

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10127 SENATE RESOURCES

TYPE OF REVENUE: UNRESTRICTED				CONTACT: Robert Wells 745-7200			
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	DESCRIPTION OF REVENUE	PRIOR YEAR FY98 ACTUAL	CASH ESTIMATES		
					CURRENT YEAR FY99	BUDGET YEAR FY00	FORECAST FY01
1004	11100	55148	Agricultural Land Sales	33.8			
TOTALS				33.8			

EXPLANATION:

GR 37530 Agricultural Land Sales

**Unrestricted
Revenue Detail
Form C21A**

AGENCY NATURAL RESOURCES

BRU AGRICULTURAL DEVELOPMENT

Page 1 of 1

Revised Date:

FY00

000831

TYPE OF REVENUE: Federal Receipts					CONTACT: Robert Wells 745-7200			
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	COLLOCATION CODE	PRIOR YEAR FY98 ACTUAL	CURRENT YEAR FY99		FY00 GOVERNOR	FY01 FORECAST
					AUTHORIZED	CASH ESTIMATE		
1002	11100	57790	Shell Egg Surveillance	8.4	11.7	11.7	11.7	11.7
1002	11100	57790	Terminal Market Inspection	102.9	86.1	135.7	135.7	165.7
1002	11100	57790	Conservation Reserve Prog: CRP	8.0	23.0	22.0	22.0	22.0
1002	11100	57790	Conservation Reserve Prog: CRP	5.1				
1002	11100	57790	Marketing Assistance	32.9			50.0	50.0
TOTALS				157.3	120.8	169.4	219.4	249.4

EXPLANATION:

GR 38101 Shell Egg Surveillance w/ USDA Agricultural Marketing Service
 GR 38155 Terminal Market Inspection w/ USDA Agricultural Marketing Service
 GR 38198 Conservation Reserve Program: CRP
 GR 38198 Conservation Reserve Program: CRP (AR 36684)
 GR 38357 Marketing Assistance w/ USDA - AMS (AR 36682)

**Restricted Revenue
 Detail
 Form C21B**

AGENCY NATURAL RESOURCES

BRU AGRICULTURAL DEVELOPMENT

COMPONENT AGRICULTURAL DEVELOPMENT #455

Page 1 of 1

Revised Date:

FY00

TYPE OF REVENUE: General Fund Program Receipts					CONTACT: Robert Wells		745-7200	
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	COLLOCATION CODE	PRIOR YEAR FY98 ACTUAL	CURRENT YEAR FY99		FY00 GOVERNOR	FY01 FORECAST
					AUTHORIZED	CASH ESTIMATE		
1005	11100	55148	Agricultural Land Sales	190.8	217.3	217.3	217.3	238.5
TOTALS				190.8	217.3	217.3	217.3	238.5

EXPLANATION:
GR 37881 Agricultural Land Sales.

**Restricted Revenue
Detail
Form C21B**

AGENCY NATURAL RESOURCES
BRU AGRICULTURAL DEVELOPMENT
COMPONENT AGRICULTURAL DEVELOPMENT #455

Page 1 of 1
Revised Date: _____

FY00

TYPE OF REVENUE: Interagency Receipts					CONTACT: Robert Wells		745-7200	
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	COLLOCATION CODE	PRIOR YEAR FY98 ACTUAL	CURRENT YEAR FY99		FY00 GOVERNOR	FY01 FORECAST
					AUTHORIZED	CASH ESTIMATE		
1007	11100	59020	Mt. Mckinley Meat Plant Repair	831.4		63.4		
1007	11100	59100	ARLF Program Support	35.5	43.8	43.8	43.6	43.6
1007	11100	59100	Conservation Districts	5.7	13.7	13.7	13.9	13.7
1007	11100	59100	Mission & Measures	5.8				
1007	11100	59100	Mission & Measures	1.6				
TOTALS				880.0	57.5	120.9	57.5	57.3

EXPLANATION:

GR 38551 Mt. Mckinley Meat Plant Repair w/ Dept. of Administration (AR 36782)
 GR 38674 ARLF Program Support w/ DNR Agric Revolving Loan Fund (AR 36786)
 GR 38714 Conservation Districts w/ DNR AG-Plant Materials Center (AR 36873)
 GR 38722 Mission & Measures w/ DNR Administrative Services (AR 36702)
 GR 40106 Mission & Measures w/ DNR DGGS (AR 36703)

**Restricted
Revenue Detail
Form C21B**

AGENCY NATURAL RESOURCES

BRU AGRICULTURAL DEVELOPMENT

COMPONENT AGRICULTURAL DEVELOPMENT #455

Page 1 of 1

Revised Date:

FY00

0500834

TYPE OF REVENUE: CIP Receipts				CONTACT: Robert Wells 745-7200				
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	COLLOCATION CODE	PRIOR YEAR FY98 ACTUAL	CURRENT YEAR FY99		FY00 GOVERNOR	FY01 FORECAST
					AUTHORIZED	CASH ESTIMATE		
1007	11100	51200	Stakeholders Process	5.0				
TOTALS				5.0				

EXPLANATION:
 GR 37374 Stakeholders Process w/ DNR Recorder's Office (AR 38176)

**Restricted Revenue
 Detail
 Form C21B**

AGENCY NATURAL RESOURCES
 BRU AGRICULTURAL DEVELOPMENT
 COMPONENT AGRICULTURAL DEVELOPMENT #455

Page 1 of 1
 Revised Date:

FY00

TYPE OF REVENUE: Statutory Designated Program Receipts				CONTACT: Robert Wells 745-7200				
FUNDING SOURCE CODE	FUND	REVENUE ACCOUNT	COLLOCATION CODE	PRIOR YEAR FY98 ACTUAL	CURRENT YEAR FY99		FY00 GOVERNOR	FY01 FORECAST
					AUTHORIZED	CASH ESTIMATE		
1108	11100	51063	Produce Certification		25.0			
TOTALS					25.0			

EXPLANATION:
Produce certification and export

**Restricted Revenue
Detail
Form C21B**

AGENCY NATURAL RESOURCES
 BRU AGRICULTURAL DEVELOPMENT
 COMPONENT AGRICULTURAL DEVELOPMENT #455

Page 1 of 1
 Revised Date:

FY00

0100836

EXPENDITURE ACCOUNT	NAME OF EXPENDITURE ACCOUNT	FY98 ACTUAL	FY99 AUTHORIZED	FY00 GOVERNOR
73905	DOA Risk Management	0.1	0.1	1.7
73869	DOT Vehicle Costs	13.4	9.9	10.8
73854	DOA Lease Space		0.7	
73326	DOA Telecom Toll	0.5	1.7	0.9
73323	DOA Telecom Basic	1.2	1.5	1.8
73289	DOA Central Mail - Core Services Charge	1.0	0.2	1.2
73289	DOA AKSAS/AKPAY - Core Services Charge	0.1	1.0	0.6
73289	DOA EEO Investigators - Core Services Charge	0.0	0.2	0.1
73289	DOA Video Conference		0.2	0.2
73289	University of Alaska - Produce Certification		75.0	
TOTAL INTERAGENCY TRANSFERS		16.3	90.5	17.3

EXPLANATION	FY00 GOVERNOR
FY99 RSA's as detailed above	17.3

Interagency
Transfers
Form C22

AGENCY NATURAL RESOURCES

BRU AGRICULTURAL DEVELOPMENT

Page 1 of 1

Revised Date:

FY00

0500837

**ALASKA FARM BUREAU
1999 RESOLUTION PLATFORM**

DIVISION OF AGRICULTURE ISSUES

1. Support funding by general fund appropriations for the Division of Agriculture. The Alaska Farm Bureau resolves that the one-stop agricultural services of the Division of Agriculture are an invaluable service to Alaskan consumers, farmers and ranchers and parallel services of similar agencies in our sister 49 states. To preserve the expertise and knowledge and continue the current momentum in developing economically competitive products and to lower prices to the Alaskan consumer, it is vital that the Governor and his administration maintain the Division of Agriculture as a positive support entity for the continued growth and development of agriculture as a renewable resource industry in Alaska and be supported by the legislature.
2. Support the transfer of Department of Environmental Conservation food and agriculture related activities into the Division of Agriculture to establish an effective service agency within the DNR. The activities that affect the agriculture and food processing industry include, Animal Health, Laboratory Services, Dairy Sanitation, Meat and Seafood Inspecting and the Pesticides Control Program. More efficient government services plus improved promotion and development of the food industry in Alaska is the object of this action.
3. For all privately owned domestic animals, we encourage livestock health regulations, licensing, fencing requirements, and any other legitimate regulations be administered solely by the Department of Natural Resources, Division of Agriculture.
4. Support legislation to create the institution of a State Board of Agriculture by statute, consisting of producers of agriculture products and a representative of the Governor's office, whose task is to act as a liaison between the industry, the Governor, and other local, state and federal agencies, and to maintain continuity and long term planning.
5. The Alaska Farm Bureau supports the protection of the corpus of the Agriculture Revolving Loan Fund and its assets for the exclusive purpose of development and operation of the Alaska agriculture industry.
6. The Alaska Farm Bureau supports the concept of the Division of Agriculture established as its' own Department as in other States.
7. Encourage Agriculture Revolving Loan Fund to change its loan policy to accept livestock as collateral, to be more in line with commercial banking policy. We also support a loan rate of 5% on livestock loans to help encourage production. A strong livestock sector enhances other agriculture sectors.
8. We resolve that the State of Alaska should maintain the Matanuska Maid Creamery under the present ownership and management in order to stabilize the existing dairy industry, to facilitate the sale and orderly development of the Point MacKenzie

agricultural lands, and to protect the assets of the ARLF, pending an administrative and industry review of the available options for the transfer of ownership into private hands for the continued use as a dairy processing plant.

LAND ISSUES

1. The Alaska Farm Bureau supports the concept of fee simple land sales, protecting agricultural interest through the use of agricultural covenants in state land titles for disposal of lands classified with agricultural potential and encourages the State of Alaska to initiate or enjoin in legal actions to enforce the agricultural covenants. We further support the Boroughs having the same responsibility for Ag land they sell.
2. Maintain a zero net loss on all state land currently classified agricultural and mandate that future land classifications protect responsible land use by classifying those lands with agriculture potential as "agriculture classified land."
3. The opportunity to use land wisely is the basic foundation of agriculture's success. We support the transfer of the administration and management of agriculture land and grazing areas and the disposal of such agricultural land to the DNR, Division of Agriculture.
4. Support lower interest rates on agriculture land contracts administered by Department of Natural Resources, Division of Lands. Support legislation to lower statutory interest rate to 6% for the Agriculture Revolving Loan Fund.
5. Support State funding of the tax differential on agriculture lands to Municipalities, as established under AS 29, and maintain the provisions to said statute.
6. Encourage the State to offer for resale or lease to the public any and all agricultural parcels within one year of repossession. Also to strongly urge that any agricultural lands owned by the State of Alaska during the growing season be properly maintained at State expense, with particular concern for weeds, insects and disease.
7. Fish and Game, Wildlife, and Natural Resource management plans must include a provision for compensation to private owners, including land designated agriculture, for any damages resulting from implementation of such plans.
8. The Alaska Farm Bureau opposes any restrictions by boroughs or local government placing restrictions on the use of agriculture land or land with potential of agriculture use.

LIVESTOCK ISSUES

1. Privately owned Reindeer, Elk, Bison, and Musk Ox should be recognized as domestic livestock within the statute authority (AS 03) of the Department of Natural Resources.
2. Oppose any law (current or future) that would make it illegal for animal owners to give medical treatment to their own animals.

