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# REPORT ON THE ALASKA PUBLIC UTILITIES COMMISSION

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## INTRODUCTION

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

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

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

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

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

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

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

## PART I

### APPLICATION OF THE COMPETING VALUES MODEL

Robert Quinn of the University of Michigan has developed one typology of organizational change that may hold great promise for the analysis of public utility commissions as they undergo transformation in response to their evolving environment.

His model focuses on the inherent contradictions of organizational life and is referred to as the competing values model.<sup>1</sup>

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

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

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

<sup>2</sup> *Ibid.*, 36.

<sup>3</sup> *Ibid.*

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

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

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

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

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<sup>4</sup> Ibid., 37.

<sup>5</sup> Ibid.

APUC as it exists now; Figure 3 describes the APUC as those who completed the analysis would prefer it to be.

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

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

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







## PART II

### ANALYSIS OF ORGANIZATIONAL COMPONENTS

The components examined and explained in Part II are:

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

### GENERAL FACTORS

#### Overall Commission Functioning

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

Despite the range and depth of problems cited by those interviewed, several of those interviewed cited the fact that APUC decisions are rarely overturned in court. Most cited the competence of the staff and its ability to focus on the real task of the Commission despite constant emergencies and a very heavy workload. Though some are concerned that current difficulties may eventually limit the ability of the APUC to do

its job, there seemed to be no doubt that overall the APUC has accomplished its mission up to this point even considering the substantial increase in the APUC workload following industry restructuring.

### Leadership

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

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

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

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

deficiency identified by those interviewed.)

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

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

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

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

## MORALE

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

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

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

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

## **COMMISSION STRUCTURE**

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

The APUC is divided into four major layers. The Commissioners and paralegals assigned to them form one level; the Hearing Examiner, Assistant Attorney General,

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

**Observation: Administrative authority is best consolidated at commissions.**

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

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

The APUC technical staff are organized largely by discipline (e.g., Engineering) with the exception of the Common Carrier section that has responsibility for communications-sector matters. Overall, the structure, which is duplicated at other commissions around the nation, appears to be an appropriate one. Some interviewees remarked that the Common Carrier section holds a special status within the technical

staff. But the success of the Common Carrier section in weathering and indeed mastering changes in telecommunications policy the last several years is good reason for them to be "the fair haired division," as one person we interviewed put it. The hybrid organization of sections (with both utility and functional sections) works well for commissions when combined with a team approach to assigning responsibility for cases. For the APUC, other sections need to be strengthened, rather than the Common Carrier section weakened.

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

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

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

## STAFFING

**Observation: Commissioners need more staff support for decisionmaking.**

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

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

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

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

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

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

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

## MANAGEMENT INFORMATION SYSTEMS

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

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

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

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

A concerted initial effort to reduce case backlog and identify areas where timeliness must be improved will help to clarify the needs for outside help on developing

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

## **COMMISSION PROCESS**

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

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

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

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

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

The first step is to identify more clearly the nature of the backlog by industry and current status. The Executive Director may want to reinstitute meetings on the status of all current dockets. Such meetings can be used to rearticulate priorities and possibly

batch similar cases, such as telecommunications promotional offerings, for expedited treatment. The Commission may wish to consider using temporary resources to help reduce the backlog at this stage, although simply hiring permanent staff as quickly as possible in key areas may be enough.

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

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

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

Several methods for streamlining case processing were identified by those interviewed. They included the issuance of one-page orders for procedural issues, an attempt to limit the number of pre-hearing conferences, allowing the hearing examiner to conduct pre-hearing conferences, better use of the paralegals, and making better

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

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

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

A majority of the substantive work of the APUC has been performed through formal adjudicatory processes that emphasize due process, which includes the requirements that Commission rulings be based on the public record accumulated in

the course of the proceedings and that there be a separation of functions between those who make the decisions and those who argue before them on behalf of specific positions. These adjudicatory and often confrontational processes work best in matters of retrospective fact-finding and in those cases where winners and losers can be identified. They worked well when the majority of the Commission's work was the setting of utility rates and when specific utility interests conflicted with the interests of ratepayers. Unfortunately, they do not work as well for future-oriented establishment of policy or in finding creative or collaborative solutions to public policy problems.

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

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

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

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

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

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

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

experienced in the development of support systems for management, to improve the timeliness of case processing.

## **EXTERNAL RELATIONS**

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

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

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

## **CONSUMER PROTECTION**

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

Although everybody the NRRI interviewed who commented on the Consumer Protection section agreed that it is functioning very well, there are incipient signs of overload. The section is quite self-sufficient, while not isolated from other sections, but does receive support from other staff on particularly knotty technical complaints. Complaints on telecommunications service have increased dramatically, due to the advent of competition. Disposition of a complaint takes up to six weeks and the average time before resolution is becoming longer because complaints are not only more numerous but more complicated than in the past. Interviewees reported an increase in carrier-to-carrier complaints, which are now being treated as informal complaints but may need to be upgraded to formal ones if they continue at the current rate. Solely on the basis of the strain on the capacity of the section due to increasing consumer complaints, a case can be made for providing additional support to this section, both clerical and professional.

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

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

In Commissioners' Summit conferences held under the aegis of the NRRI and NARUC, commissioners from around the United States have agreed that in the near future much of the work of public utility commissions will be directed toward protecting consumers in restructured markets and educating them. Competition cannot work well unless consumers have the information, ability, and motivation to make informed choices. A proactive media strategy is also a tool for consumer education, especially

since the movement towards deregulation means that some legislators and members of the public may not fully understand the APUC's changing role. Consumer affairs, including complaint handling, consumer education, and public relations, will not be a tangential function, but a central one. Many state commissions are actively engaged in shifting towards a "consumer-centered" orientation.

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

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

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

telecommunications.

