

SCOMM

120:7



Alaska State Legislature

Representative Bill Hudson

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

Chair
Fisheries
Utilities
Restructuring

Member
Transportation
State Affairs

UTILITY RESTRUCTURING COMMITTEE

May 11, 1999

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

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

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

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

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

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

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

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

The effective date is immediate.

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

Section 1:

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

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

Section 3:

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- Requirements for background equivalent to degrees repealed.**

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

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

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

Section 7: Fixes dates for action and requires priority hearings

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

Section 9: Regarding consumer complaint resolution.

Section 10: Provides for formal hearing arbitrator.

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

Section 12: Repeals actual experience equivalent to a degree.

Section 13: Encourages implementation of a management information system.

Section 14: Regarding removal rights of sitting Commissioners.

Section 15: Defines effective date of Section 7.

Section 16: Immediately effective date.

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



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Sponsor of Bill
Sectional
Note
Revisions of Bill
Legislative
NRRI Report
APUC Audit

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

Restructure APUC to ~~improve~~ improve itself

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

UTIL
Slow
dockets
Mgt
Prob
NRRI

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

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3, encourages a Mgt info system

The effective date is immediate.

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

1-LS0764\K

Cramer,

5/4/99

to Fin only not resources

SB133

CS FOR HOUSE BILL NO. 183(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the chair ^{and members} of the Alaska Public Utilities Commission; relating
2 to ^{removal of members of} ~~membership on~~ the Alaska Public Utilities Commission; relating to political
3 conduct by and removal of members of the Alaska Public Utilities Commission;
4 relating to hearings ^{step} ~~held~~ by the Alaska Public Utilities Commission; relating to ^{relating to procedural motions}
5 timely action by the Alaska Public Utilities Commission; relating to procedural ^{relating to members & employees of APUC}
6 motions of the Alaska Public Utilities Commission; relating to provisions for the
7 resolution of consumer complaints; ~~permitting arbitrators to conduct formal~~
8 ~~hearings before the Alaska Public Utilities Commission; relating to a management~~ ^{relating to RCC}
9 information system; relating to the annual report of the Alaska Public Utilities
10 Commission; and providing for an effective date."
11 ^{relating to RCC}

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 42.05.020(b) is amended to read:

(b) The commission [GOVERNOR] shall select [DESIGNATE] one member of the commission to serve as chair [CHAIRMAN OF THE COMMISSION. THIS MEMBER SHALL SERVE AS CHAIRMAN] for a term of two [FOUR] years. A commissioner may be elected to successive terms as chair of the commission. The governor may reject the commission's selection of a chair [, BUT MAY BE APPOINTED FOR SUCCESSIVE TERMS].

* Sec. 2. AS 42.05.035 is repealed and reenacted to read:

Sec. 42.05.035. Removal of commissioners. The governor may remove a commissioner from office only for cause, including incompetence, neglect of duty, or misconduct in office, or because the member, while serving on the commission, is convicted of a misdemeanor for violating a statute or regulation related to public utilities or is convicted of a felony. The governor shall deliver to the commissioner a copy of the charges against the commissioner. The commissioner shall have an opportunity to present a defense in person or through counsel at a public hearing before the governor or the governor's designee. The commissioner shall be informed of the hearing by registered mail at least 10 days before the hearing date. At the hearing, the commissioner may confront and cross-examine adverse witnesses. Upon removal of the commissioner, the findings and a complete statement of all charges made against the commissioner shall be filed in the Office of the Lieutenant Governor.

* Sec. 3. AS 42.05.040 is repealed and reenacted to read:

Sec. 42.05.040. Qualifications of members; prohibited conduct. (a) No more than two members of the commission may be members of the same political party. A person may not be appointed or reappointed to the commission for one year after changing political party membership.

(b) A member of the commission may not participate in Prohibited conduct

- (1) political management or in a political campaign for a candidate for election to federal, state, or local office regardless of whether the campaign is partisan or nonpartisan or for passage or defeat of a ballot measure of any type;
- (2) the campaign of, or attend campaign fund-raising events for, a candidate for governor or the legislature;
- (3) a fund-raising event held on behalf of a political party or attend a

political party fund-raising event; or

(4) lobbying activities that would require a person to register as a lobbyist.

* Sec. 4. AS 42.05.101(a) is amended to read:

(a) The chair of the commission shall establish for the commission a principal office and branch offices necessary to discharge its business efficiently. For the convenience of the public or of parties to a proceeding, the commission may hold meetings, hearings, or other proceedings at other locations.

* Sec. 5. AS 42.05.111(b) is amended to read:

(b) The chair of the commission may employ temporary legal counsel for the commission from time to time in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission.

* Sec. 6. AS 42.05.121 is amended to read:

Sec. 42.05.121. Employment of commission personnel. (a) The commission

may employ an executive director who shall have had at least five years of experience

in public utility management or regulation, law, accounting, engineering, or an allied field. The executive director is responsible for directing the administrative functions

of the commission and carrying out the policies as set by the commission. The chair

of the commission may employ engineers, hearing officers, administrative law judges

to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other

agents and assistants considered [IT CONSIDERS] necessary by the commission.

Employees and agents of the commission who are not partially exempt under

AS 39.25.120, other than legal counsel, are in the classified service under

AS 39.25.100.

(b) In addition to the [ITS] staff of regular employees, the chair of the commission may enter into a contract for no more than 50001 and engage the services of consultants and experts the

commission considers necessary.

* Sec. 7. AS 42.05.141 is amended by adding a new subsection to read:

(d) On the filing of a petition, application, or complaint concerning a matter within the jurisdiction of the commission under this chapter for which a hearing is clearly warranted, the chair of the commission shall assign a priority rating to the issue

1 and promptly fix a date for hearing. The hearing shall be expedited in accordance
2 with the priority rating. Regardless of the priority rating, a hearing may not be
3 scheduled to begin later than five months after the petition, application, or complaint
4 was filed unless the commission approves an extension of time for good cause. After
5 the conclusion of the hearing, the commission shall enter its order within 60 days.

6 * Sec. 8. AS 42.05.151(b) is amended to read:

7 (b) The commission shall adopt regulations governing practice and procedure,
8 consistent with due process of law, including the conduct of formal and informal
9 investigations, prehearing [PRE-HEARING] conferences, hearings, mediation,
10 arbitration, and proceedings, and the handling of procedural motions by a single
11 commissioner. The commission, or an assigned commissioner, shall enter an order
12 on procedural motions within 10 days after the close of the applicable briefing
13 period. Technical rules of evidence need not apply to investigations, prehearing
14 [PRE-HEARING] conferences, hearings, mediation, arbitration, and proceedings
15 before the commission. The commission shall provide for representation by out-of-
16 state attorneys substantially in accordance with Rule 81, Alaska Rules of Civil
17 Procedure.

18 * Sec. 9. AS 42.05 is amended by adding a new section to read:

19 **Sec. 42.05.165. Consumer complaints.** The commission shall by regulation
20 provide for

21 (1) the expedited hearing and resolution of consumer complaints; and

22 (2) penalties against a party to a complaint who causes unjustified
23 delays in a consumer complaint proceeding.

24 * Sec. 10. AS 42.05.171 is amended to read:

25 **Sec. 42.05.171. Formal hearings.** A formal hearing that the commission has
26 power to hold may be held by or before ^{a hearing panel appointed} ~~three or more commissioners~~, a hearing
27 officer, or an administrative law judge designated for the purpose by the commission.
28 In appropriate cases, a formal hearing may be held before an arbitrator
29 designated for the purpose by the commission. The testimony and evidence in a
30 formal hearing may be taken by the ^{panel} ~~commissioners~~, by the hearing officer, [OR] by
31 the administrative law judge, or by the arbitrator to whom the hearing has been

assigned. A decision of an arbitrator is not final until approved by the commission. A commissioner who has not heard or read the testimony, including the argument, may not participate in making a decision of the commission. In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

* Sec. 11. AS 42.05.211 is amended to read:

Sec. 42.05.211. Annual report. The commission shall, by February 1 [15] of each year, publish an annual report reviewing its work and notify the legislature that the report is available. The report must contain

(1) information and data that bear a significant relationship to the development and regulation of public utility services in the state;

(2) [AND INCLUDE] an outline of the commission's program for the development and regulation of public utility services in the forthcoming year;

(3) a summary of the activities of the commission during the previous year; and

(4) a report on and evaluation of the timeliness of the commission's action on dockets during the previous year. ^{9 of RCC}

* Sec. 12. AS 42.05.050 is repealed. ^{New Sec 12 Comm decision making}

* Sec. 13. MANAGEMENT INFORMATION SYSTEM. The legislature encourages the Alaska Public Utilities Commission to continue to develop its management information system and to make the system accessible by the general public through the Internet for the purpose of tracking, scheduling, and managing all dockets within the commission.

* Sec. 14. The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act, apply to a member of the Alaska Public Utilities Commission serving on the effective date of this Act. This Act is intended to extinguish any existing right of a sitting commissioner to the removal procedure specified in former AS 42.05.035.

* Sec. 15. The provisions of AS 42.05.141(d), enacted by sec. ⁸ of this Act, apply to petitions, applications, and complaints first filed with the commission on or after the effective date of this Act. ^{New 17 Transitional provision}

* Sec. 16. This Act takes effect immediately under AS 01.10.070(c).

Defines RCC calc method

*?
if it's a
hearing
does this
make
sense*

SB133 - 5/11 Version

5/8
Rules amended ✓

Amendments for discussion

HB 183

House Labor & Commerce Committee

May 5, 1999

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 5, following "commission;":

2 Insert "relating to members and employees of the Alaska Public Utilities
3 Commission;"

4 Page 3, line 14, following "(a)":

5 Insert "The chair of the commission is responsible for directing the overall
6 operation of the commission."

7 Page 3, line 17:

8 Delete "The"

9 Insert "Under the direction of the chair, the [THE]"

10 Page 3, line 26:

11 Delete "contract for"

12 Insert "enter into a contract for no more than \$5,000 to [AND]"

13 Page 3, line 27:

14 Delete "commission"

15 Insert "chair [COMMISSION]"

16 Following ".":

17 Insert "The commission may contract for and engage the services of
18 consultants and experts the commission considers necessary."

19 Page 3, following line 27:

20 Insert a new bill section to read:

1 ** Sec. 7. AS 42.05.131 is amended by adding new subsections to read:

2 (c) Members and employees of the commission, except clerical and secretarial
3 staff, are subject to AS 39.50. Members and employees of the commission are subject
4 to AS 39.52.

5 (d) A member of the commission is disqualified from voting on any matter
6 before the commission in which the member has a conflict of interest."

7 Renumber the following bill sections accordingly.

8 Page 5, line 27:

9 Delete "sec. 7"

10 Insert "sec. 8"

AMENDMENT**OFFERED IN THE HOUSE****TO: CSHB 183(L&C), Draft Version "K"**

1 Page 3, following line 12:

2 Insert a new bill section to read:

3 **** Sec. 6. AS 42.05 is amended by adding a new section to read:**

4 **Sec. 42.05.115. Powers and duties of commission chair. (a) The chair of**
5 **the commission shall**

6 (1) employ the commission staff;

7 (2) establish and implement a time management system for the
8 commission;

9 (3) assign the work of the commission to members and staff of the
10 commission so that matters before the commission are resolved as expeditiously and
11 competently as possible; when assigning a matter, the chair shall also set a date by
12 which time the matter should be completed.

13 (b) The chair of the commission may appoint a hearing officer to hear a
14 matter that has come before the commission; a member of the commission may serve
15 as hearing officer.

16 (c) When the chair of the commission believes that it is in the public interest
17 for the commission to participate as a party in an adjudicatory matter, the chair shall
18 direct the commission staff to do so."

19 Renumber the following bill sections accordingly.

20 Page 5, line 27:

21 Delete "sec. 7"

22 Insert "sec. 8"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 4, line 13, following "1":

2 Insert "The commission shall adopt regulations by December 31, 1999, that
3 establish standards of timeliness for the types of cases that come before the commission.
4 The commission shall establish the standards based in part on degrees of complexity of
5 the cases. Except as provided in AS 42.05.171, when a matter comes for decision before
6 the commission, the chair shall appoint a hearing panel composed of three or more
7 commissioners to hear and decide the case. The panel shall exercise the powers of the
8 commission with respect to the matter. A decision of a hearing panel may be appealed
9 to the commission if there is an allegation in the appeal that action taken or a decision
10 made by the commission is contrary to commission precedent and is not based on an
11 intervening change in law. The commission may grant or deny the application to
12 appeal. If a decision of a hearing panel is not subject to appeal to the commission or
13 if the commission denies an application to appeal, the decision of the hearing panel is
14 a final decision for purposes of appeal to the courts."

15 Page 4, line 26:

16 Delete "three or more commissioners"

17 Insert " a hearing panel appointed under AS 42.05.151(b) [THREE OR MORE
18 COMMISSIONERS]"

19 Page 4, line 30:

20 Delete "commissioners"

21 Insert "panel [COMMISSIONERS]"

22 Page 5, following line 17:

1 Insert a new bill section to read:

2 **"* Sec. 12.** AS 42.06 is amended by adding a new section to read:

3 **Sec. 42.06.155. Commission decision-making procedures.** The commission
4 shall comply with AS 42.05.151(b) for matters that come before the commission for
5 decision."

6 Renumber the following bill sections accordingly.

7 Page 5, following line 29:

8 Insert a new bill section to read:

9 **"* Sec. 17. TRANSITIONAL PROVISION.** Litigation, hearings, and other proceedings
10 pending under procedures authorized by a law amended by this Act continue in effect and
11 may be completed notwithstanding an amendment made by this Act."

12 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 10, following "Commission;":

2 Insert "relating to regulatory cost charges;"

3 Page 5, following line 17:

4 Insert new bill sections to read:

5 "* Sec. 12. AS 42.05.254(a) is amended to read:

6 (a) A regulated public utility operating in the state shall pay to the
7 commission an annual regulatory cost charge in an amount not to exceed the
8 maximum percentage of adjusted gross revenue that applies to the utility sector
9 of which the utility is a part. The total regulatory cost charges that the
10 commission expects to collect from all regulated public utilities and regulated
11 pipeline carriers may not exceed .8 percent of the total adjusted gross revenue of
12 all regulated public utilities and the total gross revenue of all regulated pipeline
13 carriers [DERIVED FROM OPERATIONS IN THE STATE, AS MODIFIED
14 UNDER (c) OF THIS SECTION IF APPROPRIATE]. An exempt utility shall pay
15 the actual cost of services provided to it by the commission.

16 * Sec. 13. AS 42.05.254(b) is amended to read:

17 (b) The commission shall by regulation establish a method to determine
18 annually the amount of the regulatory cost charge for a public utility. If the amount
19 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
20 exceeds the authorized budget of the commission, the commission shall, by order,
21 reduce the percentages determined under (i) [SET OUT IN (a)] of this section so
22 that the total amount of the fees collected approximately equals the authorized budget
23 of the commission for the fiscal year.

24 * Sec. 14. AS 42.05.254(h) is amended by adding a new paragraph to read:

1 (5) "adjusted gross revenue" means the gross revenue of a utility as
 2 modified under (c) of this section, if appropriate.

3 * Sec. 15. AS 42.05.254 is amended by adding a new subsection to read:

4 (i) The commission shall by regulation establish a method to determine
 5 annually the maximum percentage of adjusted gross revenue that will apply to each
 6 regulated public utility sector and the maximum percentage of gross revenue that will
 7 apply to each regulated pipeline carrier sector. The method established shall allocate
 8 the commission's costs, other than the cost of services provided to exempt utilities,
 9 among the regulated public utility sectors and the regulated pipeline carrier sector
 10 based on the relative amount of the commission's annual costs that is attributable to
 11 regulating each sector.

12 * Sec. 16. AS 42.06.286(a) is amended to read:

13 (a) A pipeline carrier operating in the state shall pay to the commission an
 14 annual regulatory cost charge in an amount not to exceed the maximum percentage
 15 of gross revenue that applies to regulated pipeline carriers. The total regulatory
 16 cost charges that the commission expects to collect from all regulated pipeline
 17 carriers and regulated public utilities may not exceed .8 percent of the total gross
 18 revenue of all regulated pipeline carriers and the total gross revenue of all
 19 regulated public utilities [DERIVED FROM OPERATIONS IN THE STATE]. A
 20 regulatory cost charge may not be assessed on pipeline carrier operations unless the
 21 operations are within the jurisdiction of the commission.

22 * Sec. 17. AS 42.06.286(b) is amended to read:

23 (b) The commission shall by regulation establish a method to determine
 24 annually the amount of the regulatory cost charge. If the amount the commission
 25 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
 26 authorized budget of the commission, the commission shall, by order, reduce the
 27 percentage determined under (f) [SET OUT IN (a)] of this section so that the total
 28 amount of the fees collected approximately equals the authorized budget of the
 29 commission for the fiscal year.

30 * Sec. 18. AS 42.06.286 is amended by adding a new subsection to read:

31 (f) The commission shall by regulation establish a method to determine
 32 annually the maximum percentage of gross revenue that will apply to each regulated

- 1 pipeline carrier sector and the maximum percentage of gross revenue that will apply
- 2 to the regulated public utility sector in accordance with AS 42.05.254(i)."
- 3 Renumber the following bill sections accordingly.

A M E N D M E N T**OFFERED IN THE HOUSE****TO: CSSB 183(L&C)**

1 Page 1, lines 1 - 3:

2 Delete "relating to the chair of the Alaska Public Utilities Commission; relating
3 to membership on the Alaska Public Utilities Commission; relating to political conduct
4 by and removal of members of the Alaska Public Utilities Commission;"

5 Insert "relating to the chair and members of the Alaska Public Utilities
6 Commission; relating to removal of members of the Alaska Public Utilities
7 Commission;"

8 Page 1, lines 4 - 6:

9 Delete "relating to hearings held by the Alaska Public Utilities Commission;
10 relating to timely action by the Alaska Public Utilities Commission; relating to
11 procedural motions of the Alaska Public Utilities Commission;"

12 Insert "relating to the conduct of proceedings of the Alaska Public Utilities
13 Commission;"

14 Page 1, lines 7 - 8:

15 Delete "permitting arbitrators to conduct formal hearings before the Alaska
16 Public Utilities Commission;"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 8, following ";;":

2 Insert "relating to regulatory cost charges;"

3 Page 5, following line 17:

4 Insert new bill sections to read:

5 **** Sec. 12.** AS 42.05.254(b) is amended to read:

6 (b) The commission shall by regulation establish a method to determine
7 annually the amount of the regulatory cost charge for a public utility based on the
8 utility sector to which the utility belongs. In determining the regulatory cost
9 charge for individual public utilities, the total cost for regulation of public
10 utilities under this chapter shall be allocated among the public utility sectors in
11 proportion to the cost of regulating each sector. If the amount the commission
12 expects to collect under (a) of this section and under AS 42.06.286(a) exceeds the
13 authorized budget of the commission, the commission shall, by order, reduce the
14 percentages set out in (a) of this section proportionately so that the total amount of
15 the fees collected approximately equals the authorized budget of the commission for
16 the fiscal year.