3. Encourage legislation that would permit the private ownership of indigenous game animals when a surplus of such animals has been declared by the Alaska Game Board.
4. The Alaska Farm Bureau encourages the Alaska Legislature to amend AS 29.45.030 (C9) to include agriculture animals as a specified natural resource commodity.
5. The Alaska Farm Bureau supports the USDA - Animal Damage Control efforts and plans to reduce bear perdition on cattle on Kodiak Island.
6. The present management structure of Mt. McKinley Meats is failing to meet the needs of the agricultural industry. We encourage the Department of Corrections to closely work with the Alaska Livestock Producers Cooperative and red meat industry to facilitate a cost efficient and stable USDA certified red meat processing facility.
7. Alaska Farm Bureau supports the concept of HB479 as introduced by Rep. Gary Davis, in the 20th Legislature, pertaining to civil liabilities relating to injuries resulting from equine activities.

PRODUCE ISSUES

1. Support a legislative appropriation as outlined by the Agricultural and Forestry Experiment Station and the Plant Materials Center, for establishing a disease testing and quarantine facility that would meet the international requirements for the export of Alaskan Grown virus tested seed potatoes.
2. Support a legislative or congressional appropriation for the establishment of a State/USDA certified disease testing and quarantine facility to meet international requirements for the import and export of plants and animals adapted to Alaska's agricultural environment.

EDUCATION ISSUES

1. Resolve that the administration should restore the \$3,000,000 through the general fund to the Agriculture and Forestry Experiment Station for replacement of the current annual appropriation through the Alaska Science and Technology Foundation.
2. As a Land Grant College, the University of Alaska Board of Regents should include members with a natural resource background. The Alaska Farm Bureau also encourages legislation to require that a person with an agricultural background be appointed to the University Board of Regents.
3. Support FFA and 4-H programs through the State as is done in the lower forty-eight. Encourage the concept of "Ag in the Classroom" which in reality is Resource Management with goal setting and environmental awareness the main target.
4. Establish teaching in agriculture, research at the Alaska Agricultural and Forestry Experiment Station, and Alaska Cooperative Extension programs in agriculture as a leading objective of the University of Alaska as mandated in federal and state legislation that provided and accepted the land endowment to create a land-grant university in Alaska.

5. We encourage the legislature to appropriate the necessary general funding to the University of Alaska, School of Land Resource Management and the Agriculture Experiment Station to protect the matching federal Hatch and McEntire-Stenus funds.

CHEMICAL USE ISSUES

1. Support implementation of a disposal assistance program for hazardous farm chemicals.

REGULATORY ISSUES

1. Encourage new state legislation that would enable child employment which is no more restrictive than existing federal regulation.
2. Support the American Farm Bureau Federation and its issues.
3. Support the active enforcement of the local Agricultural and Fisheries Product Preference Act as provided for in AS 36.15.050.
4. The Alaska Farm Bureau encourages the Alaska State Legislature to raise the quarterly exemption of State unemployment insurance for agricultural workers from \$20,000 to \$60,000. AS 23.20.526(a)(15) and AS 23.20.525(16)(A,B).
5. Support the establishment of a State/USDA certified disease testing and quarantine facility to meet international requirements for the import and export of farm and horticultural equipment, and all live plants and animals adapted to Alaska's agricultural environment. The cost of this implementation shall be borne by the importer.
6. The Alaska Department of Fish and Game shall not capture and relocate any wildlife without first testing the animals for disease. Test results shall be provided to DEC, State Veterinarian and no wildlife shall be relocated if it is infected with a communicable disease.
7. Because of disease and insect contamination possibilities and lack of state inspection of catalog live plant sales, Alaska Farm Bureau opposes all agricultural and horticultural catalog live plant sales, except certified seed that is shipped into the state.
8. Whereas, agriculture inspection service is for the benefit of consumers, to assure that those products that are inspected meet the high standards as labeled, the costs should be paid out of the general fund.
Whereas, some inspection costs are paid by producers and the federal agencies, all of those monies should be reimbursed to the agriculture inspection service.
9. We support fair implementation of the Food Quality Protection Act(FQPA). Any action by EPA to eliminate crop protection tools should be based on sound scientific evidence and have been peer reviewed. We urge congress to provide oversight to EPA to insure that implementation occurs as Congress intended.
10. Alaska Farm Bureau requests the Alaska Legislature pass a general indemnification of private property owners from recreational activity that occurs on their property.

Janice Adair, Director
Division of Environmental Health
555 Cordova Street
Anchorage, AK 99501
907-269-7644 voice
907-269-7654 fax
jadair@envirocon.state.ak.us

Environmental Health

To: BRUCE CAMPBELL

Fax: 465-4979

From: JANICE ADAIR

Date: 4.12.99

Re: SB 132

Pages: THREE

CC:

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle



Safe Water, Safe Food, Healthy Communities

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501
<http://www.state.ak.us/dec/deh>

Telephone: (907) 269-7644
Fax: (907) 269-7654
e-mail: jadair@envircon.state.ak.us

April 12, 1999

Bruce Campbell
Office of Senator Randy Phillips
Capitol Building
Juneau, Alaska 99801

Dear Bruce:

You recently sent me a copy of SB 132 that would transfer the animal health powers found at AS 03.05 from the Department of Environmental Conservation (DEC) to the Department of Natural Resources (DNR). You explained that the bill was seen as an efficiency move, and asked that I explain to you why these responsibilities are with DEC.

Prior to 1981, two or three agencies would inspect a food facility, a food-producing farm, or similar establishments. The Department of Health and Social Services (DHSS) would inspect for compliance with rules associated with "cleanliness", while DNR would inspect for compliance associated with certain "processing" requirements, and DEC would inspect for compliance associated with water, wastewater and solid waste rules. There was a common thread between all these inspections - all agencies were looking at some aspect of how public health might be influenced by these environmental factors.

In 1981, then-Governor Hammond introduced Executive Order 51, which transferred several functions to DEC from DNR and DHSS. The Governor's transmittal letter stated,

The purpose of consolidating these various functions in DEC is to eliminate the costs associated with the provision of duplicate services by the state in the field of environmental health and to reduce the burden on industry resulting from potentially duplicate regulation by two or three state agencies. Consolidation was first suggested in May of 1976 in the form of a recommendation from my Management and Efficiency Review Committee. The Legislative Audit Division conducted a performance audit of these inspection programs in 1979 as part of the legislature's sunset review process. The division strongly recommended in its January 29, 1980 letter to me that all three inspection functions be placed in a single agency.

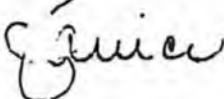
Safe Food, Safe Water, Healthy Communities

Page 2
Bruce Campbell
April 12, 1999

The workload associated with the animal health functions is small and coordinates well with other food safety and sanitation requirements in DEC.

I hope this answers your question on the historical reasons for the transfer of these services into DEC. If you have any other questions, I will be at the teleconference hearing on Wednesday.

Sincerely,



Janice Adair
Director

JA/ow(j:\eh\director\BruceCampbell.doc)

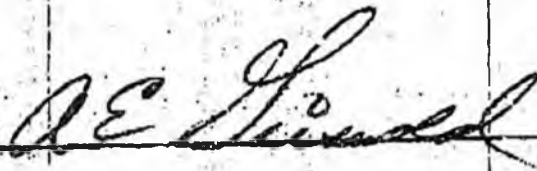
Cc: Rob Wells, Director
Division of Agriculture

Alaska State legislature

Please enter into the record my testimony to the Senate Resource committee on SB 132, dated April 14, 99.

I support SB 132 and so does the End of the Hwy Grange. We feel the State Veterinary Office should be under the Department of Natural Resources because the animal health and product safety of Agricultural items should be nearer to the Agricultural division of Government for simplicity of communications and corrections of problems involving agriculture.

Signed



Representing End of the Alaska Hwy Grange and Sleggy Hollow Farm

HC60 Box 4493 Delta Junction Ak 99739

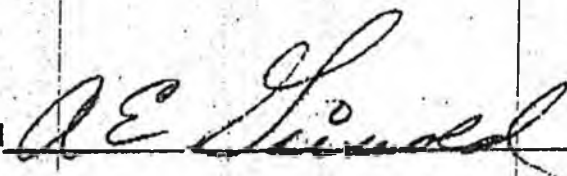
Phone 895-6248

Alaska State legislature

Please enter into the record my testimony to the Senate Resource committee on S B 132, dated April 14, 99.

I support S B 132 and so does the End of the Hwy Grange. We feel the State Veterinary Office should be under the Department of Natural Resources because the animal health and product safety of Agricultural items should be nearer to the Agricultural division of Government for simplicity of communications and corrections of problems involving agriculture.

Signed



Representing End of the Alaska Hwy Grange and Sleazy Hollow Farm.

HC60 Box 4493 Delta Junction, Ak. 99739

Phone 895-6248



Alaska State Legislature

Please enter into the record my testimony to the Sen Resources Comm
 committee on SB 132, dated 4/14/99
 bill/ subject committee name

I support SB 132 for the reason of bringing the state inspectors of plants, animals & food back to the DNR from DEC; Also the State Veterinarian back to DNR. This will place these important functions back to the area they cover and save duplication of services and hopefully - funds.

Signed:

Maria E Ward

Testifier

Ward Farms

Representing (Optional)

Box 1087, Delta, AK 99737

Address

895-5415

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate ~~House~~ Res
committee on 132, dated April, 14, 99.
bill/ subject committee name

I support SB 132 because
I feel that the state grading,
inspection and state vet. all should
be under the control of DNR
not DEC. keep ag related
things under ag related division.

Signed: Scott R Miller

Testifier Mrs Mt Farm

Representing (Optional) HC 60 Box 9140, Delta, AK, 99737

Address 907-895 6208

Phone No.

S B

1 3 3

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/1/99

FURTHER: Finance

Date of 5-Day Notice: 4/8/99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/27/99

Resources Committee considered

SENATE BILL NO. 133

COMBINE APUC AND AOGCC

and recommends:

- be replaced with _____ CS SB 133 (RES)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Not Kelly</i>	✓	<i>Ken Powell</i>	✓		
		<i>James ...</i>	✓		
		<i>Lydia ...</i>	✓		✓
CHAIR:		CHAIR: <i>Rick Halford</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>ADMIN</i>	<i>4/12</i>		<i>340.0</i>

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB133

Revision Date/Time (Note if correction) _____ Dept. Affected _____ Dept of Admin. _____
 Title Combine APUC and AOGCC BRU AOGCC
 Component AOGCC
 Sponsor Pearce
 Requester Senate Resource Component Serial No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES (GF)	340.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 AOGCC staffing and operating costs are not anticipated to change under SB133. Combining APUC and AOGCC, however, will require moving AOGCC offices to the building occupied by the APUC. A move will require a capital expenditure of \$300.0 in FY 2000. AOGCC would also need to invest in a new computer network system to be compatible with APUC. The cost for an updated network is estimated to be \$40.0.

Prepared by Robert Christenson, PE Phone 279-1433
 Division Alaska Oil and Gas Conservation Commission Date/Time 4/12/99 10:11 AM
 Approved by Commissioner *Johnson M. Selge* Date 4/12/99
 Agency _____

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DRAFT

Proposed changes to
SB 133
4/26/99

ADOPTED @
CONCEPTUAL RM
4/26/99

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

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

Alaska State Legislature

During Interim: (June - Dec.)
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Anchorage, Alaska 99501-2133
(907) 269-0200
Fax (907) 269-0204



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

Senator Drue Pearce

Sponsor Statement

Senate Bill 133 Combine AOGCC & APUC

SB 133 is an attempt to streamline government by combining the Alaska Public Utilities Commission and the Alaska Oil & Gas Conservation Commission into one commission, the Alaska Energy Conservation Commission. Combining the agencies will improve the long term function, effectiveness, and efficiency of both commissions.

This legislation does not create policy changes to the goals and objectives of the commissions other than the de-regulation of the refuse industry. De-regulation of the refuse industry has been recommended in recent legislative audits due to the determination that the cost of regulation may exceed the associated benefits.

