

**ALASKA LEGISLATURE**

**1967**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

Setting ground rules for future environmental litigation, the Supreme Court handed the Sierra Club what might be called a friendly defeat: while the court rejected the Club's complaint as failing to show the organization's standing to sue, Legal Defense Fund attorneys were allowed to rewrite it to address a new, broadened rule of standing defined by the court. This rule stated that while a party must be injured to file suit, the injury can be to recreational interests, rather than only to financial interests. This new rule entered into the "common law" and opened the courts to environmental plaintiffs across the country. The door that had been slightly opened in the Storm King case under a particular statute was now thrown wide open. The Club's amended complaint detailed members' recreational use of Mineral King and the harm they would suffer without court action.

By the time attorneys filed the amended complaint, the National Environmental Policy Act had become law, and the Club asked the court to order the Forest Service to prepare an environmental impact statement on the project. This process, which involves public hearings and scientific studies, increased the public's interest in the dispute. Sensing a profound change in the public's mood, Disney dropped its proposal, and in 1978 the grassroots legislative campaign bore fruit when Congress and President Carter added Mineral King to Sequoia National Park.

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In those early days the Legal Defense Fund represented the Sierra Club almost exclusively. But as the organization grew and its attorneys branched out, they took on new clients from other corners of the environmental community. While the Sierra Club remains a major client, Legal Defense Fund attorneys now represent dozens of other groups.

Over the years, the Legal Defense Fund has been involved in many of the classic cases in environmental law, both setting legal precedents that can be followed across the nation, and complementing legislative and grassroots campaigns to preserve valuable areas. Among the most important cases are these:

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### **Admiralty Island, Alaska**

The object of Sierra Club and Legal Defense Fund efforts that continue to this day, Admiralty Island is a million-acre paradise in the Pacific west of Juneau known to the native Tlingit as *Kootz-noowoo* the Fortress of the Bears. A part of the nation's largest national forest, the Tongass, the heavily forested island supports the world's densest concentrations of Alaskan brown bears and bald eagles, and vast numbers of salmon, otters, trout, and other creatures.

But the Forest Service had long been determined to see Admiralty's hemlock and spruce clearcut, despite the destruction this would wreak upon the majestic island's wildlife and Native peoples. When the Service ignored pleas from conservationists to halt an unprecedented 50-year timber harvest lease that would have left much of Admiralty roaded and barren, the Sierra Club launched what eventually became a number of incredibly complex series of lawsuits and appeals. As in the Mineral King case, the Admiralty litigation was begun by an attorney working directly for the Club (in this case Warren Matthews, now an Alaska Supreme Court Justice) and was later assumed by the Legal Defense Fund.

Also like the Mineral King case, litigation helped persuade the corporation holding the lease to abandon the project. This bought time while the Sierra Club and other groups waged a dramatic and long-running legislative campaign to protect Alaskan wild areas, including Admiralty. That campaign succeeded in 1980 with the passage of the Alaska National Interest Land Conservation Act, which granted wilderness status to almost all of the island; left out was Angoon, Admiralty's only settlement, and a controversial 23,040-acre

area comprised of three of the island's most valuable watersheds. Legal Defense Fund attorneys continue battling to protect portions of that area from clearcutting by the Shree Atika logging corporation.

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## Air Quality and the Colorado Plateau

The parks and wildlands of the Colorado Plateau--Grand Canyon, Zion, Canyonlands, and other areas--are famous for their expansive views. At the same time, developers have sought to build stripmines, coal-fired powerplants, uranium mines, and other projects that would spoil views and sully air quality across the entire region, parks and wildlands included.

Passage of the first Air Quality Act in 1967 committed the federal government to "protect and enhance" the nation's air. To implement the act, the National Air Pollution Control Administration (NAPCA, an agency then within the Department of Health, Education, and Welfare) decreed that in areas where the air was still relatively clean, like the Colorado Plateau, the federal government must undertake to "prevent significant deterioration" of air quality. This important provision of the regulations is abbreviated "PSD."

In 1970, however, NAPCA was transferred to the new Environmental Protection Agency, and when the Clean Air Act was enacted by Congress that year, there was no explicit reference to PSD. The EPA's regulations to implement the new Clean Air Act included provisions that would have allowed the dirtying of clean air in most of the country. On the Colorado Plateau, that would have meant polluted skies from stripmines, powerplants, and other projects, approval for which had been blocked in part by the PSD standards.

The Legal Defense Fund sued, arguing that the "protect and enhance" language in both clean air laws strongly implied the PSD requirement. A district court agreed, and so did the Court of Appeals and the Supreme Court (although neither wrote an opinion). When the Clean Air Act was amended in 1977, Congress added PSD as an explicit provision of the law. The PSD lawsuit helped protect air quality over the Colorado Plateau's parks and wildlands, while it aided in blocking developments that would have fouled land, water, and air throughout the region.

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These are just two of the cases in which the Sierra Club Legal Defense Fund has made a difference. There have been hundreds of such lawsuits in the years since the organization hung out its shingle, and there will be many more.

Sierra Club members and other conservationists usually turn to litigation when all other remedies are exhausted. Upon being contacted by officers of a Club chapter considering a suit, Legal Defense Fund attorneys review the dispute to determine its prospects for success in court, whether it could set a precedent useful elsewhere, and if a victory could be sustained politically. When a good case cannot be accepted owing to workload, the Legal Defense Fund attempts to find volunteer or reduced-fee lawyers to help the chapter with its case.

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[Back to Affiliated Sierra Club Organizations.](#)



[Back to Sierra Club home page.](#)

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Sierra Club, 85 Second St., Second Floor, San Francisco, CA 94105-3441, USA. Telephone (415) 977-5500 (voice), (415) 977-5799 (FAX). Text written by Tom Turner, 1989. Last updated 12 March 1996.

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ALASKA STATE CHAMBER OF COMMERCE

Position 99 - 25

Public Interest Litigants

WHEREAS, Alaska court doctrine recognizes a party status known as "public interest litigant";

WHEREAS, the four-part test to qualify as a "public interest litigant" established by the Alaska Supreme Court in *Anchorage Daily News v. Anchorage School District*, 803 P.2d 402, 404 (Alaska 1990), requires that:

- (1) the case pursued by the party must be designed to effectuate strong public policies;
- (2) if the party prevails, numerous people will receive benefits from the litigation;
- (3) the challenge must be one that only a private party could have been expected to initiate;  
and
- (4) the purported public interest litigant would not have sufficient economic incentive to file suit;

WHEREAS, some groups routinely challenge state resource development decisions and are granted "public interest litigant" status by the courts;

WHEREAS, these groups are often special interest groups posing as public trusts as well as public interests litigants;

WHEREAS, these challenges typically allege as many as 15 to 20 specific deficiencies in the state's administrative finding;

WHEREAS, when groups challenging resource development decisions prevail, they generally prevail on only one or two issues;

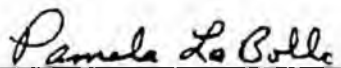
WHEREAS, even though the groups only prevail on one or two issues, they are typically awarded full costs and attorneys fees;

NOW, THEREFORE BE IT RESOLVED, that the Alaska State Chamber supports legislation to amend state law to direct the Alaska courts to apportion the same percentage of costs and fees paid to a public interest litigant as the percentage of issues raised on which the litigant prevailed.