17 *** Sec. 13.** AS 42.06.286(b) is amended to read:

18 (b) The commission shall by regulation establish a method to determine
19 annually the amount of the regulatory cost charge. In determining the regulatory
20 cost charge for a pipeline, the cost for regulation of pipelines under this chapter
21 shall be allocated to the pipeline sector. If the amount the commission expects to
22 collect under (a) of this section and under AS 42.05.254(a) exceeds the authorized
23 budget of the commission, the commission shall, by order, reduce the percentage set
24 out in (a) of this section proportionately so that the total amount of the fees collected

- 1 approximately equals the authorized budget of the commission for the fiscal year."
- 2 Renumber the following bill sections accordingly.

5/3/99 ~~held down~~

I-LS0764V.4
Cramer
4/30/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

1 Page 2, lines 19 - 23:

2 Delete "Qualifications of members; prohibited conduct. (a) No more than two
3 members of the commission may be members of the same political party. A person may not
4 be appointed or reappointed to the commission for one year after changing political party
5 membership.

6 (b)"

7 Insert "Prohibited conduct."

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 3, 1999

VIA FACSIMILE & U.S. MAIL

The Honorable Norman Rokeberg
Alaska State Legislature
House of Representatives
Alaska State Capitol, Room 24
Juneau, Alaska 99801

Re: Requested amendment to
House Bill 183 (L&C)

Dear Rep. Rokeberg:

Attached you will find, as requested, a proposed amendment that will allow the Alaska Public Utilities Commission to assign matters to a hearing officer or arbitrator for a proposed decision in the same manner provided by AS 44.62.500 of the Administrative Procedures Act.

One of the purposes of HB 183 is to allow the assignment of hearing officers and arbitrators in order to get more efficiency in deciding matters before the Commission. The Alaska Administrative Procedures Act allows an agency to assign a hearing officer to hear a case alone and to submit a proposed decision to the agency. The agency may adopt such a proposed decision without a review of entire record or argument.

The current statute in AS 42.05.171, which HB 183 (L & C) amends, has a sentence in it that provides, "A commissioner who has not heard or read the testimony, including argument, may not participate in making a decision of the commission." This arguably does not allow commissioners to approve a proposed decision of a hearing officer or arbitrator if they have not read the transcript or sat in on the hearing.

TONY KNOWLES GOVERNOR

PLEASE REPLY TO:

1001 W. 5th Avenue Suite 200
Anchorage Alaska 99511-1944
PHONE (907) 264-5100
FAX (907) 274-4907

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS ALASKA 99711-4674
PHONE (907) 451-2511
FAX (907) 451-2444

1110 S. 11th Avenue Court House
Juneau, Alaska 99801-0301
PHONE (907) 461-1500
FAX (907) 461-1500

The Honorable Norman Rokeberg
Alaska State Legislature

May 3, 1989
Page 2

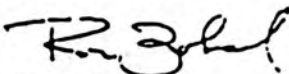
The APA allows an approval of a proposed decision or reduction in a penalty without a review of the record and requires such a review only if the agency decides to further modify the decision. The attached amendment adopts that version of the APA for APUC hearings so that in appropriate cases the commissioners can adopt a proposed decision of a hearing officer or arbitrator without reviewing the entire record. The suggested amendment gives the chair the power to assign cases as appropriate, the assigned commissioners retain the power to approve or modify the decision of hearing officers and arbitrators, and requires a review of the record or hearing of the evidence and argument only when the proposed decision is modified in the manner of the APA. The word "decision" has been used to include an order or arbitrator's award. Under this amendment, the chair would have to use judgment in assigning appropriate cases to an arbitrator. Not all cases are appropriate for an arbitrator.

If any more drafting or information is necessary, please contact me.

Very truly yours.

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Ron Zobel

Assistant Attorney General

Enclosure:

AS 42.05.171 is amended to read:

Sec. 42.05.171 Formal hearing. (a) A formal hearing that the commission has the power to hold may be held by or before three or more commissioners, a hearing officer, an administrative law judge, or arbitrator as assigned [designated for the purpose] by the chair of the commission. The testimony and evidence in a formal hearing may be taken by the commissioners, [by the] hearing officer, [by the] administrative law judge, or arbitrator to whom the hearing has been assigned. [A commissioner who has not heard or read the testimony, including the argument, may not participate in making a decision of the commission.] In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

(b) If a hearing is held before a hearing officer, an administrative law judge, or an arbitrator alone, the hearing officer, administrative law judge, or arbitrator shall prepare a proposed decision in a form that may be adopted by the commissioners assigned. A copy of the decision shall be filed in the record of the proceedings and served on each party. The commissioners assigned may adopt the proposed decision in its entirety, or may reduce a proposed penalty and adopt the balance of the decision.

(c) If the proposed decision is not adopted as provided in (b) of this section, the commissioners assigned may decide the case upon the record, with or without taking additional evidence or argument, or may remand the case to the same or another hearing officer or arbitrator to take additional evidence. If the case is so remanded, the hearing officer or arbitrator shall prepare a proposed decision as provided in (b) of this section upon the additional evidence and the record of the earlier hearing. A commissioner who has not heard or read the testimony and argument may not participate in making a decision under this subsection.

Corrected
Drafted
by Ron Zobe

5/3/99



Alaska State Legislature

Representative Bill Hudson

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

Committees:

Chair
Fisheries
Utilities
Restructuring

Member
Transportation
State Affairs

UTILITY RESTRUCTURING COMMITTEE

April 21, 1999

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

CS HB 183(URS) Sponsor Statement Alaska Public Utilities Commission restructuring

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

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

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

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

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

The effective date is immediate.

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

Section 1:

- A. Gender correction from chairman to chair.
- B. Makes the chair responsible for the administration of the commission and commission employees.

Section 2:

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

Section 3:

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

Section 4:

The Chair, rather than the Commission may establish offices for the APUC.

Section 5:

The chair, rather than the Commission may employ temporary legal counsel.

Section 6:

The chair, rather than the commission may hire outside consultants, and experts with the approval of the Commission.

Section 7:

In addition to the annual report the APUC will present to the Legislature the commission activities, and timeliness of docket activity for the previous year. Also fixing dates for action and priority hearing.

Section 8: Removes employee/public category requirements.

Adds procedural motion deadlines

Section 9: Rights of sitting Commissioners impacted by section 2.

Adds expediting consumer complaints

Section 10: Immediately effective date

Adds hearing panel and arbitrators

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

12 deletes background requirements

13 encourages Net info system

14 sitting commissioner removal rights

15 explains effective date of Sec 7

16 eff date. immediate

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 183

Revision Date/Time (Note if correction) _____

Dept. Affect: DCED

Title Alaska Public Utilities Commission

BRU AK Public Utilities Commission

Component APUC Operations

Sponsor Utility Restructuring

Requester Rep. Hudson

Component Serial No. 346

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the Alaska Public Utilities Commission.

Prepared by Robert A. Lohr

Division APUC

Approved by Commissioner Deborah B. Schneider

Agency _____

Phone 263-2174

Date/Time _____

Date 4.14.99

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

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

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C)

OK

1 Page 1, lines 1 - 3:

2 Delete "relating to the chair of the Alaska Public Utilities Commission; relating
3 to membership on the Alaska Public Utilities Commission; relating to political conduct
4 by and removal of members of the Alaska Public Utilities Commission;"

5 Insert "relating to the chair and members of the Alaska Public Utilities
6 Commission; relating to removal of members of the Alaska Public Utilities
7 Commission;"

8 Page 1, lines 4 - 6:

9 Delete "relating to hearings held by the Alaska Public Utilities Commission;
10 relating to timely action by the Alaska Public Utilities Commission; relating to
11 procedural motions of the Alaska Public Utilities Commission;"

12 Insert "relating to the conduct of proceedings of the Alaska Public Utilities
13 Commission;"

14 Page 1, lines 7 - 8:

15 Delete "permitting arbitrators to conduct formal hearings before the Alaska
16 Public Utilities Commission;"



**FACSIMILE TRANSMISSION COVER
SHEET**

Fair Business Practices Section

Suite 200

1031 W. Fourth Ave.

Anchorage, AK 99501

PHONE: (907) 269-5200

FAX: (907) 270-3007

DATE: MAY 4, 1999

TO: ATTN: JANET SEITZ

FOR REP. NORMAN ROKEBERG FAX: 907-465-2040

FROM: RON ZOBEL

NUMBER OF PAGES INCLUDING THIS SHEET: 3

MESSAGE:

MAY 04 1999

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

**PLEASE INFORM US IMMEDIATELY
IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL.
(907) 269-5200 ASK FOR: MARY**

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 4, 1999

VIA FACSIMILE & U.S. MAIL

The Honorable Norman Rokeberg
Alaska State Legislature
House of Representatives
Alaska State Capitol, Room 24
Juneau, Alaska 99801

Re: Amendment AS 42.05.171
House Bill 183(L&C)

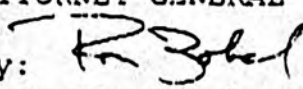
Dear Rep. Rokeberg:

Chairman Cotten has raised the issue of whether the draft amendment to AS 42.05.171 sent yesterday would relieve Commissioners of the obligation to hear or read the testimony when commissioners hear the case themselves and make a decision rather than referring the matter to a hearing officer. We believe it is implied that any person who hears a case and makes findings will have heard or read the testimony and argument. In order to remove any doubt, you will find an attached revision that makes it clear that only when the matter has been delegated to a hearing officer or arbitrator for hearing and proposed decision, can a commissioner approve a decision without hearing or reading the testimony and transcript.

We hope this clarifies the meaning of the provision.

Very truly yours

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 

Ron Zobel

Assistant Attorney General

Enclosure:

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☒ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 274-3697

☐ KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4879
PHONE: (907) 451-2811
FAX: (907) 451-2848

☐ P.O. BOX 110300-DIMOND COUNTY HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

AS 42.05.171 is amended to read:

Sec. 42.05.171 **Formal hearing.** (a) A formal hearing that the commission has the power to hold may be held by or before three or more commissioners, a hearing officer, an administrative law judge, or arbitrator as assigned [DESIGNATED FOR THE PURPOSE] by the chair of the commission. The testimony and evidence in a formal hearing may be taken by the commissioners, [by the] hearing officer, [by the] administrative law judge, or arbitrator to whom the hearing has been assigned. Except as provided in (b) of this section, a [A] commissioner who has not heard or read the testimony and [, INCLUDING THE] argument, may not participate in making a decision of the commission. In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

(b) If a hearing is held before a hearing officer, an administrative law judge, or an arbitrator alone, the hearing officer, administrative law judge, or arbitrator shall prepare a proposed decision in a form that may be adopted by the commissioners assigned. A copy of the decision shall be filed in the record of the proceedings and served on each party. The commissioners assigned may adopt the proposed decision in its entirety, or may reduce a proposed penalty and adopt the balance of the decision.

(c) If the proposed decision is not adopted as provided in (b) of this section, the commissioners assigned may decide the case upon the record, with or without taking additional evidence or argument, or may remand the case to the same or another hearing officer or arbitrator to take additional evidence. If the case is so remanded, the hearing officer or arbitrator shall prepare a proposed decision as provided in (b) of this section upon the additional evidence and the record of the earlier hearing. A commissioner who has not heard or read the testimony and argument may not participate in making a decision under this subsection.

Alaska State Legislature

REPRESENTATIVE
GAIL PHILLIPS
Chair



SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472

Legislative Budget and Audit Committee

TO: Norm Rokeberg, Chair *Norm*
Labor and Commerce Committee

FROM: Representative Gail Phillips, Chair *Gail*
Legislative Budget and Audit Committee

RE: Amendment Request - SB 133 - Creating the Regulatory Commission of Alaska; Repealing the Alaska Public Utilities Commission

After conferring with the Legislative Auditor, Pat Davidson, I respectfully request you consider the following minor amendment to SB 133.

Page 11, on lines 18 through 21, delete:

[The governor shall appoint one member from the Regulatory Commission of Alaska and one member from the Alaska Oil and Gas Conservation Committee to work with the Legislative Budget and Audit Committee on the report"]

The Legislative Budget and Audit Committee (LBAC), and therefore our auditors already have statutory authorization to require the assistance and cooperation of officials and other state employees (AS 24.20.201 (a) (3) and AS 24. 20. 271 (5). Additionally, the audit team must be independent in its work from the organizations audited and conform to Governmental Auditing Standards. During the regular course of this study, the audit team will no doubt work closely with not only the commissioners from both entities, but staff as well.

Thank you for your consideration of this request. An amendment accomplishing the above is attached.

attachment

INTERIM ADDRESS

345 W. Sterling Highway, Suite 102B, Homer, Alaska 99603 (907) 235-2921 Fax: (907) 235-4008

I-LS0771\XA.3

Cramer✓
5/6/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 133(RLS) am

- 1 Page 11, lines 18 - 21:
- 2 Delete "The governor shall appoint one member from the Regulatory Commission of
- 3 Alaska and one member from the Alaska Oil and Gas Conservation Commission to work with
- 4 the Legislative Budget and Audit Committee on the report."

AMENDMENT**OFFERED IN THE HOUSE****TO: CSSB 133(RLS) am**

1 Page 5, lines 9 - 12:

2 Delete all material and insert:

3 "(c) On the filing of a petition, application, or complaint concerning a matter
4 within the jurisdiction of the commission under AS 42.05 for which a hearing is
5 clearly warranted, the chair of the commission shall assign a priority rating to the
6 issue and promptly set a date for hearing. The hearing shall be expedited in
7 accordance with the priority rating. Regardless of the priority rating, a hearing may
8 not be scheduled to begin later than five months after the petition, application, or
9 complaint was filed unless the commission approves an extension of time for good
10 cause. After the conclusion of the hearing, the commission shall enter its order within
11 60 days."

AMENDMENT**OFFERED IN THE HOUSE****TO: CSSB 133(RLS) am**

1 Page 12, following line 15:

2 Insert a new bill section to read:

3 **"* Sec. 29. APUC ASSISTANCE TO RCA. The Alaska Public Utilities Commission**
4 **shall, to the extent possible, transfer as many duties and activities as possible from members**
5 **of the commission to commission staff in order to make the transition between the Alaska**
6 **Public Utilities Commission and the Regulatory Commission of Alaska as smooth as**
7 **possible."**

8 Renumber the following bill sections accordingly.

9 Page 14, line 13:

10 Delete all material and insert:

11 **"* Sec. 33. (a) Section 29 of this Act takes effect immediately under AS 01.10.070(c).**

12 **(b) Except as provided in (a) of this section, this Act takes effect July 1, 1999."**

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 133(RLS) am

- 1 **Page 4, lines 23 - 27:**
- 2 **Delete all material.**

- 3 **Page 5, lines 13 - 18:**
- 4 **Delete all material.**

- 5 **Page 5, line 19:**
- 6 **Delete "Article 3"**
- 7 **Insert "Article 2"**

- 8 **Page 11, line 10:**
- 9 **Delete "42.05.123,"**

1-LS0771\K ✓

Cramer

4/29/99

Agccc/Apnc Study may not will merge
 Back offered on advocacy to ~~major~~ major item

CS FOR SENATE BILL NO. 133(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR PEARCE

A BILL

FOR AN ACT ENTITLED

1 "An Act creating and providing for the Regulatory Commission of Alaska and
 2 transferring to it certain powers and duties of the Alaska Public Utilities
 3 Commission; transferring regulation of pipelines to the Alaska Oil and Gas
 4 Conservation Commission; repealing the Alaska Public Utilities Commission;
 5 relating to the powers of the chair of the Regulatory Commission of Alaska;
 6 relating to regulatory cost charges for public utilities; relating to the appellate
 7 procedures of the Regulatory Commission of Alaska; and providing for an
 8 effective date."

DELETE - REFUSE LANGUAGE

NAME
CHANGE

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 42 is amended by adding a new chapter to read:

11 Chapter 04. Regulatory Commission of Alaska.

12 Article 1. Commission and Staff.

1 **Sec. 42.04.010. Regulatory Commission of Alaska created.** (a) There is
2 created as an independent agency of the state the Regulatory Commission of Alaska.

3 (b) The commission may nominate one of its members to serve as chair. The
4 governor shall designate the chair of the commission, either by selecting the member
5 nominated by the commission or another member. The term as chair is four years.
6 The chair may not be appointed to successive terms as chair.

7 **Sec. 42.04.020. Commissioners.** (a) The commission consists of five
8 commissioners appointed by the governor and confirmed by the legislature in joint
9 session.

10 (b) The term of office of each member is six years. A commissioner, upon
11 the expiration of a term, shall continue to hold office until a successor is appointed and
12 qualified.

13 (c) A vacancy arising in the office of a commissioner shall be filled by
14 appointment by the governor and confirmed by the legislature in joint session, and,
15 except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall
16 hold office for the balance of the full term for which the predecessor on the
17 commission was appointed.

18 (d) A vacancy in the commission does not impair the authority of a quorum
19 of commissioners to exercise all the powers and perform all the duties of the
20 commission.

21 (e) The governor may remove a commissioner from office for cause, including
22 incompetence, neglect of duty, or misconduct in office or because the member, while
23 serving on the commission, is convicted of a misdemeanor for violating a statute or
24 regulation related to public utilities or is convicted of a felony. A commissioner, to
25 be removed for cause, shall be given a copy of the charges and afforded an opportunity
26 to be publicly heard in person or by counsel in the commissioner's own defense upon
27 not less than 10 days' notice. If a commissioner is removed for cause, the governor
28 shall file with the lieutenant governor a complete statement of all charges made against
29 the commissioner and the governor's finding based on the charges, together with a
30 complete record of the proceedings.

31 (f) Members of the commission are in the exempt service and are entitled to

1 a monthly salary equal to Step C, Range 26, of the salary schedule in AS 39.27.011(a)
2 for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal
3 to Step C, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

4 (g) Each commissioner, before entering upon the duties of office, shall take
5 and subscribe to the oath prescribed for principal officers of the state.

6 **Sec. 42.04.030. Principal office; seal.** (a) The commission shall establish a
7 principal office and branch offices necessary to discharge its business efficiently. For
8 the convenience of the public or of parties to a proceeding, the commission may hold
9 meetings, hearings, or other proceedings at other locations.

10 (b) The commission shall have an official seal.

11 **Sec. 42.04.040. Legal counsel.** (a) The Department of Law shall provide full-
12 time legal counsel to the commission. The legal counsel provided by the Department
13 of Law is subject to the approval of the commission.

14 (b) The commission may contract for the services of specialized legal counsel
15 or legal consultants.

16 **Sec. 42.04.050. Employment of commission personnel.** (a) The chair of the
17 commission is responsible for directing the administrative functions of the commission
18 and carrying out the policies as set by the commission. The commission chair may
19 employ engineers, hearing officers, experts, clerks, accountants, and other agents and
20 assistants considered necessary. Employees of the commission who are not in the
21 exempt service under AS 39.25.110, other than legal counsel, are in the classified
22 service under AS 39.25.100.

23 (b) The chair of the commission may enter into a contract for no more than
24 \$5,000 to engage the services of a consultant or expert the chair considers necessary.
25 The commission may contract for and engage the services of consultants and experts
26 the commission considers necessary.

27 **Sec. 42.04.060. Restrictions on members and employees.** (a) A member of
28 the commission or an employee of the commission may not have an official connection
29 with, hold stock or securities in, or have a pecuniary interest in a public utility within
30 the state. Membership in a cooperative association is not a "pecuniary interest" within
31 the meaning of this section; however, a member or employee of the commission may

Amendment #4
I.3

1 not be an officer, board member, or employee of a cooperative association. A member
2 or employee may not act upon a matter in which a relationship of the member or
3 employee with any person creates a conflict of interest.