## **INFORMATION FLOWS/COMMUNICATIONS**

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

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

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

In a traditional commission, staff is highly specialized not only in their tasks but in the type of information they present as testimony. Both substantive and process information are necessary to smooth commission operations. Process information includes such matters as case dockets, timeables, budgets, and assignments. Cases are developed and executed in the form of testimony (the primary substantive information) presented by all parties from their individual points of view, with a decision rendered on the evidence by the full commission. There is a presumption that the staff point of view, company point of view, and the views of other interested parties are sufficient to give commission decisionmakers the ability to decide for that particular company in that rate case. In the traditional commission organization, marked by

adversarial proceedings, communication is very much on a "need-to-know" basis. If errors are to be made, the traditional commission preference is to make them on the side of too strictly limiting information flows rather than allowing too much out into the open.

The APUC, because of the state's unique energy situation, is to a greater extent than many commissions in the lower 48 still appropriately a traditional regulatory agency. But the Commission is affected by transition in the electric industry and is fully involved in restructuring of the telecommunications industry. In this time of great change, everyone at the APUC is struggling to make sense out of ambiguity. In this environment, more emphasis is needed on substantive communications about nonprogrammed activity, especially that related to initiating and establishing new programs. Process information, so essential to the efficient functioning of a traditional agency, becomes more the servant of substantive informational needs in an agency in transition. For all involved, both Commissioners and staff, the available information is likely to seem incomplete and unsatisfactory compared to earlier times.

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

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

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

Commissioners say they find it difficult to obtain the information they need to frame issues and make decisions. One Commissioner commented that staff likes to

work independently but that Commissioners need to hear the opposing viewpoints from staff. Commissioners remarked that they do not have contact with individual staff and that information is tightly controlled. Sometimes staff input may be quite technical and quantitative, without an understanding of the context of the hearing, suggested a Commissioner. One Commissioner remarked that a presentation from Alascom, set up in an effort to broaden external sources of information, provided more information "than we ever could have otherwise [gathered]."

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

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

Clearly, Commissioners need to have more information earlier about cases they will be deciding. But this is not a one-way street. It requires effort on the part of Commissioners as well as staff. In the past, commissions decided issues that were arcane but well-bounded. Today the issues are often strategic ones, but decisions still

depend for their impact on complicated operational considerations. One way to help commissioner preparation on cases expected to come before them is for the Commissioners to prepare an "issues list" comprised of questions they would like answered and circulate it to staff well before a hearing. Staff might also provide Commissioners with "must read" documents, again well before an actual hearing, perhaps even before the circulation of the list of issues. Commissioners would read the documents and prepare their questions, so that they can learn what they need to know in each major case and generic proceeding.

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

### **PART III**

## **OVERALL CONCLUSIONS**

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

- Commissioner-staff and Commissioner-to-Commissioner relations, which includes issues of leadership and morale
- Timeliness
- The quality and speed of Commission orders
- The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels.
- Electronic filing and management information systems.

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

## APPENDIX

### COMMENTS RECEIVED IN INTERVIEWS

#### OVERALL COMMISSION FUNCTIONING

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

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

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

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

#### LEADERSHIP

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*It's bad for morale to have lazy Commissioners.*

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

*Industry has fear of reprisals.*

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

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

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

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

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

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

*Having hearings at 8:30 was impossible.*

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

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

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

## **MORALE**

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

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

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

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

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

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

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

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

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

*There is high stress.*

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

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

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

*Low morale is leading to attrition.*

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

*The trend is in a bad direction.*

*In general, employees are not treated well.*

*We're in meltdown.*

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

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

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

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

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

## **COMMISSION STRUCTURE**

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

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

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

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

*The hybrid structure works well as an allocation of resources. Resources are where the*

*tasks are. If organized by utility sector, expertise would be tailored by sector. Structure gives flexibility because you can form teams.*

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

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

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

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

*It would help accountability to reorganize.*

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

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

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

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

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

## **STAFFING**

*The process does not support Commissioners.*

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

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

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

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

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

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

## **MANAGEMENT INFORMATION SYSTEMS**

*I sometimes feel that procedures are crumbling here.*

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

*We should get more efficiency rather than hiring more people.*

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

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

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

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

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

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

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

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

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

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

## **COMMISSION PROCESS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*that the Commission might have been vindictive. There seems to be some unevenness in the application of due process — sometimes overly rigid.*

*There has been little use of alternative methods of dispute resolution (ADR). The lack of skilled staff and the governing statutes prohibit better use of ADR. Stipulations are sometimes reached after dockets are filed. In a fairly high percentage of cases, there is some stipulation. Sometimes Commissioners want a detailed overview of stipulations. Staff might be too disputative to serve as mediators.*

*The Executive Director leads the advocacy team and does a final review of the staff case. The Docket Manager is the day-to-day leader. All voices are heard in case development. Sometimes the Executive Director overrules staff.*

## **EXTERNAL RELATIONS**

*The legislative experience of Commissioners is an asset. The Legislature has been responsive to the difference between the APUC and other agencies. The Commission is frequently asked for advice by the Legislature. The Legislature regards the Commission as a resource. The Commission has a good relationship with the Legislature. The Commission attempts to avoid lobbying. The relationship with the Legislature has been reactive except in limited situations.*

*The environment is more political than in the past. There is now more interaction with the Governor. Commission decisions are rarely overturned. There is now more contact with the public, which is more knowledgeable than before.*

*Commissioners have limited contacts with external stakeholders due to lack of time. Overall, external relations are good. Public contact is increasing and the public is now more knowledgeable. The public doesn't understand the Commission process.*

*Some regulated utilities might be afraid to be direct with the Commission for fear of reprisals. They are definitely frustrated by the lack of timeliness and the concern with form over substance.*

## **CONSUMER PROTECTION**

*The Consumer Protection section is working well.*

*I'm totally satisfied with the job Consumer Protection does.*

*I see no problems in consumer affairs [Consumer Protection]. [As a technical staff person] I get involved in lots of the complaints.*

*The state does not have a consumer protection agency. Consumer protection needs to be beefed up. It should be at the forefront of what we do.*

*There has been a dramatic increase in complaints in telecommunications. We now have three competitors in Anchorage.*

*The number of complaints has doubled and there are only two intake people. The section cannot do administrative stuff [because the complaint handling takes all the time]. The section was promised a half time clerk but received a one-quarter [-time clerk] instead. Disposition of a complaint takes up to six weeks. It's taking longer because complaints are becoming more complicated. Telecommunications is the majority of the complaints.*

*There are not enough resources and [there is] high stress. The Consumer [Protection] section should have enough resources to do what other commissions are doing in this*

area.

