

**ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2**

**10576 SENATE JUDICIARY**

The advisory Staff should review and recommend to the Commission whether an application or tariff filing complies with the Commission's filing requirements and whether the Commission should suspended and investigate the filing. In so doing, the advisory Staff should not take a position as to the ultimate merits of the application or tariff filing. Such positions are advocacy positions and should not be taken or expressed by advisory Staff prior to the development of the complete record. In the event the Commission chooses to further investigate an application or tariff filing, the Commission should open an adjudicatory docket and should maintain the right to appoint the PAS as a party to assist in the investigation or in the development of a complete record. Additionally, the PAS should have the right to separately intervene in any such adjudicatory docket.

With regard to the initial phases of these adjudicatory dockets, the current roles of advisory Staff and adjudicatory Staff are duplicative and inefficient. Often the advisory Staff's role extends into its expression on the ultimate merits of the applications and tariff filings when only a comment on compliance with the filing requirements or a suspension recommendation is necessary.<sup>1</sup>

The advisory Staff's expression on the ultimate merits of the application or tariff filing works to compromise the quasi-judicial role of the Commission. In this regard, the Commission's advisory Staff should not take a position which would indicate any bias or predisposition as to the ultimate merits of an adjudicatory docket prior to the complete development of the record. For advisory Staff to do otherwise

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<sup>1</sup> Advisory Staff's expression on the ultimate merits of the applications and tariff filings may be mandated under the current regulations which do not separate the advisory and adjudicatory functions of staff, but instead continue to require advisory Staff to analyze "the reasonableness and propriety" of such filings. 3 AAC 48.275(j).

would be akin to a Superior Court Judge's clerk taking a position on the ultimate merits of a civil case before the trial even begins.

The advisory Staff's expression on the ultimate merits of the application or tariff filing also necessarily involves the commitment of far greater Staff resources than are necessary or helpful to the development of a proper record. Prior to the hearing, the advisory Staff does not have the many advantages of the adjudicatory Staff when forming its ultimate positions. Adjudicatory Staff may serve discovery, depose witnesses, hire experts, and have *ex parte* communications with other parties. In short, as a party to the adjudicatory docket, the adjudicatory Staff has far greater opportunity than advisory Staff to understand and advance the public interest. As it practically works out, the advisory Staff's initial concerns may or may not ultimately frame the issues most important for consideration within the adjudicatory docket, and may or may not even frame the issues of concern to the adjudicatory Staff. Accordingly, the current and large commitment of additional resources by the advisory Staff necessary to express its positions on the "reasonableness and propriety" of such filings are often wasted resources which would better utilized if transferred to the advocacy Staff.

The proposed regulations recognize the current duplicative and inefficient roles between advisory Staff and adjudicatory Staff during the initial phases of an adjudicatory docket. The proposed modifications to 3 AAC 48.275(j) limit the advisory Staff's role to a review of the application or tariff filing for compliance with the filing requirements of the regulations. The proposed regulations are not entirely clear as to whether advisory Staff or adjudicatory Staff would make the recommendation for suspension and further investigation to the Commission. While the point of transfer from the initial review functions of the

advisory Staff to the latter adjudicatory functions of the adjudicatory Staff should be clarified in a manner which limits advocacy functions of the advisory Staff, it would seem reasonable to continue to allow advisory Staff to make an initial suspension and investigation recommendation.

**B. Adjudicatory Dockets.**

The role of adjudicatory Staff within the context of an adjudicatory docket must be strengthened to ensure the public interest is properly and fully represented. When the adjudicatory Staff represents the public interest, it is a party. As such, adjudicatory Staff's ideas and adjudicatory positions may be tested in the marketplace of ideas through discovery, cross examination, argument, *ex parte* conversations with other parties, and briefing. Adjudicatory Staff also has the time necessary to more fully explore its positions prior to committing to them.

The role of the advisory Staff within the context of an adjudicatory docket must necessarily be limited to ensure a transparent process which is fair to all the participants of the process. While the advisory Staff clearly has a role to play, the Commission should ensure that its quasi-judicial role is not compromised by the advisory Staff taking adjudicatory positions prior to the establishment of a complete record in the proceeding.

**C. Rulemaking Dockets.**

Similarly, the role of adjudicatory Staff within the context of a rulemaking docket should also be strengthened to ensure the public interest is properly and fully represented. Moreover, the role of the advisory Staff should be more limited to allow the Commission and the public a greater opportunity to frame the substance of the policy to be expressed.

While the *ex parte* rules do not apply in rulemaking matters, it is still important to preserve the integrity of the Commission's policy making process by ensuring the advisory Staff is not placed in a dual role when framing broad policy issues. Currently, the advisory Staff often drafts fully-formed regulations which are then noticed to the public for comment. This puts the public in the position of commenting on policies which are already fully formed by the advisory Staff, and puts the advisory Staff in the position of advising the Commission as to the public's comments on its own fully-formed regulations. Neither should be permitted.

Instead, the rulemaking process should be made transparent earlier so as to allow the advisory Staff the opportunity to identify areas in which new policies may be necessary, the public the right to comment and frame those issues prior to their expression as fully-formed regulations, and the Commission the opportunity (after considering the public's concerns) to direct the advisory Staff as to what policies should be expressed within the new regulations before they are fully formed.

#### **IV. Administrative Support for Public Advocacy Staff's Role.**

The regulatory model envisioned by the Legislature will not work absent the Commission's dedication of the resources necessary to make it work. With this in mind, the Commission should allocate the resources necessary to put in place the regulatory model envisioned by the Legislature when it created the PAS, even if it is necessary to reallocate resources from the advisory Staff to the adjudicatory Staff.

This suggestion, however, is not a suggestion to transfer resources only, but a suggestion to transfer both resources and advocacy functions from advisory Staff to adjudicatory Staff. Currently, the advisory

Staff has 16 analysts while the adjudicatory Staff has only 4. Given the Commission's own expertise on regulatory matters, these staffing proportions seem disproportionately weighted toward the advisory Staff.

Moreover, many of the advisory Staff's resources seem devoted to continuing what are essentially advocacy functions. For example, advisory Staff's extensive review and analysis of every filing for the purposes of commenting on its "reasonableness and propriety" is both advocacy and unnecessary. Instead, advisory Staff only need review and comment on the compliance of the filing with the filing requirements and the need for suspension and further investigation.<sup>2</sup> Similarly advisory Staff's extensive efforts to create fully-formed new regulations in new policy areas is also both advocacy and unnecessary. Instead, advisory Staff only need identify policy issues necessary for the Commission to consider and the public to comment upon. After this more transparent and public process, then the advisory Staff could draft the specific regulations under the direction of the Commission after it has had the benefit of initial public comment. In short, many of the current functions of the advisory Staff are truly advocacy functions which would be better and more efficiently assigned to the advocacy Staff.

**V. RCA Order No. U-97-49(8) Notice.**

Pursuant to Commission Order No. U-97-49(8), AECA notes this matter may directly impact the access charge system which AECA administers. Since this matter involves AECA's participation in Commission proceedings "relating to access charge tariffs, the billing and collection of access charges, and

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<sup>2</sup> This would also shorten the review time necessary for such filings and allow those filings on which further investigation is necessary to reach the adjudicatory process more quickly.

the distribution of access charge revenues." AECA's participation in this proceeding has been preauthorized under Section 603(b) of the Alaska Intrastate Interexchange Access Charge Manual ("Manual"). Nevertheless, AECA does not intend to include the costs of its participation in this proceeding in its budget as a Category I expense under Section 603(d) of the Manual.

**VI. Conclusion.**

AECA believes the proposed regulations form a good first step in putting in place the regulatory model for Staff envisioned by the Legislature when it created both this Commission and the P&S. AECA respectfully believes that changes consistent with the proposed regulations could greatly aid the Commission in fulfilling its regulatory duties to the public of Alaska, and thanks the Commission for the opportunity to begin this discussion.

DATED this 28<sup>th</sup> day of May, 2002.

BRENA, BELL & CLARKSON, P.C.  
Attorneys for Alaska Exchange Carriers Association, Inc.

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File

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**via FAX, only 269-0229**

June 13, 2002

**To: Honorable Senator Robin Taylor, Chair and Members of the Senate  
Judiciary Committee**

**RE: RCA Testimony**

Thank you for opening an inquiry as to the Regulatory Commission of Alaska. I wish to provide input as to the future of the RCA. The RCA is broken.

I have been a certified public accountant in Alaska since 1980, with extensive utility experience. In 1995 I obtained a graduate degree from Alaska Pacific University, Master of Business Administration in Telecommunication Management.

When the RCA transitioned from the Alaska Public Utility Commission, I had hoped that the agency would become efficient in its public responsibility. It failed. The RCA is just another state bureaucracy that creates hardship on some utilities. The RCA needs leadership to make effective and efficient decisions.

### **Recommendations that Can be Accomplished at the June 24th Special Session**

1. Reauthorize the RCA for only a one year period to allow for careful study.
2. Identify the problems of the RCA during the next six months and pass effective legislation next year based on such recommendations of the study.
3. Lessen the caseload by eliminating all cooperatives from rate regulation, now. Member/owners of cooperatives elect their own board of directors that can protect the public through its statutory fiduciary responsibilities. Any cooperative disputes can be efficiently adjudicated by arbitration or in the court system.
4. Appoint competent leaders to the RCA that can make cost effective decisions for the public.

I am willing to help solve the problems. Please call me at 376-1272 if you have any questions.

Sincerely,

*Dan F. Kennedy* CPA

Dan F. Kennedy CPA, MBA  
Kennedy & Co. LLC - certified public accountants  
Wasilla, Alaska

3<sup>RD</sup> SPEC.

SESSION

RCA

6/12-13/02

EXHIBITS

(File 1)

## REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson, Chair  
Bernie Smith  
Patricia M. DeMarco  
Will Abbott  
James S. Strandberg

### RCA TESTIMONY AND EXHIBITS To Senate Judiciary Committee Hearings June 12 – 13, 2002

1. Testimony of G. Nanette Thompson, Chair, RCA
2. Comparative Charts – Agency Performance
3. Comments in Support of Reauthorization of RCA (packet)
4. Alaska Legislative Audit #08-20013-02
5. 1998 NRRI Evaluation of APUC
6. 2000 NRRI Report on RCA
7. Memorandum from Landry, Dept. of Law, re APUC Sunset (6/21/94)
8. AS 44.66.010
9. AS 42.05.711
10. UNE Rate Comparison Matrix
11. 5/20/02 Letter to Senator Taylor from Chair Thompson
12. FY2001 Annual Report (2 Volumes)
13. U-00-115(18) – GHU/CUC
14. R-00-4(2) IXC applications
15. R-02-4 Notice of Inquiry – Small Water & Sewer System Certifications
16. R-00-5(2) Joint Use Regulations
17. U-98-151(8) Crimsonview
18. U-99-141(5) et al. GCI/PTI/TUA/TUNI Cost Model
19. U-97-82(11) - Order on Rural Exemption
20. U-96-89(8) Anchorage Arbitration Order
21. Reimbursement check for Thompson trip costs (2000)
22. Letter from Thompson regarding emails/correspondence to and from utilities on effect of sunset (6/17/02)
23. U-94-002 (T-HREA) and U-96-114 (FMUS) - Cost allocation orders; related emails
24. Material relating to Boysen email

Testimony before Senate Judiciary Committee

June 13, 2002

G. Nanette Thompson, Chair RCA

Thank you for the opportunity to testify before this committee on the issue of reauthorization of the Regulatory Commission of Alaska. I am Nan Thompson, the Chair of that agency and I am appearing here today with the other Commissioners; Patricia DeMarco, Will Abbott, Bernie Smith and Jim Strandberg. We are all available to answer questions, and they may have comments to offer individually also. You have heard anecdotal information from several utilities. We urge you to carefully consider the agency's record.

The agency has done a great job of working its way out of the mess we inherited from the APUC in 1999. Many of you were in the legislature and participated actively in the effort in 1999 to abolish the APUC, and create a new agency, empowered with new tools and the directive to do its job better. In response to complaints from industry in the late 90's, the National Regulatory Research Institute, an organization that supports the work of state regulatory commissions nationwide, was hired to visit the APUC, analyze its operations and recent improvements. A year after the recommendations were completed, the agency had taken no action to implement them and the legislature stepped in. The position of executive director was eliminated; A public advocacy section was created. The commission was empowered to hire whatever kind of support it needed to resolve cases more effectively. A management information system was funded. The Chair was given administrative authority over the agency's operations. All of these changes were in response to specific problems identified with the agency's operations.

It was not a sunset year for the APUC. The legislature has power in any year to review the operations of any state agency and change its enabling statute as necessary.

We invited NRRI back in February 2000 to see if the problems they identified in 1998 were addressed by the legislature's changes to the enabling

statute, and the resulting commission. The answer was yes. I have copies of their report available for members of the committee. They found that "[E]ach of the areas identified in the first review as being in need of attention has experienced substantial improvements." An impartial body, with expertise in the operations of utility regulatory agencies and experience with the problems the APUC had found that the agency was back on track.

NRRI identified several areas of potential future concerns, and we have followed up on their recommendations. We invited them back to facilitate the development of a new mission statement for the agency. They are invited back again this summer to provide leadership and management training to the staff section heads. We would be happy to invite them back again to analyze and recommendations on some of the issues raised during these hearings, like bringing back an executive director, and looking for more ways to reduce the agency's caseload.

You have heard anecdotal stories about particular cases that have been portrayed as examples of the RCA operating poorly. We can and will address the specific cases referenced in yesterday's testimony. I would also like to share with the committee how the agency handles its workload.

In 1999 when we walked in the door there were more than 500 open dockets. Many had languished without action for years. We set about the task I called "triage." Each commissioner got an equal share of that caseload with the directive to analyze the case and figure out what needed to be done to move it forward. This was a daunting task. Each of us had to work our way through sometime a file, sometimes a file cabinet full of agency record on the case to understand it. Commissioner Abbott referred to this process as being forced to take a drink of water from a fire hose.

There was no uniform, agency-wide method for tracking filings with the agency. Shortly after we began, I unearthed a few hundred more cases, and instituted a system to keep track of all of the agency's work that would allow everyone within the agency easy access to the list of open cases and who within the agency was responsible for each filing.

The agency caseload is now less than 400. From over 700 cases, we have worked our way down to less than 400. It has been a substantial challenge to keep abreast of and adequately process current filings (which average about 450 a month), while slowing working our way through the old dockets. This change in the agency's caseload represents a strong commitment to accomplish the directive of cleaning up the backlog that the legislature gave us in 1999. Evidence of that accomplishment is found by looking at the number of substantive orders the agency has issued each year. That number has more than doubled. I have a chart that graphically demonstrates this accomplishment. All of those orders are available to the public on our website, another change instituted by the RCA. If you have not had the opportunity to visit our website, I encourage you to do so. It a useful tool to inform the public and allow them access to our process and information filed with us.

