

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2225 SCOMM 88: HOUSE TELECOMMUNICATIONS TASK FORCE, 1993

parties stated that the phase-down of the frozen factor used by Alascom to allocate interexchange circuit equipment would cause an increase in intrastate revenue requirements of approximately \$32 million. Alascom stated that this increase was caused by a drop in the factor from its current level of 86% interstate to the level of 62% interstate. Thus, a factor drop of 24% produces an approximate \$32 million shift or \$1,333,333 for each 1% change in the allocator.

130. In its implementation plan, Alascom provided a "Case A Analysis" that estimated the financial impact of the Tentative Recommendation. In its analysis, Alascom factored in the impact of the transition mechanisms outlined in the Tentative Recommendation. Case A showed that intrastate revenue requirements would decrease during the early years due to the \$150 million ACR payment and then steadily increase in the later years as a result of the decreases in the allocation factor and in AT&T usage. Alascom shows that the largest increase in intrastate revenue requirements occurs between 1996 and 1997, approximately \$12 million.

131. We have examined the differences between the transition mechanisms, and their timing, that are contained in the Tentative Recommendation and that are being recommended in this Final Recommended Decision. When these differences are superimposed on Alascom's Case A Analysis, the increased intrastate revenue requirements predicted by Alascom to start in 1997 will largely disappear given a \$150 million plant reduction. Particularly significant is the change in our recommendation regarding the frozen factor. As shown above, the previously recommended drop of 11% in the interstate allocation factor would have produced a shift to intrastate in the order of \$14.7 million.¹⁷¹ Under our current recommendation, this shift will not occur. Further, as discussed below, we are recommending that the transition payment be applied to provide a substantial reduction of the COE switching investment costs. Together, these actions should practically eliminate intrastate cost shifts related to investment. The anticipated decreases in AT&T usage of Alascom's facilities will have very little impact if the majority of Alascom's net COE switching investment and an adequate amount of plant in other plant accounts are no longer on the books to be allocated between the jurisdictions.

132. We also considered possible cost shifts to the intrastate jurisdiction occurring after all the transition mechanisms have been implemented. We have considered the materials in the record and have adjusted the Part 36 Separations Study (base case) provided by Alascom in response to Staff Data Request No.

¹⁷¹ This figure assumes an approximate \$1.3 million increase in state costs per 1% change in allocator.

6¹⁷² to reflect forecasted growth factors taken from Alascom's Case A Analysis¹⁷³ and the transition mechanisms, including the transition payments recommended in this order.¹⁷⁴ We conclude that there would be no intrastate cost shift given our transition mechanisms and market recommendations.

133. In summary, we conclude that the recommended transition payment to reduce Alascom's investment costs, coupled with the retention of the frozen factor and the crediting of specific Alascom plant accounts for reduction, should achieve the goal of revenue requirement neutrality.

b. Accounting Issues

134. We recommend that the transition payment be applied exclusively to offset certain designated plant account balances.¹⁷⁵ Section 220 of the Communications Act gives the Commission the authority to prescribe the manner in which carriers may keep their regulated books of account. The Commission has adopted accounting rules pursuant to Section 220; they are found in part 32 of the Commission's rules.¹⁷⁶ Part 32 provides no specific accounting instructions for the transition payment in this situation. Therefore, the Commission should be able to prescribe the proposed accounting treatment as long as that treatment is consistent with the purpose of the payment. The purpose of the transition payment is to ameliorate the effects of jurisdictional shifts and ensure that the Commission's universal service mandate is not undermined by termination of the JSA.

135. Accordingly, we recommend that the \$150 million transition payment be made in two installments (\$75 million on

¹⁷² Alascom 1993 Separations Study, Business as Usual, ROR, 14%, designated "1993 AKBAS93" by Alascom. See Response to Data Request 6, filed July 23, 1993.

¹⁷³ See Alascom's Implementation Plan Response (July 7, 1993).

¹⁷⁴ The adjustments include: (1) the implementation of transition mechanism included herein from 1994-1997; (2) two separations factor changes: tandem (reduced from 59% interstate to 25% interstate) and dial switching (reduced from 88% interstate to 25% interstate) to reflect the potential loss of AT&T usage in the non-Bush areas after the transition period; (3) plant reductions, net of taxes, to reflect the transition payment; and (4) tax rates: 34% federal and 9.5% state.

¹⁷⁵ The transition payment is to be applied to plant balances prior to the separations process.

¹⁷⁶ 47 C.F.R. §§ 32.1 et seq.

March 1, 1994 and \$75 million when the JSA terminates) and be applied to reduce the book cost of depreciable Alascom assets. The payment should not be applied to non-depreciable assets such as "Land" (Account 2111) nor to amortizable assets such as "Capital Leases" (Account 2681).¹⁷⁷ The application of the transition payment to the remaining depreciable assets only, recognizes that future, as well as current, Alascom customers (including AT&T) should benefit from the transition payments.

136. We further recommend that the payment amount be assigned to specific depreciable asset accounts in accordance with the following guidelines. Of particular concern is the potential increase in intrastate costs caused by a change in the jurisdictional allocation of switching investment that could result from decreased AT&T usage of Alascom's switches under the new market structure. Therefore, we recommend that "Central Office Switching" (Account 2210) be designated first for reduction and by an amount necessary to produce little or no increase in intrastate revenue requirements as a consequence of AT&T's decreased switching usage. The remaining depreciable accounts should be reduced proportionately based on their relationship to the total net investment in depreciable assets (excluding the Alaska Spur).¹⁷⁸ It is our conclusion, based on adjustments to Alascom's Part 36 Separations Study, that allocation of the \$150 million in this manner will ensure that our revenue requirement neutrality goal is met. This allocation will also mitigate incentives for making more selective distribution of the transition payment in response to competitive pressures with resulting undesirable effects on our revenue requirement neutrality objective.

137. In order to ensure proper assignment of the transition payment to depreciable asset accounts, we recommend that Alascom be required to file with the Commission a detailed proposal for its treatment of the transition payment. We further recommend that the Commission review Alascom's then current end-of-year balances (by account) for gross investment, depreciation reserve, and net investment to verify that the \$150 million transition payment (to be paid in two installments of \$75 million each) is applied in accordance with this decision.

¹⁷⁷ We also recommend that the balance in "Deep Sea Cable" (Account 2425) not be reduced. We agree with AT&T that this account should not be reduced, principally because it is highly unlikely that the wholly interstate usage of this facility will change under the new market structure. Thus, the Alaska Spur is not expected to be the cause of any intrastate cost shifts.

¹⁷⁸ No plant account should be credited with an amount greater than the net balance in that plant account to prevent the new net balance in the account from falling below zero.

c. AT&T's Use of Alascom Facilities

138. The Tentative Recommendation proposed that AT&T's obligation to use Alascom facilities be phased-out by reducing the percentage of traffic that AT&T must place on the Alascom system over four years in four equal increments or on a schedule proposed by the parties and accepted by the Commission. Those filing comments primarily addressed the timing of AT&T's obligation and not the methodology proposed under the Tentative Recommendation.

