

SCOMM

88-8

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Integration of Rates and Services)
for the Provision of Communications)
by Authorized Common Carriers)
between the Contiguous States)
and Alaska, Hawaii, Puerto Rico)
and the Virgin Islands)

CC Docket No. 83-1376

COMMENTS OF ALASCOM, INC.

Of Counsel

Francis L. Young
Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, D.C. 20037
(202) 663-9080

Alan Y. Naftalin
Charles R. Naftalin

Koteen & Naftalin
1150 Connecticut Avenue, NW
Suite 1000
Washington, D.C. 20036
(202) 467-5700

Its Attorneys

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TABLE OF CONTENTS

SUMMARY	i
I. INTRODUCTION AND BACKGROUND	1
II. THE TENTATIVE RECOMMENDATION WILL NOT MEET THE JOINT BOARD'S OWN CRITERIA UNLESS MAXIMUM PROTECTION IS AFFORDED INTRASTATE CONSUMERS	8
A. The Record Thoroughly Supports the Need for Maximum Accelerated Cost Recovery	8
B. The Addition of a Transitional Credit Facility to the ACR Program Will Achieve the Joint Board's Objectives and Will Not Harm AT&T	11
C. The Proposed ACCS Access Charge Structure Must Not Be Geographically Averaged	15
III. VIRTUALLY EVERY ASPECT OF AT&T'S CB PLAN IS UNSUPPORTED BY EVIDENCE, CONTRARY TO THE RECORD, OR CONTRARY TO THE PUBLIC INTEREST	17
A. The CB Plan lacks foundation under Commission regulations	18
B. The CB Plan Lacks Foundation in Fact	23
C. Adoption of AT&T's CB Plan Would Have Destructive Effects on the Alaska Market	27
1. Attachment C, lacking any foundation in actuality, is nonsense	27
2. AT&T's Proposal Is Anticompetitive in Scope and Effect, and May be Anticompetitive in Intent, As Well	34
D. AT&T Appears Bent On A Judicial Resolution of The Proceedings	39
IV. THE JOINT SERVICES ARRANGEMENT OFFERS A SAFE HARBOR WHICH IS SUPPORTED BY THE RECORD	42
A. At this time, continuation of the JSA best supports the Joint Board's five policy goals	42
B. Continuation of the JSA Will not Promote "Inefficiency"	45
C. The JSA is and would continue to be lawful	53

V.	THE ABSENCE OF ANY REQUIREMENT FOR AN IMMEDIATE DECISION OFFERS THE JOINT BOARD AN OPPORTUNITY TO REPAIR THE RECORD IN THIS PROCEEDING	55
----	--	----

VI.	CONCLUSION	64
-----	----------------------	----

ATTACHMENT 1
ATTACHMENT 2
ATTACHMENT 3
ATTACHMENT 4
ATTACHMENT 5
ATTACHMENT 6
ATTACHMENT 7
ATTACHMENT 8
ATTACHMENT 9
ATTACHMENT 10
ATTACHMENT 11

SUMMARY

Viewed from the perspective of the Joint Board's five policy goals in this proceeding, the current Alaska market structure is a public interest success. The three primary goals of universal service, rate integration and revenue requirement neutrality have been achieved. The secondary goals of competition and efficiency also have been achieved, as is demonstrated clearly in the record of this proceeding.

Accordingly, there is no service crisis of any sort and the Joint Board should take action only on the basis it has historically endorsed: adjusting the Alaska market structure as necessary, only if such an adjustment actually promotes the Joint Board's policy guidelines. The market structure before the Joint Board which best fulfills its goals at this time, based upon the record, is continuation of the current structure and the Joint Services Arrangement, with, if the Joint Board so finds, adoption of the Alaska Revenue Cap proposal of Alascom.

The other two proposals before the Joint Board are less satisfactory, though the Tentative Recommendation is clearly superior to AT&T's ad hoc program.

AT&T's Plan is so internally and externally inconsistent with its own assertions in this proceeding, and the facts, that it is an abuse of the Commission's processes. AT&T itself has admitted that when it made its proposal, it had not developed the facts and information necessary to describe this plan accurately, that it is trying to do so now, but that it does not intend to disclose this information in the near future. Thus, there is no

substantial or credible evidence in support of this "plan," so that the only rational alternative is to reject it.

Further, if the few sketchy details provided by AT&T are scrutinized, its plan appears to be a disaster for Alaska service. Although AT&T has carefully avoided any factual discussion in the record of separations effects, it apparently intends to add enormous capital investments and expenses to the Alaska telecommunications network. These costs, easily totalling in the hundreds of millions of dollars, could cause massive (although presently undocumented by AT&T) jurisdictional cost shifts to the Alaska intrastate jurisdiction and reduce the costs savings otherwise available to ratepayers in the other 49 states. Despite this over-building, AT&T would offer no gains in reliability, improved or additional services from what can be carried now on existing facilities. AT&T has not disputed this.

The proposal described in the Tentative Recommendation reflects intense effort by the Joint Board and its staff. It does contain certain plausible adjustments to the market structure, but on balance, appears insufficiently analyzed in terms of its potential effects on Alaskan consumers. Most particularly, the goal of revenue requirement neutrality is not fully protected by this proposal. In an effort to improve the public interest benefits of the Joint Board's proposal, Alascom has suggested a Transitional Credit Facility (TCF) as an additional element of the proposed Accelerated Cost Recovery. Alascom shows that this would improve the Joint Board's plan with

respect to revenue requirement neutrality.

Unfortunately, adoption of the Joint Board's proposal would probably not end the uncertainty surrounding the Alaska question, because of AT&T's intransigence. AT&T has announced that it will not cooperate with the Joint Board, and if its proposal is implemented anyway, AT&T will likely embark upon a course of litigation against it.

Finally, this proceeding has suffered from a number of procedural irregularities. Alascom urges the Joint Board to take note of these serious problems now and remedy them. Failure to do so would render any significant action in this docket, at this time, of uncertain legality. As well, much more comprehensive, hearings in Alaska could be conducted. This would achieve results clearly desired by the public, the parties, and the Joint Board.

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COMMENTS OF ALASCOM, INC.

Alascom, Inc. ("Alascom"), by its attorneys, hereby submits its Comments in response to the Tentative Recommendation and Order Inviting Comments, FCC 93J-1 (released May 17, 1993) ("Tentative Recommendation") of the Alaska Joint Board in the above-captioned proceeding.¹

I. INTRODUCTION AND BACKGROUND

For nearly ten years, this proceeding has explored the subject of Alaskan telecommunications and the need, if any, to adjust the existing market structure of Alaskan service. The nature of that "existing market structure" has evolved during the course of this docket, from one of de facto monopoly service provisioning in both the state and interstate markets, to one of

¹The due date for comments in this proceeding was extended to July 12, 1993 in Public Notice DA 93-755 (released June 23, 1993), 58 FR 35457 (July 1, 1993): "Interested persons may also provide written testimony or other comments until July 12, 1993."

de jure and de facto competition in both. During this period, the costs of telecommunications service to consumers has declined, and the scope of service offerings has expanded. Modern facilities -- satellite, terrestrial, and undersea -- have been installed by Alascom and are available to serve Alaskans, statewide. The activity occasioning this round of pleadings does not originate in an absence of any of these accomplishments, but rather from the efforts of the parties to adjust their commercial relationships. This point should animate the Joint Board's review of the current issues, because it places that review in perspective: There is no service crisis in Alaska requiring preemptive action by the Board. To the contrary, the concerns expressed by Alaskans during the brief July 1st hearing focused upon preservation of the gains made in the past. Therefore, change, if mandated by the Board, must find other justifications, and must be consistent with the five principles previously adopted by the Board for this proceeding.

The Commission initiated this proceeding in 1983 with a Notice of Inquiry at the request of the State of Alaska ("State") and the Alaska Public Utilities Commission ("APUC") to consider the market structure and take any steps necessary to preserve rate integration in light of the dramatic changes then taking place in the telephone industry, most notably the break-up of the Bell System and replacement of the historic settlements process with LEC access charges.²

²Rate Integration Policies, 96 FCC 2d 567, 568-569 (1984).

After substantial contributions to the record by the parties, including Alascom, the State, General Communication, Inc. ("GCI") and the American Telephone and Telegraph Company ("AT&T"), in 1985 the Commission issued a Notice of Proposed Rulemaking ("NPRM") and established the Alaska Joint Board pursuant to Section 410 of the Communications Act.³ The duty charged to the Joint Board was to examine the Alaska telecommunications market and recommend structural changes, if necessary, including separations changes, in order to harmonize the policies of competition and rate integration.⁴

After further participation from the parties and submission of data, in 1989 the Joint Board adopted tentative policy guidelines for resolution and reformation, if necessary, of the Alaska market structure:

"Based on a review of the comments filed to date in this proceeding, the guidance contained in the NPRM, and a review of fundamental Commission policy established in prior proceedings, we have tentatively identified the following five objectives which we believe should guide our resolution of the issues in this proceeding-- preservation of universal service, continuation of rate integration, market based competitive entry, increased efficiency, and jurisdictional revenue requirement neutrality. The delineated order of the objectives in this discussion should not be construed to indicate prioritization of the goals by this Joint Board. In our view, a proper resolution of the issues before us must represent a balanced effort to achieve each of the goals. *In particular, we emphasize that measures to increase*

³Section 410 requires the Commission to refer issues to a Joint Board for a recommendation if changes in separations rules are considered. Referral of any other issues are discretionary.

⁴Notice of Proposed Rulemaking, FCC 85-520 (released September 27, 1985), para.14.

*efficiency and promote market based competitive entry should not be implemented at the expense of universal service, rate integration or revenue requirement neutrality."*⁵

* * *

"While it is our preliminary opinion that changes are necessary in the existing market structure for Alaska, we will carefully ensure that any recommended revisions in market structure will in fact improve the method of providing Alaska telecommunications service and promote the achievement of the objective identified in this Order."⁶

Alascom repeatedly has supported the Joint Board's five guidelines and the hierarchy of them, which the Joint Board has reaffirmed at the hearing in this proceeding on July 1, 1993.

After months of negotiation, in January 1992, AT&T and Alascom submitted their Master Agreement, and several related filings, to the Joint Board, the APUC and the FCC. The Master Agreement offered a series of compromises between the parties, the results of which would have reformed the Alaska market by terminating the JSA, permitting AT&T to establish service directly in Alaska, establish an LEC for state-wide interstate and intrastate access transport services, and resolve the contentious issues outstanding in this proceeding. The Master Agreement included mutually agreed upon mechanisms and clearly defined financial support to ensure preservation of the benefits of the Joint Board's five policy goals, including revenue

⁵Supplemental Order Inviting Comments, 4 FCC Rcd 395, 398 (1989) ("Supplemental Order"). (emphasis added)

⁶Id., p. 399.

requirement neutrality, and protection of consumers and interexchange carriers from drastic rate fluctuations. The State Members of the Alaska Joint Board, however, took exception to the Master Agreement, resulting in delay to the point of expiration of the Agreement. No action was ever taken by the full Joint Board, the full FCC or the APUC.

At present, the Joint Board has three market structures before it for consideration. They are: (1) the proposal described in the Tentative Recommendation, (2) AT&T's "Consumer Benefit Plan" ("CB Plan") and (3) the current market structure in which AT&T and Alascom jointly provide nationwide interstate MTS/WATS service under the Joint Services Arrangement ("JSA"), which they entered into voluntarily pursuant to the Joint Board's recommendation and the FCC's Order in CC Docket No. 21263,⁷ with all other carriers competing in Alaska on the same terms as those prevailing in the other 49 states.⁸

Alascom reviews each of these structures below, on the basis of the information and materials of record in this proceeding. As an additional matter, however, Alascom notes here that it has had pending before the Joint Board for some time an Alaska Revenue Cap ("ARC") proposal. This proposal, which first was submitted to the Joint Board in Alascom's Comments filed April 13, 1989 and which is described in **Attachment 1** hereto, would amend the JSA in

⁷NARUC-FCC Separations Manual, 87 FCC 2d 20 (1981); NARUC-FCC Separations Manual, 87 FCC 2d 18 (1981).

⁸As described below, Alascom has proposed a market structure amending the JSA which has not been addressed by the Joint Board.

a manner consistent with the Price Cap regulation of AT&T.⁹ This plan could be implemented now, and would demonstrably "in fact improve the method of providing Alaska telecommunications service." The ARC plan would cap Alascom's revenues, thereby providing certainty to AT&T and efficiency incentives for Alascom. In addition, ARC would reduce revenue support to Alascom over time by application of the consumer dividend and consumer price index mechanisms in the same way as applied to AT&T. As an extra efficiency incentive, not applicable in the price cap regulation of AT&T, Alascom revenues from AT&T would decline based upon traffic growth and participation by other interexchange carriers. This would further discipline Alascom's operations while spreading cost support for rural Alaska among the carriers which access it, relieving AT&T of the sole burden for such support. Alascom renews its request that ARC be considered and, if the Joint Board deems some action necessary, that the ARC plan be implemented.

Alascom's analysis with respect to the Tentative Recommendation focuses primarily on the adequacy of the amounts to be recovered under the Accelerated Cost Recovery program proposed to be established as the means for ensuring revenue requirement neutrality. Alascom retains concerns for the ultimate efficacy of this program, given the unknown nature of many of the consequences likely to flow from its adoption. Our concerns for

⁹Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873 (1989).

the program are amplified, given AT&T's increasingly hostile attitude toward any action of the Joint Board, other than that limited to termination of the JSA and implementation of the CB Plan.

AT&T's proposal is, to borrow from AT&T's most recent related filing, "preposterous." The CB Plan cannot be seriously considered because it lacks any foundation in the record and would add massive costs to Alaska service, including some to intrastate service, without material benefit. Virtually all of AT&T's assertions about its plan are either baseless or clearly wrong, and Alascom renews its request that AT&T's filings be found to be an abuse of the Commission's processes.

The current market structure, in Alascom's view, represents a clear safe harbor, affording the Joint Board further opportunity to examine the current issues without penalty to or imposition upon the consumers of Alaska. As noted above and hereinafter, the JSA has served Alaskans well by achieving universal service and rate integration, admitting of the introduction of competition into both interstate and intrastate marketplaces, and promoting the introduction of new technology. Both the Joint Board's Tentative Recommendation and the CB Plan would cause significant revenue requirements shifts to the Alaskan intrastate jurisdiction. There is no evidence that either proposal would improve the conditions of universal service or rate integration for Alaska, both of which are accomplished facts because of the JSA.

Given the existence of competition in the marketplace, retention of the JSA would neither favor efficiency and competition "at the expense of" the fundamental goals of universal service, rate integration and revenue requirement neutrality¹⁰, nor deprive Alaskans of the benefits of such competition and efficiency. In light of the concern expressed for preserving past gains, selection of this alternative would be eminently consistent with the public interest.

II. THE TENTATIVE RECOMMENDATION WILL NOT MEET THE JOINT BOARD'S OWN CRITERIA UNLESS MAXIMUM PROTECTION IS AFFORDED INTRASTATE CONSUMERS.

A. The Record Thoroughly Supports the Need for Maximum Accelerated Cost Recovery.

In its Implementation Response of June 7th, 1993, Alascom submitted a detailed, supported analysis of the effects which the Joint Board's Tentative Recommendation -- and particularly the proposed Accelerated Cost Recovery (ACR) element -- would have on intrastate costs. Its Case A and Case B displays depicted cost effects for an ACR program at \$150 million and \$221 million over a three-year period. In the filings made on June 28, no party supplied the Joint Board with a contrary analysis or otherwise demonstrated that no jurisdictional impact would occur in the absence of such an accelerated recovery program.

Given the evidence of record and the findings already made

¹⁰The interstate MTS/WATS service provided under the JSA faces competition with a market share in Alaska which is quite similar to the nationwide share.

to date, the Joint Board is faced with the legal and practical necessity for either ensuring an adequate level of accelerated cost recovery, or abandoning its Tentative Recommendation in favor of a new basis of resolution. As a matter of fact, the need for rate protection has been re-established as recently as July 1st, in the testimony of the majority of witnesses participating in the Joint Board's teleconferenced hearings. Excerpts of testimony relevant to this point appear at **Attachment 2**, and are fairly summarized by the remarks of Ms. Julie Kitka, President of the Alaskan Federation of Natives:

"In the past, it was radio. In the past we had to make do with what limited communications we had. So communications is really integrated into the rural areas and we are hopeful that communications can be of benefit to our people, both in the health care system to provide better and faster access to doctors and diagnosis of conditions; because the size of our communities are too small to ever have the critical mass where you'd have these professionals in the medical field to be ever able to live there. They're just too small -- not a large enough group....

[W]e don't want to be shut out for reasons of not being able to afford it [telecommunications service] and the issue of our remoteness and lack of critical mass means it's not a profitable environment for a business that the bottom line is their number one objective." (Hearing Transcript, p. 31)

The needs of the Alaskan people, for whose benefit this exercise is being conducted, deserve and require the fullest assurance practicable that what the Joint Board does will not increase the costs of their telecommunications service. As Mr. Ron Duncan, President of GCI, observed:

"If the Joint Board has any doubt whatsoever that telecommunications is absolutely vital to the residents of both urban and rural Alaska and that price increases

for telecommunications would adversely, seriously affect the economy of this state, then perhaps further hearings in Alaska would be warranted, because I think it certainly would be impressed upon the members of the Joint Board how near and dear the residents of Alaska hold their telephone service." (Hearing Transcript, pp. 71-72).

As a matter of law, this body has already issued orders, beginning with its 1989 Supplemental Order, recognizing the need to avoid resolution of interstate market structure questions at the expense of intrastate consumers. Most recently, the Tentative Recommendation reasserted the pivotal role which revenue requirement neutrality occupies in sustaining the structure now being considered by the Joint Board:

"Without an acceptable solution to the accelerated cost recovery issue, it is unlikely that the Joint Board's five goals can be achieved. In that eventuality, this Joint Board is unlikely to recommend a termination of the JSA with the other terms and conditions that have been previously described in this order." (Tentative Recommendation, p. 25)

The Joint Board is not permitted to ignore its own record, or to "cut cards" and to broker a compromise solution among the parties:

"The Commission's [FCC] articulation of its grounds is not adequately reasoned. Key concepts are left unexplained, key evidence is overlooked, arguments that formerly persuaded the Commission and that time has only strengthened are ignored, contradictions within and among Commission decisions are passed over in silence. The impression created is of unprincipled compromises of Rube Goldberg complexity among contending interest groups viewed merely as clamoring supplicants who have somehow to be conciliated." ¹¹

¹¹Schurz Communications, Inc. v. FCC, 982 F 2d 1043, 1050 (7th Cir. 1992) (emphasis added).

The ACR element, therefore, must be an all or nothing proposition -- legally, in order to sustain its order from the legal assault clearly being telegraphed by AT&T; and factually, to have the ameliorative effects on Alaskans consumers which the Joint Board's words and actions to date have repeatedly promised.

B. The Addition of a Transitional Credit Facility to the ACR Program Will Achieve the Joint Board's Objectives and Will Not Harm AT&T.

In his testimony before the Joint Board on July 1, 1993, Mr. Wilcox (AT&T's general manager for Alaska) alluded to discussions he had with members of the Joint Board concerning the concept of prepaid expenses as an element of the transitional mechanism proposed in the Tentative Recommendation. He stated:

"Well, what we did commit to and we are still trying to find out is there a way that an accelerated cost recovery plan can be kind of like a Framm oil filter deal, we make more now and we get it back later. And we've studied and studied and studied. We've had people staying up all hours of the night trying to figure out a way that an accelerated cost recovery can be an investment. As I think Commissioner Knowles put it to us, can't this be an investment for AT&T, get their plan written down and recover it in lower costs in the future, and so far, we've not been able to come up with any way that that could be true. If we find one, we'll submit it." (Emphasis added) (Hearing Transcript, p. 80).

Double dipping -- "making more now and getting it back later" -- is both unlikely and, certainly, undesirable from every point of view but AT&T's. To the extent this is the true focus of AT&T's review, one would expect trouble in formulating an analysis.

But to the extent a single recovery is sought, the idea has great merit. It provides a means of moderating future, potentially unilateral decisions by AT&T to abandon Alascom's network, which actions would engender the "abandonment shift" of revenue requirements to the intrastate jurisdiction previously of great concern to the parties and to the Joint Board.

Conceptually, a prepayment by AT&T of a defined amount to Alascom, to be credited on the books of Alascom, would be utilized by Alascom as an offset to future revenue requirements. This, in turn, would lead to reduce costs of service and lower rates for both interstate and intrastate services. To the extent AT&T chose to continue using Alascom's system, it would recover substantial portions of the prepayment in the form of service cost savings deriving from those lowered rates.

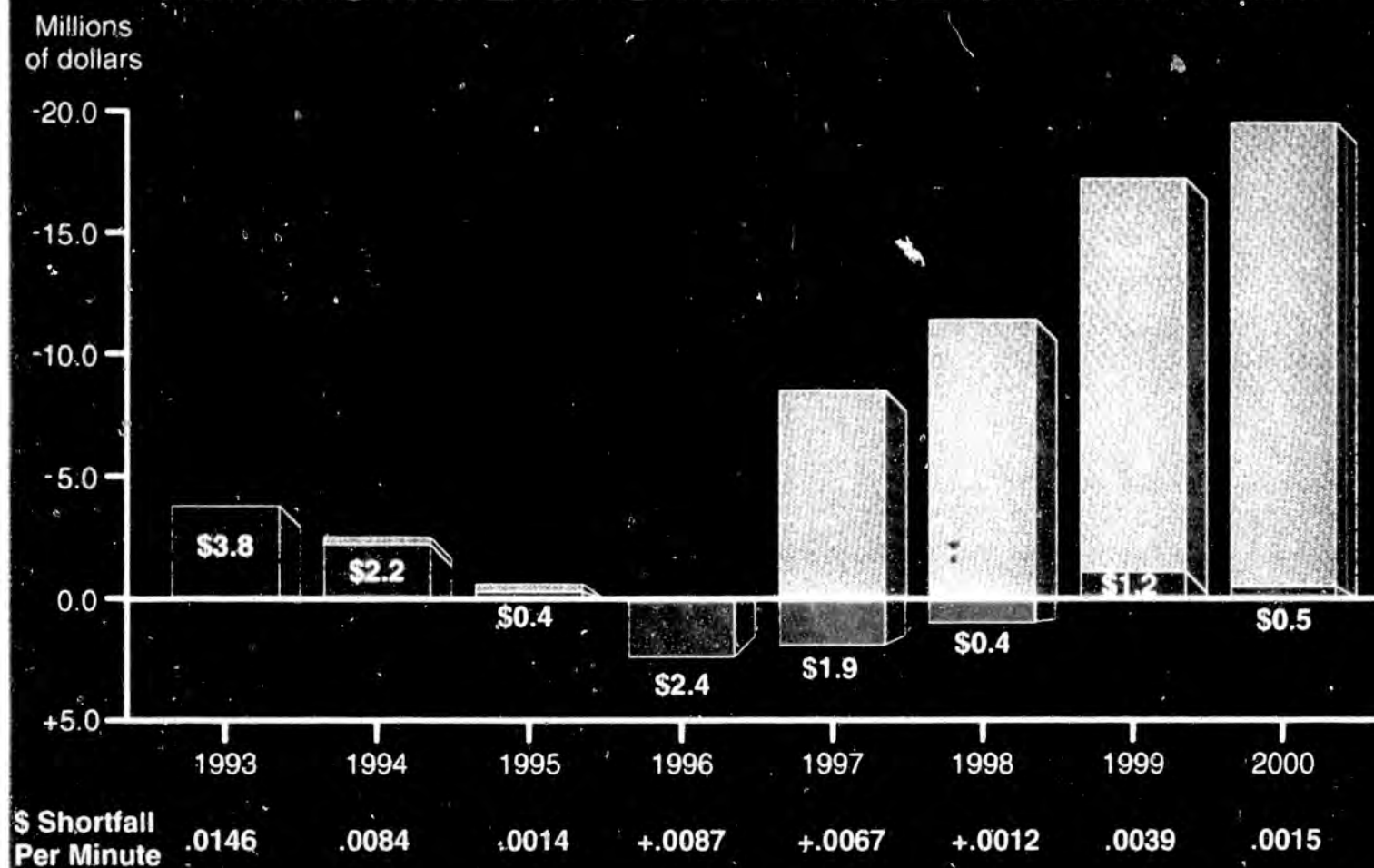
Upon analysis, Alascom has determined that, in addition to the \$221 million of capital and long-term related cost recovery items described in its June 7 filing, the implementation of a Transitional Credit Facility (TCF) in the amount of \$72 million would carry this concept into practical reality. This amount would be collected in three installments, of \$24 million each, during the initial three-year phase of the Tentative Recommendation's program (under which the JSA continues in effect). Alascom would be required to record and to isolate this credit on its books. During the subsequent four-year period prescribed in the Tentative Recommendation, during which AT&T would be permitted to remove its traffic from the Alascom system

in 20% increments, Alascom would be required to amortize the TCF in equal installments each year, recognizing the amortized amount as an offset to operating expense and adjusting its revenue requirement accordingly.

Case C, depicted in **Exhibit A** (next), portrays the effects on intrastate revenue shortfalls under an ACR program composed of both long-term cost recovery and TCF elements. The same analytical approach employed in the previous Case A and B analyses is followed here; the pink shaded areas represent the comparative levels of Case A, a \$150 million ACR program, only. With the addition of a prepaid expense element, the ACR program plainly achieves the goals intended by the Joint Board. Indeed, Alascom projects an intrastate rate decrease in 1997 and thereafter of approximately 3%.

While this analysis remains sensitive to fluctuations in Alaskan traffic volume growth, which appear to be slowing materially relative to historic patterns, an ACR program constructed in this fashion offers the realistic probability that the Joint Board's decision will not lead to unanticipated and unintended trouble for Alaskan consumers. The structure and composition of the program conform to the Joint Board's concept that "[o]ur principal reason for imposing this obligation on AT&T relates to universal service and jurisdictional revenue requirement neutrality, and not protection of Alascom against the effects of competition." (Tentative Recommendation, p. 26, n. 83). Alascom presumes that specific accounting attributions and

CASE C INTRASTATE MTS REVENUE SHORTFALL



treatments will be made to the FCC each year, following existing accounting conventions and requirements applicable to accelerated recovery in each particular instance.

The effects on the parties, Alascom and AT&T, are essentially neutral. Exhibit B compares Alascom's net-income-to-gross-revenue ratios for the period 1979-1992 (the historical actual results of operations) and the period 1993-2000 (the projected seven-year transition period of the ACR program). As can be seen, implementation of this proposal produces no windfall for Alascom's shareholders. The projected ratio of average net income for the next seven years, at 8.4% of averaged gross revenues, is in fact considerably less than that achieved by the company in the past (12.9%).

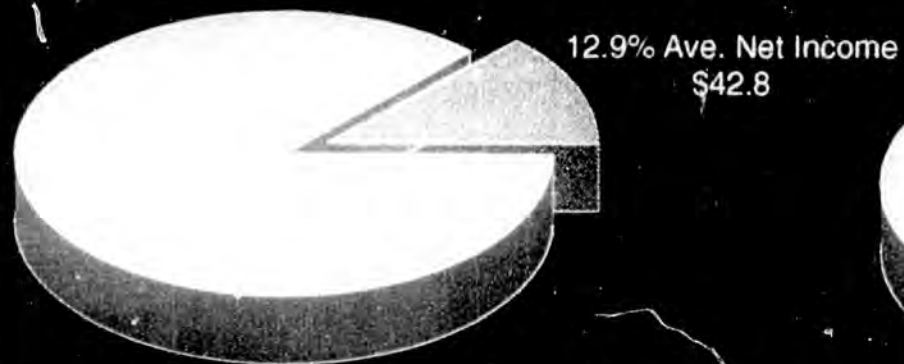
With respect to AT&T, we note that AT&T's pointed refusal of any commitment to building a comprehensive network in Alaska, particularly where service to the Bush is concerned, necessarily means it has to use Alascom's facilities into the indefinite future, in any event. Accordingly, AT&T will be a primary beneficiary of this program, and can control the amount it recovers by the amount of traffic it maintains on the system.

Based upon available information, Alascom believes that utilization by AT&T of the Alascom network during the four-year scale-down phase, at projected current levels of usage, will return a minimum of \$25 to \$30 million to AT&T in terms of reduced interstate access charges. Intrastate savings, in terms of reductions to Alascom's intrastate wholesale rates, will also

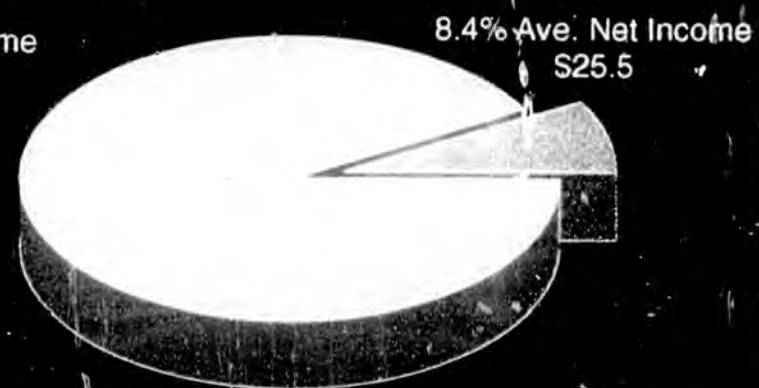
ALASCOM, INC. NET INCOME AS A PERCENTAGE OF GROSS REVENUES

(\$ in millions)

1979 - 1992



1993 - 2000



All above amounts are average annual amounts during the identified periods

accrue to AT&T. Since, however, AT&T is unable to provide any information concerning its projected intrastate business, the exact level of such savings cannot be presently calculated. To Alascom's knowledge, AT&T has already charged off more than \$300 million in connection with the Master Agreement, under which it was willing to expend \$330 million over a five-year period to terminate the JSA. The combined ACR program proposed here is well within the zone previously contemplated by AT&T for achieving a restructured Alaska market and ending the relationship with Alascom.

An ACR recovery set at \$221 million, with an additional prepaid credit of \$72 million, establishes a level of recovery which will achieve the goals of revenue requirement neutrality established in the 1989 Supplemental Order and reaffirmed in the May 17, 1993, Tentative Recommendation. It is clear that such a program does not harm AT&T, and does protect Alaskan consumers. Nothing less than this, as a question of law or fact, will do, particularly given AT&T's apparent intention to pursue litigation of any Joint Board order. The safest course, for both the Joint Board and consumers, is to establish a program based on the evidence of record. The program recommended and supported here satisfies the goals of the Joint Board in a manner which protects consumers, and neither favors nor harms either company.

C. The Proposed ACCS Access Charge Structure Must Not Be Geographically Averaged.

In its Implementation Plan response of June 7th, Alascom

noted that the Tentative Recommendation's proposal to require geographically averaged ACCS (Alascom Common Carrier Services) charges was contrary to the related goals of the Joint Board. Alascom referred to the work previously undertaken by the APUC in studying similar issues with respect to intrastate rates.

Attachment 3 hereto describes the source of the APUC's decision against requiring or permitting geographic averaging in the contexts of intrastate interexchange access and wholesale charges. This Attachment summarizes the work done by the APUC and its consultants over several years, and reflects the particulars of that analysis, as well as the source documents available in the APUC public record, should the Joint Board wish to examine the matter further.

This APUC-analysis, in sum, confirms Alascom's prior concerns that averaged ACCS charges, as proposed in the Tentative Recommendation, will promote selective bypass of Alascom's network, with the attendant potential for presenting "risks to the price and quality of service to rural areas of Alaska" which the APUC noted in its study, above. This consequence, manifestly, would be contrary to the Joint Board's goals and is unnecessary to address the concerns expressed by certain of the parties regarding the potential for future cost misallocation.

In its Comments of June 28th, the State of Alaska also expressed its support for Alascom's position against averaged ACCS charges, stating:

"The problem with the geographic averaging requirement, however, is that the costs of

serving the different areas of the State are not equal. Geographic averaging will force Alascom to charge other carriers more for transport and switching on higher volume routes than is required by the costs of providing those services on those routes. This pricing arrangement will likely decrease the total amount of traffic placed on Alascom's network, which would reduce its relative efficiency and place upward pressures on Alascom's rates." (Comments, p.7)

This statement is confirmed by the APUC's prior analysis. Collectively, the findings of the APUC and the position of the State fully support Alascom's position that averaged access charges of the kind described in the Tentative Recommendation will detract from, rather than promote, the ends sought by the Joint Board and would prove materially injurious to Alascom's future operations.

III. VIRTUALLY EVERY ASPECT OF AT&T'S CB PLAN IS UNSUPPORTED BY EVIDENCE, CONTRARY TO THE RECORD, OR CONTRARY TO THE PUBLIC INTEREST.

In the Tentative Recommendation, the Joint Board invited comments concerning AT&T's CB Plan, described in a pair of concurrent filings -- AT&T's Petition to Terminate the Joint Service Arrangement ("Petition to Terminate") and AT&T's Section 214 Application to construct an Alaska network, File No. W-P-C-6861 ("Application"), both filed on March 31, 1993 and addressed in AT&T's Comments of June 28.

The CB Plan is the Flying Dutchman of this proceeding: spectral, without form or substance. It changes shape without

reason or explanation (yesterday, a \$200 million capital plan; today a \$220 million capital plan), and dematerializes at the whim of its creator, AT&T (private line service will be provided as AT&T sees fit, not as the public desires).¹² Every fact essential to the consideration of its plan, or necessary to the lawful implementation of it, has been withheld by or is unknown to AT&T. To the extent that AT&T has provided sketchy details or vague suggestions, the CB Plan appears to be a public interest disaster for Alaskans, and contrary to the standards articulated by the Joint Board in this proceeding.

A. The CB Plan lacks foundation under Commission regulations.

Virtually every party responding to AT&T's Application noted the substantial absence of material information required under the Commission's regulations. As AT&T itself has admitted:

"AT&T cannot provide the specific detail called for by Section 63.01 of the Commission's Rules." (Application, p.6)

On June 25, 1993, Alascom filed its Petition to Deny that Application, copies of which also were filed in the instant proceeding on June 28, 1993.¹³ The Petition to Deny demonstrates conclusively that AT&T's Application must be denied as insufficient, contrary to the public interest, and an abuse of the Commission's processes:

¹²AT&T's Comments, p. 10 note 14.

¹³For convenience, a copy of that Petition to Deny is Attachment 4 hereto.

1. It is patently insufficient pursuant to the Commission's Rules for 214 applications to permit any decision to be made, a fact admitted by AT&T, because it lacks virtually all information necessary for the Commission even to consider it.
2. To the extent that AT&T's proposal can be deciphered, it would provide no meaningful benefits and in all probability would prove extremely harmful to the public interest, particularly for rural Alaskans.
3. The Application fails to comply with stated FCC requirements set forth in granting AT&T's Blanket 214 Authorization in August 1992.
4. The only facility which is even vaguely described by AT&T (the undersea cable) cannot be considered reliable or appropriate for Alaska service because it has never been deployed for commercial service and could offer no material service improvements.
5. The facilities proposed by AT&T would be duplicative without reasonable purpose, causing unnecessary burdens to AT&T's ratepayers.
6. The absence of substance suggests the Application was filed to influence the Alaska Joint Board proceeding, and as such, constitutes an abuse of the Commission's processes.

Alascom also calls the Joint Board's attention to Attachment A to its Petition to Deny, the Declaration of Philip J. Freedenberg, an independent expert in the fields of fiber optic communications and engineering economics. After examination of AT&T's Application and its Petition to Terminate, Mr. Freedenberg concluded that:

There is no justification for AT&T's claim that its proposed system "transcend[s] the limitations of the Alaska Spur"¹⁴

¹⁴Mr. Freedenberg explains that the Alaska Spur is technically capable of carrying all services offered by AT&T and that the cable proposed by AT&T would not support any new or improved services different from what the Alaska Spur can provide.

AT&T has not shown that its proposal would constitute a cost effective method of providing telecommunications services to Alaska

There is no justification for AT&T's derogatory insinuation of technical problems in the Alaska Spur

There is no basis for AT&T's claims that its undersea signal repeaters are more reliable than conventional repeaters¹⁵

The channel capacity of AT&T's proposed cable, which would far exceed demand levels, is neither warranted nor desirable; given AT&T's financial strength, emplacing this much capacity could position AT&T to dominate interstate service provision to and from Alaska

AT&T's Consumer Benefit Plan, as described, is unlikely to benefit the Alaskan consumer.

In the Petition to Deny, Alascom urged the Joint Board to find AT&T's Application an abuse of process because it clearly was designed to mislead, offered representations both internally inconsistent and grossly inconsistent with representations offered previously to the Joint Board, flagrantly omitted required information, and could only be intended to influence the instant proceeding improperly.

On July 6, 1993, AT&T responded to Alascom's Petition to Deny with a "Reply." In that Reply, AT&T failed to refute essentially all of Alascom's assertions, conceding or tacitly admitting that:

AT&T has subjected the Joint Board to inconsistencies and misrepresentations;

AT&T's proposed cable would not offer any material

¹⁵The optical technology AT&T proposes has never been deployed commercially, and therefore is experimental in nature with no publicly available reliability history.

improvements in quality or services, compared to the Alaska Spur;

The technology proposed for the AT&T cable exists only in a "test-bed", has never been deployed commercially, and will not be commercially deployed for at least another two years; and

Even if its projections are achieved, the bulk of AT&T's cable capacity will sit idle well into the future.

With an amazing persistence, AT&T nonetheless continues its attempts to turn this regulatory vice into a virtue. In its Reply of July 6, 1993, AT&T states, without apparent embarrassment:

"Since its initial filing in March, AT&T has committed over \$1.5 million and over 20 people to define the exact scope of its Alaska Network and to gather the details necessary to provide the specific information required under the Commission's Rules. AT&T will file such data with the Commission as soon as it is complete and, in all events, in time to ensure prompt implementation of the Consumer Benefit Plan." (Reply, p. 4, n. 7).

The arrogance, even by AT&T standards, is considerable. First, this is an express admission that AT&T had no idea what the facts were at the time it made its initial Application on March 31, 1993. This, alone, violates Commission standards pertaining to good faith and accuracy in the representations made to the Commission by applicants.

Second, the statement confirms that AT&T still doesn't know "the specific information required under the Commission's Rules." There is no factual basis presented, therefore, upon which any action other than dismissal of the Application could be predicated.

Finally, AT&T apparently doesn't intend to enlighten the Commission until it decides the information required "is complete". If these "20 people" are the same ones referred to by Mr. Wilcox, "staying up all hours of the night" avoiding a cost/benefit analysis of the ACR program, we shall have a long wait, indeed.

The a priorism at work here has the matter exactly backwards. AT&T wishes the adoption of its consumer benefit plan; then it will provide the factual specifics which would warrant and justify that adoption. This cannot be done, consistent with applicable law and regulation. That AT&T's Application and allied CB Plan lack any regulatory basis under the Commission's rules, and thus cannot be approved, is not merely true; it is, judging by AT&T's Reply, deliberate. Alascom renews its request that the Joint Board find the Application an abuse of process.¹⁶

¹⁶At the hearings held July 1, 1993, Commissioner Miller called upon AT&T to explain its failure to comply with Paragraph 84 of the Tentative Recommendation. Mr. Wilcox responded that "You asked us to jointly or singly with Alascom come up with a voluntary accelerated cost reduction plan and we're not going to do a voluntary plan." (Hearing Transcript, P. 79). In fact, Ordering Paragraph 84 states:

"84. This tentative recommendation and order requesting comments is intended to present, and seek comments on, the Joint Board's tentative recommendation on how to resolve the outstanding issues in this proceeding and provide a new interstate market structure for Alaska that is consistent with the objectives previously identified by this Joint Board. Accordingly, we require that AT&T and Alascom submit either a joint or separate detailed plan(s) describing how they would implement the proposed market structure specified in this

(continued...)

B. The CB Plan Lacks Foundation in Fact.

In its quest to provide a factual rationale for the structure comprehended by its Petition to Terminate and its Application, AT&T has already tried out, and discarded, any number of glib theories. The more interesting of these, and the countervailing considerations upon which they foundered, include:

- (a) The asserted need to provide all AT&T services to Alaska -- This fails in light of AT&T's own prior admission that all but two of such services are

¹⁶(...continued)

tentative recommendation on or before June 7, 1993."

The antecedent reference in the discussion part of the Tentative Recommendation stated:

"73. In light of the considerations raised in this section, it is evident that some direct methods to reduce Alascom's costs of operation through accelerated cost recovery must be an integral part of any transition to a new market structure. Accordingly, we direct AT&T and Alascom to provide either joint or separate implementation plan(s) discussing methodologies that might be employed to resolve this issue in a way that satisfies the concerns set forth above [footnote omitted]."

The only reference to voluntary action by either AT&T or Alascom occurs in Paragraph 72 of the Tentative Recommendation, in the context of a proposal "to reduce the value of its [Alascom's] regulated telecommunications common carrier assets [footnote omitted] in exchange for a lump sum payment, or series of payments."

The ordering paragraphs are quite clear that AT&T was to provide either a joint or separate implementation plan. As the record indicates, AT&T refused to discuss a joint plan with Alascom, which it may have been free to do. But it was not free to refuse to file a separate plan. Commissioner Miller was quite correct on this point: AT&T ignored the Joint Board's order, and should be sanctioned accordingly.

provided under the JSA, and by AT&T's admission that it will not, in any event, provide all private lines services to Alaska as provided elsewhere in the nation.

- (b) The asserted need for facilities to meet future traffic projections -- AT&T's projections are wholly unsupported, contradicted by its own statements, and contrary to the historical volumes experienced in Alaska. In this proceeding, for example, AT&T has projected:

A 6.8% annual circuit growth for Alaska (January, 1993);¹⁷

A 20.9% annual circuit growth for Alaska (March, 1993);¹⁸ and

An approximate 3% annual traffic growth for Alaska (June, 1993).¹⁹

But, as known to AT&T, the actual growth rate in circuits was 4.8% for Alaska.²⁰

- (c) The asserted need to salvage market share -- This rational is contravened by the fact that Alascom's

¹⁷Joint Application, P. 11. This projected circuit growth for Alaska. See Petition to Deny, pp. 16-21.

¹⁸Application, p.7. This also projected circuit growth. See Petition to Deny, pp. 16-21.

¹⁹AT&T's Comments, Attachment C. This projects minute growth for Alaska.

²⁰This represents the average, actual annual growth in circuits for Alaska for 1985 through 1992. See Petition to Deny, supra.

current interstate market share of about 68.5% (southbound, year-end 1992), while showing the effects of GCI's marketing skills, is yet well-above AT&T's marketshare of 60% (national, year-end 1992).

- (d) The allegation that AT&T has already paid for the network -- A rational apparently abandoned in light of Alascom's showing that AT&T has invested nothing in Alaska, has paid only for the use of Alaska's system, and actually hasn't paid anything for that use, since AT&T's customers factually use and pay for the network. This assertion also fails in light of the Joint Board's previous findings that AT&T "has not provided sufficient evidence that it has been significantly harmed in any way by nationwide rate averaging" and that it has been "fully compensated for the losses it experiences in the Alaska market through the rate averaging process" (Supplemental Order, 4 FCC Rcd 395, 410, n. 39 (1989)).
- (e) The proposed benefit of lower rates for bands 11 and 12 -- Alascom filed a mirror application under the JSA in early April to implement this benefit immediately, for which approval of the CB Plan is not required, and which AT&T continues to refuse to initiate for the benefit of Alaskan consumers.
- (f) The assertion that the Alaska Spur is "full" -- This allegation was first tossed out in

the July 1 hearings. Usage on the Alaska Spur is heavy, but on an uncompressed basis, this allegation will not become accurate until about mid-1994. At that time, compression will be one of several means considered for addressing any increased traffic growth, then and thereafter. However, moderate compression (at or below 3-to-1) of portions of Alascom's traffic in stages will provide service at levels meeting or exceeding applicable regulatory and engineering standards until at least the year 2002. On January 5, 1990, AT&T filed comments before the Commission and in this proceeding urging that Alascom be required to compress traffic on the Alaska Spur at a ratio of 3-to-1. (A copy of that filing is **Attachment 5** hereto.) AT&T delayed Alascom's acquisition of the Alaska Spur and the improved provision of services to the Alaskan public on it, in an effort to require 3-to-1 compression in order to save AT&T money. It can scarcely use this as a justification for a duplicative facility, at a cost 2.5 times that of Alascom.

Undoubtedly, there will be more such assertions. In no instance, however, has AT&T produced anything other than the rhetoric of

its lawyers in support of such theories, suggesting the continuing absence of a factual basis for the course it is insisting upon.

C. Adoption of AT&T's CB Plan Would Have Destructive Effects on the Alaska Market.

In its June 7th filing, Alascom noted the extent to which AT&T's proposed entry into the Alaska marketplace would exacerbate the cost of service problem which lies at the basis of this entire proceeding. As shown there, AT&T would increase the service cost substantially, per access line and per Alaskan, to extreme levels, while adding no new significant revenues to offset this newly created cost burden.

In an apparent attempt to offset this showing, AT&T supplied "Attachment C" to its Comments of June 28, 1993. A review of this exhibit demonstrates that AT&T is right in one basic matter: it has no idea what its service plan for Alaska really means, either for Alaska or itself.

1. Attachment C, lacking any foundation in actuality, is nonsense.

Attachment C purports to demonstrate that AT&T's entry into Alaska can be sustained by the marketplace; that there is not a crowd when it comes to Alaskan service. The linchpin of this analysis is contained in the fourth assumption underlying Attachment C:

- (iv) In the industry structure the expense to revenue ratio is assumed to be 85%.

Alascom reasonably asks: Why? Why assume the particular figure of 85%? Indeed, why assume any figure at all, when Alaska cost of service data are available to AT&T by the truckload?

Addressing the first question, Alascom has performed an analysis in **Attachment 6** duplicating that of Attachment C, but instead utilizing an expense to revenue ratio of 25% (why ask why?). As will be seen, a much improved market structure results. Indeed, based upon this analysis, the Alaska marketplace must be one of the richest, most profitable areas of commerce in the increasingly large free world.

But it isn't, as everyone except AT&T seems to know.

So either the world is wrong, or AT&T is wrong. When present and historic reality are consulted, it becomes apparent that Alaskan telecommunications did not come into being as a result of vast, untapped reservoirs of profits (that was the oil industry). The very existence and complexity of this proceeding demonstrate that Alaska is not a capitalist's cornucopia of telecommunications profits. Even AT&T itself spent the bulk of the last ten years (until about two weeks ago) asserting two points: (a) it is losing money, anywhere from \$40 to \$90 million each year, on Alaskan service, and (b) it is unlawful to force AT&T to lose that money. So how did the Alaska marketplace suddenly become so profitable it could accommodate three competitors?

Not on the basis of cost savings to AT&T under the CB Plan. AT&T purposefully fails to provide any showing of cost savings

associated with their CB Plan, sufficient to warrant application of this 85% factor. That they cannot make this showing is confessed, because 20 people, at a cost of \$1.5 million (presumably not to be included in this calculation), are still trying to figure out what AT&T's plan actually is. If AT&T doesn't know what AT&T intends to do, or how it intends to do it, how then can AT&T assay the cost and revenue consequences of the doing. This juxtaposition of admissions should be sufficient, in and of itself, to completely discredit AT&T's position here.

If Alaskan service has not been overly profitable for two carriers, as a matter of historical record, and if AT&T cannot show any future source of such profitability, then it appears likely that this sudden bonanza which Attachment C ascribes to Alaskan service is merely an arithmetic consequence of assuming that expenses are to be 85% of revenues.

If the Ford Motor Company had automatically enjoyed costs equal to 85% of its revenues, then the Edsel would have been a great business success. If the United States automatically enjoyed expenditures equal to 85% of its tax intake, President Clinton's re-election would be assured today. This is pure fantasy, offered as analysis by AT&T because it is the only way in which AT&T can make its argument work.

In confirmation of this point, Alascom has examined Attachment C and Assumption (iv) in the light, not of its experience -- which AT&T would say is skewed by the JSA -- but rather of GCI's experience. Alascom is confident GCI would

assert its historic efficiency in the Alaska market, and thus GCI's experience provides a factual, demonstrable basis for examining cost and revenue ratios under actual competitive circumstances. Utilizing that experience, an observer can easily conclude that Attachment C is nonsense, in the real world.

As derived from its public filings, GCI's gross revenues and cost of service for the years 1990 through 1992 are depicted in **Exhibit C**. These show the narrow margins available from Alaskan service, and are confirmed by GCI's profitability levels, also depicted in this Exhibit. Two additional factors make the use of GCI's experience as the basis of analysis a very conservative one. First, GCI has not been required to serve and has not in fact invested throughout the state, particularly in the rural service areas where expense-to-revenue ratios are severely negative. Consequently, the expense-to-revenue ratio for GCI is probably more favorable than any ratio incorporating the effects of statewide service (required by the precept of universal service).

Second, for a number of years, GCI enjoyed a cost subsidy from AT&T in the form of free circuit terminations in the lower-48 for major portions of its traffic. That subsidy recently ended, but would have operated to reduce reported GCI expenses associated with interstate services in the periods used for this analysis. This, also, would tend to improve the expense-to-revenue ratio.

Even with this additional analytical margin, AT&T's analysis

GENERAL COMMUNICATION, INC. 'AND SUBSIDIARIES

(\$ in thousands)

	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>3 Year Total</u>
Operating Revenues	\$96,499	\$75,522	\$63,385	\$235,406
Cost of Sales and Operating Cost and Expenses	<u>\$91,230</u>	<u>\$73,965</u>	<u>\$60,023</u>	<u>\$225,218</u>
Operating Income	<u>\$5,269</u>	<u>\$1,557</u>	<u>\$3,362</u>	<u>\$10,188</u>
Ratio of Expenses to Revenues	<u>94.5%</u>	<u>97.9%</u>	<u>94.7%</u>	<u>95.7%</u>

Above amounts reported in General Communication, Inc.
1992 Annual Report on Form 10K to the SEC

fails conclusively. Using GCI's expense-to-revenue ratio of 5.7%, Alascom has rerun AT&T's Attachment C analysis, set out in the same level of detail as AT&T's, at Attachment 7. As is apparent, the Alaska marketplace is incapable of sustaining three active competitors. With the introduction of but one factor drawn from reality, AT&T's purported return to the "industry" drops to less than 3.5%, averaged for the ten-year period. Even if such a positive return materialized, a return at this level would not make Alaska a market to be fought over. To the contrary, such a return would either serve to divert future investment to more profitable markets, or promote bypass of less profitable service areas in Alaska (namely, the Bush), or both.

And even this de minimis return will not, in fact, materialize. AT&T's proposed total "industry" operating expense figure for 1994 is \$23.0 million. As Exhibit D confirms, this is a grossly understated projection. Actual operating expenses for GCI and Alascom for 1992, grown at 3% per year to 1994, would total \$390.2 million. AT&T's estimate is \$67 million short, in the first year of its analysis. Implausibly, Attachment C further reflects no operating expenses for AT&T, even though in 1994 it will have a projected invested base of \$44.2 million and will have an additional \$49 million invested during that year. Apparently, AT&T does not intend to operate this investment.

Considering these factors, AT&T's Attachment C manifestly understates operating expenses in the first year of its analysis by at least \$70 million, as depicted in Exhibit D. Recognition of

ANALYSIS OF ALASKA TELECOMMUNICATIONS INDUSTRY OPERATING EXPENSES IN 1994

(\$ in thousands)

ALASCOM's 1994 Projected Operating Expenses *	\$293,366
GCI's 1994 Projected Cost of Sales and Operating Expenses *	<u>96,786</u>
	390,152
ATT's 1994 Depreciation Expense **	2,400
	<u>392,552</u>
1994 Industry Operating Expenses Estimated by ATT **	<u>323,010</u>
Unexplained Cost / Expense Reductions	<u><u>\$ 69,542</u></u>

* Based upon 1992 actual amounts publicly reported and grown by 3 percent per year to reflect minute growth and the effects of inflation

** Per AT&T Attachment C

this amount not only wipes away all profit in 1994's projection, but results in a substantial negative return. This negative result could be expected to cascade through the analysis of the subsequent nine years.

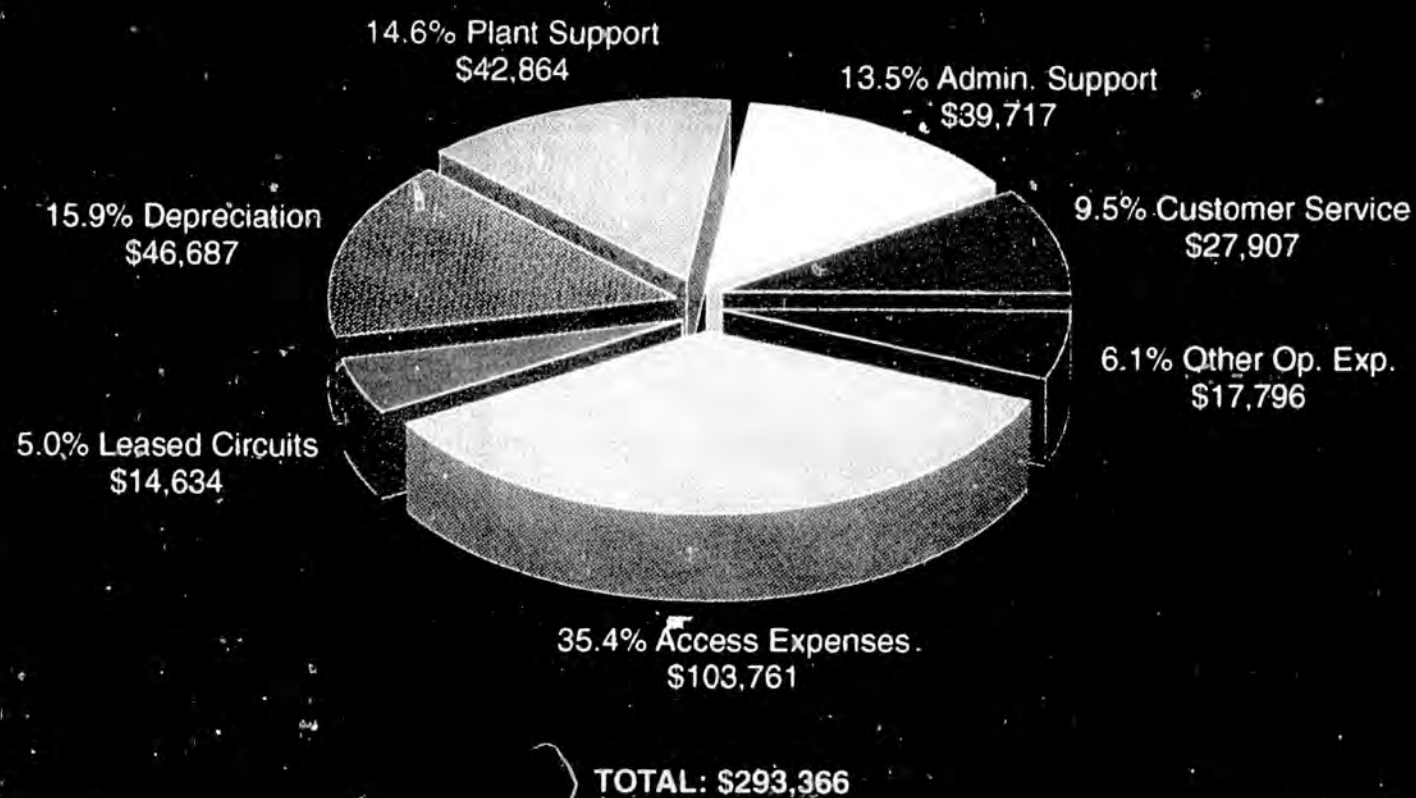
AT&T might seek to argue that historic expense levels are an invalid basis of measurement, because its entry will force existing competitors into a more efficient mode of operation. In part, this reflects the "incentives for inefficiency" argument which is addressed hereinafter, and which the Tentative Recommendation has substantially neutralized by its recognition of the prudence of Alascom's prior investment. To a larger degree, this argument ignores the factual existence of competition in Alaska for several years, and particularly the actual experience of GCI in the Alaska market. With a 95.7% expense-to-revenue ratio, GCI has nowhere to go in terms of further efficiency and still make money.

Perhaps AT&T believes the presumptive expense "slack" in the market -- nearly \$70 million in 1994, based upon **Exhibit D** -- should be taken out of Alascom operations. An examination of Alascom's operating expenses belies this notion.

Exhibit E displays the composition, by dollar amount and percentage, of Alascom's projected 1994 operating expenses. To achieve \$70 million in efficiencies, Alascom must reduce these expenses by 24% overall. But of these expenses, nearly \$104 million represent payments to LECs for access services. Alascom does not control these expenses; if it failed to pay for them,

ALASCOM, INC.
1994 PROJECTED OPERATING EXPENSE

(\$ in 000's)



the LECs would probably object and terminate service. The \$70 million, then, would have to be wrung out of the remaining operating expenses, requiring a 37% reduction of remaining expenses to achieve that goal.

Depreciation, amounting to nearly \$47 million, is not a discretionary expenditure (and could be eliminated, in any event, only by eliminating plant; if this is to be considered, then the Joint Board's ACR program, as proposed above, is the appropriate vehicle). The \$70 million necessitated to make AT&T's analysis work would then have to come out of the remaining expenses, amounting to a 50% reduction thereof. If all employees in "Plant Support" and "Administration" were terminated, Attachment C's calculations might work. But in the real world there would be no one to engineer the network, operate and maintain the facilities, analyze future requirements, participate in regulatory proceedings, and so on. Alternatively, Alascom could dismiss all of its customer service employees, with obvious consequences to its market position. And on. And on.

Like so much of AT&T's posturing in this and related proceedings, its analysis in Attachment C works best as an unexamined generality. When it runs into the particularities of fact, it fails. Attachment C, plainly, is nonsense. It presumes AT&T will have no operating costs attributable to Alaska, even though its undersea cable and satellite costs are duplicative of and well above Alascom's comparable costs. It reflects unrealistically low tax assumptions, which ignore the recent

actions of the Congress and the Executive in national fiscal matters. It ignores the actual competitive experience of GCI. Apparently, Attachment C even precedes AT&T's own understanding of what it is doing in Alaska, which will likely be known only "in time to insure prompt implementation of the Consumer Benefit Plan" (AT&T's Reply, July 6, 1993, p. 4, n. 7)

There is no evidence that the Alaska marketplace can profitably sustain three competitors, and substantial evidence that it would be severely damaged by any attempt to do so. Attachment C tends to confirm, rather than negate, this proposition.

What keeps this from being a matter of derisive humor is the size of AT&T. It is plausible to consider that AT&T's plan, which even AT&T is not taking seriously, has nothing to do with Alaska service, and everything to do with driving Alascom out of the market at the earliest practicable moment.

2. AT&T's Proposal Is Anticompetitive in Scope and Effect, and May be Anticompetitive in Intent, As Well.

Considering how little AT&T knows or is willing or able to describe about the future Alaska marketplace and its role therein, one wonders at the purposes of various elements of its proposal. For example, AT&T has promised to charge intrastate rates lower than those of GCI or Alascom for at least five years. AT&T does not and cannot know what the rates of Alascom or GCI will be over that period, and apparently it does not care. AT&T

expressly refuses to build Bush facilities, ensuring that it will have to use those of its competitors. It has provided no estimate and plainly does not know what its costs will be for using those facilities in providing that service, yet it nonetheless promises to underprice its competitors based upon the use of those same facilities.

This was once termed by the Department of Justice, "pricing without regard to cost", and it is a tenuous legal position for AT&T to take. If Alascom were to promise to underprice GCI for the next five years, no matter what, we doubt anyone would hesitate to label that action anticompetitive, a violation of the antitrust laws, and destructive of the competitive marketplace now existing in Alaska. The circumstance is aggravated in the case of AT&T because (a) AT&T has the financial wherewithal, greatly exceeding Alascom's, to make good on its threat, and (b) AT&T has specific economic incentives to drive Alascom from the marketplace.

The absence of AT&T's concern with intrastate costs is further highlighted by its proposed undersea cable. Since that cable will carry intrastate as well as interstate traffic²¹, some allocation to intrastate will have to occur. AT&T has not stated what separations principles it would follow for interstate allocations.²² But some amount of service cost associated with

²¹AT&T finally admits that the proposed cable would carry intrastate traffic. AT&T's Comments, p. 28, note 43.

²²Remarkably enough, AT&T may have taken the position privately that "separations do not matter."

the investment in and operation of the cable will have to fall on the intrastate jurisdiction. Attachment C makes no mention of this cost, apparently because AT&T doesn't care what that cost is: it is pricing its intrastate services without regard to such cost.