One of our important responsibilities is to review tariff changes for economically regulated utilities. Any change to the rates or terms of service must be approved by the RCA. Last year we received 576 such filings. Eighty-five percent of those were resolved within 45 days. Within that 45 day period, the public was notified of the change, staff analyzed the proposed filing and discussed questions with the utility, comments were reviewed, the proposal was reviewed and voted on by the five commissioners and an order was issued. The remaining filings were suspended for further investigation. Filings can be suspended if they raise significant issues that cannot be adequately analyzed in 45 days, for example a large utility's request for a rate increase, or if the comments filed suggest the need for a hearing or further proceeding to build an adequate record for decision.

Another important responsibility is handling consumer complaints. We receive an average of more than 600 a year. Our role is to investigate by contacting the utility, looking at the relevant law and tariff provisions and working to resolve the complaint. The legislative auditor looked at our process and the volume of filings and found that "the agency is quite responsive to consumer

complaints." Of those more than 600 complaints, most are resolved within 15 days. I have a chart that illustrates our track record.

The next chart I want to show you divides the number of complaints by industry. More than 80% of the consumer complaints we get are from telecommunications consumers. Soon after Congress decided there should be competition in that industry in 1996, the agency saw a dramatic increase in complaints. This illustrates how the agency's role changes in competitive markets. We have regulations that expedite the process for approving changes in the rates and terms of service offered in competitive markets. We spend less time monitoring their prices when consumers have real choices and more time addressing the consequences for consumers of competitive markets.

The RCA is a referee. We do not make the laws, we apply them. It is our job to implement the directives reflected in the work of this legislature and Congress that we get in the form of laws. We make sure that those laws are fairly applied. In that process there are winners and losers. Utilities and consumers are not always happy with the results. Our job is to make good decisions based on the information presented to the agency that are consistent with the law. Most of the companies we regulate would agree with what Ms. Caitlin from AT&T Alascom said yesterday. They do not always like the result, but they need a referee to make a decision and they believe we have been doing a good job as a referee. Some of those companies testified in the House proceedings, many are sitting in the audience of these hearings, and others have written letters of support.

I have a group of those letters to give you. Some of the letters are from folks who could not come to testify, including Bill Nugent, the President of NARUC, Dave Wirick of the NRRI and Kathleen Abernathy, a current FCC commissioner. Others are from industry, large utilities like Enstar and Waste Management, Inc., and smaller ones like TelAlaska and Colville, Inc. The most extraordinary letter in the packet from my perspective is the one signed by 18 attorneys and consultants that regularly appear in front of us. It still amazes me that this group of people, who spend their lives disagreeing with each other in our

hearing room all agreed on one thing and signed one letter urging the agency's reauthorization.

The epic battles in the electric and phone industries were waged before the agency was an RCA, and will continue long after us. The public needs us to make sure that their interests are protected while these businesses wrestle with their competitors and would-be competitors. Small utilities need us to make sure their interests are heard in the face of the larger players in the field. We are the agency with the expertise to understand what the utilities are fighting about and why, and make sure it is a fair fight. Any effort to eliminate the agency because you have lost a round of the fight is like killing the referee because he ruled against you. I don't think any of us would like to watch the bloody battle that would ensue with a referee.

If any utility does not like one of our decisions, they have a remedy in the current process. They can ask for reconsideration, and all five commissioners will read the record and make a decision based on what the previous panel saw, and any additional information filed. Our decisions on reconsideration are due within 30 days.

If the utility still thinks that we misapplied the law, they can appeal to the courts. The courts have reviewed ten of the RCA's decisions. In nine out of ten cases that our decisions have been reviewed our decision was affirmed. That means that in nine out of ten cases we correctly applied the law. Mr. Furchott-Rot', stated yesterday that you judge our effectiveness by the standard of administrative liberty. He explained that administrative liberty was consistently and fairly applying the law. We meet that test.

**Our process has improved and will continue to do so.** The way we operate, as an agency is fundamentally different than how the APUC operated. The filings are transmitted and shared electronically. The bottlenecks in issuing orders have been addressed by changes in the process designed to improve the quantity and quality of our orders. With the elimination of the executive director position, section heads have more responsibility and opportunity to develop professionally. We have emphasized training and encouraged supervisors to

address and identify specific needs. Consolidation of the administrative functions in the chair has enabled the other commissioners to focus on the substantive work of the agency, and allowed clear direction for staff.

We have used the tools given us by the legislature effectively. We adopted regulations to put a dispute resolution process with strict deadlines into place to resolve disputes between telecommunications carriers. We have actively encouraged utilities to work with each other to resolve disputes and avoid the expense and delay of litigation. Chugach Electric is to be commended for resolving a longstanding dispute with its wholesale customers by agreeing to the recommendation of an impartial expert they jointly hired. GVEA, whose rates had not been reviewed for 18 years, faced a monumental task in preparing its filings. They successfully settled their case with the PAS shortly before the hearing was to begin. We encourage parties to actively work to resolve disputes themselves.

The agency process will always be a work in progress. As the markets we regulate, we need to change in response. We have actively sought input from industry in the bench and bar conferences noted by Mr. Yould yesterday. We will continue that effort, and can assign more time to that process if the result of this process is agreement that the commission needs to spend more time on process and less on doing cases. The balance we have struck is based on the legislative priority to clean up the backlog. Our efforts there have been largely successful. If the committee wants specific issues addressed, we can invite NRRI to return. Review of the agency by representatives of companies with filings pending before the commission for decision would be awkward and inappropriate. We are different than the private sector because we do not have the same control over our workload. We do what the legislature through statute, and the utilities, through their filings, direct. In order to be most useful, an impartial expert that is familiar with our mission and has knowledge of how comparable agencies operate nationwide should do a review.

**Our process is designed to produce fair, reasoned decisions.**

Because the committee has heard testimony that our process takes too long in some cases, I would like to explain what that process is to give you a context from which you can evaluate those concerns. When we adjudicate disputed cases, we act as a court. Parties have due process rights designed to insure that our decisions are fair. Interested parties have the opportunity to participate by attending hearings and filing comments. We make our decisions based on facts that are in the record that all parties have access to. We do not discuss open dockets with anyone other than staff and each other in any setting that all parties are not a part of.

We make all of our decisions as a group. The commissioners meet weekly to discuss cases that are ripe for decision. The docket managers are responsible for putting the cases on the calendar, and presenting the case for discussion. We openly debate the results. Staff is present if necessary to answer questions and the attorney general is present to answer questions about whether the proposed result is consistent with the laws we operate under. This is a good process that allows us to each bring our individual backgrounds to bear to resolve the difficult issues we face.

After the discussion, the panel members vote, and a drafting assignment is made. Commissioners draft orders or staff and all edited by the paralegals and attorney. They are circulated, and each panel member decides if they agree or not. Sometimes commissioners change their minds when they see the draft. Any commissioner that does not agree with the individual result is free to write a dissenting opinion. his process works to effectively to render group decisions.

**The RCA expire on June 30, 2003 if not renewed.** That's what the statute says. It goes onto say that "Upon termination the commission shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs."

The Department of Law interprets the law for state agencies. In a June 21, 1994 opinion that I have provided you with a copy of, the AG opines that we have the responsibility to prepare to close our doors at the end of the year. We

must prioritize our caseload, and determine how to best allocate our resources during the final year. As we lose staff who seek more stable employment, we will need to readjust our priorities. I wrote a letter to Senator Taylor last month explaining the agency's approach that I have also provided you with copies of. We will do the best job we can with the resources we have. Even if the legislature and governor come back in January to reauthorize the agency, damage will have been done. We will be unable to stay on top of our current caseload and transition our responsibilities to other agencies.

**In conclusion,** I would like this committee to consider the vital role that the RCA plays in creating a stable business environment and protecting the interests of utility consumers. The legislature does not need to terminate the agency in order to reform it. As is did in 1999 when the agency was not under sunset review, we as an administrative agency are subject to whatever legislative changes are effected.

The RCA is 100% funded by the Regulatory Cost Charge. When our programs are transferred to other state agencies during and after the wind down year, they will need general fund support.

The RCA plays a vital role in making universal service funding available to telecommunications carriers that serve high cost areas. Without the RCA, these companies face uncertainty as the FCC defines a new process to handle their applications. Delay of this vital source of revenue could be very harmful to these companies.

Our ability to move forward on regulatory dockets would be impaired. A plan to conclude the agency's business by the end of the year is not likely to include time spent working to adopt regulations there will be no agency to enforce.

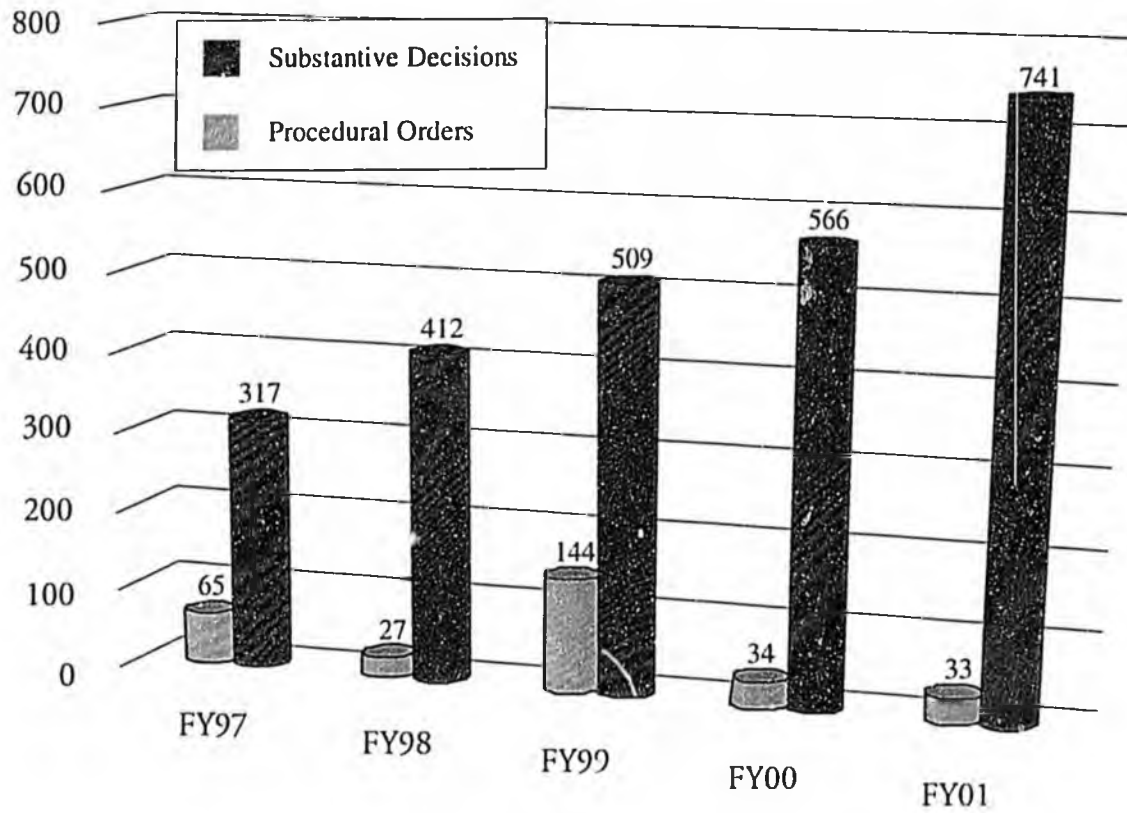
As a referee we will be disabled, and consumers and companies will be forced to resort to the courts where solutions come more slowly and at a greater price.

The RCA has accomplished the legislature's prime objective in 1999, to clear up the backlog and get the agency functioning more efficiently. The

caseload has been dramatically reduced during the last three years, while coping with a steady stream of new filings. We will continue to work with industry representatives on our process, recognizing that the agency must continue to change as the industries that we regulate change.

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# RCA DECISIONS

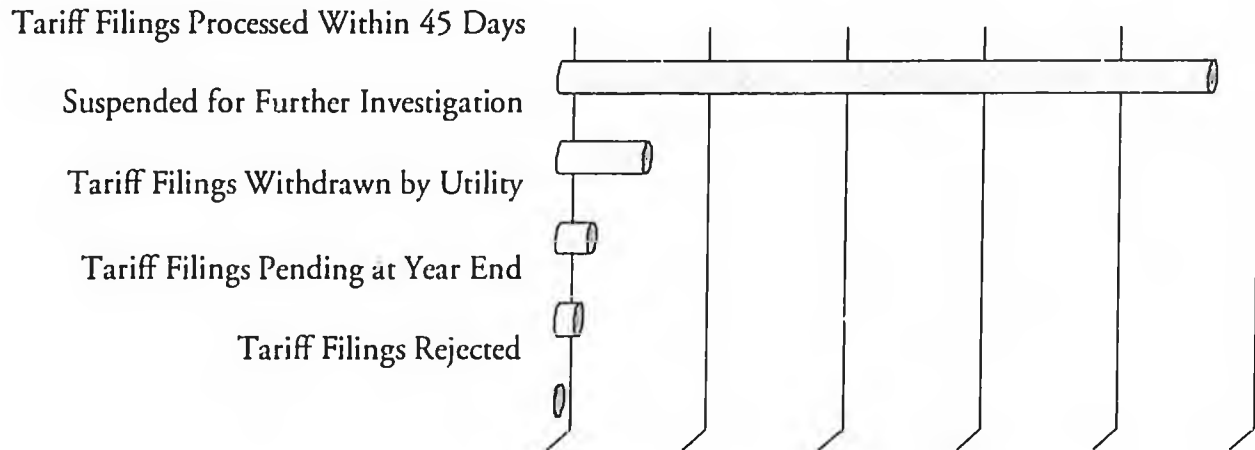


The RCA focuses on decision-making.  
More substantive orders are issued than procedural orders.

