

**ALASKA LEGISLATURE**

**2323**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**2001 - 2002**

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

*There is high stress.*

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

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

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

*Low morale is leading to attrition.*

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

*The trend is in a bad direction.*

*In general, employees are not treated well.*

*We're in meltdown.*

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

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

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

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

*A lot of people with bad morale have left. Three to five years ago morale was worse. Things have changed so much in the last six months that I am optimistic.*

## **COMMISSION STRUCTURE**

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

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

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

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

*The hybrid structure works well as an allocation of resources. Resources are where the*

*tasks are. If organized by utility sector, expertise would be tailored by sector. Structure gives flexibility because you can form teams.*

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

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

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

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

*It would help accountability to reorganize.*

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

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

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

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

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

## **STAFFING**

*The process does not support Commissioners.*

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

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

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

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

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

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

## **MANAGEMENT INFORMATION SYSTEMS**

*I sometimes feel that procedures are crumbling here.*

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

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

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

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

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

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

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

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

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

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

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

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

## **COMMISSION PROCESS**

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

*The Commission isn't performing well substantively, procedurally, or timely. We have several checkoff lists [to manage processes] agency wide. Procedural tracking could be done better than it is. When a docket or tariff reaches a certain point it is sent to the third floor for further processing and it is difficult to know what's going on. Stuff gets lost. A month later it may show up. We have lots of internal procedures that aren't*

written down anywhere and we don't know when they change. A procedures manual would help. There is good industry support for getting the Commission the resources it needs to process cases quickly. Increased caseload is stretching resources and we are getting further behind. Deadlines are not being met. Utilities expect faster decisions under a competitive environment. Should statutory maximums for decisions be made tighter? To fix slowness we need to see where the delays are more precisely. Statutory deadlines are usually met.

Commissioners find it hard to keep track of filings, schedule, and substance as well. It takes longer if you try to take shortcuts. We should do proper motions in the first place [talking about due process]. [There are] no priorities. [It takes] lots of work to coordinate technical staff. Prioritizing is a weakness. The magnitude of the work is a problem and the feeling that everything has the same value. How do you address backlogs? How do you meet the public interest and still simplify workflow? Need a standard reporting process on the status of projects.

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

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

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

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

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

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

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

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

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

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

The assignment of a lead staff person for case preparation is sometimes ambiguous

*and sometimes shifts. Much case work interaction is informal. How the primary staff person assigns duties to the other staff is unclear.*

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

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

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

*The Commission has a fairly good record of not being overturned. In some cases, decisions should have been appealed but weren't, perhaps because parties might feel*

*that the Commission might have been vindictive. There seems to be some unevenness in the application of due process — sometimes overly rigid.*

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

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

## **EXTERNAL RELATIONS**

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

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

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

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

## **CONSUMER PROTECTION**

*The Consumer Protection section is working well.*

*I'm totally satisfied with the job Consumer Protection does.*

*I see no problems in consumer affairs [Consumer Protection]. [As a technical staff person] I get involved in lots of the complaints.*

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

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

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

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

area.

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

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

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

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

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

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

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

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

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

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

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

## **INFORMATION FLOWS/COMMUNICATIONS**

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

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

*Communications are fairly good: this is a small community. But sometimes the Commission has questions for staff that come out at a hearing but would be nice to know about ahead of time. It would be good to know what information they're seeking. The scope of a proceeding and Commissioner questions are sometimes not clear. I'm not sure how you'd do this effectively.*

*The staff is less politically aware [than Commissioners] and technical staff may respond to Commissioner concerns in numbers, without input in the context of a political situation.*

*There probably is some isolation for Commissioners.*

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

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

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

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

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

*Internal communications are poor.*

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

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

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

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

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

*Communications are laterally good and vertically relatively cordial.*

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

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

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

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

SECTION 6

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

by

David W. Wirick

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

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## EXECUTIVE SUMMARY

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

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

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

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

## INTRODUCTION<sup>1</sup>

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

The NRRI has some familiarity with regulatory operations in Alaska. In 1998, the NRRI conducted a similar review of the APUC. That review was presented to the Public Utilities Commission in a report entitled *Report on the Alaska Public Utilities Commission* dated October 1998.<sup>2</sup> That report identified a number of significant challenges facing the Public Utilities Commission.

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

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

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

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

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

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

## ANALYSIS OF ORGANIZATIONAL COMPONENTS

The components examined and explained in this report are:

- General Factors
- Communications

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

Each component is discussed in turn.

### General Factors

*In the first report, a considerable range and depth of problems was cited by those interviewed. Problems included leadership, though interestingly, the word "leadership" was not actually spoken by any of the interviewees at that time. But a number of the perceived difficulties emphasized by them harken back to the leadership of the APUC. In the course of sustained discussions with those interviewed, several opportunities for collective leadership by the Commissioners (mostly of the "lead-by-example" variety) were identified. It is, of course, true that staff do not always know or appreciate what exactly constitutes a Commissioner's workday. However, perceptions that Commissioners did not "pull their weight" were voiced several times in interviews.*

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

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

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

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

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

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

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

## Communications

*In the first report, those interviewed identified a number of communications problems. One of these was improving vertical communication throughout the agency. (Reportedly, horizontal communication was adequate.) Another opportunity cited was to introduce and conduct a systematic training and orientation program for new personnel at all levels. A third, and perhaps most important, problem identified was the impact of the docket backlog including tariff filings and devising procedures and practices that lead to prompt resolution of cases. Those interviewed were critical of unnecessary delays in case processing, of too frequent use of suspensions and extensions, and of applications taking effect by default.*

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

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

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

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

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

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

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

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

## Morale

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

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

### Commission Structure

Structure refers to an organization's relatively stable activities over a period of time, often reified as an organization chart. In this report, it also refers to the new tools and processes adopted by the RCA or mandated by its defining legislation. *It was reported in NRRI's interviews for the first report that some APUC Commissioners were perceived as being too involved with administration and that this involvement might inhibit their consideration of the important issues facing the commission. Some concern was expressed that the assignment of management information systems (MIS) responsibilities to the Engineering Section had the potential to overwhelm that section and to get in the way of other engineering functions.*

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

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

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

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

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

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

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

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

## Staffing

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

*Concern was expressed in the review of the APUC about the level of legal support provided and the potential for a conflict of interest. Given the quasi-judicial nature of most APUC actions, several of those interviewed expressed the sentiment that more legal input into case preparation would be desirable. Legal support is now regarded as probably better than before, though the departure of an attorney was described as hurtful.* Comments in the RCA review were mixed about whether legal support is adequate. Some expressed concern that staff don't get enough legal support, particularly given the backlog; others said that there is no scarcity of legal support and that, in the advisory role, staff need less support than before.

