as a member of the Executive Clemency Commission and the Americans with Disabilities Act Advisory Commission at the time of her appointment. She is a member of the National Association of Regulatory Utility Commissioners Committee on Water.

The Hanley's, Monte and Alyce, and their five sons moved to Anchorage's Sand Lake area in 1971. Alaska continues to be home for the entire family which now includes four daughters-in-law and six grandchildren.



**Alyce A. Hanley,  
Commissioner**

## Biographies (continued)

Dwight Ornquist was appointed to the APUC by Gov. Walter Hickel in October 1993. Commissioner Ornquist holds the engineering seat on the Commission until his term expires on March 1, 2000.

Commissioner Ornquist is an Information Systems Engineer and has been designing, developing and implementing information and communication systems since 1975 when he graduated from the Alexandria Technical Institute in Minnesota with a degree in Computer Science. That same year Mr. Ornquist moved to Anchorage, Alaska. In 1978 he married Gena, a high school English teacher he met in Alaska. In 1985 they moved to Palmer where they currently reside with their four children, Micah (18), Danielle (15), Jeremiah (13) and Christopher (13).

Commissioner Ornquist is a member of the National Association of Regulatory Utility Commissioners (NARUC), the Institute of Electrical and Electronic Engineers (IEEE), the Alaska Department of Education Technology Task Force, and is the Vice Chairman of the NARUC Finance and Technology Committee. He also serves on the adjunct faculty of the University of Alaska/Mat-Su, and works very closely with the NARUC Staff Subcommittee on Computers promoting agency automation. He is a leader in actively promoting utility competition, in a manner that will benefit consumers, when and where possible.



Dwight D. Ornquist,  
Commissioner



Tim Cook,  
Commissioner

Tim Cook was appointed to the APUC in 1994. His appointment was the subject of a balance of powers debate regarding the confirmation authority of the Alaska Legislature. In August 1996, the Alaska Supreme Court ruled unanimously in favor of Mr. Cook and returned him to the APUC. His term expires on March 1, 2001.

Mr. Cook came to the APUC after serving as the Associate Director of the State of Alaska's Washington, D.C. office. While in Washington, Mr. Cook was responsible for developing and advocating State policy on environmental, fisheries, telecommunications, and energy issues. This position required Mr. Cook to develop close working relationships with the Alaska Congressional delegation, other members of Congress, and with the Executive departments.

During his tenure on the APUC, Commissioner Cook has been very active in telecommunication deregulation and competition issues. He continues to be a strong advocate of Universal Service and communications parity with the lower 48 states. Because of his interest in telecommunications he was appointed to chair the Telecommunications Committee of the Western Conference of Public Service Commissioners.

Mr. Cook is a licensed attorney. He has passed the Bar in both Texas and Alaska, and is eligible for admission in a number of other districts. He is an active member of the Bar and is involved with several professional organizations. He has also worked as an engineer on the North Slope of Alaska.

Mr. Cook worked his way through law school commercial fishing and continues to be active in that industry. His formal education includes an earned Juris Doctorate, Masters of Business Administration degree, and double Bachelors Degrees.

Tim is an active sportsman and pilot. He lives in Wasilla and is an 18-year resident of Alaska. He speaks fluent Spanish, and has extensive experience living in remote and culturally diverse areas. His wife, Dr. Alicia Martinez is a nationally recognized leader in bilingual/bicultural education. She has been a professor at George Washington University and the University of Houston.

## Biographies (continued)



James M. Posey,  
Commissioner

Commissioner James M. Posey was appointed to the consumer seat of the Commission on January 21, 1997. Prior to joining the Alaska Public Utilities Commission, he worked for the Municipality of Anchorage as the manager of the Building Safety Division, Department of Public Works. Mr. Posey retired from ARCO Alaska, Inc. in 1995 after working more than twenty years in the oil and gas industry as Land Manager, Issues Advocacy Manager, and Attorney.

He is a 19-year resident of Alaska and has been active in several community organizations. He has served on the boards for Anchorage Center for Families and Junior Achievement of Alaska. Mr. Posey is a founding member of the American Association of Blacks in Energy and currently serves on the board for Anchorage Youth Court. He served as the President of the Bayshore/Klatt Community Council for several years and is a member of the Anchorage Downtown Rotary Club.

In 1975, Mr. Posey graduated from the University of Kansas School of Law. In 1972, he graduated from Wichita State University with a degree in History. He hails from Beaumont, Texas. Mr. Posey served in the United States Air Force from 1966 to 1970.

He and his wife, Sandi, have three daughters and two sons and live in south Anchorage.

Bob Lohr has served as executive director of the APUC since 1991. He has a Masters Degree in Public Administration from Harvard University's John F. Kennedy School of Government with concentrations in Public Management and Negotiation. He earned his B.A. degree in Economics and International Relations at Swarthmore College in Pennsylvania.

Mr. Lohr has more than 22 years of experience directing, managing and advising development-oriented agencies in Alaska. From 1989 to 1990 he served as executive director of Advocacy Services in Alaska, the legal protection and advocacy agency representing persons with developmental disabilities. From 1979 to 1986 he held various positions with Rural Alaska Community Action Program Inc. (RurAL CAP), including executive director from 1982 through 1986. RurAL CAP addresses wide-ranging needs of low-income Alaskans including energy policy, child development, natural resources, alcohol/drug abuse prevention, and community development. From 1975 through 1979, he directed the Upper Tanana Development Corporation in Tok. He has also served as a consultant to human services organizations and Native corporations. Mr. Lohr is married to Celia Foley, and they have three children: Emma, Noah, and Joseph.



Robert A. Lohr,  
Executive Director

## Former APUC Commissioners

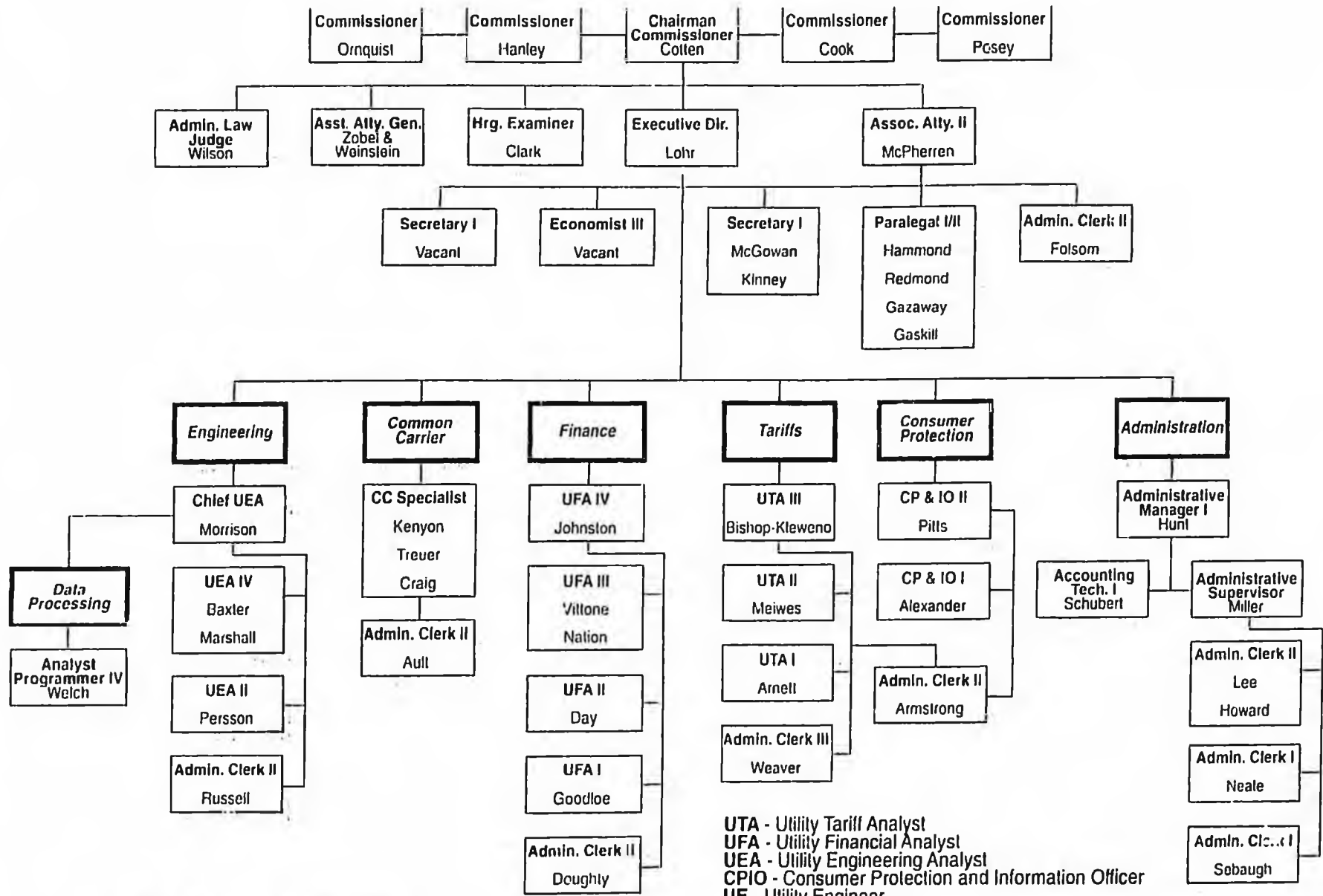
Commissioner	Dates of service
Clyde Courtnage	1960 - 1963
Charles Herbert	1960 - 1963
Karl Walter, Jr.	1960 - 1964
Joseph Fitzgerald	1964 - 1965
Maurice Chertkov	1965 - 1965
Harold Moats	1965 - 1966
T. Stanton Wilson	1966 - 1966
James R. Clouse, Jr.	1967 - 1971
Loren H. Lounsbury	1967 - 1971
John M. Stern, Jr.	1971 - 1973
James R. Hendershot	1971 - 1975
B. Richard Edwards	1974 - 1976
Gordon J. Zerbetz	1963 - 1981
Stuart C. Hall	1976 - 1983
Diana E. Snowden	1981 - 1985
Marvin R. Weatherly	1975 - 1987
Carolyn S. Guess	1975 - 1989
Louis E. Agi	1983 - 1989
Kathleen E. Whiteaker	1985 - 1990
Peter Sokolov	1987 - 1991
Don May	1990 - 1992
Susan M. Knowles	1975 - 1993
Mark A. Foster	1990 - 1993
Daniel Patrick O'Tierney	1989 - 1994
James E. Carter, Sr.	1992 - 1995
G. Nanette Thompson	1995 - 1996
Don Schröder	1991 - 1997

## APUC roster (10/13/98)

Alexander, Tamara	Consumer Protection & Information Officer I
Armstrong, Mark	Administrative Clerk II
Arnett, Wendy	Utility Tariff Analyst I
Ault, Lee	Administrative Clerk II
Baxter, Donald	Utility Engineer Analyst IV
Bishop-Kleweno, Dawn	Utility Tariff Analyst III (Chief)
Clark, Patricia	Hearing Examiner
Cook, Tim	<b>Commissioner</b>
Cotten, Sam	<b>Commissioner (Chairman)</b>
Craig, Lew	Common Carrier Specialist
Day, Keith	Utility Financial Analyst II
Doughty, Balassa	Administrative Clerk II
Folsom, Hillary	Administrative Clerk II
Gaskill, Karlee	Paralegal I
Gazaway, Richard	Paralegal I
Goodloe, Toni	Utility Financial Analyst I
Hammond, Anita	Paralegal II
Hanley, Alyce	<b>Commissioner</b>
Howard, Tricia	Administrative Clerk II
Hunt, Diane	Administrative Manager I
Johnston, Mark	Utility Financial Analyst IV (Chief)
Kenyon, Lorraine	Common Carrier Specialist
Kinney, Sue	Secretary I
Lee, Ruthie	Administrative Clerk II
Lohr, Bob	Executive Director
Marshall, Bill	Utility Engineer Analyst IV
McGowan, Joyce	Secretary I
McPherran, Jeanne	Associate Attorney II*
Meiwes, Jennifer	Utility Tariff Analyst II
Miller, Barb	Administrative Supervisor
Morrison, Paul	Utility Engineer Analyst V (Chief)
Nation, Parker	Utility Financial Analyst III
Neale, Pamela	Administrative Clerk I
Ornquist, Dwight	<b>Commissioner</b>
Persson, Brad	Utility Engineer Analyst II
Pitts, Agnes	Consumer Protection & Info. Officer (Chief)
Posey, Jim	<b>Commissioner</b>
Redmond, Rosemary	Paralegal I
Russell, Neci	Administrative Clerk II
Schubert, Ed	Accounting Technician
Sebaugh, Chrissy	Administrative Clerk I, Receptionist
Treuer, Phil	Common Carrier Specialist
Vittone, Mary	Utility Financial Analyst III
Weaver, Rose	Administrative Clerk III
Weinstein, Marty	Assistant Attorney General*
Welch, Bert	Programmer/Analyst IV
Wilson, Jan	Administrative Law Judge
Zobel, Ron	Assistant Attorney General*

\* Employee of the Department of Law contracted to the Commission

# Organizational chart



UTA - Utility Tariff Analyst  
 UFA - Utility Financial Analyst  
 UEA - Utility Engineering Analyst  
 CPIO - Consumer Protection and Information Officer  
 UE - Utility Engineer  
 CC - Common Carrier

- Positions funded under contract

All positions located in Anchorage.

Approved:     /s/ Robert A. Lohr      
 Robert A. Lohr, Executive Director

Effective date:   10/13/98

## **Staff responsibilities**

The Commission staff is divided into six major sections: administration, engineering, common carrier, consumer protection, finance, and tariffs. The APUC employs 46 people with an FY98 operating budget of \$4,459,659.

### **Administration**

An executive director, hired by the Commission, is responsible for directing all staff functions and serves as a liaison between staff and Commissioners, and between the Commission and the legislature. He or she is responsible for records and document management, fiscal and personnel administration and budget preparation. The executive director is aided by an administrative manager, documents processing and accounting personnel, and other clerical support staff.

### **Engineering**

This section is responsible for certification proceedings, investigations of utility and pipeline carrier procedures and practices affecting service quality. It also reviews legal descriptions for service areas, plans for plant expansion, plant-in-service schedules, and depreciation schedules. Engineering evaluations are presented in proceedings before the Commission. The Commission's data processing function is housed in the engineering section.

### **Common Carrier**

This section was established to develop, recommend and administer policies concerning rates, services, accounting and facilities of communications common carriers within Alaska involving the use of wire, cable, radio, and space satellites.

### **Consumer Protection**

Major responsibilities for this section include investigation and resolution of consumer complaints, public relations and information dissemination.

### **Finance**

This section examines, analyzes and evaluates financial statements submitted for rate cases. It audits financial records of utilities and pipeline carriers and examines historical operating year data and pro forma financial adjustments made by the utilities and pipeline carriers. The Finance section provides analyses of this information in proceedings before the Commission.

### **Tariff**

This section examines, analyzes and investigates tariff filings and presents recommendations to the Commission at biweekly tariff action meetings. Administrative functions include organizing tariff meetings as well as complying with all public notice requirements on tariff filings and maintaining current master tariffs for all utilities and pipeline carriers.

## APUC FY98 overview

Since statehood in 1959, the Alaska Public Utilities Commission has been working with the hundreds of public utilities in Alaska with the same mission in mind - to ensure continued service, sound management, and fair rates for residents in all corners of the state. The Commission regulates utilities that bring water, electricity, gas and telecommunications into our homes, as well as overseeing services that collect and dispose of our waste. In 1981, the APUC's role was expanded to include oversight of pipeline carriers and pipelines when it merged with the Alaska Pipeline Commission.

Utility commissions were originally created to protect consumers, since most utilities were monopolies. Today, Commissioners are faced with the challenge of evaluating regulations and considering policy changes to encourage competition while continuing to maintain consumer protection as a primary goal.

In situations where monopolies exist, the Commission monitors the utility to ensure fair practices, reasonable service, financial stability, and accountability. The Commission balances the legitimate need for utilities and pipeline carriers to show a profit for their investment and the public's right to receive fair service for its money. Commissions in all 50 states serve the same general mission, regulating the relationship between the utilities and the consumers they serve.

The Commission achieves this balance by issuing "certificates of public convenience and necessity" to qualified service providers. A certificate essentially acts as a license to operate and details how the utility or pipeline carriers must conduct business with consumers or shippers concerning rates. The Commission establishes rates, terms and conditions of service while overseeing the practices, services and facilities of regulated utilities and pipeline carriers. In the next few years, new approaches and a broader perspective will be necessary as the Commission works to address complex issues and to make appropriate regulatory decisions for all Alaskans.

The APUC has jurisdiction over the operation of:

- electric utilities
- natural gas utilities
- refuse (garbage) collection
- wastewater (sewer) treatment
- steam producers
- telephone companies (local and in-state services)
- water utilities
- oil and gas pipeline carriers.

The Commission has issued 476 certificates of public convenience and necessity (certificates) held by utilities and pipeline carriers.

Approximately one-third of the 476 certificates are for utilities whose services and operations are fully regulated by the Commission. The authority to regulate some types and sizes of utilities is limited under law. Many electric utilities in rural communities are exempt from regulation because of their small size. Some cooperatives and government-owned utilities are also exempt because they have alternative means of accountability to the consumer. Of the 476 certificates held, the Commission currently regulates the rates, services, practices or facilities of 161 utilities and 18 pipeline carriers.

In addition, the Commission is responsible for computing the power costs and resultant state assistance amounts for customers of electric utilities participating in the Power Cost Equalization (PCE) program.

The Commission carries out its regulatory responsibilities through several means. It conducts audits, investigations, public meetings, tariff action meetings, formal adjudicatory

## **APUC FY98 overview (continued)**

proceedings, informal meetings, and conferences. The Commission resolves complaints by telephone, mail, meeting or adjudication.

The Commission functions as a quasi-judicial body when rendering decisions in formal proceedings and as a quasi-legislative body when promulgating regulations. Its proceedings and determinations are governed by the statutes and regulations of the state.

### **Funding**

In 1992 following the legal mandate of the legislature, the Commission enacted regulations allowing it to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates. That Regulatory Cost Charge (RCC) shows up as a surcharge on the monthly billing statements to consumers and shippers.

The legislature appropriated and the governor approved a FY99 budget of \$4.5 million, funded 100 percent from program receipts, in the form of the RCC. There are no unrestricted general funds in the FY99 appropriation.



**APUC Commissioners and staff**

## Operating budget FY98 (7/1/97 to 6/30/98)

	FY97	FY98	Percent change
<b>Appropriations</b>			
Personal services	\$2,592,700	\$2,567,600	
Travel	53,600	35,000	
Contractual	1,132,800	1,780,759	
Commodities	65,700	62,500	
Equipment	133,387	13,800	
<b>Totals</b>	<b>\$3,978,187</b>	<b>\$4,459,659</b>	<b>10.8%</b>

	FY97	FY98	Percent change
<b>Expenditures</b>			
Personal services	\$2,601,574	\$2,628,190	
Travel	45,225	51,346	
Contractual	1,088,020	960,596	
Commodities	78,344	71,868	
Equipment	95,489	16,172	
<b>Totals</b>	<b>\$3,908,652</b>	<b>\$3,728,172</b>	<b>-4.8%</b>

	FY97	FY98	Percent change
<b>Revenue receipts<sup>1</sup></b>			
APUC receipts:	\$3,908,652*	\$3,728,172*	
<b>Total revenues</b>	<b>\$3,908,652</b>	<b>\$3,728,172</b>	<b>-4.8%</b>

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<sup>1</sup> The Commission received revenues under various provisions of its statutes including copying and postage charges (AS 42.05.201) and cost allocations in proceedings (AS 42.05.651/AS 42.06.610)

\* Fourth quarter revenue is recognized as of June, but paid during July.

## **Regulation and economic development**

Three aspects of utility service are essential to a business owner: availability, affordability and reliability. The Commission promotes the availability of utility services through certifying utilities to operate; promotes affordability through rate decisions; and promotes quality or reliability through service and safety standards. These same considerations apply to oil and gas pipeline services.

The Commission promotes in-state economic development through a variety of major activities including certification proceedings and regulation of rates.

### **Certification proceedings**

Certification proceedings consider an applicant's financial, technical and management capability of meeting present and future customer and shipper service demands within Alaska. A successful applicant must demonstrate its ability to provide safe, reliable and adequate service at a reasonable cost. Meeting the requirements of certification ensures that customer demands are met and that service infrastructure is available. Adequate utility service at a reasonable cost is an essential precursor to sound economic development. The availability of reliable pipeline carrier service at reasonable rates promotes development of the state's natural resources.

### **Regulation of rates**

One purpose of Commission regulation is to assure that rates charged by regulated utilities and pipeline carriers are just and reasonable (AS 42.05.381/AS 42.06.370). Criteria determining rates include: reasonable and appropriate operating expenses and plant investments; depreciation expense that falls within the Commission approved lives of usefulness; and a reasonable return. A reasonable return permits the cost of long-term borrowing to be recovered and the opportunity to earn profits for the owner's or shareholders' equity. Rates must be high enough to allow a reasonable return but not so high as to allow an excessive return that could deter development of businesses that rely on the service.

Reasonable rates and reliable service can enhance economic development and be determining factors in business decisions to start operation or relocate to Alaska.

## Fiscal Year 1999 plan

### Y2K Concerns

The Commission has ordered all Alaskan public utilities and pipeline carriers to report to it their plans to continue providing reliable service into the next century. Potential problems with the rollover of dates in computers and embedded chips must be addressed. The Commission will work with the Department of Administration and a contractor to follow up these utility responses and to independently validate and verify their readiness.