4 (b) A member or employee of the commission may not, after leaving the
5 position as a member or employee of the commission, act as agent for or on behalf of
6 a public utility in any matter before the commission that was before the commission
7 during the employee's employment or the member's term of office. A violation of this
8 subsection is a class A misdemeanor.

9 (c) Members and employees of the commission, except clerical and secretarial
10 staff are subject to AS 39.50. Members and employees of the commission are subject
11 to AS 39.52.

12 (d) A member of the commission is disqualified from voting upon any matter
13 before the commission in which the member has a conflict of interest.

14 **Sec. 42.04.070. Powers and duties of commission chair.** (a) The chair of
15 the commission shall

16 (1) employ the commission staff;

17 (2) establish and implement a time management system for the
18 commission;

19 (3) assign the work of the commission to members and staff of the
20 commission so that matters before the commission are resolved as expeditiously and
21 competently as possible; when assigning a matter, the chair shall also set a date by
22 which time the matter should be completed.

23 (b) The chair of the commission may appoint a hearing officer to hear a matter
24 that has come before the commission; a member of the commission may serve as
25 hearing officer.

26 (c) When the chair of the commission believes that it is in the public interest
27 for the commission to participate as a party in an adjudicatory matter, the chair shall
28 direct the public advocacy section to do so. ^{sub-Amendment #5}

29 **Sec. 42.04.080. Decision-making procedures.** (a) Except as provided in
30 AS 42.05.171, when a matter comes for decision before the commission under
31 AS 42.05, the chair shall appoint a hearing panel composed of three or more members

1 to hear and decide the case. The panel shall exercise the powers of the commission
2 with respect to the matter.

3 (b) A decision of a hearing panel under AS 42.05 may be appealed to the
4 commission if there is an allegation in the appeal that action or a decision taken by the
5 commission is contrary to commission precedent and is not based on an intervening
6 change in law. The commission may grant or deny the application to appeal. If a
7 decision of a hearing panel is not subject to appeal to the commission or if the
8 commission denies an application to appeal, the decision of the hearing panel is a final
9 decision for purposes of appeal to the courts.

10 (c) The commission shall adopt regulations by December 31, 1999, that
11 establish standards of timeliness for the types of cases that come before the
12 commission. The commission shall establish standards based in part on degrees of
13 complexity of the cases.

14 Article 2. Communications Carriers Section.

15 Sec. 42.04.100. Communications carriers section. There is established
16 within the commission a communications carriers section that shall develop,
17 recommend, and administer policies and programs with respect to the regulation of
18 rates, services, accounting, and facilities of communications common carriers within
19 the state involving the use of wire, cable, radio, and space satellites.

20 Article 3. Public Advocacy Section.

21 Sec. 42.04.150. Public advocacy section. There is established within the
22 commission a public advocacy section. The section shall participate as a party in
23 adjudicatory matters that come before the commission to represent the public interest
24 when it is in the public interest to do so. The public advocacy section shall operate
25 separately from the rest of the commission.

26 * Sec. 2. AS 29.35.137(6) is amended to read:

27 (6) "local exchange telephone company" means a telephone utility
28 certificated under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES
29 COMMISSION] to provide local exchange service;

30 * Sec. 3. AS 37.05.146(b) is amended to read:

31 (b) The program receipts listed in this subsection are accounted for separately,

1 and appropriations from these program receipts are not made from the unrestricted
2 general fund:

3 (1) federal receipts;

4 (2) University of Alaska receipts (AS 14.40.491);

5 (3) designated program receipts; in this paragraph, "designated program
6 receipts" means money received by the state from a source other than the state or
7 federal government that is restricted to a specific use by the terms of a gift, grant,
8 bequest, or contract;

9 (4) receipts of the following:

10 (A) highway working capital fund (AS 44.68.210);

11 (B) correctional industries fund (AS 33.32.020);

12 (C) loan funds;

13 (D) international airport revenue fund (AS 37.15.430);

14 (E) corporate receipts earned or managed by a public
15 corporation of the state;

16 (F) fish and game fund (AS 16.05.100);

17 (G) school fund (AS 43.50.140);

18 (H) training and building fund (AS 23.20.130);

19 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,
20 AS 39.35, and former AS 39.37);

21 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

22 (K) public school trust fund (AS 37.14.110);

23 (L) second injury fund (AS 23.30.040);

24 (M) fishermen's fund (AS 23.35.060);

25 (N) FICA administration fund (AS 39.30.050);

26 (O) receipts of the employee benefits program established under
27 AS 39.30.150 - 39.30.180;

28 (P) receipts of the deferred compensation program established
29 under AS 39.45;

30 (Q) clean air protection fund (AS 46.14.260);

31 (R) receipts of the group insurance programs established under

1 AS 39.30.090;

2 (S) mental health trust fund (AS 37.14.031);

3 (T) Alaska children's trust (AS 37.14.200);

4 (U) commercial fisheries test fishing operations

5 (AS 16.05.050(15));

6 (V) Regulatory Commission of Alaska [PUBLIC UTILITIES
7 COMMISSION] under AS 42.05 [AND AS 42.06];

8 (W) Alaska Oil and Gas Conservation Commission under
9 AS 42.06;

10 (5) receipts of or from the trust established by AS 37.14.400 -
11 37.14.450, except reimbursements described in AS 37.14.410.

12 * Sec. 4. AS 39.50.200(b)(24) is amended to read:

13 (24) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC
14 UTILITIES COMMISSION (AS 42.05.010)];

15 * Sec. 5. AS 42.05.151(b) is amended to read:

16 (b) The commission shall adopt regulations governing practice and procedure,
17 consistent with due process of law, including the conduct of formal and informal
18 investigations, pre-hearing conferences, hearings, and proceedings, and the handling
19 of procedural motions by a single commissioner. The regulations must provide for
20 the hearing of a matter by a hearing panel and appeal of the matter in
21 accordance with AS 42.04.080. Technical rules of evidence need not apply to
22 investigations, pre-hearing conferences, hearings, and proceedings before the
23 commission. The commission shall provide for representation by out-of-state attorneys
24 substantially in accordance with Rule 81, Alaska Rules of Civil Procedure.

25 * Sec. 6. AS 42.05.171 is amended to read:

26 Sec. 42.05.171. **Formal hearings.** A formal hearing that the commission has
27 power to hold may be held by or before a hearing panel appointed under
28 AS 42.04.080 [THREE OR MORE COMMISSIONERS], a hearing officer, or an
29 administrative law judge designated for the purpose by the chair of the commission.
30 In appropriate cases, a formal hearing may be held before an arbitrator
31 designated for the purpose by the commission. The testimony and evidence in a

Hand
Change

H. Green
L.7
Refuse

No 5 member
appeal panel

Arbitration
I. S.
Arbitrator #6

1 formal hearing may be taken by the panel [COMMISSIONERS], by the hearing
2 officer, by the arbitrator, or by the administrative law judge to whom the hearing has
3 been assigned. A commissioner who has not heard or read the testimony, including
4 the argument, may not participate in making a decision of the commission. In
5 determining the place of a hearing, the commission shall give preference to holding
6 the hearing at a place most convenient for those interested in the subject of the
7 hearing.

8 * Sec. 7. AS 42.05.254(a) is amended to read:

9 (a) A regulated public utility operating in the state shall pay to the commission
10 an annual regulatory cost charge in an amount not to exceed the maximum
11 percentage of adjusted gross revenue that applies to the utility sector of which the
12 utility is a part. The percentage may not exceed .8 percent of the total adjusted
13 gross revenue of all regulated public utilities [DERIVED FROM OPERATIONS IN
14 THE STATE, AS MODIFIED UNDER (c) OF THIS SECTION IF APPROPRIATE].
15 An exempt utility shall pay the actual cost of services provided to it by the
16 commission.

17 * Sec. 8. AS 42.05.254(b) is amended to read:

18 (b) The commission shall by regulation establish a method to determine
19 annually the amount of the regulatory cost charge for a public utility. If the amount
20 the commission expects to collect under (a) of this section [AND UNDER
21 AS 42.06.286(a)] exceeds the authorized budget of the commission, the commission
22 shall, by order, reduce the percentages determined under (i) [SET OUT IN (a)] of
23 this section so that the total amount of the fees collected approximately equals the
24 authorized budget of the commission for the fiscal year.

25 * Sec. 9. AS 42.05.254(h) is amended by adding a new paragraph to read:

26 (5) "adjusted gross revenue" means the gross revenue of a utility as
27 modified under (c) of this section, if appropriate.

28 * Sec. 10. AS 42.05.254 is amended by adding a new subsection to read:

29 (i) The commission shall by regulation establish a method to determine
30 annually the maximum percentage of adjusted gross revenue that will apply to each
31 regulated public utility sector. The method established shall allocate the commission's

COST CHARGE
IS
COST PRICE

costs, other than the cost of services provided to exempt utilities, among the regulated public utility sectors based on the relative amount of the commission's annual costs that is attributable to regulating each sector.

* Sec. 11. AS 42.05.990(2) is amended to read:

(2) "commission" means the Regulatory Commission of Alaska
[PUBLIC UTILITIES COMMISSION];

* Sec. 12. AS 42.05.990(4) is amended to read:

(4) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation to the extent the transmission and distribution are not regulated by the Alaska Oil and Gas Conservation Commission under AS 42.06;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price and to the extent the distribution is not regulated by the Alaska Oil and Gas Conservation Commission under AS 42.06;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

* Sec. 13. AS 42.05.995 is amended to read:

Sec. 42.05.995. Short title. This chapter may be cited as the Alaska Public Utilities Regulatory [COMMISSION] Act.

NAME
CHANGE

SEN. GREEN
I.7
REFUSE

1 * Sec. 14. AS 42.06.286(b) is amended to read:

2 (b) The commission shall by regulation establish a method to determine
3 annually the amount of the regulatory cost charge. If the amount the commission
4 expects to collect under (a) of this section [AND UNDER AS 42.05.254(a)] exceeds
5 the authorized budget of the commission that is related to the implementation of this
6 chapter, including an appropriate share of the commission's administrative
7 expenses, the commission shall, by order, reduce the percentage set out in (a) of this
8 section so that the total amount of the fees collected approximately equals the
9 authorized budget of the commission for the fiscal year.

10 * Sec. 15. AS 42.06.445(e) is amended to read:

11 (e) A commissioner [, AND THE EXECUTIVE DIRECTOR,] may certify as
12 to all official records of the commission under this section and may certify as to all
13 official acts of the commission under this chapter.

14 * Sec. 16. AS 42.06.630(2) is amended to read:

15 (2) "commission" means the Alaska Oil and Gas Conservation
16 [PUBLIC UTILITIES] Commission (AS 31.05.005);

17 * Sec. 17. AS 42.45.020(b) is amended to read:

18 (b) Subject to AS 42.45.060, the department may make loans from the rural
19 electrification revolving loan fund to electric utilities certified under AS 42.05 [BY
20 THE ALASKA PUBLIC UTILITIES COMMISSION]. A loan from the fund may be
21 made only for the purpose of extending new electric service into an area of the state
22 that an electric utility may serve under a certificate of public convenience and
23 necessity issued under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES
24 COMMISSION]. A loan may be made from the fund to an electric utility if the utility
25 invests the money necessary to provide one pole, one span of line, one transformer,
26 and one service drop for each consumer for whom immediate service would be
27 provided by the extension of electric service. However, a loan may not be made from
28 the fund unless

29 (1) the loan is recommended by a loan advisory committee appointed
30 under AS 42.45.030; and

31 (2) the extension of electric service would provide immediate service

1 to at least three consumers.

2 * Sec. 18. AS 44.66.010(a)(4) is amended to read:

3 (4) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC
4 UTILITIES COMMISSION (AS 42.05.010)] -- June 30, 2004 [1999];

5 * Sec. 19. AS 44.83.425(3) is amended to read:

6 (3) "qualified utility" means an electric utility or an electric operating
7 entity established as an instrumentality of two or more electric utilities certified under
8 AS 42.05 [BY THE ALASKA PUBLIC UTILITIES COMMISSION] to serve all or
9 part of a market area that is served or will be served by the power project, that the
10 authority determines is capable of operating and maintaining the power project.

11 * Sec. 20. AS 46.04.020(i) is amended to read:

12 (i) The superior court and, with respect to intrastate voyages, either the
13 Regulatory Commission of Alaska [PUBLIC UTILITIES COMMISSION,] under
14 AS 42.05.361 - 42.05.431 or the Alaska Oil and Gas Conservation Commission
15 under AS 42.06, as appropriate, have concurrent jurisdiction to review and enjoin
16 a charge, contract term, or financial responsibility requirement described under (h) of
17 this section at the request of a vessel owner, operator, or charterer. Except as provided
18 in this subsection, nothing in this section affects the jurisdiction of the Regulatory
19 Commission of Alaska or the Alaska Oil and Gas Conservation Commission
20 [PUBLIC UTILITIES COMMISSION].

21 * Sec. 21. REPEAL OF STATUTES. AS 39.25.120(c)(6); AS 42.05.010, 42.05.020,
22 42.05.030, 42.05.035, 42.05.040, 42.05.050, 42.05.071, 42.05.081, 42.05.091, 42.05.101,
23 42.05.111, 42.05.121, 42.05.123, and 42.05.131 are repealed.

24 * Sec. 22. REPORT CONCERNING RESTRUCTURING OF THE ALASKA OIL AND
25 GAS CONSERVATION COMMISSION AND THE REGULATORY COMMISSION OF
26 ALASKA. The Legislative Budget and Audit Committee shall prepare a report containing
27 recommendations for restructuring the Regulatory Commission of Alaska and the Alaska Oil
28 and Gas Conservation Commission into a single commission. The governor shall appoint one
29 member from the Regulatory Commission of Alaska and one member from the Alaska Oil and
30 Gas Conservation Commission to work with the Legislative Budget and Audit Committee on
31 the report. The report shall be delivered to the governor and the legislature by the first day

1 of the second session of the Twenty-First Alaska State Legislature.

2 * Sec. 23. MANAGEMENT INFORMATION SYSTEM. The Regulatory Commission of
3 Alaska shall develop its management information system and make the system accessible to
4 the general public through the Internet for the purpose of tracking, scheduling, and managing
5 all dockets within the commission.

6 * Sec. 24. LOCATION OF THE ALASKA OIL AND GAS CONSERVATION
7 COMMISSION. (a) The principal office of the Alaska Oil and Gas Conservation
8 Commission shall move to the same location as the principal office of the Regulatory
9 Commission of Alaska as soon as feasible, but in any case, no later than July 1, 2000.

10 (b) As soon as the Alaska Oil and Gas Conservation Commission moves to the same
11 location as the Regulatory Commission of Alaska, the two commissions shall share record
12 keeping facilities and clerical staff.

13 * Sec. 25. REGULATORY COMMISSION OF ALASKA EMPLOYMENT OF HEARING
14 OFFICER. (a) To the extent that sufficient funds are appropriated for the purpose, during
15 the state fiscal year ending June 30, 2000, the Regulatory Commission of Alaska shall employ,
16 in addition to the hearing officers that the former Alaska Public Utilities Commission was
17 authorized to employ on June 30, 1999, an additional hearing officer.

18 (b) The Alaska Oil and Gas Conservation Commission may use the services of the
19 additional hearing officer employed under (a) of this section to assist with pipeline regulation
20 matters under AS 42.06.

21 * Sec. 26. INITIAL TERMS OF MEMBERS OF THE REGULATORY COMMISSION
22 OF ALASKA. Notwithstanding AS 39.05.055, the terms of the initially appointed members
23 of the Regulatory Commission of Alaska shall be set by the governor as follows:

24 (1) one member shall serve a five-year term;

25 (2) one member shall serve a four-year term;

26 (3) one member shall serve a three-year term;

27 (4) one member shall serve a two-year term; and

28 (5) one member shall serve a one-year term.

29 * Sec. 27. TRANSITIONAL PROVISIONS. (a) Litigation, hearings, investigations, and
30 other proceedings pending under a law repealed or amended by this Act, or in connection with
31 functions transferred from the Alaska Public Utilities Commission to the Regulatory

Amendment #2
I.1
"Basis"

Amendment #2
I.2
Initial Terms

1 Commission of Alaska by this Act, continue in effect and may be completed notwithstanding
2 a transfer or repeal provided for in this Act.

3 (b) Litigation, hearings, investigations, and other proceedings pending under a law
4 repealed or amended by this Act, or in connection with functions transferred from the Alaska
5 Public Utilities Commission to the Alaska Oil and Gas Conservation Commission by this Act,
6 continue in effect and may be completed notwithstanding a transfer or repeal provided for in
7 this Act.

8 (c) Regulations in effect on June 30, 1999, that were adopted to implement a function
9 that is transferred by this Act remain in effect and shall be enforced by the Alaska Oil and
10 Gas Conservation Commission or the Regulatory Commission of Alaska, as appropriate, until
11 amended by the appropriate commission.

12 (d) Wherever in Alaska Statutes affected by this Act there is a reference to regulations
13 adopted under a section of law and there are no regulations adopted under that section because
14 previous regulations adopted under another section are being enforced under (c) of this
15 section, the reference shall be construed to refer to the previously adopted regulations until
16 they are amended by the new agency.

17 (e) Contracts, rights, liabilities, and obligations created by or under a law repealed or
18 amended by this Act, and in effect on June 30, 1999, remain in effect notwithstanding this
19 Act's taking effect.

20 (f) Records, equipment, appropriations, and other property of the Alaska Public
21 Utilities Commission relating to regulation of public utilities under AS 42.05 shall be
22 transferred to the Regulatory Commission of Alaska to implement the provisions of this Act.

23 (g) Records, equipment, appropriations, and other property of the Alaska Public
24 Utilities Commission relating to regulation of pipelines under AS 42.06 shall be transferred
25 to the Alaska Oil and Gas Conservation Commission to implement the provisions of this Act.
26 The Alaska Public Utilities Commission shall also transfer at least two employees of the
27 Alaska Public Utilities Commission who are employed in the tariff section to the Alaska Oil
28 and Gas Conservation Commission.

29 * Sec. 28. FIVE-YEAR SUNSET. The amendment to AS 44.66.010(a)(4), made by
30 sec. 18 of this Act, is made notwithstanding AS 44.66.010(c).

31 * Sec. 29. REVISOR INSTRUCTIONS. (a) In the following statutes, the revisor of

1 statutes is instructed to change "Alaska Public Utilities Commission" to "Regulatory
2 Commission of Alaska":

- 3 (1) AS 29.35.131(c);
- 4 (2) AS 29.35.137(5);
- 5 (3) AS 42.05.141(a);
- 6 (4) AS 42.05.325(c);
- 7 (5) AS 42.05.381(f) in both places;
- 8 (6) AS 42.05.712(c);
- 9 (7) AS 42.05.712(d);
- 10 (8) AS 42.45.010(e);
- 11 (9) AS 42.45.110(a);
- 12 (10) AS 42.45.170(a);
- 13 (11) AS 42.45.170(e);
- 14 (12) AS 44.83.090(b) in both places;
- 15 (13) AS 45.50.473(a);
- 16 (14) AS 45.50.473(b);
- 17 (15) AS 45.50.475(b);
- 18 (16) AS 45.50.475(c); and
- 19 (17) AS 45.63.080(12).