Source: Regulatory Commission of Alaska

## *PACE OF DECISIONS ON RCA UTILITY REQUESTS TO CHANGE RATES OR TERMS OF SERVICE*

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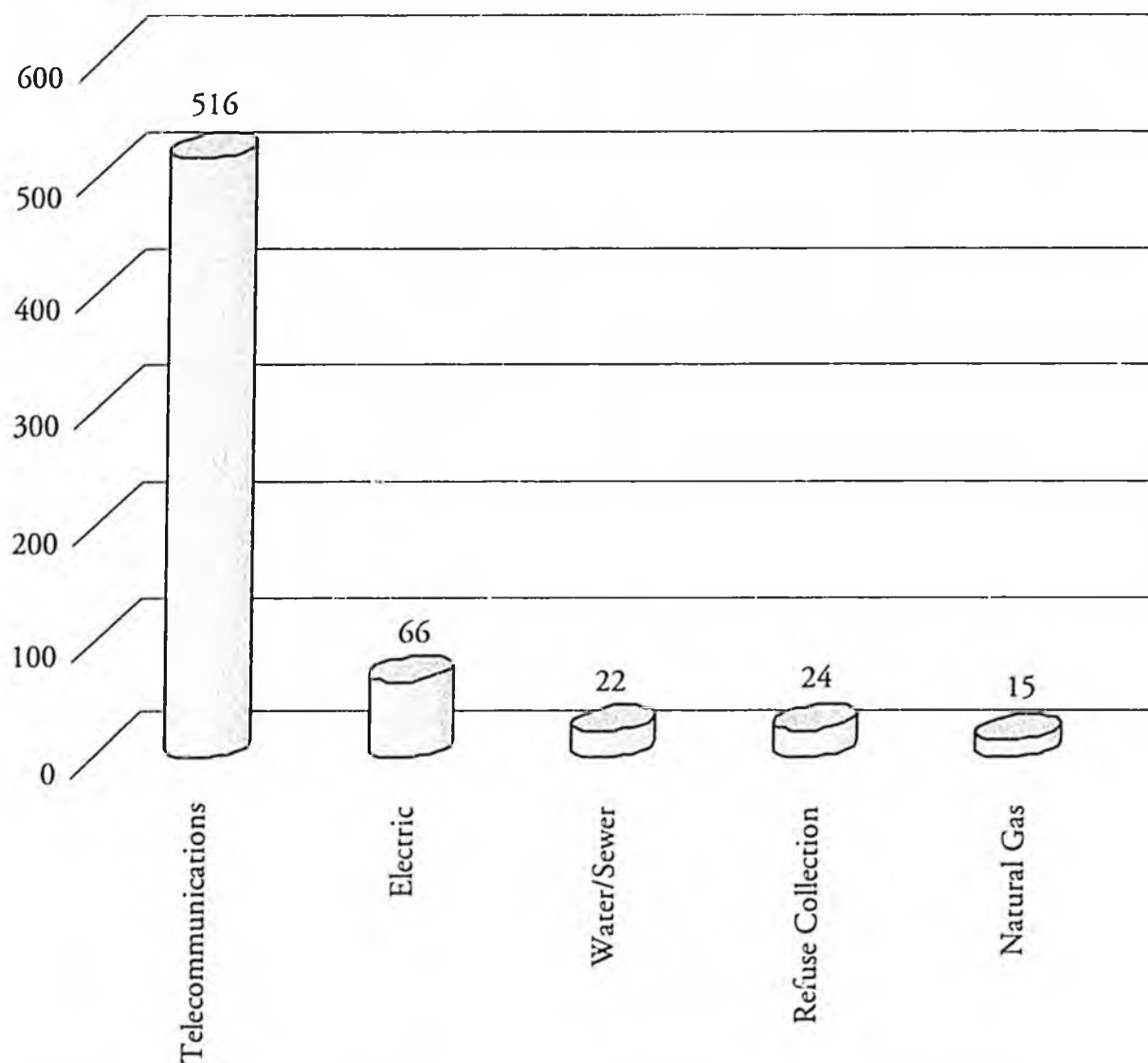
During FY01 there were 576 tariff filings submitted to the Commission. Of these, 475 were processed routinely (generally within 45 days of receipt). Of the remaining filings, 63 were suspended for further investigation, 1 was rejected, 23 were withdrawn, and 14 were pending at year end.

*Source: Regulatory Commission of Alaska*

# CONSUMER COMPLAINTS TO RCA

*The Regulatory Commission of Alaska handled 643 complaints between July 1, 2001 and May 28, 2002*

## Types of Utilities Involved in Consumer Complaints Filed with RCA

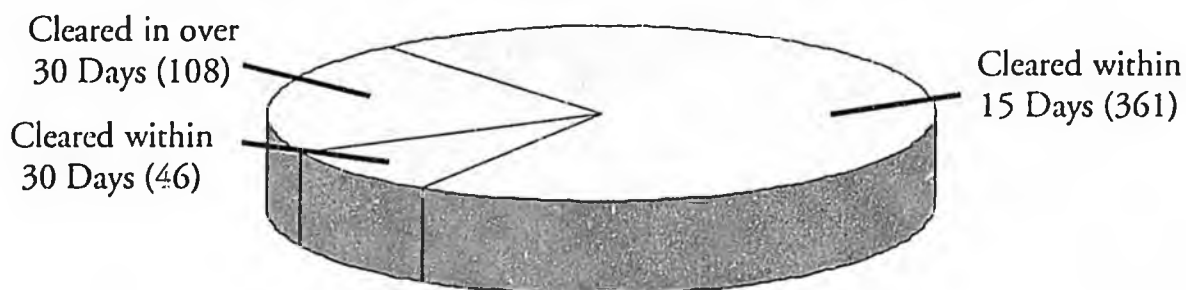


*Source: Regulatory Commission of Alaska*

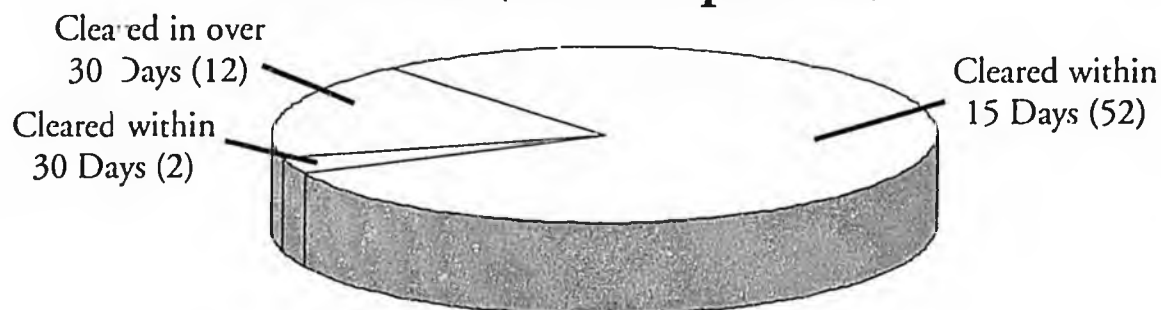
# CONSUMER COMPLAINTS TO RCA

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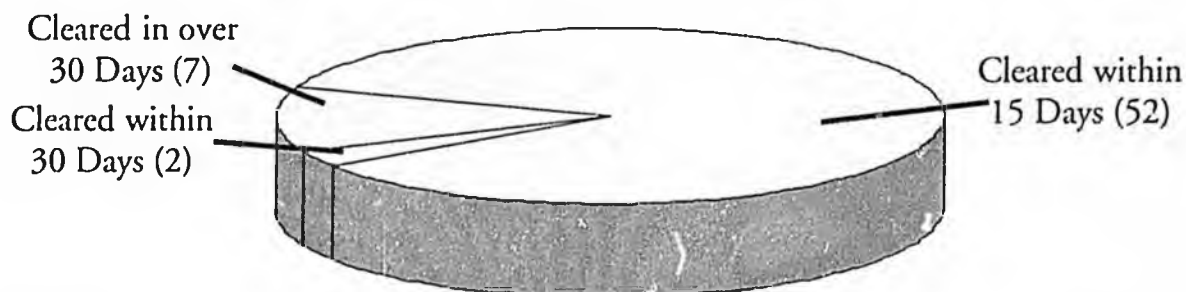
## Telecommunications (516 complaints)



## Electric (66 complaints)



## Other Utilities (61 complaints)



*Source: Regulatory Commission of Alaska*

## Comments in support of reauthorization of the RCA

### Packet Contents

Date	From
6/10/2002	William M. Nugent, President/Nat. Assoc. of Reg. Commissioners
6/10/2002	David W. Wirick/National Regulatory Research Institute
6/6/2002	Jack Rhyner, CEO/TelAlaska
6/6/2002	Jim Rowe/Alaska Telephone Association
6/5/2002	Kathleen Q. Abernathy, Commissioner/FCC
5/23/2002	Kirk Duncan, Division Mgr/Waste Management of Alaska
5/17/2002	Henry P. Lang, P.E./Lang Consulting
5/17/2002	Don C. Schroer/Former APUC Chairman
5/14/2002	J. Jeffrey Mayhook, Esq.
5/10/2002	Attorneys & Consultants Who Practice Before the RCA (14)
5/10/2002	Mark Helmericks, President/Colville, Inc.
5/6/2002	Michael J. Felix, President/CEO - AT&T Alascom
5/3/2002	Anthony M. Izzo, President/ENSTAR Natural Gas
5/2/2002	Dana L. Tindall, Sr. Vice President/GC11
5/1/2002	Jim Rowe/Alaska Telephone Association
2/27/2002	Eric Yould, Executive Director/ARECA



N A R U C  
National Association of Regulatory Utility Commissioners

June 10, 2002

Hon. Rick Halford, President  
Alaska Senate  
P.O. Box 190  
Chugiak, AK 99567  
Fax 907-694-0549

Hon. Brian Porter, President  
Alaska House of Representatives  
716 West 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
Fax 907-269-0154

Dear Mr. Presidents:

We understand that you are soon to decide in special session how and to what extent public resources should be used to protect consumers' interests in utility matters. We hope you find the following comments helpful as you decide whether or not to re-authorize the Regulatory Commission of Alaska.

In states and countries around the world, vital utility services (energy, telecommunications, and—in some cases—water) are provided by a unique mix of monopoly and competitive providers.

Where the state has granted monopoly status to one or more providers, legislatures—recognizing that unchecked monopolies might overprice their services or underserve their customers—established commissions to ensure quality service at rates which are just and reasonable to shareholders and investors as well as to customers. Such rates should provide financial returns sufficient to attract needed capital and incent proper management behavior, while preventing providers from exploiting their monopoly (or dominant) positions.

While some utility services (water systems and electricity transmission and distribution systems) seem likely to continue as monopolies, new technology is making it possible for formerly monopoly activities (electricity generation and telecommunications) to be opened to competition. As these markets develop, their prices often reflect uncertainty or inappropriate manipulative behavior (e.g., Enron in the California market). Regulators, as authorized by legislatures, write market rules that help wring uncertainty from those markets, lowering prices and enabling customers to choose effectively among potentially complex alternatives. Working with the regulated utilities, many utility commissions have devised reasonable but strict service quality standards to ensure customers get what they pay for.

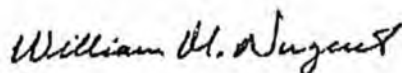
In addition, legislatures across the country and around the world are directing utility commissions to protect consumers from "slamming" (the switching of customers from one supplier to another without the customers' knowledge), "bait and switch" pricing practices, and other consumer abuses.

In a country of 280 million people it is unlikely that distant Federal agencies will provide any significant protection against unfair rates, poor utility services, or abusive treatment of individual consumers. Indeed, in moving to open the telecommunications industry to competition (the Telecommunications Act of 1996), Federal lawmakers placed many detailed, case-specific responsibilities on state regulatory authorities because Federal agencies did not have the capacity to handle the extraordinary volume of state-specific matters in accommodating expanded competitive opportunities.

For more than a century, regulatory commissions in the U.S. and in scores of countries abroad have ensured consumer access to quality utility services at fair rates. Administering laws written by legislatures, the commissions have helped create conditions in which utilities have prospered. As competition comes to the utility industry, experienced regulatory bodies are an effective tool by which lawmakers can continue to protect their constituents and their states' economics.

If we can provide you with additional information or be of any other service, please do not hesitate to contact me at 207.287.3831 or Charles Gray, NARUC's Executive Director at 202.898.2208.

Sincerely,



William M. Nugent, President  
NARUC

NARUC PRESIDENT LETTER TO ALASKA LEGISLATORS CONSIDERING WHETHER TO  
EXTEND THE CHARTER OF THE ALASKA COMMISSION EMPHASIZES IMPORTANCE OF  
STATE AGENCY OVERSIGHT

Contact: Brad Ramsay 202.898.2207 or jramsay@naruc.org

WASHINGTON, D.C. June 10, 2002 - Today, the President of the National Association of Regulatory Utility Commissioners, Maine Commissioner William M. Nugent, sent a letter to key legislators in Alaska describing how state utility regulators work to "ensure quality service at rates which are just and reasonable to shareholders and investors as well as to customers." The Alaskan legislature has slated a hearing this Wednesday on whether to re-authorize the Regulatory Commission of Alaska.

According to President Nugent:

"Administering laws written by legislatures, the commissions have helped create conditions in which utilities have prospered. As competition comes to the utility industry, experienced regulatory bodies are an effective tool by which lawmakers can continue to protect their constituents and their states' economies... Working with the regulated utilities, many utility commissions have devised reasonable but strict service quality standards to ensure customers get what they pay for."

\*\*\*\*\*

The National Association of Regulatory Utility Commissioners is a non-profit organization founded in 1889. Its members include the governmental agencies that are engaged in the regulation of utilities and carriers in the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's member agencies regulate telecommunications, energy, and water utilities. NARUC represents the interests of State public utility commissions before the three branches of the Federal government and the Independent Federal agencies. Additionally, NARUC files briefs and pleadings before the U.S. Supreme Court and other Federal courts in support of State utility commission interests. NARUC also provides the Executive Branch with policy proposals and works with the Departments on the formulation of regulatory policies. NARUC works closely with the Federal Energy Regulatory Commission, the Federal Communications Commission, and the Nuclear Regulatory Commission, the Securities and Exchange Commission and the Federal Trade Commission to ensure the State perspective is considered in their proceedings.

The National Association of Regulatory Utility Commissioners  
1101 Vermont Avenue NW Suite 2000  
Washington, D C. 20005

Phone: 202.898.2200  
Fax: 202.898.2213  
Webpage: www.naruc.org

###

## The National Regulatory Research Institute



1080 Carmack Road  
Columbus, Ohio 43210-1002  
Phone: 614/292-9404  
FAX: 614/292-7196

June 10, 2002

Representative Brian Porter  
3430 Fordham Drive  
Anchorage, AK 99508

Dear Representative Porter:

In the summer of 1998, I was asked by the Alaska Public Utilities Commission to conduct a review of its organization and operations in advance of the upcoming sunset review of the Commission. Dr. Douglas N. Jones and Dr. Vivian Witkind Davis assisted with that review, which resulted in a report to the Commission in October 1998.