No doubt AT&T has ignored the matter of future satellite costs for the same reason, even though the jurisdictional cost impacts of satellite investment could present a crushing burden to intrastate consumers if AT&T satellites have to be utilized. AT&T is preparing to launch its next generation of Telstar satellites, Telstar 401 and 402 in 1993 and 1994, to replace the Telstar 300 series.²³ This system would consist of two satellites in orbit and one ground spare, each a hybrid with 24 C-band transponders and 24 Ku-band transponders. As disclosed in AT&T materials, the total capital investment in this system will be \$489 million.²⁴ Alascom's Aurora II satellite cost approximately \$126 million to construct, insure and launch, or only about 61% of the per satellite cost of the AT&T birds.²⁵

²³Application, File No. 6028, 6029, 6030-DSS-P/LA-87, filed September 15, 1987, granted in Order and Authorization, FCC 88-375 (released December 7, 1988).

²⁴Application, supra., p. 115. If it is assumed that the cost of each satellite is the same, then the cost of construction and launch of the two in orbit satellites would be \$411 million, or \$205 million per satellite.

²⁵See File No. 6014-DSS-P/LA-87. Much the same as AT&T's proposed cable, AT&T's satellites would be far more expensive than Alascom's facilities (with far greater jurisdictional separations effects) while offering no improvements in service. Indeed, AT&T's satellites would be far less useful for Alaska
(continued...)

To AT&T, this is apparently immaterial.

This anticompetitive approach manifests itself in other elements of AT&T's Application. For example, AT&T justifies its undersea cable as an incentive to "compete" vigorously, since it would then have an investment to recover. Once again, AT&T has its analysis backward. A competitive entrant usually analyzes the market and then decides to invest. An entrant usually does not decide to invest, and then to analyze the market, unless the particular entrant believes it has the resources to sustain losses until competitors are driven out of the marketplace and thereafter recover such losses from captive customers. In such a circumstance, an "invest now, get customers later" approach makes sense. Similarly, AT&T's traffic forecasts, nominally offered to justify cable construction, apparently comprehend the carriage of all interstate traffic between Alaska and the lower-48 in the future. Since GCI and Alascom both have 24-year commitments relating to the Alaska Spur, it is at least possible to infer that AT&T is presupposing the demise of one or both companies.

²⁵(...continued)

service than the Aurora II, for several reasons. First of all, unlike Aurora II, AT&T's satellites have not been designed or positioned for service to Alaska. AT&T intends to locate them at 89 and 97 degrees West, far to the east of an optimal orbital slot for Alaska. (Aurora II is located at 139 degrees West.) It is highly likely that these AT&T satellites could not serve the most remote portions of Alaska at all, such as the far north-west and the Aleutian Islands. Even more southern parts of Alaska could experience service difficulties. The Ku band transponders would be virtually useless to the public or to AT&T. In any event, AT&T provided satellite service for Alaska would be much more expensive and less beneficial than what Alascom provides now.

When put in perspective, AT&T's strategy raises serious questions. As one of the largest and financially strongest telecommunications companies in the world, and one which the Commission continues to classify as dominant, based upon market power, AT&T has proposed that it will: spend enormous amounts investing in a market which it has claimed for years loses money; reduce rates below the levels which it has claimed are insufficient now; under-price its relevant competitors in a market which it has never served; easily absorb any foreseeable losses; construct facilities massively greater than conceivably necessary; by its own projections, capture traffic representing approximately 100% of the market; and be free at the end of five years from any continuing intrastate rate restraints. That AT&T has already contemplated this result is shown by its expressed willingness to acquire Alascom's Bush facilities at net book value (AT&T's Comments, p. 15).

This approach may well be unlawful under various state and federal statutes. It is unquestionably inconsistent with the goals of the Joint Board in this proceeding. AT&T refuses to present its proposals for intrastate service to the only agency with authority for such, the Alaska Public Utilities Commission, instead filing a one-page "tariff" with the FCC and then telling the world it has "published" its intrastate program. Effects on intrastate rates are an inextricable element of these Joint Board proceedings (revenue requirement neutrality). Given both the regulatory (APUC) and antitrust implications of AT&T's intrastate

service claims, Alascom believes it would be inadvisable for any party to count upon the continuing availability of this portion of AT&T's proposal as a basis for approval of its Application. Absent such, the CB Plan fails to address the revenue requirement neutrality principle, making it unsuitable for consideration or adoption by the Joint Board in this proceeding, for this reason alone.

D. AT&T Appears Bent On A Judicial Resolution of The Proceedings.

AT&T appears embarked upon a course of litigation.

On the one hand, AT&T's representations about services and rates are increasingly hollow or equivocal. AT&T says that if the Joint Board acquiesces to all of its wishes, than it will eliminate MTS rate bands 10 and 11. But nothing is stopping AT&T from carrying out this rate cut now, as Alascom urged in its April 15, 1993 tariff submission to the Commission.

With respect to private line services, AT&T has retreated from earlier generalizations concerning the need and desire to expand the scope of service to Alaska. Most recently, it now asserts:

"AT&T's Alaska private line services would certainly be offered pursuant to the terms of the Communications Act. However, the market for these streamlined services is significantly different from the market for MTS/WATS. Therefore, it should not be presumed that AT&T's private line rate structures, terms, and conditions, or its decisions on where and when to make private line services available, would be the same as

for MTS/WATS."²⁶

Plainly, AT&T is offering no commitment to the state. Quite the contrary, AT&T has a long history of opposing improvements in services and facilities for Alaska.²⁷ AT&T already has established investments in facilities and labor, such as operators and technical support, outside of Alaska. It appears unlikely that AT&T ever would invest in Alaskan facilities, services, jobs and the economy on a scale approaching that of Alascom. And, of course, AT&T pays dividends to its own shareholders, the same as any other corporation.

Having retracted the positives of its proposals, AT&T has begun to dig in legally. AT&T's Comments make it clear its view that the market structure proposed in the Tentative Recommendation cannot be implemented lawfully. AT&T has challenged it directly on three fundamental grounds.

First, AT&T asserts that the Commission has no authority to require it to be the dominant southbound carrier, bound to the obligations described in Section 214 of the Communications Act.

"Therefore, in support of the Joint Board's universal service objective, the TR recommends (paras. 4, 31) that, in the new Alaska telecommunications structure, AT&T should be required to obtain the necessary Section 214 authorization and to offer southbound interstate MTS/WATS services from Alaska to the lower 48 states

²⁶AT&T's Comments, p.10, note 14.

²⁷For example, AT&T unilaterally degraded private line service for Alaska, blocked certain forms of international calling, urged unnecessary compression (and thus loss of fidelity) on the Alaska Spur, refused to cooperate in the offering of certain services subject to the JSA, and opposed deployment of ISDN.

and Hawaii. This expansion of AT&T's obligations would be supplemented (para. 39) with a declaration that AT&T is a dominant carrier for these southbound services. These recommendations are unenforceable as a matter of law and inconsistent with the Joint Board's own findings.

The TR Proposal wrongly assumes that the Commission could require AT&T to file a Section 214 Application to provide southbound interstate service from Alaska. The Communications Act does not give the Commission boundless authority to impose service requirements upon carriers."²⁸

Second, AT&T argues that the ACR proposed by in the Tentative Recommendation would be unlawful.

"Furthermore, some of the TR Proposal's transitional mechanisms are beyond the scope of the statutory authority granted to the Commission. The TR Proposal's accelerated cost recovery program rests upon the unfounded assumption (para. 72) that AT&T and Alascom must reach a voluntary agreement in the context of the regulatory-based proposal of the TR. The Commission has no such authority under the Act to require AT&T to enter such an agreement, which depends upon an exercise of AT&T's business judgment."²⁹

Third, AT&T argues that the Commission could not order the service arrangement between Alascom and AT&T found to be a necessary part of the transitional mechanisms recommended by the Joint Board.

"There is also no legal basis for the TR Proposal's recommendation (para. 74) that AT&T should be required to purchase a substantial portion of its post-JSA interstate service requirements from Alascom."³⁰

²⁸AT&T's Comments, p.11. "Under such circumstances, Section 214 does not empower the Commission to require AT&T to file an application for authority to provide southbound service from Alaska." *Id.*, p.13.

²⁹AT&T's Comments, p.19.

³⁰AT&T's Comments, p. 20.

Throughout this proceeding, Alascom has demonstrated flexibility in its position before the Joint Board. This can be seen in its proposed market structure changes in response to the Supplemental Order, its documentary support of the Master Agreement, and its good faith efforts to construct an Implementation Plan,³¹ despite the reservations it holds for such an approach. AT&T's conduct has been the inverse of Alascom's, and has culminated in its expressed decision to oppose the Joint Board's plan entirely.

Alascom expresses no opinion on AT&T's several claims that the Joint Board's proposal is unenforceable, other than to observe that AT&T obviously is convinced of their merits. It is clear that AT&T will voluntarily follow its own course, only, and intends to oppose the Joint Board's proposal with litigation. This would cast a shadow of uncertainty over the proposed market structure, leading to the real possibility of disruptions in the future.

IV. THE JOINT SERVICES ARRANGEMENT OFFERS A SAFE HARBOR WHICH IS SUPPORTED BY THE RECORD

A. At this time, continuation of the JSA best supports the Joint Board's five policy goals.

The JSA has promoted, and can continue to promote, the public interest by advancement of the Joint Board's five policy guidelines set forth in the Supplemental Order. The record

³¹Response to Request for Implementation Plan of Alascom, Inc., filed June 7, 1993.

supporting this is extensive and largely uncontroverted.

There is no serious dispute that the JSA has accomplished the goal of universal service. The operations of Alascom have brought modern telecommunications to all communities of 25 or more throughout Alaska. Services are provided at AT&T's nationwide quality and reliability standards subject to natural conditions far more challenging than those normally faced by AT&T in the other 49 states.

There also is no serious dispute that rate integration is an accomplished fact in Alaska. Today, the JSA is the mechanism by which Alascom provides interstate MTS-WATS for Alaska at AT&T's nationwide rates.

By definition, revenue requirement neutrality is preserved by continuation of the JSA. Maintenance of the frozen separations factor makes this so. And as Alascom has demonstrated repeatedly, the frozen allocator may be retained only if the current FCC-ordered interconnection arrangement, which requires AT&T to interconnect in the lower 48 states, is retained. It is that arrangement which provides the factual underpinning for the significant differential in miles between interstate and intrastate circuits for Alaska (the approximately 86% - 14% separations allocation for circuit equipment), a disparity built into the frozen allocator by design in the orders of the Joint Board and FCC in CC Docket No. 80-286.³²

³²Recommended Decision and Order, 2 FCC Rcd 2551, 2564-64 (1987); Report and Order, 2 FCC Rcd 2639 (1987).

The record makes clear that authorizing AT&T entry into Alaska, sooner or later (depending on the pace of litigation), will break the frozen allocator. This entry by AT&T would be an inevitable result of dissolution of the JSA. Thus, when the Joint Board or the parties advocate elimination of the JSA as a benefit to the "open entry" of competition, they refer to only one entrant, AT&T. All other carriers have been, and are, free to compete for Alaska service in any manner desired. But the inevitable consequence of "open entry" is destruction of the frozen allocator and the intrastate rate protections it supplies.

Furthermore, the record in this proceeding currently does not support the drastic change in policy attendant to reversal of the decision in CC Docket No. 80-286 to establish the frozen allocator and the interconnection arrangement between AT&T and Alascom which is the factual predicate to it. When the Joint Board says that "conditions have changed dramatically since 1980 when the Commission accepted the JSA," (Tentative Recommendation, para. 25) it does not cite a single change in the conditions or circumstances attending service to, from and within Alaska. What has been shown -- that policy in the lower 48 states has changed -- is not the same thing as a change of fact in Alaska. And the decision in CC Docket No. 80-286 establishes that at least as late as 1986, several years after competition had been authorized throughout the United States (including Alaska), a Joint Board and the FCC found on the record that market conditions required the continuation of the JSA. Until and unless the factual record

in this proceeding can justify a change in Alaskan market structure, which it does not now, neither the Joint Board's Tentative Recommendation nor AT&T's CBP is likely to survive judicial review.

The continuation of the JSA does not engender harm to the Joint Board's secondary goal of competition. As a matter of well-established fact, competition has flourished under the JSA. Today, competitive entry in Alaska is expansive and as robust as that in the other 49 states. As recently announced in this proceeding, MCI will take a substantial equity interest in GCI, with the express purpose of promoting GCI's competitive position in Alaska. Indeed, this level of facilities-based entry is remarkable for a predominantly rural state, and probably far greater than for other similar states. The direct entry of AT&T would add little or nothing (except service cost) to competition in Alaska, as the discussion above of AT&T's CB Plan indicates.

B. Continuation of the JSA Will not Promote "Inefficiency".

With respect to the policy goal of efficiency, the record in this proceeding is clear, even if the rhetoric of the parties is not. Judged solely by the evidence available to the Joint Board, Alascom is efficient. That record includes the following facts:

1. Alascom has been subject to multiple, extensive rate proceedings before the APUC, which produced no findings of material inefficiency (U-78-4(33); U-83-53(32); and U-

90-27(12)).

2. In January 1987, the APUC's own consultant, Lubow McKay Stevens & Lewis, found that Alascom's network is efficient. (A copy of that report is Attachment D to Alascom's Further Comments, filed February 27, 1987.)
3. Under applicable Alaska statutes, any affected party could complain to the APUC concerning inefficiencies, or the Commission itself could initiate an investigation into that matter.
4. On December 11, 1990, Alascom filed the report of an independent consultant which demonstrated that the Alaska Spur is technically reasonable and prudently designed for service to Alaska.
5. On September 3, 1992, Alascom submitted in this proceeding the analysis of an independent consultant that its rural Alaska satellite network is reasonably and prudently designed and that no presently available or reasonably foreseeable technology will offer improvements which could lower costs of service there dramatically.³³

³³ Therefore, contentions that some magical technology will make the "Alaska problem" disappear are not only unfounded, they have been refuted.

6. During the ten years of this proceeding, including numerous data requests from the Joint Board and from the State Members, no agency, staff member or party has identified a single concrete example of material inefficiency.
7. As shown in Exhibit K of its June 7, 1993 filing, Alascom and GCI currently have nearly identical cost-to-investment ratios for their operations, even though Alascom serves many more high cost locations than GCI, and provides such service with far greater levels of quality and reliability.
8. Throughout the ten years of this proceeding, and before, AT&T has had constant access to Alascom's records, including its traffic reports, cost studies, circuit reports and accounts. At no time has AT&T, or its auditors, identified to the FCC a single material example of inefficiency in Alascom's operations, despite AT&T's obvious desire to do so.

These facts are supported by the Tentative Recommendation, which acknowledges, at page 23, that "The exercise of that authority [to order accelerated cost recovery] presumes that the associated investment was prudent...." And yet the notion

persists -- and appears to be a continuing force in motivating the dissolution of the JSA -- that Alascom's cost of service, particularly to the Bush, is unduly high, reflective of inefficiency in its operations.

As further proof of its position, Alascom provides here an analysis of Bush service costs. Two basic truths, confirmed again and again in the record, emerge from this analysis: traffic volumes for the rural regions of Alaska are relatively low, and costs for Alaskan service (to all regions) are relatively high. It is this combination of factors, rather than any imagined inefficiency on Alascom's part, which accounts for the continuing cost disparity in Alaska service. Once recognized, these facts undermine the rationale behind AT&T's Application and CB Plan, and remove any legitimate reason for terminating the JSA.

The source of the problem regarding Bush service -- traffic volumes, rather than cost -- can be demonstrated by examination of **Exhibit F**. This exhibit analyzes facilities costs associated with Bush and urban service groups, and matches those costs to the traffic volumes associated with each group.

To accomplish this, Alascom's plant is divided into three categories, "Satellite Based," "Terrestrial Based," and "Spur and Lower 48." The total gross plant on Alascom's books associated with each category is displayed in the first vertical column, "Total Company Plant", and amounts to about \$605.6 million. (Total gross plant is the appropriate starting point for separations analysis under applicable FCC rules.)

ALASCOM, INC.
TERRESTRIAL AND SATELLITE FACILITIES & REQUIREMENT
NUMBERS IN MILLIONS

	TOTAL COMPANY PLANT	BUSH	NON-BUSH	PERCENT TO BUSH
SATELLITE BASED	\$223.8	\$223.8	\$0.0	100%
TERRESTRIAL BASED	317.3	63.5	253.8	20%
SPUR AND LOWER 48	<u>64.5</u>	<u>11.0</u>	<u>53.5</u>	<u>17%</u>
TOTAL	<u>\$605.6</u>	<u>\$298.3</u>	<u>\$307.3</u>	<u>49%</u>
MTS REV. REQUIREMENT	\$185.3	\$91.3	\$94.0	
MINUTES	1,115.3	224.8	890.5	
CENTS PER MINUTE	16.6	40.6	10.6	

Bush and non-Bush usage is then determined by measuring total facilities minutes of use (MOU) for Alascom's network, divided between MOU associated with "Bush" (the second vertical column), and MOU associated only with "Non-Bush" (the third vertical column). The rationale for this usage division stems from the fact that the Aurora II satellite is utilized solely for Bush service, both for purely intrastate calling and for the transport of originating and terminating interstate traffic to the Bush. The "Terrestrial Based" and "Spur and Lower 48" facilities, on the other hand, are utilized by both Bush and non-Bush consumers for interstate calling. By measuring MOU associated with each type of calling, a relative allocation of cost between Bush and Non-Bush can be made.

As depicted in the **Exhibit F**, all "Satellite Based" gross investment is properly allocated to Bush, since it serves only the Bush. "Terrestrial Based" (line 3) and "Spur and Lower 48" (line 4) gross plant is split between Bush and non-Bush, because it serves both sets of customers. The allocation to "Bush" and to "Non-Bush" is driven by relative facilities usage, which relative usage is reflected for each line item of gross investment under the column "Percent to Bush". Total allocations to "Bush" of \$298.3 million, and to "Non-Bush" of \$307.3 million, are reflected in line 4, "Total".

Line 5, "MTS Rev Requirement", takes Alascom's year-end 1992 MTS/WATS revenue requirement for intrastate and interstate service and separates that requirement between "Bush" and "Non-

Bush" in accordance with the plant allocation derived above and displayed on line 4, "Total." This represents the relative annual cost of providing service to Bush consumers versus non-Bush consumers. As is apparent, the cost of service to each consumer group is relatively the same -- \$91.3 million to \$94.0 million. In Alascom's network, Bush-related costs are not per se greater than urban-related costs -- a fact not generally recognized or acknowledged in these proceedings, but true nonetheless.

The problem is not Bush cost, which line 5, "MTS Rev. Requirement", shows to be very similar to non-Bush cost, but the amount of usage over which such cost are spread. Line 6, "Minutes", displays the relative MOU associated with "Bush" and "Non-Bush" service in 1992. When the costs of each type of service are divided by the usage associated with each, the cost per minute shows a great disparity. "Bush" cost, at \$0.406 per minute, greatly exceeds "Non-Bush" cost per minute of \$0.106, as well as the average cost of \$0.166 per minute.

Clearly, Alascom's Bush costs are not disproportionately high, and therefore cannot be disproportionately high due to some assumed inefficiency. As **Exhibit F** demonstrates, they are not disproportionate at all. Rather, the problem arises from the relatively low traffic volumes inherent in Bush service. Density, not cost, is the issue, negating any support for the contention that Alascom's supposed inefficiency lies at the base of Bush service cost concerns.

A different analytical approach leads to the same

conclusion. A consideration of the physical realities of service to, from, and in Alaska suggests three elements in the costs of providing MTS service in Alaska which are incremental to Alaska service, only:

- (a) First, on a stand alone basis, the cost of Alaska local exchange company switched access (for interstate MTS) is about 7 cents per minute. This compares unfavorably with the national average for switched access of about 2.5 cents per minute;
- (b) Second, the costs of the Alaska-lower 48 link, approximately 1500 miles in length, relate only to Alaska service (and not for service between lower 48 points). The service costs arising in connection with this link add approximately 2 cents per minute to all interstate and international calls. AT&T's proposed cable, with 2.5 times the cost of the Alaska Spur, will greatly exacerbate this disparity. (By way of reference, Hawaii has more than twice the population of Alaska, and 1/100th of the land mass.) Again, the issue of calling volumes has a negative impact on Alaska unit costs of service.
- (c) Third, a substantial satellite investment is required to handle only 20% of the state's

traffic. When added to the costs associated with long-haul microwave facilities between Anchorage and Fairbanks, and Anchorage and the Southeast (including Juneau), an additional 12 to 15 cents per minute of cost, associated only with Alaska, arises.

When these costs are backed out, the cost of Alaskan service is not materially different for lower-48 comparables. This is particularly so, when average length of haul is considered. Nationwide, ALOH is approximately 400 miles for interstate and 30-50 miles for intrastate. For Alaska, interstate length of haul averages 2,283 miles; intrastate, 242 miles (based on October, 1992 actuals).

These factors merely confirm what the Joint Board already knows: Alaska is a difficult place to serve. These factors do not confirm, but rather negate, the notion that Alascom is inefficient. Any attempt to premise a resolution of this proceeding on an unsupported, much less unarticulated belief that Alascom is or would become inefficient, takes this proceeding in the wrong direction. There is no evidence of any material inefficiencies in Alascom's operations upon which to justify the dissolution of the JSA, associated changes in policy, or the drastic alterations in market structure being considered. Such evidence as exists demonstrates cost causation arising from other factors, which Alascom did not create, but with which it has successfully dealt.

C. The JSA is and would continue to be lawful.

In its Comments, AT&T resurrected a thoroughly discredited argument first presented in this proceeding in 1987,³⁴ that the Commission cannot continue the JSA because it is unlawful. This argument remains moribund, being bereft of any legal support. Indeed, AT&T has not taken its arguments seriously, since it has carefully avoided for many years exercising any of its rights to have the matter adjudicated.

Attachment 8 hereto is a copy of Alascom's Memorandum of Law, previously filed in this proceeding and completely un rebutted by AT&T to date. Among the points made with respect to AT&T's claim, the following bear particular note:

1. AT&T entered into the JSA voluntarily and advocated its acceptance and lawfulness in CC Docket No. 21263.
2. AT&T defended the JSA before the FCC and the federal courts as both lawful and in the public interest.
3. AT&T has never responded in any material way to Alascom's Memorandum of Law in the five years which have elapsed since filing.
4. AT&T has never filed a formal complaint, or, except for its 1987 filing, sought a declaratory ruling concerning the lawfulness

³⁴Petition for a Lawful Interim Division of Charges, filed with the FCC on November 5, 1987.

of the JSA, or even offered an opinion letter of counsel in support of its theory.

5. AT&T itself has characterized the JSA as providing a nationwide service and not an Alaska-specific service, and AT&T when it sets nationwide averaged rates includes the JSA revenue requirements.
6. As found by the Joint Board, AT&T has never demonstrated that it has suffered any material harm from the JSA, competitive or otherwise. The Joint Board also determined that AT&T has been fully compensated under the JSA.³⁵
7. As explained by the Joint Board, AT&T declined to show whether its costs for serving Alaska are unusually high compared to other predominantly rural states.³⁶ Indeed,

³⁵...[W]e believe that interstate MTS and WATS rates for service to and from Alaska, including bush locations, should be fully integrated into AT&T's domestic rate pattern. We are not persuaded that this would unduly burden AT&T. As Alascom and Alaska observe, the above-average cost (as estimated by AT&T) associated with serving Alaska today represents roughly the same portion of AT&T's interstate revenue that it did prior to the AT&T divestiture. AT&T has not provided sufficient evidence that it has been significantly harmed in any way by nationwide rate averaging. Nor has a case been made that AT&T's competitiveness in the market has been materially affected by its support to Alaska. Finally, as has been stated by Alaska and Alascom, AT&T is fully compensated for the losses it experiences in the Alaska market through the rate averaging process. Supplemental Order, note 39.

³⁶Supplemental Order, note 100.

AT&T has not shown whether or not Alaska is its highest cost state to serve.

AT&T's claim that the JSA is unlawful is baseless. The resurrection of this claim now merely reinforces the conclusion that AT&T is establishing a pre-litigation posture in this matter and has abandoned any bona fide participation in these proceedings.

V. THE ABSENCE OF ANY REQUIREMENT FOR AN IMMEDIATE DECISION OFFERS THE JOINT BOARD AN OPPORTUNITY TO REPAIR THE RECORD IN THIS PROCEEDING

The possibility that AT&T's current conduct is explicable as a manifestation of litigation strategy necessitates a candid, if uncomfortable, discussion by Alascom of perceived failures in the process and record of this docket, both endemic and recent.

Alascom has no doubt of the good faith in which the Joint Board Members and staff have attempted to address the matters raised in this proceeding. But if litigation ensues for any reason, all parties, including Alascom, clearly will participate as their individual interests dictate.

As noted at the outset, the telecommunications market structure functioning under the JSA has satisfied and continues to satisfy each of the policy goals articulated by the Joint Board in 1989. There is no service crisis in Alaska; there is, primarily, a desire by AT&T to terminate the JSA for its own purposes. No objective reason exists why a decision must be made now, as opposed to three or six months from now. The Joint Board

thus has the time and opportunity to perhaps remedy or rectify the matters discussed below. This course would avoid the further, needless uncertainty and expenditure of time and effort on these proceedings which litigation and rehearing would generate. Alascom urges consideration of this course.

Some of the legal problems apparent in this docket are not of the Joint Board's making. In the NPRM, the Commission established the Joint Board pursuant to unrestricted rulemaking proceedings. (NPRM, para.22) This may have been a procedural error in light of the legislative history and purposes of Section 410 of the Communications Act.

Section 410(a) authorizes discretionary referral of issues by the Commission to a Federal-State Joint Board while Section 410(c) requires such referral for issues which may require changes in the jurisdictional separations rules. Section 410(a) provides that a Joint Board has "all the jurisdiction and powers conferred by law upon an examiner provided for in section 3105 of Title 5, designated by the Commission, and shall be subject to the same duties and obligations."³⁷

The Commission acted inconsistently with the provisions of Section 410(a) and the APA when it established unrestricted rulemaking procedures. The almost unlimited access of parties to the Joint Board on an ex parte basis cannot be squared legally with the "jurisdiction and powers" and "duties and obligations"

³⁷5 USC Section 3105 is a section of the Administrative Procedures Act ("APA"), which was amended in 1978 to change the name of "hearing examiner" to "administrative law judge."

of administrative law judges. Their powers are adjudicative in nature, not broadly legislative, and therefore fundamentally inconsistent with ex parte presentations.

The legislative history of Section 410 makes it clear that a Joint Board is required to conduct proceedings comparable to judicial procedures. The portion of Section 410 which requires Joint Boards to observe the duties and obligations of judges was added by Congress in an amendment in 1956. That amendment was intended to remedy 1952 legislation which had permitted Joint Boards to "have all the jurisdiction and powers conferred by law upon the Commission."³⁸ The 1956 amendment expressly was intended to prescribe the scope of the Joint Board's powers, and have them more restricted than those available to the full Commission:

"In any event, with the wording of section 410(a) inserted by the Communications Act Amendments, 1952, it does not seem likely that the Commission would ever find it desirable to refer any matter to a joint board. It is believed that if the second sentence of section 410(a) were changed to give joint boards the same jurisdiction that is now conferred on an examiner, it would be more nearly what Congress must have intended and would make the section more usable to the Commission in the administration of the act."³⁹

"The proposed amendment to section 410(c) would authorize the Commission to confer on joint boards the same power and authority as is now conferred on the Commission's hearing examiners in adjudicatory cases and thereby gives the full Commission an opportunity to

³⁸House Report No. 2540, 1956 U.S. Code Cong. and Adm. News, 4139.

³⁹Ibid.

act before a final determination is made."⁴⁰

This legislative history strongly indicates that the Commission erred in implementing unrestricted rulemaking procedures when it established the Alaska Joint Board.⁴¹ These procedures and powers of the full Commission are exactly what the Congress precluded from delegation to Joint Boards. Moreover, this statutory error did not arise for the Alaska market in prior proceedings because the earlier Joint Board which examined the Alaskan telecommunication in CC Docket No. 21263 did so as part of a restricted rulemaking.⁴²

⁴⁰Id., p.4136.

⁴¹In addition, the legislative history of the 1971 amendments to Section 410(c) explains: "As in section 410(a) of the act, the proposed section 410(c) would provide that the joint board's decision is the equivalent of an examiner's opinion in that it would 'prepare a recommended decision for prompt review and action by the Commission.'" Senate Report No. 92-362, U.S. Code Cong. and Adm. News, p. 1514. Section 557 of the APA (5 USC Section 557) generally equates "recommended decisions" with the "initial decisions" of hearing examiners or administrative law judges, even in rulemaking proceedings. This also indicates that, although the Commission does have procedural flexibility, the APA requires that recommended decisions must be made "on the record," which is inconsistent with the conduct of this proceeding.

⁴²The use of unrestricted procedures may well have been inappropriate even outside of the Joint Board process. Thus, unrestricted ex parte contacts are impermissible if the FCC is "adjudicating" "conflicting private claims to a valuable privilege." Sangamon Valley Television Corporation v. U.S., 269 F 2d 221, 224 (D.C. Cir. 1959) In Sangamon Valley, the court vacated a Commission rulemaking which allocated a television channel due to extensive ex parte contacts and gifts, on the grounds that basic fairness requires private claims to a valuable privilege (such as, may be concluded, the right to serve the Alaska Market, 214 authorization or the JSA) requires that proceedings be carried on in the open. Similarly, in Home Box (continued...)

Alascom has conducted itself in consonance with these unrestricted rulemaking procedures, as did other parties to the proceeding. The error, if such exists, is not cured, however, by that fact, and remains a potential source of difficulty, no matter what the specific resolution proposed by the Joint Board.

Other procedural problems exist. In 1992 and 1993, this proceeding took an unusual turn. During that time, the four State Commissioners of the Alaska Joint Board (the "State Members"), a majority and quorum of the Joint Board, took several actions, and we understand, held several meetings without the FCC Commissioners. The most obvious results of these activities were the several requests for data issued by the State Members, their "Memorandum of Understanding" and their subsequent "Memorandum of Principles." The latter of the two "found" the Master Agreement to be contrary to the public interest, even though subsequently the Tentative Recommendation stated that it had simply expired. (Tentative Recommendation, para. 13) Alascom expended substantial time and effort in pursuit of approval of the Master

⁴²(...continued)

Office, Inc. v. FCC, 567 F 2d 9 (D.C. Cir. 1977) the court remanded FCC rulemaking determinations concerning cable and subscription broadcast television programming. As with the Los Angeles and Seattle meetings of the State Members in the instant proceeding, in HBO the FCC had solicited ex parte communications "for the purpose of discussing ex parte and in confidence the merits of the rules" at issue. The court held that private undisclosed negotiations could not be the basis for lawful FCC action. And although unlike the situation in HBO, the Tentative Recommendation was issued after the undisclosed meetings, the substance of the State Members' Los Angeles and Seattle meetings are as secret here as were the meetings which were the basis of the HBO decision.

Agreement, which it argued and believed was in the public interest, and was disadvantaged by this course of conduct.

The matter of the sources of input to the Joint Board, and particularly the State Members, has also been raised by Alascom in the course of this proceeding. It appears the State Members met privately with their staff on several occasions, in Chicago, in Seattle, in Washington, D.C. and in Los Angeles. As described in the materials at **Attachment 9**, the Memorandum of Understanding was issued after the Chicago meeting and the Memorandum of Understanding after the Seattle meeting. The background and status of those documents has never been explained. As stated, they were representations of the State Members, and so appeared in certain respects to be similar to party proposals. On the other hand, the four State Members constitute both a quorum and a majority of the Joint Board. That these documents strongly influenced the proceeding is obvious; accordingly, their source and status required explanation.

At the Seattle meeting, which preceded the Memorandum of Principles, members of the consulting firm of Overland Consulting, Inc. met privately with the State Members and their staff in Seattle. Representatives of other parties were excluded from that meeting, although present and expressing a desire to participate. Alascom believes Overland Consulting was hired by the State of Alaska, a party to these proceedings, to examine the Alaska telecommunications market and to offer recommended changes, apparently to the State Members of the Joint Board as

well as the State, itself. (The RFP for these services, issued by the Department of Commerce and Economic Development, State of Alaska, April 1, 1992, is appended hereto as Attachment 10.) Hence, the meeting in Seattle. Overland issued a report on behalf of its client, the State and APUC, to that effect dated July 21, 1993. Clearly, the State was (and remains) an interested party, actively engaged in this proceeding, at the time of the Seattle meeting.

The appearance, unavoidably, is that of Overland, a paid consultant of a party to this proceeding, meeting privately with the State Members and staff. Neither the substance nor the fact of this meeting was ever reported in the record.⁴³ And a comparison of the Overland Report to the Memorandum of Principles suggests that the Seattle meeting influenced the State Members and the course of this proceeding.

After issuance of the Memorandum of Principles, the State Members invited representatives of the parties to separately address the State Members and staff in Los Angeles. A series of ex parte meetings took place. Again, Alascom expressed its concerns about this procedural conduct and requested minutes or a transcript or workpapers.⁴⁴ Neither this request nor a

⁴³By letters dated November 10, 1992, Alascom and its counsel requested that the Joint Board describe the substance of that meeting. Those requests have not been responded to.

⁴⁴By letter dated November 10, 1992, Vern K. Dunham, Senior Vice President of Pacific Telecom, Inc., Alascom's parent, requested relevant information of this nature of the State Members. This request was filed with the Commission on November
(continued...)

subsequent motion was responded to by the Joint Board.

If, as it appears, substantive but unreported meetings among the State Members, their staff, and parties or representatives of parties transpired, then such would violate the Commission's ex parte rules, Sections 1.1200, et seq. This is so even for unrestricted rulemaking proceedings. But Section 410 plainly requires that Joint Boards conduct restricted proceedings, and observe judicial conduct.

Finally, we suggest again that the Joint Board is subject to the Sunshine Act, Section 552b of the APA. The Joint Board, a statutorily authorized body, appears to be an "agency" or "subdivision thereof" to which Sunshine Act public notice obligations attach.⁴⁵ The Joint Board violated this statute by holding meetings, including those in Chicago, Seattle, Washington, D.C. and Los Angeles, without proper public notice.

Most recently, the Joint Board held its first and only hearing in the current proceedings, for the purpose of permitting "citizens of Alaska and other interested person" an opportunity to present testimony. The hearing was well-intentioned, but was conducted in violation of the Commission's rules and without reasonable notice. Section 1.423 of the Commission's rules states

⁴⁴(...continued)
12, 1992. By separate letter dated November 10, 1992, Alascom's counsel expressed procedural concerns with respect to ex parte contacts and the Sunshine Act.

⁴⁵Alascom suggested this to the State Members. See Letters of Alascom's counsel filed November 10, 1992 and November 20, 1992.

that the Commission public notice of this type of hearing must be published in the Federal Register and must be mailed to the parties. **Attachment 11** hereto is a copy of the hearing notice, published in the Federal Register on July 1, 1993 -- unfortunately, the same day as the hearing itself. Public notice of this hearing was clearly legally inadequate.⁴⁶ As well, public notice was inadequate in fact, as repeatedly testified to by the witnesses who did manage to appear during the hearing. Those same witnesses testified to the inadequacy of the scope of the hearings, as well.

Alascom takes no pleasure in reviewing these procedural irregularities, irrespective of the fact that it has raised many of them before. They suggest that these proceedings have become tainted to the degree that further Joint Board action at this time, pursuant to the Tentative Recommendation, would violate fundamental fairness and due process. Basic due process obligations⁴⁷ have been implicated by the State Members offering proposals comparable to a party, holding unreported or transcribed meetings with parties and parties' representatives and consultants, acting in disregard of the Sunshine Act and the

⁴⁶The effect of Section 1.4(b) of the Commission's rules is that "the day after the day" of the public notice is the first day in which the period for computing time commences. Thus, the first day of public notice of the Anchorage hearing was July 2, 1993, the day after it was over. We note also that many of the few people who testified questioned the propriety of the public notice.

⁴⁷See L.B. Wilson, Inc. v. FCC, 170 F 2d 793, 802 (D.C. Cir. 1948).

FCC's ex parte rules, scheduling hearings inconsistent with the FCC's rules and without reasonable notice, and acting without participation of the FCC Commissioners and staff. These activities are compounded by the error in establishing unrestricted procedures and conducting decisional meetings without public notice and behind closed doors.

These matters may be subject to rectification now, before any further action is taken by the Joint Board, if the Members will take the time and actions necessary to do so. Undertaking this prudent course will not disadvantage the public: rate integration, universal service, competition, efficiency, and revenue requirement neutrality will all remain intact and will continue to prosper under the JSA. Indeed, additional time will afford the Joint Board an opportunity to examine Alaskan issues in Alaska -- something which this Board has not done and which many of the witnesses in the July 1st hearings urged. Failing that, the work of the Joint Board to date may be rendered a nullity by the courts, necessitating further effort by the Joint Board, in any event. Alascom urges the Joint Board to take this opportunity to avoid that consequence.

VI. CONCLUSION

Telecommunications in and for Alaska today are provided in an efficient and competitive market place. Rate integration and universal service are accomplished facts.

The market structures proposed in the Tentative Recommendation requires maximum measures to protect intrastate

consumers from the foreseeable effects of AT&T's abandonment of Alascom's network. Even then, uncertainties remain. The AT&T CB has no basis in reality or in the record of this proceeding and will only promote AT&T's interests at the expense of revenue requirement neutrality and competition -- and ultimately, universal service as it is now established in the Bush.

The better course for the Joint Board at this time would be to continue the current market structure while it (a) remedies the procedural problems with this docket and (b) injects more certainty into the Tentative Recommendation proposals, if it is determined to proceed with that course. Alternatively, Alascom's proposed ARC plan could be adopted, consistently with the expressed goals of the Joint Board. This is the only way, given the current state of the record and the procedural infirmities of this proceeding, to avoid needless extensions of this proceeding in the courts, and to satisfy the mission of the Joint Board.

Respectfully submitted,

ALASCOM, INC.

By /s/ Alan Y. Naftalin
Alan Y. Naftalin

Of Counsel

Francis L. Young
Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, D.C. 20037
(202) 663-9080

By /s/ Charles R. Naftalin
Charles R. Naftalin

Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 467-5700

Its Attorneys

July 12, 1993

ATTACHMENT 1

KOTEN & NAFTALIN
FILE C

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

FEB 12 1990

Federal Communications Commission
Office of the Secretary

In the Matter of

Integration of Rates and Services for)
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

CC Docket No. 83-1376
RM 4436

Alascom, Inc. -- Ex Parte Filing

The ARC Plan



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Integration of Rates and Services for)
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Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

CC Docket No. 83-1376
RM 4436

Alascom, Inc. -- Ex Parte Filing

The Alaska Revenue Cap Plan

Of Counsel:

Francis L. Young

Young & Jatlow
300 N Street, NW
Suite 600
Washington, D.C. 20037
(202) 663-9080

Alan Y. Naftalin

Koteen & Naftalin
1150 Connecticut Avenue
Washington, D.C. 20036
(202) 467-5700

Its Attorney

February 12, 1990

FCC Docket 83-1376

Ex Parte Presentation

The ARC Plan

Introduction

**Prepared By
ALASCOM, INC.**

INTRODUCTION

In response to the Joint Board's Further Request for Comments, Alascom, American Telephone & Telegraph (AT&T), General Communication Incorporated (GCI) and the State of Alaska (State) filed Comments and Replies to the Joint Board's policy goals and its Plans A and B.¹ Both Alascom and the State proposed alternative Plans should the existing market structure be changed. Based on conversations with Joint Board members and staff as well as representatives of the parties it is clear that Alascom's alternative proposal has been misinterpreted or misrepresented. To clarify its position Alascom has prepared this document to detail its alternative proposal, the Alaska Revenue Cap (ARC) Plan, and to demonstrate the Plan's responsiveness to the Board's policy goals, and its similarity to the Price Cap alternative regulatory approach adopted by the Federal Communications Commission for AT&T, the other dominant IXC.²

The ARC plan addresses each of the Board's policy goals and will place the risks of non-performance squarely on the shoulders of the company's stockholders, not the ratepayers. ARC answers the unsubstantiated allegations of overinvestment, caps the maximum settlement dollars from the interstate revenue pool, shares the

¹This paper has been prepared with the knowledge that GCI has filed a supplemental pleading before the Joint Board. Responses to that filing and GCI's petition for rulemaking before the FCC will be timely filed.

²AT&T and Alascom are classified as dominant IXC's by the FCC. No other IXC, MCI, SPRINT, GCI et al, are so burdened.

"burden" of a competitive market with all users of Alascom facilities, provides an increasing contribution to LEC access charges, and is a true alternative to the existing arrangement, an alternative consistent with the policies advocated by regulatory bodies.

The Joint Board clearly set forth the five policy goals it stated would guide resolution of the issues before it. These goals are: (1) preservation of universal service; (2) continuation of rate integration; (3) jurisdictional revenue requirement neutrality; (4) market based competitive entry; and (5) increased efficiency. The ARC plan meets each of these goals in the same manner as the interexchange price cap program for AT&T meets these goals nationwide.

This paper is intended to thwart the continued mischaracterizations of the Alascom proposal, and to put on the table a viable alternative plan as distinguished from the rhetoric advanced to "change" the status quo without details of any resultant market structures and impacts on ratepayers. Inasmuch as this is not new material³, it is proffered as an ex parte filing, not a new proposal mandating further administrative action. Alascom believes it provides a valid basis for resolving the issues before the Board.

³Alascom has updated its projections based on 1989 actual traffic information.

FCC Docket 83-1376

Ex Parte Presentation

The ARC Plan

Background

**Prepared By
ALASCOM, INC.**

BACKGROUND

In the Supplemental Order the Joint Board adopted five policy goals it stated will be the basis for any final decision. These goals are (a) **Preservation of Universal Service**; (b) **Continuation of Rate Integration**^{*}; (c) **Jurisdictional Revenue Requirement Neutrality**; (d) **Market based Competitive Entry**; and (e) **Efficiency**.

The Joint Board refrained from prioritizing these five goals but emphasized that three of the goals were paramount, stating:

...we emphasize that measures to increase efficiency and promote market based competitive entry should not be implemented at the expense of universal service, rate integration, or revenue requirement neutrality...

The Joint Board proffered two plans for comment and invited the parties to submit alternates. Each of the parties criticized the plans offered by the Joint Board with AT&T and GCI particularly critical of Plan A and Alascom and the State particularly critical of Plan B. Alascom and the State each proposed alternative plans^{*} while the other parties limited their responses to unsubstantiated criticism of the existing arrangement.

Alascom believes its ARC plan alternative best meets the Board's expectations of all the alternatives proposed by the staff

^{*}Rate integration refers to the federal policy establishing a single nationwide averaged MTS/WATS rate schedule for the 50 states, Puerto Rico and the U.S. Virgin Islands and nondiscriminatory offerings between these locations.

^{*}The State plan, a variation of a government cost plus incentive fee contract, is meritorious but does not appear to adequately control the cost component which certain parties allege is required.

and the parties." As shown herein, the ARC plan addresses each of the policy goals announced by the Board. The ARC plan caps revenue flows from the nationwide MTS/WATS service to Alascom, and therefore responds to unsupported allegations regarding a "cost-plus" system.'

This paper details the ARC plan, its responsiveness to the concerns of the Board and the positions expressed by the parties in their comments and replies. It is intended to clear up misunderstandings which have developed over the course of this proceeding. To set the stage for the plan, a brief review of the issues and positions of the parties is offered. The operation of the proposed ARC plan and its relationship to federal policies and the flow of interstate revenues is outlined. Finally, a series of short statements addressing questions raised by interested persons is included.

"Alascom continues to believe the Joint Services Agreement has achieved the goals for which it was designed and will continue to meet future needs. The alternative ARC plan modifies the Joint Services Agreement in light of regulatory changes adopted by the FCC for the lower 48.

'The "cost-plus" rhetoric ignores the reality of a nationwide, averaged rate MTS/WATS system now part of the fabric of American telephone service. By definition, averaged rates means some routes cover more than their share of costs while others do not. Also, until recently, rate of return regulation was the basis upon which AT&T's nationwide rates were established.

FCC Docket 83-1376

Ex Parte Presentation

The ARC Plan

Issues And Position of Parties

**Prepared By
ALASCOM, INC.**

ISSUES AND POSITION OF PARTIES

The State of Alaska is served by many communications carriers. For the provision of MTS/WATS service, a Joint Services Agreement between AT&T and Alascom was entered into in accordance with FCC policies and directives. Under this agreement, Alascom carries all AT&T MTS/WATS traffic to and from Alaska interconnecting with AT&T in the lower 48 and local companies in Alaska. Competing MTS providers, including GCI which claims a 45 percent interstate market share, serve selected areas of Alaska. Private line and international services are competitively provided by Alascom but are not part of the Joint Services Agreement.

As a result of the FCC's rate integration policy, the rates for MTS/WATS service are set by AT&T in accordance with its nationwide averaged rate program. Prior to rate integration, MTS/WATS service was priced on a different schedule to the detriment of all ratepayers. Today, the ratepayers of all 50 states, Puerto Rico and the U.S. Virgin Islands enjoy the benefits of a nationwide averaged rate schedule." This benefit was recognized by the Joint Board when it adopted continuation of this policy as one of its five policy goals.

In adopting preservation of universal service as a goal, the Joint Board solicited comments on the question of carrier of last resort. Neither Alaska nor any of the other states should be left

*The rates between Alaska and Hawaii are not now integrated. This rate inconsistency should be eliminated.

without a carrier of last resort. Such carriers must provide service regardless of the degree of competition. The costs of such carriers are integral parts of the costs covered by nationwide average rates. While many competitors may be able, through new technologies, market segmenting or other means, to provide service to customers, a carrier of last resort is essential to universal service required by the Communications Act.

This Joint Board as well as others, and the FCC, have focused on the need to achieve, to the maximum extent feasible, the goal of revenue requirement neutrality. The shifting of costs from the federal to the state jurisdictions with attendant repricing does not appear to benefit customers. Moreover, the historical and severe Alaskan intrastate rate disparity should not be compounded by avoidable shifts of costs to that jurisdiction. The current separations procedures and corresponding accounting rules apply to all 50 states uniformly and any changes in this proceeding would likely result in corresponding changes in other states. Maintaining this policy goal will be as important to other jurisdictions as to Alaska."

Two of the Joint Board's goals, competitive entry and efficiency mirror national policy. The existence of competition in the Alaska market demonstrates that the existing market

"AT&T, in commenting on Alascom's 214 application for an undersea, fiber optic cable has proposed a novel allocation scheme for that facility. Adopting AT&T's approach would affect all telephone fiber optic cables. No impact data for the rest of the country have been provided for the proposed allocation.

structure itself meets this goal. The fairness of the competitive environment, and the degree of competition, makes for interesting debate, but the goal of this Joint Board is met if non-dominant carriers have entry.¹⁰ Non-dominant carriers have entered and command a larger market share of MTS/WATS traffic in Alaska than in the rest of the country. It is not the role of the Joint Board to assure profitability or market share. Market forces will dictate results. The national paradigm assuring access to bottleneck facilities and regulation of bottleneck providers is an appropriate response.

The final goal, efficiency, has generated much rhetoric in this proceeding. Alascom's efficiency has been demonstrated repeatedly and as recently as AT&T's award of its FTS-2000 contract to Alascom. Alascom has not and will not "gold plate" its network by arbitrarily retiring existing facilities merely to install the latest "state-of-the-art" network facilities and techniques. Alascom's network will evolve in tandem with overall technology changes and economic efficiencies.¹¹ Continued improvements in efficiency are rewarded in the FCC's price cap regulatory

¹⁰Non-dominant carriers compete in Alaska and the rest of the nation against AT&T's nationwide average rate schedule. These carriers do not have a claim on the revenues generated under AT&T's nationwide average rate schedule and they pay the same LEC access charges as AT&T.

¹¹Alascom will not retard the evolution of the network merely for AT&T's profits. Alascom continues to upgrade its network at a pace and with technologies that best serve Alaska. Alaska ratepayers should not be made second class citizens with inadequate or unproven facilities.

alternative. The Joint Board can implement a market structure in which efficiency is rewarded and over-investments, or inefficiencies, are penalized. Outlined on the following chart are the parties' responses to each of these goals and the ARC plan's answer to the goals and the parties' claimed concerns.

POSITION OF THE PARTIES

	<u>ALASCOM/ARC</u>	<u>AT&T</u>	<u>GCI</u>	<u>STATE</u>
Rate Integration	Continues rate integration, caps Alascom settlement.	Does not oppose if not supported by AT&T and no damage to efficiency and competition. Costs must be shared.	Board must assure continuation, AT&T should be responsible for and have cost control.	Is intertwined with Universal service and Revenue Requirement Neutrality; supports designation of carrier of last resort; apply to Hawaii route.
Universal Service	Incentives based on growth; furthers Universal Service provided by carrier of last resort.	Does not oppose; would directly serve urban only; alleges current plan subsidizes private line.	Supports but states that if carrier of last resort named, it should be AT&T.	Must preserve current national policies.
Revenue Requirement Neutrality	No change in Separations; Risks and Rewards on Alascom.	Opposes goal as invalid, unjustly forces AT&T to subsidize intrastate MTS and private line and interstate private line.	Supports only for MTS services; achieve by freezing dollar amounts assigned to intrastate.	Necessary to achieve Universal Service.
Competitive entry	Provides for sharing transport burdens; intrastate entry an APUC issue.	Current arrangement hampers entry and forces AT&T ratepayers and shareholders to bear Alaska support alone; wants no regulation.	Alaska not a market place environment. Alascom receives subsidies which distort the market. Alascom has no responsibility for its costs.	Issue is how to treat competition while maintaining other objectives.
Efficiency	Caps in dollars total interstate settlements; incentives to reduce costs and increase traffic; loss of traffic to competition will penalize Alascom; incentive to increase use by other providers.	Alascom plans to increase rate base (over invest). Alascom needs incentives to be efficient and compete.	Alascom not directly affected by competition; revenues not tied to traffic levels; higher costs and investments increase Alascom profits.	Worthwhile objective. Most efficient structure maximizes.

FCC Docket 83-1376

Ex Parte Presentation

The ARC Plan

Explanation Of The ARC Plan

**Prepared By
ALASCOM, INC.**

EXPLANATION OF THE ARC PLAN

The FCC has applied Price Cap regulation to AT&T based on a finding that Price Cap would afford the nation's MTS/WATS ratepayers the benefits of efficiency and economy incentives which are not present in rate of return regulation. Alascom's proposed Alaska Revenue Cap (ARC) Plan was designed to assure ratepayers those same benefits when applied to Alascom's portion of the jointly provided network. Accordingly, Alascom's ARC Plan is intended to mirror the AT&T Price Cap.

Under Price Cap, rate of return regulation is replaced by a formula known as a price cap index. That index establishes the upper limit of AT&T's rates, i.e., a price cap. The underlying purpose of the FCC's price cap plan for AT&T is to benefit consumers, increase AT&T's incentive for efficiency, and promote innovation and competition (CC Docket No. 87-313, Report and Order and Second Further Notice of Proposed Rulemaking, released April 17, 1989). To answer the attacks on the AT&T-Alascom joint services arrangement that it is rate of return based and therefore promotes inefficiency, Alascom proposes the ARC Plan in order to achieve benefits to the public in the Alascom portion of the network exactly matching those benefits to be derived by the AT&T Price Cap in the rest of the network. This will be accomplished by having the amounts AT&T pays Alascom computed under the ARC formula, which mirrors the AT&T Price Cap.

The way in which this mirroring will be accomplished will be as follows:

1. The starting point of AT&T's price cap index is AT&T's rates on December 31, 1988. Those rates were based on AT&T's revenue requirements for 1988 -- the last full year AT&T was subject to rate of return regulation. Those revenue requirements included the amount AT&T paid Alascom for 1988.

Consequently, the starting point for Alascom's ARC Plan is Alascom's 1988 interstate revenue requirement. We assume that the ARC Plan will go into effect January 1, 1991. One special adjustment, relating to changes in investment, is required to bring Alascom to the actual beginning date of payment in accordance with the ARC Plan. This is explained in paragraph 5, below.

2. AT&T capped rates are determined year by year by an index which is applied to the capped rates for the preceding year. That index has several factors:

- a. The net change in the GNP-PI (Gross National Product - Price Index).
- b. A 3.0 percent reduction based on the FCC's assessment of AT&T's productivity.
- c. Exogenous changes including revisions to Parts 32 (accounting) and 36 (jurisdictional separations of the FCC's Rules and Regulations, GAAP changes, and other material judicial, executive or legislative actions beyond the control of AT&T.
- d. Changes in LEC access rates.

The result of this computation is a percent figure which is applied to increase or decrease the prior year's capped rates to establish the later year's capped rates. For example, effective July 1, 1989, AT&T's Price Cap Index was changed to 97.5, representing a 2.5% reduction in AT&T's rate cap as compared with December 31, 1988 rates.¹²

Under the ARC Plan, the first step would be to apply the AT&T Price Cap Index to AT&T's prior year's payments to Alascom. In other words, Alascom's shareholders are willing to pay the price for any inability by Alascom to be as productive as AT&T.

3. The third step relates to changes in traffic. In essence, AT&T's allowable revenue equals its capped rates times its traffic. Under Price Caps, a major component of incentive regulation is that AT&T benefits from increased traffic, and therefore, has an incentive to spend money to increase its traffic, as long as the net effect is favorable.

Correspondingly, Alascom proposes that under ARC it derive a benefit -- or suffer a detriment -- equal to the value of 50% of the increase or decrease in Southbound

¹² Actually, AT&T has a separate price cap index for each of three "Baskets." The figure quoted above is for Basket One, Residence and Small Business Basket. This is the Basket with most of Alascom's traffic, and Alascom proposes that this Basket be employed in the ARC Plan.

interstate MTS/WATS traffic each year as compared to the base year. We propose that Alascom's fortunes hinge on Southbound traffic changes because Alascom has more to say about Southbound than Northbound demand. This approach would leave the benefit of all of the Northbound and half the Southbound growth for AT&T, and it would also provide Alascom with the same kind of incentive to work for traffic growth that AT&T has to expand total traffic. In the absence of such an incentive, Alascom could find itself with an incentive actually to restrain growth because it would have no basis from which to defray the cost of increases in traffic.

Thus, the second step in the ARC Plan computation of AT&T payments to Alascom would be an adjustment up or down equal to the value of 50% of the increase or decrease in Southbound traffic compared with the base year.

4. The third and final step in Alascom's ARC Plan does not mirror AT&T's Price Cap. It does, however, benefit AT&T's ratepayers. In this step, the sum of the payments established by steps one and two, above, would be reduced by subtracting MTS/WATS payments made to Alascom by interexchange carriers other than AT&T. Such carriers are currently taking service from Alascom in increasing amounts, thereby sharing with AT&T the costs of Alaska transport. Thus, one of AT&T's severest criticisms of

the existing system is already being answered. AT&T would pay the amount remaining after this subtraction has been accomplished.

5. There remains Alascom's explanation of the special adjustment to be made to Alascom's 1988 interstate revenue requirement to establish the amount of payment to be made in the first year of actual operation of the ARC Plan. For the purpose of this discussion, we assume that this first year will be calendar 1991.

This adjustment is a one-time net increase in annual revenue requirements resulting from Alascom's investment in two major facilities in the post-1988 period -- (a) the new fiber optic undersea cable between Pacific City, Oregon and Seward, Alaska, and related facilities, and (b) the Aurora II satellite --from which would be subtracted the reduction in revenue requirements from retiring and depreciating existing facilities and from termination of leases no longer needed. The net annual increase would be approximately \$7 million.

This adjustment is necessary to place Alascom in roughly the same position for revenue cap regulation as AT&T was for price cap regulation. The two Alascom investments here in question are essential to the provision of service to Alaska if Alaskan ratepayers are not to become second class citizens. Both investments are subject to FCC review, and the Aurora II

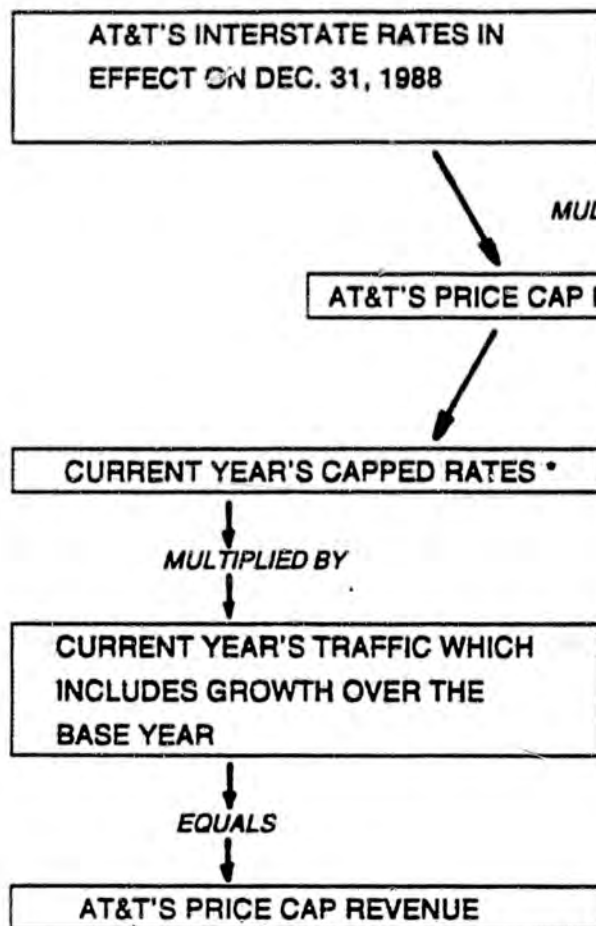
construction permit has already been granted. The investments represent unique, one-time major changes to the Alascom network which, from a technological standpoint, are consistent with changes in the lower 48. Other investment will be incurred without changing the ARC base. These improvements will be necessary if Alascom is to achieve incentive payments reflecting growth. Their revenue requirements must be included in any workable revenue cap.¹³

AT&T began a price cap regime with its network newly rebuilt. In the several years preceding 1989, it replaced its analog network with a digital network including a nationwide fiber optic network. Alascom's timing has necessarily been somewhat different. This one-time ARC adjustment will place Alascom in a starting position comparable to AT&T's.

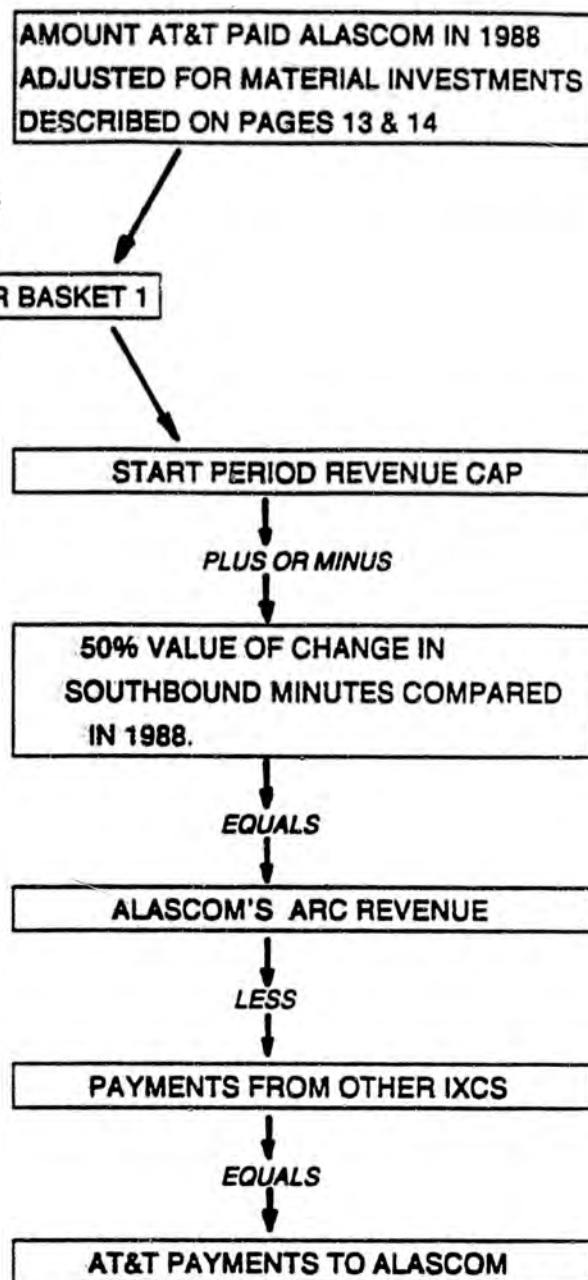
The chart on the following page illustrates the manner in which Alascom's ARC Plan mirrors AT&T's Price Cap.

¹³ For simplicity, we assume that both investments will be made by December 31, 1990.

THE AT&T PRICE CAP PLAN



ALASCOM'S ARC PLAN



*OR ACTUAL RATES IF LOWER

FCC Docket 83-1376

Ex Parte Presentation

The ARC Plan

Questions

**Prepared By
ALASCOM, INC.**

QUESTIONS

Q. Other parties have alleged that the Joint Services Agreement provides no incentive to Alascom to operate efficiently and leaves Alascom on a "gravy train". Under ARC, what incentives does Alascom have to reduce costs and be more efficient?