20 (b) In the following statutes, the revisor of statutes is instructed to change "Alaska
21 Public Utilities Commission" to "former Alaska Public Utilities Commission or the Regulatory
22 Commission of Alaska":

- 23 (1) AS 09.65.085(a);
- 24 (2) AS 10.25.020(6); and
- 25 (3) AS 18.57.020(c).

26 (c) In the following statutes, the revisor of statutes is instructed to change "by the
27 Alaska Public Utilities Commission" to "by the former Alaska Public Utilities Commission
28 or by the Regulatory Commission of Alaska":

- 29 (1) AS 29.35.050(b) in both places;
- 30 (2) AS 29.35.050(c);
- 31 (3) AS 29.35.060(a);

NAME
Change

1 (4) AS 29.35.060(b); and

2 (5) AS 42.45.200(e).

3 (d) In the following statutes, the revisor of statutes is instructed to change "Alaska
4 Public Utilities Commission" to the "Alaska Oil and Gas Conservation Commission":

5 (1) AS 38.35.120(a) in three places;

6 (2) AS 38.35.230(2);

7 (3) AS 43.55.150(b); and

8 (4) AS 43.56.210(7).

9 * Sec. 30. This Act takes effect July 1, 1999.

Wilcox

Amendments for discussion

HB 183

House Labor & Commerce Committee

May 5, 1999

Alaska State Legislature

During Interim: (June - Dec.)
716 West 4th Avenue, Suite 500
Anchorage, Alaska 99501-2133
(907) 269-0200
Fax (907) 269-0204



During Session: (Jan. - May)
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4993
Fax (907) 465-3872

Senator Drue Pearce

5-4-99 am

Sponsor Statement

Senate Bill 133

SB 133 will accomplish several goals regarding the Alaska Oil & Gas Conservation Commission (AOGCC) and Alaska Public Utilities Commission (APUC). The APUC will be re-pealed and re-structured under the new title of the Regulatory Commission of Alaska (RCA). This new structure will be more capable of addressing the current expanding workload of the commission. The AOGCC will be strengthened by adding additional staff and relocating to the same physical location as the APUC. Long term efficiencies will be gained by utilizing a common building, sharing clerical staff and record keeping facilities. In addition, Legislative Budget & Audit (LB&A) will write a report during the interim, which will consider the functions of the two commissions and what structure would best serve the states interests.

SB 133 makes the following changes to the APUC:

- 1. Repeals the APUC and creates the Regulatory Commission of Alaska (RCA), effective July 1, 1999. All commissioners shall be either re-appointed or replaced. All staff shall remain. All regulations and pending matters before the commission shall be carried forward to the new commission.**
- 2. The new commission will be composed of five commissioners. The five commissioners shall be members of the general public with no requirement for areas of specific expertise. I feel that requiring specific expertise is limiting and that the public interest would best be served by having maximum flexibility in acquiring qualified individuals from the general public.**

3. SB 133 strengthens the position of the Chairman.

The Chairman:

- a) Shall have limited authority over the other commissioners.**
- b) Shall have oversight of all commission staff.**
- c) Shall assign the work of the commission and staff.**
- d) Shall set timelines by which a matter shall be resolved.**
- e) Shall determine when advocacy staff is required given certain standards.**

4. Streamlines the hearing process.

- a) The chair shall empanel three or more commissioners to a hearing panel to decide the case. This allows the Chairman to assign the applicable number of commissioners depending on the size of the case.**
- b) Limited the appeals process to only be considered when a decision taken is contrary to commission precedent.**
- c) Mandated that the commission promulgates timeliness standards, depending on the complexity of the docket, for the types of cases that come before the commission. These regulations shall be adopted by December 31, 1999.**
- d) Provided for formal hearings to be held before an arbitrator in appropriate cases.**
- e) Established within the commission a separate advocacy section to represent the public interest when necessary.**

5. SB 133 instructs the commission to adopt a time management system to ensure accurate accounting for time billed to each aspect of the commission's functions. LB&A has been recommending a time management system for the APUC in every audit since 1979. To date, the APUC does not use industry or utility codes on payroll time sheets and therefore workloads are approximated using rough estimates. A time management system will provide improved accuracy when assessing regulatory cost charges to individual sectors of the utility industry. This will assist in assuring that the cost causer is the cost payer.

SB 133 makes the following changes to the AOGCC:

- 1. The AOGCC will physically move to the same location as the RCA (APUC) as soon as possible, but not later than July 1, 2000. The two commissions will share record keeping facilities and clerical staff after that time.**
- 2. The AOGCC shall have access to hearing officers at the RCA (APUC) during the transition period following July 1, 1999.**

3. The level of institutional knowledge at the commission is currently one level deep. This level of staffing does not adequately protect the states interests. SB 133 strengthens the AOGCC by the addition of three new positions – (1) Petroleum Engineer, (1) Reservoir Engineer, & (1) Petroleum Geologist.

SB 133 authorizes LB&A to prepare a transition report to be delivered to the governor and the Legislature on the first day of the second session of the 21st Legislature. The Governor shall appoint one commissioner from each commission to work with LB&A on the transition report. The report will address both commissions and their functions and shall make recommendations on changes that would serve the best interests of the state.

SB 133 will improve our ability to protect the long-term public interest through increased functional efficiencies of both commissions.

SB 133 does NOT:

1. Does NOT combine the two commissions into one.
2. Does NOT de-regulate garbage.
3. Does NOT transfer pipeline regulation to the AOGCC.
4. Does NOT make any policy changes to either commission.
5. Does NOT transfer any function from one to commission to the other.
6. Does NOT alter the number of commissioners on either commission.

Alaska State Legislature

During Interim: (June - Dec.)
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During Session: (Jan. - May)
State Capitol
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Drue Pearce
President of the Senate

Amendments **CSSB 133 (RLS)** **Senate Rules Amendments**

1. **Title Change – page 1, line 3. Delete “transferring regulation of pipelines to the AOGCC.**

Deleted all “transfer of pipeline regulation authority” from the bill. Pipeline regulation will remain under the authority of the APUC.

2. **Advocacy Standards – page 4, lines 24-26**

Sets standards for the to Chairman follow when considering the participation of advocacy staff.

- 1) **When considering issues with major public policy implications.**
- 2) **When the financial interest of the public is at stake such as “rate making” decisions.**

3. **Legislative Budget & Audit Report**

The LB&A report will consider the AOGCC and the RCA (APUC) regarding possibility of the two commissions being combined into one as well as the differing functions of the two commissions. The report shall consider what possible combination of commissions and or functions would serve the best interests of the State of Alaska.

SENATE FINANCE
COMMITTEE

P.02

Amendment Number: 2
Bill Number: CSSB 133 (RES)
Sponsor: Green Date: 4/28/99
Logged In By: gscott

1-LS0771VL7 ✓
Cramer
4/28/99

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 133(RES)

BY SENATOR GREEN

- 1 Page 1, line 5:
- 2 Delete "relating to regulation of waste collection and disposal;"
- 3 Page 5, lines 12 - 27:
- 4 Delete all material.
- 5 Renumber the following bill sections accordingly.
- 6 Page 7, lines 14 - 30:
- 7 Delete all material.
- 8 Renumber the following bill sections accordingly.
- 9 Page 9, lines 3 - 6:
- 10 Delete all material.
- 11 Renumber the following bill sections accordingly.
- 12 Page 9, line 29, through page 10, line 1:
- 13 Delete "[;
- 14 (F) FURNISHING COLLECTION AND DISPOSAL SERVICE
- 15 OF GARBAGE, REFUSE, TRASH, OR OTHER WASTE MATERIAL TO
- 16 THE PUBLIC FOR COMPENSATION]"
- 17 Insert ";
- 18 (F) furnishing collection and disposal service of garbage.

I-LS0771\1.7

1 refuse, trash, or other waste material to the public for compensation"

2 Page 11, line 25:

3 Delete "(a)"

4 Page 11, lines 28 - 29:

5 Delete all material.

6 Page 14, line 2:

7 Delete "sec. 19"

8 Insert "sec. 15"

9 Page 15, following line 1:

10 Insert a new paragraph to read:

11 "(2) AS 29.35.050(c):"

12 Reletter the following paragraphs accordingly.

13 Page 15, lines 11 - 12:

14 Delete all material and insert:

15 "** Sec. 26. This Act takes effect July 1, 1999."

1-LS07641.1
Cramer
4/28/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "T"

1 Page 1, line 5, following ";;":

2 Insert **"relating to timely action by the Alaska Public Utilities Commission;"**

3 Page 3, line 26:

4 Delete "a new subsection"

5 Insert "new subsections"

6 Page 3, lines 28 - 30:

7 Delete ", the chair of the commission shall promptly fix a date for hearing when a
8 hearing is appropriate. The hearing shall be held without undue delay. The"

9 Insert "for which a hearing is clearly warranted, the chair of the commission shall
10 assign a priority rating to the issue and promptly fix a date for hearing. The hearing shall
11 be expedited in accordance with the priority rating. Regardless of the priority rating, a"

12 Page 4, line 2:

13 Delete "60"

14 Insert "30"

15 Page 4, following line 2:

16 Insert a new subsection to read:

17 "(c) Unless to do so would violate the due process rights of a party, the
18 commission shall ensure that its dockets are closed in a timely fashion and not
19 delayed due to inaction, complexity of issues, or another reason. Failure of a
20 commission member to comply with this subsection constitutes grounds for removal
21 from the commission under AS 42.05.035. The chair of the commission may dismiss

I-LS076411.1

1 a commission employee for failure to comply with this subsection."

1-LS07641.2
Cramer
4/28/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

1 Page 1, line 8, following "Commission;":

2 Insert "relating to regulatory cost charges;"

3 Page 5, following line 13:

4 Insert new bill sections to read:

5 "* Sec. 12. AS 42.05.254(a) is amended to read:

6 (a) A regulated public utility operating in the state shall pay to the
7 commission an annual regulatory cost charge in an amount not to exceed the
8 maximum percentage of adjusted gross revenue that applies to the utility sector
9 of which the utility is a part. The total regulatory cost charges that the
10 commission expects to collect from all regulated public utilities and regulated
11 pipeline carriers may not exceed .8 percent of the total adjusted gross revenue of
12 all regulated public utilities and the total gross revenue of all regulated pipeline
13 carriers [DERIVED FROM OPERATIONS IN THE STATE, AS MODIFIED
14 UNDER (c) OF THIS SECTION IF APPROPRIATE]. An exempt utility shall pay
15 the actual cost of services provided to it by the commission.

16 * Sec. 13. AS 42.05.254(h) is amended to read:

17 (b) The commission shall by regulation establish a method to determine
18 annually the amount of the regulatory cost charge for a public utility. If the amount
19 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
20 exceeds the authorized budget of the commission, the commission shall, by order,
21 reduce the percentages determined under (i) [SET OUT IN (a)] of this section so
22 that the total amount of the fees collected approximately equals the authorized budget
23 of the commission for the fiscal year.

24 * Sec. 14. AS 42.05.254(h) is amended by adding a new paragraph to read:

1-LS07641.2

1 (5) "adjusted gross revenue" means the gross revenue of a utility as
2 modified under (c) of this section, if appropriate.

3 * Sec. 15. AS 42.05.254 is amended by adding a new subsection to read:

4 (i) The commission shall by regulation establish a method to determine
5 annually the maximum percentage of adjusted gross revenue that will apply to each
6 regulated public utility sector and the maximum percentage of gross revenue that will
7 apply to each regulated pipeline carrier sector. The method established shall allocate
8 the commission's costs, other than the cost of services provided to exempt utilities,
9 among the regulated public utility sectors and the regulated pipeline carrier sector
10 based on the relative amount of the commission's annual costs that is attributable to
11 regulating each sector.

12 * Sec. 16. AS 42.06.286(a) is amended to read:

13 (a) A pipeline carrier operating in the state shall pay to the commission an
14 annual regulatory cost charge in an amount not to exceed the maximum percentage
15 of gross revenue that applies to regulated pipeline carriers. The total regulatory
16 cost charges that the commission expects to collect from all regulated pipeline
17 carriers and regulated public utilities may not exceed .8 percent of the total gross
18 revenue of all regulated pipeline carriers and the total gross revenue of all
19 regulated public utilities [DERIVED FROM OPERATIONS IN THE STATE]. A
20 regulatory cost charge may not be assessed on pipeline carrier operations unless the
21 operations are within the jurisdiction of the commission.

22 * Sec. 17. AS 42.06.286(b) is amended to read:

23 (b) The commission shall by regulation establish a method to determine
24 annually the amount of the regulatory cost charge. If the amount the commission
25 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
26 authorized budget of the commission, the commission shall, by order, reduce the
27 percentage determined under (i) [SET OUT IN (a)] of this section so that the total
28 amount of the fees collected approximately equals the authorized budget of the
29 commission for the fiscal year.

30 * Sec. 18. AS 42.06.286 is amended by adding a new subsection to read:

31 (f) The commission shall by regulation establish a method to determine
32 annually the maximum percentage of gross revenue that will apply to each regulated

I-LS07641.2

- 1 pipeline carrier sector and the maximum percentage of gross revenue that will apply
- 2 to the regulated public utility sector in accordance with AS 42.05.254(i)."
- 3 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 133

SENATE FINANCE
COMMITTEE #

Amendment Number: #

Bill Number: SB 133 (RE)

Sponsor: EMERSON Date: 4/21/99

Logged In By: J. S. G. 10/23

1 Page 5, line 22, following ".":

2 Insert "If there is an allegation in an appeal filed with the commission that action or
3 a decision taken by the commission is contrary to commission precedent and is not based on
4 an intervening change in law, a party to the appeal may request that the full commission hear
5 the appeal. The full commission may grant or deny a request for hearing by the full
6 membership. ~~_____~~

7 ~~_____~~

8 Page 7, line 2:

9 Delete "The"

10 Insert "Unless the appeal is to be heard by the full commission under
11 AS 42.04.080, the"

12 Page 7, line 4:

13 Delete "[COMMISSION]"

14 Insert "or the commission"

15 Page 7, line 6, following "appointed":

16 Insert "or the full commission agrees to hear the application"

17 Page 7, line 8:

18 Delete "[COMMISSION]"

19 Insert "or the commission"

20 Page 8, lines 10 - 11:

1

Delete "to a five-member appellate panel"

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE
Amendment Number: #2
Bill Number: CSSB 133(RES)
Sponsor: JOHN R. CRAMER Date: 4/28/99
Logged In By: JOHN R. CRAMER

- 1 Page 12, following line 8:
- 2 Insert a new bill section to read:
- 3 **** Sec. 24. MANAGEMENT INFORMATION SYSTEM.** The Alaska Energy
- 4 Conservation Commission shall develop its management information system and make the
- 5 system accessible to the general public through the Internet for the purpose of tracking,
- 6 scheduling, and managing all dockets within the commission."
- 7 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE

Amendment Number: # 3

Bill Number: CSSB 133 (RES)

Sponsor: Tolson Date: 4/28/99

Logged In By: J. Cramer

1 Page 12, lines 28 - 30:

2 Delete all material and insert:

3 "(1) one member shall serve a five-year term;

4 (2) one member shall serve a four-year term;

5 (3) one member shall serve a three-year term;

6 (4) one member shall serve a two-year term; and

7 (5) one member shall serve a one-year term."

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE
Amendment Number: 11
Bill Number: CSSB 133 (RES)
Sponsor: Sen. Cramer Date: 4/28/99
Logged In By: Sen. Cramer

1 Page 3, lines 22 - 23:

2 Delete all material and insert:

3 "(b) The chair of the commission may enter into a contract for no more than
4 \$5,000 to engage the services of a consultant or expert the chair considers necessary.

5 The commission may contract for and engage the services of consultants and experts
6 the commission considers necessary."

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE

Amendment Number: #5
Bill Number: CSSB 133(RES)
Sponsor: Torgerson Date: 4/28/99
Logged In By: J. Torgerson

1 Page 4, lines 23 - 26:

2 Delete all material.

3 Page 5, following line 11:

4 Insert a new section to read:

5 "Article 3. Public Advocacy Section.

6 Sec. 42.04.150. Public advocacy section. There is established within the
7 commission a public advocacy section that shall participate as a party in adjudicatory
8 matters that come before the commission to represent the public interest when it is in
9 the public interest to do so. The public advocacy section shall operate separately from
10 the rest of the commission."

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE
Amendment Number: 6
Bill Number: CSB 133(RES)
Sponsor: TRACY Date: 4/28/99
Logged In By: W. H. H.

- 1 Page 8, line 18, following ".":
- 2 Insert "In appropriate cases, a formal hearing may be held before an arbitrator
- 3 designated for the purpose by the commission."
- 4 Page 8, line 20, following "officer,":
- 5 Insert "by the arbitrator,"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 133(RES)

SENATE FINANCE
COMMITTEE

Amendment Number: 77

Bill Number: CSSB 133(RES)

Sponsor: W. Cramer Date: 4/28/99

Logged In By: W. Cramer

1 Page 5, following line 5:

2 Insert a new subsection to read:

3 "(c) The commission shall adopt regulations that establish standards of
4 timeliness for the types of cases that come before the commission. The commission
5 shall establish standards based in part on degrees of complexity of the cases."

1-LS0764\1.4
Cramer
4/30/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

- 1 Page 2, lines 19 - 23:
- 2 Delete "**Qualifications of members; prohibited conduct.** (a) No more than two
- 3 members of the commission may be members of the same political party. A person may not
- 4 be appointed or reappointed to the commission for one year after changing political party
- 5 membership.
- 6 (b)"
- 7 Insert "**Prohibited conduct.**"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 28, 1999

SUBJECT: Committee Amendments #5 and #8 to CSHB 183(URS) (APUC)

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

1. Amendment #5.

You have asked whether there are enforcement provisions with respect to Amendment #5 and whether, if not, some should be added. Amendment #5 adds a new subsection to AS 42.05.141 to require the Alaska Public Utilities Commission to hold hearings within five months after a matter is filed with them and to enter orders within 60 days after the conclusion of the hearing.

I assume that by "enforcement provisions" you mean ways in which the APUC can be forced to comply with these deadlines. The bill has none now. Whether it should have some mechanism is a decision for you to reach. I am not sure what an effective penalty would be, since a presumption in favor or against one of the parties, in the event of delay, does not penalize the APUC and does unfairly (at least potentially) burden the penalized party, who may have nothing to do with the delay and may have the stronger case. (Such a penalty would probably violate the constitutional due process clause.) For matters that have been heard but for which a decision has not yet been issued, it might be possible to follow the example of the court system. There is a hold put on a judge's salary if there is a decision or opinion that has not been completed or decided within six months. For example, the superior court provision, AS 22.10.190(b), states:

(b) A salary warrant may not be issued to a superior court judge until the judge has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the judge for opinion or decision has been uncompleted or undecided by the judge for a period of more than six months.

(See also AS 22.05.140(b) for supreme court justices; AS 22.07.090(b) for judges of the court of appeals; and 22.15.240(c) for district court judges and magistrates.)

2. Amendment #8.

You have also asked about constitutional issues raised by Amendment #8, which proposes that the commission select the chair of the APUC instead of the governor. Under Article III, sec. 26, a board or commission that is the head of a regulatory or quasi-judicial agency "may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor." If the chair of the APUC is considered to be the "principal executive officer" of the commission, then the governor has a right to approve the appointment (or in this case, election, I suppose.)