## Management Information Systems

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

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

## Process

Of critical importance to the RCA is the perception that its decision-making processes are timely. *In the review of the APUC, the lack of timeliness and growing case backlog were regarded as measures of impaired Commission effectiveness. Though the dramatic increase in the APUC's workload might have been a contributory factor, delays in case processing were cited by many of those interviewed. Several specific problems that might have impacted the speed with which the APUC disposed of cases were noted. They included striking the appropriate balance between efficiency and careful maintenance of due process (some citing undue attention being paid to the maintenance of due process; others citing not enough attention), the assignment of staff including the hearing examiner, and the role of Commissioners. Particular concerns about timeliness at the staff level were the lack of speed with which documents moved between the fourth and third floors and the amount of work that had to be corrected or even redone, especially order writing, which is time-consuming and duplicative. Commissioners were also faulted for a lack of timeliness, both on making needed decisions and getting them out the door when a decision had been made.*

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

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

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

*In the NRRI's review of the APUC, a number of complaints were expressed about the timeliness and content of Commission orders. Several of those interviewed expressed dissatisfaction with the time required to write orders and the quality of the content of those orders. The responsibility for writing orders was regarded as fragmented among staff, paralegals, the hearing examiner, and (potentially) Commissioners. Most who commented on the training that had been provided for writing orders regarded the training exercise as a failure. Some felt that paralegals lacked the expertise to write good orders.*

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

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

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

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

*A majority of the substantive work of the APUC was performed through formal adjudicatory processes that emphasize due process. According to those interviewed, the APUC process was fairly formal and rigorous in its interpretation of ex parte requirements. Several potential methods for streamlining case processing were identified by those interviewed. They included the issuance of one-page orders for procedural issues, an attempt to limit the number of pre-hearing conferences, allowing the hearing examiner to conduct pre-hearing conferences, better use of the paralegals, and making better use of stipulations.*

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

As the work of the RCA shifts towards more policymaking and away from the kinds of fact-finding embedded in traditional rate cases, the RCA may need to further explore the use of nontraditional means of making decisions. Options include designating more Commission actions as "rulemaking" rather than adjudication and using more mediation, negotiated rulemaking, workshops, technical conferences, and task forces.

### **External Relations**

Legislative linkages will become increasingly important in the future as the

Commission further adopts a more legislative (i.e., policy making) rather than judicial role. Commissions around the nation are increasingly recognizing that developing and maintaining good relationships with external stakeholders is critical to their emerging missions. In the past, public service commissions may have adopted a "less-attention-is-better" strategy toward the media and legislature, only responding when required. *At least one comment to the NRRI indicated the belief that the APUC's legislative strategy was largely reactive. The passage of legislation disbanding the APUC may provide further attestation to the possible shortcomings of APUC legislative relations.*

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

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

### Consumer Protection

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

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

### General Comments

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

- *Commissioner-staff and Commissioner-to-Commissioner relations, which included issues of leadership and morale*
- *Timeliness*
- *The quality and speed of Commission orders*
- *The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels.*
- *Electronic filing and management information systems.*

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

problems at the RCA. They are:

22. The High Workloads. No one interviewed at the RCA is opposed to high levels of productivity and hard work on the part of Commissioners and staff. However, it appears from comments that the current pace may be unsustainable in the long run. The current heavy workload has been occasioned largely by the 750-case backlog. When that backlog is reduced, workloads might decrease. If workloads don't decrease, they might, over time, prove disheartening to staff and diminish morale. The result might be an increase in staff turnover and low levels of staff motivation. The situation should be monitored closely and more resources provided the RCA if workloads don't decrease as the backlog is diminished.
  
23. The Continued Evolution of the PAS and the Role of the Advisory Staff. The PAS appears to be a promising mechanism for the effective representation of consumer interests and the provision, through the remainder of the RCA staff, of adequate advisory support for Commissioners. By all accounts, the PAS is in the process of development. It is not certain that the staffing levels provided to it currently will be adequate for its role; its ability to perform its role should be monitored. Because of the formation of the PAS, the role of the remainder of the staff will need to change from advocacy to decision-support. Several of those interviewed suggested that the staff has not yet fully assumed that role. This should be monitored. External stakeholders will be impacted considerably by these changes in staff roles. Close contact should be maintained with them to monitor their opinions and perceptions.
  
24. The Staffing and Role of the Consumer Affairs Section. Across the country, more resources are being dedicated to consumer affairs, partly because of the increase in consumer complaints and concerns caused by the opening of utility markets to competition. By all accounts, the RCA Consumer Affairs Section is competent and performing services of value to consumers. If national trends hold, the workload in that Section can be expected to increase. In addition, other commissions have found

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

25. Staff Training. High turnover among staff is an unfortunate aspect of the regulatory environment around the country, and there is little hope that it can be slowed without dramatic increases in staff salaries. Ongoing training for new staff is, therefore, necessary for commission effectiveness. Complicating the need for training is the increasing complexity of regulatory issues. Training is available for commission staff at a number of locations around the country and may be a wise investment. Participation in NARUC events and work may be another way to plug the "expertise hole" caused by staff turnover.
  