139. We have reconsidered our previous approach on this matter and recommend that AT&T be required to buy a fixed dollar amount of service from Alascom as opposed to a specific minutes requirement. Our review concluded that it would be administratively impracticable to identify specifically whether the minutes standard should apply to transport minutes, switched minutes or both. Furthermore, employing a dollars standard would simplify the process, would protect against rapid losses in interstate revenue streams to Alascom, thus further buffering the effects of the loss in AT&T's traffic, and would allow AT&T greater flexibility in deciding how to meet its purchase obligations in a manner best suited to its future construction plans. Consequently, we now recommend that AT&T be required to purchase a set level of dollars of service from Alascom during this phase of the transition period.¹⁷⁹

140. The purchase level for the phase down related to interstate MTS Common Carrier Services would be computed based on a declining percentage over the transition period applied to a baseline revenue amount. The baseline would be calculated as a function of the demand for transport and switching minutes for the last 12 months that the JSA was in effect multiplied by the new tariff rates for Alascom's Common Carrier Services.¹⁸⁰ The required level (percentage) would be reduced in increments every six months over the transition period until it reaches zero at the end of the period.¹⁸¹

¹⁷⁹ In order to achieve our objectives, this dollar commitment must be associated only with services currently provided to AT&T by Alascom under the JSA. For example, AT&T will not be able to meet its dollar commitment by purchasing intrastate services from Alascom.

¹⁸⁰ These new tariffs, as noted elsewhere in this order, would reflect Alascom's reduced costs after application of the transition payment installments.

¹⁸¹ The percentage of baseline revenues to be used for each six month period is as follows: 90% during the first period; 80% during the second period; 65% during the third period; 45% during the fourth period; and 20% during the last period. These percentages

141. We continue to recommend that AT&T and Alascom be allowed to propose jointly an alternative method for calculating AT&T's service obligation to use Alascom's Common Carrier Services on a declining scale for the second portion of our recommended transition period. If no joint alternative is forthcoming, our recommended method should be adopted.

C. Alascom Common Carrier Services Tariff

142. As previously discussed, it is our recommendation that the ultimate rate structure for Alascom's Common Carrier Services would be a tariff with two geographic rate zones based on the respective costs of its facilities monopoly and competitive operations.¹⁰² In order to achieve this new rate structure, a number of transitional steps must be taken. First, Alascom would be required to file a detailed CAP that explains how costs would be allocated between these two geographic rate zones. After the CAP has been approved or modified by the Commission, Alascom would apportion its costs to the two categories according to the CAP and then assign the costs within each category to major service subsets (e.g., switching, transport). Alascom's cost of service data and the data supporting the CAP would be reviewed and would be subject to an independent audit.

143. Once costs were properly defined, Alascom would estimate its demand for services and develop rates for inclusion in its Common Carrier Services tariff. The tariff would then be evaluated under the Commission's standard tariff review process. It is recommended that Alascom be directed to file that tariff as soon as possible, with an effective date of September 1, 1995, since a lawful tariff must be on file prior to the termination of the JSA. The Common Carrier Services tariff would be effective upon, and coincident with, the date of termination of the JSA. It is further recommended that the tariff be refiled annually for the first few years with the Commission later determining if less frequent tariff filings would be appropriate.

VI. Miscellaneous

A. Tariffs, Leases, and Contracts

144. The Tentative Recommendation suggested that Alascom be required to file interstate tariffs for its MTS and Common

will ensure a controlled reduction to AT&T's purchase obligation that protects the public interest.

¹⁰² Use of the geographic rate zones should not be interpreted as placing restrictions on the rate design within each zone.

Carrier Services. Also, any contracts or leases for Alascom or AT&T services would be filed for review with the Commission.

145. There were no comments opposing the recommendations that Alascom's MTS and Common Carrier Services be tariffed or that contracts or leases for Alascom or AT&T services be filed with the Commission for review. AT&T supported the tariffing requirement for Alascom;¹⁸³ and Alascom, as a common carrier, is required by the Communications Act to file tariffs.¹⁸⁴

146. In addition, we believe it is necessary that, if contracts or leases between Alascom and AT&T for services are authorized by the Commission, they be filed for Commission review to assure that the market transition fulfills the Joint Board's goals of fostering economic efficiency and competition and that service is provided in a just and reasonable manner.¹⁸⁵

B. Alaska Spur

147. In the Tentative Recommendation, we proposed that Alascom must file with the Commission for its review all contracts and agreements for interstate service on the Alaska Spur, including any technical standards that may be incident thereto.

148. In its Implementation Plan Alascom stated that it would like to engage in market pricing for the Alaska Spur.¹⁸⁶ GCI expressed concern about Alascom's intention and stated that, since Alascom controlled this essential facility, it must not be permitted to engage in extortionate pricing.¹⁸⁷ AT&T supported cost-based pricing for the Alaska Spur and also requested that the rates be tariffed, or offered on a non-discriminatory contract basis, until an alternative, competitive fiber optic facility linking Alaska and the Lower 48 becomes available.¹⁸⁸

¹⁸³ AT&T Comments (June 28, 1993) at 29.

¹⁸⁴ 47 U.S.C. § 203. These new tariffs, as noted elsewhere in this Final Recommended Decision, would reflect Alascom's reduced costs after application of the transition payment installments.

¹⁸⁵ The terms, rates, and conditions of any contract between AT&T and Alascom must be available to all similarly situated customers.

¹⁸⁶ Alascom Implementation Plan (June 7, 1993) at 24.

¹⁸⁷ GCI Comments (June 28, 1993) at 7.

¹⁸⁸ AT&T Comments (June 28, 1993) at 29.

149. The comments generally support the requirement that the terms and conditions offered by Alascom for use of the Alaska Spur must be public and non-discriminatory. Whether Alascom uses a tariff or files various contracts with the Commission, this requirement must be met. Regarding the pricing for the use of the Alaska Spur, the Joint Board recommends that Alascom must comply with relevant cost-of-service principles. Since the contracts, leases, or tariffs governing use of the Alaska Spur will be submitted for Commission review, the Joint Board concludes that pricing issues can be considered further at that time as necessary.

C. Monitoring

150. In the Tentative Recommendation we stated that progress in achieving the proposed market structure should be monitored by the Commission, using information obtained from existing sources. No party suggested any significant refinement in the level of monitoring that was recommended, and we continue to believe that this facet of the Tentative Recommendation is adequate. We further conclude that the changes to our initial market structure proposal recommended in this order do not rise to a level that requires modification to our monitoring mechanism. Consequently, we recommend that the Commission monitor the progress made in achieving the market structure proposed in this order by employing existing information sources.

D. Procedural Issues

151. Alascom has presented several challenges to how the Joint Board conducted this proceeding. First, it disputes the classification of this Docket as a nonrestricted rulemaking proceeding for the purpose of the Commission's ex parte rules.¹⁸⁹ Related to this claim is Alascom's second contention that the Joint Board has not complied with the Commission's ex parte rules applicable to nonrestricted rulemakings.¹⁹⁰ Third, Alascom claims that the Joint Board has failed to comply with the open meeting requirements of the Government in the Sunshine Act ("Sunshine Act").¹⁹¹ Finally, Alascom alleges that the Commission violated its rules by failing to provide written notice to the parties of a public Alaska Joint Board hearing held in Anchorage on July 1,

¹⁸⁹ Alascom Comments (July 12, 1993) at 56-59.

¹⁹⁰ See, e.g., PTJ Letter of November 10, 1992 addressed to the State Joint Board Commissioners; Alascom Request for Supplementation of Record (June 15, 1993); Alascom Comments (July 12, 1993) at 59-61.