In our review, we found a Commission in substantial disarray and identified a fear that the agency could not continue to perform its functions without real reform. The backlog of cases was substantial, orders took an excessive amount of time and were judged as poorly written, and morale was poor. We suggested that improvements were most required in interpersonal relations, timeliness of Commission action, the quality and speed of orders, handling of consumer complaints, and information systems.

With our report in hand the Alaska Legislature took the extraordinary, but probably necessary, step of abolishing the Public Utilities Commission and establishing the Regulatory Commission of Alaska.

In 2000, the Chair of the RCA asked me to review the new agency, make recommendations, and determine whether or not improvements had been made. My report, which was issued in June 2000, found substantial improvement in each of the areas identified in the first report as needing attention. I found that the RCA was functioning at a very high level of energy and competence. Those interviewed for the second report, which included external stakeholders, provided nearly unanimous support for the work of and prospects for the RCA.

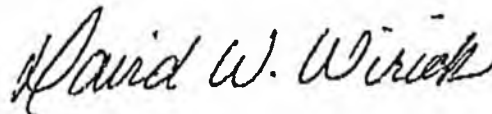
Over the past several years, I have worked onsite with more than 30 state regulatory commissions around the nation. As might be expected, they function at differing levels of effectiveness and efficiency. I regard the RCA to be one of the most professional and hard-working.

Page Two

Most of the public utility regulatory commissions around the nation have been in existence for nearly 100 years. We have learned that public utility regulation is a process, not an event. In every state, there are times when some interests are disappointed with commission action. What matters, however, is the long-term ability of the commission to create a balance among the stakeholders involved. Even those who might disagree with single commission actions are advantaged by a stable regulatory agency. I have no doubt that over the long term the citizens of Alaska will be well served by the RCA.

In the process of conducting my two examinations, I have developed great affection for the citizens, the public servants, and, of course, the natural beauty of the State of Alaska. I would be pleased to assist your decision-making process in any way that I can.

Sincerely,

A handwritten signature in cursive script that reads "David W. Wirick".

David W. Wirick

**Subject: Reauthorization of the Regulatory Commission of Alaska (RCA)**

**Date: Fri, 7 Jun 2002 11:38:54 -0800**

**From: e\_anderson@telalaska.com**

**To: nanette\_thompson@rca.state.ak.us**

**CC: Senator\_Robin\_Taylor@legis.state.ak.us, Senator\_Dave\_Donley@legis.state.ak.us,  
Senator\_John\_Cowdery@legis.state.ak.us, Senator\_Gene\_Therriault@legis.state.ak.us,  
Senator\_Johnny\_Ellis@legis.state.ak.us**

Commissioner Thompson and Senate Judiciary Committee members:

A hard copy of the following letter will be mailed to you next week.

Sincerely,

Everette Anderson  
Administrative Office Manager  
TelAlaska

June 6, 2002

The Honorable Robin Taylor, Chair  
Senate Judiciary Committee  
Alaska State Legislature  
State Capital, MS 301  
Juneau, AK 99801-1182

Re: Reauthorization of the Regulatory Commission of Alaska (RCA).

Dear Senator Taylor:

When we met in March, I expressed my concerns and my unequivocal support for the reauthorization of the Regulatory Commission of Alaska (RCA) for two major reasons: the loss of full and timely receipt of Universal Service Fund support for affordable telephone service and the possible derailment of an effort to address staff issues that have inhibited the performance of the RCA and its predecessor, the Alaska Public Utilities Commission (APUC). For the telephone industry, a primary concern is certification to receive Universal Service Support (USF). The state regulatory body must certify each local telephone company as an eligible telecommunications carrier annually to receive USF. This year, for Alaska, USF was nearly \$75 million. These funds are applied directly to the cost of providing local service and are the only reason local rates remain affordable in high cost areas. With the exception of Anchorage, every other community in the State of Alaska benefits from these funds. Without these funds, it is quite likely that there would be no affordable phone service outside Anchorage, Fairbanks and Juneau. Without a state regulatory body to certify the local telephone companies, we would have to individually apply to the FCC for certification. This process could well jeopardize part or all of this funding.

Additionally, there are two organizations, the Alaska Exchange Carriers Association (AECA) and the Alaska Universal Service Administrative Company (AUSAC), whose continued operation and administration may be called into question if the state regulatory body goes into wind-down. While these organizations are private nonprofit corporations, the courts have nevertheless ruled that they are extensions of the state regulatory body. AECA administers the collection and distribution of \$30 million per year in access charges, again for the small telephone companies outside of Anchorage, Fairbanks and Juneau. AUSAC administers the collection and distribution of \$1.9 million in state universal service funding (AUSF) which pays for "life line and link up" programs for low income households

throughout the state. It is not clear how these organizations would function without a state regulatory body or what their legal obligations are within the frame work of a wind-down year. The uncertainty and possible legal entanglement again places a sizable portion of the small telephone companies' revenues and continued service to low income households at risk.

In RCA Chair Thompson's May 20th letter to you she provided a laundry list of her legal obligations once the agency enters a wind-down year. There are two items which are especially disturbing. Chair Thompson, at the very least, places in question whether or not the RCA will have the resources available to conduct the USF certification in 2002. Timing is critical, there are no second chances if we must apply directly to the FCC. We must have as much lead time as possible with the as yet unknown FCC processes.

The other issue that concerns me as a rural provider is the cessation of work on regulation dockets. In my opinion, an extensive part of the problem with the APUC and now the RCA, is with the "staff" and how it functions. During the Second Session of the Twenty-Second Legislature, Chair Thompson testified before several Committees that she would deal with this problem through regulation for the Public Advocacy Section of the Commission. True to her word, the RCA opened Docket R-02-2 by the end of May. While it is never certain that any agency will truly reform itself from within, the opening of this docket at least provides for that opportunity in this case. If the RCA is not reauthorized and goes into a wind-down year, all work on this docket will cease; thus, delaying the resolution of what truly has been the fundamental underlying problem of the state regulatory body for 20 years or more. The creation of a new commission by the next Governor and Legislature, presuming a new slate of commissioners, could delay resolution of this problem for several more years.

This letter is intended to restate my strong support for reauthorization of the RCA because of the risk its disruption carries for rural Alaskans and the companies that serve their communications needs. Dissolution and the interim wind-down of the agency threatens Universal Service Support. Without that support it is quite likely that there will be no affordable phone service available outside of Anchorage, Juneau and Fairbanks. Certification of companies to receive USF support will transfer to the FCC through lengthy and obscure procedures that will certainly stall and probably reduce available funds. An additional concern is derailing the RCA Chair's effort to address the underlying staff problem through an existing docket. This issue is long overdue for attention and I fear that it will languish during the wind-down.

I understand that an old Attorney General's opinion was floated during the legislative session, that the regulatory body could conduct business as usual in a wind-down year, on the premise that we have been through all of this before and it is not a major concern. Let me point out that it is obvious Chair Thompson does not subscribe to that opinion. When the APUC went through wind-down, state commissions had not been given the responsibility to certify eligibility to receive USF support. For reasons that I am unaware of, at that time no one had considered the question of AECA and AUSAC continued operation.

My concern is that in order to make whatever gains you intend, harm will result in fundamental areas that affect communications services in rural Alaska and the companies providing those services. I urge you to reconsider your position and support efforts to reauthorize the RCA.

Sincerely,

Jack Rhyner, CEO  
TelAlaska

**Alaska Telephone Association**

Steve Hamlen  
President

201 E. 56th, Suite 114  
Anchorage, AK 99518  
(907) 563-4000  
FAX (907) 562-3778  
www.alaskatel.org

James Rowe  
Executive Director  
jrowe@alaskatel.org

June 6, 2002

Senator Robin Taylor  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

RE: Judiciary Committee Hearing

Dear Senator Taylor:

Thank you for scheduling Senate Judiciary Committee hearings to consider reauthorization of the Regulatory Commission of Alaska. We concur with remarks attributed to you in the Anchorage Daily News on May 10, that this discussion should take place in a public forum. We look forward to participating in this process next week. A number of representatives of member companies have indicated interest in sharing their thoughts with the committee and, hopefully, addressing some of their concerns that have delayed reauthorization.

As I mentioned in a previous letter to you, funding for rural telecommunications is very dependent upon universal service fund support which permits companies to offer local service at affordable rates. Dependent upon annual certification from the state commission to the FCC, Alaska residents received the benefit of nearly \$75 million in high cost support this year.

While appreciating the legislative oversight of state agencies through the sunset review process, we also recognize that even this safeguard does not come without a dollar cost to the state and industry and that cost is, at last, borne by the customer. A public utility commission is absolutely necessary for Alaska and a "wind down" year preceding the empaneling of a new commission is even more burdensome.

Moreover, the learning curve for new utility commission members is steep. When the current commissioners were confirmed three years ago, they faced a daunting educational challenge of coming up to speed on issues of telecommunications, power, pipeline, refuse, and water and sewer. After a year and a half or two years we began to see significant improvement in their understanding of the complexity of the telecommunications issues. Our customers paid for much of that education and citizens of Alaska paid for all of it. We do not want to waste that investment by underestimating the value of experience.

Before closing, I'd like to mention a final attribute that is rarely present in any state commission. RCA Chair Nan Thompson is the State Chair of the Federal-State Joint Board on Universal Service. That is the most influential non-federal position on national telecommunications

policy matters for rural Alaskans. We will not have access to the State Chair when that person is from Florida or Illinois or Missouri, but we have it now.

Thank you for permitting me to share some of these thoughts with you. I look forward to seeing you next week.

Best Regards,

A handwritten signature in cursive script that reads "Jim Rowe". The signature is written in black ink and extends to the right with a long horizontal stroke.

Jim Rowe

cc: Members Alaska State Senate



OFFICE OF  
THE COMMISSIONER

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

June 5, 2002

Representative Scott Ogan  
State Capitol, Room 3  
Juneau, Alaska 99801-1182

Dear Representative Ogan:

I understand that the Alaska Legislature is conducting proceedings concerning the reauthorization of the Regulatory Commission of Alaska. I have been asked to share my perspective as a Commissioner of the Federal Communications Commission and as Chair of the Federal-State Joint Board on Universal Service on my experiences working with Chairman Nan Thompson. Without commenting on how the legislature ultimately should structure the state regulatory commission, I am pleased to comment on Chairman Thompson's contributions to federal-state processes. In short, having worked closely with Chairman Thompson over the past year, I have observed first-hand her commitment to the people of Alaska, and to Americans generally. She ably represents their interests on critical matters relating to universal service and the deployment of advanced telecommunications and information services.

The Federal-State Joint Board on Universal Service (Joint Board), which was established pursuant to section 254(a) of the Communications Act of 1934, as amended, advises the FCC in most universal service proceedings that affect state interests. The FCC often formally refers a matter to the Joint Board for its recommendation, and in other cases the state members of the Joint Board file comments or informally advise the FCC. The National Association of Regulatory Utility Commissioners (NARUC) appointed Chairman Thompson to the Joint Board, and the state members of the Joint Board elected her State Chair.

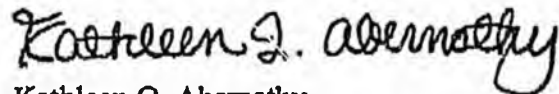
Chairman Thompson has proven an extremely effective leader and valuable colleague. Largely as a result of her organizational skills and hard work, the Joint Board is operating more efficiently than ever before. Even more importantly, from a substantive standpoint, Chairman Thompson has been a leading voice in debates over the administration of the federal universal service support mechanisms. For example, the Joint Board is presently considering whether to modify the list of services supported by the federal mechanisms, how to improve the administration of the federal low-income assistance programs (Lifeline and LinkUp), and how to distribute high-cost support to

non-rural carriers. In each of these proceedings, Chairman Thompson has effectively articulated the interests of Alaska consumers.

In addition to her work on the Joint Board, Chairman Thompson has been active in collaborative federal-state efforts to promote the deployment of broadband services. Former FCC Chairman William Kennard, in conjunction with NARUC, appointed her as Chair of the Joint Conference on Advanced Services, which provides a forum for federal and state commissioners to consider a wide range of crucial policy issues. Congress directed the FCC to take steps to encourage the deployment of advanced services, and we cannot accomplish that pivotal task without working closely with our state colleagues — particularly leaders like Chairman Thompson.

In sum, Chairman Thompson is a dedicated public servant and has been a highly effective partner in federal-state policymaking efforts. I hope to have the opportunity to continue working with her in the telecommunications arena.

Sincerely,



Kathleen Q. Abernathy  
Commissioner, FCC

**Subject: [Fwd: RCA Sunset]**

**Date:** Thu, 23 May 2002 15:04:30 -0800

**From:** Wendy Arnett <wendy\_arnett@rca.state.ak.us>

**Organization:** RCA

**To:** Nan Thompson <nan\_thompson@rca.state.ak.us>

Bob called to say he was copying us on this email- I couldn't tell from the addresses how many people were copied. So here it is and ignore my odd voicemail.