Given the duties that CSHB 183(URS) assigns to the chair, it would be difficult to argue that the chair was not serving as the principal executive officer. If this view prevails, then the governor is entitled to approve the selection of the chair. The governor's appointment of someone to serve on the APUC does not waive his power to approve the selection of its chair. The governor's right to approve the selection of the principal executive officer of a board or commission is a separate right from his right to appoint members of boards and commissions. The exercise of one of those rights cannot be read as an exercise of the other. The powers and responsibilities of a member of a board or commission are different from those of a principal executive officer and a governor might well select someone to fill one of those roles without desiring the person selected to serve in the other role. Therefore, the governor's action with respect to appointment to the APUC should not be considered to be approval of the person as the principal executive officer.

If the court follows this reasoning, then the APUC's action in selecting a member to serve as chair under AS 42.05.020(b) as amended by Amendment #8 would be subject to the governor's approval.

TC:jdr
99-247.jdr

Elect whoever we want but
 +6 chairman must be approved by Gov,
AMENDMENT #2

1-1.SX1764V.2
 Cramer
 4/28/99

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

- 1 Page 1, line 8, following "Commission;";
- 2 Insert "relating to regulatory cost charges;"

- 3 Page 5, following line 13:

- 4 Insert new bill sections to read:

- 5 ** Sec. 12. AS 42.05.254(a) is amended to read:

6 (a) A regulated public utility operating in the state shall pay to the
 7 commission an annual regulatory cost charge in an amount not to exceed the
 8 maximum percentage of adjusted gross revenue that applies to the utility sector
 9 of which the utility is a part. The total regulatory cost charges that the
 10 commission expects to collect from all regulated public utilities and regulated
 11 pipeline carriers may not exceed .8 percent of the total adjusted gross revenue of
 12 all regulated public utilities and the total gross revenue of all regulated pipeline
 13 carriers [DERIVED FROM OPERATIONS IN THE STATE, AS MODIFIED
 14 UNDER (c) OF THIS SECTION IF APPROPRIATE]. An exempt utility shall pay
 15 the actual cost of services provided to it by the commission.

- 16 * Sec. 13. AS 42.05.254(h) is amended to read:

17 (b) The commission shall by regulation establish a method to determine
 18 annually the amount of the regulatory cost charge for a public utility. If the amount
 19 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
 20 exceeds the authorized budget of the commission, the commission shall, by order,
 21 reduce the percentages determined under (i) [SET OUT IN (a)] of this section so
 22 that the total amount of the fees collected approximately equals the authorized budget
 23 of the commission for the fiscal year.

- 24 * Sec. 14. AS 42.05.254(h) is amended by adding a new paragraph to read:

1-LS0764U.2

1 (5) "adjusted gross revenue" means the gross revenue of a utility as
2 modified under (c) of this section, if appropriate.

3 * Sec. 15. AS 42.05.254 is amended by adding a new subsection to read:

4 (i) The commission shall by regulation establish a method to determine
5 annually the maximum percentage of adjusted gross revenue that will apply to each
6 regulated public utility sector and the maximum percentage of gross revenue that will
7 apply to each regulated pipeline carrier sector. The method established shall allocate
8 the commission's costs, other than the cost of services provided to exempt utilities,
9 among the regulated public utility sectors and the regulated pipeline carrier sector
10 based on the relative amount of the commission's annual costs that is attributable to
11 regulating each sector.

12 * Sec. 16. AS 42.06.286(a) is amended to read:

13 (a) A pipeline carrier operating in the state shall pay to the commission an
14 annual regulatory cost charge in an amount not to exceed the maximum percentage
15 of gross revenue that applies to regulated pipeline carriers. The total regulatory
16 cost charges that the commission expects to collect from all regulated pipeline
17 carriers and regulated public utilities may not exceed .8 percent of the total gross
18 revenue of all regulated pipeline carriers and the total gross revenue of all
19 regulated public utilities [DERIVED FROM OPERATIONS IN THE STATE]. A
20 regulatory cost charge may not be assessed on pipeline carrier operations unless the
21 operations are within the jurisdiction of the commission.

22 * Sec. 17. AS 42.06.286(b) is amended to read:

23 (b) The commission shall by regulation establish a method to determine
24 annually the amount of the regulatory cost charge. If the amount the commission
25 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
26 authorized budget of the commission, the commission shall, by order, reduce the
27 percentage determined under (D) [SET OUT IN (a)] of this section so that the total
28 amount of the fees collected approximately equals the authorized budget of the
29 commission for the fiscal year.

30 * Sec. 18. AS 42.06.286 is amended by adding a new subsection to read:

31 (f) The commission shall by regulation establish a method to determine
32 annually the maximum percentage of gross revenue that will apply to each regulated

I-LS0764VI.2

- 1 pipeline carrier sector and the maximum percentage of gross revenue that will apply
- 2 to the regulated public utility sector in accordance with AS 42.05.254(i)."
- 3 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

1 Page 4, line 29, following ".":

2 Insert "A decision of an arbitrator is not final until approved by the commission."

HB 81

FLORIAN DO

Thursday

Amendments

1-1.S07641.1
Cramet
4/28/99

AMENDMENT #1

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

1 Page 1, line 5, following ";;":

2 Insert "relating to timely action by the Alaska Public Utilities Commission;"

3 Page 3, line 26:

4 Delete "a new subsection"

5 Insert "new subsections"

6 Page 3, lines 28 - 30:

7 Delete ", the chair of the commission shall promptly fix a date for hearing when a
8 hearing is appropriate. The hearing shall be held without undue delay. The"

9 Insert "for which a hearing is clearly warranted, the chair of the commission shall
10 assign a priority rating to the issue and promptly fix a date for hearing. The hearing shall
11 be expedited in accordance with the priority rating. Regardless of the priority rating, a"

12 Page 4, line 2:

13 Delete "60"

14 Insert "30"

15 Page 4, following line 2:

16 Insert a new subsection to read:

17 "(c) Unless to do so would violate the due process rights of a party, the
18 commission shall ensure that its dockets are closed in a timely fashion and not
19 delayed due to inaction, complexity of issues, or another reason. Failure of a
20 commission member to comply with this subsection constitutes grounds for removal
21 from the commission under AS 42.05.035. The chair of the commission may dismiss

I-LS076411.1

1 a commission employee for failure to comply with this subsection."

DRAFT

Proposed changes to
SB 133
4/26/99

*Done today
in Senate Resonance*

SB 133 will be re-written to accommodate most of the changes currently within the existing bill with several exceptions.

- 1. The repeal of the APUC and the creation of the Alaska Energy Conservation Commission will still occur effective July 1, 1999. However, the AOGCC will not merge with the APUC at this time and will require subsequent legislation to do so.**
- 2. The legislature shall authorize LB&A to work on a transition report to be delivered to the governor and the Legislature on the first day of the second session of the 21st Legislature. The Governor shall appoint one commissioner from each commission to work with LB&A on the transition report. The report shall contain recommendations for re-structuring the two commissions into one. It is the intent of the Legislature to introduce legislation during the second session that would combine the two commissions based on the recommendations of LB&A.**
- 3. The AOGCC will physically move to the same location as the APUC as soon as possible, but not later than July 1, 2000. The two commissions will share record keeping facilities and clerical staff after that time.**
- 4. The Chairman of the AECC shall be paid an annual salary equal to Step C, Range 27. All other commissioners shall be paid according to their current pay status.**
- 5. Pipeline regulation and all pending matters, along with at least two tariff staff, shall move to the AOGCC on the effective date of July 1, 1999.**
- 6. The AOGCC shall have access to the additional hearing officer added to the AECC during the transition period following July 1, 1999. The hearing officer will likely be needed to assist with pipeline regulation.**

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Cramer

4/28/99

CS FOR HOUSE BILL NO. 183(L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIRST LEGISLATURE - FIRST SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Offered:****Referred:****Sponsor(s): HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the powers and duties of the chair of the Alaska Public
2 Utilities Commission; relating to membership on the Alaska Public Utilities
3 Commission; relating to political conduct by and removal of members of the
4 Alaska Public Utilities Commission; relating to hearings held by the Alaska
5 Public Utilities Commission; relating to procedural motions of the Alaska Public
6 Utilities Commission; relating to provisions for the resolution of consumer
7 complaints; permitting arbitrators to conduct formal hearings before the Alaska
8 Public Utilities Commission; relating to a management information system;
9 relating to the annual report of the Alaska Public Utilities Commission; and
10 providing for an effective date."

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

12 * Section 1. AS 42.05.020(b) is amended to read:

WORK DRAFT

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1-LS0764V

(b) The governor shall designate one member of the commission as chair [CHAIRMAN] of the commission. This member shall serve as chair [CHAIRMAN] for a term of four years, but may be appointed for successive terms. The chair is responsible for the administration of the commission and commission employees.

* Sec. 2. AS 42.05.035 is repealed and reenacted to read:

Sec. 42.05.035. Removal of commissioners. The governor may remove a commissioner from office only for cause, including incompetence, neglect of duty, or misconduct in office, or because the member, while serving on the commission, is convicted of a misdemeanor for violating a statute or regulation related to public utilities or is convicted of a felony. The governor shall deliver to the commissioner a copy of the charges against the commissioner. The commissioner shall have an opportunity to present a defense in person or through counsel at a public hearing before the governor or the governor's designee. The commissioner shall be informed of the hearing by registered mail at least 10 days before the hearing date. At the hearing, the commissioner may confront and cross-examine adverse witnesses. Upon removal of the commissioner, the findings and a complete statement of all charges made against the commissioner shall be filed in the Office of the Lieutenant Governor.

* Sec. 3. AS 42.05.040 is repealed and reenacted to read:

Sec. 42.05.040. Qualifications of members; prohibited conduct. (a) No more than two members of the commission may be members of the same political party. A person may not be appointed or reappointed to the commission for one year after changing political party membership.

(b) A member of the commission may not participate in

(1) political management or in a political campaign for a candidate for election to federal, state, or local office regardless of whether the campaign is partisan or nonpartisan or for passage or defeat of a ballot measure of any type;

(2) the campaign of, or attend campaign fund-raising events for, a candidate for governor or the legislature;

(3) a fund-raising event held on behalf of a political party or attend a political party fund-raising event; or

(4) lobbying activities that would require a person to register as a

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1 lobbyist.

2 * Sec. 4. AS 42.05.101(a) is amended to read:

3 (a) The chair of the commission shall establish for the commission a
4 principal office and branch offices necessary to discharge its business efficiently. For
5 the convenience of the public or of parties to a proceeding, the commission may hold
6 meetings, hearings, or other proceedings at other locations.

7 * Sec. 5. AS 42.05.111(b) is amended to read:

8 (b) The chair of the commission may employ temporary legal counsel for the
9 commission from time to time in proceedings before the commission in which the
10 attorney general is representing the public interest or a party before the commission.

11 * Sec. 6. AS 42.05.121 is amended to read:

12 **Sec. 42.05.121. Employment of commission personnel.** (a) The commission
13 may employ an executive director who shall have had at least five years of experience
14 in public utility management or regulation, law, accounting, engineering, or an allied
15 field. The executive director is responsible for directing the administrative functions
16 of the commission and carrying out the policies as set by the commission. The chair
17 of the commission may employ engineers, hearing officers, administrative law judges
18 to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other
19 agents and assistants considered [IT CONSIDERS] necessary by the commission.
20 Employees and agents of the commission who are not partially exempt under
21 AS 39.25.120, other than legal counsel, are in the classified service under
22 AS 39.25.100.

23 (b) In addition to the [ITS] staff of regular employees, the chair of the
24 commission may contract for and engage the services of consultants and experts the
25 commission considers necessary.

26 * Sec. 7. AS 42.05.141 is amended by adding a new subsection to read:

27 (d) On the filing of a petition, application, or complaint concerning a matter
28 within the jurisdiction of the commission under this chapter, the chair of the
29 commission shall promptly fix a date for hearing when a hearing is appropriate. The
30 hearing shall be held without undue delay. The hearing may not be scheduled to begin
31 later than five months after the petition, application, or complaint was filed unless the

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1 commission approves an extension of time for good cause. After the conclusion of the
2 hearing, the commission shall enter its order within 60 days.

3 * Sec. 8. AS 42.05.151(b) is amended to read:

4 (b) The commission shall adopt regulations governing practice and procedure,
5 consistent with due process of law, including the conduct of formal and informal
6 investigations, prehearing [PRE-HEARING] conferences, hearings, mediation,
7 arbitration, and proceedings, and the handling of procedural motions by a single
8 commissioner. The commission, or an assigned commissioner, shall enter an order
9 on procedural motions within 10 days after the close of the applicable briefing
10 period. Technical rules of evidence need not apply to investigations, prehearing
11 [PRE-HEARING] conferences, hearings, mediation, arbitration, and proceedings
12 before the commission. The commission shall provide for representation by out-of-
13 state attorneys substantially in accordance with Rule 81, Alaska Rules of Civil
14 Procedure.

15 * Sec. 9. AS 42.05 is amended by adding a new section to read:

16 Sec. 42.05.165. **Consumer complaints.** The commission shall by regulation
17 provide for

- 18 (1) the expedited hearing and resolution of consumer complaints; and
19 (2) penalties against a party to a complaint who causes unjustified
20 delays in a consumer complaint proceeding.

21 * Sec. 10. AS 42.05.171 is amended to read:

22 Sec. 42.05.171. **Formal hearings.** A formal hearing that the commission has
23 power to hold may be held by or before three or more commissioners, a hearing
24 officer, or an administrative law judge designated for the purpose by the commission.
25 In appropriate cases, a formal hearing may be held before an arbitrator
26 designated for the purpose by the commission. The testimony and evidence in a
27 formal hearing may be taken by the commissioners, by the hearing officer, [OR] by
28 the administrative law judge, or by the arbitrator to whom the hearing has been
29 assigned. A commissioner who has not heard or read the testimony, including the
30 argument, may not participate in making a decision of the commission. In determining
31 the place of a hearing, the commission shall give preference to holding the hearing at

WORK DRAFT

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1-LS0764U

1 a place most convenient for those interested in the subject of the hearing.

2 * Sec. 11. AS 42.05.211 is amended to read:

3 Sec. 42.05.211. Annual report. The commission shall, by February 1 [15] of
4 each year, publish an annual report reviewing its work and notify the legislature that
5 the report is available. The report must contain

6 (1) information and data that bear a significant relationship to the
7 development and regulation of public utility services in the state;

8 (2) [AND INCLUDE] an outline of the commission's program for the
9 development and regulation of public utility services in the forthcoming year;

10 (3) a summary of the activities of the commission during the
11 previous year; and

12 (4) a report on and evaluation of the timeliness of the commission's
13 action on dockets during the previous year.

14 * Sec. 12. AS 42.05.050 is repealed.

15 * Sec. 13. MANAGEMENT INFORMATION SYSTEM. The legislature encourages the
16 Alaska Public Utilities Commission to continue to develop its management information system
17 and to make the system accessible by the general public through the Internet for the purpose
18 of tracking, scheduling, and managing all dockets within the commission.

19 * Sec. 14. The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,
20 apply to a member of the Alaska Public Utilities Commission serving on the effective date
21 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
22 to the removal procedure specified in former AS 42.05.035.

23 * Sec. 15. The provisions of AS 42.05.141(d), enacted by sec. 7 of this Act, apply to
24 petitions, applications, and complaints first filed with the commission on or after the effective
25 date of this Act.

26 * Sec. 16. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 183(URS)

BY REPRESENTATIVE ROKEBERG

1 Page 1, line 5, following ";":

2 Insert "relating to a management information system;"

3 Page 4, following line 1:

4 Insert a new bill section to read:

5 "* Sec. 9. MANAGEMENT INFORMATION SYSTEM. The legislature encourages the
6 Alaska Public Utilities Commission to continue to develop its management information
7 system and to make the system available to utilities and to the public." *with the net*

8 Renumber the following bill sections accordingly.

Adopted w/ changes

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 183(URS)

1 Page 1, line 5, following ";;":

2 Insert **"relating to provisions for the resolution of consumer complaints;"**

3 Page 3, following line 19:

4 Insert a new bill section to read:

5 **** Sec. 7.** AS 42.05 is amended by adding a new section to read:6 **Sec. 42.05.165. Consumer complaints.** The commission shall by regulation
7 provide for

8 (1) the expedited hearing and resolution of consumer complaints; and

9 (2) penalties against a party to a complaint who causes unjustified
10 delays in a consumer complaint proceeding."

11 Renumber the following bill sections accordingly.



AMENDMENT to Amendment h.4

Offered in the house

By: Rep. Rokeberg

To: CSHB 183 (URS)

Page 1, Line 8

AFTER: "accounting,"

INSERT: economics, public policy"

Administration

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 183(URS)

1 Page 2, line 13, following "(a)":

2 Insert "Members shall be qualified as follows:

3 (1) three members shall be at least one of the following:

4 (A) a graduate of an accredited school of law;

5 (B) a graduate of an accredited university with a major in
6 engineering; or7 (C) a graduate of an accredited university with a major in
8 finance, accounting, or business administration; and

9 (2) two members shall be consumers.

10 (b)"

11 Reletter the following subsection accordingly.

No Pass

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 183(URS)

1 Page 1, line 4, following ";":

2 Insert "relating to hearings held by the Alaska Public Utilities Commission;"

3 Page 3, following line 19:

4 Insert a new bill section to read:

5 "** Sec. 7. AS 42.05.141 is amended by adding a new subsection to read:

6 (d) On the filing of a petition, application, or complaint concerning a matter
 7 within the jurisdiction of the commission under this chapter, the chair of the
 8 commission shall promptly fix a date for hearing. The hearing shall be held without
 9 undue delay. The hearing may not be scheduled to begin later than five months after
 10 the petition, application, or complaint was filed unless the commission approves an
 11 extension of time for good cause. After the conclusion of the hearing, the
 12 commission shall enter its order within 30 days."

13 Renumber the following bill sections accordingly.

14 Page 4, following line 5:

15 Insert a new bill section to read:

16 "** Sec. 11. The provisions of AS 42.05.141(d), enacted by sec. 7 of this Act, apply to
 17 petitions, applications, and complaints first filed with the commission on or after the effective
 18 date of this Act."

19 Renumber the following bill section accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 183(URS)

BY REPRESENTATIVE ROKEBERG

1 Page 1, line 4, following ";;":

2 Insert "permitting arbitrators to conduct formal hearings before the Alaska Public
3 Utilities Commission;"

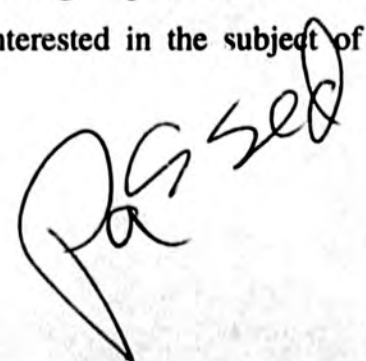
4 Page 3, following line 19:

5 Insert a new bill section to read:

6 "* Sec. 7. AS 42.05.171 is amended to read:

7 Sec. 42.05.171. Formal hearings. A formal hearing that the commission has
8 power to hold may be held by or before three or more commissioners, a hearing
9 officer, or an administrative law judge designated for the purpose by the commission.
10 In appropriate cases, a formal hearing may be held before an arbitrator
11 designated for the purpose by the commission. The testimony and evidence in a
12 formal hearing may be taken by the commissioners, by the hearing officer, [OR] by
13 the administrative law judge, or by the arbitrator to whom the hearing has been
14 assigned. A commissioner who has not heard or read the testimony, including the
15 argument, may not participate in making a decision of the commission. In
16 determining the place of a hearing, the commission shall give preference to holding
17 the hearing at a place most convenient for those interested in the subject of the
18 hearing."