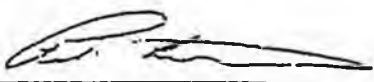
ADOPTED

March 2, 1999

BY

  
Pamela La Bolle  
President

BY

  
Peter Leathard  
Chairman

**HB**

**180**

**HFIN**

**FILE**

1-LS0188VK  
Luckhaupt  
2/3/00

*Amended pg 2, un.  
Adopted*

**CS FOR HOUSE BILL NO. 180( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES COWDERY, Dyson**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the possession, manufacture, use, display, or delivery of  
2 controlled substances while children are present."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 11.51.130(a) is amended to read:

5 (a) A person commits the crime of contributing to the delinquency of a minor  
6 if, being 19 years of age or older or being under 19 years of age and having the  
7 disabilities of minority removed for general purposes under AS 09.55.590, the person  
8 aids, induces, causes, or encourages a child

9 (1) under 18 years of age to do any act prohibited by state law unless  
10 the child's disabilities of minority have been removed for general purposes under  
11 AS 09.55.590;

12 (2) under 18 years of age or allows a child under 18 years of age to  
13 enter or remain in the immediate physical presence of [SAME ROOM IN A  
14 BUILDING WHERE] the unlawful possession, manufacture, use, display, or

1 delivery [SALE] of a controlled substance knowing that the ~~unlawful~~ possession,  
2 manufacture, use, display, or delivery is occurring, [DRUG OCCURS] unless; the  
3 child's disabilities of minority have been removed for general purposes under  
4 AS 09.55.590;

5 (3) under 16 years of age to be repeatedly absent from school, without  
6 just cause; or

7 (4) under 18 years of age to be absent from the custody of a parent,  
8 guardian, or custodian without the permission of the parent, guardian, or custodian or  
9 without the knowledge of the parent, guardian, or custodian, unless the child's  
10 disabilities of minority have been removed for general purposes under AS 09.55.590  
11 or the person has immunity under AS 47.10.350 or 47.10.398(a); it is an affirmative  
12 defense to a prosecution under this paragraph that, at the time of the alleged offense,  
13 the defendant

14 (A) reasonably believed that the child was in danger of physical  
15 injury or in need of temporary shelter; and

16 (B) within 12 hours after taking the actions comprising the  
17 alleged offense, notified a peace officer, a law enforcement agency, or the  
18 Department of Health and Social Services of the name of the child and the  
19 child's location.

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: May 3, 1999

FURTHER REFERRALS:

Date of Committee Action: 02/04/00

The FINANCE Committee considered:

HB 180

HOUSE BILL NO. 180

DRUGS WHERE MINORS ARE PRESENT

"An Act relating to the possession, manufacture, use, display, or delivery of controlled substances while children are present."

recommends it be replaced with the following committee substitute CS HB 180 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal note(s) DDA, DOC, LAW

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Court

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault	X			
<i>Edon Mulder</i>	Mulder	X			
<i>Leon Bunde</i>	Bunde			✓	
<i>Alan Gustin</i>	Gustin			✓	
<i>Col N. Davies</i>	DAVIES		X		
<i>Ben Grussendorf</i>	Grussendorf		X		
<i>Paul E. Moses</i>	Moses		✓		
<i>David Davis</i>	Davis		✓		
<i>Bill Phillips</i>	Phillips			✓	
<i>Bob Foster</i>	Foster	X			

CHAIR'S SIGNATURE

*Gene Therriault* *Edon Mulder*

**FISCAL NOTE**

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

BILL NO. CSHB 180(JUD)

Revision Date: January 31, 2000  
 Title: "An Act relating to the possession, manufacture, use, or delivery of controlled substances while children are present"  
 Sponsor: Representative Cowdery  
 Requestor: (H) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	15.2	15.2	15.2	15.2	15.2	15.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.2	15.2	15.2	15.2	15.2	15.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>	<b>15.2</b>

Estimate of any current year (FY 00) cost: \$ -0-

**POSITIONS:**

FULL-TIME						
PART-TIME	.25	.25	.25	.25	.25	.25
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: January 31, 2000

Approved by Commissioner: Bob Poe  
 Agency: Department of Administration

Date: January 31, 2000

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## FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 180(JUD)

### 2000 LEGISLATIVE SESSION

#### ANALYSIS: (continued)

This bill would make it a class A misdemeanor to allow a child to be in a dwelling or vehicle where any controlled substance is being used, manufactured, displayed, or delivered. If the controlled substance is used, manufactured, etc. in the immediate presence of the child, it is also a class A misdemeanor even if the use, etc. is not in a dwelling or vehicle.

This bill has a broad reach. The child need not be aware of the use of the controlled substance in the dwelling. For example, even if a parent waited until the child is asleep in a separate room and used marijuana, the parent could still be subject to prosecution under this law.

The fiscal impact of this bill could be very significant. However, it is difficult to say how many criminal prosecutions there will be under this bill. We do have rough estimates from our experience in Child in Need of Aid (CINA) cases of parents using controlled substances in the home when children are present. Our CINA attorneys believe that there is some documentation of drug use in the home or in the presence of children in about a quarter of our CINA cases. The Public Defender Agency was appointed to 996 new CINA cases in FY99. Using a conservative estimate of 10% rather than 25% of these cases being strong enough for criminal prosecution, that would mean 100 additional misdemeanors to which the Public Defender Agency could be appointed.

According to national standards, public defender misdemeanor lawyers are supposed to handle no more than 400 new cases per year. Therefore, we are requesting funding for ¼ of a misdemeanor lawyer's salary. We are not making requests for equipment, supplies, contractual services, or travel. We believe most of these cases would arise in Anchorage.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. CS HB180 (H FIN)**

Revision Date/Time (Note if correction) _____	Dept. Affected	Department of Corrections
Title <u>An act relating to possession of controlled substances in the presence of children</u>	BRU	<u>Administration and Operations</u>
Sponsor <u>Representative Cowdery</u>	Component	<u>All</u>
Requester <u>House Finance Committee</u>	Component No.	<u>#0694</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	***	***	***	***	***	***

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	***	***	***	***	***	0.0

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The Department of Law reports approximately 500 cases of Misconduct Involving a Controlled Substance in a year. Attempts have been made to determine how many of those cases may involve children in some way, but there is no data available. Additionally, although someone may be charged with Endangering the Welfare of a Child under this bill, that in no way ensures that the charge would not be concurrent, or used as a bargaining tool, in sentencing. In all likelihood, there would be instances when it would result in additional time (up to one year for a Class A Misdemeanor). It is the Department of Corrections' belief that there could be significant costs attached to this, but we have no way of quantifying it at this time. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: <u>Candace Brower</u>	Phone: <u>465-3307</u>
Division: <u>Commissioner's Office</u>	Date/Time: <u>2/2/00 4:27 PM</u>
Approved by: <u>Commissioner Margaret M. Pugh</u>	Date: <u>Feb 2, 2000</u>
Agency: <u>Dept. of Corrections</u>	

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# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. C&HB 180(JUD)**

Revision Date		Dept. Affected	<u>Alaska Court System</u>
Title	<u>Possession of Drugs While Children are Present</u>	BRU	<u>Alaska Court System</u>
Sponsor	<u>Rep. Cowdry</u>	Component	<u>Trial Courts</u>
Requester	<u>House Finance</u>	Component Serial No.	<u>769</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: None

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 No fiscal impact anticipated.

