

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7967 HOUSE LABOR & COMMERCE

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1 **COMMISSIONER ORNQUIST:** So the bottom line on it is, we
2 need the legislation so they can get more money?

3 **MS. TURNER:** Need the legislation so that the insert
4 will allow residents of the state of Alaska to find each
5 other, communicate with each other, and decide if they want
6 to voluntarily fund an organization that can represent them.
7 Essentially, the legislation just helps consumers help
8 themselves, rather than the state deciding that they're going
9 to put out X number of dollars to hire their own staff, as 43
10 other states do, to represent consumers.

11 **COMMISSIONER ORNQUIST:** Okay. That's all the questions
12 I have.

13 **CHAIRMAN SCHRÖER:** Ms. Turner.

14 **MS. TURNER:** Yes, sir.

15 **CHAIRMAN SCHRÖER:** You've been there two years. How
16 long has your organization been in existence?

17 **MS. TURNER:** The Center's been here since, I think '67,
18 '65, somewhere in there.

19 **CHAIRMAN SCHRÖER:** Is there some reason then -- I
20 notice that most of the CUBs established, four of the five
21 are 10 years or more old; what happened in the intervening
22 years, or maybe I should say how many other potential ones
23 are you working on at the present time?

24 **MS. TURNER:** There was some machinery operating there.
25 I think I heard everything, but I think you were asking what

1 happened in the 10 years since most of the CUBs got started
2 to now?

3 CHAIRMAN SCHROER: Yeah, right.

4 MS. TURNER: Okay. The CUB effort started up in -- my
5 project has not been in existence since the mid-'60's, that's
6 been the Center. But in the late '70's or so, the CUB model
7 started the -- to be advocated as utility bills were
8 climbing, as the energy costs were going sky high, with the
9 oil crisis, et cetera. So energy issues were at the
10 forefront. And so there was a lot of organizing and a lot of
11 attention paid by consumers around the country about energy
12 issues. Also, there became the proliferation of the nuclear
13 power plants, which created a lot of consumer interest as
14 well. So it was probably at that time a question of timing.
15 Basically, when things are hot, that's when people are going
16 to want to do something about them.

17 So that started the effort. Then a number of CUBs were
18 established in between -- these CUBs were established in
19 between 1979 and 1983, '84. And they were given the insert
20 privilege into utility bill mailings, was the original model,
21 on the premise that the utilities are -- as a public
22 monopoly, that the billing -- that the empty space in the
23 billing envelope should be made accessible to the rate
24 payers. And the PUC in California established YUCAN on that
25 principle; the initiative in Oregon contained the utility

1 bill inserts, and the Legislatures in Illinois and Wisconsin
2 granted the utility bill inserts.

3 Then another group in California which had gotten the
4 PUC to make that provision, not for the establishment of
5 YUCAN but to allow inserts -- they had challenged actually PG
6 and E's enclosures -- the case got taken all the way up to
7 the U.S. Supreme Court in 1986 in the case of Pacific Gas and
8 Electric versus The PUC of California. The U.S. Supreme
9 Court decided that utility companies are corporations. The
10 law had already provided that corporate -- obviously, the
11 corporations -- the law had already provided that
12 corporations have a limited First Amendment right, and the
13 court decided in that case that that included the right not
14 to have to carry a message with which they might disagree.

15 CHAIRMAN SCHRÖER: Thank you, ma'am. You're going way
16 beyond my question.

17 MS. TURNER: Oh -- well, that's what basically called
18 a halt to it, until the -- not called a halt to the movement,
19 but it sort of discouraged people's efforts. And then
20 Illinois came up with the idea of the state governmental
21 insert and got the state of Illinois to do that. Then the
22 effort went on in New York to establish the New York CUB and
23 the organizing effort just focused there, and energy stopped
24 being that much of an issue. But now, with utilities and
25 telecommunications, particularly telecommunication, being a

1 hot issue with the advent of the superhighway, et cetera,
2 people are interested in organizing around these issues
3 again. So it's just sort of been a ebb and flow of political
4 interest.

5 CHAIRMAN SCHRÖER: Have there been any CUBs organized
6 in the last 12 years that have gone out of existence?

7 MS. TURNER: No.

8 CHAIRMAN SCHRÖER: One final question then. Were you
9 involved in the drafting of Alaska HB 295?

10 MS. TURNER: I sent up a model that we have, you know,
11 proposed people use, and some of those provisions were used
12 in H -- in HR 295 -- or HB 295.

13 CHAIRMAN SCHRÖER: Thank you. Any other comments for
14 Ms. Turner?

15 COMMISSIONER CARTER: Ms. Turner, are you hooked in
16 from Washington, D.C. right now?

17 MS. TURNER: Yes.

18 COMMISSIONER CARTER: Okay. And who's in the room with
19 you?

20 MS. TURNER: Well, a whole -- nobody's listening to
21 this conversation. I mean, we don't have even private rooms,
22 it's sort of a big open space --

23 COMMISSIONER CARTER: Okay.

24 MS. TURNER: -- some other staff people working around.

25 COMMISSIONER CARTER: All right. Thank you.

1 **CHAIRMAN SCHRÖER:** Thank you, Ms. Turner.

2 **MS. TURNER:** Thank you very much.

3 **CHAIRMAN SCHRÖER:** We'll take one more and then we'll
4 have a break here. Mr. Rothberg, are you on? Mr. Rothberg?

5 **MR. ROTHBERG:** Hello.

6 **CHAIRMAN SCHRÖER:** Hello. You have the floor.

7 **MR. ROTHBERG:** I have the floor, okay. Thank you very
8 much. And I'm -- appreciate this, and I have a little bit of
9 a problem hearing some of the people on the committee. I
10 don't have a problem hearing the other speakers, but as I
11 said, I have a little problem hearing some of the people on
12 the committee, depending upon where they are physically
13 located.

14 Again, thank you for the opportunity to speak here.
15 I'm not going to replicate to any significant extent the
16 testimony that's already been offered. I think it makes a
17 pretty good case for the general outline for the need of a
18 citizen's utility board.

19 The only thing I would say to speak to that is to speak
20 from my own experience about why the need for a utility board
21 exists. And that is premised on two facts. One is the
22 incredible complexity of the utility issues. They involve
23 complicated issues of utility accounting, economics, and
24 utility generation. And it takes literally years to --
25 before one can be comfortable with it. I know -- I did the

1 work for the Alaska Consumer Advocacy Project for about four
2 years --

3 CHAIRMAN SCHRÖER: Excuse me. Could you speak up a
4 little bit?

5 MR. ROTHBERG: Can you hear me?

6 CHAIRMAN SCHRÖER: We can hear you, but you're faint.
7 Could you get closer to the mike or your phone?

8 MR. ROTHBERG: I'm speaking -- I'm not using a -- I'm
9 speaking right into the receiver.

10 CHAIRMAN SCHRÖER: Okay, go ahead.

11 MR. ROTHBERG: Can -- okay. I'll try and speak a
12 little louder. The -- I spent about four years doing it. It
13 really took all the four years that I did it to really get
14 comfortable with it. The best analogy I can give, when you
15 start getting into utility proceedings, is as if you're
16 walking in a room which is pitch black and full of furniture,
17 and except for everybody else in the room who have been there
18 for years and they know -- it's fully lit for them, they know
19 where all the furniture is, and you spend a good part of your
20 time just sort of stumbling over the furniture and the
21 language when you're not initiated to it and sound like a
22 convention of Klingons. That's utility proceedings. But --
23 and what you need in order to effectively represent consumers
24 and act as a vehicle for public education for consumers is to
25 have some entity there which is there as the utilities are,

1 as the Staff is, as the Commission is, grinding away at these
2 problems day after day after day. That's how you learn
3 utility issues in a way that can be effective. Because if
4 you just come in from time to time to appear, you're always
5 sort of coming in after the fact. The way to be effective is
6 when you've mastered all the complexities, not just the
7 technical aspects of it, but all the interrelationships
8 between the different utilities as they're usually implicated
9 in a utility case and the history that's evolved over time.
10 Then you can be effective and you can spot the issues even
11 before they -- at the point which they're surfacing and
12 become a player to the same extent that, again, the
13 Commission and the utility staff and the utilities are.

14 The other factor (indiscernible) to is what's already
15 spoken to earlier, it's the incredible -- the increasing
16 complexity of utility issues, and particularly in the area of
17 telecommunications. I think this is what has generated the
18 interest of some people on the committee and I think with
19 good reason. It's becoming a system in which a single
20 provider is offering multiple services. And the boundaries
21 that existed up to now between long distance companies, cable
22 companies, local companies, and information providers, you're
23 just getting more (indiscernible) all the time. The same
24 provider is going to be providing all different services.
25 They're going to be, in theory, competition among a variety

1 of services.

2 And for consumers to get a handle on this, in order to
3 be a participant and make effective choices, they need a
4 vehicle which can outline those choices for them; someone who
5 can be there, as I say, over time, feeding the information
6 over time, and that way, a consumer can get an informed
7 picture. Nobody else, no other institution, is really in a
8 position to make that kind of contribution; not the
9 Commission, not the utilities, not the news media, although
10 they try.

11 The specific concerns, I think that arise in particular
12 when you're talking about utility issues -- and some of
13 these, again, have been spoken to already -- are the utility
14 cost burdens that tend to get shifted onto consumers. One of
15 those in the electrical area usually has to do with over-
16 capacity, where the utility has made a significant
17 misjudgment and it doesn't want to alienate its business
18 customers, especially the larger customers on the system, so
19 what it attempts to do is offer them discount rates and
20 recover the rest from consumers and from smaller business.

21 What I -- particularly what I'm thinking about are the
22 rate case in which we participated in when I was still doing
23 this kind of work, was Homer Electric, which on its own had
24 gone out and bought a -- an 18-million-dollar generator
25 without any previous Commission approval, just decided to do

1 it, and then present this to the Commission as an
2 accomplished fact with a debt burden that had to be met. And
3 at least in one case several years down the road where they
4 were claiming that they were going to (indiscernible) going
5 to be foreclosed upon if they didn't get the additional money
6 from the consumers, ACAP is -- was instrumental in organizing
7 consumer testimony in the hearing in Soldotna. And that
8 involved some trips down there, talking to a number of
9 interested consumer activists, presenting testimony to show
10 why the utility shouldn't be allowed to impose on the
11 consumers the burden that it had essentially imposed upon
12 itself by going out and buying this generator, which was --
13 at that point was being operated six times a year. And we
14 were successful in that, the consumers were successful and
15 they were able to avert the -- at least a significant part of
16 the rate increase.

17 The -- I can point to a second instance in which we
18 were also instrumental in fending off a rate increase, and
19 that was in Manley Hot Springs. We were approached by people
20 there, just as was true with Homer Electric, people came to
21 us because people in Manley Hot Springs were facing a
22 increase from the utility which had just taken over from a
23 local owner the electrical utility there. We made a number
24 of trips out there. The Commission provided an opportunity
25 for public testimony at Manley Hot Springs, and commented

1 that was some of the best public testimony that it ever
2 received on an issue. And again, to a certain extent, the
3 rate increase was averted. And in fact, the Commission
4 received a favorable mention in a national utility trade
5 magazine because of the reliance it placed upon that consumer
6 testimony.

7 The issue of cost shifting with utility consumers comes
8 up again in telephone communications. That came up
9 repeatedly in the four years that I was there. Usually, it
10 would be a utility such as Alascom or AT -- or MEA being
11 faced with trying to take some of the costs away from the
12 larger customers, ostensibly on the theory that if they
13 didn't, they would lose those customers, and place that
14 burden upon the small businesses and upon the individual
15 consumers, on the theory that really, they had no place else
16 to go. And again, to a certain extent, we did resist that,
17 and vigorously, and to a certain extent were successful in
18 preventing that.

19 Those are the kinds of issues you get into, especially
20 now with the information (indiscernible) the information
21 superhighway. What you're going to hear from utility
22 companies is all sorts of additions to the rate base that
23 they want to make, which really have no particular benefit to
24 consumers, certainly nothing that they can't live without.
25 And really, the reason the rate base is there, they knew

1 sophisticated electronics are there to make them -- enable
2 them to offer all kinds of sophisticated services to business
3 customers, and in order to keep themselves competitive, they
4 try to foist the cost of those additional rate base
5 increments on the customers, who don't need them. That's
6 something that again, as I say, we opposed, and it's
7 something that consumers need to be aware of, particularly in
8 the field of public education. That I want to speak of a
9 little bit -- little more at length, because that I think is
10 a role for the citizen's utility board which is at least as
11 important, if not more so, than the rate it can play in the
12 utility rate proceeding.

13 To that end, over four years we put on a number of
14 public conferences. We issued newsletters. We put out
15 consumer utility booklets on electrical consumer regulations
16 and also on the long distance competition. We appeared in
17 radio, TV, and newspaper pieces. We put our letters to the
18 editor and we had opinion pieces in the newspapers. We
19 testified before the Legislature and before municipal
20 authorities. And I think that that was, again, an immense
21 service which basically does not exist now. The utilities
22 don't do this kind of thing, nobody else does, and there
23 really is a significant void that now exists because there is
24 nobody there to speak on a basis that's useful to consumers
25 about what's going on with utilities in electrical and the --

1 in telecommunications.