19 Renumber the following bill sections accordingly.



ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT & TOURISM, MEMBER

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Representative Norman Rokeberg

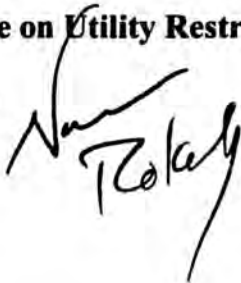
MEMORANDUM

TO: Rep. Bill Hudson, Chairman
And
Members
House Special Committee on Utility Restructuring

FROM: Rep. Norman Rokeberg

DATE: April 14, 1999

RE: HB 183
APUC



The purpose of this memorandum is to inform the Special Committee members about my concerns regarding HB 183. These issues were raised by the ATA White Paper and/or the NRRI report. Given the relative level of experience on the Special Committee, I would prefer that the Special Committee take up these issues vs. the Labor & Commerce Committee. In the alternative, should we expedite a "light" bill this year?

My concerns regarding HB 183 are as follows:

1. **Staff to Commissioners.** The commissioners should have personal staff to assist them in research, writing orders and, in general, filling an advisory role.
2. **Staff of APUC and advocacy status.** We need to maintain the advocacy duties of APUC staff; however, we also need to address the concerns expressed about the staff being put in a position where they cannot assist or speak to Commissioners regarding certain items. See the ATA White Paper. Perhaps a portion of the staff should be designated to represent the public interest and be separate from other staff who assists the Commissioners. See NRRI and ATA. Staff

changes positions of advocacy (e.g., consumer point then advises commissioners).

- 3. Timeliness: Speed and quality. Do we mandate deadlines and would such mandates interfere with the quality of the Commission's work? Also, should Commission be mandated to conduct business with a three-member quorum, because of leave time of commissioners.**
- 4. Legal advice: The Commission should be able to hire its own in-house legal counsel rather than relying on the Department of Law.**
- 5. Consumer complaints: Enhanced to make use of administrative hearing officer to address consumer complaints.**
- 6. Statutory construction: The ATA White Paper suggested an amendment to AS 42.05.141(1) to eliminate the language ". . .the powers of the commission shall be liberally construed to accomplish its stated purpose." ATA indicates that this language has been used to offer differing interpretation of regulations and statute on case by case basis and to claim that Commission decisions do not set precedent. This leads to confusion among the utilities and the general public.**

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 183(URS)

BY REPRESENTATIVE ROKEBERG

1 Page 1, line 4, following ";;":

2 Insert "relating to procedural motions of the Alaska Public Utilities Commission;"

3 Page 3, following line 19:

4 Insert a new bill section to read:

5 **** Sec. 7.** AS 42.05.151(b) is amended to read:

6 (b) The commission shall adopt regulations governing practice and procedure,
7 consistent with due process of law, including the conduct of formal and informal
8 investigations, **prehearing** [PRE-HEARING] conferences, hearings, and proceedings,
9 and the handling of procedural motions by a single commissioner. **The commission,**
10 **or an assigned commissioner, shall enter an order on procedural motions within**
11 **10 days after the close of the applicable briefing period.** Technical rules of
12 evidence need not apply to investigations, **prehearing** [PRE-HEARING] conferences,
13 hearings, and proceedings before the commission. The commission shall provide for
14 representation by out-of-state attorneys substantially in accordance with Rule 81,
15 Alaska Rules of Civil Procedure."

16 Renumber the following bill sections accordingly.

Passed

SB 133

Alaska Energy Conservation Commission

DRAFT

Objective

- To improve the long term function and efficiency of both commissions while securing a stable funding source.

Composition

- (a) There is created as an independent quasi-judicial agency of the state the Alaska Energy Conservation Commission, composed of five members appointed by the governor and confirmed by the Legislature in joint session assembled.
- (b) The commission shall nominate, to the Governor, one member of the commission as chairman. However, the governor may or may not choose to appoint this person as chairman. The chairman shall serve for a term of four years, but may not be appointed for successive terms.

Removal of commissioners

- (a) The Governor may remove a commissioner from office by and with the consent of a majority of the Legislature.

Note: The appointment/confirmation process is clear indication of statutory intent to maintain a check and balance regarding the service of the commissioners. This should be maintained through the removal process and will continue to serve the best long-term public interest.

Current commissioner terms

AOGCC

- David Johnston – Term expired 12-31-98
- Robert Christensen – Term expires 12-31-00
- Camille Oechsli – Term expires 12-31-02

APUC

- Sam Cotton – Term expired 10-31-98
- Alyce Hanley – Term expires 10-31-99
- Dwight Ornquist – Term expires 10-31-99
- Tim Cook – Term expires 10-31-00
- James Posey – Term expires 10-31-02

Term

The term of office of each member is six years. A commissioner, upon the expiration of a term, shall continue to hold office until a successor is appointed and qualified.

Qualifications of members.

5 members of the general public

DRAFT

Note: Our current judicial system deliberates technical issues in our courts utilizing randomly selected members of the general public. The fact that we can hand pick well rounded, intelligent individuals should prove adequate. Commissioners can rely on staff for any technical expertise that may be needed. Given Alaska's relatively small population, as well as those who may have a conflict of interest, this should help to resolve some of the past problems we've faced with the lack of qualified candidates.

Compensation of members of the commission

Members of the commission are in the exempt service and shall receive an annual salary.

Legal counsel

The Department of Law shall provide full-time legal counsel to the commission. The legal counsel provided by the Department of Law is subject to the approval of the commission. *The Department of Law shall provide for the full-time legal counsel in the same fashion as they currently do to the AOGCC. (The Dept. of Law shall NOT contract to the commission)*

Funding Source

The commission shall operate off of a program receipt system similar to that of the existing APUC. Program receipts shall not be used for purposes outside the commission with the exception of the funding of the transferred programs (Inspections & Records/Logs) to DNR.

Time Management System

The commission shall implement a time management system to maintain a record of time expended on the various functions of the commission. This shall apply to all staff as well as the executive director and commissioners.

Records and Logs (AOGCC)

The Department of Natural Resources will store all records and logs pertaining to Oil & Gas issues. *This will transfer (2) people from AOGCC to DNR.*

Inspection Program (AOGCC)

The oil & gas inspection program will be transferred to the Department of Natural Resources. *This will transfer (5) inspectors from AOGCC to DNR.*

Commission staff

AOGCC

- Move to DNR - (4) Petroleum Inspectors, (1) Natural Resource Manager, (1) Statistical Technician (records), (1) Petroleum Research Analyst Assistant. (7) Total positions.

Note: the Ombudsman office investigated AOGCC in 1990 regarding the inspection program. This was primarily in response to budget cuts in the late 80's and a reduction of inspection staff.

? - How do we address the inspection of private and federal lands.

DRAFT

? - Confidentiality

- Cut - (1) Administrative Clerk
- Add - (3) junior positions – Jr. Reservoir Engineer, Jr. Petroleum Engineer, and a Jr. Petroleum Geologist. All three positions would need to be filled by qualified professionals capable of moving up into the senior position.

Note: The current problem is that the level of institutional knowledge is only one person deep in each field. And, each of these people is nearing the end of their professional careers and will most likely retire within the next 5-10 years.

APUC

- Cut - (1) Administrative Clerk, (1) Executive Secretary, (1) Administrative Assistant
- Add - (1) Hearing Examiner.

Note: The concept being that one hearing officer would handle oil, gas, and pipeline issues while the other hearing officer would handle telephone and utilities.

Staffing levels should otherwise remain about the same.

Powers and duties of the commission

The powers and duties of the commission will remain unchanged with just a couple exceptions.

- The commission will no longer regulate the refuse industry.
- Transfer of the record keeping and inspection programs over to DNR from the AOGCC.
(Assuming we can resolve any confidentiality problems that may exist)
- The commission shall be in charge of all hiring and firing of all staff.

Role of the Chairman

The chairman of the commission shall have limited authority over other commissioners. The chairman shall have the responsibility and oversight of assigning and distributing work to other commissioners. All commissioners, including the chairman, shall maintain time keeping records of their work. The chairman shall have the responsibility and oversight of all time keeping records submitted by the executive director and other commissioners. The executive director and commissioners shall submit time keeping records to the chairman.

Commissioners

The chairman shall assign commissioners, issues in which they shall concentrate their respective efforts. The commissioners shall work through staff section heads to distribute workloads as well as monitoring of work in progress.

Executive Director

The E.D. shall serve at the pleasure of the commission. The E.D. shall report to and be under the direct supervision of the chairman. The E.D. shall supervise the day to day operations of the commission and general oversight of all staff. The E.D. shall participate in, or be advised by the chairman of, staffing assignments.

Staff

APUC staff shall no longer serve the dual function of advisory and advocacy roles. Staff shall serve in the capacity of advisor to the commission.

Note: There has been a breakdown in communication in the flow of information between staff and commissioners. This is largely due to over use of the role of advocacy staff. The intent of advocacy staff was to protect and serve the public interest. This is unnecessary and duplicative, as it is the role of the commission, as a whole, to protect public interest. The APUC is considered to be the body as a whole and would therefore include both the commissioners and staff in carrying out the role of serving the public interest. In fact, "the APUC was created to protect and promote the public interest by certification and economically regulation qualified public utilities and pipeline carriers."

DRAFT

Alaska Oil and Gas Association

121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Judith Brady, Executive Director

Wkt
APR 29 1999

April 28, 1999

Via Facsimile 1-907-465-2273

The Honorable Bill Hudson
Alaska House of Representatives
State Capitol, Room 108
Juneau, AK 99801-1182

SB 134, Establishing a Regulatory Cost Charge to
Fund the Alaska Oil & Gas Conservation
Commission

Dear Representative Hudson:

The Alaska Oil and Gas Association (AOGA) is a trade association whose 18 members represent the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

AOGA has testified before the Senate Finance Committee expressing its concern regarding SB 134. AOGA would like to take this opportunity to summarize and express our continuing points of concern.

- While AOGA supports adequate funding for the Alaska Oil and Gas Conservation Commission (AOGCC) we are concerned that SB 134 would tend to create a virtually unlimited funding/taxing mechanism. AOGA recognizes that the AOGCC needs a stable funding source and that AOGCC's budget may need to increase, however, AOGA remains interested in discussing options that will assure the AOGCC budget is appropriate for the work they are required to do. Such options might include a budget cap, a budget review committee comprised of members of the AOGCC, the legislature, the industry and the public, or some other mechanism.
- We also are concerned that the funding mechanism embodied in SB 134 charges an assessment on oil, gas and water which is *injected* as well as produced. All other states which charge fees to fund similar commissions charge fees on oil and gas *production* not on *injected or re-injected water or natural gas*. The assessment method included in SB 134 is unnecessarily complicated. We would propose that a fee be assessed on "revenue generating" production of oil and gas and that the funding mechanism be less complicated and therefore less subject to controversy. Assessing a fee based on volume of production also would be more equitable to the industry as it would not overburden low volume producing fields, such as those in the Cook Inlet.

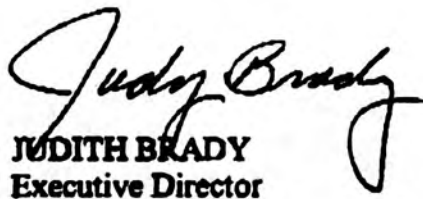
The Honorable Bill Hudson
April 28, 1999
Page 2

The current mechanism for funding the AOGCC is a 4 mils per barrel conservation tax charged on oil and gas production. One option might be to establish an oil and gas conservation permit fee and set a permit fee range in statute to provide funding for the AOGCC. The current 4 mils could serve as the base with the fee range topping at 7 mils per barrel. An initial analysis of the revenues this fee range would provide, based on the Dept. of Revenue's projected oil production alone, indicates 5¼ to 7 mils per barrel would provide approximately \$1.8 million to \$2.4 million annually through FY 2005.

- We also point out that another bill (CSSB 133 (Res)) would transfer pipeline regulation from the Alaska Public Utilities Commission (APUC) to the AOGCC. We question how the costs associated with pipeline regulation would be handled by the AOGCC under the provisions of SB 134, which bases its fees on the volume of oil, gas and water produced and *injected*.

We reiterate our continuing support for a fully functional, adequately funded, independent AOGCC. We remain committed to working with the legislature and the administration to develop an appropriate, accountable and equitable way to fund the AOGCC.

Sincerely,


JUDITH BRADY
Executive Director

JMB:ts



Alaska State Legislature

Representative Bill Hudson

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

Committees:

Chair
Fisheries
Utilities
Restructuring

Member
Transportation
State Affairs

UTILITY RESTRUCTURING COMMITTEE

April 12, 1999

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

HB 183 Sponsor Statement Alaska Public Utilities Commission restructuring

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

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

This legislation does not allow more than 2 commissioners from the same political party.

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

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

HB 183 Sectional analysis 4/12/99

Section 1:

- A. Gender correction from chairman to chair.**
- B. Makes the chair responsible for the administration of the commission and commission employees.**

Section 2:

No more than 2 members of the Commission may be from the same party. Commissioners may not change parties during the year prior.

Section 3:

The Chair, rather than the Commission may establish offices for the APUC.

Section 4:

The chair, rather than the Commission may employ temporary legal counsel.

Section 5:

The chair, rather than the commission may hire outside consultants, and experts with the approval of the Commission.

Section 6:

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

Section 7:

Repealers- Removes employee/public category requirements.

Amendment # 1

Removal of Commissioner by the Governor. The amendment deletes the requirement that the Legislature approve the termination of a Commissioner.

Amendment # 2

Prohibits Commission members from participation in:
Political campaigns
Partisan fundraising activities
Lobbying activities beyond their duties as a Commissioner.

HOUSE BILL NO. 183

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

Introduced: 4/9/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the chair of the Alaska Public
2 Utilities Commission; relating to membership on the Alaska Public Utilities
3 Commission; and relating to the annual report of the Alaska Public Utilities
4 Commission."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 42.05.020(b) is amended to read:

7 (b) The governor shall designate one member of the commission as chair
8 [CHAIRMAN] of the commission. This member shall serve as chair [CHAIRMAN]
9 for a term of four years, but may be appointed for successive terms. The chair is
10 responsible for the administration of the commission and commission employees.

11 * Sec. 2. AS 42.05.040 is repealed and reenacted to read:

12 Sec. 42.05.040. Qualifications of members. No more than two members of
13 the commission may be members of the same political party. A person may not be
14 appointed or reappointed to the commission for one year after changing political party

membership.

* Sec. 3. AS 42.05.101(a) is amended to read:

(a) The chair of the commission shall establish for the commission a principal office and branch offices necessary to discharge its business efficiently. For the convenience of the public or of parties to a proceeding, the commission may hold meetings, hearings, or other proceedings at other locations.

* Sec. 4. AS 42.05.111(b) is amended to read:

(b) The chair of the commission may employ temporary legal counsel for the commission from time to time in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission.

* Sec. 5. AS 42.05.121 is amended to read:

Sec. 42.05.121. Employment of commission personnel. (a) The commission may employ an executive director who shall have had at least five years of experience in public utility management or regulation, law, accounting, engineering, or an allied field. The executive director is responsible for directing the administrative functions of the commission and carrying out the policies as set by the commission. The chair of the commission may employ engineers, hearing officers, administrative law judges to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other agents and assistants considered [IT CONSIDERS] necessary. Employees and agents of the commission who are not partially exempt under AS 39.25.120, other than legal counsel, are in the classified service under AS 39.25.100.

(b) In addition to the [ITS] staff of regular employees, the chair of the commission may contract for and engage the services of consultants and experts the commission considers necessary.

* Sec. 6. AS 42.05.211 is amended to read:

Sec. 42.05.211. Annual report. The commission shall, by February 1 [15] of each year, publish an annual report reviewing its work and notify the legislature that the report is available. The report must contain

(1) information and data that bear a significant relationship to the development and regulation of public utility services in the state;

(2) [AND INCLUDE] an outline of the commission's program for the

1 development and regulation of public utility services in the forthcoming year;

2 (3) a summary of the activities of the commission during the
3 previous year; and

4 (4) a report on and evaluation of the timeliness of the commission's
5 action on dockets during the previous year.

6 * Sec. 7. AS 42.05.050 is repealed.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 62(URS), Draft Version "G"

1 Page 1, line 2. following ";;":

2 Insert "relating to removal of commissioners of the Alaska Public Utilities
3 Commission;"

4 Page 1, following line 19:

5 Insert a new bill section to read:

6 **** Sec. 2.** AS 42.05.035 is repealed and reenacted to read:

7 **Sec. 42.05.035. Removal of commissioners.** The governor may remove a
8 commissioner from office only for inefficiency, neglect of duty, or misconduct in
9 office, or because the member, while serving on the commission, is convicted of a
10 misdemeanor for violating a statute or regulation related to public utilities or is
11 convicted of a felony. The governor shall deliver to the commissioner a copy of the
12 charges against the commissioner. The commissioner shall have an opportunity to
13 present a defense in person or through counsel at a public hearing before the governor
14 or the governor's designee. The commissioner shall be informed of the hearing by
15 registered mail at least 10 days before the hearing date. At the hearing, the
16 commissioner may confront and cross-examine adverse witnesses. Upon removal of
17 the commissioner, the findings and a complete statement of all charges made against
18 the commissioner shall be filed in the Office of the Lieutenant Governor."

19 Renumber the following bill sections accordingly.

20 Page 2, following line 21:

21 Insert a new bill section to read:

22 **** Sec. 7.** The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,

- 1 apply to a member of the Alaska Public Utilities Commission serving on the effective date
- 2 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
- 3 to the removal procedure specified in former AS 42.05.035."
- 4 Renumber the following bill section accordingly.

Alaska State Legislature
House of Representatives
Minority Leader



Alaska State Capitol
Juneau, Alaska 99801-1182
1-888-465-4919 (toll free)
1-907-465-2137 (fax)

Interim Address
716 West Fourth Avenue
(phone) 1-907-269-0130
(fax) 1-907-269-0132

Representative Ethan Berkowitz
District 13

Date: April 12, 1999

To: Members of the House Special Committee on Utility Restructuring

EAB

From: Ethan Berkowitz

RE: Amendment to House Bill 183

Recognizing the committee decided to proscribe the partisan make-up of the Alaska Public Utilities Commission (APUC), I would appreciate your consideration of the attached amendment.

The amendment recognizes the quasi-judicial authority of the APUC and consequently imposes restrictions on political activity similar to, but not as restrictive as, public members of the Legislative Ethics committee (AS 24.60.134).

To summarize, APUC members would not be permitted to participate in:

- Political campaigns.
- Partisan fundraising activities.
- Lobbying activities beyond their duties as a commissioner.

Regarding the lobbying issue, members of the APUC are not required to register as lobbyists when addressing the legislature or administration on APUC issues, therefore this restriction does not interfere with a commissioners' duties. If you have more questions about this issue, I would encourage you to talk with Terry Cramer at x2450.

