

HB

30001

(File 2)

HFIN

FILE

TABLE OF CONTENTS

REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson, Chair
Bernie Smith
Patricia M. DeMarco
Will Abbott
James S. Strandberg

RCA TESTIMONY AND EXHIBITS To Senate Judiciary Committee Hearings June 12 – 13, 2002 (Revised June 20, 2002)

1. Testimony of G. Nanette Thompson, Chair, RCA
2. Comparative Charts – Agency Performance
3. Comments in Support of Reauthorization of RCA (packet)
4. Alaska Legislative Audit #08-20013-02
5. 1998 NRRRI Evaluation of APUC
6. 2000 NRRRI Report on RCA
7. Memorandum from Landry, Dept. of Law, re APUC Sunset (6/21/94)
8. AS 44.66.010
9. AS 42.05.711
10. UNE Rate Comparison Matrix
11. 5/20/02 Letter to Senator Taylor from Chair Thompson
12. FY2001 Annual Report (2 Volumes)
13. U-00-115(18) – GHU/CUC
14. R-00-4(2) IXC applications
15. R-02-4 Notice of Inquiry – Small Water & Sewer System Certifications
16. R-00-5(2) Joint Use Regulations
17. U-98-151(8) Crimsonview
18. U-99-141(5) et al. GCI/PTI/TUA/TUNI Cost Model
19. U-97-82(11) - Order on Rural Exemption
20. U-96-89(8) Anchorage Arbitration Order
21. Reimbursement check for Thompson trip costs (2000)
22. Letter from Thompson regarding emails/correspondence to and from utilities on effect of sunset (6/17/02)
23. U-94-002 (T-HREA) and U-96-114 (FMUS) - Cost allocation orders; related emails
24. Material relating to Boysen email
25. Material requested on June 18, 2002

SECTION 1

Testimony before Senate Judiciary Committee

June 13, 2002

G. Nanette Thompson, Chair RCA

Thank you for the opportunity to testify before this committee on the issue of reauthorization of the Regulatory Commission of Alaska. I am Nan Thompson, the Chair of that agency and I am appearing here today with the other Commissioners; Patricia DeMarco, Will Abbott, Bernie Smith and Jim Strandberg. We are all available to answer questions, and they may have comments to offer individually also. You have heard anecdotal information from several utilities. We urge you to carefully consider the agency's record.

The agency has done a great job of working its way out of the mess we inherited from the APUC in 1999. Many of you were in the legislature and participated actively in the effort in 1999 to abolish the APUC, and create a new agency, empowered with new tools and the directive to do its job better. In response to complaints from industry in the late 90's, the National Regulatory Research Institute, an organization that supports the work of state regulatory commissions nationwide, was hired to visit the APUC, analyze its operations and recent improvements. A year after the recommendations were completed, the agency had taken no action to implement them and the legislature stepped in. The position of executive director was eliminated; A public advocacy section was created. The commission was empowered to hire whatever kind of support it needed to resolve cases more effectively. A management information system was funded. The Chair was given administrative authority over the agency's operations. All of these changes were in response to specific problems identified with the agency's operations.

It was not a sunset year for the APUC. The legislature has power in any year to review the operations of any state agency and change its enabling statute as necessary.

We invited NRRI back in February 2000 to see if the problems they identified in 1998 were addressed by the legislature's changes to the enabling

statute, and the resulting commission. The answer was yes. I have copies of their report available for members of the committee. They found that "[E]ach of the areas identified in the first review as being in need of attention has experienced substantial improvements." An impartial body, with expertise in the operations of utility regulatory agencies and experience with the problems the APUC had found that the agency was back on track.

NRRI identified several areas of potential future concerns, and we have followed up on their recommendations. We invited them back to facilitate the development of a new mission statement for the agency. They are invited back again this summer to provide leadership and management training to the staff section heads. We would be happy to invite them back again to analyze and recommendations on some of the issues raised during these hearings, like bringing back an executive director, and looking for more ways to reduce the agency's caseload.

You have heard anecdotal stories about particular cases that have been portrayed as examples of the RCA operating poorly. We can and will address the specific cases referenced in yesterday's testimony. I would also like to share with the committee how the agency handles its workload.

In 1999 when we walked in the door there were more than 500 open dockets. Many had languished without action for years. We set about the task I called "triage." Each commissioner got an equal share of that caseload with the directive to analyze the case and figure out what needed to be done to move it forward. This was a daunting task. Each of us had to work our way through sometime a file, sometimes a file cabinet full of agency record on the case to understand it. Commissioner Abbott referred to this process as being forced to take a drink of water from a fire hose.

There was no uniform, agency-wide method for tracking filings with the agency. Shortly after we began, I uncovered a few hundred more cases, and instituted a system to keep track of all of the agency's work that would allow everyone within the agency easy access to the list of open cases and who within the agency was responsible for each filing.

The agency caseload is now less than 400. From over 700 cases, we have worked our way down to less than 400. It has been a substantial challenge to keep abreast of and adequately process current filings (which average about 450 a month), while slowly working our way through the old dockets. This change in the agency's caseload represents a strong commitment to accomplish the directive of cleaning up the backlog that the legislature gave us in 1999. Evidence of that accomplishment is found by looking at the number of substantive orders the agency has issued each year. That number has more than doubled. I have a chart that graphically demonstrates this accomplishment. All of those orders are available to the public on our website, another change instituted by the RCA. If you have not had the opportunity to visit our website, I encourage you to do so. It is a useful tool to inform the public and allow them access to our process and information filed with us.

One of our important responsibilities is to review tariff changes for economically regulated utilities. Any change to the rates or terms of service must be approved by the RCA. Last year we received 576 such filings. Eighty-five percent of those were resolved within 45 days. Within that 45 day period, the public was notified of the change, staff analyzed the proposed filing and discussed questions with the utility, comments were reviewed, the proposal was reviewed and voted on by the five commissioners and an order was issued. The remaining filings were suspended for further investigation. Filings can be suspended if they raise significant issues that cannot be adequately analyzed in 45 days, for example a large utility's request for a rate increase, or if the comments filed suggest the need for a hearing or further proceeding to build an adequate record for decision.

Another important responsibility is handling consumer complaints. We receive an average of more than 600 a year. Our role is to investigate by contacting the utility, looking at the relevant law and tariff provisions and working to resolve the complaint. The legislative auditor looked at our process and the volume of filings and found that "the agency is quite responsive to consumer

complaints." Of those more than 600 complaints, most are resolved within 15 days. I have a chart that illustrates our track record.

The next chart I want to show you divides the number of complaints by industry. More than 80% of the consumer complaints we get are from telecommunications consumers. Soon after Congress decided there should be competition in that industry in 1996, the agency saw a dramatic increase in complaints. This illustrates how the agency's role changes in competitive markets. We have regulations that expedite the process for approving changes in the rates and terms of service offered in competitive markets. We spend less time monitoring their prices when consumers have real choices and more time addressing the consequences for consumers of competitive markets.

The RCA is a referee. We do not make the laws, we apply them. It is our job to implement the directives reflected in the work of this legislature and Congress that we get in the form of laws. We make sure that those laws are fairly applied. In that process there are winners and losers. Utilities and consumers are not always happy with the results. Our job is to make good decisions based on the information presented to the agency that are consistent with the law. Most of the companies we regulate would agree with what Ms. Caitlin from ATT Alascom said yesterday. They do not always like the result, but they need a referee to make a decision and they believe we have been doing a good job as a referee. Some of those companies testified in the House proceedings, many are sitting in the audience of these hearings, and others have written letters of support.

I have a group of those letters to give you. Some of the letters are from folks who could not come to testify, including Bill Nugent, the President of NARUC, Dave Wirick of the NRRI and Kathleen Abernathy, a current FCC commissioner. Others are from industry, large utilities like Enstar and Waste Management, Inc., and smaller ones like TelAlaska and Colville, Inc. The most extraordinary letter in the packet from my perspective is the one signed by 18 attorneys and consultants that regularly appear in front of us. It still amazes me that this group of people, who spend their lives disagreeing with each other in our

hearing room all agreed on one thing and signed one letter urging the agency's reauthorization.

The epic battles in the electric and phone industries were waged before there was an RCA, and will continue long after us. The public needs us to make sure that their interests are protected while these businesses wrestle with their competitors and would-be competitors. Small utilities need us to make sure their interests are heard in the face of the larger players in the field. We are the agency with the expertise to understand what the utilities are fighting about and why, and make sure it is a fair fight. Any effort to eliminate the agency because you have lost a round of the fight is like killing the referee because he ruled against you. I don't think any of us would like to watch the bloody battle that would ensue with a referee.

If any utility does not like one of our decisions, they have a remedy in the current process. They can ask for reconsideration, and all five commissioners will read the record and make a decision based on what the previous panel saw, and any additional information filed. Our decisions on reconsideration are due within 30 days.

If the utility still thinks that we misapplied the law, they can appeal to the courts. The courts have reviewed ten of the RCA's decisions. In nine out of ten cases that our decisions have been reviewed our decision was affirmed. That means that in nine out of ten cases we correctly applied the law. Mr. Furchott-Roth stated yesterday that you judge our effectiveness by the standard of administrative liberty. He explained that administrative liberty was consistently and fairly applying the law. We meet that test.

Our process has improved and will continue to do so. The way we operate, as an agency is fundamentally different than how the APUC operated. The filings are transmitted and shared electronically. The bottlenecks in issuing orders have been addressed by changes in the process designed to improve the quantity and quality of our orders. With the elimination of the executive director position, section heads have more responsibility and opportunity to develop professionally. We have emphasized training and encouraged supervisors to

address and identify specific needs. Consolidation of the administrative functions in the chair has enabled the other commissioners to focus on the substantive work of the agency, and allowed clearer direction for staff.

We have used the tools given us by the legislature effectively. We adopted regulations to put a dispute resolution process with strict deadlines into place to resolve disputes between telecommunications carriers. We have actively encouraged utilities to work with each other to resolve disputes and avoid the expense and delay of litigation. Chugach Electric is to be commended for resolving a longstanding dispute with its wholesale customers by agreeing to the recommendation of an impartial expert they jointly hired. GVEA, whose rates had not been reviewed for 18 years, faced a monumental task in preparing its filings. They successfully settled their case with the PAS shortly before the hearing was to begin. We encourage parties to actively work to resolve disputes themselves.

The agency process will always be a work in progress. As the markets we regulate, we need to change in response. We have actively sought input from industry in the bench and bar conferences noted by Mr. Yould yesterday. We will continue that effort, and can assign more time to that process if the result of this process is agreement that the commission needs to spend more time on process and less on doing cases. The balance we have struck is based on the legislative priority to clean up the backlog. Our efforts there have been largely successful. If the committee wants specific issues addressed, we can invite NRRRI to return. Review of the agency by representatives of companies with filings pending before the commission for decision would be awkward and inappropriate. We are different than the private sector because we do not have the same control over our workload. We do what the legislature through statute, and the utilities, through their filings, direct. In order to be most useful, an impartial expert that is familiar with our mission and has knowledge of how comparable agencies operate nationwide should do a review.

Our process is designed to produce fair, reasoned decisions.

Because the committee has heard testimony that our process takes too long in some cases, I would like to explain what that process is to give you a context from which you can evaluate those concerns. When we adjudicate disputed cases, we act as a court. Parties have due process rights designed to insure that our decisions are fair. Interested parties have the opportunity to participate by attending hearings and filing comments. We make our decisions based on facts that are in the record that all parties have access to. We do not discuss open dockets with anyone other than staff and each other in any setting that all parties are not a part of.

We make all of our decisions as a group. The commissioners meet weekly to discuss cases that are ripe for decision. The docket managers are responsible for putting the cases on the calendar, and presenting the case for discussion. We openly debate the results. Staff is present if necessary to answer questions and the attorney general is present to answer questions about whether the proposed result is consistent with the laws we operate under. This is a good process that allows us to each bring our individual backgrounds to bear to resolve the difficult issues we face.

After the discussion, the panel members vote, and a drafting assignment is made. Commissioners draft orders or staff and all edited by the paralegals and attorney. They are circulated, and each panel member decides if they agree or not. Sometimes commissioners change their minds when they see the draft. Any commissioner that does not agree with the individual result is free to write a dissenting opinion. This process works to effectively to render group decisions.

The RCA expire on June 30, 2003 if not renewed. That's what the statute says. It goes on to say that "Upon termination the commission shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs."

The Department of Law interprets the law for state agencies. In a June 21, 1994 opinion that I have provided you with a copy of, the AG opines that we have the responsibility to prepare to close our doors at the end of the year. We

must prioritize our caseload, and determine how to best allocate our resources during the final year. As we lose staff who seek more stable employment, we will need to readjust our priorities. I wrote a letter to Senator Taylor last month explaining the agency's approach that I have also provided you with copies of. We will do the best job we can with the resources we have. Even if the legislature and governor come back in January to reauthorize the agency, damage will have been done. We will be unable to stay on top of our current caseload and transition our responsibilities to other agencies.

In conclusion, I would like this committee to consider the vital role that the RCA plays in creating a stable business environment and protecting the interests of utility consumers. The legislature does not need to terminate the agency in order to reform it. As is did in 1999 when the agency was not under sunset review, we as an administrative agency are subject to whatever legislative changes are effected.

The RCA is 100% funded by the Regulatory Cost Charge. When our programs are transferred to other state agencies during and after the wind down year, they will need general fund support.

The RCA plays a vital role in making universal service funding available to telecommunications carriers that serve high cost areas. Without the RCA, these companies face uncertainty as the FCC defines a new process to handle their applications. Delay of this vital source of revenue could be very harmful to these companies.

Our ability to move forward on regulatory dockets would be impaired. A plan to conclude the agency's business by the end of the year is not likely to include time spent working to adopt regulations there will be no agency to enforce.

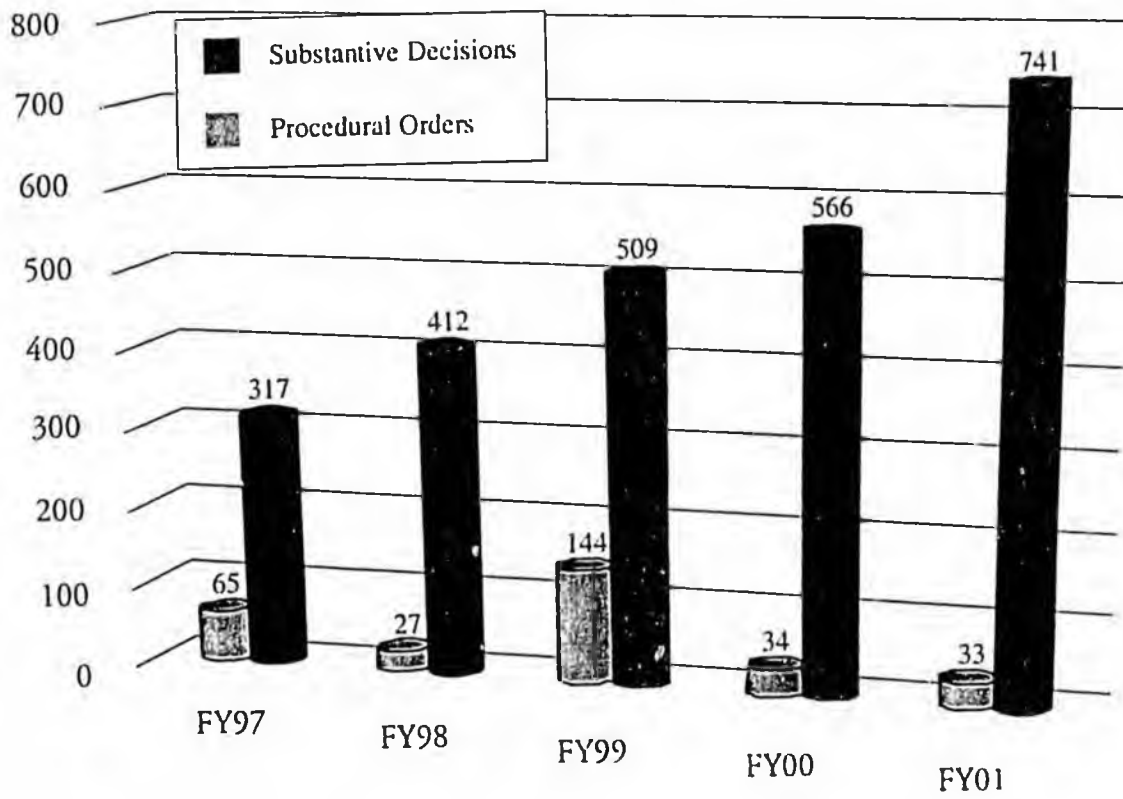
As a referee we will be disabled, and consumers and companies will be forced to resort to the courts where solutions come more slowly and at a greater price.

The RCA has accomplished the legislature's prime objective in 1999, to clear up the backlog and get the agency functioning more efficiently. The

caseload has been dramatically reduced during the last three years, while coping with a steady stream of new filings. We will continue to work with industry representatives on our process, recognizing that the agency must continue to change as the industries that we regulate change.

SECTION 2

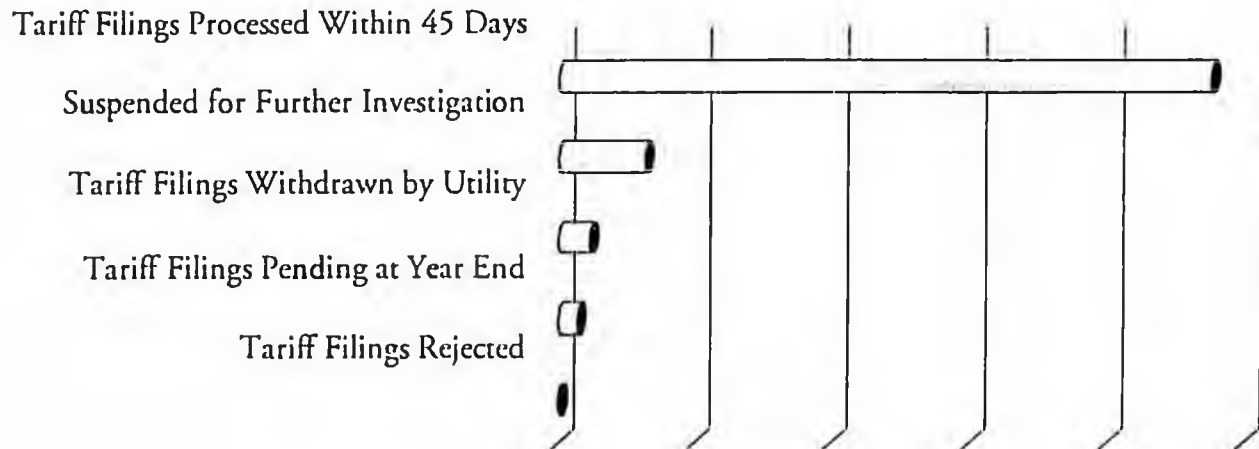
RCA DECISIONS



The RCA focuses on decision-making.
More substantive orders are issued than procedural orders.