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>463-4750</u>
Agency:	<u>Alaska Court System</u>	Date/Time:	<u>2/1/00 9:58 AM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date:	<u>2/1/00</u>
Agency:	<u>Alaska Court System</u>		

# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. CSHB 180 (JUD)**

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>"An Act relating to the possession, manufacture, use,...of controlled substances while children are present."</u>	BRU <u>Criminal Division</u>
Sponsor <u>Representative Cowdery</u>	Component <u>1st-4th Judicial Districts; Criminal Appeals/Special Litigation</u>
Requester <u>House Finance Committee</u>	Component No. <u>2198-99;2201;03;61;79</u>

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	*****	*****	*****	*****	*****	*****
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

CSHB 180 (JUD) raises storing drugs in a vehicle or dwelling where children are allowed to enter or remain from a violation to a class A misdemeanor, and expands the prohibition to allowing children in the presence of other unlawful conduct in relation to drugs. A class A misdemeanor provides a maximum one year incarceration, and a \$5,000 fine, compared to a violation which is a maximum \$300 fine and no period of incarceration. The more serious consequences of the offense would make it more expensive to prosecute. The bill also expands Contributing to the Delinquency of a Minor by broadening the prohibition of allowing a child to be in the presence of illegal drug activity.

The Department of Law cannot estimate at this time how many cases this offense might generate. Until some more experience is gained, the department cannot project the fiscal impact of this bill.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>1/31/00 10:32 AM</u>
Approved by <u>Commissioner</u> <i>Ked for</i> <u>Bruce M. Botelho, Attorney General</u>	Date <u>1/31/00</u>
Agency <u>Department of Law</u>	

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## Sponsor Statement for HB 180 (JUD)

Existing statutes acknowledge that children should not be allowed to enter or remain where drugs are stored (11.51.110) or sold (11.51.130). However, current law does not prohibit the manufacture or use of drugs in the presence of children. Children learn by example. I believe the destructive behavior modeled by drug use in the presence of a child is as damaging as that of being in the same room, dwelling or vehicle in which drugs are stored or sold. HB 180 corrects this situation.

New language in House Bill 180 expands the sphere of space in which the co-presence of children and drugs is forbidden. By using the phrase, "in the immediate physical presence of" children are protected in outdoor situations like a yard, campsite or park bench. Stiffer penalty provisions send the clear message that children and drugs don't mix.

To promote uniformity of application the new provision employs "use, manufacture, delivery and display", terms used in existing controlled substance statutes.

### - Sectional Review -

House Bill 180 adds new language to 11.51.100. Section 100 is amended to recognize the damaging effects to children of being exposed to the drug culture. The new section 100 makes it a criminal act to allow a child under the age of 16 to enter or remain in a dwelling or vehicle where drugs are used, made or displayed. Additionally, Section 100 prohibits allowing a child to enter or remain in the immediate physical presence of the use, manufacture or display of drugs. In order to be prosecuted under these new provisions it must be shown that the adult legally charged with the care of the child knew that the use, sale, manufacture or display of illegal drugs was occurring. Upon the proof of knowing conduct, a person found in violation of Section 100 would be guilty of a class "A" misdemeanor.

House Bill 180 further adds new language to 11.51.300. Section 300 is amended to acknowledge the damaging example set by adults who use, manufacture or deliver controlled substances. The new language sanctions an adult who aids, induces, causes or encourages a child under the age of 18 to enter or remain in the immediate physical presence of the use, manufacture or delivery of a controlled. In order to be prosecuted under this subsection, it must be shown that the accused acted with "reckless disregard" for whether or not the drug related activity was occurring. Additionally, the new language makes it unlawful for a person to aid, induce, cause or encourage someone under 18 years old to be in the immediate physical presence of the possession of a controlled substance, knowing that the possession was occurring. A person convicted under this section would be guilty of a class "A" misdemeanor.

House Bill 180 removes redundant language from the existing statutes under 11.51.130.

**AS 11.51.100 – Endangering the welfare of a child in the first degree**

Currently does not recognize any drug related endangerment. Section applies to children under age 16.

*New provisions provide penalty for allowing a child to enter or remain where drugs are used manufactured or displayed (direct actions). Violation is a class "A" misdemeanor*

**AS 11.51.110 – Endangering the welfare of a child in the second degree**

Currently, for children under 10 years of age, it recognizes that children should not be allowed to enter or remain in a dwelling or vehicle where drugs are **stored**.

*New provision deletes this section's reference to controlled substances*

Penalty provision under 11.51.110 is a violation (Max \$300)

**AS 11.51.130 – Contributing to the delinquency of a minor**

Currently provides penalty for an adult who aides, induces, causes or encourages a minor to enter or remain in the same room in a building where the sale of a controlled substance occurs.

*New provisions provide penalty for an adult who aides, induces, causes or encourages a minor to enter or remain in the immediate physical presence of the unlawful possession (situation) of a controlled substance, knowing that the possession is occurring.*

*New provisions provide penalty for an adult who aides, induces, causes or encourages a minor to enter or remain in the immediate physical presence of the unlawful manufacture, use, delivery or sale (direct actions) of a controlled substance, with reckless disregard that the unlawful conduct was occurring.*

Violation is a class "A" misdemeanor.

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Ketchikan  
Pres. First City Chapter

Robert Claus, Member  
Craig  
Pres. Prince of Wales Chapter

John Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands Chapter

January 27, 2000

Representative Gene Therriault  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

Dear Representative Therriault:

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 180.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Sincerely,

John Charbonneau  
State President

cc: Representatives Cowdery and Dyson

**HB**

**180**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/21/00

FURTHER:

REPORTED OUT OF  
SFC 4/13/00

DATE TURNED  
IN TO OFFICE: 13 April 00

Finance Committee considered

CS FOR HOUSE BILL NO. 180(FIN) am

"An Act relating to the manufacture, use, display, or delivery of controlled substances while children are present."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Corrections	3/21/00	*	←

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Law	3/21/00	✓	
Admin - PDA	3/17/00		*
<del>Corrections</del>	<del>2/2/00</del>		<del>*</del>
Cart	2/1/00	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 180 (FIN) am

Revision Date/Time (Note if correction) 3/21/00 3:00 p.m. Dept. Affected Department of Corrections  
 Title An Act relating to the manufacture, use, display, BRU Administration and Operations  
or delivery of controlled substances while children are present Component All  
 Sponsor Representative Cowdery  
 Requester Senate Judiciary Committee Component No. #0694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The Department of Law reports approximately 500 cases of Misconduct Involving a Controlled Substance in a year. Attempts have been made to determine how many of those cases may involve children in some way, but there is no data available. Additionally, although someone may be charged with Contributing to the Delinquency of a Minor under this bill, that in no way ensures that the charge would not be concurrent, or used as a bargaining tool, in sentencing. In all likelihood, there would be instances when it would result in additional time (up to one year for a Class A misdemeanor). It is the Department of Corrections' belief that there could be significant costs attached to this, but we have no way of quantifying it at this time. Therefore, the Department of Corrections is submitting an indeterminate fiscal note on the committee substitute.