¹⁹¹ PTJ Letter of November 10, 1992 addressed to the State Joint Board Commissioners; Alascom Comments (July 12, 1993) at 59-62.

1993, or Federal Register notice prior to that day.¹⁹² As the discussion of each claim below indicates, none of these contentions has any merit.

1. Classification of CC Docket No. 83-1376 as a Nonrestricted Rulemaking

152. Alascom asserts that the Commission did not comply with Section 410 of the Communications Act and with various provisions of the Administrative Procedure Act ("APA") when it established the Alaska Joint Board proceeding as an informal notice and comment rulemaking subject to non-restricted "permit but disclose" ex parte rules. Section 410(a) provides that a joint board established pursuant to that section has "all the jurisdiction and powers conferred by law upon an examiner provided for in section 3105 of Title 5 [i.e., an administrative law judge ("ALJ")], and shall be subject to the same duties and obligations." 47 U.S.C. § 410(a). Likewise, section 410(c), under which the Alaska Joint Board was established,¹⁹³ provides that a joint board created under that section "shall possess the same jurisdiction, power, duties, and obligations as a joint board established under [section 410(a)]." 47 U.S.C. § 410(c). Alascom argues that these provisions require the Alaska Joint Board to follow the same APA prohibitions on ex parte presentations that apply to formal rulemakings and adjudications conducted by ALJs.

153. Alascom's argument is not supported by the language of either Section 410 or any other law, including the APA. Section 410 itself does not prohibit ex parte presentations but merely states that joint boards have the same powers, duties, and obligations as ALJs. Although ALJs are subject to the APA, nowhere in the APA is there a duty or obligation imposed on an ALJ not to receive ex parte presentations under any circumstance. Rather, the APA ex parte prohibitions, 5 U.S.C. § 557(d)(1), apply only in those proceedings "required by statute to be determined on the record after opportunity for an agency hearing. . . ." 5 U.S.C. §§ 553(c), 554(a). The Supreme Court has strictly applied the requirement that this language (i.e., "on the record after

¹⁹² Alascom Request for Supplementation of Record (June 15, 1993); Alascom Comments (July 12, 1993) at 61.

¹⁹³ 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, Notice of Proposed Rulemaking, FCC 85-520, paras. 2, 25 (released Sept. 27, 1985), 50 Fed. Reg. 41/14 (1985). The order establishing the Alaska Joint Board stated that the proceeding would be subject to non-restricted ex parte procedures. It is unclear why Alascom waited eight years to object to this decision.

opportunity for an agency hearing") be present in the statute under examination to trigger the hearing provisions of the APA. See U.S. v. Florida East Coast Railway Co., 410 U.S. 224, 234-38 (1973); see also AT&T v. FCC, 572 F.2d 17, 22 (2d Cir.) cert. denied, 439 U.S. 875 (1978). Section 410 of the Communications Act does not contain this required "on the record" language, or anything remotely resembling it. In addition, Section 410(a) expressly provides that proceedings conducted under that section shall be conducted "in such manner as the Commission shall . . . prescribe."¹⁹⁴ It is thus apparent that the Section 410(a) language concerning "duties and obligations" of joint boards was not intended to dictate the procedural requirements of joint board proceedings.

154. Moreover, as discussed below, the legislative history of Section 410 confirms that Congress did not intend the language quoted by Alascom to require "on the record" joint board hearings with the associated ex parte prohibitions. Rather, the legislative history indicates that the references to ALJs in Section 410 were intended simply to limit the joint board's authority to the issuance of "recommended" decisions and thereby to protect the authority of the Commission to issue a final decision.

155. By way of background, in its original form prior to 1952, section 410(a) provided that joint boards "shall be vested with the same powers and be subject to the same duties and liabilities 'as in the case of a member of the Commission when designated by the Commission to hold a hearing [under section 409].'" See H.R. Rep. No. 1750, 82d Cong., 2d Sess., reprinted in 1952 U.S. Code Cong. & Ad. News 2234, 2255. In 1952, however, Congress amended section 409 and abolished the former procedure whereby single commissioners could preside over cases designated for hearing. In an attempt to conform section 410(a) to the new requirements of section 409, Congress concurrently amended section 410(a) to provide that joint boards "shall have all the jurisdiction and powers conferred by law upon the Commission, and shall be subject to the same duties and obligations." See id. (emphasis added).

156. From the Commission's perspective, this delegation of authority proved "undesirably broad" and the Chairman of the FCC advised Congress in 1955 that "it does not seem likely that the Commission would ever find it desirable [under the language of the 1952 amendment] to refer any matter to a joint board." See H.R. Rep. No. 2540, 84th Cong., 2d Sess., reprinted in 1956 U.S. Code Cong. & Ad. News 4134, 4139. The Chairman requested that Congress

¹⁹⁴ In this regard, the Commission's rules provide that Joint Board proceedings are generally subject to non-restricted ex parte procedures. 47 C.F.R. § 1.1206(b) (10).

change the statutory language to give joint boards the same jurisdiction that is conferred on a hearing examiner, which "would be more nearly what Congress must have intended and would make the section more useable to the Commission in the administration of the act." Congress granted this request and in 1956 amended section 410(a) to give joint boards "the same power as is now conferred on hearing examiners, thus giving the full Commission an opportunity to act before a final determination is made in a particular case referred to a joint board." *Id.* at 4134 (emphasis added). The legislative history thus indicates that Congress amended section 410(a) of the statute to make clear that a joint board cannot take final action and that it acts essentially in an advisory capacity to assist the Commission.

157. This interpretation also is supported by the express language of Section 410(c), added by Congress in 1971, providing for mandatory referral to a joint board concerning matters pertaining to jurisdictional separations and discretionary referral for any other matter relating to common carrier communications of joint federal-state concern. As noted above, section 410(c) provides that joint boards established under that section "shall possess the same jurisdiction, powers, duties, and obligations as a [section 410(a) joint board], and shall prepare a recommended decision for prompt review and action by the Commission." 47 U.S.C. § 410(c) (emphasis added). See also S. Rep. No. 362, 92d Cong., 1st Sess., reprinted in 1971 U.S. Code Cong. & Ad. News. 1511, 1514 ("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."). Again, the emphasis is on precluding a joint board's ability to take final action, rather than mandating formal adjudicative procedures.

158. Further, nowhere in the legislative history is there any indication, either expressed or implied, that Congress intended to mandate that joint boards conduct formal proceedings subject to restricted ex parte procedures. To the contrary, the legislative history to the enactment of section 410(c) evidences a congressional understanding that joint board proceedings would be conducted as informal, notice and comment rulemaking proceedings, not as APA on-the-record proceedings. After referring to a previous FCC federal-state joint board conducted as an informal rulemaking, the Senate Report indicated that the 1971 amendments "would make mandatory the procedures voluntarily followed in the prior joint board proceeding." *Id.* at 1514. The legislative history then explicitly indicated that joint board referrals under section 410(c) would follow "once the Commission institutes a notice of proposed rulemaking proceeding" *Id.* at 1515. Consistent with this approach, the Commission generally treats joint board proceedings as informal notice and comment rulemakings. See 47 C.F.R. § 1.1206(b)(10) (1992); Amendment of

Subpart H, Part 1 of the Commission's Rules and Regulations Concerning Ex Parte Communications and Presentations in Commission Proceedings, 2 FCC Rcd 6053, para. 17 (1987) ("Joint Board proceedings ordinarily are in the nature of rulemakings and therefore follow generally the non-restricted ex parte rules.").