*They [Consumer Protection section] keep to themselves. They get a lot of work. Complaints have risen. They do call on me [a technical staff person] for assistance, such as drafting letters. Sometimes (but rarely) I talk to consumers.*

*There is not enough community outreach. I would like the Consumer Protection section to do more.*

*A Consumer [Protection] section representative does do some outreach — visiting churches and senior groups.*

*The amount of time it takes the Commission to decide issues harms [the] Consumer Protection [section]. Often the Commission has to be defended for delays. Consumers may think that information is being withheld [when in fact there has not been a decision].*

*Commissioners should not promise results from the Consumer Protection section. Often the issues they refer are not even jurisdictional to the Commission.*

*The Consumer [Protection] section reports to the Commission once a month in a public meeting.*

*The Consumer [Protection] section does not prepare literature on the Commission.*

*The Commission used to be more consumer conscious. As the state becomes more deregulated it will become more important to consider consumers.*

*The Consumer [Protection] section has cooperative relationships with larger utilities [for complaint resolution].*

*The Consumer Protection section is starting to get utility-to-utility complaints, or a utility filing complaints on behalf of customers of another utility. These are now being treated as informal complaints but are typically complex issues. The APUC wants to [handle a complaint of this sort] quicker as an informal complaint but may have to bump them up to formal complaint status.*

*Consumer complaint processing is a slow process. It would be good to shorten the time period for a utility to respond to a complaint.*

## **INFORMATION FLOWS/COMMUNICATIONS**

*The Commission arranged a presentation from Alascom in an effort to broaden external sources of information. This was successful — more information than we ever could have otherwise.*

*Communications among Commissioners are good. The Chairman is very informative.*

*Communications are fairly good: this is a small community. But sometimes the Commission has questions for staff that come out at a hearing but would be nice to know about ahead of time. It would be good to know what information they're seeking. The scope of a proceeding and Commissioner questions are sometimes not clear. I'm not sure how you'd do this effectively.*

*The staff is less politically aware [than Commissioners] and technical staff may respond to Commissioner concerns in numbers, without input in the context of a political situation.*

*There probably is some isolation for Commissioners.*

*We have problems with information flow. Every Commissioner who is not the Chair complains they have no idea what's going on.*

*Staff likes to work independently but Commissioners need to hear opposing viewpoints in staff. We don't have contact with individual [staff]. Information is tightly controlled.*

*External communications are limited for the Commission. The Commissioners keep getting down to details and don't have time to understand the substantive issues.*

*There is room for improvement on vertical communications. We are an hourglass with the Executive Director in the neck.*

*It's not always clear what Commissioners want. We have Commissioners who want to administer and an Executive Director who does substantive stuff because that's where the vacuum is.*

*Internal communications are poor.*

*Lack of communication [is a problem]. Lateral communications are better than vertical but lateral aren't great. If you're not working on an order it doesn't get to you. We should have electronic means to see a brief summary of an order [because there may be one related to one you are working on].*

*These Commissioners rely a lot on industry. They get a sense of what's important and what industry wants. Often the Commissioners come in with their minds made up. In adjudicatory hearings it's even more obvious.*

*Out of necessity, the Administrative division has become very close.*

*Commissioners do not respond to their e-mail.*

*We have differences of opinion partly because we have Commissioners that aren't thinking alike [aren't evenly prepared on substantive matters].*

*Communications are laterally good and vertically relatively cordial.*

*The Commission considers staff the enemy because "you're staff" or because "they know more than we do."*

*It is disheartening when you are named to brief the subject and they [the Commissioners] argue with you with no information.*

*There is not always clear direction from Commissioners about what they want [from staff advisers]. Since you don't know what they want, it is hard to prepare.*

*This place is a big gossip house. But you don't get communications on things you need to know and aren't told. Commissioners' information doesn't flow down. They don't know what demands they're placing on us.*



2



**EVALUATION OF THE REGULATORY COMMISSION OF ALASKA:  
A FOLLOW-UP REPORT**

by

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## EXECUTIVE SUMMARY

In 1998, the National Regulatory Research Institute (NRRI), under contract, prepared a review of the Alaska Public Utilities Commission (APUC). That report identified a number of areas in need of attention. They included Commissioner-staff and Commissioner-to-Commissioner relations, timeliness, the quality and speed of Commission orders, and management information systems.

In April of 2000, the NRRI began under contract a similar review of the Regulatory Commission of Alaska (RCA), the successor agency to the APUC. Eighteen RCA stakeholders (Commissioners, staff, and external stakeholders) were interviewed. Their names are listed in Appendix 1; their comments are included in Appendix 2.

Overall, it appears that each of the areas identified in the first review as being in need of attention has experienced substantial improvement. Of particular note are the perceptions of Commissioner competence and hard work, the high regard for the Chair, improved morale, the reduction of the backlog in cases, improved information flows, the potential for the newly established Public Advocacy Section to provide effective advocacy and clarify staff roles, the additional authority of the Chair, the potential for the new management information system to even further improve communications, the establishment of an MIS unit, a better balance between due-process concerns and Commission effectiveness, and better external relations.

Given the success so far of the RCA, areas for concern are limited. They include the potential for the high workloads to undermine morale over time, the continued evolution of the PAS and the role of advisory staff, the staffing and role of the Consumer Affairs Section, staff training, the current heavy reliance on the Chairman, and the overall pace of change at the RCA.