Prepared by: Candy Brower, Legislative Liaison

Phone 465-3307

Division Commissioner's Office

Date/Time 3/21/00 2:54 PM

Approved by Commissioner Margaret M. Pugh

Date 3-21-00

Agency Dept. of Corrections

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

# FISCAL NOTE No. 8

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

Bill Version: CSHB 180(FIN)AM  
(S) Publish Date: 3-22-00

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Law  
Title "An Act relating to the possession, manufacture, use,...of controlled substances while children are present." BRU Criminal Division  
Component 1st-4th Judicial Districts; Criminal Appeals/Special Litigation  
Sponsor Representative Cowdery  
Requester Senate Judiciary Committee Component No. 2198-99;2201;03;61;79

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

### POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 180 (FIN) AM expands the crime of Contributing to the Delinquency of a Minor by broadening the prohibition against allowing a child to be in the same room or building as the sale of drugs, to prohibiting a person allowing the child to be in the immediate physical presence of the illegal manufacture, use, display, or delivery of drugs, when the person knows the illegal activity is occurring.

The Department of Law does not anticipate any fiscal impact from passage of this bill.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370  
Division Attorney General's Office Date/Time 3/21/00 3:25 PM  
Approved by Commissioner Bruce M. Botelho, Attorney General Date 3/21/00  
Agency Department of Law

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

No. 7  
Bill Version: CSHB 180(JUD) am  
(S) Publish Date: 3-21-00

Revision Date: 3/17/00 Dept. Affected Administration  
Title "An Act relating to the possession, manufacture, BRU Legal and Advocacy Services  
use or delivery of controlled substances while children are present" Component Public Defender Agency  
Sponsor Representative Cowdery  
Requester (S) JUD Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)  
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	.	.	.	.	.	.
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

CAPITAL EXPENDITURES	.	.	.	.	.	.
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ( )	.	.	.	.	.	.
------------------------	---	---	---	---	---	---

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	.	.	.	.	.	.
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	.	.	.	.	.	.

Estimate of any current year (FY2000) cost: \_\_\_\_\_  
POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)  
  
See attached.

Prepared by: Barbara Brink, Director Phone 264-4414  
Division Public Defender Agency Date/Time \_\_\_\_\_  
Approved by Commissioner - Robert Poe, Jr. Date 3/17/00  
Agency Department of Administration

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 180(JUD) AM

#7

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill makes changes to the Contributing to the Delinquency of a Minor statute. Under the current statute it is illegal to aid, induce, cause, or encourage a minor to be in the same room where a drug sale is taking place.

This bill broadens the current statute considerably. Under the bill, a person can be convicted if he or she knowingly aids, induces, causes, encourages, or allows a minor to be in the immediate presence of the unlawful manufacture, use, display, or delivery of unlawful drugs.

It is difficult to say what the fiscal impact of these changes would be. Mothers and fathers with children often do not have as much choice as they would like in where and with whom they live. For example, if one spouse starts using drugs, the other spouse will sometimes not be able to leave or shield the children from the drug use entirely. Public Defender Agency attorneys see situations like these in Child in Need of Aid cases frequently.

So, if this law is vigorously enforced against people who would currently be innocent of wrong doing the impact could be significant. However, because there is no way to judge the number of additional cases the Public Defender Agency would have to handle, the Agency is submitting an indeterminate fiscal note.

**FISCAL NOTE**

Bill Version: CSHB 180 (FIN)

(H) Publish Date: 2/7/00

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

REPORTED OUT OF  
SFC 413/00

Revision Date		Dept. Affected	<u>Alaska Court System</u>
Title	<u>Possession of Drugs While Children are Present</u>	BRU	<u>Alaska Court System</u>
Sponsor	<u>Rep. Cowdry</u>	Component	<u>Trial Courts</u>
Requester	<u>House Finance</u>	Component Serial No.	<u>769</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: None

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
No fiscal impact anticipated.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 463-4750  
 Agency: Alaska Court System Date/Time: 2/1/00 9:58 AM  
 Approved by: Stephanie J. Cole, Administrative Director Date: 2/1/00  
 Agency: Alaska Court System



REPRESENTATIVE JOHN J. COWDERY  
Sponsor Statement for CS HB 180(FIN) AM

Existing statutes acknowledge that children should not be allowed to enter or remain where drugs are stored (11.51.110) or sold (11.51.130). However, current law does not prohibit the manufacture or use of drugs in the presence of children. Children learn by example. I believe the destructive behavior modeled by drug use in the presence of a child is as damaging as that of being in the same room, dwelling or vehicle in which drugs are stored or sold. HB 180 corrects this situation.

New language in House Bill 180 expands the sphere of space in which the co-presence of children and drugs is forbidden. By using the phrase, "in the immediate physical presence of" children are protected in outdoor situations like a yard, campsite or park bench. Stiffer penalty provisions send the clear message that children and drugs don't mix.

To promote uniformity of application the new provision employs "use, manufacture, delivery and display," terms used in existing controlled substance statutes.

- Sectional Review -

House Bill 180 adds new language to 11.51.130. New provisions provide penalty for allowing, aiding, inducing, causing or encouraging a child to enter or remain in the immediate physical presence of the manufacture, use, display or delivery of drugs, knowing that the manufacture, use, display or delivery is occurring. Violation is a class A Misdemeanor.

Current language only prohibits aiding, inducing, causing or encouraging a child to enter or remain in the *same room in a building* where the *sale* of the drug occurs.

file

# Alaska State Legislature **HOUSE MAJORITY NEWS**

web site: <http://www.akrepublicans.org>

State Capitol  
Juneau, AK 99801  
Actuality line: 1-800-478-6540

Jerry Ritter  
*Press Secretary*  
(907) 465-3804

**FOR IMMEDIATE RELEASE: March 3, 2000**

**CONTACT: Representative John Cowdery**  
(907) 465-3879

## **House: Keep Drugs Away from Minors** **Bill Punishes Drug Use in the Presence of Children**

(JUNEAU) -- The Alaska House of Representatives Friday passed House Bill 180, which forbids allowing a child to be in the physical presence of controlled substances.

"HB 180 tightens the expectations placed on adults and sends a clear message that kids and drugs do not mix," said Representative John Cowdery (R-Anchorage), sponsor of HB 180. "It also corrects a small oversight in existing regulations to cover outdoor situations."

HB 180 prohibits adults from knowingly allowing a minor to enter or remain in the presence of the use, manufacture, delivery, or display of drugs. The crime would be punishable as a Class A Misdemeanor, Contributing to the Delinquency of a Minor.

HB 180 passed on a 25-11 vote. Notice of Reconsideration was filed.