SB 133 repeals both commissions while carrying forward existing regulations as well as all pending matters currently before either commission. The new commission will be composed of seven commissioners. Five shall be members of the general public with no requirement for areas of specific expertise and two shall be designated seats for individuals who have expertise in the oil & gas industry. The designated seats were created in response to concerns raised by representatives from the oil & gas industry who believe that the commission will need persons with "down-hole" experience. The utility industry did not feel that specific expertise was necessary and that the public interest would best be served by having maximum flexibility in acquiring qualified individuals from the general public.

The chairman will have limited authority over the other commissioners and general oversight of commission functions. In addition, the chairman shall assign and distribute the workload, set a maximum time allowed for the completion of cases, and manage the time keeping records for commissioners and staff.

The commission will function more efficiently under a new system where the chairman empanels three or more commissioners to each case. This type of system will expedite the process by allowing the chairman to assign an appropriate number of commissioners to each case depending on the magnitude.

SB 133 will improve the professionalism of the commission by strengthening the power of the commissioners while reducing the power of staff. The APUC currently employs a system in which the Executive Director could potentially influence the outcome of pending decisions through the assignment of specific personnel to a case. Commission decisions are the responsibility of the commissioners and should not be within the purview of the Executive Director or staff. This position has also restricted the flow of communication between the commissioners and staff.

Another problem area under the current structure are the dual roles that staff are asked to perform. Staff are often asked to play the role of public advocate on one case while they are acting in an advisory capacity on another. This creates a difficult situation in that the staff may be asked to switch roles back and forth when working with the commissioners.

The funding source of the commission shall continue as currently exists with a regulatory cost charge (RCC) on an industry by industry basis. This type of user fee design can establish a basic fairness in that only those who benefit from the regulatory process be responsible for its cost; it also has the added benefit of encouraging consumers to recognize and eliminate unwarranted regulation through deregulation elections. This benefit can only be realized to the extent that the RCC program reasonably links the cost-causer with the cost-payers.

SB 133 instructs the commission to adopt a time management system to ensure accurate accounting for time billed to each aspect of the commission's functions. Legislative Audit has been recommending a time management system for the APUC in every audit since 1979. To date, the APUC does not use industry or utility codes on payroll time sheets and therefore workloads are approximated using rough estimates.

I have used existing statutory language from both commissions and, in the absence of a preference of one over the other; I defaulted to the language used by the AOGCC. SB 133 will improve our ability to protect the long-term public interest through increased efficiency of the functions of the commission.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB133

Revision Date/Time (Note if correction) _____ Dept. Affected _____ Dept of Admin. _____
 Title Combine APUC and AOGCC BRU AOGCC
 Component AOGCC
 Sponsor Pearce
 Requester Senate Resource Component Serial No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES (GF)	340.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

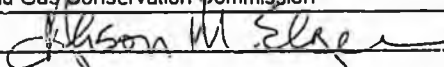
Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

AOGCC staffing and operating costs are not anticipated to change under SB133. Combining APUC and AOGCC, however, will require moving AOGCC offices to the building occupied by the APUC. A move will require a capital expenditure of \$300.0 in FY 2000. AOGCC would also need to invest in a new computer network system to be compatible with APUC. The cost for an updated network is estimated to be \$40.0.

Prepared by Robert Christenson, PE
 Division Alaska Oil and Gas Conservation Commission
 Approved by Commissioner 
 Agency _____

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 Date 4/12/99

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MEMORANDUM

April 7, 1999

SUBJECT: Sectional Summary of SB 133. (Creating the Alaska Energy Conservation Commission and repealing the Alaska Public Utilities Commission and the Alaska Oil and Gas Conservation Commission)

TO: Senator Drue Pearce
Attn: Pat Carter

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 adds a new chapter to AS 42 to provide for the Alaska Energy Conservation Commission (AECC).

Sec. 42.04.010 creates the commission as an independent agency of the state. The bill does not identify the department in which the commission should be placed for administrative purposes. Under subsection (b), the commission may nominate a member as chair but the governor has the power to select any member of the commission to serve as chair. The term as chair is for four years.

Sec. 42.04.020 provides for seven commissioners, specifies educational background for two of them, specifies six year terms, addresses vacancies on the commission and removal for cause and places the commissioners in the exempt service, compensated at Ranges 26 and 27 of the state salary schedule, depending on the educational background of the commissioners.

Sec. 42.04.030 directs the commission to establish a principal office and branch offices, to hold meetings, and to have a seal.

Sec. 42.04.040 directs the Department of Law to provide full-time legal counsel to the commission and permits the commission to contract for services of specialized legal counsel or consultants.

Sec. 42.04.050 makes the chair of the commission responsible for directing the administrative functions of the commission and employing staff, consultants, and experts for the commission.

Sec. 42.04.060 places conflict of interest restrictions on members of the commission and commission employees.

Sec. 42.04.070 sets out the powers of the commission chair, including employing staff, establishing a time management system for the commission, assigning work to commission members and staff, appointing hearing officers, and employing a person to represent the public interest in a matter to come before the commission.

Sec. 42.04.080 directs the chair to appoint a hearing panel of three or more commission members for matters on which the commission is to decide. There are exceptions for some formal hearings which may be heard by a hearing officer or an administrative law judge.

Sec. 42.04.100 establishes a communications carriers section in the new commission.

Secs. 2 and 3 amend AS 29.35.050(c) and AS 29.35.070(a) to reflect that the APUC is repealed by the bill and that the new Alaska Energy Conservation Commission will not be regulating waste collection and disposal services.

Sec. 4 amends AS 29.35.137(6) to reflect the repeal of the APUC.

Secs. 5 and 6 amend AS 31.05.060(a) and 31.05.080(a) to reflect the direction in AS 42.04.080, enacted by sec. 1 of the bill, that hearing panels decide matters to come before the new AECC and that a five-member appellate panel handle appeals.

Secs. 7 and 8 amend AS 31.05.170(3) and AS 31.15.050(1) to reflect the repeal of the Alaska Oil and Gas Conservation Commission (AOGCC) and its replacement by the AECC.

Sec. 9 amends AS 39.05.810(f) to reflect that the AECC will not be licensing or otherwise regulating waste collection and disposal services.

Sec. 10 amends AS 39.50.200(b)(24), concerning public officials in the executive branch who are subject to financial reporting for conflict of interest purposes, to substitute members of the AECC for members of the APUC. The requirement that members of the AOGCC file these reports (see AS 39.50.200(b)(36)) is repealed in bill section 27.

Sec. 11 requires the new AECC to adopt regulations that provide for hearing panels and appellate panels when regulating public utilities under AS 42.05.

Sec. 12 amends AS 42.05.161 to clarify that the application of the Administrative Procedure Act set out in AS 42.05.161 is addressed only to the AECC regulation of public utilities.

AS 31.05.050(a) and 31.06.060(b) address application of the APA to proceedings and regulations of the AECC in regulating oil and gas conservation.

Sec. 13 amends AS 42.05.171 to include reference to hearing panels and appellate panels.

Secs. 14 and 15 amend AS 42.05.254 to ensure that the regulatory cost charge collected from public utilities and pipelines is based on the AECC expenses of regulating public utilities and pipelines and not the oil and gas conservation activities of the AECC.

Sec. 16 amends AS 42.05.712(h) to reflect the repeal of regulation of waste collection and disposal utilities.

Sec. 17 amends AS 42.05.990(2) to define commission in the chapter regulating public utilities as the Alaska Energy Conservation Commission and not the repealed Alaska Public Utilities Commission.

Sec. 18 amends AS 42.05.995, the short title for the chapter providing for regulation of public utilities, to remove reference to the APUC.

Sec. 19 amends AS 42.06.140(b) to give the chair of the AECC power to assign administrative law judges to hear matters relating to pipelines.

Secs. 20 and 21 amend AS 42.06.286(b) and (c) to ensure that the regulatory cost charge collected from public utilities and pipelines is based on the AECC expenses of regulating public utilities and pipelines and not the oil and gas conservation activities of the AECC.

Sec. 22 amends AS 42.06.445(e) to reflect the fact that the chair of the commission will perform the function of a chief executive officer so there will be no executive director of the AECC.

Sec. 23 amends AS 42.06.630(2) to define "commission" for purposes of pipeline regulation as the AECC.

Sec. 24 removes reference to the APUC in AS 42.45.020(b).

Secs. 25 and 30 substitute reference to the AECC for reference to the APUC in the sunset statutes and extend the sunset of the AECC for five years.

Sec. 26 removes reference to the APUC in AS 44.83.425(3).

Sec. 27 lists the statutes repealed by the bill. The statutes in AS 31.05 (AS 31.05.004 - 31.05.025) relate to the Oil and Gas Conservation Commission. The statutes in AS 42.05 (AS 42.05.010 - 42.05.131) relate to the Alaska Public Utilities Commission. AS 39.25.120(c)(6) placed the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission in the partially exempt

Senator Drue Pearce
April 7, 1999
Page 4

service. AS 39.50.200 (b)(36) made the members of the Alaska Oil and Gas Conservation Commission subject to financial disclosure requirements.

Sec. 28 provides for the initial terms of the members of the AECC.

Sec. 29 provides for the transition of activities of the APUC and the AOGCC to the AECC.

Sec. 30 relates to the sunset extension in sec. 25 of the bill.

Sec. 31 lists the other statutes where the substitution of the AECC for the APUC and the AOGCC needs to occur.

Sec. 32(a) makes those provisions that relate to the deregulation of waste collection and disposal service take effect July 1, 2002. Subsection (b) is a July 1, 1999 effective date for the other provisions of the bill.

TC:glc
99-170.glc

**The
Alaska Energy Conservation Commission
3/25/99
Version - E**

Goals & Objectives

- Streamline government by combining the two agencies. This will require the repeal of both commissions while allowing for a reasonable transition period. This will also require carrying forward all existing regulations as well as all pending matters currently before either commission.
- Improve the long term function, effectiveness, and efficiency of both commissions.
- Improve the antiquated funding mechanism of the AOGCC
- Address the perception of disfunctionality of the APUC

Composition

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

Removal of commissioners

The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges and afforded an opportunity to be publicly heard in person or by counsel in the commissioner's own defense upon not less than 10 days' notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and the governor's finding based on the charges, together with a complete record of the proceedings.

The above language was copied from the current removal language for the AOGCC

Current commissioner terms – All commissioner terms will expire with repeal of the commissions.

AOGCC

- David Johnston – Term expired 3-1-99
- Robert Christensen – Term expires 3-1-01
- Camille Oechsli – Term expires 3-1-03

APUC

- Sam Cotten – Term expired 3-1-99
- Alyce Hanley – Term expires 3-1-00

- Dwight Ornquist – Term expires 3-1-00
- Tim Cook – Term expires 3-1-01
- James Posey – Term expires 3-1-03

Term

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

Qualifications of members.

7 members – five public members, one Petroleum Engineer, one Petroleum Geologist.

Note: Our current judicial system deliberates technical issues in our courts utilizing randomly selected members of the general public. Having the ability to hand pick well rounded, intelligent individuals should prove more than adequate. (Commissioners can rely on staff for any technical expertise that may be required regarding the APUC decisions) The AOGCC deals with specific sub-surface technical issues relating to oil & gas reservoirs, which will require specific expertise.

Given Alaska's relatively small population, as well as those who may have a conflict of interest, this should help to resolve some of the past problems we've faced with the lack of qualified candidates.

Compensation of members of the commission

Members of the commission are in the exempt service and shall receive an annual salary. Chairman shall receive a slightly higher (one step) salary over other commissioners.

Legal counsel

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

Funding Source

The commission shall operate with a program receipt system similar to that of the existing APUC. Through the implementation of the new time management system this will allow for better assessment of costs related to telecommunication and power generation. Pipelines will continue to be funded using the existing tariff system. Oil & gas related costs shall be collected utilizing a program receipt system of total volume of liquids proportional to related budget costs *(This will allow the costs to remain proportional to the existing conservation tax)*. Program receipts shall not be used for purposes outside the commission. The commission shall be authorized to adopt a standard fee rate in cases where the existing system does not apply.