Thank you for your consideration of this amendment.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: HB 183

1 Page 1, line 3, following ";;":

2 Insert "relating to political conduct by members of the Alaska Public Utilities
3 Commission;"

4 Page 1, line 12, following "members.":

5 Insert "(a)"

6 Page 2, following line 1:

7 Insert a new subsection to read:

8 "(b) A member of the commission may not participate in

9 (1) political management or in a political campaign for a candidate for
10 election to federal, state, or local office regardless of whether the campaign is partisan
11 or nonpartisan or for passage or defeat of a ballot measure of any type;

12 (2) the campaign of, or attend campaign fund-raising events for, a
13 candidate for governor or the legislature;

14 (3) a fund-raising event held on behalf of a political party or attend
15 a political party fund-raising event; or

16 (4) lobbying activities that would require a person to register as a
17 lobbyist."



ARCO Alaska, Inc.
Post Office Box 100360
Anchorage, Alaska 99510-0360
Telephone (907) 265-6512
Facsimile (907) 265-6922

Kevin O. Meyers
President

May 11, 1999

**The Honorable Gene Therriault
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182**

Re: Amendment Y.13 to HCS CSSB 133(L&C)

Dear Mr. Therriault:

ARCO has reviewed the amendment to HCS CSSB 133(L&C) that was proposed to the Finance Committee by Representative Whitaker. That amendment appears to be intended to create the authority for the Alaska Oil and Gas Conservation Commission (1) to unitize or "reunitize" oil and gas properties already subject to a DNR-approved voluntary unit; and (2) to require each operator to provide copies of all reservoir models. ARCO urges the Legislature to reject this amendment for the following reasons.

First, this amendment would make substantial changes to existing law and a major change in its oil and gas policy. Yet, there has not been the opportunity to understand the asserted need for the amendment, nor to understand whether the amendment would function to fulfill that need. An opportunity to fully debate and evaluate the policies and effects of these proposed changes is essential.

Second, ARCO opposes the proposal to grant the AOGCC power to unitize or to "reunitize" properties already subject to a voluntary unitization agreement, even when the unit has been approved by the Department of Natural Resources. The oil companies have made substantial investments in this state's oil and gas properties. These investments are made and protected by a complex system of contracts. Under present authorities, the AOGCC can issue orders as necessary to protect against specific practices that cause waste, violate correlative rights and to insure the greater ultimate recovery of oil and gas. ARCO submits that it is unwise to add to these substantial authorities the power to change the unitization contracts among the oil companies and the lessors. We do not believe that the case has been made that such powers would increase ultimate recovery of oil and gas. To the contrary, we believe the risk of AOGCC interference with private contractual

The Honorable Gene Therriault
May 11, 1999
Page -2-

agreements will threaten future investments by the companies and result in lesser recoveries. Moreover, it would potentially subject the state to "takings" claims.

Third, ARCO opposes the amendment that would require submission of all reservoir models to the AOGCC. These models may include confidential information to which the companies have use, but not disclosure, rights. ARCO has always strived to provide meaningful information to the commission and to respond to reasonable requests for data and modeling information. We believe this system has worked.

In conclusion, ARCO submits that it is inappropriate to rush such unconsidered and undebated substantial amendments through the Legislature. On the merits, we believe the amendments are both unnecessary and ill advised.

Sincerely yours,


Kevin O. Meyers

/pfm

c: All Members of the House of Representatives
The Honorable Drue Pearce, Senate President

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

May 11, 1999

SUBJECT: Amendment Y.13 to HCS CSSB 133(L&C))
TO: Representative Gene Theriault
FROM: Jack Chenoweth
Assistant Revisor of Statutes

The amendment draws on the language of the material that was provided by your office. I altered the placement of the second provision and made it a new subsection, subsection (r), within AS 31.05.110, the unitization section.

In its bill section 2, I questioned whether the standard "greater recovery of oil and gas" is correct. The current test, as set out in AS 31.05.030(d)(9) and 31.05.110(a), speaks of "greater *ultimate* recovery of oil and gas," so that is what I substituted. Even so, the current test under which the commission may act to require unitization arguably has three purposes, all as set out in AS 31.05.030(d)(9):

(d) The commission may require

...
(9) the filing and approval of a plan of development and operation for a field or pool *in order to prevent waste, insure a greater ultimate recovery of oil and gas, and protect the correlative rights of persons owning interests in the tracts of land affected.*

You may want to substitute the full language of the current standard.

Because of the time constraint, I did not have the opportunity to work through each subsection within AS 31.05.110 to satisfy myself that every provision lends itself to commission regulation under the expansion of the provisions in the section to "voluntary cooperative or unit plans or operations" that is made by the amendment to subsection (q).

JBC:glc
99-259.glc

Enclosure

AMENDMENT

OFFERED IN THE HOUSE

TO: HCS CSSB 133(L&C)

1 Page 1, following line 8:

2 Insert new bill sections to read:

3 **** Section 1.** AS 31.05.026 is amended by adding a new subsection to read:

4 (f) In a dispute between the commission and the Department of Natural
5 Resources regarding a specific course of action to be taken or a specific decision
6 made, the action or decision of the commission prevails.

7 *** Sec. 2.** AS 31.05.110(a) is amended to read:

8 (a) To prevent, or to assist in preventing waste, to insure a greater ultimate
9 recovery of oil and gas, and to protect the correlative rights of persons owning
10 interests in the tracts of land affected, these persons may validly integrate their
11 interests to provide for the unitized management, development, and operation of such
12 tracts of land as a unit. The [WHERE, HOWEVER, THEY HAVE NOT AGREED
13 TO INTEGRATE THEIR INTERESTS, THE] commission, upon proper petition, after
14 notice and hearing, has jurisdiction, power, and authority, and it is its duty to make
15 and enforce orders and do the things necessary or proper, to carry out the purposes
16 of this section, including making and enforcing orders and doing other things
17 necessary to require compulsory unitization or reunitization in a manner that,
18 based on the commission's findings, ensures a greater ultimate recovery of oil
19 and gas.

20 *** Sec. 3.** AS 31.05.110(q) is amended to read:

21 (q) This section applies to all voluntary and involuntary units formed in the
22 state. [SUBSECTIONS (a) AND (g) - (p) OF THIS SECTION APPLY TO ALL
23 VOLUNTARY UNITS FORMED IN THE STATE AND TO A VOLUNTARY
24 COOPERATIVE OR UNIT PLAN OF DEVELOPMENT OR OPERATION
25 ENTERED INTO IN ACCORDANCE WITH AS 38.05.180(p).]

1 (r) The commission shall require every producer or unit operator subject to
2 an order made by the commission under this section and every producer or unit
3 operator who has established a voluntary cooperative or unit plan of development or
4 operation under AS 38.05.180(p) to provide to the commission the most recent
5 reproductions of the unit plan of development or operation reservoir models of any
6 type that relates to the producer's or unit operator's collection and accumulation of
7 engineering and production data. A producer or unit operator shall provide the
8 information and data required by the commission under this subsection."

9 Page 1, line 9:

10 Delete "* Section 1."

11 Insert "* Sec. 5."

12 Renumber the following bill sections accordingly.

13 Page 13, line 4:

14 Delete "sec. 20"

15 Insert "sec. 24"

1-LS0771\T

Cramer

5/12/99

HOUSE CS FOR CS FOR SENATE BILL NO. 133(FIN)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIRST LEGISLATURE - FIRST SESSION****BY THE HOUSE FINANCE COMMITTEE****Offered:****Referred:****Sponsor(s): SENATOR PEARCE****A BILL****FOR AN ACT ENTITLED**

1 "An Act creating and relating to the Regulatory Commission of Alaska and
2 transferring to it certain powers and duties of the Alaska Public Utilities
3 Commission; repealing the Alaska Public Utilities Commission; relating to the
4 powers of the chair of the Regulatory Commission of Alaska; relating to
5 regulatory cost charges for public utilities and pipelines; relating to the appellate
6 procedures of the Regulatory Commission of Alaska; relating to the Alaska Oil
7 and Gas Conservation Commission; and providing for an effective date."

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

9 * Section 1. AS 42 is amended by adding a new chapter to read:

10 Chapter 04. Regulatory Commission of Alaska.

11 Article 1. Commission and Staff.

12 Sec. 42.04.010. Regulatory Commission of Alaska created. (a) There is
13 created within the Department of Commerce and Economic Development as an

1 independent agency of the state the Regulatory Commission of Alaska.

2 (b) When a vacancy occurs in the office of chair, the commission may
3 nominate one of its members to serve as chair. When a vacancy occurs in the office
4 of chair, the governor shall designate the chair of the commission, either by selecting
5 the member nominated by the commission or another member. The term as chair is
6 four years. The chair may not be appointed to successive terms as chair.

7 **Sec. 42.04.020. Commissioners.** (a) The commission consists of five
8 commissioners appointed by the governor and confirmed by the legislature in joint
9 session. To qualify for appointment as a commissioner, a person must be a member
10 in good standing of the Alaska Bar Association or have a degree from an accredited
11 college or university with a major in engineering, finance, economics, accounting,
12 business administration, or public administration. Actual experience for a period of
13 five years in the practice of law or in the field of engineering, finance, economics,
14 accounting, business administration, or public administration is equivalent to a degree.

15 (b) The term of office of each member is six years. A commissioner, upon
16 the expiration of a term, shall continue to hold office until a successor is appointed and
17 qualified.

18 (c) A vacancy arising in the office of a commissioner shall be filled by
19 appointment by the governor and confirmed by the legislature in joint session, and,
20 except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall
21 hold office for the balance of the full term for which the predecessor on the
22 commission was appointed.

23 (d) A vacancy in the commission does not impair the authority of a quorum
24 of commissioners to exercise all the powers and perform all the duties of the
25 commission.

26 (e) The governor may remove a commissioner from office for cause, including
27 incompetence, neglect of duty, inability to serve, or misconduct in office or because
28 the member, while serving on the commission, is convicted of a misdemeanor for
29 violating a statute or regulation related to public utilities or is convicted of a felony.
30 A commissioner, to be removed for cause, shall be given a copy of the charges and
31 afforded an opportunity to be publicly heard in person or by counsel in the

1 commissioner's own defense upon not less than 10 days' notice. If a commissioner
2 is removed for cause, the governor shall file with the lieutenant governor a complete
3 statement of all charges made against the commissioner and the governor's finding
4 based on the charges, together with a complete record of the proceedings.

5 (f) Members of the commission are in the exempt service and are entitled to
6 a monthly salary equal to Step C, Range 26, of the salary schedule in AS 39.27.011(a)
7 for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal
8 to Step C, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

9 (g) Each commissioner, before entering upon the duties of office, shall take
10 and subscribe to the oath prescribed for principal officers of the state.

11 **Sec. 42.04.030. Principal office; seal.** (a) The commission shall establish a
12 principal office and branch offices necessary to discharge its business efficiently. For
13 the convenience of the public or of parties to a proceeding, the commission may hold
14 meetings, hearings, or other proceedings at other locations.

15 (b) The commission shall have an official seal.

16 **Sec. 42.04.040. Legal counsel.** (a) The Department of Law shall provide full-
17 time legal counsel to the commission.

18 (b) The commission may, subject to the approval of the attorney general,
19 contract for the services of specialized legal counsel or legal consultants.

20 **Sec. 42.04.050. Employment of commission personnel.** (a) The chair of the
21 commission is responsible for directing the administrative functions of the commission
22 and carrying out the policies as set by the commission. The commission chair may
23 employ engineers, hearing officers, administrative law judges, experts, clerks,
24 accountants, and other agents and assistants considered necessary. Employees of the
25 commission who are not in the exempt service under AS 39.25.110 or the partially
26 exempt service under AS 39.25.120, are in the classified service under AS 39.25.100.

27 (b) The chair of the commission may enter into a contract for no more than
28 \$5,000 to engage the services of a consultant or expert the chair considers necessary.
29 The commission may contract for and engage the services of consultants and experts
30 the commission considers necessary.

31 (c) At the request of the Alaska Oil and Gas Conservation Commission and

1 to the extent workload permits, the Regulatory Commission of Alaska shall make
2 available to the Alaska Oil and Gas Conservation Commission the services of a
3 hearing officer.

4 **Sec. 42.04.060. Restrictions on members and employees.** (a) A member of
5 the commission or an employee of the commission may not have an official connection
6 with, hold stock or securities in, or have a pecuniary interest in a public utility within
7 the state. Membership in a cooperative association is not a "pecuniary interest" within
8 the meaning of this section; however, a member or employee of the commission may
9 not be an officer, board member, or employee of a cooperative association. A member
10 or employee may not act upon a matter in which a relationship of the member or
11 employee with any person creates a conflict of interest.

12 (b) A member or employee of the commission may not, after leaving the
13 position as a member or employee of the commission, act as agent for or on behalf of
14 a public utility in any matter before the commission that was before the commission
15 during the employee's employment or the member's term of office. A violation of this
16 subsection is a class A misdemeanor.

17 (c) Members and employees of the commission, except clerical and secretarial
18 staff, are subject to AS 39.50. Members and employees of the commission are subject
19 to AS 39.52.

20 (d) A member of the commission is disqualified from voting upon any matter
21 before the commission in which the member has a conflict of interest.

22 **Sec. 42.04.070. Powers and duties of commission chair.** (a) The chair of
23 the commission shall

24 (1) employ the commission staff;

25 (2) establish and implement a time management system for the
26 commission;

27 (3) assign the work of the commission to members and staff of the
28 commission so that matters before the commission are resolved as expeditiously and
29 competently as possible; when assigning a matter, the chair shall also set a date by
30 which time the matter should be completed.

31 (b) The chair of the commission may appoint a hearing officer or an

1 administrative law judge to hear a matter that has come before the commission; a
2 member of the commission may serve as hearing officer or, if qualified, as an
3 administrative law judge.

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

7 **Sec. 42.04.080. Decision-making procedures.** (a) Except as provided in
8 AS 42.05.171 or AS 42.6.140, when a matter comes for decision before the
9 commission under AS 42.05 or AS 42.06, the chair shall appoint a hearing panel
10 composed of three or more members to hear, or if a hearing is not required, to
11 otherwise consider, and decide the case. The panel shall exercise the powers of the
12 commission with respect to the matter.

13 (b) The commission shall adopt regulations by December 31, 1999, that
14 establish standards of timeliness for the types of cases that come before the
15 commission. The commission shall establish standards based in part on degrees of
16 complexity of the cases.

17 **Article 2. Communications Carriers Section.**

18 **Sec. 42.04.100. Communications carriers section.** There is established
19 within the commission a communications carriers section that shall develop,
20 recommend, and administer policies and programs with respect to the regulation of
21 rates, services, accounting, and facilities of communications common carriers within
22 the state involving the use of wire, cable, radio, and space satellites.

23 **Article 3. Public Advocacy Section.**

24 **Sec. 42.04.150. Public advocacy section.** There is established within the
25 commission a public advocacy section. The section shall participate as a party in
26 matters that come before the commission when directed to do so in accordance with
27 AS 42.04.070(c). The public advocacy section shall operate separately from the rest
28 of the commission.

29 * **Sec. 2.** AS 29.35.137(6) is amended to read:

30 (6) "local exchange telephone company" means a telephone utility
31 certificated under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES

1 COMMISSION] to provide local exchange service;

2 * Sec. 3. AS 37.05.146(b) is amended to read:

3 (b) The program receipts listed in this subsection are accounted for separately,
4 and appropriations from these program receipts are not made from the unrestricted
5 general fund:

6 (1) federal receipts;

7 (2) University of Alaska receipts (AS 14.40.491);

8 (3) designated program receipts; in this paragraph, "designated program
9 receipts" means money received by the state from a source other than the state or
10 federal government that is restricted to a specific use by the terms of a gift, grant,
11 bequest, or contract;

12 (4) receipts of the following:

13 (A) highway working capital fund (AS 44.68.210);

14 (B) correctional industries fund (AS 33.32.020);

15 (C) loan funds;

16 (D) international airport revenue fund (AS 37.15.430);

17 (E) corporate receipts earned or managed by a public
18 corporation of the state;

19 (F) fish and game fund (AS 16.05.100);

20 (G) school fund (AS 43.50.140);

21 (H) training and building fund (AS 23.20.130);

22 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,
23 AS 39.35, and former AS 39.37);

24 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

25 (K) public school trust fund (AS 37.14.110);

26 (L) second injury fund (AS 23.30.040);

27 (M) fishermen's fund (AS 23.35.060);

28 (N) FICA administration fund (AS 39.30.050);

29 (O) receipts of the employee benefits program established under
30 AS 39.30.150 - 39.30.180;

31 (P) receipts of the deferred compensation program established

1 under AS 39.45;

2 (Q) clean air protection fund (AS 46.14.260);

3 (R) receipts of the group insurance programs established under
4 AS 39.30.090;

5 (S) mental health trust fund (AS 37.14.031);

6 (T) Alaska children's trust (AS 37.14.200);

7 (U) commercial fisheries test fishing operations
8 (AS 16.05.050(15));

9 (V) Regulatory Commission of Alaska [PUBLIC UTILITIES
10 COMMISSION] under AS 42.05 and AS 42.06;

11 (5) receipts of or from the trust established by AS 37.14.400 -
12 37.14.450, except reimbursements described in AS 37.14.410.

13 * Sec. 4. AS 39.25.120(c) is amended by adding a new paragraph to read:

14 (25) hearing officers and administrative law judges of the Regulatory
15 Commission of Alaska.

16 * Sec. 5. AS 39.50.200(b)(24) is amended to read:

17 (24) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC
18 UTILITIES COMMISSION (AS 42.05.010)];

19 * Sec. 6. AS 42.05.151(b) is amended to read:

20 (b) The commission shall adopt regulations governing practice and procedure,
21 consistent with due process of law, including the conduct of formal and informal
22 investigations, pre-hearing conferences, hearings, and proceedings, and the handling
23 of procedural motions by a single commissioner. The regulations must provide for
24 the hearing or, when a hearing is not required, other consideration of a matter
25 in accordance with AS 42.04.080. Technical rules of evidence need not apply to
26 investigations, pre-hearing conferences, hearings, and proceedings before the
27 commission. The commission shall provide for representation by out-of-state attorneys
28 substantially in accordance with Rule 81, Alaska Rules of Civil Procedure.

29 * Sec. 7. AS 42.05.171 is amended to read:

30 Sec. 42.05.171. Formal hearings. A formal hearing that the commission has
31 power to hold may be held by or before a hearing panel appointed under

1 AS 42.04.080 [THREE OR MORE COMMISSIONERS], a hearing officer, or an
2 administrative law judge designated for the purpose by the chair of the commission.
3 In appropriate cases, a formal hearing may be held before an arbitrator
4 designated for the purpose by the commission. The testimony and evidence in a
5 formal hearing may be taken by the panel [COMMISSIONERS], by the hearing
6 officer, by the arbitrator, or by the administrative law judge to whom the hearing has
7 been assigned. A decision of a hearing officer, an arbitrator, or an administrative
8 law judge is not final until approved by the commission. A commissioner who has
9 not heard or read the testimony, including the argument, may not participate in making
10 a decision of a hearing panel [THE COMMISSION]. In determining the place of a
11 hearing, the commission shall give preference to holding the hearing at a place most
12 convenient for those interested in the subject of the hearing.

13 * Sec. 8. AS 42.05.254(a) is amended to read:

14 (a) A regulated public utility operating in the state shall pay to the commission
15 an annual regulatory cost charge in an amount not to exceed the maximum
16 percentage of adjusted gross revenue that applies to the utility sector of which the
17 utility is a part. The regulatory cost charges that the commission expects to
18 collect from all regulated utilities may not exceed .8 percent of the total adjusted
19 gross revenue of all regulated public utilities derived from operations in the state [,
20 AS MODIFIED UNDER (c) OF THIS SECTION IF APPROPRIATE]. An exempt
21 utility shall pay the actual cost of services provided to it by the commission.

