

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672
2254 SCOMM 88: HOUSE TELECOMMUNICATIONS TASK FORCE, 1993 805

part of that bundle; but, contrary to Alascom's argument, they do not constitute the entire bundle.

The State understands that AT&T negotiated long and hard for additional features of the Master Agreement, including specifically the transfer of assets from Alascom to TUA. That proposed transfer, if consummated, would provide AT&T significant benefits. It would require Alascom/TUA to separate those assets pursuant to Section 36.126(e)(3) and not the frozen allocator of Section 36.126(d)(3), thus significantly reducing AT&T's costs of using the Alascom network. It would also place the interstate costs relating to Alascom's interexchange plant in NECA cost pools which are paid, in part, by interexchange carriers other than AT&T.

AT&T has long estimated, in this docket and elsewhere, that removal of the frozen allocator would reduce AT&T's costs going forward by approximately \$40 million a year.⁷⁸ Avoidance of the frozen allocator is what creates the \$32 million jurisdictional cost shift Alascom admits would arise under the Master Agreement. In the Joint Petition seeking approval of the Master Agreement, Alascom, TUA and AT&T also state that the proposed participation of the new TUA in NECA cost pools would cost other interexchange carriers -- and thus save AT&T -- \$8 million annually.⁷⁹

Ernst & Young has done an analysis to determine the value to AT&T of these two elements of the bundle of goods AT&T receives under the Master Agreement. Conservatively figured, when interest

⁷⁸ See Comments of the State of Alaska at 14.

⁷⁹ Joint Petition at 14.

rates and taxes are taken into account, an improvement in cash flow of \$40 million (\$32 million plus \$8 million) a year, even for only ten years, has a present value to AT&T of approximately \$147 million.⁸⁰

On the other side of the ledger, it does not appear to be of any material financial significance to PTI whether Alascom's interexchange assets are transferred to TUA. Under the Master Agreement, PTI would still, through TUA, use those same assets to provide regulated services and would earn a comparable rate of return from them regardless of which subsidiary owns and uses them.

Thus, the transfer of assets from Alascom to TUA is an action that has very significant benefits for AT&T and no significant costs for PTI. For Alascom to state, therefore, that the value of the assets it is selling to AT&T is equal to the consideration being paid by AT&T ignores the very significant benefits AT&T receives from other aspects of the Master Agreement. In the State's analysis, it appears that AT&T might have been willing to pay only \$109 million (\$256 million minus \$147 million) for the assets Alascom claims are valued at \$256 million.⁸¹ Alascom's

⁸⁰ This calculation is based on an assumed combined federal and state income tax rate of 40 percent, and a discount rate of 10 percent over a ten year period. If the cash flow improvement were to go on in perpetuity, the value of this improved cash flow would be \$240 million. Using a smaller discount or interest rate would also raise the value of the cash flow improvement.

⁸¹ Even this calculation assumes an improved cash flow for only ten years. If the improved cash flow were to continue in perpetuity (and there is no reason to assume otherwise), AT&T might have been willing to pay even less.

argument that no portion of the proceeds from the proposed transaction can be used to reduce its interstate rate base because the value of the assets it is transferring to AT&T is equal to the purchase price it is receiving, therefore, is unsupportable.

Alascom's argument that GCI's proposal is confiscatory also is based on the assumption that the intangible assets that Alascom is selling to AT&T are, in effect, not regulatory in nature.⁸² This assumption does not appear to be entirely correct. Alascom's interstate customer list, for example, exists in substantial part because of the fact that Alascom has a Section 214 certificate from the FCC which permits it to engage in interstate communications services. The marketing expenses involved in generating that list (e.g., expenses relating to carrier selection balloting) were apparently paid for by ratepayers. Moreover, the joint services arrangement exists, at least in substantial part, because of federal regulatory direction and could theoretically be terminated by the same authority. Therefore, the intangible assets Alascom proposes to sell to AT&T appear, at least in part, to be regulatory in nature.

The Commission has recognized that allocation of profits on the sale of nondepreciable property used in connection with the provision of regulated services should be governed by the "financial burden test," rather than the "risk of loss" test.⁸³

⁸² See Letter of V. Dunham to State Members of Joint Board, dated August 7, 1992, at 8.

⁸³ Amendment of Part 65 of the Commission's Rules, 3 FCC Rcd. at 281; American Telephone and Telegraph Co., 64 FCC 2d 1, 68, recons. in part, 67 FCC 2d 1429 (1978).

This test examines whether the utility's ratepayers or its shareholders have borne the financial burden related to the property at issue. It does not appear that Alascom's shareholder has borne significant financial burdens in creating the interstate customer list or in participating in the joint services arrangement.

Thus, if, notwithstanding the conditions suggested above, the parties choose to consummate portions of the transactions between Alascom and AT&T, there appears to be no legal or policy justification for permitting Alascom's shareholder to reap all of the economic benefits. In that event, it appears reasonable to reduce Alascom's interstate rate base to a competitive benchmark level as suggested above through five-year accelerated depreciation. During this time, AT&T would be required to continue to place all of its traffic over Alascom's network and the payments AT&T would make under the Master Agreement would be reduced in an amount equal to the difference between the accelerated depreciation amounts and the amounts of depreciation which would be taken in the absence of accelerated depreciation.⁸⁴

This approach would not be confiscatory.⁸⁵ A significant

⁸⁴ In recognition of the income tax liability faced by PTI under the Master Agreement, the State suggests that the reduction in payments AT&T would make under the Master Agreement be limited so that the monies PTI receives from AT&T under the Master Agreement are sufficient to cover all income tax liabilities arising out of the Master Agreement.

⁸⁵ Alascom offers the Declaration of Philip J. Freedenberg and a report by Lubow, McKay, Stevens & Lewis for the proposition that the Alascom interstate network contains no inefficiencies and thus should not be subject to a write-down. See Letter of V. Dunham to State Members of Joint
(Footnote continued on next page)

portion of the consideration AT&T would pay to Alascom relates to items other than the assets Alascom is selling. Alascom does not have title to and cannot sell AT&T relief from the frozen allocator or participation in NECA pooling. A portion of the transaction price relating to those items could be used to reduce Alascom's interstate rate base without confiscation. Moreover, to the extent assets Alascom is actually selling to AT&T are regulatory in nature (and, as shown above, they are to some extent), a portion of the transaction price relating to those items could be used to reduce Alascom's interstate rate base as well.

The State does not advocate reducing Alascom's interstate rate base to the same extent as GCI proposed. A reduction to a

(Footnote continued from previous page)

Board, dated October 9, 1992, at 3 and Tabs A and B. The material submitted, however, does not support the proposition that the Alascom's interstate revenue requirement does not include costs which would not be present in a more competitive environment.

The Freedenberg declaration, for example, merely addresses the issue of whether new technologies -- for example, personal communications networks or low earth orbit satellites -- would be more cost effective than a C-band communications satellite based network and it concludes that they would not. It does not address the issue of whether Alascom's satellite network was efficiently constructed and is efficiently administered.

The Lubow, McKay report is almost six years old and is based on data that are eight years old. It only addresses the issue of whether Alascom's network at that time contained excess transmission capacity. It, too, does not address operational cost efficiency.

Thus, there is no factual material in the record to support Alascom's proposition that a reduction of its interstate rate base to a competitive benchmark level -- when that reduction is funded through accelerated depreciation -- is confiscatory.

competitive benchmark is proposed here. Those portions of the purchase price that are available for use for a write-down -- which would be no less than the \$147 million Ernst & Young estimates avoidance of the frozen allocator and NECA participation are worth to AT&T -- appear more than adequate for this purpose.

If the parties to the Master Agreement choose not to consummate the transaction as modified with the conditions suggested in these Comments, then the Joint Board and Commission could establish an appropriate accelerated depreciation schedule for Alascom. AT&T would then be responsible for paying those accelerated depreciation charges during the transition period during which the joint services arrangement continued in effect.⁸⁶ At the end of the transition, Alascom's interstate rate base would be at a competitive level and interstate price cap regulation would give Alascom every incentive to maximize efficiency. Alascom and AT&T could then negotiate concerning a possible sale of Alascom's interstate and international MTS/WATS business. Interstate price cap regulation would also give AT&T incentives to continue to place its interstate traffic over Alascom's network.