2 I can say also, and point out, we can be of benefit not
3 just to consumers, but also to the Commission and often to
4 the utilities themselves, recognize that. I can recall at
5 least -- a number of conferences that we sponsored on
6 different utility issues, such as the sale of utilities and
7 competition (indiscernible) utility services, where we got a
8 very good turnout from utilities; in fact, one of the
9 conferences that we put on, the -- a large part, if not the
10 entirety of the board of directors from the Kodiak Electrical
11 Utility and their general manager, came to the meeting
12 basically on word of mouth that we were offering the service,
13 and they subsequently flew me down to Kodiak to speak to
14 their consumers when the issue of deregulating the utility
15 came up. So that's to suggest, I think we had achieved and
16 a recognition of our usefulness, not just to consumers but to
17 the larger public and even to the utilities themselves.

18 A number of things -- one other thing that I think was
19 worth pointing out that we did besides the appearances in the
20 Homer Electric case, the Manley Hot Springs case; we also
21 offered expert testimony on behalf of the hearing impaired in
22 a rate case for Alascom to give discount rates for long
23 distance services and help the hearing-impaired community to
24 organize public testimony, which ultimately proved successful
25 in getting discounts for those rates. And I put a lot of

1 credit for that to the people in the hearing-impaired
2 community themselves, who put on a very effective
3 demonstration of the need for the discount.

4 I also pointed out in the testimony offered in writing
5 that we were at times the only organization which was
6 offering testimony (indiscernible) utility proceedings in
7 favor of competition of long distance services. And I think
8 the value of that concept has long since proved itself.
9 We're only going to see more of that.

10 So in summary, that's the -- those are the reasons I
11 would offer and join to those that have already been
12 presented about why the need exists for a utility consumer
13 board. And again, I appreciate the opportunity to speak here
14 and I'm available to answer any questions.

15 **CHAIRMAN SCHRÖER:** Thank you, Mr. Rothberg.
16 Commissioner Hanley.

17 **COMMISSIONER HANLEY:** Mr. Rothberg, our little roster
18 here says you were formerly of ACAP. What is your position
19 at the present time?

20 **MR. ROTHBERG:** I work as investigator for the State
21 Human Rights Commission.

22 **COMMISSIONER HANLEY:** Which Commission?

23 **MR. ROTHBERG:** The State Human Rights Commission.

24 **COMMISSIONER HANLEY:** And are you presently a member of
25 any of the environmental organizations, the Center for the

1 Environment, Trustees for Alaska, AKPIRG? Are you associated
2 with any of those groups?

3 MR. ROTHBERG: No.

4 COMMISSIONER HANLEY: That's all the questions.

5 COMMISSIONER CARTER: Mr. Rothberg, this is
6 Commissioner Carter. Is ACAP in existence today?

7 MR. ROTHBERG: Not -- no. It -- the only --
8 it essentially wasn't able to continue after the funding got
9 cut in -- essentially in half back in 1989, and the -- there
10 was a utility consumer (indiscernible) think a very effective
11 one, that Allen Mitchell (ph) presented, basically through
12 contract with the Legislature. But no, I think it's fair to
13 say it really doesn't exist anymore. We couldn't -- we could
14 not afford to do it on the amount of money that was
15 available, left available after the amount of funding was cut
16 in half, and I think that Allen did about the best possible
17 job that one could do given that amount of money. But Allen
18 presents some unique qualifications in that he had a very
19 strong background in both economics and utilities. And if
20 you're going to reduce it to one person, if that's all the
21 funding will allow you to, that's the kind of person that
22 should be doing the job.

23 COMMISSIONER CARTER: And how was it funded?

24 MR. ROTHBERG: It got a grant from the Legislature for
25 utility consumer funding, in exchange for which there were

1 certain projects and things they were supposed to do
2 (indiscernible), which we did, which included putting on a
3 conference, producing the newsletters, appearing in rate
4 cases, offering comments, and so on.

5 COMMISSIONER CARTER: And why do you feel that the
6 financing was dropped?

7 MR. ROTHBERG: That -- the -- really, the best answer
8 to that would be people in the Legislature, the people who
9 were involved in -- at the time, there was newspaper reports
10 to the effect that the -- I got nothing, let me put it this
11 way, that -- or -- that connected back to the utility, the
12 work of the utility project. I know that we got, for the
13 period I was there, I think for three consecutive years,
14 first 75,000, and for three consecutive years a hundred
15 thousand each year after that. And there was no suggestion
16 to me nor anything that was public that there was a problem
17 with the effectiveness of the utility consumer project or a
18 feeling that the Legislature wasn't getting its money's
19 worth. The only thing I could speak to was what I saw
20 publicly, which was that there were people in the Legislature
21 who were unhappy with a legislative poll that AKPIRG did
22 rating the effectiveness of legislators, and decided because
23 AKPIRG was sponsoring ACAP at that time -- I think in
24 financial terms it's really more the other way around -- that
25 the only way that some of these people probably could

1 effectively deal with that was to cut the funding for the
2 utility project. And as it turned out, the number that came
3 up was something which we could not -- (indiscernible)
4 50,000, which sounds -- may sound generous; but really, even
5 a hundred thousand, that was around, perhaps, of a salary for
6 me of somewhere in the low -- about the mid 20,000 range. It
7 was allowing for (indiscernible) an economist about in the
8 early 20's, to pay part of the services of an office manager,
9 pay rent and things like that. I couldn't even call that a
10 shoestring, it's the tip of a shoelace.

11 And it's -- that's why I say it was reduced -- and I
12 know Allen made a significant financial contribution, even
13 doing it at a fifty-thousand-dollar level, to do that. It
14 wasn't enough to cover all its expenses. But again, at that
15 level, it was fortunate that he was available, because he was
16 the only person, I think, around that could have offered the
17 level of expertise that he did, or was willing to for that
18 kind of money.

19 **COMMISSIONER CARTER:** So it's appropriate to say then
20 that the consumers didn't find the need to continue the
21 organization once that -- the Legislature cut your funding?

22 **MR. ROTHBERG:** Well, there was a -- there first --
23 there was -- the funding continued for another two years
24 after that. The decision about the amount of money was
25 about -- although was reduced to that level, I think -- I

1 should say that (indiscernible) as I understood it was that
2 one day we actually had the full hundred thousand. And this
3 was given to me in (indiscernible) information. With the
4 attachment and proviso that the money was not to be handled
5 by AKPIRG. And the next day, apparently it was reduced to
6 50,000, and the only inference I can draw from that is the
7 feeling among those around that particular legislative
8 committee felt that -- I think it was a joint conference
9 committee -- was that the only way that it could be sure that
10 its impact or its dissatisfaction (indiscernible) AKPIRG had
11 done with the legislative felt -- and I make no comments
12 about whether they should not have been satisfied with it --
13 but that was -- the public expressed dissatisfaction to some
14 members of that committee. And I guess the only way they
15 felt that they could fully express that dissatisfaction was
16 to actually cut the funding, because there probably was a
17 feeling that the advisory note they were going to attach to
18 it was not going to be enough to, as a legal prohibition, to
19 actually preclude AKPIRG from using the money.

20 So in real terms, at least I know just before the final
21 vote on it from that committee, we had the full funding for
22 it. That's why I say that there was the feeling at the full
23 level that the project should be continued -- it continued,
24 and it was only because of the utility project's proximity to
25 AKPIRG in that legislative survey that the money got cut in

1 half. But I think right up to the end, I think it's fair to
2 say the enthusiasm for the utility project itself was
3 unimpaired right up to the end, but it was a -- became victim
4 to a political judgment, a political decision to do something
5 about -- some people in the Legislature felt it was
6 (indiscernible) AKPIRG.

7 COMMISSIONER CARTER: Okay. And where are you
8 testifying from?

9 MR. ROTHBERG: Actually, I'm testifying brief -- I'm
10 taking some time off from work to do this.

11 COMMISSIONER CARTER: I mean, are you in Anchorage?

12 MR. ROTHBERG: Yes.

13 COMMISSIONER CARTER: Okay. Is anybody in the room
14 with you?

15 MR. ROTHBERG: No.

16 COMMISSIONER CARTER: Thank you.

17 CHAIRMAN SCHRÖER: Commissioner O'Tierney.

18 COMMISSIONER O'TIERNEY: I have no questions. Thank
19 you, Joel.

20 CHAIRMAN SCHRÖER: Commissioner Ornquist.

21 COMMISSIONER ORNQUIST: I have no questions.

22 CHAIRMAN SCHRÖER: And I have no questions. Thank you,
23 Mr. Rothberg.

24 MR. ROTHBERG: Again, I appreciate the time. Thank you
25 very much.

1 **CHAIRMAN SCHRÖER:** All right. Let's take a 10 -- short
2 10-minute break, folks, then we'll come back. Let's go off
3 record.

4 (Off record at 10:30 a.m.)

5 (Off record at 10:47 a.m.)

6 **CHAIRMAN SCHRÖER:** Are you there?

7 **MR. KEMPPPEL:** Yes, Commissioner.

8 **CHAIRMAN SCHRÖER:** You have the floor. Go ahead.

9 **MR. KEMPPPEL:** Thank you, Commissioner. Good morning.
10 I am speaking to you from rainy and drizzly Juneau,
11 unfortunately.

12 I guess my first comment on HB 295 would be that the
13 residential consumers have the right today to form a non-
14 profit co-op association and intervene in rate cases and in
15 fact, have in the past and I believe that corporation still
16 exists, and so this legislation is certainly not needed for
17 a group of consumers, any group of consumers to get together,
18 form a corporation for the purposes of intervening in utility
19 rate cases.

20 The question then becomes why is this legislation then
21 necessary and why would people go to the effort of attempting
22 to get this legislation passed. And I think the Commission
23 has heard the answer. It's -- they need the funding
24 mechanism, the people who are advancing this legislation need
25 the funding mechanism, and especially, quote, they need the

1 access to government mailing; which is indeed a very valuable
2 privilege to hand to a group to allow them to -- in
3 connection with Permanent Fund mailings, to have access to
4 everyone in the state for purposes of soliciting funding.
5 And I'm certain that there are many groups that would fight
6 hard for that privilege if they thought they could get the --
7 that type of access.

8 It really -- the question still remains, though,
9 whether the consumers really want to intervene and want to
10 intervene in a particular rate case. The -- again, they have
11 the mechanism to do that in the individual utility rate cases
12 through individual consumer groups.

13 Of course -- and I guess I should announce that I am
14 speaking today on behalf of ARECA and ARECA's member
15 cooperatives on this legislation. ARECA's members have voted
16 to oppose this legislation and have sent resolution to the
17 Legislature opposing this legislation. And the main reason
18 for that is that ARECA's members believe that the board of
19 directors really are the consumer advocates, and are
20 effective consumer advocates, and are elected specifically by
21 the local members to be just that, the consumer advocates.
22 And I wish the Commission had heard the discussion of board
23 members on that issue. And the fairly -- really deep felt
24 discussion when those elect -- when those directors became
25 candidates for the board, just why they became candidates.

1 They sincerely believe themselves to be the most involved and
2 most knowledgeable consumer advocates there are in the
3 cooperative.

4 The -- in addition to that, most of the cooperatives in
5 this state have some form of MAC or member advisory committee
6 of some form that inserts an additional level of local rate
7 control, and in the regulatory process. And again, I wish
8 the Commissioners could sit in on meetings of a MAC of a
9 very -- of a cooperative that precedes the cooperative filing
10 a rate case; because you would see that there is not a small
11 level of local interest or control being exhibited there,
12 there's a large level. And one of the questions that was
13 asked earlier was how does -- I think that Mr. Rothberg said
14 that learning utility issues is a hard thing and it's like
15 being in a dark room. Well, that's true to some extent. But
16 I will tell you the answer to it. The answer is hard work
17 and lots of meetings.

18 And I see MACs and MAC members, groups of MAC members
19 go through that process; come on to member advisory
20 commissions of a utility knowing nothing about utility rates,
21 knowing nothing about how a rate base or a rate of return or
22 how anything is set; and work hard, go to a long series of
23 meetings, and come -- and make themselves -- and through hard
24 work, make themselves well informed and have a real influence
25 on what the utility ends up filing with the Commission. So

1 I guess again, we think there's a lot of member involvement
2 in rates and a specifically residential member involvement in
3 rates at this point in time.

4 Then we get to the Commission, and we have the APUC
5 Staff, which is roughly 36 staff members, plus Assistant
6 Attorneys General, and AJ -- and ALJs, who are charged with,
7 again, looking at the consumers' interests, including the
8 residential consumers, and doing it in a balanced way.