### Pipeline

The Commission will be acting on applications for certificates of public convenience and necessity for two new pipelines being built to transport oil from North Slope fields now under development to the Trans Alaska Pipeline System (TAPS). In addition, the Commission will be conducting several TAPS proceedings including a shipper challenge to several aspects of the TAPS Settlement Methodology (TSM), discrimination issues pertaining to intrastate delivery points, TAPS ramp-down and capacity allocation, TAPS connection policy and the TAPS Quality Bank. The Commission will also be addressing concerns about the future dismantling of pipelines in the state.

### Electricity

During Fiscal Year 1999, the Commission will continue to address significant issues facing the electrical industry in Alaska's urban and rural areas. The Commission, in conjunction with the Joint Committee on Electric Restructuring, is sponsoring a study on the risks/rewards and costs/benefits of electric restructuring which will be performed by the consulting firm of CH2M Hill. The draft report will be made available during the legislative session. The Legislature passed a concurrent resolution establishing a Joint Committee on Electric Utility Restructuring. The Commission plans to work closely with the Legislature to both study and advise the Legislature on the issues of electrical restructuring. The Commission has opened a regulatory docket (R-97-10) to define the future market structure of the electric industry in Alaska and to recommend changes to regulations if any. The Commission is considering an application to establish a pilot program to allow limited competitive electric service in the Anchorage area (U-98-114). The Commission will also continue to study the feasibility of a Railbelt Power Pool (U-97-140), based on the results of a study completed by Black & Veatch International in the first quarter of FY99. During FY99, the Commission anticipates a revenue requirement and a cost-of-service study from Alaska Power Company, a subsidiary of Alaska Power & Telephone, and other utilities.

The Commission continues to work with small electric providers to certificate them where they are providing service to ten or more customers for compensation and annual revenues exceeding \$50,000.

## **Fiscal Year 1999 plan (continued)**

### **Refuse**

The Commission will continue to address issues related to implementation of competition where deemed appropriate. Given that a single company has purchased refuse utilities in every major market in Alaska, the Commission will be reviewing market power issues associated within a competitive refuse industry. Continued transfers of Certificates are anticipated.

### **Natural Gas**

The Commission has conditionally approved Alaska Intrastate Gas Company's application to provide natural gas service to 17 coastal Southeast and Southcentral communities. The communities include Angoon, Cordova, Craig, Haines, Juneau, Kake, Ketchikan, Klawock, Klukwan, Kodiak, Metlakatla, Petersburg, Sitka, Skagway, Valdez, Wrangell and Yukatat. The Commission will also be reviewing the application filed for a natural gas pipeline between ARCO's Alpine field and the village of Nuiqsut.

### **Water and Sewer**

The Commission continues to receive numerous complaints concerning the quality of service provided by small water utilities. The complaints have primarily involved water shortage and water quality issues.

The Commission anticipates three to five new proceedings involving rate increases and/or rate redesigns for large water and sewer utilities. The large utilities are most likely to make such filings, which will make the rate cases complex. New certificates will continue to be issued as new construction continues. In addition, transfers of certificates from small utilities are expected.

### **Telecommunications**

To accomplish its duties under the federal Telecommunications Act of 1996, this Commission has previously initiated rulemakings in the areas of intrastate access charge reform, universal service and market structure rules for competitive local exchange service.

#### **Access Charge Reform**

The Commission will complete the first phase of intrastate interexchange access charge reform and adopt new regulations. The Commission will begin the next phase to implement and further refine the rules.

#### **Universal Service**

In conjunction with Access Charge Reform, the Commission will complete the first phase of Universal Service Reform; adopt regulations and continue to investigate the impact of new federal rules that change the allocation and prioritization of U.S. funds among telecommunications companies and types of users (schools, libraries, and medical facilities).

## Fiscal Year 1999 plan (continued)

### Market Structure

The Commission will develop new rules to govern the competitive local exchange market as well as interconnection between local telephone companies and competitive providers of telecommunications service.

Rural incumbent telephone companies are exempt from certain interconnection requirements of the Telecommunications Act of 1996 that apply to larger local exchange companies. Following any bona fide request for interconnection with a rural incumbent telephone company, the Commission must determine whether to maintain or terminate the exemption.

The Commission will also reexamine its existing competitive rules for the intrastate long distance market regarding facility restrictions, facility modernization, wholesale rates and access to interexchange networks.

The Commission will continue to investigate the issue of public interest pay telephones and propose a remedy to any inconsistencies between Alaska's existing pay telephone regulations and new Federal regulations adopted as part of the Telecommunications Act.

The Commission will complete its investigation of telecommunications relay service and adopt new regulations regarding this service.

The Commission will propose regulations to reform its current directory assistance regulations which will provide a pro-competitive directory assistance structure.

The Commission, on an ongoing basis, will evaluate and monitor the quality and adequacy of telecommunications service throughout Alaska.

The Commission will, in the next year, address three to five new rate cases involving rate increases and/or rate redesigns for local service.



Executive director Robert A. Lohr, administrative manager Diane Hunt and receptionist Christine Sebaugh

## The Telecommunications Act of 1996

The Telecommunications Act of 1996 (Telecommunications Act) passed into law on February 8, 1996. The new law mandates competition in the last area of telecommunications monopoly, the local exchange. At the same time, it attempts to set up a structure to maintain and enhance universal service. As interpreted by the Federal Communications Commission (FCC) competition under the Telecommunications Act consists of a trilogy — interconnection, universal service and access charge reform. The Telecommunications Act preempts state authority in many respects, however, it also places significant new responsibilities on state commissions to implement new federal statutes and pending federal regulations. The legislation is based on the premise that deregulation will: promote competition; increase telecommunication services; increase the options for provision of services; and ultimately lower the costs of services offered.

To carry out its responsibilities under the Telecommunications Act the FCC has initiated a variety of rulemakings, many of which have an effect on the states. The FCC has issued Orders setting rules and procedures governing: interconnection between local telephone companies and competitive telecommunications providers; universal service; access charge reform; and private pay telephones. The Commission is in various stages of implementing the requirements of the Telecommunications Act and the rules of the FCC.

The Commission has initiated rulemaking dockets addressing reform of local exchange market structure, universal service, intrastate access charges, private pay telephones and directory assistance.

In May of 1998, the Commission issued an order adopting competitive local exchange regulations which became effective for the Anchorage area on June 21, 1998. The Commission views these regulations as a transitional measure while continuing to evaluate competitive issues such as carrier of last resort, arbitration pricing standards and quality of service.



Accounting technician Ed Schubert

## The Telecommunications Act of 1996 (continued)

Access charges are the charges that long distance companies pay local telephone companies to complete long distance calls over the telephone networks of the local telephone company. The Telecommunications Act requires access charge reform because the current access charge system was not designed for more than one local telephone company in any one serving area and access charge rates incorporate implicit subsidies that help to keep rates for local and long distance service in high cost areas reasonable. Both of these features of the current access charge system are inconsistent with the Telecommunications Act and FCC regulations.

The Commission's goal in the current phase of this docket is to identify the immediate changes necessary to ensure that the intrastate access charge structure remains workable during the transition to the new, competitive model envisioned by Congress, while at the same time, preserving and maintaining universal service. Some further long term reforms will be needed in a later phase of these dockets as the FCC continues to modify the interstate access charge and universal service system, particularly for rural local exchange telephone companies.

Market entrants will be attracted to services and sectors with the highest profit margins which puts increased pressure on the incumbent local telephone company to reduce rates closer to "cost" in competitive areas and raise rates in non-competitive areas. In a competitive market with multiple providers, the Commission will need to ensure that there is a carrier of last resort to ensure the continued availability of services to all customers.



Common carrier specialists Lorraine Kenyon, Phil Treuer and  
Lew Craig; administrative clerk Lee Ault

## **FY98 significant events**

### **Telecommunications Service**

#### **Market Structure Rules Governing Local Exchange Telephone Competition in Alaska**

The Telecommunications Act of 1996 (Telecommunications Act) establishes a pro-competitive, deregulated national policy framework for the telecommunications industry in the United States and places significant responsibilities on state commissions to implement the revised federal statutes. In November of 1997, the Commission issued a notice of inquiry (Docket R-97-12) to address market structure rules for local exchange telephone competition, including: issues related to pricing flexibility; the issue of market power and dominance; and arbitration pricing standards for interconnection between incumbent and new entrant local exchange telephone companies. Comments and Reply Comments were filed by February 24, 1998.

The Commission acknowledged that due to the comprehensive nature of its rulemaking to establish competitive rules for the local telephone market (Docket R-97-12), considerable time would ensue before all of the relevant issues had been addressed. Therefore, the Commission considered a proposal by Anchorage Telephone Utility (Docket R-97-9) to adopt as an interim measure, regulations derived from the Commission's competitive long distance company regulations.

The Commission noted that with three local exchange telephone companies authorized to provide competitive local exchange service in the Anchorage market, rules to govern at least the Anchorage area were desirable as soon as possible. Therefore, the Commission held a public hearing in February 1998, which led to proposed regulations as a transitional measure in service areas where more than one telephone company is authorized to provide local exchange telephone service. In May of 1998, the Commission issued an order adopting competitive local exchange regulations which became effective for the Anchorage area on June 21, 1998. (R-97-9/R-97-12)



**Utility financial analysts Parker Nation, Mark Johnston, Toni Goodloe, Mary Vittone and Keith Day**

## FY98 significant events (continued)

### Alaska Intrastate Long Distance Market Structure Rulemakings

As part of its investigation into long distance market structure rules, the Commission will address wholesale pricing issues. Wholesale services are generally bulk, or discounted services offered by facilities based carriers to other telecommunications companies which later resell the services to the general public.

Allegations have been made criticizing the existing market relationships between retail and wholesale rates. Depending in part on the results of its generic investigation into wholesale rate issues, the Commission may also investigate the specific rates of the Alaska facilities based long distance carriers, AT&T Alascom and GCI. The Commission initiated its intrastate long distance market structure proceeding on May 1, 1998. The tentative schedule for this case anticipates a final Commission order resolving all issues by June 1999.

### Access Charge Reform

Access charges are the charges that long distance companies pay local exchange telephone companies to complete long distance calls over the telephone networks of the local telephone company. The Telecommunications Act requires access charge reform because the current access charge system was not designed for more than one local exchange telephone company in any one serving area and access charge rates incorporate implicit subsidies that help to keep rates for local and long distance service in high cost areas reasonable. Both of these features of the current access charge system are inconsistent with the Telecommunications Act and Federal Communications Commission (FCC) regulations.

The Commission's goal in the current phase of this docket is to identify the immediate changes necessary to ensure that the intrastate access charge structure remains workable during the transition to the new competitive model envisioned by Congress, while at the same time, preserving and maintaining universal service. Some further long term reforms will be needed in a later phase of these dockets as the FCC continues to modify the interstate access charge and universal service system, particularly for rural local exchange telephone companies. On May 29, 1998, the Commission issued proposed regulations (R-97-5/6(3)) for comment. Comments were filed on June 30, 1998. Reply comments and a public hearing were scheduled for July 31 and August 17, 1998, respectively. (R-97-5)

### Universal Service Reform

The purpose of this docket is to make the state's universal service system consistent with the Universal Service principles under the Telecommunications Act. The initial phase of this proceeding involved identifying current subsidies that are implicit in access charges and if necessary, recovering them in an explicit manner. Making subsidies explicit may well require establishment of a state universal fund. Rules for such a fund will need to consider the fund's administrative structure, method and source of funding, services and providers to be supported, and the amount of support for each eligible service.

Because access charge and universal service reform are inextricably tied together at this point, the issues in the two dockets have been addressed in concurrent orders. Once the current phase of the access charge proceeding is complete, the Commission will begin to address universal service issues more independently. (R-97-6)

## **FY98 significant events (continued)**

### **Public Interest Pay Telephones**

This docket was opened to remedy any inconsistencies between Alaska's pay telephone regulations and federal pay telephone regulations adopted pursuant to the Telecommunications Act. Federal rules currently require states to review their rules and: 1) remove rules that impose entry and exit restrictions; 2) provide for public interest pay telephones. Generally, public interest pay telephones are pay telephones necessary to maintain public health, safety and welfare but which the private market is unwilling or unable to provide. The Commission recently sought additional comment on the public interest pay telephone proposal of the local exchange telephone company, Bristol Bay Telephone Cooperative, Inc. (R-97-3)

### **Directory Assistance (DA)**

This docket was opened because the Commission has concluded that current state regulations requiring the provision of directory services through a monopoly statewide directory assistance bureau is inconsistent with the competitive framework envisioned by the Telecommunications Act. Therefore, the Commission has initiated this proceeding to repeal the current directory assistance regulations and adopt alternative regulations which will establish a pro-competitive directory assistance structure. Proposed rules have been issued for comment and a public hearing held. (R-97-7)

### **Debit Card Service**

On July 27, 1997, the Commission issued an order adopting regulations governing debit card services and long distance services provided by *de minimis* carriers. These regulations for the most part will relax standards applied to *de minimis* carriers and to debit card services. (R-94-3)

### **Rural Facilities Restrictions Regulation**

In February 1997, GCI filed a petition before the Commission seeking a declaratory ruling that the Commission's regulations restricting long distance facilities construction to certain rural locations were invalid under the Telecommunications Act and would not be enforced. After review the Commission determined GCI's conclusions ignored key policy issues, including universal service, that the Commission believed must be evaluated to protect the public interest. The Commission expects to reach a final decision on the GCI request pending receipt of responses in its long distance market structure rulemaking and other data to be filed by GCI and Alascom. (R-97-1)

GCI recently filed a petition before the FCC requesting preemption of the Commission's facilities restriction in rural Alaska. On February 27, 1998, the Commission filed opposition to GCI's request. No date has been given for an FCC decision on this matter. (CC Docket 98-4)

### **Bristol Bay Telephone Cooperative, Inc., Granted Postage Stamp Rates for Local Exchange Services**

During fiscal year 1998, Bristol Bay Telephone proposed redesigning (with no overall increase or decrease) its local exchange rates to a postage stamp structure in its service area. The Commission approved the request. (U-97-241)

## **FY98 significant events (continued)**

### **Copper Valley Telephone Cooperative, Inc., Cost of Service Study, Rate Redesign and Tariff Re-Write for Local Exchange Services**

In 1995, Copper Valley Telephone Cooperative, Inc. (CVTC) filed a cost-of-service study and proposed rate redesign for its local exchange services. In addition, CVTC proposed rewriting its entire local exchange services tariff. These filings were made in connection with the proceedings begun in 1994. During FY98, the Commission approved the cost-of-service study, a rate redesign and tariff rewrite. (U-94-24)

### **Copper Valley Telephone Cooperative, Inc., Rate Increase Request**

During FY98, Copper Valley Telephone Cooperative, Inc. (CVTC) requested and was granted an interim rate increase of 35 percent to local exchange services and 30 percent to local special access services. CVTC also requested permanent increases of 52.28 percent to local exchange services and 44.86 percent to local special access services. The Commission suspended CVTC's permanent request and is considering it. (U-98-48)

### **GTE Alaska, Inc., Cost of Service Study and Rate Redesign for Local Exchange Services**

In FY97, GTE Alaska, Inc. (GTE) filed a proposed cost of service study and rate redesign for its local exchange services. GTE originally proposed a permanent general rate increase of 22.5 percent and postage stamp rates for all of its certificated area. During FY98, the Commission approved a permanent 13.25 percent rate increase and GTE's postage stamp rates. This was GTE's first major rate change to its local exchange services. (U-97-87)

### **Summit Telephone Company**

During FY98, the Commission granted Summit Telephone Company's (Summit) request for an interim rate increase of 10.00 percent to local exchange services and 10.2 percent to local special access services. The Commission suspended Summit's request for a permanent increase of 15.99 percent to local exchange services and 10.00 percent to local special access services. That request is currently being considered. (U-98-20)

### **Commission Approves Sale of FMUS' Water/Sewer, Electric, District Heat and Telecommunication Utilities**

In September of 1997, the Commission approved the transfer of controlling interest in the water/sewer, electric service area, and telecommunication utilities owned and operated by the City of Fairbanks d/b/a Fairbanks Municipal Utilities System (FMUS). The Commission subsequently approved the transfer of the district heat utility and a Power Sales Agreement later that same calendar year. The applications were part of a combined overall transaction whereby the City of Fairbanks divested itself of its telecommunications, electric, district heat and water/sewer operations. The sale of the FMUS utilities was approved by a vote of Fairbanks citizens on October 8, 1996. The Commission made its decision after a lengthy public hearing process that lasted 16 days. (U-96-114 through U-96-121, U-97-44, and U-97-139)

## **FY98 significant events (continued)**

### **Natural Gas Service**

#### **Commission Grants ENSTAR's Application to Serve In and Around Homer and Seward**

In response to an application filed by Alaska Intrastate Gas Company (AIGC), in October of 1996, ENSTAR Natural Gas Company (ENSTAR) filed an application to provide natural gas utility service to Seward, Homer, Anchor Point and Ninilchik. Also in October of 1996, Homer Gas, a division of Homer Electric Association, Inc. (HEA), filed an application to provide gas utility service to Homer. AIGC subsequently filed a notice of intent to withdraw its application to serve Seward and Homer.

On April 28, 1997, the Commission held a hearing to address the competing applications filed by ENSTAR and HEA to serve Homer and the uncontested application filed by ENSTAR to serve Seward. On November 3, 1997, the Commission issued an order granting ENSTAR's application for amendments to its certificate provided it begins providing service by December 31, 2000. (U-96-108/U-96-109)

#### **Natural Gas Public Utility Service to Small Alaskan Communities**

In August of 1995, Alaska Intrastate Gas Company (AIGC) filed an application for a Certificate of Public Convenience and Necessity (Certificate) to provide natural gas public utility service to all of Alaska, except for those areas certificated by other gas utilities. The scope of AIGC's application was subsequently reduced to Seward and Homer and 17 communities in Southeast and Southcentral Alaska. AIGC proposed to serve these communities by utilizing liquefied natural gas (LNG) manufactured at a proposed liquefaction plant in Whittier, transported to the communities by barge, and revaporized for distribution in underground piping systems at each community.

As indicated above in October of 1996, ENSTAR and Homer Gas filed competing applications to serve areas in and around Homer and Seward. AIGC subsequently filed a motion to bifurcate the uncontested areas of its application and for issuance of a conditional certificate to serve the uncontested communities. In March of 1997 the Commission issued an order which granted the bifurcation, denied the request for a conditional certificate, opened Docket U-97-46 to address the 17 uncontested communities and required that AIGC file an amended application. On March 19, 1997 AIGC filed a notice of intent to withdraw Seward and Homer from its service area.

In May of 1997, AIGC filed its amended application to serve the 17 uncontested communities and a request for a nine-month time extension to verify market conditions and determine the financial feasibility of its plans. In the amended application, AIGC proposes to utilize a different supplier of LNG which intends to construct an LNG plant in British Columbia, Canada, rather than in Whittier, for AIGC's LNG supply. The Commission granted AIGC's request for a nine-month time extension and required AIGC to file the results of the marketing and economic studies it intended to conduct to verify the viability of its proposed operations. AIGC timely filed its studies on February 19, 1998. At the Commission's Public Meeting of April 8, 1998, AIGC gave a presentation regarding its proposed plans to implement gas utility service. On April 13, 1998, AIGC filed the results of the marketing and economic studies conducted in support of its February 19, 1998, filing. A decision on AIGC's application is pending. (U-95-82/U-97-46)

#### **Natural Gas Public Utility Service in Fairbanks**

In September of 1997, the Commission approved the application of Fairbanks Natural Gas, LLC (FNG), a subsidiary of Northern Eclipse, LLC (NELLC), to provide natural gas public utility service to selected areas of Fairbanks. NELLC is a natural gas liquefaction and distri-

## **FY98 significant events (continued)**

bution company which operates a small LNG plant located across Knik Arm from Anchorage. NELLC purchases gas from Cook Inlet suppliers which is transported via ENSTAR Natural Gas Company's pipeline system to its LNG plant where the gas is liquefied. The LNG is transported to Fairbanks by truck and cryogenic trailer. In Fairbanks, ownership of the gas is transferred to FNG as it is offloaded into LNG storage tanks. From the storage tanks, FNG revaporizes the LNG and distributes the resulting gas to its service area through a conventional gas transmission and distribution system. (U-96-129)

### **Electric Service**

#### **Coordinate Energy Resource Conservation and Efficiency Program (CERCE) & Power Pool Study**

This proceeding was opened as a result of the findings in Docket R-94-6 which considered standards regarding Integrated Resource Planning, Investments in Conservation and Demand-Side Management, and Energy Efficiency Investments in Power Generation and Supply for Electric Utilities, as required by Section 111 of the Energy Policy Act of 1992 (EPAAct). In R-94-6(4), the Commission declined to adopt the standards as set forth in the EPAAct because the standards were not applicable to all Alaskan regulated electric utilities. The Commission determined that energy conservation practices would be addressed in Alaska through a more tailored program to address the unique needs of Alaska's regulated electric utilities, where applicable. For this investigation the Commission opened Docket R-96-1.