A. Alascom has all the incentives of carriers providing service in the lower 48. The ARC plan provides an incentive to Alascom to operate more efficiently by capping its settlements and allowing it to share in Southbound revenue growth. The ARC plan sets a firm dollar amount on the settlement base. Thus cost savings are a determinable incentive. The risks of losses fall on Alascom's stockholders not ratepayers. As a final matter it is important to note that ARC, like Price Caps for AT&T, shifts Alascom from rate of return regulation with its perceived inefficiencies to an alternative regulatory system the FCC has endorsed and ordered.

Q. Parties have alleged that Alascom has overbuilt its network and is operationally inefficient. How can this be corrected?

A. While parties have leveled these allegations for years Alascom has challenged these parties to document the allegations. No documentation has been proffered. Moreover, in a study commissioned by the APUC Alascom was found to be efficient and had not overbuilt its network. Also, as a result of competitive bidding AT&T recently chose Alascom to provide facilities in Alaska for the FTS2000 network, a further demonstration of Alascom's efficiency. The network built by Alascom was designed to meet carrier of last resort responsibilities. Less costly facilities may be available but would not meet the responsibilities levied on Alascom. Alascom continues to upgrade its facilities as requirements, technologies, and economics justify.

Q. Why should AT&T continue to pay Alascom a "shortfall" and thereby subsidize the high costs found in Alaska?

A. First of all, AT&T is not experiencing a shortfall. Its costs, including the cost of Alaskan service, are fully covered by AT&T's rates. The implementation of price cap regulation did not change that. Any savings that AT&T achieves under price caps or by shifting costs to the state jurisdiction would simply be reflected in the form of increased earnings for AT&T's shareholders.

Alaska LECs are already shared by other interexchange carriers.

Q. Are there other examples that exhibit the same revenue characteristics as Alaska? Are these long term or short term characteristics?

A. Many of the existing rate schedules offered by AT&T do not cover the cost of providing that service. These rate plans generate "shortfalls" that AT&T has justified as reasonable and necessary expenses. Under the ARC plan the revenues from AT&T/Alascom MTS/WATS service will make an increasing contribution to associated access charges and AT&T can continue to abide by its commitment to nationwide averaged rates. Any changes to this commitment will discriminate against Alaska and would justify similar discriminations against selected markets in the lower 48.

Q. How can the ARC plan meet AT&T's objective of sharing Alascom's cost of service to and from Alaska with other interexchange carriers?

A. The ARC plan recognizes revenues received by Alascom from other carriers in the form of a direct dollar for dollar offset of Alascom's ARC payments from AT&T. Interexchange carriers currently are purchasing service from Alascom in

increasing amounts and, thereby sharing in Alascom's costs. Thus, AT&T's desire to have other carriers share in the cost of serving Alaska is already being addressed. Under the ARC plan in 1989, assuming AT&T's 1988 total MTS/WATS minutes, the alleged cost "burden" to AT&T would have been about .04 cents per minute. In addition a large portion of Alaska related costs are access charges which all carriers pay and include a contribution to high cost payments received by Alaska local exchange companies.

Q. How does Alascom justify the long link between the lower 48 and Alaska, a circumstance unique to Alaska?

A. The "long link" is a fact of historical development. AT&T chose not to purchase the military system that was to become the backbone of the Alaska public switched network. AT&T chose to treat Alaska as an international location not a state. Regardless of who serves Alaska the "long link" will exist. It is caused by geography. The transport of traffic to and from Alaska requires facilities that are not present in the lower 48 domestic network. These facilities include satellite capacity for rural communities which are the only economically efficient means of serving such areas. The distances between exchanges in Alaska is a geographical fact, but it should not be the basis upon which Alaska is treated differently from the rest of the U.S.

ATTACHMENT 2

1 1 JOINT BOARD OF THE PUBLIC UTILITIES COMMISSION
2 AND FEDERAL COMMUNICATIONS COMMISSION

3 IN RE:

4 Hearing of Joint Board :
5 Held via Teleconference and :
6 Videoconference Concerning :
7 the Entry of AT&T into the :
8 Telecommunications Industry :
9 in the State of Alaska :
10 _____ :

11 HEARING PROCEEDINGS
12
13
14

15 Thursday, July 1, 1993
16 9:30 a.m.
17 Anchorage, Alaska
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25 REPORTED BY:
Joy S. Brauer, RPR-CP, Notary Public

1 minutes. Certainly we welcome all of the written
2 testimony one can provide.

3 COMMISSIONER KNOWLES: Very fine,
4 Commissioner Barrett. If each person offering testimony
5 would give us your name, your address, and if you are
6 representing a group, if you would please tell us what
7 group that is. Good morning.

8 MS. HUFF: Thank you. Good morning
9 Commissioner Knowles, representatives of both the State,
10 as well as the Federal Commission. My name is Barbara
11 Huff. I'm a business representative for Teamsters Local
12 959 and I welcome the opportunity to speak before the two
13 groups this morning. Besides representing members of the
14 Alascom work force, of which we represent 520 employees
15 within that particular industry, we also represent
16 members that work statewide through Alaska.

17 I personally have been a resident of this
18 great State of Alaska for the past 21 years. I am here
19 today to address our concern with this Joint Board
20 dismembering a company, or potentially dismembering, and
21 threatening the jobs of these Alaskans when both have
22 fully and efficiently served the State for more than 20
23 years. I would like to know what great good for the
24 people of Alaska will come of this proceeding, and more
25 practically, who will guarantee that the supposed

1 benefits to be achieved from this marketing restructuring
2 will in fact be delivered to this state. Unless the
3 benefits are real and the delivery, again, certain, there
4 would seem to be no reason to depart from the current
5 competitive market structure, which has brought Alaska
6 into the forefront of more than telecommunications.

7 I personally am not a telecommunications
8 expert and I'm not here representing that particular
9 industry, but I would hope that my questions and concerns
10 that I raise here will then be simple enough that this
11 Board, jointly, would be able to respond to.

12 My first question, what is wrong with the
13 current situation? Apparently AT&T doesn't like the
14 arrangement with Alascom, even though in 1980 they
15 jointly entered into this arrangement. But Alaskan
16 Alaskans have seemed to have served and been served well
17 by this particular arrangement. A statewide modern
18 satellite telecommunications network has been created,
19 provided telecommunications infrastructure which has
20 benefited every sector, state, federal, private, public,
21 as well as the commercial, education and social aspects
22 of this state. A second generation satellite designed
23 specifically for Alaska service has been launched.
24 Fiberoptic facilities linking Alaska with the rest of the
25 nation has also been put into place, improving both the

1- quality, as well as the availability of service to this
2 great state. And during this period, competition on both
3 sides, the instate, as well as interstate levels
4 developed and grew to the point where MCI, a major
5 interstate competitive carrier, has now directly entered
6 the Alaskan market.

7 My observations on the positive improvements
8 made in the last decade and on the quality of service
9 provided are certainly biased. I represent the employees
10 that work for Alascom. But, those men and women have
11 been responsible for constructing and currently
12 maintaining the services that are provided to the
13 citizens of this community, not only in Alaska, but
14 across this great state. They're Alaskans who, with the
15 other employees of Alascom, dedicate their professional
16 careers to providing the highest possible quality and I
17 believe a recent incident which maybe many of you locally
18 have read about in the newspaper might bring a lot of
19 this a little clearer to mind.

20 On June 3rd, a Homer resident, Alice Whitt,
21 and her husband Ray Sinclair, were visiting friends in
22 Anchorage. Ms. Whitt attempted to call her sister in
23 Idaho and erroneously dialed Vermont's 802 area code
24 instead of her sister's prefix 208 in Idaho. The phone
25 was picked up and she heard a gasping breath, a weak

1 voice saying, "Help me, help me, help me." Ms. Whitt
2 could tell the voice was not her sister's. What she
3 couldn't know was the voice belonged to a 90 year old
4 woman in a ski resort in Rutland, Vermont who was
5 suffering a major heart attack. Ms. Whitt told the woman
6 to hang up and call 911 but the woman probably
7 understandably continued to ask for help.

8 Mr. Sinclair used a second line in the home
9 where they called an Alascom operator. With the phone at
10 each ear she was put through to the Alascom supervisor,
11 Ms. Garrard, who was able to contact paramedic
12 dispatchers in Rutland. Everybody stayed on the line
13 while that call went from Alaska to Vermont, back to
14 Alaska through Massachusetts and back to Vermont again.
15 The call lasted about 30 minutes and as a result of the
16 caring services of those employees at Alascom, as well as
17 the citizens in the community here and in Vermont, the
18 woman was taken to the hospital and was released
19 successfully several days later.

20 Given this kind of professionalism and
21 dedication by the Alascom work force, I am more than a
22 little skeptical when I hear allegations concerning
23 inefficiency. In the first place, much of this name
24 calling appears to originate from Alascom's competitors
25 or others who clearly stand to gain commercially by this

4
1 sort of thing. And the second place, no one has ever
2 stepped forward with any proof of such so-called
3 inefficiencies.

4 The members of Local 959 I can assure you
5 are not and never have been inefficient. We have
6 operated a competitive interstate environment since the
7 early 1980s. For the last two years, we have been
8 competing instate as well, mostly against GCI, a non
9 union company. After two years of such competition,
10 Alascom has more than 80 percent of the interstate market
11 and continues to gain shares through this annually.

12 Apparently outside these hearing halls where
13 people are voting with their dollars, they are voting for
14 Alascom and not in a small manner, but based on the skill
15 and the efficiencies of our members working for the
16 company of Alascom.

17 We have also watched Alascom reduce its non
18 represented and management work force over the past
19 several years, as well as some very tough bargaining that
20 we have also incurred at the table, in effect to and I
21 believe successfully reduce the rates whereby freezing
22 wages and benefits for the employees that do work for
23 Alascom, the company has attempted to deal with
24 competitive requirements on a real time basis, almost
25 always, through programs such as early retirement and

1 attrition. These minimize not only the disruption within
2 the work force, but also the economic impact on this
3 community, probably more so in Anchorage, as well as
4 Juneau, where a lot of these lost or potentially lost
5 jobs will occur.

6 So what's wrong with this picture, other
7 than AT&T and GCI, don't like it. A convincing case for
8 the need to make changes has not been made, or if it has,
9 it hasn't been brought to our attention. Until it is,
10 tampering with this fully functioning system and the jobs
11 it provides makes little sense but if change is to be
12 mandated by this Joint Board, a second question arises.

13 What are the additional benefits do the
14 people of Alaska? Who is going to guarantee their
15 delivery? Rates, I believe, are at the heart of this
16 matter, particularly for rural Alaskans whose dependency
17 on telecommunications is great and whose access to cash
18 economy is of minimal. AT&T has conspicuously avoided
19 any suggestion of efficiency they will achieve, and the
20 money they will save will result in reduced interstate
21 long distant rates. Very likely, this money will stay
22 with the shareholders or those members of AT&T not of
23 Alaska.

24 In so far as I can determine, interstate
25 rates will be subjected to upward cost pressures and will

1 eventually increase, sooner more likely than later.
2 These upward pressures have been described by many of the
3 parties on record over the past year. And yet the Joint
4 Board does not seem to be -- the Joint Board does not
5 seem to be particularly interested nor concerned about
6 these particular effects on the people, even though
7 revenue requirement neutrality, which was mentioned here
8 earlier this morning, which I understand to mean don't
9 lower interstate rates by raising intrastate rates, is
10 one of the Joint Board's basic principles.

11 COMMISSIONER KNOWLES: Excuse me, Barbara,
12 are you --

13 MS. HUFF: I'm about finished. The second
14 part of the question seems to be the most troubling. Who
15 will ensure that your decision will actually produce
16 beneficial results? If for the sake of argument you're
17 wrong, who's going back to pick up the pieces? The
18 economy of Alaska is not overly prosperous at this
19 moment, or probably in the any near future. Disruptions
20 of basic infrastructure, especially telecommunications,
21 will not only create dislocation in this industry but
22 could adversely affect others. It can damage the social
23 and educational framework of the State, particularly in
24 remote areas where education and health services are
25 heavily dependent on telecommunications for effective

1 delivery to rural residence.

2 In closing, I guess I'd like to sum this up
3 by saying the Joint Board, if you do nothing,
4 unfortunately AT&T would not be happy but intrastate
5 rates would remain unchanged, intrastate rates would
6 remain stable, competition in Alaska would continue to
7 flourish and hundreds of dedicated, efficient Alaskans
8 would continue to provide service in Alaska to Alaskans.
9 Since you aren't here, I can't ask all of you to go home
10 and think about this, but I can ask you to at least think
11 about it.

12 I thank you for your time and we will also
13 be submitting written comments before July 12th.

14 COMMISSIONER KNOWLES: Thank you very much.

15 COMMISSIONER BARRETT: Thank you Ms. Huff
16 Susan I'd like to ask you to do something. In view of
17 the fact that Ms. Huff went about 13 minutes and we
18 started late, I would appreciate it if you could keep the
19 time within the five minutes or less constraint.

20 COMMISSIONER KNOWLES: Yes, sir.

21 COMMISSIONER BARRETT: Susan, would you keep
22 the time for me? Susan?

23 COMMISSIONER KNOWLES: I will. You are
24 welcome to jump in, as well, Commissioner Barrett. We do
25 have others who have signed up from our initial list. I

1 Mr. Huhndorf. For the benefit of my Federal and State
2 colleagues, Mr. Huhndorf did give me some written
3 comments which I will be sure you receive copies of. Mr.
4 Anderson did the same, although he primarily read his
5 comments. Those will be provided to you, as well.

6 The next person who is signed up to testify
7 is Jeff silver man.

8 MR. SILVERMAN: Good morning, Commissioner
9 Knowles and Chairman Barrett.

10 COMMISSIONER BARRETT: Commissioner Knowles,
11 Commissioner Knowles?

12 COMMISSIONER KNOWLES: Yes?

13 COMMISSIONER BARRETT: I need to raise a
14 question, because apparently, Mr. Silverman, we have Miss
15 Julie Kitka here also, you know, and I need to kind of
16 understand which one's going to testify. We have her
17 here in Washington.

18 COMMISSIONER KNOWLES: I think this is a
19 matter between the two of them.

20 MR. SILVERMAN: I would yield to Julie.

21 COMMISSIONER BARRETT: Well why don't I do
22 this, since you're going to do that, why don't I let Mr.
23 Silverman make his remarks for two and a half minutes and
24 she can make hers for two and a half minutes.

25 MR. SILVERMAN: I'll go ahead and read what

1 I have prepared. My name is Jeff Silverman.

2 COMMISSIONER BARRETT: Well, no, no, no, no,
3 no, no, no, hold on one minute. Why don't you summarize
4 that the best you can unless you going to stay under the
5 time limit. I don't need two people from the same
6 organization making remarks.

7 MR. SILVERMAN: That's fine. I'll stay well
8 within the time limit.

9 COMMISSIONER BARRETT: Fine, thank you.

10 MR. SILVERMAN: My name is Jeff Silverman.

11 I am the Public Information Director for the Alaska
12 Federation of Natives which represents the concerns of
13 Alaska's 85,00 Eskimos, Indians and Aleuts. Our reason
14 for attending this hearing and providing these comments
15 is simple. The statewide native communities would like
16 to see that affordable communication for rural Alaskans
17 will continue. We are concerned that rural Alaskans,
18 native and non native, businesses, schools, hospitals and
19 private citizens will be left out of the development
20 investment and realignment that is to come.

21 We live in a time of transition. Changes
22 keep coming and nowhere in Alaska are they more dramatic
23 than in Alaska's villages. The telecommunications
24 revolution is the latest and probably the most profound
25 change to come. We should not forget that as late as the

1 mid 1970s many bush areas had no telephone service at
2 all. Alaska's telecommunication boon connected our far-
3 flung communities and in many ways has helped to bridge
4 the gulf between urban and rural Alaska.

5 Telecommunications has made it possible for
6 even the most remote village to tune into the rest of the
7 world. Distance education has helped to link students
8 with teachers and professors hundreds of miles away. In
9 a high cost state like Alaska, this connection will be
10 important as we begin to deal with the issue of future
11 diminishing state revenues.

12 The key to the maintenance of the
13 telecommunications system that has developed in Alaska is
14 affordability. People in rural Alaska are extremely
15 vulnerable to changes in the government programs and
16 appropriations policies. They live on the razor's edge,
17 so to speak.

18 Let me illustrate. According to the AFN
19 status reports on Alaska natives, A Call For Action,
20 which is a study commissioned by AFN in 1989 and updated
21 in 1992, federal expenditures in rural Alaska are heavily
22 skewed towards funds for essential community services and
23 facilities and away from payments to individuals. In
24 Western Alaska, the grants and contracts for governmental
25 programs reached \$3,922 per capita, while direct payments

1 to individuals, mainly social security and other
2 retirement benefits were substantially lower at \$874 per
3 capita. Thus, changes in government policy and funding
4 are felt quickly and on a communitywide basis, not
5 absorbed only by a small sector of the population, as
6 often happens in the cities.

7 The high cost of living in rural Alaska is
8 well documented. In A Call To Action, it was shown that
9 the overall cost of living in villages in 1990 was
10 between 126 and 145 percent higher than in Anchorage,
11 while the cost of certain essentials like fuel were an
12 incredible 476 percent higher than in Anchorage. When
13 effective income is reduced, cash is scarce, it becomes
14 increasingly difficult for communities to support
15 expensive utilities like power and water and
16 communications.

17 These communications -- these utilities are
18 essential. In the rural areas, the stakes are higher
19 because there is a greater dependence on a smaller set of
20 alternatives. We are greatly worried that if villages
21 can't afford this kind of service, that one by one they
22 will be shut off. The health, social and economic
23 ramifications would be extreme, to say the least. It
24 would represent a big step backward after two decades of
25 great strides made in telecommunications in rural Alaska.

1 We know that change is inevitable and it is
2 coming to Alaska's telecommunication system. We also
3 know that modern technology is expensive, especially in
4 rural Alaska. If only those with the ability to pay have
5 the service in the future, it would only be a handful of
6 customers. Affordability is the key issue now and as we
7 move forward into this decade. Thank you.

8 COMMISSIONER KNOWLES: Thank you very much,
9 Mr. Silverman.

10 COMMISSIONER BARRETT: Thank you very much.
11 Thank you, Mr. Silverman. Commissioner Knowles, we're
12 going to have Miss Julie Kitka, also from the Alaska
13 Federation here also make some comments so we can take
14 those two organizations together. Ms. Kitka.

15 MS. KITKA: Mr. Chairman, good afternoon.
16 My name is Julie Kitka, and I'm the President of Alaska
17 Native Corporation. The reason why Mr. Silverman was
18 planning on testifying is we weren't aware that it would
19 be possible for me to attend and -- (inaudible).

20 COMMISSIONER KNOWLES: Excuse me. Could
21 you -- could you please speak up a bit or --

22 COMMISSIONER BARRETT: Move your chair over.
23 Move your chair over, if you want to.

24 COMMISSIONER KNOWLES: We're out of camera
25 range, however. There we go.

1 COMMISSIONER BARRETT: We'll get it
2 straight.

3 COMMISSIONER KNOWLES: I'm glad technical
4 problems can be shared.

5 COMMISSIONER BARRETT: We're fine.

6 COMMISSIONER KNOWLES: Thank you.

7 MS. KITKA: Like I said, I'm the President
8 of the Alaska Federation of Natives. AFN is a political
9 umbrella organization for the native people in the State
10 of Alaska. We came to existence in 1966, primarily to
11 focus on obtaining a land claims settlement for our
12 people. As to the involvement in the communications
13 issues surrounding rural communications and helping our
14 villages come into the modern world, has been extensive
15 since 1966. We are very concerned with what's going on
16 here for a couple reasons and -- written testimony which
17 Mr. Silverman submitted for the record has been --
18 (inaudible) -- but to highlight some of the.

19 The first one is the notice for the hearing
20 was very, very inadequate. Our communities are very
21 far-flung. This is not a time of year which is conducive
22 for a hearing. Many of our people are out at the fish
23 camps, getting ready for commercial fishing. Our
24 organization as an organization does not even schedule
25 any meetings, regular board or anything through this

1 period of time because it is such a bad time for our
2 people, our native people to get together to talk about
3 these issues. So I'd really like to urge you that if you
4 do have the ability to extend the time to try to
5 accommodate the people in the rural areas -- (inaudible).
6 Summertime is just not the time to -- (inaudible). You
7 can talk to any federal agency that deals in rural Alaska
8 and they will tell you the same thing that summertime the
9 people are taking care of their families and their own
10 livelihood, as far as the fish camps and stuff. It's
11 just not a time for public policy discussions -- where
12 people's input is desired on that --

13 The second thing is the information that we
14 have been privy to, as far as what's been submitted as
15 far as the plan doesn't have enough detail for us to
16 determine whether or not the plans are going to actually
17 be beneficial to rural Alaska. For example, the issue of
18 satellite and who is going to put up the satellite,
19 which -- the current satellite when its usefulness
20 expires. Those type of details on that concern us
21 because it's very hard to evaluate plans if you don't
22 have the details to know how it's going to affect the
23 rural areas, but I can tell you that communications is
24 very vital to our people out in the villages.

25 One example which is unique in the State of

1 Alaska is our health care system. We have community
2 health aides in all our villages. They provide
3 approximately 80 percent of our direct medical care to
4 our people in the villages because there's not doctors
5 and nurses or physician assistants in the villages.
6 These community health aides, they are in daily contact
7 via phone to doctors who treat our people either for
8 gunshot, gunshot accidents -- health issues or whatever.
9 That has become a vital link in our health care system is
10 to access through telephone on that.

11 In the past, it was radio. In the past we
12 had to make do with what limited communications we had.
13 So communications is really integrated into the rural
14 areas and we are hopeful that communications can be of
15 benefit to our people, both in the health care system to
16 provide better and faster access to doctors and diagnosis
17 of conditions, because of the size of our communities are
18 too small to ever have the critical mass where you'd have
19 these professions in the medical field to be ever able to
20 live there. They're just too small, not a large enough
21 group, critical mass.

22 Another example where communications has to
23 play a vital role, as far as our people are concerned, is
24 in the education area. Right now, study after study
25 shows our people, especially in the villages are getting

1 a substandard education by every measure of academic
2 achievement that is listed, and we think that
3 communications can improve that.

4 Once again, the size of our communities
5 being very small, thus not having critical mass to have
6 instructors, science teachers that teach science, math
7 teachers that teach math are things where communications
8 fill the gap in there and there has been demonstrations
9 in the State which have been very successful. We want to
10 see, as technology develops and communication does, we
11 don't want to be shut out for reasons of not being able
12 to afford it and the issue of our remoteness and lack of
13 the critical mass means it's not a profitable environment
14 for a business that the bottom line is their number one
15 objective.

16 We see that in the present Administration's
17 discussions on health care where managed competition
18 won't work in Alaska. The rural conditions will not
19 support managed competition, and they shifted over to
20 managed cooperation as a way to possibly deal with the
21 uniqueness of the remoteness and the small populations --

22 I very much urge you to take into account
23 concerns from the rural areas and make sure that they are
24 included in any further proposals as they go forward and
25 you ask the different companies that are presenting

1 things to you to provide enough detail so that we know
2 these things.

3 I think that if the rural areas are priced
4 out of the communications formats that there will be a
5 lot of harm to our communities and I just think that that
6 is, you know, we're U.S. citizens like everybody else on
7 that, that we should have the opportunity to -- that some
8 of the larger communities have, too.

9 That's some of the points I want to bring up
10 and we'll be participating and be glad to provide
11 additional information as it comes along. We have lots
12 of studies and reports on income levels, the fact that
13 our people are below the poverty line on many factors,
14 we're in the middle of a population boom. Our population
15 is expected to double every 23 years, just you name it.
16 All the factors are stacked against us on that. So I
17 just urge you to keep that in account as you go forward,
18 and the uniqueness, and I will wrap up and thank you for
19 the time.

20 COMMISSIONER BARRETT: Thank you very much,
21 Ms. Kitka. And I would like for you to, if you want to
22 supplement the record with some of the data you talked
23 about in terms of employment and population, we would
24 appreciate it very much

25 Back to you, Commissioner Knowles.

1 the next time. Thank you very kindly.

2 Can we continue, Commissioner Knowles?

3 COMMISSIONER KNOWLES: We certainly may.

4 I'd like to ask Willie Hensley to testify next and Former
5 Representative Boucher will be next on the list.

6 MR. HENSLEY: Thank you, Madamn Chairman. I
7 appreciate the opportunity to testify. I might also add
8 that Senator Adams, my friend and relative who also
9 occupies the State Senate seat I used to have from up
10 north and out west would like to have been here to make
11 comments. He has seen my testimony. He identifies with
12 it and he asked me to state that.

3
13 I am Willie ly Hensley and I am president of
14 Nana Regional Corporation. We have about 8,000
15 shareholders, primarily located in Northwest Alaska in 11
16 villages, as well as other locations around the State. I
17 am a Director of Alascom and have been so since the
18 1970s. My testimony would be no different were I not a
19 Director of Alascom. I feel that the company has made an
20 excellent effort over the years to provide modern
21 communications to the smallest villages and its directors
22 come from all regions of our vast state.

23 As a native Alaskan, I've seen the growth
24 and improvement of communications in Alaska almost since
25 the days of the sled dog mail carriers. Our small

1 communities are no longer the isolated back waters of
2 America that they used to be. Unlike earlier times, we
3 are tied to the rest of Alaska as a consequence of modern
4 communications.

5 Alaska, because of its vast size and varied
6 cultures, from the Yupik in the southwest part of Alaska
7 to the Inalik of the north and western Alaska to the
8 Athabaskans of the great interior region, the Aleuts of
9 the Chain, Aleutian Chain, and the Tlingit and Haida of
10 of the southeast of Alaska, all are now tuned in together
11 with the population centers of our state. This has not
12 always been the case.

13 I am not impressed, quite frankly, with
14 timing and notice of the hearing. This issue will have
15 such an impact on the future of rural communities that
16 every effort should have been made to advertise the
17 hearings and descriptions of the proposals made known
18 throughout the State. This is the worst possible time to
19 convene a teleconference. Everybody in rural Alaska and
20 many in urban Alaska are out frantically trying to earn
21 enough to survive throughout the winter or to enjoy the
22 short summer months. As busy a commissioners may be, on
23 an issue of this import, physical presence is important
24 to get the full flavor of people's opinions on this
25 issue.

1 Rural Alaska has some of the most difficult
2 and intransigent problems in the country. People in the
3 villages are in a economic twilight zone where the
4 economy is part hunting and fishing for family
5 consumption and part modern. We have the highest
6 unemployment rate in the nation, the highest cost of
7 living, the coldest weather, the worst sanitary
8 conditions, serious health problems due to lack of water
9 and sanitary sewer facilities, and some of the highest
10 rates of suicide and alcohol addiction. Yet there have
11 been major improvements in the last 20 years. These
12 problems these 200 communities face is that there is a
13 danger of falling back because these improvements in
14 housing, communications, education facilities, electric
15 generation and community facilities is due to the State
16 support for oil earnings. The next five or ten years
17 will see the reduction in income to support important
18 services like modern day communications. Rural Alaska is
19 simply too vast, too costly, too impoverished and too
20 sparsely populated to provide modern communications
21 without some assistance from your agency.

22 I would urge you to pay special
23 consideration to the need for affordable universal
24 service for rural Alaskans.

25 Thank you, Madam Chairman.

ATTACHMENT 3

**THE APUC'S CONSULTANTS HAVE CONSISTENTLY FOUND
THAT THE COST OF SERVING RURAL ALASKA IS VERY HIGH**

As the intrastate interexchange carrier-of-last-resort, Alascom is the only long-distance carrier which must provide intrastate service to rural Alaska communities. Over the last several years, the Alaska Public Utilities Commission (APUC) has conducted proceedings in which the issue of the cost of serving rural Alaska has arisen. These cases included: 1) U-87-25, in which the APUC investigated Alascom's costs of retail service; 2) R-86-2, in which the APUC investigated GCI's proposal for implementing intrastate competition; 3) R-90-1, in which the APUC adopted regulations implementing competition; and 4) U-90-68, in which the APUC set Alascom's wholesale rates. In each case, the APUC hired the firm Ben Johnson Associates, Inc., as its independent consultant. The firm performed its own studies of Alascom's costs. The consultants concluded that the costs of serving rural Alaska were very high, and substantially higher than the costs of serving urban Alaska locations.

On November 14, 1988, Ben Johnson Associates filed its first cost study as part of U-87-25, a proceeding which concerned the revision of Alascom's retail rates. Johnson analyzed the cost of virtually all routes on the Alascom network. He found that "calls originating and terminating in urban locations have significantly lower cost than those between rural locations." Ben Johnson Associates, The Economic Costs of Long Distance Telecommunications Service in Alaska, Nov. 14, 1988, p. 15. Johnson categorized Alascom's high density locations as "urban"¹ and its low density locations

¹ "Urban" included locations within five geographic areas: Anchorage, Fairbanks, Juneau, the Kenai Peninsula and the Matanuska Susitna Valley. Id., p. 14.

as "rural." Johnson developed Alascom's cost of providing service between urban locations, between urban and rural locations, and between two rural locations. He found that Alascom's cost of serving the "rural" locations was double that of serving the "urban" locations:

Table 2
Alascom, Inc.
Costs Per Minute:
Urban vs. Rural
Total Costs

Category	Short-Run		Long-Run	
	Average ¹	Marginal	Average ¹	Marginal
Urban-Urban	\$.2721	\$.0981	\$.2676	\$.0935
Urban-Rural	.3459	.1132	.3384	.1101
Rural-Rural	.5356	.1715	.5510	.1688

¹Includes LEC NTS costs.

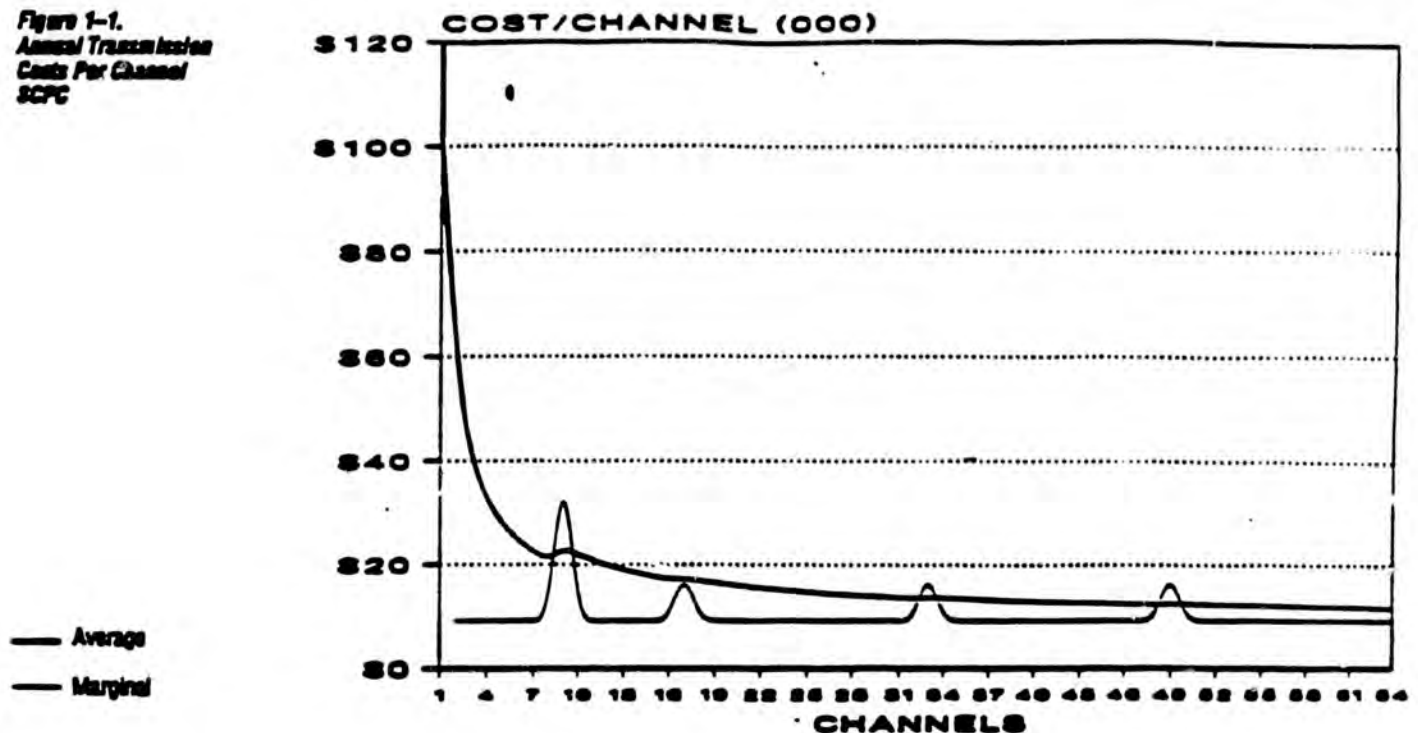
(Ben Johnson Associates, The Economic Costs of Long-Distance Telecommunications Service in Alaska, Nov. 14, 1988, p. 15).²

In his study, Johnson analyzed Alascom's costs of providing facilities to Alaska locations. He found that a transmission facility in a small isolated community is much more expensive (on a per-customer) basis than a facility in Anchorage which can serve many. The more traffic volume in an area, the more "channels" can be built into each facility, and the lower the cost per channel. Johnson showed that the transmission costs per channel ranged from approximately \$40 a channel for a three-channel facility to \$16 a channel for a sixty-four-channel facility:

² As used in the table, "average costs" account for "one-time" expenses such as setting up a transmission facility as well as the expenses of routing a call once the basic equipment is in place. "Marginal costs" account for only the latter expenses. The greatest disparity is in average costs.

Annual Transmission Costs Per Channel

Figure 1-1.
Annual Transmission
Costs Per Channel
SCPC



Ben Johnson Associates, The Economic Costs of Long Distance Telecommunications Service in Alaska, Nov. 14, 1988, p. 17.³

Johnson's graph shows that when the number of channels falls below eight to twelve, costs increase suddenly. Urban Alaska falls to the right of the "turning point" of the curve while rural Alaska generally falls to the left. As Johnson commented:

³ Johnson provided similar charts showing the cost curves for technologies other than single carrier per channel (SCPC) satellite systems. The cost curves were similar to the SCPC curve.

[A] large fraction of Alascom's tributary links ... currently require fewer than 10 channels. Only a handful of links require more than 100 channels. The largest link in the state only has about 1,500 channels -- a number which is relatively modest when compared with most states. Even the Company's interswitch transport routes, which carry traffic from all over the state between the Anchorage, Fairbanks, and Lena Point toll centers have relatively few channels.

Testimony of Ben Johnson, U-87-25, dated Nov. 14, 1988, p. 111.

By contrast, in the more populous contiguous 48 states, many rural communities support enough channels to fall to the right of the "turning point."⁴ Because the slope of the curve is relatively flat once more than eight to twelve channels are in use, the distinction between urban and rural service costs is much more pronounced in Alaska than it is in other states. Testimony of Ben Johnson, U-87-25, dated Nov. 14, 1988, pp. 111-113.⁵

Next, on January 30, 1990, Johnson filed a recommendation in R-86-2, a proceeding in which the APUC examined how to implement competition in long-

⁴ "It must be recognized that the volume of traffic between Anchorage and Fairbanks is only a small fraction of the traffic on routes generally considered 'high-density' in other parts of the country...." Testimony of Ben Johnson, U-87-25, dated Nov. 14, 1988, p. 113.

⁵ The APUC later recognized the importance of the "significant break" in the cost curve. "[A] drop in the number of channels from 40 to 20 causes a much smaller increase in cost per channel than a drop from 12 to 6 channels." R-90-1(6), dated Sept. 6, 1990, p. 6). Thus, a farming community in Arkansas which can support twenty channels is much less costly to serve than an isolated Alaskan fishing village which can support only six.

distance telephone service within Alaska.⁶ To develop a plan that harmonized competition and universal telephone service, Johnson analyzed the data that his firm had developed in U-87-25. He reaffirmed that there were wide disparities in the cost of serving urban and rural Alaska locations largely because of the cost characteristics of the transmission facilities:

Many of the transmission costs are fixed investments that are invariant with the number of channels or traffic volumes: obtaining rights-of-way (where necessary), site preparation, construction of shelters for satellite earth stations, installation of the power system, construction of microwave towers, etc. Once facilities have been installed to serve a particular route, most of these costs are fixed (and many are also sunk, or irretrievable). Even some of the operating and maintenance costs are partly fixed with respect to output, since telephone traffic causes little deterioration of the facilities (unlike a typical manufacturing process).

Thus the average cost per channel typically declines rapidly as the number of channels on a route increases, because the fixed costs are spread over a larger number of channels. Furthermore, within the range where average costs are declining (which often covers the entire range of demand) the marginal cost to add a channel to the system is less than the average cost per channel. This means that enlarging the system actually lowers the per-channel cost of the existing capacity, assuming demand is not exceeded.

Ben Johnson Associates, Implementing Intrastate Toll Competition in Alaska, Jan. 30, 1990, pp. 16-17.

⁶ GCI had filed a petition asking the APUC to adopt regulations implementing intrastate interexchange competition. The APUC hired Ben Johnson Associates to examine how it could authorize competition while also ensure universal toll and local telephone service at reasonable rates.

Johnson noted that the low traffic densities, remoteness of the locations and extreme climatic conditions made rural Alaska very costly to serve:

... [T]he low traffic densities in the latter areas, as well as the remoteness of the towns and villages and the often extreme climatic conditions, cause the cost of serving the rural locations to be relatively high on a per minute basis. For instance, cost analyses conducted by our firm indicate that whereas the average costs on some high-density urban routes is as low as \$0.5 per minute, some intrastate rural routes have average costs in excess of \$1.10 per minute. The combination of low traffic densities and high costs makes the rural locations less attractive to competitors than the high-density routes with their much lower per-minute costs.

Ben Johnson Associates, Implementing Intrastate Toll Competition in Alaska, Jan. 30, 1990, p. 9.

To preserve universal service, Johnson recommended that the Commission use a unique and experimental scheme of weighted access charges to levelize the cost of providing toll service between urban and rural areas. Ben Johnson Associates, Implementing Intrastate Toll Competition in Alaska, Jan. 30, 1990, p. 11. By weighting access charges so that the access cost of serving urban areas was higher, and cost of serving rural areas was lower, the APUC would ease the cost burden of serving rural customers.

After the state legislature authorized intrastate competition, the APUC conducted a rulemaking case to set guidelines for competition, R-90-1. The APUC affirmed the conclusions that Johnson had reached in R-86-2 and adopted his firm's weighted access charge proposal:

[T]he Commission is convinced that the introduction of competition in the provision of intrastate interexchange service presents risks to the price and quality of service to rural areas of Alaska where traffic densities are low and the cost of providing service is high. These risks have been thoroughly documented Weighting of bulk bill access charges partially levelizes the profitability of urban and rural toll routes.

R-90-1(6), dated Sept. 6, 1990, pp. 27-28. When Johnson calculated the final weights for the APUC, he set urban access charges at 2.5 times the level of rural access charges. Ben Johnson Associates, Development of Bulk Bill Weights, Feb. 11, 1991, p. 12, Table 6.

In U-90-68, Ben Johnson Associates conducted another cost study. This second study, which compared Alascom's cost of wholesale⁷ service in rural areas to that of wholesale service in urban areas, further documented the high cost of serving rural Alaska. The study categorized Alaskan high, medium and low density routes as "urban," "intermediate," and "rural," respectively. Johnson found that Alascom's provision of "transport",⁸ the major component of wholesale service, was sixteen times more expensive in rural areas than in urban areas:

⁷ Alascom "wholesales" some of its capacity to interexchange competitors which resell it to their customers.

⁸ "Transport" is the function of carrying a call along a path from where it exits the caller's local exchange network to where it enters the receiver's local exchange system.

Short Run Average Transport Costs

	<u>Cost per-minute</u>
High-Density Competitive (urban)	\$.01645
Low-Density Competitive (intermediate)	\$.02387
Low-Density Non-Competitive (rural)	\$.27151

U-90-48, April 8, 1991, Hearing Exh. BJ-2.

The APUC's independent consultant has concluded repeatedly that the cost of serving rural Alaska are very high, and substantially higher than the cost of serving urban routes. The APUC developed its intrastate regulatory scheme based on the consultant's conclusions.

ATTACHMENT 4

June 25, 1993

TABLE OF CONTENTS

SUMMARY	i
I INTRODUCTION	3
II AT&T'S APPLICATION IS INSUFFICIENT UNDER APPLICABLE COMMISSION RULES	6
A. The Application does not comply with the Rules . . .	6
B. AT&T's failure to disclose virtually all necessary information is an attempt to avoid discussion of the harm its proposal would cause to the public interest	11
III AT&T'S ASSERTIONS CONTRADICT ITS PRIOR REPRESENTATIONS	16
A. AT&T offers circuit forecasts which are inconsistent with its own recent representations concerning Alaska	16
B. AT&T's circuit forecasts are inconsistent with its domestic circuit forecasts and methodologies . . .	22
IV INDEPENDENT ANALYSIS DEMONSTRATES THAT AT&T'S ASSERTIONS CONCERNING TECHNOLOGY ARE WRONG	26
V THE APPLICATION MUST BE DENIED AS UNSUPPORTED AND AN ABUSE OF PROCESS	28
VI CONCLUSION	30
ATTACHMENT A	

SUMMARY

AT&T has filed its 214 Application proposing to build an Alaska network. This Application must be denied because:

1. It is patently incomplete, as AT&T has admitted, and fails to comply with the Commission's Rules for 214 applications, to a degree that no favorable decision can be made, because the application contains almost none of the information necessary for the Commission even to consider it. This failure to disclose required information includes critical items such as actual costs, market effects and jurisdictional cost shifts.
2. To the extent that AT&T's proposal can be deciphered, it would provide no meaningful benefits and in all probability would prove extremely harmful to the public interest, particularly rural Alaskans. AT&T's proposed construction is unnecessary for the provision of any new services and guarantees no quality improvements. It would burden AT&T's ratepayers for no justifiable reason.
3. The Application fails to comply with stated FCC requirements set forth in granting AT&T's Blanket 214 Authorization in August 1992, and generally is inconsistent with the Commission's findings in that Authorization.
4. The only facility which is even vaguely described by AT&T (the undersea cable) cannot be considered reliable or appropriate for Alaska service because it has never been deployed for commercial service and could offer no material service

improvements. Attached to this Petition to Deny is the Declaration of an independent expert in the fields of fiber optic communications and engineering economics who describes numerous technical failings and potential public interest harms of AT&T's proposal.

5. The facilities proposed by AT&T would be duplicative without reasonable purpose, causing unnecessary burdens to ratepayers in Alaska and the lower 48 states, and raising substantial questions about possible cross-subsidization of this experimental facility by regulated revenues, including Alaska intrastate revenues.

6. The absence of substance in AT&T's Application suggests that it was filed only to influence other proceedings, and as such, constitutes an abuse of the Commission's processes. This abuse is exacerbated by the several instances in which AT&T's representations here are inconsistent and have not been reconciled.

'AT&T also says that it intends to provide intrastate telecommunications services within Alaska. AT&T has not sought authority for this from the Alaska Public Utilities Commission ("APUC") and, apparently, will not do so until it has obtained its objectives before the FCC. Communications Daily, April 27, 1993, p. 6.

AT&T's Application must be denied because:

1. It is patently insufficient pursuant to the Commission's Rules for 214 applications to permit any decision to be made, a fact admitted by AT&T, because it lacks virtually all information necessary for the Commission even to consider it.
2. To the extent that AT&T's proposal can be deciphered, it would provide no meaningful benefits and in all probability would prove extremely harmful to the public interest, particularly for rural Alaskans.
3. The Application fails to comply with stated FCC requirements set forth in granting AT&T's Blanket 214 Authorization in August 1992.
4. The only facility which is even vaguely described by AT&T (the undersea cable) cannot be considered reliable or appropriate for Alaska service because it has never been deployed for commercial service and could offer no material service improvements.²
5. The facilities proposed by AT&T would be duplicative without reasonable purpose, causing unnecessary burdens to AT&T's ratepayers.
6. The absence of substance suggests the Application was filed to influence other proceedings, and as such, constitutes an abuse of the Commission's processes.

²Attachment A hereto is the Declaration of Philip J. Freedenberg, an independent expert in the fields of fiber optic communications and engineering economics. Mr. Freedenberg describes many of the technical deficiencies and unsupported assertions of AT&T with respect to the Application.

I INTRODUCTION

Alascom and AT&T have provided interstate MTS-WATS services for Alaska in a Joint Service Arrangement ("JSA") since 1981, as ordered by a Federal-State Joint Board and the Commission.³ AT&T has previously sought to terminate the JSA in the course of CC Docket No. 83-1376 ("the Alaska Joint Board Proceeding"), a proceeding expressly intended to examine the Alaska telecommunications market and to harmonize the policies of rate integration and competition. AT&T is merely repeating that tactic here, having concurrently filed in the Alaska Joint Board proceeding a "Petition to Terminate the Joint Service Arrangement" ("Petition to Terminate"), proposing to implement its so called "Consumer Benefit Plan" ("CBP").⁴

AT&T apparently believes its Application can be disposed of as a matter of company policy and business planning. The Commission, however, must affirmatively determine that this

³NARUC-FCC Separations Manual, 87 FCC 2d 18 (1981); NARUC-FCC Separations Manual, 87 FCC 2d 20 (1981).

⁴Alascom has standing to petition to deny the Application because it would be aggrieved by its grant through diminution or elimination of the JSA, the substantial destabilization of the Alaska market and unmitigated injury through severe costs shifts to Alaska intrastate services, particularly in rural Alaska.

Application would not only advance AT&T's pecuniary interests, but that the interest of the public must be advanced, as well. For it to receive Section 214 authority from the Commission to construct an Alaska network, AT&T must demonstrate, on the record, that:

"...[T]he present and future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line..."⁵

As demonstrated below, the state of the record here makes such determinations impossible. While AT&T has failed to provide virtually all relevant information, the sketchy details gleaned indicate that AT&T's proposal would cause massive jurisdictional cost shifts to Alaskan consumers, potentially crippling both competition and services, with no material improvements of any sort. AT&T would impose unjustified costs on all of its MTS customers, reducing their opportunity to share in efficiencies pursuant to price cap regulation. This Application proposes experimental technology never before deployed commercially, as part of an apparent attempt to use Alaska as a telecommunications laboratory at ratepayer expense. Inherent questions concerning cross-subsidization from interstate and intrastate MTS revenues are conveniently ignored. AT&T's Application would not promote

⁵U.S.C. Section 214(a).

any new services, foster relevant technical advances, or result in reliability or quality improvements. Thus, it fails the statutory scrutiny required by Section 214 of the Communications Act.⁶

The merits, if any, of the CBP and termination of the JSA at AT&T's pleasure will be decided in the Alaska Joint Board proceeding. AT&T's Application must be judged on its own merits, here, and those merits are lacking. This Application is grossly insufficient on its face, as AT&T itself tacitly recognizes, and must be denied on that basis.

⁶See Northeast Cellular Telephone Company, L.P. v. FCC, 897 F 2d 1164 (D. C. Cir. 1990); WAIT Radio v. FCC, 418 F 2d 1153 (D. C. Cir. 1969); FCC v. RCA Communications, Inc., 346 U.S. 86 (1953).

II AT&T'S APPLICATION IS INSUFFICIENT UNDER APPLICABLE COMMISSION RULES

A. The Application does not comply with the Rules

AT&T itself states that:

AT&T cannot provide the specific detail called for by Section 63.01 of the Commission's Rules. (Application, p. 6) While this is one of the few complete and correct assertions in the Application, there is no explanation from AT&T why it has failed to provide the relevant and required information which is available to it, or why the Commission must nevertheless act on AT&T's Application in such a self-created vacuum.

Section 63.01 contains 17 areas of inquiry (30 areas if subparts are counted) which AT&T, or any other dominant carrier, including Alascom, is required to answer in support of its Application. Of those 30 specifically required items, AT&T only has completely answered the following: (a) its name and address, (b) its state of incorporation, (c) the name and address of the AT&T employees to receive correspondence and (d) a statement that AT&T is subject to Section 214. The remaining 26 areas of inquiry, all of which are substantive, are ignored or answered incompletely.

In the order set forth in Section 63.01 (subparts e through q of that Section), AT&T has failed to satisfy the following required showings:

(e) A statement whether the facilities will be used to extend communications into areas not directly served or supplementing existing facilities, and if so, the nature and classification of those communications services.

(f) The points between which proposed facilities would be located.

(g) A description of AT&T's existing facilities between those points specifying the total number of channels provided between major points on each principal route.

(h) A description of the facilities requested by AT&T, including:

(1) the number of channels of each type;

(2) the number of wires, conductors and coaxial units of each type capable of providing additional channels of communication only by the construction of additional facilities;

(3) the types and classes of toll telephone offices to be established..

(i) AT&T's present and estimated future requirements for both the routes of the proposed facilities and for routes from which any rerouting to the proposed facilities is contemplated. Because over 60 domestic channels are to be derived from the proposed construction (the proposed undersea cable alone could carry at least 61,400, and perhaps several times that), AT&T must describe the number of circuits in each group and the estimated

number of circuits in each group to meet the load demands for the next one year, two year or five year period. This should include traffic load trends as indicated by periodic load studies.

(j) A map or sketch showing:

(1) the routes of the proposed project (AT&T showed only a portion of the cable and no more);

(2) type and ownership structure;

(3) facilities to be removed;

(4) cities, towns and villages along the proposed routes, with approximate populations of each and the route mileages between the principal points;

(5) location of important operating centers and repeater or relay points;

(6) state boundary lines through which the routes pass;

(7) topographical features which may require special consideration or entail added cost.

(k) Details of proposed facilities acquisitions, including:

(1) for constructed facilities, a summary of cost estimates separately by Plant Accounts affected, quantities and cost of major materials and the amount of labor and its cost;

(2) for leased facilities, a summary of lease terms, lease arrangements, lessors, lease charges, added equipment costs and other costs;

(3) for purchased facilities, the name of the vendor, descriptions of the properties involved, the contractual arrangements relating to the sale of assets, all costs, including purchase price and related equipment costs, the original cost and the related reserve requirement for depreciation, how these amounts are determined, a statement of such amounts applicable to duplicate or other plant which will be retired by the vendee in the reconstruction of the acquired property or its consolidation with previously owned property, and a statement of estimated annual savings in expenses expected to result.

(4) for facilities acquired or operated other than by lease or purchase, a detailed description of the facilities involved, the terms of the arrangement, added equipment costs and all other costs.

(l) AT&T must show the public need for the proposed facilities.

(m) AT&T's economic justification for the proposal, including estimated added revenues and costs (and the basis therefor) where the proposal involves extension into new territory not presently served by AT&T.

(n) A description of the means by which AT&T and others render services to Alaska now, including reasons why existing facilities are inadequate;

(o) AT&T's proposed tariff charges and regulations.

(p) AT&T's proposed accounting in connection with the proposal (this presumably would include jurisdictional cost separations) and proposed journal entries for purchased facilities together with a full explanation of the way those amounts are determined.

(q) AT&T must state whether authorization of the proposed facilities would be categorically excluded from environmental considerations, and if not, then an environmental assessment would be necessary.

To provide the Commission with a reasoned analysis of the technical assertions in AT&T's Application, Alascom asked Philip J. Freedenberg, an independent expert, to examine it. In his Declaration, which is Attachment A hereto, Mr. Freedenberg briefly summarizes basic information which AT&T omitted, as follows:

Technical details, including technology, systems architecture, number of fibers, available capacity by year, design assumptions, construction phasing, interfaces, redundancy, and telemetry and control.

Market details, including the size and principal characteristics of the market to be addressed, market segmentation, market growth, and market penetration and capture, all by year.

Service details, including plans for market testing of services, proposed service rollout schedules, geographic coverage, and pricing of the proposed services.

Financial details, including the costs of providing services, service revenues by year, and sources of funds.

Contingency plans, including key decision points.

This brief review of the Commission's requirements and basic information that has been omitted demonstrates that AT&T has not even remotely approached the level of detail necessary for a reasoned review of the Application.

- B. AT&T's failure to disclose virtually all necessary information is an attempt to avoid discussion of the harm its proposal would cause to the public interest.

Section 63.01's requirements are not an example of unnecessary regulation here. AT&T's Application consists of eight double-spaced pages and a fragmentary line drawing. AT&T has failed to disclose, detail or estimate, among other things: the costs of its proposal, the locations to be served, the facilities to be built or acquired, the traffic to be carried, the effects upon existing Alaska services, resulting jurisdictional separations shifts and labor issues.

By omitting virtually all information, AT&T has saved itself the trouble of detailing the potential harm its proposal would cause the public interest. The sketchy information provided by AT&T indicates that its proposed construction would exceed \$200 million in facilities investments, simply to reach a small

fraction of Alaskan locations.⁷ This represents approximately 59% of the total existing invested base in Alaska.⁸

Conservatively, AT&T would expect to incur at least \$80 million in annual service costs for that investment.⁹ Therefore, enormous new revenue requirements and expenses would be born by ratepayers with no credible additions or improvements in services.

AT&T suggests that the proposed cable, alone, would cost approximately \$135 million to construct. Such an amount would represent almost 45% of AT&T's entire cable facilities construction budget for the continental United States in 1992.¹⁰ It also represents over 225% of the construction cost of the Alaska Spur.

⁷Undisclosed are AT&T's plans for cable landing licenses, landing facilities and interconnection of landing points to the Alaska and lower 48 networks, all of which would require large additional investments.

⁸See Response to Request for Implementation Plan of Alascom, Inc., filed June 7, 1993, CC Docket No. 83-1376, pp. 28-29.

⁹Ibid. This simply applies the 40% average operating charge which AT&T experiences elsewhere in the country, a highly conservative estimate given the well documented rigors (and therefore expense) of serving Alaska.

¹⁰See Blanket Authorization, Appendix A, infra.

Moreover, AT&T's CBP would be likely to cause significant increases in intrastate revenue requirements for Alaska, for two reasons. First, AT&T proposes to provide intrastate telecommunications services in Alaska. The partial sketch attached to the Application suggests that such intrastate service could include interconnection between Anchorage and Juneau on the proposed undersea cable. If so, this necessarily means that separations procedures would assign a significant portion of the costs of AT&T's network to intrastate revenue requirements, including a substantial portion of the proposed cable.¹¹

Second, AT&T's future circuit estimates indicate that it plans to take over virtually 100% of the Alaska telecommunications market. This would be the combined market shares of Alascom and GCI-MCI. (See Section III A, infra.) Even such a capture of the market by AT&T would occupy only a very small fraction of the proposed cable capacity, leaving large unnecessary costs for recovery elsewhere. As discussed in Section III B, infra., AT&T proposes to construct a cable with capacity of between 61,440 and 307,200 voice circuits which represents between 16 and 82 times the number of circuits used by the Alascom-AT&T JSA in 1992. This removal of interstate traffic

¹¹The Alaska Spur, on the other hand, is exclusively an interstate facility and therefore does not affect intrastate revenue requirements.

from Alascom's remaining operations would cause an increasing spiral of revenue requirements shifts to its intrastate facilities, predominantly in rural Alaska.¹²

There would be no appreciable increase in revenues. In fact, based on AT&T's description of its CBP, rates would be reduced and other providers still taking market shares (at least temporarily). A substantial revenue shortfall from AT&T's CBP is a logical conclusion. Today, all Alaskan communities of 25 or more receive interstate MTS-WATS service at AT&T's integrated rates and national quality levels.¹³ In addition, Alascom's network is fully capable of delivering any services offered by AT&T to any customer in Alaska who requires them. AT&T's proposed network could not conceivably cause any significant traffic

¹²This danger was identified by the State Members of the Alaska Joint Board as the "abandonment shift."

¹³AT&T's commitment to eliminate rate bands 10 and 11 at an annual revenue loss of \$2.9 million is rhetoric only. On April 15, 1993, Alascom filed its tariff submission to implement that rate decrease immediately. AT&T has not done so, and its proposal to build extravagant new facilities (and impose new costs) is not necessary for this rate decrease. Alascom again urges that AT&T promptly respond to Alascom's tariff filing and reduce these rates now. It would seem that if AT&T could lawfully cut those rates after overbuilding its network by an additional \$200 million or more, then to fail to do so now exposes the AT&T proposal as a hollow gesture.

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stimulation. It would cut the Alaska "pie" differently, not expand it.¹⁴

Moreover, AT&T's "build it and the people will come" philosophy threatens the public interest. Massive investments in unnecessary capacity can lead to economic injuries, the kinds that Section 63.01 is intended to reveal. As stated by Mr. Freedenberg (Attachment A hereto):

I further conclude that the channel capacity which AT&T's proposed cable would offer would far exceed demand levels. Such mismatches between supply and demand are neither warranted nor desirable in my opinion.

The final results appear to be that AT&T's CBP would precipitate extremely large total cost increases, both in investment and expenses, and large jurisdictional shifts of revenue requirements, with no mitigating improvements in gross revenues or other conditions. Certainly, AT&T has demonstrated nothing to the contrary.

¹⁴With no credible reason to expect a significant increase in total revenues and enormous unused capacity on AT&T's proposed undersea cable, cross-subsidization of AT&T's non-regulated services by interstate and intrastate Alaskan revenues seems inevitable.

III AT&T'S ASSERTIONS CONTRADICT ITS PRIOR REPRESENTATIONS

- A. AT&T offers circuit forecasts which are inconsistent with its own recent representations concerning Alaska.

Even the sparse information provided by AT&T contradicts its own earlier representations.

On January 29, 1992, AT&T and Alascom filed their Joint Application for Section 214 authority for AT&T to acquire the interexchange interstate and international lines and switched services of Alascom.¹⁵ The parties still were prosecuting that application as recently as January 14, 1993, less than three months before AT&T filed the instant Application.

In the Joint Application, the parties sought Commission authority for AT&T to serve Alaska directly through acquisition of enumerated facilities from Alascom, including six DS-3s of capacity of the Alaska Spur undersea fiber optic cable.¹⁶ AT&T

¹⁵This 214 application was filed as a consequence of, and concurrent with, the filing of the Master Agreement in which AT&T, Alascom and Alascom's parent and an affiliate settled differences between them and proposed to reform the Alaska telecommunications market structure, terminating any further need for proceedings before the Alaska Joint Board.

¹⁶That capacity represents 2/3 of the total capacity of the Alaska Spur (six of nine DS-3s). A DS-3 has the uncompressed capacity of 672 equivalent 4khz circuits.

represented that this amount of capacity on the Alaska Spur was sufficient for its current and future requirements. AT&T also sought authority to purchase all of Alascom's interstate MTS-WATS business, representing a majority of southbound traffic from Alaska to the lower 48 states.¹⁷

In the Joint Application, AT&T represented to the Commission that its own southbound Alaskan circuit requirements would grow 34.2% in the first five years (1991-1996), an annual rate of 6.8%. That representation was still in effect in January 1993. But a few weeks later in the instant Application, AT&T represented to the Commission that its circuit requirements on the same route would increase an astounding 83.8% in the first four years (1994-1998), an annual rate of 20.9%.¹⁸

These insupportable AT&T assertions not only contradict its own recent statements, they are at odds with the historic circuit

¹⁷It must be noted that the Joint Application showings of circuit capacities by route, traffic forecasts, lease terms, costs, rates and other information required by Section 63.01, totaled 22 pages. The instant Application is 1/3 of that and lacks virtually all of this information.

¹⁸As known to AT&T, but undisclosed by it, Alascom's actual total number of southbound MTS-WATS circuits in 1991 was 3612 and was 3744 in 1992. Also as known to AT&T, the average annual growth in total message toll interstate circuits for Alascom for 1985 through 1992 was 4.8%. But, AT&T is telling the Commission now that it forecasts an annual average circuit growth of over 20%.

growth of 4.8% per year for the period 1985 through 1992, an actual growth rate known to AT&T.

We emphasize that:

(1) in the Joint Application AT&T circuit estimates included acquisition of Alascom's MTS-WATS business immediately, representing a majority of all southbound traffic. AT&T's baseless new forecasts, which are more than 50% greater than its prior "estimates," assume that "...AT&T will enter the competition for Alaska southbound interstate services with no preexisting customers..."¹⁹ and

(2) the Joint Application was AT&T's representation to the Commission that its acquisition of 6 DS-3s of capacity (4,032 voice circuits) of the Alaska Spur was sufficient to meet its current and future requirements.

Now, AT&T contradicts itself, without explanation, and asserts that the Alaska Spur is "limited" and not acceptable for AT&T's purposes. This has been soundly refuted. (See Declaration of Philip J. Freedenberg, Attachment A hereto) Similarly, there is no plausible explanation by AT&T why the Alaska Spur, which is technically sufficient for all foreseeable purposes (as stated by both Mr. Freedenberg, and earlier by AT&T, and is demonstrated by GCI's acquisition of capacity on it) is "limited" or why an

¹⁹AT&T's Petition to Terminate, p. 10.

additional facility with a minimum of ten times the capacity should be built at ratepayer expense.

A comparison of AT&T's estimates of "current and future circuit requirements from Alaska to the lower 48 states"²⁰ from the instant Application and the Joint Application clearly demonstrates that AT&T now is misleading the Commission.

²⁰Joint Application, p.11; Application, p. 7. The exact projected year varies between the two applications, as shown in the table.