9 We -- the problem with a -- this legislation is that it
10 attempts to create and -- a special interest group. Whether
11 you say, well, gee, we have to do this to combat special
12 interest groups -- in fact, this creates a special interest
13 group who is charged with representing one class of
14 consumers. This is opposed to the APUC Staff that really is
15 charged with balancing the approach to rate setting to all
16 consumers. And when it comes to rate design between classes,
17 that's the only -- it's the only way that it can work is a
18 balanced approach, so that all the consumer classes are
19 considered. So we then have the Staff input into the
20 process.

21 If -- actually, the business of a special interest
22 representation is an interesting one. It may be in other
23 states that the -- there are special interest groups. One
24 that comes to mind might be a warehouse or consumer that's
25 large enough in another state to -- a large power consumer,

1 to come in and influence or pressure for that particular
2 large power special interest. We don't have that same kind
3 of situation in this state. In fact, I think we could argue
4 and I -- that in this state, the residential consumer is --
5 you could argue that the co-op structure, at least, results
6 in over-representation by the residential consumers, in the
7 sense that in a cooperative, each residential consumer gets
8 one vote in electing the board and getting on the MAC, as
9 does each large power consumer get one vote. So that when it
10 comes to electing a board of directors of a -- electric or
11 telephone cooperative, the residential consumers, the person
12 who consumes 500 kilowatt hours a month has the same voting
13 power as the -- as the large power consumer that consumes
14 tremendous amounts more.

15 We don't have the large power organized special
16 interest groups in this state. And in fact, I think you
17 could make the argument that if we were to explicitly by
18 legislation create an organized residential consumer group,
19 you might indeed precipitate what large power interests we do
20 have in this state to form their own organizations. And then
21 we would turn the -- we would truly turn the rate design
22 process into an adversarial process. And that may bring out
23 some truth, but it would probably bring out more heat than
24 light, as opposed to the process we have now, where Staff
25 is -- approaches the rate design from a balanced approach to

1 all consumer groups.

2 Which really brings us to the question of these -- this
3 organized effort to put these CUBs in the various states.
4 And in comparison with our -- with Alaska. And Alaska is
5 truly different. I think one of the reasons that Ms. Turner
6 was having some difficulty with the question asked her
7 earlier about the REA is probably that she is not very used
8 to dealing with REA-financed cooperatives, because one, there
9 are so few of them in other states, and two, the ones that
10 there are in other states tend not to be regulated. So that
11 the -- a group like hers would probably have very little
12 contact with REA co-ops. That's to be differentiated from
13 Alaska, where REA and municipally owned utilities dominate.
14 And what generally is left is the smaller, locally owned
15 power companies, at least, in this state.

16 So that the utilities -- we don't have the large BOC.
17 We don't have the Commonwealth Edisons in the state of
18 Alaska. What we have is the utilities, the munis, the small
19 locally owned power companies. So that -- we really are
20 different and the -- we do not need in the same way the sort
21 of response to Commonwealth Edison kind of approach that
22 other states need. We need a different approach in Alaska
23 that responds to our situation here. And I think the Staff
24 has that approach. It is an approach of, in many cases,
25 working with the cooperative to ensure that the rate case is

1 a reasonable one.

2 The -- I really think the -- this balanced approach by
3 Staff is the right approach rather than the special interest
4 approach. And I guess I would urge the Commission to look at
5 that on the legislation itself, to stay with the Staff
6 approach.

7 The -- on the legislation itself, three things about
8 the legislation really caught my eyes, as you read down
9 through 295. The first is the section on 020(e), which gives
10 the non-profit corporation that's created the right to use
11 state grant funds to lobby the Legislature, to influence
12 additional legislation, to influence the granting of
13 additional grant funds. That's an extraordinary right to
14 give anybody, including a non-profit corporation, the right
15 to use state monies. That's specifically not allowed in
16 other situations. And to give an organization the right to
17 obtain a state grant and then use that money to go back and
18 obtain more state grants or to lobby the Legislature that
19 gave it the grant is extraordinary and dangerous.

20 It does, although, point out something which is sort of
21 not explicit in this bill, but which certainly one can see as
22 the next stage, and that is a direct state appropriation to
23 this organization. And that I'll talk about in a minute in
24 terms of the competition for state funds and where those
25 state funds ought to be more appropriately extended.

1 The second aspect of this legislation that I find
2 troubling is the last sentence of 030 on judicial review.
3 There are other states where utility rate regulation has
4 ended up in a different scenario than we do in Alaska.
5 Generally in Alaska, a utility files a rate case and the
6 issues are identified and argued out and decided upon by the
7 APUC. And occasionally, someone objects to that, appeals,
8 and the Commission goes in and defends its position with the
9 court, and generally wins. And because the court takes the
10 position that the Commission is the experts and should be
11 deciding the questions, the factual questions.

12 There are other states where that isn't the case, where
13 the filing before the Commission is almost just a -- sort of
14 preparatory step, and the real action takes place in the
15 court. I don't think that that is a model that Alaska wants
16 to pursue. I don't think it's -- well, we'll file our case
17 in the Commission, but we all know that the Commission's
18 decision doesn't mean anything, that it's always going to be
19 appealed, and what we're really going to do is regulate rates
20 in the court.

21 No one -- I don't think that model is an appropriate
22 one for Alaska. The last sentence of 030 bothers me in that
23 connection, because it tends to imply that this corporation,
24 if it's formed, can wait, cannot participate in the
25 Commission proceeding, and then can go to court if it doesn't

1 like the result and say, gee, the residential utility
2 consumers are significantly affected and that's the standard,
3 to appeal this even though we haven't participated in the
4 Commission proceeding. I don't have the statutes in front of
5 me, but I would -- I believe that is a lesser standard than
6 the standard one now has before the court to go in and appeal
7 a Commission decision that you haven't participated in. I
8 think that's a dangerous precedent, that's a dangerous piece
9 of legislative language to adopt in a statute.

10 And finally, the section -- the first part of 040
11 immediately catches one's eye when one reads this
12 legislation. And -- as it should, because as Ms. Turner
13 expressed, it really is the reason for the legislation. It's
14 the funding mechanism and the access to government mailings
15 that allows -- that makes this legislation valuable. Again,
16 that's an awfully effective way to communicate that a lot of
17 organizations would love to have, piggybacking on your
18 Permanent Fund Dividend payments. And I think that it's one
19 that -- certainly the cooperatives lack this kind of -- the
20 resources to counter. We might find, unlike other states
21 where Commonwealth Edison, who has lots and lots of money, is
22 able to effectively deal with a financing machine, the
23 cooperatives certainly are not. And I think the cost to the
24 cooperative and its consumers of dealing with that kind of
25 financing mechanism, recounting that kind of financing

1 mechanism could be significant.

2 I guess the answer is to ARECA and its members is that
3 we think the charge given to the Commission Staff at this
4 point is adequate and is the correct charge, to look at the
5 utility filings and make sure that the interests of all the
6 consumer classes are adequately protected. Frankly, if given
7 the choice, if the choice were this legislation versus the
8 creation of some Commission Staff to do additional analysis
9 of the utilities, the issues being raised by utility filings,
10 ARECA would prefer the latter option, again, because a
11 Commission Staff created to aid the Commission would be
12 presumably charged with take -- doing a balanced analysis of
13 the issues, and not representing any particular consumer
14 group or special interest group, but representing all of the
15 consumer groups.

16 So I guess we would urge the Commission not to
17 recommend the creation of a special -- another special
18 interest group or a special interest group that might result
19 in the creation of yet more special interest groups, like
20 large power consumers; but rather, if you're going to look
21 for more analysis, do it in the form of some sort of
22 Commission Staff.

23 Thank you, Commissioner.

24 **CHAIRMAN SCHRÖER:** Thank you, Roger. Commissioner
25 Hanley.

1 **COMMISSIONER HANLEY:** No questions at this time, Mr.
2 Chairman.

3 **CHAIRMAN SCHRÖER:** Commissioner Carter.

4 **COMMISSIONER CARTER:** Mr. Kempel, just one question,
5 and I probably should have asked this to one of the other
6 folks, but let me pose it to you anyway. You know, they are
7 talking about the membership putting in five dollars or more.
8 And we're a state of 500 to 600,000 people, I think. And
9 using the percentage that shows up for some of the other
10 states that were mentioned today, suppose that -- in this
11 case they raised -- even with 5,000 members and five bucks
12 apiece is what, \$25,000; and they happened to choose a case
13 to pursue and it gets real lengthy and extensive and they run
14 out of money. What would be the legal problem thereafter?
15 Would it -- would they have to drop the case? What do you
16 see happening there?

17 **MR. KEMPEL:** Commissioner, I -- frankly, I'm having
18 difficulty with your question because I -- and I have no
19 reason to -- I have no evidence to give you to this, but this
20 is my own feeling at this point. But I have reason to think
21 that there will be state money put into this in the form of
22 grant funds to -- both as start-up money and possibly later
23 as adequate funding for a particular case. So that I do not
24 envision this. I -- and I based this on just experience and
25 watching these things go in the past. I think we will see

1 state money inserted into this corporation before it is
2 through. And so -- and I think the legislation itself
3 specifically mentions the powers of this corporation to
4 utilize grant funding. That leads me to believe that there
5 is at least the thought that grant funding might be
6 appropriated to this organization.

7 So I think they -- what would happen if this
8 organization is inadequately funded is a difficult question.
9 I don't know the answer to it, so --

10 COMMISSIONER CARTER: Okay. Thank you. I --

11 MS. TURNER: Commissioner --

12 COMMISSIONER CARTER: -- guess I would have to sort of
13 disagree a little bit with what you said. I think the
14 attitude and the mood of the Legislature is probably not to
15 become involved, giving grants and what have you. I just,
16 you know, have that, I guess I call it a gut feeling that,
17 you know, the mood may not be that -- they'd want to see it
18 maybe on its own, and I guess that's why I asked the question
19 was, if they were really on the fence and something like that
20 happened, you know, just where would they be legally; would
21 they have to drop out of the case or whatever. But that's
22 okay, thank you.

23 MS. TURNER: Excuse me. This is Phyllis Turner. Would
24 it be possible, since you had mentioned that maybe it would
25 be -- have been helpful to have asked this question of one of

1 us, if I could address that for a moment?

2 CHAIRMAN SCHRÖER: Go ahead. One moment.

3 MS. TURNER: Yes. The - first of all there was
4 originally in Kay Brown's proposal some state money. They
5 took it out. So already, the Commissioner's legislative gut
6 feeling is accurate. Secondly, the point is about the
7 funding, the access to funding. Of course the state knows
8 they cannot fund somebody to -- a non-profit to lobby. What
9 the state would fund is a specific project such as a consumer
10 education project.

11 The third part of -- the specific question about, to
12 answer the specific question about what happens if they run
13 out of funds, just as anybody in any legal proceeding does;
14 if they don't have the money, they can't continue. Whenever
15 the CUBs take on a case, they budget what they can do. They
16 figure out how many issues they can handle, what experts they
17 can afford with what money that they already have. They
18 don't go into a case without the money and hope to try to get
19 it later.

20 CHAIRMAN SCHRÖER: Thank you.

21 MS. TURNER: So if they could continue, they drop back
22 in how much -- how many hours they spend.

23 COMMISSIONER CARTER: Thank you.

24 CHAIRMAN SCHRÖER: Thank you. Commissioner O'Tierney.

25 COMMISSIONER O'TIERNEY: Mr. Kempel, one thing.

1 Relative to your comments about 42 -- proposed 42.50.030
2 regarding judicial review; and you had focused on the last
3 clause of that and were making the case that it might create
4 a situation where utility regulation is the stuff of judicial
5 action and not administrative action. It -- well, and more
6 precisely, you suggested that this -- that this language
7 suggests that the court may grant intervention on appeal even
8 if the CUB didn't participate below. Isn't that -- wasn't
9 that your -- one of your statements?

10 MR. KEMPEL: That's correct, yeah.

11 COMMISSIONER O'TIERNEY: Okay. If you look at Section
12 2 -- that proposed statute is in Section 1. If you look at
13 Section 2, the language, at least the -- my copy, at lines 20
14 through 22 on page 9 -- do you have it in front of you? If
15 you don't, let me just --

16 MR. KEMPEL: Yes.

17 COMMISSIONER O'TIERNEY: -- read it to you. And it
18 indicates on Section 2, lines 20 through 22 on page 9 of my
19 copy of HB 295, that with regard to court rule change,
20 42.50.030 has the effect of amending ARCP 24 by granting the
21 CUB the right to intervene in an appeal from an
22 administrative hearing in which it participated. That
23 language suggests to me something different than what you
24 were suggesting. Do you have it in front of you?

25 MR. KEMPEL: I do not have that section of the --

1 **COMMISSIONER O'TIERNEY:** Yeah.

2 **MR. KEMPEL:** -- (indiscernible).

3 **COMMISSIONER O'TIERNEY:** Well, I paraphrased it pretty
4 closely. I mean, let's assume I did that accurately and
5 that, you know, you processed it accurately; that would seem
6 to circumscribe what you were suggesting, wouldn't it?

7 **MR. KEMPEL:** If that change has been made to the
8 legislation, that would be very helpful indeed.