Source: Regulatory Commission of Alaska

PACE OF DECISIONS ON RCA UTILITY REQUESTS TO CHANGE RATES OR TERMS OF SERVICE



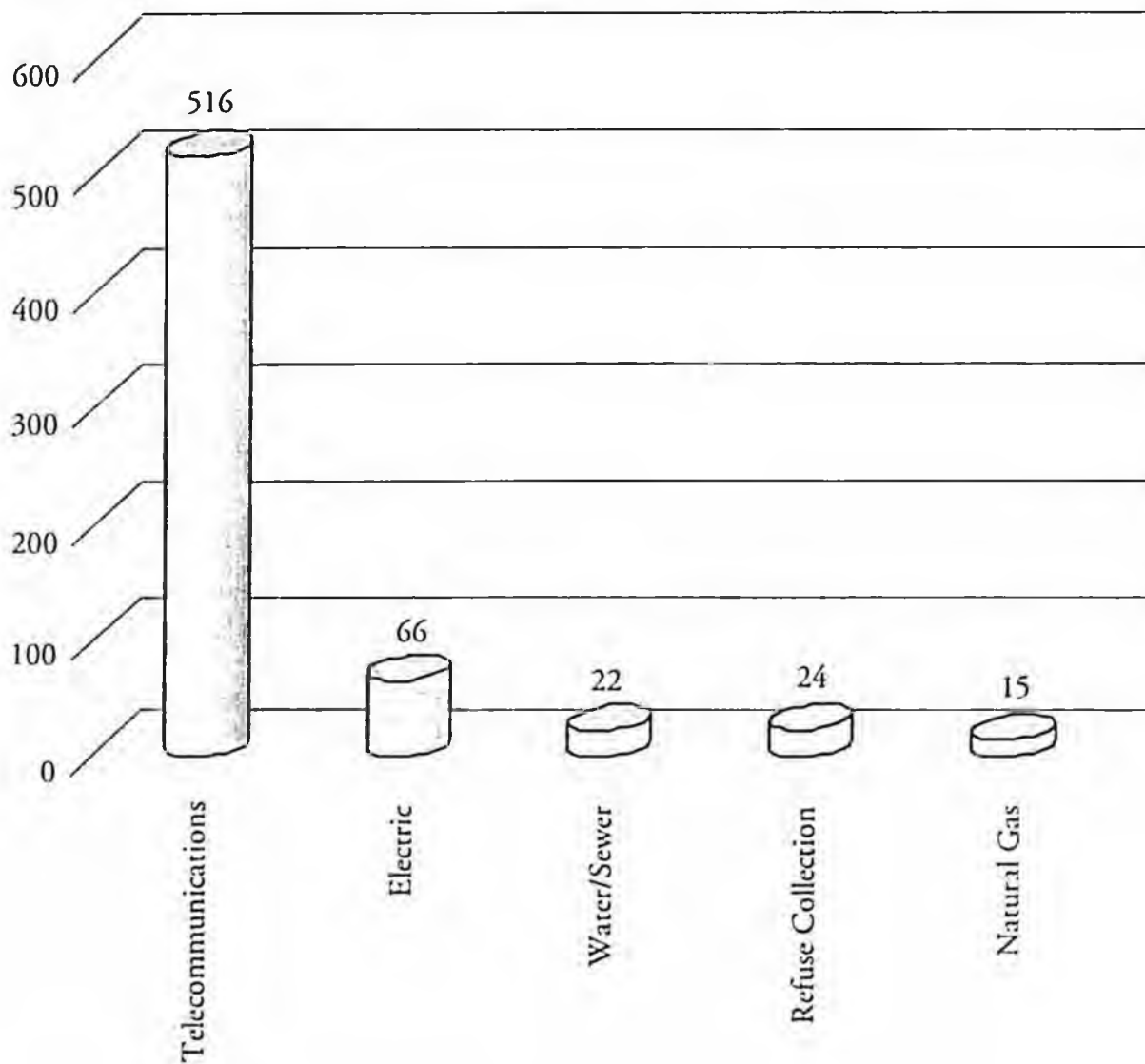
During FY01 there were 576 tariff filings submitted to the Commission. Of these, 475 were processed routinely (generally within 45 days of receipt). Of the remaining filings, 63 were suspended for further investigation, 1 was rejected, 23 were withdrawn, and 14 were pending at year end.

Source: Regulatory Commission of Alaska

CONSUMER COMPLAINTS TO RCA

The Regulatory Commission of Alaska handled 643 complaints between July 1, 2001 and May 28, 2002

Types of Utilities Involved in Consumer Complaints Filed with RCA

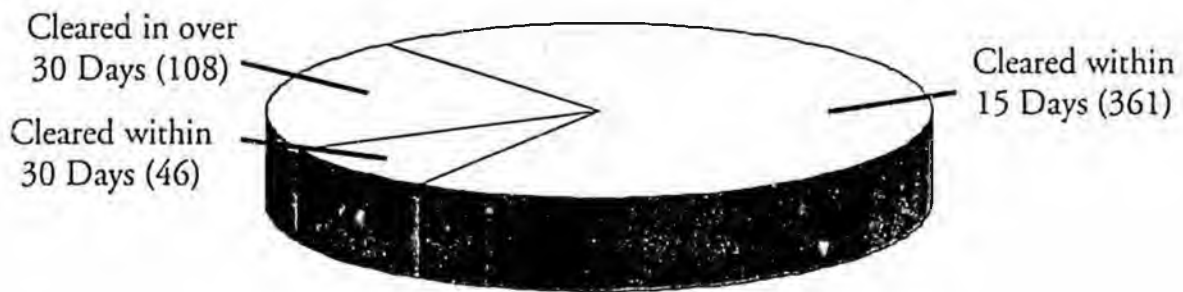


Source: Regulatory Commission of Alaska

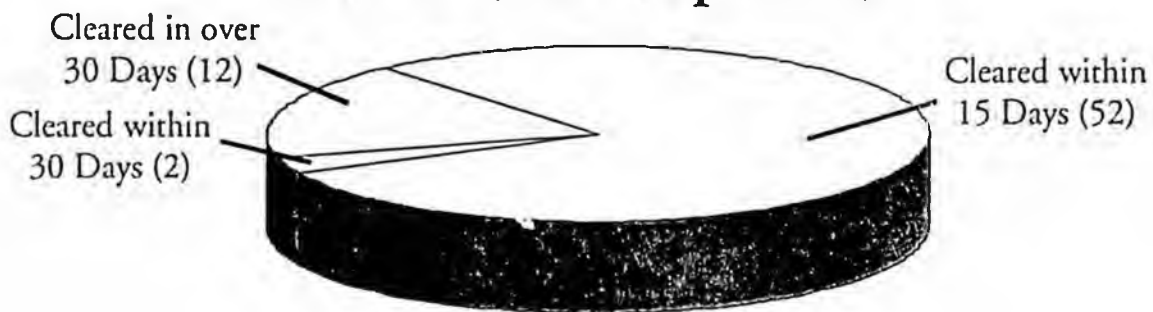
CONSUMER COMPLAINTS TO RCA

The Regulatory Commission of Alaska handled 643 complaints between July 1, 2001 and May 28, 2002

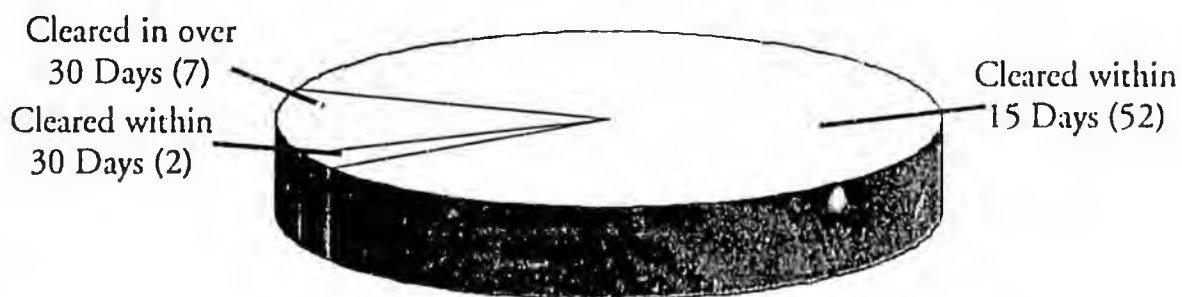
Telecommunications (516 complaints)



Electric (66 complaints)



Other Utilities (61 complaints)



Source: Regulatory Commission of Alaska

SECTION 3

Comments in support of reauthorization of the RCA

Packet Contents

Date	From
6/10/2002	William M. Nugent, President/Nat. Assoc. of Reg. Commissioners
6/10/2002	David W. Wirick/National Regulatory Research Institute
6/6/2002	Jack Rhyner, CEO/TelAlaska
6/6/2002	Jim Rowe/Alaska Telephone Association
6/5/2002	Kathleen Q. Abernathy, Commissioner/FCC
5/23/2002	Kirk Duncan, Division Mgr/Waste Management of Alaska
5/17/2002	Henry P. Lang, P.E./Lang Consulting
5/17/2002	Don C. Schroer/Former APUC Chairman
5/14/2002	J. Jeffrey Mayhook, Esq.
5/10/2002	Attorneys & Consultants Who Practice Before the RCA (14)
5/10/2002	Mark Helmericks, President/Colville, Inc.
5/6/2002	Michael J. Felix, President/CEO - AT&T Alascom
5/3/2002	Anthony M. Izzo, President/ENSTAR Natural Gas
5/2/2002	Dana L. Tindall, Sr. Vice President/GCI1
5/1/2002	Jim Rowe/Alaska Telephone Association
2/27/2002	Eric Yould, Executive Director/ARECA



N A R U C
National Association of Regulatory Utility Commissioners

June 10, 2002

Hon. Rick Halford, President
Alaska Senate
P.O. Box 190
Chugiak, AK 99567
Fax 907 594-0549

Hon. Brian Porter, President
Alaska House of Representatives
716 West 4th Avenue
Anchorage, AK 99501
Fax 907-269-0154

Dear Mr. Presidents:

We understand that you are soon to decide in special session how and to what extent public resources should be used to protect consumers' interests in utility matters. We hope you find the following comments helpful as you decide whether or not to re-authorize the Regulatory Commission of Alaska.

In states and countries around the world, vital utility services (energy, telecommunications, and—in some cases—water) are provided by a unique mix of monopoly and competitive providers.

Where the state has granted monopoly status to one or more providers, legislatures—recognizing that unchecked monopolies might overprice their services or underserve their customers—established commissions to ensure quality service at rates which are just and reasonable to shareholders and investors as well as to customers. Such rates should provide financial returns sufficient to attract needed capital and incent proper management behavior, while preventing providers from exploiting their monopoly (or dominant) positions.

While some utility services (water systems and electricity transmission and distribution systems) seem likely to continue as monopolies, new technology is making it possible for formerly monopoly activities (electricity generation and telecommunications) to be opened to competition. As these markets develop, their prices often reflect uncertainty or inappropriate manipulative behavior (e.g., Enron in the California market). Regulators, as authorized by legislatures, write market rules that help bring uncertainty from those markets, lowering prices and enabling customers to choose effectively among potentially complex alternatives. Working with the regulated utilities, many utility commissions have devised reasonable but strict service quality standards to ensure customers get what they pay for.

In addition, legislatures across the country and around the world are directing utility commissions to protect consumers from "slamming" (the switching of customers from one supplier to another without the customers' knowledge), "bait and switch" pricing practices, and other consumer abuses.

In a country of 280 million people it is unlikely that distant Federal agencies will provide any significant protection against unfair rates, poor utility services, or abusive treatment of individual consumers. Indeed, in moving to open the telecommunications industry to competition (the Telecommunications Act of 1996), Federal lawmakers placed many detailed, case-specific responsibilities on state regulatory authorities because Federal agencies did not have the capacity to handle the extraordinary volume of state-specific matters in accommodating expanded competitive opportunities.

For more than a century, regulatory commissions in the U.S. and in scores of countries abroad have ensured consumer access to quality utility services at fair rates. Administering laws written by legislatures, the commissions have helped create conditions in which utilities have prospered. As competition comes to the utility industry, experienced regulatory bodies are an effective tool by which lawmakers can continue to protect their constituents and their states' economies.

If we can provide you with additional information or be of any other service, please do not hesitate to contact me at 207.287.3831 or Charles Gray, NARUC's Executive Director at 202.898.2208.

Sincerely,

William M. Nugent

William M. Nugent, President
NARUC

NARUC PRESIDENT LETTER TO ALASKA LEGISLATORS CONSIDERING WHETHER TO EXTEND THE CHARTER OF THE ALASKA COMMISSION EMPHASIZES IMPORTANCE OF STATE AGENCY OVERSIGHT

Contact: Brad Ramsay 202.898.2207 or jramsay@naruc.org

WASHINGTON, D.C. June 10, 2002 - Today, the President of the National Association of Regulatory Utility Commissioners, Maine Commissioner William M. Nugent, sent a letter to key legislators in Alaska describing how state utility regulators work to "ensure quality service at rates which are just and reasonable to shareholders and investors as well as to customers." The Alaskan legislature has slated a hearing this Wednesday on whether to re-authorize the Regulatory Commission of Alaska.

According to President Nugent:

"Administering laws written by legislatures, the commissions have helped create conditions in which utilities have prospered. As competition comes to the utility industry, experienced regulatory bodies are an effective tool by which lawmakers can continue to protect their constituents and their states' economies.... Working with the regulated utilities, many utility commissions have devised reasonable but strict service quality standards to ensure customers get what they pay for."

The National Association of Regulatory Utility Commissioners is a non-profit organization founded in 1889. Its members include the governmental agencies that are engaged in the regulation of utilities and carriers in the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's member agencies regulate telecommunications, energy, and water utilities. NARUC represents the interests of State public utility commissions before the three branches of the Federal government and the Independent Federal agencies. Additionally, NARUC files briefs and pleadings before the U.S. Supreme Court and other Federal courts in support of State utility commission interests. NARUC also provides the Executive Branch with policy proposals and works with the Departments on the formulation of regulatory policies. NARUC works closely with the Federal Energy Regulatory Commission, the Federal Communications Commission, and the Nuclear Regulatory Commission, the Securities and Exchange Commission and the Federal Trade Commission to ensure the State perspective is considered in their proceedings.

The National Association of Regulatory Utility Commissioners
1101 Vermont Avenue NW Suite 2000
Washington, D C. 20005

Phone: 202.898.2200
Fax: 202.898.2213
Webpage: www.naruc.org

###

The National Regulatory Research Institute



1080 Carmack Road
Columbus, Ohio 43210-1002

Phone: 614/292-9404
FAX: 614/292-7196

June 10, 2002

Representative Brian Porter
3430 Fordham Drive
Anchorage, AK 99508

Dear Representative Porter:

In the summer of 1998, I was asked by the Alaska Public Utilities Commission to conduct a review of its organization and operations in advance of the upcoming sunset review of the Commission. Dr. Douglas N. Jones and Dr. Vivian Witkind Davis assisted with that review, which resulted in a report to the Commission in October 1998.

In our review, we found a Commission in substantial disarray and identified a fear that the agency could not continue to perform its functions without real reform. The backlog of cases was substantial, orders took an excessive amount of time and were judged as poorly written, and morale was poor. We suggested that improvements were most required in interpersonal relations, timeliness of Commission action, the quality and speed of orders, handling of consumer complaints, and information systems.

With our report in hand the Alaska Legislature took the extraordinary, but probably necessary, step of abolishing the Public Utilities Commission and establishing the Regulatory Commission of Alaska.

In 2000, the Chair of the RCA asked me to review the new agency, make recommendations, and determine whether or not improvements had been made. My report, which was issued in June 2000, found substantial improvement in each of the areas identified in the first report as needing attention. I found that the RCA was functioning at a very high level of energy and competence. Those interviewed for the second report, which included external stakeholders, provided nearly unanimous support for the work of and prospects for the RCA.

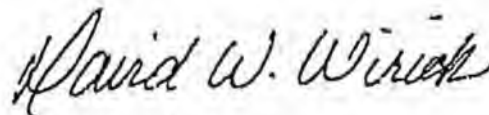
Over the past several years, I have worked onsite with more than 30 state regulatory commissions around the nation. As might be expected, they function at differing levels of effectiveness and efficiency. I regard the RCA to be one of the most professional and hard-working.

Page Two

Most of the public utility regulatory commissions around the nation have been in existence for nearly 100 years. We have learned that public utility regulation is a process, not an event. In every state, there are times when some interests are disappointed with commission action. What matters, however, is the long-term ability of the commission to create a balance among the stakeholders involved. Even those who might disagree with single commission actions are advantaged by a stable regulatory agency. I have no doubt that over the long term the citizens of Alaska will be well served by the RCA.

In the process of conducting my two examinations, I have developed great affection for the citizens, the public servants, and, of course, the natural beauty of the State of Alaska. I would be pleased to assist your decision-making process in any way that I can.

Sincerely,



David W. Wirick

Subject: Reauthorization of the Regulatory Commission of Alaska (RCA)

Date: Fri, 7 Jun 2002 11:38:54 -0800

From: e_anderson@telalaska.com

To: nanette_thompson@rca.state.ak.us

CC: Senator_Robin_Taylor@legis.state.ak.us, Senator_Dave_Donley@legis.state.ak.us,
Senator_John_Cowdery@legis.state.ak.us, Senator_Gene_Therriault@legis.state.ak.us,
Senator_Johnny_Ellis@legis.state.ak.us

Commissioner Thompson and Senate Judiciary Committee members:

A hard copy of the following letter will be mailed to you next week.

Sincerely,

Everette Anderson
Administrative Office Manager
TelAlaska

June 6, 2002

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
Alaska State Legislature
State Capital, MS 301
Juneau, AK 99801-1182

Re: Reauthorization of the Regulatory Commission of Alaska (RCA).