----- Original Message -----

Subject: RCA Sunset

Date: Thu, 23 May 2002 17:46:11 -0500

From: "Lindquist, Robert" <rlindquist@wm.com>

To:

"Senator\_Alان\_Austerman@legis.state.ak.us"<Senator\_Alان\_Austerman@legis.state.ak.us>  
"Senator\_Ben\_Stevens@legis.state.ak.us"<Senator\_Ben\_Stevens@legis.state.ak.us>,  
"Senator\_Bettye\_Davis@legis.state.ak.us"<Senator\_Bettye\_Davis@legis.state.ak.us>,  
"Senator\_Dave\_Donley@legis.state.ak.us"<Senator\_Dave\_Donley@legis.state.ak.us>,  
"Senator\_Donny\_Olson@legis.state.ak.us"<Senator\_Donny\_Olson@legis.state.ak.us>,  
"Senator\_Gary\_Wilken@legis.state.ak.us"<Senator\_Gary\_Wilken@legis.state.ak.us>,

"Senator\_Gene\_Therriault@legis.state.ak.us"<Senator\_Gene\_Therriault@legis.state.ak.us>,

"Senator\_Georgianna\_Lincoln@legis.state.ak.us"<Senator\_Georgianna\_Lincoln@legis.state.ak.us>,  
"Senator\_Jerry\_Ward@legis.state.ak.us"<Senator\_Jerry\_Ward@legis.state.ak.us>,  
"Senator\_John\_Cowdery@legis.state.ak.us"<Senator\_John\_Cowdery@legis.state.ak.us>,

"Senator\_John\_Torgerson@legis.state.ak.us"<Senator\_John\_Torgerson@legis.state.ak.us>,  
"Senator\_Johnny\_Ellis@legis.state.ak.us"<Senator\_Johnny\_Ellis@legis.state.ak.us>,  
"Senator\_Kim\_Elton@legis.state.ak.us"<Senator\_Kim\_Elton@legis.state.ak.us>,  
"Senator\_Loren\_Leman@legis.state.ak.us"<Senator\_Loren\_Leman@legis.state.ak.us>,  
"Senator\_Lyda\_Green@legis.state.ak.us"<Senator\_Lyda\_Green@legis.state.ak.us>,

"Senator\_Lyman\_Hoffman@legis.state.ak.us"<Senator\_Lyman\_Hoffman@legis.state.ak.us>,  
"Senator\_Pete\_Kelly@legis.state.ak.us"<Senator\_Pete\_Kelly@legis.state.ak.us>,

"Senator\_Randy\_Phillips@legis.state.ak.us"<Senator\_Randy\_Phillips@legis.state.ak.us>,  
"Senator\_Rick\_Halford@legis.state.ak.us"<Senator\_Rick\_Halford@legis.state.ak.us>,  
"Senator\_Robin\_Taylor@legis.state.ak.us"<Senator\_Robin\_Taylor@legis.state.ak.us>

Dear Senators

I serve as Director of Regulatory Affairs for Waste Management of Alaska, a refuse company serving over 59,000 businesses and households throughout the state. Kirk Duncan, general manager of Waste Management's Alaska Division, requested that I forward to each of you an e-mail sent to Senator Halford on Monday afternoon. This e-mail expressly sets out Waste Management's sentiments regarding re-authorization of the RCA.

I look forward to hearing from any senate member to discuss further Waste Management's position on this issue.

Robert K. Lindquist  
Waste Management of Alaska  
6301 Rosewood Street  
Anchorage, AK 99518

[Fwd: RCA Sunset]

Tel? (907) 273-2754  
Fax (866) 728-7336  
Cell (907) 230-6466  
\*<mailto:rlindquist@wm.com>>

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sender at [rlindquist@wm.com](mailto:rlindquist@wm.com)

<<Robert Lindquist.vcf>>

-----Original Message-----

From: Duncan, Kirk-Alaska  
Sent: Monday, May 20, 2002 4:24 PM  
To: 'Senator Rick Halford@legis.state.ak.us'  
Subject: RCA Sunset Review

Dear Senator,

Waste Management is a regulated refuse utility with district offices  
throughout the state. We serve 59,000 residential and commercial  
customers  
from Nome to Ketchikan and from Fairbanks to Dutch Harbor, including  
Anchorage, Mat-Su Borough, Kenai Peninsula Borough, Kodiak Island  
Borough  
and the City and Borough of Juneau. We advocate the re-authorization of  
the  
RCA. To do otherwise will severely hamper our ability to facilitate  
tariff  
revisions that are necessary to meet the changing demands of our 59,000  
customers. Accordingly, in the strongest terms, Waste Management of  
Alaska, Inc. is asking you and the Senate to work towards authorizing  
the  
RCA for another term.

Please feel free to distribute this email to other members of the Senate  
or  
your caucus. I look forward to hearing from you or other Senate members  
should you have questions regarding our position.

Thanks,

Kirk Duncan  
Division Manager  
Waste Management of Alaska, Inc.  
6301 Rosewood Street  
Anchorage, Alaska 99518  
tel: (907) 273-2727  
[kduncan@wm.com](mailto:kduncan@wm.com)

Robert Lindquist <[Rlindquist@wm.com](mailto:Rlindquist@wm.com)>  
Director of Regulatory Compliance  
Waste Management of Alaska

Life Member IEEE  
**LANG CONSULTING**  
 Henry P. Lang, P.E.  
 ELECTRIC POWER ENGINEER

1117 Dekalb Drive  
 Anchorage, Alaska 99517

Member ASPE  
 Tel/Fax: (907) 874-7448  
 e-mail: lang@pcl.net

Post-Net Fax Note	7871	Date	5/17/02	Page	2
To	Ann	From	Henry P Lang		
Company	Commissioner REA	City			
Phone 1	274 6222	Phone 2			
Fax 1	274 0160	Fax 2			

Dear Mayor Georg Wuerch, Nov. 23, 01

It was a pleasure to have met you today while shopping. Your remark that an outside organization was interested in buying ML&P was of interest. I expressed my concern about such a buy-out as not in the best interest for the Utilities in the rail bch area. As a ML&P consumer, I have a copy of the Customer Newsletter, Jan/Feb. 2001 wherein Mr. Michael Scott, General Manager, gave some remarks on this subject.

As a Professional Engineer, I have an ongoing interest in this subject. I have already given my deposition to Rep. Norman Rukelberg's joint commission in conference in Anchorage, Aug. 6, 1998. And to your Department of Community Planning & Development, April, 4, 2000. (see isel)

As of this date, I have not heard any more from my contacts in Juneau: Rep. Ethan Benikowitz and Sen. Nurimu Lebman. I would appreciate being kept informed on this subject.

Sincerely,

*Henry P. Lang*  
 Henry P. Lang, P.E.

Incl.

*Memo 5/17/02  
 called Rep Ethan Benikowitz & Sen Loren Leman today - in special session to continue support of REA funding.  
 The Times Magazine, May 20, article "California Scheming" highlights the need for "regulation" Nations Energy of Chicago is proposing to build a PP in the old Ship Creek plant - to sell power to Ft. Rich. I see my letter to Sakata Feb 27, 02.  
 we need to keep the REA viable to prevent outside interests encroaching in this area.  
 Competing utilities: LEA, ML&P & MEA would provide economy of scale etc.*

PROJECT: KAPP TO EAFB - LOAD FLOW REPORT  
 Job # \_\_\_\_\_

INTER-OFFICE GENERAL COMMUNICATIONS

Telephone  Conference  Memo  Other \_\_\_\_\_

FROM: Person Henry Lang Firm \_\_\_\_\_

TO: Person Albert Sakata Firm Sakta Engineering

SUBJECT: Review of Project dated 11/29/02 - Sakata Engr. Services

*Background: ADN Jan 19, 02 Restoring the Flow  
 The Knick Arm P.P. was built by CEA in the 1950s. Randy Hobbs, one of the current owners of the plant, said his company is working with Nations Energy of Chicago to again produce power at the plant.*

*We discussed my review comments regarding questions that may be asked by officers in his presentation. In general, the report reads well. All will remove reference of "short circuit" on page 6.  
 With REA out to ML&P & CEA to provide a \$5 at the Ft. Rich. P.P. of power - what will be the impact on KAPP proposal to provide power and at what energy cost/kwh.  
 who will dispatch power in emergency & planned outages?  
 How will Ft. Rich & EAFB handle catastrophic power outages, terrorism, earthquake etc?  
 Will KAPP have a contingency plan?  
 I gave Albert copy of ADN Jan 19, 2002 article on "Restoring the Flow" - listing Nations Energy; Randy Hobbs, etc.  
 Copy To: This was a "pro-bono" review - a professional courtesy. Post written Henry*

Don C. Schroer

May 17, 2002

Members of the Alaska State Senate  
Members of the House of Representatives  
Juneau, Alaska

Dear Senators and Representatives:

I was the Chairman of the Alaska Public Utilities Commission for six years, from 1991 to 1997. From that experience I am very familiar with the nature of the agency (and its successor, the Regulatory Commission of Alaska), its workload, and its relationship with utilities. I also continue to be in contact with the current Chair, Nan Thompson, and with members of the regulated industry.

The RCA has an enormous workload and due process requirements are time-consuming. Furthermore, if it is doing its job correctly the RCA is destined to issue decisions that do not satisfy some of the major utilities in the state. After all, the consumer interest must be considered and the Commission cannot always rule in favor of utilities. Some cases involve one utility against another. Thus, opposition to the RCA from some utilities is inevitable.

From my observations, the current RCA is doing its job as efficiently and effectively as reasonably possible. While there is always room for improvement, I cannot imagine how the situation could be improved by failing to extend the Commission's life for 4 more years. Confusion and uncertainty would result and no doubt it would add costs to the consumers. For these reasons, I urge you to pass legislation re-authorizing the Commission.

Sincerely,



Don C. Schroer

**MAYHOOK LAW, PLLC**  
508 NW 189<sup>th</sup> Street  
Ridgefield, Washington 98642

**J. Jeffrey Mayhook**  
*Admitted in WA and AK only*

**Laura A. Mayhook**  
*Admitted in OR, HI and IL only*

May 14, 2002

VIA FAX and EMAIL

Senator Robin Taylor  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Re: CSHB333 – RCA Sunset Bill

Dear Senator Taylor:

As a 20-year member of the Alaska Bar with regulatory experience extending throughout the western United States, including Alaska, Washington, Oregon, California, Arizona, New Mexico, Texas, Idaho, Utah, Hawaii, Guam, and the Marianas Islands, I urge you to forego sunseting the Regulatory Commission of Alaska (RCA).

While I may not have always agreed with the RCA's past decisions, I have always trusted the integrity of its process, and, where appropriate, resorted to the court system to appeal any adverse decisions based on the merits of the issues. That's the way it's supposed to work.

More importantly, since the enactment of the Telecommunications Act of 1996, I have come to respect and appreciate the many challenges state regulatory bodies face in contending with the sea-change in national telecom policy and entrenched special interests. I have been particularly impressed with the RCA's moderate, careful approach to contending with these powerful forces, and the result, to be sure, is reflected in the fact that Alaska remains unscathed by the telecom melt-down that has occurred in the Lower 48.

Finally, I have nothing but the highest regard for the RCA's current chair, Nanette Thompson, who brings a refreshing degree of intelligence and level-headedness to an area of the law noteworthy for both its complexity and contentiousness. As the RCA exhibits the same competence and good attitude, I can fathom no reasonable reason for undoing the RCA's good work and winding down this essential agency. Thus, as a matter of due process and sound public policy, I urge you to place CSHB333 before the Judiciary Committee, so it can at least deliberate over whether to reauthorize the RCA.

Sen. Robin Taylor  
May 14, 2002  
Page 2 of 2

Very truly yours,

J. Jeffrey Mayhook

c.c.: Gov. Tony Knowles  
Sen. Dave Donley  
Sen. John Cowdery  
Sen. Gene Therriault  
Sen. Johnny Ellis

May 10, 2002

The Honorable Robin Taylor  
Alaska State Senate  
State Capitol, Room 30  
Juneau, Alaska 99801-1182

Re: *Reauthorization of the Regulatory Commission of Alaska*

Dear Senator Taylor:

As attorneys and consultants who regularly practice before the Regulatory Commission of Alaska ("RCA"), we urge you to hold hearings and vote before the end of this year's legislative session on legislation passed by the House that would reauthorize and improve the Commission. We are concerned by recent press reports that the reauthorization bill may not be acted on this year. Based on our many years of collective experience, ~~we believe that the wind down process would be costly and inefficient, and should be avoided. It would create uncertainties for the utilities we represent, expensive delays, and potential disadvantages for Alaskan consumers.~~

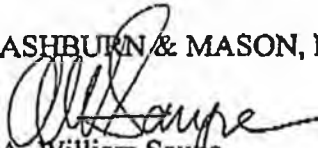
The termination of the Alaska Public Utilities Commission and its replacement just three years ago by the RCA was disruptive, but appropriate under the circumstances. The situation today is very different. ~~While by no means perfect, the RCA has worked hard to clear up the backlog it inherited and to move forward with new matters. The new commissioners are dedicated, hardworking, and nonpartisan. They deserve a chance to continue with their work.~~

If passed by the Senate, the bill already passed by the House, CSHB 333 (FIN), would not only extend the RCA, but it would also amend the Commission's authorizing statute, AS 42.05, by setting statutory deadlines for RCA decisions. Thus, CSHB 333 (FIN) would extend and improve an agency whose work is critical to Alaska's economic well-being.

Please allow the reauthorization legislation to be considered and voted on before the session ends. Thank you for considering our views.

Very truly yours,

ASHBURN & MASON, PC

  
A. William Saupé

KEMPEL, HUFFMAN AND ELLIS, PC

  
Dean D. Thompson

The Honorable Robin Taylor  
May 10, 2002  
Page 2

BRENA, BELL & CLARKSON, PC

*Robin O. Brena*  
Robin O. Brena

GENERAL COMMUNICATION, INC.

*James Jackson by mmw*  
James R. Jackson, Jr.

DORSEY & WHITNEY, LLP

*Heather H. Grahame*  
Heather H. Grahame

HONCHEN AND UHLENKOTT, INC.

*Loren V. Uhlenkott*  
Loren V. Uhlenkott

GENERAL COMMUNICATION, INC.

*Martin M. Weinstein*  
Martin M. Weinstein

ASHBURN & MASON

*for Allan L. Mason*  
Allan L. Mason

LAW OFFICE OF ROBERT E. STOLLER

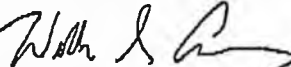
*Robert E. Stoller*  
Robert E. Stoller *by RKS*

The Honorable Robin Taylor  
May 10, 2002  
Page 3

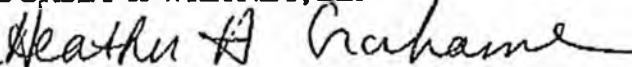
DeLISIO MORAN GERAGHTY & ZOBEL, PC

  
Joseph M. Moran

ASHBURN & MASON

  
William S. Cummings

DORSEY & WHITNEY, LLP

*for*   
Steven E. Mulder

KEMPEL, HUFFMAN AND ELLIS, PC

 by DDT  
Roger R. Kemppei

HONCHEN AND UHLENKOTT, INC.

  
*for* Larry G. Honchen

cc: All Members of the Alaska State Senate  
The Honorable Brian Porter, Speaker of the House  
The Honorable Eldon Mulder

N:\SJ\WAW\SITaylor2



**Colville Incorporated**

Pouch 340012  
Prudhoe Bay, Alaska 99734  
(907) 659-3198  
FAX (907) 659-3190

May 10, 2002

Senator Robin Taylor, Chairman, and Members of the Senate Judiciary Committee  
Alaska State Senate  
State Capitol, Room 30  
Juneau, AK 99801-1182

Dear Senator Taylor and Members of the Judiciary Committee,

I manage Colville, Inc., a small solid waste company started by my family over 20 years ago. Colville is a ratepayer to a large municipal utility run by the North Slope Borough.