Comparison of AT&T Forecasts²¹

<u>Year</u>	<u>Application</u>	<u>Joint Application</u>	<u>% Difference</u>
1991	--	3720	--
1992	--	3768	--
1993	--	4047	--
1994	4135	4381	(5.6%)
1995	5765	4687	23%
1996	6376	4994	27.7%
1997	6990	5300	31.9%
1998	7601	5607	53.4%

Indeed, even if AT&T's new, baseless circuit estimates are accepted, they do not support the construction of this unnecessary facility. Even if it required 7601 voice circuits, an amount probably exceeding 100% of today's market, then

²¹In the Joint Application, AT&T provided circuit forecasts for 1991, 1992 and 1996. In the Application, AT&T provided circuit forecasts for 1994, 1995 and 1998. For purposes of comparison here, we included a straight line extrapolation of intervening years, i.e. 1993-1995 and 1997-1998 for the Joint Application, and 1996-1997 for the Application. The circuit projections for 1991 and 1992 were estimates in the Joint Application but were subsequently found to be accurate when actual uses were determined. Actual circuits used in 1991 were 3612 and in 1992 were 3744. The circuit forecast set forth for the Application are totals of the three routes described by AT&T in its Application because we assumed that they all would be interstate and AT&T did not provide any clear indication to the contrary. We acknowledge that Mr. Freedenberg did not do this for purposes of conservatism but the ambiguity which causes this difference is AT&T's responsibility.

AT&T still intends to construct a cable with a minimum of eight times the capacity it needs and as much as 40 times the capacity it needs.²² As explained by Mr. Freedenberg, if AT&T constructs a cable with a single fiber optic pair of the technology it describes (a single pair is a minimum), then that cable would have the capacity to carry 61,440 64 kbps voice circuits. If, however, AT&T constructs five fiber optic pairs as it implies,²³ then it would support 307,200 voice channels.

Most disquieting of all from a public interest perspective, AT&T's estimate seems to assume that AT&T will capture virtually all of the Alaska interstate market by 1998. Facilities-based competition, whether from Alascom, General Communication, Inc./MCI, or others, would be a memory.

²²AT&T's lack of candor here is compounded because it asserted to the Alaska Joint Board that Alascom required only a total of three DS-3s of capacity for all interstate MTS-WATS carried jointly by AT&T and Alascom. Comments of American Telephone and Telegraph Company, filed January 5, 1990, pp. 4-5, CC Docket No, 83-1376.

²³Petition to Terminate, p. 8, note 5.

- B. AT&T's circuit forecasts are inconsistent with its domestic circuit forecasts and methodologies.

AT&T annually files its blanket 214 application for authority generally to add and supplement circuits throughout the United States. The most recent blanket application was filed in December 1991 and granted in August 1992.²⁴

In the Blanket Authorization, the Commission describes the traffic forecasting methodologies required of AT&T in its 214 applications:

"Also of concern in our analyses are the applications of mathematical and statistical techniques employed in a valid manner to forecast traffic and circuit needs. The quality of the forecasts themselves is of prime concern."²⁵

"... [W]e expect AT&T to provide backcasts with every future Blanket Application for each of the major market segment models (e.g., MTS, WATS, 800 Service) for the five latest years for which actual data exist. We also requested that AT&T provide actual and forecast data and the results of the comparison forecasts with actuals for the latest five years where actuals have been obtained, i.e., the data for determining the quality of the forecasting models."²⁶

²⁴American Telephone and Telegraph Company and Specified AT&T Communications Companies, File No. W-P-C-6763 (released August 19, 1992) ("Blanket Authorization").

²⁵Blanket Authorization, para. 3.

²⁶Blanket Authorization, para. 5.

"The quality of the forecast is conveniently expressed by a statistical confidence interval at a given confidence level, e.g., 95%, that bounds the forecast quality... From 1986 to 1991, AT&T provided the Commission with backcasts as an aid in evaluating forecasting model performance.²⁷

"In order to determine the quality of the input data and the extent of the models' fault tolerance under real life conditions, we had in past years requested that AT&T provide the Commission with comparisons of one year forecasts and actual data. In response, AT&T had provided comparisons of backcast results and actuals for the latest five years for which actual data existed."²⁸

It is beyond dispute that AT&T has failed even to approach the level of forecasting reliability (e.g. 95%) in the instant Application required of it in other 214 applications. A brief examination of the Commission's findings in the Blanket Authorization again exposes AT&T's failures to offer credible or reliable projections here.

For the continental United states as a whole, the Blanket Authorization shows that AT&T experienced an annual average rate of growth in interstate MTS messages of approximately 5.7% in the period of 1985 to 1990, the most recent actual data provided.²⁹

²⁷Blanket Application, para. 7.

²⁸Blanket Application, para. 9, footnote omitted.

²⁹See Blanket Authorization, Appendix D. This rate of growth probably reflects an increase in 1990 because for that year AT&T included intrastate traffic. Appendix B, note *. The actual circuit

Total interstate message growth for AT&T (combined results for MTS, WATS and 800 Services) was 9.6% per year for the period 1985 to 1990, largely stimulated by recent huge increases in 800 messages not necessarily relevant to Alaska.³⁰

AT&T's growth rates for circuits has been similar. For the period 1985 to 1990, AT&T's annual growth in interstate MTS circuits was approximately 10%, and for all interstate circuits (both MTS and private line), about 11%.³¹ AT&T's circuit growth undoubtedly was inflated because: "In 1989 and 1990 there was a major effort to convert to digital technology primarily through the extensive deployment of fiber optic facilities."³²

As noted above, annual average circuit growth for AT&T-Alascom interstate services was 4.8% during the same period of time. This was, in fact, slower than what AT&T experienced in the lower 48 states. But in any event, neither general domestic experience nor specific Alaska experience remotely justifies AT&T forecasts of circuit increases exceeding 20% per year.

utilizations of Alascom and the forecasts contained in the Joint Application did not include intrastate traffic.

³⁰Blanket Application, Appendix D.

³¹See Blanket Application, Appendix B.

³²Blanket Authorization, para. 18.

And as noted above, in 1990 AT&T asserted to the Joint Board that only 3 DS-3s of capacity (2016 64 voice grade circuits) would be sufficient for all Alascom-AT&T JSA traffic between Alaska and the lower 48 states.³³ For its own Application, AT&T now wants authority to construct between 61,440 and 307,200 64 kbps voice grade circuits.

AT&T already has certified that two thirds of the capacity of the Alaska Spur can meet its present and future circuit requirements for service to Alaska. Utterly unsupported "forecasts" cannot suddenly justify construction of an expensive new facility with a minimum of 15 times that capacity, especially when the Commission requires that:

"Construction requirements depend upon the incremental number of circuits needed to handle expected increases or redistributions of traffic. More efficient use of existing circuits minimizes the need for additional facilities."³⁴

³³Comments of American Telephone and Telegraph Company, filed January 5, pp. 4-5 1990.

³⁴Blanket Authorization, para. 4.

**IV INDEPENDENT ANALYSIS DEMONSTRATES THAT AT&T'S
ASSERTIONS CONCERNING TECHNOLOGY ARE WRONG**

Alascom has asked the independent telecommunications consulting firm of Federal Engineering, Inc. to examine AT&T's technical assertions in the Application, Petition to Terminate and CBP. Attachment A hereto is the Declaration of Philip J. Freedenberg, Federal Engineering's Executive Vice President and a nationally recognized expert in matters relating to fiber optics communications and engineering economics.

Briefly summarized, Mr. Freedenberg shows that AT&T is flatly wrong to claim that it must construct a new fiber optic cable to overcome alleged "limitations" in the Alaska Spur. Mr. Freedenberg concludes that:

"...[I]t is my professional opinion that AT&T has erroneously claimed, as a so-called limitation of the Alaska Spur, voice services and features which are derived exclusively from information processing and not in any way from transport facilities. It is my further opinion that AT&T has erroneously claimed that AT&T is better able to serve the people of Alaska with advanced video and data services than Alascom, when in fact Alascom would be equally capable of employing its systems to provide such services, where these services match the needs of the Alaskan market. Hence the technology of the Alaska Spur has not been shown to pose any practical limitation to telecommunications service delivery in Alaska. I therefore find no justification for AT&T's claim that its proposed system 'transcend[s] the limitations of the Alaska Spur.'

AT&T estimates that its proposed undersea cable will cost about \$135 million, [footnote omitted] while the acquisition cost of the Alaska Spur was under \$60

million. I therefore conclude that AT&T has not offered any evidence that its proposal would constitute an economical method of providing basic, advanced, or wideband telecommunication services to Alaska, and especially not to its vast and sparsely populated bush.

I further conclude that there is no justification for AT&T's derogatory insinuation of technical problems or compromises in the Alaska Spur...

I have independently examined AT&T's claims of superior repeater reliability. I find that AT&T's simplistic approach to reliability prediction is fundamentally flawed because it ignores the type of components employed, their quality level, environmental factors, and other important factors. I further find that AT&T's claims of superior reliability are unverifiable because its components lack field history and are not listed in standard reliability handbooks. I further find that, in the absence of such field reliability history, AT&T's proposed amplifier technology may in fact pose an increased risk of system failure. In view of these findings, I conclude that there is no basis for AT&T's claims of superior repeater reliability...

In sum, the most important difference between AT&T's proposed undersea cable and the Alaska Spur is that AT&T's proposed undersea cable would be constructed with a larger number of fibers. This, in turn, implies that AT&T would have much more voice channel capacity available (at least in several cities) than Alascom. In the absence of a demonstrated need for this capacity, however, AT&T's proposed system may be likened to an expensive and dangerous cure on a fruitless search for a nonexistent disease.

Finally, as the Alaskan consumer is unlikely to benefit from any of the aspects of AT&T's proposal which I have examined, it is my overall professional opinion that AT&T's "Consumer Benefit Plan" is cruelly misnamed.

By way of reinforcing these conclusions, the Commission may wish to note that AT&T, itself, appears to have no quarrel with the quality of the technology incorporated into the Alaska Spur.

Just last December, AT&T acquired from Pacific Telecom Cable, Inc., an additional amount -- 1 DS-3 -- of capacity in the North Pacific Cable. Since the NPC was constructed at the same time as, and with the same technology as, the Alaska Spur, it is apparent that AT&T's technology innuendoes are merely that. Together with the other contradictions noted above, they serve to undermine any credibility that might have attached to its Application.

**V THE APPLICATION MUST BE DENIED AS
UNSUPPORTED AND AN ABUSE OF PROCESS**

The Commission must reach the conclusion that AT&T's Application is an abuse of process. It simply cannot be believed that AT&T "does not know" virtually all of the required information. (Application, pp. 6-7) AT&T has been serving Alaska jointly with Alascom for over 20 years. For that entire period, AT&T has had constant access to Alascom's traffic studies, cost studies and circuit reports, as well as its own. AT&T is the largest and most experienced telecommunications company in history. From this, AT&T has plenary data from which to provide good faith estimates of facilities, costs and market effects. AT&T has not done so.

Only two possible explanations exist: either AT&T's proposal is nothing more than a shot in the dark, without support or

substance at all, or AT&T is well aware of all potential costs, effects and facilities (as routine business planning would suggest) and has affirmatively failed to disclose them. (And similarly, AT&T has failed to reconcile with past inconsistencies.) In either event, the Application must be denied as patently insufficient and found to be an abuse of process. Obviously AT&T intends the Application to be a mechanism, utterly lacking good faith support in its own right, designed to influence the Alaska Joint Board proceeding.

Whatever AT&T's motives, the Application is not what it purports to be, and accordingly, must be denied. To do otherwise would countenance misuse of the Commission's processes, or turn a blind eye to several unreconciled AT&T assertions concerning circuit capacities "required" for Alaska service. This would run the risk of unlawful prejudice of the Alaska Joint Board Proceeding.³⁵ And as a practical matter, the Commission is without legal authority to grant the Application unless there is significant change in the Alaska market structure recommended by the Joint Board and adopted in a final order by the Commission.³⁶

³⁵See Community Broadcasting Company, Inc. v. FCC, 274 F 2d 753 (D. C. Cir. 1960).

³⁶This is so because the Application comprehends termination of the JSA, precipitous changes in jurisdictional cost separations and reformation of AT&T's point of interconnection for Alaska service, all of which were mandated by the full Commission and

VI CONCLUSION

AT&T's Application simply cannot be granted by the Commission. As AT&T admits, it does not supply required information. It is a smokescreen designed only to influence the Alaska Joint Board. As such, this Application is an abuse of the Commission's processes. But even more importantly, this obvious failure by AT&T to supply virtually all relevant information is a calculated effort to avoid addressing the grave public interest dangers posed by the Application: destruction of competition in Alaska telecommunications, substantial jurisdictional cost shifts, cross-subsidization of unregulated services and experiments in technology by captive ratepayers, all with no

cannot (and should not) be undone in a facilities proceeding.

demonstrable benefits of any kind to Alaskans, other consumers or the public interest. Accordingly, AT&T's Application must be denied.

Respectfully submitted,
ALASCOM, INC.

By /s/ Alan Y. Naftalin
Alan Y. Naftalin

Of Counsel

Francis L. Young
Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, D.C. 20037
(202) 663-9080

By /s/ Charles R. Naftalin
Charles R. Naftalin

Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 467-5700

Its Attorneys

June 25, 1993

ATTACHMENT A

In the Matter of the
Application of

AMERICAN TELEPHONE AND
TELEGRAPH COMPANY

Under § 214(a) of the Communications Act for Authority to create and operate its own network by leasing, purchasing and constructing facilities for the provision of interstate service directly to and from Alaska

File No. W-P-C-6861

DECLARATION OF PHILIP J. FREEDENBERG

FEDERAL ENGINEERING, INC.
10600 Arrowhead Drive
Fairfax, Virginia 22030

Dated: June 23, 1993

SUMMARY

Alascom, Inc. has engaged the Declarant, a fully qualified and highly experienced telecommunications systems engineer, to independently evaluate certain claims made in AT&T's recent Section 214 ¹application¹ and in a related petition² to the Federal Communications Commission. After his analysis, the Declarant concludes that:

- There is no justification for AT&T's claim that its proposed system "transcend[s] the limitations of the Alaska Spur"
- AT&T has not shown that its proposal would constitute a cost effective method of providing telecommunications services to Alaska
- There is no justification for AT&T's derogatory insinuation of technical problems in the Alaska Spur
- There is no basis for AT&T's claims that its undersea signal repeaters are more reliable than conventional repeaters
- The channel capacity of AT&T's proposed cable, which would far exceed demand levels, is neither warranted nor desirable; given AT&T's financial strength, emplacing this much capacity could position AT&T to dominate interstate service provision to and from Alaska
- AT&T's Consumer Benefit Plan, as described, is unlikely to benefit the Alaskan consumer.

¹ Application of American Telephone and Telegraph Company under § 214 (a) of the Communications Act for Authority to create and operate its own network by leasing, purchasing and constructing facilities for the provision of interstate service directly to and from Alaska, File No. W-P-C-6861, submitted to the Federal Communications Commission March 31, 1993.

² AT&T's Petition to Terminate the Joint Service Arrangement, CC Docket No. 83-1376, submitted to the Federal Communications Commission March 31, 1993.

Re: CC Docket No. 83-1376
File No. W-P-C-6861

DECLARATION OF PHILIP J. FREEDENBERG

I, Philip J. Freedenberg, am Executive Vice President of Federal Engineering, Inc., an independent telecommunications consulting firm headquartered in Fairfax, Virginia. I am by profession a telecommunications systems engineer with over 26 years of industry experience. I have earned the B.S., M.S.E.E., and E.E. degrees from Columbia University, with concentrations in communications theory. I have been elected to the Tau Beta Pi and Eta Kappa Nu national engineering honor societies, and have been awarded Columbia University's Illig Medal. I am a member of the Institute of Electrical and Electronics Engineers and of the Society of Telecommunications Consultants, and have published widely in the technical press. My professional experience encompasses the fields of fiber optic communications and engineering economics, among other specialized disciplines.

STATEMENT OF THE PROBLEM

Alascom, Inc. has retained Federal Engineering, Inc. to offer an independent professional opinion as to the merits of certain claims made by AT&T in its recent Section 214 Application "for authority to create and operate its own network by leasing, purchasing and constructing facilities for the provision of

interstate service directly to and from Alaska," and in a related Petition to Terminate the Joint Service Arrangement. In particular, we have been asked to evaluate AT&T's claim that its proposed network overcomes the "limitations" of the Alaska Spur. We have further been asked to assess the feasibility and risks associated with AT&T's proposed system in the Alaskan environment.

In connection with researching the questions raised above, I have reviewed materials furnished by Alascom which cover the technical, financial, and operational aspects of its Alaska Spur and its intrastate network. In addition, I have read the following documents relevant to this matter, as furnished by Alascom, Inc. through its attorney Koteen & Naftalin:

- *Master Agreement between American Telephone and Telegraph Company and Pacific Telecom, Inc., Alascom, Inc., and Telephone Utilities of Alaska, Inc., signed December 30, 1991. [the Master Agreement]*
- *Joint Petition to Approve Master Agreement, Terminate Joint Service Arrangement, Continue NECA Participation, and for Limited Waiver of Separations Rules and Resolution and Termination of Regulatory Proceedings, CC Docket No. 83-1376, RM 4436, submitted to the Federal Communications Commission January 29, 1992. [the Joint Petition]*
- *Application of American Telephone and Telegraph Company under § 214(a) of the Communications Act for Authority to create and operate its own network by leasing, purchasing and constructing facilities for the provision of interstate service directly to and from Alaska, File No. W-P-C-6861, submitted to the Federal Communications Commission March 31, 1993. [the AT&T Application]*
- *AT&T's Petition to Terminate the Joint Service Arrangement, CC Docket No. 83-1376, submitted to the Federal Communications Commission March 31, 1993. [the AT&T Petition]*

ANALYSIS AND FINDINGS

AT&T proposes to "construct and operate a new state-of-the-art submarine optical cable system that will transcend the limitations of the Alas' a Spur cable that currently serves Alaska."³ AT&T cites three such specific limitations:

- The voice service offerings listed in Attachment B of the AT&T Application and reproduced as Exhibit 1 herein
- Advanced video and data services
- Wideband (up to 5 Gbps) services.

In addition, AT&T implies that the existing spur may have been subject to technical problems or compromises because it is part of a United States-Japan link.⁴ AT&T claims that its proposed cable system is superior because it offers more overall capacity.⁵ Finally, AT&T claims that, since its proposed undersea signal repeaters have fewer components, their reliability is higher than the reliability of conventional repeaters.⁶

As shown below, these so-called limitations are either non-existent or purely theoretical in nature, and in fact impose no restrictions on Alascom's existing system. We further show that more bandwidth capacity is not an asset in the Alaska scenario. Finally, no compromises were made in either the design or the deployment of the Alaska Spur.

³ AT&T Application at para. 3.

⁴ AT&T Petition at page 8.

⁵ AT&T Petition at page 8-9.

⁶ AT&T Petition at page 8. Also see AT&T Application at para. 5.

Exhibit 1. AT&T's ATTACHMENT B

Current AT&T Services/Features Not Offered by Alascom

AT&T Simple Savings Plan
AT&T Special Country Plan
AT&T Small Business Option (including Term Plan and Flex Plan)
AT&T MultiQuest® Service
AT&T NetPROTECT Service (Advanced and Premium)
AT&T Software Defined Network Service
AT&T Global Software Defined Network Service
AT&T Multilocation Calling Plan
AT&T FAXLine Service
AT&T Hospitality Network Service
AT&T Distributed Network Service
AT&T PRO® WATS Service
AT&T Plan D Service
AT&T Plan Q Service
AT&T Call Redirect Service
AT&T Optimum Service
AT&T EasyReach Service
AT&T MEGACOM® Plus Service
AT&T Customnet Gold
AT&T Service Quality Guarantees
AT&T Advanced 800 Service
AT&T 800 Service - Canada
AT&T 800 Service - Overseas
AT&T 800 Service - Mexico
AT&T MEGACOM® 800 Service
AT&T MEGACOM® 800 Service - Canada
AT&T MEGACOM® 800 Service - Overseas
AT&T MEGACOM® 800 Service - Mexico
AT&T 800 Readyline® Service - Canada
AT&T 800 Service Plan K
AT&T 800 Service Plan E
AT&T 800 Service Plan P
AT&T 800 Gold Service

Current AT&T Services That Offer Additional Features
Compared to Alascom Counterparts

AT&T Reach Out® America-Basic (discount period begins 7 PM)
AT&T Reach Out® World
AT&T 800 Service
-Dialed Number Identification Service
-800 Validation
-800 Guaranteed Validation
-Make Busy Arrangement
-Alternate Number Translation
-Alternate Destination Routing

Exhibit 1. AT&T's ATTACHMENT B (continued)

AT&T 800 Readyline® Service

- One Number Calling
- Alternate Number Translation
- Advanced 800 Service

AT&T WATS Service

- Access Line Extension (different rate center than the access line)
- Multilocation Calling Plan
- Answer Supervision
- WATS One Line Access

VOICE SERVICES

AT&T's optional calling plans are unrelated to the choice of long haul transmission plant.

The voice services listed in Exhibit 1 fall into two classes: 33 AT&T services/features which AT&T claims are not currently being offered by Alascom, and five services for which AT&T claims to offer additional features compared to Alascom's counterparts. I have examined each of these 38 services and the associated AT&T tariffs. In my professional opinion, each one of these voice services is, in fact, a software based billing or security arrangement which is intended to enhance or add value to AT&T's basic voice transmission service. As such, none of these services depends in any way on the type, technology, bandwidth, or provider of the transmission medium linking Alaska with the continental United States. Further, it is my opinion that Alascom is technically equipped and capable of offering equivalents to any or all of the optional calling plans listed, if it is not already doing so.

ADVANCED VIDEO AND DATA SERVICES

The Alaska Spur is not a bottleneck to offering advanced services.

AT&T claims that its proposed fiber optic cable will be capable of offering "advanced telecommunications applications such as cable television service, teletraining, and computer assisted design and manufacture ('CAD/CAM') applications, as well as high definition television, interactive video and data management

functions ... that are not available using existing telecommunications facilities."⁷ As shown in the following table, each of these service applications requires a larger allocation of bandwidth than a standard 64 kbps voice channel, but all are well within the transmission capability of a fiber optic cable:

<u>1996-era Service Application</u>	<u>Typical Bandwidth Per Channel</u>	<u>Equivalent Voice Channels</u>
Cable television	3.3 to 6.6 Mbps	52 to 104
Teletraining	1.5 to 3.3 Mbps	24 to 52
CAD/CAM	4 to 10 Mbps	62 to 156
High definition TV	24 to 30 Mbps	375 to 468
Interactive video	0.4 to 3.3 Mbps	6 to 52
Data management	0.4 to 1.5 Mbps	6 to 24

While few submarine cables currently carry such advanced services to any significant extent, there is no inherent reason why the Alaska Spur, which has thousands of voice channels of expansion capacity, could not do so now or in the future. If the resulting capacity of the Alaska Spur should ever prove insufficient to carry the required mix of traffic, then Alascom could process the voice channels so as to increase the effective capacity of the Alaska Spur by a factor of four or more.⁸ Following this course, the Alaska Spur would not present a bottleneck to offering advanced

⁷ AT&T Petition at page 8-9.

⁸ Alascom has so far refrained from voice processing on the Alaska Spur, both because it has not been required to satisfy capacity demands, and to ensure the highest standard of transmission quality. Advances in processing technology promise minimal impact on transmission quality combined with reasonable affordability in the next generation of voice compression subsystems.

video or data services for the foreseeable future.

While it is clearly AT&T's intention to use Alascom's existing intrastate network to offer its services to the people of the Alaskan bush,⁹ AT&T offers no details as to the means for interconnecting its proposed cable with Alascom's intrastate distribution network. Whereas Alascom's intrastate and undersea transmission systems were specifically designed to achieve this interconnectivity seamlessly, the nature of the interfaces between AT&T's proposed cable and Alascom's system and services is unexplained by AT&T and remains undefined.

WIDEBAND SERVICES

The Alaska Spur can easily accommodate forecasted levels of traffic.

AT&T has not presented any evidence to show that there is an unmet need for advanced video, data, or wideband services in Alaska. Hence, if AT&T has such evidence, it is being deliberately withheld. It is my professional opinion that the demand for such non-voice services over the next several years in Alaska is easily satisfied by existing networks.

Its longstanding and ubiquitous presence in Alaska places Alascom in the most favorable position to understand the needs of the Alaska marketplace. This deep understanding gave rise to the design of the Alaska Spur, whose 6,048 voice circuits (or 9 DS-3s) are more than adequate to accommodate the forecasted traffic

⁹ AT&T Petition at page 15.

flowing between Alaska and the lower 48 states, in my opinion.

AT&T's initial capacity forecast¹⁰ calls for a total of five DS-3 circuits, or a total of 3,243 voice circuits between Alaska and the lower 48 states (at an unstated market share). This capacity would grow to 5,465 voice circuits over five years. Any of these capacities is within the capability of the Alaska Spur.

I have compared these demand forecasts with AT&T's projected capacity. While AT&T does not state the number of fibers in its proposed system, we infer that at least five pairs¹¹ are included. One fiber pair operating at 5 Gbps could support 61,440 voice channels; five such pairs could support 307,200 voice channels. Thus AT&T proposes to emplace at least 56 times the capacity required to satisfy its presumed circuit requirement for 1998. Viewed differently, if every Alaskan with a telephone were to call the lower 48 states simultaneously, AT&T's proposed cable system would carry the traffic load of the entire state and still have excess (unused) capacity.

SO-CALLED TECHNICAL PROBLEMS

No specific area of technical problem or compromise has been cited by AT&T. I therefore view AT&T's allegation as unsubstantiated and without foundation.

¹⁰ This forecast is ambiguous in the *AT&T Application*. Capacities in para. 8 differ from those in para. 9, which in turn are labeled variously as intrastate and interstate. I have assumed the smallest estimate of interstate capacity in each year.

¹¹ *AT&T Petition* at page 8 (footnote).

EXCESSIVE CAPACITY

Excessive capacity is neither necessary nor desirable.

There can be no dispute that AT&T's proposed undersea cable could offer more transmission capacity than the Alaska Spur.¹² The more important question, however, is whether such excessive capacity is needed. AT&T has not shown such a need to exist, nor has AT&T shown that the availability of wideband circuits will generate a demand for them. Finally, AT&T has not demonstrated how massive excesses of transmission capacity could possibly benefit the Alaskan consumer.

RELIABILITY

AT&T's approach to reliability prediction is fundamentally flawed.

AT&T claims that, since its proposed undersea signal repeaters have fewer components, their reliability is higher than that of conventional repeaters.^{13,14} In fact, statistical reliability prediction for a complex optoelectronic system depends on many factors, rather than on the number of components alone. Ignoring any one of these factors invariably leads to an erroneous result.

The standard method employed in the United States for predicting systems reliability was developed by the Department of

¹² AT&T's proposed cable would carry at least 50 times the number of voice channels that the Alaska Spur could carry.

¹³ AT&T Application at Para. 5.

¹⁴ AT&T Petition at page 8.

Defense and has been refined over more than three decades of use in both military and commercial applications.¹⁵ According to this methodology, the factors which must be taken into account when calculating system reliability (i.e., Mean Time Before Failure) include the number of components of each distinct type, the base failure rate by component type, the quality level of each component, and the expected operating environment and stresses. In addition, depending upon the nature of the particular component, reliability calculations must also take into account various derating factors. For discrete semiconductors, for example, these factors include applied voltage, power rating, construction and bonding, upper frequency limit, and temperature, among others. For lasers, the active optical surface, cleanliness, and pulse rate must be taken quantitatively into account.

The handbook which details the various factors impinging on a systems reliability calculation is over 500 pages in length. Hence, to claim an overly simplistic relationship between the number of parts comprising an undersea repeater and its overall reliability in the face of the need for such extensive and exacting calculations is more than slightly disingenuous on AT&T's part.

AT&T's reliability claims are unverifiable.

Further, certain of the components of AT&T's SL2000 lightwave amplifier are too new to be included in the industry

¹⁵ "Reliability Prediction of Electronic Equipment," MIL-HDBK-217F, Rome Air Development Center, NY, July 1992.

accepted standard methodology. This means that basic failure rates for these components are lacking, as are the associated derating factors. In view of this lack of fundamental public domain data, I am unable to independently verify AT&T's reliability claims. If AT&T has compiled failure characterizations of the components comprising its SL2000, then these should be made available for public scrutiny, corroboration, and eventual incorporation into the industry standard methodology.

AT&T's proposed technology may pose an increased reliability risk.

Besides being too new to have been adequately characterized, AT&T's proposed amplifier technology has seen extremely limited (if any) commercial use.¹⁶ Thus AT&T'S SL2000 optical amplifiers, while no doubt incorporating advanced technology, do not enjoy the rich field history of more conventional undersea repeater technology, and may in fact increase the risk of premature failure.

¹⁶ To place the emergent nature of this technology in its proper perspective, recall that the world's first undersea fiber optic cable, TAT-8, was installed in 1988; that Japan's KDD announced plans for the first optically amplified undersea cable in August 1992; that AT&T is to begin installing a 261 km optically amplified fiber cable between Israel and Cyprus in 1993; and that "Rioja," the first European fiber link to employ undersea optical amplifiers, is planned for completion in 1994.

CONCLUSIONS

Based upon the foregoing, it is my professional opinion that AT&T has erroneously claimed, as a so-called limitation of the Alaska Spur, voice services and features which are derived exclusively from information processing and not in any way from transport facilities. It is my further opinion that AT&T has erroneously claimed that AT&T is better able to serve the people of Alaska with advanced video and data services than Alascom, when in fact Alascom would be at least equally capable of employing its systems to provide such services, where these services match the needs of the Alaskan market. Hence the technology of the Alaska Spur has not been shown to pose any practical limitation to telecommunications service delivery in Alaska. I therefore find no justification for AT&T's claim that its proposed system "transcend[s] the limitations of the Alaska Spur."

AT&T estimates that its proposed undersea cable will cost about \$135 million,¹⁷ while the acquisition cost of the Alaska Spur was under \$60 million. I therefore conclude that AT&T has not offered any evidence that its proposal would constitute an economical method of providing basic, advanced, or wideband telecommunication services to Alaska, and especially not to its vast and sparsely populated bush.

I further conclude that there is no justification for AT&T's derogatory insinuation of technical problems or compromises

¹⁷ AT&T Application at para. 8.

in the Alaska Spur.

I further conclude that the channel capacity which AT&T's proposed cable would offer would far exceed demand levels. Such mismatches between supply and demand are neither warranted nor desirable, in my opinion.

It is my further conclusion that, if AT&T were to deploy an undersea cable capable of carrying fifty times the number of voice channels as the Alaska Spur, then by virtue of its control of 98 percent of the available supply of quality digital transmission channels, as well as its formidable financial might, AT&T would have the potential to take over interstate service provision to and from Alaska. This stands in direct contradiction to AT&T's claims of "the assurance of permanent and efficient competition"¹⁸

I have independently examined AT&T's claims of superior repeater reliability. I find that AT&T's simplistic approach to reliability prediction is fundamentally flawed because it ignores the type of components employed, their quality level, environmental factors, and other important factors. I further find that AT&T's claims of superior reliability are unverifiable because its components lack field history and are not listed in standard reliability handbooks. I further find that, in the absence of such field reliability history, AT&T's proposed amplifier technology may in fact pose an increased risk of system failure. In view of these findings, I conclude that there is no basis for AT&T's claims of

¹⁸ AT&T Petition at page 6. Also see AT&T Application at para. 3.

superior repeater reliability.

The fact that certain basic information was omitted from the AT&T Application and the AT&T Petition has hindered my analysis of AT&T's proposed system. This omitted information includes, at a minimum:

- Technical details, including technology, system architecture, number of fibers, available capacity by year, design assumptions, construction phasing, interfaces, redundancy, and telemetry and control
- Market details, including the size and principal characteristics of the market to be addressed, market segmentation, market growth, and market penetration and capture, all by year
- Service details, including plans for market testing of services, proposed service rollout schedules, geographic coverage, and pricing of proposed services
- Financial details, including the costs of providing services, service revenues by year, and sources of funds
- Contingency plans, including key decision points.

Thus, before transcending the limitations of the Alaska Spur, it appears that AT&T must first transcend the limitations of its own filings before the Commission.

In sum, the most important difference between AT&T's proposed undersea cable and the Alaska Spur is that AT&T's proposed undersea cable would be constructed with a larger number of fibers. This, in turn, implies that AT&T would have much more voice channel capacity available (at least in several cities) than Alascom. In the absence of a demonstrated need for this capacity, however, AT&T's proposed system may be likened to an expensive and dangerous cure on a fruitless search for a nonexistent disease.

*James R. Keegan
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6010
Washington, D.C. 20554

*Cecily C. Holiday
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6324
Washington, D.C. 20554

*Robert James
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6310
Washington, D.C. 20554

*James N. Loughry
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 642
Washington, D.C. 20554

Charles D. Gray
National Assoc. of Regulatory
Utility Commissioners
ICC Building - Room 1102
Constitution Ave. & 12th St. N.W.
P.O. Box 684
Washington, D.C. 20044

**Eileen Benner
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702

**Lorraine Kenyon
Alaska Public Utilities Com.
1016 West 6th Avenue
Suite 400
Anchorage, AK 99501

Richard H. Rubin, Esq.
David Condit, Esq.
AT&T
Room 3263D2
295 North Maple Ave.
Basking Ridge, NJ 07920

**Rowland Curry
Texas Public Utilities Commission
7800 Shoal Creek Blvd.-Suite 400N
Austin, TX 78757

**Barry Payne
North Dakota Public Service
Commission
State Capitol Building
Bismark, ND 58505

James Bradford Ramsay
Deputy Assistant General Counsel
NARUC, ICC Building - Room 1102
Constitution Ave. & 12th St., NW
Washington, D.C. 20444-0684

**Ronald G. Choura
Michigan Public Service Com.
6545 Mercantile Way
Lansing, MI 48910

John Katz
Representative of the Governor
Hall of States
444 North Capitol Street, N.W.
Washington, D.C. 20001

*Joe Dixon Edge, Esq.
Hopkins, Sutter, Hamel & Park
888 16th Street, N.W.
Washington, D.C. 20006

Herbert E. Marks, Esq.
Squire Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
-Washington D.C. 20044

Joanne M. Salvatore, Esq.
National Exchange Carrier
Association, Inc.
1100 So. Jefferson Road
Whippany, NJ 07981

ITS
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Lisa M. Zaina, Esq.
OPASTCO
200 K Street, N.W., Suite 205
Washington, D.C. 20006

**Heather H. Grahame, Esq.
Bogle & Gates
1031 West 4th Avenue
Suite 600
Anchorage, AK 99501

Dr. T. P. Quinn
Assistant Deputy Under Secretary
of Defense C3
Office of the Assistant Secretary
of Defense
Pentagon, Room 3E160
Washington, D.C. 20301

Paul J. Berman, Esq.
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20044

Linda K. Smith, Esq.
Robert M. Halperin, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Phyllis E. Hartsock, Esq.
U.S. Dept. of Commerce
National Telecommunications and
Information Administration
Room 4717
14th Street & Constitution
Avenue, N.W.
Washington, D.C. 20230

William K. Keane, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20036

Martin T. McCue, Esq.
Linda Kent, Esq.
Associate General Counsel
USTA
Suite 800
900 19th Street, N.W.
Washington, D.C. 20006

H. Richard Juhnke
Sprint Communications Company,
L.P.
1850 M Street, N. W.
Suite 1110
Washington, D. C. 20036

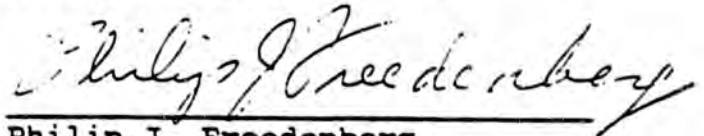
/s/ 
Judy Cooper

- * Served by Hand Deliver
- ** Served by Federal Express
- *** Served by UPS Overnight

Finally, as the Alaskan consumer is unlikely to benefit from any of the aspects of AT&T's proposal which I have examined, it is my overall professional opinion that AT&T's Consumer Benefit Plan" is cruelly misnamed.

THE FOREGOING DECLARATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Respectfully submitted,



Philip J. Freedenberg
Executive Vice President
FEDERAL ENGINEERING, INC.
10600 Arrowhead Drive
Fairfax, Virginia 22030
Dated: 23 June 1993

WITNESSETH

Kimberly S. Hooley
3345 Wilton Crescent Dr. #24
Fairfax Virginia 22030

MTS/WATS services* which, pursuant to Commission requirements,** AT&T and Alascom jointly provide. Utilizing the current separations procedures found in Sections 36.1(c) and 36.156(b) of the Commission's Rules, the investment would be directly assigned to interstate, and should subsequently be allocated to jointly provided interstate MTS/WATS or the separate private line services which only Alascom provides, based on the relative use of each DS 3. Under the customary procedures, the "spare" (in this case, one DS 3 unit) would also be divided on the basis of relative usage. Thus, under the above scenario, six out of the eight (75%) non-spare DS 3 equivalent units would be used for the joint provision of interstate MTS/WATS service as well as 75% of the spare, resulting in 75% of the cable's total investment being assigned to the joint provision of service. Because AT&T and its ratepayers pay for all of Alascom's costs for the joint service,*** AT&T would have to pay that 75% of Alaska Fiber Cable costs assigned to the joint service.

* See the attached Affidavit of James F. Veatch.

** E.g., id.; Integration of Rates and Services, 61 F.C.C.2d 380 (1976), on reconsid., 65 F.C.C.2d 324 (1977); Integration of Rates and Services for the Provision of Communications by Authorized Common Carrier between the United States Mainland and Hawaii and Alaska, 87 F.C.C.2d 25 (1981).

*** See, e.g., Comments of American Telephone and Telegraph Company, RM 4436, CC Docket No. 83-1376 (March 21, 18984), at 15-25; AT&T Response to Data

In fact, however, the capacity which Alascom plans to assign to the joint service is excessive, and hence so is the amount of the cable costs which AT&T will be asked to pay. As shown by the attached Affidavit of James F. Veatch, there is no need for six DS 3 equivalent units to carry the traffic of the joint service; one-third of that capacity would be sufficient. Alascom has already informed AT&T that in the event of a major cable failure, it intends to use satellite facilities as a backup, and to make that possible intends to provision all of its circuits with equipment which would allow a 3:1 compression ratio. If this compression were instead routinely used over the Alaska Fiber Cable route, it should reduce the joint service's facilities needs by a factor of three -- or down from six DS 3 equivalent units to two DS 3 equivalent units.* This would be the same amount of facility capacity as Alascom intends to use for its non-joint private line capacity. The remaining 5 DS 3 equivalent units should then be treated as "spare", and their costs divided evenly between the joint service

(footnote continued from previous page)

Request, CC Docket No. 83-1376, RM 4436 (July 15, 1986) at 8-11, 13-17; Comments of American Telephone and Telegraph Company, CC Docket No. 83-1376, RM 4436 (April 13, 1989) at 7-13.

- * This could be accomplished by use of Integrated Access Terminals, such as those which AT&T is implementing on facilities used for MTS communications between Hawaii and the United States mainland.

(which would use two DS 3 equivalent units) and the non-joint Alascom private line services (which also would use two DS 3 equivalent units). As a result, AT&T and its ratepayers would only be required to pay 50% of the Alaska Fiber Cable costs, rather than 75%. The availability of this amount of "spare" makes it possible for other carriers to lease capacity on the Alaska Fiber Cable. If any of this capacity is leased to other persons or used for other purposes, it should be excluded from "spare", and the balance of the "spare" should be pro-rated based on usage.

Under the joint service arrangement as it is currently required by the Commission, Alascom is given sole responsibility for the provision of service between Alaska and the "lower 48" states.* Unfortunately, Alascom has used its provisioning authority to allocate an unnecessarily large amount of costs to the joint service and AT&T, while assigning a smaller amount of costs to its own non-joint business.

Such a use of its authority by Alascom is not a good faith exercise of its position in the joint service arrangement. In establishing its joint service and "rate integration" requirement, the Commission found that "the nationwide cost averaging structure and uniform mileage

* Establishment of Domestic Communications-Satellite Facilities, supra, 38 F.C.C.2d at 694-95.

rate pattern should not be burdened with costs that are greater than necessary"** In accordance with this finding, AT&T will pay settlements under the joint service arrangement based upon the 50% share of Alaska Fiber Cable costs which should properly be assigned to the joint service, but not based upon an unnecessary larger share of those costs as Alascom proposes.**

Respectfully submitted,

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

By /s/ Francine J. Berry
Francine J. Berry
Michael J. Morrissey
Richard F. Hope

Its Attorneys

295 North Maple Avenue
Room 3244J1
Basking Ridge, NJ 07920
(201) 221-3327

Dated: January 5, 1990

* Establishment of Domestic Communications-Satellite Facilities, supra, 35 F.C.C.2d at 858.

** Alascom's ability to misuse the joint service arrangement in this fashion is yet another example of the unjust and unreasonable nature of the joint provision of service arrangements that are currently required by the Commission and that should be terminated as quickly as possible.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Integration of Rates and Services	)	
for the Provision of Communications	)	CC Docket No.
by Authorized Common Carriers	)	83-1376
between the Contiguous States and	)	RM 4436
Alaska, Hawaii, Puerto Rico and the	)	
Virgin Islands	)	

STATE OF CALIFORNIA	)	
	)	SS.:
COUNTY OF ALAMEDA	)	

AFFIDAVIT OF JAMES F. VEATCH

James F. Veatch, being duly sworn, deposes and
says:

1. From July 1978 until present, I have been a Fundamental Facility Planning Manager for the Western Region of American Telephone and Telegraph Company ("AT&T"). I have responsibility for determining the quantity of facilities which will be necessary in the future based on traffic estimates, and planning how those facilities will be obtained. I submit this Affidavit in support of AT&T's Comments on the effect of the AT&T/Alascom joint provision of MTS/WATS service that will be caused by Alascom's forecast allocation of capacity and costs of its planned fiber cable system between Alaska and Oregon (the "Alaska Fiber Cable").

2. Alascom's Application to Acquire and Operate a Fiber cable System between Alaska and Oregon, File No. WPC 6520 (Nov. 9, 1989) ("Alascom's Application") states (at page 4) that the Alaska Fiber Cable will initially have the capacity to provide the equivalent of nine DS 3 units. Alascom has informed me via a letter dated December 11, 1989* that it plans to use six DS 3 equivalents in its planned Alaska fiber cable system for interstate MTS/WATS service provided jointly by AT&T and Alascom. Alascom's requirement for up to 742 voice grade circuits on the Alaska Fiber Cable for its separate private line business (Alascom 214 Application dated November 9, 1989, at page 5) implies that it must reserve two DS 3 equivalents for its private line business. Presumably the remaining DS 3 equivalent is spare.

3. I understand that such an allocation of six DS 3 equivalents to the jointly provided MTS/WATS traffic and two DS 3 equivalents to Alascom's private line traffic would result in AT&T paying 75% of the cost of the Alaska Fiber Cable.

4. Alascom's 214 Application (at page 10 n.2) states that in the event the Alaska Fiber Cable experiences a major failure, Alascom proposes to use satellite facilities to

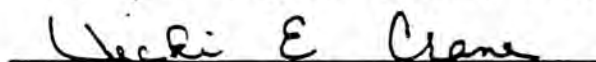
* A copy of this letter, and my prior letter requesting information, are attached as Exhibit A to this Affidavit.

restore service. Alascom's December 11, 1989 letter (Exhibit A, at paragraph 3) states that these transponders would be capable of deriving the necessary six DS 3 equivalents by using compression devices with a compression ratio of 3:1. Such compression, if used on the Alaska Fiber Cable, would compress the six DS 3 equivalents which Alascom proposes to assign to the joint service only two DS 3 equivalents.

5. Instead of using this compression only in the event of cable failure, Alascom could use this compression regularly on the cable itself through full time use of Integrated Access Terminals ("IAT"). AT&T currently is implementing IATs for compression full time on facilities between Hawaii and the mainland for Message Telephone Service. Such full time compression would allow the joint MTS/WATS service to use only two DS 3 equivalents. Given the two DS 3 equivalents used for Alascom's separate private line business, that would leave 5 "spare" DS 3 equivalents on the cable. The costs of this spare would then be allocated equally between the two equal users of the cable.


James F. Veatch

Subscribed and sworn before me
this 4th day of January 1990.



Notary Public



EXHIBIT A

11-21-89

Chuck

We have gone over the 214 document filed with the FCC for the NPC facility. It provided much of the information that we are interested in, but some additional details are needed to complete our evaluation.

1. The cost of the Seward and Pacific City cable stations does not appear as specific identified costs. Is it that these dollar figures are included as part of the various facility costs and appear transparent to us. If they are not included as a part of the other costs, we would like to have the figures for:
 - A. Construction cost and projected maintenance cost which ALASCOM would be responsible for. Seward is assumed to be 100% and Pacific City would be a prorata.
 - B. How much of the above cost would be allocated to interstate versus intrastate and MTS/WATS versus private line/other requirements.
2. How is the \$55 million figure obtained for the Alaska spur? We would like to see the study that identifies the total cost of the NPC and how the spur allocation was determined.
3. Page 10 of the 214 has a footnote stating that preemptible transponders will be used to restore service in the event of a failure to the NPC. We need the cost details of the transponders, earth stations, equipment, etc. in order to make a complete evaluation.
4. To make a balanced evaluation of the NPC, we need to look at the costs of digitizing the AIMS route from Juneau to the USA/Canadian border and any incremental cost to digitize the route from Juneau to Anchorage, over and above that required for intrastate requirements.
5. The 214 filing has a forecast that indicates of the nine DS-3s on the NPC, seven would be allocated for MTS (AT&T/ALASCOM) requirements and two DS-3s for private line (ALASCOM/OTHER) requirements. Is this assumption on our part correct?
6. Please project ALASCOMs 1990 - 1999 MTS/WATS interstate revenue requirements.

This information will allow us to make our evaluation. I assume that this data is all available as backup information to your 214 filing.

I appreciate your response to this request as soon as possible and request that you send it to us via facsimile. Our number is 415-224-5427. Please call me on 415-224-5220 if you have questions concerning this request.

CERTIFICATE OF SERVICE

I, Judy Cooper, a secretary in the law offices of Koteen & Naftalin, hereby certify that true copies of the foregoing "PETITION TO DENY OF ALASCOM, INC." have been served upon the following by first-class United States mail, postage prepaid, this 25th day of June, 1993:

*Chairman James H. Quello
Federal Communications Commission
1919 M Street, N.W. - Room 802
Washington, D.C. 20554

*Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W. - Room 826
Washington, D.C. 20554

*Commissioner Ervin S. Duggan
Federal Communications Commission
1919 M Street, N.W. - Room 832
Washington, D.C. 20554

**Commissioner Susan M. Knowles
Alaska Public Utilities Com.
1016 West 6th Avenue
Suite 400
Anchorage, AK 99501

**Commissioner Bruce Hagen
N. Dakota Public Service Com.
State Capitol Building
Bismark, ND 58505

**Commissioner Dean J. Miller
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702

***Commissioner David Rolka
Pennsylvania Public Utilities
Commission
P.O. Box 3265
Harrisburg, PA 17105

***Debra Kriete, Esq.
Pennsylvania Public Utilities
Commission
P.O. Box 3265
Harrisburg, PA 17105

*Cheryl A. Tritt, Esq., Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

*Claudia Pabo
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Douglas Slotten, Esq.
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Patrick J. Donovan
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
- Washington, D.C. 20554

*Peggy Reitzel
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Jay M. Atkinson
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W. - Room 257
Washington, D.C. 20554

ATTACHMENT 5

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Integration of Rates and Services	)	
for the Provision of Communications	)	CC Docket No.
by Authorized Common Carriers	)	83-1376,
between the Contiguous States and	)	RM 4436
Alaska, Hawaii, Puerto Rico and the	)	
Virgin Islands	)	

COMMENTS OF
AMERICAN TELEPHONE AND TELEGRAPH COMPANY

American Telephone and Telegraph Company ("AT&T")
hereby submits these Comments concerning Alascom's
Application to Acquire and Operate a Fiber Cable System
between Alaska and Oregon (the "Application"). Alascom
originally filed its Application pursuant to Section 214
of the Communications Act of 1934, as amended, where it
was assigned File No. WFC 6520. By letter dated November
9, 1989, Alascom also filed its Application in this
Docket.*

* Petitions to Deny Alascom's Application are due no
later than January 5, 1990, pursuant to the
Commission's Public Notice of December 6, 1989 and
Section 63.52(c) of the Commission's Rules.
Accordingly, AT&T is filing these Comments and the
attached Affidavit of James F. Veatch in this Docket
within the time frame established for filings in
response to the Commission's Public Notice.

RECEIVED
KOTEN & NAFTALIN

1-8-90

AT&T hereby protests Alascom's proposed separations and operational treatment of the proposed cable as it affects the AT&T/Alascom joint provision of service which is the subject of this Docket. Alascom representatives have told AT&T that Alascom intends to allocate most of the cable's capacity to its interstate MTS/WATS services provided jointly with AT&T, and thus cause AT&T to pay most of the cost of the cable. In fact, however, the joint service need be allocated only the same amount of capacity as Alascom's separate private line business, and thus AT&T should at most be required to share the cost of the cable equally with Alascom. As the Commission stated when it originally established the joint service, the joint cost structure "should not be burdened with costs that are greater than necessary"

USE AND COST OF THE ALASKA FIBER CABLE

Alascom's Application discloses that the proposed fiber cable route between Oregon and Alaska (the "Alaska Fiber Cable") will initially have the capacity to provide the equivalent of nine DS 3 units. (Application at 4.) AT&T understands that Alascom intends to use two of these for its own private line business, and to use six of the remaining seven DS 3 equivalent units for interstate

* Establishment of Domestic Communications Satellite Facilities, 35 F.C.C.2d 844, 858 (1972), aff'd on recon., 38 F.C.C.2d 665 (1972), aff'd sub nom. Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975).

B. Charles Russell
Vice President Engineering

December 11, 1989

ALASCOM

Alascom
805 Broadway
P.O. Box 9901
Vancouver, Washington
98665-8701

Mr. J. F. Veatch, Staff Supervisor
AT&T Communications
Fundamental Planning, Facilities
4430 Rosewood Dr.
Rm 3389
P.O. Box 9083
Pleasanton, CA 94566

Dear Jim:

The following information is in response to your memo of 11-21-89.

1. A. The \$55 million includes the construction cost for the Seward Landing Station and Alascom's pro rata share of the Pacific City landing station. Annual maintenance costs are estimated by Alascom to be \$250k for Seward and \$150k for Pacific City. You should note however, that final maintenance costs are subject to negotiation with Pacific Telecom Cable (PTC).
B. Alascom does not anticipate utilization of the Alaska Spur for intrastate services.
2. The allocation of cost to the Alaska Spur was arrived at through a process of negotiation. Alascom believes that if AT&T compares the cost of the Alaska Spur on a cost per circuit mile basis with that of PTAT or TPC4, it would be comparable even though the Spur is a shorter distance and has less capacity. Another approach would be to review PTC's quoted price to purchase a DS3 (1/2 circuit) of \$9.7 million for capacity on the NPC between Oregon and Japan.
3. Alascom is using a budget estimate of \$400k per preemptible transponder per year for four (4) transponders. These transponders would be capable of supporting two duplex 45 Mbits/s carriers between Anchorage and CONUS. Alascom would compress each carrier at 3:1 to derive six DS3 units. Alascom does not have detailed costs for backup facilities as the cost would

Mr. J. F. Veatch
December 11, 1989
Page 2

be the same regardless of whether the prime route is submarine cable or terrestrial microwave.

4. Alascom is not prepared to disclose bid information and cost analyses for an upgrade to the Anchorage - Seattle microwave system. Key portions of this information were supplied to Alascom by third parties on a proprietary basis. However, there are 71 sites in the current system, and I am certain your staff can estimate the cost to build a 9 DS3 system of this magnitude. (Approx. 570 TR's, spares, mux, etc.). Timing and service considerations were a key part of our decision process. Alascom could not have completed the microwave construction prior to the launch of Aurora II. Therefore, the cost savings referred to in our 214 would have been diminished. Additionally, the service advantages of terrestrial digital transmission would have been delayed for our respective customers.
5. The forecast in Alascom's 214 filing indicates that six (6) of the nine DS3 units would be used for interstate MTS requirements.
6. The data would not be relevant to any analysis by AT&T of the Alaska Spur. I again call your attention to item 2 above, and I suggest that you compare the circuit mile cost for the Alaska Spur to the costs for other fiber cables, including AT&T cables. I am certain you will conclude, as we have, that Alascom has obtained an excellent price for a state of the art fiber optic facility to serve our customers.

Please call me with any questions regarding the above.

Sincerely,



BCR/jw

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, hereby certify that this 5th day of January, 1990, the foregoing "Comments of American Telephone and Telegraph Company" has been served by first class mail, postage prepaid, on the parties shown on the attached list; that I have caused the parties marked with an asterisk on the attached list to be served by hand; and that the parties marked with a double asterisk on the attached list have been served by overnight mail, postage prepaid.

/s/ Ann Marie Abrahamson
Ann Marie Abrahamson

SERVICE LIST

*Richard H. Strodel, Esq.
Richard H. Streeter
Wheeler & Wheeler
1625 K Street, N.W.
Washington, D.C. 20006
Counsel for General
Communication, Inc.

*Joe Dixon Edge
Neal M. Goldberg
Susan Reid Morris
Robert F. Reklaitis
Hopkins, Sutter,
Hamel & Park
888 Sixteenth St., N.W.
Washington, D.C. 20006
Counsel for General
Communications, Inc.

Joyce Rivers, Esq.
Alascom, Inc.
P. O. Box 196607
Anchorage, Alaska
99519-6607

*Alan Y. Naftalin, Esq.
Margot Smiley Humphrey, Esq.
Koteen & Naftalin
1150 Connecticut Ave., N.W.
Washington, D.C. 20036

*Linda K. Smith, Esq.
Crowell & Moring
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2505

The Honorable Andrew C. Barrett,
Commissioner
Federal Communications
Commission
1919 M Street, N.W.
Washington, D.C. 20554

Gary C. Tucker, Esq.
Municipality of Anchorage
d/b/a Anchorage Telephone
Utility
Municipality of Anchorage
Pouch 6-650
Anchorage, Alaska 99502-0650

*Michael L. Glaser, Esq.
Francis E. Fletcher, Jr., Esq.
Gardner, Carton & Douglas
1001 Pennsylvania Ave., N.W.
Suite 750
Washington, D.C. 20004
Counsel for Anchorage
Telephone Utility

*John W. Katz
Director,
State/Federal Relations
and Special Assistant to
the Governor
Office of the State of Alaska
Hall of the States
Suite 518
444 North Capitol St., N.W.
Washington, D.C. 20001

Chairman Alfred C. Sikes
Federal Communications
Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications
Commission
Room 802
1919 M Street, N.W.
Washington, D.C. 20554

Carl Hunt
Chief Economist
Colorado Public Utilities
Commission
1580 Logan Street
Office Level One
Denver, CO 80203

Jim Lanni
Rhode Island Public Utilities
Commission
100 Orange Street
Providence, RI 02903

Heikki Leesment
New Jersey Board of
Public Utilities
1100 Raymond Boulevard
Newark, NJ 07102

**Susan M. Knowles
Alaska Public Utilities
Commission
420 L Street
Suite 100
Anchorage, AK 99501

Paul Popenoe, Jr.
California Public Utilities
Commission
350 McAllister Street
San Francisco, CA 94102

Allen Roll
North Dakota Public Service
Commission
State Capitol Building
Bismark, ND 58505

Guy Twombly
242 State Street
Augusta, ME 04333

Chris Herberger, Staff
House Special Committee
on Telecommunications
Alaska State Legislature
House of Representatives
Box V
State Capitol
Juneau, AK 99811

Chairman William E. Long
Michigan Public Service
Commission
6545 Mercantile Way
Lansing, MI 48910

Commissioner Edythe S. Miller
Colorado Public Utilities
Commission
1580 Logan Street
Office Level Two
Denver, CO 80203

Bruce Hagen
North Dakota Public Service
Commission
State Capitol Building
Bismark, ND 58505

Ronald G. Choura
Michigan Public Service
Commission
6545 Mercantile Way
Lansing, MI 48910

Rowland Curry
Texas Public Utilities
Commission
7800 Shoal Creek Blvd.
Suite 400N
Austin, TX 78757

Timothy J. Devlin
Auditing and Financial
Analysis Department
Florida Public Utilities
Commission
101 E Gaines Street
Tallahassee, FL 32301

Gary A. Evenson, Director
Communications Bureau
Utility Rates Division
Public Service Commission
P. O. Box 7854
Madison, WI 53707

Nels J. Smith
Public Service Commission
The State of Wyoming
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

*Charles D. Gray
Room 1102 NARUC
ICC Building
Constitution Avenue
and 12th Street, N.W.
P.O. Box 684
Washington, DC 20044

*Joseph R. Fogarty
Susan M. Miller
Weil, Gotshal & Manges
1615 L Street, N.W.
Washington, DC 20036
Counsel for Alaska
Telephone Association

**Joe Dixon Edge, Esq.
General Communication, Inc.
2550 Denali Street
Suite 1000
Anchorage, Alaska 99503

**Bernadette B. Murray,
President
Alaska Telephone Association
201 E. 56th Avenue
Suite 230
Anchorage, Alaska 99518

*Linda A. Townsend
Phyllis E. Hartsock
U.S. Dept. of Commerce
National Telecommunications
and Information
Administration
Room 4717
14th Street &
Constitution Ave., N.W.
Washington, D.C. 20230

The Honorable Douglas B. Baily
Attorney General
State of Alaska
P.O. Box K
Juneau, Alaska 99811

International Transc. Service*
Federal Communications
Commission
1919 M Street, N.W., Room 245
Washington, DC 20554

Michael Korber
Wyoming Public Service
Commission
122 West 25th Street
Cheyenne, Wyoming 82002

**Lorraine Plaga
Alaska Public Utilities
Commission
420 L Street
Suite 100
Anchorage, AF 99501

*Douglas L. Slotten
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

*Herbert E. Marks
Jody Daniel Newman
Squire, Sanders & Dempsey
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20044
Attorneys for
The State of Hawaii

*William K. Keane
Michael Drayer
Wilner & Scheiner
The Thurman Arnold Bldg.
1200 New Hampshire Ave., N.W.
Suite 300
Washington, D.C. 20036
Counsel for
United Utilities, Inc.