###

**Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540**

· S T A T E   O F F I C E  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106   Anchorage, Alaska 99524-0106   Phone (907) 277-0515   Fax (907) 272-5355



**Business Manager**

Joseph E. Young  
Anchorage

**Board of Directors**

John Charbonneau, President  
Anchorage

Robin Lown, Vice President  
Juneau

Michael Corkill, Past President  
Anchorage

Tod McGillivray, Member  
Kenai  
Pres. Kenai Chapter

Leo Brandlen, Member  
Anchorage  
Pres. Anchorage Chapter

Angella Long, Member  
Palmer  
Pres. Mat-Su Chapter

Tonya Barnes, Member  
Fairbanks  
Pres. Farthest North Chapter

Robert Fletcher, Member  
Juneau  
Pres. Capitol City Chapter

Leroy Mestas, Member  
Ketchikan  
Pres. First City Chapter

Robert Claus, Member  
Craig  
Pres. Prince of Wales Chapter

John Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands Chapter

January 27, 2000

**Representative Gene Therriault  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182**

**Dear Representative Therriault:**

**At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 180.**

**Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.**

Sincerely,

**John Charbonneau  
State President**

**cc: Representatives Cowdery and Dyson**

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES**

**ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE**

P.O. BOX 110608  
JUNEAU, ALASKA 99811-0608  
PHONE: (907) 465-8920  
FAX: (907) 465-4410  
TOLL FREE: 1-800-420-8920

March 24, 2000

Senator Sean Parnell, Chair  
Senate Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Parnell and Committee Members:

On behalf of the Advisory Board on Alcoholism and Drug Abuse I urge you to support passage of CSHB 130 "Drugs Where Minors Are Present". This bill seeks to protect children from the harmful effects of exposure to the manufacture, use, and sale of controlled substances. State public safety officials and child protection workers have repeatedly investigated situations involving the manufacture, use and sale of controlled substances in which minor children have been found neglected, abused, or placed in high-risk situations such as home production of drugs using volatile chemicals.

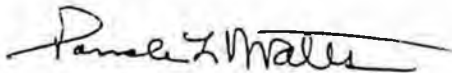
This legislation criminalizes these actions if the parent, guardian, or custodian of the minor knowingly allows a child under 18 years of age to enter or remain in the immediate physical presence of the unlawful manufacture, use, display, or delivery (sale) of a controlled substance.

The Advisory Board on Alcoholism and Drug Abuse State Plan for Alcohol and Drug Abuse Services outlines a strategy to advocate for positive change through legal and regulatory initiatives. All available research points to the conclusion that public policy decisions regarding substance abuse have a major impact on the prevalence and severity of substance abuse problems in communities.

The Board urges you to support passage of CSHB 180 in the best interests of protecting minors from the harmful effects of exposure to controlled substances and related negative consequences.

Thank you for your consideration of this important issue.

Sincerely,



Pamela L. Watts  
Executive Director

SENATE FINANCE COMMITTEE

SIGN-IN

HB 180-DRUGS WHERE MINORS ARE PRESENT

NAME: CONOR SULLIVAN Subject/Bill No: HB180  
Co./Dept./Title: Leg. Aide / Rep. Cowdery Phone: 465-6848  
Address: CAV 204 Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions



## Teleconference Update Summary

TCN: 10761

**Main Menu**

**Search**

**System Access**

### Summary Data

TC Date: April 13, 2000	Moderator:
Time: 6:00 PM TO 9:00 PM	Toll Free Number: 800 368 8772
Status: Announced	Dial-up Number:
Sponsor: SFIN: FINANCE	Personal Number: 907 258 8772
Chairs: Parnell	Testimony Allowed: Yes
Torgerson	Time Limit: 5 minutes
Purpose: PUB	Backup Material: No
Contact: DARWIN 4652138	Meeting ID: 73462

Public Remarks:

Internal Comments: OTHER SITES MAY JOIN

### Agenda

Bill Number	Bill Subject
HB 180	DRUGS WHERE MINORS ARE PRESENT
HB 272	MUNICIPAL TAX: LOW INCOME HOUSING
HB 288	CHILDREN WITNESSING DOMESTIC VIOLENCE
HB 437	REINSTATEMENT OF NATIVE CORPORATIONS

### LIO Sites

Chair	Name	Room
	ANCHORAGE	
x	JUNEAU	CAP532

### VTS Sites

Chair	Code	Name	Location	LIO
-------	------	------	----------	-----

### Off-net Sites

Chair	Code	Name	Location	Phone
	OF1	Jeff Judd	Anchorage	907-677-8424

### Participants

Name	Type	Bill
------	------	------

*Blair*

**HB**

**183**

**HFIN**

**FILE**

# Alaska State Legislature



Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
Fax: (907) 465-2273

Committees:  
Chair  
Fisheries  
Utilities  
Restructuring  
Member  
Transportation  
State Affairs

## UTILITY RESTRUCTURING COMMITTEE

May 11, 1999

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

---

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

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

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

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

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

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

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

The effective date is immediate.

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

**Section 1:**

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

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

**Section 3:**

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 16: Immediately effective date.**

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

# ALASKA PUBLIC UTILITIES COMMISSION

## Annual Report

Fiscal Year 1998



# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99501-1963  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

February 5, 1999

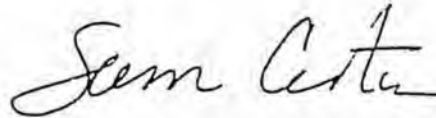
Honorable Brian Porter  
Speaker of the House  
and  
Honorable Drue Pearce  
President of the Senate

Dear Speaker Porter and President Pearce:

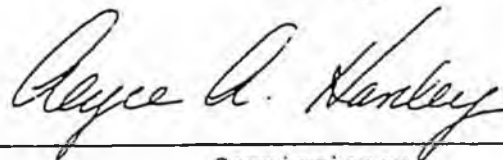
On behalf of the Alaska Public Utilities Commission, we are pleased to submit to the Alaska State Legislature the Twenty-ninth Annual Report of the Alaska Public Utilities Commission, covering the fiscal year ending June 30, 1998. This is filed pursuant to AS 42.05.011 and AS 42.06.220.

Respectfully yours,

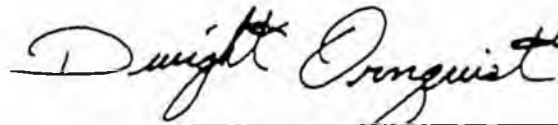
ALASKA PUBLIC UTILITIES COMMISSION



Chairman



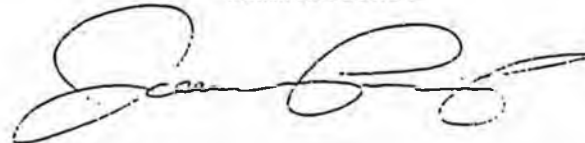
Commissioner



Commissioner



Commissioner



Commissioner

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# ALASKA PUBLIC UTILITIES COMMISSION

## Annual Report

Fiscal Year 1998



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

**telephone: (907) 276-6222**  
**fax: (907) 276-0160**  
**TTY: (907) 276-1533**  
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**FY98 statistical data will be available at APUC's web site shortly after  
the release of this printed volume.**

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

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February 5, 1999

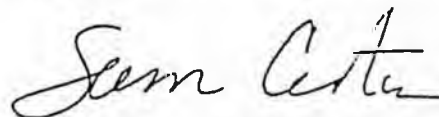
Honorable Brian Porter  
Speaker of the House  
and  
Honorable Drue Pearce  
President of the Senate

Dear Speaker Porter and President Pearce:

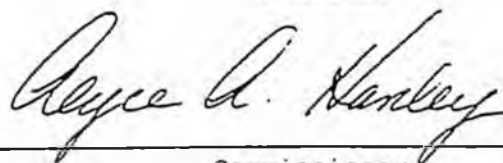
On behalf of the Alaska Public Utilities Commission, we are pleased to submit to the Alaska State Legislature the Twenty-ninth Annual Report of the Alaska Public Utilities Commission, covering the fiscal year ending June 30, 1998. This is filed pursuant to AS 42.05.010 and AS 42.06.020.