After holding a workshop and several briefings, in September of 1998, the Commission issued an order which directed a study of power pooling to be done within the railbelt. As the study was only applicable to the railbelt utilities and AEG&T indicated willingness to fund it, the study was moved into a new proceeding (U-97-140). The scope of work for the study and the engineering consulting firm Black and Veatch were agreed upon by the Railbelt utilities. To ensure that the study was conducted in a completely impartial manner, the Commission designated its staff as the project director for the study. Staff was charged with reviewing the materials prepared by the consultant and overseeing the preparation of the consultant's report on the power pool study. However, Staff was prohibited from exercising financial oversight of the project; such oversight was AEG&T's responsibility. The Power Pool Study is expected to be completed in the fall of 1998. (R-96-1/U-97-140)

#### **Commission Upholds Exclusive Service Areas**

On October 13, 1997, the Municipality of Anchorage, d/b/a Municipal Light & Power (ML&P), filed a complaint alleging that Chugach Electric Association, Inc. (Chugach), offered to provide electric power to customers located in ML&P's service area. In its response, Chugach admitted that it offered to sell electric power to customers within ML&P's service area. However, Chugach contended that its sales to the customers are legal and that ML&P's refusal to wheel power over the latter's transmission and distribution systems on Chugach's behalf to customers located in ML&P's certificated service area violates federal antitrust law. Chugach requested that the Commission declare that neither Alaska law nor any of the Commission's previous orders clearly articulate a policy permitting ML&P to monopolize sales of electric power in ML&P's certificated service area. Chugach also requested that ML&P be required to establish a tariff by which Chugach could wheel power over ML&P's lines. In U-97-201(3) the Commission rejected Chugach's argument that federal antitrust law required ML&P to wheel power over its transmission and distribution systems so Chugach could serve customers located in ML&P's service area and affirmed that ML&P retains an exclusive right to sell power

## **FY98 significant events (continued)**

to customers in its certificated service territory. (U-97-201)

### **Aurora Power Resources Files a Pilot Program**

In June of 1998, Aurora Power Resources, Inc. (Aurora Power) filed an application which proposes to establish a limited pilot program to permit the limited competitive sale of electric power by power marketers to consumers in the Chugach Electric Association, Inc. and ML&P service areas. Among other things, the application recommends minimum qualifications and requirements for the power marketer. The application also proposes the pilot program be limited to 35 megawatts of load, with 3.5 megawatts reserved for residential consumers for a two-year term.

Aurora Power indicates the pilot program will provide consumers the benefits of competitive choice and reduced electric costs. Aurora Power also indicates the pilot program will provide an opportunity for the Commission and its Staff to introduce competitive choice on a limited basis and thereby gain the knowledge necessary to consider the public interest in allowing full electric retail competition in Alaska. An investigation on the application by the Commission and its Staff is ongoing. (U-98-114)

### **Legislative Action**

The Legislature passed HCR 34 establishing a Joint Committee on Electric Utility Restructuring. The Commission will be following this proceeding.

### **Copper Valley Electric Association, Inc.**

During FY98, after a significant public input process through public meetings, Copper Valley Electric Association, Inc. (CVEA) requested a permanent 7.3 percent rate decrease and rate redesign. The Commission approved a staff report to which CVEA concurred, and granted CVEA a permanent rate decrease of 7.3 percent and redesigned rates. (U-98-24)

### **Homer Electric Association, Inc.**

Homer Electric Association, Inc. (HEA) files quarterly simplified rate filings pursuant to 3 AAC 48.700 - 3 AAC 48.790. During FY98, HEA requested and was granted a 0.48 percent rate reduction and a 1.77 percent rate reduction. HEA continues to file simplified rate filings quarterly.

### **Matanuska Electric Association, Inc.**

Matanuska Electric Association, Inc. (MEA) files quarterly simplified rate filings pursuant to 3 AAC 48.700 - 3 AAC 48.790. During FY98, MEA requested and was granted a 1.00 percent rate reduction. MEA continues to file simplified rate filings quarterly.

## **FY98 significant events (continued)**

### **Two Qualifying Facilities Debate PURPA Responsibilities**

#### **Copper Valley Electric Association, Inc. v. Alaska Cogeneration Systems, Inc. and Matanuska Electric Association, Inc. v. South Fork Hydro, LLC**

Frank J. Bettine and Alaska Cogeneration Systems, Inc., collectively referred to as ACSI, filed a formal complaint against Copper Valley Electric Association, Inc. (CVEA) alleging among other things that CVEA failed to provide its firm and nonfirm avoided-cost information and that CVEA violated the Public Utility Regulatory Policies Act (PURPA). Early on in the proceeding the Commission determined that CVEA should enter into good-faith negotiations and report the results of those negotiations to the Commission. The Commission also determined that ACSI should provide CVEA with engineering and financial information. The Commission also granted the Petro Star Valdez Refinery intervention in the case.

As directed by the Commission, on August 29, 1997, CVEA filed its best estimate of an initial avoided cost. According to CVEA, its true avoided cost is highly dependent on the operating and cost characteristics of an actual qualifying facility (QF). In U-94-21(9)/U-95-3(6) dated April 30, 1998, the Commission determined that CVEA had provided enough data for ACSI to prepare the information needed to calculate the avoided cost factors addressed by the Commission's regulations. The Commission directed ACSI to provide the information by December 1, 1998, and for CVEA to update its avoided cost information 30 days hence.

In another case South Fork Hydro, LLC (South Fork), a QF, filed a complaint against Matanuska Electric Association, Inc. (MEA), to establish MEA's avoided firm cost of power. South Fork maintained that it proposed to sell the power from its hydroelectric project, located on the South Fork of the Eagle River, to MEA at the price it purchases power from Chugach Electric Association, Inc. (Chugach) over a period of fifteen or twenty years. South Fork also asserted that MEA had declined to negotiate with South Fork and had claimed that South Fork must negotiate with Chugach. South Fork requested that the Commission direct MEA to enter into good-faith negotiations with South Fork for the purchase of power based on MEA's current and future cost of power. MEA asserts among other things that it was complying with state law. MEA states that it, Chugach and Alaska Electric Generation and Transmission Cooperative, Inc. (AEG&T), have entered into an agreement, commonly referred to as the A Tripartite Agreement. MEA contends that the agreement, which was approved by the Commission, determines the method of dealing with PURPA resources which is to encourage them to negotiate with Chugach.

In U-96-93(4) dated November 14, 1997, the Commission named Chugach and AEG&T as parties to the proceeding and asked the parties how to apply the Tripartite Agreement, PURPA, and the Commission's regulations in this case. A decision is pending. (U-96-93)

### **Water/Sewer Service**

#### **Temporary Suspension of Water and Sewer Certificates in Haines**

In response to a formal complaint, the Commission temporarily suspended certificates of public convenience & necessity (Certificate) previously granted to the City of Haines (Haines) for the provision of water and sewer service. Haines was requiring new customers to be annexed into the Haines city limits as a condition of water and sewer service. The Commission determined that the annexation requirement was discriminatorily applied, particularly as it applied to several existing customers receiving service outside the Haines city limits. The Commission suspended Haines' certificates for that portion of its service territory for which it was not currently providing public utility service and/or has declined service without annexation. The Commission determined that suspension, rather than revocation, would protect potential consumers who reside within the service territory but outside the city limits. The

## **FY98 significant events (continued)**

Commission also determined that if another applicant can demonstrate that it meets the requirements for certification, and can provide water and sewer public utility service without discrimination, then Haines' certificate may be partially revoked for those areas the new applicant intends to serve. (U-95-87)

On October 30, 1995, Crystal Cathedrals Water System, Inc. (CCWS), filed an application for a certificate to operate as a water public utility in the Haines area and on September 3, 1996 CCWS filed a second application for a certificate to operate as a sewer public utility. The Commission reviewed the application of CCWS and Haines' and after a hearing issued U-95-79(3)/U-96-101(3)/U-95-87(9) dated March 26, 1998, which found CCWS to be more fit, willing, and able to provide the proposed service. The order approved CCWS' application with conditions. (U-95-79/U-96-101/U-95-87)

### **Dawn Development Corporation**

During FY98, Dawn Development Corporation requested a rate increase of 50 percent to its residential customers and a change from a flat rate to a metered rate for its bulk customer which resulted in an increase in excess of 50 percent for the bulk customer. The Commission approved interim rate increases of 25.23 percent for residential customers and 50 percent for bulk water customers. The Commission is considering the permanent rate increase. (U-98-19)

## **Refuse Service**

### **Mergers and Acquisitions**

USA Waste of Alaska (UWA), a subsidiary of Waste Management, Inc., has filed joint applications to acquire controlling interest in the following utilities in the communities served:

- Anchorage Refuse, Inc. (ARI): Anchorage, excluding areas served by the Municipality of Anchorage
- Arrow Refuse, Inc. (Arrow): Douglas and Juneau
- C&S - Cleanaway (C&S): Kalifornsky, Kasilof, Kenai, Salamatof, Soldotna and Sterling
- Drake's Sanitation, Inc. (Drake's): North Pole
- Hite Construction, Inc. (Hite): Fairbanks
- Eagle River Refuse, Inc. (ERRI): Chugiak, Eagle River and Peters Creek
- Peninsula Sanitation Company, Inc. (PSI): Anchor Point, Bird, Clam Gulch, Cooper Landing, Girdwood, Homer, Hope, Indian, Kachemak, Kalifornsky, Kasilof, Kenai, Moose Pass, Nikiski, Ninilchik, Salamatof, Soldotna and Sterling
- Star Sanitation, Inc. (STAR): Fairbanks
- Wasilla Refuse, Inc. (WRI): Provides service to Big Lake, Knik, Lake Louise, Palmer, Sutton, Talkeetna, Wasilla and Willow

The applications to transfer ARI/ERRI, Arrow, Star and WRI to UWA have been approved. The other applications are pending before the Commission.

## **FY98 significant events (continued)**

### **Pipelines**

#### **New North Slope Pipelines**

The Commission granted certificates of public convenience and necessity to three new North Slope pipelines. In November 1997 the Commission issued certificates to two pipelines connected with the Badami oil field located 25 miles east of Prudhoe Bay: the Badami Oil Pipeline which transports oil to the Endicott Pipeline for further transportation to the Trans Alaska Pipeline System (TAPS) and the Badami Gas and Products Pipeline which transports gas and later will transport miscible injectant from the Endicott oil field to the Badami oil field for use in the Badami field. In February 1998 the Commission issued a certificate to the Alpine Pipeline which will transport oil from the Alpine field located 55 miles west of Prudhoe Bay to the Kuparuk Pipeline for further transportation to TAPS.

#### **Trans Alaska Pipeline System (TAPS)**

In December 1997, the Commission accepted an uncontested settlement resolving proceedings concerning the pumpability factors used to calculate differential rates for different types of petroleum shipped on TAPS based on the viscosity of those different types of petroleum. As a result of that settlement, all types of petroleum are now transported at the same rate on TAPS.

In January 1998, the Commission accepted a contested settlement resolving the way payments among shippers are calculated in the TAPS Quality Bank. The Quality Bank is the mechanism through which shippers of lower quality oil compensate shippers of higher quality oil for the diminution in value of that oil caused by commingling. The settlement the Commission accepted was entered into by nine parties in the Quality Bank proceeding and contested by two parties. Each of those two parties also submitted its own proposed settlement. Those proposed settlements were rejected by the Commission.

The Commission moved forward in its investigation of intrastate TAPS rates and TAPS connection rules. The issues being investigated were raised by Tesoro Alaska Petroleum Company in its protest of 1997 tariff filings made by the TAPS Carriers. The Commission also moved forward with a proceeding concerning discrimination issues raised by rate competition among the TAPS Carriers.

**Fully regulated utilities  
financial data (in dollars)**

Net plant	1994**	1995**	1996	1997
Electric	\$1,185,404,791	1,087,254,914	1,241,813,627	1,242,009,668
Gas	178,765,752	176,701,859	167,551,986	175,911,880
Refuse	5,688,489	8,273,960	9,376,672	5,917,998
Telephone*	653,711,730	742,100,233	1,045,897,056	567,861,977
Wastewater	70,907,688	80,236,556	80,780,311	71,855,340
Water	96,684,429	114,000,844	112,430,180	105,282,243
<b>Net plant</b>	<b>\$2,191,162,879</b>	<b>2,208,568,366</b>	<b>2,657,849,832</b>	<b>2,168,839,106</b>
<b>Total revenue</b>				
Electric	\$461,804,705	446,996,812	489,229,828	494,552,901
Gas	110,405,070	103,235,041	99,606,093	103,593,238
Refuse	23,939,549	26,379,115	25,492,105	27,406,533
Telephone*	596,908,329	665,980,007	706,224,262	364,155,676
Wastewater	24,112,695	24,222,602	24,969,771	23,261,062
Water	28,939,059	30,090,771	29,566,927	28,065,048
<b>Total revenue</b>	<b>\$1,246,109,407</b>	<b>1,296,904,348</b>	<b>1,375,088,986</b>	<b>1,041,034,458</b>
<b>Net income</b>				
Electric	\$43,345,392	53,378,158	41,391,624	34,172,311
Gas	11,250,565	13,852,565	13,246,267	15,225,745
Refuse	1,259,866	642,751	(1,062,177)	342,787
Telephone*	90,282,134	96,355,805	62,248,350	39,852,785
Wastewater	2,022,917	2,637,764	3,113,533	3,312,073
Water	1,653,414	3,056,754	3,704,882	3,770,571
<b>Net income</b>	<b>\$149,814,288</b>	<b>169,923,797</b>	<b>122,642,479</b>	<b>96,676,272</b>
<b>Customers</b>				
Electric	207,008	209,285	214,087	214,522
Gas	89,056	89,004	94,000	94,000
Refuse	45,278	48,438	47,407	49,904
Telephone*	315,709	335,163	390,438	140,293
Wastewater	48,395	47,704	46,212	48,782
Water	50,165	50,273	50,373	49,584
<b>Total customers</b>	<b>755,611</b>	<b>779,867</b>	<b>842,517</b>	<b>597,085</b>

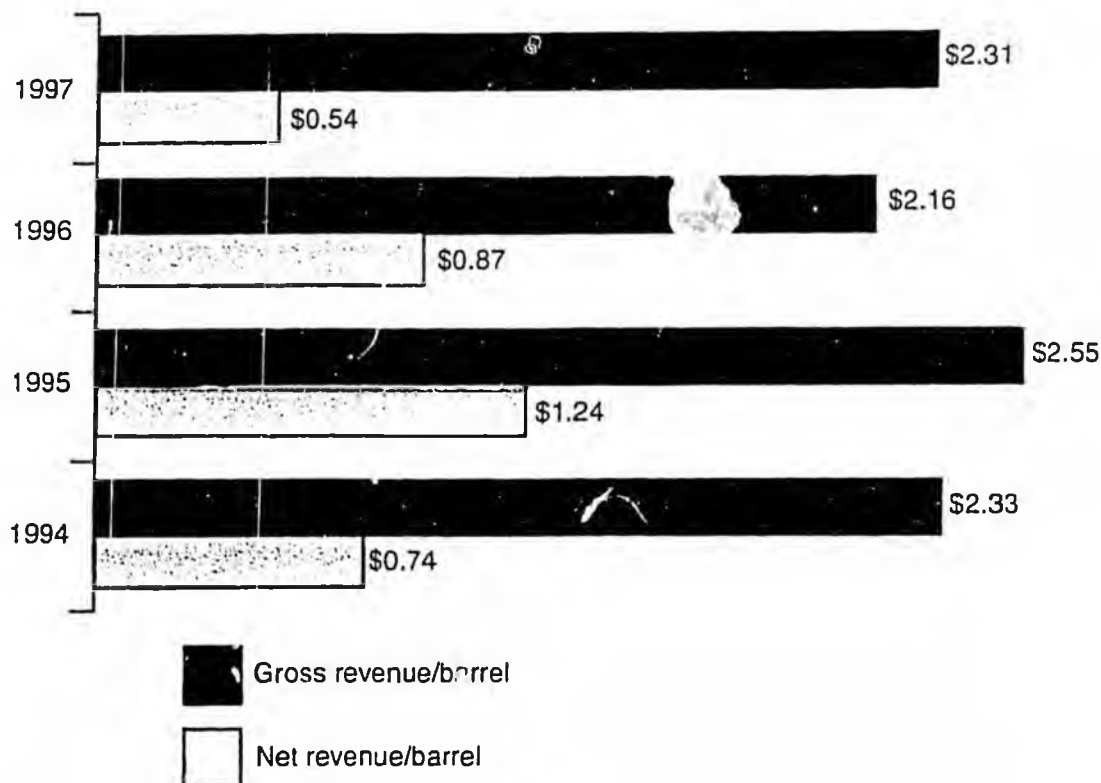
\* Excludes wholesale customers of intrastate interexchange carriers to prevent double-counting and telephone utilities that filed confidential information with the Commission

\*\* This information for FY94 and FY95 was incorrectly reported in previous APUC annual reports

## Oil pipeline carrier financial data

Carrier property	1994	1995*	1996	1997
Gross	\$10,441,538,277	10,627,632,031	10,452,246,680	10,870,626,467
Net	\$5,093,062,489	4,895,741,094	4,544,148,052	4,520,270,591
Revenue				
Gross	\$1,997,141,375	2,125,241,367	1,481,460,569	1,476,996,502
Net	\$635,693,701	1,031,800,509	593,844,066	347,415,918
Throughput (barrel)	855,944,950	833,059,460	684,494,293	638,076,891
Gross revenue (per barrel)	\$2.33	2.55	2.16	2.31
Net revenue (per barrel)	\$0.74	1.24	0.87	0.54

**Figure 1**  
Total revenue per barrel of oil



\* 1995 throughput (barrels), gross revenue/barrel and net revenue/barrel were incorrectly reported in 1996 and 1997 annual reports.

## **Consumer protection**

Utility customers with complaints about the way they are being treated as consumers have the right to seek relief from the APUC.

While the Commission first urges the public to resolve problems directly with their utility, customers may file an informal complaint with the APUC either by letter, phone or in person.

APUC Staff will contact the utility to determine its position. The Commission Staff will then review the complaint, the utility's tariff, APUC orders and governing statutes and regulations to determine the validity of the complaint as well as a course of action, if appropriate. The APUC can, for example, require the utility or pipeline carrier to conform to the minimum standards spelled out in the applicable tariff.

If, however, the complainant is not satisfied with Staff's decision, a formal complaint may be filed directly with the Commission through the appeal process.

Investigating and resolving complaints has become a vital element in the Commission's public protection role. Following are some examples of complaints handled by the Staff in FY98.

### **Refuse**

A refuse customer residing in Douglas, Alaska, wrote to the Commission on July 3, 1997, questioning the utility's billing cycle and finance charges. The customer complained that she was charged a finance charge even though the account was paid before the due date. On August 8, 1997, Staff requested that the utility respond directly to the customer and provide staff with a copy of its response. Staff requested that the utility's response include the customer's billing cycle, the reason for the finance charge on the bills in question and the circumstances under which the customer would be assessed a finance charge. In its response dated August 12, 1997, the utility admitted that the invoice was somewhat confusing because the finance charge reflected a year-to-date total which appeared on each monthly bill. However, the finance charge of .875 was only assessed when no payment or a partial payment was made. On August 25, 1997, Staff informed the customer that the finance charge had been appropriately applied. Staff's review revealed that the customer had only been charged during months when the bill was not paid in full. Staff also informed the customer that the utility would soon clarify its bills by eliminating the confusing year-to-date finance charge and show the finance charge applicable on each bill. The file was closed on August 25, 1997.

### **Telephone**

On February 9, 1998, the Commission received a complaint from the parents of a resident of Spring Creek Correctional Center. The parents complained about the secure telephone system that the Department of Corrections (DOC) had recently installed. Prior to installation of the secure telephone system, the parents had used an 800-number to accept calls from their son and they were billed for the calls by their local telephone company. However, since DOC installed the secure telephone system, they were billed by an agent for the new telephone service provider. Also, under the new system they could only receive collect calls which cost considerably more than 800-number calls. The parents sought a remedy that would allow them to continue to use their 800-number and to have the calls billed at the rate for 800-number calls. Staff requested that the service provider respond to the complainants and provide rate information and any other billing options that might be available.

The service provider responded on April 11, 1998 and provided information regarding its billing agent, rates and its billing procedures. The complainants were also informed that they

## Consumer protection (continued)

could not continue to use their 800-number. Staff rendered its opinion regarding the complaint on May 20, 1998 and verified that the rates charged were the rates approved by the Commission and the bills were correct as rendered. The file was closed.

### Electric

On May 26, 1998, a consumer complaint was forwarded to the Commission from the Department of Law, Attorney General's Office. The complaint outlined problems the customer encountered when her advance payment was misapplied and commingled with her son's account. The customer sent the electric company two payments with one invoice. The payment without an invoice was intended for her account, the payment with the invoice was intended for her son's account. The utility applied both payments to the son's account thus causing a delinquency on her account and late fees to be assessed. Eventually, the customer received a disconnect notice. After months of trying to get the accounts corrected, the problem persisted. Staff requested a response from the utility regarding the missing payment. Finally, the utility found the error and corrected the problem. The customer's account was credited for the late fees that had been assessed and she received a letter of apology from the general manager. The file was closed on June 20, 1998.

### Sewer

On June 15, 1998, the Commission received a letter from a water customer who requested Staff's assistance to get credit for his sewer bill because he had a leak in his water line. According to him, his 20 apartment units had a leak in the water line at the time he acquired the property in 1989. He believed that the leaks started about 20 years before. He became aware of the leaks around 1994. However, he did not repair the leak until 1997. He now sought credit for the sewer portion of his bill from 1989 forward. He was relying on a provision in the utility's tariff that allowed it to issue credit on the sewer portion of the bill if water was not actually used, if the date the leak began could be determined. Since the leak had existed for such a long period, a history of usage without leaks had to be established. The utility averaged his usage for a six-month period after the leak was repaired. The six-month average was compared to his usage during the period of 1995 to the time of repair. The utility had issued credit to his account for approximately one year of credit. However, the customer did not think the credit was sufficient, he wanted to receive credit for the last 10 years. Staff reviewed the usage history and determined that one year of credit was just and reasonable. Staff based its determination on two factors. First, the customer did not immediately make the repairs when the leak was detected. Second, no useful consumption history existed prior to the leak. The customer was informed of his right to appeal Staff's decision. The informal complaint was closed.

## Informal complaints

Utility customers and pipeline shippers with complaints about the way they are being treated have the right to seek relief from the Commission. If the Commission determines the complaint results from a violation of a tariff, then it can force the utility or pipeline carrier to conform to the minimum standards spelled out in the tariff.

Investigating and resolving complaints has become a vital element in the Commission's public protection role. In FY98, the Commission received 706 new complaints and resolved 664 cases, both old and new.