V. CONCLUSION

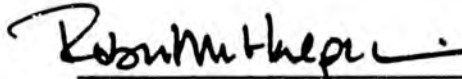
The State suggests that the Joint Board and Commission adopt a market structure consistent with these Comments. Such a market

⁸⁶ To the extent that this regulatory depreciation occurred in advance of tax depreciation, Alascom would obtain a slight economic benefit.

structure would be far more consistent with the policy objectives of the Joint Board than the Master Agreement.

Respectfully submitted,

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Dear John:

I am writing to respond on behalf of Pacific Telecom, Inc., to the matters raised in our telephonic discussion of October 2nd, last. You expressed a desire to conclude the review of these matters and to formulate recommendations for State consideration in the near future. PTI appreciates your efforts to further the regulatory review of its proposed transaction with AT&T. To facilitate that process, we are responding here with written positions on all open matters, that uncertainties and ambiguities may be minimized in your further deliberations.

This correspondence is divided into two sections. Section I addresses the matters raised in our October 2nd discussion. Section II addresses (in the interests of completeness) matters raised by the State's correspondence to PTI of August 25, 1992. For future ease of reference, points may be designated by section and subsection numbers (e.g., II-2).

In reciting below the State's expressed negotiating points, PTI has attempted to accurately and neutrally recite the issue presented, as it understands the same. If any such statement of issue is inaccurate or incomplete, please so indicate and we will amplify or restate our response, as appropriate to addressing the corrected recitation of the issue.

SECTION I

(1) The State has expressed concerns about that element of the current PTI price cap proposal which places both wholesale and retail intrastate interexchange services in the same basket, and has inquired whether PTI would consider the use of "banding" or other subcategories to differentiate between those two classes of service offerings.

PTI has no objection in principle to the use of subcategories with respect to wholesale and retail intrastate interexchange rates as suggested in the State's inquiry. The original structure proposed recognized the need to differentiate between local exchange and intrastate interexchange services because of the different market structures and regulatory prescriptions attending the one and the other. To the extent the Alaska Public Utilities Commission were to develop and establish, upon a proper record, the justification for additional subcategories, including the use of specific service bands, PTI would accept such. With respect to its current price cap proposal, PTI believes that it would be inappropriate to attempt to define such subcategories now as between PTI and the State. Referring to the State's issue No. 5 in its August 25th correspondence, PTI believes any such attempt now would improperly interfere with the APUC's exercise of its jurisdictional powers. This correspondence, however, acknowledges the potential and will be filed for informational purposes with the APUC.

(2) The State has requested that PTI consider excluding the jurisdictionally shifted revenue requirement (the "\$32 million shift") from any revenue sharing computation under PTI's price cap proposal, permanently rather than for the five years currently proposed by PTI.

PTI's initial proposal to protect its customers from any adverse rate effects of the \$32 million shift entailed a pledge to exclude any such shifted amounts from intrastate revenue requirements calculations for five years following implementation of the Master Agreement. To the extent the APUC adopts a price cap/incentive regulation structure, PTI initially believed that the price cap, itself, would supplant the AMA-related guarantee.

As a result of subsequent negotiations with the State, however, PTI will agree to overlap the programs by reflecting the substance of the AMA-related pledge (the exclusion of jurisdictionally shifted revenue requirements) in the earnings sharing computation. Thus, for five years following implementation of the Master Agreement, and whether under the current pledge related to the AMA, under price caps, or under a combination of the two, PTI's customers will be insulated from any rate effects of this shift. In this way, also, PTI affirmatively addresses the State's concern that the AMA

"should not be negated by price caps", as expressed in item No. 4 of its August 25th letter.

In no event would these jurisdictionally shifted revenue requirements ever be reflected as increases in the price cap index (PCI) or the actual price index (API). Under PTI's proposed regulations, these revenue requirements would be expressly excluded from consideration as exogenous changes. This exclusion remains unimpaired by the recognition of such revenue requirements for sharing purposes, as discussed above.

To extend PTI's commitment beyond a five-year period and into perpetuity serves neither PTI's interest nor that of its customers. There can be no question that the assets underlying the revenue requirement continue to be used and useful in the public service. To seek a reasonable return in this investment after five years, thus, is completely in accord with long-standing legal and economic tenets pertaining to utility regulation. (A discussion of these and related legal issues occurs in a separate filing by PTI in FCC Docket CC No. 83-1376, a copy of which will be provided to you shortly for your review). Since the public is deriving a benefit on the interstate side of the transaction (interstate telecommunications costs decline by the same \$32 million revenue requirement), it is clearly inequitable to make PTI's shareholders suffer a penalty on the intrastate side.

Of more import for PTI's customers, the exclusion of all future return on this investment would severely and adversely effect PTI's future ability to maintain and to expand service to the State of Alaska. Capital investments which will not service debt or provide earnings on equity will deter both lenders and shareholders from making expenditures necessary to maintain plant or to expand capacity in the future. This result is inconsistent with the State's desire for assurances concerning carrier-of-last-resort obligations (see Section II-1, below). The impairment of PTI's financial capabilities works against, not in favor of, the continued fulfillment of those duties.

PTI has estimated -- and no party has challenged -- the cost of the protection which it is offering at over \$130 million. This represents a significant sharing of the benefits of the AT&T transaction with PTI's customers. For these reasons, PTI believes the exclusion of any earnings potential on the jurisdictionally shifted revenue requirement for five years is fully protective of its customers' interests, is a fair sharing of transactional benefits with consumers, and represents a benefit not otherwise obtainable by agency order in the resolution of the issues presented in FCC Docket CC No. 83-1376.

(3) Under PTI's current price cap proposal, sharing of earnings with customers does not commence until after earnings achieve a level of 100 basis points above authorized rate of return. The State has requested that PTI commence sharing as soon as earnings rise above authorized return levels (i.e., that the first 100 basis points of such earnings be shared, as well).

The proposal to share earnings after 100 basis points is a direct replication of the FCC-approved price cap program. The primary consumer and regulatory benefit of this element of price caps is the clear incentive it provides a utility to achieve efficiencies which will yield this benefit to the utility's investors. Given the heavy emphasis placed by the State on concerns for future efficiency (e.g., see item No. 2, letter of August 25th, concerning limitations on NECA participation), retention of this incentive is appropriate from both State and Company perspectives.

Moreover, PTI notes that unlike the federal plan, its price cap proposal contains no downside protection against inadequate rates of return in the future. Under the FCC-approved price cap program, a carrier's earnings are protected against inadequate returns by an "automatic stabilizer" which serves to increase the price cap index when prior period earnings drop below a level of 100 basis below authorized returns. At the State's insistence, PTI has eliminated this provision in its proposal. The absence of such protection, and the concomitant elimination of any potential rate increases resulting therefrom, represent a major benefit to PTI's customers. The maintenance of the existing 100 basis point incentive, therefore, does not leave PTI's customers disadvantaged, but does provide at least a partial offset to the increased risk assumed by the Company's investors, who represent a needed source of future capital.

(4) The State has expressed concerns that having a carrier under both rate of return and price cap regulation will provide incentive to the carrier to shift revenue requirements away from the price cap environment and onto the rate of return structure.

PTI notes that most if not all carriers currently subject to price cap regulation, in either the federal or a state jurisdiction, would be subject to the same observation. Nonetheless, the FCC and the states adopting price caps have found such incentive regulation to be in the public interest, demonstrating that this concern is unfounded. Indeed, the FCC is now considering expanding the scope of price cap regulation to smaller LECs.

There are several reasons for this trend. First, a substantial body of law and regulation exists at the FCC and the states (including the APUC) which prescribes uniform systems of accounts, separations

procedures, and revenue requirement recovery mechanisms for state and federal jurisdictional purposes. Taken together, these regulations set out the means for properly allocating investment and operating costs between jurisdictions and lines of business. These requirements are enforceable and enforced, and no evidence exists of record to suggest the contrary. To assume, therefore, that misallocations will occur is to assume something not demonstrated, and possible only if the regulatory agencies involve fail to exercise clear, existing powers.

As a second matter, there is no practicable ability to misallocate revenue requirements to the AECA rate of return structures in PTI's context. Alascom's intrastate interexchange services are fully competitive, in law and fact; there is no state jurisdictional rate base regime to shift requirements to. TUA's local exchange operations are currently rate base regulated, but would become subject to price caps as well under PTI's proposal. Thus, only the AECA portion of TUA's revenue requirements would remain subject to some form of rate of return regulation. But this element of TUA's requirement is too small to "hide" any material amount of TUA's revenue requirement subject to incentive regulation.