26. Heavy Reliance on the Chairman. As was noted earlier, several of those interviewed expressed concern about the reliance of the RCA on the talents of the Chairman. For the long-term health of the organization, a concerted effort to delegate more duties to others, appointment of a vice-chair, or ensuring that other Commissioners are exposed to the duties of the Chairman might be warranted. At least one person interviewed expressed confidence in the ability of other Commissioners to step in as Chairman if Chairman Thompson were to leave.
  
27. The Overall Face of Change. By all accounts the RCA has come a very long way in a very short time. Though organizational change can be exhilarating, it can also be draining and there is a danger in taking on too much change at once. The RCA may

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

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

SECTION 7

# MEMORANDUM

State of Alaska

Department of Law

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

DATE June 21, 1994

FILE NO. 661-94-0744

TR. NO. 269-5211

SUBJECT Alaska Public Utilities  
Commission Sunset

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

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

## SUMMARY

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

This conclusion is based on an extensive review of the

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

June 21, 1994  
Page 2

legislative history of the Sunset Law<sup>1</sup> and is consistent with advice the Department of Law gave the Alcoholic Beverage Control Board nearly fifteen years ago. In fact, because a number of agencies terminated by the sunset law have continued their business as usual during the wind-down year, we think the view that an agency's authority is not diminished during a sunset year has by now taken on the status of a longstanding interpretation implicitly endorsed and relied upon by the legislature. Finally, this conclusion is consistent with the legislature's apparent intent in fully funding the commission for the coming year without any changes in the statutory duties assigned to the commission.

#### DISCUSSION

In your request for advice, you express concern that the commission's "authority for any case decided during the 'wind-down' year may be challenged . . . ." In fact, the literal language of the sunset legislation applicable to the commission<sup>2</sup> might suggest that the commission and its power to carry out the

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

<sup>2</sup> AS 44.66.010 provides in part:

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

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

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

# CORRECTION

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



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State of Alaska

legislative history of the Sunset Law<sup>1</sup> and is consistent with advice the Department of Law gave the Alcoholic Beverage Control Board nearly fifteen years ago. In fact, because a number of agencies terminated by the sunset law have continued their business as usual during the wind-down year, we think the view that an agency's authority is not diminished during a sunset year has by now taken on the status of a longstanding interpretation implicitly endorsed and relied upon by the legislature. Finally, this conclusion is consistent with the legislature's apparent intent in fully funding the commission for the coming year without any changes in the statutory duties assigned to the commission.

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

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

June 21, 1994  
Page 3

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

#### A. Legislative history

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

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

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

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

June 21, 1994  
Page 4

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

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

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

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

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

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

On March 29, 1977, Representative Gruening, the prime sponsor of the original bill and author of the committee substitute, testified before the House State Affairs Committee regarding the proposed committee substitute for HB 1.<sup>6</sup> Gruening described how the committee substitute was intended to work. In his discussion, Gruening used the Alaska Transportation Commission as an example of an affected agency. The Transportation Commission, like the Public Utilities Commission, was on the sunset list in Title 44, not in Title 8. Gruening said, in pertinent part:

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

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

The amended sunset bill, including the division of the sunset provisions into two different titles of the Alaska Statutes, was passed by the House on April 29, 1977. Two Senate committees then considered the bill, further amending it in ways not relevant here, and the Senate passed it on May 26, 1977. The House concurred in the Senate amendment on May 27, 1977. The Governor signed the bill into law on June 18, 1977. Ch. 149, SLA 1977.<sup>7</sup>

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<sup>5</sup> See note 2, above.

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

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

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

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

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

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

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

B. Interpretation since enactment

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

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

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

The Alcoholic Beverage Control Board also expired on

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

<sup>9</sup> See note 2, above.

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

June 21, 1994  
Page 8

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

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

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

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

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

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

June 21, 1994  
Page 9

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

C. Budget and powers

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

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

CONCLUSION

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

JDL/VAR/rmg

Attachments: 3

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

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

June 21, 1994  
Page 10

Kristie Leaf, Director  
Boards and Commissions

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

**HB**

**30001**

**(File 3)**

HFIN

FILE

SECTION 8

(B) the Department of Corrections;

(2) "agency head" means

(A) the commissioner or other head of an agency who has the authority to adopt regulations for the agency; or

(B) for the Alaska Coastal Policy Council established in AS 44.19.155, the co-chair of the council designated under AS 44.19.155 (c) from the members listed in AS 44.19.155 (a)(2);

(3) "consensus" means unanimous concurrence among the interests represented on a negotiated regulation making committee;

(4) "convener" means a person who is impartial and performs the services identified under AS 44.62.730 for an agency;

(5) "facilitator" means a person who is impartial and performs the services identified under AS 44.62.760 (b) for a negotiated regulation making committee;

(6) "negotiated regulation making" means regulation making through the use of a negotiated regulation making committee;

(7) "negotiated regulation making committee" means an advisory committee to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed regulation;

(8) "person" has the meaning given in AS 01.10.060 , and expressly includes a public organization of any character;

(9) "regulation" has the meaning given in AS 44.62.640 and includes the amendment or repeal of a regulation.

Sec. 44.62.950. Short title.

This chapter may be cited as the Administrative Procedure Act.

#### Chapter 44.65. INTERDEPARTMENT AND INTERAGENCY SERVICES

[Repealed, Sec. 69 ch 106 SLA 1986, as amended by Sec. 27 ch 65 SLA 1987].

#### Chapter 44.66. REVIEW OF THE ACTIVITIES OF AGENCIES, BOARDS AND COMMISSIONS

Sec. 44.66.010. Termination of state boards and commissions.