Dear Senator Taylor:

When we met in March, I expressed my concerns and my unequivocal support for the reauthorization of the Regulatory Commission of Alaska (RCA) for two major reasons: the loss of full and timely receipt of Universal Service Fund support for affordable telephone service and the possible derailment of an effort to address staff issues that have inhibited the performance of the RCA and its predecessor, the Alaska Public Utilities Commission (APUC). For the telephone industry, a primary concern is certification to receive Universal Service Support (USF). The state regulatory body must certify each local telephone company as an eligible telecommunications carrier annually to receive USF. This year, for Alaska, USF was nearly \$75 million. These funds are applied directly to the cost of providing local service and are the only reason local rates remain affordable in high cost areas. With the exception of Anchorage, every other community in the State of Alaska benefits from these funds. Without these funds, it is quite likely that there would be no affordable phone service outside Anchorage, Fairbanks and Juneau. Without a state regulatory body to certify the local telephone companies, we would have to individually apply to the FCC for certification. This process could well jeopardize part or all of this funding.

Additionally, there are two organizations, the Alaska Exchange Carriers Association (AECA) and the Alaska Universal Service Administrative Company (AUSAC), whose continued operation and administration may be called into question if the state regulatory body goes into wind-down. While these organizations are private nonprofit corporations, the courts have nevertheless ruled that they are extensions of the state regulatory body. AECA administers the collection and distribution of \$30 million per year in access charges, again for the small telephone companies outside of Anchorage, Fairbanks and Juneau. AUSAC administers the collection and distribution of \$1.9 million in state universal service funding (AUSF) which pays for "life line and link up" programs for low income households

throughout the state. It is not clear how these organizations would function without a state regulatory body or what their legal obligations are within the frame work of a wind-down year. The uncertainty and possible legal entanglement again places a sizable portion of the small telephone companies' revenues and continued service to low income households at risk.

In RCA Chair Thompson's May 20th letter to you she provided a laundry list of her legal obligations once the agency enters a wind-down year. There are two items which are especially disturbing. Chair Thompson, at the very least, places in question whether or not the RCA will have the resources available to conduct the USF certification in 2002. Timing is critical, there are no second chances if we must apply directly to the FCC. We must have as much lead time as possible with the as yet unknown FCC processes.

The other issue that concerns me as a rural provider is the cessation of work on regulation dockets. In my opinion, an extensive part of the problem with the APUC and now the RCA, is with the "staff" and how it functions. During the Second Session of the Twenty-Second Legislature, Chair Thompson testified before several Committees that she would deal with this problem through regulation for the Public Advocacy Section of the Commission. True to her word, the RCA opened Docket R-02-2 by the end of May. While it is never certain that any agency will truly reform itself from within, the opening of this docket at least provides for that opportunity in this case. If the RCA is not reauthorized and goes into a wind-down year, all work on this docket will cease; thus, delaying the resolution of what truly has been the fundamental underlying problem of the state regulatory body for 20 years or more. The creation of a new commission by the next Governor and Legislature, presuming a new slate of commissioners, could delay resolution of this problem for several more years.

This letter is intended to restate my strong support for reauthorization of the RCA because of the risk its disruption carries for rural Alaskans and the companies that serve their communications needs. Dissolution and the interim wind-down of the agency threatens Universal Service Support. Without that support it is quite likely that there will be no affordable phone service available outside of Anchorage, Juneau and Fairbanks. Certification of companies to receive USF support will transfer to the FCC through lengthy and obscure procedures that will certainly stall and probably reduce available funds. An additional concern is derailing the RCA Chair's effort to address the underlying staff problem through an existing docket. This issue is long overdue for attention and I fear that it will languish during the wind-down.

I understand that an old Attorney General's opinion was floated during the legislative session, that the regulatory body could conduct business as usual in a wind-down year, on the premise that we have been through all of this before and it is not a major concern. Let me point out that it is obvious Chair Thompson does not subscribe to that opinion. When the APUC went through wind-down, state commissions had not been given the responsibility to certify eligibility to receive USF support. For reasons that I am unaware of, at that time no one had considered the question of AECA and AUSAC continued operation.

My concern is that in order to make whatever gains you intend, harm will result in fundamental areas that affect communications services in rural Alaska and the companies providing those services. I urge you to reconsider your position and support efforts to reauthorize the RCA.

Sincerely,

Jack Thyner, CEO
TelAla. 1

~~Alaska Telephone Association~~

Steve Hamlen
President

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776
www.alaskatol.org

James Rowe
Executive Director
jrowe@alaskatol.org

June 6, 2002

Senator Robin Taylor
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

RE: Judiciary Committee Hearing

Dear Senator Taylor:

Thank you for scheduling Senate Judiciary Committee hearings to consider reauthorization of the Regulatory Commission of Alaska. We concur with remarks attributed to you in the Anchorage Daily News on May 10, that this discussion should take place in a public forum. We look forward to participating in this process next week. A number of representatives of member companies have indicated interest in sharing their thoughts with the committee and, hopefully, addressing some of their concerns that have delayed reauthorization.

As I mentioned in a previous letter to you, funding for rural telecommunications is very dependent upon universal service fund support which permits companies to offer local service at affordable rates. Dependent upon annual certification from the state commission to the FCC, Alaska residents received the benefit of nearly \$75 million in high cost support this year.

While appreciating the legislative oversight of state agencies through the sunset review process, we also recognize that even this safeguard does not come without a dollar cost to the state and industry and that cost is, at last, borne by the customer. A public utility commission is absolutely necessary for Alaska and a "wind down" year preceding the empaneling of a new commission is even more burdensome.

Moreover, the learning curve for new utility commission members is steep. When the current commissioners were confirmed three years ago, they faced a daunting educational challenge of coming up to speed on issues of telecommunications, power, pipeline, refuse, and water and sewer. After a year and a half or two years, we began to see significant improvement in their understanding of the complexity of the telecommunications issues. Our customers paid for much of that education and citizens of Alaska paid for all of it. We do not want to waste that investment by underestimating the value of experience.

Before closing, I'd like to mention a final attribute that is rarely present in any state commission. RCA Chair Nan Thompson is the State Chair of the Federal-State Joint Board on Universal Service. That is the most influential non-federal position on national telecommunications

policy matters for rural Alaskans. We will have access to the State Chair when that person is from Florida or Illinois or Missouri, but we have it now.

Thank you for permitting me to share some of these thoughts with you. I look forward to seeing you next week.

Best Regards,

A handwritten signature in cursive script that reads "Jim Rowe". The signature is written in black ink and extends across the page with a long horizontal stroke at the end.

Jim Rowe

cc: Members Alaska State Senate



OFFICE OF
THE COMMISSIONER

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 5, 2002

Representative Scott Ogan
State Capitol, Room 3
Juneau, Alaska 99801-1182

Dear Representative Ogan:

I understand that the Alaska Legislature is conducting proceedings concerning the reauthorization of the Regulatory Commission of Alaska. I have been asked to share my perspective as a Commissioner of the Federal Communications Commission and as Chair of the Federal-State Joint Board on Universal Service on my experiences working with Chairman Nan Thompson. Without commenting on how the legislature ultimately should structure the state regulatory commission, I am pleased to comment on Chairman Thompson's contributions to federal-state processes. In short, having worked closely with Chairman Thompson over the past year, I have observed first-hand her commitment to the people of Alaska, and to Americans generally. She ably represents their interests on critical matters relating to universal service and the deployment of advanced telecommunications and information services.

The Federal-State Joint Board on Universal Service (Joint Board), which was established pursuant to section 254(a) of the Communications Act of 1934, as amended, advises the FCC in most universal service proceedings that affect state interests. The FCC often formally refers a matter to the Joint Board for its recommendation, and in other cases the state members of the Joint Board file comments or informally advise the FCC. The National Association of Regulatory Utility Commissioners (NARUC) appointed Chairman Thompson to the Joint Board, and the state members of the Joint Board elected her State Chair.

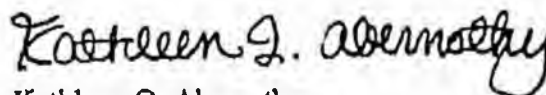
Chairman Thompson has proven an extremely effective leader and valuable colleague. Largely as a result of her organizational skills and hard work, the Joint Board is operating more efficiently than ever before. Even more importantly, from a substantive standpoint, Chairman Thompson has been a leading voice in debates over the administration of the federal universal service support mechanisms. For example, the Joint Board is presently considering whether to modify the list of services supported by the federal mechanisms, how to improve the administration of the federal low-income assistance programs (Lifeline and LinkUp), and how to distribute high-cost support to

non-rural carriers. In each of these proceedings, Chairman Thompson has effectively articulated the interests of Alaska consumers.

In addition to her work on the Joint Board, Chairman Thompson has been active in collaborative federal-state efforts to promote the deployment of broadband services. Former FCC Chairman William Kennard, in conjunction with NARUC, appointed her as Chair of the Joint Conference on Advanced Services, which provides a forum for federal and state commissioners to consider a wide range of crucial policy issues. Congress directed the FCC to take steps to encourage the deployment of advanced services, and we cannot accomplish that pivotal task without working closely with our state colleagues — particularly leaders like Chairman Thompson.

In sum, Chairman Thompson is a dedicated public servant and has been a highly effective partner in federal-state policymaking efforts. I hope to have the opportunity to continue working with her in the telecommunications arena.

Sincerely,



Kathleen Q. Abernathy
Commissioner, FCC

Subject: [Fwd: RCA Sunset]

Date: Thu, 23 May 2002 15:04:30 -0800

From: Wendy Arnett <wendy_arnett@rca.state.ak.us>

Organization: RCA

To: Nan Thompson <nan_thompson@rca.state.ak.us>

Bob called to say he was copying us on this email- I couldn't tell from the addresses how many people were copied. So here it is and ignore my odd voicemail.

----- Original Message -----

Subject: RCA Sunset

Date: Thu, 23 May 2002 17:46:11 -0500

From: "Lindquist, Robert" <Rlindquist@wm.com>

To:

"Senator_Alan_Austerman@legis.state.ak.us" <Senator_Alan_Austerman@legis.state.ak.us>
"Senator_Ben_Stevens@legis.state.ak.us" <Senator_Ben_Stevens@legis.state.ak.us>,
"Senator_Bettye_Davis@legis.state.ak.us" <Senator_Bettye_Davis@legis.state.ak.us>,
"Senator_Dave_Donley@legis.state.ak.us" <Senator_Dave_Donley@legis.state.ak.us>,
"Senator_Donny_Olson@legis.state.ak.us" <Senator_Donny_Olson@legis.state.ak.us>,
"Senator_Gary_Wilken@legis.state.ak.us" <Senator_Gary_Wilken@legis.state.ak.us>,

"Senator_Gene_Therriault@legis.state.ak.us" <Senator_Gene_Therriault@legis.state.ak.us>

"Senator_Georgianna_Lincoln@legis.state.ak.us" <Senator_Georgianna_Lincoln@legis.state.ak.us>
"Senator_Jerry_Ward@legis.state.ak.us" <Senator_Jerry_Ward@legis.state.ak.us>,
"Senator_John_Cowdery@legis.state.ak.us" <Senator_John_Cowdery@legis.state.ak.us>,

"Senator_John_Torgerson@legis.state.ak.us" <Senator_John_Torgerson@legis.state.ak.us>
"Senator_Johnny_Ellis@legis.state.ak.us" <Senator_Johnny_Ellis@legis.state.ak.us>,
"Senator_Kim_Elton@legis.state.ak.us" <Senator_Kim_Elton@legis.state.ak.us>,
"Senator_Loren_Leman@legis.state.ak.us" <Senator_Loren_Leman@legis.state.ak.us>,
"Senator_Lyda_Green@legis.state.ak.us" <Senator_Lyda_Green@legis.state.ak.us>,

"Senator_Lyman_Hoffman@legis.state.ak.us" <Senator_Lyman_Hoffman@legis.state.ak.us>
"Senator_Pete_Kelly@legis.state.ak.us" <Senator_Pete_Kelly@legis.state.ak.us>,

"Senator_Randy_Phillips@legis.state.ak.us" <Senator_Randy_Phillips@legis.state.ak.us>
"Senator_Rick_Halford@legis.state.ak.us" <Senator_Rick_Halford@legis.state.ak.us>,
"Senator_Robin_Taylor@legis.state.ak.us" <Senator_Robin_Taylor@legis.state.ak.us>

Dear Senators

I serve as Director of Regulatory Affairs for Waste Management of Alaska, a refuse company serving over 59,000 businesses and households throughout the state. Kirk Duncan, general manager of Waste Management's Alaska Division, requested that I forward to each of you an e-mail sent to Senator Halford on Monday afternoon. This e-mail expressly sets out Waste Management's sentiments regarding re-authorization of the RCA.

I look forward to hearing from any senate member to discuss further Waste Management's position on this issue.

Robert K. Lindquist
Waste Management of Alaska
6301 Rosewood Street
Anchorage, AK 99518

Tel? (907) 273-2754
Fax (866) 728-7336
Cell (907) 230-6466
*<mailto:rlindquist@wm.com>>

The information contained in this e-mail message is privileged,
confidential
and protected from disclosure. If you are not the intended recipient,
any
dissemination, distribution or copying is strictly prohibited. If you
think
that you have received this e-mail message in error, please e-mail the
sender at rlindquist@wm.com

<<Robert.Lindquist.vcf>>

-----Original Message-----

From: Duncan, Kirk-Alaska
Sent: Monday, May 20, 2002 4:24 PM
To: 'Senator Rick Halfo-d@legis.state.ak.us'
Subject: RCA Sunset Review

Dear Senator,

Waste Management is a regulated refuse utility with district offices
throughout the state. We serve 59,000 residential and commercial
customers
from Nome to Ketchikan and from Fairbanks to Dutch Harbor, including
Anchorage, Mat-Su Borough, Kenai Peninsula Borough, Kodiak Island
Borough
and the City and Borough of Juneau. We advocate the re-authorization of
the
RCA. To do otherwise will severely hamper our ability to facilitate
tariff
revisions that are necessary to meet the changing demands of our 59,000
customers. Accordingly, in the strongest terms, Waste Management of
Alaska, Inc. is asking you and the Senate to work towards authorizing
the
RCA for another term.

Please feel free to distribute this email to other members of the Senate
or
your caucus. I look forward to hearing from you or other Senate members
should you have questions regarding our position.

Thanks,

Kirk Duncan
Division Manager
Waste Management of Alaska, Inc.
6301 Roswood Street
Anchorage, Alaska 99518
tel: (907) 273-2727
kduncan@wm.com

Robert Lindquist < Rlindquist@wm.com > Director of Regulatory Compliance Waste Management of Alaska
--

Life Member
MCEC

LANG
CONSULTING

Henry P. Lang, P.E.
ELECTRIC POWER/ENGINEER

2117 S. 46 Drive
Anchorage, Alaska 99517

Member
AACE

2117 S. 46 Drive
Anchorage, Alaska 99517

2117 S. 46 Drive
Anchorage, Alaska 99517

Post-Net Fax Note	7871	Date	5/17/02
To	Ann	From	Henry P. Lang
Subject	Commissioner RCA	Ca	
Phone	276 6222	Phone	
Fax	276 0160	Fax	

Dear Mayor George Wuerch, Nov. 23, 01

It was a pleasure to have met you today while shopping. Your remark that an outside organization was interested in buying ML&P was of interest. I expressed my concern about such a buy-out as not in the best interest for the Utilities in the rail belt area. As a ML&P consumer, I have a copy of the Consumer Newsletter, Jan/Feb, 2001 wherein Mr. Michael Scott, General Manager, gave some remarks on this subject.

As a Professional Engineer, I have an ongoing interest in this subject. I have already given my deposition to Rep. Norman Rukelborg's joint commission in Anchorage in Anchorage, Aug. 6, 1998. And to your Department of Community Planning & Development, April, 4, 2000. (see inc!)

As of this date, I have not heard any more from my contacts in Juneau: Rep. Ethan Berkowitz and Sen. Nunina Lehtman. I would appreciate being kept informed on this subject.

Sincerely,

Henry P. Lang
Henry P. Lang, P.E.

Inc1

MEMO 5/17/02
Called Rep. Ethan Berkowitz & Sen Loren Leman today - in special session to continue support of RCA funding.
The Times Magazine, May 20, article "California Scheming" highlights the need for "Regulation"
Nations Energy of Chicago is proposing to build a PP in its old ship creek plant - to sell power to Ft. Rich. See my letter to Sakata 4/2/02.
We need to keep the RCA viable to prevent outside interests encroaching in this area.
Considered with the: LEA, ML&P & MEA. would provide economy of scale etc.

2117 S. 46 Drive
Anchorage, Alaska 99517

2117 S. 46 Drive
Anchorage, Alaska 99517

Project: KAPP @ EAFB - LOAD FLOOR EXPANSION

Job # _____

INTER-OFFICE GENERAL COMMUNICATIONS

Telephone Conference Memo Other _____

FROM: Person Henry Lang Firm _____

TO: Person Albert Sakata Firm Sakata Engineering

SUBJECT: Review of Project dated 1/29/02 - Sakata Engr. Services

Background: ADN Jan 19, 02 Restoring the Flow
The Engr. Arm. P.P. was built by CEA in the 1950's. Randy Hobbs... one of the current owners of the plant, said his company is working with Nations Energy of Chicago to acquire produce power at the plant.

We discussed my review comments regarding questions that may be asked by officers in his presentation. In general, the report reads well. It will require reference of "short circuit" on page 6.
With EAFB out to ML&P & CEA to provide a SS at the Ft. Rich. P.P. & power - what will be the impact on KAPP proposal to provide power and at what energy cost/KWH.
Who will dispatch power in emergency & planned outages?
How will Ft. Rich. & EAFB handle catastrophic power outages, terrorism, earthquake etc?
Will KAPP have a contingency plan?
I gave Albert copy of ADN Jan 19, 2002 article on "Restoring the Flow" - listing Nations Energy; Randy Hobbs etc.

Copy To: This was a "probation" review - a professional courtesy. Bob & Wishes Henry

Don C. Schroer

May 17, 2002

Members of the Alaska State Senate
Members of the House of Representatives
Juneau, Alaska

Dear Senators and Representatives:

I was the Chairman of the Alaska Public Utilities Commission for six years, from 1991 to 1997. From that experience I am very familiar with the nature of the agency (and its successor, the Regulatory Commission of Alaska), its workload, and its relationship with utilities. I also continue to be in contact with the current Chair, Nan Thompson, and with members of the regulated industry.

The RCA has an enormous workload and due process requirements are time-consuming. Furthermore, if it is doing its job correctly the RCA is destined to issue decisions that do not satisfy some of the major utilities in the state. After all, the consumer interest must be considered and the Commission cannot always rule in favor of utilities. Some cases involve one utility against another. Thus, opposition to the RCA from some utilities is inevitable.