The existing Oil & Gas conservation tax shall be repealed with commission.

Time Management System

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

Commission staff

AOGCC

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

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

APUC

- Eliminate - Executive Director position
- Add – Office manager
- Add - (1) Hearing officer

Staffing levels should otherwise remain relatively the same.

Powers and duties of the commission

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

- The commission may act on it's own initiative, by petition or filing.
- The chairman shall empanel (3) commissioners to consider decisions before the commission. The petroleum geologist and petroleum engineer shall always make up two of the three commissioners empanelled to consider oil, gas, or pipeline issues.
- Chairman may assign an individual commissioner to act as a hearing officer.
- Appeals to the commission shall be heard by (5) commissioners, of which one shall be the chairman. Appeals will be granted at the discretion of the commission.
- The commission will no longer regulate the refuse industry.

Role of the Chairman

- (a) The chairman of the commission shall have limited authority over other commissioners.
 - (1) The chairman shall have the responsibility and oversight of assigning and distributing work to other commissioners.
 - (2) The chairman shall have the responsibility of assigning cases to commissioners.
 - (3) The chairman shall set a maximum time allowed for completion of cases.
 - (4) The chairman shall have the responsibility and oversight of all time keeping records submitted by the ~~executive director~~ and other commissioners.

STAFF

- (5) -The executive director and commissioners shall submit time keeping records to the chairman.
- (6) The chairman shall have the responsibility of all hiring and firing of staff.

Commissioners

- (a) The chairman shall assign commissioners issues in which they shall concentrate their respective efforts.
- (b) The commissioners shall work through staff section heads to distribute workloads as well as monitoring of work in progress.
- (c) All commissioners, including the chairman, shall maintain time keeping records of their work.

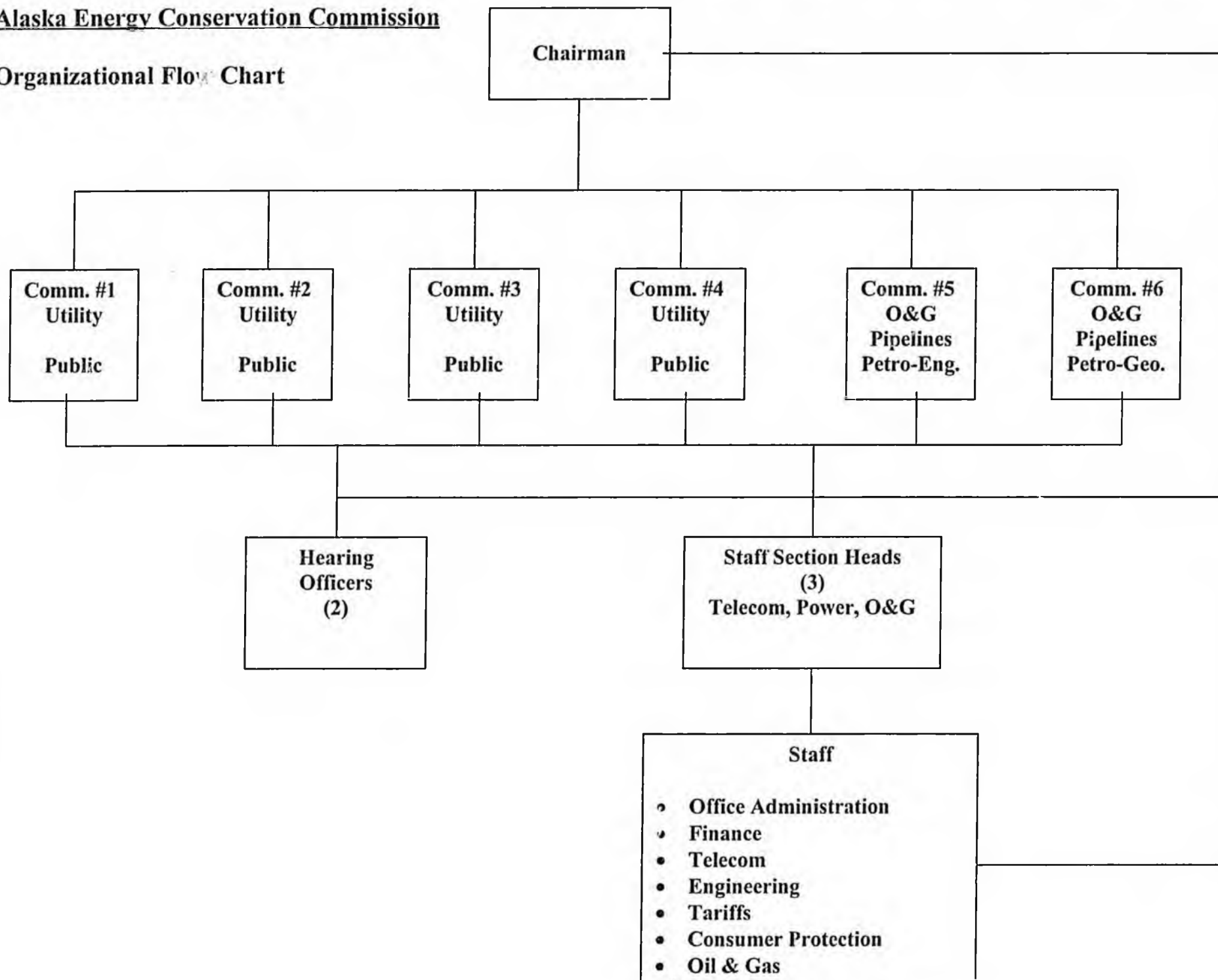
Staff

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

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

Alaska Energy Conservation Commission

Organizational Flow Chart



REPORT ON THE ALASKA PUBLIC UTILITIES COMMISSION

by

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October 1998

This report was prepared with funding provided by the Alaska Public Utilities Commission. The views and opinions expressed herein do not necessarily state or reflect the views, opinions, or policies of the National Regulatory Research Institute, (NRRI), the National Association of Regulatory Utility Commissioners (NARUC) with which the NRRI is affiliated, or NARUC member commissions.

INTRODUCTION

While claims of dramatic change and great challenge in a field are usually an exaggeration, that is probably not the case where the subject is the regulation of public utilities. Current developments in industry organization, technology, customer expectations, and attendant public policy are altering the provision of most utility services in fundamental ways. Intimately related to all this are the state public utility commissions as both responders to necessary change and initiators of constructive change. These roles often center around changes in mission, process, and timeliness. In electricity, gas, telecommunications and, to a lesser extent, water, the changes taking place are changes in kind and not just degree. Most importantly to state public utility commissions, the introduction of market forces and competition into the utility industries may substantially supplant the need for continuing, comprehensive, and traditional public utility regulation.

As each state public utility commission undertakes an effort to transform itself to meet the demands of this emerging environment, it is often useful to begin the process with a self-assessment to identify the major issues involved, the necessary timing of change, staff attitudes about change, and potential impediments to change. Such a self-assessment also presents an opportunity for commission staff to provide input into the direction of commission change.

After several preliminary discussions in early spring, the National Regulatory Research Institute (NRRI) was invited in May to submit a proposal "To Assist the Alaska Public Utilities Commission (APUC) in an Organizational Self-Assessment As It Undertakes Efforts Toward Large-scale Change." A contract for this work was subsequently entered into, and the onsite team visit took place over the period June 17-22, 1998.

To accomplish this self-assessment, NRRI staff interviewed sixteen Alaska PUC staff, the five Commissioners, and four former employees, and asked the interviewed staff to complete a short assessment instrument. The results of the overall NRRI inquiry

are contained in this report. Part I of the report describes the assessment instrument and presents the results obtained by its application. Part II of the report presents NRRI findings by major subject component. For each component, the NRRI draws some conclusions and offers accompanying observations. Part III provides summary conclusions. Specific comments received by NRRI in the interviews are included in the Appendix.

Reports of this type are inherently judgmental and subjective. In that sense they are always limited and imperfect. The task, of course, is to be fair and accurate, and we have tried to be both in our assessment. In trying to accomplish this we have avoided the extreme stances — "the sky is falling" at the APUC (it isn't) or "we have no problems" at the APUC. We have employed "discount factors" where they seemed appropriate and have only treated things that could be called recurring themes coming from multiple interviewees, thus minimizing the outlier phenomenon. We have attempted to make our frame of reference either *horizontal* comparisons, that is, differences in conditions within the APUC and with other commissions, or *vertical* comparisons, that is, differences in conditions at the APUC now as against the APUC at an earlier time. We have also avoided references to the behavior of specific individuals. It was not our purpose to evaluate individual performance; comments directed toward individuals were only included if they could be regarded as applying to the position held by the individual in some generic sense. Finally, the report is the collaborative product of the three-person team that conducted the exercise; it contains only those observations and conclusions that could be agreed to by all of the authors.

For a report to be contributory to agency self-assessment and to be useful to the leadership it must be a candid one — even if occasionally painfully so. Accordingly, while not seeking sharply pointed assessments, we have not glossed over areas of important perceived deficiencies with indirect writing. It should be said that all participants demonstrated a great deal of goodwill toward the assessment initiative and genuinely cared about an improved APUC as a place to work and contribute.

PART I

APPLICATION OF THE COMPETING VALUES MODEL

Robert Quinn of the University of Michigan has developed one typology of organizational change that may hold great promise for the analysis of public utility commissions as they undergo transformation in response to their evolving environment. His model focuses on the inherent contradictions of organizational life and is referred to as the competing values model.¹

Quinn identifies four ways of categorizing organizations and arrays them in a two-by-two grid, which is illustrated in Figure 1. In the upper right-hand quadrant (I) is the open systems approach. Organizations in this quadrant are oriented toward taking risks, excitement, and innovation. Success is measured by being on the leading edge.² An interdisciplinary team working on industry restructuring would help pull the commission in the direction of quadrant I.

In the lower right-hand quadrant (II) is the rational goal approach. These organizations tend to be achievement oriented, emphasize logical direction, and are competitive. Success is measured by acquiring resources and defeating competitors.³ As commissions confront their new environments and adapt to new market and consumer needs, they move toward quadrant II.

In the lower left-hand quadrant (III) is the internal process approach. This organization is control-oriented and mechanistic. Organizations in this quadrant are hierarchical and value security and perpetuation of the status quo.⁴ Some portions of every organization are better suited to quadrant III than others. For example, commission administrative operations probably fall mostly within quadrant III.

¹ Robert E. Quinn, *Beyond Rational Management: Mastering the Paradoxes and Competing Demands of High Performance* (San Francisco, CA: Jossey-Bass Publishers, 1989).

² *Ibid.*, 36.

³ *Ibid.*

⁴ *Ibid.*, 37.

The upper left-hand quadrant (IV) is the human relations model or the consensual or team approach. Organizations here emphasize mutual dependence and focus on feelings. They tend to value harmony and consideration of all individuals.⁵ Commissions tend to have strong internal cohesiveness, a trait which pulls them toward quadrant IV.

These quadrants represent attributes of organizations, though no organization can be fully contained in any one quadrant. For example, every organization has some functions or offices that are more hierarchical than others, and, over time, an organization may shift its emphasis from one quadrant to another. As a matter of fact, there is a tendency for organizations to drift toward quadrant III. That is not to imply that the control/management quadrant is inappropriate. The attributes contained within that quadrant are necessary for every organization, even the most innovative. What is to be avoided is excessive reliance on control and management at the expense of appropriate levels of innovation and flexibility.

Because every organization contains elements of each quadrant, a quadrangle-shaped map can be drawn for an organization. The NRRI asked the Commissioners and staff interviewed to completely assess how the APUC fits each quadrant, once to attempt to describe the APUC as it exists *now* and again to describe how they would *prefer it to be*. Eleven persons completed the questionnaire (which may limit the statistical significance of the outcome). Figure 2 shows the results of the analysis of the APUC as it exists now; Figure 3 describes the APUC as those who completed the analysis would prefer it to be.