## INTRODUCTION<sup>1</sup>

In an era of rapid change for the regulation of the nation's public utilities, the State of Alaska in 1999 elected to hasten that change process by abolishing the former Alaska Public Utilities Commission (APUC) and establishing the new Regulatory Commission of Alaska (RCA) in Senate Bill 133. Though that new regulatory commission might still be regarded in being in its formative stages, the members (Commissioners) of the RCA and its Chair determined that an early assessment of the Commission was warranted in order to identify early problems and assess the extent of the new Commission's success. Such a self-assessment also presents an opportunity for commission staff and stakeholders to provide input into the direction of commission change. In February 2000, Chairman G. Nanette Thompson contacted the National Regulatory Research Institute (NRRI) to inquire as to the feasibility of a contract with the NRRI to review the operations of the RCA. A contract was finalized in May, though interviews with key stakeholders began in April.

The NRRI has some familiarity with regulatory operations in Alaska. In 1998, the NRRI conducted a similar review of the APUC. That review was presented to the Public Utilities Commission in a report entitled *Report on the Alaska Public Utilities Commission* dated October 1998.<sup>2</sup> That report identified a number of significant challenges facing the Public Utilities Commission.

To accomplish this current assessment, the author interviewed nine RCA staff, the five Commissioners, and four external stakeholders. The persons interviewed are identified in Appendix 1. Their aggregated comments are included in Appendix 2. Commitments were made to those interviewed to keep input confidential (i.e., not to link names to comments). The results of the NRRI inquiry are contained in this report, grouped generally by the major components used in the first NRRI report. A brief

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<sup>1</sup> Special thanks is given to Dr. Vivian Witkind Davis, a co-author of the NRRI report on the APUC, for her review of this report.

<sup>2</sup> David W. Wirick, Vivian Witkind Davis, and Douglas N. Jones, *Report on the Alaska Public Utilities Commission* (Columbus, Ohio: National Regulatory Research Institute, 1998).

summary of the findings of the first report are included for each component so that comparisons can be drawn. Those findings of the NRRI report on the APUC are printed in *italics* to distinguish them from the findings of this current report.

Reports of this type are necessarily somewhat subjective. In that sense they are always limited and imperfect. The task, of course, is to attempt to be fair and accurate, and the author has tried to be both in his assessment. His comments are informed by his extensive exposure to state public utility commissions throughout the country. Though the circumstances that surround the RCA are unique, as are the circumstances of each state public utility commission, some comparisons can be drawn and judgements made. The report avoids references to the behavior of specific individuals, unless the performance of the individual presents a challenge for the organization as a whole. Fortunately, in the case of the RCA it was only exemplary behavior of key persons (and the potential difficulty of replacing them if they were to leave) that was most commonly cited.

As will be seen, this report is largely and, perhaps uncommonly, positive in its assessment and tone. That tone should not be regarded as arising from an unwillingness to be critical of regulatory commission operations if a critical response is warranted. Nor has the report glossed over necessary areas for improvement with indirect writing. In fact, this report does point out a number of areas that may cause problems at some later point. But, overall, those interviewed for this report provided nearly unanimous, though occasionally guarded, support for the work of and prospects for the RCA. The tone of the report is necessarily reflective, therefore, of the tone of stakeholders.

## **ANALYSIS OF ORGANIZATIONAL COMPONENTS**

The components examined and explained in this report are:

- General Factors
- Communications

- Morale
- Commission Structure, including discussion and analysis of the changes in structure caused by the legislation that established the RCA.
- Staffing
- Management Information Systems
- Process
- External Relations
- Consumer Protection
- General Comments

Each component is discussed in turn.

### General Factors

*In the first report, a considerable range and depth of problems was cited by those interviewed. Problems included leadership, though interestingly, the word "leadership" was not actually spoken by any of the interviewees at that time. But a number of the perceived difficulties emphasized by them harken back to the leadership of the APUC. In the course of sustained discussions with those interviewed, several opportunities for collective leadership by the Commissioners (mostly of the "lead-by-example" variety) were identified. It is, of course, true that staff do not always know or appreciate what exactly constitutes a Commissioner's workday. However, perceptions that Commissioners did not "pull their weight" were voiced several times in interviews.*

*To be fair, several of those interviewed cited the fact that APUC decisions were rarely overturned in court, and most cited the competence of the staff and its ability to focus on the real task of the APUC despite constant emergencies and a very heavy workload. Some were concerned that the then current difficulties might eventually limit the ability of the APUC to do its job.*

For this review (of the RCA), those interviewed were first asked if the Commission is accomplishing its mission. Responses were positive but sometimes cautious. Representative comments were:

- There is a more cooperative effort among Commissioners, which is apparent to staff.
- The Commission is doing its job but it has taken work and is very challenging.
- The boat is turning but won't turn overnight.
- This Commission is making a difference.
- It may be too soon to know about substance.
- There is a lot of stress on staff and no extra help. Productivity is up.
- The Commission is on a learning curve. In the long-run, it is likely to be positive.

Those interviewed were then asked if things were better now than before the abolishment of the APUC. They all suggested that things are, in fact, much better than before. Representative comments include:

- Things are going really well.
- A better structure is in place now.
- The RCA is functioning as a Commission.
- There is a conscious effort to get things done.
- I have the utmost respect for Nan (i.e., Chairman Nan Thompson).
- It is much better than before and as good a commission as Alaska has ever had.

Overall, comments regarding the ability of the RCA to accomplish its mission were positive as were the assessments that the RCA is doing better than its predecessor. Cautions were expressed about the learning yet to be done, the extreme work load (in part occasioned by the backlog that will be discussed later), and the RCA's reliance on the current Chairman, about which more will be said later in this report. *Concerns that Commissioners were not "pulling their weight"* seemed to be

dramatically changed with the arrival of the five new Commissioners, whose work ethic is highly regarded. More about that is said later in this report.