From my observations, the current RCA is doing its job as efficiently and effectively as reasonably possible. While there is always room for improvement, I cannot imagine how the situation could be improved by failing to extend the Commission's life for 4 more years. Confusion and uncertainty would result and no doubt it would add costs to the consumers. For these reasons, I urge you to pass legislation re-authorizing the Commission.

Sincerely,



Don C. Schroer

MAYHOOK LAW, PLLC
508 NW 189th Street
Kidgefield, Washington 98642

J. Jeffrey Mayhook
Admitted in WA and AK only

Laura A. Mayhook
Admitted in OR, HI and IL only

May 14, 2002

VIA FAX and EMAIL

Senator Robin Taylor
Alaska State Legislature
State Capitol
Juneau, AK 99801

Re: CSHB333 – RCA Sunset Bill

Dear Senator Taylor:

As a 20-year member of the Alaska Bar with regulatory experience extending throughout the western United States, including Alaska, Washington, Oregon, California, Arizona, New Mexico, Texas, Idaho, Utah, Hawaii, Guam, and the Marianas Islands, I urge you to forego sunseting the Regulatory Commission of Alaska (RCA).

While I may not have always agreed with the RCA's past decisions, I have always trusted the integrity of its process, and, where appropriate, resorted to the court system to appeal any adverse decisions based on the merits of the issues. That's the way it's supposed to work.

More importantly, since the enactment of the Telecommunications Act of 1996, I have come to respect and appreciate the many challenges state regulatory bodies face in contending with the sea-change in national telecom policy and entrenched special interests. I have been particularly impressed with the RCA's moderate, careful approach to contending with these powerful forces, and the result, to be sure, is reflected in the fact that Alaska remains unscathed by the telecom melt-down that has occurred in the Lower 48.

Finally, I have nothing but the highest regard for the RCA's current chair, Nanette Thompson, who brings a refreshing degree of intelligence and level-headedness to an area of the law noteworthy for both its complexity and contentiousness. As the RCA exhibits the same competence and good attitude, I can fathom no reasonable reason for undoing the RCA's good work and winding down this essential agency. Thus, as a matter of due process and sound public policy, I urge you to place CSHB333 before the Judiciary Committee, so it can at least deliberate over whether to reauthorize the RCA.

Sen. Robin Taylor
May 14, 2002
Page 2 of 2

Very truly yours,

J. Jeffrey Mayhook

c.c.: Gov. Tony Knowles
Sen. Dave Donley
Sen. John Cowdery
Sen. Gene Therriault
Sen. Johnny Ellis

May 10, 2002

The Honorable Robin Taylor
Alaska State Senate
State Capitol, Room 30
Juneau, Alaska 99801-1182

Re: *Reauthorization of the Regulatory Commission of Alaska*

Dear Senator Taylor:

As attorneys and consultants who regularly practice before the Regulatory Commission of Alaska ("RCA"), we urge you to hold hearings and vote before the end of this year's legislative session on legislation passed by the House that would reauthorize and improve the Commission. We are concerned by recent press reports that the reauthorization bill may not be acted on this year. Based on our many years of collective experience, ~~we believe that the wind down process would be costly and inefficient, and should be avoided. It would create uncertainties for the utilities we represent, expensive delays, and potential disadvantages for Alaska consumers.~~

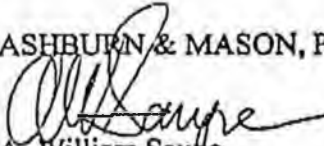
The termination of the Alaska Public Utilities Commission and its replacement just three years ago by the RCA was disruptive, but appropriate under the circumstances. The situation today is very different. ~~While by no means perfect, the RCA has worked hard to clear up the backlog it inherited and to move forward with new matters. The new commissioners are dedicated, hardworking, and nonpartisan. They deserve a chance to continue with their work.~~

If passed by the Senate, the bill already passed by the House, CSHB 333 (FIN), would not only extend the RCA, but it would also amend the Commission's authorizing statute, AS 42.05, by setting statutory deadlines for RCA decisions. Thus, CSHB 333 (FIN) would extend and improve an agency whose work is critical to Alaska's economic well-being.

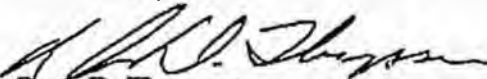
Please allow the reauthorization legislation to be considered and voted on before the session ends. Thank you for considering our views.

Very truly yours,

ASHBURN & MASON, PC


A. William Saupé

KEMPEL, HUFFMAN AND ELLIS, PC


Dean D. Thompson

The Honorable Robin Taylor
May 10, 2002
Page 3

DeLISIO MORAN GERAGHTY & ZOBEL, PC

Joseph M. Moran
Joseph M. Moran

ASHBURN & MASON

William S. Cummings
William S. Cummings

DORSEY & WHITNEY, LLP

for Heather A. Graham
Steven E. Mulder

KEMPEL, HUFFMAN AND ELLIS, PC

Roger R. Kempel by DDT
Roger R. Kempel

HONCHEN AND UHLENKOTT, INC.

Loren G. Honchen
for Larry G. Honchen

cc: All Members of the Alaska State Senate
The Honorable Brian Porter, Speaker of the House
The Honorable Eldon Mulder

N:\SJ\WVAWS\Taylor2

The Honorable Robin Taylor
May 10, 2002
Page 2

BRENA, BELL & CLARKSON, PC

Robin O. Brena

Robin O. Brena

GENERAL COMMUNICATION, INC.

James Jackson by mmw

James R. Jackson, Jr.

DORSEY & WHITNEY, LLP

Heather H. Grahame

Heather H. Grahame

HONCHEN AND UHLENKOTT, INC.

Loren V. Uhlenkott

Loren V. Uhlenkott

GENERAL COMMUNICATION, INC.

Martin M. Weinstein

Martin M. Weinstein

ASHBURN & MASON

for Allan L. Mason

LAW OFFICE OF ROBERT E. STOLLER

Robert E. Stoller

Robert E. Stoller *by RKS*



Colville Incorporated

Pouch 340012
Prudhoe Bay, Alaska 99734
(907) 659-3198
FAX (907) 659-3190

May 10, 2002

Senator Robin Taylor, Chairman, and Members of the Senate Judiciary Committee
Alaska State Senate
State Capitol, Room 30
Juneau, AK 99801-1182

Dear Senator Taylor and Members of the Judiciary Committee,

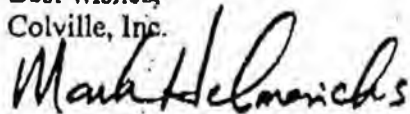
I manage Colville, Inc., a small solid waste company started by my family over 20 years ago. Colville is a ratepayer to a large municipal utility run by the North Slope Borough.

During the past three years, since the Regulatory Commission of Alaska (RCA) took over regulation of utilities, Colville has had one case decided by the RCA, and we currently have another case pending. I have found the RCA to be competent and responsible in fulfilling their statutory mandate to regulate the providers of utility services and to protect the interests of the ratepaying public.

As you probably know, the RCA is self-funded by user charges and does not impose a burden on the general funds of the State of Alaska.

I understand that the legislation to continue the operation of the RCA is pending in your committee. I ask that you give the legislation favorable consideration. The Commissioners are doing a good job in an area that is critical for the protection of the public interest for all Alaskans.

Best wishes,
Colville, Inc.


Mark Helmericks,
President

(907) 659-3198 Office
(907) 529-5775 Cell / Voice Mail

cc: Members of the Alaska State Senate
Regulatory Commission of Alaska

**AT&T Alascom**

Michael T. Felix
President/CEO

2101 Bull Drive
Anchorage, AK 99501-1100

May 6, 2002

The Honorable Senator Robin Taylor
State Senate
Alaska State Capitol
Juneau, Alaska 99801-1182

SUBJECT: HB 333 - REGULATORY COMMISSION OF ALASKA SUNSET BILL

Dear Senator Taylor:

AT&T Alascom supports continuation of the RCA and urges you to pass HB 333 out of the Senate Judiciary Committee. Allowing the RCA to go into the sunset "wind-down" would seriously hamper its regulatory activities. While we do not always agree with the RCA rulings, the agency serves an important function.

In view of the economic winds of change blowing through the telecommunications industry both nationally and in Alaska, we will need to work with the Commission through the regulatory process to resolve the problem of unequal regulation of interexchange carriers in this highly competitive market.

Thank you for your assistance and support.

Sincerely,

Michael T. Felix
President/CEO



Recycled Paper



ENSTAR Natural Gas Company
A Division of SEMCO ENERGY, Inc.
3000 Spenard Road
P.O. Box 120288
Anchorage, Alaska 99519-0288
(907) 277-5551

May 3, 2002

Senator Robin Taylor
Alaska State Legislature
State Capital (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Taylor:

ENSTAR Natural Gas Company strongly supports the reauthorization of the Regulatory Commission of Alaska. The regulatory oversight of Alaska's utilities and pipelines is an essential governmental function for both the consumers and the regulated entities.

ENSTAR has reviewed the reauthorization bill that passed the House, HB 333, and is now before the Senate Judiciary Committee. We believe that new timelines for issuance of final orders and the new settlement language incorporated in HB 333 have merit and we enthusiastically support them. We also think that the new termination date for the RCA should be no earlier than the date specified in HB 333, June 30, 2006, and, in fact, would support even a longer period.

While ENSTAR may not always agree with the decisions of the RCA, we consider it extremely important to Alaskans that the RCA continues the job it has started.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Izzo", written over a faint, larger version of the signature.

Anthony M. Izzo
President

CC: Senate Judiciary Committee members
Senate Finance Committee members
Regulatory Commission of Alaska

May 2, 2002



Senator Robin Taylor
State Capitol, Room 30
Juneau, AK 99801-1182

Re: Reauthorization of the Regulatory Commission of Alaska - HB 333 (Fin)

Dear Senator Taylor:

GCI, along with all other utilities that have testified at legislative hearings this session on the reauthorization of the Regulatory Commission of Alaska, supports HB 333 (Finance).

A legislative audit, conducted during the interim, concluded that the RCA "operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates. We recommend that AK 44.66.010 (a) (4) be amended to extend the termination date of the RCA to June 30, 2006".

If HB 333 does not pass this session, the RCA begins the "sunset" process. During the wind down year, the RCA cannot take up new dockets and will be quite limited in the issues it will take up. Enforcement of commission orders will suffer. It will be more difficult to retain staff who may assume that the RCA will be completely out of business on July 1, 2003.

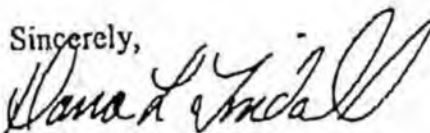
Since no utility is on the public record in support of "sunsetting" the RCA, we do not understand the justification for failing to even schedule HB 333 (Finance) or its Senate counterpart (SB 253) for a public hearing. In our view, many utilities and consumers will be adversely impacted if no action is taken this session. Among other things, local telephone competition, which has brought lower rates to consumers in Anchorage, Fairbanks and Juneau will become much more difficult to implement.

Senator Robin Taylor
May 2, 2002
Page 2 of 2

As the Legislature is now in the last two weeks of the session and the bill has one more committee of referral, we would greatly appreciate an opportunity to participate in a public hearing on HB 333 before it is too late for a bill to pass this session.

If you do not plan on hearing and moving some version of HB 333, we would appreciate your views as to why the RCA should go into "sunset".

Sincerely,



Dana L. Tindall
Sr. Vice President
General Communication, Inc.

Alaska Telephone Association

Steve Hamlen
President

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776
www.alaskatel.org

James Rowe
Executive Director
jrowe@alaskatel.org

May 1, 2002

Senator Robin Taylor
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

RE: CSHB333 - RCA Sunset Bill

Dear Senator Taylor:

As proposed legislation extending the sunset date and setting timelines for the Regulatory Commission of Alaska is before the Senate Judiciary Committee, I thought you would be interested to know why the Alaska Telephone Association has offered testimony before House committees in support of HB333.

Funding for rural telecommunications is very dependent upon universal service support which permits companies to offer local service at affordable rates. The fourteen members of the Association all serve rural communities and share in the nearly \$75 million in high cost support earmarked for Alaska this year. Anchorage customers receive no support from the fund. The \$75 million estimate is based on projections filed with the Federal Communications Commission by the Universal Service Administrative Company (See attached).

For a rural telephone company to receive support from the universal service fund, the state regulatory body must annually affirm to the FCC that the company is an Eligible Telecommunications Carrier and that it is using universal service fund support for the intended purposes. If the necessary documentation is not filed with the FCC on a timely basis, rural Alaskans will be denied the benefit of universal service support; affordable local telephone service. Your constituents - voters from Wrangell - will be among those impacted.

Additionally, all regulated utilities (electric, telephone, and water and sewer) will be subject to antitrust lawsuits each time they make a tariff change. Certainly local and long distance telephone utilities will be in court fighting over amended access charge tariffs. You can see why we need a regulatory body and why we don't want the commission to go into a "wind down" year.

Thank you for your attention. If you have questions about this, I'd be happy to speak with you or meet with you in Juneau.

Sincerely,



Jim Rowe

Attachment: FCC Estimate USF by State (12/18/01)



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 410-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
[ftp.fcc.gov](ftp://ftp.fcc.gov)

DA 01-2927

December 18, 2001

COMMON CARRIER BUREAU RELEASES ESTIMATED STATE-BY-STATE HIGH-COST UNIVERSAL SERVICE SUPPORT AMOUNTS FOR NON-RURAL CARRIERS FOR 2002

CC Docket No. 96-45

Today the Bureau released an order adopting updated line count input values for the new high-cost universal service support mechanism for non-rural carriers for purposes of calculating and targeting support amounts for the year 2002.¹ Specifically, the Bureau adopted updated line count data for use in the universal service cost model to estimate non-rural carriers' forward-looking economic costs of providing the services supported by the federal high-cost mechanism, consistent with the framework established in the *Twentieth Reconsideration Order* and the *2001 Line Counts Update Order*.² Support amounts will continue to be adjusted each quarter to account for line growth based on the wire center line count data reported quarterly by non-rural carriers.³ In addition, we update the company-specific data used in the model to calculate investment in general support facilities and switching costs.

The spreadsheet attached to this Public Notice shows estimated state-by-state support amounts based on the revised cost estimates generated by the model using as input values year-end 2000 line count data filed by non-rural carriers on July 31, 2001. The Turbo-Pascal version of the cost model used to generate these estimates is posted on the Commission's web site at (www.fcc.gov/ocb/apd/hcpm). The non-rural support estimates were adjusted to reflect the quarterly line counts filed by non-rural carriers on September 30, 2001. The attached spreadsheet also shows annualized interim hold-harmless, long term support, and interstate access support for non-rural carriers, as well as support amounts for rural carriers, based on projections for the first quarter of the year 2002 filed by the Universal Service Administrative Company (USAC) on November 2, 2001.⁴ For further information regarding this Public Notice, please contact Katie King or Tom Buckley at (202) 418-7400.

¹ *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, DA 01-2928 (Com. Car. Bur. rel. December 18, 2001) (*2002 Line Counts Update Order*).

² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twentieth Order on Reconsideration, FCC 00-126 (rel. April 7, 2000) (*Twentieth Reconsideration Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 23960 (Com. Car. Bur. 2000) (*2001 Line Counts Update Order*).

³ *2001 Line Counts Update Order*, 15 FCC Rcd at 23964, para. 10.

⁴ USAC files quarterly projections with the Commission for the high-cost and other universal service programs, which the Bureau then makes available on the Commission's Web site at http://www.fcc.gov/ocb/universal_service/quarter.html. The interim hold-harmless amounts on the attached spreadsheet have been adjusted to reflect the phase-down adopted by the Commission. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Thirteenth Report and Order and Further Notice of Proposed Rulemaking, FCC 00-428 (rel. December 8, 2000).

Universal Service Fund							
Estimated Annual Support Amounts Based on Projections for 1st Quarter, 2002 (all numbers in \$)							
State	Non-Rural Companies			Rural Companies			Total High Cost Annualized Projected Support
	High Cost Model Support **	Hold-Harmless Support **	LTS **	Interstate Access Support **	HCL, LSS, and LTS Support **	Interstate Access Support **	
AK	0	0	0	0	74,893,248	0	74,893,248
AL	43,124,510	0	0	16,531,404	28,538,156	793,178	88,985,248
AR	0	0	0	6,439,884	71,210,316	0	77,650,200
AS	0	0	0	0	212,412	0	212,412
AZ	0	0	0	15,761,412	36,105,564	5,738,604	57,605,580
CA	0	0	4,882,424	26,885,568	45,516,000	5,418,108	82,482,120
CO	0	0	0	15,942,886	48,472,616	0	82,415,502
CT	0	0	0	682,056	948,036	0	1,630,092
DC	0	0	0	0	0	0	0
DE	0	0	0	379,020	0	0	379,020
FL	0	0	0	32,401,768	21,418,128	18,897,182	92,717,088
GA	0	0	0	11,637,240	85,177,236	245,016	97,059,492
GU	0	0	0	0	2,020,320	0	2,020,320
HI	0	0	0	2,341,236	3,188,796	0	5,530,032
IA	0	0	0	0	31,277,544	6,517,184	37,794,728
ID	0	0	0	0	30,052,404	14,809,740	44,862,144
IL	0	0	0	11,057,892	29,652,000	1,880,536	42,590,428
IN	0	0	0	21,076,408	19,618,920	2,817,704	43,513,032
KS	0	0	0	3,253,488	75,574,812	5,893,020	84,721,320
KY	2,580,326	0	0	13,183,428	29,565,908	594,528	45,924,216
LA	0	0	0	10,364,328	70,437,884	0	80,802,212
MA	0	0	0	133,452	944,368	0	1,077,820
MD	0	0	0	3,620,592	745,682	0	4,366,274
ME	5,420,862	0	0	672,048	21,370,464	0	27,463,374
MI	0	0	0	140,604	41,034,228	0	41,174,832
MN	0	0	0	0	54,887,040	3,135,398	58,022,438
MO	0	2,334,146	0	9,022,296	53,370,168	8,196,428	71,223,038
MP	0	0	0	0	3,286,476	248,378	3,534,852
MS	101,362,830	0	0	11,300,616	26,784,656	0	139,452,102
MT	10,587,567	0	0	251,160	47,810,376	378,236	59,025,339
NC	0	5,594,399	2,508,080	12,357,360	25,724,288	0	46,182,107
ND	0	0	0	698,236	26,896,368	0	27,594,604
NE	0	0	0	0	24,914,384	1,527,252	26,441,636
NH	0	0	0	1,878,764	7,504,880	0	9,383,644
NJ	0	0	0	4,472,888	1,217,736	338,112	6,028,736
NM	0	0	0	2,839,976	35,232,492	4,698,604	43,069,272
NV	0	0	0	4,131,396	14,471,676	3,788,796	22,391,868
NY	0	0	0	15,628,700	36,900,240	7,097,136	59,626,076
OH	0	0	108,752	7,820,632	17,455,932	7,684,668	33,069,592
OK	0	0	0	4,812,132	71,296,888	0	76,108,020
OR	0	0	0	20,986,572	41,789,860	2,445,012	65,221,444
PA	0	0	0	3,022,980	22,737,616	10,225,320	35,985,916
PR	0	2,679,481	101,197,156	0	0	0	103,876,637
RI	0	0	0	91,824	0	0	91,824
SC	0	0	0	15,024,624	41,657,712	1,513,812	58,196,148
SD	0	0	0	73,752	27,985,856	0	28,059,608
TN	0	0	0	4,958,204	34,359,780	2,902,866	42,220,850
TX	0	19,242,944	0	24,481,844	132,368,032	13,525,886	189,619,316
UT	0	0	0	1,425,488	12,918,384	972,156	15,316,028
VA	0	0	0	47,152,176	11,872,520	5,860,524	64,885,220
VT	0	0	0	0	25,677,852	0	25,677,852
VT	9,182,260	0	0	2,023,776	12,659,224	0	24,045,260
WA	0	0	0	21,443,904	48,994,608	1,757,952	70,196,464
WI	0	0	0	2,342,844	58,301,964	238,296	60,883,104
WV	25,806,977	0	0	11,425,116	28,862,520	5,721,840	71,916,453
WY	8,876,061	0	0	5,638,308	24,288,480	458,904	39,320,753
Total	207,020,513	29,850,960	108,674,215	448,051,732	1,736,490,828	144,112,400	2,674,206,668

* Estimates based on revised cost estimates generated by the model using year-end 2000 line count data and adjusted to reflect the quarterly line counts filed by non-rural carriers on 8/30/01.
 ** Estimates based on USAC's projections for the first quarter of 2002, filed on 11/2/01.