Figure 2 (the APUC as it exists now) displays the typical kite-shape expected of government agencies. The score in the control/management quadrant (III) is very high. The scores in each of the other three quadrants are much lower and nearly identical to one another. The net result is that those who completed the instrument regard the APUC as being skewed toward control, perhaps even further than could be expected of government agencies.

⁵ Ibid.

The quadrangle describing the APUC as respondents prefer it to be (Figure 3) is quite different. The quadrangle clearly indicates a preference for a more balanced organization, for substantially less reliance on control, for a very slight increase in reliance on the rational goal approach (Quadrant II), a tilt toward the open systems model and innovation (Quadrant I), and, most dramatically, a substantial increase in attention to the human relations model (Quadrant IV).

These results are consistent with several of the themes articulated by those interviewed. The majority of the problems identified in this report are internal to the APUC , and it is clear from the results of this analysis and the comments of many of those interviewed that substantial repairs need to be made to internal relationships if the APUC is to thrive. Though the APUC continues to serve the public and perform its established role, mitigation of morale problems and the application of leadership could go far to create better internal cohesion that is sought by many.

PART II

ANALYSIS OF ORGANIZATIONAL COMPONENTS

The components examined and explained in Part II are:

- General Factors Including Leadership
- Morale
- Commission Structure
- Staffing
- Management Information Systems
- Process
- External Relations
- Consumer Protection
- Information Flows/Communications

GENERAL FACTORS

Overall Commission Functioning

Observation: Though problems exist and the workload is extremely high, overall the APUC is regarded as having done a competent job of handling its responsibilities.

Despite the range and depth of problems cited by those interviewed, several of those interviewed cited the fact that APUC decisions are rarely overturned in court. Most cited the competence of the staff and its ability to focus on the real task of the Commission despite constant emergencies and a very heavy workload. Though some are concerned that current difficulties may eventually limit the ability of the APUC to do its job, there seemed to be no doubt that overall the APUC has accomplished its

mission up to this point even considering the substantial increase in the APUC workload following industry restructuring.

Leadership

It is widely agreed that leadership is an important and sometimes determinative component of agency success. Small organizations comprised of highly motivated and self-directed persons sometimes do not require much leadership. Effective agency leadership is particularly desirable during a period of churn and change, like the current environment at public utility commissions, including the APUC.

Also of note in the context of multi-member public utility commissions is the fact that there are at least two kinds of "leadership" that can be examined. One is the traditional view of the chairperson as the locus of leadership, and the other (less frequently examined) is the *collective leadership* of the Commissioners. Both will be considered here.

Observation: Several opportunities exist at the APUC for the application of leadership to perceived problems.

Interestingly, the word "leadership" was not actually spoken by any of the interviewees, but a number of the perceived difficulties emphasized by them hark back to the leadership question, both from the Chairman's office and from the Commissioners as a collective. Several opportunities for asserting general leadership on big themes would seem to present themselves in the course of fixing a number of particular problems incorporated in them as reported by interviewees. One of these is improving vertical communication throughout the agency. (Reportedly, horizontal communication is adequate.) Another opportunity is to introduce and conduct a systematic training and orientation program for new personnel at all levels. (This was a deficiency identified by those interviewed.)

A third, and perhaps most important, opportunity is in dramatically clearing the docket backlog including tariff filings and devising procedures and practices that lead to prompt resolution of cases. Some amount of regulatory lag is, of course, inherent in complex filings, and users of the system are often unduly impatient. However, even allowing for this, those interviewed were critical of unnecessary delays in case processing, of too frequent use of suspensions and extensions, and of applications taking effect by default.

Observation: Because of the structure of public utility commissions, collective leadership is required.

In the public utility commission model (1) there is a proper and sharp distinction between technical staff and commissioners; (2) commissioners are to a very great extent co-equal in responsibilities and authority (in the Alaska case there is not even extra pay for the chairperson); (3) loyalties are presumptively "upward" to the governor and not "sideways" to each other; and (4) the overall *effectiveness* of the organization hangs crucially on the willingness and ability of a majority of the commissioners to support the chairperson on issues vital to the agency *as an institution*. This last is about recognizing that the commission functions well or badly depending in good measure on whether commissioners pull together in the traces or pull apart. The argument here is that adopting the former approach allows for the very considerable benefits to the agency of collective leadership, and pursuing the latter course precludes these benefits and probably forecloses any real chance of individual leadership as well.

In the course of sustained discussions with those interviewed, several opportunities for collective leadership by the Commissioners (mostly of the "lead-by-example" variety) were identified. It is, of course, true that staff do not always know or appreciate what exactly constitutes a Commissioner's workday. However, perceptions that Commissioners do not "pull their weight" were voiced several times in interviews. Addressing those perceptions is a difficult but worthwhile task.

MORALE

Observation: The morale at the APUC appears to be low.

Given the level of turmoil and uncertainty inherent in utility industry restructuring and the extremely high workload of commissions around the nation, morale problems might be expected. Comments from quite a few, though not all, interviewees indicate that a morale problem exists at the APUC that might exceed national norms. Fortunately, the earlier turmoil that surrounded the attempt to remove two Commission staff and the dispute over the appointment of a Commissioner were perceived by interviewees as "over and done with" and no longer a factor in morale matters.

Improving morale in a troubled organization is difficult at best. It has a chance of being achieved with the following conditions: (1) the existence and understanding of a persuasively articulated vision of the agency; (2) a wholesale "buying in" to that vision so that it becomes a shared one; and (3) a workplace demonstrably characterized by civility and professionalism, by fair treatment, and by appropriate recognition and appreciation of good performance. The task of creating this environment falls to the Chairperson *and* the collective leadership.

Happily, there is much to build upon. There are a number of pockets of real excellence and dedication within the agency, and these can be celebrated and enhanced. The Commission has a long and reputable history of service. The traditional mission of consumer protection in the sectors of the economy that most fundamentally touch the Alaskan citizenry — the utility sectors — is a high calling. Now the added mission of inducing, presiding over, and adroitly shaping the restructuring of the energy and communications sectors provides an opportunity for a new level of cohesiveness among the APUC staff. Regulatory oversight is not yet "a declining industry," but rather has an essential and particularly demanding role in the context of transformation. This sort of challenge can appeal to the best instincts of an informed and energized staff.

COMMISSION STRUCTURE

Structure refers to an organization's relatively stable activities over a period of time, often reified as an organization chart. Organizations are ordinarily structured to support well-established programs that can operate most efficiently within given boundaries. A U.S. regulatory commission structure, like that of corporations and other government agencies, has traditionally been hierarchical, with several levels of authority and numerous compartments representing cohesive activities that contribute to overall functioning. Commissions are typically characterized by a strict structural delineation between commissioners and staff, due to the quasi-judicial nature of their activities and the traditional model of commission process that considers staff the provider of technical expertise to the commissioners as judges (the "technocratic model"). It is common to have a strong executive director who supervises technical staff. In several states the bifurcation of staff and commissioners is maintained by having two separate agencies — a commission and a public staff.

The APUC is divided into four major layers. The Commissioners and paralegals assigned to them form one level; the Hearing Examiner, Assistant Attorney General, Executive Director, Administrative Law Judge, and Associate Attorney form a second.

At the third level, several paralegals and secretaries report to the Associate Attorney, and the technical staff report to the Executive Director. Six sections, representing the bulk of the commission's manpower, are supervised by the Executive Director: Engineering, Common Carrier, Finance, Tariffs, Consumer Protection, and Administration. The sections are organized by function rather than industry, with the exception of the Common Carrier section.

Observation: Administrative authority is best consolidated at commissions.

Based on the NRRI's interviews, it appears that some APUC Commissioners are too involved with administration. This involvement could inhibit their consideration of the important issues facing the commission. One way to avoid this would be to strengthen the Chairman's direction of purely administrative matters. If all Commissioners were less involved with administration, they would have time for more substantive matters, could take on substantive lead assignments, and, thereby, might improve the functioning and, perhaps, the product of the Commission.

Observation: Existing structure that combines functional and subject matter groupings seems to be appropriate to recent programmatic needs.

The APUC technical staff are organized largely by discipline (e.g., Engineering) with the exception of the Common Carrier section that has responsibility for communications-sector matters. Overall, the structure, which is duplicated at other commissions around the nation, appears to be an appropriate one. Some interviewees remarked that the Common Carrier section holds a special status within the technical staff. But the success of the Common Carrier section in weathering and indeed mastering changes in telecommunications policy the last several years is good reason for them to be "the fair haired division," as one person we interviewed put it. The hybrid

organization of sections (with both utility and functional sections) works well for commissions when combined with a team approach to assigning responsibility for cases. For the APUC, other sections need to be strengthened, rather than the Common Carrier section weakened.

Some concern was expressed that the assignment of management information systems (MIS) responsibilities to the Engineering section had the potential to overwhelm that section and to get in the way of other engineering functions.

Observation: The location of the APUC in the Department of Commerce and Economic Development encourages cooperation with allied functions.

Many state commissions stand alone as quasi-judicial agencies somewhat independent from either the legislature or executive branch. With the responsibilities of commissions being redefined, it is of particular help to the APUC to have good communications with the state functions of promoting economic development and other allied functions. At the same time, the Commission's expertise in consumer interests and in the complex field of public utilities is an important resource for the rest of the Department. Striking a balance between involvement and independence is the key.

STAFFING

Observation: Commissioners need more staff support for decisionmaking.

As the issues facing commissions become more complicated (often involving issues of market power and consumer protection) and more often involve policymaking, commissioners across the country and at the APUC will need more staff assistance. Those interviewed expressed concern that the assignment of existing staff resources of the APUC did not give adequate attention to the advisory function. Two general options are available for providing more staff assistance to Commissioners.

First, the APUC could hire additional advisory staff or permanently assign staff to Commissioners from existing staff resources. Adding small numbers of advisory staff can be problematic because of the wide range of expertise across all utility sectors required of those staff. In a commission as small as the APUC, the permanent reassignment of staff as advisors to the Commissioners further reduces the expertise available to the advocacy function. A contrary view was expressed by at least one of those interviewed, who suggested that the permanent assignment of a staff member as an advisor to the Commissioners would substantially alleviate the problem.

Second, the APUC could adopt administrative models that allow Commissioners to have greater access to existing experts on the staff. Several states, including Ohio, Iowa, and Florida, have created models which do not impose a rigid *ex parte* wall between commissioners and technical staff. At least one of those models defines staff as "participants" in cases but not "parties." They have full, statutory discovery rights but are not subject to discovery by others. As participants in cases, staff cannot contest commission actions and cannot apply for rehearings.

Observation: Legal support of the Commission is a critical function and could be improved.

Attorneys are assigned by the Attorney General to support APUC needs. Two

part-time attorneys are available. Concern was expressed, however, about the level of support provided and the potential for a conflict of interest. Given the quasi-judicial nature of most APUC actions, several of those interviewed expressed the sentiment that more legal input into case preparation would be desirable. In fact, at least one suggested that an attorney should be assigned as the team leader in case preparation. Full-time assignment of two attorneys might be desirable.

Because the attorneys assigned to the APUC do not serve either a strict advisory or advocacy role, there is the possibility in the minds of some that a conflict of interest could be created for attorneys. The same attorney who assisted with the development of the staff position could be also assigned to represent the APUC on appeal in a situation in which the Commission decided in opposition to the staff position. A solution would be to assign one of the attorneys to the Commission staff to help craft staff positions and assign the other to provide advice to the Commissioners and to represent the Commission on appeal. This is commonly done in other commissions by the formal split between staff counsel and chief (commission) counsel. If a permanent split of the attorneys between advocacy and advisory functions would create uneven workloads between the two attorneys, they could be split on a case-by-case basis. Hearing examiners, though often attorneys, are separate from both.