159. It is thus abundantly clear that section 410 of the Communications Act and the APA do not require use of restricted ex parte procedures for joint board proceedings. Moreover, this proceeding is not one that would require a formal, evidentiary hearing with restricted ex parte procedures as a matter of "basic fairness." See Sangamon Valley Television Corp. v. USA, 269 F.2d 221, 224 (D.C. Cir. 1959). While Alascom asserts that the proceeding implicates "conflicting private claims to a valuable privilege," id., this is not the case. Rather, the proceeding involves a determination of the future market structure for Alaska telecommunications in which multiple competitors will be free to enter and exit the market. In making its recommendations to the Commission, the Joint Board must balance various policy considerations that affect numerous parties in the interstate market. Even though the recommendations include termination of the JSA and a transitional payment, which is necessary to accomplish certain policy goals, the proceeding cannot be characterized as involving competing claims to a valuable privilege.¹⁵⁵

160. In sum, the Joint Board's use of informal notice and comment rulemaking procedures is fully in accord with the law.

2. Compliance with Ex Parte Procedures

(a) November 1992 meetings

161. Alascom claims that various meetings among the Joint Board State Commissioners and individual parties held in November of 1992 would violate the FCC's ex parte rules unless each ex parte meeting was memorialized in the record and public comment could be made on each such record.¹⁵⁶ A similar issue was raised in Alascom's June 15, 1993, Request for Supplementation of Record.

¹⁵⁵ In addition, subsequent to Sangamon Valley, the Supreme Court admonished the courts not to force an agency to provide procedures more demanding than those required by statute or the Constitution absent "extremely compelling circumstances." Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 543 (1978). Such circumstances do not exist here.

¹⁵⁶ PTI Letter of November 10, 1992 signed by Alan Y. Naftalin addressed to the Joint Board State Commissioners. See also Alascom Comments (July 12, 1993) at 62.

162. Alascom's arguments are without merit because the Joint Board State Commissioners and Staff complied with the Commission's ex parte procedures. Section 1.1206 of the Commission's rules prescribe requirements that govern ex parte contacts. Oral ex parte contacts are permissible, provided that any data or arguments not already in the record are submitted in writing for the record. The public record establishes that the ex parte rules were followed in the conduct of the November, 1992 meetings at issue. Three of the four State Joint Board Commissioners and various State Staff collectively conducted separate meetings with representatives of Alascom, AT&T, GCI and the State of Alaska. At the commencement of each meeting, the Joint Board members reminded each party of its responsibilities under the rules to submit a summary of the discussion for the record. The public record reveals that each party complied in fact with the rules and submitted a summary.¹⁹⁷

(b) Overland Consulting, Inc.'s. Participation and Compliance with the Ex Parte Rules

163. In its July 12, 1993, Comments on the Tentative Recommendation, Alascom argues that a private presentation by Overland to the State Commission Members and Staff of the Joint Board at the Seattle meeting in July 1992 constitutes an ex parte rule violation. Alascom stated its belief that Overland was hired by the State of Alaska, a party to the proceedings. Alascom alleges that neither the fact nor substance of this meeting is reflected in the record, as required by the Commission's rules. Alascom also asserts that the Memorandum of Principles reflecting the State Members' views, issued after the Seattle meeting, indicates that Overland's report influenced the State Members.¹⁹⁸

164. Alascom's argument rests on its belief that Overland is working for the State of Alaska. However, this fundamental assumption is incorrect. A review of Attachment 10, the Request for Proposal governing Overland's contractual responsibilities, reveals the following:

1. The contract solicitation was issued by

¹⁹⁷ State of Alaska Ex Parte Meeting Report of November 16, 1992 (November 23, 1992); AT&T Report of Ex Parte Meeting of November 16, 1992 (November 18, 1992); Alascom Ex Parte Report of November 16, 1993 (November 20, 1993); GCI Ex Parte Report, CC Docket 83-1376, of November 16, 1993 (November 17, 1993).

¹⁹⁸ Alascom expressed similar concern in a letter addressed to Lorainne Kenyon, dated July 14, 1993, which was sent in response to her letter of July 9, 1993, which transmitted additional data requests related to Alascom's June 7, 1993 Implementation Plan.

the APUC, which is a division of the Department of Commerce and Economic Development. RFP, p. 5, no. 1.

2. The purpose of the contract was for "[s] ervices of a contractor to aid the APUC in its investigation of the interstate issues associated with the Master Agreement...and [t]he contractor shall analyze and makes recommendations concerning. . . the issues before the CC Docket No. 83-1376 Joint Board." Id.

3. The issuing office of the RFP is the APUC. RFP at 6.

4. The scope of work required under the contract was anticipated to be supplementary to staff analysis:

"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." RFP at 24, no. 2t.¹⁹⁹

165. Based on these provisions of the RFP, it is clear that Overland is working to assist Commissioner Knowles in her capacity as a member of this Joint Board, not for the State of Alaska. While obviously the APUC is part of the State of Alaska, there is a very significant distinction between the APUC's participation on the Joint Board and the State's participation as a party before the Joint Board. If the State of Alaska's and the APUC's interests were one and the same, there would be no reason for the State of Alaska to submit pleadings before the Joint Board since a member of the APUC (Commissioner Knowles) sits on the Joint Board. While Commissioner Knowles does not officially represent the view of the APUC on the Joint Board, it is significant to note that, other than two letters from its Chairman, the APUC has not filed pleadings in the Joint Board proceeding other than the initial Petition for Rulemaking that formed the basis for the FCC's initiation of a Notice of Inquiry regarding Alaska market issues. See Notice of Inquiry, CC Docket No. 83-1376, 96 FCC 2d 567 (January 4, 1984). Also significant is the fact that the initial Petition was filed by both the State of Alaska and the APUC, which clearly shows that these entities view themselves separately.

¹⁹⁹ Alascom's Comments (July 12, 1993).

166. Additionally, Overland's work has been supervised by Commissioner Knowles and APUC Joint Board staff in their Joint Board capacities, not as employees of the State of Alaska or the APUC. This relationship was confirmed by the APUC Chairman in recent correspondence, which stated that "Overland was hired by the Alaska Public Utilities Commission to assist Commissioner Knowles and staff member Lorraine Kenyon to perform their official duties with the Alaska Joint Board."²⁰⁰

167. The scope of work described in the RFP as quoted above in Point No. 4 demonstrates that Overland's work pursuant to the contract is the functional equivalent of State Joint Board staff, since the scope of Overland's work was contemplated by the RFP to be coordinated with State Joint Board staff work.

168. Since Overland was not representing an interested party to this proceeding, the Joint Board State Commissioners and Overland were free to meet and were not required to make an ex parte filing for the meeting. We note, however, that Overland's principal work product was a report dated July 21, 1992, which was entered into the public record of CC Docket 83-1376.

3. Applicability of the Sunshine Open Meeting Requirement to Joint Board

169. Alascom has challenged various meetings among Joint Board Commissioners that were closed to the public as violative of the open meeting requirement of the Government in the Sunshine Act.