## Communications

*In the first report, those interviewed identified a number of communications problems. One of these was improving vertical communication throughout the agency. (Reportedly, horizontal communication was adequate.) Another opportunity cited was to introduce and conduct a systematic training and orientation program for new personnel at all levels. A third, and perhaps most important, problem identified was the impact of the docket backlog including tariff filings and devising procedures and practices that lead to prompt resolution of cases. Those interviewed were critical of unnecessary delays in case processing, of too frequent use of suspensions and extensions, and of applications taking effect by default.*

Perceptions are that vertical communications are much better now. Commissioners are cited as being approachable, and section heads are meeting with their staffs regularly following their meetings with the Chair. Communications can always bear improvement, and they continue to be worked on at the RCA.

Given the amount of turnover and new hires, the orientation and training of new staff is key. Fortunately, some of those new staff came to the RCA with knowledge of the industry. On-the-job training appears to be the norm, though some training is provided at external training opportunities (such as "Camp NARUC"), and existing staff are cited as being helpful.

The docket backlog is a clear problem, but one that is being worked on. Some cite the backlog as being 500 cases in the system plus another 250 that had not been assigned when the RCA was created. It is also cited as being a frustration. The orders that are being issued for those backlogged cases are, according to at least one of the persons interviewed, of little value because of their age. Commission efforts to clear the backlog are being applauded.

As to whether the interaction between Commissioners and staff is productive,

comments were generally positive. Staff cite the approachability of Commissioners; Commissioners, in turn, describe staff as cooperative. A feeling of mutual respect appears to exist. There is some sentiment, however, that some staff may not be fully committed to the changes being made.

Commissioners are cited as working well together, which had reportedly been a problem for the APUC. Again, an attitude of mutual respect seems to prevail. In addition, staff and stakeholders are impressed with the work ethic of the Commissioners. They are putting in long hours and have, in the words of one person interviewed, "a sense of the public interest."

There seems to be a concerted effort to ensure more effective information flows at the RCA. The Chairman, one person noted, will intervene when necessary. Though from many perspectives, information flow is adequate, some cite problems. One person suggested that there is still a bit of the "I know something you don't know" mentality, and that mail sits when someone is out. (Using the courier for mail has helped.) Staff are cited as providing necessary information to Commissioners, though the workload and backlog have gotten in the way.

Overall, it appears that communications within the RCA are good. That they are regarded so highly given the rapid pace at which the Commission is moving, the high work volume, and the extent of the changes being made is remarkable. Commissioners, staff, and stakeholders appear to have high expectations for performance of the RCA; caution might be warranted to ensure that unrealistically high expectations are not created and that the pace of work, though necessary in the short term, does not serve to create staff and commissioner burn-out if continued for the long term.

## **Morale**

In this era of rapid change for regulatory commissions, it is not uncommon to discover fairly low morale, particularly among staff for whom employment might be more uncertain than in the past, for whom the job requirements and skills necessary are changing, and toward whom substantial stakeholder dissatisfaction with the regulatory process is being directed. *In the NRRI review of the APUC, comments from quite a few, though not all, interviewees indicated that a morale problem existed at the APUC that might exceed national norms.*

It is apparent that morale at the RCA is much improved. Better communications, the perceived better treatment of staff by Commissioners, and staff confidence that things are changing were cited as reasons. Impediments to higher levels of morale are the workload and the turnover particularly among clerical staff. Two of the people interviewed expressed concern that morale might be lower among the staff most closely affiliated with the Commissioners because of the extent of the changes there. The Commissioners have sponsored and organized staff events, which seem to have been well-received, and a new evaluation form has been created to provide staff feedback on their performance. One cited deficiency was the lack of an RCA mission statement. As the regulatory environment changes, an evolving mission statement might help staff clarify its role.

### **Commission Structure**

Structure refers to an organization's relatively stable activities over a period of time, often reified as an organization chart. In this report, it also refers to the new tools and processes adopted by the RCA or mandated by its defining legislation. *It was reported in NRRI's interviews for the first report that some APUC Commissioners were perceived as being too involved with administration and that this involvement might inhibit their consideration of the important issues facing the commission. Some concern was expressed that the assignment of management information systems (MIS) responsibilities to the Engineering Section had the potential to overwhelm that section and to get in the way of other engineering functions.*

When the RCA was established, several structural changes were made. They included:

- The legislation establishing the RCA requires a time-accounting system, and the charge to the utilities for support of the RCA is now based on time charges rather than utility revenues.
- An MIS system is being put in place as an aid to external users and internal management.
- The RCA is now using the Internet to publish information, orders, and dockets.
- The Chair was provided more authority.
- The legislation gave the RCA the authority for three Commissioners to hear cases. (One person interviewed believes that this authority existed before but was not used.) This is more efficient than the requirement that all five sit on cases.
- The legislation gives the RCA the authority to use arbiters and hearing officers.
- The Executive Director position was abolished. An assistant to the Chair (described by one person as a "Super Assistant" position) has assumed some of the coordinative duties previously accomplished by the Executive Director and, reportedly, some additional duties have fallen to the Chair.
- A Public Advocacy Section (PAS) was established. This section performs the advocacy function formerly performed by a much larger number of staff. It is assigned to cases by the Chair or can petition to intervene. The establishment of a PAS-like entity had been supported by industry.

Of these changes, the creation of the PAS seems to be the most significant. For one thing, it should provide Commissioners more staff advisory assistance, *which appeared to be lacking in the NRRI review of the APUC. Those interviewed then expressed concern that the assignment of existing staff resources of the APUC did not give adequate attention to the advisory function.*

Clearly, the PAS is just getting underway, and it may be too early to tell how it might affect the RCA and the regulatory process. There is some concern that it may not have enough staff to accomplish

the desired functions. There is also some concern that the other Commission staff (those assigned now to the "advisory" function since the PAS will handle "advocacy") may not have fully adjusted to their new role.

That clear separation of duties may evolve with time. Some concern was also expressed that some external stakeholders may be uncomfortable with the closeness of advisory staff to Commissioners and that advisory staff input is not subject to cross-examination. This too might abate over time.