During the past three years, since the Regulatory Commission of Alaska (RCA) took over regulation of utilities, Colville has had one case decided by the RCA, and we currently have another case pending. I have found the RCA to be competent and responsible in fulfilling their statutory mandate to regulate the providers of utility services and to protect the interests of the ratepaying public.

As you probably know, the RCA is self-funded by user charges and does not impose a burden on the general funds of the State of Alaska.

I understand that the legislation to continue the operation of the RCA is pending in your committee. I ask that you give the legislation favorable consideration. The Commissioners are doing a good job in an area that is critical for the protection of the public interest for all Alaskans.

Best wishes,  
Colville, Inc.

A handwritten signature in cursive script that reads "Mark Helmericks".

Mark Helmericks,  
President

(907) 659-3198 Office  
(907) 529-5775 Cell / Voice Mail

cc: Members of the Alaska State Senate  
Regulatory Commission of Alaska

**AT&T Alascom**

Michael T. Felix  
President/CEO

2101 Bull Dog  
Anchorage, AK 99501-1100

May 6, 2002

The Honorable Senator Robin Taylor  
State Senate  
Alaska State Capitol  
Juneau, Alaska 99801-1182

SUBJECT: HB 333 - REGULATORY COMMISSION OF ALASKA SUNSET BILL

Dear Senator Taylor:

AT&T Alascom supports continuation of the RCA and urges you to pass HB 333 out of the Senate Judiciary Committee. Allowing the RCA to go into the sunset "wind-down" would seriously hamper its regulatory activities. While we do not always agree with the RCA rulings, the agency serves an important function.

In view of the economic winds of change blowing through the telecommunications industry both nationally and in Alaska, we will need to work with the Commission through the regulatory process to resolve the problem of unequal regulation of interexchange carriers in this highly competitive market.

Thank you for your assistance and support.

Sincerely,

A handwritten signature in black ink that reads "Michael T. Felix".

Michael T. Felix  
President/CEO



ENSTAR Natural Gas Company  
A Division of SEMCO ENERGY, Inc.  
3000 Spenarr Road  
P.O. Box 190288  
Anchorage, Alaska 99519-0288  
(907) 277-5551

May 3, 2002

Senator Robin Taylor  
Alaska State Legislature  
State Capital (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Taylor:

ENSTAR Natural Gas Company strongly supports the reauthorization of the Regulatory Commission of Alaska. The regulatory oversight of Alaska's utilities and pipelines is an essential governmental function for both the consumers and the regulated entities.

ENSTAR has reviewed the reauthorization bill that passed the House, HB 333, and is now before the Senate Judiciary Committee. We believe that new timelines for issuance of final orders and the new settlement language incorporated in HB 333 have merit and we enthusiastically support them. We also think that the new termination date for the RCA should be no earlier than the date specified in HB 333, June 30, 2006, and, in fact, would support even a longer period.

While ENSTAR may not always agree with the decisions of the RCA, we consider it extremely important to Alaskans that the RCA continues the job it has started.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Izzo", written over a faint, larger version of the signature.

Anthony M. Izzo  
President

CC: Senate Judiciary Committee members  
Senate Finance Committee members  
Regulatory Commission of Alaska

May 2, 2002



Senator Robin Taylor  
State Capitol, Room 30  
Juneau, AK 99801-1182

Re: Reauthorization of the Regulatory Commission of Alaska - HB 333 (Fin)

Dear Senator Taylor:

GCI, along with all other utilities that have testified at legislative hearings this session on the reauthorization of the Regulatory Commission of Alaska, supports HB 333 (Finance).

A legislative audit, conducted during the interim, concluded that the RCA "operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates. We recommend that AK 44.66.010 (a) (4) be amended to extend the termination date of the RCA to June 30, 2006".

If HB 333 does not pass this session, the RCA begins the "sunset" process. During the wind down year, the RCA cannot take up new dockets and will be quite limited in the issues it will take up. Enforcement of commission orders will suffer. It will be more difficult to retain staff who may assume that the RCA will be completely out of business on July 1, 2003.

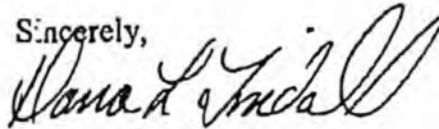
Since no utility is on the public record in support of "sunsetting" the RCA, we do not understand the justification for failing to even schedule HB 333 (Finance) or its Senate counterpart (SB 253) for a public hearing. In our view, many utilities and consumers will be adversely impacted if no action is taken this session. Among other things, local telephone competition, which has brought lower rates to consumers in Anchorage, Fairbanks and Juneau will become much more difficult to implement.

Senator Robin Taylor  
May 2, 2002  
Page 2 of 2

As the Legislature is now in the last two weeks of the session and the bill has one more committee of referral, we would greatly appreciate an opportunity to participate in a public hearing on HB 333 before it is too late for a bill to pass this session.

If you do not plan on hearing and moving some version of HB 333, we would appreciate your views as to why the RCA should go into "sunset".

Sincerely,

A handwritten signature in cursive script, appearing to read "Dana L. Tindall".

Dana L. Tindall  
Sr. Vice President  
General Communication, Inc.

**Alaska Telephone Association**

201 E. 56th, Suite 114  
Anchorage, AK 99518  
(907) 563-4000  
FAX (907) 562-3776  
www.alaskatel.org

Steve Hamlen  
President

James Rowe  
Executive Director  
jrowe@alaskatel.org

May 1, 2002

Senator Robin Taylor  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

RE: CSHB333 – RCA Sunset Bill

Dear Senator Taylor:

As proposed legislation extending the sunset date and setting timelines for the Regulatory Commission of Alaska is before the Senate Judiciary Committee, I thought you would be interested to know why the Alaska Telephone Association has offered testimony before House committees in support of HB333.

Funding for rural telecommunications is very dependent upon universal service support which permits companies to offer local service at affordable rates. The fourteen members of the Association all serve rural communities and share in the nearly \$75 million in high cost support earmarked for Alaska this year. Anchorage customers receive no support from the fund. The \$75 million estimate is based on projections filed with the Federal Communications Commission by the Universal Service Administrative Company (See attached).

For a rural telephone company to receive support from the universal service fund, the state regulatory body must annually affirm to the FCC that the company is an Eligible Telecommunications Carrier and that it is using universal service fund support for the intended purposes. If the necessary documentation is not filed with the FCC on a timely basis, rural Alaskans will be denied the benefit of universal service support; affordable local telephone service. Your constituents – voters from Wrangell – will be among those impacted.

Additionally, all regulated utilities (electric, telephone, and water and sewer) will be subject to antitrust lawsuits each time they make a tariff change. Certainly local and long distance telephone utilities will be in court fighting over amended access charge tariffs. You can see why we need a regulatory body and why we don't want the commission to go into a "wind down" year.

Thank you for your attention. If you have questions about this, I'd be happy to speak with you or meet with you in Juneau.

Sincerely,



Jim Rowe

Attachment: FCC Estimate USF by State (12/18/01)



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Fax-On-Demand 202 / 418-2830  
TTY 202 / 418-2555  
Internet: <http://www.fcc.gov>  
[ftp.fcc.gov](ftp://ftp.fcc.gov)

DA 01-2927  
December 18, 2001

## COMMON CARRIER BUREAU RELEASES ESTIMATED STATE-BY-STATE HIGH-COST UNIVERSAL SERVICE SUPPORT AMOUNTS FOR NON-RURAL CARRIERS FOR 2002

CC Docket No. 96-45

Today the Bureau released an order adopting updated line count input values for the new high-cost universal service support mechanism for non-rural carriers for purposes of calculating and targeting support amounts for the year 2002.<sup>1</sup> Specifically, the Bureau adopted updated line count data for use in the universal service cost model to estimate non-rural carriers' forward-looking economic costs of providing the services supported by the federal high-cost mechanism, consistent with the framework established in the *Twentieth Reconsideration Order* and the *2001 Line Counts Update Order*.<sup>2</sup> Support amounts will continue to be adjusted each quarter to account for line growth based on the wire center line count data reported quarterly by non-rural carriers.<sup>3</sup> In addition, we update the company-specific data used in the model to calculate investment in general support facilities and switching costs.

The spreadsheet attached to this Public Notice shows estimated state-by-state support amounts based on the revised cost estimates generated by the model using as input values year-end 2000 line count data filed by non-rural carriers on July 31, 2001. The Turbo-Pascal version of the cost model used to generate these estimates is posted on the Commission's web site at ([www.fcc.gov/ecb/and/hcpm](http://www.fcc.gov/ecb/and/hcpm)). The non-rural support estimates were adjusted to reflect the quarterly line counts filed by non-rural carriers on September 30, 2001. The attached spreadsheet also shows annualized interim hold-harmless, long term support, and interstate access support for non-rural carriers, as well as support amounts for rural carriers, based on projections for the first quarter of the year 2002 filed by the Universal Service Administrative Company (USAC) on November 2, 2001.<sup>4</sup> For further information regarding this Public Notice, please contact Katie King or Tom Buckley at (202) 418-7400.

<sup>1</sup> *Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, DA 01-2928 (Com. Car. Bur. rel. December 18, 2001) (2002 Line Counts Update Order)*.

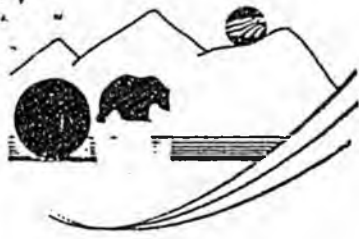
<sup>2</sup> *See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Twentieth Order on Reconsideration, FCC 00-126 (rel. April 7, 2000) (Twentieth Reconsideration Order); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC Rcd 23960 (Com. Car. Bur. 2000) (2001 Line Counts Update Order)*.

<sup>3</sup> *2001 Line Counts Update Order, 15 FCC Rcd at 23964, para. 10.*

<sup>4</sup> USAC files quarterly projections with the Commission for the high-cost and other universal service programs, which the Bureau then makes available on the Commission's Web site at [http://www.fcc.gov/ecb/universal\\_service/quarter.html](http://www.fcc.gov/ecb/universal_service/quarter.html). The interim hold-harmless amounts on the attached spreadsheet have been adjusted to reflect the phase-down adopted by the Commission. *See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Thirteenth Report and Order and Further Notice of Proposed Rulemaking, FCC 00-428 (rel. December 8, 2000).*

Universal Services Fund									
Estimated Annual Support Amounts Based on Projections for 1st Quarter, 2002 (all numbers in \$)									
State	Non-Rural Companies		Rural Companies		Interstate		Intrastate		Total High Cost Support
	High Cost Model Support	Hold-Harmless Support	LTS	Access Support	HCL, LSS, and LTS Support	Access Support	Interstate Support	Intrastate Support	
AK	0	0	0	0	0	0	0	0	0
AL	43,124,510	0	16,531,404	26,536,156	74,863,246	793,176	0	0	74,893,248
AR	0	0	6,439,804	71,210,316	77,650,200	0	0	0	77,650,200
AS	0	0	0	212,412	212,412	0	0	0	212,412
AZ	0	0	15,761,412	39,105,564	54,866,976	5,729,604	0	0	57,605,680
CA	0	0	4,862,424	26,695,588	31,558,012	5,418,108	0	0	32,492,120
CO	0	0	15,942,688	48,472,616	64,415,304	0	0	0	64,415,304
CT	0	0	662,056	949,096	1,611,152	0	0	0	1,611,152
DC	0	0	0	0	0	0	0	0	0
DE	0	0	379,020	0	379,020	0	0	0	379,020
FL	0	0	52,401,768	21,418,128	73,819,896	18,697,192	0	0	92,517,088
GA	0	0	11,637,240	89,177,296	100,814,536	245,016	0	0	97,059,482
GU	0	0	0	2,020,320	2,020,320	0	0	0	2,020,320
HI	0	0	2,341,236	3,199,796	5,541,032	0	0	0	5,541,032
IA	0	0	0	31,277,544	31,277,544	6,617,184	0	0	37,894,728
IL	0	0	30,052,404	14,808,740	44,861,144	1,690,336	0	0	46,551,480
IN	0	0	11,057,882	29,652,000	40,710,882	2,817,704	0	0	43,528,586
KS	0	0	21,069,408	19,618,920	40,688,328	5,893,020	0	0	46,581,348
KY	2,580,328	0	3,253,488	75,574,612	81,381,428	594,628	0	0	82,270,680
LA	0	0	13,163,428	23,665,960	36,829,388	0	0	0	36,829,388
MA	0	0	10,364,328	70,437,684	80,802,012	0	0	0	80,802,012
MD	0	0	133,452	944,368	1,077,820	0	0	0	1,077,820
ME	0	0	3,020,592	745,682	3,766,274	0	0	0	3,766,274
MI	5,420,602	0	672,040	21,370,464	27,463,106	0	0	0	27,463,106
MN	0	0	140,604	41,034,228	41,174,832	0	0	0	41,174,832
MO	0	0	0	54,867,040	54,867,040	3,135,398	0	0	58,002,438
MS	2,334,146	0	9,322,296	53,370,168	63,696,510	8,195,428	0	0	71,891,938
MP	0	0	0	3,296,476	3,296,476	248,376	0	0	3,544,852
MT	101,362,820	0	11,300,616	26,794,656	139,458,092	0	0	0	139,458,092
NC	10,587,567	0	251,160	47,810,376	48,062,104	378,236	0	0	48,440,340
ND	0	0	5,594,369	2,508,080	8,102,449	0	0	0	8,102,449
NE	0	0	690,258	25,896,368	26,586,626	0	0	0	26,586,626
NH	0	0	0	24,974,364	24,974,364	1,527,252	0	0	26,501,616
NJ	0	0	1,878,764	7,504,880	9,383,644	0	0	0	9,383,644
NM	0	0	4,372,688	1,217,796	5,590,484	538,112	0	0	6,128,596
NV	0	0	2,839,976	35,232,492	38,072,468	4,899,604	0	0	42,972,072
NY	0	0	4,131,306	14,471,676	18,603,082	3,788,796	0	0	22,391,878
OH	0	0	15,626,700	36,900,240	52,526,940	7,097,196	0	0	59,624,136
OK	0	0	108,252	7,820,632	7,928,884	7,614,668	0	0	15,543,552
OR	0	0	4,812,132	71,295,668	76,107,800	0	0	0	76,107,800
PA	0	0	20,968,572	41,780,660	62,749,232	2,445,012	0	0	65,201,244
PR	0	0	3,022,960	21,737,816	24,760,776	10,225,320	0	0	35,006,118
RI	0	0	2,679,491	101,197,458	103,876,949	0	0	0	103,876,949
SC	0	0	91,624	0	91,624	0	0	0	91,624
SD	0	0	15,024,624	41,657,712	56,682,336	1,513,812	0	0	58,196,148
TN	0	0	78,752	27,985,858	28,064,610	0	0	0	28,064,610
TX	0	0	4,926,204	34,359,780	39,285,984	2,902,886	0	0	42,188,870
UT	0	0	24,431,644	132,368,832	156,800,476	19,525,096	0	0	176,325,572
VA	0	0	1,425,468	12,918,304	14,343,772	972,166	0	0	15,315,938
VT	0	0	47,152,178	11,972,520	59,124,698	5,860,524	0	0	64,985,222
VI	0	0	0	25,677,852	25,677,852	0	0	0	25,677,852
WA	9,182,260	0	2,023,776	12,659,224	14,665,260	0	0	0	14,665,260
WI	0	0	21,443,904	49,994,508	71,438,412	1,757,952	0	0	73,196,364
WV	0	0	2,342,944	50,501,864	52,844,808	238,286	0	0	53,083,104
WY	25,906,977	0	11,425,116	23,862,520	40,194,613	5,721,840	0	0	45,916,453
Total	307,020,513	29,850,980	108,674,215	448,053,732	1,750,430,628	144,116,400	0	0	2,074,206,688

\* Estimates based on revised cost estimates generated by the model using year-end 2000 line count data and adjusted to reflect the quarterly line counts filed by non-rural carriers on 9/30/01.  
 \*\* Estimates based on USAC's projections for the first quarter of 2002, filed on 11/2/01.