²⁰⁰ Letter of July 22, 1993 addressed to Mr. John R. Ayers (emphasis supplied). This letter was submitted by Alascom to the public record in this proceeding by cover letter dated August 11, 1993. Although Alascom suggests that this correspondence bolsters its challenge to Overland's role in this proceeding, we disagree. We know of no prohibition, nor is one cited by Alascom, against one of the Joint Board State Commissioner's retention of consulting services to supplement staff analysis of the complex issues in this proceeding. Further, we reject Alascom's unsupported suggestion that the APUC's funding of this activity, rather than payment by the Commission, was somehow inappropriate. As noted above, the APUC hired and paid for a consultant to assist Commissioner Knowles without the authorization or assumption of any financial obligation by the Commission. Thus, Overland's compensation hardly qualifies as the type of expense item subject to Commission allowance and reimbursement under Section 410(a) of the Communications Act. Moreover, the APUC's payment for these services to Commissioner Knowles cannot be characterized as the indirect satisfaction of a governmental function that, in any measure, augmented the Commission's budget.

This challenge was raised with respect to the convening of meetings in Seattle among some of the Joint Board State Commissioners in July of 1992; meetings in Chicago of the four Joint Board State Commissioners and State Staff in October of 1992; meetings in Los Angeles among some of the Joint Board State Commissioners in November of 1992; and meetings in Washington, D. C. among some of the Joint Board Commissioners in February of 1993.²⁰¹

170. The Alaska Joint Board is comprised of four State members and three FCC Commissioners. Alascom argues that the fact that a quorum of the Joint Board (the four state members) met privately on several occasions violates the Government in the Sunshine Act.

171. We note initially that discussions at which a quorum of FCC commissioners are present constitute an FCC "meeting" under the Sunshine Act if the discussions are "sufficiently focused on discrete proposals or issues as to cause or be likely to cause the individual participating members to form reasonably firm positions regarding matters pending or likely to arise before the agency." FCC v. INT World Communications, Inc., 466 U.S. 463, 471 (1984) (quoting K. Berg & S. Klitzman, An Interpretive Guide to the Government in the Sunshine Act 9 (1978) ("Interpretative Guide"). Thus, with respect to any meeting of the full Alaska Joint Board in which specific proposals or recommendations concerning the Alaska market are discussed, or any such meetings among Joint Board members in which three FCC commissioners are present, the Sunshine Act requires advance notification and the opportunity for public observation. Alascom has not alleged that any such non-public meetings occurred.

172. As to whether the Sunshine Act governs meetings of State Joint Board members constituting a quorum of the Joint Board when less than a quorum of FCC commissioners are present, we find that such meetings are not subject to the open meeting requirements of the Sunshine Act. While the Sunshine Act requires that any "meeting of an agency" be open to the public, 5 U.S.C. § 552b(b), we conclude that the discussions at issue were not "meeting[s] of an agency" governed by that Act.

173. The term "agency," for purposes of the Sunshine Act, means "any agency . . . headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency." 5 U.S.C. § 552b(a)(1). The term "meeting" means "the deliberations of at least the number of individual agency

²⁰¹ PTI Letter of November 10, 1992, signed by Alan Y. Naftalin addressed to the Joint Board State Commissioners; Alascom Comments (July 12, 1993) at 59 60.

members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business." 5 U.S.C. § 552b(a)(2). Finally, the term "member" means "an individual who belongs to a collegial body heading an agency." 5 U.S.C. § 552b(a)(3).

174. The statutory language makes clear that to be considered a "meeting" of the agency, there would have to be deliberations of individuals belonging to the collegial body heading the agency, *i.e.*, FCC commissioners. See Hunt v. NRC, 611 F.2d 33 (10th Cir. 1979). Most of the meetings referenced by Alascom included no FCC members and thus were not "meetings of the agency."

175. Although not raised by Alascom, we note that some FCC commissioners did attend two of the gatherings of the State members of the Joint Board mentioned by Alascom in their pleading. At one of these sessions two FCC commissioners who are members of the Joint Board independently made very brief appearances at the beginning but left before substantive discussions commenced. They did not participate in any way in deliberations of issues before the Joint Board and, thus, consistent with the definition of meeting, the open meetings requirement of the Sunshine Act did not apply.

176. There has been only one session involving the State Joint Board members where an FCC commissioner who is a member of the Joint Board attended and engaged in substantive discussions. We do not believe a session attended by only a single FCC Commissioner can be deemed "deliberations of" a "number of individual agency members" within the meaning of the term "meeting." Further, this one FCC Commissioner could not have been in the position to determine the "joint conduct or disposition of official agency business," 5 U.S.C. § 552b (a) (2), as the term "joint" necessarily implies the presence of more than one member of the Commission. Accordingly, we conclude that no Sunshine Act violation occurred.²⁰²

4. The Anchorage Public Hearing

²⁰² In our view, the three FCC commissioners on the Joint Board also are not a subdivision of the Commission. A subdivision must be "authorized to act on behalf of the agency," 5 U.S.C. § 552b (a). That requirement is not met since only the full Joint Board (of which the FCC commissioners are a minority) is authorized to make recommendations to the Commission and only the full Commission can act on those recommendations. Nor is the Joint Board a subdivision of the Commission, as it is not a subdivision of the "collegial body." See 5 U.S.C. § 552b (a) (1); Hunt v. NRC, 611 F.2d at 336 n.2.

177. On July 1, 1993, the Joint Board conducted a hearing in Anchorage in which interested persons, most especially Alaska residents, were permitted to make presentations regarding the proposals under consideration by the Joint Board. The federal and state commissioners participated in person and via satellite and telephone link-up. Alascom alleges that the Commission violated its own rules by failing to provide written notice to the parties of the Alaska proceeding regarding this public hearing and by failing to publish public notice of the meeting in the Federal Register until the day of the hearing.

178. Section 1.423 of the Commission's Rules, 47 C.F.R. Section 1.423 (1992), states that when the Commission requests oral argument in a rulemaking proceeding, it shall give written notice to the parties and publish notice in the Federal Register. As an initial matter, since this was a Joint Board hearing, not a Commission hearing, it appears that the rule is not applicable and that no violation occurred. But, to the extent the rule may be viewed as applying since all three FCC commissioners were present, it is not apparent what injury Alascom has suffered. It had actual notice of the meeting -- indeed, an Alascom representative made a presentation at the July 1 public hearing. To the extent a violation of section 1.423 occurred, it is difficult to construe it as anything more than harmless error, particularly given that reply comments to the hearing were permitted until July 12, 1993, and ex parte presentations were permitted thereafter.

VIII. Ordering Clause.

179. ACCORDINGLY, pursuant to the authority contained in Section 410 of the Communications Act of 1934 AS Amended, IT IS ORDERED THAT this Final Recommended Decision be transmitted to the Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

SCOMM

88:2

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

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DA 93-755

ALASKA FEDERAL-STATE JOINT BOARD TO
CONVENE A HEARING IN ANCHORAGE ALASKA ON
THURSDAY, JULY 1, 1993

CC DOCKET NO. 83-1376

Released: 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. (EDT)). 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 93J-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, D.C. 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, D.C., the public may listen to the meeting at the FCC, Room 856, 1919 M Street, N.W. 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, N.W., Washington, D.C. 20554. Additional copies should be sent to the following: three copies to Peggy Reitzel, Common Carrier Bureau, Federal Communications Commission, 1919 M. Street, N.W., Washington, D.C. 20554; and one copy to ITS, Inc. the Commission's contractor for public records duplication, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800. Comments will be available for inspection and photoduplication in Room 239, 1919 M. Street, N.W., Washington, D.C. 20554, 9:00 AM to 4:30 PM 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. Choura, 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.