For example, the AECA portion of TUA's revenue requirement is approximately \$2.8 million at present. But TUA's revenues proposed to be subject to price cap regulation amount to more than \$102.0 million. The AECA revenue requirement is less than 3% of the revenue requirement subject to price caps. Assuming TUA were trying to improperly allocate a portion of its price cap requirements (for example, 10%) to the AECA pools, the AECA revenue requirement would dramatically expand by 500%.

It cannot be seriously suggested that such an increase would go unnoticed by the AECA, the APUC, or competitive carriers, particularly since AECA filings are annually made and annually reviewable and reviewed by all parties. There is, thus, no practical manner in which the State's concerns could materialize, even assuming PTI has any inclination so to do (which it does not).

PTI notes that these same factors apply in the case of the TUA's proposed participation in the National Exchange Carrier Association, as well. An extensive description of the proposed cost allocation and separations mechanisms which TUA proposed to employ to avoid misallocations to both the AECA and NECA pools was provided in APUC filings (attached hereto at **Tab A**).

No evidence has been brought forth demonstrating any material misallocations in prior Alascom or TUA rate proceedings, reinforcing the conclusion that existing procedures are effective and effectively enforced.

Additionally, the incentives inherent in the proposed price cap program diminish the likelihood of any carrier misallocation.

Because the substantial bulk of investment and operating expense is joint use in nature, the positive effects of intrastate price caps will be evidenced in all jurisdictions, reducing the revenue requirement in each over time. A carrier cannot become efficient as to just one jurisdiction, and the reduction in revenue requirements over time reduces any motive to alter allocations between jurisdictions or between service offerings.

Consideration has been requested of a settlement cap. A settlement cap operates as an artificial barrier to recovery of costs otherwise a necessary and legitimate part of a carrier's cost of service. In that vein, such an artificial limitation appears inconsistent with or counterproductive as to TUA's carrier-of-last-resort obligations, to the expressed concerns for maintaining quality of service, and to concerns for the complexity of price cap regulation. Given the absence of any practical ability to misallocate and the absence of any evidence of historical irregularities, such a measure appears unnecessary, a hinderance to fulfilling other requirements, and does not justify the burdens associated with its implementation and maintenance.

(5) The State has expressed concerns that future network improvements, such as Signalling System 7, may entail costs which would effectively prevent the anticipated declines in AECA rates incorporated into PTI's proposed flow-through rate reductions.

Declines in AECA costs are the primary component of the State's forecasted rate decreases in the next five years. To the extent such cost decreases do not materialize, the State's presumed decreases would not materialize, either. PTI's proposal is therefore no more or less certain than the State's assumed future rate reductions against which it is being measured.

Historically, AECA costs per minute of access have decreased, principally because of the relatively greater increases in volumes over associated costs of service. Although departures from this trend in the future are possible, they appear unlikely. Future investments, such as those associated with SS-7 implementation, will undoubtedly be made, but are a necessary concomitant of the expansion and improvement of service to Alaska which the State supports. In each instance, any increase in cost must properly be examined in the context of offsetting benefits, such as reductions in other operating expenses, displacement of other costs, and growth in traffic volumes and revenue streams. Investment costs for Alaska have increased dramatically in the last two decades, but unit costs for services, state and interstate, have declined significantly.

Further, major investments have already been made to bring the network to maturity. Most bush villages desiring same now have local exchange service. State of the art satellite and fiber optic facilities were put into service by PTI within the last fourteen months, with anticipated useful lives extending well into the next century. As discussed in PTI's study of the prospective application of future technologies in the Bush, it is unlikely that fiber optics, personal communications systems (PCS), and low-orbit satellite systems will offer cost-effective alternatives to the present network, reinforcing the belief that significant infrastructure costs are unlikely for the foreseeable future. (Please see Tab B.)

Comparatively, the costs of such incremental network improvements as SS-7 do not represent a material source of concern. The most significant influence on rates will not be the cost of service, but the volume of traffic over which such costs are spread. In that regard, the general state of the economy in Alaska would be the primary determinant, over which PTI has no control. Accordingly, a proposal to flow-through expense reductions as they occur affords maximum benefit to PTI's customers without placing upon PTI risks it cannot control. Neither PTI nor the State are in a position to do more.

(6) The State has expressed concerns that incentive regulation, such as price caps, may promote actions by a company which improve earnings but lead to a decline in quality of service to customers. The State has suggested the need for quality of service standards to prevent this, with provisions therein tending to be self-enforcing or self-policing.

Both as a matter of corporate policy and competitive necessity, PTI has consistently placed the highest premium on quality of service. The company's record in Alaska and throughout its other jurisdictions, both in terms of operations and investment policy, reflects a consistent respect for the needs of its customers. Indeed, quality of service has been a major theme of Alascom and accounts in large measure for the competitive success of Alascom over the past year and one-half in the intrastate marketplace.

Quality of service requirements already exist for Alaska and appear in the APUC's regulations at 3 AAC 52.200 et seq (attached at Tab C). Additional standards are provided for in NECA tariffs, in AT&T policies and procedures, in industry standards such as CCITT, and so on. To the extent any single piece of equipment is devoted to joint use, that equipment must meet all applicable standards and, to the extent standards overlap, the highest applicable standard.

PTI believes there always can be room for improvement, particularly in light of the maturing of the Alaska network discussed above.

Other states have implemented reviews of existing standards, such as that recently concluded by the Idaho Public Utilities Commission in Case No. 31.D-R-90-1 (attached at Tab D). Given the complexity of the subject matter, the unknown nature of existing or potential APUC concerns, the need for other parties' input, and the State's expressed concern for unintended interference with APUC prerogatives (issue No. 5, letter of August 25th) PTI does not believe it appropriate or practicable to define such standards now as between it and the State. PTI would be willing, however, to agree with the State to initiate a proceeding with the APUC for reviewing quality of service standards for all Alaskan carriers, concurrently with its initiation of a price cap proceeding.

(7) The State expressed a need to further coordinate the "unfinished business" of reconciling certain data previously supplied by PTI to the Federal-State Joint Board with that utilized in its price cap analysis.

Representatives of PTI and the State have conducted several telephonic conferences on this matter. Continuing dialogue is intended by both sides, but to PTI's knowledge all outstanding issues have been sufficiently addressed to date to permit the State to conclude its review of these matters.

(8) The State has expressed concern that difficulties may arise in measuring price cap performance against a backdrop of an evolutionary market structure, such as that of Alaska, given other changes in corporate configurations, operations, and asset distribution such as that proposed in TUA's prior Application to the APUC.

Price Cap regulation is conceptually premised upon the price charged to the customer, which increases or decreases based upon a relatively few, defined factors. As such, it is the antithesis of rate base regulation, which frequently involves scores (if not hundreds) of subsidiary issues requiring particularized determination.

The measurement of performance is accomplished by comparing the PCI against the API. The composition of each index is clearly identified in the proposed regulations, sufficiently so that a number of software programs for the entry of data, analysis of effects, and reporting of results exist and would be utilized by PTI. As part of the shared concern for efficiency and cost-reduction measures, the implementation of price caps would tend to lighten the administrative burden on both PTI and the APUC, by standardizing and annualizing the reporting of results. Year-to-year comparisons are inherent in this reporting structure, thus further promoting performance measurement. In conjunction with possible improvement to measurements of quality of service

(discussed above), the ability of the APUC to measure price and non-price attributes of carrier performance is enhanced, not degraded, by the proposal. PTI believes that price caps offer a regulatory scheme of lesser complexity than that of current regulatory approaches.

(9) In the course of discussions on matters affecting this docket, the State requested PTI's views on proposals to utilize accelerated depreciation to write-down currently allocated interstate investment.

PTI will vigorously oppose any attempt to confiscate or to condemn its property through forced write-downs of its investment, whether all at once or over time through the subterfuge of "accelerated" depreciation (merely another form of write-down). PTI has extensively addressed such matters in its analysis of and response to a contemporaneous proposal of GCI to effect such confiscation (alluded to above). Our specific responses to that proposal will be forwarded to you in the near future.