9 **COMMISSIONER O'TIERNEY:** Yeah. Well, I mean, it --
10 it's not -- I mean, the legislation is what the legislation
11 is. I mean, the language you cited is the language of that
12 proposed 42.50.030. But there's this Section 2, by way of
13 almost, I suppose, sort of legislative intent. I'm not sure,
14 but it appears to circumscribe the context in which the CUB
15 might appeal. And I just wanted to point that out and see if
16 I was, you know, you were reading something beyond what I was
17 reading or reading it more -- divining it more carefully or
18 something.

19 **MR. KEMPEL:** No, I -- I'm sorry, Commissioner. I may
20 have -- not have the very latest. I have HB 295. But I --
21 it -- as it was introduced. I may not have --

22 **COMMISSIONER O'TIERNEY:** Yeah.

23 **MR. KEMPEL:** -- an amend -- the later amended
24 version --

25 **COMMISSIONER O'TIERNEY:** Yeah. I have a copy that

1 indicates introduced 4/26/93. Well, in any event --

2 MR. KEMPEL: Yeah.

3 COMMISSIONER O'TIERNEY: -- I just wanted to point that
4 out, because it seems to speak directly to one of your
5 concerns regarding the ability of, in this case, a CUB to
6 appeal if they didn't participate below.

7 MR. KEMPEL: The ability of the CUB to become a party
8 of a rate proceeding, of course, is not something that needs
9 to be legislated, because I think any group has the right to
10 intervene at this point, representing the residential
11 utility -- consumers of that utility in that rate proceeding.
12 Now, what they may not have the right to do is intervene --
13 a group may not have the right to intervene in a rate
14 proceeding of a utility where their members do not -- are not
15 members of that utility. And we've actually, I believe, had
16 that situation take place in Alaska where a group intervened
17 in a rate proceeding and the local members asked -- loudly
18 asked the question, "Why is this group intervening on our
19 behalf?" But the basic right to intervene on behalf of a
20 group of utility residential consumers is already in the
21 statute, of course.

22 COMMISSIONER O'TIERNEY: Well, as you well know, just
23 to -- I suppose, to respond to that, the Commission has
24 promulgated regulations that govern intervention that speak
25 to intervention as a matter of right and intervention as a

1 matter of Commission discretion, which you're familiar with.
2 You're not actually referring to those, though. You're
3 referring to the --

4 MR. KEMPEL: No, I --

5 COMMISSIONER O'TIERNEY: -- interventions of statutory
6 matter.

7 MR. KEMPEL: Yes, statutory matter.

8 COMMISSIONER O'TIERNEY: Well, in any event, I just
9 want to point that out, because I thought maybe I was missing
10 something. But actually, maybe your copy is --

11 MR. KEMPEL: Yes, I think maybe.

12 COMMISSIONER O'TIERNEY: Thank you.

13 CHAIRMAN SCHRÖER: Commissioner Ornquist.

14 COMMISSIONER ORNQUIST: Yeah. Mr. Kempel.

15 MR. KEMPEL: Yes, Commissioner.

16 COMMISSIONER ORNQUIST: One of the comments that you
17 just made caught me a little off guard. I -- what I thought
18 I heard you say was you would -- or the -- ARECA would rather
19 see a Commission advocacy -- or consumer department advocacy
20 department of some kind put into the Commission as opposed to
21 a CUB?

22 MR. KEMPEL: No, Commissioner. What I said was, if
23 the choice were a CUB, creating a CUB to come before the
24 Commission to represent residential rate payers, and creating
25 some additional positions within the Commission of Commission

1 Staff -- Commissioners' Staff, who would do analysis of
2 various utility issues on a statewide basis, even, possibly,
3 that we would certainly favor that second approach, which is
4 giving the Commissioners additional analytical tools to look
5 at utility rate issues.

6 One of the reasons I make that choice or posit that
7 choice is because I do not really see a CUB, if it were
8 created, addressing local utility issues. Kodiak Electric
9 files a rate case and there is a local issue involved with
10 that rate case that -- that's particular to Kodiak. The CUBs
11 do not generally operate as effectively, it's my
12 understanding, of those local issues, and certainly, the
13 cooperatives operate much more effectively on those types of
14 local issues, in my -- my feeling is that in the CUBs. So
15 that what happens is the CUBs who are created would tend
16 to -- and I -- would tend to focus on more of a statewide
17 issue that could be -- and so -- an analysis of a statewide
18 issue. And I think that's exactly what the Commission's --
19 not Staff Staff but Commissioners' Staff might most
20 profitably do, is focus on the broad or statewide issues.

21 So that's why I -- given those two, would opt for the
22 Commissioners' Staff approach to -- again, because it's not
23 just a residential rate payer analysis of that statewide
24 issue but a more balanced approach. And most of those
25 statewide issues are not specifically residential rate payer

1 specific. They are, in fact, much broader statewide issues.

2 COMMISSIONER ORNQUIST: Would you see that being funded
3 by the RCC then, the regulatory cost charge?

4 MR. KEMPEL: Oh, I think by -- it would be as a matter
5 of course if -- unless the RCC were changed drastically.
6 Yes, it would be funded.

7 COMMISSIONER ORNQUIST: Well, in that case, it would
8 sort of seem that the consumer advocacy department or group
9 or whatever would be actually more powerful and more well
10 funded. And that -- are you saying that sure, that's an
11 acceptable thing, that consumer advocacy is something you
12 want to see more of?

13 MR. KEMPEL: I -- I'm not proposing -- first of all,
14 again, I'm not proposing a consumer advocacy section within
15 the PUC. I believe the existing Staff of the PUC very
16 adequately fulfills that function. I am postulating the
17 choice between a non-profit CUB being formed by statute and
18 the consumers -- or -- and the Commissioners, additional
19 positions being created that are Commissioner Staff
20 positions, Commissioners' personal Staff positions. I don't
21 see those positions as being a consumer advocacy group within
22 the PUC. I actually envision them as being more of a office
23 of policies that some of the federal agencies have. They
24 would be Staff people who would aid the Commissioners in
25 analyzing issues, statewide issues on a broader sense.

1 **COMMISSIONER ORNQUIST:** Okay. Thank you for the
2 clarification, Mr. KemppeL.

3 **CHAIRMAN SCHRÖER:** Thank you. I have no questions.
4 Any other question of Mr. KemppeL? Thank you, Mr. KemppeL.

5 **MR. KEMPEL:** Thank you, Commissioner.

6 **COMMISSIONER CARTER:** Just --

7 **CHAIRMAN SCHRÖER:** Hold on.

8 **COMMISSIONER CARTER:** Mr. KemppeL, just one thing, just
9 for the record. When you refer to the MACs, that's a
10 membership advisory --

11 **MR. KEMPEL:** Membership advisory committees. They're
12 called various things in the various cooperatives, but
13 generally, you can refer to them as MACs, yes.

14 **COMMISSIONER CARTER:** Okay, thanks.

15 **CHAIRMAN SCHRÖER:** Thank you, Mr. KemppeL. Ms. Nelson,
16 you have the floor. Please speak into the mike so it picks
17 it up.

18 **MS. NELSON:** Okay. My name's Bonnie Nelson, with
19 AKPIRG. Steve Conn (ph) asked me to come here and testify
20 today. He's en route to Washington, D.C.

21 **CHAIRMAN SCHRÖER:** Who did?

22 **MS. NELSON:** Steve Conn, the director of AKPIRG.

23 **CHAIRMAN SCHRÖER:** Go ahead.

24 **MS. NELSON:** Okay. We support House Bill 292 -- I
25 mean, 295. And in addition to -- I didn't hear anybody talk

1 about the two amendments that are currently being proposed.
2 One is to add the small business as -- so it would be
3 consumer advocacy for residential as well as advocacy for
4 small business. And then there's another amendment being
5 proposed to also add the cable television, waste material
6 collection, waste material disposal, sewer, and manufactured
7 gas. And we do believe that there needs to be a -- more of
8 a balance of power in the consumer advocacy. And we think
9 that this membership funded idea is a good one, especially in
10 the time of scarce resources, when the Legislature's probably
11 not going to want to give a hundred thousand dollars to a
12 private organization such as AKPIRG or another organization
13 that does represent consumers. I think that AKPIRG did a
14 good job at about a hundred-thousand-dollar level in the
15 past, and when it was cut to \$50,000 it was not able to do as
16 good a job.

17 I would like to mention that -- in response to -- Mr.
18 Carter said that five dollars -- it wouldn't -- probably
19 would only have about \$25,000 if people paid about five
20 dollars. But in hearing people testify -- I didn't hear it
21 today, but when some of the people from outside testified to
22 the legislative committee the other -- last week in Juneau,
23 they said that the average membership -- the average member
24 contributed \$20. And so I think that is important. In all
25 the CUBs the average one was \$20, and so that would make it

1 the hundred thousand dollars so that they would be able to do
2 an adequate job of representing consumers at that level.

3 And I think that an entity that is membership funded is
4 going to do a much better job with the money that they do
5 have, because if they don't do a good job, they lose that
6 membership, they lose their money. So there is a lot more
7 incentive, I think, for a membership funded entity than there
8 is for just a grant.

9 But I think that -- I think it's too bad that Alaska is
10 one of seven states in the -- in all of the United States
11 that doesn't have a consumer entity for representation. And
12 the way I understood that, and I might be wrong, but it
13 sounded like when Phyllis Turner talked, that of those 43
14 states, actually are -- do receive government funding for
15 those kind of entities. And many of the CUBs then are in
16 addition to government funded consumer bodies.

17 I'd like to point out that I do think that the Alaska
18 Public Utilities Commission does do a good job. But I think
19 a CUB would help the Public Utilities Commission with their
20 mission, because their mission is -- your mission is to
21 represent all facets of the population.

22 However, because of the technical aspects of utility
23 rates and all of the other policy issues, I think most people
24 cannot know those kinds of issues very well. They have all
25 they can do to go to work and come home and read the paper

1 and watch the TV, and they cannot know that; whereas large
2 corporations and utility lobbyists can afford to hire lawyers
3 and speak before you in an effective way. Consumers don't
4 have that capacity and they can't just go out there and start
5 a private corporation easily.

6 And I think that from the way I understand it, I think
7 that you -- the Public Utilities Commission also are mandated
8 to only, when you make your decisions, only use what's in the
9 record. And so a CUB would in effect help you do many of the
10 things that you might really want to do but couldn't if those
11 things weren't in the record, if attorneys and lobbyists for
12 large corporations or utilities were the only ones that came
13 before you and there were no consumer advocates, you would
14 be -- I think, and I'm, you know, not an expert in this, but
15 I think that you might be bound to do something that you
16 might not even want to. And whereas if there was a CUB, you
17 would have that balance and be able to hear effectively
18 consumer interests represented and in an expert kind of,
19 professional kind of way, whereas if just a group of
20 consumers came before you, they wouldn't have the knowledge
21 or the ability to do that; whereas if they through a -- their
22 membership were able to raise a hundred thousand dollars, I
23 think that they would be able to have that expertise come
24 before you. And then also, of course, I think as is
25 demonstrated in the evidence today in addition to coming

1 before you, it's not just advisory; there has been a great --
2 millions and millions and millions of dollars have been saved
3 through representation in the courts and before the State
4 Legislatures and also before Congress. And I think that this
5 would be a very -- a big help to the consumers in Alaska.

6 I -- so I don't think -- I don't agree with Mr.
7 Campbell (sic) that it should be advisory only to APUC. I
8 think that many times, representation -- good representation
9 in court, if it saves Alaska a lot of money, I think that's
10 a good thing. Courts -- can do that big a thing. And I
11 think many of the things that are happening today with --
12 between MEA and Chugach and Alascom and AT and T, the
13 information highway, the need for the rural to be -- the
14 telecommunications to be able to have access to libraries
15 everywhere, all of those kinds of things is really important.
16 And I think that we have a fair representation for the
17 consumers.

18 And I think that the money that they would get -- the
19 inserts, I think it's important -- Steve told me to tell you
20 that the Permanent Fund wasn't the only place that we could
21 have the inserts. That was just an option and idea. Also,
22 I think the inserts -- there's many other ways. I think you
23 could have inserts in utility bills or Division of Motor
24 Vehicles or some other ideas like that. That's just one way.
25 But it's certainly a much cheaper, most cost-effective way to

1 help consumer advocacy than to just have government pay out
2 a hundred thousand dollars. To be able to attach it to a
3 mailing insert is a really cheap way to go and I think it's
4 so important that consumers get an effective way to become
5 informed and educated. And I think the mailing -- the
6 mailouts and the inserts would be that way. And then that
7 would then provide them a mechanism, a structure, so that not
8 only they -- could they be informed, but then they could
9 organize together and help themselves. So think it is a --
10 really a cheap, cost-effective way to help consumers help
11 themselves. Thank you.

12 **CHAIRMAN SCHRÖER:** Thank you. Commissioner Hanley, any
13 questions?