**Figure 2**  
Informal complaints by category

	FY95	FY96	FY97	FY98
Billing practices	150	197	336	300
Rates and charges	49	31	47	53
Quality of service	96	100	148	263
Service availability and line extensions	47	35	44	90
<b>Totals</b>	<b>342</b>	<b>363</b>	<b>575</b>	<b>706</b>
<b>FY percent change</b>	<b>+23%</b>	<b>+6%</b>	<b>+58%</b>	<b>+23%</b>

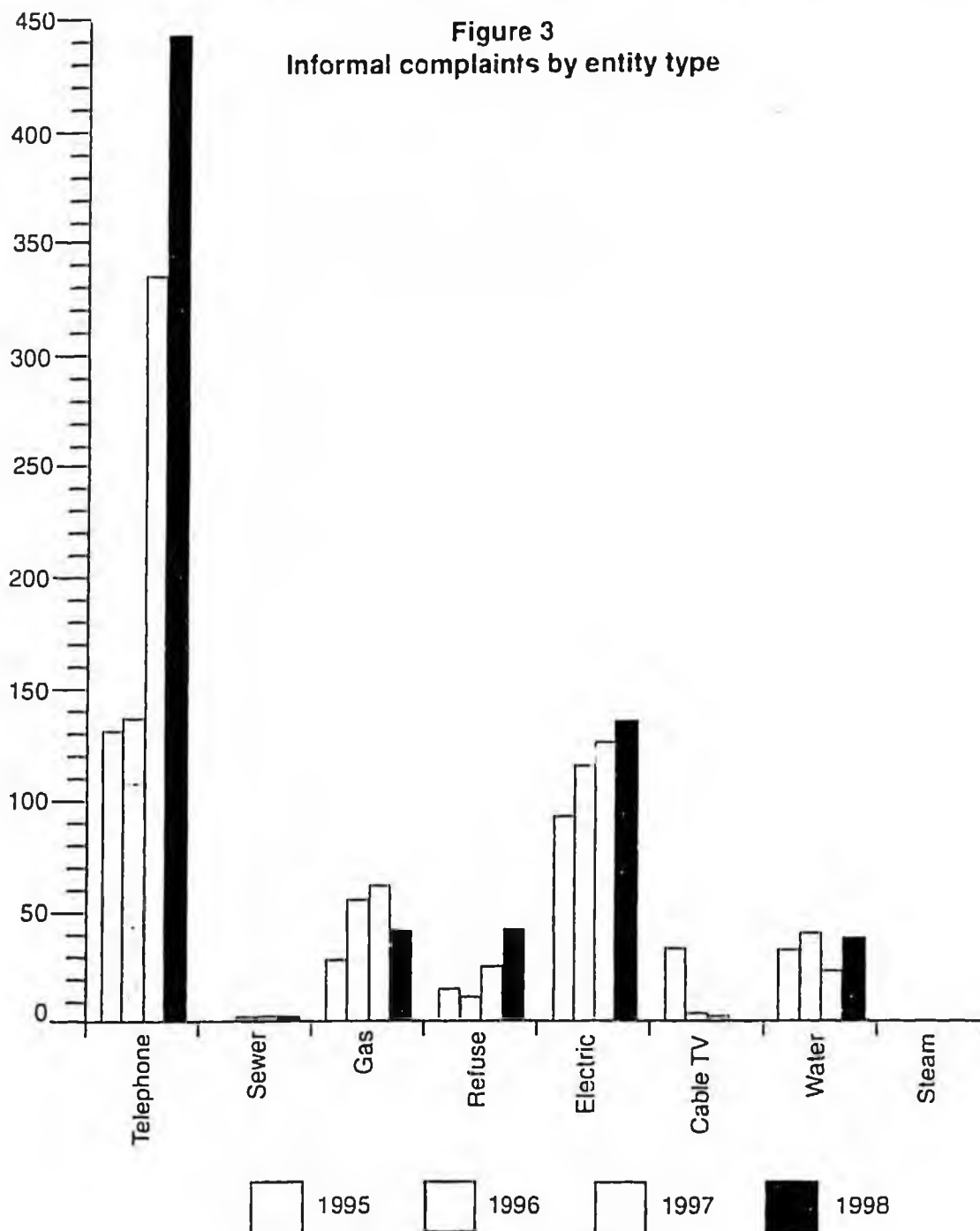


Chief Consumer Protection and  
Information Officer Agnes Pitts

## Informal complaints (continued)

As Figure 3 demonstrates, electric and telephone utilities continue to generate the majority of informal complaints received by the Commission. This is generally to be expected, because these utilities account for the greatest number of customers, the largest plant investment and the most frequent regulatory activities.

The dramatic increase in telephone complaints reflected in Figure 3 is the result of competition. During FY98, the Consumer Protection Section processed 449 telephone complaints. Of these, 194 concerned quality of service, 169 concerned billing practices, 65 concerned service availability and line extensions, and 21 concerned rates and charges.



## **Informal complaints (continued)**

The number of telephone contacts and personal conferences handled by the Commission's Consumer Protection and Public Information Section over the past four years is shown in Figure 4.

**Figure 4**  
**Consumer protection/public information contact summary**

<b>Category</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>
Telephone contact (includes incoming & outgoing calls)	5,080	6,703	8,852	9,908
Conferences	260	276	461	397

Informal complaint activity by the Consumer Protection and Public Information Section over the past four years is summarized in Figure 5.

**Figure 5**  
**Informal complaint activity**

<b>File activity</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>
Pending complaints (beginning of year)	16	18	31	5
New complaints received	342	363	575	706
Complaints resolved	340	350	583	664
Pending complaints (end of year)	18	31	5	47

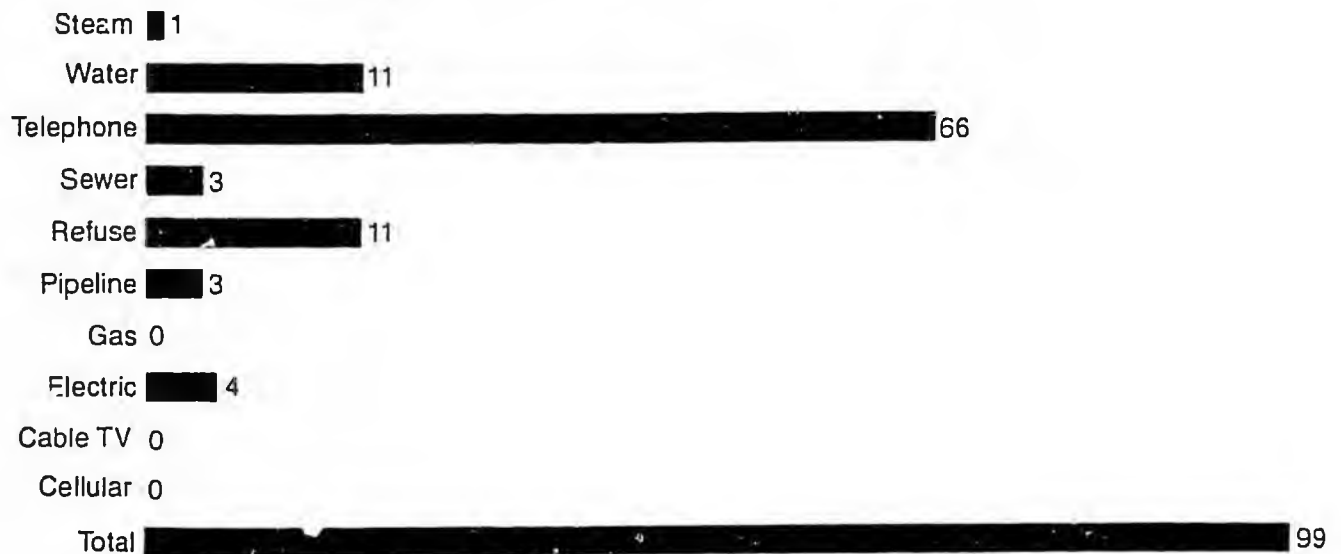
The vast majority of complaints are resolved through the informal complaint process. However, there are procedures for instituting a formal complaint or launching a formal complaint if an informal complaint is not satisfactorily resolved. If a formal complaint is accepted by the Commission for adjudication, it is assigned a docket number, and an investigation is instituted into the issues raised in the complaint. In FY98, two informal complaints appealed staff's decision and were docketed for adjudication.

## Certification proceedings

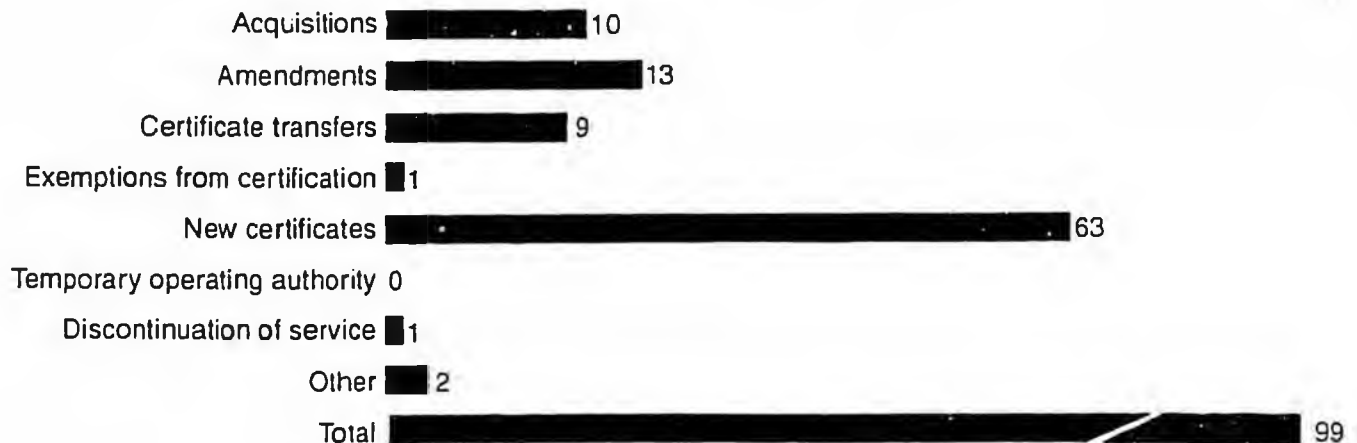
A certificate of public convenience and necessity must be obtained by virtually every utility (with limited exceptions) and pipeline carrier proposing to provide service to the public for compensation. In addition, the Commission must approve all amendments to, or transfers of, certificates as well as acquisitions of controlling interest in certificate holders.

The criteria for issuing certificates are prescribed by law. The service must be required for the public convenience and necessity, and the applicant must be fit, willing and able to provide the service. During FY98, the Commission processed 99 applications for certificates, depicted by entity and category in Figures 6 and 7.

**Figure 6**  
FY98 Certification dockets by entity type



**Figure 7**  
FY98 Certification dockets by category



## Certification proceedings (continued)

Most small electric utilities identified through the Power Cost Equalization program (PCE) applied for certificates prior to FY89. Several of these applications are still pending approval because of incomplete financial information or system safety considerations.

Figure 8  
FY 95-98 Certification proceedings

ENTITY TYPE	FY95	FY96	FY97	FY98
Cable TV	2	2	1	0
Electric	10	4	9	4
Refuse (garbage)	7	7	2	11
Gas	1	1	4	0
Pipeline	2	3	0	3
Wastewater (sewer)	2	2	4	3
Telecommunications	18	21	32	66
Water	5	3	6	11
Steam	0	0	1	1
<b>Totals</b>	<b>47</b>	<b>43</b>	<b>59</b>	<b>99</b>

CATEGORY	FY95	FY96	FY97	FY98
Temporary operating authority	1	0	0	0
New certificates	17	28	31	63
Amendments	17	6	13	13
Certificate transfers	6	5	7	9
Acquisitions	2	3	8	10
Exemption from certification	0	0	0	1
Discontinuation of service	1	0	0	1
Other	3	1	0	2
<b>Totals</b>	<b>47</b>	<b>43</b>	<b>59</b>	<b>99</b>

## Orders

The Commission issued 462 decisions or orders during the last fiscal year. They are categorized into two groups; substantive and procedural. Substantive orders reflect findings and conclusions based on evidence included in the formal record of the Commission. Procedural orders relate to the process and schedule used to handle a case. Figure 9 shows the orders issued by category for the last four years. Figure 10 shows the substantive and procedural orders issued by utility type during FY98.

**Figure 9**  
Orders issued  
FY95-FY98

	FY95	FY96	FY97	FY98
Substantive	268	294	317	412
Procedural	59	57	65	27
<b>Totals</b>	<b>327</b>	<b>351</b>	<b>382</b>	<b>462</b>

**Figure 10**  
Orders issued, substantive and procedural  
FY98

Total number of orders issued = 462

Utility Type	Substantive	Procedural
Telephone	264	13
Gas	6	0
Electric	47	5
Refuse (garbage)	21	2
Sewer	0	0
Water	17	1
Pipeline	43	1
Cable TV	0	0
Cellular	0	0
Generic <sup>1</sup>	34	8
<b>Totals</b>	<b>432</b>	<b>30</b>

<sup>1</sup> Generic count consists of Regulatory Dockets and Dockets which involved more than one type of entity.

## Tariff revisions

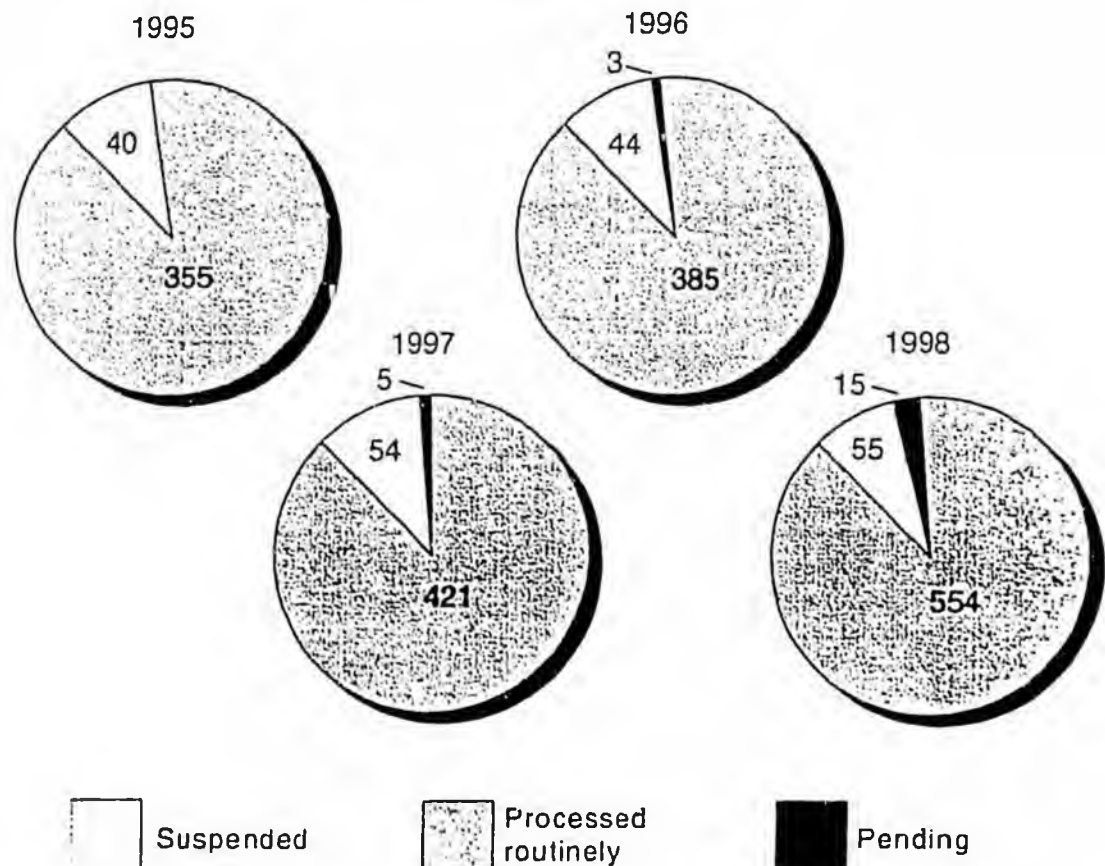
Tariffs are the terms, conditions, rules and rates governing an entity's conduct in providing public service, similar to the manner in which a corporation is governed by its bylaws. In approving a certificate of public convenience and necessity allowing a utility or pipeline carrier to operate, the Commission also reviews the tariff of the applicant. All economically regulated utilities and pipeline carriers are required to maintain a tariff and to operate under the terms of the tariff.

Regulated entities must notify the Commission of any proposed changes to their tariffs. In most cases, the Commission must approve the tariff revisions before the revisions can take effect. For certain kinds of utilities, however, the Commission now usually allows proposed tariff revisions to take effect automatically at the end of a 30 day period. The most common occurrence of tariff revisions taking effect automatically is with respect to interexchange telecommunications utilities. The Commission considers most tariff filings at "tariff action meetings" which are held in public twice monthly, generally on the second and fourth Fridays of each month.

Review, analysis and disposition of tariff filings are substantial elements of the Commission's workload. During FY98 there were 624 tariff filings submitted to the Commission. Of these, 554 were processed routinely (generally within 45 days of receipt). Of the remaining 70 filings, 55 were suspended for further investigation, and 15 were pending at year end.

A graphic indicator of the portion of tariff filings suspended, relative to the total received, is shown in Figure 11.

Figure 11  
Tariffs filed — Tariffs suspended



## Tariff revisions (continued)

In FY98 there were nineteen proposed general rate changes, three simplified rate change filings, and two general rate restructurings. The three simplified rate filings were from electric utilities and were all approved. Ten of the general rate changes were from pipeline carriers and nine were from utilities. Of the nineteen general rate changes, fourteen were suspended, two went into effect automatically, and one was pending at year end.

One of the two general rate restructuring filings was from a telecommunications utility, and it was suspended; the other filing was from an electric utility and it was pending at year end.

Figure 12 presents a statistical breakdown of requests for utility and pipeline carrier tariff changes by category. Each request is counted only once regardless of the number of proposed tariff changes it includes.

Figure 12  
Utility and pipeline tariff revisions

CATEGORY	FY95	FY96	FY97	FY98
General rate changes <sup>1</sup>	18	14	17	19
General rate restructurings	4	3	8	2
Simplified rate filings	6	8	4	3
New service/equipment offerings	25	55	79	183
Nonrecurring rates	10	14	5	20
Universal access surcharge	17	0	0	0
Regulatory cost charge	97	113	85	101
Contracts	21	18	12	12
Fuel, gas, and purchased power surcharges; power cost equalization filings; nonfirm power purchase rates	127	148	110	112
Rule changes	38	33	41	40
Miscellaneous	32	26	119	132
<b>Totals</b>	<b>395</b>	<b>432</b>	<b>480</b>	<b>624</b>
<b>FY percent change</b>	<b>-7%</b>	<b>+9%</b>	<b>+11%</b>	<b>+30%</b>

<sup>1</sup> In previous annual reports, some filings now shown in this category were classified as "miscellaneous." The "General Rate Changes Category" does not include simplified rate filings.

## Tariff revisions (continued)

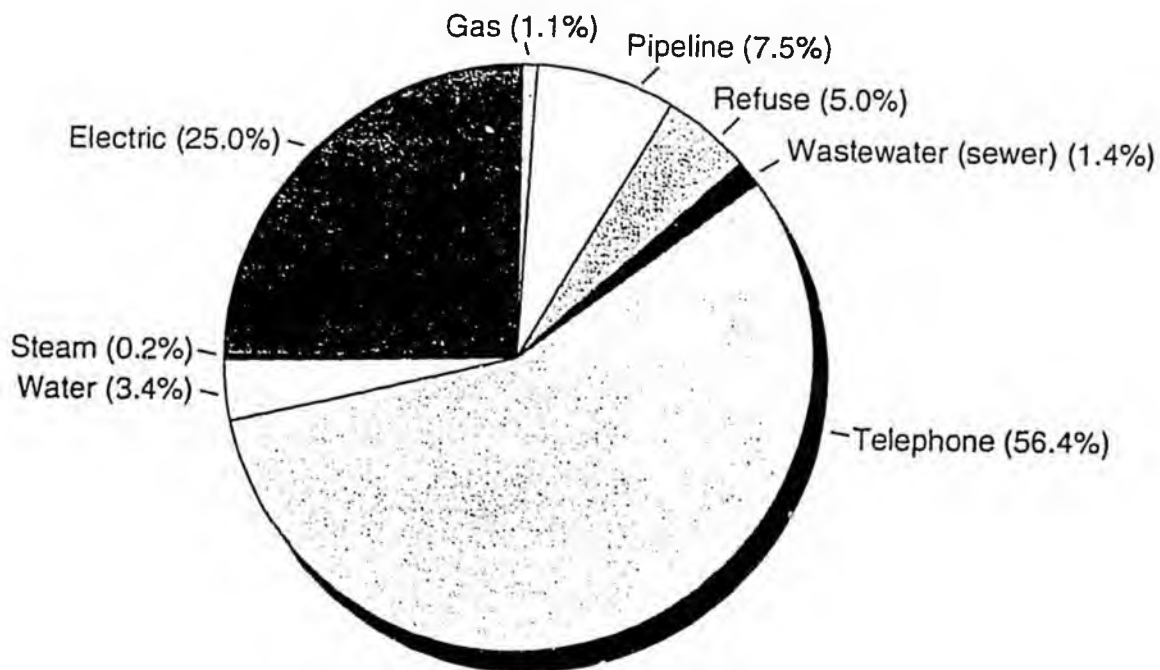
Figure 13 shows a summary of tariff filings used to generate the chart in Figure 14.

**Figure 13**  
FY98 — Tariff filings

Type	Number of filings
Cable TV	0
Electric	155
Gas	7
Pipeline	47
Refuse	31
Steam	1
Wastewater (sewer)	9
Telephone	352
Water	21

Figure 14 is a summary of the tariff filings received in FY98 classified according to utility type and pipeline carrier.