For purposes of this correspondence, PTI opposes such proposals for the following reasons:

(a) Lack of legal foundation. Such proposals either -

- (i) deprive PTI of its property without just compensation,
- (ii) entail forced sales of PTI property without just compensation,
- (iii) deprive PTI of a reasonable opportunity to earn a reasonable return on its investment,
- (iv) inequitably and unlawfully divert shareholder benefits to ratepayers, or
- (v) force future provisioning of service with no prospect of earning a reasonable return on facilities admittedly used and useful in public service;

(b) Lack of public policy justification. Implementation of alternative proposals to write-down PTI's investment, however couched, would -

- (i) destroy the economic value of plant which nonetheless remains factually utilized in the public service; there is no public policy precedent or justification for this in the FCC's past rulings (e.g., the inside wiring and CPE decisions affirmatively recognized the continuing economic value of the facilities to the affected company);
- (ii) impair PTI's financial position, by occasioning defaults and cross-defaults in its underlying, primary debt instruments;
- (iii) impair the ability of PTI to invest in maintenance

of the existing network and in future expansion of the network, by driving off future lenders and equity investors, insofar as Alaskan service is concerned;

(iv) impair PTI's ability to carry out its public interest obligations as carrier-of-last-resort for services in and to Alaska;

(v) reduce PTI's financial capabilities and the state of PTI's financial affairs to the same level of uncertainty as that of its primary intrastate competitor (a "lowering", rather than "leveling", of the competitive playing field);

(vi) provide no ratepayer protection against future intrastate rate increases (whereas PTI is prepared to devote more than \$130 million of the transaction proceeds to offset adverse intrastate rate effects);

(vii) provide only transitory and not permanent interstate cost benefits, since interstate ratebase is only temporarily diminished (unlike PTI's proposal, where interstate revenue requirements are permanently diminished); and

(viii) vitiate the potential for future intrastate rate decreases potentially amounting to \$87 million through the turn of the century, with no offsetting commitments by any other party to the proceeding.

- c) Impediments to implementation. Such proposals will prove impossible to put into effect because of practical and administrative impediments. Among others, these would include -

(i) the absence of accepted, recognized accounting methodologies to account for the effects of such proposals;

(ii) the failure of such proposals to recognize the financial, accounting, and legal effects arising from the taxable nature of such transactions;

(iii) the changing nature of jurisdictional allocations over any period of time, arising from year-to-year changes in usage factors and resulting in reallocations to intrastate and interstate jurisdictions in succeeding periods;

(iv) the absence of regulatory precedent by which to measure future operating results; and

(vi) the concomitant need for additional regulatory proceedings to improvise ad hoc rules to deal with the vagaries and unknowns of such an unprecedented proposal.

None of the proposals to write-down PTI's investment address the offsetting public benefits which justify such an extended, extensive departure from applicable law, established regulatory precedent, accounting convention, and demonstrable practical requirements. Nor do they purport to offset the palpable damage to public interest benefits available through implementation of the

existing transaction, as enhanced by the additional changes being negotiated here by the State. PTI believes that such proposals would not be adopted by regulators, or if adopted, would clearly not survive judicial scrutiny.

SECTION II

The responses above address, in our view, all matters raised in our discussion of last week. In the interests, however, of a comprehensive reply and to enhance the State's full review of this matter, PTI wishes to address here additional matters not discussed directly last week, but raised previously by the State in its correspondence of August 25th. These are as follows:

(1) Carrier-of-last-resort responsibilities.

Alascom has and will continue to exercise its responsibilities as an incumbent carrier under applicable APUC requirements, which requirements would equally apply to TUA upon consolidation of the intrastate operations as heretofore proposed. With respect to interstate private line (interstate MTS responsibilities being the province of AT&T upon implementation of the Master Agreement), TUA would propose to assume carrier-of-last-resort responsibilities via the NECA special access tariffs, and would provide private line-related services under such tariffs at all locations served by it. Given the overlay of APUC-imposed responsibilities for an incumbent carrier, this would extend the private line service commitment to all Alaskan villages of 25 or more requesting interexchange service. TUA's commitment here would extend to the same duration as its participation in NECA, since TUA's ability to provide such services is a function of the pooling and rate averaging aspects of NECA participation.

(2) Limitation of NECA participation to five (5) years.

TUA believes that limiting NECA participation to five years is contrary to the public interest. NECA was created and exists to promote universal service by pooling the costs associated with lower density, higher cost access service areas by averaging the rates therefore across all participating companies and service areas. This concept is exactly the same as that underpinning averaged rates for interstate MTS service, which the State earnestly desires, and the positive effects on promoting service to Alaska are exactly the same. Further, AT&T's commitment to avoiding any "abandonment shift" for ten years is related to maintenance of TUA's NECA participation for an equivalent period (thereby to ensure a fair and equitable distribution of Alaskan service costs

to all interstate IXCs). As noted above, TUA's commitment to provide private line access to Alaska, and especially the Bush, is also premised upon the availability of NECA pooling and rate averaging attributes attending the special access tariffs.

- (3) Revenue requirement neutrality (including avoidance of intrastate rate increases and the promotion of intrastate rate decreases).**

PTI believes all matters associated with these issues are addressed in its previous correspondence concerning its price cap proposal (letter of September 9, 1992), and in the discussion of this subject area, above.

- (4) Avoided diminution in current AMA-related rate protection pledge.**

In the manner defined earlier in this correspondence, PTI has proposed to incorporate the intended benefits of the AMA into its price cap program through exclusion of jurisdictionally shifted amounts from the computations for earnings sharing purposes. Such a provision ensures that the AMA's protection will not be "negated" by the adoption of rate caps by the APUC.

- (5) Avoided interference with APUC exercise of jurisdiction.**

PTI has consistently cited the need to avoid jurisdictional overreaching by all agencies involved in this proceeding, and concurs with the State's expressed concerns, here. For this reason, PTI believes that the particulars of many aspects of its price cap proposal ought not to be addressed by the State and PTI as parties to a federal docket, but are more appropriately reserved for APUC examination under applicable state law and regulation.

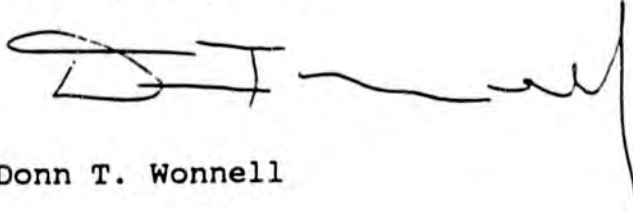
- (6) Scope of State commitment to agreement.**

PTI has, at multiple times and places, supported its belief that the provisions of the Master Agreement fully recognize the public interest. PTI presumes the good faith of the State in engaging in these negotiations to provide additional enhancements to that Agreement. These enhancements substantially increase the number and scope of public benefits, but also increase the burden and risk of the transaction on PTI. These additional benefits, for which the State has negotiated, cannot be realized unless the transaction is approved. If agreement is reached here, then the public benefits to be derived and the continuing good faith of the State require affirmative support of the State for this course. PTI is not asking the State to oppose the concerns of others, but it is asking the

State to act consistently with its own expressions of good faith and with the realization and implementation of the benefits for which it has negotiated.

I am authorized to represent these matters as constituting the position of Pacific Telecom, Inc., on the subjects described herein. If you require any clarifications of the issues, please contact me at your convenience. Your continuing courtesies in working through these issues are very much appreciated by us.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'D. T. Wonnell', with a long, sweeping horizontal line extending to the right.

Donn T. Wonnell

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Comments of The State of Alaska on Various Proposals to Modify the Master Agreement" was served by first-class, U.S. mail, postage prepaid, this 13th day of November, 1992 upon the parties listed on the attached Service List.



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EX PARTE LETTER

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
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Re: Integration of Rates and Services
CC Docket No. 83-1376, RM 4436

Dear Ms. Searcy:

This letter is being filed, in duplicate, in accordance with the Commission's Rules, to report that on November 16, 1992, Robert M. Halperin, Counsel for the State of Alaska, met with Commissioner Susan M. Knowles and Lorraine Kenyon of the Alaska Public Utilities Commission, Chairman Bruce Hagen of the North Dakota Public Utilities Commission, Commissioner Dean J. Miller and Eileen Benner of the Idaho Public Utilities Commission, Ronald G. Choura of the Michigan Public Service Commission, and Debra Kriete of the Pennsylvania Public Utilities Commission to discuss the State of Alaska's position with respect to the Alaska Joint Board Proceeding, CC Docket No. 83-1376, and related proceedings. This discussion took place in Los Angeles at the meeting of the National Association of Regulatory Utilities Commissioners.