MANAGEMENT INFORMATION SYSTEMS

Observation: The Commission needs improved management information systems, but increased computerization will not solve information problems by itself.

Both commissioners and staff strongly believe that systems for managing commission processes at the APUC need to be improved. Consideration is being given to hiring an outside consultant to design a computer information system for the commission. A well-designed computer system can indeed facilitate many management functions.

But Commissioners and staff expressed problems that run deeper than the technical means that are used to enable organizing, planning, and other management functions. One person at the APUC who we interviewed said, "I sometimes feel that procedures are crumbling here." Another remarked, "We're in meltdown." A computer system, no matter how elegant, cannot set priorities and cannot say what information is needed by whom, when, and in what format. The computer equipment and software available to APUC members is not directly to blame, since the Commission is commendably up-to-date on computer quality and speed. It seems likely, however, that the available technology is not being used to its greatest effect. A larger state commission has different management information needs than the APUC. So does a federal agency such as the FCC, which relies on "paper hearings" rather than a typical state commission process of oral, face-to-face hearings.

Observation: A computer information system can be developed in synchrony with other efforts to identify, analyze, and address Commission management information needs.

A concerted initial effort to reduce case backlog and identify areas where timeliness must be improved will help to clarify the needs for outside help on developing a computerized management information system. Lack of computer support or

inadequate use of computers were frequently mentioned as problems. Here an outside consultant may be very helpful in setting up a system where, among other things, industry files cases electronically, the same information is entered only once into the computer system, and the status of cases and the text of decisions are available to every interested person in the APUC via their desktop computers. Such a system should allow management to ascertain the time it takes for each case to go through each step in the process and assess whether prioritized goals are being met. The computer system may be used as well to accomplish tasks that the commission has not attempted as yet, such as analyzing complaint filings to be able to anticipate new issues.

COMMISSION PROCESS

Observation: There is widespread concern that the APUC does not act promptly enough on cases before it.

Many APUC members referred with dismay to a lack of timeliness in decisions, a concern that staff felt was shared by the regulated industries. This problem is associated with a backlog of cases that appears to be getting worse. One person we interviewed claimed that there are 500 open dockets and that this number has doubled over a relatively short period of time. Suspension periods are routinely extended, which avoids an immediate expenditure of scarce resources but in itself takes time, thus compounding the problem. Interviewees identified a number of possible sources of slowdowns in Commission processes. One is simply an increased caseload, particularly in telecommunications. Promotional offerings in telecommunications are "coming in by the gross," we were told, at the same time this industry expects, if anything, faster decisions consistent with a competitive environment. Filings by electric, gas, water, sewer, and garbage utilities are increasing as well.

At least one Commissioner expressed the belief that staff is generally slow in

getting cases before the Commission. Particular concerns about timeliness at the staff level were the lack of speed with which documents move between the fourth and third floors and the amount of work that has to be corrected or even redone, especially order writing, which is time-consuming and duplicative. Commissioners were also faulted for a lack of timeliness, both on making needed decisions and getting them out the door when a decision has been made. More than one staff member remarked that a final order may sit on Commissioners' desks for a period of time before being signed and taking effect. More serious, perhaps, was a sense of an absence of clear priorities throughout the APUC that contributes to a crisis mentality. "We have management by emergencies," said one person we interviewed. "It feels like we're under fire all the time."

Observation: Steps must be taken as early as possible to bring the backlog under control and address the issue of speedy processing of Commission business.

The lack of timeliness and growing case backlog is a measure of impaired Commission effectiveness. Though the dramatic increase in the APUC's workload might be a contributory factor, delays in case processing were cited by many of those interviewed. Several specific problems that might impact the speed with which the APUC disposes of cases were noted. They included striking the appropriate balance between efficiency and careful maintenance of due process (some citing undue attention being paid to the maintenance of due process; others citing not enough attention), the assignment of staff including the hearing examiner, and the role of Commissioners. The sense of slipping behind is also a drag on morale and a sense of accomplishment.

The first step is to identify more clearly the nature of the backlog by industry and current status. The Executive Director may want to reinstitute meetings on the status of all current dockets. Such meetings can be used to rearticulate priorities and possibly batch similar cases, such as telecommunications promotional offerings, for expedited

treatment. The Commission may wish to consider using temporary resources to help reduce the backlog at this stage, although simply hiring permanent staff as quickly as possible in key areas may be enough.

The second step is to identify bottlenecks and other problems. A flow chart can show the actual sequence of events in Commission case processing. This will help to identify problem areas, redundancy, and unexpected complexity. It also will help to identify information needs that a computer system can be designed to address. There are several checklists in use at various points in the Commission process. These can be used to help develop a more complete, integrated understanding of the flow of events from the date a case is filed until the date on which an order goes into effect.

Particular consideration needs to be given to solving problems upstream in the Commission process. Better order writing early (which is addressed later), so that rewriting and editing do not have to be done at the end of the process, can reduce overall workload and the sense of constant emergency. It is a mistake to rely overmuch on any one person to make sure that the procedural and substantive record is adequate, especially one placed at the end of the process. The APUC should also look for areas where industry can help, for example by contributing information upon filing that the staff has routinely been taking upon itself to gather. We are not suggesting always taking short cuts where they are available. Failure to follow due process can result in as many problems downstream as failure to fully address substantive issues.

Observation: The use of streamlined administrative processes and alternative methods for hearing cases should be explored.

Several methods for streamlining case processing were identified by those interviewed. They included the issuance of one-page orders for procedural issues, an attempt to limit the number of pre-hearing conferences, allowing the hearing examiner to conduct pre-hearing conferences, better use of the paralegals, and making better use of stipulations. Other small commissions have made use of more informal processes to expedite case handling. In North Dakota, for example, informal, open meetings are held

following most formal proceedings. No notice is made of these meetings although they are included on the Commission calendar. Meetings are tape recorded. No sworn testimony is presented, but the party bringing an issue is asked to present the issue. Staff is allowed to respond. In these informal meetings, no decisions are made. If a Commission decision is required, it is held for the next formal meeting. If it is apparent that controversy will develop, the issue is sent to a hearing. According to staff, these meetings have substantially streamlined the Commission process.

More dramatically, the APUC might also consider changing the manner in which cases are heard. Currently, Commissioners hear all cases with the hearing officer in attendance as a legal advisor, though her role has been limited. Other approaches are available. In some cases around the nation, a single commissioner will hear a case; in other instances, several commissioners (less than the full commission) can hear cases. In other states, albeit typically larger ones, hearings are conducted by hearing examiners, who later present their findings to the commissioners for ratification or amendment. The commissioners must still make their decisions based on the established case record. This latter option may be appropriate for the APUC where the concern is the identification of the appropriate balance between due process and speed. This option also has the advantage of allowing commissioners to focus on policymaking and questions of industry structure and develop specific expertise.

Observation: As the work of the APUC shifts towards more policymaking and away from the kinds of fact finding embedded in traditional rate cases, the APUC may want to further explore the use of nontraditional means of making decisions.

A majority of the substantive work of the APUC has been performed through formal adjudicatory processes that emphasize due process, which includes the requirements that Commission rulings be based on the public record accumulated in the course of the proceedings and that there be a separation of functions between those who make the decisions and those who argue before them on behalf of specific positions. These adjudicatory and often confrontational processes work best in matters

of retrospective fact-finding and in those cases where winners and losers can be identified. They worked well when the majority of the Commission's work was the setting of utility rates and when specific utility interests conflicted with the interests of ratepayers. Unfortunately, they do not work as well for future-oriented establishment of policy or in finding creative or collaborative solutions to public policy problems.

Despite the fairly standard requirements that govern public utility commission adjudicatory processes, the application and design of these adjudicatory processes vary across commissions and across time. The APUC process is fairly formal and rigorous in its interpretation of *ex parte* requirements. The APUC staff are charged with presenting the staff case in adjudicated proceedings and are generally regarded as serving an *advocacy* function, a function that is particularly critical since there is no separately constituted consumers' counsel in Alaska. Other intervenors also present their views, which are entered into the case record. Those staff members who are to be separated from Commissioners are designated by memorandum for each proceeding. Staff not so designated may be used by Commissioners as resources; they are regarded as being *advisory*. This split between the staff's advisory and advocacy roles is commonly referred to as bifurcation of a commission. In some cases, the staff attempts to reach a settlement with parties prior to the presentation of a case.

As the work of the APUC shifts towards more policymaking and away from the kinds of fact-finding embedded in traditional rate cases, the APUC will need to further explore the use of nontraditional means of making decisions. Options include designating more Commission actions as "rulemaking" rather than adjudication and using more mediation, negotiated rulemaking, workshops, technical conferences, and task forces. Training in mediation for Commissioners and staff or the use of external mediators/facilitators may be useful as well.

Observation: Commission orders are perceived as being not well written and take too long to prepare and issue.

Several of those interviewed expressed strong dissatisfaction with the time

required to write orders and the quality of the content of those orders. Currently, the responsibility for writing orders is fragmented among staff, paralegals, the hearing examiner, and (potentially) Commissioners. Most who commented on the training that had been provided for writing orders regarded the training exercise as a failure. Some felt that training must be on-going in order to be effective. Some feel that paralegals lack the expertise to write good orders.

In addition to providing more training in the writing of orders, the APUC may want to consider the consolidation of responsibility for writing orders. One option is the expanded use of hearing examiners to write orders. This is standard practice around the nation and has the opportunity to create a good balance between the provision of an adequate background in orders and clear policy direction. If hearing examiners are to write the preponderance of Commission orders, more examiners would need to be added to the current one.

Observation: Additional statutory deadlines are not a preferred solution to APUC problems of timeliness.

Some APUC members suggested that because statutory deadlines are for the most part being met, perhaps the legislature should enact more. These types of guidelines are common around the nation but do little to expedite proceedings, at best serving only to force commissions to pay close attention to the prompt handling of cases. New deadlines would not necessarily help the Commission address the highest priority issues before it. Externally-set deadlines also encourage invention of ways to get around them if necessary to meet changing priorities. And the Commission, like other administrative agencies, needs flexibility to manage itself. Our suggestion is, instead, a determined, concerted effort, with the aid of an outside consultant experienced in the development of support systems for management, to improve the timeliness of case processing.

EXTERNAL RELATIONS

Observation: Maintaining a good working relationship with the legislature will be necessary to ensure that the APUC can maximize its contributions to industry restructuring.

By most accounts, the APUC enjoys a good working relationship with the legislature, aided in part by the legislative experience of two of the Commissioners. Those linkages will become increasingly important in the future as the Commission further adopts a more legislative rather than judicial role. Commissions around the nation are increasingly recognizing that developing and maintaining good relationships with external stakeholders is critical to their emerging missions. In the past, public service commissions may have adopted a "less-attention-is-better" strategy toward the media and legislature, only responding when required. At least one comment to the NRRI indicated the belief that the APUC's legislative strategy has been largely reactive. Commissions are now recognizing that a proactive media strategy is one key to the success of consumer education.

In addition, with the movement toward deregulation some members of the public do not understand the mission of public service commissions. A proactive media strategy can assist the APUC in its efforts to inform the public about its programs and continuing roles.

CONSUMER PROTECTION

Observation: Increases in consumer complaints are beginning to strain the capacity of the Consumer Protection section.

Although everybody the NRRI interviewed who commented on the Consumer Protection section agreed that it is functioning very well, there are incipient signs of overload. The section is quite self-sufficient, while not isolated from other sections, but does receive support from other staff on particularly knotty technical complaints.

Complaints on telecommunications service have increased dramatically, due to the advent of competition. Disposition of a complaint takes up to six weeks and the average time before resolution is becoming longer because complaints are not only more numerous but more complicated than in the past. Interviewees reported an increase in carrier-to-carrier complaints, which are now being treated as informal complaints but may need to be upgraded to formal ones if they continue at the current rate. Solely on the basis of the strain on the capacity of the section due to increasing consumer complaints, a case can be made for providing additional support to this section, both clerical and professional.