14 **COMMISSIONER HANLEY:** Just a quick comment. I
15 appreciate your comments. This has been an education, the
16 hearing, for me. I'm not sure if -- a question, but some of
17 the things that you've brought up and some of the discussion
18 we've had has made me a little bit sensitive to the fact
19 that, I guess ACAP had operated under AKPIRG. My limited
20 experience with the legislative evaluations done by AKPIRG,
21 most of the questions, most of the legislation they chose to
22 evaluate legislators, were very environmentally sensitive
23 issues. It wasn't a well-balanced approach that they chose
24 to evaluate how well legislators did. So looking at the
25 people testifying today, I've become a little bit more

1 concerned that maybe the CUB would really focus a lot more on
2 environmental issues than on rate issues. That may be off
3 base, but I guess as we've discussed this and have comments
4 from the lady in Washington, D.C. and Mr. Rothberg, I'm
5 really a little bit concerned that we're not looking at a
6 balanced approach with this CUB, which I thought perhaps
7 could fill a void. At this point I'm concerned that maybe
8 we'd be focused only on the environmental aspects of --

9 MS. NELSON: I think the --

10 COMMISSIONER HANLEY: -- utility --

11 MS. NELSON: Sorry.

12 COMMISSIONER HANLEY: Yeah.

13 MS. NELSON: I think the beauty of it is that they
14 would be responsible to the membership, whereas a -- an
15 organization such as AKPIRG, you know, we're responsible to
16 our membership. And whereas -- I don't think it would be
17 overbalanced with the environmental, because I think that the
18 people coming into it would be looking mostly at the rates
19 and the other kinds of issues like the privacy kinds of
20 issues. And I think that getting more technology, I think is
21 probably -- in addition to lower rates, I think is as big a
22 concern. The advanced kinds of technology with the
23 telephones and the superhighway kinds of things coming on.
24 I think to me, that seems like what consumers are going to be
25 concerned with this organization. I think -- as the man from

1 Oregon testified, there are other organizations that do the
2 environmental job. And people are -- if they're interested
3 in those kinds of concerns, are going to be members of those
4 kinds of organizations. So I don't think that that's a
5 worry. I think that -- you know, I'm not sure, I'm just
6 guessing.

7 COMMISSIONER HANLEY: Thank you.

8 CHAIRMAN SCHRÖER: Commissioner Carter.

9 COMMISSIONER CARTER: Yes, Mr. Chairman. I really
10 don't have a question, but I did appreciate your comment that
11 you felt that the APUC or Alaska Public Utilities Commission
12 does do a good job, and I appreciate that.

13 MS. NELSON: Okay.

14 CHAIRMAN SCHRÖER: Commissioner O'Tierney.

15 COMMISSIONER O'TIERNEY: No, thank you, Mr. Chairman.

16 CHAIRMAN SCHRÖER: Commissioner Ornquist.

17 COMMISSIONER ORNQUIST: I do have one question, Mr.
18 Chairman. Ms. Nelson, the membership of a CUB would be on a
19 statewide basis, correct?

20 MS. NELSON: Right.

21 COMMISSIONER ORNQUIST: How do you see the CUB
22 responding to local issues, as Mr. Kempel had indicated; say
23 a rate case in a small utility out in Chignik?

24 MS. NELSON: The way I understand it, they probably
25 would focus their attention more on the big issues rather

1 than the small individual representation. And the reason is
2 because from what I've heard and what Steve's told me and
3 others, is that the Staff and APUC and you do a good job when
4 it comes to the -- representing the individual kinds of
5 things. And so where we could be more of a help to you is in
6 the negotiations of the -- really, the bigger kinds of, more
7 formal processes, and adding things to the record so that --
8 and helping bring those rates down.

9 COMMISSIONER ORNQUIST: Would you give me an idea of
10 what kind of issues and topics would be more important or
11 receive more attention than rate cases and rate increases on
12 local levels? Well, what kind of things would you see the
13 CUB addressing?

14 MS. NELSON: Lower -- what kind of rates?

15 COMMISSIONER ORNQUIST: Issues.

16 MS. NELSON: Lower rates on all of them, utility bills,
17 phone bills --

18 COMMISSIONER ORNQUIST: No, what kind of issues and
19 topics. My original question is, if you're not involved in
20 rate cases, lowering the rates on a individual rate case,
21 let's say, or tying into a certain proceeding based on --
22 again, I'll just pick Chignik, Chignik Electric, those are
23 the kind of issues that not -- we wouldn't be dealing with
24 that very much. What kind of issues, where -- what kind of
25 issues would you be dealing with? Statewide dealing with --

1 we don't have any rate cases on, let's say electric again,
2 that deal with statewide basis.

3 MS. NELSON: What I was saying was an individual. You
4 wouldn't -- we wouldn't be as -- not we -- wouldn't be we, it
5 would be CUB. It wouldn't be AKPIRG. But I would see them
6 not being as involved in representing an individual person in
7 a case in a complaint. But if it were -- involved Chignik
8 and the whole utility area like that, yes, they might. But
9 I'm not an attorney, I'm not an expert, this is not my area.
10 Health reform is actually my area. And I've been working
11 with Phyllis Turner on some of these same kinds of concepts
12 and ideas for consumer involvement in policy making
13 decisions, not just for their own individual, but for a large
14 region or a statewide basis, I think is so important. But
15 I'm not an attorney so I don't really know the details of it,
16 and I would be expecting to get informed of those issues
17 myself.

18 COMMISSIONER ORNQVIST: Okay, thank you.

19 CHAIRMAN SCHRÖER: Any other comments, questions?
20 Thank you, Ms. Nelson. Before we continue, could I ask you,
21 Mr. Rowe, how long you think your testimony's going to take?

22 MR. ROWE: Oh, up to a minute, sir.

23 CHAIRMAN SCHRÖER: Up to a minute (laughter)? Well, I
24 do --

25 COMMISSIONER O'TIERNEY: I think we better adjourn for

1 lunch in a minute (laughter).

2 CHAIRMAN SCHRÖER: I do intend to adjourn for lunch and
3 have our discussion after lunch. I have an appointment I
4 would like to keep, so --

5 MR. ROWE: I'll not delay you.

6 CHAIRMAN SCHRÖER: Go ahead. Mr. Rowe, you have the
7 floor.

8 MR. ROWE: Commissioner Schröer, I appreciate this
9 opportunity and the time of the Commission to hear my
10 comments on behalf of the Alaska Telephone Association.

11 Very succinctly, we feel that the proposed citizen's
12 utility board is unnecessary and redundant. It proposes to
13 safeguard a category of the population already protected
14 under state statute. In this proposed legislation under the
15 powers and duties of the corporation, it states under
16 Subsection A, Part 1, the corporation shall represent and
17 promote the interests of the residential utility customers of
18 the state. And under the legislation that empowers the APUC,
19 it says the Alaska Public Utilities Commission may appear
20 personally or by counsel and represent the interests and
21 welfare of the state in all matters and proceedings involving
22 a public utility.

23 We feel very much that the state encompasses the
24 residential citizens and that the interests of the state and
25 of our citizens are served by the APUC. If, as some of the

1 speakers have noted, with the complexity of
2 telecommunications there are concerns that we need more
3 people, more funds, more education, and more experts, ATA has
4 been on recent record of supporting more positions, more
5 staff, or whatever the needs of the APUC are.

6 I'm available for your questions.

7 CHAIRMAN SCHRÖER: Commissioner Hanley.

8 COMMISSIONER HANLEY: No questions.

9 CHAIRMAN SCHRÖER: Commissioner Carter.

10 COMMISSIONER CARTER: No questions. Thank you.

11 CHAIRMAN SCHRÖER: Commissioner O'Tierney.

12 COMMISSIONER O'TIERNEY: No. Thank you, Mr. Rowe.

13 CHAIRMAN SCHRÖER: Commissioner Ornquist.

14 COMMISSIONER ORNQUIST: I think you did a great job.

15 I'm done.

16 CHAIRMAN SCHRÖER: Thank you, sir.

17 MR. ROWE: Thank you.

18 CHAIRMAN SCHRÖER: Yes. Are all you people still on
19 teleconference?

20 MS. TURNER: I am.

21 CHAIRMAN SCHRÖER: I am.

22 MR. KEMPPPEL: Yes, we are, Commissioner.

23 CHAIRMAN SCHRÖER: We're going to recess now till
24 about -- well, let's say 1:30, 1:15 or 1:30 -- let's say
25 1:30. And if you would like to listen to our discussion on

1 this -- I should ask, is there anybody else wish to testify?
2 Seeing and hearing no one, we will reconvene at 1:30 and we
3 will ring you back through at that time. Those of you who
4 wish to be -- would you state, do you wish to hear our
5 discussion at 1:30, so we know --

6 MS. TURNER: This is Phyllis Turner. Yes, I would.

7 CHAIRMAN SCHRÖER: Mr. Kemppele?

8 MR. KEMPELE: Unfortunately, Commissioner, I will have
9 to be up on the Hill. So I will leave it to the Commission
10 to discuss this.

11 CHAIRMAN SCHRÖER: How about Mr. Jenks? Are you still
12 there? Mr. Jenks? How about Mr. Rothberg? Are you there?
13 I guess they both left us already. So we will connect you
14 in, Ms. Turner, at 1:30.

15 MS. TURNER: Commissioner, if I may ask, if it's just
16 possible to get a tape recording rather than this more
17 expensive proposition, I'd be happy to just be able to get a
18 copy of the recording of your discussion rather than be the
19 only person making a teleconference necessary.

20 CHAIRMAN SCHRÖER: Sure, we could do that. We can
21 supply you with a tape of it.

22 MS. TURNER: That'd be great.

23 CHAIRMAN SCHRÖER: All right. We --

24 MS. TURNER: I'll call Suzan Armstrong and leave her
25 the address.

1 the chief of consumer protection and public information. And
2 I'd like to invite each of them to briefly summarize some of
3 the key elements of their views and then to make them
4 available to respond to questions to you.

5 Finally, I'd understood that possibly one of the
6 attorneys wanted to address the question that came up this
7 morning on the interplay of the court rule and Section 030.

8 **CHAIRMAN SCHRÖER:** Where are our attorneys?

9 **MR. LOHR:** That's what I -- look around to see. I
10 don't see them at this point. But I'd understood that they'd
11 been looking at that question, trying to shed some more light
12 on it.

13 With that, if I may, I'll turn it over to Judith White.

14 **MS. WHITE:** I think you all have the paper before you
15 entitled "Draft Position Paper on HB 295." The first part
16 came from something, some questions that I had. I'm not sure
17 I've titled them arguments against the bill. The paper that
18 I had originally prepared, which was substantively very, very
19 close to this, was actually prepared in response to a paper
20 which suggested we should support it. So mine are largely
21 questions, not so much as -- against, but questioning whether
22 support should be given to the bill. And I will just briefly
23 go over the questions that I had.

24 First, it was not clear to me exactly what the
25 background was for the legislation, except in a very general

1 way. For example, if this was -- the purpose of this bill
2 was to try to fix some particular problem or to address some
3 event that had happened in the past, where perhaps justice
4 had not been done. That just wasn't spelled out to me
5 exactly what the problem was that was to be solved.

6 The next question I had was that it did seem to me, and
7 this is similar to comments that you heard earlier today,
8 that much of what the proposed legislation does could have
9 been accomplished without legislation. That is that in
10 general, non-profit groups are free to organize and to do
11 many of the things which the CUB would do, and that it
12 doesn't take a law passed in order to allow a group, for
13 example, to advocate for residential utility consumers to
14 solicit memberships, inform their consumers, or for that
15 matter, lobby the Legislature and travel to influence
16 legislative action. All those things are specific items that
17 the bill provides that the CUB would do.

18 I did note that legislative action was necessary for
19 some of the -- to -- for CUB to be able to do some of the
20 things that the legislation provides for. For example, the
21 specific rights that are given CUB with regard to appearing
22 before the Commission or other bodies and also, I think some
23 standing in court, which I'm certainly not an expert on.

24 The next questions that I had had to do with their
25 access to the Permanent Fund Dividend mailings. First, when

1 I read the legislation I noted that the legislation didn't
2 actually -- the way I saw it, require the Permanent Fund
3 Dividend folks to mail these out. It just said -- it
4 provided for them to sort of get together, but it didn't seem
5 to me they finally took the last step. But in any event, I
6 had just remembered the controversy that had been associated
7 some years back with the Permanent Fund Dividend mailings,
8 and I think it was associated with the Olympics. And it
9 seems to me then what happened subsequently is that there
10 were just a whole lot of bodies that came before them and
11 said, "Gosh, I'm a really good cause too and I'd like to have
12 access to these mailings."

13 I mean, what I notice is that this legislation doesn't
14 generally say all non-profit bodies can have access to the
15 Permanent Fund dealings. For example, it doesn't say --
16 well, my favorite one has to be -- let me just say, happens
17 to be Hospice. Well, this doesn't provide for Hospice to
18 have that sort of access, so it is sort of -- I guess a
19 special access that they are -- that that group is to be
20 given.