- FCC -

ALASKA JOINT BOARD PUBLIC HEARING

Anchorage & Washington, D.C.

7/1/93

Barbara Huff - Teamsters

- if it ain't broke don't fix it
- what is wrong with current arrangement?
- 1980 - AT&T agreed to the JSA
- MCI has entered the market
- where is the efficiency problem? Alascom employees are efficient
- Alascom has 80% of intrastate market
- what are the benefits of change in the market structure for Alaskans?
- Joint Board is not concerned regarding cost impacts on Alaskans
- Alaska economy is weak
- Joint Board need do nothing to change the market
- who is going to guarantee the proposed benefits
- no reason to depart from today's competitive market structure

Jack Anderson - State Chamber

- disaster if AT&T enters the Alaska market\
- 250 jobs of operators will be lost
- ancillary suppliers and services will be driven out of business by AT&T
- AT&T will wipe out the small locals, the PBX business
- Alascom supports many volunteer groups in Alaska
- We don't want Lear Jet management from Lower-48 or Bahamas
- JSA subsidy peanuts to AT&T

Roy Hundorf - CIRI (Alascom Board of Directors)

- most CIRI shareholders live below poverty line and he is concerned regarding action that would drive up their costs
- not enough notice on the Joint Board proposal - should postpone and add hearings in Alaska
- increased competition will not lead to lower prices for rural Alaska (it is a weak market)
- if it's working don't fix it
- troubled by abruptness of proceeding, lack of notice

Jeff Silverman - AFN

- affordable communication must continue
- don't want to be left out of the changes in telecommunications as they come

- rural residents are dependent on federal largess for many things for all goods and services
- in rural areas there is a greater dependency on smaller set of alternatives
- worried about withdrawal of service in rural areas

Julie Kafer - AFN

- communication vital in bush
- managed competition in health care won't work in the bush
- there will be "a lot of harm to our communities"

Rep. Eldon Mulder - East Anchorage District

- directed initiative campaign in favor of competition
- competition has worked in Alaska - prices have fallen and service has improved
- competition has been good for Alascom and GCI
- takes no position on AT&T proposal
- concerns regarding rural service were voiced against competition in the past and proved to be wrong

Lloyd Barber - President, Anchorage Communications Access TV Corp.

- there are rumors that AT&T entry into the market will cut off access to cable TV because AT&T is buying Prime Cable (note: this is incorrect)

Bonnie Jack - Political Consultant

- she is a community activist - objects to lack of notice of the hearing.
- strong advocate for competition
- loss of subsidy will hurt Alaskans; rates will rise
- she opposes wasteful duplication of electrical lines by _____ and MTA). In the same vein the Alascom fiber cable should not be duplicated by AT&T.

Willie Hensley - President of NANA, (Alascom Board of Directors)

- (Sen. Adams endorses his position)
- The Alaska bush is now tied to rest of world through telecommunications
 - timing and notice of the hearing were not adequate

- worst time for teleconference - rural Alaskans are working to survive
- danger of falling back from improvements in telecommunications made to date
- outside financial assistance is necessary for rural service.

Red Boucher -

- has been in contact with Joint Board on a number of occasions
- inquired of Commissioner whether there are plans for more hearings in Alaska before the issue resolved - Comm. Barrett's response not clear - left issue open
- Joint Board must hold hearings in Alaska
- offered to provide Larry Pearson studies performed for his legislative special committee on telecommunications
- cited wasteful duplication of cable capacity if AT&T builds its own facility
- concerned about future impact of technology on state

Sen. Kertulla -

- don't destroy a system that works well
- market forces didn't bring us modern telecom - it was Alascom and the State government - many battles with RCA and others
- what's the guarantee of future remote service
- don't give us more trouble, help us
- be careful with change - might lose something of value

Mike Poccarro - (Alascom Advertising Agency)

- carriers must serve the weakest and least able to pay
- he recounts experience with Marv Weatherly and building the bush communications network (says Alascom was not always willing to help develop the bush)
- competition is working now but would look carefully at further competition (from AT&T)
- what works in Lower 48 doesn't always work in Alaska
- this is very complex issue
- the Joint Board should have hearings in the bush
- give us information so we can help you

C.J. Zane - Holland America Lines/Westmark (testifying for Al Parrish, President)

- Westmark is heavy user of telecom
- concerned regarding brevity of notice for hearing and regarding impacts on rural service

- Joint Board must have guarantees, especially regarding intrastate service and possible rate increases.

Mike Elvindo - Pacific Rim Telecommunications

- couldn't get switched 56 kpbs service from Alascom or GCI
- AT&T doesn't appear ready to increase service further
- competition has been very effective in Alaska
- supports AT&T entry if rural Alaskans are taken care of

Ronald Duncan - GCI

- process has been underway for ten years
- when change is on horizon there are always calls for more study
- the Tentative Recommendation should be applied basically as proposed by the Joint Board
- GCI welcomes AT&T entry under the terms laid out by the Joint Board
- Tentative Recommendation good compromise and meets objectives set out nine years ago

D. Wilcox - General Manager for Alaska of AT&T

- everyone agrees present structure needs to change
- current Alaska market structure doesn't serve public interest
- there are 2 plans on the table
- the situation now is like farm animals about to be fed which are shouldering for position; comments of carriers focus on their own welfare and not that of the consumer
- AT&T's Consumer Benefit Plan will protect the bush which will benefit from rate reductions
- AT&T will buy the facilities (at net book value) at any location Alascom abandons
- AT&T fiber cable - 1) Alaska spur is full without compression, 2) AT&T fiber is state of the art
- duplication of facilities is inherent in the industry; you must always build ahead of demand
- price caps protect Alaskans from cost pass through due to construction of new facilities
- Comm. Miller asked Wilcox why AT&T failed to follow the J/B directive at ¶ 84 of the TR and file an implementation plan; he said AT&T has not complied with lawful requirements of order
- Wilcox responded that AT&T will not voluntarily pay Alascom any money - if ordered - will follow order
- Cable will take 3 years to build

- Wilcox said AT&T has studied whether there a way for ACR to be an investment for AT&T - we have studied extensively - can't find a way. Don't want to pay Alascom unless its an "Investment" for AT&T that will pay back.