*Martin McCue
Linda Kent
United States Telephone Assn.
900 19th Street, N. W.,
Suite 800
Washington, D.C. 20006-2105

*Lisa M. Zaina
General Counsel
OPASTCO
2000 K Street, N.W., Suite 205
Washington, D.C. 20006

ATTACHMENT 6

AT&T Consumer Benefit Plan
25.0% Expense to Revenue Ratio
(\$ millions)

	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Revenues										
Intrastate	\$98.70	\$102.45	\$105.74	\$108.93	\$112.18	\$115.92	\$119.72	\$123.65	\$127.70	\$131.89
Interstate—Alaska Billed	121.87	126.79	131.28	135.36	139.81	144.75	150.20	155.68	162.11	168.81
International	25.75	26.79	27.74	28.60	29.54	30.58	31.74	32.89	34.25	35.67
Private Line	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00
Other Revenues	<u>58.69</u>	<u>72.05</u>	<u>43.38</u>	<u>43.92</u>	<u>48.04</u>	<u>51.11</u>	<u>50.83</u>	<u>52.77</u>	<u>54.95</u>	<u>56.50</u>
Gross Revenues	380.01	403.08	383.14	391.81	404.57	417.36	427.49	439.99	454.01	467.87
Total Expenses	95.00	100.77	95.79	97.95	101.14	104.34	106.87	110.00	113.50	116.97
Operating Income	285.01	302.31	287.36	293.86	303.43	313.02	320.62	329.99	340.51	350.90
Net Income*	\$179.55	\$190.46	\$181.03	\$185.13	\$191.16	\$197.20	\$201.99	\$207.90	\$214.52	\$221.07
Capital Investment										
Net										
Alascom	\$258.46	\$234.61	\$211.40	\$188.77	\$205.38	\$181.16	\$157.37	\$133.97	\$121.56	\$113.57
AT&T	46.60	102.46	151.20	135.65	121.80	109.11	97.27	86.09	75.90	65.71
All Other	46.00	47.00	48.00	49.00	50.00	51.00	52.00	53.00	54.00	55.00
Total	351.06	384.07	410.60	373.42	377.18	341.27	306.64	273.06	251.46	234.28
New										
Alascom	11.00	11.00	11.00	11.00	51.00	11.00	11.00	11.00	22.00	27.00
AT&T	49.00	62.66	64.04	5.35	5.35	5.21	5.36	5.22	5.51	5.51
All Other	<u>0.58</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>
Total	\$66.58	\$80.77	\$82.15	\$23.46	\$63.46	\$23.32	\$23.47	\$23.33	\$34.62	\$39.62
Average ROR	51.15%	51.82%	45.56%	47.23%	50.94%	54.90%	62.35%	71.73%	81.80%	91.02%

* Net Income assumes a flat 37% income tax rate

ATTACHMENT 7

AT&T Consumer Benefit Plan
95.7% Expense to Revenue Ratio
(\$ millions)

	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Revenues										
Intrastate	\$98.70	\$102.45	\$105.74	\$108.93	\$112.18	\$115.92	\$119.72	\$123.65	\$127.70	\$131.89
Interstate—Alaska Billed	121.87	126.79	131.28	135.36	139.81	144.75	150.20	155.68	162.11	168.81
International	25.75	26.79	27.74	28.60	29.54	30.58	31.74	32.89	34.25	35.67
Private Line	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00
Other Revenues	<u>58.69</u>	<u>72.05</u>	<u>43.38</u>	<u>43.92</u>	<u>48.04</u>	<u>51.11</u>	<u>50.83</u>	<u>52.77</u>	<u>54.95</u>	<u>56.50</u>
Gross Revenues	380.01	403.08	383.14	391.81	404.57	417.36	427.49	439.99	454.01	467.87
Total Expenses	363.67	385.75	366.66	374.96	387.17	399.41	409.11	421.07	434.49	447.75
Operating Income	16.34	17.33	16.48	16.85	17.40	17.95	18.38	18.92	19.52	20.12
Net Income*	\$10.29	\$10.92	\$10.38	\$10.61	\$10.96	\$11.31	\$11.58	\$11.92	\$12.30	\$12.67
Capital Investment										
Net										
Alascom	\$258.46	\$234.61	\$211.40	\$188.77	\$205.38	\$181.16	\$157.37	\$133.97	\$121.56	\$113.57
AT&T	46.60	102.46	151.20	135.65	121.80	109.11	97.27	86.09	75.90	65.71
All Other	<u>46.00</u>	<u>47.00</u>	<u>48.00</u>	<u>49.00</u>	<u>50.00</u>	<u>51.00</u>	<u>52.00</u>	<u>53.00</u>	<u>54.00</u>	<u>55.00</u>
Total	351.06	384.07	410.60	373.42	377.18	341.27	306.64	273.06	251.46	234.28
New										
Alascom	11.00	11.00	11.00	11.00	51.00	11.00	11.00	11.00	22.00	27.00
AT&T	49.00	62.66	64.04	5.35	5.35	5.21	5.36	5.22	5.51	5.51
All Other	<u>6.58</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>	<u>7.11</u>
Total	\$66.58	\$80.77	\$82.15	\$23.46	\$63.46	\$23.32	\$23.47	\$23.33	\$34.62	\$39.62
Average ROR	2.93%	2.97%	2.61%	2.71%	2.92%	3.15%	3.57%	4.11%	4.69%	5.22%

* Net Income assumes a flat 37% income tax rate

ATTACHMENT 8

MEMORANDUM OF LAW CONCERNING
AT&T-ALASCOM JOINT SERVICE ARRANGEMENT

Question Presented: Whether the FCC possesses the authority to require AT&T and Alascom to maintain the joint service arrangement currently in place?

Answer: A decision, based on the facts and policies outlined in the accompanying white paper, to continue the current arrangement is well within the power conferred on the FCC by the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 et seq. Such a decision would be upheld in court.

The FCC Has Expansive Authority Under the Communications Act.

It is well established that Congress has bestowed very broad authority on the FCC to enable it to fulfill its responsibilities.¹ The Supreme Court has held that in 1934 the Congress "acted in a field that was demonstrably 'both new and dynamic,' and it therefore gave the Commission 'a comprehensive mandate,' with 'not niggardly but expensive powers.'"²

The FCC derives authority from a variety of specific provisions of the Communications Act such as those relating to carrier interconnections and establishing the division of

¹ United States v. Southwestern Cable Co., 392 U.S. 157, 167-68 (1968) (Southwestern Cable).

² Id. at 173 quoting, in part, National Broadcasting Co. v. United States, 319 U.S. 190, 219 (1943) (NBC). See also United States v. Storer Broadcasting Co., 351 U.S. 192, 203 (1956) (Storer).

resulting revenues (47 U.S.C. § 201(a)); prescribing just and reasonable charges (47 U.S.C. § 205(a)); valuing of carrier property (47 U.S.C. § 213(a)); and common carrier certification (47 U.S.C. § 214), to name a few. The FCC also derives authority from the Act's "General Provisions," including specifically the purposes of the Act, as set forth in Section 1:

"to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide . . . wire and radio communication service with adequate facilities at reasonable charges"

In addition, several recent decisions of the U.S. Court of Appeals for the District of Columbia Circuit have relied on Section 4(i) of the Act -- which provides that the Commission "may perform any and all acts, make such rules and regulations, and issue such orders not inconsistent with the Act as may be necessary in the execution of its functions" -- as an additional basis for FCC authority.³

Since the adoption of the Communications Act the courts generally, and the Supreme Court in particular, have given the FCC substantial discretion in defining the boundaries of its legal authority to accomplish its basic policy objectives. For example, in National Broadcasting Co. v. United States, 319 U.S. 190 (1943), the Supreme Court upheld the FCC's authority to regulate radio network affiliation arrangements and certain practices of radio networks as within the "large public aims

³ E.g., New England Tel. & Tel. Co. v. FCC, 826 F.2d 1101, 1107-1109 (D.C. Cir. 1987) reh'g pending; Rural Tel. Coalition v. FCC, 838 F.2d 1307, 1315 (D.C. Cir. 1988).

of the Communications Act of 1934."⁴ In United States v. Southwestern Cable Co., 392 U.S. 157 (1967), the Supreme Court sustained the FCC's authority to regulate the CATV industry in order to safeguard the FCC's ability to carry out its regulatory responsibilities for broadcasting,⁵ even though CATV did not exist when the Act was passed. And in Computer and Communications Ind. Association v. FCC, 693 F.2d 198 (D.C. 1982), cert. denied, 461 U.S. 938 (1983) (two cases), the U.S. Court of Appeals for the District of Columbia Circuit sustained the FCC's authority to regulate the provision of customer premises equipment and "enhanced services," while agreeing with the FCC that both such offerings fall outside the scope of Title II of the Act.⁶

These cases, and others like them, explored the boundaries of the FCC's authority. Here, however, there is no need to reach the boundaries of the FCC's authority as to any participant, business, or activity, for the authority to require maintenance of the AT&T-Alascom joint service arrangement lies at the center of the FCC's jurisdiction. Both Alascom and

⁴ 319 U.S. at 218.

⁵ 392 U.S. at 172-179.

⁶ See also GTE Serv. Corp. v. FCC, 474 F.2d 724 (2d Cir. 1974), in which the U.S. Court of Appeals for the Second Circuit sustained the FCC's authority to regulate common carrier involvement in data processing activities to the extent that such activities may affect the efficiency and price of communications services; General Tel. Co. v. United States, 449 F.2d 846 (5th Cir. 1971) (sustaining FCC authority to regulate telephone company provision of cable facilities and services).

AT&T are common carriers subject to the FCC's statutory and regulatory authority under Titles II and III of the Communications Act as facilities-based, "dominant" telephone companies with both radio and common carrier authorizations.⁷ The policy objectives underlying the arrangement -- universal service and its corollary, rate integration⁸ -- both flow directly from the basic purpose assigned to the FCC by Section 1 of the Act. And, finally, the power that is at issue here -- the authority to order carrier interconnections and the division of through charges -- is specifically given to the FCC by Section 201(a). That Section authorizes the FCC, after opportunity for hearing, to require common carriers "to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the division of such charges" where the FCC finds such action is "necessary or desirable in the public interest." Accordingly, the customary expansive reading of the outer limits of the FCC's authority need not be called into play here; its expressly authorized core functions and powers are fully adequate to the task.

⁷ See Policy and Rules Concerning Rates for Common Carrier Services and Facilities Authorizations Therefor, (Fifth Report and Order), 98 F.C.C.2d 1191 (1984) recon. denied, 93 F.C.C.2d 54 (1983); 47 U.S.C. §§ 201-221; 47 CFR §§ 63.01-63.601.

⁸ Rate integration, as explained in the accompanying white paper, is the FCC policy which extended to Alaska, Hawaii, Puerto Rico and the Virgin Islands the nationwide averaged rate pattern. See Establishment of Domestic Communications -- Satellite Facilities by Non-Governmental Entities, 35 F.C.C.2d 844 (1972), on recon., 38 F.C.C.2d 665 (1972), aff'd sub nom, Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975).

The FCC Has Exercised Authority in Similar Circumstances And Has Been Affirmed.

The courts have routinely upheld the FCC's authority under Section 201(a) to require interconnection among carriers and to regulate the allocation of costs and revenues.⁹ We have found no successful judicial challenge to that authority.¹⁰

⁹ E.g., National Ass'n of Regulatory Utility Commissioners v. FCC, 737 F.2d 1095, 1103 (D.C. Cir. 1984) (upholding "in all major respects" FCC's restructuring of cost allocations between local and long-distance carriers), cert. denied, 469 U.S. 1227 (1985); Lincoln Tel. & Tel. Co. v. FCC, 659 F.2d 1092, 1105-06 (D.C. Cir. 1981) (upholding FCC order that independent local telephone company provide interconnection to MCI); United Tel. Co. of the Carolinas, Inc. v. FCC, 559 F.2d 720, 725 (D.C. Cir. 1977) (Commission has authority to prescribe division of charges among carriers if it so chooses); Bell Tel. Co. v. FCC, 503 F.2d 1250, 1282 (3d Cir. 1974) (upholding FCC order requiring AT&T to provide interconnection to MCI on non-discriminatory basis), cert. denied, 422 U.S. 1026, reh'g denied, 423 U.S. 886 (1975); Woodlands Telecommunications Corp. v. American Tel. & Tel. Co., 447 F. Supp. 1261 (S.D. Tex. 1978) (upholding FCC authority to require AT&T to provide interconnection to independent local telephone company); People's Tel. Coop. v. Southwestern Bell Tel. Co., 399 F. Supp. 561, 563 (E.D. Tex. 1975) (FCC has power to require physical connections between common carriers).

¹⁰ Apparently Rogers Radio Communications Services v. FCC, 751 F.2d 408 (D.C. Cir.), has been cited as support for the proposition that the FCC lacks the authority to require interconnection for a service that would be non-compensatory. But Rogers instead involved the decision of a carrier not to interconnect based on legitimate business reasons, with no intervention by the FCC. Stated simply, the determination of a carrier's right to refuse interconnection to another carrier when the FCC has not ordered interconnection is irrelevant to the FCC's authority to compel interconnection on the basis of public interest considerations. In this respect, we note the Rogers court construed the public interest standard broadly, reiterating (at p. 414) its holding in Southern Pacific Communications Co. v. American Tel. & Tel. Co., 740 F.2d 980, 1009 (D.C. Cir. 1984), cert. denied, 470 U.S. 1005 (1985), that "the public-interest standard . . . is essentially one of reasonableness." 751 F.2d at 414.

The FCC's authority in this regard has recently been upheld in similar circumstances in Rural Tel. Coalition v. FCC, 838 F.2d 1307 (D.C. Cir. 1988). There, the FCC determined that its general cost allocation requirement would not "sufficiently assist certain high cost local companies to maintain universal service" ¹¹ Therefore, among other things, it created a Universal Service Fund to ensure that "telephone rates are within the means of the average subscriber" throughout the nation. ¹² The plan worked by allocating "a larger percentage of the costs of high cost companies to the interstate jurisdiction," and "target[ing] the greatest assistance to the smallest companies and the highest cost areas". ¹³ The high cost allocation would be recovered through "a permanent universal service fund to be funded by usage charges contained in the rates of interexchange carriers." ¹⁴

The FCC's support mechanism was challenged as beyond the FCC's authority. The U.S. Court of Appeals for the District of Columbia Circuit rejected that challenge, citing Sections 1 and 4(i) of the Act. The court reaffirmed that universal service is an important FCC objective, and, finding that the

¹¹ Rural Tel. Coalition v. FCC, 838 F.2d 1307, 1311 (D.C. Cir. 1988).

¹² Id. at 1315, quoting from the FCC's order, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, 96 F.C.C.2d 781, 795 (1984) ("First Decision").

¹³ Id. at 1312, quoting from the Brief for FCC at 16-17.

¹⁴ Id.

support mechanism "was proposed in order to further the objective of making communication service available to all Americans at reasonable charges," it concluded that the proposal was within the Commission's statutory authority.

Another compulsory arrangement imposed by the FCC to safeguard service to high cost areas, virtually identical to the AT&T-Alascom joint service arrangement, was not even challenged on authority grounds in the courts.¹⁵ Specifically, as part of its access charge plan, the FCC established a mechanism that required all local exchange companies (a) to file a single joint tariff through the National Exchange Carrier Association (NECA) to recover a designated "carrier common line" (CCL) portion of the local exchange companies' costs for originating and terminating MTS and WATS service; (b) to charge a nationwide average access charge to interexchange carriers to recover these aggregated nationwide CCL costs; (c) to pool the resulting nationwide revenues; and (d) to obtain as compensation from NECA a share of the pooled revenues based on each company's individual or average costs of service.¹⁶ Although the FCC said its power to compel joint tariffs should be used "sparingly," the FCC acted in that case to further the public

¹⁵ MTS and WATS Market Structure (Third Report and Order), 93 F.C.C.2d 241, 328 (1983), aff'd in principal part sub nom., National Ass'n of Regulatory Util. Comm'rs v. FCC, 737 F.2d 1095, cert. denied, 469 U.S. 1228 (1985); 47 CFR §§ 69.605-607.

¹⁶ The FCC has since made the arrangement optional as of January 1, 1988. MTS and WATS Market Structure (Report and Order), 2 FCC Rcd 2953 (May 19, 1987).

interest in universal service by minimizing pressures for the "deaveraging of MTS and other switched service rates that would reflect cost differences among carriers," and thus, sought to avoid "burdens upon the customer of high cost or high SPF carriers [i.e. those with high interstate cost allocations]."¹⁷

Since the Alaskan service facts and policies are similar, it is well within the FCC's authority to further the public interest in universal service by requiring averaged rates and the distribution of high costs among nationwide ratepayers.

The Joint Service Arrangement is Neither
Unjust Nor Unreasonable.

As discussed above, any argument that the FCC lacks the authority to require interconnection between AT&T and Alascom and to prescribe the division of through charges will certainly fail in the face of both the specific (Section 201(a)) and the general provisions of the Act. Therefore, critics of the current arrangement have attempted to argue that maintenance of the arrangement would be "unjust and unreasonable," and hence unlawful under Section 201(b). This challenge has two facets: (1) the claim that requiring participation in providing service on a route that is not compensatory on a stand-alone basis is confiscatory -- that is, a "taking" under the United States Constitution; and (2) the new claim that the "joint service" is the Alaskan fragment, not the entire nationwide

¹⁷ 93 F.C.C.2d at 328.

MTS and WATS service offering for which nationally comparable rates are set to recover aggregate nationwide revenues.

The argument relating to noncompensatory/confiscatory services does not withstand scrutiny. Nothing in the Constitution bars a regulatory agency from requiring a carrier to provide a particular service at a loss, so long as the carrier has the opportunity to earn a reasonable rate of return on the aggregate of its regulated offerings. The courts have repeatedly rejected challenges based on alleged confiscation and sustained the regulatory actions challenged in a number of contexts, including ratemaking¹⁸, line abandonment (*i.e.* compulsory continuation of service),¹⁹ and extension of service.²⁰ These principles were well established in Supreme Court jurisprudence long before Congress enacted the Communications Act of 1934. And there has been no significant change in the decades since.

In Willcox, the utility complained that certain state-fixed gas rates were confiscatory. The Supreme Court held that the company's overall return defeated the claim of con-

¹⁸ Willcox v. Consolidated Gas Co., 212 U.S. 19 (1909) (Willcox).

¹⁹ Pe. Smith Light & Traction Co. v. Bourland, 267 U.S. 330 (1925); Puget Sound Traction, L & P Co. v. Reynolds, 244 U.S. 574 (1917); Brooklyn Eastern District Terminal v. United States, 302 F. Supp. 1095 (E.D. N.Y., 1969) (three-judge Court).

²⁰ Atlantic Coast Line R.R. v. North Carolina Corp. Comm'n., 206 U.S. 1, (1907); and New York & Queens Gas Co. v. McCall, 245 U.S. 345 (1917); Milwaukee Elec. Ry. & Light Co. v. State of Wisconsin, 252 U.S. 100 (1920).

fiscation: "So long as the total is enough to furnish such [sufficient] return, it is not important that with relation to some customers, the price is not enough."²¹

The Supreme Court applied similar principles in upholding orders of the Washington Public Service Commission that required a street railway company to continue to operate certain lines at rates too low to pay the costs of the service. Puget Sound Traction L & P Co. v. Reynolds, 244 U.S. 574, 579 (1917). The Court noted in particular that two of the routes, which covered relatively long distances through thinly populated areas, "separately considered, never had paid operating expenses and probably never will."²² The Court nevertheless declined to entertain arguments based on individual lines because all of the lines had long been operated as a system, and the "system earnings" were not claimed to be "unremunerative."²³ Citing an earlier Supreme Court decision, the Court stated that a regulated company

²¹ 212 U.S. at 54, citing Minneapolis & St. Louis R.R. v. Minnesota, 186 U.S. 257 (1902); Atlantic Coast Line R.R. Co. v. North Carolina Corp. Comm'n, 206 U.S. 1 (1907). See also Baltimore & Ohio R.R. v. United States, 298 U.S. 349, 360 (1936) (regulatory agency may consider costs and revenues both of service in question and of carrier as a whole).

²² 244 U.S. at 580.

²³ Id. Moreover, said the Court, "[e]ven were the several portions of its lines separately owned," since they were "being operated practically as a single system, it would be within the bounds of reasonable regulation to establish through service and a joint rate." Id. at 581-582, citing Wisconsin M&P R.R. v. Jacobson, 179 U.S. 287, 296, 301 (1900); Michigan Central R.R. v. Michigan R.R. Comm'n, 236 U.S. 615, 629 (1915).

"cannot claim the right to earn a net profit from every mile, section or other part into which the road might be divided, nor attack as unjust a regulation which fixed a rate at which some such part would be unremunerative."²⁴

Finally a 1917 Supreme Court case, New York & Queens Gas Co. v. McCall, 245 U.S. 345, 350 (1917), sustained as reasonable and nonconfiscatory a New York Public Service Commission order compelling a gas company to extend service to a community beyond its distribution system, "even if the return on the cost of complying with the order be conceded to be inadequate," in the absence of any record showing that the company's return on its entire property was inadequate.

These cases and their progeny establish that the Constitution guarantees only that carriers not be denied the opportunity to earn a reasonable return on their investment.²⁵ Under the existing joint service arrangement, AT&T has the opportunity to set nationwide MTS and WATS rates which include all costs, including those of Alascom and other providers. Thus the rates are fully compensatory to AT&T. AT&T has followed that practice for many years. Given that AT&T has

²⁴ Id. at 581, citing St. Louis & San Francisco Ry. v. Gill, 156 U.S. 649 (1895). See also Brooklyn Eastern District Terminal v. United States, 302 F. Supp. 1095, 1100 (E.D. N.Y. 1969) ("Compulsion to continue service rendered at a loss is not necessarily an unconstitutional taking of property since there is no general principle that every component of an integral whole of utility service must show a profit.")

²⁵ Federal Power Comm'n v. Hope Natural Gas, 320 U.S. 591 (1944). See also, Smith v. Illinois Bell Tel. Co., 282 U.S. 133, 160-61 (1930); Bluefield Water Works v. Pub. Serv. Comm'n of West Virginia, 262 U.S. 679, 692-93 (1923).

the opportunity to recover all costs and earn its rate of return, the constitutional requirements are satisfied.

Second, it is argued that the AT&T-Alascom arrangement is "unjust and unreasonable" on the ground that AT&T and Alascom collaborate only on the routes to and from Alaska, and hence that AT&T's non-Alaska revenues should be excluded from the pool used to calculate divisions between AT&T and Alascom. This claim, like the non-compensatory/confiscatory claim, is utterly without merit.

The way in which the argument is structured begs the question: What constitutes joint service in this case and who makes that decision? AT&T argues that only the Alaskan segment of nationwide MTS and WATS service provided to all customers in the country under uniform rates is the "joint service." However, that is not how AT&T used to view the matter. Rather, AT&T historically recognized the nationwide MTS and WATS service as a joint enterprise. And notwithstanding its current position, when the local exchange companies shifted from providing joint service to providing tariffed access as the result of the AT&T divestiture²⁶ and the FCC's access charge plan,²⁷

²⁶ United States v. American Tel. & Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sub nom., Maryland v. United States, 460 U.S. 1001 (1983).

²⁷ MTS/WATS Market Structure, 93 F.C.C.2d 241 (1983), modified on recon., 97 F.C.C.2d 682 (1983), modified on further recon., 97 F.C.C.2d 834 (1984), aff'd in principal part and remanded in part, Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1224, 1225 (1985), modified on further recon., 49 Fed.

(continued...)

AT&T did not discard this traditional characterization. Indeed, more than five months after the divestiture was implemented, AT&T was still describing its service with Alascom as part of the "joint interstate enterprise, including AT&T and Alascom."²⁸ Perhaps AT&T believes that by attaching a new label to an old relationship, it may change the substantive legal results. If so, it is wrong.

The task of defining joint service is the FCC's, not AT&T's. As discussed above, the FCC has clear authority to determine that nationwide MTS and WATS should be treated as joint service for ratemaking and division-of-revenues purposes to further its universal-service objective. AT&T can point to no provision of the Act limiting that authority, nor to any case in which a carrier was able, by unilaterally changing its terminology, to usurp the agency's statutory role in deciding what interconnection and division of revenues arrangements are "necessary or desirable in the public interest."

AT&T does cite some 20- to 40-year-old ICC cases. Those cases are based on sections of the Interstate Commerce Act²⁹

²⁷(...continued)
Reg. 46,383 (1984), 50 Fed. Reg. 18,249 (1985), aff'd on further recon., 50 Fed. Reg. 43,707 (1985).

²⁸ Reply Comments of AT&T in CC Docket No. 83-1376, Integration of Rates and Services at 23-24 (filed May 9, 1984). At that time, Hawaiian Telephone Company and All American Cables and Radio (AAC&R) provided joint service on the same basis as Alascom.

²⁹ The Interstate Commerce Act provisions interpreted in these cases were repealed by Pub.L. 95-473, Oct. 17, 1978, 92 Stat. 1466-1470.

which were considerably more detailed, and thus more restrictive, than the broad "necessary or desirable in the public interest" standard with which Congress chose to entrust the FCC.³⁰ More importantly, those cases do not establish a legal principle limiting the definition of joint service.

For example, ICC v. Hoboken Manufacturers' R.R., 320 U.S. 368, 379 (1943), states that a carrier is "entitled to receive by way of divisions only its just and equitable share of the proceeds of the joint . . . service rendered." The Court did not define the extent of the joint service, however, other than to sustain the ICC's determination, based on an evidentiary record, that the loading of steamships -- which took place after the tariffed rail transportation service had been completed -- "is no part of the rail carrier service with respect to which divisions are here sought." Id. The Court held that the agency's determination was within the ICC's discretion and subject to deference as long as it is supported by the evidence.³¹

³⁰ For example, compare Section 201(a) of the Communications Act with Section 15(6) of the Interstate Commerce Act, the primary section on divisions of charges involved in most of the ICC cases relied upon by AT&T.

³¹ 320 U.S. at 378. Another case cited by AT&T for the proposition that it is entitled to be compensated for its costs "fairly attributable to the service covered by the divisions" -- Baltimore & Ohio R.R. Co. v. United States, 298 U.S. 349, 373 (1936) -- is similarly beside the point. First, in Baltimore and Ohio R.R., the Court did not seek to define "joint service" and certainly did not insist on a route-by-route requirement; indeed, elsewhere in the opinion, the Court indicated that the ICC did not have to confine itself to the indi-

(continued...)

The service at issue in the Alaskan Joint Board proceeding involves no extraneous element like the steamship loading at issue in Hoboken. Nationwide interstate MTS and WATS service is provided under tariffs designed to recover aggregate nationwide costs from all United States subscribers on the same terms. Thus, the ICC cases provide no valid basis for questioning the FCC's authority to continue the current arrangement and to define and divide the aggregate nationwide revenues as the relevant "joint" service.³²

In fact, another of the ICC cases cited in the current debate -- The New England Division Case, 261 U.S. 184 (1923) -- affirmatively supports the existence of such authority. In New England, the ICC adopted two new devices: "the group system of ratemaking and the division of joint rates in the public interest." Id. at 191. A small group of New England carriers would have required a large increase in rates to meet their costs.³³ The ICC recognized that the increased rates for those routes would have "killed" the traffic from the area because

³¹(...continued)
vidual charges to be divided in evaluating the adequacy of the carriers' return. Id. at 360. Second, the import of the text quoted by AT&T is that it is entitled to recover the costs of the service covered by the divisions; as discussed above, AT&T is able to recover its costs from the service to and from Alaska on a stand alone basis through the inclusion of those costs in the nationwide MTS and WATS revenue requirements.

³² Alascom receives its share of interstate MTS and WATS proceeds pursuant to FCC rules, regulations and policies.

³³ 261 U.S. at 192.

"[t]here was a limit to what the traffic would bear."³⁴ In addition, the higher rates would have invited more competition in the New England area from alternative forms of transportation.³⁵ The ICC accordingly combined the New England carriers with a larger group of carriers and ordered a 40 percent increase in freight rates for the whole group, thus forestalling the greater increases the New England carriers would have needed to cover their stand-alone costs.³⁶ The ICC then ordered a 15 percent increase in the share of the revenues received by the New England carriers on joint routes, thus creating a situation whereby "weak roads were to be helped by recapture [of surplus revenues] from prosperous competitors"³⁷

The ICC's action was lawful, explained the Court, because the revenues to support New England service came from the "community," not other carriers.³⁸ The Supreme Court thus found the ICC's authority broad enough to prescribe "joint" rates and divide revenues in a manner that served the public interest without regard to geography or common ownership; moreover, the Court made clear that a division ordered by the ICC did not have to be based solely on either cost or fairness between

³⁴ Id. at 191.

³⁵ Id. at 193.

³⁶ Id. at 192-93.

³⁷ Id. at 191.

³⁸ Id. at 196.

carriers.³⁹ Instead, it was well established that the ICC was "empowered, in the public interest, to cause a redistribution of revenue between two carriers participating in transportation of through traffic."⁴⁰ These powers, which are directly analogous to those the FCC has exercised in the case of AT&T-Alascom, contradict any suggestion that divisions must be based solely on the relative costs of a particular route.

The Joint Service Arrangement Does Not Constitute Impermissible Discrimination Under The Act.

It has been asserted that the AT&T-Alascom joint service arrangement is "discriminatory" in violation of Section 201 of the Act. The basis for this assertion is unclear, since Section 201 does not prohibit discrimination by its terms,⁴¹ and we cannot find any otherwise improper discrimination in the joint service arrangement.

There can be no wrongful discrimination in the fact that all of AT&T's customers contribute, to some small extent, to the cost of calls among all 50 states regardless of individual route costs. AT&T, with the FCC's consent, has long integrated

³⁹ United States v. Abilene S. Ry., 265 U.S. 274, 284-285 (1924); Dayton-Goose Creek Ry. v. United States, 263 U.S. 456, 477 (1924).

⁴⁰ United States v. Great Northern Ry., 343 U.S. 562, 577 (1952).

⁴¹ The Section does require that "[a]ll charges, practices, classifications, and regulations . . . be just and reasonable, and any such charge, . . . that is unjust or unreasonable is declared to be unlawful . . ." 47 U.S.C. § 201(b). A subsequent section specifically prohibits "unjust or unreasonable discrimination." 47 U.S.C. § 202(a).

rates for calls among various points within the United States, making those rates uniform on the basis of distance and duration without regard to the actual cost of providing the service on any particular route.⁴² As a result, customers in the high-traffic urban corridors, for example, typically subsidize those in sparsely-populated mountain regions. The application of nationwide averaged rates to Alaska is no different in principle. Indeed, that specific integration has been a cornerstone of FCC policy since 1972.⁴³ So long as that policy remains in effect, a claim of discrimination based on rate integration must fail.

Nor can there be an improper discrimination in an FCC requirement that AT&T share the costs of providing service to Alaska without help from its competitors. While the Act prohibits a carrier from discriminating among its customers,⁴⁴ nothing in the Act prevents the FCC from treating differently situated carriers differently.⁴⁵ In the so-called Computer

⁴² See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Further Notice of Proposed Rulemaking, FCC 88-172 at para. 484 (released May 23, 1988).

⁴³ Domestic Communications-Satellite Facilities, 35 F.C.C.2d 844, 856-57 aff'd on recon. 38 F.C.C.2d 665 (1972), aff'd sub nom, Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975).

⁴⁴ 47 U.S.C. § 202(a).

⁴⁵ "Congress designed the Commission to concentrate on discriminatory rates and services imposed on customers rather than on unfair competitive practices directed at competing telephone companies." MCI Communications Corp. v. American

(continued...)

II proceeding, for example, the U.S. Court of Appeals for the District of Columbia Circuit upheld an FCC requirement that only AT&T -- and not its competitors -- undertake the expensive and cumbersome obligation of providing enhanced services through a separate subsidiary.⁴⁶ The court wrote that those who challenged the validity of the FCC's having singled out AT&T for the separate-subsidary requirement were, in essence, simply "disagree[ing] with the Commission's decision on how and where to draw the line regarding the separation question [and] would have this court substitute its judgment for that of the Commission. This we are neither authorized nor inclined to do".⁴⁷

Elsewhere, the FCC noted that "it would defy logic and contradict the evidence available to regulate in an identical manner carriers who differ greatly in terms of their economic resources and market strength."⁴⁸ In the order quoted, and five more that followed it, the FCC systematically eased the regulatory burden on AT&T's long-distance competitors without

⁴⁵(...continued)

Tel. & Tel. Co., 462 F. Supp. 1072, 1087 (N.D. Ill. 1978), aff'd 594 F.2d 594 (7th Cir. 1978) (footnote omitted). See also IT&T v. GTE, 449 F. Supp. 1158, 1168 (D. Haw. 1978) ("Congressional intent in creating the Commission was to supervise rates and service . . . to ensure . . . uniform, nondiscriminatory treatment of customers with regard thereto") (emphasis added; footnotes omitted) (citing § 201(a)).

⁴⁶ Computer & Communications Ind. Ass'n v. FCC, 693 F.2d at 218.

⁴⁷ Id.

⁴⁸ Policy Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (First Report and Order), 85 F.C.C.2d 1, 14 (1980) (footnote omitted).

offering any comparable relief to AT&T; yet AT&T failed to challenge any of these orders in court on the basis of "discrimination" or otherwise. When the FCC opened an inquiry into the conditions under which similar deregulation might be appropriate for AT&T,⁴⁹ AT&T again failed to raise a claim of discrimination; to the contrary, it impliedly conceded the FCC's authority to treat it differently from other carriers.⁵⁰

In light of these precedents, the AT&T-Alascom joint service arrangement cannot be said to discriminate improperly among either customers or carriers.

Conclusion

For the reasons explained above, the FCC has full authority under the Communications Act of 1934, as amended, to require continuation of the AT&T-Alascom joint service arrangement. Such a requirement falls squarely within the FCC's express Title II authority and, even if it did not, would be sustainable pursuant to the FCC's expansive powers under Title I of the Act. Moreover, this case presents none of the potential grounds for overturning such an arrangement. The arrangement is neither unjust nor unreasonable. Inasmuch as it does not deny AT&T the opportunity to earn its full authorized rate of return on

⁴⁹ Long-Run Regulation of AT&T's Basic Domestic Interstate Services (Notice of Inquiry), 95 F.C.C.2d 510 (1983).

⁵⁰ "The courts have repeatedly held that agencies may not afford parties 'disparate decisional treatment' unless they show an adequate basis for their action." Comments of AT&T at 107 (filed April 2, 1984) (citations omitted), Long-Run Regulation of AT&T.

MTS/WATS service, the arrangement can be neither non-compensatory nor confiscatory; and there is no question as to the FCC's authority to divide revenues from the service among the carriers providing the service. Nor does the arrangement result in any improper discrimination against AT&T. In short, the arrangement is lawful in every respect and would be upheld in court.

Sally Katzen

By: /s/ Sally Katzen
Sally Katzen

Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037
(202) 663-6306

Special Counsel for
Alascom, Inc.

July 21, 1988

Alan Y. Naftalin

By: /s/ Alan Y. Naftalin
Alan Y. Naftalin

Kotzen & Naftalin
1150 Connecticut Ave., NW
Washington, DC 20036
(202) 467-5700

Counsel for Alascom, Inc.

ATTACHMENT 9

DECLARATION

My name is Francis L. Young. I am a partner in the law firm of Young and Jatlow, 2300 N Street, N.W., Suite 600, Washington, D.C. 20037 and Of Counsel to Alascom, Inc. in MC Docket No. 83-1376. This declaration has been prepared as an exhibit to the comments of Alascom, Inc. to be filed July 12, 1993. It is in support of the assertions regarding procedural infirmities and closed meetings of Joint Board members and staff held in July 1992, October 1992, November 1992 and March 1993.

1. At the NARUC summer meetings held in Seattle, Washington, during the period July 25 to 29, 1992, Joint Board members and their staffs met in closed sessions. I requested on behalf of Alascom the opportunity to participate or observe the meetings held by the Joint Board and was refused entrance and told that these meetings were closed. During the Seattle meetings, Walter Bolter representing Overland Consulting, Inc. and others of Overland Consulting, Inc. met with the Joint Board and its staff in closed session. Walter Bolter is personally known to me through my previous work experience at the Federal Communications Commission. Walter Bolter and others presented findings they had made as Overland Consulting pursuant to a contractual obligation with the State of Alaska. Present during the Seattle meetings were the four current state members of the Federal State Joint Board. FCC Commissioner Andrew Barrett attended some of Joint Board sessions.

2. By letter dated November 5, 1992 on letterhead from the Alaska Public Utilities Commission the parties to this proceeding were informed that on October 15 and 16, 1992 the State Members of

the Alaska Federal State Joint Board, a majority and quorum of the Joint Board, met in closed session in Chicago. I was informed that these meetings were to take place and were closed to the parties. The November 5, 1992 letter invited the parties to meet separately with the Joint Board during the week of November 15, 1992 in conjunction with the NARUC annual meeting in Los Angeles, California. The November 5, 1992 letter included a detailed Memorandum of Principles, an Alaska market structure document which appears to incorporate recommendations made by Overland Consulting in its closed session to the Joint Board in Seattle.

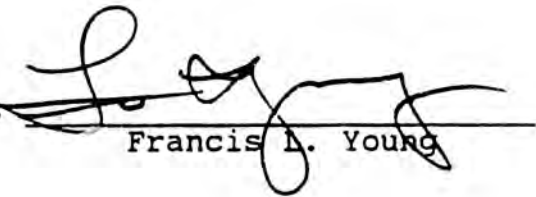
3. During the week of November 15, 1992 at the NARUC annual meeting in Los Angeles, California, I participated with representatives from Alascom in a presentation to the State Joint Board members and combined federal-state staff in a reported ex parte presentation at which other parties were not present. It was requested that Alascom representatives be allowed to observe presentation of the other parties. I was informed that the meetings were closed to the other parties. On November 20, 1992 a detailed report of the meetings with Alascom representatives which had been prepared by me was submitted to the record as an ex parte report by Charles R. Naftalin of the law firm of Koteen & Naftalin.

4. In February 1993 during the scheduled winter meeting of the NARUC held at the J.W. Marriott Hotel in Washington, D.C., members of the Joint Board, both state and federal, met in closed session. Attendance by Alascom representatives was not permitted. No notice of the actual meeting sessions was issued. On March 9,

1993 I participated in ex parte meetings together with other representatives of Alascom, Brian Thomas and Alan Naftalin, with members of the FCC staff. During these meetings it was represented by FCC staff that a Joint Board session was conducted during the Winter meetings at which time directions were given to the staff to prepare a recommendation which would be sent out for comment. The staff indicated that they were obligated to maintain in confidence the substance of the recommendation pending preparation of the tentative recommendation.

The above facts are personally known to me. Attached hereto is a copy of the November 5, 1992 letter confirming the October meeting as well as an invitation to participate in the November meeting.

July 12, 1993

By: 

Francis D. Young

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

November 5, 1992

WALTER J. HICKEL, GOVERNOR

1018 WEST 8TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 270-4222

Gordon A. Parker, Jr.
Executive Director
Alaska Telephone Association
3305 Arctic Boulevard, Suite 102
Anchorage, Alaska 99518

A. L. Tyree
Government Affairs Director
American Telephone and Telegraph Company
795 Folsom Street, Room 200
San Francisco, California 94107

Ronald Duncan
President
CCI Communication Corp.
2550 Denali St., Suite 1000
Anchorage, Alaska 99503

Vernon Dunham
Senior Vice President, Revenue Requirements
Pacific Telecom, Inc.
805 Broadway
P. O. Box 9901
Vancouver, Washington 98668-8701

John Katz, Special Counsel
State/Federal Relations
Office of the Governor
State of Alaska
444 North Capitol, N.W., Suite 510
Washington, D.C. 20001-1512

Gentlemen:

On October 15 and 16, 1992, the State Members of the Alaska Federal State Joint Board (CC Docket No. 83-1376) met in Chicago, Illinois, to review the record in this proceeding and to discuss key issues. As a result of this meeting the State Members have developed a Memorandum of Principles regarding the Alaska interstate market structure. The findings of the State Members have been provided to you in a document separate from this letter.

The State Members and their staff would welcome an opportunity to individually meet with you or your representatives at the upcoming NARUC Convention in Los Angeles during the week of November 15, 1992, to discuss the Memorandum of Principles. The extent of participation in these meetings by Federal Members of the Alaska Joint is unknown at this time. The purpose of the meetings would be to provide each of you an opportunity to ask questions regarding the Memorandum of Principles and to present your comments and suggestions on what has been proposed. The State Members hope that any criticisms of the Memorandum will be balanced by suggested solutions that are compatible within the proposed framework.

Please contact Lorraine Kenyon at 907-276-6222 no later than November 10, 1992, if you wish to take advantage of our invitation and to provide information regarding your availability for meeting. Due to time constraints and obligations associated with the NARUC Convention, each individual meeting time will be limited to one hour. Meeting times have yet to be determined, but available times are likely to occur during the mornings of November 15 and 17, and the afternoon of November 16, 1992. Ms. Kenyon will coordinate the meeting times to accommodate all those interested to the fullest extent possible. The individual meetings will not be open to the general public and participation will be limited to the State and Federal Members, their staff, and to the invited party.

Questions concerning this matter may be directed to Ms. Kenyon.

Sincerely,

Bruce Hagen
Bruce Hagen, President
North Dakota Public Service
Commission

Susan M. Knowles
Susan M. Knowles, Commissioner
Alaska Public Utilities
Commission

Dean J. (Joe) Miller *fm*

Dean J. (Joe) Miller
Commissioner
Idaho Public Utilities
Commission

David Rolka *fm*

David Rolka, Chairman
Pennsylvania Public
Utilities Commission

cc: Portion of Record

ATTACHMENT 10

STATE OF ALASKA
Department of Commerce and Economic Development
Division of Alaska Public Utilities Commission
1016 West 6th Avenue Suite 400
Anchorage, Alaska 99501

REQUEST FOR PROPOSALS
ASPS NUMBER 92-0121

ASSIST IN AN INVESTIGATION OF AN AGREEMENT BETWEEN ALASCOM, INC;
TELEPHONE UTILITIES OF ALASKA, INC.; PACIFIC TELECOM, INC.; AND
AMERICAN TELEPHONE AND TELEGRAPH COMPANY.

Date of Issue April 1, 1992

REQUEST FOR PROPOSALS (RFP) ASPS No. 92-0121

TABLE OF CONTENTS

STANDARD PROPOSAL INFORMATION		Page
1.	Purpose of Request For Proposal	5
2.	Minimum Requirements	5
3.	Issuing Office Mailing Address & Telephone Number	6
4.	Contact Person	6
5.	Solicitation/Advertising	6
6.	News Releases	6
7.	Estimated Time of RFP Process	6
8.	Preproposal Conference	7
9.	Required Review of this RFP by Proposer	7
10.	Questions Received Prior to Opening of Proposals	8
11.	Addenda to the Request For Proposal	8
12.	Proposal Withdrawal and Correction	8
13.	Deadline for Receipt of Proposals	8
14.	Conflict of Interest	9
15.	Right of Rejection	9
16.	Incurred Costs	10
17.	Authorized Signature	10
18.	Noncollusion	10
19.	Disclosure of Proposal Contents	10
20.	Multiple Proposals	10
21.	Alaska Business License	10
22.	Other Licenses and Registrations	11
23.	Federal Requirements	11
24.	Employment Program Preference	11
25.	Alaska Product Preference	11
26.	Alaska Bidder Preferences	12
27.	Evaluation of Proposals	12
28.	Cost Evaluation Formula	12
29.	Discussion with Responsible Proposers	13
30.	Notice of Intent to Award	13
STANDARD CONTRACT INFORMATION		
1.	Location of Work	14
2.	Contract Amount	14
3.	Contract Term and Renewal Options	14
4.	Contract Type Resulting from the RFP	14
5.	Funding of the Contract	14
6.	Subcontractors	14
7.	Joint Ventures	15
8.	Proposal as a Part of the Contract	15
9.	Additional Terms and Conditions	15
10.	Contract Negotiations	15
11.	Failure to Negotiate	16
12.	Contract Approval	16

REQUEST FOR PROPOSALS (RFP) ASPS No. 92-0121
TABLE OF CONTENTS (Cont.)

13.	Payment of Taxes	16
14.	Vendor Tax ID Number	16
15.	Lobbying	16
16.	Insurance Requirements	16
17.	Hold Harmless	17
18.	Liquidated Damages	17
19.	Performance Bonds and/or Surety Deposits	17
20.	Site Inspection	17
21.	Standard Agreement Forms	17

HISTORICAL INFORMATION PERTINENT TO THIS RFP	18
--	----

SCOPE OF WORK PERTINENT TO THIS RFP

1.	Minimum Requirements	21
2.	Scope of Work Required	22
3.	Deliverables Under The Contract	24
4.	Timeframe	25

PROPOSAL SUBMISSION IN RESPONSE TO THIS RFP

1.	Required Proposal Format	26
2.	Introduction	26
3.	Minimum Requirements	26
4.	Methodology and/or Management Plan	26
5.	Firm's Experience	27
6.	Subcontractors	28
7.	Conflict of Interest Restrictions	28
8.	Key Project Personnel	28
9.	Cost of Proposal	29
10.	Alaska Business License Submission	29
11.	Other Required Professional Licenses	29
12.	Alaska Vendor Preference Submission	29

PROPOSAL SUBMISSION EVALUATION CRITERIA

1.	Site Inspection	30
2.	Oral Presentation	30
3.	Evaluation Factors	30

REQUEST FOR PROPOSALS (RFP) ASPS No. 92-0121
TABLE OF CONTENTS (Cont.)

ATTACHMENTS

- | | | |
|----|--|--------------|
| 1. | Standard Agreement Form | Attachment 1 |
| 2. | Appendix A | Attachment 2 |
| 3. | Appendix B1 | Attachment 3 |
| 4. | Notice of Intent to Award | Attachment 4 |
| 5. | Certificate of Qualification for
Alaska Bidder Preference | Attachment 5 |

EXHIBITS

- | | | |
|----|---------------------------------------|-----------|
| 1. | Commission Regulations on Competition | Exhibit 1 |
| 2. | Joint Board Data Request | Exhibit 2 |
| 3. | TUA Executive Summary - Docket U-92-9 | Exhibit 3 |
| 4. | Joint Board Order | Exhibit 4 |

STANDARD PROPOSAL INFORMATION

1. Purpose of Request For Proposal (RFP)

The Department of Commerce and Economic Development, the Alaska Public Utilities Commission (APUC), is soliciting detailed proposals for:

Services of a contractor to aid the APUC in its investigation of the interstate issues associated with the Master Agreement between Alascom, Inc. (Alascom); Telephone Utilities of Alaska, Inc. (TUA); Pacific Telecom, Inc. (PTI); and American Telephone and Telegraph Company (AT&T). The contractor shall analyze and make recommendations concerning the competitive effects, market changes, jurisdictional cost shifts, rate effects, as well as other issues associated with the proposed agreement between the companies, as well as issues before the CC Docket No. 83-1376 Joint Board.

2. Minimum Requirements

Every respondent to this Request for Proposal (RFP) must meet the following minimum requirements to be considered responsive to this RFP. A respondent must have:

- a. Performed or substantially assisted in at least five previous cases involving the development and analysis of telephone jurisdictional cost separations and revenue requirement studies where the telephone company involved had greater than 100,000 access lines.
- b. Performed or substantially assisted in at least three previous cases involving the development and analysis of telephone access charges where the contract value exceeded \$50,000 and the utility involved had greater than 100,000 access lines.
- c. Performed or substantially assisted in at least five previous cases involving the auditing of telephone companies where each telephone company had greater than 100,000 access lines.
- d. Performed or substantially assisted in at least three previous cases involving regulated telephone utility mergers and acquisitions, where review of changes in organizational structure, management, network configuration, operations, costs, and transfer of assets between entities occurred.
- e. Performed or substantially assisted in at least three previous cases where telephone affiliated interest transaction analysis was performed.
- f. Performed or substantially assisted in at least two previous cases involving the legal and economic evaluation of market power

and anti-competitive effects involving telephone utilities.

g. Prepared and presented written and oral testimony in at least five different utility investigation proceedings before a regulatory commission(s).

One contract may meet more than one of the minimum requirements set out in a-g, above and is acceptable as long as the proposer identifies which requirements the example is meeting.

3. Issuing Office Mailing Address and Telephone Number

The issuing office address and telephone number for this Request for Proposal is:

Department of Commerce and Economic Development
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage Alaska 99501-1963
Contact Person: Pat Oldenburg
907-276-6222

4. Contact Person

Any technical or procedural questions regarding this RFP, contract documents, or associated information should be addressed to Pat Oldenburg at the issuing office address [noted in item 3].

5. Solicitation/Advertising

Public notice has been provided in accordance with AS 36.30.210(c) and 2 AAC 12.220. The RFP has been advertised in the Alaska Administrative Journal, Alaska Journal of Commerce, Anchorage Daily News, Anchorage Times, Fairbanks Daily News Miner, Juneau Empire, Telecommunications Report, and the NARUC Bulletin as well as the use of a contractors list.

The State assumes no liability for incorrect addresses, delivery of Letter of Interest, or RFP packages by public or private carriers.

6. News Releases

News releases pertaining to this request for proposal and resulting contract may not be made without prior written approval of the issuing office.

7. Estimated Timeline of Request For Proposal (RFP) Process

Below is the issuing agency's estimated time schedule. This schedule is for informational purposes only, as some actual dates

may vary depending on the response to this RFP. It is unlikely, however, that a contract will be awarded before May 1, 1992.

Step	Day
1. Advertise in Alaska Administrative Journal	1
2. Letters of Interest Mailed and/or	1
3. Newspaper Advertisement	1
4. RFP Available	7
5. Proposer's Meeting (if found necessary)	15
6. Mail out responses to significant questions	20
7. Deadline for submitting proposals	30
8. Opening of proposals	31
9. Evaluation Process	32-36
10. Notice of Intent to Award	37
11. Grievance Period	38-47
12. Contract Negotiation	38-39
13. Execute Contract	44-45
14. Approval of contract by contractor	45-47
15. Approval of contract by department	45-48
16. Contract start date	49

8. Preproposal Conference

A preproposal conference will not be held unless extensive questions arise regarding the RFP.

9. Required Review of this RFP by Proposers

Proposers shall carefully review this RFP for defects and questionable or objectionable materials. Proposers comments concerning defects and questionable or objectionable material in the RFP must be made in writing and received by the issuing agency at least ten (10) days before proposal submission deadline. This will allow time for an addendum to be issued if one is required.

It will also help prevent the opening and the exposure of proposals upon which award cannot be made. Proposer's comments shall be sent to the contact person identified previously in the RFP (Item 4). A copy of proposer's comments should also be forwarded to Commissioner, Department of Administration, P.O. Box C, Juneau, Alaska 99811-0200

10. Questions Received Prior to Opening of Proposals

There are generally two types of questions. One involves directing the questioner to the specific section of the RFP where the answer may be found. Response to these questions may be given over the telephone.

The second type of question involves clarifying or interpreting parts or intent of the RFP. These questions can not be answered over the phone. Proposers shall put questions in writing, and submit them to the contact person identified in Item 4. Response to this type of question will be provided to all potential proposers in a written addendum to the RFP.

11. Addenda to this Request For Proposal

Should the issuing office consider it necessary to revise any part of this RFP significantly or lengthen or shorten the proposal deadline period, an addendum will be provided to all potential proposers who were previously issued the RFP.

12. Proposal Withdrawal and Correction

A proposal may be corrected or withdrawn by a written request received prior to the date of opening. (2 AAC 12.230)

13. Deadline for Receipt of Proposal

Proposals must be received no later than 4:30 p.m. April 23, 1992.

Failure to meet the deadline will result in disqualification of the proposal without review.

Respondents must mail six (6) copies of their proposal to the issuing office (see Item #2) or hand deliver to 1016 West Sixth Avenue, Suite 400 Anchorage, Alaska 99501-1963. Whether the proposal(s) are mailed or hand-delivered, they must be in a sealed envelope(s) clearly labeled:

Department of Commerce and Economic Development
Alaska Public Utilities Commission

REQUEST FOR PROPOSAL 92-0121

For: ALASCOM/AT&T AGREEMENT INVESTIGATION

Attention: Pat Oldenburg

This proposal is submitted by: _____

14. Conflict of Interest Restrictions

The successful proposer to this RFP must have no conflict of interest that would affect its analysis as documented in the "Scope of Work" section of this RFP. Proposers that have had one or more contracts with value totalling \$5,000 or more, with PTI, Alascom, AT&T, GCICC, or any affiliated telecommunications company within the past four years WILL BE DEEMED TO HAVE A CONFLICT OF INTEREST AND MAY BE DECLARED NONRESPONSIVE. Proposers that have had a past contract involving any issue pending before the CC Docket No. 83-1376 Joint Board WILL BE DEEMED TO HAVE A CONFLICT OF INTEREST AND MAY BE DECLARED NONRESPONSIVE. In addition, the successful proposer must agree to not provide professional services to PTI, Alascom, AT&T, GCICC, or any affiliated telecommunications companies for a period of two years from the ending date of the contract. A waiver to this section may be requested. Any requests for waiver must be filed with full explanation within ten days of release of this RFP.

The APUC plans to release a second RFP dealing primarily with the intrastate issues raised by the TUA request for amendment of certificate and merger with Alascom. Proposers are not prohibited from responding to both the current proposal (ASPS No. 92-0121) and the TUA RFP. However, depending upon legal and administrative constraints, it may not be possible for one contractor to perform work on both contracts.

Proposers must identify any potential conflicts of interest in writing and submit with the proposal.

The same information as required above for the firm is also required for all subcontractors.

15. Right of Rejection

The issuing office reserves the right to and may declare any proposals that do not fully comply with and address all the terms and requirements of this RFP, AS 36.30, and 2 AAC 12, nonresponsive per 2 AAC 12.280. Proposers that do not comply may be declared nonresponsive and shall be rejected. (2 AAC 12.280)

The State reserves the right to use any ideas presented in any response to the RFP. Selection or rejection of a proposal does not affect that right.

16. Incurred Costs

No costs incurred by the proposer in preparation of a proposal, including travel and personal expenses may be charged as an expense of performing the contract.

The State shall not be subject to payment for cost incurred for proposal preparation or contract preparation as a result of valid and legal termination of this RFP or termination of the contract resulting from this award of the RFP.

17. Authorized Signature

Proposals must be signed by an individual authorized to bind the proposer to its provisions. The proposal must remain valid for at least ninety (90) days from the proposal receipt deadline.

18. Noncollusion

The individual signing the proposal also certifies, under penalty for perjury, that the price submitted was independently arrived at without collusion.

19. Disclosure of Proposal Contents

All proposals and other material submitted become the property of the State and may be returned only at the State's option.

AS 09.25.110 requires public records to be open to reasonable inspection by the public. All proposal information including detailed price and cost information will be held in confidence during the evaluation process and prior to issuance of Notice of Intent to Award. Thereafter, proposals will become public information.

20. Multiple Proposals

The issuing office will not accept multiple proposals from the same respondent.

21. Alaska Business License

All proposers **MUST** have a valid Alaskan business license at the time designated for opening of the proposals (AS 36.30.210(e)). One of the following forms of evidence must be included in the proposal:

- a. a cancelled check for the business license fee;
- b. a copy of a business license application with a receipt date stamp from the State's business license office;

- c. a receipt from the State's business license office for the license fee;
- d. a copy of the proposer's valid business license; or
- e. a sworn notarized affidavit that the proposer has applied and paid for a business license.

22. Other Licenses and Registrations

All proposers are required to hold any and all necessary applicable professional licenses and registrations required by Alaska Statute. Proof of these professional licenses are required with the proposal. Obtaining and ensuring compliance to all licensing and registering requirements is the complete responsibility of the proposer. For more information on professional licenses, contact the Department of Commerce and Economic Development, Division of Occupational Licensing. For more information on registrations, contact the Department of Commerce and Economic Development, Division of Banking, Securities and Corporations.

23. Federal Requirements

It is the responsibility of the proposer to indicate applicability of federal acts such as:

- Equal Employment Opportunity Act
- Copland Anti-Kickback Act
- Contractor Work Hours and Safety Act
- Patents
- Date and Copyright Acts
- Examination of Contractual Records Act
- Clean Air Water Pollution Control Act
- Freedom of Information Act

24. Employment Program Preference

If the proposer is offering services through an employment program, the preference in AS 36.30.170(c) will also apply. (AS 36.30.250(b))

It is the responsibility of the proposers to include in their proposals an affidavit of their qualifications for this preference.

25. Alaska Product Preference

Alaska product preference is also applicable in evaluating proposals and a proposer designating the use of Alaska products will receive the preference (AS 36.30.332). It is the responsibility of the proposers to include in their proposals an affidavit of their qualifications for this preference.

Class I at least 25% but less than 50%	= 3% Preference
Class II between 50% and 75%	= 5% Preference
Class III greater than 75%	= 7% Preference

26. Alaskan Bidder Preferences

There are two Alaskan Bidder Preferences applicable for Alaskan proposers. The first is a 5% reduction (for evaluation purposes only) to the proposed cost and the second is an evaluation factor (criteria) which will count for at least 10% of the total possible score.

The proposer must qualify under AS 36.30.170(b) as an Alaskan proposer and meet the requirements identified on the "Certificate of Qualification" for the Alaska Bidder Preference form included with the RFP as Attachment 5.

It is the responsibility of proposers to ensure compliance with the requirements and to complete, sign and include the certificate in its proposal. The firm's name on the proposal MUST BE THE SAME as the name appearing on the firm's Alaska Business License. The "Certification of Qualification for the Alaska Bidder Preference" form is included as Attachment 5 (2 AAC 12.260(d) and (e)).

27. Evaluation of Proposals

The procurement officer, or an evaluation committee consisting of the procurement officer and at least two State employees or public officials, shall evaluate proposals. (2 AAC 12.260)

A nonresident may not serve in a voting capacity on a proposal evaluation committee without prior written approval of the Commissioner of the Department of Administration.

The evaluation will be based only on the evaluation factors stated later in this RFP. Evaluation factors not specified in this RFP may not be considered (AS 36.30.210(b) and AS 36.30.250(a)).

28. Cost Evaluation Formula

Cost must be an evaluation factor unless the service sought is selected in accordance with AS 36.30.270(a) and (b).

The distribution of points based on price must be determined as follows per AS 36.30.210(b), .250(a), and 2 AAC 12.260. For the purpose of evaluating cost, the proposed costs of an offeror who qualifies as an Alaska proposer under AS 36.30.170(b) shall be reduced by five percent. The proposal with the lowest cost factor must receive the highest available rating allocated to the cost factor. The rating for each higher cost proposal must be determined using the following formula:

$$\frac{(\text{Price of Lowest Cost Proposal}) \times (\text{Maximum Points for Cost})}{\text{Price of Each Higher Cost Proposal}} = \text{Points}$$

29. Discussion with Responsible Proposers

AS 36.30.240 and 2 AAC 12.290 in their entirety are incorporated into this RFP. As determined by the evaluation process, proposers reasonably susceptible of award may be offered the opportunity to discuss their proposal with procurement officer or evaluation committee and the evaluation of a proposal may be adjusted as a result of the discussion. Proposers may also be allowed to submit a best and final proposal, as a result of the discussion.

30. Notice of Intent to Award

After completion of the evaluation process the issuing office will issue a Notice of Intent to Award to all proposers. This notice will contain the names and addresses of all proposers including the intended recipients of the contract. See Attachment 4 of this RFP. (AS 36.30.365).

STANDARD CONTRACT INFORMATION

1. Location of work

The locations of the work to be performed, completed and managed are:

Wherever the contractor's offices are located within the United States. The contractor may be required to travel to Anchorage, Alaska, and other locations to audit the records of the utilities involved; discuss utility management and operational practices; and meet with the client. The contractor may be required to attend a hearing(s) in Washington, D.C. or at another location. It is expected that no more than four trips will be necessary to perform the contract.

2. Contract Amount

The maximum acceptable dollar amount for the completion of this contract is \$250,000. This includes all renewal options discussed in Item 3 below. Any proposal submitted which exceeds this maximum dollar amount will be considered nonresponsive and shall be rejected.

3. Contract Term and Renewal Options

The State wishes to establish a one year contract with the State's option to renew for two additional one year periods. The dollar amount given in Item 2 includes ALL renewal options.

4. Contract Type Resulting from this RFP

The resulting contract will have a not-to-exceed amount. Open ended contracts reflecting cost plus a percentage of cost are prohibited by law. (AS 36.30.370)

5. Funding of the Contract

The State reserves the right to cancel a contract negotiated as a result of this RFP at any time due to lack of appropriated funds. (AS 36.30.390(c)) In addition, the State may terminate the contract at any time when it is in the State's best interest as specified in Appendix A, (see Attachment 2).

This RFP may cross fiscal years therefore funding of this RFP is contingent upon future year appropriations.

6. Subcontractors

Subcontracting shall be allowed, but a subcontract shall not be

transferred or otherwise assigned without prior written consent by the head of the Department of Commerce and Economic Development. Any other conditions of AS 36.30.210(d) and AS 36.30.115 (b)-(e) apply.

All proposers must list in their proposals the complete names and location of their subcontractors, and the work and percentage of work to be subcontracted to each subcontractor. (AS 36.30.210(a))

The successful proposer must also supply proof of all subcontractor's Alaska business licenses with the proposal submission.

7. Joint Ventures

The issuing office grants the right to all prospective contractors to submit their proposals as a joint venture, and the issuing office reserves the right to contract with a joint venture if it is in the State's best interest. If a joint venture, all offerors must have an Alaska business license. Also required is a Letter of Agreement between the offerors stating which is the lead firm and which firm has authority to sign the contract.

If a joint venture is proposed, an agreement between the venturing firms must be included with the proposal. The agreement shall specifically state each firm's responsibilities, identify the lead firm and designate the individual from the lead firm with negotiating and signatory authority.

8. Proposal as Part of the Contract

The successful proposal may become an integral part of the contract. It will not, however, be considered the total binding obligation for the contract. Any and all proposal conditions may be included, at the discretion of the issuing office, as a part of a final negotiated and approved contract.

9. Additional Terms and Conditions

The State reserves the right to include additional terms and conditions during the contract negotiations. These terms and conditions must be within the scope of the original RFP and contract documents and will be limited to cost, clarification, definition, and administrative and legal requirements.

10. Contract Negotiations

Upon issuance of a notice of award, contract negotiations will commence. It is anticipated that all contract negotiations will be held at the APUC office in Anchorage.

11. Failure to Negotiate

If the selected contractor fails to provide the necessary information for negotiations in a timely manner or to negotiate in good faith or cannot perform the contract within the amount of budgeted funds available for the project and/or proposed by the proposer, the State may terminate negotiations and negotiate with the next highest ranked proposer or terminate award of the contract. (AS 36.30.360 and 2 AAC 12.500)

12. Contract Approval

This RFP does not obligate the State to perform until a contract is signed and approved by both parties. If approved, it is effective from the date of approval by the State. The State shall not be responsible for work done, even in good faith, prior to approval of the contract by the Commissioner of Department of Commerce and Economic Development or his designee.

13. Payment of Taxes

If it is discovered that the contractor is in arrears on taxes, the contract shall not be awarded until the Department of Revenue notifies and approves of the payment provisions of the contract.

14. Vendor Tax ID Number

A valid tax identification number must be provided to this department prior to or upon contract approval. No payments will be made prior to receipt of the tax identification number, and failure to provide may result in contract cancellation.

15. Lobbying

The department prohibits the contractor from using any portion of the contract amount for lobbying efforts.