Overall, it appears that the RCA is functioning well without an Executive Director. Two of those interviewed stated that it is sometimes unclear who to go to on particular issues and that a gap exists, but the majority of those interviewed expressed the belief that the lack of an Executive Director is not a problem. On the plus side, the Commissioner Assistant seems to be picking up coordinative duties well, department heads have more authority now, and there is now more direct staff access to the Chair.

In the new organization, the Chair was provided more authority, including decision authority in procedural matters. Overall, that seems to be an improvement. Those interviewed observe that the Chair and her Assistant are highly thought of, that things are being worked out, that the Chair is not a "power monger," that the other Commissioners defer to her appropriately and support her leadership, and that she is giving more authority to department heads. If problems exist, they may be embedded in her work load and the extent to which the substantial success of the RCA might be related to her competence and hard work. (It should be noted that all five Commissioners were cited for their attitude and hard work; the Chair seems to be regarded as the most able person in a very able group.) Some commented that more delegation from her may be necessary.

## Staffing

In response to questions about the adequacy of staff support, comments were again directed toward the evolving advisory versus advocacy role of staff. It was noted that the RCA is not overstaffed by any means. Problems noted were the lack of strong leadership on the staff at the "sergeant" level, the backlog, recruiting difficulties, the need for the PAS to get staffed up, the need for a new paralegal, and that some staff are not reliable (one comment).

*Concern was expressed in the review of the APUC about the level of legal support provided and the potential for a conflict of interest. Given the quasi-judicial nature of most APUC actions, several of those interviewed expressed the sentiment that more legal input into case preparation would be desirable. Legal support is now regarded as probably better than before, though the departure of an attorney was described as hurtful. Comments in the RCA review were mixed about whether legal support is adequate. Some expressed concern that staff don't get enough legal support, particularly given the backlog; others said that there is no scarcity of legal support and that, in the advisory role, staff need less support than before.*

## Management Information Systems

*In the review of the APUC, both Commissioners and staff strongly believed that systems for managing commission processes at the APUC needed to be improved. Lack of computer support and inadequate use of computers were frequently mentioned as problems. Consideration was being given to hiring an outside consultant to design a computer information system for the commission. In the current review, there was near-unanimous support for the creation of the MIS section, which previously had been a part of Engineering. In addition, the recent upgrading of systems and standardization of systems was much appreciated. The MIS staff was described as responsive and knowledgeable. The RCA use of electronic systems to make documents available has*

been well-received, and one person reported that the willingness to share information has improved information access. Much is expected of the MIS system currently under construction, though there is some expectation that it won't accomplish everything expected of it and that there will be transition problems.

## Process

Of critical importance to the RCA is the perception that its decision-making processes are timely. *In the review of the APUC, the lack of timeliness and growing case backlog were regarded as measures of impaired Commission effectiveness. Though the dramatic increase in the APUC's workload might have been a contributory factor, delays in case processing were cited by many of those interviewed. Several specific problems that might have impacted the speed with which the APUC disposed of cases were noted. They included striking the appropriate balance between efficiency and careful maintenance of due process (some citing undue attention being paid to the maintenance of due process; others citing not enough attention), the assignment of staff including the hearing examiner, and the role of Commissioners. Particular concerns about timeliness at the staff level were the lack of speed with which documents moved between the fourth and third floors and the amount of work that had to be corrected or even redone, especially order writing, which is time-consuming and duplicative. Commissioners were also faulted for a lack of timeliness, both on making needed decisions and getting them out the door when a decision had been made.*

It appears that stakeholders believe that the RCA is moving orders as quickly as possible. The RCA is making an effort to clear the backlog and to keep on top of current cases. Though perceptions are very positive, concerns were raised about the speed of adjudication, the desire for perfect information in some cases, and a tendency for the RCA to take on too much.

A key to commission effectiveness is the ability to establish an appropriate balance between due process protection (fairness) and commission effectiveness. Across the nation, commissions are attempting to move toward more effective decision-

making methods without, at the same time, unduly diminishing fairness. In the case of the RCA, there is the general impression that an attempt is being made to end an over-emphasis on process. One person noted that there has been a dramatic change in this regard. As was noted by one person interviewed: some people want speed; some want deliberation, but the RCA has made a good compromise. Any attempt to move toward a more effective process will cause concern on the part of some that fairness has been diminished. There were a couple of concerns in this regard in the RCA interviews. The ability of legal staff to pull the Commission back when it moves too fast was also cited.

*In the NRRI's review of the APUC, a number of complaints were expressed about the timeliness and content of Commission orders. Several of those interviewed expressed dissatisfaction with the time required to write orders and the quality of the content of those orders. The responsibility for writing orders was regarded as fragmented among staff, paralegals, the hearing examiner, and (potentially) Commissioners. Most who commented on the training that had been provided for writing orders regarded the training exercise as a failure. Some felt that paralegals lacked the expertise to write good orders.*

The writing of Commission orders is, in the words of one person interviewed, "improving but still in need of work." The content of orders appears to be adequate. Commissioners are writing orders in some cases, paralegals in others, and parties in procedural orders can submit draft orders. This distributed responsibility seems to be regarded as productive rather than fragmentation of responsibility as was the case with the APUC. Orders are said to contain fewer "weasel words."

There are still perceived problems with the issuance of orders. Orders are cited as being held up, though the source of the administrative delay was not further specified. One complaint was that some orders are needlessly detailed and that work needs to focus on the important orders and, by implication, to limit time spent on less important, procedural orders. Docket managers may need to follow up on orders.

Streamlining administrative processes is being pushed by Commissioners, though one person indicated that staff is resistant. Prehearing conferences are being used and several cases are being arbitrated by hearing examiners. The system of

assigning three Commissioners seems to work, and some cases are being consolidated. One person interviewed cited the potential danger of one Commissioner being able to dominate the others, which has a greater potential if three Commissioners are hearing a case as compared to five. No specific Commissioner was cited, and no example of this happening was given.