During this meeting, the State said that it generally concurred with the Memorandum of Principles issued by the State Members of the Joint Board on November 5, 1992.

The State reiterated the position it set forth in its Comments of the State of Alaska on Proposals to Modify the Master Agreement, filed with the Joint Board and Commission on

Ms. Donna R. Searcy
November 23, 1992
Page 2

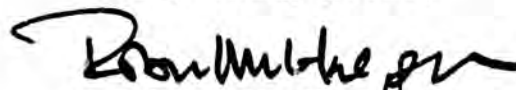
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November 13, 1992. The State outlined its communications with interested parties in this proceeding, particularly its discussions with Pacific Telecom, Inc. ("PTI") concerning PTI's price cap plan and General Communication, Inc. ("GCI") about its price cap plan. (See pages 4-11 of its November 13, 1992 Comments.) The State then reviewed its view of the cornerstones on which a market structure for interstate telecommunications services for Alaska should be built. (See pages 23-32 of its November 13, 1992 Comments.)

In response to questions from the State Members of the Joint Board and their staff, the State indicated its view that the Joint Board could proceed by issuing a recommended decision along the lines set forth in the Memorandum of Principles or in the State's November 13, 1992 Comments and that the Commission could then adopt that decision in a Report and Order. If necessary, the Report and Order could be accompanied with a Notice of Proposed Rulemaking which would allow the Joint Board and Commission to develop the details for implementing a new market structure, consistent with the parameters set forth in the Report and Order. The State suggested that the time frame for resolving any new rulemaking proceeding be limited. The Joint Board and Commission might also wish to consider whether any new rulemaking proceeding should be a negotiated rulemaking pursuant to the Negotiated Rulemaking Act.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

cc: Commissioner Susan M. Knowles
Lorraine Kenyon
Chairman Bruce Hagen
Commissioner Dean J. Miller
Eileen Benner
Ronald G. Choura
Debra Kriete

12-18-92

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

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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

COMMENTS OF THE STATE OF ALASKA
ON THE STATE MEMBERS' PLAN
FOR THE INTERSTATE ALASKA MARKET STRUCTURE

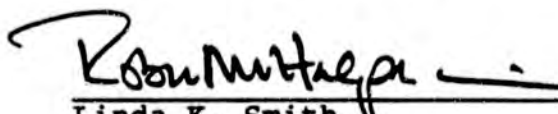
In response to the Public Notice of December 2, 1992 (DA 92-1638), establishing a pleading cycle for comments on the Memorandum of Principles Alaska Market Structure: The State Members' Plan, dated November 5, 1992, the State of Alaska ("State") notes that on November 13, 1992, it submitted lengthy comments in this docket setting forth its position concerning the appropriate market structure for interstate telecommunications services to and from Alaska.

The State will review the additional comments filed in this pleading cycle by others and will, to the extent necessary, submit further comments as set forth in the Public Notice referenced above.

Dated: December 18, 1992

Respectfully submitted,

THE STATE OF ALASKA



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(202) 624-2500

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Comments of The State of Alaska on The State Members' Plan for the Interstate Alaska market Structure" was served by first-class, U.S. mail, postage prepaid, this 18th day of December, 1992 upon the parties listed on the attached Service List.


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1-15-93

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

JAN 15 '93

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

REPLY COMMENTS OF
THE STATE OF ALASKA

THE STATE OF ALASKA

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January 15, 1993

SUMMARY

The State of Alaska believes the resolution of this docket can and should be precipitated by action of the Joint Board. To this end, the State believes that the Joint Board should enunciate principles for the resolution of this docket and provide all interested parties an opportunity to determine whether, in light of those principles, they can agree on the details of a market structure for Alaskan interstate telecommunications. If the parties cannot agree within a reasonable and predetermined period of time (perhaps, 60 days), the Joint Board would then proceed to issue a recommended decision based on the principles previously enunciated.

The principles to guide the negotiations should be taken from the Memorandum of Principles, the State's November 13, 1992 comments, and the Joint Board's 1989 Supplemental Order Inviting Comments. They include the following:

- Rejection of the Master Agreement as it presently exists, though, as the State has previously recognized, certain parts of it may be acceptable.
- No jurisdictional cost shifts.
- Carrier of last resort designations.
- Rate integrated interstate rates.
- Termination of the Joint Services Arrangement after a reasonable transition period.
- No merger of TUA and Alascom.

- Current law does not allow participation by Alascom in NECA cost pools; at most, participation should be allowed only during a transition period.
- A write-down of Alascom's interstate rate base to a competitive benchmark level, accomplished through accelerated depreciation, appears necessary.
- Matters within the jurisdiction of the Alaska Public Utilities Commission relating to a new market structure should be presented to it at the same time matters within the jurisdiction of federal regulatory authorities are presented to those authorities.

The new market structure should, of course, also be consistent with all of the Joint Board's stated policy objectives.

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WITH THOSE PRINCIPLES 2

CONCLUSION 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
RM 4436

**REPLY COMMENTS OF
THE STATE OF ALASKA**

On December 18, 1992, various parties submitted comments on the Memorandum of Principles, Alaska Market Structure: The State Members' Plan, released November 5, 1992 ("Memorandum of Principles"). Pursuant to the Federal-State Joint Board Public Notice of December 2, 1992, the State of Alaska ("the State" or "Alaska") hereby submits these reply comments.

**THE JOINT BOARD SHOULD ENUNCIATE PRINCIPLES
FOR THE RESOLUTION OF THIS DOCKET AND PROVIDE
ALL INTERESTED PARTIES AN OPPORTUNITY TO NEGOTIATE
A NEW MARKET STRUCTURE CONSISTENT WITH THOSE PRINCIPLES**

Resolution to the issues in this nine-year-old docket is long overdue. For the reasons set forth in its prior pleadings, the State believes that the Master Agreement, taken as a whole, is not in the public interest and should not be approved by the Joint Board or the Commission.¹ Yet, merely refusing to approve the

¹ See Comments of the State of Alaska on Various Proposals to Modify the Master Agreement (November 13, 1992); Reply Comments of the State of Alaska (May 20, 1992); Comments of
(footnote continued next page)

Master Agreement will not by itself result in a resolution of this docket.

For this reason, the State urges the Joint Board to enunciate principles for the resolution of this docket and provide all parties an opportunity to determine whether, in light of those principles, they can agree on the details of a market structure for Alaskan interstate communications. Alascom's and AT&T's comments concerning the Memorandum of Principles confirm that the market structure issues are complex; there are numerous questions that the State Members' Plan (and the State's November 13, 1992 comments) leave unanswered.² These negotiations would be aimed at resolving those questions.

The parties should be given a finite period of time established by the Joint Board (perhaps, 60 days) in which to seek to agree on the details of a market structure. If agreement can be reached in that timeframe, the agreed-upon market structure would then, of course, be presented to all relevant regulatory bodies, including the Joint Board and the Commission, for approval or revision as those bodies determine in the exercise of their jurisdiction and responsibility. If no such agreement can be reached, then the Joint Board would proceed to issue a recommended

(footnote continued from previous page)
the State of Alaska (April 20, 1992). See also State Members of the Joint Board, Memorandum of Understanding (August 4, 1992); Overland Consulting, Inc., Study of the Alascom/AT&T Master Agreement -- Briefing Paper (July 21, 1992).

² See Comments of Alascom, Inc. on the Memorandum of Principles Alaska Market Structure: The State Members' Plan at 2 (December 18, 1992).

decision in this docket based on the principles it had previously enunciated.

Negotiations including all interested parties could result in an agreement on a market structure that will maximize the public interest, be widely acceptable, put an end to this docket, and minimize the likelihood of appeals and further litigation. The State notes that this approach is consistent with steps the Commission has recently taken to broaden its use of alternative dispute resolution procedures.³

The State believes that the principles which should guide these negotiations should be taken from the Memorandum of Principles, the State's November 13, 1992 comments, and the policy objectives set forth in the Joint Board's Supplemental Order Inviting Comments.⁴

Specifically, the State believes that the Joint Board should enunciate the following as the principles to guide the resolution of this docket.⁵

1. The Master Agreement in its entirety is not in the public interest and cannot be adopted either in its present form or with the enhancements already submitted in this docket. Certain aspects of the Master Agreement, including AT&T's acquisition of

³ See 47 C.F.R. § 1.18(b), added July 21, 1992.