**Figure 14**  
FY98 — Tariff filings by type



## Formal proceedings (excluding certification)

In addition to the certification and tariff filings, the Commission institutes formal proceedings to consider a number of matters including rate changes, rule changes, special contracts, complaints against utilities and pipeline carriers, investigations of service quality or management practices, and regulations. Frequently, requests for general rate changes also include or necessitate a restructuring of rates.

Rate-related filings continue to be the dominant component of the Commission's formal proceedings, excluding certifications, as shown in Figures 15 and 16. This statistic is significant because these proceedings tend to have a long-term impact on the Commission's workload. Considerable time and resources are required for audit, investigation, prefiled testimony preparation, public hearings, determination and issuance of a decision, and processing any requests for reconsideration.

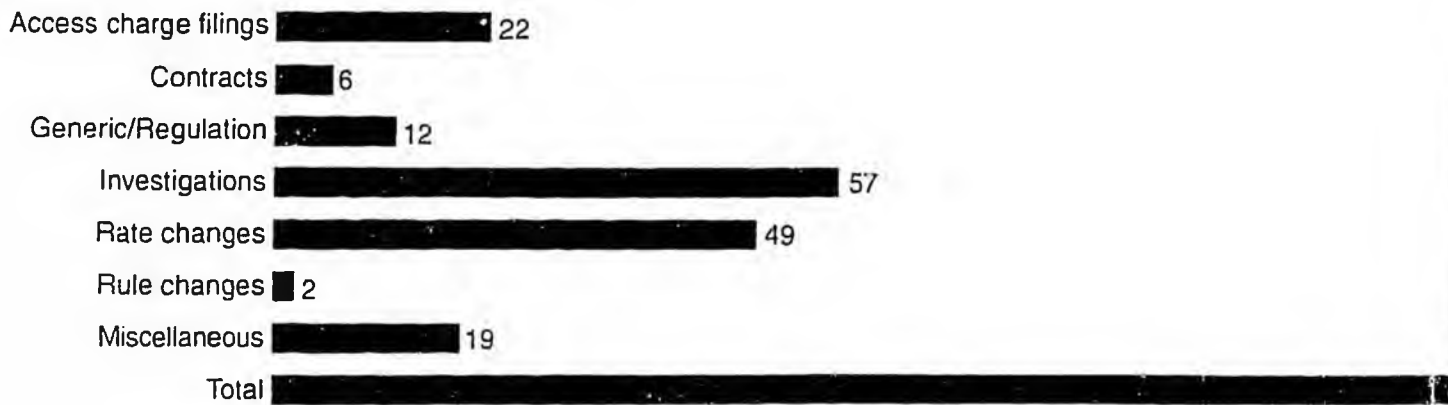
**Figure 15**  
**Formal proceedings**  
**(excluding certification)**  
**FY95-FY98**

CATEGORY	FY95	FY96	FY97	FY98
Access charge filings	0	20	42 <sup>1</sup>	22
Contracts	1	3	4	6
Generic and regulation proceedings	7	8	14	12
Investigations:				
Complaints	7	7	19	12
Management practices	1	2	4	3
Interconnection	0	0	4	5
Eligible carrier designation	0	0	0	32
Other	9	2	7	5
Rate changes:				
General rate changes	9	4	7	4
Rate restructurings	4	3	3	3
Service/equipment offerings	3	9	15	36
Rates - other	7	3	25	6
Rule changes	1	2	3	2
Miscellaneous	1	4	13	19
<b>Total</b>	<b>50</b>	<b>67</b>	<b>160</b>	<b>167</b>

<sup>1</sup> Includes access charge proceedings for a two-year period.

## Formal proceedings (excluding certification, continued)

Figure 16  
Composition of FY98 formal proceedings  
(excluding certification proceedings)



Administrative clerk Pamela Neale, administrative supervisor Barbara Miller and administrative clerks Ruthie Lee and Patricia Howard

## Open dockets

All formal proceedings before the Commission are administered through dockets, which are numbered to denote the type of proceeding, the year of its initiation and its numerical sequence in that year. "R" designates a regulatory docket, "P" a pipeline case, and "U" a utility proceeding. For example, P-94-3 is the third pipeline docket opened by the Commission in fiscal year 1994. The materials, legal pleadings and decisions relevant to a case are identified by this number and filed in the docket. After a case is decided and any necessary costs are allocated, the docket is formally closed.

For the statistical analysis of open dockets presented in Figure 17, active dockets are those in which substantive decisions were pending at the end of FY98. Dockets in which substantive decisions were rendered, but additional administrative or procedural action was still required as of June 30, 1998, are classified as inactive.

**Figure 17**  
**Status of all open dockets FY95-FY98**

	FY95	FY96	FY97	FY98
Suspended for investigation	32	48	129	173
Set for hearing	2	6	2	2
Awaiting filing	44	33	19	97
Substantive order in progress	34	32	37	91
Other / regulations	16	19	26	29
<b>Total</b>	<b>128</b>	<b>138</b>	<b>213</b>	<b>392</b>
<b>FY percent change</b>	<b>+3%</b>	<b>+8%</b>	<b>+54%</b>	<b>+84%</b>

### Inactive dockets (post-substantive order)

	FY95	FY96	FY97	FY98
Awaiting filings	9	19	23	51
Awaiting cost allocation closing order	52	59	112	89
Subsequent phase to be scheduled	2	2	19	6
Court appeals	16	11	6	6
Other / reconsideration	6	7	2	15
<b>Total</b>	<b>85</b>	<b>98</b>	<b>162</b>	<b>167</b>
<b>FY percent change</b>	<b>+55%</b>	<b>+15%</b>	<b>+65%</b>	<b>+3%</b>

## Open dockets (continued)

Figure 18 shows the change in the number of cases pending at the end of FY98. The Commission opened 266 new dockets in FY98, an 18 percent increase from FY97. This led to a 49.1 percent increase in dockets pending at the end of FY98.

**Figure 18**  
Change in caseload  
FY95-FY98

	FY95	FY96	FY97	FY98
Pending cases beginning of year	179	213	236	375
New dockets opened	97	110	219	266
Dockets closed	63	87	80	82
Pending cases end of year	213	236	375	559
Percent change in pending caseload at end of FY	+19.0%	+10.8%	+58.9%	+49.1%



Administrative clerk Rose Weaver, utility tariff analysts Jennifer Meiwes, Dawn Bishop-Kleweno, Wendy Arnett and administrative clerk Mark Armstrong

## Summary of filings

Figure 19 summarizes the filings received by the Commission by type of utility or pipeline carrier and by type of filing. This illustrates the distribution of the Commission's workload in response to actions requested primarily by regulated entities. Responding to these filings could easily consume the resources of the agency.

The table does not include Commission obligations arising from government actions or from initiatives taken by the Commission. These activities are equally important to fulfill the APUC's regulatory responsibilities.

**Figure 19**  
Summary of filings by type of entity

	Tariff filings	Formal proceedings	Informal complaints	Applications
Generic <sup>1</sup>	0	2	0	0
Steam	1	0	0	1
Water	21	2	37	11
Pipeline	47	7	0	3
Cable TV	1	0	0	0
Electric	155	23	135	4
Refuse	31	6	42	11
Gas	7	1	41	0
Sewer	9	0	2	3
Telephone	352	125	449	66
Cellular	0	1	0	0
<b>Total</b>	<b>624</b>	<b>167</b>	<b>706</b>	<b>99</b>

<sup>1</sup> This act involved more than one type of utility.

## APUC orders on appeal in the courts

### Appeals pending during Fiscal Year 1998

**Anchorage Telephone Utility v. Alaska Public Utilities Commission.** ATU appealed Commission orders disallowing approximately \$20,000,000 in investment for excess cable, outside plant and line cards on the grounds that these investments were not "used and useful." The superior court, per J. Woodward, held that the APUC had the statutory authority under AS 42.05.441 to disallow investments that were not used and useful but found a lack of substantial evidence to support the amount disallowed. The case was remanded for further proceedings.

**The Quality Bank Price Index Appeals.** For the purpose of computing the TAPS quality bank adjustments, the Commission has adopted the use of substitute price indexes by the administrator of the quality bank. Both Exxon and Tesoro have filed appeals of these orders. The appeals have been stayed until further order of the superior court pending resolution of the issues before the Federal Energy Regulatory Commission and the federal courts.

**GCI Communications Corporation v. Alaska Public Utilities Commission.** GCI filed a petition for review in the superior court seeking to modify the confidentiality provisions of a discovery order issued by the APUC in Docket U-97-34, which prevented GCI decision makers from having access to competitively sensitive information. The issue was pending before Judge Michalski at the end of the 1997 fiscal year. On July 18, 1997 Judge Michalski granted GCI's petition for review and remanded the matter to the APUC to delete the provision in the confidentiality order prohibiting the disclosure of confidential information to a competitor's decision makers and strategists. On August 7, 1997 the APUC filed a petition for review with the Alaska Supreme Court to review Judge Michalski's interlocutory order. On December 5, 1997, the Alaska Supreme Court denied the APUC's petition for review as moot in view of the APUC's approval of a stipulation resolving matters in Docket U-97-34.

**GCI Communications Corporation v. Alaska Public Utilities Commission.** In January 1998, GCI filed three administrative appeals from APUC orders in Docket Nos. U-97-60, U-97-65, and U-97-66 challenging the APUC's decision in each of these dockets precluding GCI from further participation in these proceedings. Based on the documentary record, the Commission determined that GCI had violated the confidentiality order governing the exchange of confidential information in these dockets. The APUC opposed GCI's appeals however, and moved for a remand in view of its decision to grant GCI evidentiary hearings to reconsider whether GCI complied with the confidentiality orders, and to determine what sanctions, if any, are warranted. On February 20, 1998 Superior Court Judge Murphy granted APUC's motion for a remand but retained jurisdiction over the appeals pending the completion and outcome of the administrative hearings.

**GCI Communications Corporation v. Alaska Public Utilities Commission.** On January 8, 1998, the Commission issued three orders denying GCI's petition to terminate rural exemptions under Section 251 of Telecommunications Act of three PTI companies, Telephone Utilities of Alaska, Inc. (TUA), Telephone Utilities of the Northland, Inc. (TUNI) and PTI Communications of Alaska, Inc. (PTIC). The Commission found that the impact upon universal service could not be determined until a new support system compatible with competition was established. On March 20, 1998, GCI filed administrative appeals of the three

## APUC orders on appeal in the courts (continued)

orders. A group of rural telephone utilities, the Rural Coalition has been participating in the appeal. The appeals have been consolidated. GCI has raised issues concerning the burden of proof, due process and whether substantial evidence supported the findings of the Commission. The appeal is now being briefed.

**Tlingit-Haida Regional Electrical Authority (THREA) v. Alaska Public Utilities Commission, Alaska Power Company (APC), and City of Klawock.** This procedurally complicated litigation began following the APUC's decisions in Orders U-94-2(9) and U-94-2(10) revoking THREA's right to provide retail electric service to the City of Klawock and granting the exclusive right to provide such service to APC. THREA filed an administrative appeal challenging APUC's Orders U-94-2(9) and U-94-2(10). On April 24, 1995, Superior Court Judge Weeks upheld the APUC's authority to delineate the overlapping service territories of THREA and APC, but remanded the matter to the APUC to determine how Orders U-94-2(9) and U-94-2(10) would financially impact THREA and the ratepayers in THREA's service territory, and whether such impacts would frustrate the federal purpose of the Rural Electrification Act of 1936 (REAct). On remand, the APUC held evidentiary hearings to investigate the impact issues identified by the superior court. On July 3, 1997, the APUC issued Order U-94-2(19), in which it held that the decertification of THREA's right to serve Klawock would have only a de minimis impact on ratepayers in THREA's service territory, and that it would frustrate the REAct if THREA continued to serve Klawock. Order U-94-2(19) re-affirmed the decisions in Orders U-94-2(9) and U-94-2(10). THREA filed an administrative appeal challenging the APUC's decertification decision in Order U-94-2(19). On July 1, 1998, Superior Court Judge Weeks upheld the Commission's decertification decision and remanded the matter to the APUC for a determination of the fair value of THREA's property taken by the decertification decision. THREA has filed an appeal to the Alaska Supreme Court challenging Judge Weeks' decision. The City of Klawock and APC have jointly filed cross-appeals and the APUC has filed its own cross-appeal on portions of Judge Weeks' decision regarding the takings issue.



Assistant attorneys general Ron Zobel  
and Marty Weinstein

## Legal authority

### Statutes

Created in 1959, the Alaska Public Utilities Commission has, since 1970, been a full-time administrative agency under the Alaska Public Utilities Commission Act (AS 42.05) charged with the duty of regulating public utilities within the state. The jurisdiction of the Commission extends to electric, gas, refuse (garbage), sewer (wastewater), steam, telecommunications (cable television, interexchange, and local exchange service), and water public utilities as defined by the Act. In 1981 the Legislature amended the Alaska Pipeline Commission Act (AS 42.06) to merge the Alaska Pipeline Commission into the Alaska Public Utilities Commission, and the Commission's jurisdiction was extended to pipeline carriers and pipelines.

The Commission is comprised of five commissioners appointed by the Governor and confirmed by the Legislature for six-year terms of office. In addition to the business, engineering, and law members, there are two consumer members of the Commission. The Commission is authorized to employ additional personnel to assist in the performance of its duties.

The Commission is responsible for making or requiring just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for public utilities and pipeline carriers. The Commission has the authority to investigate, hold hearings, prescribe systems of accounts, determine depreciation rates, require the filing of reports, adopt regulations, and take other lawful actions necessary to accomplish the stated purposes of AS 42.05 and AS 42.06. The Commission also determines the eligibility of electric utilities for power cost equalization and the kilowatt-hour subsidy amount under the provisions of AS 42.45.100 — 42.45.190. The Commission is also authorized under AS 31.15.010 - 31.15.050 to determine if there has been unjust and unreasonable discrimination in the purchase of oil offered for purchase within Alaska.

Under AS 42.05.221, a public utility<sup>1</sup> providing service to customers for compensation is required to obtain a certificate of public convenience and necessity<sup>2</sup> from the Commission. A certificate describes the nature and extent of authority granted to a public utility, including a description of the authorized service area and the scope of operations of the utility. Under AS 42.05.241, no certificate may be issued unless the Commission finds that the service is required for the convenience and necessity of the public and that the applicant is fit, willing and able to provide the utility service requested. Similarly, pipeline carriers subject to the Commission's jurisdiction must secure a certificate of public convenience and necessity. A certificate for pipeline carriers generally includes the same information found in a public utility certificate.

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<sup>1</sup> The terms "public" and "public utility" are defined in AS 42.05.990(3) and (4), respectively. Generally, a public utility is one that provides utility service for compensation to ten or more customers or that sells wholesale service to a utility that serves ten or more customers.

<sup>2</sup> Electric and telephone utilities grossing less than \$50,000 are not required to be certificated unless their customers petition the Commission for regulation under AS 42.05.712(h), AS 42.05.711 (e).

## Legal authority (continued)

A number of certificated utilities are statutorily exempt from economic regulation<sup>3</sup> by the Commission, including:

(1) public utilities owned and operated by a political subdivision of the state, none of whose utilities is in competition with any other utility, unless the political subdivision elects to be regulated by the Commission (AS 42.05.711(b));<sup>4</sup>

(2) refuse utilities with annual gross revenues of \$300,000 or less, unless the subscribers of the utility petition the commission for regulation under AS 42.05.712(h) or customers paying 25 percent of a utility's gross revenues have petitioned the Commission for regulation (AS 42.05.711(i));

(3) cable television utilities, unless the customers petition the Commission under AS 42.05.712(h) for regulation (AS 42.05.711(k)); and

(4) electric and telephone utilities with gross revenues of less than \$50,000 are exempt from both certification requirements and economic regulation, unless 25 percent of their customers petition for regulation under AS 42.05.712(h).

AS 42.05.711 also specifies other utilities that may, under terms specified in AS 42.05.712, elect to become economically deregulated by the Commission. Utilities that may elect to deregulate are:

(1) electric or telephone utilities with annual gross revenues of less than \$500,000 (AS 42.05.711(f));

(2) utilities, other than electric or telephone utilities, with annual gross revenues of less than \$150,000 (AS 42.05.711(g)); and

(3) cooperative utilities organized under AS 10.25 (AS 42.05.711(h)).

In a deregulation election at least 15 percent of a utility's customers must return ballots. If a majority of those returning ballots vote for deregulation, the utility is exempt from economic regulation by the Commission (AS 42.05.712(b)). The same election procedures apply to the reregulation of a utility that was deregulated by vote of its member/subscribers. For details on the elections held under AS 42.05.712, see *Results of Utility Regulation Elections* in the Statistical Information section of this annual report.

The Commission is also authorized under AS 42.05.711(d) to exempt a utility from all or a portion of AS 42.05 if such an exemption is in the public interest. Under this provision, the Commission has exempted a number of small utilities from ratemaking regulation. Competition in refuse collection services has also been introduced in a number of areas around the state.

<sup>3</sup> "Economic regulation" (defined in 3 AAC 48.820(43)) means that the Commission's jurisdiction extends to matters concerning rates and charges for public utility or pipeline carrier services, quality of service provided by a utility or pipeline carrier to its customers or shippers, management practices of a utility or pipeline carrier, and customer or shipper complaints concerning the services furnished by a utility or pipeline carrier. The foregoing matters comprise the principal regulatory activities of the Commission other than certification under AS 42.05.221 — 42.05.281, to which the indicated utilities remain subject under AS 42.05.711.

<sup>4</sup> The utilities of the Municipality of Anchorage are the only utilities operated by a political subdivision that are currently subject to economic regulation by the Commission.

## **Legal authority (continued)**

### **Regulations**

As authorized under AS 42.05.151 and other statutory provisions, the Commission has adopted regulations to carry out its statutory duties. The Commission's regulations are set out in the Alaska Administrative Code at Title 3, Part 5, Chapter 47 (Regulatory Cost Charge); Chapter 48 (Practice and Procedure); Chapter 49 (Deregulation); Chapter 50 (Energy Conservation); Chapter 51 (Telecommunications Relay Service); Chapter 52 (Operation of Public Utilities); and Chapter 53 (Telecommunications).



**Utility engineer analysts Brad Persson, Bill Marshall,  
Paul Morrison and Donald Baxter**


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# THE ALASKA PUBLIC UTILITIES COMMISSION

## A New Structure

In the course of the sunset review of the Alaska Public Utilities Commission (APUC), two facts became clear: There is a continuing need for the existence of the Commission and there is a need to change the manner in which it operates. This white paper will discuss the APUC's mission and its organizational structure.

### Mission:

There is a need to focus on the mission statement of the APUC as laid out in statute. There are two basic functions to be served by the APUC. One is to protect the public interest; the other to assure the continued viability of the utilities.

In the case of the former, the APUC should have the mandate of assuring that utility rates are just, fair and reasonable. In the process of carrying out this mandate, they must determine appropriate rate of return, either on an industry or an individual company basis. To do so, they must make a determination of the costs of providing service, establish what is used and useful in rate base and be assured that management practices are prudent.

The latter function is equally important. If utilities are not financially viable, then service will be eroded and if carried to the absurd, service could become unavailable. It is in the public interest to protect the viability of the utilities.

As the APUC carries out these two functions, it must be mindful of the appropriate economies. They must, in other words, accomplish these two mandates by use of the most efficient and economical means possible to assure that the cost of regulation is not a major contributor to the cost of service. It is in neither the public interest nor that of the utilities for the staff of the APUC to engage the utility in a proceeding, the cost of which is ten to twenty times more than the cost or rate in question within that proceeding.

### Structure:

There is a need to address the structure of the APUC using the Federal Communications Commission (FCC) as a model. Restructuring the APUC in this manner will provide for a more efficient operation and eliminate certain inequities which now exist.

The current structure of the Commission has staff moving back and forth in two roles. On the one hand, they are often party to dockets, representing the public interest. On the other hand, they serve in an advisory capacity to the Commission. To put the situation into context, the Commission serves as a quasi judicial body. Allowing the staff to move back and forth as both party to and advisors to the Commission in the same docket is much the same as allowing either

the plaintiff or defendant in a legal proceeding to advise the judge on his final decision, rather than just presenting evidence for the record.

Utilizing the FCC model, that portion of the staff designated as representative of the public interest would be established separate from the Commission itself. This "Staff" would serve under the direction of the commission's executive director and would be party to dockets as appropriate. Their participation in dockets would be as an autonomous party and they would be subject to the same rules regarding ex parte contact with the Commission as are other parties to dockets.

The commissioners, on the other hand, should have personal staff, as well as their own counsel, to assist them in research, writing orders and, in general, filling an advisory role.

As commissioners serve in the role of judges, they should not launch investigations or open dockets on their own motion. They should not issue notices of inquiry or engage in writing regulations. These functions should be the sole purview of "Staff".

The designated seats concept should be eliminated. The designated seats (accountant, legal and engineering) originated in the early days of statehood when the Commission was a part time body with no staff. In those days, it was necessary to have an engineer, a lawyer and an accountant on the Commission because they had no staff with such expertise. The two consumer seats were added in the mid seventies in the mistaken belief that the three assigned seats were charged with representing their special vocational interests. The fact is that the commissions must be neutral judges and should not be representing any special interest group. Under the structure outlined above, "Staff" would represent the public interest. To further emphasize the separation of "Staff" and the Commission, it must be clearly understood that the executive director will be in charge of the "Staff". *The "Staff" positions must be designated as exempt to allow the hiring of truly qualified people in these positions, who can be held accountable for the quality of work they produce.*

Doing away with the assigned seats on the Commission will also require language to make it clear that candidates for the Commission must be professional with some knowledge of utilities. There must also be a restriction which allows no more than one commissioner from anyone vocation.