*A majority of the substantive work of the APUC was performed through formal adjudicatory processes that emphasize due process. According to those interviewed, the APUC process was fairly formal and rigorous in its interpretation of ex parte requirements. Several potential methods for streamlining case processing were identified by those interviewed. They included the issuance of one-page orders for procedural issues, an attempt to limit the number of pre-hearing conferences, allowing the hearing examiner to conduct pre-hearing conferences, better use of the paralegals, and making better use of stipulations.*

The RCA is perceived, as was noted earlier, as being less constrained by formal judicial processes than the APUC. In addition to making better use of the hearing examiners, the RCA was cited as using workshops, mediation, and arbitration. In one case cited, mediation had failed because the parties were too far apart. It may be too early to determine the success of these attempts to employ processes that are less judicial.

As the work of the RCA shifts towards more policymaking and away from the kinds of fact-finding embedded in traditional rate cases, the RCA may need to further explore the use of nontraditional means of making decisions. Options include designating more Commission actions as "rulemaking" rather than adjudication and using more mediation, negotiated rulemaking, workshops, technical conferences, and task forces.

## **External Relations**

Legislative linkages will become increasingly important in the future as the

Commission further adopts a more legislative (i.e., policy making) rather than judicial role. Commissions around the nation are increasingly recognizing that developing and maintaining good relationships with external stakeholders is critical to their emerging missions. In the past, public service commissions may have adopted a "less-attention-is-better" strategy toward the media and legislature, only responding when required. *At least one comment to the NRRI indicated the belief that the APUC's legislative strategy was largely reactive. The passage of legislation disbanding the APUC may provide further attestation to the possible shortcomings of APUC legislative relations.*

By all accounts, RCA legislative relations are very good, and the legislature appears to be supportive of Commission work. Relations with the utilities are cited as being in a process of transition. Commissioners are currently being careful about communications with the industry and the potential for *ex parte* violations. According to one person interviewed, they may be being too careful. Industry may, according to one person, be a bit intimidated by this Commission, which is well-prepared and willing to attack sacred cows.

The public was cited as being at worst neutral to the RCA, though one person noted that there is some work to be done with consumers.

### **Consumer Protection**

*Although everybody the NRRI interviewed in its review of the APUC who commented on the Consumer Protection section agreed that it is functioning well, there were incipient signs of overload. Complaints on telecommunications service had increased dramatically, due to the advent of competition. Disposition of a complaint took up to six weeks and the average time before resolution was becoming longer because complaints were not only more numerous but more complicated than in the past. Interviewees also reported an increase in carrier-to-carrier complaints. Solely on the basis of the strain on the capacity of the section due to increasing consumer complaints, a case was made for providing additional support to this section, both clerical and professional.*

Since that review, the Consumer Protection Section has been provided more resources and appears, in the view of those interviewed, to be less stressed than before. The Section is highly regarded. Many of those interviewed still believe that the Section has a large work load and that they are barely keeping up. Of concern to some was the responsibility for that Section to prepare the Annual Report to the Legislature. One person suggested that a person be designated as fully responsible for that Report. Delegating pieces to other sections is also an option. Another concern was the replacement of Agnes Pitts when she retires. The Section would like to do more outreach to consumers but has been constrained by lack of resources. Carrier-to-carrier complaints have declined. Other complaints may be tapering off but may increase as other communities are impacted by local telecommunications competition.

### **General Comments**

*In the NRRI review of the APUC, the areas most in need of attention seemed to be:*

- *Commissioner-staff and Commissioner-to-Commissioner relations, which included issues of leadership and morale*
- *Timeliness*
- *The quality and speed of Commission orders*
- *The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels.*
- *Electronic filing and management information systems.*

Each of these areas has seen substantial improvement since the formation of the RCA, and overall the RCA seems to be functioning at a very high level of energy and competence. There are a few areas, however, that may ultimately lead to

problems at the RCA. They are:

22. The High Workloads. No one interviewed at the RCA is opposed to high levels of productivity and hard work on the part of Commissioners and staff. However, it appears from comments that the current pace may be unsustainable in the long run. The current heavy workload has been occasioned largely by the 750-case backlog. When that backlog is reduced, workloads might decrease. If workloads don't decrease, they might, over time, prove disheartening to staff and diminish morale. The result might be an increase in staff turnover and low levels of staff motivation. The situation should be monitored closely and more resources provided the RCA if workloads don't decrease as the backlog is diminished.
  
23. The Continued Evolution of the PAS and the Role of the Advisory Staff. The PAS appears to be a promising mechanism for the effective representation of consumer interests and the provision, through the remainder of the RCA staff, of adequate advisory support for Commissioners. By all accounts, the PAS is in the process of development. It is not certain that the staffing levels provided to it currently will be adequate for its role; its ability to perform its role should be monitored. Because of the formation of the PAS, the role of the remainder of the staff will need to change from advocacy to decision-support. Several of those interviewed suggested that the staff has not yet fully assumed that role. This should be monitored. External stakeholders will be impacted considerably by these changes in staff roles. Close contact should be maintained with them to monitor their opinions and perceptions.
  
24. The Staffing and Role of the Consumer Affairs Section. Across the country, more resources are being dedicated to consumer affairs, partly because of the increase in consumer complaints and concerns caused by the opening of utility markets to competition. By all accounts, the RCA Consumer Affairs Section is competent and performing services of value to consumers. If national trends hold, the workload in that Section can be expected to increase. In addition, other commissions have found

outreach to consumers, in the form of brochures or advertisements, to be a useful strategy for educating consumers. The P.CA Consumer Affairs Section has not yet been able to turn its attention to that consumer outreach. Additional resources in the Consumer Affairs Section might be warranted, either by hiring new staff or increasing the availability of other RCA staff to the Consumer Affairs Section. An alternative to placing more resources in that Section is to reduce the workload; the task most appropriate for reassignment to another RCA section might be the preparation of the Annual Report to the Legislature.