# ARECA

Alaska's Electric Association  
*"Electric Service for 556,000 Alaskans"*

---

February 27, 2002

Honorable Eldon Mulder  
Cochairman, House Finance Committee  
Alaska State Legislature  
Juneau, Alaska

Subject: RCA Sunset Review, HB 333

Dear Representative Mulder

As you know, ARECA and its electric utilities throughout Alaska do not agree that the RCA Sunset should be extended through June 2006 as would happen under HB 333. Our position has been carefully considered. ARECA supported the reconstitution of the old APUC into the present RCA. We participated in that process of change even in the face of those that cautioned against such change. We were even consulted on the composition of the new Commissioners and are largely supportive of the professional attitude that they have brought to the agency.

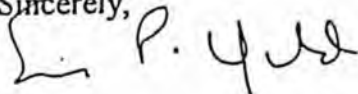
Despite these positive changes, we still have serious problems with the pace with which the regulatory process creeps forward. The transformation from the APUC to the RCA came with the legislature authorizing nine new positions with which to speed up the regulatory process. The RCA inherited a 700 case backlog from the old commission and these new positions appeared warranted. We were heartened to see that the new RCA was making a concerted effort to reduce that backlog in the face of new cases being introduced. But their effort has lagged and the time required to get important cases through the process continues to be slow and cumbersome. Last year the legislature authorized five additional new positions for the RCA to speed up the process. Nevertheless, according to correspondence to me from Commissioner Thompson on January 9, 2002, the RCA has closed 556 cases since the inception of the RCA but opened 464 new cases, presumably resulting in a present case backlog of 608 cases. Fourteen new positions have resulted in a 13 percent caseload reduction. What this really means is that the regulatory process is still broken and must be fixed. The present process costs the electric utility industry much time and much money to run the regulatory gauntlet.

We would very much like to see a meaningful immediate effort to identify changes that can be made to the regulatory process. In our opinion, this will not take place if we allow a four-

year sunset review. We also understand, however, that the one-year sunset originally supported by the electric utility industry may not be sufficient to allow comprehensive assessment of the situation. Commissioner Thompson has committed to an annual review before the legislature and has further committed to an informal "bench and bar" session to be conducted every other month with the regulated industry. We feel that both of these efforts will help identify ways to streamline the process, but believe that this will be further facilitated by a legislative oversight that would extend the RCA sunset through June 2004 rather than the four years called for in HB 333. We strongly believe that the process must be streamlined and hope that you will support a two-year conditional extension as called for in the amended ARECA Resolution 2 -19 (Attached).

We would like to have a good regulatory process and feel that this can be accomplished if the industry, legislature, and the RCA will work toward that end.

Sincerely,



Eric P. Yould  
Executive Director

CC: ARECA Managers and Board of Directors  
Commissioner Thompson, RCA

4



## Alaska Division of Legislative Audit Audit Digest #08-20013-02

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\* Requires Acrobat Reader



SUMMARY OF: A Special Report on the Regulatory Commission of Alaska, Sunset Review, November 28, 2001.

### PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA). The purpose of this audit was to determine if there is a demonstrated public need for the continued existence of this commission and if it has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Regulatory Commission of Alaska should be reestablished. The law currently specifies that the commission will terminate on June 30, 2002.

### REPORT CONCLUSIONS

The Regulatory Commission of Alaska operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates.

We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the life of the Regulatory Commission of Alaska to June 30, 2006.

### FINDINGS AND RECOMMENDATIONS

In our previous sunset audit, we made two recommendations. One of these recommended that RCA utilize findings from a study by the National Regulatory Research Institute. RCA has now reviewed the institute's report and responded to its findings with a variety of improvements. We thus consider RCA to have fully implemented this recommendation.

The other prior audit recommendation concerned the implementation of a management information system with a number of components. This recommendation was subsequently incorporated as a requirement within RCA's enabling legislation.

At this time, most components of the management information system have been substantially implemented on a piecemeal basis. However, we understand that RCA expects to have a fully integrated system, including the employee time tracking component mandated by statute, in operation by February 2002.

1. RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.

Alaska Statute 42.05.141(a)(1) empowers RCA to *"regulate every public utility engaged . . . in a utility business inside the state, except to the extent exempted by AS 42.05.711."* RCA's responsibility *"to regulate"* includes the certification of water and sewer utilities.

We noted 65 water systems and 65 sewer systems that are operating without RCA certification. Although the commission is generally aware of them, it has taken no action.

RCA should more proactively protect the public by investigating the status of new water and sewer systems as they come on line. The following options are available:

- Commence enforcement actions to compel certification applications.
- Streamline the certification filing requirements for small utilities to better reflect their operating environment. The data requirements may not need to be as comprehensive for smaller utilities. This may be one of reasons for the reluctance of these utilities to apply for certification.
- Exempt certain classes of utilities from certification under AS 42.05.711(d). The criteria could include such factors as the community size, number of customers, type of operating entity, and the system's predominant funding source.

If RCA elects to streamline the filing requirements or exempt certain classes of utilities, it should do so by regulation.

2. RCA should issue regulations that clarify use of its public advocacy section.
3. RCA's chair should ensure that the publication of notices of formal proceedings is monitored.

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA  
SUNSET REVIEW

November 30, 2001

08-20013-02

November 30, 2001

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA  
SUNSET REVIEW

November 28, 2001

Audit Control Number

08-20013-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 44.66.010(a)(4), the Regulatory Commission of Alaska is scheduled to terminate on June 30, 2002.

In our opinion, the termination date for this commission should be extended. The regulation of public utilities and pipelines contributes to the protection of the public's welfare. We recommend the legislature extend the termination date to June 30, 2006.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA). The purpose of this audit was to determine if there is a demonstrated public need for the continued existence of this commission and if it has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Regulatory Commission of Alaska should be reestablished. The law currently specifies that the board will terminate on June 30, 2002.

### Objectives

RCA was created to protect and promote the public interest by certificating and economically regulating qualified public utilities and pipeline carriers. It oversees the availability, affordability, and quality of utility services throughout Alaska. The primary objective of this audit was to determine whether the public need for this commission continues to exist.

A secondary objective was to review the commission's major functions, such as notice to the public, certification of utilities, tariff actions, and investigations and complaint follow-up for effectiveness in meeting the public need. A further objective was to evaluate these functions and the commission's overall operations for economy and efficiency of operation.

Our analysis of public need, findings and recommendations, and our conclusions have been summarized in the applicable sections of this report.

### Scope and Methodology

Alaska Statute 44.66.050 requires the factors outlined in the Analysis of Public Need section of this report be evaluated as part of this audit in order to determine need for the commission's continued existence.

To address these areas we:

- Interviewed commissioners and staff members.
- Reviewed applicable statutes and regulations.
- Contacted the acting ombudsman, assistant attorney general, Alaska Human Rights Commission, and Equal Employment Opportunity offices.
- Analyzed consumer complaints against utilities filed with the commission.

- Reviewed decisions made by the commission.

Additionally, we interviewed employees of various regulated public utilities and other public interest groups including:

Rural Utilities Service, U.S. Dept. of Agriculture	Denali Commission
Institute of Social and Economic Research	Chugach Electric
Alaska Rural Electric Cooperative Association	Municipal Light and Power
Alaska Village Electric Cooperative	Utility Service of Alaska
Alaska Telephone Association	Alaska Power & Telephone
Matanuska Telephone Association	United Utilities
Alaska Public Research Group	TelAlaska
National Regulatory Research Institute	AT&T

Our audit reviewed the operations and activities of the commission from January 1999 through November 2001.

## ORGANIZATION AND FUNCTION

The Regulatory Commission of Alaska was created July 1, 1999, upon reorganization of the Alaska Public Utilities Commission by ch. 25, SLA 1999. Under AS 42.04, 42.05 and 42.06, RCA is charged with the responsibility to ensure the furnishing of safe and adequate service to all public utility patrons, without discrimination and at reasonable rates, consistent with the interests of both the public and the utility. RCA certifies qualified providers of public utility and pipeline services. After issuance of this certificate, the commission also regulates the rates, classifications, rules, regulations, practices, services, and facilities of a public utility or pipeline, unless it is specifically exempted or has been deregulated by a vote of its customers. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

RCA regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable TV, and steam services. All pipelines, and all other public utilities with ten or more customers, are regulated by the certification process. Most are also economically regulated.

The commission consists of five commissioners appointed by the governor and confirmed by the legislature. The commissioners must either be a member in good standing of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited college or university. The commissioners serve six-year terms.

The staff of RCA is divided into the seven major functions of administration, finance, tariff, engineering, communication carriers, consumer protection, and public advocacy. RCA has 61 funded positions in its \$5.9 million FY 02 operating budget. A brief description of the services provided by each functions is as follows.

- **Administration:** The commission chair is responsible for fiscal and personnel administration, budget preparation, and records and document management. The chair is aided by a special assistant, an administrative manager, documents processing and accounting personnel, and other clerical support staff.
- **Finance:** This section examines, analyzes, and evaluates financial statements submitted for rate cases. It audits financial records of utilities and pipeline carriers and examines historical operating year data and pro forma adjustments. It presents these analyses at proceedings before the commission.

<b>Regulatory Commission of Alaska Members</b>
G. Nanette Thompson, Chair Term Expires July 2004
Bernie Smith Term Expires July 2003
Patricia DeMarco Term Expires July 2002
Will Abbott Term Expires March 2007
Jim Strandberg Term Expires July 2006

- Tariff: This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.
- Engineering: This section is responsible for certification proceedings and the investigation of utility and pipeline carrier procedures and practices affecting service quality. It also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These analyses are presented in proceedings before the commission.
- Common Carrier: This section was established to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the state involving the use of wire, cables, radio, and space satellites.
- Consumer Protection: This section investigates and resolves informal consumer complaints, and is responsible for public affairs and media relations as well as responding to information requests.
- Public Advocacy: This section was legislatively established upon creation of RCA. The public advocacy section operates separately from the commission and represents the public interest. The commission assigns cases to the public advocacy section when a public interest perspective would clearly add to the full development of the record.

## REPORT CONCLUSIONS

While the recommendations included in this report are intended to improve operations, in our opinion, the Regulatory Commission of Alaska operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide service at reasonable rates.

We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the termination date of the Regulatory Commission of Alaska to June 30, 2006.

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## FINDINGS AND RECOMMENDATIONS

In our previous sunset audit,<sup>1</sup> we made two recommendations. One of these suggested that RCA utilize findings from a study by the National Regulatory Research Institute. RCA has now reviewed the institute's report and responded to its findings with a variety of improvements. We thus consider RCA to have fully implemented this recommendation.

The other prior audit recommendation concerned the implementation of a management information system with a number of components. This recommendation was subsequently incorporated as a requirement within RCA's enabling legislation.<sup>2</sup>

At this time, most components of the management information system have been substantially implemented, but on a piecemeal basis. We understand that RCA expects to have a fully integrated system, including the employee time tracking component mandated by statute,<sup>3</sup> in operation by February 2002.

### Recommendation No. 1

RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.

Alaska Statute 42.05.141(a)(1) empowers RCA to *"regulate every public utility engaged . . . in a utility business inside the state, except to the extent exempted by AS 42.05.711."* RCA's responsibility *"to regulate"* includes the certification of water and sewer utilities.

Certain larger water and sewer utilities are subject to full ongoing economic regulation, such as the setting of prices. However, even the smaller utilities that are not economically regulated must obtain an RCA operating certificate, unless the agency exempts them under AS 42.05.711(d). This latter subsection permits RCA to *"exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest."*

Sixty-five piped water systems and 65 piped sewer systems do not have the required certificate to operate a utility. These systems are spread among 73 different operators, 52 (71%) of which are incorporated under Alaska law as second class cities. RCA is thus overlooking almost half of the State's 114 second class cities and not fulfilling its statutory role under AS 42.05.141.

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<sup>1</sup> Department of Commerce and Economic Development, Alaska Public Utilities Commission, audit control no. 08-1459-99 (December 23, 1998).

<sup>2</sup> Section 26 of ch. 25, SLA 1999 directs RCA to *"develop its management information system and make the system accessible to the general public through the Internet for the purpose of tracking, scheduling, and managing all dockets within the commission."*

<sup>3</sup> AS 42.04.070(a)(2) directs RCA's chair to *"establish and implement a time management system for the commission."*

The legislature has entrusted RCA with the legal responsibility for enforcing the certificate requirement,<sup>4</sup> but RCA takes no action to detect noncompliance. RCA has responded to certificate applications and to complaints, but has not pursued utilities that lack certificates, even though it is generally aware of the scope of this problem.

RCA should more proactively protect the public by investigating the status of new water and sewer systems as they come on line. The following options are available:

- Commence enforcement actions to compel certification applications.
- Streamline the certification filing requirements for small utilities to better reflect their operating environment. The data requirements may not need to be as comprehensive for smaller utilities. This may be one of the reasons for the reluctance of these utilities to apply for certification.
- Exempt certain classes of utilities from certification under AS 42.05.711(d). The criteria could include such factors as the community size, number of customers, type of operating entity, and the system's predominant funding source.