Included here are examples of organizational structures.....

#### Current Operating Authority:

As a final note, one other amendment to current statute is proposed. AS 42.05.141(1) must be amended to eliminate the language "...the powers of the commission shall be liberally construed to accomplish its stated purpose." This language has become one of the most obvious barriers in relating to the Commission. The commissioners and the staff have used this language to offer differing interpretations of regulations and statute on a case by case basis.

The phrase has also allowed the Commission to state that it does not set precedent. Both utility management and the general public are placed in a precarious situation when they are unable to rely on past decisions of the Commission to determine proper conduct in relation to any particular issue because the Commission feels free to develop differing interpretations to similar conditions on a case by case basis. As a quasi judicial body, the Commission must be held accountable to its own decisions and interpretation.

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March 9, 1999

Honorable Bill Hudson  
Chairman  
House Utility Restructuring Committee  
State Capitol  
Juneau, Alaska 99801

RE: Alaska Public Utilities Commission

Dear Rep. Hudson:

This letter is prompted primarily by HB 62 which deals with extending the Alaska Public Utilities Commission for four more years. As you have heard in my testimony before your committee, the ATA does not want the commission to enter into a "wind down" year. That happened five years ago and it was burdensome to industry, the commission and our customers. The Telecommunications Act of 1996 generated a very substantial increase in the amount of work for all of us and Alaskans will benefit if both industry and the commission devote their efforts toward that work rather than to the confusion of "wind down."

However, the sunset review process gives us a welcome opportunity to offer some suggestions for change within the structure of the commission. ATA has long espoused a more defined separation between advocacy staff and staff that is counsel to the commission. We think that the current structure that has a staff person as an advocate on one docket and the same individual as counsel on another docket lends itself (even without intent) to conflict with ex parte rules.

ATA recommends that there be an organizational separation where advocacy staff, under the direction of the executive director, represent the interest of the public in matters before the commission. Commissioners, acting in an adjudicative role, should have access to professional advisory staff so they can be properly prepared to weigh the issues presented by representatives of industry and the advocacy staff.

Presently the commission has authorization to hire nine additional employees, but due to the state-hiring freeze, the positions remain unfilled. ATA strongly supports full staffing for the commission and recommends it as necessary for the agency to complete its tasks in a reasonable time. Furthermore, the beneficiaries of an efficient APUC are the utility customers; the same people who pay the Regulatory Cost Charge that funds the commission. ATA also believes that with full staffing, the commission should implement the separation of staff mentioned previously.

Another facet that should be included in the restructuring is a delineation of the powers and responsibilities of the Chairman. Clearly, it is important to preserve the autonomy of each commissioner to vote his/her mind on an issue, but the responsiveness of the commission might be held more accountable with the responsibility of leadership placed in the hands of one individual.

Finally, ATA questions the continued necessity of commission seats being designated as engineering, attorney, business and consumer (two seats). Undoubtedly, it is valuable to have the professional disciplines represented on the commission, however, especially in light of the increased number of professional staff, that value may be outweighed by the elimination of exceptionally capable candidates whose experience is in another field.

In summary, ATA proposes

- Reauthorization of the APUC;
- Clear separation of advocacy staff from advisory staff;
- Hiring to fill the nine vacant staff positions;
- Delineation of the powers and duties of the Chairman;
- Abolish requirement for designated seats.

Thank you for the opportunity to offer comments on these issues. Members of the ATA are available to answer questions or provide assistance on all matters before this committee.

Sincerely,



James Rowe

# REPORT ON THE ALASKA PUBLIC UTILITIES COMMISSION

by

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October 1998

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## INTRODUCTION

While claims of dramatic change and great challenge in a field are usually an exaggeration, that is probably not the case where the subject is the regulation of public utilities. Current developments in industry organization, technology, customer expectations, and attendant public policy are altering the provision of most utility services in fundamental ways. Intimately related to all this are the state public utility commissions as both responders to necessary change and initiators of constructive change. These roles often center around changes in mission, process, and timeliness. In electricity, gas, telecommunications and, to a lesser extent, water, the changes taking place are changes in kind and not just degree. Most importantly to state public utility commissions, the introduction of market forces and competition into the utility industries may substantially supplant the need for continuing, comprehensive, and traditional public utility regulation.

As each state public utility commission undertakes an effort to transform itself to meet the demands of this emerging environment, it is often useful to begin the process with a self-assessment to identify the major issues involved, the necessary timing of change, staff attitudes about change, and potential impediments to change. Such a self-assessment also presents an opportunity for commission staff to provide input into the direction of commission change.

After several preliminary discussions in early spring, the National Regulatory Research Institute (NRRI) was invited in May to submit a proposal "To Assist the Alaska Public Utilities Commission (APUC) in an Organizational Self-Assessment As

It Undertakes Efforts Toward Large-scale Change." A contract for this work was subsequently entered into, and the onsite team visit took place over the period June 17-22, 1998.

To accomplish this self-assessment, NRRI staff interviewed sixteen Alaska PUC staff, the five Commissioners, and four former employees, and asked the interviewed staff to complete a short assessment instrument. The results of the overall NRRI inquiry are contained in this report. Part I of the report describes the assessment instrument and presents the results obtained by its application. Part II of the report presents NRRI findings by major subject component. For each component, the NRRI draws some conclusions and offers accompanying observations. Part III provides summary conclusions. Specific comments received by NRRI in the interviews are included in the Appendix.

Reports of this type are inherently judgmental and subjective. In that sense they are always limited and imperfect. The task, of course, is to be fair and accurate, and we have tried to be both in our assessment. In trying to accomplish this we have avoided the extreme stances — "the sky is falling" at the APUC (it isn't) or "we have no problems" at the APUC. We have employed "discount factors" where they seemed appropriate and have only treated things that could be called recurring themes coming from multiple interviewees, thus minimizing the outlier phenomenon. We have attempted to make our frame of reference either *horizontal* comparisons, that is, differences in conditions within the APUC and with other commissions, or *vertical* comparisons, that is, differences in conditions at the APUC now as against the APUC at an earlier time. We have also avoided references to the behavior of specific individuals. It was not our purpose to evaluate individual performance; comments directed toward individuals were only included if they could be regarded as applying to the position held by the individual in some generic sense. Finally, the report is the collaborative product of the three-person team that conducted the exercise; it contains only those observations and conclusions that could be agreed to by all of the authors.

For a report to be contributory to agency self-assessment and to be useful to the leadership it must be a candid one — even if occasionally painfully so. Accordingly, while not seeking sharply pointed assessments, we have not glossed over areas of important perceived deficiencies with indirect writing. It should be said that all participants demonstrated a great deal of goodwill toward the assessment initiative and genuinely cared about an improved APUC as a place to work and contribute.

## PART I

### APPLICATION OF THE COMPETING VALUES MODEL

Robert Quinn of the University of Michigan has developed one typology of organizational change that may hold great promise for the analysis of public utility commissions as they undergo transformation in response to their evolving environment. His model focuses on the inherent contradictions of organizational life and is referred to as the competing values model.<sup>1</sup>

Quinn identifies four ways of categorizing organizations and arrays them in a two-by-two grid, which is illustrated in Figure 1. In the upper right-hand quadrant (I) is the open systems approach. Organizations in this quadrant are oriented toward taking risks, excitement, and innovation. Success is measured by being on the leading edge.<sup>2</sup> An interdisciplinary team working on industry restructuring would help pull the commission in the direction of quadrant I.

In the lower right-hand quadrant (II) is the rational goal approach. These organizations tend to be achievement oriented, emphasize logical direction, and are competitive. Success is measured by acquiring resources and defeating competitors.<sup>3</sup> As commissions confront their new environments and adapt to new market and consumer needs, they move toward quadrant II.

In the lower left-hand quadrant (III) is the internal process approach. This organization is control-oriented and mechanistic. Organizations in this quadrant are

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<sup>1</sup> Robert E. Quinn, *Beyond Rational Management: Mastering the Paradoxes and Competing Demands of High Performance* (San Francisco, CA: Jossey-Bass Publishers, 1989).

<sup>2</sup> *Ibid.*, 36.

<sup>3</sup> *Ibid.*

hierarchical and value security and perpetuation of the status quo.<sup>4</sup> Some portions of every organization are better suited to quadrant III than others. For example, commission administrative operations probably fall mostly within quadrant III.

The upper left-hand quadrant (IV) is the human relations model or the consensual or team approach. Organizations here emphasize mutual dependence and focus on feelings. They tend to value harmony and consideration of all individuals.<sup>5</sup> Commissions tend to have strong internal cohesiveness, a trait which pulls them toward quadrant IV.

These quadrants represent attributes of organizations, though no organization can be fully contained in any one quadrant. For example, every organization has some functions or offices that are more hierarchical than others, and, over time, an organization may shift its emphasis from one quadrant to another. As a matter of fact, there is a tendency for organizations to drift toward quadrant III. That is not to imply that the control/management quadrant is inappropriate. The attributes contained within that quadrant are necessary for every organization, even the most innovative. What is to be avoided is excessive reliance on control and management at the expense of appropriate levels of innovation and flexibility.

Because every organization contains elements of each quadrant, a quadrangle-shaped map can be drawn for an organization. The NRRI asked the Commissioners and staff interviewed to completely assess how the APUC fits each quadrant, once to attempt to describe the APUC as it exists *now* and again to describe how they would *prefer it to be*. Eleven persons completed the questionnaire (which may limit the statistical significance of the outcome). Figure 2 shows the results of the analysis of the APUC as it exists now; Figure 3 describes the APUC as those who completed the analysis would prefer it to be.

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<sup>4</sup> Ibid., 37.

<sup>5</sup> Ibid.

Figure 2 (the APUC as it exists now) displays the typical kite-shape expected of government agencies. The score in the control/management quadrant (III) is very high. The scores in each of the other three quadrants are much lower and nearly identical to one another. The net result is that those who completed the instrument regard the APUC as being skewed toward control, perhaps even further than could be expected of government agencies.

The quadrangle describing the APUC as respondents prefer it to be (Figure 3) is quite different. The quadrangle clearly indicates a preference for a more balanced organization, for substantially less reliance on control, for a very slight increase in reliance on the rational goal approach (Quadrant II), a tilt toward the open systems model and innovation (Quadrant I), and, most dramatically, a substantial increase in attention to the human relations model (Quadrant IV).

These results are consistent with several of the themes articulated by those interviewed. The majority of the problems identified in this report are internal to the APUC, and it is clear from the results of this analysis and the comments of many of those interviewed that substantial repairs need to be made to internal relationships if the APUC is to thrive. Though the APUC continues to serve the public and perform its established role, mitigation of morale problems and the application of leadership could go far to create better internal cohesion that is sought by many.

# Figure 1

## Public Organization Profile

### Collaboration: Human Relations Model

- Emphasis on interpersonal relations, teamwork, participation and consensus
- Family-like
- Sensitivity to customers
- High commitment to organization
- Being things better

### Creativity: Open Systems Model

- Emphasis on flexibility, risk taking, experimentation, innovation
- Success measured by being on the leading edge
- Success measured by long-term growth and new resources
- Doing different things

IV

I

### Control/Management: Internal Process Model

- Emphasis on stability, management, following procedures, policies, predictability
- Machine-like
- Pursuit of efficiency
- Incremental change

III

II

### Competition: Rational Goal Model

- Results oriented, goal directed
- Emphasis on production, building a reputation, increasing productivity
- Success measured by acquiring resources and defeating competitors
- Being things faster

Adapted from Robert E. Quinn and Jeff DeGraff, University of Michigan.

Figure 2

# Commission Organization Profiles Now

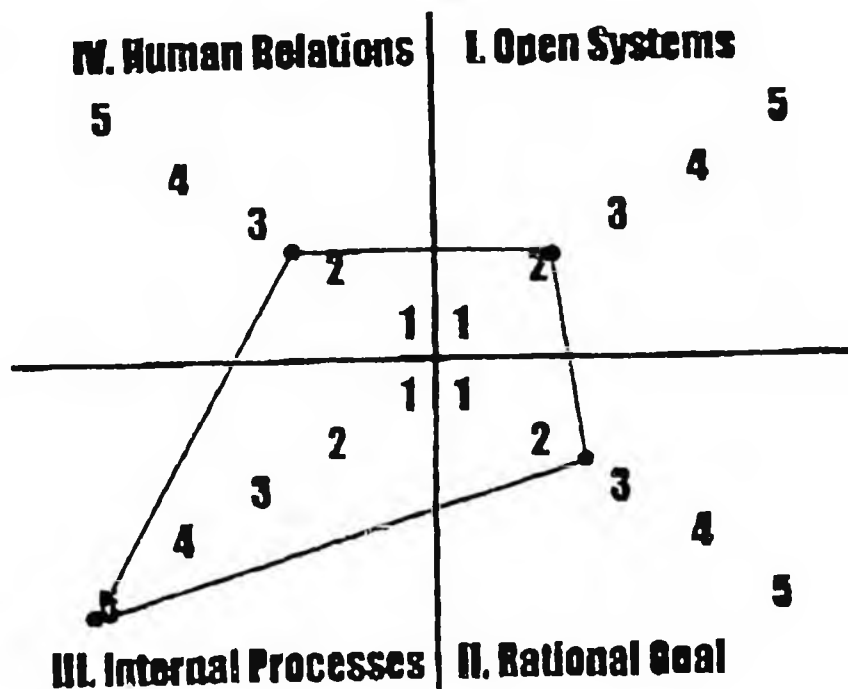
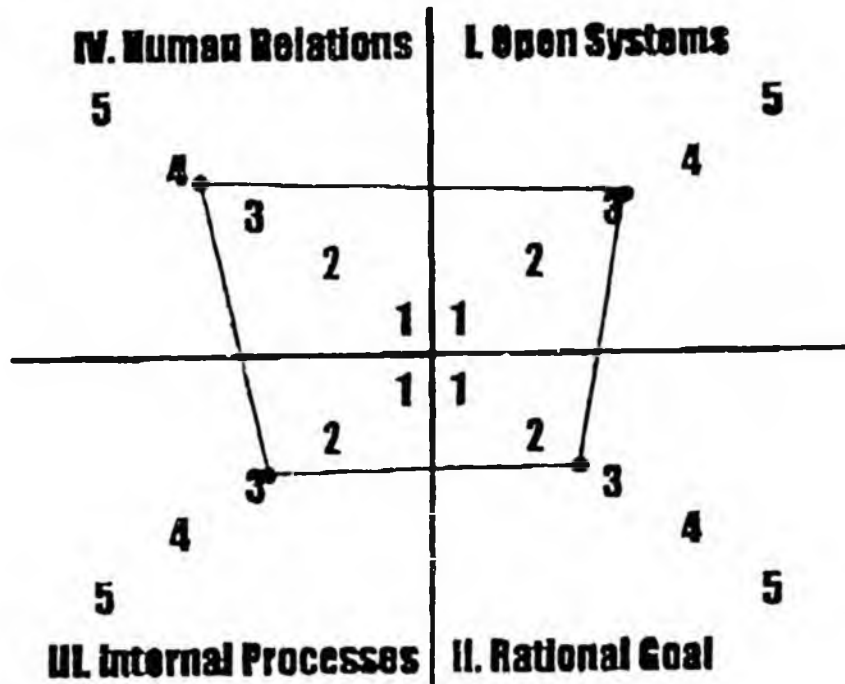


Figure 3

# Commission Organization Profiles Preferred



## PART II ANALYSIS OF ORGANIZATIONAL COMPONENTS

The components examined and explained in Part II are:

- General Factors Including Leadership
- Morale
- Commission Structure
- Staffing
- Management Information Systems
- Process
- External Relations
- Consumer Protection
- Information Flows/Communications

### GENERAL FACTORS

#### Overall Commission Functioning

**Observation:** Though problems exist and the workload is extremely high, overall the APUC is regarded as having done a competent job of handling its responsibilities.

Despite the range and depth of problems cited by those interviewed, several of those interviewed cited the fact that APUC decisions are rarely overturned in court. Most cited the competence of the staff and its ability to focus on the real task of the Commission despite constant emergencies and a very heavy workload. Though some are concerned that current difficulties may eventually limit the ability of the APUC to do its job, there seemed to be no doubt that overall the APUC has accomplished its mission up to this point even considering the substantial increase in the APUC workload following industry restructuring.

## Leadership

It is widely agreed that leadership is an important and sometimes determinative component of agency success. Small organizations comprised of highly motivated and self-directed persons sometimes do not require much leadership. Effective agency leadership is particularly desirable during a period of churn and change, like the current environment at public utility commissions, including the APUC.

Also of note in the context of multi-member public utility commissions is the fact that there are at least two kinds of "leadership" that can be examined. One is the traditional view of the chairperson as the locus of leadership, and the other (less frequently examined) is the *collective leadership* of the Commissioners. Both will be considered here.

**Observation: Several opportunities exist at the APUC for the application of leadership to perceived problems.**

Interestingly, the word "leadership" was not actually spoken by any of the interviewees, but a number of the perceived difficulties emphasized by them hark back to the leadership question, both from the Chairman's office and from the Commissioners as a collective. Several opportunities for asserting general leadership on big themes would seem to present themselves in the course of fixing a number of particular problems incorporated in them as reported by interviewees. One of these is improving vertical communication throughout the agency. (Reportedly, horizontal communication is adequate.) Another opportunity is to introduce and conduct a systematic training and orientation program for new personnel at all levels. (This was a deficiency identified by those interviewed.)

A third, and perhaps most important, opportunity is in dramatically clearing the docket backlog including tariff filings and devising procedures and practices that lead to prompt resolution of cases. Some amount of regulatory lag is, of course, inherent in complex filings, and users of the system are often unduly impatient. However, even allowing for this, those interviewed were critical of

unnecessary delays in case processing, of too frequent use of suspensions and extensions, and of applications taking effect by default.

**Observation: Because of the structure of public utility commissions, collective leadership is required.**

In the public utility commission model (1) there is a proper and sharp distinction between technical staff and commissioners; (2) commissioners are to a very great extent co-equal in responsibilities and authority (in the Alaska case there is not even extra pay for the chairperson); (3) loyalties are presumptively "upward" to the governor and not "sideways" to each other; and (4) the overall *effectiveness* of the organization hangs crucially on the willingness and ability of a majority of the commissioners to support the chairperson on issues vital to the agency *as an institution*. This last is about recognizing that the commission functions well or badly depending in good measure on whether commissioners pull together in the traces or pull apart. The argument here is that adopting the former approach allows for the very considerable benefits to the agency of collective leadership, and pursuing the latter course precludes these benefits and probably forecloses any real chance of individual leadership as well.

In the course of sustained discussions with those interviewed, several opportunities for collective leadership by the Commissioners (mostly of the "lead-by-example" variety) were identified. It is, of course, true that staff do not always know or appreciate what exactly constitutes a Commissioner's workday. However, perceptions that Commissioners do not "pull their weight" were voiced several times in interviews. Addressing those perceptions is a difficult but worthwhile task.

## MORALE

**Observation: The morale at the APUC appears to be low.**

Given the level of turmoil and uncertainty inherent in utility industry restructuring and the extremely high workload of commissions around the nation, morale problems might be expected. Comments from quite a few, though not all,

interviewees indicate that a morale problem exists at the APUC that might exceed national norms. Fortunately, the earlier turmoil that surrounded the attempt to remove two Commission staff and the dispute over the appointment of a Commissioner were perceived by interviewees as "over and done with" and no longer a factor in morale matters.

Improving morale in a troubled organization is difficult at best. It has a chance of being achieved with the following conditions: (1) the existence and understanding of a persuasively articulated vision of the agency; (2) a wholesale "buying in" to that vision so that it becomes a shared one; and (3) a workplace demonstrably characterized by civility and professionalism, by fair treatment, and by appropriate recognition and appreciation of good performance. The task of creating this environment falls to the Chairperson *and* the collective leadership.

Happily, there is much to build upon. There are a number of pockets of real excellence and dedication within the agency, and these can be celebrated and enhanced. The Commission has a long and reputable history of service. The traditional mission of consumer protection in the sectors of the economy that most fundamentally touch the Alaskan citizenry — the utility sectors — is a high calling. Now the added mission of inducing, presiding over, and adroitly shaping the restructuring of the energy and communications sectors provides an opportunity for a new level of cohesiveness among the APUC staff. Regulatory oversight is not yet "a declining industry," but rather has an essential and particularly demanding role in the context of transformation. This sort of challenge can appeal to the best instincts of an informed and energized staff.

## COMMISSION STRUCTURE

Structure refers to an organization's relatively stable activities over a period of time, often reified as an organization chart. Organizations are ordinarily structured to support well-established programs that can operate most efficiently within given boundaries. A U.S. regulatory commission structure, like that of corporations and other government agencies, has traditionally been hierarchical, with several levels of authority and numerous compartments representing cohesive activities that contribute to overall functioning. Commissions are typically characterized by a strict structural delineation between commissioners and staff, due to the quasi-judicial nature of their activities and the traditional

model of commission process that considers staff the provider of technical expertise to the commissioners as judges (the "technocratic model"). It is common to have a strong executive director who supervises technical staff. In several states the bifurcation of staff and commissioners is maintained by having two separate agencies — a commission and a public staff.

The APUC is divided into four major layers. The Commissioners and paralegals assigned to them form one level; the Hearing Examiner, Assistant Attorney General, Executive Director, Administrative Law Judge, and Associate Attorney form a second. At the third level, several paralegals and secretaries report to the Associate Attorney, and the technical staff report to the Executive Director. Six sections, representing the bulk of the commission's manpower, are supervised by the Executive Director: Engineering, Common Carrier, Finance, Tariffs, Consumer Protection, and Administration. The sections are organized by function rather than industry, with the exception of the Common Carrier section.