ARECA

Alaska's Electric Association
"Electric Service for 556,000 Alaskans"

February 27, 2002

Honorable Eldon Mulder
Cochairman, House Finance Committee
Alaska State Legislature
Juneau, Alaska

Subject: RCA Sunset Review, HB 333

Dear Representative Mulder

As you know, ARECA and its electric utilities throughout Alaska do not agree that the RCA Sunset should be extended through June 2006 as would happen under HB 333. Our position has been carefully considered. ARECA supported the reconstitution of the old APUC into the present RCA. We participated in that process of change even in the face of those that cautioned against such change. We were even consulted on the composition of the new Commissioners and are largely supportive of the professional attitude that they have brought to the agency.

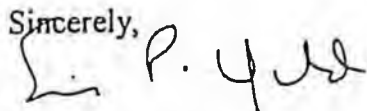
Despite these positive changes, we still have serious problems with the pace with which the regulatory process creeps forward. The transformation from the APUC to the RCA came with the legislature authorizing nine new positions with which to speed up the regulatory process. The RCA inherited a 700 case backlog from the old commission and these new positions appeared warranted. We were heartened to see that the new RCA was making a concerted effort to reduce that backlog in the face of new cases being introduced. But their effort has lagged and the time required to get important cases through the process continues to be slow and cumbersome. Last year the legislature authorized five additional new positions for the RCA to speed up the process. Nevertheless, according to correspondence to me from Commissioner Thompson on January 9, 2002, the RCA has closed 556 cases since the inception of the RCA but opened 464 new cases, presumably resulting in a present case backlog of 608 cases. Fourteen new positions have resulted in a 13 percent caseload reduction. What this really means is that the regulatory process is still broken and must be fixed. The present process costs the electric utility industry much time and much money to run the regulatory gauntlet.

We would very much like to see a meaningful immediate effort to identify changes that can be made to the regulatory process. In our opinion, this will not take place if we allow a four-

year sunset review. We also understand, however, that the one-year sunset originally supported by the electric utility industry may not be sufficient to allow comprehensive assessment of the situation. Commissioner Thompson has committed to an annual review before the legislature and has further committed to an informal "bench and bar" session to be conducted every other month with the regulated industry. We feel that both of these efforts will help identify ways to streamline the process, but believe that this will be further facilitated by a legislative oversight that would extend the RCA sunset through June 2004 rather than the four years called for in HB 333. We strongly believe that the process must be streamlined and hope that you will support a two-year conditional extension as called for in the amended ARECA Resolution 2-19 (Attached).

We would like to have a good regulatory process and feel that this can be accomplished if the industry, legislature, and the RCA will work toward that end.

Sincerely,



Eric P. Yould
Executive Director

CC: ARECA Managers and Board of Directors
Commissioner Thompson, RCA

SECTION 4



Alaska Division of Legislative Audit Audit Digest #08-20013-02

[HTML Format](#)[PDF Format *](#)[2002 Audit Report List](#)[Legislative Audit Home Page](#)

* Requires Acrobat Reader 

SUMMARY OF: A Special Report on the Regulatory Commission of Alaska, Sunset Review, November 28, 2001.

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA). The purpose of this audit was to determine if there is a demonstrated public need for the continued existence of this commission and if it has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Regulatory Commission of Alaska should be reestablished. The law currently specifies that the commission will terminate on June 30, 2002.

REPORT CONCLUSIONS

The Regulatory Commission of Alaska operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates.

We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the life of the Regulatory Commission of Alaska to June 30, 2006.

FINDINGS AND RECOMMENDATIONS

In our previous sunset audit, we made two recommendations. One of these recommended that RCA utilize findings from a study by the National Regulatory Research Institute. RCA has now reviewed the institute's report and responded to its findings with a variety of improvements. We thus consider RCA to have fully implemented this recommendation.

The other prior audit recommendation concerned the implementation of a management information system with a number of components. This recommendation was subsequently incorporated as a requirement within RCA's enabling legislation.

At this time, most components of the management information system have been substantially implemented on a piecemeal basis. However, we understand that RCA expects to have a fully integrated system, including the employee time tracking component mandated by statute, in operation by February 2002.

1. RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.

Alaska Statute 42.05.141(a)(1) empowers RCA to "regulate every public utility engaged . . . in a utility business inside the state, except to the extent exempted by AS 42.05.711." RCA's responsibility "to regulate" includes the certification of water and sewer utilities.

We noted 65 water systems and 65 sewer systems that are operating without RCA certification. Although the commission is generally aware of them, it has taken no action.

RCA should more proactively protect the public by investigating the status of new water and sewer systems as they come on line. The following options are available:

- o Commence enforcement actions to compel certification applications.
- o Streamline the certification filing requirements for small utilities to better reflect their operating environment. The data requirements may not need to be as comprehensive for smaller utilities. This may be one of reasons for the reluctance of these utilities to apply for certification.
- o Exempt certain classes of utilities from certification under AS 42.05.711(d). The criteria could include such factors as the community size, number of customers, type of operating entity, and the system's predominant funding source.

If RCA elects to streamline the filing requirements or exempt certain classes of utilities, it should do so by regulation.

2. RCA should issue regulations that clarify use of its public advocacy section.
3. RCA's chair should ensure that the publication of notices of formal proceedings is monitored.

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

November 30, 2001

08-20013-02

November 30, 2001

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

November 28, 2001

Audit Control Number

08-20013-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 44.66.010(a)(4), the Regulatory Commission of Alaska is scheduled to terminate on June 30, 2002.

In our opinion, the termination date for this commission should be extended. The regulation of public utilities and pipelines contributes to the protection of the public's welfare. We recommend the legislature extend the termination date to June 30, 2006.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology.....	1
Organization and Function.....	3
Report Conclusions	5
Findings and Recommendations.....	7
Analysis of Public Need.....	11
Appendix A: Summary of Expenditures.....	17
Agency Response:	
Regulatory Commission of Alaska	19

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA). The purpose of this audit was to determine if there is a demonstrated public need for the continued existence of this commission and if it has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Regulatory Commission of Alaska should be reestablished. The law currently specifies that the board will terminate on June 30, 2002.

Objectives

RCA was created to protect and promote the public interest by certifying and economically regulating qualified public utilities and pipeline carriers. It oversees the availability, affordability, and quality of utility services throughout Alaska. The primary objective of this audit was to determine whether the public need for this commission continues to exist.

A secondary objective was to review the commission's major functions, such as notice to the public, certification of utilities, tariff actions, and investigations and complaint follow-up for effectiveness in meeting the public need. A further objective was to evaluate these functions and the commission's overall operations for economy and efficiency of operation.

Our analysis of public need, findings and recommendations, and our conclusions have been summarized in the applicable sections of this report.

Scope and Methodology

Alaska Statute 44.66.050 requires the factors outlined in the Analysis of Public Need section of this report be evaluated as part of this audit in order to determine need for the commission's continued existence.

To address these areas we:

- Interviewed commissioners and staff members.
- Reviewed applicable statutes and regulations.
- Contacted the acting ombudsman, assistant attorney general, Alaska Human Rights Commission, and Equal Employment Opportunity offices.
- Analyzed consumer complaints against utilities filed with the commission.

- Reviewed decisions made by the commission.

Additionally, we interviewed employees of various regulated public utilities and other public interest groups including:

Rural Utilities Service, U.S. Dept. of Agriculture	Denali Commission
Institute of Social and Economic Research	Chugach Electric
Alaska Rural Electric Cooperative Association	Municipal Light and Power
Alaska Village Electric Cooperative	Utility Service of Alaska
Alaska Telephone Association	Alaska Power & Telephone
Matanuska Telephone Association	United Utilities
Alaska Public Research Group	TelAlaska
National Regulatory Research Institute	AT&T

Our audit reviewed the operations and activities of the commission from January 1999 through November 2001.

ORGANIZATION AND FUNCTION

The Regulatory Commission of Alaska was created July 1, 1999, upon reorganization of the Alaska Public Utilities Commission by ch. 25, SLA 1999. Under AS 42.04, 42.05 and 42.06, RCA is charged with the responsibility to ensure the furnishing of safe and adequate service to all public utility patrons, without discrimination and at reasonable rates, consistent with the interests of both the public and the utility. RCA certifies qualified providers of public utility and pipeline services. After issuance of this certificate, the commission also regulates the rates, classifications, rules, regulations, practices, services, and facilities of a public utility or pipeline, unless it is specifically exempted or has been deregulated by a vote of its customers. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

RCA regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable TV, and steam services. All pipelines, and all other public utilities with ten or more customers, are regulated by the certification process. Most are also economically regulated.

The commission consists of five commissioners appointed by the governor and confirmed by the legislature. The commissioners must either be a member in good standing of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited college or university. The commissioners serve six-year terms.

The staff of RCA is divided into the seven major functions of administration, finance, tariff, engineering, communication carriers, consumer protection, and public advocacy. RCA has 61 funded positions in its \$5.9 million FY 02 operating budget. A brief description of the services provided by each functions is as follows.

- **Administration:** The commission chair is responsible for fiscal and personnel administration, budget preparation, and records and document management. The chair is aided by a special assistant, an administrative manager, documents processing and accounting personnel, and other clerical support staff.
- **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 adjustments. It presents these analyses at proceedings before the commission.

Regulatory Commission of Alaska Members
G. Nanette Thompson, Chair Term Expires July 2004
Bernie Smith Term Expires July 2003
Patricia DeMarco Term Expires July 2002
Will Abbott Term Expires March 2007
Jim Strandberg Term Expires July 2006

- Tariff: This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.
- Engineering: This section is responsible for certification proceedings and the investigation of utility and pipeline carrier procedures and practices affecting service quality. It also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These analyses are presented in proceedings before the commission.
- Common Carrier: This section was established to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the state involving the use of wire, cables, radio, and space satellites.
- Consumer Protection: This section investigates and resolves informal consumer complaints, and is responsible for public affairs and media relations as well as responding to information requests.
- Public Advocacy: This section was legislatively established upon creation of RCA. The public advocacy section operates separately from the commission and represents the public interest. The commission assigns cases to the public advocacy section when a public interest perspective would clearly add to the full development of the record.

REPORT CONCLUSIONS

While the recommendations included in this report are intended to improve operations, in our opinion, the Regulatory Commission of Alaska operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates.

We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the termination date of the Regulatory Commission of Alaska to June 30, 2006.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

In our previous sunset audit,¹ we made two recommendations. One of these suggested that RCA utilize findings from a study by the National Regulatory Research Institute. RCA has now reviewed the institute's report and responded to its findings with a variety of improvements. We thus consider RCA to have fully implemented this recommendation.

The other prior audit recommendation concerned the implementation of a management information system with a number of components. This recommendation was subsequently incorporated as a requirement within RCA's enabling legislation.²

At this time, most components of the management information system have been substantially implemented, but on a piecemeal basis. We understand that RCA expects to have a fully integrated system, including the employee time tracking component mandated by statute,³ in operation by February 2002.

Recommendation No. 1

RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.

Alaska Statute 42.05.141(a)(1) empowers RCA to "*regulate every public utility engaged ... in a utility business inside the state, except to the extent exempted by AS 42.05.711.*" RCA's responsibility "*to regulate*" includes the certification of water and sewer utilities.

Certain larger water and sewer utilities are subject to full ongoing economic regulation, such as the setting of prices. However, even the smaller utilities that are not economically regulated must obtain an RCA operating certificate, unless the agency exempts them under AS 42.05.711(d). This latter subsection permits RCA to "*exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.*"

Sixty-five piped water systems and 65 piped sewer systems do not have the required certificate to operate a utility. These systems are spread among 73 different operators, 52 (71%) of which are incorporated under Alaska law as second class cities. RCA is thus overlooking almost half of the State's 114 second class cities and not fulfilling its statutory role under AS 42.05.141.

¹ Department of Commerce and Economic Development, Alaska Public Utilities Commission, audit control no. 08-1459-99 (December 23, 1998).

² Section 26 of ch. 25, SLA 1999 directs RCA to "*develop its management information system and make the system accessible to the general public through the Internet for the purpose of tracking, scheduling, and managing all dockets within the commission.*"

³ AS 42.04.070(a)(2) directs RCA's chair to "*establish and implement a time management system for the commission.*"

The legislature has entrusted RCA with the legal responsibility for enforcing the certificate requirement,⁴ but RCA takes no action to detect noncompliance. RCA has responded to certificate applications and to complaints, but has not pursued utilities that lack certificates, even though it is generally aware of the scope of this problem.

RCA should more proactively protect the public by investigating the status of new water and sewer systems as they come on line. The following options are available:

- Commence enforcement actions to compel certification applications.
- Streamline the certification filing requirements for small utilities to better reflect their operating environment. The data requirements may not need to be as comprehensive for smaller utilities. This may be one of the reasons for the reluctance of these utilities to apply for certification.
- Exempt certain classes of utilities from certification under AS 42.05.711(d). The criteria could include such factors as the community size, number of customers, type of operating entity, and the system's predominant funding source.

If RCA elects to streamline the filing requirements or exempt certain classes of utilities, it should do so by regulation.⁵

Recommendation No. 2

RCA should issue regulations that clarify use of its public advocacy section.

RCA has a public advocacy section of six employees. There is little statutory guidance as to the section's use, with AS 42.04.070(c) simply stating:

The chair of the commission shall direct the public advocacy section to participate as a party in a matter when the commission believes that it is in the public interest to do so.

Out of a total of 330 formal RCA proceedings filed since FY 00, the public advocacy section has been appointed in 71 (22%). However, RCA currently has no published procedures and criteria that guide when the section should be assigned to a case and how its intervention is to be accomplished.⁶ Utility representatives expressed some concern to us about their uncertainty as to when a case would involve the section.

⁴ See AS 42.05.181 – 42.05.201, 42.05.551 – 42.05.621 (administrative orders; injunctions; civil penalties).

⁵ A regulation is required under the Administrative Procedure Act for a standard that "affects the public or is used by the agency in dealing with the public." See AS 44.62.640(a)(3).

⁶ For instance, submission of a brief, testimony, or comment, rather than full formal participation as a party, may be adequate in some cases.

RCA should enact regulations that clarify the role of its public advocacy section. We further recommend that RCA's chair establish a definite linkage between patterns of complaints detected in its consumer complaint section and the priorities for public advocacy intervention.

Recommendation No. 3

RCA's chair should ensure that the publication of notices of formal proceedings is monitored.

Under RCA's statutes and regulations, whether RCA orders public notification of a proceeding, and the specific method to be used, is left to RCA's discretion to determine on a case-by-case basis.

RCA uses a variety of methods to notify potentially-affected consumers of formal proceedings. All notices appear on the Internet. Some are also placed in newspapers in the affected areas, posted at a local post office, or included with customer billings.

We selected 90 out of a total of 330 formal proceedings filed in FY 00 to FY 01 and reviewed RCA's elective choice to place newspaper notices in 55 of those cases. We found RCA's discretion in that selection to have been uniformly reasonable in light of the particular subjects and potential consumer impacts of the 90 cases examined.

However, we did discern a need for RCA to better confirm that newspapers actually print the requested ad and print it correctly. Of the 55 ads that RCA ordered, case files for only 36 contained any verification that the ad was printed.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of commission activities relates to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. This analysis was not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

With the exception of smaller water and sewer utilities,⁷ the commission has made a conscientious effort to allow only qualified applicants to provide utility services and to regulate them in such a manner as to ensure service at a reasonable cost. Upon finding that no public interest would be served by regulation, the commission administratively exempts certain utilities through its discretionary power granted by AS 42.05.711(d).

RCA also provides an active complaint resolution function. Exhibit I shows that RCA fielded a total of 682 complaints that were filed with it during FY 01.

EXHIBIT I		
TYPES OF UTILITIES INVOLVED IN CONSUMER COMPLAINTS FILED WITH RCA DURING FY 01		
	<i>Number</i>	<i>Percent</i>
Telecommunications	549	80%
Electric	76	11%
Water / Sewer	18	3%
Refuse collection	14	2%
Natural Gas	22	3%
Cable Television	3	1%
<i>Totals</i>	<u>682</u>	<u>100%</u>

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

To assess the impact of RCA's programs and procedures, we interviewed executives from the broad spectrum of affected entities. A dominant perception in these interviews was that, in comparison with the former Alaska Public Utilities Commission, RCA delivers substantially improved service in terms of interaction with the public, reduction of case backlog, and Internet access to information.