⁴ Supplemental Order Inviting Comments, 4 FCC Rcd. 395 (Jt. Bd., January 4, 1989) ("Supplemental Order").

⁵ The State will not reiterate here the public interest justifications for these principles and refers the reader to the Memorandum of Principles, the State's April 20, 1992 comments, its May 20, 1992 reply comments, its November 13, 1992 comments, and the authorities cited therein.

portions of the Alaska Spur and its assumption of Alascom's interstate MTS/WATS business, may be in the public interest, as the State has previously recognized.

2. Any new market structure must not create jurisdictional cost shifts. As this Joint Board has already determined, intrastate cost allocations are not inordinately low and should not be increased.⁶ Moreover, the appropriateness of existing separations procedures for Alascom's assets was recently affirmed by a sister Joint Board and the full Commission.⁷ This proceeding should focus on other aspects of the market structure issue.⁸

3. No Alaskan should be denied interexchange service. A carrier of last resort for both interstate and intrastate interexchange services must be designated. Although, to date, the

⁶ Supplemental Order at ¶ 31.

⁷ MTS and WATS Market Structure and Amendment of Part 67 (New Part 36) of the Commission's Rules, 2 FCC Rcd. 2639 (1987).

⁸ Alascom's comments that the frozen allocator used to separate the costs of Alascom's interexchange circuit equipment is no longer viable are premised on Alascom's assertion that, under either the Master Agreement or the State Members' Plan, the interstate service Alascom would be providing would be access service and not an interexchange service. Thus, Alascom reasons, it should be treated as an exchange carrier and not an interexchange carrier for separations purposes. (The frozen allocator applies only to interexchange carriers, not to exchange carriers.)

The service offered by Alascom in a post-JSA market structure, however, cannot be characterized as "access" under existing statutes and regulations. See, e.g., 47 U.S.C. § 153(r) (defining "telephone exchange service"). See also 47 C.F.R. §§ 69.2(b), (s), (bb)(2), (hh) (definitions relating to access service, interexchange service, and exchange carrier status), 69.601 (NECA membership). Local exchange boundaries are established by state regulation; in no sense is the entire state of Alaska a single local exchange.

same carrier has performed that function for both interstate and intrastate interexchange services, it may be possible that in the new market structure different carriers may perform this function.

4. Interstate service rates must be rate-integrated. As the Joint Board has recognized, rate integration is mandated by the public interest and Commission policy.⁹ It is also, in the State's view, mandated by the Communications Act.¹⁰

5. The Joint Services Arrangement may be terminated after a reasonable transition period necessary to allow a new market structure to be established without unduly disrupting the reasonable expectations of the parties and the public. The length of the transition period cannot be arbitrarily established in advance, without reference to the details of the market structure that would result at the end of the transition period.

6. TUA and Alascom should not be permitted to merge as merger might lead to jurisdictional cost shifts and could interfere with competition in interstate communications markets.

7. Participation by Alascom in the National Exchange Carrier Association ("NECA") cost pools cannot be permitted under current law as Alascom is, and will remain, an interexchange carrier.¹¹ Even if Alascom were considered an exchange carrier, participation by Alascom in NECA cost pools in the long term is reasonably

⁹ Id. at ¶ 25.

¹⁰ E.g., MTS and WATS Market Structure, 81 FCC 2d 177, 192 (1980).

¹¹ See n.8, above.

likely to have undesirable effects on competition and efficiency and thus should be limited to a transition period.

8. Steps must be taken to assure that Alascom's costs for providing interstate and intrastate services in the new market structure are at levels that allow it to charge reasonable and competitive rates. A write-down of its interstate rate base to a reasonable competitive benchmark level, compensated through accelerated depreciation expenses recovered through rates charged during a transition period, appears necessary. This approach is not unprecedented, either in telecommunications industries or others.¹²

9. Matters within the jurisdiction of the Alaska Public Utilities Commission relating to a new market structure should be presented to it at the same time matters within the jurisdiction of federal regulatory authorities are presented to those authorities.

The State continues to believe that the other aspects of its recommendations contained in its November 13, 1992 comments are in the public interest. Other aspects of the State Members' Plan may

¹² AT&T objects to the proposed write-down of Alascom's MTS/WATS rate base through accelerated depreciation on the basis that Alascom's plant to be written down "has already been paid for by AT&T's owners and customers" AT&T's Comments on the Proposal of the State Members of the Federal-State Joint Board at 6 (December 19, 1992) (emphasis in original). This statement is not accurate. The plant that remains on Alascom's books, and which would be written down under the State Members' Plan, remains on Alascom's books because it has not yet been paid for by Alascom's customers. AT&T may well have "already paid for" portions of Alascom's plant that have previously been depreciated; it has not paid for the portions of Alascom's plant that have not yet been depreciated.

also be in the public interest. Certainly, the new market structure must be consistent with all of the Joint Board's policy objectives set forth in its Supplemental Order. The State does not believe at this point, however, that these additional items need to be enunciated as principles to underlie the negotiations of interested parties.

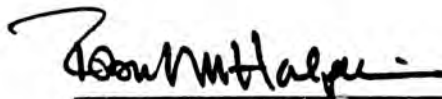
CONCLUSION

The State urges the Joint Board to begin a final resolution of this docket in the manner proposed in these reply comments.

Dated: January 15, 1993

Respectfully submitted,

THE STATE OF ALASKA



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Reply Comments of The State of Alaska" was served by first-class, U.S. mail, postage prepaid, this 15th day of January, 1993 upon the parties listed on the attached Service List.

A handwritten signature in cursive script, appearing to read "Robbin R. McKeever", is written over a horizontal line.

Robbin R. McKeever

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February 26, 1993

BY HAND DELIVERY

EX PARTE LETTER

Ms. Donna R. Searcy
Secretary
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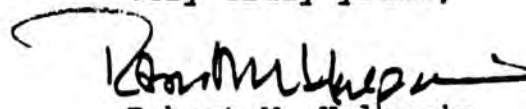
Re: Integration of Rates and Services
CC Docket No. 83-1376, RM 4436

Dear Ms. Searcy:

This letter is being filed, in duplicate, in accordance with the Commission's Rules, to report that on February 25, 1993 Robert M. Halperin, Counsel for the State of Alaska, had a telephone conversation with Commissioner Dean Joe Miller of the Idaho Public Utilities Commission. The conversation related to the State of Alaska's position as set forth in its most recent pleadings with respect to the Alaska Joint Board Proceeding, CC Docket No. 83-1376.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

cc: Commissioner Dean J. Miller

bcc: Linda K. Smith
John W. Katz

3-1-93

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March 1, 1993

BY HAND DELIVERY

EX PARTE LETTER

Ms. Donna R. Searcy
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Washington, D.C. 20554

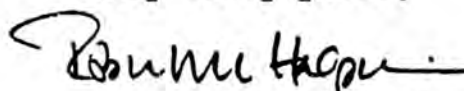
Re: Integration of Rates and Services
CC Docket No. 83-1376, RM 4436

Dear Ms. Searcy:

This letter is being filed, in duplicate, in accordance with the Commission's Rules, to report that on February 26, 1993 Robert M. Halperin, Counsel for the State of Alaska, had telephone conversations with Kathleen Abernathy of Chairman James Quello's office and Linda Oliver of Commissioner Ervin S. Duggan's office. The conversations related to the State of Alaska's position as set forth in its most recent pleadings with respect to the Alaska Joint Board Proceeding, CC Docket No. 83-1376.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,



Robert M. Halperin

cc: Kathleen Abernathy
Linda Oliver

bcc: Linda K. Smith
John W. Katz

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March 5, 1993

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MAR 5 1993

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OFFICE OF THE SECRETARY

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EX PARTE LETTER

Ms. Donna R. Searcy
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Washington, D.C. 20554

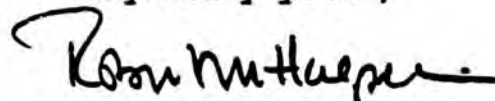
Re: Integration of Rates and Services
CC Docket No. 83-1376, RM 4436

Dear Ms. Searcy:

This letter is being filed, in duplicate, in accordance with the Commission's Rules, to report that John W. Katz, Director, State/Federal Relations and Special Counsel to the Governor of the State of Alaska had telephone conversations on March 1 and 2, 1993 with Commissioner Susan M. Knowles of the Alaska Public Utilities Commission. The conversations related to the State of Alaska's position as set forth in its pleadings with respect to the Alaska Joint Board Proceeding, CC Docket No. 83-1376.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

cc: Susan M. Knowles

bcc: Linda K. Smith
John W. Katz

6-28-93

RECORD COPY

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
RM 4436

To the Federal-State Joint Board

COMMENTS OF
THE STATE OF ALASKA

RECEIVED
JUN 28 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

THE STATE OF ALASKA

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Its Attorneys

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June 28, 1993

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SUMMARY

The time to resolve the issues presented in this nine-year old docket is long overdue. There are now two proposals in the record: the Joint Board's Tentative Recommendation and AT&T's Consumer Benefit Plan. Both proposals would result in termination of the joint services arrangement between AT&T and Alascom. The challenge now, as in the past, is to do so without imperiling achievement and maintenance of primary public interest goals of universal service and rate integration or creating upward pressures on intrastate rates (which, as the Joint Board has previously noted, are not unduly low) through jurisdictional cost shifts. Only then could it be said that Alaskans would benefit from the transition of the Alaska interstate telecommunications market to a new era of increased competition and efficiency.

The State offers two adjustments to the Joint Board's proposal that it believes could further the public interest by minimizing jurisdictional cost shifts and by maximizing Alascom's ability to compete effectively in the future. The State also notes many of the questions it has concerning the practical impacts of the Joint Board's plan and AT&T's proposal.

The State has previously raised the questions it sets forth here with the relevant carriers and is hopeful that they will provide answers to them for the administrative record. Those answers will assist the State, the Joint Board and the Commission in determining what market structure solution will maximize the public interest.

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	)	CC Docket No. 83-1376
Common Carriers between the	)	RM 4436
Contiguous States and Alaska,	)	
Hawaii, Puerto Rico and the	)	
Virgin Islands	)	

**COMMENTS OF
THE STATE OF ALASKA**

To: The Federal-State Joint Board

The State of Alaska ("the State" or "Alaska") hereby submits these comments in response to the Tentative Recommendation and Order Inviting Comments adopted and released by the Federal-State Joint Board on May 17, 1993.

Overview

Resolution of the issues in this nine-year old docket is long overdue. The State commends the Joint Board for crafting a comprehensive solution to Alaska interstate telecommunications market structure issues.

There are two proposed solutions in the record: the Joint Board's Tentative Recommendation, and the proposal filed by the American Telephone and Telegraph Company ("AT&T") with the Federal

Communications Commission ("FCC" or "Commission") on March 31, 1993, which it calls the "Consumer Benefit Plan."

Both proposals would result in the termination of the joint services arrangement between AT&T and Alascom. The State does not object to termination of the joint services arrangement as long as the primary public interest objectives the Joint Board has previously identified -- promotion of universal service, rate integration, and the avoidance of jurisdictional cost shifts -- are advanced. Advancement of these objectives is particularly crucial for residents of rural Alaska, for whom telephone service is a vital resource. The challenge now, as in the past, is to implement a new market structure without imperiling those primary public interest objectives or otherwise creating upward pressures on intrastate rates (which, as the Joint Board has previously noted, are not unduly low). Only then could it be said that Alaskans would benefit from a new era of increased competition and efficiency.

The State has met recently with the various interexchange and local exchange carriers who have been most active in this proceeding. The State has sought input from these carriers regarding the two proposals currently before the Joint Board, has asked questions regarding how the solutions they favor would work in practice, and has probed why they believe other solutions are less desirable.

In light of these discussions, the State will raise certain questions and concerns that it has with these proposals. The State has already raised these and other questions with the

relevant carriers and is hopeful that they will provide responses in their comments. The State looks forward to receiving and analyzing those responses, and expects to be in a position to provide conclusions concerning the two proposals in its reply comments.

The Joint Board's Tentative Recommendation

The Tentative Recommendation provides a detailed resolution of the issues at hand. For example, the proposal includes a ten year transition which is offered to mitigate unanticipated service disruptions or cost or rate impacts. Termination of the joint services arrangement is intended to bring new competition and heightened efficiency to the marketplace. The new market structure created in the Tentative Recommendation would continue to require rate integrated interstate rates. Dominant carrier regulation would apply to Alascom's and AT&T's offerings of interstate MTS/WATS and Alascom's offerings of interstate private line service, and AT&T is required to provide interstate MTS/WATS on the same terms and conditions as elsewhere in the United States. These aspects of the Tentative Recommendation are intended to satisfy concerns about interstate service availability throughout Alaska. Alascom's rate base would be reduced through accelerated cost recovery, thus minimizing Alascom's ongoing capital recovery costs and allowing Alascom to be a more cost competitive carrier than it would otherwise be. In short, the detail in the Joint Board plan allows the State and others to analyze the plan and provide comments in a meaningful manner.

The State has questions concerning the Joint Board plan: (1) Is there a policy or economic need for applying the proposed accelerated cost recovery to Alascom's assets company-wide (rather than to just the interstate MTS/WATS rate base)? (2) How much of a jurisdictional cost shift is created by the Joint Board plan, particularly the change of the frozen allocator for interexchange circuit equipment found in Section 36.126(e)(3) of the Commission's rules? (3) Is the provision for geographic averaging of Alascom's rates for carrier services appropriate? (4) Is it necessary to prevent improper cost allocations to routes on which Alascom has a facilities monopoly? The concerns underlying these questions lead the State to suggest two adjustments to the Joint Board's plan.

1. **Retain the Frozen Allocator, Eliminate the Alaska Fund, and Apply Accelerated Cost Recovery Only to Alascom's Interstate MTS/WATS Assets.**

There are economic and legal implications of the proposals to increase intrastate cost allocations by changing the frozen interexchange circuit equipment allocator from approximately 86% to 75%. Alascom's implementation plan filing of June 7, 1993, presents a picture of significant increases in intrastate costs created by the change in the frozen allocator, notwithstanding the application of accelerated cost recovery to its company-wide rate base.¹ Looking at the size of the contemplated "Alaska Fund" in

¹ See Response to Request for Implementation Plan of Alascom, Inc., Exhibits E, F, G (June 7, 1993).

the years 1994 through 1996² and other forecasted increases in intrastate cost allocations, it appears that intrastate ratepayers would need to absorb over a \$10 million increase in intrastate costs. Given that there are approximately 270,000 access lines in Alaska,³ this cost shift could result in an increase of \$40 a year or more in intrastate rates.

The primary reason for changing the frozen allocator is to reduce Alascom's interstate costs. This reduction is designed to allow Alascom to compete more effectively in the interstate MTS/WATS market.⁴ That same purpose can be achieved, however, by applying the contemplated accelerated cost recovery only to Alascom's interstate MTS/WATS rate base rather than diluting its impact on Alascom's interstate rates by applying it to Alascom's company-wide rate base.

Moreover, this alternative approach would avoid potential litigation over whether the FCC (even when implementing a Joint Board Recommendation) has the authority to order accelerated cost recovery of the intrastate portion of a carrier's jointly used assets. See Louisiana Public Service Commission v. United States, 476 U.S. 355 (1976). At the least, it appears that the FCC should

² In these years, the Joint Board plan envisions that Alascom would allocate 75% of its interexchange circuit equipment costs to the interstate jurisdiction but would still continue to allocate 14% of those costs to the intrastate jurisdiction. The remaining 11% of costs would be allocated to the "Alaska Fund," a fund to be administered by the National Exchange Carrier Association and paid for by all interexchange carriers.

³ Tentative Recommendation and Order Inviting Comments at 7 (Federal-State Joint Board, May 17, 1993).

⁴ Id. at 15.

not order accelerated cost recovery of the intrastate portion of Alascom's rate base without approval of the Alaska Public Utilities Commission ("APUC").

This alternative would also avoid the necessity for the "Alaska Fund." No state-specific fund has been established to assure rate integration and universal service for other states. The creation of a state-specific fund might provide a focal point for attack by those who do not accept those fundamental policies. Such a fund should be established to further those policies in Alaska only if no other alternative exists. Here, those policies could be furthered simply by maintaining existing cost allocation rules. This solution is also more consistent with the mechanisms for achieving universal service and rate integration in the rest of the United States.