(a) Boards and commissions listed in this subsection expire on the date set

out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) - June 30, 2003;
  - (2) [Repealed, 1983 Initiative Proposal No. 2, Sec. 6].
  - (3) Board of Parole (AS 33.16.020) - June 30, 2008;
  - (4) Regulatory Commission of Alaska (AS 42.04.010) - June 30, 2002;
  - (5) [Repealed, Sec. 20 ch 110 SLA 1981].
  - (6) [Repealed, Sec. 63 ch 21 SLA 1981].
  - (7) [Repealed, Sec. 16 ch 161 SLA 1981].
  - (8) [Repealed, Sec. 33 ch 23 SLA 1995].
  - (9) [Repealed, Sec. 2 ch 97 SLA 1986].
  - (10) Alaska Commission on Aging (AS 44.1.200) - June 30, 2004;
  - (11) Council on Domestic Violence and Sexual Assault (AS 18.66.010) - June 30, 2002;
  - (12) [Repealed, Sec. 33 ch 23 SLA 1995].
  - (13) [Repealed, Sec. 21 ch 6 SLA 1993].
  - (14) Special Education Service Agency (AS 14.30.600) - June 30, 2004;
  - (15) [Repealed, Sec. 10 ch 29 SLA 1999].
  - (16) [Repealed, Sec. 33 ch 23 SLA 1995].
  - (17) Citizens' Foster Care Review Board under AS 47.14.200 - June 30, 2000;
  - (18) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 2001;
  - (19) [Repealed, Sec. 102 ch 21 SLA 2000].;
  - (20) Statewide Suicide Prevention Council (AS 44.29.300) - June 30, 2005.
- (b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.
- (c) A commission scheduled for termination under this chapter may be

continued or reestablished by the legislature for a period not to exceed four years.

Sec. 44.66.020. Agency programs.

(a) Agency programs and activities listed in this subsection that are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice - January, 1980;

(2) programs in the budget categories of education and the University of Alaska - January, 1981;

(3) programs in the budget categories of health and social services - January, 1982;

(4) programs in the budget categories of natural resources management, development, and transportation - January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030.

Sec. 44.66.030. Program identification.

During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category that shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill that, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year.

Sec. 44.66.050. Legislative oversight.

(a) Before the termination, dissolution, continuation, or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings

SECTION 9

(d) In this section, "record" means a report, file, book, account, paper, or application, and the facts and information contained in it.

#### Sec. 42.05.681. Validity of certain certificates.

A certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may not be considered as terminated or voided for the sole reason that the utility did not or would not produce an annual gross income in excess of \$25,000.

#### Sec. 42.05.691. Utility classes.

The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership, and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting, and other regulatory requirements.

#### Sec. 42.05.701. [Renumbered as AS 42.05.720 ].

Repealed or Renumbered

#### Sec. 42.05.711. Exemptions.

(a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest".

(b) Except as otherwise provided in this subsection and in (o) of this section, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless the subscribers petition the commission for regulation under AS 42.05.712 (h).

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$500,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 under the procedure described in AS 42.05.712 .

(g) A utility, other than a telephone or electric utility, that does not gross \$150,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 under the procedure described in AS 42.05.712 .

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 - 42.05.281, under the procedure described in AS 42.05.712 .

(i) A utility that furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$300,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 - 42.05.281, unless the subscribers petition the commission for regulation under AS 42.05.712 (h). Notwithstanding AS 42.05.712 (b) and (g), if subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation, the utility is subject to the provisions of this chapter.

(j) The provisions of this chapter do not apply to sales, exchanges, or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange, or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange, or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange, or gift of energy exempt under this subsection does not make the supplier a public utility and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility that furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 unless the subscribers petition the commission for regulation under the procedure described in AS 42.05.712 .

(l) A person, utility, joint action agency established under AS 42.45.310, or

cooperative that is exempt from regulation under (a), (d) - (k), or (o) of this section is not subject to regulation by a municipality under AS 29.35.060 and 29.35.070.

(m) The collection and disposal, under AS 29.35.050 (c), by a municipality of waste material deposited at an intermediate transfer site is exempt from this chapter.

(n) Except as provided by AS 42.06.370 (c), the provisions of this chapter do not apply to a person who owns or operates a natural gas pipeline as a North Slope natural gas pipeline carrier, as that term is defined in AS 42.06.630.

(o) A joint action agency established under AS 42.45.310 is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221, for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy Authority until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under AS 42.05.431. The exemption provided by this subsection extends to repairs and improvements to the power project the joint action agency purchases from the authority but does not extend to any other power project or other activity of the joint action agency.

#### Sec. 42.05.712. Deregulation ballot.

(a) A utility or cooperative that may elect to be exempt from the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

(b) The votes of a majority of those voting in an election in which at least 15 percent of the eligible subscribers or members return ballots are required for a utility or cooperative to elect exemption under (a) of this section.

(c) Each subscriber or member of the utility or cooperative shall receive notice of an election under this section with the subscriber's or member's regular bill for service at least 60 days before the date set for the election. The notice shall contain impartial language informing the subscribers or members that an election on the option of deregulation or regulation by the Regulatory Commission of Alaska will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each subscriber or member of the utility or cooperative with the regular bill for service. The notice shall also state that a subscriber or member of the cooperative is entitled to vote in the election without regard to whether the subscriber's or member's account with the utility or cooperative is current and that the ballot must be postmarked or returned to the commission within 30 days after it was mailed or otherwise delivered to the subscriber or member. The notice shall also announce the schedule for one or more public meetings which shall provide an opportunity for the subscribers or members to discuss this election. The public meeting or meetings shall be held not more than 30 days before the ballots are mailed or distributed to those