Observation: The overall mission of state regulators throughout the United States is shifting towards new means of consumer protection, especially through consumer education.

The major responsibilities of the Consumer Protection section, as listed in the Commission's FY 1997 *Annual Report*, are to investigate and resolve consumer complaints, disseminate information, and provide public relations support to the Commission. Although the consumer protection staff does some community outreach, the complaint load prohibits much consumer education and public relations effort.

In Commissioners' Summit conferences held under the aegis of the NRR and NARUC, commissioners from around the United States have agreed that in the near future much of the work of public utility commissions will be directed toward protecting consumers in restructured markets and educating them. Competition cannot work well unless consumers have the information, ability, and motivation to make informed choices. A proactive media strategy is also a tool for consumer education, especially since the movement towards deregulation means that some legislators and members of the public may not fully understand the APUC's changing role. Consumer affairs, including complaint handling, consumer education, and public relations, will not be a tangential function, but a central one. Many state commissions are actively engaged in shifting towards a "consumer-centered" orientation.

Although a substantial commitment of time and energy will be required to perform effective consumer education in the short run, this need may decline over time as competition becomes the norm. The APUC may want to consider flexible, interim options to support its consumer protection section in addition to some increase in permanent positions. Consultants, temporary staff, or existing networks that already have links to consumer groups, are options that might be explored. Whatever combination of permanent staff or temporary help is chosen, the Commission will need to analyze information needs of consumers, their current level of awareness, and how they receive messages about the industries under the purview of the Commission. Preparation of appropriate literature and outreach to Alaskan communities can follow.

Observation: Since there is no separate consumer protection agency in Alaska, the Commission role is even more important than in many other states.

For electricity and gas regulation, Alaska's situation is idiosyncratic *vis-a-vis* the rest of the country, but the transition to competition is already affecting the Commission in telecommunications. Since there is no separate state consumer protection agency in Alaska, the Commission's advocacy role is even more important than in many of the states that have such a specialized agency. Both Commissioners and staff will need to be involved in recentering APUC goals on the consumer, with particular attention to residential and small business consumers. This can happen in the context of traditional concerns in Alaska for economic development through utility infrastructure and within the constraints of Commission jurisdiction. The good working relationship of the Consumer Protection section with larger utilities is commendable, as are the efforts to deal expeditiously with the carrier-to-carrier complaints the section has begun to see in telecommunications.

INFORMATION FLOWS/COMMUNICATIONS

Observation: Information needs at all commissions are becoming more complex and less easily categorized.

An efficient communications system for any organization ensures that the people who contribute to organizational results have the right information, including adequate feedback, at the right time. Coordination of information flows or communications is a management function that ensures that individuals and work groups are neither overburdened with information nor starved for this vital resource.

Both APUC Commissioners and staff interviewed by the NRRI expressed frustration with information flows and communications within the Commission and sometimes blamed each other for communications problems. While these criticisms deserve attention, it is important to place them in the context of the increasing complexity of information requirements and the increasingly uncertain, amorphous nature of the information actually available at any and all commissions in this time of regulatory transition.

In a traditional commission, staff is highly specialized not only in their tasks but in the type of information they present as testimony. Both substantive and process information are necessary to smooth commission operations. Process information includes such matters as case dockets, timetables, budgets, and assignments. Cases are developed and executed in the form of testimony (the primary substantive information) presented by all parties from their individual points of view, with a decision rendered on the evidence by the full commission. There is a presumption that the staff point of view, company point of view, and the views of other interested parties are sufficient to give commission decisionmakers the ability to decide for that particular company in that rate case. In the traditional commission organization, marked by adversarial proceedings, communication is very much on a "need-to-know" basis. If errors are to be made, the traditional commission preference is to make them on the side of too strictly limiting information flows rather than allowing too much out into the open.

The APUC, because of the state's unique energy situation, is to a greater extent than many commissions in the lower 48 still appropriately a traditional regulatory

agency. But the Commission is affected by transition in the electric industry and is fully involved in restructuring of the telecommunications industry. In this time of great change, everyone at the APUC is struggling to make sense out of ambiguity. In this environment, more emphasis is needed on substantive communications about nonprogrammed activity, especially that related to initiating and establishing new programs. Process information, so essential to the efficient functioning of a traditional agency, becomes more the servant of substantive informational needs in an agency in transition. For all involved, both Commissioners and staff, the available information is likely to seem incomplete and unsatisfactory compared to earlier times.

Observation: Lateral communications within the Commission appear to be quite good.

Within the major working groups — the commissioners, technical staff, and administration — the exchange of ideas and information seems to be substantial and open. One Commissioner remarked particularly that the Chairman is very forthcoming with information.

Observation: Commissioners tend to complain that they cannot always easily acquire information from staff, while staff tend to complain that Commissioners are uninformed.

Commissioners say they find it difficult to obtain the information they need to frame issues and make decisions. One Commissioner commented that staff likes to work independently but that Commissioners need to hear the opposing viewpoints from staff. Commissioners remarked that they do not have contact with individual staff and that information is tightly controlled. Sometimes staff input may be quite technical and quantitative, without an understanding of the context of the hearing, suggested a Commissioner. One Commissioner remarked that a presentation from Alascom, set up in an effort to broaden external sources of information, provided more information "than

we ever could have otherwise [gathered]."

Several staff remarked that before a hearing they do not always know the scope of the proceeding or what questions the Commissioners would like to have answered. Staff were concerned that Commissioners in some cases do not have a full understanding of the substantive information they need to make a decision and that they focus on administrative details instead. One staff member said it was disheartening to be named to brief a subject and have a Commissioner argue with the staff member from what s/he considered a superficial knowledge of the subject. Others said they believed the Commissioners rely more than they should on industry to set priorities and provide a context for their decisions. Another remarked that in their opinion Commissioners do not send information down to staff and do not know the extent of the demand they are placing on staff when they request information. However, both Commissioners and staff remarked on people at the Commission who are able because of exceptional ability and their positions in the organization to master a breadth of vital information and coordinate its use.

Observation: Commissioners and the Executive Director need to work together to improve Commissioners' knowledge of substantive utility matters.

Clearly, Commissioners need to have more information earlier about cases they will be deciding. But this is not a one-way street. It requires effort on the part of Commissioners as well as staff. In the past, commissions decided issues that were arcane but well-bounded. Today the issues are often strategic ones, but decisions still depend for their impact on complicated operational considerations. One way to help commissioner preparation on cases expected to come before them is for the Commissioners to prepare an "issues list" comprised of questions they would like answered and circulate it to staff well before a hearing. Staff might also provide Commissioners with "must read" documents, again well before an actual hearing, perhaps even before the circulation of the list of issues. Commissioners would read the documents and prepare their questions, so that they can learn what they need to know

in each major case and generic proceeding.

The use of teams to create a coordinated staff viewpoint has been an efficient way to develop policy perspectives within staff and to avoid overwhelming the Commission with unnecessary analysis. In a time of increasing substantive complexity, however, there may well be greater need for presentation of conflicting and somewhat redundant data and analysis from multiple sources. In other words, it is possible to provide too much orchestration to the development of some staff positions and end up overly restricting Commissioners from access to the expertise and accumulated wisdom of staff. One way for the Executive Director and other technical staff to accomplish this might be to institute issue roundtables that include the participation of Commissioners. The use of teams among staff has done much for cross-fertilization of knowledge. With nonroutine problems, the use of roundtables, which could include industry participation as well, would broaden that team approach. Another means of enhancing understanding of current issues throughout the commission might be a series of tutorials. We caution, however, that these suggestions, if they prove of interest to the APUC, must be taken on in a structured, incremental progression, rather than all at once, so as not to impede tackling some of the other problems discussed in this report.

PART III

OVERALL CONCLUSIONS

There is much to be proud of at the APUC. Despite a heavy workload, it has, by all accounts, served the public interest. There is a fear, however, that the agency cannot continue to perform its important functions without real reform. The areas most in need of attention seem to be:

- Commissioner-staff and Commissioner-to-Commissioner relations, which includes issues of leadership and morale

- Timeliness
- The quality and speed of Commission orders
- The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels.
- Electronic filing and management information systems.

The APUC has many competent and dedicated professionals. By focused application of their talents, the challenges facing it can surely be met.

APPENDIX

COMMENTS RECEIVED IN INTERVIEWS

OVERALL COMMISSION FUNCTIONING

In some respects, not much has changed over time at the Commission. The upcoming "sunset" review of the Commission will be important. The current level of discontent with the Commission is higher than in the past over a variety of carriers. Some utilities seek help/relief from the Commission. There is a mix of adversarial and cooperative relationships with utilities. Stakeholders are not looking for radical change.

Despite the turmoil and recent loss of staff, staff is generally doing a good job of focusing on the task. The Commission environment is characterized by constant emergencies. The workload has increased dramatically (tripled or quadrupled). There are not enough resources. There is a risk that the workload will overwhelm Commission consideration of the big picture.

The Commission is full of good people. The staff are the strength of the Commission. Staff have the feeling that the work of the Commission is important. There is an us-versus-them attitude between Commissioners and staff. Commissioners are experienced. The funding source is stable.

The foundation is crumbling. There is some inclination to adopt the status quo.

LEADERSHIP

The Commissioners are experienced. Equally important, they have significant legislative experience. The chairman especially has access to the legislature. There is bipartisan legislative experience within the Commission itself.

It was divisive to have a dispute on timekeeping in public.

I don't think the [timekeeping dispute] was particularly debilitating. I have seen some battles and some morale problems.

The staff considers it a distraction to have Commissioners who are absent.

An earlier attempt by the Governor to remove a Commissioner was in the press.

I've heard from industry that staff shows disrespect for Commissioners.

We have Commissioners who want to administer rather than do strategic planning and an Executive Director who does substantive stuff because that's where the vacuum is.

Each Commissioner has his own personality and brings some strength to the process.

It's hard to know what a problem is if you are only getting one Commissioner's opinion.

We're slow in production and do finger pointing, a common industry complaint.

We have good ability to work with industry. They don't have a difficult time getting a point across to us.

Some Commissioners are not as easy to get along with. Commissioners could be more supportive — treat people with courtesy.

Our major strength is a committed, knowledgeable staff and our major weakness is the Commissioners. They should show up for work. There is infighting. At hearings, they haven't read the filings, haven't read the staff memos with one exception.

Commissioners often come into a hearing with their minds made up.

The Commissioners don't have a sense of urgency. But there are cases where Commissioners get excited and involved. Then they make an effort.

People earning the high salaries are not accountable. The buck doesn't stop anywhere.

It's demoralizing to have staff come down with something to sign but nobody's in.

Commissioners have a total lack of appreciation for the work that has to be done. There is never a thank you from a Commissioner.

It's bad for morale to have lazy Commissioners.

All five of the Commissioners came with zero knowledge and aren't interested in working hard to learn their job.

Industry has fear of reprisals.

You can't make too much of dissatisfaction but I believe utility dissatisfaction level is

considerably higher than when they had extremely knowledgeable and hardworking Commissioners.

There is a double standard for Commissioners which is wearing on staff. Former Commissioners read stuff.

The current Commissioners are not particularly technically adept. One of them is conscientious. They even do things that give worse impressions than they have to — cable TV in their offices.

There are differences of opinion partly because we have Commissioners that aren't thinking alike.

We never had a sense of where we were going. This is endemic to a regulatory commission.

Having hearings at 8:30 was impossible.

Friends in industry call and say "what's happening." They feel they're not going to be heard, that there are biases. Utilities see the place in disarray, ineffective, dysfunctional.

We don't have the feeling we have the support of Commissioners. It didn't used to be this way.

Leadership could be better but I am afraid it never will be. It could be a lot worse than we have. I'm happier now than in the past.