**2. Eliminate Geographic Cost Averaging
for Alascom's Interstate Carrier
Services**

The second adjustment the State suggests relates to the Joint Board's proposal that Alascom's interstate carrier services be subject to a rate averaging requirement. The Joint Board envisions Alascom providing switching and transport to other interstate carriers. Alascom would be the only carrier providing service to the most rural parts of Alaska and, therefore, all other interstate interexchange carriers would need to purchase transport and perhaps switching services from Alascom to serve those locations. Alascom would also provide transport and switching services to and from other locations in Alaska. The Joint Board, largely reflecting the concerns of General

Communication, Incorporated ("GCI"), has recommended that Alascom's transport and switching services be priced to carriers on a geographically averaged basis.

The State shares the concern that, in the absence of a geographic averaging requirement, Alascom would have the incentive to allocate more costs than are appropriate to the most rural service routes, where it has a facilities monopoly, and allocate fewer costs than are appropriate to the other service routes, where it faces competition. 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.

AT&T, a potential carrier customer and competitor of Alascom, appears to agree with this position. In its Consumer Benefit Plan, AT&T requests only that "the rates for Alascom's services . . . be based upon the direct costs of providing them."⁵ In particular, AT&T seeks assurances that "Alascom's rates for service to the Alaska bush will be based solely upon the costs of the satellite and earth station network used to provide this

⁵

AT&T's Petition to Terminate the Joint Service Arrangement at 15 (March 21, 1993).

monopoly service";⁶ and that "the rates Alascom charges all carriers, including itself, should be the same."⁷ Concerns that Alascom's rates are too high can be addressed in the traditional and well accepted tariff review process.

The State's position that the rates Alascom charges other carriers should not be subject to a geographic averaging requirement in no way weakens or contradicts its belief that the Communications Act and fundamental national communications policy require continuation of rate integration and geographic averaging of rates charged by carriers to end users of telecommunications services.⁸

AT&T's Consumer Benefit Plan

AT&T's Consumer Benefit Plan also appears to be in the public interest, at least from a theoretical basis; however, a great deal is not known about the Consumer Benefit Plan and how it would work in practice.

⁶ Id. at 15-16.

⁷ Id. at 16.

⁸ See Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 3133 (1989) (the Commission will suspend and investigate any tariff that deaverages rates for MTS, WATS, or 800 service); MTS and WATS Market Structure, 81 FCC 2d 177, 192 (1980); Integration of Rates and Services, Supplemental Order Inviting Comments, CC Docket 83-1376, 4 FCC Rcd 395, 398 ("[C]ontinued integration of interstate MTS and WATS rates is necessary to ensure that all Alaska residents are able to participate fully in the social, economic, and political life of our nation. . . . [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 [Communications] Act."). See also Comments of the State of Hawaii at 6 & n. 10 (April 20, 1992).

The Consumer Benefit Plan offers the promise of both new investment and new competition in Alaska telecommunications markets with a minimum of regulatory oversight. AT&T would provide interstate MTS/WATS at rate integrated and geographically averaged rate levels and would apparently accept dominant carrier regulation of its offerings of those services to the same extent as in the rest of the nation.⁹ AT&T promises a new state-of-the-art fiber optic cable that offers the potential of new broadband services for Alaskans. AT&T also promises to enter the intrastate market, to price its intrastate services at the lower of Alascom's or GCI's current prices, and not to increase its intrastate rates except to pass through APUC-approved increases in local exchange carrier ("LEC") imposed intrastate access charges. AT&T's participation in both Alaska interstate and Alaska intrastate markets appears to eliminate, from AT&T's perspective, any need to change the frozen allocator applicable to interexchange circuit equipment. Because AT&T has been the only party challenging the existing frozen allocator, there would then be no reason to change the allocator, which was approved by a sister Joint Board and the FCC in 1986.

Significant unanswered questions concerning AT&T's plan, however, remain. The record does not contain sufficient information to determine whether AT&T's plan would result in a market structure that would make universal service achievable,

⁹ See AT&T Petition to Terminate Joint Service Arrangement at 11-12.

rate integration sustainable, and jurisdictional cost shifts avoidable in both the short and long terms.

More specifically, because Alascom is the only carrier with an obligation to bring interexchange services to any Alaskan community of 25 or more requesting service,¹⁰ any impact of AT&T's plan on Alascom's ability to satisfy that obligation must be measured. The State has asked AT&T what AT&T envisions the impact of its plan to be on Alascom's interstate and intrastate revenue requirements and Alascom's ability to satisfy those revenue requirements. (Are there, for example, hidden jurisdictional cost shifts?) The State has also asked AT&T if it would be willing to accept Alascom's service obligations, if necessary.

The State has specific concerns about service, under the AT&T plan, to those rural areas of Alaska where Alascom is now the exclusive facilities-based interexchange carrier. AT&T does not currently have a satellite that serves the northern reaches of Alaska. How would AT&T propose to serve those areas, if Alascom's existing satellite service were not available?

With respect to AT&T's proposed intrastate rate cap, does the caveat concerning flowing through APUC approved LEC access charge increases apply as well to any increases in Alascom's intrastate carrier services? It does not appear that the caveat would apply (nor should it) because Alascom is not an LEC, but AT&T's plan needs to be clarified in this respect.

¹⁰ See Tentative Recommendation and Order Inviting Comments at 10.

The State also wishes to understand what AT&T envisions its own intrastate revenue requirements to be after the expiration of its intrastate rate cap. In that regard, the State notes that significant new investment is planned in assets that would be used for both interstate and intrastate purposes. The capital and operating costs of that investment as they relate to intrastate services are subject to recovery through intrastate service rates. The State needs more information concerning what AT&T envisions those costs and rates to be.

The State is also interested in learning how AT&T would propose to interconnect with Alaskan LECs. Are there improved methods of interconnection that could maximize efficiency of telecommunications networks?

These are a few of the many questions that have already been raised by the State (and perhaps others) with AT&T. The State believes that responses to these questions should be part of the record in this proceeding. It hopes that AT&T will provide those responses in a manner that will permit the additional information to be considered both by the State in submitting reply comments and by the Joint Board and the Commission in their further deliberations. The answers to these questions may lead the State to recommend certain adjustments to the AT&T plan, just as it had suggested certain adjustments to the Joint Board proposal.

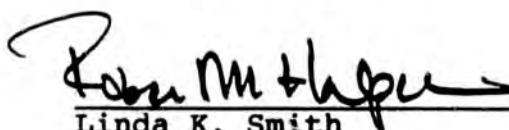
Conclusion

The State commends the Joint Board for its efforts in crafting a comprehensive response to the complex market structure issues that have, for years, defied resolution. The State has

assessed the Joint Board plan, and believes that two specific adjustments would improve that plan. The State believes that additional detail about the AT&T plan is necessary before a complete assessment of it can be made.

Respectfully submitted,

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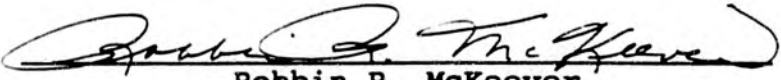
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June 28, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Reply Comments of The State of Alaska" was served by first-class, U.S. mail, postage prepaid, this 28th day of June, 1993 upon the parties listed on the attached Service List.


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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
RM 4436

To the Federal-State Joint Board

**REPLY COMMENTS OF
THE STATE OF ALASKA**

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July 12, 1993

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

In the Matter of)

Integration of Rates and)
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Hawaii, Puerto Rico and the)
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CC Docket No. 83-1376
RM 4436

REPLY COMMENTS OF
THE STATE OF ALASKA

To: The Federal-State Joint Board

This proceeding has lasted over nine years. Tens of thousands of pages of comments and data have been presented and critically evaluated; meetings, presentations by parties, and inspection trips have occurred; expert consultants have been retained and their reports analyzed.

Disagreements may remain, but all agree that the issues in this docket are difficult. There is no perfect solution. If there were, it would have been found by now, given the hard work and critical analysis done by so many different people in industry and government. These issues are not likely to get any easier to resolve in the near future.

Regulatory uncertainty and delay are interfering with the orderly operation of the marketplace and delaying possible improvements in telecommunications services to Alaska. This docket should be resolved as soon as possible.