21 Another question that I had, and I did a limited amount
22 of research on this, was what it means to be both a private
23 non-profit corporation of the state. I looked at two or
24 three things to see if there were other private non-profit
25 corporations of the state; there may be. I don't know

1 exactly what they are and I just don't exactly understand the
2 term. I did look up and find that the Alaska Railroad, the
3 former Alaska Energy Authority, the Alaska Housing Finance
4 Corporation were all public corporations, and I believe that
5 their employees are state employees.

6 The next question that I had, had to do with the
7 exemption of CUB from AS 3705.321. And AS 3705 covers the
8 administration of grants to municipalities, certain named
9 recipients, and unincorporated communities. And then when
10 you get to Section 321 in general it says that you can't use
11 the grants to lobby the Legislature.

12 Now, the CUB legislation doesn't say we're going to
13 repeal Section 321. So for example, to allow everybody who
14 gets grants then to be able to use them to lobby the
15 Legislature. What it says is, notwithstanding this
16 provision, CUB can use their grants to lobby the Legislature.
17 I'm assuming that the restrictions would still apply to the
18 other kinds of groups that get grants.

19 I don't know whether CUB should be allowed to use
20 grants to lobby the Legislature or not, but it would seem to
21 me that you'd want to think carefully before granting an
22 exemption to just one or two special bodies. You might want
23 to consider, first of all, whether is something unique about
24 whoever gets the exemption, as to justify this uniqueness; or
25 in general, whether the policy in general is a good policy;

1 that is, the restriction of grants for lobbying. And once
2 you allow sort of the foot in the door, that it becomes
3 easier for, really, everybody to be able to make this
4 argument.

5 I had questions about whether the employees of the CUB
6 would be state employees. I guess all these are sort of
7 legal things coming out of whether you have -- whether you're
8 a private corporation and -- but also a corporation of the
9 state.

10 I didn't understand some of the provisions of the
11 legislation that seemed to make illegal some seemingly
12 reasonable uses of information. For example, membership
13 roles are kept in confidence. Well, if this is a government
14 body -- and maybe it isn't a government body. But if it is
15 a government body, why wouldn't its records be open to the
16 public and available for use.

17 For example, voter registration rolls can be used for
18 lots of different reasons. They're public. People can get
19 access to them. You can just use them. Especially since
20 this group is going to be able to get grants, I would assume
21 not only from the Legislature, but perhaps from foundations,
22 the sorts of things that we were hearing about this morning,
23 you might want to know -- everybody might want to know how
24 much grants came from -- whoever, in the same way that, for
25 example, people who run for public office have to make

1 certain disclosures about where they get large amounts of
2 money, for example.

3 And then I had questions about what agencies would fall
4 under the term "regulatory agencies." Local assemblies who
5 set the rates for municipal utilities not regulated by the
6 APUC are specifically excluded, I think, in the legislation.
7 So I wondered if the APUC was effectively the only regulatory
8 agency involved. On the other hand, it -- I don't have all
9 this exactly in front of me. But I wondered if CUB could
10 attempt to persuade municipal assemblies but then perhaps not
11 appeal their decisions to a court.

12 And then just the last two general questions I had;
13 whether it was -- that there should be some examination of
14 whether it was a good idea to expend public funds to
15 represent only the views of one class of consumers. The next
16 question I'd ask is, for example, I guess you could make the
17 argument that the views of small commercial consumers should
18 also be represented.

19 And finally, I wondered whether it's a good idea to
20 have one agency of the state -- assuming CUB would be an
21 agency -- suing another agency of the state. And those were
22 the gist of the questions that I had.

23 **CHAIRMAN SCHRÖER:** Any questions? Commissioner Hanley?

24 **COMMISSIONER HANLEY:** Maybe just a comment.

25 **CHAIRMAN SCHRÖER:** Use your mike, please.

1 **COMMISSIONER HANLEY:** Okay. I really appreciate many
2 of the questions that you raised, because I think there's
3 some very good ones. And I think probably, while you
4 indicated with the Permanent Fund, the thing that was
5 controversial in previous years was the check-off, where you
6 could check off that you would donate five dollars or
7 something to the Olympics. And that got to be very
8 controversial, because just as you say, many people say,
9 okay, if the Olympics can have it, why can't we have it. So
10 even though this isn't a check-off, the advantage of being
11 able to put something in the mail to solicit membership, why
12 shouldn't other organizations. And so I think this -- that
13 could also be controversial. But I think you've made some
14 excellent points. Why should the membership rolls be kept in
15 confidence; why should we not be able to look and see where
16 the grants came from. So I really appreciate the -- you
17 know, that report that you put together.

18 **CHAIRMAN SCHRÖER:** Commissioner Carter.

19 **COMMISSIONER CARTER:** No comments.

20 **CHAIRMAN SCHRÖER:** O'Tierney, any comments?

21 **COMMISSIONER O'TIERNEY:** Well, I guess the -- and this
22 was good stuff. And I appreciate it. I guess what it sort
23 of raises for me is the general question of -- I mean, much
24 of this is about some interesting -- is -- are good points
25 about some interesting questions, none of -- or many of which

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1 are totally beyond our expertise, our statutory mandate, or
2 our otherwise jurisdiction. So I mean, I don't know what
3 position I have as a member of the body having much to say
4 one way or another about the check-off. I mean, those are
5 legislative policy calls and they'll call them as they see
6 them. And I don't know what particular input I might have as
7 a member of the Commission.

8 But having said that, I think Alyce actually noted a
9 couple of -- certainly a couple of those which are clearly,
10 I think, useful for an agency of this kind to have comment
11 about, and I think you had a couple of them. But I guess --
12 I guess distinguish some of these from others on that note.

13 **CHAIRMAN SCHRÖER:** Commissioner Ornquist.

14 **COMMISSIONER ORNQVIST:** No comments, no questions.

15 **CHAIRMAN SCHRÖER:** The only comment I have on this is
16 I would have to agree with your statement (indiscernible)
17 Commissioner Hanley. ATU, as you probably know, puts an
18 insert in all their phone bills here the last couple of
19 years, for different non-profits. And I was -- I'm
20 associated with the Crimestoppers program, we're the one that
21 started that program. And now it's getting so they're having
22 nothing but problems, because everybody -- there's only 12
23 bills go out a month, and they're having nothing but problems
24 trying to solve who gets first ups. This really is a --
25 rather of a mess.

1 Did you have -- Mr. Neiswonger, want to comment?

2 MR. NEISWONGER: Thank you. I prepared the final page
3 of this which looks at some possible arguments in favor of
4 legislation like this. It's possible, depending on how an
5 organization like this were run, that they could increase
6 awareness of utility issues to the general public. The
7 Commission, of course, currently meets every legal
8 requirement for noticing and we exceed them in a number of
9 ways too. But in this day and age, I think it's reasonable
10 to question whether or not some additional things, some other
11 things might be done.

12 I would, however, have some concerns that the awareness
13 and the information that an organization like this were
14 providing to the public be accurate. Part of what my
15 department does a lot of is just straighten out
16 misconceptions in consumers' minds about what various bodies
17 do what things.

18 It's possible -- and this has been raised by some other
19 persons today -- that of course, the CUB could function more
20 like a consumer advocate. That's not my role or the role of
21 the consumer protection department within your staff here to
22 blindsidedly advocate consumer issues. We do weigh their
23 concerns with other concerns of the utilities or other
24 persons, other bodies that might be involved. We don't just
25 simply advocate, as you well know. Whether or not that's

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1 desirable, I think, of course, you would -- you may have to
2 make that judgment. But they certainly would be in a
3 position to do that where we're not, were that to be
4 something desirable.

5 A CUB could appeal Commission decisions. Staff as
6 party now does not have the ability to do that. A CUB might
7 also serve as a party in a proceeding, freeing up Staff to
8 advise you directly. If Staff were not a party to a
9 proceeding, this would be another entity out there that might
10 fulfill that role if there was a desire to have that
11 flexibility.

12 And I'm not certain to what extent this final one would
13 be possible. But there are a large number of utilities in
14 the state that are not economically regulated. The largest
15 ones are the municipally operated ones, excluding the ones
16 that we have here in Anchorage. We do get calls and
17 inquiries from consumers in those areas where we're able to
18 provide them no assistance and we need to refer them back to
19 their political body. Sometimes that doesn't seem to be
20 working well for all the consumers. I've been told that
21 there are people -- and this is by the people who are
22 there -- for example, they're on Fairbanks phone system but
23 they live outside the political boundary so they can't vote.
24 And they're kind of separated from those who would be
25 regulating that. It's -- possibly, the CUB could play some

1 role there. They may also play some role in some of the
2 electric cooperatives, perhaps with minority opinions within
3 the group or something like that. And these would be places
4 where the Commission doesn't operate.

5 And that's essentially what we would see as possible
6 favorable outcomes of something like this.

7 **CHAIRMAN SCHRÖER:** Comments? Commissioner Hanley.

8 **COMMISSIONER HANLEY:** Just -- I thank you for that
9 analysis. And when I was looking at this and listening to
10 the testimony today, and as I began thinking about it, I --
11 this number four, that perhaps CUB could serve as a party to
12 a proceeding, when I listened to the man from Oregon talking
13 about the executive directors, have one -- he had, you know,
14 two and a half people employed, I think, and that included
15 him as director. So one and a half otherwise. So I think
16 from a practical standpoint when I compared the kind of staff
17 these CUBs have that are in existence, the kind of staff we
18 have, the kind of knowledge, background, expertise, training,
19 I guess from a realistic standpoint I don't see how those
20 people could actually, you know, take the place of staff
21 as -- I guess in theory they could, but you certainly
22 wouldn't get the kind of information that we would get from
23 Staff when they're acting as a party.

24 **MR. NEISWONGER:** Based on the testimony that was given
25 this morning, I agree with you. I didn't understand that

1 they were that small.

2 COMMISSIONER HANLEY: It's pretty little, yeah. So I
3 thought that might be one of the pluses. But as I listened,
4 and listened to the amount of money that they -- they're
5 talking about for budgets with a director, I don't really
6 envision that they could have the resources that perhaps we
7 would want in having -- you know, that we have now with Staff
8 as a party.

9 CHAIRMAN SCHRÖER: Commissioner Carter.

10 COMMISSIONER CARTER: I hear you talking about the
11 complaints that you received. But you're probably not
12 receiving the kind of complaints that they're talking about
13 dealing with rates and so on. You're probably receiving
14 other types of complaints and --

15 MR. NEISWONGER: I agree -- I would agree with that,
16 Commissioner. In fact, rate complaints in and of themselves
17 are not the largest category of complaints that we deal with.

18 COMMISSIONER CARTER: Right.

19 ✓ MR. NEISWONGER: Billing practices or service questions
20 tend to be at least as big or larger.

21 COMMISSIONER CARTER: You know, like, CEA has about
22 61,000 consumers. And I would say that probably what -- are
23 you receiving any complaints from that 61,000 about the
24 rates, from like --

25 MR. NEISWONGER: Yes.

1 COMMISSIONER CARTER: -- Chugach?

2 MR. NEISWONGER: Yes.

3 COMMISSIONER CARTER: You --

4 MR. NEISWONGER: Specifically, I got a call about six
5 weeks ago from a consumer that noticed that the rates went
6 up, wanted to know why he wasn't notified that a rate
7 increase might be forthcoming. This was done under the
8 simplified --

9 COMMISSIONER CARTER: Rate filing.

10 MR. NEISWONGER: -- rate filing.

11 COMMISSIONER CARTER: Mm-hm (affirmative).

12 MR. NEISWONGER: The provision for notification there
13 is simply that Chugach -- at the first time that they got in
14 on the process, notified their members that were going to
15 participate in that, and it's never noticed again. I got a
16 call about that.

17 COMMISSIONER CARTER: Like --

18 MR. NEISWONGER: They're doing it appropriately, but
19 the consumer had a question about --

20 COMMISSIONER CARTER: Sure.

21 MR. NEISWONGER: -- why, didn't know.

22 COMMISSIONER CARTER: But taking the 61,000, you get 10
23 complaints, 12, about that very thing, or just the one?
24 Or -- you know, I'm trying to get the numbers and --

25 MR. NEISWONGER: Complaints that we get from electric

1 utilities run about eight one-hundredths of one percent of
2 their members.

3 COMMISSIONER CARTER: So we wouldn't -- well, okay. Of
4 the regulated utilities, I -- I'm looking at Chugach with
5 about 61 and MEA with about 29, and let's say Golden Valley,
6 Kodiak, and we come up with about a hundred and fifty
7 thousand consumers, which in the regulated side of the
8 picture represents about 80 percent. So we're not talking
9 about getting many complaints about rates.