Another recurrent theme was the entities' uncertainty concerning the role of RCA's public advocacy section. Recommendation No. 2 addresses this concern.

A third prevalent theme in our interviews was the industry's desire for RCA to continue progress toward a paperless system. The industry is thus acknowledging that RCA has made some progress in this area, and the industry favors the concept.

⁷ These are discussed later in this section of the report.

Internet filing of all pleadings and online access to entire case files would, of course, be ideal from the users' perspective. Nevertheless, our review of RCA's extensive home page shows that considerable case information, such as notices and orders, is already available.

Interviewees also mentioned disappointment in RCA's inability to implement the management information system envisioned by the new agency's enabling statute.⁸ We understand that RCA expects to have a fully integrated system in operation by February 2002.

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

RCA was created at the beginning of FY 00. During this limited time, the agency has not seen a need to pursue any major changes in its statutes.

However, during FY 00 the legislature expanded RCA's jurisdiction to include the intrastate transportation of North Slope natural gas.⁹ This amendment anticipates the possibility that a major gas pipeline may be constructed in the years ahead.

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

RCA's consumer complaint function is the most active indicator of its interaction with individual consumers. RCA generally preconditions its informal intervention on an initial attempt by the consumer to work directly with the utility in question. If RCA is unable to resolve the matter informally, the consumer has the option to pursue a formal complaint before the commission.

Such a service is obviously beneficial to consumers. However, it also alerts RCA to potential departures from its expectations for those being regulated. Such patterns may signal the need for RCA's chair to appoint the public advocacy section in particular formal proceedings (see Recommendation No. 2).

Exhibit 1 (page 11) shows that a total of 682 consumer complaints were filed with RCA during FY 01. Exhibit 2 (page 13) shows that 67-82% of these complaints, depending on the type of utility, were cleared by RCA within 15 days. Another 7-21% were cleared within a month.

⁸ Section 26 of ch. 25, SLA 1999 directs RCA to "develop its management information system and make the system accessible to the general public through the Internet for the purpose of tracking, scheduling, and managing all dockets within the commission."

⁹ See AS 42.06.230(b)(2).

RCA is thus quite responsive to consumer complaints concerning utility service. Exhibit 2 shows no major differences among utility types in the timeliness of response that RCA provides consumers, with 80-90% of each category being cleared within a month of receipt.

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

RCA encourages public participation through a variety of methods.

To begin with, the RCA home page is an exemplary tool for communicating with the public.¹⁰ Notices of upcoming meetings and formal actions are posted there along with detailed annual reports, discussions of major utility issues, and invitations for the public to comment. Also, members of the public can place themselves on the "courtesy list" and receive direct e-mail notices concerning topics they select.¹¹

Newspaper notices are still published in a large number of cases when that traditional method will be an effective means to reach the affected public.¹² In Recommendation No. 3, we suggest that RCA improve its monitoring of the newspaper notices.

Public postings at post offices are also used in some situations.

RCA's office has a computer terminal that the public uses to research agency records such as docket pages, orders and transcripts.

RCA's public advocacy section directly represents aggregated consumer interests in matters pending before the commission. We discuss the section further in Recommendation No. 2.

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

EXHIBIT 2 RCA'S TIMELINESS IN CLEARING CONSUMER COMPLAINTS FILED IN FY 01	
TELECOMMUNICATIONS	
Within 15 days	72%
Within 16-30 days	9%
Over 30 days	19%
	<u>100%</u>
ELECTRIC	
Within 15 days	67%
Within 16-30 days	21%
Over 30 days	12%
	<u>100%</u>
OTHER UTILITIES	
Within 15 days	82%
Within 16-30 days	7%
Over 30 days	11%
	<u>100%</u>

¹⁰ Though the scope of available home page information is exemplary, it remains to be seen how frequently consumers will make use of it. RCA may wish to use home page statistical tools such as counters that register how many people visit RCA's various web site features.

¹¹ For e-mail "courtesy" notices, it would be helpful to individual consumers if they could use customized requests that limit notices to a particular utility provider or location of interest, rather than the current choice of all notices for a given utility type.

¹² Under RCA's statutes and regulations, whether RCA orders public notification of a proceeding, and the specific method to be used, is left to RCA's discretion to determine on a case-by-case basis.

The state ombudsman received only one complaint about RCA since its start in FY 00. The ombudsman found that RCA had appropriately responded to a consumer's dissatisfaction with a utility.

RCA has handled approximately 300 utility adjudications since its creation at the beginning of FY 00. Since RCA orders can be appealed to the superior court by dissatisfied parties, the prevalence of such appeals is another pertinent indicator of RCA's relationship to the public. The superior court has affirmed four RCA decisions and reversed another.¹³ Two other cases are currently pending before the superior court. In short, RCA's workload is seldom challenged in, and even less frequently reversed by, the superior court.

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

Prior to granting a certificate of public convenience and necessity to a public utility, the commission determines that the applicant is fit, willing, and able to provide the service. To that end, it employs utility financial analysts and utility engineers to perform the appropriate analyses to make this determination.

In recent years, Alaska communities have received substantial state and federal funding to construct water and sewer systems. Nevertheless, a comparatively small number of new certificates have been awarded to operate such utilities.¹⁴

In fact, 65 piped water systems and 65 piped sewer systems do not have the required certificate to operate a utility.¹⁵ These systems are spread among 73 different operators, 52 (71%) of which are incorporated under Alaska law as second class cities. RCA is thus overlooking almost half of the State's 114 second class cities and not fulfilling its statutory role under AS 42.05.141. Recommendation No. 1 addresses the options.

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

We found no evidence of RCA hiring practices or appointments that were contrary to state personnel practices. Since the establishment of RCA, no complaints have been filed with the Alaska Human Rights Commission, the federal Equal Employment Opportunity Commission, or the Office of Equal Employment Opportunity in the governor's office.

Two situations were reviewed under the Executive Branch Ethics Act. Both involved

¹³ Some of these cases include work originated by RCA's predecessor (the Alaska Public Utilities Commission). Further appeals to the Alaska Supreme Court are pending in two of the five superior court cases (including the reversal).

¹⁴ Since the prior sunset audit (December 1998), RCA has received applications to operate water or sewer systems from only eight utilities.

¹⁵ Under RCA's enabling legislation, systems with at least 10 paying customers are considered to be "utilities" for the purpose of the operating certificate requirement.

technical conflicts of interest that were eliminated to the satisfaction of the assistant attorney general who investigates such matters.

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

Please refer to the Findings and Recommendations section.

(Intentionally left blank)

APPENDIX A

Regulatory Commission of Alaska
 Summary of Expenditures
 FY 01 – FY 02
 (unaudited)

Expenditures ¹⁶	FY 01 Authorized	FY 01 Actual	FY 02 Authorized
Personal Services	\$ 3,423,700	\$ 3,402,800	\$ 3,736,500
Travel	52,200	72,400	55,000
Contractual	1,808,700	1,583,600	2,005,500
Supplies	62,500	48,600	62,500
Equipment	<u>13,800</u>	<u>150,800</u>	<u>13,800</u>
Total	<u>\$ 5,360,900</u>	<u>\$ 5,258,200</u>	<u>\$ 5,873,300</u>

Source: The information included in this summary was obtained from the State's accounting records.

¹⁶ Under AS 42.05.254, RCA assesses utilities and pipelines a regulatory cost charge designed to recoup its costs.

(Intentionally left blank)

December 26, 2001

Pat Davidson
Legislative Auditor
State of Alaska
Legislative Audit and Budget Committee
P. O. Box 113300
Juneau, Alaska 99811-3300

Re: Audit Control Number 08-20013-02
Response to Preliminary Audit Report / Regulatory Commission of Alaska

Dear Ms. Davidson:

The RCA appreciates the audit's conclusion that our agency operates in a reasonably effective and efficient manner and should continue its mission for an additional four years. We will implement the recommendations set out in Management Letter No. 1.

Recommendation No. 1

RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.

We recognize that there are at least 130 uncertificated water and sewer systems in this state. This issue was inherited from our predecessor agency and has been exacerbated in recent years, as grant funding became available to construct new water and sewer systems in rural Alaska. Applying for certification has not been part of the process of establishing these new systems. We are analyzing this problem to understand how to solve it, and expect to begin implementing the solution within six months.

To address this problem, we need to coordinate with other state, local and federal agencies and authorities. We have been working with them to understand the RCA's role in assuring the future sustainability of these small water and sewer utilities to properly gauge our level of regulatory oversight. We agree that

our procedures should be standardized and made appropriate for utilities of this size and nature. A staff working group within the RCA is actively working on this matter.

After the streamlined procedures are available, we plan to notify all of the uncertificated utilities of the certification requirement and provide them with compliance information. If they do not respond within a reasonable time, we will consider enforcement actions.

If our analysis concludes that some classes of utilities should be exempted, we will propose and notice regulations. Because this issue is likely to evoke considerable public interest and comment, it will probably be at least nine months from the date that regulations are originally proposed at one of our public meetings until the regulations are finally adopted.

Recommendation No. 2

RCA should issue regulations that clarify use of its public advocacy section.

In the past two years we have gained enough experience with this section's operation to propose clarifying regulations. We agree that this recommendation is timely and have prioritized it among our current regulations projects accordingly. We estimate that these regulations will be approved and in place by the end of 2002.

Recommendation No. 3

RCA's chair should ensure that the publication of notices of formal proceedings is monitored.

We thank the audit team for bringing this to our attention. We are internally discussing procedures to ensure that the required public notices are published. Monitoring publication of public notices is complicated by the requirement that the utility, not the Commission, pays for publication of the notice. Also, by regulation competitive local exchange telecommunications carriers draft their own notices and arrange for their publication. This recommendation highlights an important underlying issue of how the public can effectively be notified about changes in utility services that we will address.

One of the RCA's main goals is to increase consumer awareness through effective public notice. We have developed an improved Web page and copies of notices are e-mailed or are available electronically through our site. Recognizing the limitations in any one approach, we are exploring the use of

more Public Service Announcements, press releases, and billing inserts to better and more timely inform utility customers. For FY02, we budgeted for a new Consumer Protection and Information Officer position to facilitate more community outreach.

As part of our new MIS system, the RCA database has been redesigned to record the receipt of affidavits of publication. By the end of February 2002, we will be able to monitor publication issues through this system. As we continue refining our public notice methods, we may implement other changes as well.

We appreciate your diligence and the time spent to prepare your findings and recommendations. We are pleased that the audit confirms our hard work and the improvements in our agency's operations over the past two years.

Sincerely,

REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson
Chair

SECTION 5

REPORT ON THE ALASKA PUBLIC UTILITIES COMMISSION

by

David W. Wirick

Vivian Witkind Davis, Ph.D.

Douglas N. Jones, Ph.D.

THE NATIONAL REGULATORY RESEARCH INSTITUTE

at The Ohio State University

1080 Carmack Road

Columbus, Ohio 43210-1002

Phone: 614/292/9404

Fax: 614/292-7196

Website: www.nrri.ohio-state.edu

October 1998

This report was prepared with funding provided by the Alaska Public Utilities Commission. The views and opinions expressed herein do not necessarily state or reflect the views, opinions, or policies of the National Regulatory Research Institute, (NRRI), the National Association of Regulatory Utility Commissioners (NARUC) with which the NRRI is affiliated, or NARUC member commissions.

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 NRRRI findings by major subject component. For each component, the NRRRI draws some conclusions and offers accompanying observations. Part III provides summary conclusions. Specific comments received by NRRRI 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.¹

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.² 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.³ As commissions confront their new environments and adapt to new market and consumer needs, they move toward quadrant II.

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

² *Ibid.*, 36.

³ *Ibid.*

In the lower left-hand quadrant (III) is the internal process approach. This organization is control-oriented and mechanistic. Organizations in this quadrant are hierarchical and value security and perpetuation of the status quo.⁴ 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.⁵ 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

⁴ Ibid., 37.

⁵ Ibid.

APUC as it exists now; Figure 3 describes the APUC as those who completed the analysis would prefer it to be.

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.

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 course 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, when, 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 NRRRI 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 — haves 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. Careers 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.

The number of open dockets has doubled. There are 500 open dockets, a lot of which are telecommunications cases. The agency is spinning out of control. A huge number of orders have extended suspension periods. This itself takes time. We stopped having meetings on docket management or how to get a docket closed. [We] may not want to know [how bad it is]. Docket status meetings should be revived. We have four tariff filings that went into effect by force of law because the statutory deadline expired.

Telecommunications gets hundreds of filings. Promotions are coming in by the gross. Also electric, gas, water, sewer, and garbage [filings]. The tariff section had a gift of a 45-day statutory recommendation [requirement]. The IXC statute also has a 60-day limit. To speed things up we should have requirements for what gets done when. [Here's an] example of lack of timeliness. One and a half years to get to EAS balloting. Then the Commissioners said they would look at it in a generic proceeding. They didn't get to it until way too much later. Some orders are so badly written by staff that they have to be rewritten. They can have contradictions in the same paragraph.

The Commission speaks through its orders. Orders need to strike a balance between an historical description of the docket and the findings and rationale. Too much time is spent on the history. The most substantive orders are written by staff or hearing officers. There is not enough time to get orders done. Paralegals don't have the experience to write orders. Orders contain little useful information. Dissenting opinions are sometimes scathing. Orders are terrible. The Commission needs more on-going education in order writing. The one-time training didn't help. Commissioners may not understand how hard and time-consuming it is to write orders. Those who write orders are too slow. The paralegals have been added to speed up the process. Prioritization of work would be helpful; everything is not first priority.

The staff Docket Manager writes up orders. Whoever that is might not be good at it. Staff should start sooner on writing orders. I'm not sure the extensive editing of orders is productive. The hearing officer writes lots of orders. Technical staff also writes

orders. An application comes in. A staff member makes a recommendation in writing (which is not published). Engineering, an Accounting paralegal, or A.G. drafts the order. We have good procedures in place. Technical staff doesn't follow basic procedures on orders. Paralegals have to complete and rewrite orders.

The Hearing Officer staff should be increased and included in as many dockets as possible. APUC rules allow Hearing Officers to hear cases. The role of the current Hearing Officer is being reduced. When a Commissioner attempted to hold a hearing without the Hearing Officer, she later had many due process objections that parties hadn't raised. The Hearing Officer could conduct pre-hearing conferences.

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.

SECTION 6

**EVALUATION OF THE REGULATORY COMMISSION OF ALASKA:
A FOLLOW-UP REPORT**

by

David W. Wirick

THE NATIONAL REGULATORY RESEARCH INSTITUTE
at The Ohio State University
1080 Carmack Road
Columbus, Ohio 43210-1002
Phone: 614/292/9404
Fax: 614/292-7196
Website: www.nrri.ohio-state.edu

June 13, 2000

This report was prepared with funding provided by the Regulatory Commission of Alaska. The views and opinions expressed herein do not necessarily state or reflect the views, opinions, or policies of the National Regulatory Research Institute (NRRI), the National Association of Regulatory Utility Commissioners (NARUC) with which the NRRI is affiliated, or NARUC member commissions.

EXECUTIVE SUMMARY

In 1998, the National Regulatory Research Institute (NRRI), under contract, prepared a review of the Alaska Public Utilities Commission (APUC). That report identified a number of areas in need of attention. They included Commissioner-staff and Commissioner-to-Commissioner relations, timeliness, the quality and speed of Commission orders, and management information systems.

In April of 2000, the NRRI began under contract a similar review of the Regulatory Commission of Alaska (RCA), the successor agency to the APUC. Eighteen RCA stakeholders (Commissioners, staff, and external stakeholders) were interviewed. Their names are listed in Appendix 1; their comments are included in Appendix 2.

Overall, it appears that each of the areas identified in the first review as being in need of attention has experienced substantial improvement. Of particular note are the perceptions of Commissioner competence and hard work, the high regard for the Chair, improved morale, the reduction of the backlog in cases, improved information flows, the potential for the newly established Public Advocacy Section to provide effective advocacy and clarify staff roles, the additional authority of the Chair, the potential for the new management information system to even further improve communications, the establishment of an MIS unit, a better balance between due-process concerns and Commission effectiveness, and better external relations.

Given the success so far of the RCA, areas for concern are limited. They include the potential for the high workloads to undermine morale over time, the continued evolution of the PAS and the role of advisory staff, the staffing and role of the Consumer Affairs Section, staff training, the current heavy reliance on the Chairman, and the overall pace of change at the RCA.

INTRODUCTION¹

In an era of rapid change for the regulation of the nation's public utilities, the State of Alaska in 1999 elected to hasten that change process by abolishing the former Alaska Public Utilities Commission (APUC) and establishing the new Regulatory Commission of Alaska (RCA) in Senate Bill 133. Though that new regulatory commission might still be regarded in being in its formative stages, the members (Commissioners) of the RCA and its Chair determined that an early assessment of the Commission was warranted in order to identify early problems and assess the extent of the new Commission's success. Such a self-assessment also presents an opportunity for commission staff and stakeholders to provide input into the direction of commission change. In February 2000, Chairman G. Nanette Thompson contacted the National Regulatory Research Institute (NRRI) to inquire as to the feasibility of a contract with the NRRI to review the operations of the RCA. A contract was finalized in May, though interviews with key stakeholders began in April.

The NRRI has some familiarity with regulatory operations in Alaska. In 1998, the NRRI conducted a similar review of the APUC. That review was presented to the Public Utilities Commission in a report entitled *Report on the Alaska Public Utilities Commission* dated October 1998.² That report identified a number of significant challenges facing the Public Utilities Commission.

To accomplish this current assessment, the author interviewed nine RCA staff, the five Commissioners, and four external stakeholders. The persons interviewed are identified in Appendix 1. Their aggregated comments are included in Appendix 2. Commitments were made to those interviewed to keep input confidential (i.e., not to link names to comments). The results of the NRRI inquiry are contained in this report, grouped generally by the major components used in the first NRRI report. A brief

¹ Special thanks is given to Dr. Vivian Witkind Davis, a co-author of the NRRI report on the APUC, for her review of this report.

² David W. Wirick, Vivian Witkind Davis, and Douglas N. Jones, *Report on the Alaska Public Utilities Commission* (Columbus, Ohio: National Regulatory Research Institute, 1998).
NRRI

summary of the findings of the first report are included for each component so that comparisons can be drawn. Those findings of the NRRI report on the APUC are printed in *italics* to distinguish them from the findings of this current report.