SECTION 10

**Table 1**  
**UNBUNDLED NETWORK ELEMENT RATE COMPARISON MATRIX**

All Rates for RBOC in each State Unless Otherwise Noted

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Alabama	BS	1	\$15.24	\$2.50	\$0.0017	\$0.0015 Tandem Switching \$0.00036 & \$0.00004/mile Common Transport \$0.0015
		2	\$24.75			
		3	\$44.85			
		Avg	\$19.04			
Alaska	ATU	1	\$13.85	\$4.27	\$0.006595	\$0.004712 Tandem Switching \$0.000416 Termination
	ACS	1	\$19.19	\$1.38	\$0.00203	\$0.00155 Tandem Switching \$0.00023 Common Transport
Arizona	USW	1	\$21.98	\$1.61	\$0.0028	\$0.0014 Tandem Switching \$0.00088 Common Transport
Arkansas	SBC	3	\$18.75	\$2.75	\$0.004586 \$0.006137 \$0.002352	\$0.001665 Tandem Switching \$0.000423 - \$0.000534 plus per mile Common Transport
		2	\$31.60			
		1	\$71.05			
California	SBC	1	\$10.03	\$2.88	\$0.00594 set up/ \$0.00184 Originating \$0.007 set up/ \$0.00181 Terminating	\$0.00075 set up & \$0.00067 Tandem Switching \$0.00113 Terminating
		2	\$13.51			
		3	\$25.53			
Colorado	USW	BRA	\$19.65	\$1.15	\$0.00283	\$0.002007 Tandem Switching
		1	\$26.65			
		2	\$38.65			
		3	\$84.65			
Connecticut	SBC	1A	\$8.95	\$3.31	\$0.007151*	\$0.001984 Tandem Switching
		B	\$12.03			
		C	\$13.28			
		D	\$19.69			
		Avg	\$12.49			

\* On-NET Rate, includes shared transport

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
D.C.	VZ	1	\$10.81	\$1.55	\$0.003	\$0.001043 Tandem Switching \$0.00015 & \$0.00003/mile Common Transport
Delaware	VZ	1 2 3 Avg	\$10.07 \$13.13 \$16.67 \$12.05	\$2.23	\$0.003634 Originating \$0.001927 Terminating	\$0.0006688 Tandem Switching \$0.0001221 & \$0.0000022/mile Common Transport
Florida	BS	1 2 3	\$13.76 \$20.13 \$44.40	\$1.62	\$0.0008846	\$0.0001522 Tandem Switching \$0.0000039 Common Transport
Georgia	BS	1 2 3 Avg	\$14.21 \$16.41 \$26.08 \$16.51	\$1.85	\$0.001633	\$0.0006757 Tandem Switching \$0.0002126 Common Transport
Hawaii	VZ	Oahu Maui Hawaii	\$10.44 \$17.23 \$21.91	\$2.69	\$0.0076074	\$0.0012572 Tandem Switching \$0.0002710 Common Transport
Idaho	USW	1	\$25.52	\$1.34	\$0.0029	\$0.0032 Tandem Switching \$0.00218 Common Transport
Illinois	AIT	1A 1B 1C 2C Avg	\$2.59 \$7.07 \$11.40 \$11.40 \$9.81	\$5.01 Port rate includes unlimited switching	n/a	\$0.000215 Tandem Switching \$0.000809 Common Transport
Indiana	AIT	3 2 1 Avg	\$8.03 \$8.15 \$8.99 \$8.20	\$5.34	\$0.003444	\$0.000307 Tandem Switching \$0.00066 Common Transport

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Iowa	USW	Avg	\$20.15	\$1.15	\$0.00213	\$0.00424 Tandem Switching \$0.00134 Common Transport
Kansas	SBC	3 2 1 Avg	\$11.86 \$13.64 \$23.34 \$14.04	\$1.61	\$0.00131 \$0.00169 \$0.00253	\$0.000789 Tandem Switching \$0.000401-\$0.000475 Common Transport
Kentucky	VZ	1 2 3 Avg	\$17.44 \$22.23 \$25.84 \$19.65	\$4.02	\$0.0036192 originating \$0.0032276 terminating	\$0.0008209 Tandem Switching
	RS	1 2 3 Avg	\$13.54 \$19.73 \$28.27 \$20.00	\$2.61	\$0.002562	\$0.001096 Tandem Switching \$0.000426 Common Transport
Louisiana	BS	1 2	\$19.35 \$22.84	\$2.20	\$0.0021	\$0.0008 Tandem Switching \$0.00047 Common Transport
Maine	VZ	1 2 3 Avg	\$12.67 \$15.59 \$23.00 \$17.53	\$2.24 \$2.07 \$1.82	\$0.003197-\$0.00707 \$0.005262-\$0.002263 \$0.009101-\$0.005389	\$0.002575 - \$0.001776 Tandem Switching \$0.000886 - \$0.00000 Common Transport
Maryland	VZ	A1 A2 B1 B2 Avg	\$12.11 \$12.85 \$25.96 \$18.40 \$14.50	\$1.90	\$0.0038	\$0.000695 Tandem Switching \$0.000353 Common Transport
Massachusetts	VZ	1 2 3 4 Avg	\$7.54 \$14.11 \$16.12 \$20.04 \$14.98	\$2.00	\$0.004647-\$0.001872 \$0.004724-\$0.001872	\$0.00119 - \$0.000851 Tandem Switching \$0.002201-\$0.000489 Common Transport

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Michigan	AIT	A	\$8.47	\$2.53	\$0.001192	\$0.001058 Tandem Switching \$0.000446 Common Transport
		B	\$8.73			
		C	\$12.54			
		Avg	\$10.15			
Minnesota	USW	1	\$8.81	\$1.08	\$0.00181	\$0.00134 Tandem Switching \$0.001484 Common Transport
		2	\$12.33			
		3	\$14.48			
		4	\$21.91			
		Avg	\$17.87			
Mississippi	BS	1	\$16.71	\$2.11	\$0.0012771	\$0.0007834 Tandem Switching \$0.0004281 Common Transport
		2	\$21.45			
		3	\$29.75			
		4	\$38.59			
Missouri	SBC	1	\$12.71	\$1.74	\$0.001988	\$0.00151 Tandem Switching \$0.00019-\$0.000302 Common Transport
		2	\$20.71			
		3	\$33.29			
		4	\$18.23			
Montana	USW	1	\$26.69	\$1.45	\$0.0029	\$0.0068 Tandem Switching \$0.001459 Common Transport
		2	\$27.62			
		3	\$31.36			
		4	\$33.95			
		Avg	\$27.41			
Nebraska	USW	1	\$13.56	\$1.37	\$0.004131	\$0.002594 Tandem Switching \$0.001243 Common Transport
		2	\$27.12			
		3	\$54.24			
		Avg	\$14.32			
Nevada	SBC	1	\$11.75	\$1.63	\$0.00161	\$0.00171 Tandem Switching \$0.00727 Common Transport
		2	\$22.66			
		3	\$66.31			
		Avg	\$19.83			
New Hampshire	VZ	1	\$14.01	\$2.51	\$0.010697-\$0.003888	\$0.001589-\$0.001386 Tandem Switching \$0.001001-\$0.0000 Common Transport
		2	\$15.87			
		3	\$24.09			
		Avg	\$17.99			