10 CHAIRMAN SCHRÖER: Let me help you on that,
11 Commissioner Carter. Two hundred and two thousand customers
12 had a hundred sixty-five complaints. That's where his eight-
13 tenths -- eight-hundredths of (indiscernible) --

14 COMMISSIONER CARTER: Oh, okay.

15 CHAIRMAN SCHRÖER: -- comes from.

16 COMMISSIONER CARTER: I didn't get my copy, Bob. It --

17 MR. LOHR: I didn't get mine either.

18 COMMISSIONER CARTER: Okay.

19 MR. LOHR: We're even.

20 COMMISSIONER CARTER: Well, anyhow, I'm just trying to
21 get the numbers and see, you know, if it's a serious enough
22 problem that we need intervention, you know, and that's where
23 I'm trying to get.

24 MR. NEISWONGER: I don't hear a lot of distress from
25 consumers with regard to this particular matter with the

1 rates of the energy companies.

2 CHAIRMAN SCHROER: Commissioner O'Tierney.

3 COMMISSIONER O'TIERNEY: Thank you. Again, sort of
4 consistent with my last comment, it seems to me one of the
5 most useful things we could provide the Legislature is some
6 kind of an answer to the question, the immortal question of
7 what's it going to cost. And I wanted -- in that note, I
8 wanted to ask whomever would be appropriate to sort of spin
9 through the draft fiscal note to provide some sense of how
10 these numbers were arrived at and what it means and that sort
11 of thing. Because I mean, obviously, as a bottom line, the
12 what's it going to cost question, I think is always
13 significant. Or the answer to it is always significant,
14 anyway.

15 MR. LOHR: If I may, the -- let me explain the
16 limitations on the fiscal note. First of all, it attempts to
17 address only Commission funding, the Alaska Public Utilities
18 Commission. It addresses House Bill 295, the April 26th,
19 1993 version. It does not address any of the proposed
20 amendments that were mentioned in previous testimony this
21 morning. I'm not familiar with those amendments, I haven't
22 seen them written down anywhere. So the analysis is of the
23 House Bill 295 in the version that you have before you.

24 COMMISSIONER O'TIERNEY: And Bob, just on that
25 qualification; I actually have two copies -- let me just see

1 where the distinction -- one of which has a total number of
2 293.8 and the other --

3 MR. LOHR: That's the correct one.

4 COMMISSIONER O'TIERNEY: -- which -- oh, okay, the
5 other one is a different number, slightly longer number.

6 MR. LOHR: It's a math error, I believe.

7 COMMISSIONER O'TIERNEY: Oh, okay. All right. So I
8 want the -- I want to be looking at the 293.8 --

9 MR. LOHR: Right.

10 COMMISSIONER O'TIERNEY: -- program, receipts, other
11 funds source.

12 MR. LOHR: That draft fiscal note addresses essentially
13 two positions. One would be an additional staff person for
14 the consumer protection/public information office of the
15 Commission. It's recommended as a range 17 position.
16 Currently, Mr. Neiswonger's position is a range 20 as the
17 chief of that section and Agnes Child's (ph) position is a
18 range 14. This would be a recommended intermediate level
19 position within consumer protection to handle the anticipated
20 additional workload that would be generated by dealing with
21 the kinds of complaints and additional citizen input that
22 would be likely to result from a CUB being out there.

23 In addition to becoming a source of information on
24 their own, we anticipate that they would be referring
25 customers, referring members to the Commission for assistance

1 on consumer protection issues and that that would
2 substantially increase the consumer protection workload of
3 the Commission.

4 COMMISSIONER O'TIERNEY: So just the -- sort of the
5 theme that if there's an organized consumer entity, that it
6 will generate activity, some of which, much of which will be
7 directed toward the APUC, i.e., in the front line, Mike's
8 section?

9 MR. LOHR: That's correct.

10 COMMISSIONER O'TIERNEY: Is that sort of the theme?

11 MR. LOHR: Including the possibility of additional
12 formal complaints coming through the consumer protection
13 section, additional press responsibilities for responding to
14 things that are not currently consumer issues but could very
15 well become consumer issues.

16 The second key position there would be additional --
17 would be funded through the contractual budget, and that
18 would be the Assistant Attorney General under RSA, under a
19 reimbursable services agreement with the Department of Law,
20 to handle the additional anticipated court proceedings and
21 formal proceedings in front of this Commission. But anything
22 appealed out of this Commission to the courts, either
23 directly where the CUB had been a participant in the
24 proceeding in front of you, or where they had intervened,
25 arguing that the residential rate payer interest was

1 sufficient, and obtaining intervention under Section 030,
2 that that's going to result in additional litigation in front
3 of the courts. And I believe based on my impressions of the
4 experience when there was a grantee in the state that handled
5 consumer intervention, there were in fact specific cases that
6 went all the way to the Supreme Court interpreting utility
7 law where the Commission was a defendant and did involved
8 additional expense to the Commission at that time. So I
9 believe that funding this type of intervention will likely
10 lead to significantly increased legal expense to the
11 Commission through a reimbursable services agreement.

12 And finally, the --

13 COMMISSIONER O'TIERNEY: Bob, essentially, sort of on
14 the appellate level, is that where the brunt --

15 MR. LOHR: That's correct.

16 COMMISSIONER O'TIERNEY: -- that's where the brunt of
17 it is in the sense that --

18 MR. LOHR: Primarily.

19 COMMISSIONER O'TIERNEY: -- they would individually
20 carry the ball for some matters of appeal that might not
21 otherwise be appealed?

22 MR. LOHR: Correct.

23 COMMISSIONER O'TIERNEY: Is that the theme --

24 MR. LOHR: And partly an increase in representation of
25 Staff in proceedings. To the extent that there might be

1 increased representation of consumer interests by the CUB,
2 conceivably, other interests may need to be argued more
3 forcefully by Commission Staff to provide the balance that
4 was discussed. if there are other under-represented
5 interests.

6 I guess my sense is, to the extent that the CUB is
7 identifying costs that are not appropriate expenses or not
8 appropriate in the rate base, possibly everybody benefits.
9 However, to the extent that the activities of the CUB result
10 in cost to other utility classes, that that may simply
11 involve other utility classes trying to offset any sort of
12 shifting like that. I see the Commission Staff getting
13 pulled into some of those discussions.

14 And the final, large significant item there is the
15 expert witness contracts and anticipated increase in the
16 amount of consultancy needed to hire expert witnesses to
17 handle these proceedings in front of the Commission.

18 CHAIRMAN SCHRÖER: Anything else?

19 COMMISSIONER O'TIERNEY: Well, no, I guess --

20 CHAIRMAN SCHRÖER: Commissioner Ornquist --

21 COMMISSIONER O'TIERNEY: -- that covers that. I
22 just --

23 CHAIRMAN SCHRÖER: Well, we'll go back across
24 (indiscernible) here. (Indiscernible).

25 COMMISSIONER ORNQUIST: Nothing at this time.

1 **CHAIRMAN SCHRÖER:** I've just got one question. On your
2 number four there again, where -- following up Commissioner
3 Hanley, where you say CUB can serve the party (indiscernible)
4 instead of Staff.

5 **MR. LOHR:** Yes.

6 **CHAIRMAN SCHRÖER:** Wouldn't CUB be a special interest
7 group, compared to what Staff is? Staff, when they give
8 their testimony and things in hearings, they've got to
9 consider the position of the utility, et cetera, et cetera.
10 Well, it seems to me the CUB group could go out and want to
11 get the cheapest rate possible and be very much of a special
12 interest group. I don't think the analogy's the same there,
13 personally.

14 **MR. LOHR:** Well, that could very well be, Commissioner.
15 What I had in mind was that -- I was under the impression
16 that we were appointing Staff as party, to have an opposition
17 before the Commission, and that there may be times when the
18 opposition is more oriented towards a consumer issue than
19 let's say an engineering issue or something like that, where
20 it may be appropriate to have them serve as a party.

21 **CHAIRMAN SCHRÖER:** Well, that may be true, but they
22 really would be serving two different functions, Staff and
23 the CUP.

24 **MR. LOHR:** Yes.

25 **CHAIRMAN SCHRÖER:** Ms. Rusch, did you have some

1 comments you wish to make to us?

2 MS. RUSCH: I was just attempting to do a little
3 research over the lunch hour to respond to Commissioner
4 O'Tierney's question to Mr. Kempel, comparing the two
5 parts of the statute that had to do with the court rule
6 change on participation of the CUB in appeals. I think they
7 confused the issue considerably in this bill. It probably
8 was an attempt to clarify some things that are a little
9 uncertain under the existing law, but I think that instead of
10 clarifying they have thrown some additional elements that
11 confuse.

12 The Legislative Drafting Manual explains the reason for
13 Section 2, which points out a court rule change. And the
14 Drafting Manual says whenever the Legislature attempts to
15 change court rules or court procedures, there are some
16 special considerations.

17 If it's something procedural, and this appears to be in
18 the category that the manual talks about as procedural, then
19 it requires specific mention in the title and a specific
20 section and it requires a two-thirds vote of the Legislature.

21 Right now, the existing law about who can participate
22 in appeals comes from two sources. One is the court rule on
23 intervention and one is the case law. It seems to me that
24 both of those allow quite a bit of discretion for a group
25 like the CUB to participate. I think chances are pretty good

1 that the CUB would be allowed to participate in court
2 proceedings. But the court rule on one hand is a little
3 different from the case law. So they're not exactly
4 contiguous.

5 What we have here probably was intended to put
6 certainty into the rule, take out the discretionary elements
7 and remove the doubt. But I don't think it has succeeded in
8 doing that at all. It has different language than either the
9 rule or the court cases. So it appears to me to put in some
10 additional confusing elements.

11 COMMISSIONER O'TIERNEY: Can I just add to that,
12 Virginia? The sectional analysis that I gather was provided
13 from Representative Brown's office, on page 2, Section 2,
14 sort of further -- well, it -- this is just sort of non-
15 sensical. But -- I mean, it says the court rule change
16 allowing the CUB to intervene in administrative hearings.
17 Then that -- I mean, I guess what that actually is meant to
18 say is something like, the court rule change allowing the CUB
19 to intervene in appeals from administrative hearings, you
20 know, and whether or not they participated below or under
21 different standards if they have or haven't. So I mean, this
22 sectional analysis is --

23 MS. RUSCH: Completely inaccurate, that's right.

24 COMMISSIONER O'TIERNEY: It's just useless, yeah.

25 MS. RUSCH: That's right.

1 CHAIRMAN SCHRÖER: Which one is that?

2 COMMISSIONER O'TIERNEY: The -- well, the only one that
3 there is. The --

4 CHAIRMAN SCHRÖER: All right.

5 COMMISSIONER O'TIERNEY: -- Section analysis dated
6 1/28/84, page 2. So further, I guess to your point, that
7 lends no guidance and much confusion. But is there sort of
8 a bottom line, since I raised --

9 MS. RUSCH: Well, right --

10 COMMISSIONER O'TIERNEY: -- the point, I mean, to your
11 analysis, the point that I raised -- which was -- I was just
12 trying to get to the bottom of it. What does it or does it
13 not propose to do. And --

14 MS. RUSCH: I guess, you know, if (indiscernible) were
15 trying to be helpful to the sponsors to redraft it, they need
16 to resolve those inconsistency problems in this in order to
17 achieve --

18 COMMISSIONER O'TIERNEY: What it is, yeah.

19 MS. RUSCH: -- what it's intended to.

20 CHAIRMAN SCHRÖER: Well, don't they have another
21 inconsistency? Now, Commissioner O'Tierney brought up with
22 Kempel this morning, speaking of if a corporation did not
23 participate in regulatory agency, the court may allow them to
24 participate in the appeal; and then on -- under Section 2
25 back there it says the right to intervene on appeal on

1 administrative hearing in which they had participated. Isn't
2 that a conflict, isn't that saying two different things?

3 MS. RUSCH: It is internally consistent. Section 2
4 does not cover all the ground that 030 --

5 CHAIRMAN SCHRÖER: Oh, okay.

6 MS. RUSCH: -- attempts to cover.

7 CHAIRMAN SCHRÖER: So it is consistent, the way that's
8 written?

9 MS. RUSCH: It's not consistent.

10 CHAIRMAN SCHRÖER: Okay. That's what -- I -- okay,
11 it's not consistent.

12 COMMISSIONER CARTER: Yeah.

13 CHAIRMAN SCHRÖER: Okay, gentlemen, open the floor
14 up -- ladies, gentlemen, for discussion. Some of you got
15 some comments, or what's your pleasure? Anybody from the
16 Staff have anything further they want to offer, I should ask
17 first.

18 (Pause)

19 COMMISSIONER CARTER: Would you like just some
20 discussion before a motion, or --

21 CHAIRMAN SCHRÖER: Well, again, that's --

22 COMMISSIONER ORNQUIST: (Indiscernible) have a motion
23 and then go ahead and discuss it?

24 CHAIRMAN SCHRÖER: I'm waiting for somebody to tell me
25 what -- how they wish to handle this. You have further

1 comments you want to make on it?