Reports of this type are necessarily somewhat subjective. In that sense they are always limited and imperfect. The task, of course, is to attempt to be fair and accurate, and the author has tried to be both in his assessment. His comments are informed by his extensive exposure to state public utility commissions throughout the country. Though the circumstances that surround the RCA are unique, as are the circumstances of each state public utility commission, some comparisons can be drawn and judgements made. The report avoids references to the behavior of specific individuals, unless the performance of the individual presents a challenge for the organization as a whole. Fortunately, in the case of the RCA it was only exemplary behavior of key persons (and the potential difficulty of replacing them if they were to leave) that was most commonly cited.

As will be seen, this report is largely and, perhaps uncommonly, positive in its assessment and tone. That tone should not be regarded as arising from an unwillingness to be critical of regulatory commission operations if a critical response is warranted. Nor has the report glossed over necessary areas for improvement with indirect writing. In fact, this report does point out a number of areas that may cause problems at some later point. But, overall, those interviewed for this report provided nearly unanimous, though occasionally guarded, support for the work of and prospects for the RCA. The tone of the report is necessarily reflective, therefore, of the tone of stakeholders.

ANALYSIS OF ORGANIZATIONAL COMPONENTS

The components examined and explained in this report are:

- General Factors
- Communications

- Morale
- Commission Structure, including discussion and analysis of the changes in structure caused by the legislation that established the RCA.
- Staffing
- Management Information Systems
- Process
- External Relations
- Consumer Protection
- General Comments

Each component is discussed in turn.

General Factors

In the first report, a considerable range and depth of problems was cited by those interviewed. Problems included leadership, though interestingly, the word "leadership" was not actually spoken by any of the interviewees at that time. But a number of the perceived difficulties emphasized by them harken back to the leadership of the APUC. 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 did not "pull their weight" were voiced several times in interviews.

To be fair, several of those interviewed cited the fact that APUC decisions were rarely overturned in court, and most cited the competence of the staff and its ability to focus on the real task of the APUC despite constant emergencies and a very heavy workload. Some were concerned that the then current difficulties might eventually limit the ability of the APUC to do its job.

For this review (of the RCA), those interviewed were first asked if the Commission is accomplishing its mission. Responses were positive but sometimes cautious. Representative comments were:

- There is a more cooperative effort among Commissioners, which is apparent to staff.
- The Commission is doing its job but it has taken work and is very challenging.
- The boat is turning but won't turn overnight.
- This Commission is making a difference.
- It may be too soon to know about substance.
- There is a lot of stress on staff and no extra help. Productivity is up.
- The Commission is on a learning curve. In the long-run, it is likely to be positive.

Those interviewed were then asked if things were better now than before the abolishment of the APUC. They all suggested that things are, in fact, much better than before. Representative comments include:

- Things are going really well.
- A better structure is in place now.
- The RCA is functioning as a Commission.
- There is a conscious effort to get things done.
- I have the utmost respect for Nan (i.e., Chairman Nan Thompson).
- It is much better than before and as good a commission as Alaska has ever had.

Overall, comments regarding the ability of the RCA to accomplish its mission were positive as were the assessments that the RCA is doing better than its predecessor. Cautions were expressed about the learning yet to be done, the extreme work load (in part occasioned by the backlog that will be discussed later), and the RCA's reliance on the current Chairman, about which more will be said later in this report. *Concerns that Commissioners were not "pulling their weight"* seemed to be

dramatically changed with the arrival of the five new Commissioners, whose work ethic is highly regarded. More about that is said later in this report.

Communications

In the first report, those interviewed identified a number of communications problems. One of these was improving vertical communication throughout the agency. (Reportedly, horizontal communication was adequate.) Another opportunity cited was to introduce and conduct a systematic training and orientation program for new personnel at all levels. A third, and perhaps most important, problem identified was the impact of the docket backlog including tariff filings and devising procedures and practices that lead to prompt resolution of cases. 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.

Perceptions are that vertical communications are much better now. Commissioners are cited as being approachable, and section heads are meeting with their staffs regularly following their meetings with the Chair. Communications can always bear improvement, and they continue to be worked on at the RCA.

Given the amount of turnover and new hires, the orientation and training of new staff is key. Fortunately, some of those new staff came to the RCA with knowledge of the industry. On-the-job training appears to be the norm, though some training is provided at external training opportunities (such as "Camp NARUC"), and existing staff are cited as being helpful.

The docket backlog is a clear problem, but one that is being worked on. Some cite the backlog as being 500 cases in the system plus another 250 that had not been assigned when the RCA was created. It is also cited as being a frustration. The orders that are being issued for those backlogged cases are, according to at least one of the persons interviewed, of little value because of their age. Commission efforts to clear the backlog are being applauded.

As to whether the interaction between Commissioners and staff is productive,

comments were generally positive. Staff cite the approachability of Commissioners; Commissioners, in turn, describe staff as cooperative. A feeling of mutual respect appears to exist. There is some sentiment, however, that some staff may not be fully committed to the changes being made.

Commissioners are cited as working well together, which had reportedly been a problem for the APUC. Again, an attitude of mutual respect seems to prevail. In addition, staff and stakeholders are impressed with the work ethic of the Commissioners. They are putting in long hours and have, in the words of one person interviewed, "a sense of the public interest."

There seems to be a concerted effort to ensure more effective information flows at the RCA. The Chairman, one person noted, will intervene when necessary. Though from many perspectives, information flow is adequate, some cite problems. One person suggested that there is still a bit of the "I know something you don't know" mentality, and that mail sits when someone is out. (Using the courier for mail has helped.) Staff are cited as providing necessary information to Commissioners, though the workload and backlog have gotten in the way.

Overall, it appears that communications within the RCA are good. That they are regarded so highly given the rapid pace at which the Commission is moving, the high work volume, and the extent of the changes being made is remarkable. Commissioners, staff, and stakeholders appear to have high expectations for performance of the RCA; caution might be warranted to ensure that unrealistically high expectations are not created and that the pace of work, though necessary in the short term, does not serve to create staff and commissioner burn-out if continued for the long term.

Morale

In this era of rapid change for regulatory commissions, it is not uncommon to discover fairly low morale, particularly among staff for whom employment might be more uncertain than in the past, for whom the job requirements and skills necessary are changing, and toward whom substantial stakeholder dissatisfaction with the regulatory process is being directed. *In the NRRI review of the APUC, comments from quite a few, though not all, interviewees indicated that a morale problem existed at the APUC that might exceed national norms.*

It is apparent that morale at the RCA is much improved. Better communications, the perceived better treatment of staff by Commissioners, and staff confidence that things are changing were cited as reasons. Impediments to higher levels of morale are the workload and the turnover particularly among clerical staff. Two of the people interviewed expressed concern that morale might be lower among the staff most closely affiliated with the Commissioners because of the extent of the changes there. The Commissioners have sponsored and organized staff events, which seem to have been well-received, and a new evaluation form has been created to provide staff feedback on their performance. One cited deficiency was the lack of an RCA mission statement. As the regulatory environment changes, an evolving mission statement might help staff clarify its role.

Commission Structure

Structure refers to an organization's relatively stable activities over a period of time, often reified as an organization chart. In this report, it also refers to the new tools and processes adopted by the RCA or mandated by its defining legislation. *It was reported in NRRI's interviews for the first report that some APUC Commissioners were perceived as being too involved with administration and that this involvement might inhibit their consideration of the important issues facing the commission. 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.*

When the RCA was established, several structural changes were made. They included:

- The legislation establishing the RCA requires a time-accounting system, and the charge to the utilities for support of the RCA is now based on time charges rather than utility revenues.
- An MIS system is being put in place as an aid to external users and internal management.
- The RCA is now using the Internet to publish information, orders, and dockets.
- The Chair was provided more authority.
- The legislation gave the RCA the authority for three Commissioners to hear cases. (One person interviewed believes that this authority existed before but was not used.) This is more efficient than the requirement that all five sit on cases.
- The legislation gives the RCA the authority to use arbiters and hearing officers.
- The Executive Director position was abolished. An assistant to the Chair (described by one person as a "Super Assistant" position) has assumed some of the coordinative duties previously accomplished by the Executive Director and, reportedly, some additional duties have fallen to the Chair.
- A Public Advocacy Section (PAS) was established. This section performs the advocacy function formerly performed by a much larger number of staff. It is assigned to cases by the Chair or can petition to intervene. The establishment of a PAS-like entity had been supported by industry.

Of these changes, the creation of the PAS seems to be the most significant. For one thing, it should provide Commissioners more staff advisory assistance, *which appeared to be lacking in the NRRI review of the APUC. Those interviewed then expressed concern that the assignment of existing staff resources of the APUC did not give adequate attention to the advisory function.*

Clearly, the PAS is just getting underway, and it may be too early to tell how it might affect the RCA and the regulatory process. There is some concern that it may not have enough staff to accomplish

the desired functions. There is also some concern that the other Commission staff (those assigned now to the "advisory" function since the PAS will handle "advocacy") may not have fully adjusted to their new role.

That clear separation of duties may evolve with time. Some concern was also expressed that some external stakeholders may be uncomfortable with the closeness of advisory staff to Commissioners and that advisory staff input is not subject to cross-examination. This too might abate over time.

Overall, it appears that the RCA is functioning well without an Executive Director. Two of those interviewed stated that it is sometimes unclear who to go to on particular issues and that a gap exists, but the majority of those interviewed expressed the belief that the lack of an Executive Director is not a problem. On the plus side, the Commissioner Assistant seems to be picking up coordinative duties well, department heads have more authority now, and there is now more direct staff access to the Chair.

In the new organization, the Chair was provided more authority, including decision authority in procedural matters. Overall, that seems to be an improvement. Those interviewed observe that the Chair and her Assistant are highly thought of, that things are being worked out, that the Chair is not a "power monger," that the other Commissioners defer to her appropriately and support her leadership, and that she is giving more authority to department heads. If problems exist, they may be embedded in her work load and the extent to which the substantial success of the PCA might be related to her competence and hard work. (It should be noted that all five Commissioners were cited for their attitude and hard work; the Chair seems to be regarded as the most able person in a very able group.) Some commented that more delegation from her may be necessary.

Staffing

In response to questions about the adequacy of staff support, comments were again directed toward the evolving advisory versus advocacy role of staff. It was noted that the RCA is not overstaffed by any means. Problems noted were the lack of strong leadership on the staff at the "sergeant" level, the backlog, recruiting difficulties, the need for the PAS to get staffed up, the need for a new paralegal, and that some staff are not reliable (one comment).

Concern was expressed in the review of the APUC about the level of legal 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. Legal support is now regarded as probably better than before, though the departure of an attorney was described as hurtful. Comments in the RCA review were mixed about whether legal support is adequate. Some expressed concern that staff don't get enough legal support, particularly given the backlog; others said that there is no scarcity of legal support and that, in the advisory role, staff need less support than before.

Management Information Systems

In the review of the APUC, both Commissioners and staff strongly believed that systems for managing commission processes at the APUC needed to be improved. Lack of computer support and inadequate use of computers were frequently mentioned as problems. Consideration was being given to hiring an outside consultant to design a computer information system for the commission. In the current review, there was near-unanimous support for the creation of the MIS section, which previously had been a part of Engineering. In addition, the recent upgrading of systems and standardization of systems was much appreciated. The MIS staff was described as responsive and knowledgeable. The RCA use of electronic systems to make documents available has

been well-received, and one person reported that the willingness to share information has improved information access. Much is expected of the MIS system currently under construction, though there is some expectation that it won't accomplish everything expected of it and that there will be transition problems.

Process

Of critical importance to the RCA is the perception that its decision-making processes are timely. *In the review of the APUC, the lack of timeliness and growing case backlog were regarded as measures of impaired Commission effectiveness. Though the dramatic increase in the APUC's workload might have been a contributory factor, delays in case processing were cited by many of those interviewed. Several specific problems that might have impacted the speed with which the APUC disposed 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. Particular concerns about timeliness at the staff level were the lack of speed with which documents moved between the fourth and third floors and the amount of work that had 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 had been made.*

It appears that stakeholders believe that the RCA is moving orders as quickly as possible. The RCA is making an effort to clear the backlog and to keep on top of current cases. Though perceptions are very positive, concerns were raised about the speed of adjudication, the desire for perfect information in some cases, and a tendency for the RCA to take on too much.

A key to commission effectiveness is the ability to establish an appropriate balance between due process protection (fairness) and commission effectiveness. Across the nation, commissions are attempting to move toward more effective decision-

making methods without, at the same time, unduly diminishing fairness. In the case of the RCA, there is the general impression that an attempt is being made to end an over-emphasis on process. One person noted that there has been a dramatic change in this regard. As was noted by one person interviewed: some people want speed; some want deliberation, but the RCA has made a good compromise. Any attempt to move toward a more effective process will cause concern on the part of some that fairness has been diminished. There were a couple of concerns in this regard in the RCA interviews. The ability of legal staff to pull the Commission back when it moves too fast was also cited.

In the NRRI's review of the APUC, a number of complaints were expressed about the timeliness and content of Commission orders. Several of those interviewed expressed dissatisfaction with the time required to write orders and the quality of the content of those orders. The responsibility for writing orders was regarded as 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 paralegals lacked the expertise to write good orders.

The writing of Commission orders is, in the words of one person interviewed, "improving but still in need of work." The content of orders appears to be adequate. Commissioners are writing orders in some cases, paralegals in others, and parties in procedural orders can submit draft orders. This distributed responsibility seems to be regarded as productive rather than fragmentation of responsibility as was the case with the APUC. Orders are said to contain fewer "weasel words."

There are still perceived problems with the issuance of orders. Orders are cited as being held up, though the source of the administrative delay was not further specified. One complaint was that some orders are needlessly detailed and that work needs to focus on the important orders and, by implication, to limit time spent on less important, procedural orders. Docket managers may need to follow up on orders.

Streamlining administrative processes is being pushed by Commissioners, though one person indicated that staff is resistant. Prehearing conferences are being used and several cases are being arbitrated by hearing examiners. The system of

assigning three Commissioners seems to work, and some cases are being consolidated. One person interviewed cited the potential danger of one Commissioner being able to dominate the others, which has a greater potential if three Commissioners are hearing a case as compared to five. No specific Commissioner was cited, and no example of this happening was given.

A majority of the substantive work of the APUC was performed through formal adjudicatory processes that emphasize due process. According to those interviewed, the APUC process was fairly formal and rigorous in its interpretation of ex parte requirements. Several potential 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.

The RCA is perceived, as was noted earlier, as being less constrained by formal judicial processes than the APUC. In addition to making better use of the hearing examiners, the RCA was cited as using workshops, mediation, and arbitration. In one case cited, mediation had failed because the parties were too far apart. It may be too early to determine the success of these attempts to employ processes that are less judicial.

As the work of the RCA shifts towards more policymaking and away from the kinds of fact-finding embedded in traditional rate cases, the RCA may 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.

External Relations

Legislative linkages will become increasingly important in the future as the

Commission further adopts a more legislative (i.e., policy making) 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 NRRRI indicated the belief that the APUC's legislative strategy was largely reactive. The passage of legislation disbanding the APUC may provide further attestation to the possible shortcomings of APUC legislative relations.*

By all accounts, RCA legislative relations are very good, and the legislature appears to be supportive of Commission work. Relations with the utilities are cited as being in a process of transition. Commissioners are currently being careful about communications with the industry and the potential for *ex parte* violations. According to one person interviewed, they may be being too careful. Industry may, according to one person, be a bit intimidated by this Commission, which is well-prepared and willing to attack sacred cows.

The public was cited as being at worst neutral to the RCA, though one person noted that there is some work to be done with consumers.

Consumer Protection

Although everybody the NRRRI interviewed in its review of the APUC who commented on the Consumer Protection section agreed that it is functioning well, there were incipient signs of overload. Complaints on telecommunications service had increased dramatically, due to the advent of competition. Disposition of a complaint took up to six weeks and the average time before resolution was becoming longer because complaints were not only more numerous but more complicated than in the past. Interviewees also reported an increase in carrier-to-carrier complaints. Solely on the basis of the strain on the capacity of the section due to increasing consumer complaints, a case was made for providing additional support to this section, both clerical and professional.

Since that review, the Consumer Protection Section has been provided more resources and appears, in the view of those interviewed, to be less stressed than before. The Section is highly regarded. Many of those interviewed still believe that the Section has a large work load and that they are barely keeping up. Of concern to some was the responsibility for that Section to prepare the Annual Report to the Legislature. One person suggested that a person be designated as fully responsible for that Report. Delegating pieces to other sections is also an option. Another concern was the replacement of Agnes Pitts when she retires. The Section would like to do more outreach to consumers but has been constrained by lack of resources. Carrier-to-carrier complaints have declined. Other complaints may be tapering off but may increase as other communities are impacted by local telecommunications competition.

General Comments

In the NRRI review of the APUC, the areas most in need of attention seemed to be:

- *Commissioner-staff and Commissioner-to-Commissioner relations, which included 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.*

Each of these areas has seen substantial improvement since the formation of the RCA, and overall the RCA seems to be functioning at a very high level of energy and competence. There are a few areas, however, that may ultimately lead to

problems at the RCA. They are:

22. The High Workloads. No one interviewed at the RCA is opposed to high levels of productivity and hard work on the part of Commissioners and staff. However, it appears from comments that the current pace may be unsustainable in the long run. The current heavy workload has been occasioned largely by the 750-case backlog. When that backlog is reduced, workloads might decrease. If workloads don't decrease, they might, over time, prove disheartening to staff and diminish morale. The result might be an increase in staff turnover and low levels of staff motivation. The situation should be monitored closely and more resources provided the RCA if workloads don't decrease as the backlog is diminished.

23. The Continued Evolution of the PAS and the Role of the Advisory Staff. The PAS appears to be a promising mechanism for the effective representation of consumer interests and the provision, through the remainder of the RCA staff, of adequate advisory support for Commissioners. By all accounts, the PAS is in the process of development. It is not certain that the staffing levels provided to it currently will be adequate for its role; its ability to perform its role should be monitored. Because of the formation of the PAS, the role of the remainder of the staff will need to change from advocacy to decision-support. Several of those interviewed suggested that the staff has not yet fully assumed that role. This should be monitored. External stakeholders will be impacted considerably by these changes in staff roles. Close contact should be maintained with them to monitor their opinions and perceptions.