Respectfully yours,

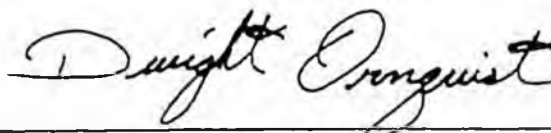
ALASKA PUBLIC UTILITIES COMMISSION



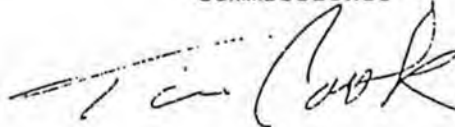
Chairman



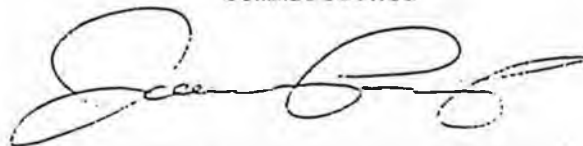
Commissioner



Commissioner



Commissioner



Commissioner

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## **Mission statement**

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

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

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



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

## Message from the Chairman

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

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

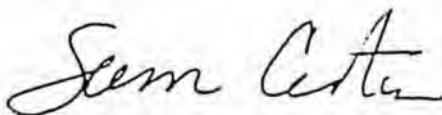
The APUC has been working closely with the State Legislature on many issues, most recently jointly awarding a contract for a study of electricity restructuring in Alaska. The Commission continues to offer its expertise as a resource to the Legislature.

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

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

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

Sincerely,



Sam Cotten  
Chairman

## **Biographies**



**Sam Cotten,  
Chairman**

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

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

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

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

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



**Alyce A. Hanley,  
Commissioner**

## Biographies (continued)

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

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

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



Dwight D. Ornquist,  
Commissioner



Tim Cook,  
Commissioner

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

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

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

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

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

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

## **Biographies (continued)**



**James M. Posey,  
Commissioner**

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

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

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

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

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

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



**Robert A. Lohr,  
Executive Director**

## Former APUC Commissioners

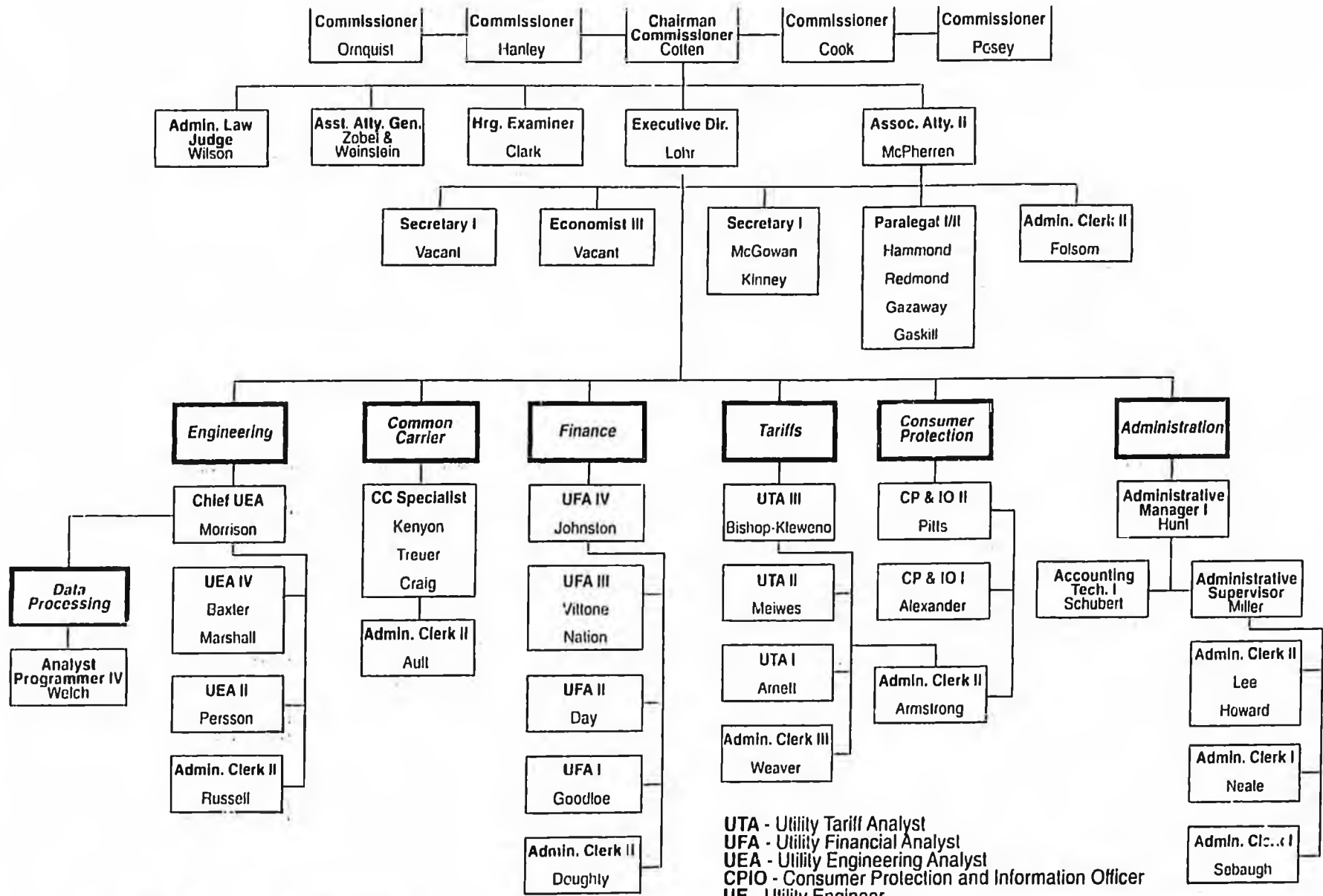
Commissioner	Dates of service
Clyde Courtnage	1960 - 1963
Charles Herbert	1960 - 1963
Karl Walter, Jr.	1960 - 1964
Joseph Fitzgerald	1964 - 1965
Maurice Chertkov	1965 - 1965
Harold Moats	1965 - 1966
T. Stanton Wilson	1966 - 1966
James R. Clouse, Jr.	1967 - 1971
Loren H. Lounsbury	1967 - 1971
John M.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

## APUC roster (10/13/98)

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

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

# Organizational chart



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

- Positions funded under contract

All positions located in Anchorage.