2 **COMMISSIONER O'TIERNEY:** Well, I'll (indiscernible) --
3 I guess two comments in preface, then I'll move something.
4 But I guess given that we're being asked to, in the normal
5 fashion to comment upon a bill which creates an entity which
6 would appear before us, it's -- you know, it's a fairly
7 unusual posture to be in. It's -- it feels somewhat
8 uncomfortable, although maybe I can't precisely state why.
9 But -- and I guess further to that, this bill includes a lot
10 of different features that I don't feel it's particularly
11 within the purview of me as a Commissioner to have much to
12 say about one way or another, other than perhaps pointing out
13 that -- you know, sort of acknowledging or noting, but not
14 necessarily endorsing or not endorsing.

15 So with that, those two comments, I would move that we,
16 in response -- in the normal fashion to request for input,
17 that we respond, I think somewhat along the lines of I think
18 the general theme of what I guess Mike and Judy with Bob's
19 review have prepared in terms of, you know, a response noting
20 or acknowledging unusual features or noting both what would
21 appear to be somewhat problematic or unclear features as well
22 as what might be, you know, a useful outcome of the general
23 concept, and sort of leave it for the Legislature to further
24 in their judgment decide what, you know, what it is that they
25 may wish to endorse. But --

1 CHAIRMAN SCHRÖER: Let me see if I can rephrase your
2 motion.

3 COMMISSIONER O'TIERNEY: Did I actually move that?
4 I (laughter) --

5 CHAIRMAN SCHRÖER: I believe your motion is that --

6 COMMISSIONER O'TIERNEY: Yeah, that was pretty poor,
7 wasn't it?

8 CHAIRMAN SCHRÖER: -- we supply the Legislature with
9 the comments as drawn up by Staff as regarding --

10 COMMISSIONER O'TIERNEY: Well --

11 CHAIRMAN SCHRÖER: -- our viewpoints of this --

12 COMMISSIONER O'TIERNEY: Yeah, I would --

13 CHAIRMAN SCHRÖER: -- (indiscernible).

14 COMMISSIONER O'TIERNEY: -- what I'm trying to say is,
15 I would move sort of the format as presented. And I think
16 with much of the substance, but of course, I think as
17 annotated or informed by all of what we heard here today. I
18 mean, for -- I mean, both in terms of just qualifications as
19 well as omissions. I mean, this draft notes that it doesn't
20 include certain substantive areas, and then we hear that
21 apparently, there's an amendment to include sewer and cable.
22 I mean, you know, there -- I mean, it's unclear to me exactly
23 what the snapshot is that we're commenting on. But, you
24 know, assuming it's just what we have in front of us. I like
25 the approach of this. I'm not personally prepared to endorse

1 various features, some of which I don't feel are
2 jurisdictional necessarily, or with -- certainly within my
3 expertise. It's the Legislature's call if they want to have
4 a check-off, not -- I don't have any particular APUC
5 expertise to offer on that note.

6 COMMISSIONER HANLEY: I think they're even just talking
7 about sticking it in the Permanent Fund. But even that could
8 create some controversy. But that's their call.

9 CHAIRMAN SCHRÖER: Would your -- I'm trying to arrive
10 at what we're going to be voting on. Your motion is that we
11 use this as a basis of a document --

12 COMMISSIONER O'TIERNEY: Yes.

13 CHAIRMAN SCHRÖER: -- and give the pros and cons to the
14 Legislature and let them in their wisdom decide --

15 COMMISSIONER O'TIERNEY: Well, fundamentally, it's a
16 legislative call. I mean, it's not --

17 CHAIRMAN SCHRÖER: (Indiscernible).

18 COMMISSIONER O'TIERNEY: It's further, I think,
19 complicated, if you will, by the fact we're talking about
20 creating an entity to appear before. I mean, I've been here
21 during the time which we've had outside entities, ACAP, and
22 then (indiscernible) participate, and now at a certain moment
23 when we don't. And it works both ways. And so it's -- I
24 certainly don't have an opposition to the concept, it just --
25 it's a legislative call. And I don't have any particular

1 expertise other than for a few moving parts of this to offer.
2 I mean -- so that's the essence of my motion.

3 CHAIRMAN SCHRÖER: Do I have a second for that?

4 COMMISSIONER ORNQUIST: Mr. Chairman.

5 CHAIRMAN SCHRÖER: Do I have a second first?

6 COMMISSIONER ORNQUIST: Well, that's what I'm about to
7 do. If I understand Mr. O'Tierney's motion correctly, I
8 believe he's saying that he moves that the APUC summarize the
9 findings of these proceedings with observational notes and
10 provide the results to the Legislature. And I would like to
11 second that motion.

12 CHAIRMAN SCHRÖER: I believe that's what we'd said.

13 COMMISSIONER ORNQUIST: Wanted to make sure.

14 CHAIRMAN SCHRÖER: Discussion on the motion.

15 COMMISSIONER ORNQUIST: Mr. Chairman.

16 CHAIRMAN SCHRÖER: Commissioner Ornquist.

17 COMMISSIONER ORNQUIST: I think that something should
18 come from all these proceedings and that something should go
19 to the Legislature. I don't believe that as a Commission, we
20 necessarily should be taking a supportive or a pro or con
21 stance on whether a CUB should be formed or not. I've heard
22 a lot of testimony regarding what a CUB would do and I've
23 heard that there's an alternative -- that one -- that's one
24 alternative. I've heard another alternative would be to have
25 a consumer advocacy group agency as part of the state,

1 whether it's in the AG's office or the APUC area. I don't
2 think we have enough information on the alternatives to come
3 up with an actual conclusion as to what the best path would
4 be. So I think just providing these notes and any
5 summarization that we can. And again, paraphrasing
6 Commissioner O'Tierney, let the Legislature go ahead and
7 decide what they see fit to do with it.

8 CHAIRMAN SCHRÖER: I assume in your motion you want to
9 forward the fiscal note with it?

10 COMMISSIONER O'TIERNEY: Oh, well, as I've previous --
11 absolutely. And as I -- I mean, that's the bottom line. I
12 mean, I think --

13 CHAIRMAN SCHRÖER: Yeah.

14 COMMISSIONER O'TIERNEY: -- that that's --

15 CHAIRMAN SCHRÖER: I mean, we talked about that.

16 COMMISSIONER O'TIERNEY: And I have no reason to
17 dispute or refine necessarily what Bob has presented. I
18 mean, it seems rational to me. I'm just sort of surprised to
19 see that number initially. I mean, it seems like a lot of
20 money to be responsive to this. But --

21 CHAIRMAN SCHRÖER: Staff have anything to add here?

22 MR. LOHR: Mr. Chairman, I believe in the past, fiscal
23 notes have been adopted as a separate motion, and I believe
24 that may clarify the record, if you choose to do it that way.

25 CHAIRMAN SCHRÖER: Okay. Then we'll handle

1 (indiscernible). Anything under discussion of the main
2 motion? Are you ready to vote? All in favor --

3 COMMISSIONER O'TIERNEY: Before you do that, I --

4 CHAIRMAN SCHRÖER: Yeah.

5 COMMISSIONER O'TIERNEY: Bob, I presume, is sort of
6 the -- no, the hand-off will come your way.

7 CHAIRMAN SCHRÖER: (Indiscernible).

8 COMMISSIONER O'TIERNEY: Do you need further guidance
9 in terms -- I was just trying to go through, for example,
10 what you have here and then what we heard today, by way of
11 the draft and then the comments that we heard. Is -- do you
12 need particular guidance relative to the motion?

13 MR. LOHR: I have -- at this point I understand your
14 example of the kind of thing that you believe is outside the
15 purview of -- or the expertise of the Commission.

16 COMMISSIONER O'TIERNEY: Correct. That's -- now, as a
17 concept, that's clear?

18 MR. LOHR: Right.

19 COMMISSIONER O'TIERNEY: Okay. If that's clear, then
20 we're probably okay. I mean, another -- and in other words,
21 just to -- I assume you're referring to the example that --
22 you know, whether or not a check-off, no opinion. I'll
23 acknowledge that it's there. Whether or not, you know, it's
24 sort of consistent with general policy to have -- to not have
25 publicly available information, et cetera, that's -- I think

1 that's generally within the purview, if that's a useful
2 example.

3 CHAIRMAN SCHRÖER: Commissioner Carter.

4 COMMISSIONER CARTER: Mr. Chairman, I think we probably
5 need to put some things in the record. And one thing that
6 I'd like to put into the record is that in looking over some
7 of the total customers in each category and the informal
8 complaints and what percentages that represents, you know, in
9 the electrical, we have 37 regulated entities and 202,000
10 customers. And we've had informal complaints of a hundred
11 and sixty-five which is eight one-hundredth of one percent.
12 Gas utilities are two and we've had 86,000 customers and
13 informal complaints of 55, representing six one-hundredth of
14 one percent. In the refuse, 13 regulated, customers 41,800.
15 Informal complaints 38, representing nine one-hundredth of
16 one percent. Sewer, three regulated, 46,000 customers.
17 Informal complaints 12, representing two one-hundredths of
18 one percent. In the telephone we have a total of 19
19 regulated, customers of 280,000. Informal complaints 232,
20 and that also percentage of customers of eight one-hundredth
21 of one percent. Water is 24 regulated customers, 20 --
22 49,000. Informal complaints 44 and nine one-hundredths of
23 one percent.

24 To -- you know, break that down further for the years
25 '90, '91, '92, '93, categories, billing practices: In '90

1 there were 253; '91, 172; '92, 352; and '93, 275. And rate
2 and charges: 'Ninety, we had 95; '91, a hundred and fifty-
3 four; '92, 92; and '93, a hundred and eighteen. And quality
4 of service in FY '90, 223; in FY '91, two-twenty; in FY '92,
5 a hundred and twenty-one; and FY '93, a hundred and thirty-
6 seven.

7 Now, again, that's total complaints. And when we get
8 down to the matters that the CUBs are going to talk about
9 which are primarily rates, that's only one element that we
10 have actually covered here, and not too many of. So I just
11 think it's good to have some of this data on the record.

12 CHAIRMAN SCHRÖER: Might I suggest (indiscernible)
13 agreement of the Commission, that we must address this
14 complaint part of it and attach these to our comment? That
15 way everybody down there will have them, because they won't
16 all get a copy of this tape and they would have these
17 numbers.

18 UNIDENTIFIED MALE SPEAKER: Those figures are also
19 right -- most of those figures, with the exception of the
20 percentages, are directly from the last annual report.

21 COMMISSIONER O'TIERNEY: I was just wondering, I mean,
22 is the point that -- is your point similar to what I guess
23 was Judy White's point in her first paragraph, the --
24 essentially, the question, what's the problem here that we're
25 trying to fix?

1 COMMISSIONER CARTER: Yeah. It's --
2 COMMISSIONER O'TIERNEY: (Indiscernible) which -- did
3 I characterize that right, Judy? From your --
4 MS. WHITE: And that (indiscernible) question?
5 COMMISSIONER O'TIERNEY: Right. Essentially was, you
6 know, what's the problem. I mean, the findings of the
7 proposed (indiscernible) don't really get into the nitty
8 gritty of what's broken and what are we fixing.
9 MS. WHITE: Right. And --
10 COMMISSIONER O'TIERNEY: And --
11 MS. WHITE: -- a part of the --
12 COMMISSIONER O'TIERNEY: -- is that --
13 MS. WHITE: -- reason for that is, is that it may not
14 be a good solution for the problem, but you have to know the
15 problem first to know --
16 COMMISSIONER O'TIERNEY: I understand.
17 COMMISSIONER CARTER: Yeah.
18 MS. WHITE: -- the correct solution.
19 COMMISSIONER O'TIERNEY: Right. I was just trying
20 to --
21 COMMISSIONER CARTER: Yeah. Well --
22 COMMISSIONER O'TIERNEY: -- relate to what's true --
23 COMMISSIONER CARTER: -- that's true, and --
24 COMMISSIONER O'TIERNEY: -- (indiscernible) just read
25 all those statistics.

1 **COMMISSIONER CARTER:** And usually, when you do
2 something, it's judged by something; you know, what is the
3 problem, what is the nature of the -- whatever. You know, I
4 mean, it's -- you know, I don't know that here -- we're
5 talking about all these other states that have CUBs, for
6 example. They talk about Wisconsin, California, Illinois,
7 and New York, Oregon --

8 **COMMISSIONER O'TIERNEY:** There's only four states.

9 **COMMISSIONER CARTER:** Well -- and, you know, the
10 populations are millions of people. Millions of people. And
11 they're talking about in Oregon only having 20,000 members.
12 In Illinois, a hundred and fifty thousand members. How many
13 consumers are in that state, how many million are in that
14 state? And we're talking about Alaska, with five to 600,000
15 people, and we're seeing the kind of complaints that we have
16 which are not even one percent. And so it makes you think,
17 you know, what is it you're -- what judges, what makes this
18 thing have to happen?

19 **MS. WHITE:** Excuse me, Commissioner O'Tierney, may I --
20 or Mr. Chairman, may I say something? My point was not
21 necessarily about the number of informal complaints that we
22 do or do not have. For example, it might have been that
23 people who advocate for CUB, you might make the argument that
24 the reason we need to have a CUB, for example, is that we
25 don't have enough complaints on some particular aspect. For