John Ayers - GM Alascom

- there are proposals to eliminate JSA in favor of market forces; both fail to sustain service to all part of the State
- two proposals are subject to serious questions
- no one can explain consequences of implementation of the two plans
- Joint Board must preserve gains of the past and insure benefits in the future

7/93 Letter of Ketelyn Ohmer
7/93 Letter of Ashley Reed
7/93 Letter of Paul Reid (Sagaya Corp.)
7/93 Letter of Donald Long, Mayor of Barrow
7/93 Letter of Chuch Huntley, Huntley and Assoc.
7/93 Letter of Kevin Bruce, Northwest Strategies
7/93 Letter of Gov. Bill Sheffield
7/93 Letter of Abacus Computer Service
7/93 Letter of Carr Gottstein
7/93 Letter of Carr Gottstein (taking Back AT&T Endorsement)
7/93 Letter of C Graphics
7/93 Letter of Alissa Crandall
7/93 Letter of Cook Inlet Region Inc.
7/93 Letter of Details
7/93 Letter of Dennis DeWinter
7/93 Letter of Cathy Hart
7/93 Letter of Sen. George Jacko
7/93 Letter of Lynn Kenney
7/93 Letter of Kings Inn
7/93 Letter of Sen. Suzanne Little
7/93 Letter of Rep. Eileen MacLean
7/93 Letter of Microwave
7/93 Letter of Moonbeam Productions

7/93 Letter of Zoe Oakley
7/93 Letter of Production Plus
7/93 Letter of Brett Rawalt
7/93 Letter of Real Estate This Week
7/93 Letter of Tim Rittal
7/93 Letter of Seidl's Native Crafts
7/93 Letter of Sew Easy
7/93 Letter of Cindy Steward
7/93 Letter of Take Action Co.
7/93 Letter of Lisa Wolf
7/93 Letter of Donald Whit
7/93 Letter of Wayne Christainson, William Biller, John
and Judy Travlos, Joyce Powers, and Shannon Napier
7/93 Letter of Donna Weeks
7/93 Letter of Donald White
7/93 Letter of Larry McCormick
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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 those.

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 --

9
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, 'f 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.

13

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, Madamn Chairman.

SCOMM

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STATE OF ALASKA
HOUSE OF REPRESENTATIVES TELECOMMUNICATIONS TASK FORCE

IN RE:

Receive Technical Briefing
and Public Comment on
Proposals Currently Before
the Federal Communications
Commission/Joint Board, to
Restructuring the Alaska
Telecommunications Industry

TRANSCRIPT OF PROCEEDINGS

Friday, August 27, 1993

Anchorage, Alaska

Reported By:

Joy S. Brauer, RPR

1 IN ATTENDANCE:

2 Representative Bill Hudson
3 Representative Mike Navarre
4 Representative Brian Porter
5 Representative Kay Brown

6 ALSO PRESENT:

7 Red Boucher
8 John Ayers
9 Susan Knowles
10 Lorraine Kenyon
11 Dr. Larry Pearson
12 Dana Tindall
13 Gail Garey
14 Mike Porcaro
15 Mark Dinneen
16 Neil Slotnick
17 Jack Ryner
18 Martha Stewart
19 Doug Wilcox
20 Steve Conn
21 Francine Taylor
22 Barbara Huff
23 Julie Kitka
24 John Shively
25 Pat Abney
 Dick Traini
 *And Others

PRESENT VIA CONFERENCE PHONE:

 John Katz
 Bob Halperin
 *And Others

1 CHAIRMAN HUDSON: Woke everybody up. Good
2 morning, ladies and gentlemen. My name is Bill Hudson.
3 I'm the Chair, Chairman of the House Task Force on
4 Telecommunications appointed by Speaker Barnes during the
5 last session to monitor and to try to protect the
6 public's interest in the issue of restructuring telecom-
7 munications in the State of Alaska. This morning, August
8 27th, it's nice to be here in Anchorage, we have with us
9 one of the members of our task force, Representative Mike
10 Navarre from Kenai. Representative Harley Olberg who is
11 the other member, there were three of us appointed, is
12 not able to be here today because of illness. We had
13 discussed with him, he intended to be here but he was
14 unable to do so, and it's my understanding that Sandy
15 Provost is either here or going to be here to kind of
16 listen in and to represent his interest.

17 Also at the table Representative Brian
18 Porter, right over here to my left, and Representative
19 Kay Brown and Former Lieutenant Governor and one of my
20 colleagues in the House when I first came into the House,
21 Representative Red Boucher. Red is going to be
22 testifying today, and I've invited him to join us at the
23 table.

24 I'd also like to recognize the audience,
25 although there's many friends and people that I recognize

1 out there, but somebody that I've worked with is the
2 Former Commissioner of CNRA, Emil Nadi (phonetic), and
3 Emil, nice to have you today, sir. There will be many
4 others, of course, that are here to testify and some to
5 listen in. I believe we may be joined by the Speaker of
6 the House in time sometime this morning here, but in
7 order to get this going, we're going to go ahead and
8 start now.

9 The way I'd like to deal with this, as I've
10 given everybody kind of an outline of the agenda, we're
11 going to start out with Susan Knowles -- thank you for
12 joining us this morning, Susan -- who will be providing
13 us a briefing on the Joint Board proposal, and what I'm
14 going to do is I have a few questions after poring over
15 literally a foot of material that's been presented to my
16 committee over the time, and I'll be asking various
17 questions and asking in some cases for information and
18 perhaps for some documentation.

19 The interest of this committee or this task
20 force is to try to make certain and protect the consumer,
21 the people of Alaska, including rural Alaska as well as
22 urban Alaska. It's not a new subject. It's something
23 that's been around as long as I've been involved in
24 government. I can remember as a former commissioner of
25 the administration when we first created

1 telecommunications, combined all of the telecommuni-
2 cations in the State of Alaska, the subject was there.
3 So it's always been there.

4 Alaska is unique. It's a different state.
5 We have far-flung, vast geography, small population
6 centers, and different cost factors I think that probably
7 exist anywhere else in the nation, perhaps not in the
8 world. So what we're going to try to do as we go through
9 this is to make certain that we have a good, clear record
10 of what the proposals are. As much as anything else,
11 what I hope to achieve is to understand what's on the
12 table from the various entities out there, Joint Board,
13 I'd like to understand from the governor's office what
14 the administration's position is on the various
15 proposals. We're anxious to hear from AT&T and GCI and
16 Alascom and others that will testify and have an interest
17 in this, and ultimately from people representing
18 themselves, as well as Alaskan groups.

19 So with that, I'd like to get started this
20 morning. I'll ask you to give us your name and your
21 position for the record, and welcome to our committee.

22 COMMISSIONER KNOWLES: Thank you, Mr.
23 Chairman. My name is Susan Knowles. I'm a Commissioner
24 on the Alaska Public Utilities Commission. However, I'm
25 appearing before you today as a member of the -- what's

1 affectionately called the Alaska Joint Board, not as an
2 APUC commissioner. Appearing with me today and sharing
3 in these comments is a staff member of the APUC, Common
4 Carrier Specialist, Lori Kenyon.

5 Under the Communications Act, the FCC
6 establishes joint boards to deal with certain issues that
7 cross federal and state boundaries. Joint boards are
8 comprised of seven members, with four state members and
9 three federal members. In the case of the Alaska Joint
10 Board, the other state members come from Idaho, North
11 Dakota and Pennsylvania. Additionally, there is a staff
12 established to assist the Joint Board in its duties made
13 up of federal and state members.

14 The job of the Joint Board is to make a
15 recommendation to the full FCC, and in this instance,
16 this Joint Board was established in 1985 based on a
17 proceeding or within a proceeding that began in 1983. I
18 have personally served on the Joint Board since 1987. My
19 predecessor is Marvin Weatherly (phonetic), whom some of
20 you probably know.

21 This morning, I thought about what I should
22 say, given the fact that you are stepping into what is a
23 ten year proceeding which has got an enormous amount of
24 information that has been filed in it. It's extremely
25 technical in nature, a lot of it, and I'm sure you're

1 aware by now if you weren't from the get-go that there's
2 some level of contentiousness involved in this proceeding
3 because of varying interest of parties. So I tried to
4 put myself in your shoes and I decided that were I there,
5 I would want to ask and answer the following basic
6 questions, and I intend to have our remarks follow this
7 outline.