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

Effective date:   10/13/98

## **Staff responsibilities**

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

### **Administration**

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

### **Engineering**

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

### **Common Carrier**

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

### **Consumer Protection**

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

### **Finance**

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

### **Tariff**

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

## APUC FY98 overview

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

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

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

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

The APUC has jurisdiction over the operation of:

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

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

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

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

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

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

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

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

### **Funding**

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

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



**APUC Commissioners and staff**

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

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

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

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

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

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

## **Regulation and economic development**

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

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

### **Certification proceedings**

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

### **Regulation of rates**

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

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

## Fiscal Year 1999 plan

### Y2K Concerns

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

### Pipeline

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

### Electricity

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

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

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

### **Refuse**

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

### **Natural Gas**

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

### **Water and Sewer**

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

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

### **Telecommunications**

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

#### **Access Charge Reform**

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

#### **Universal Service**

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

## Fiscal Year 1999 plan (continued)

### Market Structure

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

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

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

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

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

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

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

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



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

## The Telecommunications Act of 1996

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

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

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

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



Accounting technician Ed Schubert

## The Telecommunications Act of 1996 (continued)

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

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

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



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

## **FY98 significant events**

### **Telecommunications Service**

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

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

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

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



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

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

### **Alaska Intrastate Long Distance Market Structure Rulemakings**

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

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

### **Access Charge Reform**

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

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

### **Universal Service Reform**

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

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

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

### **Public Interest Pay Telephones**

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

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

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

### **Debit Card Service**

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

### **Rural Facilities Restrictions Regulation**

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

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

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

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

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

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

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

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

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

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

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

### **Summit Telephone Company**

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

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

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

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

### **Natural Gas Service**

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

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

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

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

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

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

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

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

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

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

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

### **Electric Service**

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

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

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

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

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

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

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

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

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

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

### **Legislative Action**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Water/Sewer Service**

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

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

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

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

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

### **Dawn Development Corporation**

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

## **Refuse Service**

### **Mergers and Acquisitions**

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

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

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

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

### **Pipelines**

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

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

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

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

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

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

## Fully regulated utilities financial data (in dollars)

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

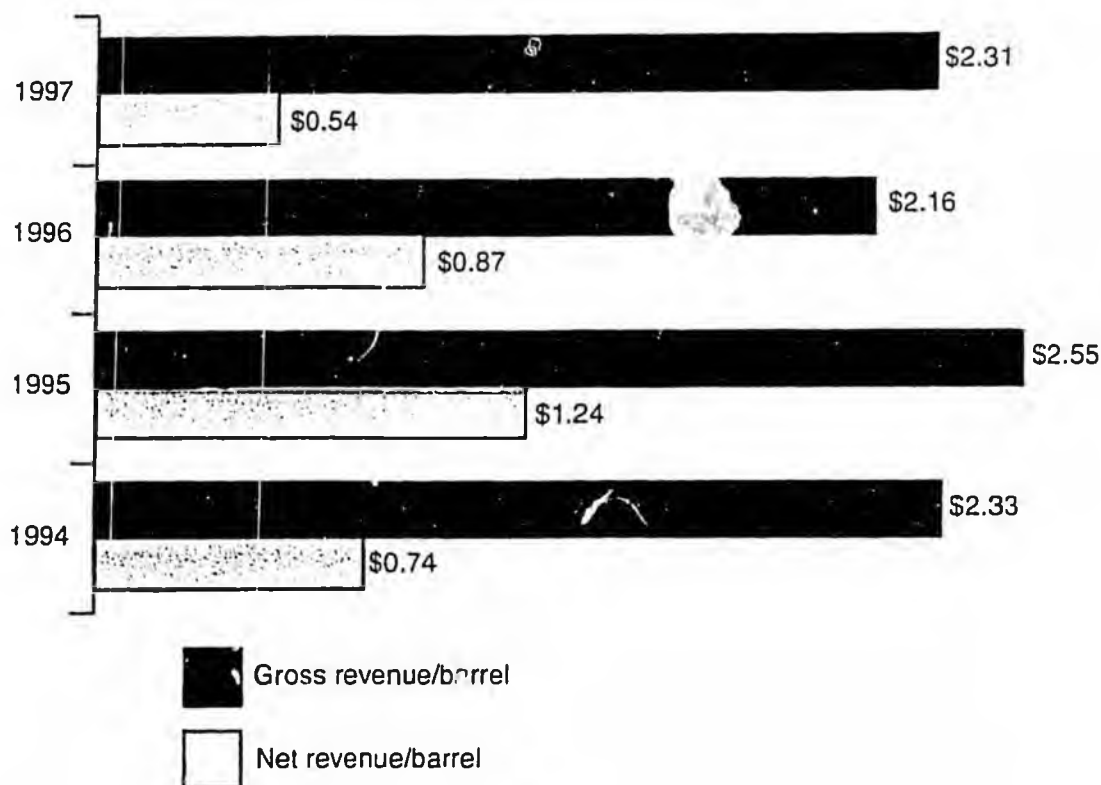
\* Excludes wholesale customers of intrastate interexchange carriers to prevent double-counting and telephone utilities that filed confidential information with the Commission