**Observation: Administrative authority is best consolidated at commissions.**

Based on the NRRI's interviews, it appears that some APUC Commissioners are too involved with administration. This involvement could inhibit their consideration of the important issues facing the commission. One way to avoid this would be to strengthen the Chairman's direction of purely administrative matters. If all Commissioners were less involved with administration, they would have time for more substantive matters, could take on substantive lead assignments, and, thereby, might improve the functioning and, perhaps, the product of the Commission.

**Observation: Existing structure that combines functional and subject matter groupings seems to be appropriate to recent programmatic needs.**

The APUC technical staff are organized largely by discipline (e.g., Engineering) with the exception of the Common Carrier section that has responsibility for communications-sector matters. Overall, the structure, which is duplicated at other commissions around the nation, appears to be an appropriate

one. Some interviewees remarked that the Common Carrier section holds a special status within the technical staff. But the success of the Common Carrier section in weathering and indeed mastering changes in telecommunications policy the last several years is good reason for them to be "the fair haired division," as one person we interviewed put it. The hybrid organization of sections (with both utility and functional sections) works well for commissions when combined with a team approach to assigning responsibility for cases. For the APUC, other sections need to be strengthened, rather than the Common Carrier section weakened.

Some concern was expressed that the assignment of management information systems (MIS) responsibilities to the Engineering section had the potential to overwhelm that section and to get in the way of other engineering functions.

**Observation: The location of the APUC in the Department of Commerce and Economic Development encourages cooperation with allied functions.**

Many state commissions stand alone as quasi-judicial agencies somewhat independent from either the legislature or executive branch. With the responsibilities of commissions being redefined, it is of particular help to the APUC to have good communications with the state functions of promoting economic development and other allied functions. At the same time, the Commission's expertise in consumer interests and in the complex field of public utilities is an important resource for the rest of the Department. Striking a balance between involvement and independence is the key.

## **STAFFING**

**Observation: Commissioners need more staff support for decisionmaking.**

As the issues facing commissions become more complicated (often involving issues of market power and consumer protection) and more often involve policymaking, commissioners across the country and at the APUC will need more staff assistance. Those interviewed expressed concern that the

assignment of existing staff resources of the APUC did not give adequate attention to the advisory function. Two general options are available for providing more staff assistance to Commissioners.

First, the APUC could hire additional advisory staff or permanently assign staff to Commissioners from existing staff resources. Adding small numbers of advisory staff can be problematic because of the wide range of expertise across all utility sectors required of those staff. In a commission as small as the APUC, the permanent reassignment of staff as advisors to the Commissioners further reduces the expertise available to the advocacy function. A contrary view was expressed by at least one of those interviewed, who suggested that the permanent assignment of a staff member as an advisor to the Commissioners would substantially alleviate the problem.

Second, the APUC could adopt administrative models that allow Commissioners to have greater access to existing experts on the staff. Several states, including Ohio, Iowa, and Florida, have created models which do not impose a rigid *ex parte* wall between commissioners and technical staff. At least one of those models defines staff as "participants" in cases but not "parties." They have full, statutory discovery rights but are not subject to discovery by others. As participants in cases, staff cannot contest commission actions and cannot apply for rehearings.

**Observation: Legal support of the Commission is a critical function and could be improved.**

Attorneys are assigned by the Attorney General to support APUC needs. Two part-time attorneys are available. Concern was expressed, however, about the level of support provided and the potential for a conflict of interest. Given the quasi-judicial nature of most APUC actions, several of those interviewed expressed the sentiment that more legal input into case preparation would be desirable. In fact, at least one suggested that an attorney should be assigned as the team leader in case preparation. Full-time assignment of two attorneys might be desirable.

Because the attorneys assigned to the APUC do not serve either a strict advisory or advocacy role, there is the possibility in the minds of some that a conflict of interest could be created for attorneys. The same attorney who assisted with the development of the staff position could be also assigned to

represent the APUC on appeal in a situation in which the Commission decided in opposition to the staff position. A solution would be to assign one of the attorneys to the Commission staff to help craft staff positions and assign the other to provide advice to the Commissioners and to represent the Commission on appeal. This is commonly done in other commissions by the formal split between staff counsel and chief (commission) counsel. If a permanent split of the attorneys between advocacy and advisory functions would create uneven workloads between the two attorneys, they could be split on a case-by-case basis. Hearing examiners, though often attorneys, are separate from both.

### **MANAGEMENT INFORMATION SYSTEMS**

**Observation: The Commission needs improved management information systems, but increased computerization will not solve information problems by itself.**

Both commissioners and staff strongly believe that systems for managing commission processes at the APUC need to be improved. Consideration is being given to hiring an outside consultant to design a computer information system for the commission. A well-designed computer system can indeed facilitate many management functions.

But Commissioners and staff expressed problems that run deeper than the technical means that are used to enable organizing, planning, and other management functions. One person at the APUC who we interviewed said, "I sometimes feel that procedures are crumbling here." Another remarked, "We're in meltdown." A computer system, no matter how elegant, cannot set priorities and cannot say what information is needed by whom, where, and in what format. The computer equipment and software available to APUC members is not directly to blame, since the Commission is commendably up-to-date on computer quality and speed. It seems likely, however, that the available technology is not being used to its greatest effect. A larger state commission has different management information needs than the APUC. So does a federal agency such as the FCC, which relies on "paper hearings" rather than a typical state commission process of oral, face-to-face hearings.

**Observation: A computer information system can be developed in synchrony with other efforts to identify, analyze, and address Commission management information needs.**

A concerted initial effort to reduce case backlog and identify areas where timeliness must be improved will help to clarify the needs for outside help on developing a computerized management information system. Lack of computer support or inadequate use of computers were frequently mentioned as problems. Here an outside consultant may be very helpful in setting up a system where, among other things, industry files cases electronically, the same information is entered only once into the computer system, and the status of cases and the text of decisions are available to every interested person in the APUC via their desktop computers. Such a system should allow management to ascertain the time it takes for each case to go through each step in the process and assess whether prioritized goals are being met. The computer system may be used as well to accomplish tasks that the commission has not attempted as yet, such as analyzing complaint filings to be able to anticipate new issues.

### **COMMISSION PROCESS**

**Observation: There is widespread concern that the APUC does not act promptly enough on cases before it.**

Many APUC members referred with dismay to a lack of timeliness in decisions, a concern that staff felt was shared by the regulated industries. This problem is associated with a backlog of cases that appears to be getting worse. One person we interviewed claimed that there are 500 open dockets and that this number has doubled over a relatively short period of time. Suspension periods are routinely extended, which avoids an immediate expenditure of scarce resources but in itself takes time, thus compounding the problem. Interviewees identified a number of possible sources of slowdowns in Commission processes. One is simply an increased caseload, particularly in telecommunications. Promotional offerings in telecommunications are "coming in by the gross," we were told, at the same

time this industry expects, if anything, faster decisions consistent with a competitive environment. Filings by electric, gas, water, sewer, and garbage utilities are increasing as well.

At least one Commissioner expressed the belief that staff is generally slow in getting cases before the Commission. Particular concerns about timeliness at the staff level were the lack of speed with which documents move between the fourth and third floors and the amount of work that has to be corrected or even redone, especially order writing, which is time-consuming and duplicative. Commissioners were also faulted for a lack of timeliness, both on making needed decisions and getting them out the door when a decision has been made. More than one staff member remarked that a final order may sit on Commissioners' desks for a period of time before being signed and taking effect. More serious, perhaps, was a sense of an absence of clear priorities throughout the APUC that contributes to a crisis mentality. "We have management by emergencies," said one person we interviewed. "It feels like we're under fire all the time."

**Observation: Steps must be taken as early as possible to bring the backlog under control and address the issue of speedy processing of Commission business.**

The lack of timeliness and growing case backlog is a measure of impaired Commission effectiveness. Though the dramatic increase in the APUC's workload might be a contributory factor, delays in case processing were cited by many of those interviewed. Several specific problems that might impact the speed with which the APUC disposes of cases were noted. They included striking the appropriate balance between efficiency and careful maintenance of due process (some citing undue attention being paid to the maintenance of due process; others citing not enough attention), the assignment of staff including the hearing examiner, and the role of Commissioners. The sense of slipping behind is also a drag on morale and a sense of accomplishment.

The first step is to identify more clearly the nature of the backlog by industry and current status. The Executive Director may want to reinstitute meetings on the status of all current dockets. Such meetings can be used to rearticulate priorities and possibly batch similar cases, such as

telecommunications promotional offerings, for expedited treatment. The Commission may wish to consider using temporary resources to help reduce the backlog at this stage, although simply hiring permanent staff as quickly as possible in key areas may be enough.

The second step is to identify bottlenecks and other problems. A flow chart can show the actual sequence of events in Commission case processing. This will help to identify problem areas, redundancy, and unexpected complexity. It also will help to identify information needs that a computer system can be designed to address. There are several checklists in use at various points in the Commission process. These can be used to help develop a more complete, integrated understanding of the flow of events from the date a case is filed until the date on which an order goes into effect.

Particular consideration needs to be given to solving problems upstream in the Commission process. Better order writing early (which is addressed later), so that rewriting and editing do not have to be done at the end of the process, can reduce overall workload and the sense of constant emergency. It is a mistake to rely overmuch on any one person to make sure that the procedural and substantive record is adequate, especially one placed at the end of the process. The APUC should also look for areas where industry can help, for example by contributing information upon filing that the staff has routinely been taking upon itself to gather. We are not suggesting always taking short cuts where they are available. Failure to follow due process can result in as many problems downstream as failure to fully address substantive issues.

**Observation: The use of streamlined administrative processes and alternative methods for hearing cases should be explored.**

Several methods for streamlining case processing were identified by those interviewed. They included the issuance of one-page orders for procedural issues, an attempt to limit the number of pre-hearing conferences, allowing the hearing examiner to conduct pre-hearing conferences, better use of the paralegals, and making better use of stipulations. Other small commissions have made use of more informal processes to expedite case handling. In North Dakota, for example, informal, open meetings are held following most formal proceedings. No notice is made of these meetings although they are included

on the Commission calendar. Meetings are tape recorded. No sworn testimony is presented, but the party bringing an issue is asked to present the issue. Staff is allowed to respond. In these informal meetings, no decisions are made. If a Commission decision is required, it is held for the next formal meeting. If it is apparent that controversy will develop, the issue is sent to a hearing. According to staff, these meetings have substantially streamlined the Commission process.

More dramatically, the APUC might also consider changing the manner in which cases are heard. Currently, Commissioners hear all cases with the hearing officer in attendance as a legal advisor, though her role has been limited. Other approaches are available. In some cases around the nation, a single commissioner will hear a case; in other instances, several commissioners (less than the full commission) can hear cases. In other states, albeit typically larger ones, hearings are conducted by hearing examiners, who later present their findings to the commissioners for ratification or amendment. The commissioners must still make their decisions based on the established case record. This latter option may be appropriate for the APUC where the concern is the identification of the appropriate balance between due process and speed. This option also has the advantage of allowing commissioners to focus on policymaking and questions of industry structure and develop specific expertise.

**Observation: As the work of the APUC shifts towards more policymaking and away from the kinds of fact finding embedded in traditional rate cases, the APUC may want to further explore the use of nontraditional means of making decisions.**

A majority of the substantive work of the APUC has been performed through formal adjudicatory processes that emphasize due process, which includes the requirements that Commission rulings be based on the public record accumulated in the course of the proceedings and that there be a separation of functions between those who make the decisions and those who argue before them on behalf of specific positions. These adjudicatory and often confrontational processes work best in matters of retrospective fact-finding and in those cases where winners and losers can be identified. They worked well when the majority of the Commission's work was the setting of utility rates and when specific utility interests conflicted with the interests of ratepayers.

Unfortunately, they do not work as well for future-oriented establishment of policy or in finding creative or collaborative solutions to public policy problems.

Despite the fairly standard requirements that govern public utility commission adjudicatory processes, the application and design of these adjudicatory processes vary across commissions and across time. The APUC process is fairly formal and rigorous in its interpretation of *ex parte* requirements. The APUC staff are charged with presenting the staff case in adjudicated proceedings and are generally regarded as serving an *advocacy* function, a function that is particularly critical since there is no separately constituted consumers' counsel in Alaska. Other intervenors also present their views, which are entered into the case record. Those staff members who are to be separated from Commissioners are designated by memorandum for each proceeding. Staff not so designated may be used by Commissioners as resources; they are regarded as being *advisory*. This split between the staff's advisory and advocacy roles is commonly referred to as bifurcation of a commission. In some cases, the staff attempts to reach a settlement with parties prior to the presentation of a case.

As the work of the APUC shifts towards more policymaking and away from the kinds of fact-finding embedded in traditional rate cases, the APUC will need to further explore the use of nontraditional means of making decisions. Options include designating more Commission actions as "rulemaking" rather than adjudication and using more mediation, negotiated rulemaking, workshops, technical conferences, and task forces. Training in mediation for Commissioners and staff or the use of external mediators/facilitators may be useful as well.

**Observation:** Commission orders are perceived as being not well written and take too long to prepare and issue.

Several of those interviewed expressed strong dissatisfaction with the time required to write orders and the quality of the content of those orders. Currently, the responsibility for writing orders is fragmented among staff, paralegals, the hearing examiner, and (potentially) Commissioners. Most who commented on the training that had been provided for writing orders regarded the training exercise as a failure. Some felt that training must be on-going in

order to be effective. Some feel that paralegals lack the expertise to write good orders.

In addition to providing more training in the writing of orders, the APUC may want to consider the consolidation of responsibility for writing orders. One option is the expanded use of hearing examiners to write orders. This is standard practice around the nation and has the opportunity to create a good balance between the provision of an adequate background in orders and clear policy direction. If hearing examiners are to write the preponderance of Commission orders, more examiners would need to be added to the current one.

**Observation: Additional statutory deadlines are not a preferred solution to APUC problems of timeliness.**

Some APUC members suggested that because statutory deadlines are for the most part being met, perhaps the legislature should enact more. These types of guidelines are common around the nation but do little to expedite proceedings, at best serving only to force commissions to pay close attention to the prompt handling of cases. New deadlines would not necessarily help the Commission address the highest priority issues before it. Externally-set deadlines also encourage invention of ways to get around them if necessary to meet changing priorities. And the Commission, like other administrative agencies, needs flexibility to manage itself. Our suggestion is, instead, a determined, concerted effort, with the aid of an outside consultant experienced in the development of support systems for management, to improve the timeliness of case processing.

## **EXTERNAL RELATIONS**

**Observation: Maintaining a good working relationship with the legislature will be necessary to ensure that the APUC can maximize its contributions to industry restructuring.**

By most accounts, the APUC enjoys a good working relationship with the legislature, aided in part by the legislative experience of two of the Commissioners. Those linkages will become increasingly important in the future

as the Commission further adopts a more legislative rather than judicial role. Commissions around the nation are increasingly recognizing that developing and maintaining good relationships with external stakeholders is critical to their emerging missions. In the past, public service commissions may have adopted a "less-attention-is-better" strategy toward the media and legislature, only responding when required. At least one comment to the NRRI indicated the belief that the APUC's legislative strategy has been largely reactive. Commissions are now recognizing that a proactive media strategy is one key to the success of consumer education.

In addition, with the movement toward deregulation some members of the public do not understand the mission of public service commissions. A proactive media strategy can assist the APUC in its efforts to inform the public about its programs and continuing roles.

## **CONSUMER PROTECTION**

**Observation: Increases in consumer complaints are beginning to strain the capacity of the Consumer Protection section.**

Although everybody the NRRI interviewed who commented on the Consumer Protection section agreed that it is functioning very well, there are incipient signs of overload. The section is quite self-sufficient, while not isolated from other sections, but does receive support from other staff on particularly knotty technical complaints. Complaints on telecommunications service have increased dramatically, due to the advent of competition. Disposition of a complaint takes up to six weeks and the average time before resolution is becoming longer because complaints are not only more numerous but more complicated than in the past. Interviewees reported an increase in carrier-to-carrier complaints, which are now being treated as informal complaints but may need to be upgraded to formal ones if they continue at the current rate. Solely on the basis of the strain on the capacity of the section due to increasing consumer complaints, a case can be made for providing additional support to this section, both clerical and professional.

**Observation: The overall mission of state regulators throughout the United States is shifting towards new means of consumer protection, especially through consumer education.**

The major responsibilities of the Consumer Protection section, as listed in the Commission's FY 1997 *Annual Report*, are to investigate and resolve consumer complaints, disseminate information, and provide public relations support to the Commission. Although the consumer protection staff does some community outreach, the complaint load prohibits much consumer education and public relations effort.

In Commissioners' Summit conferences held under the aegis of the NRRI and NARUC, commissioners from around the United States have agreed that in the near future much of the work of public utility commissions will be directed toward protecting consumers in restructured markets and educating them. Competition cannot work well unless consumers have the information, ability, and motivation to make informed choices. A proactive media strategy is also a tool for consumer education, especially since the movement towards deregulation means that some legislators and members of the public may not fully understand the APUC's changing role. Consumer affairs, including complaint handling, consumer education, and public relations, will not be a tangential function, but a central one. Many state commissions are actively engaged in shifting towards a "consumer-centered" orientation.

Although a substantial commitment of time and energy will be required to perform effective consumer education in the short run, this need may decline over time as competition becomes the norm. The APUC may want to consider flexible, interim options to support its consumer protection section in addition to some increase in permanent positions. Consultants, temporary staff, or existing networks that already have links to consumer groups, are options that might be explored. Whatever combination of permanent staff or temporary help is chosen, the Commission will need to analyze information needs of consumers, their current level of awareness, and how they receive messages about the industries under the purview of the Commission. Preparation of appropriate literature and outreach to Alaskan communities can follow.

**Observation: Since there is no separate consumer protection agency in Alaska, the Commission role is even more important than in many other states.**

For electricity and gas regulation, Alaska's situation is idiosyncratic *vis-a-vis* the rest of the country, but the transition to competition is already affecting the Commission in telecommunications. Since there is no separate state consumer protection agency in Alaska, the Commission's advocacy role is even more important than in many of the states that have such a specialized agency. Both Commissioners and staff will need to be involved in recentering APUC goals on the consumer, with particular attention to residential and small business consumers. This can happen in the context of traditional concerns in Alaska for economic development through utility infrastructure and within the constraints of Commission jurisdiction. The good working relationship of the Consumer Protection section with larger utilities is commendable, as are the efforts to deal expeditiously with the carrier-to-carrier complaints the section has begun to see in telecommunications.

### **INFORMATION FLOWS/COMMUNICATIONS**

**Observation: Information needs at all commissions are becoming more complex and less easily categorized.**

An efficient communications system for any organization ensures that the people who contribute to organizational results have the right information, including adequate feedback, at the right time. Coordination of information flows or communications is a management function that ensures that individuals and work groups are neither overburdened with information nor starved for this vital resource.

Both APUC Commissioners and staff interviewed by the NRRI expressed frustration with information flows and communications within the Commission and sometimes blamed each other for communications problems. While these criticisms deserve attention, it is important to place them in the context of the increasing complexity of information requirements and the increasingly uncertain, amorphous nature of the information actually available at any and all commissions in this time of regulatory transition.

In a traditional commission, staff is highly specialized not only in their tasks but in the type of information they present as testimony. Both substantive and process information are necessary to smooth commission operations. Process information includes such matters as case dockets, timetables, budgets, and assignments. Cases are developed and executed in the form of testimony (the primary substantive information) presented by all parties from their individual points of view, with a decision rendered on the evidence by the full commission. There is a presumption that the staff point of view, company point of view, and the views of other interested parties are sufficient to give commission decisionmakers the ability to decide for that particular company in that rate case. In the traditional commission organization, marked by adversarial proceedings, communication is very much on a "need-to-know" basis. If errors are to be made, the traditional commission preference is to make them on the side of too strictly limiting information flows rather than allowing too much out into the open.

The APUC, because of the state's unique energy situation, is to a greater extent than many commissions in the lower 48 still appropriately a traditional regulatory agency. But the Commission is affected by transition in the electric industry and is fully involved in restructuring of the telecommunications industry. In this time of great change, everyone at the APUC is struggling to make sense out of ambiguity. In this environment, more emphasis is needed on substantive communications about nonprogrammed activity, especially that related to initiating and establishing new programs. Process information, so essential to the efficient functioning of a traditional agency, becomes more the servant of substantive informational needs in an agency in transition. For all involved, both Commissioners and staff, the available information is likely to seem incomplete and unsatisfactory compared to earlier times.

**Observation: Lateral communications within the Commission appear to be quite good.**

Within the major working groups — the commissioners, technical staff, and administration — the exchange of ideas and information seems to be substantial and open. One Commissioner remarked particularly that the Chairman is very forthcoming with information.

**Observation: Commissioners tend to complain that they cannot always easily acquire information from staff, while staff tend to complain that Commissioners are uninformed.**

Commissioners say they find it difficult to obtain the information they need to frame issues and make decisions. One Commissioner commented that staff likes to work independently but that Commissioners need to hear the opposing viewpoints from staff. Commissioners remarked that they do not have contact with individual staff and that information is tightly controlled. Sometimes staff input may be quite technical and quantitative, without an understanding of the context of the hearing, suggested a Commissioner. One Commissioner remarked that a presentation from Alascom, set up in an effort to broaden external sources of information, provided more information "than we ever could have otherwise [gathered]."

Several staff remarked that before a hearing they do not always know the scope of the proceeding or what questions the Commissioners would like to have answered. Staff were concerned that Commissioners in some cases do not have a full understanding of the substantive information they need to make a decision and that they focus on administrative details instead. One staff member said it was disheartening to be named to brief a subject and have a Commissioner argue with the staff member from what s/he considered a superficial knowledge of the subject. Others said they believed the Commissioners rely more than they should on industry to set priorities and provide a context for their decisions. Another remarked that in their opinion Commissioners do not send information down to staff and do not know the extent of the demand they are placing on staff when they request information. However, both Commissioners and staff remarked on people at the Commission who are able because of exceptional ability and their positions in the organization to master a breadth of vital information and coordinate its use.