16. Insurance Requirements

The successful proposer must supply proof of general liability, auto liability, and worker's compensation insurance prior to contract approval.

The successful proposer must secure satisfactory insurance coverage as required by the Department of Administration, Division of Risk Management. Failure to provide evidence of adequate coverage is a material breach and grounds for termination of the contract. Please review Appendix B1 to the "Standard Agreement Form". A copy is included as Attachment 3. Any alteration of these general insurance requirements must be approved by the Department of Administration, Division of Risk Management, prior to final approval.

17. Hold Harmless

The contractor shall indemnify, save harmless and defend the State, its officers, agents and employees from any and all claims or actions for injuries or damages sustained by any person or property arising directly or indirectly from the contractor's performance of this contract or as a result of any error, omission or negligent act of the contractor, subcontractor or anyone directly or indirectly employed by them in the performance of this contract.

18. Liquidated Damages

The State reserves the right to include liquidated damages in the contract to assure the contractor's performance of all contract provisions in a timely manner.

19. Performance Bonds and/or Surety Deposits

The State reserves the right to request a performance bond or surety deposit in the contract to assure the contractor's performance of all contract provisions in a timely manner.

20. Site Inspection

The State reserves the right to conduct on-site inspections during the contract performance period. (AS 36.30.410 and 2 AAC 12.510)

21. Standard Agreement Forms

The successful proposer will be required to sign and comply with the "Standard Agreement Form", "Appendix A", and "Appendix B1" for professional services. Copies are included as attachments to this RFP. Alterations of these provisions must be approved in writing by the Department of Law prior to any final contract approval. (AS 36.30.340 and 2 AAC 12.470)

HISTORICAL INFORMATION PERTINENT TO THIS RFP

Local Exchange

Local exchange services in Alaska are provided by over twenty municipally owned, investor owned, or cooperatively owned local exchange carriers (LECs). No Bell Operating Companies exist in Alaska. No LECs are currently authorized to provide intrastate interexchange services in Alaska, although the Alaska Public Utilities Commission (APUC or Commission) has not expressly prohibited LEC participation in the intrastate interexchange market. The Commission has not yet adopted regulations specifically addressing LEC entry and operation as competitive intrastate interexchange carriers. No LEC currently operate as interstate interexchange common carriers in Alaska.

Intrastate Interexchange

The Alaska intrastate interexchange market was opened to facilities-based competition in most non-rural locations in 1991. Over 80% of all Alaskan access lines are available on an equal access basis. The APUC regulations governing intrastate interexchange competition (3 AAC 52.350 to 52.399, by interexchange carriers (non-LEC's) are included as Exhibit 1 to this RFP.

Pacific Telecom, Inc. (PTI) owns Alascom, Inc. (Alascom), the dominant intrastate interexchange carrier currently operating in Alaska. Alascom provides Message Telephone Services (MTS) and private line services to all areas of the State and operates as a carrier of last resort through the use of microwave, satellite, and fiber optic systems. The only other facilities-based carrier operating in the intrastate market is GCI Communication Corp. (GCICC). GCICC currently holds a 15% to 20% Alaska intrastate market share. GCICC's facilities are not statewide and are primarily located in urban areas. GCICC is capable of reaching about 88% of the State's access lines using its facilities.

Interstate Interexchange

The GCICC and Alascom networks provide both intrastate and interstate services in Alaska. GCICC functions as a nondominant carrier in the market similar to other common carriers throughout the nation. Alascom's situation is slightly more complicated.

A Joint Service Arrangement (JSA) exists that requires Alascom and American Telephone & Telegraph Company (AT&T) to interconnect to provide interstate MTS services to and from Alaska. Under the JSA, Alascom and AT&T facilities interconnect in the contiguous United States with Alascom responsible for all Alaska facilities and AT&T responsible for all other facilities. The JSA requires that AT&T

maintain Alaska's interstate rates at nationally averaged rate levels (rate integration).¹ As a result, AT&T pays all costs associated with the provision of interstate MTS services, including Alascom's costs, through a settlement process. Any Alaska interstate MTS revenues are used to offset AT&T's cost of service. It has been claimed that AT&T's cost of providing Alaska service exceeds revenues by over \$100 million. The effects of the JSA on competition have also been questioned, in part because AT&T is generally not allowed to replace Alascom's services with those of another carrier.

The Federal Communications Commission (FCC) formed a Federal-State Joint Board in CC Docket No. 83-1376 to address Alaska issues raised by the JSA, rate integration, competitive effects, and other related interstate market structure questions. Further information may be found in a recent Joint Board order (Exhibit 4) attached to this RFP.

Alascom/AT&T/PTI and TUA Master Agreement

In December 1991, AT&T, Alascom, PTI, and TUA signed a Master Agreement that purported to resolve most of the significant market structure and cost issues pending in CC Docket No. 83-1376. Some of the requirements under the Master Agreement are as follows:

- a) The JSA would be terminated,
- b) Alascom would leave the MTS/WATS interstate and international interexchange markets for a set period of time,
- c) PTI would merge one of its local exchange operations, TUA, with the intrastate operations of Alascom to form a company similar in structure to a Bell Operating Company,
- d) The merged TUA/Alascom company would provide local exchange service, intrastate access, intrastate interexchange service, and interstate access service (under the NECA pool),
- e) AT&T would purchase termination of the JSA for \$156.7 million, Alascom's interstate customer list for \$98.6 million, and capacity on an undersea interstate fiber optic cable for about \$75 million. Payments to Alascom would be phased in over time.
- f) The utilities would petition for a change in separations procedures such that the merged company would set interstate costs based on non-mileage sensitive separations rules and a

¹ Rate integration is the federal policy that interstate interexchange rates in the United States are the same for the same distance regardless of where the callers are located.

potential change in study area. Intrastate costs would be set based on a phased-in approach. Without phase-in, Alascom estimated that the change in separations procedures would shift about \$35 to \$40 million in cost annually away from the interstate jurisdiction to the state jurisdiction. A phase-in period has been proposed that would allow the separation shift to gradually occur over a five year period with PTI effectively taking responsibility for funding the phase-in. At the end of year five, the intrastate jurisdictional costs would include the entire separations cost shift.

g) During the phase-in period, PTI stated it would not raise intrastate interexchange rates as a result of the change in separations factors.

h) Interstate private line services, international private line services, and MTS international interexchange service to Magadan, Russia, would be the only services retained by Alascom.

The Master Agreement is currently pending before CC Docket No. 83-1376 Joint Board. State Commissioners associated with the Joint Board have released a request for data on this matter (See Exhibit 2).

Additional general details regarding the Agreement are provided in Exhibit 3.

SCOPE OF WORK PERTINENT TO THIS RFP

The primary purpose of this RFP is to obtain a contractor to address issues raised by the Master Agreement and associated issues before CC Docket No. 83-1376 Joint Board. Intrastate issues concerning the Alascom/TUA merger are beyond the scope of this RFP and will be dealt with through a separate RFP.

1. Minimum requirements

The respondent must meet the following minimum requirements for responding to this RFP and submitting a proposal. A respondent must have:

- a. Performed or substantially assisted in at least five previous cases involving the development and analysis of telephone jurisdictional cost separations and revenue requirement studies where the telephone company involved had greater than 100,000 access lines.
- b. Performed or substantially assisted in at least three previous cases involving the development and analysis of telephone access charges where the contract value exceeded \$50,000 and the utility involved had greater than 100,000 access lines.
- c. Performed or substantially assisted in at least five previous cases involving the auditing of telephone companies where each telephone company had greater than 100,000 access lines.
- d. Performed or substantially assisted in at least three previous cases involving regulated telephone utility mergers and acquisitions, where review of changes in organizational structure, management, network configuration, operations, costs, and transfer of assets between entities occurred.
- e. Performed or substantially assisted in at least three previous cases where telephone affiliated interest transaction analysis was performed.
- f. Performed or substantially assisted in at least two previous cases involving the legal and economic evaluation of market power and anti-competitive effects involving telephone utilities.
- g. Prepared and presented written and oral testimony in at least five different utility investigation proceedings before regulatory commission(s).

One contract may meet more than one of the minimum requirements set out in a-g above, and is acceptable as long as the proposer identifies which requirements the example is meeting.

2. Scope of Work Required

The contractor shall address and make recommendations regarding the issues before the Federal Communications Commission and CC Docket No. 83-1376 Joint Board pertaining to the Master Agreement, the Alaska interstate market structure, interstate separations procedures, the JSA, interstate competition, rate integration and other issues currently under consideration by the CC Docket No. 83-1376 Joint Board. The scope of work anticipated may include, but will not be limited to, the following:

a. Review and analyze for overall reasonableness all filings associated with the Master Agreement that are presented before the CC Docket No. 83-1376 Joint Board or the FCC.

b. Review the Master Agreement to determine its effects on Alascom's and AT&T's revenue requirement, interstate and intrastate rates, cost of service, network efficiency, utility management, utility operations, quality of service, and to determine any other aspects that affect the public interest. Determine if these changes as a whole, are in the best interest of the public. Included in this analysis shall be a review of whether the utilities' books properly reflect the results of the Master Agreement; whether or not any proposed retirements and transfers of plant are prudent and properly accounted for; whether affiliated interest transactions are appropriate and properly accounted for; and the reasonableness of any pro forma data and projections filed by the utilities.

c. Review and evaluate any study area changes and separations changes associated with the Master Agreement to determine their effects on intrastate and interstate rates. Review and as needed critique any cost studies that are filed.

d. Investigate the effects of intercarrier payments on Alascom and AT&T interstate and intrastate rates.

e. Evaluate jurisdictional authority over the payments between Alascom and AT&T (i.e., for what purposes the money can be used).

f. Review the effects of the Master Agreement on rate integration.

g. Recommend any procedures, courses of action, or conditions (e.g., define necessary restrictions and safeguards to prevent undesirable exercise of market power or undesirable rate changes) necessary to protect or promote the public interest in the event the Master Agreement is approved.

h. Review any proposed intercarrier contracts associated with the Master Agreement for interstate public interest issues (e.g., anti-competitive effects).

i. Evaluate the effects of the Master Agreement on the National Exchange Carrier Association (NECA) pools, rates and operations.

j. Determine if the Master Agreement will significantly affect other local and interexchange carriers.

k. Review the effects of the Master Agreement on GCICC and the Alaska market in general. Included in this analysis should be the effects on ease of competitive entry and exit and an analysis of the potential for AT&T or the merged entity to exercise undesirable market power and control over bottleneck facilities.

l. Investigate the reasonableness of affiliated interest transactions, services, and cost allocation procedures associated with the Master Agreement.

m. Review and suggest any changes in interstate market structure and regulations necessary to accommodate the Master Agreement or to protect the public interest as a result of the Master Agreement.

n. Review for reasonableness the financial transaction and market structure issues associated with the separation and formation of the new Alascom company that would provide essentially only private line services.

o. Review the effects on the public interest of the sale/lease of the interstate undersea fiber optic cable providing service to Alaska.

p. Review the effects of the Master Agreement on Universal Service Fund payments and any risk on long term availability of the fund.²

q. Make recommendations regarding any necessary amendments to the Master Agreement. If the recommendation is to reject the Master Agreement, develop an alternative market proposal to resolve the outstanding issues associated with CC Docket 83-1376.

r. Provide analysis, where appropriate, of the affects of the Master Agreement over an approximate seven (7) year period. Under the terms of the Master Agreement, separations changes, intercarrier payments, and certain leasing arrangements occur over the course of five years.

s. Present the results of analysis and evaluation in the form of written white papers, memoranda, reports, and testimony. Written pre-filed or oral testimony may not be required if a hearing is not scheduled. The contractor may be required to provide a written

² Most Alaskan local carriers currently receive financial support from the Universal Service Fund.

report whenever a major segment of the contractor's analysis is completed. The contractor may also be required to provide intermediate reports of its overall findings and conclusions as of certain dates specified by the client. The exact format of the written product(s) will be mutually agreed upon by the client and the contractor.

t. Provide oral and written rebuttal (if requested) of the testimony and be available to the client in preparation for and during any hearing(s).

This RFP was written, and the proposer should submit its proposal, assuming that the proposer will perform ALL aspects of the investigative work associated with the Master Agreement as outlined in the Scope of Work. However, the requested ~~deadline~~ ^{deadline} associated with completion of this case by November 1, 1992, and it is expected that a signed contract will not be available until shortly after May 1, 1992. Between now and the time that a contract is signed, Staff will be initiating its investigation and may well complete segments of the Scope of Work identified in this RFP. As a consequence, depending upon when a contract is reached, portions of the consultant's Scope of Work may no longer be necessary or may be reduced to reviewing or enhancing Staff's work.

Under the terms of the Master Agreement, separations changes, intercarrier payments, and certain leasing arrangements occur over the course of five years. Any analysis of the Master Agreement must consider the effects of the Master Agreement over an approximate seven-year period.

3. Deliverables Under the Contract

In addition to the deliverables discussed in the "Scope of Work" section, the successful proposer will provide to the Client the following:

a. Drafts of all proposed reports at least one week prior to submission;

b. Status reports (every two weeks) on the progress of the investigation;

c. Written documents in the form of white papers, memoranda, reports or written testimony describing and supporting all recommendations, conclusions and responses to the parties' positions;

d. All workpapers (including computer spreadsheets in both hardcopy and computer readable format) in support of the work product;

e. Oral testimony (if requested) or presentations in support of

all findings, recommendations, conclusions and responses to the parties' positions.

f. A work schedule identifying the anticipated work plan and when reports on major issues would be available.

g. The contractor will present the results of analysis and evaluation in the form of written white papers, memoranda, reports, and testimony. Written pre-filed or oral testimony may not be required if a hearing is not scheduled. The contractor may be required to provide a written report whenever a major segment of the contractor's analysis is completed. The contractor may also be required to provide intermediate reports of its overall findings and conclusions as of certain dates specified by the client. The exact format of the written product(s) will be mutually agreed upon by the client and the contractor.

4. Timeframe

No hearing or filing schedule has been set by the CC Docket No. 83-1376 Joint Board. It is expected however, that the contractor's written products will be filed prior to November 1, 1992, with at least one intermediate summary report of findings filed in July. The proposer may be required to substantially complete the majority of the proposers conceptual analysis regarding the Master Agreement by mid-July. If such a schedule cannot be met, the proposer should explain why and provide the earliest possible completion date for the project. The Master Agreement lapses if regulatory approval is not achieved by November 1, 1992.

PROPOSAL SUBMISSION CONTENT IN RESPONSE TO THIS RFP

All proposals submitted in response to this RFP must use the following outline format for their proposal(s).

1. Required Proposal Format: Submit six (6) copies of the proposal. They are to be three hole punched with printing on BOTH sides of the paper and pages numbered. A Table of Contents is also required which reflects page numbers.

The proposer must address ALL the items and IN THE ORDER reflected below. Proposals which do not may be declared non-responsive and rejected.

2. Introduction: Provide a brief general discussion of the proposal, including the firm's name and address and whether this is a joint venture and if so with whom. Indicate the names of any subcontractors involved.
3. Minimum Requirements: Provide a detailed and precise discussion of meeting EACH of the minimum requirements established on page five (5) and in the "Scope of Work" section of this RFP. Discussion is to be limited to minimum requirements and is expected to be expanded upon in the appropriate sections listed below. One contract may meet more than one of the minimum requirements a-g and is acceptable as long as the proposer identifies which requirements the example is meeting.
4. Methodology and/or Management Plan: Provide a detailed discussion and/or outline of the approach and methods the proposer would employ to accomplish the proposed contract. Be specific in addressing the various elements, functions and responsibilities outlined in the "Scope of Work" section of this RFP. The proposer's management plan should include a schedule of work and a demonstration of how the schedule relates to the targeted deadline of November 1, 1992. The proposer should also identify the anticipated date when reports on specific issues could be made available.

Specifically identify and discuss whom (firms and individuals) will have what responsibilities. This should be discussed in much more detail under the "key personnel" section. Also discuss in detail, what will be performed; when, where, and in what sequence; how the various functions/responsibilities will be carried out; and the interaction and communication between the Proposer and Client.

Provide a detailed discussion of proposed joint ventures and all subcontractors and the interaction and communication between all parties. Identify clearly the division of

responsibilities between all subcontractors and joint ventures involved. Additional subcontracting information is also required under items six (6) and seven (7) of this section.

5. Firm's Experience: Provide a general discussion of the firm and any partner firm's (if proposing a joint venture) experience. The minimum requirements must be addressed separately and this section is an expansion of that. At a minimum the following information shall be provided.

A detailed discussion of the firm's experience and knowledge in the following areas:

- a) The National Exchange Carrier Association, Inc. (NECA);
- b) CFR 47 Parts 32, 36, 64 and 69;
- c) Federal regulatory ratemaking policies in general;
- d) Federal regulations governing dominant and nondominant interexchange carriers and local exchange carriers;
- e) Divestiture of AT&T;
- f) Economics of telephone utilities; and
- g) Economic, competitive, market and anti-trust considerations regarding the telecommunications industry.

A discussion of the firm(s) ownership, headquarters, branch or affiliate offices.

A discussion of the firm's structure, size and capabilities in terms of personnel and equipment. Indicate if the award of this contract would require the acquisition of additional space, equipment, personal or any other items. Be as specific as possible, i.e., how much additional space, specific equipment, the number and function of additional employees, etc. Indicate whether the firm or any partner firm (in the case of a joint venture) has other contractual obligations that would restrict or otherwise limit the firm's availability to work on this contract.

A discussion of the firm's length of time in business, qualifications and experience relative to the services required for this proposed contract. Provide a listing of current clients, nature of service provided, approximate dollar amount of the account, and a contact name and phone number at the client company for reference. Indicate at least three references that may be contacted.

Discuss the firm's ability to evaluate the effectiveness of its services.

Any other information about the firm that is pertinent and the proposer wishes to provide.

6. Subcontractors: The same information as required above for the firm is also required for all subcontractors. Additionally, a list of all proposed subcontractors names, addresses, brief description and percentage of work to be performed by the subcontractor must also be included. As discussed previously in this RFP, all subcontractors' Alaska Business Licenses are to be INCLUDED AS AN APPENDIX TO THE PROPOSAL. FAILURE TO DO SO MAY RESULT IN DECLARING THE PROPOSAL NONRESPONSIVE.

7. Conflict of Interest Restrictions

The successful proposer to this RFP must have no conflict of interest that would affect its analysis as documented in the Scope of Work. Proposers that have had one or more contracts with value totalling \$5,000 or more, with PTI, Alascom, AT&T, GCICC, or any affiliated telecommunications company within the past four years WILL BE DEEMED TO HAVE A CONFLICT OF INTEREST AND MAY BE DECLARED NONRESPONSIVE. Proposers that have had a past contract involving any issue pending before CC Docket No. 83-1376 Joint Board WILL BE DEEMED TO HAVE A CONFLICT OF INTEREST AND MAY BE DECLARED NONRESPONSIVE. In addition, the successful proposer must agree to not provide professional services to PTI, Alascom, AT&T, GCICC, or any affiliated telecommunications companies for a period of two years from the ending date of the contract. A waiver of this section may be requested. Any requests for waiver must be filed with full explanation within ten days of release of this RFP.

The APUC plans to release a second request for proposal (TUA RFP) dealing primarily with the intrastate issues raised by the TUA request for amendment of certificate and merger with Alascom. Proposers are not prohibited from responding to both the current proposal (ASPS No. 92-0121) and the TUA RFP. However, depending upon legal and administrative constraints, it may not be possible for one contractor to perform work on both contracts.

The same information as required above for the firm is also required for all subcontractors.

8. Key Project Personnel

Identify the individuals, discuss the responsibilities and indicate the percentage of time the Project Manager and other principal staff will be spending on the project. This includes the proposing firm, the joint venturing firm, and any subcontractors.

Resumes prepared specifically for this proposal for the Project Manager and other principal staff are required. Resumes must discuss and describe the individual's qualifications and experience relevant to this proposed

contract. Listing of previous projects are not useful unless the individual's specific duties and responsibilities and how they relate to this proposed contract are discussed.

Note, the State reserves the right to approve or disapprove any change in the successful proposer's project team members whose participation in the proposed contract is specifically offered in the respondent's proposal. This ensures that ~~individuals~~ with vital experience and skill are not arbitrarily removed from the contract by the Contractor. Personnel changes which impact the contract may result in the cancellation of the contract.

9. Cost of Proposal: By Alaska statute, the cost of a proposal must be an evaluation factor.

Complying with the "Scope of Work" section of this RFP and the firm's proposal, provide a detailed discussion of the firm's proposed method of compensation. Be specific as to professional fees by individuals and/or function, direct (out-of-pocket) expenses, subcontractors, and any and all expenses associated with this proposed contract.

All costs must be included and a total cost is required. Proposal without a total cost will be declared nonresponsive.

For purposes of developing the above price estimate, assume the need to perform one on-site audit of utility records at Vancouver, Washington, and two presentations, one in Washington, D.C. and one in Seattle, Washington, each for two days.

10. Alaska Business License Submission: Submission of proof of an Alaska business license is required.
11. Other Required Professional Licenses: None
12. Alaska Vendor Preference Submission: If qualified, provide a signed copy of the "Certification of Qualification for Alaska Vendor Preference" (see Attachment 5). Note that the firm's/person's name on the submitted proposal MUST be the SAME as appearing on the firm's/person's CURRENT Alaska business license. If a joint venture submit certificate for each firm.

PROPOSAL SUBMISSION EVALUATION CRITERIA

1. Site Inspection: Not applicable.
2. Oral Presentation: The State reserves the right to require an oral presentation. The entire evaluation committee must be present for all oral presentations. The cost will be borne by the proposer.
3. Evaluation Factors: The following will be used in the actual evaluation of the proposals:
 1. Methodology and/or Management Plan 25
 2. Firm's and subcontractor's Experience 10
 3. Key Project Personnel Qualifications 15
 5. Proposal's Cost 40
 6. Alaska Vendor Preference 10
 - Maximum Possible Points 100

ATTACHMENTS

Attachment 1	Standard Agreement Form
Attachment 2	Appendix A
Attachment 3	Appendix B1
Attachment 4	Notice of Intent to Award
Attachment 5	Certificate of Qualification for the Alaska Bidder Preference

EXHIBITS

Exhibit 1	Commission Regulations on Competition
Exhibit 2	Joint Board Data Request
Exhibit 3	TUA Executive Summary - Docket U-92-9
Exhibit 4	Joint Board Order



STANDARD AGREEMENT FORM

1. Agency Contract Number	2. ASPS Number	3. Financial Coding	4. Agency Assigned Encumbrance Number	
5. or Number		6. Alaska Business License Number		
This contract is between the State of Alaska, hereafter the State				
7. Department of		Division		
8. and,		hereafter the Contractor		
Mailing Address		Street or P.O. Box	City State ZIP + 4	
9. ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it. ARTICLE 2. Performance of Service: 2.1 Appendix A (General Provisions), Articles 1 through 14, governs the performance of services under this contract. 2.2 Appendix B sets forth the liability and insurance provisions of this contract. 2.3 Appendix C sets forth the services to be performed by the contractor. ARTICLE 3. Period of Performance: The period of performance for this contract begins _____ and ends _____. ARTICLE 4. Considerations: 4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$ _____ in accordance with the provisions of Appendix D. 4.2 When billing the State, the contractor shall refer to the Authority Number or the Agency Contract Number and send the billing to:				
10. Department of		Attention: Division of		
Mailing Address		Attention:		
11. CONTRACTOR		12. CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alterations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the variety, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.015 - 020. Other disciplinary action may be taken up to and including dismissal.		
Name of Firm				
Signature of Authorized Representative				Date
Typed or Printed Name of Authorized Representative				
Title	Employer ID No. (EIN) or SSN			
12. CONTRACTING AGENCY		Signature of Head of Contracting Agency or Procurement Officer		
Department/Division		Date		
Signature of Project Director		Typed or Printed Name of Authorizing Official		
Typed or Printed Name of Project Director		Title		
TI				

NOTICE: This contract has no effect until signed by the head of contracting agency or designee.

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspection and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 Any dispute concerning a question of fact arising under this contract which is not disposed of by mutual agreement shall be decided in accordance with AS 16.30.620-622.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, physical handicap, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the followings: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that these provisions will be binding upon each subcontractor. For the purpose of including these provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of the contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. The State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any subcontractor or any other person in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to obtain any claim under the design patent or copyright laws. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law.

This contract is governed by the laws of the State of Alaska. All actions concerning this contract shall be brought in the Superior Court of the State of Alaska.

Article 12. Conflicting Provisions.

When specifically amended and approved by the department of law the General Provisions of this contract supersede any provisions in other appendices.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding of a commission, percentage, contingent fee, or brokerage except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability to the contractor.

APPENDIX B' INDEMNITY AND INSURANCE

Article 1. Indemnification

The contractor shall indemnify, save harmless and defend the state, its officers, agents and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission or negligent act of the contractor, subcontractor or anyone directly or indirectly employed by them in the performance of this contract.

All actions or claims including costs and expenses resulting from injuries or damages sustained by any person or property arising directly or indirectly from the contractor's performance of this contract which are caused by the joint negligence of the state and the contractor shall be apportioned on a comparative fault basis. Any such joint negligence on the part of the state must be a direct result of active involvement by the state.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of insurance must be furnished to the Contracting Officer prior to beginning work and must provide for a 30 day prior notice of cancellation, nonrenewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the contractor's services.

2.1. Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees of the contractor engaged in work under this contract, Workers' Compensation Insurance as required by AS 23.30.045. The contractor shall be responsible for Workers' Compensation Insurance for any subcontractor who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer liability protection not less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e. U.S.L. & H. and Jones Acts) must also be included.

2.2. Comprehensive (Commercial) General Liability Insurance: with coverage limits not less than \$300,000 combined single limit per occurrence and annual aggregates where generally applicable and shall include premises-operations, independent contractors, products/completed operations, broad form property damage, blanket contractual and personal injury endorsements.

2.3. Comprehensive Automobile Liability Insurance: covering all owned, hired and non-owned vehicles with coverage limits not less than \$100,000 per person/\$300,000 per occurrence bodily injury and \$50,000 property damage.

NOTICE OF INTENT TO AWARD

1. Name of Program, Project or Service (Use RFP Title)		2. Date issued
3. Authority Number (s)		4. Name of Procurement Officer
This is notice of the State's intent to award a contract. The offeror, identified here as the apparent successful offeror, is instructed not to proceed until a signed contract or other written notice of award is received from the State. A firm or person who proceeds prior to receiving a signed contract or other written notice of award does so at their own risk. AS 36.30.365. An offeror who wishes to protest this Notice of Intent must file a protest within ten (10) calendar days following the date this notice is issued. If the tenth day falls on a weekend or holiday, the last day of the protest period is the first working day following the tenth day. The protest shall be filed with the procurement officer in writing and include the following information: (1) the name, address, and telephone number of the protester; (2) the signature of the protester or the protester's representative; (3) identification of the contracting agency and the solicitation or contract at issue; (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) the form of relief requested (AS 36.30.560 and AS 36.30.565).		
5. Name and Address of Apparent Successful Offeror		
6. Names and Addresses of All Other Respondents (in alphabetical order)		

CERTIFICATE OF QUALIFICATION FOR
THE ALASKA BIDDER PREFERENCE
(AS 36.30.170(b))

In response to ASPS # _____ (response to an RFP/CSP),

OR

In response to bid # _____ (response to ITB),

OR

In response to verbal solicitation from _____,

I certify under penalty of perjury that _____

(Business Name)

qualifies for the Alaska Bidder Preference under the following conditions:

- (1) holds a current valid Alaska business license (a copy must be attached);
- (2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license;
- (3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) to (4) of this subsection.

Authorized Signature

Date

Printed Name

Business Tax ID Number

Telephone Number

Note: This "Certificate of Qualification" must accompany your proposal or bid in order to ensure that the Alaska Bidder Preference is applied to your proposal or bid during the evaluation process.

(Rev. 4/90)

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files the information required by 3 AAC 48.720 for each semi-annual period shall file that information within 90 days after the end of the semi-annual period. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411
AS 42.05.151 AS 42.05.421
AS 42.05.381 AS 42.05.431

Publisher's notes. — This regulation at the end of the first sentence of subsection (b).
is set out to correct a typographical error

3 AAC 48.770. LIMITATIONS ON USE OF SIMPLIFIED PROCEDURE. (a) Rate adjustments allowed under 3 AAC 48.700 — 3 AAC 48.790 may not exceed a cumulative 20 percent increase in any three-year period, or a cumulative eight percent in any 12-month period, excluding purchased power and fuel costs rate adjustments.

(b) For good cause shown, the commission will, in its discretion, revoke or deny a cooperative's authority to request an increase under the simplified rate filing procedure in 3 AAC 48.700 — 3 AAC 48.790. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411
AS 42.05.151 AS 42.05.421
AS 42.05.381 AS 42.05.431

Publisher's notes. — This regulation
is set out to correct typographical errors
at the end of the regulation.

CHAPTER 52. OPERATION OF PUBLIC UTILITIES

Article

4. Criteria for Intrastate Interexchange Telephone Competition (3 AAC 52.350 — 3 AAC 52.399)
6. Criteria for Determination of Power Cost Equalization (3 AAC 52.600 — 3 AAC 52.690)

Publisher's notes. — Existing Articles numbered as Articles 5 and 7, respectively, as of Register 117 (April 1991).
4 and 6, as set out in the Register 107
(October 1988) main pamphlet, were re-

Article 4. Criteria For Intrastate Interexchange Telephone Competition

Section

350. Applicability, finding, purpose, and waiver
355. Scope of competition

Section

360. Certificates of public convenience and necessity
361. Notice of certain federal applications

Section

363. Determination of dominant status
 365. Discontinuance, suspension, or abandonment of service by nondominant carrier
 370. Retail rates
 375. Wholesale service and rates

Section

380. Reporting, verification, and auditing requirements
 385. Standards of service
 390. Miscellaneous provisions
 399. Definitions

3 AAC 52.350. APPLICABILITY, FINDING, PURPOSE, AND WAIVER. (a) The provisions of ~~3 AAC 52.350~~ — **3 AAC 52.399** apply to all interexchange carriers that furnish intrastate interexchange telephone service within the State of Alaska.

(b) The commission finds that the competitive provision of intrastate interexchange telephone service in accordance with the provisions of 3 AAC 52.350 — 3 AAC 52.399 is required by the public convenience and necessity.

(c) The purpose of 3 AAC 52.350 — 3 AAC 52.399 is to allow competition in the provision of intrastate interexchange telephone service to the extent possible while maintaining and promoting universal intrastate interexchange telephone service at geographically averaged rates.

(d) Notwithstanding (a) — (c) of this section, 3 AAC 52.350(b) and 3 AAC 52.360 do not apply to an interexchange carrier that is also a local exchange carrier. A local exchange carrier may file an application to provide intrastate interexchange telephone service under 3 AAC 48.600 — 3 AAC 48.660.

(e) For good cause shown, the commission will, in its discretion, waive the application of all or any portion of 3 AAC 52.350 — 3 AAC 52.399 to an interexchange carrier and establish appropriate criteria for that carrier. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)
 AS 42.05.151(a)
 AS 42.05.221

AS 42.05.711(d)
 AS 42.05.720(4)

3 AAC 52.353. SCOPE OF COMPETITION. (a) The extent to which interexchange carriers may construct facilities for use in the origination and termination of intrastate interexchange telephone service is specified as follows:

- (1) All interexchange carriers are permitted to construct facilities and use those facilities in the provision of intrastate interexchange telephone service in the NNX designations set out by order of the commission in the locations of Adak, Anchorage, Barrow, Bethel, Chugiak, Cordova, Deakhorse, Delta Junction, Dillingham, Eagle River, Eielson Air Force Base, Fairbanks, Ft. Greeley, Ft. Wainwright, Glennallen, Haines, Healy, Homer, Juneau, Kenai, Ketchikan, King Salmon, Kodiak, Kotzebue, Nome, North Pole, Palmer, Petersburg, Seward, Sitka, Soldotna, Talkeetna, Unalaska.

Valdez, Wasilla, Willow, and Wrangell. A location served by a remote unit from one of these locations as of 3/16/91 is also considered a part of that location and is incorporated in the NNX designations set out by order of the commission.

(2) In a location not listed in (1) of this subsection, only the incumbent carrier is permitted to construct facilities and use those facilities in the provision of intrastate interexchange telephone service.

(3) The commission will, in its discretion, amend (1) of this subsection to reclassify a location in the state based on a determination that traffic density and other relevant factors require reclassification.

(b) Retail competition in the provision of intrastate interexchange telephone service, through resale of services from another carrier authorized to provide intrastate interexchange telephone service, is permitted throughout the state, regardless of whether traffic originates or terminates in a location where the construction and use of facilities is limited to the incumbent carrier. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a); AS 42.05.711(d);
AS 42.05.151(a); AS 42.05.720(4);
AS 42.05.221

Editor's notes. — Copies of the commission orders setting out the NNX designations mentioned in 3 AAC 48.355(a)(1) may be obtained from the Alaska Public Utilities Commission, 1016 West Sixth Avenue, Suite 400, Anchorage, Alaska 99501.

3 AAC 52.260. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY. (a) An entity proposing to provide intrastate interexchange telephone service must file an application for a certificate of public convenience and necessity that includes

(1) the legal name and the name under which the applicant proposes to do business;

(2) the address of the principal national and Alaskan place of business;

(3) the name, title, and telephone number of the individual who is the liaison with the commission in regard to the application;

(4) applicant's business structure (corporation, partnership, etc.), including proof of incorporation and name and address of registered agent if applicable;

(5) proof of authority to do business in Alaska;

(6) a list of the owners of 5 percent or more of the applicant's equity;

(7) a list of persons or entities that are affiliated interests of the applicant;

(8) a list of all administrative and judicial proceedings that resulted in

(A) suspension, revocation, or denial of the authority, license, or certification of the applicant or its officers, directors, or affiliates to provide utility services;

(B) a reprimand, penalty, or conviction of an applicant or its officers, directors, or affiliates related to operations, gross misrepresentations, fraudulent transactions, or securities violations; or

(C) an adjudication of bankruptcy or a reorganization in bankruptcy of applicant or its officers, directors, or affiliates;

(9) a list of all cases and locations in which the applicant, its officers, directors, or affiliates, has abandoned service in violation of applicable statutes, regulations, or orders;

(10) a list of the names, titles, and responsibilities of key management now employed or to be employed by the applicant and resumes for each person;

(11) for existing businesses, copies of the most recent year's balance sheet and income statement or Federal Communications Commission Form M and, if available, Securities and Exchange Commission Form 10-K;

(12) for new businesses, copies of the most recent year's balance sheet and income statement for the owners of the business listed under (6) of this subsection;

(13) a list of all services proposed, together with an explanation of the applicant's technical ability to provide the proposed services;

(14) a list of all locations proposed to be served on an originating basis;

(15) a list of all locations proposed to be served on a terminating basis;

(16) a description of all existing facilities that will be used to provide intrastate interexchange telephone service;

(17) a description of all agreements or negotiations with other utilities for joint use and interconnection of facilities;

(18) a description of all facilities planned for construction within five years to provide intrastate interexchange telephone service;

(19) a description of all existing facilities, or facilities planned for construction within five years, that are or will be used to provide interstate interexchange service;

✓(20) a tariff of rates and services; and

(21) a verification signed by the person authorized to sign on behalf of the applicant that all of the information provided in the application is true, accurate, and complete.

(b) Notice of an application for a certificate of public convenience and necessity to provide intrastate interexchange telephone service will be given in accordance with 3 AAC 48.645(a).

(c) Subject to 3 AAC 52.361, a certificate of public convenience and necessity will be issued, within 90 days of the date of filing a complete application, to an entity that proposes to provide intrastate

3 AAC 52.361 ADMINISTRATIVE CODE SUPPLEMENT 3 AAC 52.363

interexchange telephone service under 3 AAC 52.350 -- 3 AAC 52.399 and that is found by the commission to be fit, willing, and able to provide the proposed service.

(d) The commission will, in its discretion, place conditions on a certificate of public convenience and necessity that it considers appropriate, including a condition that the interexchange carrier post a bond to assure compliance with commission rules and payment of access charges. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)	AS 42.05.241
AS 42.05.151(a)	AS 42.05.711(d)
AS 42.05.221	AS 42.06.720(4)

3 AAC 52.361. NOTICE OF CERTAIN FEDERAL APPLICATIONS. (a) An authorized carrier, other than the incumbent carrier, or an entity proposing to provide intrastate interexchange telephone service shall file with the commission a copy of each application submitted to the Federal Communications Commission (FCC) that requests authority to construct or install facilities to provide interstate interexchange telephone service in locations where only the incumbent carrier is permitted to construct facilities under 3 AAC 52.355. A copy of the application must be filed with the commission at the same time that the application is submitted to the FCC. Information demonstrating that the facilities are cost effective and fully justified on the basis of the proposed interstate interexchange telephone service alone must accompany the application. A statement that the carrier or entity will not use the existence of the interstate facilities to support a request for a certificate of public convenience and necessity to provide facilities-based intrastate interexchange telephone service must be submitted at the same time.

(b) Failure to provide the application, information, and statement required by (a) of this section is grounds for denial of a certificate of public convenience and necessity to provide facilities-based intrastate interexchange telephone service to the location where facilities for interstate interexchange telephone service were constructed or installed, even if the location is subsequently classified as a location where all interexchange carriers are permitted to construct facilities. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)	AS 42.05.711(d)
AS 42.05.151(b)	AS 42.05.720(4)
AS 42.05.221	AS 42.05.810

3 AAC 52.363. DETERMINATION OF DOMINANT STATUS.

(a) Upon petition or on its own motion, the commission will, in its discretion, determine whether an interexchange carrier has market

power and, as appropriate, designate or change the designation of the interexchange carrier as dominant or nondominant.

(b) Until changed under (a) of this section, the incumbent carrier is a dominant carrier, and all other interexchange carriers are nondominant carriers. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)
AS 42.05.151(a)
AS 42.05.221

AS 42.05.711(d)
AS 42.05.720(4)

3 AAC 52.365. DISCONTINUANCE, SUSPENSION, OR ABANDONMENT OF SERVICE BY NONDOMINANT CARRIER. (a) A nondominant carrier may discontinue, suspend, or abandon intrastate interexchange telephone service at the end of the 30-day notice period required by (b) of this section unless the commission finds that continuation of the service is required for the public convenience and necessity.

(b) A nondominant carrier proposing to discontinue, suspend, or abandon intrastate interexchange telephone service must provide at least 30 days' written notice to the commission, to its subscribers, and to each local exchange telephone company and every other interexchange carrier providing service to locations where the discontinuance, suspension, or abandonment is proposed. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)
AS 42.05.151(a)
AS 42.05.221

AS 42.05.241
AS 42.05.711(d)
AS 42.05.720(4)

3 AAC 52.370. RETAIL RATES. (a) The retail rates for message telephone service of each interexchange carrier must be geographically averaged. The rates for message telephone service of each interexchange carrier must be structured with the same time-of-day rating periods and the same mileage bands used in the approved tariff of the incumbent carrier. The rate for each mileage band must be equal to or greater than the rate for the next shorter band. Discounts, if offered, must be available to all locations in the state where the interexchange carrier offers service.

(b) A nondominant carrier may modify retail rates and implement special contracts for retail services without approval of the commission. A modification of retail rates must be consistent with (a) of this section. A nondominant carrier must maintain a current tariff and all special contracts on file with the commission and must submit a tariff filing in accordance with 3 AAC 48.220 and 3 AAC 48.270 at least 30 days before the effective date of a tariff change or special contract.

(c) The dominant carrier is authorized to reduce retail rates, to offer new or repackaged services, and to implement special contracts for

retail services without approval of the commission. A rate reduction, new service, or repackaged service must be in accordance with the requirements of (a) of this section. The dominant carrier must maintain a current tariff and all special contracts on file with the commission and must submit a tariff filing in accordance with 3 AAC 48.220 and 3 AAC 48.270 at least 30 days before the effective date of a special contract or a tariff change reducing retail rates or offering new or repackaged services. A tariff revision by the dominant carrier to increase a rate is subject to the provisions of 3 AAC 48.200 — 3 AAC 48.430.

(d) Notwithstanding (b) or (c) of this section, the commission will disapprove and require modification of rates that are not just and reasonable or that grant an unreasonable preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage. (Eff. 3/16/91. Register 117)

Authority: AS 42.05.141(a)	AS 42.05.431
AS 42.05.151(a)	AS 42.05.711(d)
AS 42.05.221	AS 42.05.720(4)
AS 42.05.241	

3 AAC 52.375. WHOLESALE SERVICE AND RATES. (a) An interexchange carrier must offer all of its services for resale by other carriers.

(b) The rates of a dominant carrier for all wholesale services offered primarily or exclusively for resale by another carrier, including wholesale rates provided under special contract, are subject to the provisions of 3 AAC 48.200 — 3 AAC 48.430.

(c) A nondominant carrier may modify wholesale rates without approval of the commission. A nondominant carrier must maintain a current tariff on file with the commission and must submit a tariff filing in accordance with 3 AAC 48.220 and 3 AAC 48.270 at least 30 days before the effective date of a tariff change.

(d) Notwithstanding (c) of this section, the commission will disapprove and require modification of wholesale rates of a nondominant carrier that are not just and reasonable or that grant an unreasonable preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage.

(e) The wholesale rates for services for resale are not required to be averaged geographically. (Eff. 3/16/91. Register 117)

Authority: AS 42.05.141(a)	AS 42.05.431
AS 42.05.151(a)	AS 42.05.711(d)
AS 42.05.221	AS 42.05.720(4)
AS 42.05.241	

3 AAC 52.380. REPORTING, VERIFICATION, AND AUDITING REQUIREMENTS. (a) An interexchange carrier shall submit

data necessary for the calculation of access charges in accordance with the Alaska Intrastate Interexchange Access Charge Manual (adopted by reference in 3 AAC 48.440) and the effective access charge tariff, including the following data (as specified and supplemented by the effective access charge tariff) for each calendar month:

- (1) minutes sold at retail (including switched minutes on private lines) by mileage band, time of day, and high density or low density status, as defined in the Alaska Intrastate Interexchange Access Charge Manual;
 - (2) nonswitched private lines sold at retail, including originating and terminating locations of each private line;
 - (3) minutes sold for resale (including switched minutes on private lines), by purchaser, mileage band, time of day, and high density or low density status;
 - (4) nonswitched private lines sold for resale, by purchaser and originating and terminating location;
 - (5) minutes purchased for resale (including switched minutes on private lines), by seller, mileage band, time of day, and high density or low density status; and
 - (6) nonswitched private lines purchased for resale, by seller and originating and terminating location.
- (b) An interexchange carrier shall retain for a period of three years the records, including billing tapes, from which the data specified in (a) of this section is obtained.
- (c) All information submitted by an interexchange carrier under (a) of this section is available for public inspection.
- (d) An interexchange carrier may petition the commission to authorize an independent audit of the information provided by another interexchange carrier under (a) of this section. The interexchange carrier requesting an audit must pay for the cost of the audit. If the commission determines, based on the audit, that the information provided by the audited interexchange carrier is inaccurate by a margin exceeding 2 percent or by a margin that resulted in an underpayment of access charges by an amount exceeding \$200,000 on an annual basis, the audited interexchange carrier shall reimburse the cost of the audit and shall be subject to civil penalties in accordance with AS 42.05.571 — 42.05.621. In addition, an interexchange carrier that is determined to have underpaid access charges shall correct that underpayment in accordance with the tariff of the Alaska Exchange Carriers Association. (Eff. 3/16/91, Register 117)

Authority: AS 42.05.141(a)
AS 42.05.151(a)
AS 42.05.221

AS 42.05.241
AS 42.05.431
AS 42.05.720(4)

3 AAC 52.385. STANDARDS OF SERVICE. (a) The application of 3 AAC 52.200 — 3 AAC 52.340 to nondominant carriers is waived.

3 AAC 52.390 ADMINISTRATIVE CODE SUPPLEMENT 3 AAC 52.399

(b) Traffic initially routed over the facilities of one interexchange carrier that is blocked due to busy circuits may not be automatically rerouted to the facilities of another interexchange carrier without the written agreement of the other carrier. (Eff. 3/16/91. Register 117)

Authority: AS 42.05.141(a) AS 42.05.241
AS 42.05.151(a) AS 42.05.711(d)
AS 42.05.221 AS 42.05.720(4)

3 AAC 52.390. MISCELLANEOUS PROVISIONS. (a) The application of 3 AAC 48.230, 3 AAC 48.275, 3 AAC 48.277, and 3 AAC 48.430 to nondominant carriers is waived.

(b) The application of 3 AAC 48.275(a) to the dominant carrier is waived for rate decreases, new services, and repackaging of existing services.

(c) A dominant carrier is responsible for providing intrastate interexchange telephone service as the carrier of last resort.

(d) A message telephone service subscriber of an interexchange carrier may not be transferred to another interexchange carrier unless the subscriber signs a written request for the change.

(e) No implicit modification or waiver of any statutory or regulatory requirements is intended by 3 AAC 52.350 — 3 AAC 52.399, for either dominant or nondominant carriers; absent specific modification or waiver, all statutory and regulatory requirements remain in effect for both dominant and nondominant carriers. (Eff. 3/16/91. Register 117)

Authority: AS 42.05.141(a) AS 42.05.241
AS 42.05.151(a) AS 42.05.711(d)
AS 42.05.221 AS 42.05.720(4)

3 AAC 52.399. DEFINITIONS. Unless the context indicates otherwise, in 3 AAC 52.350 — 3 AAC 52.399

(1) "commission" means the Alaska Public Utilities Commission;

(2) "dominant carrier" means an interexchange carrier determined by the commission to have market power;

(3) "geographically averaged rates" means rates that use the same tariff provisions and rate schedules to apply to all message telephone service communications of the same distance, regardless of the originating and terminating points of the communication;

(4) "incumbent carrier" means the telephone utility, or its successor, certificated in commission Docket U-69-24 to provide intrastate interexchange telephone service;

(5) "interexchange carrier" means a carrier certificated by the commission to provide intrastate interexchange telephone service;

(6) "local exchange carrier" means a carrier certificated to provide local exchange telephone service;

(7) "NNX" means a group of three digits that designates a particular central office where "N" is any number from 2 to 9 and "X" is any number from 0 to 9;

(8) "nondominant carrier" means an interexchange carrier other than a dominant carrier. (EFF. 3/16/91. Register 117)

Authority: AS 42.05.141(a)
AS 42.05.151(a)
AS 42.05.720(4)

Article 6. Criteria for Determination of Power Cost Equalization

Section	Section
600. Applicability, purposes, and waiver	650. Processing of power cost equalization requests
610. Computation of power cost equalization	660. Annual filing requirements
620. Generation efficiency and line loss standards	670. Other requirements
630. Standards for nonfuel costs	680. Effect on power cost equalization for noncompliance
640. Adjustments to power cost equalization	690. Definitions

3 AAC 52.600. APPLICABILITY, PURPOSES, AND WAIVER. (a) The provisions of 3 AAC 52.600 — 3 AAC 52.690 apply to all electric utilities participating in the power cost equalization program established in AS 44.83.162 — 44.83.164.

(b) The purposes of 3 AAC 52.600 — 3 AAC 52.690 are to establish criteria for the determination of power cost equalization per kilowatt-hour and to encourage economic and efficient practices by participating electric utilities.

(c) For good cause shown, the commission will, in its discretion, waive all or any portion of 3 AAC 52.600 — 3 AAC 52.690 for a participating electric utility and establish appropriate criteria for that utility. (EFF. 10/29/89. Register 112)

Authority: AS 42.05.141(b) AS 44.83.163
AS 42.05.151(a) AS 44.83.164
AS 44.83.162

3 AAC 52.610. COMPUTATION OF POWER COST EQUALIZATION. (a) Power cost equalization per kilowatt-hour is determined separately for each rate schedule.

(b) The power cost equalization per kilowatt-hour for each rate schedule is the least of

- (1) the average rate per kilowatt-hour for that rate schedule;
- (2) 41.8 cents per kilowatt-hour; or
- (3) the amount equal to $.95 \times (F + NF - A - 8.5 \text{ cents})$ where F is the total fuel cost per kilowatt-hour.

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

WALTER J. HICKEL GOVE

1018 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-4222

October 4, 1991

A. L. Tyree
Government Affairs Director
American Telephone and Telegraph Company
795 Folsom Street, Room 200
San Francisco, California 94107

Vernon Dunham
Senior Vice President, Revenue Requirements
Pacific Telecom, Inc.
805 Broadway
P. O. Box 9901
Vancouver, Washington 98668-8701

Gentlemen:

The State members of the Federal-State Joint Board in Docket CC83-1376 have begun an evaluation of the agreement in principle between Pacific Telecom, Inc. (PTI) and its subsidiary, Alascom, Inc., and American Telephone and Telegraph Company (AT&T) regarding the Alaska telecommunications market. We support the parties' goal to expedite consideration of the agreement by the Joint Board and Federal Communications Commission (FCC). To that end, we have prepared the attached information request, the answers to which will provide us with the data we need to thoroughly understand the effects of this agreement on the telecommunications market.

It may be that the parties had planned to include much of the requested data with their generic filing of the agreement before the Joint Board and the FCC. Nonetheless, we recognize that our request is extensive and that some responses may require preparation time beyond the planned filing date. It is not our desire to delay that filing. Therefore, within two weeks of the date of this letter, each party should submit a schedule that indicates which questions can be (or have been) answered with the filing, which will take additional time and when their answers can be expected, and which cannot be answered and why. All data responses and other information should be formally filed in Docket CC83-1376.

Again, we hope to accommodate your desire to have this review completed next year. Please understand, however, that any significant delay in providing the requested data may jeopardize our ability to achieve that goal.

Questions concerning this request may be directed to Lori Kenyon of the Alaska Public Utilities Commission at (907)-276-6222.

Sincerely,

Susan M. Knowles
Susan M. Knowles, Commissioner
Alaska Public Utilities
Commission

/s/Bruce Hagen
Bruce Hagen, Commissioner
North Dakota Public Service
Commission

/s/Dean Joe Miller
Dean Joe Miller, Commissioner
Idaho Public Utilities
Commission

cc: Francis L. Young
Alascom, Inc.

Gordon A. Parker, Jr.
Alaska Telephone Association

J.G. Kilpatrick
American Telephone and Telegraph Company

Ronald Duncan
General Communication, Inc.

Joanne M. Salvatore
National Exchange Carriers Association

Linda K. Smith
State of Alaska

Herbert E. Marks
State of Hawaii

Steve Hamlen
United Utilities, Inc.

Donna R. Searcy
Federal Communications Commission

Richard M. Firestone
Chief, Common Carrier Bureau

James Spurlock
Special Assistant to the Chief
Common Carrier Bureau

Commissioner Andrew C. Barrett

Commissioner Ervin S. Duggan

Chairman Alfred Sikes

Doug Slotten
Federal Communications Commission

Rose Crelin
Federal Communications Commission

Claudia Pabo
Federal Communications Commission

Cynthia Work
Federal Communications Commission

Ronald G. Choura
Michigan Public Service Commission

Rowland Curry
Texas Public Utilities Commission

Charles Gray
NARUC

Carl Hunt
Colorado Public Utilities Commission

Lorraine Kenyon
Alaska Public Utilities Commission

Berry Pain
North Dakota Public Service Commission

DATA REQUEST

INTRODUCTION

Time Frames

The following data request asks for information both for the two (2) years before and for each of the seven (7) years after the conceptual agreement is fully authorized and presumed to go into effect. The two years of interest before the agreement shall be 1989 and 1990, but 1991 information may be required in the future if investigation of the conceptual agreement is delayed and 1991 data becomes readily available. The seven-year forecast is requested to demonstrate how the agreement is implemented and what long-term effects will occur during the two years after all phase-in periods, special restrictions, and time-limited provisions of the agreement have expired. Additional projected information may be required if the conceptual agreement contains, phase-in or time-limited provisions which take longer than five years to effectuate.

Data Submission and Format

Financial information should be submitted in hardcopy and, whenever possible, by electronic means. Financial information should be presented using the ARMIS 4301 and 4304 report formats prescribed by the Federal Communications Commission (FCC) or, if not possible, in a substantively equivalent format. The electronic presentation of financial information should be in LOTUS 123 spreadsheet format with labels for all rows and columns. Files should be stored on a floppy disk in IBM format, if possible.

Level of Detail

Data may be required to be reported by jurisdiction, by account, by service type, by company or by other category. "By jurisdiction" means provide the information categorized by state and interstate jurisdictions. "By account" refers to reporting data on an account basis as defined in the Uniform System of Accounts adopted by the FCC (for interstate data) and the Alaska Public Utilities Commission (for intrastate data). "Service type" refers to the different classes of service provided, namely, message telephone service (MTS), private line, other regulated services, unregulated services, other toll, and local. "By company" refers to reporting data on a company-by-company basis without aggregation to the holding company level.

Duplication of Information

Some of the questions on the following pages are similar to one another and it is expected that many questions will be answered through filings that will be made before the FCC or the Alaska Public Utilities Commission (APUC). To the extent that answers

have already been provided, please reference the document or question where the answer may be found. If the document is not readily available to the Staff and Commissioners of CC Docket 83-1376, please provide a copy of the document with your response.

Definitions

- Agreement -** The conceptual agreement reached between American Telephone and Telegraph Co. (AT&T) and Alascom, Inc. (Alascom) that dissolves the Joint Service Arrangement and provides an alternative market structure in part based upon Alascom leaving the interstate MTS market for a set period of time and merging with a local Alaska Pacific Telecom, Inc. (PTI) company or companies and any other directly associated agreements, understandings or contracts necessary to implement the new proposed market structure contemplated under the AT&T/ Alascom agreement. The AT&T/ Alascom agreement is further described in the PTI news release dated July 10, 1991.
- Pacificorp - Companies** All companies owned by Pacificorp and their affiliates.
- PTI Companies-** Unless specified otherwise, the PTI Companies refer to Alascom; Telephone Utilities of the Northland, Inc. (TUNI); Telephone Utilities of Alaska, Inc. (TUA); and all other companies owned by PTI.
- Seven-Year - Forecast** A forecast or projection of data for each year of a seven-year period following the implementation of the Agreement, presuming it was approved as proposed.
- Successor - Alascom Company** The company formed by the merger of the current Alascom and any other PTI owned local exchange carrier(s) operating in Alaska as a result of the Agreement.

DATA TO BE PROVIDED

Unless otherwise noted, the following information should be provided by or on behalf of Pacificorp, each PTI company, and AT&T:

Market Structure

1. Explain, with specificity, the market structure that will be created if the Agreement is implemented.
2. Will the new market structure and conditions under the Agreement affect the provision of, and incentives for providing, geographically averaged interexchange MTS rates at both the state and interstate level? Describe any changes in incentives and method of provision of nationwide and Alaskan statewide averaged rates that are expected to occur.
3. How will competitors, local exchange carriers (LECs), and customers interconnect with the facilities of the successor Alascom company and AT&T under the proposed Agreement? Explain the expected effects of implementation of the Agreement on competitors in the market, interconnecting LECs, and interconnecting customers in their dealings with AT&T and the PTI Companies. Will any restrictions apply to where and how a competitor may interconnect with AT&T or PTI Company facilities?
4. Will the Agreement propose or require any changes to the current prohibition on construction of earth station facilities in rural Alaska? If so, please elaborate.
5. Describe in detail any limitations or restrictions that may be placed on the availability or resale of services provided by the successor Alascom company to interexchange carriers.
6. Explain how Alaska - Hawaii services will be provided under the proposed Agreement.
7. What entity, if any, will be responsible for providing, at nationwide average rates, the Alaska interstate MTS services previously provided by Alascom?
8. What entity or entities, if any, will be responsible for providing carrier of last resort facilities and services in Alaska? Describe any changes in carrier of last resort responsibilities that would likely result from implementing the Agreement.

Financial Information

9. Provide financial information for the past two years and for the forecasted seven years after the Agreement is presumed to be

implemented using ARMIS 4301 and 4304 format by company.¹ Describe all changes in net investment, expenses, revenues, taxes, and overall costs associated with the proposed Agreement. Data using the 4304 format should be further divided between jurisdictions and services for revenues, expenses and investments. Special descriptions should be made to explain how all compensation, payments, and things of value provided or exchanged under the Agreement will be accounted for by account, jurisdictional assignment, and company (if multiple companies are involved). Describe in narrative form how the financial compensations (including the \$225 million payment, the \$75 million payment, the AT&T leases, and any other compensation) will affect expenses, investments and revenues by company.

10. ALASCOM ONLY: Provide the revenue requirement and rate base for all PTI Companies providing service to or within Alaska before and for the seven years after the Agreement is placed in effect.

11. Describe any proposed changes in study area and service area (by company) associated with the Agreement.

12. ALASCOM ONLY: Provide a copy of the 1989 and 1990 jurisdictional cost separations studies done by Alascom and provided to AT&T. Provide a seven-year forecast of jurisdictional cost separations studies for the successor Alascom company including the merged assets of the local exchange company(s) affected. Provide the output of the separations computer program, the program itself, and its input data². Describe any major underlying assumptions associated with the seven-year forecast. If the program is based on a standard off-the-shelf separations program, describe all modifications, if any, made to the standard program.

Describe any changes in cost separations factors that would result from implementing the Agreement. Explain any changes in methodology employed in calculating the factors.

13. ALASCOM ONLY: Provide all available studies (including inputs, outputs and a description of any computer program) prepared by Alascom or PTI showing historical and/or projected costs on a route-specific or service-specific basis.

14. ALASCOM ONLY: Provide all recent studies and analyses concerning Alascom's cost of providing its services in the Alaska

¹ Companies that will not be materially affected by the Agreement need not file financial information.

² If provision of the input data itself would be too voluminous or burdensome, then provision of a description of the input will suffice at this time.

market.

15. AT&T ONLY: Describe how AT&T will treat any additional "costs" (related to the Agreement) under the interstate price cap regimen. Will these cost increases be treated as exogenous or endogenous? Describe how AT&T will treat the reduction in overall "costs" in the ensuing years under the interstate price cap regimen. Will these cost reductions be treated as exogenous or endogenous?

Effect on Access Costs

16. Provide detailed financial information (in the format used by the FCC for tariff filings if possible) for 1990 and a seven-year forecast showing the effects of the proposal on expenses, investment, and revenue requirements for the National Exchange Carriers Association, Inc. (NECA) and for the Alaska Exchange Carriers Association, Inc. (AECA).¹ Describe the likely effects of the Agreement on transitional and long term support payments made in accordance with Title 47 CFR 69.612. ALASCOM ONLY: Provide financial information for 1990 and a seven-year forecast showing the affects of the proposal on expenses, investment, and revenue requirement for PTI non-pooling companies that have formed their own pool(s) for interstate access purposes.

17. Provide a current rate schedule and a seven-year forecast of charges for NECA, AECA, and the interstate access and intrastate interexchange services (e.g., switching and transport) provided by the successor Alascom company to other carriers.¹ Will the successor Alascom company impute intrastate access charges to itself and, if so, how?

Effect on Rates

18. ALASCOM ONLY: Provide a schedule of current and seven-year projected MTS rates for Alaska intrastate services provided by the successor Alascom company.¹ Describe in narrative how the financial compensations (including the \$225 million payment, the \$75 million payment, the AT&T leases, and any other compensation paid or received) and other terms of the conceptual Agreement will affect rates of Pacificorp Companies.

19. AT&T ONLY: Provide a schedule of current and seven-year projected MTS rates for Alaska interstate services provided by AT&T.¹ Describe in the narrative how the financial compensations

¹ If desired, simplify the forecast calculation by ignoring potential changes in costs and demand that do not result from implementation and operation of the Agreement and the proposed new market structure. Indicate any simplifying assumptions that were made.

(including the \$225 million payment, the \$75 million payment, the AT&T leases, and any other compensation paid or received) and other terms of the conceptual Agreement will affect rates of AT&T.

Affiliated Transactions

20. ALASCOM ONLY: Describe in general terms the goods and/or services which will be provided by Pacificorp Companies, PTI Companies, or any affiliated company to the successor Alascom company for 1990 and for a seven-year forecast presuming the Agreement is approved.

21. ALASCOM ONLY: Provide detailed information using the 4301 ARMIS format for all the Pacificorp Companies and PTI Companies of the affiliated charges made to and from Alascom for the years 1989 and 1990 and those expected affiliated charges to and from the successor company for the seven years following the Agreement. The companies involved in any transaction should be clearly identified and all charges should be detailed by account.

Plant In Service

22. ALASCOM ONLY: Provide a detailed description of the assets to be retained by the successor Alascom company. The assets should be separated for each service by jurisdiction and by service type with a separate category for those facilities provided to AT&T (if applicable) via sale or lease. The details should be by account, showing number of units, depreciation reserve and average remaining life.

Describe in detail all changes in equipment function, total cost, and provision of service necessary to provide AT&T switching and facilities points of presence in Alaska.

23. ALASCOM ONLY: Provide a detailed description of, and reasons for, any major retirements expected to be made during the seven-year period after the Agreement is effected. Identify those retirements which are primarily associated with implementation and adoption of the Agreement.