8 The first question is, why did the FCC
9 create this Joint Board. In other words, what issues is
10 the Joint Board addressing and why. The second question
11 is what process or procedures has the Joint Board used to
12 fulfill its responsibilities. Third, what proposals are
13 currently being considered by the Joint Board and lastly,
14 where does the Joint Board go from here.

15 You earlier mentioned that, Representative
16 Hudson, that you might have questions. I do hope that
17 you or Representative Navarre or other Representatives
18 present would feel free to interrupt me as I go along,
19 because I will unintentionally resort to the vernacular
20 and apologize in advance for that and would be pleased to
21 offer any further explanation.

22 So why did the FCC create this Joint Board?
23 What is it supposed to do? I've handed out to you quotes
24 from the actual order which states what the purposes are
25 and they are, one, to recommend, quote, any market

1 structure changes necessary to harmonize rate integration
2 and competition in the Alaska interstate market, close
3 quote, and two, to recommend, quote, any changes in
4 separations procedures relating specifically to Alaska
5 that may be required to implement any market structure
6 changes it recommends, close quote.

7 What does that really mean? Seems to be a
8 mouthful, at best. I think to really understand what the
9 Joint Board is attempting to do, it's necessary to go
10 over some background in the development of
11 telecommunications industry, both nationally and Alaska.
12 So I'm going to begin with is -- what I will call sort of
13 the golden book version of the history of telecommuni-
14 cations and I've given you a timeline to sort of
15 facilitate this discussion.

16 In the beginning, there was the Bell System.
17 They of course were around before the turn of the
18 century. The Bell System was comprised of the local Bell
19 companies, AT&T, the long distance company, Western
20 Electric which manufactured equipment, Bell Labs
21 involving research and development, et cetera, et cetera.

22 In the lower 48 essentially all
23 telecommunications services were provided by the Bell
24 System or a number of independent companies that were
25 interconnected with the Bell System to form a

1 comprehensive national network that operated by the same
2 rules. What were those rules? Essentially, local
3 companies were involved in providing both local service,
4 as well as toll service, state and interstate. The toll
5 services were provided in conjunction with the long
6 distance companies who provided the transmission between
7 the local companies and the local companies provided
8 access to the end users. The cost that the local
9 companies experienced were divided between state,
10 interstate and federal jurisdictions in accordance with
11 the cost separations manual that the FCC had adopted.

12 Those costs, the instate costs were in turn
13 dependent on what the local commission decided, as far as
14 how those should be divided between state toll and local.
15 In our case, the APUC essentially mirrors the FCC cost
16 allocations manual.

17 In any event, under this framework, all
18 companies used AT&T essentially as a central bank and
19 they combined all the costs of providing toll service and
20 they shared the revenues that were received from those
21 toll services. What you had is a situation where in some
22 areas of the country, costs were higher than rates and in
23 other areas they were lower, but in total, the toll rates
24 were designed to cover the costs of the overall system.

25 Now, this process of sharing costs, dividing

1 revenues, was called settlements, and as long as the
2 revenues that were collected were adequate to pay the
3 overall cost of the system, it really didn't matter
4 particularly how those particular rates related to costs
5 in an area or to a particular class of customers.

6 Additionally, in the lower 48, interstate
7 toll rates were based on nationwide average rates. In
8 other words, you pay the same amount for the same
9 distance call, regardless of the costs. So those were
10 the rules that were in effect until lo and behold, the
11 world began to change. Technological developments, the
12 fact that there was increasing awareness of this
13 disparity between what the rates were and costs were in
14 some markets. You had very persistent market entrants
15 who were eager to get involved in providing services,
16 governmental policies were involved, et cetera. Then
17 competition became the driving force in the world of
18 telecommunications.

19 As early as 1959, or maybe you want to look
20 at it as late as 1959, depending on one's perspective,
21 the FCC first authorized essentially competition in the
22 transmission area. They allowed companies to provide
23 their own services. Now in this day and age, that seems
24 sort of hard to believe that at one time people weren't
25 able to provide their own services, but in fact it just

1 wasn't done.

2 Subsequently, the FCC allowed carriers to
3 provide private line services for others. The FCC,
4 however, was still on a fairly conservative course, but
5 in 1977, there was a court decision which had the effect
6 of requiring the FCC to open the voice telecommunications
7 market to competition and MCI began actively competing
8 with AT&T. I'm sure you're aware the customer premises
9 equipment or telephones went through a similar evolution.
10 At one point, we all got that stuff from our telephone
11 company and of course now we are well aware and fully
12 expect that we can shop around and find the equipment we
13 want where we want.

14 I think it would be fair to say that before
15 1977, the prevailing philosophy at the FCC was that
16 the -- either the self provision of telephone service or
17 the few competitors providing private line service were
18 in fact supplementing our basic telephone network and
19 they were still very much focused on what benefits or
20 detriments the introduction of any competitive force
21 would have to the monopoly provider.

22 However, after 1977, the FCC clearly
23 embraced a pro competition philosophy as its own and
24 subsequently, competition rather than monopoly has become
25 essentially the policy norm.

1 January 1, 1984, the Bell System was broken
2 up through the modified final judgment. AT&T was
3 required to divest itself of its local companies and
4 those local companies were required to begin to offer
5 service to all interchange or long distance companies on
6 a non discriminatory basis. In other words, AT&T could
7 no longer serve the central banking function. The
8 settlements process as it existed was replaced by a
9 system of access charges.

10 The other initiative besides introducing
11 access charges that the FCC undertook at this time was to
12 consciously reduce the costs of service on the interstate
13 side. And this was in response to the pressures of
14 competition and an average rate system that they were
15 observing. In the early 1980s, GCI was certificated to
16 provide interstate service to Alaska.

17 Turning to the Alaska history, and trying to
18 put that into the national context, as I'm sure you're
19 aware, the long distance network was originally started
20 by the federal government and it was acquired by RCA
21 Alascom, Alascom's predecessor in 1970. At the time, the
22 network was extremely limited. There were well in excess
23 of 140 communities that either had no long distance
24 service or only occasional ham radio service. So
25 Alascom's first initiative was to put rural radio service

1 in communities in Alaska. That was subsequently replaced
2 by the smaller station satellite system ~~that we have in~~
3 place today.

4 Initially, there were just two lines, one
5 for the public to use and one for public health services.
6 Mean time, local companies were few and far between in
7 Alaska. The medium and larger cities had local companies
8 but there were none operating in rural Alaska. Between
9 1979 and 1985, there was a flurry of certifications and
10 local companies began to operate in most of rural Alaska
11 and you saw that a more structure that more closely
12 resembled what you had outside.

13 In 1977, a Joint Board was established also
14 typically called an Alaska Joint Board, the first Alaska
15 Joint Board, I guess, and its purpose was to look to see
16 how rate integration would be implemented for Alaska.
17 Now rate integration was the policy adopted by the FCC in
18 1972, which stated that with the advent of satellites,
19 the benefits of nationwide average rates ought to be
20 extended to Alaska, Hawaii and other offshore points. Up
21 to this point, however, Alascom had interconnected with
22 AT&T in the lower 48 and our interstate rates were really
23 a lot closer to international rates than they were to
24 interstate rates.

25 In 1980, AT&T and Alascom entered into a