**Observation: Commissioners and the Executive Director need to work together to improve Commissioners' knowledge of substantive utility matters.**

Clearly, Commissioners need to have more information earlier about cases they will be deciding. But this is not a one-way street. It requires effort on the part of Commissioners as well as staff. In the past, commissions decided issues that were arcane but well-bounded. Today the issues are often strategic ones, but decisions still depend for their impact on complicated operational considerations. One way to help commissioner preparation on cases expected to come before them is for the Commissioners to prepare an "issues list" comprised of questions they would like answered and circulate it to staff well before a hearing. Staff might also provide Commissioners with "must read" documents, again well before an actual hearing, perhaps even before the circulation of the list of issues. Commissioners would read the documents and prepare their questions, so that they can learn what they need to know in each major case and generic proceeding.

The use of teams to create a coordinated staff viewpoint has been an efficient way to develop policy perspectives within staff and to avoid overwhelming the Commission with unnecessary analysis. In a time of increasing substantive complexity, however, there may well be greater need for presentation of conflicting and somewhat redundant data and analysis from multiple sources. In other words, it is possible to provide too much orchestration to the development of some staff positions and end up overly restricting Commissioners from access to the expertise and accumulated wisdom of staff. One way for the Executive Director and other technical staff to accomplish this might be to institute issue roundtables that include the participation of Commissioners. The use of teams among staff has done much for cross-fertilization of knowledge. With nonroutine problems, the use of roundtables, which could include industry participation as well, would broaden that team approach. Another means of enhancing understanding of current issues throughout the commission might be a series of tutorials. We caution, however, that these suggestions, if they prove of interest to the APUC, must be taken on in a structured, incremental progression, rather than all at once, so as not to impede tackling some of the other problems discussed in this report.

### **PART III OVERALL CONCLUSIONS**

There is much to be proud of at the APUC. Despite a heavy workload, it has, by all accounts, served the public interest. There is a fear, however, that the agency cannot continue to perform its important functions without real reform. The areas most in need of attention seem to be:

Commissioner-staff and Commissioner-to-Commissioner relations, which includes issues of leadership and morale

Timeliness

The quality and speed of Commission orders

The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels.

Electronic filing and management information systems.

The APUC has many competent and dedicated professionals. By focused application of their talents, the challenges facing it can surely be met.

## APPENDIX

### COMMENTS RECEIVED IN INTERVIEWS

#### OVERALL COMMISSION FUNCTIONING

*In some respects, not much has changed over time at the Commission. The upcoming "sunset" review of the Commission will be important. The current level of discontent with the Commission is higher than in the past over a variety of carriers. Some utilities seek help/relief from the Commission. There is a mix of adversarial and cooperative relationships with utilities. Stakeholders are not looking for radical change.*

*Despite the turmoil and recent loss of staff, staff is generally doing a good job of focusing on the task. The Commission environment is characterized by constant emergencies. The workload has increased dramatically (tripled or quadrupled). There are not enough resources. There is a risk that the workload will overwhelm Commission consideration of the big picture.*

*The Commission is full of good people. The staff are the strength of the Commission. Staff have the feeling that the work of the Commission is important. There is an us-versus-them attitude between Commissioners and staff. Commissioners are experienced. The funding source is stable.*

*The foundation is crumbling. There is some inclination to adopt the status quo.*

#### LEADERSHIP

*The Commissioners are experienced. Equally important, they have significant legislative experience. The chairman especially has access to the legislature. There is bipartisan legislative experience within the Commission itself.*

*It was divisive to have a dispute on timekeeping in public.*

*I don't think the [timekeeping dispute] was particularly debilitating. I have seen some battles and some morale problems.*

*The staff considers it a distraction to have Commissioners who are absent.*

*An earlier attempt by the Governor to remove a Commissioner was in the press.*

*I've heard from industry that staff shows disrespect for Commissioners.*

*We have Commissioners who want to administer rather than do strategic planning and an Executive Director who does substantive stuff because that's where the vacuum is.*

*Each Commissioner has his own personality and brings some strength to the process.*

*It's hard to know what a problem is if you are only getting one Commissioner's opinion.*

*We're slow in production and do finger pointing, a common industry complaint.*

*We have good ability to work with industry. They don't have a difficult time getting a point across to us.*

*Some Commissioners are not as easy to get along with. Commissioners could be more supportive — treat people with courtesy.*

*Our major strength is a committed, knowledgeable staff and our major weakness is the Commissioners. They should show up for work. There is infighting. At hearings, they haven't read the filings, haven't read the staff memos with one exception.*

*Commissioners often come into a hearing with their minds made up.*

*The Commissioners don't have a sense of urgency. But there are cases where Commissioners get excited and involved. Then they make an effort.*

*People earning the high salaries are not accountable. The buck doesn't stop anywhere.*

*It's demoralizing to have staff come down with something to sign but nobody's in.*

*Commissioners have a total lack of appreciation for the work that has to be done. There is never a thank you from a Commissioner.*

*It's bad for morale to have lazy Commissioners.*

*All five of the Commissioners came with zero knowledge and aren't interested in working hard to learn their job.*

*Industry has fear of reprisals.*

*You can't make too much of dissatisfaction but I believe utility dissatisfaction level is considerably higher than when they had extremely knowledgeable and hardworking Commissioners.*

*There is a double standard for Commissioners which is wearing on staff. Former Commissioners read stuff.*

*The current Commissioners are not particularly technically adept. One of them is conscientious. They even do things that give worse impressions than they have to — cable TV in their offices.*

*There are differences of opinion partly because we have Commissioners that aren't thinking alike.*

*We never had a sense of where we were going. This is endemic to a regulatory commission.*

*Having hearings at 8:30 was impossible.*

*Friends in industry call and say "what's happening." They feel they're not going to be heard, that there are biases. Utilities see the place in disarray, ineffective, dysfunctional.*

*We don't have the feeling we have the support of Commissioners. It didn't used to be this way.*

*Leadership could be better but I am afraid it never will be. It could be a lot worse than we have. I'm happier now than in the past.*

## **MORALE**

*Staff comes to work because they feel they're doing something worthwhile.*

*The people [here] are dedicated, knowledgeable and good team players.*

*There are lots of hard working people. People are one of our assets.*

*Staff are hardworking, have good experience, are committed — excellent.*

*There has been some loss of morale — have and have nots on promotions.*

*The APUC staff is a real small group. Everybody has input and is listened to.*

*Morale is okay, but there is some frustration. Disputes among Commissioners [are one cause]. On the staff side there is frustration over workload and interruptions that impede scheduling. Commissioners have time lines that don't take into account the individual's workload.*

*[Commenting on morale]: Commissioners need to have an idea of what they are asking for.*

*Everybody is overworked and puts in extra hours. We're a close group — you can get assistance from other sections.*

*There is high stress.*

*Everybody is supportive. [Morale varies] section by section.*

*This is a sick agency. There is a distinct minority of dedicated, hard working people and they're worked to the bone. A distinct minority of people have a feeling of serving the public interest.*

*We have extremely high stress and tension levels, which is probably contributing to attrition. We have the lowest morale of any commission.*

*Low morale is leading to attrition.*

*There is too much focus on negatives and not enough on fixing things.*

*The trend is in a bad direction.*

*In general, employees are not treated well.*

*We're in meltdown.*

*I believe in public service — serving every consumer in the state.*

*The Telecommunications Act hasn't helped morale. But overall there's no inspiration to go the extra mile.*

*Trend is downhill quick. Philosophical view is that we will probably settle somewhere but can be in quite a bit of danger while we're going down.*

*Despite all the turmoil, staff is doing a good job of keeping their nose to the grindstone.*

*A lot of people with bad morale have left. Three to five years ago morale was worse.*

*Things have changed so much in the last six months that I am optimistic.*

## COMMISSION STRUCTURE

*The Common Carrier group is the most open to calling on other sections and serving other sections.*

*The location of APUC in Department of Commerce and Economic Development allows good communications with allied functions. The Executive Director has bi-weekly meetings with representatives of related functions in the Department.*

*Staff feels they used to get more support from assistant Attorneys General. It would be helpful if the A.G.s sat down with staff to say "this is the strategy." Should attorneys be team leaders?*

*There is some feeling by others in the Commission that common carrier people are the "stars."*

*The hybrid structure works well as an allocation of resources. Resources are where the tasks are. If organized by utility sector, expertise would be tailored by sector. Structure gives flexibility because you can form teams.*

*It is difficult to have partially exempt staff who don't work for the Commission. The Chairman can't supervise them.*

*Telecommunications is the fair-haired division. They are unaccountable for their work or their errors.*

*The computer support function may take up too much of the Engineering Section's time, and the engineering function may suffer.*

*It's not the structure that's the problem. It's the people.*

*It would help accountability to reorganize.*

*The Chairman doesn't have a clear line of authority on administrative matters. Consensus is a poor way to manage a work force.*

*The Commission structure is not efficient. There is a high concentration of bosses to Indians. Cases mix across sectoral boundaries [implying that there are too many sections].*

*If the Commission were restructured, it would cause apprehension and affect morale — not that that's so bad.*

*The Executive Director is the person with veto power [on cases] but it is usually one lead staff person who develops a position and tries to sell it to the group.*

*There has always been a question of how much authority the Chairman has. There is minimal management at the Commissioner level which is sometimes good and sometimes not.*

## **STAFFING**

*The process does not support Commissioners.*

*Commissioners can't get staff to devote time to their projects. Commissioners complain of a lack of information being received from staff.*

*Staff are represented by attorneys assigned by the Office of the Attorney General. The Commission can't contract for additional assistance.*

*The same attorney who argued the staff case may have to defend the Commission on appeal even if the Commission disagreed with staff.*

*Though the attorneys are very busy and not always timely, they come through in a crunch. There is not enough legal support. The Commissioners should have their own legal counsel.*

*The workload for attorneys may not be balanced between representing staff and filling an advisory role, but there should be a split of the two attorneys on a case-by-case basis.*

*The legal advice received is sound. It would be helpful to have more attorney input in case development. In the past, more support from attorneys was received.*

## MANAGEMENT INFORMATION SYSTEMS

*I sometimes feel that procedures are crumbling here.*

*We have management by emergencies. It feels like we're under fire all the time.*

*We should get more efficiency rather than hiring more people.*

*We're not getting basic management information [and this harms accountability and performance evaluation].*

*We're in meltdown. [The problem] starts with records and finance, one of the most critical parts of the organization. We don't get filings.*

*Computers are good [up to date in quality and speed] and a lot is done on them. It would be nice to have electronic filings. There should be two full-time computer support staff.*

*There is duplication of entering information into computers. We are using computers as typewriters. We need an integrated information system. We are not at the request for proposal stage on this. It is difficult to dedicate resources to solving this problem.*

*The mail is slow getting from the fourth floor to the third floor. Urgent documents do not get downstairs fast enough.*

*It's slow to get information and documents electronically available.*

*Rates and Finance doesn't get mail downstairs or filings downstairs in a timely manner. We lose several days.*

*We have more computer tools but don't have someone to help use them.*

*We need a data input person. We need to create calendars so people don't miss deadlines. We need to go to electronic filings.*

*We have fairly reasonable computer support, though software is a problem and we need to replace [the data processing] person who left.*

## COMMISSION PROCESS

*Procedural time lines are lacking. Current statute allows the Commission wide discretion to set deadlines. Some pipeline cases have been open since 1986. Cases are not being handled promptly. Statutory deadlines should be imposed. Time delays are the result of bad process, not a lack of resources.*

*The Commission isn't performing well substantively, procedurally, or timely. We have several checkoff lists [to manage processes] agency wide. Procedural tracking could be done better than it is. When a docket or tariff reaches a certain point it is sent to the third floor for further processing and it is difficult to know what's going on. Stuff gets lost. A month later it may show up. We have lots of internal procedures that aren't written down anywhere and we don't know when they change. A procedures manual would help. There is good industry support for getting the Commission the resources it needs to process cases quickly. Increased caseload is stretching resources and we are getting further behind. Deadlines are not being met. Utilities expect faster decisions under a competitive environment. Should statutory maximums for decisions be made tighter? To fix slowness we need to see where the delays are more precisely. Statutory deadlines are usually met.*

*Commissioners find it hard to keep track of filings, schedule, and substance as well.*

*It takes longer if you try to take shortcuts. We should do proper motions in the first place [talking about due process]. [There are] no priorities. [It takes] lots of work to coordinate technical staff. Prioritizing is a weakness. The magnitude of the work is a problem and the feeling that everything has the same value. How do you address backlogs? How do you meet the public interest and still simplify workflow?*

*Need a standard reporting process on the status of projects.*

*The Commission is improving on production and efficiency. There is growing participation by Commissioners in making sure once a decision has been made it goes out the door. Staff for the most part does their work on a timely basis. We now have more people who write orders so that's improving. Paralegals write them. Staff writes lots of orders, especially engineering and finance staff. The adjudication phase also takes time.*

*Adjudication packets are still being put together at the last minute. Often orders are approved but sit within the Commission. They have to be signed by all five Commissioners [but sit on their desks]. The Commission process is slower than before because Commissioners don't have a sense of urgency. Some issues get priority and the Commission does see to getting them done. I can get an order drafted within days and it can sit for three months on a Commissioner's desk. Circulation of an order can take months. Staff is always late.*

*Commissioners are not clear about their expectations of advisors; sometimes an active role is expected; sometimes it is not. More three-Commissioner panels could be employed. Procedural orders are too detailed. There is no need for multiple pre-hearing conferences. The one-page order for procedural issues is helpful.*

*There are not enough staff to have full staff separation in important cases. The Executive Director splits staff to provide advantage to the advocacy side. Negotiation between the Executive Director and the Commissioner managing the docket would be helpful. There is a lack of staff responsiveness to Commission desires. The first priority of staff is to provide effective advocacy; effective advisory support is secondary. The lack of a consumers' counsel means that staff must protect the public interest. Previously, staff didn't have an advisory role and were wholly advocacy. Replacement of advocacy staff or addition of advocacy staff in the middle of a process requires due-process notification. In complex cases, one side might get shortchanged and might need outside resources. The role of staff even in an advocacy role is to round out the record, not to "win" the case; it is hard for staff to understand that. Staff do not respect the process or the Commissioners. Commissioners need to hear opposing viewpoints.*

*The assignment of a lead staff person for case preparation is sometimes ambiguous and sometimes shifts. Much case work interaction is informal. How the primary staff person assigns duties to the other staff is unclear.*

*"Splitting the staff" is a major concern. Because of small staff size, splitting creates frustration among the staff. Commissioners often regard staff in an advocacy role as "the enemy." The paralegals have not helped the process, and their skills have not been fully employed by Commissioners. The paralegal experiment was a "disaster." Supplementing the advocacy staff in mid-stream has been a problem.*

*There are frustrations among those involved with the APUC about the time required to complete cases. There is also some perception that the Commission values form over substance. Schedules agreed to in pre-hearing conferences are not held to. Delays are caused by hidden agendas, lack of case management, lack of competence, and inadvertent delay. The delays are caused by lack of a sense of urgency on the part of Commissioners. Documents can take months to circulate among Commissioners. The process of producing orders is getting better. The increased caseload has outstripped the increase in resources; the Commission is falling further behind. Cases have increased significantly. The staff side is generally timely; the fault lies on the Commissioner side.*

*Some cases are procedurally defective when brought to the Commission. The Chairman assigns Commissioners to cases as Docket Managers. The quality of*

*pre-filed testimony and exhibits is "scary." There is some question as to who sets schedules. Some Commissioner expectations of timing are not communicated well. The Commissioner may spend too much time attempting to make the perfect case and opinion; they may need to relax in the interest of speed. The Commissioner needs to find the right balance between due process and speed.*

*The Commission has a fairly good record of not being overturned. In some cases, decisions should have been appealed but weren't, perhaps because parties might feel that the Commission might have been vindictive. There seems to be some unevenness in the application of due process — sometimes overly rigid.*

*There has been little use of alternative methods of dispute resolution (ADR). The lack of skilled staff and the governing statutes prohibit better use of ADR. Stipulations are sometimes reached after dockets are filed. In a fairly high percentage of cases, there is some stipulation. Sometimes Commissioners want a detailed overview of stipulations. Staff might be too disputative to serve as mediators.*

*The Executive Director leads the advocacy team and does a final review of the staff case. The Docket Manager is the day-to-day leader. All voices are heard in case development. Sometimes the Executive Director overrules staff.*

## **EXTERNAL RELATIONS**

*The legislative experience of Commissioners is an asset. The Legislature has been responsive to the difference between the APUC and other agencies. The Commission is frequently asked for advice by the Legislature. The Legislature regards the Commission as a resource. The Commission has a good relationship with the Legislature. The Commission attempts to avoid lobbying. The relationship with the Legislature has been reactive except in limited situations.*

*The environment is more political than in the past. There is now more interaction with the Governor. Commission decisions are rarely overturned. There is now more contact with the public, which is more knowledgeable than before.*

*Commissioners have limited contacts with external stakeholders due to lack of time. Overall, external relations are good. Public contact is increasing and the public is now more knowledgeable. The public doesn't understand the Commission process.*

*Some regulated utilities might be afraid to be direct with the Commission for fear of reprisals. They are definitely frustrated by the lack of timeliness and the concern with form over substance.*

## CONSUMER PROTECTION

*The Consumer Protection section is working well.*

*I'm totally satisfied with the job Consumer Protection does. I see no problems in consumer affairs [Consumer Protection]. [As a technical staff person] I get involved in lots of the complaints.*

*The state does not have a consumer protection agency. Consumer protection needs to be beefed up. It should be at the forefront of what we do.*

*There has been a dramatic increase in complaints in telecommunications. We now have three competitors in Anchorage.*

*The number of complaints has doubled and there are only two intake people. The section cannot do administrative stuff [because the complaint handling takes all the time]. The section was promised a half time clerk but received a one-quarter [-time clerk] instead. Disposition of a complaint takes up to six weeks. It's taking longer because complaints are becoming more complicated. Telecommunications is the majority of the complaints.*

*There are not enough resources and [there is] high stress. The Consumer [Protection] section should have enough resources to do what other commissions are doing in this area.*

*They [Consumer Protection section] keep to themselves. They get a lot of work. Complaints have risen. They do call on me [a technical staff person] for assistance, such as drafting letters. Sometimes (but rarely) I talk to consumers.*

*There is not enough community outreach. I would like the Consumer Protection section to do more.*

*A Consumer [Protection] section representative does do some outreach — visiting churches and senior groups.*

*The amount of time it takes the Commission to decide issues harms [the] Consumer Protection [section]. Often the Commission has to be defended for delays. Consumers may think that information is being withheld [when in fact there has not been a decision].*

*Commissioners should not promise results from the Consumer Protection section. Often the issues they refer are not even jurisdictional to the Commission.*

*The Consumer [Protection] section reports to the Commission once a month in a public meeting.*

*The Consumer [Protection] section does not prepare literature on the Commission.*

*The Commission used to be more consumer conscious. As the state becomes more deregulated it will become more important to consider consumers.*

*The Consumer [Protection] section has cooperative relationships with larger utilities [for complaint resolution].*

*The Consumer Protection section is starting to get utility-to-utility complaints, or a utility filing complaints on behalf of customers of another utility. These are now being treated as informal complaints but are typically complex issues. The APUC wants to [handle a complaint of this sort] quicker as an informal complaint but may have to bump them up to formal complaint status.*

*Consumer complaint processing is a slow process. It would be good to shorten the time period for a utility to respond to a complaint.*

## **INFORMATION FLOWS/COMMUNICATIONS**

*The Commission arranged a presentation from Alascom in an effort to broaden external sources of information. This was successful — more information than we ever could have otherwise.*

*Communications among Commissioners are good. The Chairman is very informative.*

*Communications are fairly good: this is a small community. But sometimes the Commission has questions for staff that come out at a hearing but would be nice to know about ahead of time. It would be good to know what information they're seeking. The scope of a proceeding and Commissioner questions are sometimes not clear. I'm not sure how you'd do this effectively. The staff is less politically aware [than Commissioners] and technical staff may respond to Commissioner concerns in numbers, without input in the context of a political situation.*

*There probably is some isolation for Commissioners.*

*We have problems with information flow. Every Commissioner who is not the Chair complains they have no idea what's going on.*

*Staff likes to work independently but Commissioners need to hear opposing viewpoints in staff. We don't have contact with individual [staff]. Information is tightly controlled.*

*External communications are limited for the Commission. The Commissioners keep getting down to details and don't have time to understand the substantive issues.*

*There is room for improvement on vertical communications. We are an hourglass with the Executive Director in the neck.*

*It's not always clear what Commissioners want. We have Commissioners who want to administer and an Executive Director who does substantive stuff because that's where the vacuum is.*

*Internal communications are poor.*

*Lack of communication [is a problem]. Lateral communications are better than vertical but lateral aren't great. If you're not working on an order it doesn't get to you. We should have electronic means to see a brief summary of an order [because there may be one related to one you are working on].*

*These Commissioners rely a lot on industry. They get a sense of what's important and what industry wants. Often the Commissioners come in with their minds made up. In adjudicatory hearings it's even more obvious.*

*Out of necessity, the Administrative division has become very close.*

*Commissioners do not respond to their e-mail.*

*We have differences of opinion partly because we have Commissioners that aren't thinking alike [aren't evenly prepared on substantive matters].*

*Communications are laterally good and vertically relatively cordial.*

*The Commission considers staff the enemy because "you're staff" or because "they know more than we do."*

*It is disheartening when you are named to brief the subject and they [the Commissioners] argue with you with no information.*

*There is not always clear direction from Commissioners about what they want [from staff advisers]. Since you don't know what they want, it is hard to prepare.*

*This place is a big gossip house. But you don't get communications on things you need to know and aren't told. Commissioners' information doesn't flow down. They don't know what demands they're placing on us.*