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
New Jersey	VZ	1	\$11.95	\$1.90	\$0.005418 Originating \$0.003207 Terminating	\$0.001323 Tandem Switching \$0.0002486 & \$0.0000012/mile Common Transport
		2	\$16.02			
		3	\$20.98			
		Avg	\$16.17			
New Mexico	USW	1	\$17.75	\$1.38	\$0.0011083	\$0.001616 Tandem Switching \$0.001882 Common Transport
		2	\$20.30			
		3	\$26.23			
New York	VZ	1	\$11.83	\$2.50	\$0.003806-\$0.001508	\$0.00456-\$0.00067 Tandem Switching \$0.003141-\$0.000321 Common Transport
		2	\$12.49			
		3	\$19.24			
		Avg	\$14.81			
North Carolina	BS	1	\$16.71	\$2.19	\$0.0017	\$0.0009 Tandem Switching \$0.00034 Common Transport
North Dakota	USW	1	\$16.41	\$1.27	\$0.002	\$0.0084 Tandem Switching \$0.004392 Common Transport
		2	\$27.66			
		3	\$62.66			
Ohio	AIT	B	\$5.93	\$4.63	\$0.003226	\$0.000689 Tandem Switching
		C	\$7.97			
		D	\$9.52			
Oklahoma	SBC	3	\$12.14	\$2.18	\$0.002268	\$0.000956 Tandem Switching \$0.000266-\$0.000499 Common Transport
		2	\$13.65	\$2.21	\$0.002516	
		1	\$26.25	\$2.58	\$0.0038	
		Avg	\$14.84	\$2.25		
Oregon	USW	1	\$13.95	\$1.14	\$0.001463 originating \$0.00133 terminating	\$0.001596 Tandem Switching \$0.000005 - \$0.000012 Common Transport
		2	\$25.20			
		3	\$56.21			
		Avg	\$15.00			
Pennsylvania	VZ	1	\$10.25	Option A: \$2.67	\$0.001802 Originating	\$0.000795 Tandem Switching \$0.000144 & \$0.000003/mile Common Transport
		2	\$11.00			
		3	\$14.00	Option B:** \$1.90	\$0.001615 Terminating	
		4	\$17.50			
		Avg	\$14.06			

\*\* Option A includes all vertical features. Option B includes all vertical features except 3-way calling.

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Rhode Island	VZ	1	\$12.05	\$4.47	\$0.01237 Peak \$0.00419 Off peak	\$0.01193 Tandem Switching \$0.002199-\$0.00027 Common Transport
		2	\$16.62			
		3	\$20.59			
South Carolina	BS	1	\$18.48	\$2.35	\$0.0019295	\$0.0006843 Tandem Switching \$0.0004672 Common Transport
		2	\$27.87			
		3	\$36.91			
South Dakota	USW	1	\$7.01	\$1.84	\$0.003469	\$0.001748 Tandem Switching \$0.001388 Common Transport
		2	\$18.54			
		3	\$24.37			
Tennessee	BS	1	\$13.19	\$1.89	\$0.0008041	\$0.0009778 Tandem Switching \$0.00038 Common Transport
		2	\$17.23			
		3	\$22.53			
		Avg	\$18.00			
Texas	SBC	3	\$12.14	\$1.94 \$2.15 \$3.25 \$2.90	\$0.002116	\$0.000794 Tandem Switching \$0.000123-\$0.000144 Common Transport
		2	\$13.65			
		1	\$18.98			
		Avg	\$14.15			
Utah	USW	1	\$14.41	\$0.89 \$0.90 \$1.02	\$0.002299 \$0.002664 \$0.002896	\$0.001059 Tandem Switching \$0.000921 Common Transport
		2	\$17.47			
		3	\$24.14			
		Avg	\$20.00			
Vermont	VZ	1	\$7.72	\$1.03	\$0.004003	\$0.000921 Tandem Switching \$0.000630 Common Transport
		2	\$8.35			
		3	\$21.63			
		Avg	\$14.41			
Virginia	VZ	1	\$10.74	\$1.30	\$0.004129 Originating \$0.002079 Terminating	\$0.000548 Tandem Switching \$0.000114 Common Transport
		2	\$16.45			
		3	\$29.40			
		Avg	\$13.597			

Table : E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Washington	USW	1	\$7.91	\$1.34	\$0.0012	\$0.00141 Tandem Switching \$0.00217 Common Transport
		2	\$14.13			
		3	\$15.90			
		4	\$17.85			
		5	\$23.82			
	Avg	\$11.33				
West Virginia	VZ	1	\$14.99	\$1.60	\$0.008868 Originating \$0.005622 Terminating	\$0.0002394 Tandem Switching \$0.00067 Common Transport
		2	\$22.04			
		3	\$43.44			
		Avg	\$24.58			
Wisconsin	AIT	1	\$10.90	\$3.71	\$0.003451	\$0.000674 Tandem Switching \$0.001072 Common Transport
Wyoming	USW	BRA	\$19.05	\$1.53	\$0.003753	\$0.001642 Tandem Switching \$0.000318 fixed & per mile Tandem Transmission
		1	\$31.83			
		2	\$40.11			
		3	\$58.43			

SECTION 11

# STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3469  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

May 20, 2002

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

Re: SB 2010

Dear Senator Taylor:

When we met on May 8 to discuss HB 333 you opined that sunseting the agency would have little effect because the next governor and legislature could revive the agency. Since that meeting, the legislature adjourned without extending the agency operations and I have begun planning for the agency's sunset year. If the legislature does not reauthorize the agency, there will be a significant impact on utilities, consumers and the state's budget before the next legislature has the opportunity to act.