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

## Oil pipeline carrier financial data

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

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



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

## **Consumer protection**

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

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

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

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

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

### **Refuse**

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

### **Telephone**

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

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

## Consumer protection (continued)

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

### Electric

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

### Sewer

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

## Informal complaints

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

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

**Figure 2**  
Informal complaints by category

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

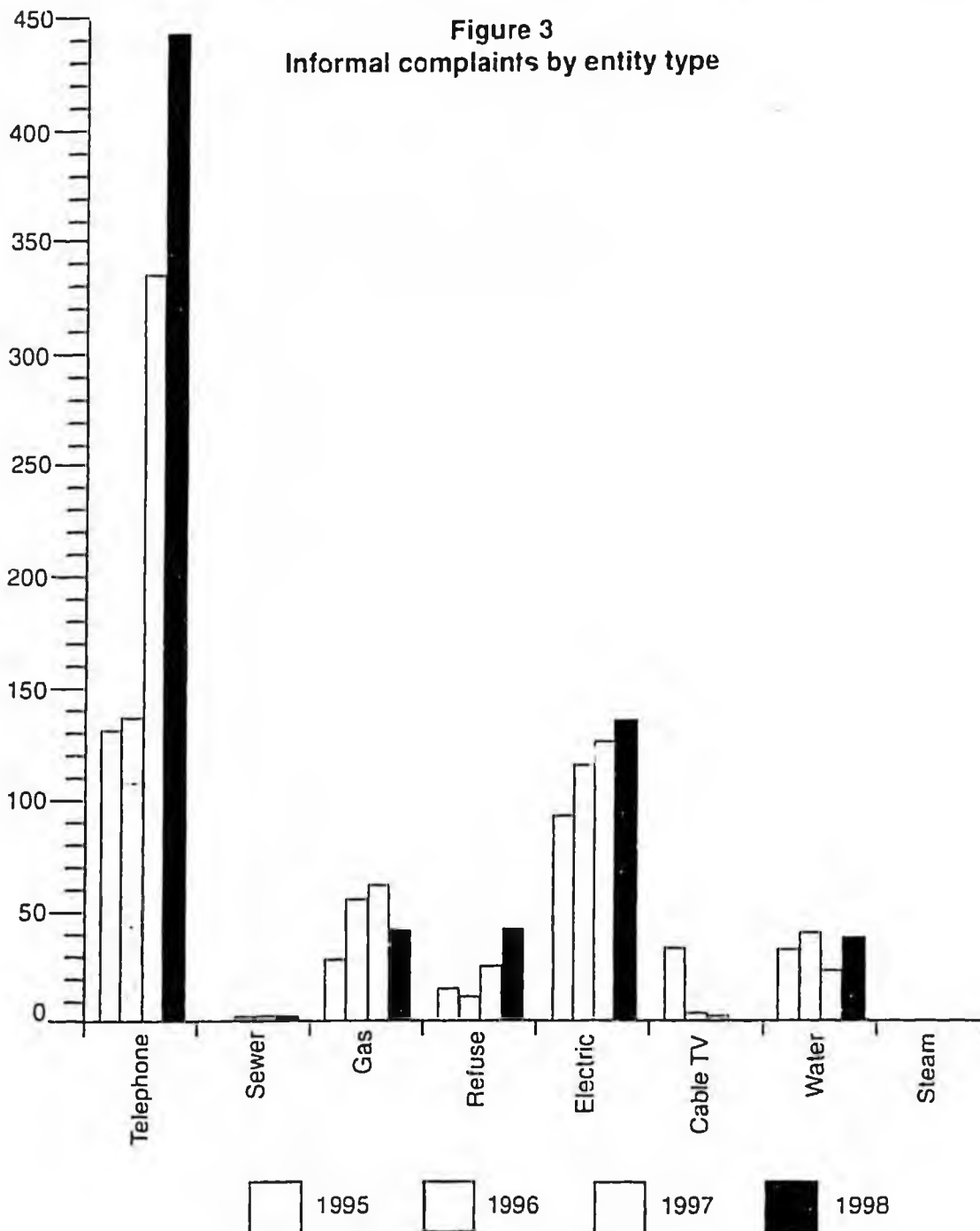


Chief Consumer Protection and  
Information Officer Agnes Pitts

## Informal complaints (continued)

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

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



## **Informal complaints (continued)**

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

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

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

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

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

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

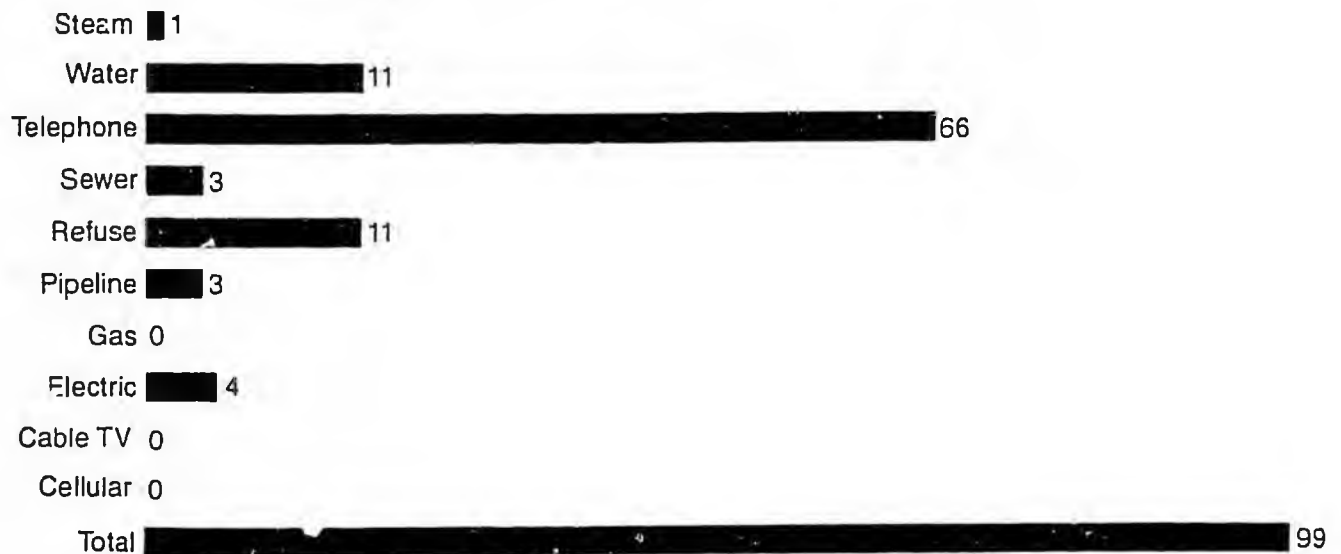
The vast majority of complaints are resolved through the informal complaint process. However, there are procedures for instituting a formal complaint or launching a formal complaint if an informal complaint is not satisfactorily resolved. If a formal complaint is accepted by the Commission for adjudication,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

## Certification proceedings

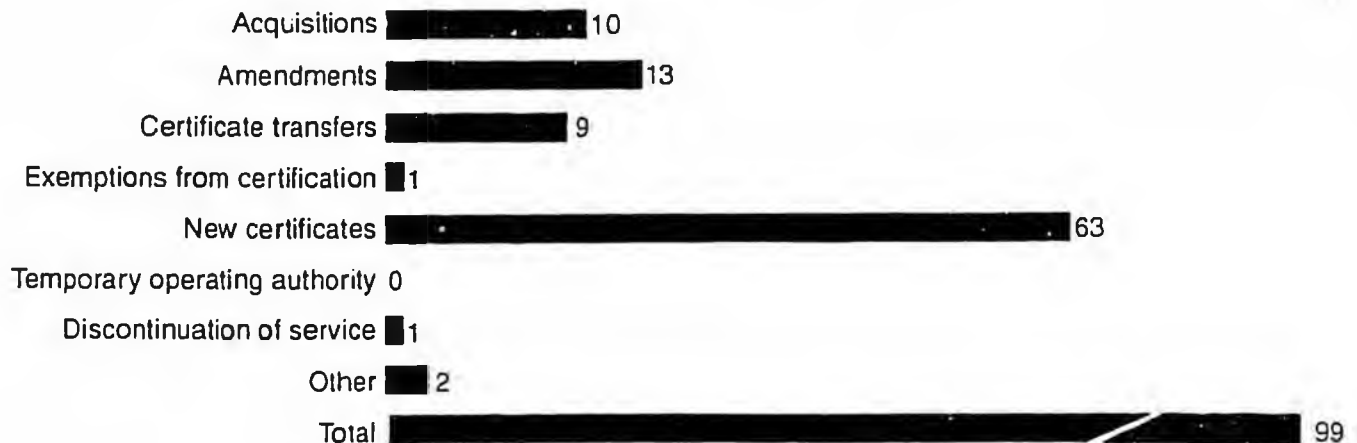
A certificate of public convenience and necessity must be obtained by virtually every utility (with limited exceptions) and pipeline carrier proposing to provide service to the public for compensation. In addition, the Commission must approve all amendments to, or transfers of, certificates as well as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

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

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



**Figure 7**  
FY98 Certification dockets by category



## Certification proceedings (continued)

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

Figure 8  
FY 95-98 Certification proceedings

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

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

## Orders

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

**Figure 9**  
Orders issued  
FY95-FY98

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

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

Total number of orders issued = 462

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

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

## Tariff revisions

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

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

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

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

Figure 11  
Tariffs filed — Tariffs suspended