22 * Sec. 9. AS 42.05.254(b) is amended to read:

23 (b) The commission shall by regulation establish a method to determine
24 annually the amount of the regulatory cost charge for a public utility. If the amount
25 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
26 exceeds the authorized budget of the commission, the commission shall, by order,
27 reduce the percentages determined under (i) [SET OUT IN (a)] of this section so that
28 the total amount of the fees collected approximately equals the authorized budget of
29 the commission for the fiscal year.

30 * Sec. 10. AS 42.05.254(h) is amended by adding a new paragraph to read:

31 (5) "adjusted gross revenue" means the gross revenue of a utility as

modified under (c) of this section, if appropriate.

* **Sec. 11.** AS 42.05.254 is amended by adding a new subsection to read:

(i) The commission shall by regulation establish a method to determine annually the maximum percentage of adjusted gross revenue that will apply to each regulated public utility sector and the maximum percentage of gross revenue that will apply to the regulated pipeline carrier sector. The method established shall allocate the commission's costs, other than the cost of services provided to exempt utilities, among the regulated public utility sectors and the regulated pipeline carrier sector based on the relative amount of the commission's annual costs that is attributable to regulating each sector.

* **Sec. 12.** AS 42.05.990(2) is amended to read:

(2) "commission" means the Regulatory Commission of Alaska [PUBLIC UTILITIES COMMISSION];

* **Sec. 13.** AS 42.05.995 is amended to read:

Sec. 42.05.995. Short title. This chapter may be cited as the Alaska Public Utilities Regulatory [COMMISSION] Act.

* **Sec. 14.** AS 42.06.286(b) is amended to read:

(b) The commission shall by regulation establish a method to determine annually the amount of the regulatory cost charge. If the amount the commission expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the authorized budget of the commission, the commission shall, by order, reduce the percentage determined under (f) [SET OUT IN (a)] of this section so that the total amount of the fees collected approximately equals the authorized budget of the commission for the fiscal year.

* **Sec. 15.** AS 42.06.286 is amended by adding a new subsection to read:

(f) The commission shall by regulation establish a method to determine annually the maximum percentage of gross revenue that will apply to each regulated public utility sector and the maximum percentage of gross revenue that will apply to the regulated pipeline carrier sector in accordance with AS 42.05.254(i).

* **Sec. 16.** AS 42.06 is amended by adding a new section to read:

Sec. 42.06.055. Commission decision-making procedures. The commission

1 shall comply with AS 42.04.080 for matters that come before the commission for
2 decision.

3 * Sec. 17. AS 42.06.305 is amended by adding a new subsection to read:

4 (b) The commission's decision under this section shall be based on the best
5 interest of the public.

6 * Sec. 18. AS 42.06.445(e) is amended to read:

7 (e) A commissioner [, AND THE EXECUTIVE DIRECTOR,] may certify as
8 to all official records of the commission under this section and may certify as to all
9 official acts of the commission under this chapter.

10 * Sec. 19. AS 42.06.630(2) is amended to read:

11 (2) "commission" means the Regulatory Commission of Alaska
12 [PUBLIC UTILITIES COMMISSION] (AS 42.04.010);

13 * Sec. 20. AS 42.45.020(b) is amended to read:

14 (b) Subject to AS 42.45.060, the department may make loans from the rural
15 electrification revolving loan fund to electric utilities certified under AS 42.05 [BY
16 THE ALASKA PUBLIC UTILITIES COMMISSION]. A loan from the fund may be
17 made only for the purpose of extending new electric service into an area of the state
18 that an electric utility may serve under a certificate of public convenience and
19 necessity issued under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES
20 COMMISSION]. A loan may be made from the fund to an electric utility if the utility
21 invests the money necessary to provide one pole, one span of line, one transformer,
22 and one service drop for each consumer for whom immediate service would be
23 provided by the extension of electric service. However, a loan may not be made from
24 the fund unless

25 (1) the loan is recommended by a loan advisory committee appointed
26 under AS 42.45.030; and

27 (2) the extension of electric service would provide immediate service
28 to at least three consumers.

29 * Sec. 21. AS 44.66.010(a)(4) is amended to read:

30 (4) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC
31 UTILITIES COMMISSION (AS 42.05.010)] -- June 30, 2004 [1999];

1 * Sec. 22. AS 44.83.425(3) is amended to read:

2 (3) "qualified utility" means an electric utility or an electric operating
3 entity established as an instrumentality of two or more electric utilities certified under
4 AS 42.05 [BY THE ALASKA PUBLIC UTILITIES COMMISSION] to serve all or
5 part of a market area that is served or will be served by the power project, that the
6 authority determines is capable of operating and maintaining the power project.

7 * Sec. 23. AS 46.04.020(i) is amended to read:

8 (i) The superior court and, with respect to intrastate voyages, the Regulatory
9 Commission of Alaska [PUBLIC UTILITIES COMMISSION,] under AS 42.05.361 -
10 42.05.431, have concurrent jurisdiction to review and enjoin a charge, contract term,
11 or financial responsibility requirement described under (h) of this section at the request
12 of a vessel owner, operator, or charterer. Except as provided in this subsection,
13 nothing in this section affects the jurisdiction of the Regulatory Commission of
14 Alaska [PUBLIC UTILITIES COMMISSION].

15 * Sec. 24. REPEAL OF STATUTES. AS 39.25.120(c)(6); AS 42.05.010, 42.05.020,
16 42.05.030, 42.05.035, 42.05.040, 42.05.050, 42.05.071, 42.05.081, 42.05.091, 42.05.101,
17 42.05.111, 42.05.121, 42.05.123, and 42.05.131 are repealed.

18 * Sec. 25. REPORT CONCERNING RESTRUCTURING OF THE ALASKA OIL AND
19 GAS CONSERVATION COMMISSION AND THE REGULATORY COMMISSION OF
20 ALASKA. The Legislative Budget and Audit Committee shall prepare a report considering
21 the functions of the Regulatory Commission of Alaska and the Alaska Oil and Gas
22 Conservation Commission. The report must address whether it is in the best interest of the
23 state to merge the Regulatory Commission of Alaska and the Alaska Oil and Gas Conservation
24 Commission into a single commission and whether it is in the state's best interest to
25 restructure the functions of the two commissions. The report shall be delivered to the
26 governor and the legislature by the first day of the second session of the Twenty-First Alaska
27 State Legislature.

28 * Sec. 26. MANAGEMENT INFORMATION SYSTEM. The Regulatory Commission of
29 Alaska shall develop its management information system and make the system accessible to
30 the general public through the Internet for the purpose of tracking, scheduling, and managing
31 all dockets within the commission.

1 * Sec. 27. LOCATION OF THE ALASKA OIL AND GAS CONSERVATION
2 COMMISSION. (a) The principal office of the Alaska Oil and Gas Conservation
3 Commission shall move to the same location as the principal office of the Regulatory
4 Commission of Alaska as soon as feasible, but in any case, no later than July 1, 2000.

5 (b) As soon as the Alaska Oil and Gas Conservation Commission moves to the same
6 location as the Regulatory Commission of Alaska, the two commissions shall share record
7 keeping facilities and clerical staff.

8 * Sec. 28. REGULATORY COMMISSION OF ALASKA EMPLOYMENT OF HEARING
9 OFFICER. To the extent that sufficient funds are appropriated for the purpose, during the
10 state fiscal year ending June 30, 2000, the Regulatory Commission of Alaska shall employ,
11 in addition to the hearing officers that the former Alaska Public Utilities Commission was
12 authorized to employ on June 30, 1999, an additional hearing officer.

13 * Sec. 29. TERMS AND INITIAL APPOINTMENTS. (a) Notwithstanding AS 42.05.030,
14 the terms of members of the Alaska Public Utilities Commission expire at the close of
15 business on June 30, 1999.

16 (b) The governor shall expeditiously make initial appointments to the Regulatory
17 Commission of Alaska, created by sec. 1 of this Act. Appointments made under this
18 subsection may not take effect before July 1, 1999.

19 (c) Notwithstanding AS 39.05.055, the terms of the initially appointed members of the
20 Regulatory Commission of Alaska shall be set by the governor as follows:

- 21 (1) one member shall serve a five-year term;
- 22 (2) one member shall serve a four-year term;
- 23 (3) one member shall serve a three-year term;
- 24 (4) one member shall serve a two-year term; and
- 25 (5) one member shall serve a one-year term.

26 * Sec. 30. TRANSITIONAL PROVISIONS. (a) Litigation, hearings, investigations, and
27 other proceedings pending under a law repealed or amended by this Act, or in connection with
28 functions transferred from the Alaska Public Utilities Commission to the Regulatory
29 Commission of Alaska by this Act, continue in effect and may be completed notwithstanding
30 a transfer or repeal provided for in this Act.

31 (b) Regulations in effect on June 30, 1999, that were adopted to implement a function

1 that is transferred by this Act remain in effect and shall be enforced by the Regulatory
2 Commission of Alaska until amended.

3 (c) Wherever in Alaska Statutes affected by this Act there is a reference to regulations
4 adopted under a section of law and there are no regulations adopted under that section because
5 previous regulations adopted under another section are being enforced under (b) of this
6 section, the reference shall be construed to refer to the previously adopted regulations until
7 they are amended by the new agency.

8 (d) Except as provided in sec. 29(a) of this Act, contracts, rights, liabilities, and
9 obligations created by or under a law repealed or amended by this Act, and in effect on June
10 30, 1999, remain in effect notwithstanding this Act's taking effect.

11 (e) Records, equipment, appropriations, and other property of the Alaska Public
12 Utilities Commission shall be transferred to the Regulatory Commission of Alaska to
13 implement the provisions of this Act.

14 (f) Notwithstanding the amendments to AS 42.05.254 made by secs. 8 - 11 of this Act
15 and to AS 42.06.286 made by secs. 14 and 15 of this Act, for the fiscal year ending June 30,
16 2001, the Regulatory Commission of Alaska shall, by order, establish and use a model for the
17 assessment of regulatory cost charges for that year, based on estimates for figures for which
18 it does not have actual data.

19 * Sec. 31. FIVE-YEAR SUNSET. The amendment to AS 44.66.010(a)(4), made by
20 sec. 21 of this Act, is made notwithstanding AS 44.66.010(c).

21 * Sec. 32. REVISOR INSTRUCTIONS. (a) In the following statutes, the revisor of
22 statutes is instructed to change "Alaska Public Utilities Commission" to "Regulatory
23 Commission of Alaska":

- 24 (1) AS 29.35.131(c);
- 25 (2) AS 29.35.137(5);
- 26 (3) AS 38.35.120(a) in three places;
- 27 (4) AS 38.35.230(2);
- 28 (5) AS 42.05.141(a);
- 29 (6) AS 42.05.325(c);
- 30 (7) AS 42.05.381(f) in both places;
- 31 (8) AS 42.05.712(c);

- 1 (9) AS 42.05.712(d);
- 2 (10) AS 42.45.010(e);
- 3 (11) AS 42.45.110(a);
- 4 (12) AS 42.45.170(a);
- 5 (13) AS 42.45.170(e);
- 6 (14) AS 43.55.150(b);
- 7 (15) AS 43.56.210(7);
- 8 (16) AS 44.83.090(b) in both places;
- 9 (17) AS 45.50.473(a);
- 10 (18) AS 45.50.473(b);
- 11 (19) AS 45.50.475(b);
- 12 (20) AS 45.50.475(c); and
- 13 (21) AS 45.63.080(12).

14 (b) In the following statutes, the revisor of statutes is instructed to change "Alaska
15 Public Utilities Commission" to "former Alaska Public Utilities Commission or the Regulatory
16 Commission of Alaska":

- 17 (1) AS 09.65.085(a);
- 18 (2) AS 10.25.020(6); and
- 19 (3) AS 18.57.020(c).

20 (c) In the following statutes, the revisor of statutes is instructed to change "by the
21 Alaska Public Utilities Commission" to "by the former Alaska Public Utilities Commission
22 or by the Regulatory Commission of Alaska":

- 23 (1) AS 29.35.050(b) in both places;
- 24 (2) AS 29.35.050(c);
- 25 (3) AS 29.35.060(a);
- 26 (4) AS 29.35.060(b); and
- 27 (5) AS 42.45.200(e).

28 * Sec. 33. (a) Section 29 of this Act takes effect immediately under AS 01.10.070(c).

29 (b) Sections 8 - 11, 14, and 15 of this Act take effect July 1, 2000.

30 (c) Except as provided in (a) and (b) of this section, this Act takes effect July 1, 1999.

The staff position for Utilities
Restructuring committee has been eliminated -
So I am looking for a job, I was surprised.

Can I draft a letter of recommendation
for you to sign? *gf*

James C. Colver
P.O. Box 427
Palmer, AK 99645
ph/fax (907) 746-5300
email: mjcolver@alaska.net

Representative Bill Hudson
Alaska State Legislature
House of Representatives
Juneau AK, 99801-1182

April 28, 1999

Re: Application for Alaska Public Utility Consumer Commissioner

Dear Representative Hudson,

I have recently sent in an application for the position of Consumer Representative on the APUC. As you can see from my attached resume I have a lot of experience in different aspects of utility issues.

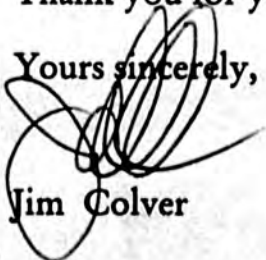
Since 1982 I have owned a civil contruction and surveying firm which has been involved in many utility projects. I am very familiar with sewer, water, solid waste, energy and communication needs and facilities. As a surveyor I am furthermore very well versed in all right of way and easement matters, having performed design surveys, right of way surveys, the writing and interpreting of utility easements etc., especially on how these affect landowners and consumers.

I have managed the development of several subdivisions, dealing with acquisition and negotiation of utility easements, communications service, and funding and entering of main extension agreements for electric and natural gas distribution. I have also coordinated the formation of local improvement districts for natural gas in the Mat-Su Borough.

I am a hardworking, enthusiastic and loyal individual, and as a lifetime Alaskan one of my major goals is to make a difference and to help make Alaska be a better place to live and work in. As a commissioner I can promise to be fair and open minded and take all different views into consideration.

Thank you for your time and consideration.

Yours sincerely,



Jim Colver

James C. Colver
P.O.Box 427
Palmer, AK 99645
ph/fax (907)746-5300
email: mjcolver@alaska.net



Statement

I am not looking for a job but I am looking for the possibility to make a difference for Alaskans in meeting the challenges of the 21st Century. With rapidly changing technology and the explosion of the internet it is important that our government enables the technological revolution to grow and prosper. However, the interests of the consumers must be looked after to ensure the very best services at the lowest possible cost. I am well prepared for such a task, having initiated utility extension projects for family owned subdivisions, which has educated me in the various intricacies of utility tariffs involving easement law, capital outlays, reimbursement policies and consumer costs. In addition my surveying and construction background has given me a broad overview of utility issues in both rural and urban Alaska.

Employment and Professional Background

Registered Professional Land Surveyor 1989, LS 7727

1996- 1999 DBA Colver Surveying, land, utility and construction surveys and consulting

1996-1997 Superintendent, Steppers Construction

1982-1996 President of Mountain Construction & Engineering, a civil construction and surveying firm

Utility Projects

1997 *Kenai Fire Training Center*, site work superintendent for Steppers Construction

1997 *Chitina HUD Apartment Project*, site work superintendent for Steppers Constr.

1997 *AT&T Wireless*, prepared site plans, and surveyed antenna sites as subcontractor

1996 *Kotzebue arctic water and sewer projects*, surveyor for McClintock & Associates

1996 *Glacier View Subd.*, commercial business park, Palmer, project surveyor and consultant

1995-1997 *Cornelius Lakeshore Subd. Ph I & II*, as owner negotiated, managed and financed utility extensions with Enstar & Matanuska Electric Association (MEA)

1994 *MEA*, performed right of way (ROW) surveys, design surveys and prepared MEA designed plans for Crystal Lake, Rainbow Lake and West Beaver Lake Distribution Lines

1994 *Government Hill Elementary, Anchorage*, replaced sewer main as general contractor

1992 *Copper Valley Electric Association*, performed ROW and design surveys, prepared CVEA designed plans involving condemnations, easements and routing for Sheep Mt Dist. Line, PhII

1991-1992 *RATNET Satellite Dishes*, assembled earth stations in 15 western Alaskan villages as a general contractor for the Department of Administration

1991 *Healy Fiber Optic*, civil construction subcontractor for Matanuska Telephone Ass. (MTA)

1985 *Palmer Phone Ducts*, surveyor for MTA

Other Projects Participated

1993 Saint George Airport, constructed road and pad for the FAA

1993 Princess Denali expansion, subcontractor for sitework

1989 Anchorage Football Stadium improvements, general contractor

1985 Conoco Milne Point, pipeline, wellsite, modular construction, crew chief for H.C. Price Co.

1985 Performing Arts Center, surveyed footing and foundation layout for Hoffman Constr.

1982 Independence Park Subd., assistant chief surveys, ROW agent for Centrum Engineering

1981 BLM surveys on Dall Island and Hobart Bay, while living in Petersburg

1980 Commercial fisherman, crewed for Bill Lindow of Cordova

1980-1981 Alcan Gas Pipeline, preliminary route survey, Fairbanks to the Canadian Border for LHD & Ass.
1977 Natural gas pipeline supply Pump 1 to Pump 4, for Houston Contracting Co.
1976 North Slope Oil Fields BP, gathering center pipeline and flare pad construction

Background Profile

- lifetime Alaskan, born Anchorage January 1, 1958
- parents: Warren C. Colver and Della E. Barry
- married to Marie-Louise N. Colver
- Mat-Su Valley resident since 1984
- Graduated West Anchorage High 1976
- University of Alaska, Anchorage 1982 A.S. Degree Surveying
- University of Alaska, Anchorage, Business, Small Business Management, Accounting
- Registered Professional Land Surveyor 1989, LS 7727
- IRWA Seminar 1992 - American/Canadian Access Issues, Alaska/Canadian Land Claims
- National Business Institute Seminar 1994 - "Major Land Use Laws in Alaska"
- AEDC Certified Septic System Installer
- IRWA Seminar 1996 - Land Appraisals
- Passed State of Alaska Residential Endorsement test 1996

Organizations

Alaska Society of Professional Land Surveyors
IRWA - International Right of Way Association
Blueliners Hockey Boosters, University of Alaska, Anchorage
Hatcher Pass Outdoors Club
Member of KSKA, KAKM

Public Service

1993-1999 Commissioner, Matanuska Susitna Borough Planning Commission
1995 AEDC Regulatory Reform Working Committee - wastewater disposal system regulations
1992-1993 Member Platting Board, Matanuska Susitna Borough
1988-1990 Chairman Local Road Service Advisory Board, Mat-Su Borough
1989 Co-chair Northeast Intertie Concerned Residents
Youth Hockey Coach - Palmer Atoms

References

Robert Shake, Branch Manager Northrim Bank	261-3309
Marcus Paine, Attorney	279-2002
Norman Levesque, former Mat-Su Borough Assembly member	376-3527