Under state law, the RCA "expires" if it is not reauthorized by July 1, 2002. AS 44.62.010(a). The agency may continue for one year after termination "for the purpose of concluding its affairs." AS 44.62.010(b). As Chair, I have the legal obligation to begin winding down agency operations on July 1, 2002 with the goal of closing the agency by July 1, 2003.

I plan to meet with staff and industry in June to discuss the timing of the wind down process. The RCA's operations during the sunset year is the topic for discussion with industry representatives at the next Bench and Bar scheduled for June 5, 2002. We will inform them of the following impacts of sunset, and discuss the sequence and timing of the following actions:

- 1. Cessation of Work on Regulations Dockets.** Continuing to work on new regulations would be pointless without an agency to administer them. All pending regulations dockets; including pole attachments, access charges, Public Advocacy Section regulations and small water and sewer utility certifications, would be closed. Both the PAS regulations docket and the proceeding on small water and sewer utility certifications were opened this year at the suggestion of the legislative auditor.

**2. Transition of PCE Administration to Another State Agency.** The RCA determines the level of PCE funding due to eligible communities. We collect the cost of administering that program from the utilities that benefit from it. We will transfer administration of that program to another state agency that will need general fund support to continue this work.

**3. Not Reviewing New Applications.** The RCA reviews applications for new utilities and pipelines and requests to transfer operating authority to insure that the applicant is fit, willing and able to offer service and that the proposed service is in the public interest. Last year we received 73 such applications. We would stop review of all applications, and not accept new ones. This would impact developers who install and request certification of the water and sewer utilities they install in new subdivisions and applications for new oil and gas pipelines.

**4. Concluding Existing Caseload.** We will evaluate the existing caseload and prioritize it based on public interest and time required to resolve each case. We will try to conclude as many as we can before the agency closes. Loss of staff that seek more stable employment will diminish our ability to conclude cases.

**5. Not Accepting New Cases.** We will evaluate all new filings to determine if they can be concluded in our sunset year and whether doing so would serve the public interest. New complaints and tariff filings we cannot handle will be returned to the utilities, pipeline companies and consumers with an explanation that we are unable to process them because the legislature terminated the agency. The following types of matters will not be handled after the RCA ceases to exist:

- **Consumer Complaints** - The RCA handled over 600 consumer complaints last year.
- **Federal Funding Certifications** - Under federal law, the RCA must certify local telephone companies' eligibility for federal universal service reports before funding is distributed. Telephone companies received more than \$70 million last year under these programs, enabling them to serve high cost areas of the state.
- **Rate changes** Without regulatory oversight, it is not clear whether utilities and pipelines are free to serve whichever customers they choose at prices they are free to set without review, or if they must stay at the current prices indefinitely. This uncertainty is likely to negatively affect all utilities' ability to attract investment capital. Every consumer of a utility service statewide is at risk of seeing a rate increase or their service terminated.

In summary, a sunset year will dramatically impact utilities and utility consumers statewide beginning July 1, 2002 when the RCA terminates. The regulatory and legal confusion is likely to undermine utilities' efforts to obtain financing for new projects and impact consumers of all utility and pipeline services statewide. As responsibilities are transferred to other state agencies that lack the ability to collect the costs of their operations from consumers, there will be additional demand on state general funds. I urge your prompt endorsement of SB 2010.

Sincerely,

REGULATORY COMMISSION OF ALASKA

A handwritten signature in cursive script, reading "G. Nanette Thompson", followed by a horizontal line extending to the right.

G. Nanette Thompson  
Chair

cc: Members of the Alaska Legislature  
Governor Tony Knowles  
Alaska Rural Electrical Cooperative Association  
Alaska Telephone Association

SECTION 12

Regulatory Commission of Alaska  
Annual Report Fiscal Year 2001



"... encouraging the delivery of affordable voice and high-speed data services to all communities in Alaska."

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3469  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

January 2, 2002

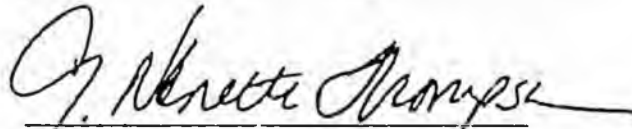
Speaker of the House  
and  
President of the Senate

Dear Speaker of the House and President of the Senate:

On behalf of the Regulatory Commission of Alaska we are pleased to submit to the Alaska State Legislature the Thirty-second Annual Report of the Regulatory Commission of Alaska, covering the fiscal year ending June 30, 2001. This is filed pursuant to AS 42.05.211 and AS 42.06.220.

Respectfully yours,

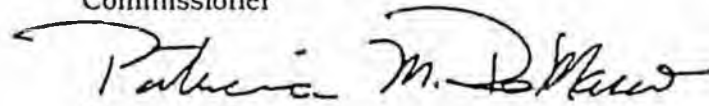
REGULATORY COMMISSION OF ALASKA



Chair



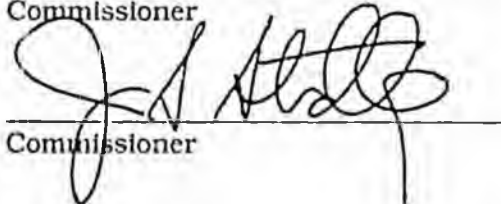
Commissioner



Commissioner



Commissioner



Commissioner

**Table of contents**

<b>The RCA at a glance</b>	
Mission statement	3
Regulatory Commission of Alaska	4
Message from the Chair	5
Biographies, RCA Commissioners	6
Former Commissioners	9
RCA roster	10
Organizational chart	11
Staff responsibilities	12
<b>Key issues</b>	
RCA FY01 overview	13
Operating budget	15
Regulation and economic development	16
Fiscal Year 2002 plan	17
Public Advocacy Section	18
<b>Significant events</b>	
Telecommunications Service	19
Electric Service	20
Natural Gas Service	21
Refuse Service	21
Sewer and Water Service	21
Pipelines	22
<b>Utility and pipeline operating results</b>	
Fully regulated utilities financial data	24
Oil pipeline carrier financial data	25
<b>Consumer protection</b>	26
Informal complaints	28
<b>Agency filings and proceedings</b>	
Certification proceedings	31
Orders	33
Tariff revisions	34
Formal proceedings	37
Open dockets	39
Summary of filings	40
Appeals and other court proceedings pending in FY01	41
<b>Legal authority</b>	
Statutes	44
Regulations	46