24. The Staffing and Role of the Consumer Affairs Section. Across the country, more resources are being dedicated to consumer affairs, partly because of the increase in consumer complaints and concerns caused by the opening of utility markets to competition. By all accounts, the RCA Consumer Affairs Section is competent and performing services of value to consumers. If national trends hold, the workload in that Section can be expected to increase. In addition, other commissions have found

outreach to consumers, in the form of brochures or advertisements, to be a useful strategy for educating consumers. The RCA Consumer Affairs Section has not yet been able to turn its attention to that consumer outreach. Additional resources in the Consumer Affairs Section might be warranted, either by hiring new staff or increasing the availability of other RCA staff to the Consumer Affairs Section. An alternative to placing more resources in that Section is to reduce the workload; the task most appropriate for reassignment to another RCA section might be the preparation of the Annual Report to the Legislature.

25. Staff Training. High turnover among staff is an unfortunate aspect of the regulatory environment around the country, and there is little hope that it can be slowed without dramatic increases in staff salaries. Ongoing training for new staff is, therefore, necessary for commission effectiveness. Complicating the need for training is the increasing complexity of regulatory issues. Training is available for commission staff at a number of locations around the country and may be a wise investment. Participation in NARUC events and work may be another way to plug the "expertise hole" caused by staff turnover.

26. Heavy Reliance on the Chairman. As was noted earlier, several of those interviewed expressed concern about the reliance of the RCA on the talents of the Chairman. For the long-term health of the organization, a concerted effort to delegate more duties to others, appointment of a vice-chair, or ensuring that other Commissioners are exposed to the duties of the Chairman might be warranted. At least one person interviewed expressed confidence in the ability of other Commissioners to step in as Chairman if Chairman Thompson were to leave.

27. The Overall Face of Change. By all accounts the RCA has come a very long way in a very short time. Though organizational change can be exhilarating, it can also be draining and there is a danger in taking on too much change at once. The RCA may

wish to consider judicious choice of change targets so that some stability can be achieved. Development of a strategic plan may assist the RCA identify those areas most in need of change and help it prioritize its efforts.

The NRRI has been pleased to be able to conduct these two evaluations of the public utility regulatory institutions in Alaska. It is particularly gratifying to observe the tremendous positive changes that have occurred since our first visit. We would be pleased to assist in any other way that we can.

SECTION 7

MEMORANDUM

State of Alaska

Department of Law

TO The Hon. Paul Fuhs
Commissioner
Dept. of Commerce &
Economic Affairs

DATE June 21, 1994

FILE NO. 661-94-0744

TR. NO. 269-5211

SUBJECT Alaska Public Utilities
Commission Sunset

FROM Jeffrey D. Landry
Assistant Attorney General
Virginia A. Rusch
Assistant Attorney General
Fair Business Practices Section
Anchorage

In your May 18, 1994 memorandum to Attorney General Bruce Botelho, you asked this office to advise you how the legal authority of the Alaska Public Utilities Commission has been affected by the failure of the legislature, during the session just completed, to extend the commission's life. As you pointed out, AS 44.66.010(a)(4) provides that the commission "expires" or "terminates" on June 30, 1994. Under AS 44.66.010(b), the commission "continue[s] in existence until June 30 of the next succeeding year for the purpose of concluding its affairs." In addition, statutory language specifying the continuation of powers that appears in the Sunset Law applicable to licensing boards (AS 08.03.020) does not appear in the Sunset Law applicable to the commission (AS 44.66).

SUMMARY

We conclude that the commission's authority to make decisions and issue orders in accordance with the statutory powers and duties granted and conferred in AS 42.05, AS 42.06 and AS 42.45.100-190 is not withdrawn or diminished during the sunset (or wind-down) year. The commission should comply with the Sunset Law by preparing for the exigency of closing shop; this does not mean, however, that the commission cannot carry on its usual business of regulating utilities and pipelines. Since many of the commission's statutory duties are mandatory, the commission must reconcile performance of those duties with the provisions of the Sunset Law. We advise that the commission should continue to perform its statutory duties to the extent possible while developing a plan to phase out its work by the close of the sunset year. In deciding how to do this, the commission has a considerable amount of discretion.

This conclusion is based on an extensive review of the

legislative history of the Sunset Law¹ and is consistent with advice the Department of Law gave the Alcoholic Beverage Control Board nearly fifteen years ago. In fact, because a number of agencies terminated by the sunset law have continued their business as usual during the wind-down year, we think the view that an agency's authority is not diminished during a sunset year has by now taken on the status of a longstanding interpretation implicitly endorsed and relied upon by the legislature. Finally, this conclusion is consistent with the legislature's apparent intent in fully funding the commission for the coming year without any changes in the statutory duties assigned to the commission.

DISCUSSION

In your request for advice, you express concern that the commission's "authority for any case decided during the 'wind-down' year may be challenged" In fact, the literal language of the sunset legislation applicable to the commission² might suggest that the commission and its power to carry out the

¹ We reviewed approximately twenty-four hours of committee hearing tapes, including the tape recordings of the House State Affairs Committee's hearing on HB1 and CSHB1 in 1977, as well as the House Commerce Committee's hearings and the Senate HESS Committee's hearings on SB 241 in 1979, which among other things amended AS 08.03 by adding section AS 08.03.020. See note 7, below.

² AS 44.66.010 provides in part:

AS 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

.
(4) Alaska Public Utilities Commission (AS 42.05.010)--June 30, 1994;

.
(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

Paul Fuhs, Commissioner
Department of Commerce and
Economic Affairs
Our File No. 661-94-0744

June 21, 1994
Page 3

regulatory scheme set out in the Alaska Public Utilities Commission Act, AS 42.05, and the Pipeline Act, AS 42.06, do cease to exist on June 30, 1994. The terms "expire" and "termination" that appear in AS 44.66.010 usually mean "come to an end." See Webster's Third New International Dictionary of the English Language Unabridged 801, 2359 (1971). The words of AS 44.66.010(b) could mean that, during the sunset year, the commission has authority only to "conclude its affairs," that is, to dismantle the agency.³ However, our examination of available legislative history has persuaded us that such an interpretation is clearly contrary to the intent of the legislature.⁴

A. Legislative history

Alaska's version of sunset legislation was considered and adopted during the first session of the 10th Alaska legislature in 1977. Representative Clark Gruening sponsored HB 1, originally entitled "An Act relating to the termination, continuation, or reestablishment of certain agencies, boards and

³ In a memorandum to Tuckerman Babcock, Director, Division of Boards and Commissions, the Department of Law advised that "[t]his one-year period would primarily be for the purpose of concluding matters pending before the Alaska Public Utilities Commission rather than the commencement of new regulatory activity." 1993 Inf. Op. Att'y Gen. (Mar. 31; 663-93-0354).

⁴ The Alaska Supreme Court has said the goal of statutory interpretation is to give effect to the intent of the legislature, with due regard for the meaning the statutory language conveys to others. Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 905 (Alaska 1987). Statutory construction begins with an analysis of the language of a statute construed in view of its purpose. Peninsula Marketing Ass'n v. State, 817 P.2d 917, 920 (Alaska 1991). However, the court does not adhere strictly to the "plain meaning" rule in interpretation of statutes. Lagos v. City and Borough of Sitka, 823 P.2d 641, 643 (Alaska 1991). Even where the statutory language considered alone seems to leave room reasonably for only one meaning, the court may consult legislative history and the rules of statutory construction, realizing that sometimes language that seems clear in the abstract takes on a different meaning when viewed in context. Homer Elec. Ass'n v. Towsley, 841 P.2d 1042, 1044 (Alaska 1992).

Paul Fuhs, Commissioner
Department of Commerce and
Economic Affairs
Our File No. 661-94-0744

June 21, 1994
Page 4

commissions, and establishing a procedure for zero-base periodic review and evaluation of their programs and activities." See Attachment 1. Section 2 of this bill proposed to amend Title 44 of the Alaska Statutes by adding a new chapter (AS 44.66), which would have terminated 84 state boards and commissions, including the Alaska Public Utilities Commission. The proposed AS 44.66.010(e) said:

Upon termination, each agency, board or commission shall continue in existence until July 1 of the next succeeding year for the purpose of concluding its affairs. Termination or dissolution shall not reduce or otherwise limit the powers of the agency, board or commission. One year after termination or dissolution each agency, board or commission shall cease all activities.

Committee substitutes for HB 1 modified the original bill in several ways. Most significant to the question addressed here is the reorganization which first appeared in the House State Affairs Committee substitute bill. (CSHB 1 (State Affairs); see Attachment 2). This amendment divided the sunset legislation between two different titles of the Alaska Statutes. Section 2 of the committee substitute proposed to amend Title 8 by adding a new chapter (AS 08.03), which would terminate 22 state boards involved in regulation of professions and occupational licensing. This proposal contained AS 08.03.010(c), which read:

Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities. (emphasis added.)

CSHB1 (State Affairs) also proposed, in Section 3, to amend Title 44 by adding a new chapter (AS 44.66). The proposed AS 44.66.010(a) would terminate an additional five boards and commissions. Among these was the Alaska Public Utilities Commission, scheduled for termination on June 30, 1980. The language of AS 44.66.010(b) in the committee substitute was

identical to the statute as it appears today;⁵ it did not contain the two sentences underlined above in AS 08.03.010(c).

On March 29, 1977, Representative Gruening, the prime sponsor of the original bill and author of the committee substitute, testified before the House State Affairs Committee regarding the proposed committee substitute for HB 1.⁶ Gruening described how the committee substitute was intended to work. In his discussion, Gruening used the Alaska Transportation Commission as an example of an affected agency. The Transportation Commission, like the Public Utilities Commission, was on the sunset list in Title 44, not in Title 8. Gruening said, in pertinent part:

Under that, July 1, 1979, the agency would be terminated. But there is written into the bill a grace period, so that if, if the, the agency has a year to wrap up its affairs, do whatever it wants to to carry out the remaining time it has, and that is exactly one year.

Tape of the House State Affairs Committee hearing on CS for HB 1, March 29, 1977 (emphasis and punctuation added).

The amended sunset bill, including the division of the sunset provisions into two different titles of the Alaska Statutes, was passed by the House on April 29, 1977. Two Senate committees then considered the bill, further amending it in ways not relevant here, and the Senate passed it on May 26, 1977. The House concurred in the Senate amendment on May 27, 1977. The Governor signed the bill into law on June 18, 1977. Ch. 149, SLA 1977.⁷

⁵ See note 2, above.

⁶ The Alaska Supreme Court has recognized that "[s]tatements made by a bill's sponsor during legislative deliberations are relevant evidence when the court is trying to determine legislative intent." Beck v. State Dept. of Transp. and Public Facilities, 837 P.2d 105, 117 (Alaska 1992) (citing Madison v. Alaska Dept. of Fish and Game, 696 P.2d 168, 176 (Alaska 1985)).

⁷ In 1979 the legislature reorganized AS 08.03. It repealed AS 08.03.010(c), (d), and (e), re-enacted AS 08.03.010(c), and amended AS 08.03 by adding a new section, AS 08.03.020. Ch. 74, SLA 1979. The new section was identical to the repealed AS

We believe the legislative history reveals that the legislature did not intend to limit the powers and authority of the boards and commissions terminated under AS 44.66.010(a) during the wind-down year. As noted above, the common meaning of the words "expire" and "termination" is to come to an end. But it is obvious from the entire section as contained in both the original and subsequent versions that the legislature did not intend these words to have the meaning of a final ending. The drafters of the original bill did not think it was inconsistent for an agency to "expire," and at the same time, to "continue in existence for a year." The drafters also did not think it was inconsistent for an agency to continue for a year "for the purpose of concluding its affairs," and at the same time to have no reduction or limitation of powers for the one year of continued existence.

Reading these provisions together in an effort to give meaning to all of them, one must conclude that "expiration" under the Sunset Law triggers a period of special scrutiny by the legislature, and that an agency must prepare to phase out its operations, but that its authority to carry out its assigned functions during the sunset year continues undiminished. A board, commission, or agency that "expires" under the Sunset Law would cease its activities only at the end of an additional year. The sponsor of the bill described the one year of continued existence as a "grace period."

The committee substitute that divided the sunset provisions between Titles 8 and 44 of the Alaska Statutes clearly continued the "grace period" concept described above in the Title

08.03.010(c), (d), and (e). In 1980 the legislature amended AS 08.03.020(c) by adding the language "unless the board is continued or reestablished for a longer period under AS 08.03.010." See, e.g., sec. 2, ch. 36, SLA 1980. Otherwise, the legislature has not amended AS 08.03.020 since 1980. The legislature has, however, amended the re-enacted AS 08.03.010(c) continuously since 1980 as it reauthorized the various professional boards. Similarly, the legislature has amended AS 44.66.010(a) on an almost yearly basis since 1978 as it either reauthorized various boards and commissions or created new boards and commissions that became subject to sunset review. AS 44.66.010(b) and (c) have not been amended.

8 portion of the sunset provisions. AS 08.03.020(a).⁸ However, the last two sentences of AS 08.03.020(a) were left out of the sunset provisions in Title 44, which applies to the Public Utilities Commission. AS 44.66.010(b).⁹ In our extensive review of the available legislative history, we found nothing to explain the difference, or to indicate that a distinction was intentionally made. Representative Gruening's explanation of the intended "grace period" during which the Transportation Commission could "do whatever it wants" makes clear that the sponsor of the bill did not contemplate any different treatment of the agencies included in the Title 44 sunset provisions.

B. Interpretation since enactment

In 1979, after the legislature failed to extend the Alcoholic Beverage Control Board, the Deputy Commissioner of the Department of Revenue wrote to the Department of Law asking about the effect of that action on the Board's activities during the sunset year. Like the Public Utilities Commission, the Alcoholic Beverage Control Board is an agency falling under the Title 44 sunset provisions. The Department of Law advised the Board that "there was no intention to strip the regulatory boards terminated under AS 44.66. of their powers during the year in which they are closing out." 1979 Inf. Op. Att'y Gen. (Nov. 9; J-66-103-80). See Attachment 3.

In the seventeen years since the Sunset Law was adopted, at least five different Title 44 boards and commissions, on seven different occasions, have expired under AS 44.66.010(a) and functioned during the succeeding year under subsection (b).

The Alaska Transportation Commission expired on June 30, 1979, functioned during the succeeding year, and was continued by the legislature in 1980. Sec. 1, ch. 115, SLA 1980. (This agency was eventually terminated by an initiative. 1983 Initiative Proposal No. 2, sec. 6.)

The Alcoholic Beverage Control Board also expired on

⁸ Except for internal cross-references reflecting the subsequent reorganization, this statute is identical to the CSHB 1 (State Affairs) version quoted at p. 3.

⁹ See note 2, above.

Paul Fuhs, Commissioner
Department of Commerce and
Economic Affairs
Our File No. 661-94-0744

June 21, 1994
Page 8

June 30, 1979, functioned during the succeeding year, and was continued by the legislature in 1980. Sec. 11, ch. 131, SLA 1980.

The State Board of Parole has expired twice, June 30, 1980, and June 30, 1982, functioned during the succeeding years, and was continued by the legislature in 1981 and 1983, respectively. Sec. 1, ch. 32, SLA 1981; Sec. 1, ch. 20, SLA 1983. This year, the legislature again failed to extend this Board, so it will once again expire on June 30, 1994.

The Alaska Code Revision Commission expired June 30, 1985, functioned during the succeeding year, and was continued by the legislature in 1986. Sec. 1, ch. 121, SLA 1986. This commission expired again on June 30, 1993, and was not extended by the legislature in the session just completed.

The Alaska Women's Commission has a more convoluted legislative history. It expired on June 30, 1987, functioned during the succeeding year, but was not continued by the legislature in 1988. On June 23, 1988, Governor Cowper signed Administrative Order No. 110 establishing the Interim Women's Commission in the Office of the Governor. The order took effect July 1, 1988, so that there would be no time gap between the discontinued Alaska Women's Commission and the Interim Women's Commission. Under the order, the Interim Women's Commission was to remain in existence until the adjournment of the next legislative session. In 1989, the legislature extended the duration of the Interim Women's Commission to June 30, 1989, and reestablished the Alaska Women's Commission, effective July 1, 1989, as a continuation of the Interim Women's Commission. In 1993, the Governor, by Executive Order No. 84, merged the Women's Commission with the Alaska Commission on Children and Youth to create a new Alaska Human Relations Commission in the Governor's Office.

The Alaska Supreme Court has recognized that, in statutory interpretation, some weight should be given to an administrative interpretation, "and especially so if it is longstanding." Nat'l Bank of Alaska v. State, Dept. of Revenue, 642 P.2d 811, 815, n.5 (Alaska 1982). In Matanuska-Susitna Borough v. Hammond, 726 P.2d 166, 178 (Alaska 1986), the court also recognized that the legislature may be assumed to have acquiesced in a longstanding agency interpretation. With regard to this issue, the legislature has done nothing in fifteen years to express disagreement with the Department of Law's 1979

Paul Fuhs, Commissioner
Department of Commerce and
Economic Affairs
Our File No. 661-94-0744

June 21, 1994
Page 9

interpretation that the powers of an agency that expires under Title 44 are not curtailed during the wind-down year. It appears that the legislature has acquiesced in, and even come to rely on, the Department of Law's advice that an agency's powers are not curtailed during a sunset year.

C. Budget and powers

Finally, we think that the authorization of the full budget of the Public Utilities Commission in the FY 95 budget passed by the legislature and signed by the Governor on June 15, 1994 is evidence that the legislature did not intend to reduce or otherwise limit the authority of the commission between July 1, 1994, and June 30, 1995. Spending authority at the full amount requested by the commission would appear unnecessary if the commission's only function during the year is to dismantle itself.

We think the spending authority was intended to support functioning in accord with the commission's statutory powers and authority, AS 42.05 and AS 42.06, which were not repealed by the legislature.

CONCLUSION

We conclude the impact of AS 44.66.010(a)(4) on the Alaska Public Utilities Commission is to impose an additional duty to prepare for closing, but not to eliminate the commission's power to conduct its regulatory functions. The Commission should comply with the sunset law by preparing for the exigency that it may be required to cease all activities, lay off all staff and close its doors at the end of the next fiscal year. We suggest the commission should examine the time demands and completion dates of its current workload, determine what additional investigations can be accomplished by the end of the sunset year, develop a plan to conclude as many matters as possible before the end of the year, and publicize plans to wind down and phase out by June 30, 1995. We emphasize that how to do this is within the commission's discretion since the statutes offer little guidance.

JDL/VAR/rmg

Attachments: 3

cc: Don Schröer, Chairman, Alaska Public Utilities Commission
Bob Lohr, Exec. Dir., Alaska Public Utilities Commission

Paul Fuhs, Commissioner
Department of Commerce and
Economic Affairs
Our File No. 661-94-0744

June 21, 1994
Page 10

Kristie Leaf, Director
Boards and Commissions

Lynn Bartlett, Office of the Governor's Chief of Staff