24. ALASCOM ONLY: Describe in narrative and by drawings or block diagrams how facilities will be utilized to provide service under the Agreement and how this would differ from the status quo.

Services

25. Identify any changes in scope of service, demand for service, provision of service, quality of service, or company providing service to Alaskan customers that are likely to occur if the Agreement is implemented.

26. Describe in general terms how customers currently

presubscribed to Alascom would be transferred to AT&T, including who would be responsible for the payment of any costs associated with the change in carriers.

27. Indicate whether carriers currently receiving interstate services from Alascom would be transferred to AT&T. How would such a transfer occur?

28. Describe how services to interexchange carriers such as billing and collection, operator services, switching, centralized equal access, and transport will be provided by the successor Alascom company and AT&T under the terms of the Agreement.

29. AT&T ONLY: Describe which AT&T tariff offerings will and will not be available in Alaska, if the Agreement is adopted.

Contractual Agreements

30. Provide a copy of all contracts and agreements and a description of all understanding and unwritten agreements proposed to be executed based on the proposed new market structure and Agreement.

31. Describe any joint sharing of facilities that will occur or be affected as a result of the Agreement. Which entities will be involved in the joint sharing of facilities? Will the terms and conditions of the joint sharing arrangements be available to all comers?

32. Describe how any existing contracts or arrangements with other telecommunications carriers must be modified in order to accommodate the Agreement.

Management

33. Clearly identify all changes in management, operational structure, and organizational structure that are expected to occur as a result of the Agreement. Identify those duplicate functions, if any, that would be eliminated as a result of the merger of Alascom with the PTI local exchange company(s).

Changes in Regulations and Procedures

34. List all changes in licensing and certification associated with implementing the new market structure under the Agreement.

35. Describe all changes in state and federal regulations and procedures associated with implementing the Agreement.

Miscellaneous

36. Describe any effects of the Agreement on the joint ownership

of small earth stations between Alascom and United Utilities, Inc. Discuss any change in separations factors for the United Utilities, Inc. earth stations that could likely occur as a result of implementing the Agreement.

37. Describe any proposed requirements under the Agreement to merge or consolidate future and current PTI Companies.



EXECUTIVE SUMMARY

Source: Telephone Utilities of Alaska, Inc. application for amendment of certificate, Docket U-92-9

MASTER AGREEMENT TERMS AND CONDITIONS

- * AT&T acquires Alascom's interstate MTS/WATS business for \$255 million
- * Alascom exits interstate MTS/WATS market permanently (5A)
- * AT&T acquires (commenced by US 11) an Alascom debt trust note (2000 for \$75 million)
- * Alascom transfers interstate interexchange service to TUA
- * Alascom exits interstate interexchange market
- * TUA agrees to accept Alascom debt and to provide interstate interexchange service
- * AT&T and TUA agree to accept of Alascom debt (including interexchange debt) of existing interexchange
- * Agreement entered by November 1, 1997
- * Interexchange debt of Alascom (Alascom 1, 1997)

[1]

This Application represents part of a \$330,000,000 transaction between American Telephone & Telegraph (AT&T), Pacific Telecom, Inc. (PTI), and PTI's affiliates Alascom, Inc., and Telephone Utilities of Alaska, Inc. (TUA) for the sale and transfer of Alascom's interstate message telephone service (MTS) and wide area telephone service (WATS) to AT&T. When completed, AT&T will initiate service directly to points of presence (POPs) in Alaska at Anchorage, Fairbanks, and Juneau. Alascom will cease to provide interstate MTS/WATS services, and existing interstate long distance customers of Alascom will become customers of AT&T.

Concurrently, the assets of Alascom now used to provide interstate interexchange carriers' such as AT&T with access to Alaska will be transferred to TUA. The operations and personnel of Alascom and TUA will be combined. TUA will adopt the tariffs of Alascom and will provide intrastate interexchange service to Alascom's current intrastate customers. Alascom will cease to provide intrastate interexchange service. The interstate private line services now provided by Alascom will hereafter be provided by a successor company which is fully separate from TUA, has no affiliation with AT&T, and provides no intrastate services.

Alaskan customers of AT&T will pay the same uniform averaged rates charged by AT&T in the other 49 states, equal to those now being charged by Alascom. Intrastate interexchange customers of TUA will pay the same rates, under the same tariffs now applied by Alascom. TUA will market and identify to its customers local exchange service under the name "PTI Communications", as it is doing now. TUA will market and identify its intrastate interexchange services under the name "Alascom".

Regulatory approval of this Application and implementation of the agreements will offer significant benefits to the telecommunications users of Alaska. Prior to the mid-1970s, Alaskans paid interstate MTS rates three times higher than the rest of the nation. By virtue of regulatory policies fostering the integration of Alaskan interstate long distance rates into the national averaged rate structure, Alaskans now enjoy from Alascom nondiscriminatory, nationwide averaged rates at AT&T's rate levels. For Alaskans in remote areas, these reductions in rates are especially important, since costs for service to their areas, on a stand-alone basis, greatly exceed revenues from such service. When AT&T begins direct service to Alaska, its rates will be equivalent to those now charged by Alascom. This will avoid "rate shock" to Alascom's customers and will ensure future economic savings to people and businesses in Alaska.

AT&T TRANSACTION

PTI

BENEFITS

- Eliminate rates from Alaska and rate averaging
- Eliminate interstate rates
- Eliminate rates averaging rates to Alaska
- Eliminate rates averaging rates to Alaska
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Approval of the transaction will normalize the Alaska interstate access structure, bringing TUA into line with the telecommunications industry structure found throughout the lower-48. It will promote the entry of competitive carriers into Alaska by offering them access services on equal terms, under rates and practices administered uniformly across the nation by the National Exchange Carrier Association. It will promote competition between and among access service providers. And the transaction is consistent with the recently inaugurated competitive market structure for intrastate interexchange services in Alaska.

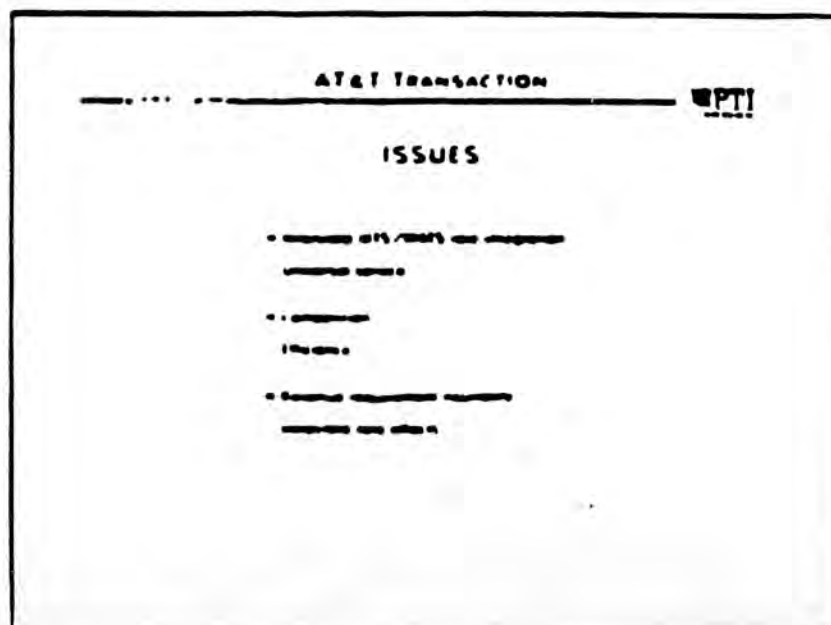
The Application reflects a compromise among the parties that will resolve the seven-year old proceedings before the FCC and Federal-State Joint Board concerning Alaska market structure issues, and will permit future federal policies fostering competition to apply directly to Alaska. These benefits will be achieved without burdening Alaskan in-state telecommunication users with rate hikes, either now or in the future.

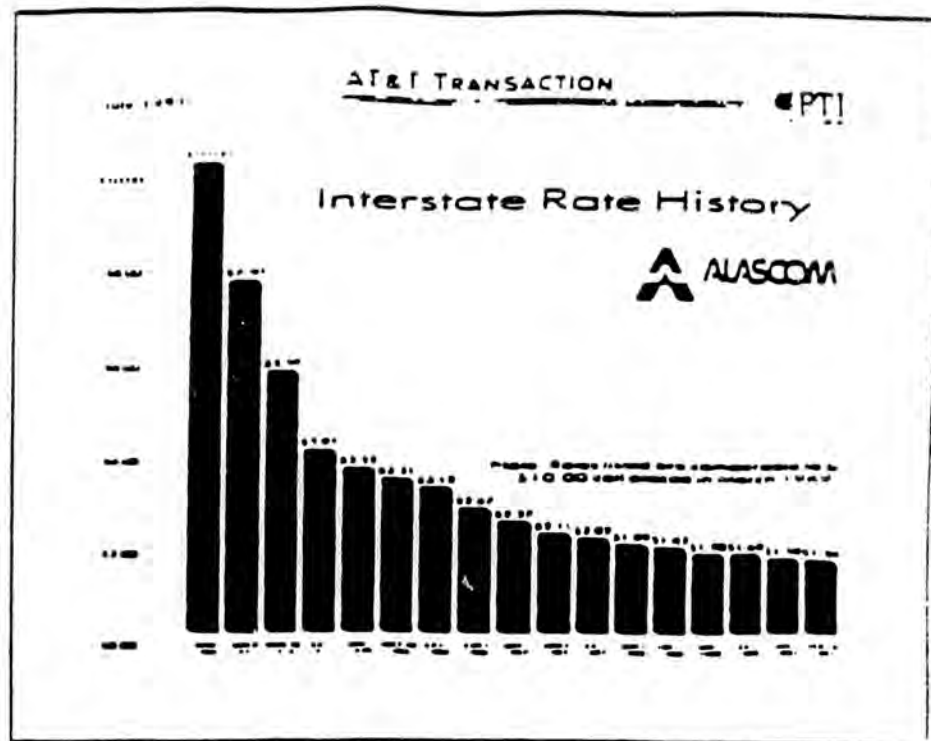
[3]

Prior to the break-up of the Bell System in 1984, federal regulatory policy for Alaska focused primarily on reducing the rates for interstate long distance service to Alaska while simultaneously improving the quality and availability of long distance service to Alaska. The federal policies were embodied in programs addressing "Rate Integration" and "Universal Service", and resulted in the substantial rate reductions to Alaskan consumers depicted on the next page.

Following the break-up of the Bell System, regulatory policies shifted focus to the benefits which competition offers to telecommunications users. Competitive policies emphasize multiple service providers in an open marketplace and the efficient use of resources in addressing consumer demands. Profit incentive and competitive threat supplant regulation as the mechanisms for achieving increased efficiency and reduced prices.

The State of Alaska, concerned that the historical federal regulatory goals favoring rate integration and universal service might not prove compatible with the newer regulatory policies relying upon competition, petitioned the FCC in 1984 to open an inquiry into the requirements for harmonizing these policies. The FCC established, under applicable federal law, a board (the Federal-State or Alaska Joint Board) composed jointly of FCC and state regulatory commissioners. The Joint Board has sought for more than seven years — without success — to arrive at recommendations for adjustments which would not only reconcile these two policy strains, but would do so without increasing the costs of Alaskan intrastate telecommunications services. The proposed AT&T/TUA transaction succeeds in meeting all five of the Board's criteria and in achieving the reconciliation of federal policies for Alaska.



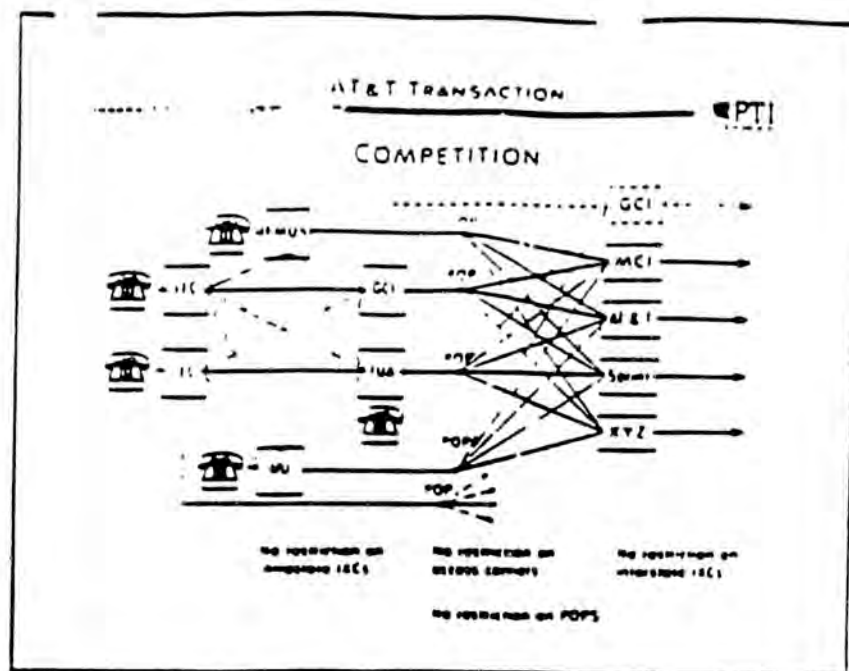


[4]

As a general proposition, in the lower-48 prior to the break-up of the Bell System costs from all participants in the provision of interstate long distance service were pooled. The long distance rates developed to cover those costs were made uniform for time and distance of call for all locales in the continental U.S. As a result, everyone paid the same rate for the same distance and length of call.

Before the mid-1970s, Alaska was not included in these industry practices. As a result, Alaskans paid interstate long distance rates three times those of other Americans. Under the auspices of the FCC, Alascom and AT&T entered into negotiations leading to a Joint Service arrangement in 1980. Under that arrangement, Alascom was effectively included in the cost and revenue pools for interstate MTS/WATS services, along with AT&T and lower-48 service providers. Alascom received from the pool its costs plus the pool-earned rate of return. Concurrently, Alascom began a series of rate reductions; in 1987, these reductions culminated in interstate MTS/WATS rate parity between Alascom and AT&T. For the Alaskan consumer, this provided major economic benefits: a \$10 call in 1969 now costs less than \$1.50.

The AT&T/TUA transaction preserves those hard-won gains. Under its terms, AT&T will directly apply its nation-wide averaged MTS/WATS rate schedules to Alaska, to the same degree they are applied elsewhere in the country. Because Alascom's rates already mirror AT&T's, Alascom's customers will suffer no rate shock and remain beneficiaries of past rate integration policies. Lowered interstate MTS/WATS rates are especially important to Alaskans living in remote areas, who often lack alternatives to telecommunications service. This transaction will continue nationwide averaged rates and universal service to the benefit of all Alaskans throughout the State.



[5]

Both the interstate and intrastate interexchange markets serving Alaskans are fully competitive. The AT&T/TUA transaction adheres to state and federal requirements affecting competition and will serve to promote and enhance competition in each jurisdiction. As a result of its implementation, the opportunities in Alaska for active competition in market entry and expansion of service offerings will be equal to or greater than those in any other state.

Approval of TUA's Application and implementation of the transaction will result in an interstate access service structure consistent with the national industry pattern and conducive to competitive entry. TUA will offer nondiscriminatory access to any and all interexchange carriers, not just AT&T, at fair uniform rates established and administered by the NECA. Competitors will be able to enter the Alaskan market or to extend new service offerings to Alaska with the same ease attending their service to the other states. Because of this normalized structure, future federal policies concerning competition will apply directly to Alaska for the benefit of Alaskan consumers, without the need for special regulatory proceedings such as the seven-year old Alaska Joint Board. In combination with other state and federal competitive rulings, TUA's restructuring will also spur competition in access provisioning, as well as in intrastate interexchange services.

Alascom's exit from the interstate MTS/WATS market eliminates baseless concerns previously expressed regarding 'subsidy' and 'cross-subsidy' of its services. The transaction contains no exclusive or exclusionary arrangements between TUA and AT&T to hamper the development of competitive relationships between any and all parties desiring to compete for Alaskan consumer dollars.

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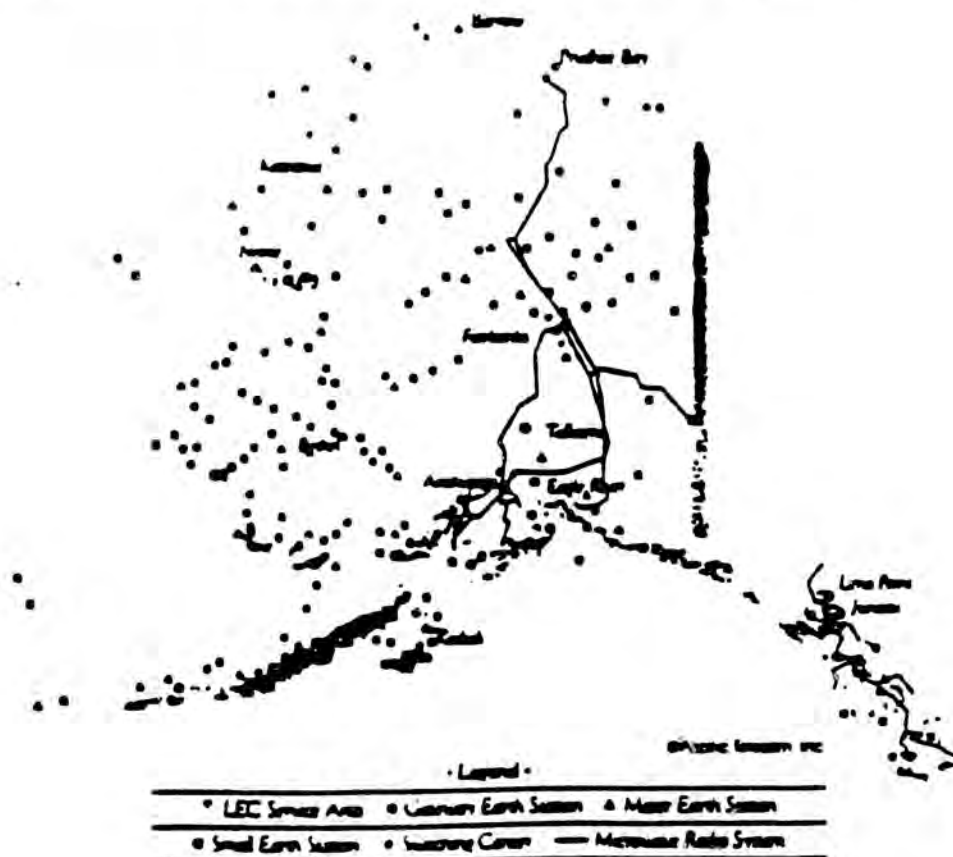
- TUA's local exchange rates are not affected by the transaction. This approach will ensure that the gains realized in other aspects of the transaction will not be lost through increased rates for Alaskan intrastate consumers.**

This Application requests two things of the Alaska Public Utilities Commission:

- (1) Approval for TUA, under the statutory standard of fit, willing and able, to provide intrastate interexchange services in Alaska; and
- (2) Approval for TUA to adopt in their entirety the existing tariff and service obligations of Alascom, with no modifications, additions, or deletions thereto.

This Application seeks neither to expand nor to enhance TUA's existing LEC authority. Under Commission regulations, LECs are clearly entitled to apply for intrastate interexchange certification. TUA has been found for a decade to be fit willing and able to provide local exchange service. Alascom's fitness, willingness and ability have been demonstrated for two decades. The intrastate interexchange services and operations TUA proposes to provide are those which have already been approved by the Commission, since TUA will adopt Alascom's tariff and will combine Alascom's personnel and facilities with its own. Thus, every jurisdictional element and aspect of TUA's restructuring has been previously subjected to Commission authority and oversight. Since there is no change in control nor change in the size of PTI's telecommunications presence in the jurisdiction, TUA submits that a prima facie showing of compliance with the statutory standards has been made.

The Statement of Public Interest appearing as Exhibit D contains a more detailed discussion of these and other matters implicit in TUA's Application.



[8]

The proceedings before the FCC and the Federal-State Joint Board involve serious issues for the people of Alaska. Competition offers future benefits in terms of reduced prices to consumers and innovation in service offerings. Regulatory policy has ensured that fundamental services are initiated and maintained at rates which do not discriminate against Alaskan consumers and businesses. The regulatory agencies have recognized that the desire to reap future benefits must be balanced against the need to avoid loss of past gains. And the achievement of both in the federal arena must not come at the expense of Alaskan intrastate telecommunications users.

The transactions negotiated between AT&T, PTI, Alascom, and TUA strike that balance through a complex but well thought out series of agreements. These agreements address rate integration and universal requirements through introduction of direct AT&T MTS/WATS service to Alaska and the concomitant application of AT&T's nationwide averaged rate schedules to Alaska. Alaskan consumers will continue to pay non-discriminatory interstate long distance rates to the same degree as other Americans.

Those direct economic benefits to Alaskans are not acquired at the cost of foregoing future benefits from competition. TUA will be restructured in a manner consistent with industry practice elsewhere in the nation. This restructuring will promote competitive entry into Alaska by interstate interexchange carriers, and will make it easier for those carriers to extend existing and future service offerings to Alaskan telecommunication users. To the extent undesirable jurisdictional shifts of revenue requirements are necessitated to accomplish these desirable ends, the transaction incorporates specific elements which will permit PTI to shield Alaskan intrastate consumers from the effects of these shifts.

The transaction, laboriously worked out by the parties, achieves the requirements of the Federal-State Joint Board and meets the needs of Alaska, now and in the future. As the opportunity to fairly and permanently resolve these matters will not soon recur, TUA respectfully seeks in this Application the appropriate approvals from the Alaska Public Utilities Commission to help implement this transaction and deliver the benefits embodied therein to the telecommunications users of Alaska.



Federal Communications Commission

FCC 38J

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 83-1376

In the Matter of

Integration of Rates and Services for
the Provision of Communications by
Authorized Common Carriers between
the Contiguous States and Alaska, Hawaii,
Puerto Rico and the Virgin Islands

RM 4436

SUPPLEMENTAL ORDER INVITING COMMENTS

Adopted: December 19, 1983: Released: January 3, 1989

By the Federal-State Joint Board:

I. INTRODUCTION

A. Summary

1. On September 27, 1985, the Federal Communications Commission (Commission) adopted a Notice of Proposed Rule Making (NPRM) in the above-captioned proceeding¹ and established this Federal-State Joint Board (Joint Board) pursuant to Section 410(c) of the Communications Act of 1934, as amended (Act). As discussed below, we were asked to consider a variety of questions related to the appropriate market structure for the provision of interstate telecommunication service to Alaska as well as any separations changes that might be required to implement the recommended market structure arrangements for Alaska service.²

2. By this Order, we invite interested persons to comment in more detail on several aspects of the issues before us. First, we outline and request comment on five objectives that we believe should guide resolution of the issues in this proceeding. Second, after discussing the market structure proposals presented in the record, we describe two alternative market structure options and seek comment concerning them. We also give parties the opportunity to present additional market structure proposals and to suggest improvements in the current arrangement in case an acceptable alternative is not found. Third, we request comments on certain other issues before us in this proceeding.

B. Background

1. Procedural History

3. In the NPRM, the Commission referred to this Joint Board issues raised by rate integration³ and the competitive provision of interstate telecommunication services to Alaska. Specifically, we were asked to prepare recommendations concerning: (1) what market structure changes, if any, are necessary to harmonize the Commission's rate

integration and competition policies for the Alaska interstate telecommunication market; and (2) what, if any, separations or other rule changes would be necessary to implement the recommended market structure in light of the high cost of service. We were asked to study the need for cost support in order to assure universal service to Alaska, and to consider alternative sources for such support. The following issues are also before this Joint Board for consideration: (1) the appropriate separations procedures for the Alaska exchange carriers' ownership interest in bush earth stations;⁴ and (2) the provision of service to the Alaska-Hawaii route, as well as the applicability of rate integration to this service.⁵

4. On May 9, 1986, we issued an order requesting that interested persons submit information and data concerning the provision of telecommunication services within the State of Alaska and between Alaska and the contiguous states.⁶ Specifically, we requested data identifying:

(1) the costs associated with Alaska's interstate and intrastate telecommunication services in order to determine the extent to which these services are characterized by high costs; (2) the location of those costs within the network hierarchy to permit the evaluation of cost allocation, market structure, or separations alternatives; and (3) the cost of the various interstate and intrastate service offerings of the Alaska carriers to allow evaluation of the market structure proposals.

On July 15, 1986, data were filed by the State of Alaska (Alaska), the American Telephone and Telegraph Company (AT&T), Alascom, Inc. (Alascom), General Communication Incorporated (GCI), and the Alaska Telephone Association (ATA).⁷ Market structure proposals for Alaska and/or comments were filed by interested parties on December 2, 1986.⁸ Opposition comments and reply comments were filed on February 27 and March 27, 1987, respectively.⁹ Subsequently, a number of supplemental filings were made, and several of them generated responsive comments.¹⁰ These filings are listed in Appendix A.

5. Issues concerning the provision of Alaska-Hawaii service and the appropriate rate structure for these services were initially raised in an April 4, 1986, Alascom petition requesting that the Commission direct AT&T to continue providing Alaska-Hawaii MTS and WATS service in conjunction with Alascom. After AT&T and Alascom reached agreement on interim measures for provision of this service, to be effective through December 31, 1987,¹¹ AT&T and Alascom requested that the issues be considered in this proceeding. On December 1986, the Commission adopted a *Supplemental Notice* referring the issues of appropriate service provisioning arrangements on, and rate structure for, the Alaska-Hawaii route to this Joint Board. Comments in response to *Supplemental Notice* were filed on February 10, 1987. Opposition comments and reply comments were filed March 10 and March 31, 1987, respectively.¹²

6. We are also considering questions related to separation of Alaska bush earth station costs. In the *Reconsideration Order* in the *Bush Earth Station Ownership* proceeding,¹³ the Commission approved interim Alascom's CMM (conversation minute mile) factor for the separation of Alaska exchange carriers' investment and expenses associated with bush earth stations. In dc

6. The Commission noted that separations issues relating to the allocation of bush earth station investment and expenses were being considered by the Joint Boards in CC Docket Nos. 80-286 and 83-1376.¹⁰ Since the CC Docket 80-286 Joint Board has not specifically addressed this issue, we will consider it in this proceeding.

2. Existing Market Conditions and Structure

7. The State of Alaska has the lowest population density of any state, with a land area encompassing approximately 591,000 square miles and a population of approximately 500,000. Nearly one-half of the residents live in Anchorage; and only two other cities, Fairbanks and Juneau, have more than 10,000 residents. Seventy-seven percent of the communities in Alaska have 500 or fewer residents, with one-third of the communities having fewer than 100 residents.¹¹ In addition, Alaska has a per capita cost of living that is substantially above the national average, as well as a high per capita income.¹² Census Bureau data showed that 87.2% of Alaska households had telephone service as of March 1988.¹³

8. Twenty-three exchange carriers provide local service in Alaska,¹⁴ serving approximately 240,000 access lines in about 250 exchanges.¹⁵ Equal access is available in most, if not all, of those Alaska exchanges directly served by competitive carriers. Alascom provides interexchange service within the state, while interstate service to and from Alaska is provided by two facility-based carriers—Alascom and GCI. A limited number of resale carriers also provide Alaska interstate service. In order to facilitate understanding of the market structure issues presently before us, the operations of Alascom and GCI are described below.

a. The Alascom Operation

9. Alascom, a dominant carrier under the Commission's rules,¹⁶ provides both interstate and intrastate long distance service over a mix of owned and leased satellite, microwave, and cable facilities located in Alaska, the contiguous states, and Canada. Alascom provides interstate MTS and WATS service in conjunction with AT&T pursuant to a joint service arrangement implementing rate integration.¹⁷ The joint service settlements formula provides that Alascom is to be compensated for all of its interstate expenses and provided with a return on its interstate investment equal to that earned by AT&T.¹⁸ Alascom's interstate expenses and investment are determined in accordance with the separations procedures contained in Part 36 of the Commission's rules.¹⁹

10. In providing message service between Alaska and the contiguous states, Alascom interconnects its satellite facilities with AT&T's network at two earth stations it leases in California. It connects its microwave facilities, which traverse Canada, with AT&T's network at a point on the U.S.-Canadian border in the State of Washington. Communication signals between Alaska and the contiguous states are transmitted via Alascom's Aurora satellite, AT&T's Telstar satellite, or microwave facilities to and from gateway entry locations at Anchorage, Fairbanks or Juneau. Each gateway location has at least two earth station antenna systems and a Class IV entry switch. Almost all of the interstate message traffic passes through one of these switches to reach Alaska exchange carrier facilities.²⁰

11. Alascom and AT&T provide joint interstate MTS and WATS service pursuant to the Commission's rate integration policy. To implement that policy, AT&T files tariffs covering northbound service offerings, and Alascom files tariffs covering southbound service offerings. Each concurs in the other's interstate MTS and WATS tariffs which charge fully-integrated rates for calls between Alaska and the contiguous states.²¹ Interstate private line services are offered on an "end-on-end" basis, with each carrier developing separate rates for the portion of the circuit it provides based on its own costs.

b. The GCI Operation

12. GCI, a nondominant carrier under the Commission's rules, provides interstate message and private line services through a satellite-based network of its own. It also uses access service obtained from other carriers. Its interstate message services consist almost exclusively of southbound offerings, although it terminates some northbound traffic for other competitive IXCs, and offers travel feature that can be used to make both southbound and northbound calls. GCI competes with Alascom in the provision of interstate service to more than two-thirds of the access lines in Alaska.²² While it is not presently authorized to provide intrastate service in Alaska, GCI has filed an application for such authority with the Alaska PUC. GCI is also associated with an applicant for a mobile satellite system.²³

13. GCI owns two satellite transponders on an American Satellite Corporation satellite, and provides interstate service via four principal earth stations located at Egan River (near Anchorage), Fairbanks, and Juneau, Alaska as well as Issaquah (near Seattle), Washington. It also owns a mobile earth station and several other earth stations in smaller population centers in Alaska.²⁴

14. GCI obtains access from Alaska exchange carriers and leases lines from Alascom, when necessary, for origination and termination of its traffic in Alaska. In the Seattle area, GCI terminates its traffic over access facilities obtained from the exchange carriers, or via intrastate services obtained from Pacific Northwest Bell or AT&T. To distribute its Alaska-originated traffic in the remainder of the contiguous states, it primarily uses facilities obtained from AT&T pursuant to the Carrier Lease Agreement.²⁵ That agreement provides GCI with a digital interface at an AT&T Class IV switch in Seattle, allows GCI to obtain a specified number of circuits, described as "base circuit terminations," at AT&T's average cost of exchange access. GCI uses these circuits for termination of its Alaska originated message traffic in contiguous states. GCI is also allowed to obtain additional circuits from AT&T at Megacom tariff rates. The number of base circuits available to GCI under the agreement increases until October 1988, after which time the number declines through 1992 when the Carrier Lease Agreement terminates.²⁶

II. OBJECTIVES

A. Introduction

15. In this section, we discuss the fundamental objectives that we have tentatively selected to appraise developing our recommendations, and request comment on these goals. The Commission described a number

these concerns in the *NPRM* referring these issues to us. Among other things, the Commission stated that it did not propose to abandon rate integration, noting that the principles underlying this policy remain valid.³³ The Commission also asked us to consider the efficiency of alternative market structures, adding that we should avoid approaches that create incentives for uneconomic facility duplication. In addition, the Commission asked that we bear in mind the high cost of serving portions of the Alaska market. It also stated that Alascom's state-wide service obligations should be a significant factor in evaluating the public interest considerations raised by the parties. In addition, the Commission emphasized that we should consider the effect of any proposed market structure on intrastate rates.

16. The comments filed to date in this proceeding reveal differences in the parties' perspectives on the objectives that should be the focus of this proceeding, and on what these objectives mean for resolution of the issues before us. Given the importance that our choice of objectives will have in guiding resolution of the issues before us, we believe that this matter merits a further opportunity for comment by interested parties.

Comments of the Parties

17. Alascom emphasizes the importance of rate integration and universal service, arguing that the existing joint service arrangement must be continued in order to ensure achievement of these goals. Alascom argues that the status quo has provided a functioning, proven structure which has allowed Alaska the benefits of universal service, integrated rates and competition. Alascom also contends that allegations of inefficiency generated by the present market structure are unsubstantiated though it could take steps, in conjunction with AT&T, to reduce costs. It is argued that any losses to AT&T under the current system are exaggerated, trivial compared to AT&T's overall operations, and are compensated for by nationwide rate averaging. Alascom suggests in its comments that deviation from the status quo could set precedents regarding the treatment of high cost areas of the nation that could ultimately lead to nationwide toll rate deaveraging. Alascom does not oppose competition in the provision of Alaska interstate service under the current market structure, but argues that new entrants should be required to compete against integrated rates without cost assistance, just as competitive entrants do in the contiguous states.

18. AT&T states that its settlements with Alascom currently exceed the two way revenues for Alaska interstate message service, and emphasizes the importance of measures designed to promote efficiency and reduce the cost of Alaska interstate services. It argues that the current arrangements foster inefficiency, and it proposes an alternative market structure that it believes will create appropriate incentives. Among other things, this plan would allow AT&T to enter the Alaska interstate market directly, rather than through the existing joint service arrangement.³⁴ AT&T also argues that support for Alaska costs is necessary to ensure universal service only in the case of rural or bush high cost areas. It supports measures to reassign approximately \$40 million in revenue requirements from interstate message services to the interstate private line service category and the intrastate jurisdiction, taking the position that these costs can be recovered without undermining universal service. AT&T also argues

that, in light of the divestiture of the Bell System and the Modification of Final Judgment, AT&T can no longer afford to support the high cost of Alaska service under the current structure for rate integration. Therefore, it suggests establishing a pooling mechanism to spread some of the cost of serving rural Alaska among all IXCs.³⁵ If such a system is not adopted, AT&T argues that the rates for message services to rural areas in Alaska must be allowed to rise.

19. GCI emphasizes the need for market structure changes to facilitate competition, arguing that this will foster efficiency and reduce costs. Like AT&T, it advocates termination of AT&T-Alascom joint services and proposes an alternative market structure designed to achieve the objectives.³⁶ GCI also proposes measures to ensure universal service and continued rate integration, as well as targeted support for high cost rural areas.³⁷ GCI opposes measures to shift costs to the intrastate jurisdiction, and advocates a freeze on the intrastate MTS cost assignment.

20. NTIA in its comments supports a goal of bringing the benefits of competition to the Alaska market. Thus, it argues that this Joint Board must develop a support mechanism that ensures affordable rates for Alaska service without hampering competitive entry.

21. Alaska emphasizes the uniqueness of the Alaska market, arguing that the low population density, vast distances, and the lack of transportation make affordable communications particularly important for its citizens. It contends that the Communications Act and the critical necessity of telephone service in Alaska require that universal service be the fundamental goal of the proceeding. Accordingly, it asks this Joint Board to recommend a market structure that is compatible with the provision of a carrier of last resort and provides affordable rates for both interstate and state interexchange service. Alaska also reaffirms its position concerning the overriding importance of rate integration. Like Alascom, Alaska contends that AT&T revenue-to-cost shortfalls in the Alaska market are balanced by its provision of service at averaged rates in low cost areas of the nation. Alaska states that rate integration in Alaska should be achieved as is done in other high cost portions of the nation through revenue and cost sharing. Alaska argues that treating Alaska differently from the rest of the nation will cause precedent for "special treatment" in other high cost locations leading to nationwide rate deaveraging. In addition, Alaska expresses concern that a change in the Alaska market structure could produce additional undesirable results, including stranded investment, shifts in jurisdictional cost allocations, and unaffordably high intrastate rates.

22. ATA and ATU support continued rate integration and oppose measures to reallocate costs to the intrastate jurisdiction. ATU argues that continuation of the current procedures for an additional five year period is necessary to allow Alaska to achieve the level of telephone service found in the contiguous states.

23. Hawaii states that it takes no position on the resolution of Alaska issues but that the resultant Alaska decision should apply to the Hawaii/Alaska route. Hawaii supports rate integration and opposes the AT&T position that integration need not be provided between Hawaii and Alaska.

C. Discussion

24. Based on a review of the comments filed to date in this proceeding, the guidance contained in the NPRM, and a review of fundamental Commission policy established in prior proceedings, we have tentatively identified the following five objectives which we believe should guide our resolution of the issues in this proceeding: preservation of universal service, continuation of rate integration, market based competitive entry, increased efficiency, and jurisdictional revenue requirement neutrality. The delineated order of the objectives in this discussion should not be construed to indicate prioritization of the goals by this Joint Board. In our view, a proper resolution of the issues before us must represent a balanced effort to achieve each of these goals. In particular, we emphasize that measures to increase efficiency and promote market based competitive entry should not be implemented at the expense of universal service, rate integration or revenue requirement neutrality. Each of our proposed objectives is discussed separately below. In light of the fact that the Commission has asked us to prepare recommendations designed to harmonize rate integration and competition in the provision of Alaska interstate service, we will begin with a discussion of these two objectives.

1. Continuation of Rate Integration

25. In the NPRM, the Commission endorsed the principle of rate integration, while indicating that we should consider alternative implementation arrangements if necessary to harmonize rate integration and competition policies. With the exception of AT&T, all of the parties strongly endorsed continued rate integration for message services. AT&T, however, expresses reservations concerning its ability to continue to support full rate integration for rural areas absent a high cost fund. Based on the record in this and prior proceedings concerning rate integration, we tentatively conclude that continued integration of interstate MTS and WATS rates²⁵ is necessary to ensure that all Alaska residents are able to participate fully in the social, economic, and political life of our nation.²⁶ We also believe that a rate structure which averages interstate toll rates for states other than Alaska, while imposing deaveraged rates for service to and from Alaska could raise questions concerning an unjust and unreasonable discrimination pursuant to Section 202 of the Act.²⁷ We therefore propose to develop an Alaska market structure recommendation that provides for the continued availability of interstate MTS and WATS service at integrated rates for all Alaska residents.

2. Market Based Competitive Entry

26. The Commission authorized competitive entry in the Alaska interstate MTS and WATS market for non-bush locations in 1982,²⁸ without adopting any Alaska-specific provisions for the treatment of competitive entrants.²⁹ Here, we are examining the market structure rules applicable to the provision of Alaska interstate service on a competitive basis. The FCC has found in many of its previous proceedings that a market based competitive entry policy for the provision of interstate service, allowing competitors to enter the market, with their success or failure determined by marketplace performance has provided substantial benefits in the contiguous

states.³⁰ The success of such a policy, of course, requires providing a full and fair opportunity for new entrants to compete. It is the desire of this Joint Board to promote in Alaska the benefits associated with a policy of free market competition. Accordingly, we tentatively conclude that the recommended Alaska interstate market structure should allow for market based competitive entry.

27. Under this approach, new entrants would compete with AT&T's nationally averaged interstate rates, as carriers do in the contiguous states. While competitive IXCs would be allowed to enter the Alaska interstate telecommunication market just as they are allowed to do in the contiguous states, we do not believe that competition is required on every route. Routes that will not support a competitor without a subsidy or other rate support would, of course, continue to be served by a monopoly provider.³¹ Thus, we tentatively conclude that rate support or other special treatment should not be made available to competitive entrants in the Alaska interstate market. Among other things, the provision of assistance to competitive entrants sends improper economic signals and could lead to the building of uneconomic duplicative facilities, thereby impairing efficiency.

3. Preservation of Universal Service

28. This Joint Board is firmly committed to ensure universal service for Alaska as part of our deliberations in this docket. Nationwide universal service is one of the objectives of the Communications Act,³² and has served a specific Commission and Joint Board objective in other proceedings, including those involving the allocation of recovery of local exchange costs. In furtherance of the nationwide policy, the Joint Board in CC Docket No. 78-72 and 80-286 recommended, and the Commission adopted, measures establishing a universal service fund assist subscribers in areas where the cost of local exchange service is particularly high,³³ and two federal lifeline assistance programs for low income telephone subscribers. These programs are available throughout the United States, including Alaska, upon adoption of implementation measures by exchange companies and the state. A number of the parties commenting in response to the NPRM state that the maintenance of universal service in Alaska should be a principal concern.

29. Previous Joint Board and Commission discussions of universal service have concentrated on subscription local exchange services.³⁴ Alascom argues that the concept of universal service must encompass access to toll service if it is to be meaningful for Alaska. Alascom says a carrier of last resort should be designated for the provision of interexchange service.³⁵ Alaska also advocates a market structure that allows for an interexchange carrier of last resort.³⁶ Essentially, all customers served by an exchange carrier in the contiguous states have access to interexchange service.³⁷ We believe that this should be the case for Alaska subscribers as well. Given the high cost of interexchange service to certain portions of Alaska, we tentatively conclude that it would be prudent to ensure that the measures adopted in this proceeding include designation of a carrier of last resort for Alaska message service.

30. The carrier of last resort will be responsible for building necessary facilities and providing service under the market structure rules adopted in this proceeding. Typically, the facilities involved will be used jointly by

provision of both intrastate and interstate message services. As such, the Alaska PUC, this Joint Board, and the Commission have a role to perform. We would anticipate that the carrier with statewide service obligations would serve as the carrier of last resort. Alascom, as the only carrier currently authorized to provide intrastate toll service, presently fulfills this function.

4. Jurisdictional Revenue Requirement Neutrality

31. The record compiled in this proceeding indicates that the adoption of certain market structure alternatives could result in a shift in revenue requirements to the intrastate jurisdiction as well as shifts between the switched and private line service categories.³² In addition, AT&T advocates specific separations changes that would reassign approximately \$40 million in revenue requirements from interstate message services to the intrastate jurisdiction and the interstate private line category.³³ These proposed changes could increase significantly Alascom's intrastate revenue requirement, and undermine the affordability of intrastate MTS service.³⁴ We do not believe that the record demonstrates that the Alaska intrastate cost assignment is disproportionately low and thus should be increased.³⁵ Furthermore, the telephone industry is currently in the midst of several other multi-year transitions implementing separations changes in the allocation of local loop³⁶ and central office costs,³⁷ which could involve significant jurisdictional cost shifts for certain local exchange carriers in Alaska. There are a number of other issues under consideration in CC Docket No. 80-286 which could also result in additional revenue requirement shifts.³⁸ Accordingly, we tentatively conclude that resolution of the issues in this proceeding, including adoption of any changes in the Alaska interstate market structure, should be accomplished without generating any material increase in the intrastate revenue requirement.³⁹

32. Support of our objective of revenue requirement neutrality warrants that the Alaska-specific separations changes proposed by the parties in this proceeding in order to reassign costs to the intrastate jurisdiction not be adopted. By adopting a revenue requirement neutrality principle in this proceeding, our attention, as well as that of the commenting parties, can be focused on the overall merits of alternative market structures. However, intrastate revenue requirements could increase due to factors not directly at issue in CC Docket 83-1376. Among other things, regulatory action on separations issues in other proceedings could affect the intrastate revenue requirement for Alaska as well as other states.⁴⁰

5. Increased Efficiency

33. The present market structure arrangements in Alaska originated in the early 1970's when the provision of interstate MTS and WATS service was a *de facto* monopoly. Periodic reexamination of such arrangements to determine whether they remain efficient is essential. In this proceeding, AT&T and GCI argue that the current Alaska interstate market structure creates incentives for inefficiency, and they advocate changes designed to address this problem. We believe that such a reexamination is particularly important in the case of Alaska since the overall cost of service for this state is high. The creation of an efficient telecommunication network is one of the goals of the Communications Act.⁴¹ Efficiency and in-

novation in the provision of telecommunication services are longstanding concerns of the Commission, and the Joint Boards, as well as state regulators. These are not merely theoretical issues since they affect the cost of service, and consequently the rates paid by all subscribers. Improved efficiency could lead to a reduction in total Alaska service cost and possibly a reduction in the level of interstate cost support. Accordingly, we tentatively conclude that the public interest will be served by the adoption of the most efficient Alaska telecommunication market structure possible, consistent with our other public interest concerns. As discussed in more detail in the following section, a market structure involving the provision of service on a cost-plus basis produces few, if any incentives for cost control or efficiency. We also emphasize that a market structure that encourages the building of uneconomic facilities by competitive entrants undermines economic efficiency.

D. Conclusion

34. We believe that these objectives will provide a sound basis for evaluating proposals for restructuring the provision of Alaska interstate service. However, we recognize that these objectives and the relative weight that we propose to accord each of them differ in certain respects from the goals advocated by certain of the parties to this proceeding. Accordingly, interested parties are requested to comment on these objectives and their use as standards for evaluating alternative market structure proposals for the provision of Alaska interstate telecommunication service and for making any changes to the Commission's rules that may be required.

III. MARKET STRUCTURE AND COST ALLOCATION ISSUES

A. Introduction

35. This proceeding focuses, in large measure, on possible changes in the market structure for the provision of Alaska interstate service. Questions concerning the need for separations changes in conjunction with possible market structure revisions are also before us. In this section we review the comments concerning these issues and discuss the market structure and cost allocation proposals offered by AT&T, Alascom and GCI. After reviewing various concerns with each of these proposals that lead us to conclude that they cannot be adopted as proposed, we present two alternative market structure proposals of our own and an opportunity to comment on the need for cost adjustment mechanisms. Following the discussion of our alternative market proposals, we request comments concerning the benefits and detriments of adopting either plan relative to the existing joint service arrangement in light of our basic objectives in this proceeding. While it is our preliminary opinion that changes are necessary in the existing market structure for Alaska, we will carefully evaluate the record compiled in response to this Order to ensure that any recommended revisions in market structure will in fact improve the method of providing Alaska telecommunication service and promote the achievement of the objectives identified earlier in this Order.

36. By proposing Plans A and B, we are not foreclosing consideration of other alternatives or of variations of alternatives described in this Order. However, any modifications and/or alternatives to the proposals at hand will be deemed worthy of further consideration only if supported with sufficient detail; identification, and when relevant, quantification of the benefits and detriments of any alternative proposal; and production of data and other analysis comparable to that requested for Plans A and B. Parties supporting alternative proposals should show how those plans eliminate, reduce, or provide fewer internal deficiencies than those that may exist under Plan A, Plan B, and the joint service arrangement. Parties should consider this to be their final opportunity for presentation of new market proposals.

37. Finally, analysis of the above plans necessitates our request for additional data from interested parties. We will further clarify the nature of these data requests later in this Order.

B. Comments

1. AT & T

38. AT&T argues that the present market structure for Alaska interstate service is highly inefficient, and places unfair burdens on AT&T and its customers. In particular, AT&T alleges that the existing joint service arrangement encourages Alascom "to manage for maximum subsidy rather than for network efficiency . . . a result contrary to the public interest. AT&T further argues that the present settlements formula for joint AT&T-Alascom services requires an unlawful division of charges contrary to Section 201 of the Act. AT&T contends that the formula violates Section 201 because it must pay Alascom compensation in excess of the two way revenues for Alaska interstate message service. In addition, AT&T contends that the high cost of serving rural areas in Alaska can no longer be supported through averaging of its interstate toll rates. Accordingly, AT&T proposes an alternative market structure for Alaska interstate service that eliminates joint offerings, establishes an Alaska Rural Fund to redistribute the cost of service to rural areas among all IXCs, and changes jurisdictional separations rules to reduce the costs assigned to Alaska interstate message services.

39. Under AT&T's proposal, any carrier that wishes to enter the Alaska interstate market directly would be allowed to do so by establishing a point of presence (POP) in Alaska. Alascom would be required to make its facilities for the distribution of traffic within Alaska available to all entrants on a non-discriminatory basis. Carriers entering the Alaska interstate market would also be allowed to interconnect directly with the exchange carriers without using Alascom's services.

40. Under such a competitive scenario, AT&T indicates that it would not expect to offer joint service with Alascom, as it does now. Instead, AT&T indicates that it would consider establishing one or more POP in Alaska, and interconnecting directly with the exchange carriers in Anchorage, Fairbanks, and Juneau.⁴¹ However, AT&T states that it would be willing to lease existing facilities from Alascom during a transition period if the Alascom rates were reasonable. AT&T also states that it does not propose to provide Alaska intrastate service, instead, Alascom would continue to provide intrastate interexchange

service. GCI would also continue to compete in the Alaska interstate market under this proposal, and AT&T advocates retention of its existing arrangements with GCI.

41. AT&T also argues that much of the support that it provides for services in the Alaska market—\$97 million by its estimate⁴²—can be eliminated without undermining universal service. AT&T contends that service to the urban areas in Alaska does not necessarily involve high costs and should not be accorded special treatment. Accordingly, it proposes separations changes designed to transfer approximately \$40 million in revenue requirements from interstate message services to the intrastate jurisdiction and the interstate private line category. AT&T would achieve this result by establishing two Alascom study areas to eliminate the distance sensitive allocation of satellite costs. AT&T contends that these costs can easily be recovered from interstate private line service and intrastate sources such as short-haul toll and operator services as well as state private line services, without undermining universal service or producing inordinately high intrastate toll rates. AT&T proposes the establishment of an Alaska Rural Fund to cover \$39 million in Alaska service costs. It argues that this support for Alaska services should be funded from tax revenues, adding that if support is instead generated through telecommunication service pricing, its costs involved must be borne by all IXCs.⁴³

42. Overall assistance would be set at current support levels to foster efficiency, and a capped assistance amount would be developed for each high cost route in order to target support to the areas that need it. Facility-based carriers serving these points would be eligible to receive payments from the Fund, based on their relative share of traffic on these routes. AT&T recommends phased elimination of the assistance for Alaska as technological and other changes obviate the need for it.

43. AT&T strongly opposes continuation of the existing joint service arrangement with Alascom. If that arrangement is retained, however, AT&T argues that it must given much greater control over Alascom's expenditures for the provision of interstate services.⁴⁴ AT&T also opposes GCI's proposal that the carrier common line charge (CCLC) for high cost rural areas in Alaska be eliminated,⁴⁵ arguing that this will not produce sufficient support.

2. Alascom

44. Alascom argues that continuation of the current arrangement for the provision of Alaska interstate message service, with its cost and revenue pooling, is necessary to guarantee continued rate integration. Alascom contends that allegations of inefficiency in its present operation: AT&T and GCI have not been substantiated. It also asserts that Alaska is not the only area where the cost of interstate message service exceeds revenues, arguing that this is the case in certain areas in the contiguous states as well.⁴⁶ Alascom argues that allowing AT&T to build facilities in Alaska would not increase efficiency. Instead, it states that this would increase the total cost of Alaska service, thereby reducing efficiency, and leaving Alascom's current network with the same costs, but greatly reduced revenues. Alascom also contends that AT&T's proposal to create an Alaska access area is inconsistent with Alascom's statewide network design that is predicated on full MTS and WATS rate integration, with service provided in partnership with AT&T.

45. Alascom alleges that AT&T wants to interconnect with it in Alaska in order to reassign costs to the intrastate jurisdiction.⁴⁸ Contrary to AT&T, Alascom argues that this reallocation of costs is unnecessary, stating that the current cost to AT&T of rate integration for Alaska is less than 0.5% of AT&T's interstate revenues or less than six cents per month per access line.⁴⁹ Alascom also notes that there is no evidence that this level of support for rate integration will cause uneconomic bypass. It submits that Alaskans already face relatively steep toll charges on all but the shortest mileage bands.⁵⁰ Alascom also submits that it can take additional steps, with AT&T's assistance, to reduce the cost of the Alaska network. It asserts that these measures should be carefully explored before market structure or separations changes are considered. Alascom also emphasizes that changes in separations procedures should not be made without careful consideration of the effect on intrastate rates. It also states that if this Joint Board should recommend separations changes, the proposal should include a five-year transition period to allow Alascom adequate time to adjust to the increased intrastate revenue requirement.

46. Alascom contends that continuation of joint services and rate integration are compatible with a competitive environment, but emphasizes that competitive entrants in the Alaska interstate market must be subject to the same market rules as nondominant competitive entrants (other common carriers or OCCs) in the contiguous states. It contends that the Carrier Lease Agreement between AT&T and GCI is unlawfully preferential and denies other OCCs an opportunity to compete fairly in the Alaska interstate market.⁵¹ Alascom also alleges that the Carrier Lease Agreement promotes uneconomic facility duplication by GCI and notes that this agreement gives GCI a cost advantage that has allowed it to obtain almost 30% of all southbound Alaska interstate traffic.⁵² As a result, Alascom argues that the benefits that GCI receives from AT&T pursuant to the Carrier Lease Agreement must be terminated. Alascom also argues that its state-wide service obligations, when contrasted with GCI's status as a nondominant carrier with substantial regulatory flexibility, provides a sound basis for treating the two carriers differently.

3. GCI

47. GCI recommends elimination of joint services. It says that the joint service arrangement lowers inefficiency by compensating Alascom on a cost-plus basis. In particular, GCI contends that the present Alascom system has unused satellite capacity and multiple earth stations for individual service areas. It also argues that Alascom's system for providing interstate service to rural Alaska is very inefficient.⁵³ GCI contends that a more competitive market structure would increase incentives for efficiency. Accordingly, it proposes a plan which would require AT&T to assume responsibility for ensuring universal service to and from Alaska at integrated rates. AT&T would be allowed to provide this service directly over its own facilities or to obtain service from the carrier of its choice. Under this market structure, GCI assumes that AT&T would serve urban areas directly and seek competitive bids for service to rural areas rather than automatically using Alascom facilities.

48. GCI also proposes a new network structure for provision of service to rural areas in Alaska.⁵⁴ This network would be almost entirely satellite-based.⁵⁵ According to GCI, could be constructed for under \$5 million, with direct operating costs of less than \$30 million per year. GCI asserts that if AT&T entered Alaska urban markets on its own facilities and accepted GCI proposal for rural service, AT&T could reduce its cost for service to and from Alaska by almost two-thirds.⁵⁶

49. GCI also recommends freezing the existing assignment of costs to intrastate MTS in order to ensure that market structure changes would not produce undesirable cost allocation changes. As a further protection, it proposes that AT&T be required to purchase Alascom facilities that become surplus due to implementation of market structure changes. GCI also argues that its Carrier Lease Agreement with AT&T should remain in effect as a transitional mechanism until competition and technological innovation remedy the high-cost problem, with Alascom as well as GCI receiving base circuits under the terms of the Carrier Lease Agreement.⁵⁷ According to GCI, it will allow competition to continue in the Alaska intrastate market pending decreases in the cost of contiguous states traffic distribution.⁵⁸

50. If a unique high cost assistance mechanism is required to support Alaska service, GCI believes that should be competitively neutral, with the costs involuntarily recovered from all IXCs, not solely AT&T. GCI suggests that any such subsidy be provided by reducing interstate access charges in non-urban Alaska exchanges through waiver of the Carrier Common Line (CCL) charge. The revenue shortfall would be borne by all IXCs through increased charges for access elsewhere in the country. GCI notes that as the CCL charge declines, the amount the subsidy will decrease.⁵⁹

51. GCI contends that its proposal would lead to a number of benefits including: (1) fully integrated intrastate message toll rates; (2) a reduced need for support of Alaska costs over time due to competitive forces; (3) need for Commission oversight; and (4) increased competition in both rural and urban markets.⁶⁰ GCI argues that, in contrast to this, Alascom's proposal is designed to achieve only one objective—universal service—at an extraordinarily high cost to AT&T ratepayers in the contiguous states, and at the cost of competition and increased efficiency in the Alaska interstate market.

4. Alaska

52. Alaska focuses on the importance of assuring universal service and continued rate integration, stating that any proposed market structure or separations changes must promote these goals.⁶¹ As a result, Alaska strongly opposes AT&T's plan to reassign approximately \$40 million in costs from interstate message services to the intrastate jurisdiction and interstate private line service, arguing that this constitutes discrimination against Alaska. It emphasizes that the separations rules are not based solely on cost causation principles, stating that these rules also reflect public policy concerns with the protection of universal service and the development of a national telephone network. Alaska argues that the amount of support for Alaska telecommunication service is negligible when compared to AT&T's overall revenues, while Alaska subscribers would be subjected to considerable hardship if this support were withdrawn. Alaska states that the

sence of rate integration is that geographically averaged rates are set at levels necessary to generate sufficient revenue to cover the cost of providing service to all portions of the United States, not each and every portion by itself. To that end, Alaska submits that the state should not be considered a separate interexchange market. Alaska submits that AT&T is permitted to charge rates that are higher than costs for low cost routes because it charges the same rates, which are lower than costs, for high cost routes of comparable length. It states that there is no evidence that AT&T has suffered financially from its support of rate integration and universal service in Alaska. Alaska also asserts that changes in the separations rules would be inequitable because sizable investments have been made by Alascom and Alaska exchange carriers with the Commission's encouragement based on the existing rules.⁵³

53. Alaska emphasizes that it would have serious concerns if AT&T were allowed to establish a POP in Alaska, particularly if this would increase intrastate revenue requirements.⁵⁴ Alaska also opposes establishing an Alaska Rural Fund as proposed by AT&T, arguing that there is no reason for an Alaska Fund when nationally averaged rates are achieved in the contiguous states without such a mechanism. Alaska also criticizes the complexity of the route-specific cost allocation procedures required to implement AT&T's Alaska Rural Fund.

5. NTIA

54. NTIA recommends measures designed to bring the benefits of competition to Alaska. Accordingly, it states that we should find a mechanism to ensure affordable rates in Alaska without impairing the efforts of competitors to bring additional telecommunication services to Alaska residents.

6. ATA

55. ATA supports full rate integration, and asserts that Alaska deserves special consideration in the development of separations procedures. It contends that Alaska telephone service has grown slowly because Alaska exchange carriers did not obtain the benefits of the Ozark separations procedures until five years after they were applied in the contiguous states.⁵⁵ It argues that the unique characteristics of the Alaska market mandate continued use of distance-sensitive separations procedures.⁵⁶ In its reply, ATA indicates that the changes in the separations procedures for Central Office Equipment recently adopted by the Joint Board in CC Docket No. 80-280 address the concerns of most of its member companies.

7. ATU

56. ATU also supports rate integration, arguing that Alaska has many unique characteristics that make dependable telecommunication service at affordable rates particularly vital. It also supports continued application of the Ozark separations procedures to Alaska. In the absence of this, ATU emphasizes that a high cost fund must be established to ensure universal service by minimizing the effect of separations changes and the loss of revenues due to rate integration.

C. Discussion

57. We have reviewed the market structure proposals made by AT&T, Alascom and GCI, as well as the other comments filed in this proceeding and conclude that each of the proposals has one or more features that makes incompatible with the proposed objectives of this Joint Board. Therefore, we tentatively conclude that none of the market structures proposed to date in this proceeding should be adopted without modification. However, elements of some of the proposals are incorporated into one or more of our plans presented for comment herein. In this section, we identify the major features of each of these market structure proposals that we find incompatible with our stated objectives, and therefore undesirable part of a revised interstate market structure for Alaska. Since we are seeking further comment on the market structure and cost allocation issues, we do not discuss all of the details of the existing proposals herein.

58. The present arrangement between AT&T and Alascom raises substantial questions in our view. Alascom proposes continuing that arrangement, while AT&T and GCI assert that the joint service arrangement fosters inefficiency and should be eliminated. The cost-plus nature of the agreement provides undesirable incentives for Alascom because it receives reimbursement from AT&T for all of its costs assigned to the interstate jurisdiction as well as a return on the portion of its investment that is assigned to the interstate jurisdiction. When all of a company's expenses are reimbursed and a profit is virtually guaranteed, there may be little reason to control costs. Such a compensation mechanism may also create incentives for the carrier to inflate its rate base in order to increase earnings. Additionally, the joint service arrangement, with its settlement procedures, complicates the determination of the rates that other IXCs should be charged for the use of the Alascom network, thus creating the possibility of discrimination. Moreover, to our knowledge, this is AT&T's only joint service arrangement in its interstate operations. These deficiencies in the joint service arrangement suggest that alternative arrangements should be given serious consideration in an effort to achieve an improved market structure that will inure to the benefit of all toll ratepayers. Parties believing that the joint service arrangement remains the preferred market structure, of course, are free to present their arguments to the contrary on these points. Any party seeking to justify the joint service arrangement must explain why the deficiencies discussed herein are not present or can be ameliorated by other means.

59. The AT&T and GCI proposals support dissolution of the joint service arrangement and an open market structure for all toll carriers, including AT&T, that provide Alaska interstate service. Both parties claim that their proposals will create a more competitive market structure than the status quo. However, neither AT&T nor GCI adequately addresses the problems associated with implementing their proposed market structures or the effect that their plans would have on the achievement of our objectives.