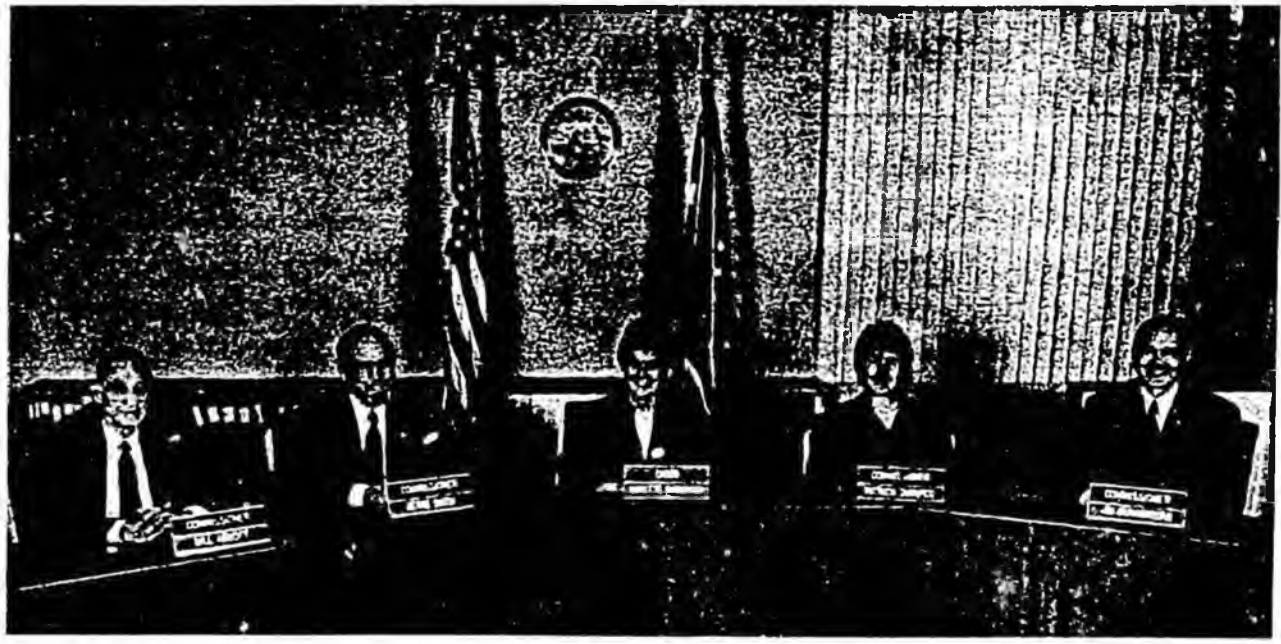
## Mission statement

The Regulatory Commission of Alaska protects consumer interests by ensuring affordable, reliable utility and pipeline services and ensuring that the utility and pipeline infrastructure is adequate to support community needs.



Regulatory Commission of Alaska – commissioners and staff

**Regulatory Commission of Alaska**



Chair Thompson (center) is flanked (left to right) by Commissioners Abbott, Smith, DeMarco and Strandberg

## Message from the Chair

Fiscal Year 2001 (FY01) was the second year of operation for the Regulatory Commission of Alaska (RCA). We continued our efforts to improve the way we work.

This year saw a stabilization of our caseload. The backlog has been significantly reduced and we are processing new filings under the timelines in our new regulations. The RCA routinely opens approximately 175 to 210 new dockets each year. Since our inception, as a result of a concerted effort to resolve all long pending cases, we have closed more dockets than were opened. At the end of FY00, there were 531 pending cases; at the end of FY01, the number of pending cases was 418. That reduction represents a substantial effort to analyze and issue orders in the dockets we closed. We expect the docket caseload to stabilize in FY02-FY03 at approximately 350 cases.

By year-end we were closer to our goal of a paperless agency. We have worked hard to design systems that allow us to function as an agency more efficiently and make our processes more accessible to the public. In FY02 the public should see the impact of these changes.

We moved. The agency outgrew the space we occupied for eleven years, and moved several blocks east to 701 West Eighth Avenue. Our new space is better designed for our work processes.

The Commission held many significant hearings in FY01. We heard cases for several utilities that had operated without Commission review of their rates for many years. Keeping rates current by regular review should make the process less burdensome to the utilities, allowing them to fully recover their costs and allowing consumers to have the benefit of savings when advances in technology make offering reliable utility service less expensive. Gathering current data on the electric industry's costs also enabled the Commission to analyze the potential costs and benefits to consumers of restructuring the Railbelt electric market.

We held a hearing on the Trans Alaska Pipeline rates. For the first time in the pipeline's history the Commission was asked by an economically interested party to evaluate whether or not the tariff rates charged for intrastate shipments on that line are just and reasonable. The hearing lasted over six weeks.

We continued to grapple with the dynamic changes in the communications markets, and evaluated proposed changes to our regulatory scheme to keep pace with these changes. We actively followed changes on a national level and advocated for the interests of the Alaskan phone companies that deliver services in high cost areas and receive federal support. I serve on the Federal-State Joint Board on Universal Service where I have the opportunity to bring the needs of rural residents to the attention of national policymakers.

We look forward to the challenges of FY02. There are many significant policy issues on the horizon and we continue to strive to improve the way we do business.

Sincerely,



G. Nanette Thompson  
Chair