If RCA elects to streamline the filing requirements or exempt certain classes of utilities, it should do so by regulation.<sup>5</sup>

#### Recommendation No. 2

##### RCA should issue regulations that clarify use of its public advocacy section.

RCA has a public advocacy section of six employees. There is little statutory guidance as to the section's use, with AS 42.04.070(c) simply stating:

*The chair of the commission shall direct the public advocacy section to participate as a party in a matter when the commission believes that it is in the public interest to do so.*

Out of a total of 330 formal RCA proceedings filed since FY 00, the public advocacy section has been appointed in 71 (22%). However, RCA currently has no published procedures and criteria that guide when the section should be assigned to a case and how its intervention is to be accomplished.<sup>6</sup> Utility representatives expressed some concern to us about their uncertainty as to when a case would involve the section.

<sup>4</sup> See AS 42.05.181 – 42.05.201, 42.05.551 – 42.05.621 (administrative orders; injunctions; civil penalties).

<sup>5</sup> A regulation is required under the Administrative Procedure Act for a standard that "affects the public or is used by the agency in dealing with the public." See AS 44.62.640(a)(3).

<sup>6</sup> For instance, submission of a brief, testimony, or comment, rather than full formal participation as a party, may be adequate in some cases.

RCA should enact regulations that clarify the role of its public advocacy section. We further recommend that RCA's chair establish a definite linkage between patterns of complaints detected in its consumer complaint section and the priorities for public advocacy intervention.

Recommendation No. 3

RCA's chair should ensure that the publication of notices of formal proceedings is monitored.

Under RCA's statutes and regulations, whether RCA orders public notification of a proceeding, and the specific method to be used, is left to RCA's discretion to determine on a case-by-case basis.

RCA uses a variety of methods to notify potentially-affected consumers of formal proceedings. All notices appear on the Internet. Some are also placed in newspapers in the affected areas, posted at a local post office, or included with customer billings.

We selected 90 out of a total of 330 formal proceedings filed in FY 00 to FY 01 and reviewed RCA's elective choice to place newspaper notices in 55 of those cases. We found RCA's discretion in that selection to have been uniformly reasonable in light of the particular subjects and potential consumer impacts of the 90 cases examined.

However, we did discern a need for RCA to better confirm that newspapers actually print the requested ad and print it correctly. Of the 55 ads that RCA ordered, case files for only 36 contained any verification that the ad was printed.

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## ANALYSIS OF PUBLIC NEED

The following analysis of commission activities relates to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. This analysis was not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

***The extent to which the board, commission, or program has operated in the public interest.***

With the exception of smaller water and sewer utilities,<sup>7</sup> the commission has made a conscientious effort to allow only qualified applicants to provide utility services and to regulate them in such a manner as to ensure service at a reasonable cost. Upon finding that no public interest would be served by regulation, the commission administratively exempts certain utilities through its discretionary power granted by AS 42.05.711(d).

RCA also provides an active complaint resolution function. Exhibit 1 shows that RCA fielded a total of 682 complaints that were filed with it during FY 01.

<b>EXHIBIT 1</b>		
<b>TYPES OF UTILITIES INVOLVED IN CONSUMER COMPLAINTS FILED WITH RCA DURING FY 01</b>		
	<u>Number</u>	<u>Percent</u>
Telecommunications	549	80%
Electric	76	11%
Water / Sewer	18	3%
Refuse collection	14	2%
Natural Gas	22	3%
Cable Television	<u>3</u>	<u>1%</u>
<i>Totals</i>	<u>682</u>	<u>100%</u>

***The extent to which the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.***

To assess the impact of RCA's programs and procedures, we interviewed executives from the broad spectrum of affected entities. A dominant perception in these interviews was that, in comparison with the former Alaska Public Utilities Commission, RCA delivers substantially improved service in terms of interaction with the public, reduction of case backlog, and Internet access to information.

Another recurrent theme was the entities' uncertainty concerning the role of RCA's public advocacy section. Recommendation No. 2 addresses this concern.

A third prevalent theme in our interviews was the industry's desire for RCA to continue progress toward a paperless system. The industry is thus acknowledging that RCA has made some progress in this area, and the industry favors the concept.

<sup>7</sup> These are discussed later in this section of the report.

Internet filing of all pleadings and online access to entire case files would, of course, be ideal from the users' perspective. Nevertheless, our review of RCA's extensive home page shows that considerable case information, such as notices and orders, is already available.

Interviewees also mentioned disappointment in RCA's inability to implement the management information system envisioned by the new agency's enabling statute.<sup>8</sup> We understand that RCA expects to have a fully integrated system in operation by February 2002.

***The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.***

RCA was created at the beginning of FY 00. During this limited time, the agency has not seen a need to pursue any major changes in its statutes.

However, during FY 00 the legislature expanded RCA's jurisdiction to include the intrastate transportation of North Slope natural gas.<sup>9</sup> This amendment anticipates the possibility that a major gas pipeline may be constructed in the years ahead.

***The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.***

RCA's consumer complaint function is the most active indicator of its interaction with individual consumers. RCA generally preconditions its informal intervention on an initial attempt by the consumer to work directly with the utility in question. If RCA is unable to resolve the matter informally, the consumer has the option to pursue a formal complaint before the commission.

Such a service is obviously beneficial to consumers. However, it also alerts RCA to potential departures from its expectations for those being regulated. Such patterns may signal the need for RCA's chair to appoint the public advocacy section in particular formal proceedings (see Recommendation No. 2).

Exhibit 1 (page 11) shows that a total of 682 consumer complaints were filed with RCA during FY 01. Exhibit 2 (page 13) shows that 67-82% of these complaints, depending on the type of utility, were cleared by RCA within 15 days. Another 7-21% were cleared within a month.

<sup>8</sup> Section 26 of ch. 25, SLA 1999 directs RCA to "develop its management information system and make the system accessible to the general public through the Internet for the purpose of tracking, scheduling, and managing all dockets within the commission."

<sup>9</sup> See AS 42.06.230(b)(2).

RCA is thus quite responsive to consumer complaints concerning utility service. Exhibit 2 shows no major differences among utility types in the timeliness of response that RCA provides consumers, with 80-90% of each category being cleared within a month of receipt.

*The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.*

RCA encourages public participation through a variety of methods.

To begin with, the RCA home page is an exemplary tool for communicating with the public.<sup>10</sup> Notices of upcoming meetings and formal actions are posted there along with detailed annual reports, discussions of major utility issues, and invitations for the public to comment. Also, members of the public can place themselves on the "courtesy list" and receive direct e-mail notices concerning topics they select.<sup>11</sup>

Newspaper notices are still published in a large number of cases when that traditional method will be an effective means to reach the affected public.<sup>12</sup> In Recommendation No. 3, we suggest that RCA improve its monitoring of the newspaper notices.

Public postings at post offices are also used in some situations.

RCA's office has a computer terminal that the public uses to research agency records such as docket pages, orders and transcripts.

RCA's public advocacy section directly represents aggregated consumer interests in matters pending before the commission. We discuss the section further in Recommendation No. 2.

*The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.*

EXHIBIT 2 RCA'S TIMELINESS IN CLEARING CONSUMER COMPLAINTS FILED IN FY 01	
<b>TELECOMMUNICATIONS</b>	
Within 15 days	72%
Within 16-30 days	9%
Over 30 days	19%
	<u>100%</u>
<b>ELECTRIC</b>	
Within 15 days	67%
Within 16-30 days	21%
Over 30 days	12%
	<u>100%</u>
<b>OTHER UTILITIES</b>	
Within 15 days	82%
Within 16-30 days	7%
Over 30 days	11%
	<u>100%</u>

<sup>10</sup> Though the scope of available home page information is exemplary, it remains to be seen how frequently consumers will make use of it. RCA may wish to use home page statistical tools such as counters that register how many people visit RCA's various web site features.

<sup>11</sup> For e-mail "courtesy" notices, it would be helpful to individual consumers if they could use customized requests that limit notices to a particular utility provider or location of interest, rather than the current choice of all notices for a given utility type.

<sup>12</sup> Under RCA's statutes and regulations, whether RCA orders public notification of a proceeding, and the specific method to be used, is left to RCA's discretion to determine on a case-by-case basis.

The state ombudsman received only one complaint about RCA since its start in FY 00. The ombudsman found that RCA had appropriately responded to a consumer's dissatisfaction with a utility.

RCA has handled approximately 300 utility adjudications since its creation at the beginning of FY 00. Since RCA orders can be appealed to the superior court by dissatisfied parties, the prevalence of such appeals is another pertinent indicator of RCA's relationship to the public. The superior court has affirmed four RCA decisions and reversed another.<sup>13</sup> Two other cases are currently pending before the superior court. In short, RCA's workload is seldom challenged in, and even less frequently reversed by, the superior court.

***The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.***

Prior to granting a certificate of public convenience and necessity to a public utility, the commission determines that the applicant is fit, willing, and able to provide the service. To that end, it employs utility financial analysts and utility engineers to perform the appropriate analyses to make this determination.

In recent years, Alaska communities have received substantial state and federal funding to construct water and sewer systems. Nevertheless, a comparatively small number of new certificates have been awarded to operate such utilities.<sup>14</sup>

In fact, 65 piped water systems and 65 piped sewer systems do not have the required certificate to operate a utility.<sup>15</sup> These systems are spread among 73 different operators, 52 (71%) of which are incorporated under Alaska law as second class cities. RCA is thus overlooking almost half of the State's 114 second class cities and not fulfilling its statutory role under AS 42.05.141. Recommendation No. 1 addresses the options.

***The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.***

We found no evidence of RCA hiring practices or appointments that were contrary to state personnel practices. Since the establishment of RCA, no complaints have been filed with the Alaska Human Rights Commission, the federal Equal Employment Opportunity Commission, or the Office of Equal Employment Opportunity in the governor's office.

Two situations were reviewed under the Executive Branch Ethics Act. Both involved

<sup>13</sup> Some of these cases include work originated by RCA's predecessor (the Alaska Public Utilities Commission). Further appeals to the Alaska Supreme Court are pending in two of the five superior court cases (including the reversal).

<sup>14</sup> Since the prior sunset audit (December 1998), RCA has received applications to operate water or sewer systems from only eight utilities.

<sup>15</sup> Under RCA's enabling legislation, systems with at least 10 paying customers are considered to be "utilities" for the purpose of the operating certificate requirement.

technical conflicts of interest that were eliminated to the satisfaction of the assistant attorney general who investigates such matters.

*The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.*

Please refer to the Findings and Recommendations section.

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**APPENDIX A**

Regulatory Commission of Alaska  
 Summary of Expenditures  
 FY 01 – FY 02  
 (unaudited)

Expenditures <sup>16</sup>	FY 01 Authorized	FY 01 Actual	FY 02 Authorized
Personal Services	\$ 3,423,700	\$ 3,402,800	\$ 3,736,500
Travel	52,200	72,400	55,000
Contractual	1,808,700	1,583,600	2,005,500
Supplies	62,500	48,600	62,500
Equipment	<u>13,800</u>	<u>150,800</u>	<u>13,800</u>
<b>Total</b>	<u>\$ 5,360,900</u>	<u>\$ 5,258,200</u>	<u>\$ 5,873,300</u>

Source: The information included in this summary was obtained from the State's accounting records.

<sup>16</sup> Under AS 42.05.254, RCA assesses utilities and pipelines a regulatory cost charge designed to recoup its costs.

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December 26, 2001

Pat Davidson  
Legislative Auditor  
State of Alaska  
Legislative Audit and Budget Committee  
P. O. Box 113300  
Juneau, Alaska 99811-3300

Re: Audit Control Number 08-20013-02  
Response to Preliminary Audit Report / Regulatory Commission of Alaska

Dear Ms. Davidson:

The RCA appreciates the audit's conclusion that our agency operates in a reasonably effective and efficient manner and should continue its mission for an additional four years. We will implement the recommendations set out in Management Letter No. 1.

Recommendation No. 1

*RCA should either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation.*

We recognize that there are at least 130 uncertificated water and sewer systems in this state. This issue was inherited from our predecessor agency and has been exacerbated in recent years, as grant funding became available to construct new water and sewer systems in rural Alaska. Applying for certification has not been part of the process of establishing these new systems. We are analyzing this problem to understand how to solve it, and expect to begin implementing the solution within six months.

To address this problem, we need to coordinate with other state, local and federal agencies and authorities. We have been working with them to understand the RCA's role in assuring the future sustainability of these small water and sewer utilities to properly gauge our level of regulatory oversight. We agree that

our procedures should be standardized and made appropriate for utilities of this size and nature. A staff working group within the RCA is actively working on this matter.

After the streamlined procedures are available, we plan to notify all of the certificated utilities of the certification requirement and provide them with compliance information. If they do not respond within a reasonable time, we will consider enforcement actions.

If our analysis concludes that some classes of utilities should be exempted, we will propose and notice regulations. Because this issue is likely to evoke considerable public interest and comment, it will probably be at least nine months from the date that regulations are originally proposed at one of our public meetings until the regulations are finally adopted.

#### Recommendation No. 2

*RCA should issue regulations that clarify use of its public advocacy section.*

In the past two years we have gained enough experience with this section's operation to propose clarifying regulations. We agree that this recommendation is timely and have prioritized it among our current regulations projects accordingly. We estimate that these regulations will be approved and in place by the end of 2002.

#### Recommendation No. 3

*RCA's chair should ensure that the publication of notices of formal proceedings is monitored.*

We thank the audit team for bringing this to our attention. We are internally discussing procedures to ensure that the required public notices are published. Monitoring publication of public notices is complicated by the requirement that the utility, not the Commission, pays for publication of the notice. Also, by regulation competitive local exchange telecommunications carriers draft their own notices and arrange for their publication. This recommendation highlights an important underlying issue of how the public can effectively be notified about changes in utility services that we will address.

One of the RCA's main goals is to increase consumer awareness through effective public notice. We have developed an improved Web page and copies of notices are e-mailed or are available electronically through our site. Recognizing the limitations in any one approach, we are exploring the use of

Response to Preliminary Audit Report  
December 26, 2001  
Page 3 of 3

more Public Service Announcements, press releases, and billing inserts to better and more timely inform utility customers. For FY02, we budgeted for a new Consumer Protection and Information Officer position to facilitate more community outreach.

As part of our new MIS system, the RCA database has been redesigned to record the receipt of affidavits of publication. By the end of February 2002, we will be able to monitor publication issues through this system. As we continue refining our public notice methods, we may implement other changes as well.

We appreciate your diligence and the time spent to prepare your findings and recommendations. We are pleased that the audit confirms our hard work and the improvements in our agency's operations over the past two years.

Sincerely,

REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson  
Chair