MORALE

Staff comes to work because they feel they're doing something worthwhile.

The people [here] are dedicated, knowledgeable and good team players.

There are lots of hard working people. People are one of our assets.

Staff are hardworking, have good experience, are committed — excellent.

There has been some loss of morale — haves and have nots on promotions.

The APUC staff is a real small group. Everybody has input and is listened to.

Morale is okay, but there is some frustration. Disputes among Commissioners [are one cause]. On the staff side there is frustration over workload and interruptions that impede scheduling. Commissioners have time lines that don't take into account the individual's workload.

[Commenting on morale]: Commissioners need to have an idea of what they are asking for.

Everybody is overworked and puts in extra hours. We're a close group — you can get assistance from other sections.

There is high stress.

Everybody is supportive. [Morale varies] section by section.

This is a sick agency. There is a distinct minority of dedicated, hard working people and they're worked to the bone. A distinct minority of people have a feeling of serving the public interest.

We have extremely high stress and tension levels, which is probably contributing to attrition. We have the lowest morale of any commission.

Low morale is leading to attrition.

There is too much focus on negatives and not enough on fixing things.

The trend is in a bad direction.

In general, employees are not treated well.

We're in meltdown.

I believe in public service — serving every consumer in the state.

The Telecommunications Act hasn't helped morale. But overall there's no inspiration to go the extra mile.

Trend is downhill quick. Philosophical view is that we will probably settle somewhere but can be in quite a bit of danger while we're going down.

Despite all the turmoil, staff is doing a good job of keeping their nose to the grindstone.

A lot of people with bad morale have left. Three to five years ago morale was worse. Things have changed so much in the last six months that I am optimistic.

COMMISSION STRUCTURE

The Common Carrier group is the most open to calling on other sections and serving other sections.

The location of APUC in Department of Commerce and Economic Development allows good communications with allied functions. The Executive Director has bi-weekly meetings with representatives of related functions in the Department.

Staff feels they used to get more support from assistant Attorneys General. It would be helpful if the A.G.s sat down with staff to say "this is the strategy." Should attorneys be team leaders?

There is some feeling by others in the Commission that common carrier people are the "stars."

The hybrid structure works well as an allocation of resources. Resources are where the tasks are. If organized by utility sector, expertise would be tailored by sector. Structure

gives flexibility because you can form teams.

It is difficult to have partially exempt staff who don't work for the Commission. The Chairman can't supervise them.

Telecommunications is the fair-haired division. They are unaccountable for their work or their errors.

The computer support function may take up too much of the Engineering Section's time, and the engineering function may suffer.

It's not the structure that's the problem. It's the people.

It would help accountability to reorganize.

The Chairman doesn't have a clear line of authority on administrative matters. Consensus is a poor way to manage a work force.

The Commission structure is not efficient. There is a high concentration of bosses to Indians. Cases mix across sectoral boundaries [implying that there are too many sections].

If the Commission were restructured, it would cause apprehension and affect morale — not that that's so bad.

The Executive Director is the person with veto power [on cases] but it is usually one lead staff person who develops a position and tries to sell it to the group.

There has always been a question of how much authority the Chairman has. There is minimal management at the Commissioner level which is sometimes good and sometimes not.

STAFFING

The process does not support Commissioners.

Commissioners can't get staff to devote time to their projects. Commissioners complain of a lack of information being received from staff.

Staff are represented by attorneys assigned by the Office of the Attorney General. The Commission can't contract for additional assistance.

The same attorney who argued the staff case may have to defend the Commission on appeal even if the Commission disagreed with staff.

Though the attorneys are very busy and not always timely, they come through in a crunch. There is not enough legal support. The Commissioners should have their own legal counsel.

The workload for attorneys may not be balanced between representing staff and filling an advisory role, but there should be a split of the two attorneys on a case-by-case basis.

The legal advice received is sound. It would be helpful to have more attorney input in case development. In the past, more support from attorneys was received.

MANAGEMENT INFORMATION SYSTEMS

I sometimes feel that procedures are crumbling here.

We have management by emergencies. It feels like we're under fire all the time.

We should get more efficiency rather than hiring more people.

We're not getting basic management information [and this harms accountability and performance evaluation].

We're in meltdown. [The problem] starts with records and finance, one of the most critical parts of the organization. We don't get filings.

Computers are good [up to date in quality and speed] and a lot is done on them. It would be nice to have electronic filings. There should be two full-time computer support staff.

There is duplication of entering information into computers. We are using computers as typewriters. We need an integrated information system. We are not at the request for proposal stage on this. It is difficult to dedicate resources to solving this problem.

The mail is slow getting from the fourth floor to the third floor. Urgent documents do not get downstairs fast enough.

It's slow to get information and documents electronically available.

Rates and Finance doesn't get mail downstairs or filings downstairs in a timely manner. We lose several days.

We have more computer tools but don't have someone to help use them.

We need a data input person. We need to create calendars so people don't miss deadlines. We need to go to electronic filings.

We have fairly reasonable computer support, though software is a problem and we need to replace [the data processing] person who left.

COMMISSION PROCESS

Procedural time lines are lacking. Current statute allows the Commission wide discretion to set deadlines. Some pipeline cases have been open since 1986. Cases are not being handled promptly. Statutory deadlines should be imposed. Time delays are the result of bad process, not a lack of resources.

The Commission isn't performing well substantively, procedurally, or timely. We have several checkoff lists [to manage processes] agency wide. Procedural tracking could be done better than it is. When a docket or tariff reaches a certain point it is sent to the third floor for further processing and it is difficult to know what's going on. Stuff gets lost. A month later it may show up. We have lots of internal procedures that aren't written down anywhere and we don't know when they change. A procedures manual

would help.- There is good industry support for getting the Commission the resources it needs to process cases quickly. Increased caseload is stretching resources and we are getting further behind. Deadlines are not being met. Utilities expect faster decisions under a competitive environment. Should statutory maximums for decisions be made tighter? To fix slowness we need to see where the delays are more precisely. Statutory deadlines are usually met.

Commissioners find it hard to keep track of filings, schedule, and substance as well. It takes longer if you try to take shortcuts. We should do proper motions in the first place [talking about due process] [There are] no priorities. [It takes] lots of work to coordinate technical staff. Prioritizing is a weakness. The magnitude of the work is a problem and the feeling that everything has the same value. How do you address backlogs? How do you meet the public interest and still simplify workflow? Need a standard reporting process on the status of projects.

The Commission is improving on production and efficiency. There is growing participation by Commissioners in making sure once a decision has been made it goes out the door. Staff for the most part does their work on a timely basis. We now have more people who write orders so that's improving. Paralegals write them. Staff writes lots of orders, especially engineering and finance staff. The adjudication phase also takes time.

Adjudication packets are still being put together at the last minute. Often orders are approved but sit within the Commission. They have to be signed by all five Commissioners [but sit on their desks]. The Commission process is slower than before because Commissioners don't have a sense of urgency. Some issues get priority and the Commission does see to getting them done. I can get an order drafted within days and it can sit for three months on a Commissioner's desk. Circulation of an order can take months Staff is always late.

The number of open dockets has doubled. There are 500 open dockets, a lot of which are telecommunications cases. The agency is spinning out of control. A huge number of orders have extended suspension periods. This itself takes time. We stopped having meetings on docket management or how to get a docket closed. [We] may not want to know [how bad it is]. Docket status meetings should be revived. We have four tariff filings that went into effect by force of law because the statutory deadline expired.

Telecommunications gets hundreds of filings. Promotions are coming in by the gross. Also electric, gas, water, sewer, and garbage [filings]. The tariff section had a gift of a 45-day statutory recommendation [requirement]. The IXC statute also has a 60-day limit. To speed things up we should have requirements for what gets done when. [Here's an] example of lack of timeliness. One and a half years to get to EAS balloting. Then the Commissioners said they would look at it in a generic proceeding. They didn't get to it until way too much later. Some orders are so badly written by staff that they have to be rewritten. They can have contradictions in the same paragraph.

The Commission speaks through its orders. Orders need to strike a balance between an historical description of the docket and the findings and rationale. Too much time is spent on the history. The most substantive orders are written by staff or hearing officers. There is not enough time to get orders done. Paralegals don't have the experience to write orders. Orders contain little useful information. Dissenting opinions are sometimes scathing. Orders are terrible. The Commission needs more on-going education in order writing. The one-time training didn't help. Commissioners may not understand how hard and time-consuming it is to write orders. Those who write orders are too slow. The paralegals have been added to speed up the process. Prioritization of work would be helpful; everything is not first priority.

The staff Docket Manager writes up orders. Whoever that is might not be good at it. Staff should start sooner on writing orders. I'm not sure the extensive editing of orders is productive. The hearing officer writes lots of orders. Technical staff also writes

orders. An application comes in. A staff member makes a recommendation in writing (which is not published). Engineering, an Accounting paralegal, or A.G. drafts the order. We have good procedures in place. Technical staff doesn't follow basic procedures on orders. Paralegals have to complete and rewrite orders.

The Hearing Officer staff should be increased and included in as many dockets as possible. APUC rules allow Hearing Officers to hear cases. The role of the current Hearing Officer is being reduced. When a Commissioner attempted to hold a hearing without the Hearing Officer, she later had many due process objections that parties hadn't raised. The Hearing Officer could conduct pre-hearing conferences.

Commissioners are not clear about their expectations of advisors; sometimes an active role is expected; sometimes it is not. More three-Commissioner panels could be employed. Procedural orders are too detailed. There is no need for multiple pre-hearing conferences. The one-page order for procedural issues is helpful.

There are not enough staff to have full staff separation in important cases. The Executive Director splits staff to provide advantage to the advocacy side. Negotiation between the Executive Director and the Commissioner managing the docket would be helpful. There is a lack of staff responsiveness to Commission desires. The first priority of staff is to provide effective advocacy; effective advisory support is secondary. The lack of a consumers' counsel means that staff must protect the public interest. Previously, staff didn't have an advisory role and were wholly advocacy. Replacement of advocacy staff or addition of advocacy staff in the middle of a process requires due-process notification. In complex cases, one side might get shortchanged and might need outside resources. The role of staff even in an advocacy role is to round out the record, not to "win" the case; it is hard for staff to understand that. Staff do not respect the process or the Commissioners. Commissioners need to hear opposing viewpoints.

The assignment of a lead staff person for case preparation is sometimes ambiguous

and sometimes shifts. Much case work interaction is informal. How the primary staff person assigns duties to the other staff is unclear.

"Splitting the staff" is a major concern. Because of small staff size, splitting creates frustration among the staff. Commissioners often regard staff in an advocacy role as "the enemy." The paralegals have not helped the process, and their skills have not been fully employed by Commissioners. The paralegal experiment was a "disaster." Supplementing the advocacy staff in mid-stream has been a problem.

There are frustrations among those involved with the APUC about the time required to complete cases. There is also some perception that the Commission values form over substance. Schedules agreed to in pre-hearing conferences are not held to. Delays are caused by hidden agendas, lack of case management, lack of competence, and inadvertent delay. The delays are caused by lack of a sense of urgency on the part of Commissioners. Documents can take months to circulate among Commissioners. The process of producing orders is getting better. The increased caseload has outstripped the increase in resources; the Commission is falling further behind. Cases have increased significantly. The staff side is generally timely; the fault lies on the Commissioner side.

Some cases are procedurally defective when brought to the Commission. The Chairman assigns Commissioners to cases as Docket Managers. The quality of pre-filed testimony and exhibits is "scary." There is some question as to who sets schedules. Some Commissioner expectations of timing are not communicated well. The Commissioner may spend too much time attempting to make the perfect case and opinion; they may need to relax in the interest of speed. The Commissioner needs to find the right balance between due process and speed.

The Commission has a fairly good record of not being overturned. In some cases, decisions should have been appealed but weren't, perhaps because parties might feel