60. We also have questions concerning the measures proposed by AT&T and GCI to address the high cost of serving rural locations in Alaska. GCI would have recommended a broad waiver of the CCL rate element for all IXCs serving rural locations in Alaska. AT&T proposes establishment of an Alaska Rural Fund to spread the costs among all IXCs. Each plan contains a mechanism

that would give nondominant competitive entrants in the Alaska market benefits in the form of reduced costs or direct payments from a high cost pool. These measures are inconsistent with our proposed objective of open entry in the Alaska market based on the economic fundamentals of the marketplace without any Alaska-specific subsidy to competitive entrants.⁶⁷ Moreover, the AT&T and GCI plans attempt to establish a mechanism to subsidize particular routes. Such an approach appears unnecessary if, as we propose, only the carrier of last resort could benefit from any cost adjustments that might be provided. Furthermore, the development of any route specific subsidy would involve the Commission in extremely detailed, complex and time consuming cost allocation issues. Thus, we tentatively conclude that neither AT&T nor GCI's proposal should be adopted, although we do not foreclose the establishment of a cost adjustment mechanism for Alaska. The question of the need for such a mechanism for Alaska is discussed *infra*.⁶⁸

61. We also have concerns regarding AT&T's proposed separations changes that would shift approximately \$27 million to the intrastate jurisdiction. As previously discussed, one of this Joint Board's objectives is to ensure revenue requirement neutrality, and AT&T's proposal is in direct conflict with this. Therefore, if we adopt this objective, AT&T's proposal would have to be rejected.⁶⁹

62. GCI's proposal to extend the benefits of the Carrier Lease Agreement to Alascom may not be desirable. In particular, GCI suggests that if Alascom enters the interstate message market on its own, AT&T should be required to provide Alascom with circuits for the termination of its Alaska originated traffic on terms similar to the terms of the AT&T agreement with GCI. It does not appear that this proposal would reduce the total cost of providing Alaska interstate message service or result in entry decisions based on the underlying economic fundamentals. We believe that extending the terms of that agreement to Alascom is inconsistent with the public interest and the objectives tentatively established in this proceeding. Thus, we cannot recommend adoption of this GCI proposal.

D. Joint Board Alternative Market Structure Proposals

63. We have developed two alternative plans for the structure of the Alaska interstate market for the purpose of inviting comments from interested parties. Both plans would terminate the present joint service arrangement and restructure the Alaska interstate message telecommunication market. However, the extent of the change is different under the two plans. We believe that seeking comments on these two alternatives will be helpful to us in preparing recommendations on the extent and nature of the market structure changes needed to achieve our objectives in this proceeding. Plans A and B are described briefly below, along with a number of specific questions that we ask commenting parties to address.

1. Plan A

64. Plan A would eliminate the AT&T and Alascom joint services and assign responsibility for the provision of interstate message toll services throughout Alaska to both AT&T and Alascom. Alascom would be responsible for services provided in Alaska, while AT&T would be responsible for services provided in the contiguous states

AT&T and Alascom would be required to provide AT&T services to and from Alaska by interconnecting their facilities. The point of interconnection would occur in the contiguous states. AT&T would be precluded from constructing or leasing Alaskan facilities which are or could be provided by the Alascom network.

65. Alascom would be required to supply interstate toll facilities to any carrier requesting service, and would develop a tariff describing the terms, conditions, and rate for these services. Alascom's tariff would be available to all carrier tariffs employed by AT&T, with the charges available on a non-discriminatory basis to all IXCs. In addition, the OCCs would be given the choice of taking service from Alascom at a point or points in Alaska or using Alascom's facilities for service between the contiguous states and Alaska as well. Alascom's tariff rates on competitive routes would generally be expected to reflect costs, and thus cost allocation procedures would have to be developed to accomplish this. The Alascom tariff would not include any access charges of the local exchange carriers. Alascom would be required to file tariff proposals and supportive cost materials with the Commission which would be reviewed pursuant to its tariff procedures.

66. Plan A would assign AT&T the responsibility for ensuring interstate service at integrated rate levels in Alaska. The cost of Alaska service would be recovered by AT&T through nationwide averaged rates. All competitive carriers entering the Alaska market would compete against integrated toll rates since competition under the plan will function as it does in the contiguous state. Presubscription balloting would re-occur in Alaska to determine the customers' choice of IXC under the new market structure.⁷⁰

67. This plan would require that Alascom submit detailed planning documents (including cost-benefit analyses) regarding any extensive system upgrade or redesign and obtain Commission approval prior to commencement of construction as a means of reducing costs. The current restrictions against construction of duplicative toll facilities in bush areas would be maintained to prevent uneconomic investment. Furthermore, to ensure reasonable intrastate toll rates, no changes in jurisdictional separations shifting costs to the intrastate jurisdiction would be adopted.

2. Plan B

68. Plan B would eliminate the joint service agreement between AT&T and Alascom and permit entry into the Alaska interstate market by competitive carriers pursuant to the requirements for nondominant carriers in the contiguous states. These carriers would provide service in competition with AT&T's nationwide average rate structure. Under this approach, Alascom's current interstate operations would be divided into two segments—the "distribution segment" and the "interstate link segment." The distribution segment would resemble the provision of transport access service in the contiguous states, in certain respects, and would include Alascom's current interstate investment in, and expenses associated with, the distribution facilities from its switches in Anchorage, Fairban and Juneau to the facilities of the Alaska exchange carriers, as well as any portion of Alascom's switches used to provide equal access in Alaska. The interstate link segment would include all of Alascom's jurisdictionally

terstate investment and expenses that are not encompassed in the distribution segment. This would include Alascom's satellite and microwave facilities used to carry traffic from its switches in Alaska to the contiguous states, as well as any portion of Alascom's switches used by IXCs as a POP in Alaska. Cost allocation rules would have to be developed to allocate Alascom's investment and expenses between these two segments.

69. Alascom would file interstate tariffs to recover the costs associated with the distribution segment. These tariffs would offer both switched and private line elements to provide distribution of IXC traffic from each of Alascom's three switches to the Alaska exchange carriers' end offices. The Alascom distribution tariff charges would not include the cost of access services provided over the Alaska exchange carriers' facilities. Alascom, as the dominant carrier, would be responsible for carrying traffic from all exchanges in Alaska to one or more central points of interconnection with IXCs. However, IXCs would also be allowed to establish direct connections with Alaska exchange carriers. Alascom would provide equal access for exchanges that would not otherwise have this feature.

70. Plan B would require AT&T to continue to use Alascom facilities associated with the interstate link segment for a finite transition period in recognition of Alascom's past reliance on Commission policy requiring joint planning and service provision. Thus, AT&T would be required to take a specified number of circuits (roughly equivalent to the number it currently uses) for the remaining life of the relevant Alascom facilities.¹¹ AT&T could obtain circuits in excess of that number from any carrier it desired, or build its own facilities. After termination of the transitional requirements, AT&T would be free to provide interstate service between Alaska and the contiguous states via any facilities it chose to use. AT&T would become the provider of interstate message service between Alaska and the contiguous states at integrated rates. AT&T would inherit the interstate service obligations of AT&T and Alascom and would thus continue to serve all Alaska exchanges. Alascom could provide facilities for the interstate link segment, on a non-discriminatory basis, to AT&T and any other IXCs pursuant to a tariff filed with the Commission or pursuant to intercarrier contracts. Alascom would be permitted to enter the interstate message market itself. Finally, under Plan B, Alascom and AT&T would be required to file engineering and cost allocation proposals reflecting their plans for implementing the new market structure. These filings would be subject to public comment before implementation of the revised market structure.

E. Questions on Market Structure Plans

71. We urge interested persons to comment on a number of additional questions concerning our alternative market structure proposals. In addressing these questions, commenting parties should include sufficient documentation to allow a full evaluation of their positions. Any party presenting its own market structure proposal should discuss each of the issues raised below as it relates to that party's plan.

72. Initially, we ask commenting parties to discuss how each plan addresses the objectives we identified in Section II of this Order. Parties should identify the benefits and detriments of both Plan A or B relative to the joint service arrangement. Parties shall support their conclusions

with a complete analysis, including, whenever possible, relevant quantitative support,¹² of the effects of adopting Plan A or B. In evaluating any proposal, we will apply the objectives we identified in Section II and evaluate each plan based on the extent to which it achieves improvements in the overall provision of telecommunications service in Alaska. In addition, we ask those parties to address the implications of Alascom's statewide service obligations for our choice of market structure. To this end, parties are also requested to identify those responsibilities and characteristics (system redundancy, fail-safe provisions, service quality, services provided, etc.) which should be required of the carrier of last resort in Alaska. The comments should discuss the market implications for a carrier required to fulfill such carrier of last resort responsibilities. Parties should discuss the costs and benefits associated with various trade offs between these factors as they affect our development of a recommended market structure. Parties should address how these performance characteristics should be weighed against expected system costs and system efficiency concerns. Parties should also discuss the impact that improvements in transmission technologies will have on future facility planning and operating decisions.

73. Parties are invited to suggest modifications to either Plan A or B that will foster achievement of our objective in this proceeding, or facilitate the implementation of either plan. In addition, we request interested parties to identify any provisions, not contained in the description of the plans or Commission rules applicable to dominant and nondominant carriers, that are necessary to ensure that either plan will further promote our proposed objectives. Finally, interested parties are asked to comment on any legal issues raised by either plan.

74. Alascom stated that cost savings could be achieved under the joint service arrangement. The Joint Board seeks comments on improvements¹³ which can be made to the joint service arrangement and current market structure in the event that no better alternative can be developed at this time.

75. We also ask interested persons to comment on any separations changes necessary to ensure jurisdictional revenue requirement neutrality in conjunction with Plan A. Plan A is premised on the assumption that it can achieve revenue requirement neutrality without separations changes. We ask parties to comment on these aspects of the plans. Parties should also discuss the timing of any changes under the transition mechanism for implementation of Plan B. We also ask parties to discuss any differences in the cost allocation issues raised by Plans A, B, and to address the inter-relationship between the separations procedures required to achieve revenue requirement neutrality and the cost allocation rules necessary to implement either plan. Commenting parties should discuss whether Alascom's state-wide service obligations raise unique cost allocation issues, and suggest means for resolving any such problems that they identify. We invite interested parties to provide this Joint Board with any separations rule changes as well as draft cost allocation rules they believe may be necessary for implementation of either plan. In the following paragraphs, we identify several additional areas on which persons should focus their attention.

76. We also ask interested parties to comment on achievement of revenue requirement neutrality should be measured. Specifically, they should discuss what information

tion should constitute the baseline for determining whether cost allocation shifts had taken place. For example, would adjusted data from the same month in consecutive years be sufficient to gauge revenue requirement neutrality, or will it be necessary to replicate that month's data under both sets of separations procedures? Interested persons should also address the procedures to be used in ensuring that cost shifts do not develop. We also invite parties to provide the Joint Board with proposals regarding the actions which should be taken in the event that unanticipated jurisdictional cost allocation shifts are observed after implementation of the new market structure.

77. Interested persons are requested to analyze Plan A and Plan B and estimate the amount of any revenue requirement shifts between the interstate and intrastate jurisdictions that would result if either Plan were to be adopted without additional measures to prevent material jurisdictional revenue requirement shifts. Parties are to address any concerns they may have regarding potential risks to revenue neutrality under Plans A and B given future changes in either the market structure or regulatory policy. In making these estimates for Plan B parties should assume that AT&T would use three entry locations. Parties are requested to comment on alternative network configurations that they believe will eventually be employed in Alaska. If the parties identify structures employing more or less than three entry locations, they shall estimate the revenue requirement impact of any such alternative market structure. AT&T and Alascom are requested to discuss the feasibility of using fewer than three entry locations and identify the effect such a structure would have on network design and cost. Alascom, AT&T, and GCI should each describe, with as much detail and supporting information as possible, the estimated revenue impact and overall change in costs for their operations under each plan. The comments should identify both the short-run and the long-run effects, and contain sufficient supporting data to permit evaluation of the accuracy of these estimates.

78. Plans A and B each propose that Alascom offer some or all of its services to the IXCs pursuant to tariff. We ask interested parties to comment on the appropriate structure for the tariffs that Alascom would file to implement either Plan A or Plan B. Alascom is specifically requested to file sample tariff pages reflecting the terms and rate structure it would employ under each plan. It shall also discuss the rationale for the rate structure proposed and identify any cost allocation principles it believes must be adopted to implement a tariff under either plan.⁴⁴ We also ask interested parties to discuss the advantages and disadvantages of using carrier contracts as opposed to tariffs for the interstate link segment of Plan B. Finally, we ask interested parties to address whether there are any special concerns applicable to the transition period if a carrier contract were to be employed.

79. We request that interested persons identify and address any issues related to the demarcation point between the interstate link segment and the distribution segment of Alascom's operations under Plan B. Among other things, commenting parties should discuss the public policy implications of implementing equal access at the Alascom switches when it would not otherwise be available, as well as the ability of the Alascom entry switches to provide equal access and their ability to perform this function while simultaneously serving as an IXC POP. They should also identify the principles that would be used to develop

separations and cost allocation procedures applicable to Alascom's switches. These comments should discuss a scenario in which AT&T establishes a POP located at one or more of Alascom's switches, as well as a scenario in which no IXC establishes a POP using Alascom's switches. Alascom shall estimate the cost of equipping its three entry switches with the ability to provide equal access to exchanges that would not otherwise have this feature and compare this to the cost of equal access implementation by the exchange carriers involved. Finally, commenting parties should also address the issue of whether a new round of presubscription balloting should take place if either Plan A or Plan B is implemented.

80. Another question raised by proposals to restructure the Alaska market involves the scope of competitive interstate entry in Alaska. In the *Bush Earth Station Ownership* proceeding, the Commission found that the traffic of bush routes would only support one earth station in each bush exchange, and barred competitive service to bush locations over separate facilities. Plan A continues this policy while Plan B does not explicitly address this policy. We ask commenting parties to discuss this subject with respect to both plans in light of our objectives in this proceeding.

81. In discussing our competitive entry objective, we stated that entry into the Alaska interstate telecommunication market should be based on economic principles, and that competitive entrants should not receive support or other assistance for their services. AT&T and GCI each support permitting the Carrier Lease Agreement to remain in effect until it expires in 1992 by its own terms. Although Alascom has abandoned its opposition to its continuation of the Carrier Lease Agreement,⁴⁵ we believe that comment on possible public interest considerations presented by the Carrier Lease Agreement would be helpful. Accordingly, interested persons are requested to comment, in light of our previously discussed objectives, on the implications for both Plan A and Plan B of allowing the Carrier Lease Agreement to continue in effect until its scheduled termination. They are also requested to comment on whether any public interest considerations exist that should lead this Joint Board to recommend the termination of the Carrier Lease Agreement in advance of its scheduled termination.

F. Cost Adjustment Mechanism

82. In paragraph 60, *supra*, we tentatively concluded that the mechanisms proposed by AT&T and GCI to address the high cost of serving rural Alaska should be adopted. However, the fact that these parties proposed specific mechanisms suggests that they perceive a potential for equitable or competitive problems to develop under some competitive market structures due to the need to provide for the recovery of the substantial portion of Alascom's costs that are assigned to the interstate jurisdiction by the separations procedures. We reach no decision in this *Supplemental Notice* on the need for a cost adjustment mechanism for Alaska, and therefore neither Plan A nor Plan B contains any special mechanism for addressing this situation, if it in fact poses a problem.

83. Interested persons are invited to comment on whether a specific mechanism is necessary under either Plan A or Plan B to address any aspects of the high cost of serving Alaska. Persons advocating such a mechanism should carefully identify the benefits that would re-

from adoption of such an approach. Interested parties should discuss the short-run and long-run impact of adopting a cost adjustment mechanism for Alaska. Commenting parties should also address the effect, if any, that a cost adjustment mechanism would have on the cost allocation issues raised by the market structure plans, and how a cost adjustment mechanism would work in conjunction with the Alascom cost allocation procedures previously discussed. We also ask for comments on the means of funding a cost adjustment mechanism. Specifically, parties should address whether the mechanism used for the recovery of the existing high cost assistance should be used, or whether a different mechanism should be employed. If a party believes a better method exists, it should describe that method. In addition, interested persons should address whether any cost adjustment mechanism should be permanent or transitional. Advocates of a transitional mechanism should describe the means that should be used to accomplish this transition and the consequences of phasing out any cost adjustment mechanism.

G. Data Requests

84. In this section, we specify additional data which we believe is necessary to an analysis of the record and application of the objectives outlined above. In responding to the data requests, commenting parties should include sufficient documentation to allow a full evaluation of their positions.

85. Data was submitted to this Joint Board in July 1986. GCI and Alaska filed supplemental data.⁹⁸ To ensure that we are making our recommendations based on current information, several aspects of the data filed earlier in this proceeding needs to be updated and supplemented. Accordingly, the parties are requested to file the following information with this Joint Board.

86. We request that AT&T (with respect to its Alaska operations), Alascom and GCI update the descriptions of their operating arrangements submitted in earlier filings. We ask Alascom to provide this Joint Board with its plans for any major changes in its facilities within the next six years. This material should include a schedule indicating the timing of any major replacements or upgrades planned for the Aurora satellite, major toll centers, Alascom earth stations, and major terrestrial transmission facilities. Alascom shall discuss the major economic or other factors that are involved in its decisions to replace or upgrade its facilities. Alascom shall also provide this Joint Board with information on the remaining useful life of assets associated with the facilities included in the interstate link segment under Plan B. We also ask Alaska to update previously provided information that relates to the issues discussed herein.

87. Alascom and GCI shall each file an income statement and a year-end balance sheet for 1987.⁹⁹ Each carrier shall also provide financial reports for the fourth quarter of 1987 and the first three quarters of 1988. These reports shall include a level of detail comparable to similar reports contained in the earlier data submission.¹⁰⁰ AT&T, Alascom, and GCI shall outline how they anticipate they would modify their current operations, network design, quality and type of services provided, and market structure given the adoption of Plan A or Plan B. All parties are also invited to comment on the anticipated network and operational structure of the interexchange carriers

after the adoption of Plan A or Plan B. AT&T shall estimate its 1988 and 1989 revenues from interstate Alaska message services and the cost of that service, dividing its costs into the following categories — Alaska exchange access, Alascom expenses, AT&T contiguous states transmission, and contiguous states exchange access. AT&T and Alascom shall provide this Joint Board with cost analysis for 1988 and 1989 developed under the joint service arrangement, Plan A, and Plan B.

88. Alascom and GCI shall each provide northbound and southbound minutes-of-use data for each month since October 1987. The southbound data shall be categorized to reflect minutes originating in Anchorage, Fairbanks, Juneau, and all other locations. GCI is to identify separate its southbound traffic terminated over exchange access to the Seattle area, Megacom, WATS, and other services facilities. Alascom, GCI and AT&T each shall estimate the growth they anticipate in interstate and intrastate minutes-of-use for 1988 compared to 1987's fourth quarter traffic data.

89. Ensuring that any market structure revisions are accomplished in a manner that is neutral with respect to intrastate revenue requirements necessitates the collection of data to measure the effect of revised separations procedures on revenue requirement allocations. In the following paragraph, we request specific data to be used as a baseline for our analysis. However, we recognize that may be necessary, assuming a revised market structure selected, to ask Alascom to make additional data runs test separations alternatives specifically designed to reflect the chosen market structure. Accordingly, we are limiting the scope of our data request in this area at present.

90. Alascom is to file separations data for March 1987 and March 1988 on computer readable spreadsheets to be obtained from the Commission.¹⁰¹ Two sets of separations data are required for March 1987, the first reflecting actual separations study performed, and the second assuming that the 1985 frozen allocator for Category 8.23 been in effect in March 1987. In addition, Alascom shall file annual 1987 data in the same format.¹⁰²

IV. OTHER ISSUES

A. Separations Procedures for Bush Earth Stations

91. The issue of the proper separations treatment of the bush exchange carriers' investment in earth stations and the expenses associated with that ownership interest also before this Joint Board.¹⁰³ AT&T, the only party commenting on this issue to date in this proceeding, states that United Utilities, Inc. (United), uses Alascom's CMM factor in separating its share of the investment and expenses of the bush earth stations United owns jointly with Alascom. AT&T opposes this approach and argues any necessary support should be encompassed in the Alaska Rural Fund it proposes.¹⁰⁴

92. The Commission permitted the bush exchange carriers to use Alascom's CMM factor on an interim basis to maintain the status quo. If bush exchange carriers had been required to develop their own allocation factor other than using Alascom's CMM factor, a significant revenue requirements to the intrastate jurisdiction would have resulted. Since a substantial portion of this earth station investment and expense relates to message services, we tentatively conclude that the separations

this investment and expense is within the scope of our revenue requirement neutrality objective. Interested persons are asked to comment on this tentative conclusion, and, in doing so, to discuss with specificity the separations changes, if any, necessary to implement this tentative conclusion. We also ask Alascom and the Alaska exchange carriers with bush earth station investment to provide data showing the amount of their 1987 investment in, and expenses for, jointly owned bush earth stations, and to project this data for 1988 and 1989.

B. Alaska - Hawaii Rate Integration

93. Alaska contends that the Commission has already determined that rate integration applies to the Alaska-Hawaii route.¹⁰³ Alaska also argues that rate integration will promote affordable, universal service, and contends that there is no basis for treating service between Alaska and Hawaii differently than service between Alaska and the contiguous states. Hawaii recognizes that the implementation of rate integration for services between Alaska and the other states of the Union may present certain unique problems. However, it states that the same rate integration principles that apply to the Alaska-contiguous states route should apply to the Alaska-Hawaii route. Hawaii asserts that anything less would constitute discrimination against the residents of Hawaii.

94. Alascom contends that this Joint Board should recommend that the joint service arrangement between Alascom and AT&T support MTS and WATS service between Alaska and Hawaii on the same basis as service between Alaska and all other United States points. Alascom argues that failure to do this constitutes discrimination in violation of Section 202 of the Act. GCI opposes Alascom's request that the Commission mandate the joint provision of service on the Alaska-Hawaii route by AT&T and Alascom. It argues that such a restrictive policy would give Alascom an artificial competitive advantage by forcing AT&T to use Alascom's facilities rather than those of another IXC to terminate its Alaska-bound traffic. This would, according to GCI, deprive customers of the benefits of competition on the Alaska-Hawaii route. AT&T argues that it should not be required to provide joint MTS and WATS service with Alascom on the Alaska-Hawaii route or be forced to offer such service at non-compensatory, integrated rates. AT&T contends that such a requirement would be contrary to the public interest because it is anti-competitive, creates incentives for inefficiency, and would require AT&T to subsidize Alascom.

95. As discussed previously, we have tentatively identified continuation of rate integration for service between Alaska and the contiguous states as an important goal in this proceeding. We believe that the public policy implications of rate integration on the Alaska-Hawaii route are no different from those underlying rate integration between Alaska and the other states. Accordingly, we tentatively conclude that rate integration should be implemented on the Alaska-Hawaii route. That is, rates on this route should be integrated into the domestic pattern as are rates for all other domestic message service. We also tentatively conclude that service on the Alaska-Hawaii route should be provided pursuant to the Alaska-contiguous states market policy guideline adopted by the Commission in this proceeding. We invite interested parties to comment on these tentative conclusions.

V. ORDERING CLAUSES

96. ACCORDINGLY, IT IS ORDERED, pursuant to Sections 1, 4 (i) and (j), 201-205, 221, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154 (i) and (j), 201-205, 221, and 410 (c), that interested persons are to file the data requested herein with the Secretary, Federal Communications Commission, on or before February 27, 1989. Comments are to be filed on or before April 13, 1989 and reply comments are to be filed on or before May 15, 1989. Each participating party is to file an original and six (6) copies of their filings with the Secretary, Federal Communications Commission, and mail one (1) copy to each person listed in Appendix B.¹⁰⁴ A copy of each filing is also to be provided to the Commission's contractor for public records duplication, International Transcription Services, Inc., Suite 140, 2100 M St., N.W., Washington, D.C. 20037. Copies of all filings will be available for public inspection in the Commission's public reference room, 1919 M St., N.W. Washington, D.C.

97. IT IS FURTHER ORDERED, that the motion filed by Alascom, Inc., to compel AT&T to file data IS DISMISSED.

98. IT IS FURTHER ORDERED, that the November 30, 1987, motion filed by Alascom, Inc., requesting acceptance of its supplemental data filing IS GRANTED.

99. IT IS FURTHER ORDERED, that the motion for leave to file pleading out of time, filed by General Communication, Incorporated on March 2, 1987, IS GRANTED.

100. IT IS FURTHER ORDERED, that the motion for leave to file, late filed Comments, filed by the State of Alaska on March 5, 1987, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX A

This appendix lists supplemental filings made before this Joint Board that are not individually in the text of the order. This listing does not include *ex parte* filings.

List of Supplemental Filings in CC Docket No. 83-137 since release of NPRM:
Feb 17, 1987

Sept. 10, 1987	Alascom letter to Alaska congressional delegation responding to letter from Chairman Fowler to delegation
Jan 27, 1988	Letter submitting GCI's SEC Form 10-Q
Jan 28, 1988	Alascom prefiled direct testimony in Alaska PUC rate case
Feb 9, 1988	Supplemental comments of Alascom
	AT&T opposition to Jan. 28, 1988 supplemental comments of Alascom

Feb. 22, 1988

AT&T comments on Alascom
Jan. 22, 1988 filing

Mar. 7, 1988

Alascom response to AT&T
comments of Feb. 22, 1988

Mar. 31, 1988

State of Alaska comments on
AT&T's Feb. 22, 1988 com-
ments

Chief Economist

Colorado Public Utilities Commission

1580 Logan Street

Office Level One

Denver, CO. 80203

Michael Korber

Wyoming Public Service Commission

122 W. 25th Street

Cheyenne, WY. 82002

Jim Lanni

Rhode Island Public Utilities Commission

100 Orange Street

Providence, RI. 02903

Lorraine Plaga

Alaska Public Utilities Commission

420 L. Street

Suite 100

Anchorage, AK. 99501

Allen Roll

North Dakota Public Service Commission

State Capitol Building

Bismark, ND. 58505

Chris Herberger, Staff

House Special Committee on Telecommunications

Alaska State Legislature

House of Representatives

Box V

State Capitol

Juneau, AK. 99811

APPENDIX B

Amended Service List for CC Docket No. 83-1376.

Commissioner E. Bruce Hagen

North Dakota Public Service Commission

State Capitol Building

Bismark, ND. 58505

Chairman Susan M. Knowles

Alaska Public Utilities Commission

420 L. Street

Suite 100

Anchorage, AK. 99501

Chairman William E. Long

Michigan Public Service Commission

Mercantile Building

6545 Mercantile Way

P.O. Box 30221

Lansing, MI. 48910

Commissioner Nels J. Smith

Public Service Commission

The State of Wyoming

Herschler Building

122 W. 25th Street

Cheyenne, WY. 82002

Ronald G. Choura

Michigan Public Service Commission

6545 Mercantile Way

Lansing, MI. 48910

Rowland Curry

Texas Public Utilities Commission

7800 Shoal Creek Blvd.

Suite 400 N

Austin, TX. 78757

Charles D. Gray

National Association of Regulatory Utility

Commissioners

Room 1102

ICC Building

Constitution Avenue and 12th Street, NW

P.O., Box 684

Washington, D.C. 20044

Carl Hunt

APPENDIX C

Parties may obtain copies of the model B spreadsheets from the Federal Communications Commission staff either in hard copy or on diskette. The diskette form of the model runs on Lotus 1-2-3, Version 2.01, software.

For further information call (202) 632-9342. For copies of the model contact Rose Crellin, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554. Copies may be hand delivered or picked up at 1919 N Street, N.W., Rm 544 Washington, D.C. 20554.

FOOTNOTES

¹ Integration of Rates and Services, 50 Fed. Reg. 41714 (Oct. 15, 1985).

² Section 410(c) provides that, prior to Commission action questions concerning the separation of common carrier property and expenses must be referred to a Federal-State Joint Board for preparation of recommendations. The Commission may also refer other common carrier communications issues of mutual state and federal concern to a Joint Board. Thus, development of Joint Board recommendations concerning separations change:

that may be necessary to implement a revised Alaska interstate market structure was required, while referral of the market structure issues was discretionary. 47 U.S.C. §410(c).

³ Pursuant to the Commission's rate integration policy, services between the contiguous states and Alaska, Hawaii, Puerto Rico, and the Virgin Islands (the noncontiguous points) are provided at rates that are equivalent to those prevailing for comparable distances in the contiguous states. Establishment of Domestic Communications Satellite Facilities. 35 FCC 2d 844, *aff'd on recon.*, 38 FCC 2d 665 (1972), *aff'd sub nom.* Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975). For an explanation of the development of the Commission's rate integration policy, see *Referral of Questions from General Communication Incorporated v. Alascom, Inc.*, 2 FCC Rcd 6479 (1987).

⁴ Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities of Alaska. FCC 86-68 (released Feb. 25, 1986) (*Bush Earth Station Ownership proceeding*).

⁵ Integration of Rates and Services. 2 FCC Rcd 607 (1987) (*Supplemental Notice*).

⁶ Integration of Rates and Services. 31 Fed. Reg. 1756 (May 15, 1986).

⁷ *Id.* at para. 5.

⁸ Alaska filed supplemental data on August 14, 1986 and GCI filed supplemental data on July 7, 1987.

⁹ Parties filing market structure proposals or comments included Alaska, AT&T, Alascom, GCI, ATA, the Municipality of Anchorage, d/b/a Anchorage Telephone Utility (ATU), and the National Telecommunications and Information Administration (NTIA).

¹⁰ Opposition comments were filed by Alaska, Alascom, GCI, AT&T and ATA. The GCI and Alaska opposition comments were filed on March 2 and March 5, respectively, and were accompanied by motions for leave to file comments late. We grant these motions. Reply comments were filed by Alaska, Alascom, GCI, AT&T, ATA, and ATU.

¹¹ On November 30, 1987, Alascom also filed evidentiary materials concerning Alaska intrastate toll rates, along with a motion requesting leave to file this material. AT&T opposed this request, in light of the fact that we are seeking further comment ourselves, and in order to develop a full record, we grant Alascom's motion. Interested persons may file comments on Alascom's submission in connection with their comments in response to this Order.

¹² The interim agreement provides that AT&T and Alascom will jointly provide interstate MTS and WATS service between Alaska and Hawaii at rates that reflect the cost of providing the service. These rates are higher than integrated rates would have been. On December 30, 1987, the Common Carrier Bureau directed AT&T and Alascom to continue providing joint service on the Alaska-Hawaii route pending Commission action on AT&T's Section 214 Application for authority to provide part of this service over facilities obtained from GCI, rather than in conjunction with Alascom. *Integration of Rates and Services*, 3 FCC Rcd 356 (1987).

¹³ Comments were filed by the State of Hawaii (Hawaii), Alaska, AT&T, GCI and Alascom.

¹⁴ Opposition comments were filed by Alaska, AT&T, Alascom, and Hawaii. Reply comments were filed by Hawaii, AT&T, and Alascom.

¹⁵ See *supra* note 4.

¹⁶ *Bush Earth Station Ownership proceeding* at 10 n. 33.

¹⁷ Response of the State of Alaska to Order Requesting Data and Inviting Comments at Section A.

¹⁸ According to data submitted by Alaska, per capita income for state residents in 1985 was 32% higher than the national average. Alaska stated that the cost of living for Anchorage was approximately 39% higher than the national average for the quarter of 1985, and that costs in locations outside Anchorage were 8% higher than in Anchorage. Response of the State of Alaska to Order Requesting Data and Inviting Comments Section G.

¹⁹ See Telephone Subscribership in the U.S., Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Sept. 8, 1987. Alaska's subscribership rate is below the national average of 92.9%, although four states had low penetration rates.

²⁰ Pacific Telecom, Inc., Alascom's parent, owns several exchange carriers in Alaska.

²¹ The annual intrastate revenue requirement for the Alaska exchange carriers is approximately \$120 million. Of this amount, approximately \$76 million is recovered from local service revenues and approximately \$44 million from Alascom settlements for intrastate toll services. See Data of the Alaska Telephone Association, Volumes I-VII, filed July 15, 1986, also Response of Alascom, Inc. to Federal/State Joint Board Request for Data Relating to the Alaska Market, filed July 1986, (Alascom Data Response) Volume III, Exhibit No. 20.

²² Competitive Common Carrier Services and Facilities, FCC 2d 1191, 1201 n. 33 (1984).

²³ On November 5, 1987, AT&T filed a petition with the Commission requesting a ruling that the present settlement arrangements between AT&T and Alascom constitute an unlawful division of charges under Section 201 of the Communications Act, 47 U.S.C. § 201. Alascom opposed the AT&T petition and Alaska and Hawaii filed comments concerning that petition. AT&T filed reply comments. Alascom also filed a Memorandum of Law concerning AT&T-Alascom Joint Service Arrangement and a White Paper on the AT&T-Alascom Joint Service Agreement with this Joint Board on July 24, 1988.

²⁴ AT&T estimates that the cost of providing Alaska interstate MTS and WATS service will exceed the \$132.1 million in revenues from those services by approximately \$97 million in 1988. AT&T states that the cost of providing Alaska interstate MTS service is \$229.3 million, comprised of: (1) Alaska exchange access--\$51.4 million; (2) Alascom settlements--\$115 million; AT&T contiguous states' distribution--\$30.2 million; and contiguous states' access--\$32.7 million. AT&T Comment Attachment A.

Alascom criticizes AT&T's use of a fully distributed cost methodology in developing this estimate, and argues that incremental cost of providing Alaska services is substantially less than the amount claimed by AT&T. In particular, Alascom argues that AT&T has overstated the cost of exchange access billing by about \$40 million because only the incremental cost caused by Alaska traffic should be considered. It notes that traffic increases do not change the interstate access costs caused with non-traffic-sensitive plant or cause proportional increases in the access costs for traffic-sensitive plant. Since AT&T pays the overwhelming majority of access costs, any additional traffic produces only a minor incremental increase in AT&T's access costs. Additionally, Alascom argues that AT&T's own network costs for the distribution of Alaska traffic are as great as AT&T states because much of this calling takes place in AT&T's off-peak periods, with incremental costs approaching zero for AT&T's own facilities. Alascom Comments at 31-32.

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Alaska contends that AT&T's revenue shortfall in the Alaska market is a natural consequence of rate integration and is balanced by AT&T's provision of service at averaged rates in its low cost markets.

²³ MTS and WATS Market Structure and Amendment of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board, CC Docket Nos. 73-72, 80-286 and 80-297, 2 FCC Rcd 2639 (1987).

²⁴ Alascom Data Response, Volume I, page 31-36.

²⁵ See *Integration of Rates and Services*, 2 FCC Rcd. 2347 (1987), *aff'd sub nom.* General Communication Incorporated v. FCC, No. 87-1112 (D.C. Cir. Dec. 10, 1987).

²⁶ See GCI Update of Response to FCC Order Requesting Data and Inviting Comments filed July 7, 1987 (GCI Data Update) at II 5.1-5.

²⁷ *Id.* at II 5.1.

²⁸ See GCI Response to FCC Order Requesting Data and Inviting Comments filed July 15, 1986; GCI Data Update.

²⁹ The agreement is part of a settlement of GCI's claims against AT&T in an antitrust suit filed by GCI against Alascom and AT&T, *General Communication Incorporated v. Alascom, Inc.*, CB4-523 (W.D. Wash., filed Apr. 24, 1984) GCI and AT&T filed a joint motion with the Commission on March 20, 1985, requesting that the Commission approve the agreement and substitute its terms for the interim relief that the Commission had previously granted GCI pending resolution of this proceeding, *Integration of Rates and Services*, FCC 84-512 (released Dec. 11, 1984) (*GCI Order*), *appeal dismissed sub nom.* American Telephone & Telegraph Co. v. FCC, 84-1005 (D.C. Cir. May 14, 1985). The Commission granted this request and accepted the Carrier Lease Agreement portion of the AT&T-GCI settlement agreement, *Integration of Rates and Services*, FCC 85-235 (released May 1, 1985). The Commission decision was subsequently vacated and remanded, *Alascom, Inc. v. FCC*, No. 85-1279 (D.C. Cir. Jan. 27, 1987). In response to the Court's decision, the Commission vacated that order, as well as the *GCI Order* *Integration of Rates and Services*, 2 FCC Rcd 2396 (1987). Alascom subsequently filed a motion with the Court requesting that it direct the Commission to void the Carrier Lease Agreement. The Court rejected Alascom's motion, finding that the Court had not ruled on the lawfulness of the agreement, *Alascom, Inc. v. FCC*, No. 85-1279 (D.C. Cir. June 9, 1987). GCI's antitrust suit against Alascom and Alascom's counterclaim against GCI and AT&T were resolved in a settlement agreement in *GCI v. Alascom, Inc.*, CB4-523 (W.D. Wash., May 10, 1988). On May 24, 1988, Alascom, in furtherance of this settlement agreement, filed a letter withdrawing its opposition to the terms and conditions of the Carrier Lease Agreement, and indicating that it is not opposed to continuation and termination of the agreement according to the terms adopted on March 20, 1985.

³⁰ GCI is entitled to receive 696 circuits beginning April 1, 1988, 720 circuits beginning October 1, 1988, 576 circuits beginning on the 1989 anniversary date of the Carrier Lease Agreement, 384 circuits beginning on the 1990 anniversary date, and 192 circuits beginning on the 1991 anniversary date. The agreement expires on the 1992 anniversary date.

³¹ However, the Commission noted that alternative means of implementing rate integration might exist.

³² See *infra* paras. 38-40.

³³ See *infra* paras. 41-42.

³⁴ See *infra* paras. 47-49.

³⁵ See *infra* paras. 50-51.

³⁶ Under the existing arrangements, rate integration applies only to interstate MTS and WATS. AT&T and Alascom also provide interstate private line services at rates based on the own costs. The Alaska interstate private line market structure, accordingly, not the primary focus of this proceeding, MTS and WATS Market Structure Inquiry (Phase II), 92 FCC 2d 836-37 (1982).

³⁷ As discussed in a subsequent section of this Order, we are making comment on the need for a cost adjustment mechanism for Alaska. Whether or not such a mechanism is adopted, we believe that interstate MTS and WATS rates for service to and from Alaska, including bush locations, should be fully integrated into AT&T's domestic rate pattern. We are not persuaded that this would unduly burden AT&T. As Alascom and Alas observe, the above-average cost (as estimated by AT&T) associated with serving Alaska today represents roughly the same portion of AT&T's interstate revenue that it did prior to AT&T divestiture. AT&T has not provided sufficient evidence that it has been significantly harmed in any way by nationwide rate averaging. Nor has a case been made that AT&T's competitiveness in the market has been materially affected by its support to Alaska. Finally, as has been stated by Alaska, Alascom, AT&T is fully compensated for the losses it experiences in the Alaska market through the rate averaging process.

³⁸ MTS and WATS Market Structure, 81 FCC 2d 177 (1950).

³⁹ MTS and WATS Market Structure Inquiry, 92 FCC 2d 1 (1982).

⁴⁰ Subsequent to the Commission's decision authorizing competitive entry, GCI, a new entrant in the interstate Alascom telecommunication market, filed a petition with the Commission seeking interim relief to address what it believed to be anti-competitive biases in the existing market structure. December 11, 1984, the Commission granted GCI's petition providing it with interim relief pending resolution of the issue in this proceeding concerning the Alaska market structure, *supra* note 31.

⁴¹ The question of intrastate toll competition is not before us in this proceeding, and our endorsement of an open entry policy for the provision of interstate service does not imply an open entry policy should or should not be adopted for provision of intrastate services in Alaska. That is, of course, an issue for the Alaska PUC. However, we invite interested parties to comment on the effects, if any, that a decision by the Alaska PUC to open the intrastate market to competitive entry would have on the interstate market structures under consideration in this Joint Board.

⁴² See our discussion of the need for a carrier of last resort, *infra* paras. 29-30.

⁴³ Section 1 of the Communications Act states that the mission was created:

(for the purpose of regulating . . . communication by wire and radio so as to make available, so far as possible to all the people of the United States a rapid, efficient, nationwide and worldwide wire and radio communication service with adequate facilities at reasonable charges . . .)

⁴⁴ 47 U.S.C. § 151.

⁴⁵ See Amendment of Part 67 of the Commission's Decision and Order, 96 FCC 2d 781 (1984), modified, MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, Decision and Order, CC Docket No. 80-286, 50 Fed. Reg. 939 (1985), *recon. denied*, FC

released Jan. 30 1986), further modified, 2 FCC Rcd 2953 (1987). This program permits an additional interstate assignment of local loop costs in excess of specified levels. It is designed to permit high cost telephone companies to keep local rates lower than they otherwise would be.

⁴⁷ See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, Decision and Order, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 939 (1985), *recon. denied*, FCC 86-56 (released Jan. 30, 1986), *modified*, 31 Fed. Reg. 1371 (1986), *further modified*, 2 FCC Rcd 2953 (1987).

⁴⁸ See, e.g., MTS and WATS Market Structure, 93 FCC 2d 241, 266-67 (1979).

⁴⁹ Alacom Comments at 8-9.

⁵⁰ Alaska Reply Comments at 5-6.

⁵¹ AT&T provides interstate service throughout the contiguous states. Competitive IXC services are also available to most subscribers in the contiguous states. Intrastate interexchange service is provided by the Bell Operating Companies, AT&T and a number of competitive carriers pursuant to state authorizations.

⁵² See *supra* para. 18.

⁵³ AT&T would accomplish this by creating two Alacom study areas for separations purposes. See AT&T Comments at 27-28.

⁵⁴ See, e.g., Alacom Further Comments at 18-19.

⁵⁵ AT&T supports its contention that additional costs could be allocated to the intrastate jurisdiction by applying intrastate toll rates from other states to Alacom's intrastate traffic volumes. AT&T concludes that application of these charges would increase revenues. See AT&T Comments at 20 and Attachment C. We do not find this argument convincing. First, AT&T fails to account for differences in intrastate calling patterns. These patterns vary widely, and intrastate toll rates that may be reasonable in light of the traffic patterns within a particular state, may not produce reasonable results when applied to intrastate traffic in a state with different calling patterns. Second, variations in the division of intrastate costs between toll and local exchange services could significantly affect the validity of this analysis. While Alaska local exchange rates do not appear to be above average in urban areas, they are substantially higher in rural areas. We emphasize that this Joint Board must consider the overall level of the Alaska intrastate cost allocation, not specific intrastate tariff rates.

⁵⁶ See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, Decision and Order, CC Docket Nos. 78-72 and 80-286, 50 Fed. Reg. 439 (1985), *recon. denied*, FCC 86-56 (released Jan. 30, 1986), MTS and WATS Market Structure and Amendment of Part 67 (New Part 36) of the Commission's Rules, 2 FCC Rcd 2639 (1987).

⁵⁷ See MTS and WATS Market Structure and Amendment of Part 67 (New Part 36) of the Commission's Rules, 2 FCC Rcd 2639 (1987).

⁵⁸ See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules, Memorandum, Opinion and Order on Reconsideration and Supplemental Notice of Proposed Rule Making, CC Docket Nos. 78-72 and 80-286, 2 FCC Rcd 3349 (1987), Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, 2 FCC Rcd 6333 (1987).

⁵⁹ The Federal-State Joint Board in CC Docket No. 80-286 recently expressed similar concerns in recommending that the allocator for Category 423 circuit equipment be frozen at 1985 levels for all IXCs, in large measure, to avoid a substantial increase in Alacom's intrastate revenue requirement. See

Amendment of Part 67 of the Commission's Rules, Recommended Decision and Order, 2 FCC Rcd 2551, 2564-65 (1987). This recommendation was subsequently adopted by the Commission. See MTS and WATS Market Structure and Amendment of Part 67 (New Part 36) of the Commission's Rules, 2 FCC Rcd 2639 (1987).

⁶⁰ Our current findings should not be construed as support or opposition to future decisions made by other Joint Boards regarding separations issues.

⁶¹ 47 U.S.C. § 151.

⁶² AT&T Reply Comments at 9.

⁶³ On November 3, 1987, AT&T filed a Section 214 Application with the Commission, seeking authority to serve Alaska using GCI facilities. See File No. W-P-C-6136. Alacom filed a petition to deny or in the alternative, to hold the AT&T application in abeyance until the issues in this docket are decided. The States of Alaska and Hawaii filed comments on AT&T's application. AT&T opposed the Alacom petition to deny. Alacom filed a reply to the AT&T opposition. On November 21, 1988, the Commission released an order granting AT&T's application, conditioned on the outcome of the market structure inquiry of this docket. American Telephone & Telegraph Company, DA-1774.

⁶⁴ See AT&T Comments at Attachment A. See *supra* note 24 for a brief discussion of the derivation of this estimate.

⁶⁵ AT&T states that the remaining \$18 million in support for Alaska service can be reduced through competition and more efficient network design. AT&T Comments at 26-27.

⁶⁶ AT&T Reply Comments at 9.

⁶⁷ See *supra* para. 50.

⁶⁸ See Alacom Further Comments at 26-27, and Alacom Reply Comments at 10-11.

⁶⁹ Alacom Reply Comments at 12.

⁷⁰ Alacom Comments at 10, 29-30.

⁷¹ The Alacom intrastate toll rate structure is currently under investigation by the Alaska Public Utilities Commission (Docket U-87-25). One of the primary issues regarding Alacom's proposed rate design is the allocation of revenue requirement per MTS mileage band.

⁷² While Alacom initially opposed the continuation of the Carrier Lease Agreement in its comments, it has subsequently withdrawn its opposition. See *supra* note 31.

⁷³ See Alacom Comments at 37-38 and GCI Data Response.

⁷⁴ GCI states that interstate traffic bound for rural Alaska is transmitted by satellite from the contiguous states to an Alacom entry earth station, and then, in most cases, retransmitted by satellite to its final destination. GCI argues that it would be more rational to route these calls directly between the originating or terminating telephone company office and an AT&T switch in the contiguous states. See GCI Comments at 7, and GCI Reply Comments at 21.

⁷⁵ Alacom questions the function, feasibility, cost estimates and system reliability of the proposed GCI network and states that the risk to lifeline services in the event of GCI failure do not justify acceptance of the plan. Alacom Opposition Comments at 38-42 and Attachment F.

⁷⁶ GCI's proposed network would consist of four classes of new earth stations and a small number of microwave spurs located in Alaska. GCI's Seattle gateway earth station would be expanded and a network management center would be added. GCI's network would provide direct connection between each Alaska Class V end office and AT&T's 4 ESS in Seattle. GCI comments at 20-21 and Appendix b.

⁹⁸ *Id.* at 21.

⁹⁹ The Carrier Lease Agreement is scheduled to expire by its own terms in 1992.

¹⁰⁰ GCI Reply Comments at 9.

¹⁰¹ GCI Comments at 19.

¹⁰² GCI Reply Comments at 3.

¹⁰³ Alaska's comments on this subject are discussed in more detail in the section concerning the objectives of this proceeding. See *supra* para. 21.

¹⁰⁴ See Alaska Comments at 29; Alascom Comments at 16-18.

¹⁰⁵ Alaska Reply Comments at 16. An AT&T POP in Alaska could increase the intrastate cost allocation by, in large measure, eliminating the effect of distance as a factor in application of the separations procedures.

¹⁰⁶ The Ozark Plan for revised jurisdictional separations procedures was adopted by the Commission in 1970, and included allocation factors that, in many cases, increased the allocation of exchange company costs to the interstate jurisdiction. See Separations Procedures, 26 FCC 2d 247 (1970).

¹⁰⁷ Elimination of relative state and interstate average length of haul as a factor in separations would substantially increase Alascom's intrastate cost allocation.

¹⁰⁸ These subsidy mechanisms could lead to uneconomic facility duplication by encouraging competitive entry by carriers based on the subsidy mechanism rather than a competitive marketplace analysis.

¹⁰⁹ See *infra* paras. 82-83.

¹¹⁰ ATU also raises separations arguments, contending that the Ozark separations procedures should be applied to Alaska for an additional five years since those procedures were not implemented in Alaska until five years after the procedures became effective in the contiguous states. See ATU Reply Comments at 5. However adoption of this proposal, by itself, would not prevent significant shifts in jurisdictional cost allocations if major changes in the Alaska market structure were implemented. Accordingly, this proposal would not adequately address our revenue requirement neutrality concerns.

¹¹¹ Although equal access ballooning has already taken place in many urban areas in Alaska, the restructuring of the Alaska market would create a new service environment. Thus, Plan A proposes a new round of ballooning to select an interexchange carrier for Alaska residents.

¹¹² For example, the useful life of the Aurora and Telstar satellites is expected to end in the early 1990's.

¹¹³ For example, parties are to provide an estimate of any changes in costs of service which may result due to implementation of either plan. Where it is not possible to fully quantify these changes, parties are requested to approximate the range of improvement and/or detriment.

¹¹⁴ See *supra* para. 43 and 45.

¹¹⁵ As stated previously, Alascom will be expected to file a formal cost allocation proposal if cost allocation rules are necessary to implement the market structure adopted.

¹¹⁶ See *supra* note 31.

¹¹⁷ See *supra* note 6.

¹¹⁸ For this purpose, Alascom may use its Form 41 report and GCI may use its 10-K report filed with the Securities and Exchange Commission.

¹¹⁹ See GCI and Alascom Responses to Order Requesting Data and Inviting Comments, filed July 15, 1986. See also Integration of Rates and Services, FCC 86J-2 (released May 6, 1986).

¹²⁰ See Order Inviting Comments and Request for Data, 27 Docket 86-297, FCC 86J-4, released July 15, 1986. We will analyze data using a computer model of the B Separation Manual to determine the existence and extent of any revenue requirement shifts. Separations data for 1987 is to be submitted on the Part 31-Part 07 Conformity Spreadsheet (Version 1.0B) and the 1988 data is to be supplied on the Part 32B B Manual Conformity Spreadsheet (Version 1.05). See Appendix C for information on how to obtain these spreadsheets.

¹²¹ On December 24, 1986, Alascom filed a motion asking the Joint Board to require that AT&T file data on the cost of providing interstate and intrastate interLATA telecommunication service to remote locations in the contiguous states to allow comparison of these data with the cost of service to rural remote areas in Alaska. ATA filed in support of Alascom's motion. AT&T opposed Alascom's motion, asserting that the data requested by Alascom is irrelevant to this proceeding and that such data is not available to AT&T because most of the variation in the cost of service in the contiguous states involves access service provided by the exchange carriers. In light of our tentative conclusion, discussed in a previous section of the Order, that the continuation of full Alaska rate integration and the avoidance of revenue requirement shifts between the jurisdictions should be among our objectives in this proceeding, we believe that this information is not necessary at this time. In development of our recommendations. Thus, we dismiss Alascom's motion, without prejudice.

¹²² See *supra* para. 6.

¹²³ AT&T Comments at 20, n.2.

¹²⁴ Integration of Rates and Services, 62 FCC 2d 693 (1976).

¹²⁵ Overnight mail or courier service must be used for delivery of filings to the the Joint Board Commissioner and a member located in Alaska.

ATTACHMENT 11

FOR FURTHER INFORMATION CONTACT:
Andrew M. Duchovny, Assistant
Regional Counsel, U.S. Environmental
Protection Agency, 841 Chestnut
Building, Philadelphia, PA 19107. (215)
597-8252.

Dated: June 21, 1993.
William T. Wisniewski,
Acting Regional Administrator, U.S.
Environmental Protection Agency, Region III.
[FR Doc. 93-15522 Filed 6-30-93; 8:45 am]
BILLING CODE 6560-50-01

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 28, 1993.

The Federal Communications
Commission has submitted the
following information collection
requirement to OMB for review and
clearance under the Paperwork
Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be
purchased from the Commission's copy
contractor, International Transcription
Service, Inc., 2100 M Street, NW., suite
140, Washington, DC 20037. (202) 857-
3800. For further information on this
submission contact Judy Boley, Federal
Communications Commission, (202)
632-0276. Persons wishing to comment
on this information collection should
contact Jonas Neihardt, Office of
Management and Budget, room 3235
NEOB, Washington, DC 20503, (202)
395-4814.

OMB Number: 3060-0130

Title: Private Fixed, Mobile and
Radiolocation Services
Supplementary Information to FCC
Form 574

Form Number: FCC Form 574-B

Action: Extension of a currently
approved collection

Respondents: Individuals or
households, state or local
governments, non-profit institutions
and businesses or other for-profit
(including small businesses)

Frequency of Response: On occasion
reporting requirement

Estimated Annual Burden: 300
responses; 1 hour average burden per
response; 300 hours total annual
burden

Needs and Uses: FCC Rules require the
applicants operating on frequencies
below 27.5 MHz file the FCC Form
574-B in conjunction with the FCC
Form 574. This additional data will
enable the FCC to comply with treaty
agreements. The FCC Licensing

Division will collect and maintain the
data. Treaty personnel will report the
data as required.

Federal Communications Commission.
William F. Caten,
Acting Secretary.
[FR Doc. 93-15601 Filed 6-30-93; 8:45 am]
BILLING CODE 6712-01-01

[DA 93-755; CC Docket No. 93-1376]

Alaska Federal-State Joint Board to Convene a Hearing in Anchorage Alaska on Thursday, July 1, 1993

June 23, 1993.

The Alaska Federal-State Joint Board
in CC Docket 83-1376 will convene a
hearing on Thursday, July 1, 1993, at
9:30 a.m. in Anchorage, Alaska (1:30
p.m. a.d.t.). The hearing will be held to
receive testimony from the citizens of
Alaska and other interested persons on
the following:

(1) The Tentative Recommendation
and Order Inviting Comments, FCC 93]-
1, released by the Federal-State Joint
Board on May 17, 1993;

(2) The implementation plan filed by
Alascom, Inc. on June 7, 1993;

(3) The American Telephone and
Telegraph Company (AT&T) response
filed on June 7, 1993; and

(4) The AT&T Petition to Terminate
the Joint Services Agreement (AT&T
Customer Benefit Plan) filed March 31,
1993.

FCC Chairman Quello and FCC
Commissioners Duggan and Barrett will
participate by means of videoconference
facilities in Washington, DC. State
Commissioners Susan Knowles
(Alaska), Dean J. "Joe" Miller (Idaho),
Bruce Hagen (North Dakota), and David
Rolka (Pennsylvania) will also
participate in the hearing.

The hearing will convene at the video
conferencing facilities at 1049 W. 5th
Ave., Anchorage, Alaska. Persons
wishing to testify either in person or via
audio links within the State of Alaska
should contact Lorraine Kenyon, Alaska
Public Utilities Commission, at (907)
276-6222. Space at the Anchorage
videoconference facilities is limited.
Members of the public interested in
listening to the meeting may do so at the
Alaska Public Utilities Commission,
Public Hearing Room, Third Floor, 1016
W. 6th Avenue, Anchorage, Alaska. In
Washington, DC, the public may listen
to the meeting at the FCC, room 856,
1919 M Street, NW. Additional
information concerning this hearing
may be obtained from Lorraine Kenyon,
Alaska Public Utilities Commission, at
(907) 276-6222 or from Rose Crellin,

Common Carrier Bureau, FCC, at (202)
632-1292.

Interested persons may also provide
written testimony or other comments
until July 12, 1993. An original and five
copies should be filed with the
Secretary, Federal Communications
Commission, 1919 M Street, NW.,
Washington, DC 20554. Additional
copies should be sent to the following:
three copies to Peggy Reitzel, Common
Carrier Bureau, Federal
Communications Commission, 1919 M
Street, NW., Washington, DC 20554; and
one copy to ITS, Inc. the Commission's
contractor for public records
duplication, 2100 M Street, NW., Suite
140, Washington, DC 20037, (202) 857-
3800. Comments will be available for
inspection and photoduplication in
room 239, 1919 M Street, NW.,
Washington, DC 20554, 9 a.m. to 4:30
p.m. Monday-Friday. Copies may
additionally be obtained from ITS, Inc.

Parties should also send copies of
filings to the following Alaska Joint
Board Members and their staffs: Hon.
Bruce Hagen, North Dakota Public
Service Commission, State Capitol
Building, Bismarck, North Dakota
58505; Hon. Susan M. Knowles, Alaska
Public Utilities Commission, 1016 West
6th Avenue, Suite 400, Anchorage,
Alaska 99501; Hon. Dean J. "Joe" Miller,
Idaho Public Utilities Commission, 472
West Washington, Boise, Idaho 83702;
Hon. David Rolka, Pennsylvania Public
Utilities Commission, P.O. Box 3265,
Harrisburg, Pennsylvania 17105;
Lorraine Kenyon, Alaska Public Utilities
Commission, 1016 West 6th Avenue,
Suite 400, Anchorage, Alaska 99501;
Eileen Benner, Idaho Public Utilities
Commission, 472 West Washington,
Boise, Idaho, 83702; Debra Kriete,
Pennsylvania Public Utilities
Commission, P.O. Box 3265, Harrisburg,
Pennsylvania 17105; Ronald G. Chouna,
c/o Michigan Public Service
Commission, 6545 Mercantile Way, P.O.
Box 30221, Lansing, Michigan, 48910;
and Rowland Curry, Texas Public
Service Commission, 7800 Shoal Creek
Blvd. Suite 400N, Austin, Texas 78757.

Federal Communications Commission.
William F. Caten,
Acting Secretary.
[FR Doc. 93-15736 Filed 6-30-93; 8:45 am]
BILLING CODE 6712-01-01

Applications for Consolidated Proceeding

1. The Commission has before it the
following mutually exclusive
applications for a new FM station:

CERTIFICATE OF SERVICE

I, Barbara Frank, a secretary in the law offices of Koteen & Naftalin, hereby certify that true copies of the foregoing "COMMENTS OF ALASCOM, INC." have been served upon the following by first-class United States mail, postage prepaid, this 12th day of July, 1993:

*Chairman James H. Quello
Federal Communications Commission
1919 M Street, N.W. - Room 802
Washington, D.C. 20554

*Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W. - Room 826
Washington, D.C. 20554

*Commissioner Ervin S. Duggan
Federal Communications Commission
1919 M Street, N.W. - Room 832
Washington, D.C. 20554

**Commissioner Susan M. Knowles
Alaska Public Utilities Com.
1016 West 6th Avenue
Suite 400
Anchorage, AK 99501

**Commissioner Bruce Hagen
N. Dakota Public Service Com.
State Capitol Building
Bismark, ND 58505

**Commissioner Dean J. Miller
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702

***Commissioner David Rolka
Pennsylvania Public Utilities
Commission
P.O. Box 3265
Harrisburg, PA 17105

***Debra Kriete, Esq.
Pennsylvania Public Utilities
Commission
P.O. Box 3265
Harrisburg, PA 17105

*Kathleen Levitz, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

*Claudia Pabo
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Douglas Slotten, Esq.
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Patrick J. Donovan
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Peggy Reitzel
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

*Jay M. Atkinson
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W. - Room 257
Washington, D.C. 20554

*James R. Keegan
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6010
Washington, D.C. 20554

*Cecily C. Holiday
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6324
Washington, D.C. 20554

*Robert James
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 6310
Washington, D.C. 20554

*James N. Loughry
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 642
Washington, D.C. 20554

*Rose M. Crellin
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington, D.C. 20554

Charles D. Gray
National Assoc. of Regulatory
Utility Commissioners
ICC Building - Room 1102
Constitution Ave. & 12th St. N.W.
P.O. Box 684
Washington, D.C. 20044

**Eileen Benner
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702

**Lorraine Kenyon
Alaska Public Utilities Com.
1016 West 6th Avenue
Suite 400
Anchorage, AK 99501

Richard H. Rubin, Esq.
David Condit, Esq.
AT&T
Room 3263D2
295 North Maple Ave.
Basking Ridge, NJ 07920

**Rowland Curry
Texas Public Utilities Commission
7800 Shoal Creek Blvd.-Suite 400N
Austin, TX 78757

**Barry Payne
North Dakota Public Service
Commission
State Capitol Building
Bismark, ND 58505

James Bradford Ramsay
Deputy Assistant General Counsel
NARUC, ICC Building - Room 1102
Constitution Ave. & 12th St., NW
Washington, D.C. 20444-0684

**Ronald G. Choura
Michigan Public Service Com.
6545 Mercantile Way
Lansing, MI 48910

John Katz
Representative of the Governor
Hall of States
444 North Capitol Street, N.W.
Washington, D.C. 20001

*Joe Dixon Edge, Esq.
Hopkins, Sutter, Hamel & Park
888 16th Street, N.W.
Washington, D.C. 20006

Herbert E. Marks, Esq.
Squire Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington D.C. 20044

Joanne M. Salvatore, Esq.
National Exchange Carrier
Association, Inc.
1100 So. Jefferson Road
Whippany, NJ 07981

ITS
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Lisa M. Zaina, Esq.
OPASTCO
2000 K Street, N.W., Suite 205
Washington, D.C. 20006

**Heather H. Grahame, Esq.
Bogle & Gates
1031 West 4th Avenue
Suite 600
Anchorage, AK 99501

Dr. T. P. Quinn
Assistant Deputy Under Secretary
of Defense C3
Office of the Assistant Secretary
of Defense
Pentagon, Room 3E160
Washington, D.C. 20301

Paul J. Berman, Esq.
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20044

Linda K. Smith, Esq.
Robert M. Halperin, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Phyllis E. Hartsock, Esq.
U.S. Dept. of Commerce
National Telecommunications and
Information Administration
Room 4717
14th Street & Constitution
Avenue, N.W.
Washington, D.C. 20230

William K. Keane, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20036

Martin T. McCue, Esq.
Linda Kent, Esq.
Associate General Counsel
USTA
Suite 800
900 19th Street, N.W.
Washington, D.C. 20006

H. Richard Juhnke
Sprint Communications Company,
L.P.
1850 M Street, N. W.
Suite 1110
Washington, D. C. 20036

/s/ Barbara Frank
Barbara Frank

- * Served by Hand Deliver
- ** Served by Federal Express
- *** Served by UPS Overnight