25. Staff Training. High turnover among staff is an unfortunate aspect of the regulatory environment around the country, and there is little hope that it can be slowed without dramatic increases in staff salaries. Ongoing training for new staff is, therefore, necessary for commission effectiveness. Complicating the need for training is the increasing complexity of regulatory issues. Training is available for commission staff at a number of locations around the country and may be a wise investment. Participation in NARUC events and work may be another way to plug the "expertise hole" caused by staff turnover.
26. Heavy Reliance on the Chairman. As was noted earlier, several of those interviewed expressed concern about the reliance of the RCA on the talents of the Chairman. For the long-term health of the organization, a concerted effort to delegate more duties to others, appointment of a vice-chair, or ensuring that other Commissioners are exposed to the duties of the Chairman might be warranted. At least one person interviewed expressed confidence in the ability of other Commissioners to step in as Chairman if Chairman Thompson were to leave.
27. The Overall Pace of Change. By all accounts the RCA has come a very long way in a very short time. Though organizational change can be exhilarating, it can also be draining and there is a danger in taking on too much change at once. The RCA may

wish to consider judicious choice of change targets so that some stability can be achieved. Development of a strategic plan may assist the RCA identify those areas most in need of change and help it prioritize its efforts.

The NRRRI has been pleased to be able to conduct these two evaluations of the public utility regulatory institutions in Alaska. It is particularly gratifying to observe the tremendous positive changes that have occurred since our first visit. We would be pleased to assist in any other way that we can.

7

# MEMORANDUM

State of Alaska

Department of Law

TO: The Hon. Paul Fuhs  
Commissioner  
Dept. of Commerce &  
Economic Affairs

DATE: June 21, 1994

FILE NO.: 661-94-0744

TEL. NO.: 269-5211

SUBJECT: Alaska Public Utilities  
Commission Sunset

FROM: Jeffrey D. Landry  
Assistant Attorney General  
Virginia A. Rusch  
Assistant Attorney General  
Fair Business Practices Section  
Anchorage

In your May 18, 1994 memorandum to Attorney General Bruce Botelho, you asked this office to advise you how the legal authority of the Alaska Public Utilities Commission has been affected by the failure of the legislature, during the session just completed, to extend the commission's life. As you pointed out, AS 44.66.010(a)(4) provides that the commission "expires" or "terminates" on June 30, 1994. Under AS 44.66.010(b), the commission "continue[s] in existence until June 30 of the next succeeding year for the purpose of concluding its affairs." In addition, statutory language specifying the continuation of powers that appears in the Sunset Law applicable to licensing boards (AS 08.03.020) does not appear in the Sunset Law applicable to the commission (AS 44.66).

## SUMMARY

We conclude that the commission's authority to make decisions and issue orders in accordance with the statutory powers and duties granted and conferred in AS 42.05, AS 42.06 and AS 42.45.100-190 is not withdrawn or diminished during the sunset (or wind-down) year. The commission should comply with the Sunset Law by preparing for the exigency of closing shop; this does not mean, however, that the commission cannot carry on its usual business of regulating utilities and pipelines. Since many of the commission's statutory duties are mandatory, the commission must reconcile performance of those duties with the provisions of the Sunset Law. We advise that the commission should continue to perform its statutory duties to the extent possible while developing a plan to phase out its work by the close of the sunset year. In deciding how to do this, the commission has a considerable amount of discretion.

This conclusion is based on an extensive review of the

legislative history of the Sunset Law<sup>1</sup> and is consistent with advice the Department of Law gave the Alcoholic Beverage Control Board nearly fifteen years ago. In fact, because a number of agencies terminated by the sunset law have continued their business as usual during the wind-down year, we think the view that an agency's authority is not diminished during a sunset year has by now taken on the status of a longstanding interpretation implicitly endorsed and relied upon by the legislature. Finally, this conclusion is consistent with the legislature's apparent intent in fully funding the commission for the coming year without any changes in the statutory duties assigned to the commission.

#### DISCUSSION

In your request for advice, you express concern that the commission's "authority for any case decided during the 'wind-down' year may be challenged . . . ." In fact, the literal language of the sunset legislation applicable to the commission<sup>2</sup> might suggest that the commission and its power to carry out the

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<sup>1</sup> We reviewed approximately twenty-four hours of committee hearing tapes, including the tape recordings of the House State Affairs Committee's hearing on HB1 and CSHB1 in 1977, as well as the House Commerce Committee's hearings and the Senate HESS Committee's hearings on SB 241 in 1979, which among other things amended AS 08.03 by adding section AS 08.03.020. See note 7, below.

<sup>2</sup> AS 44.66.010 provides in part:

AS 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

. . . . .  
(4) Alaska Public Utilities Commission (AS 42.05.010)--June 30, 1994;

. . . . .  
(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

regulatory scheme set out in the Alaska Public Utilities Commission Act, AS 42.05, and the Pipeline Act, AS 42.06, do cease to exist on June 30, 1994. The terms "expire" and "termination" that appear in AS 44.66.010 usually mean "come to an end." See Webster's Third New International Dictionary of the English Language Unabridged 801, 2359 (1971). The words of AS 44.66.010(b) could mean that, during the sunset year, the commission has authority only to "conclude its affairs," that is, to dismantle the agency.<sup>3</sup> However, our examination of available legislative history has persuaded us that such an interpretation is clearly contrary to the intent of the legislature.<sup>4</sup>

#### A. Legislative history

Alaska's version of sunset legislation was considered and adopted during the first session of the 10th Alaska legislature in 1977. Representative Clark Gruening sponsored HB 1, originally entitled "An Act relating to the termination, continuation, or reestablishment of certain agencies, boards and

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<sup>3</sup> In a memorandum to Tuckerman Babcock, Director, Division of Boards and Commissions, the Department of Law advised that "[t]his one-year period would primarily be for the purpose of concluding matters pending before the Alaska Public Utilities Commission rather than the commencement of new regulatory activity." 1993 Inf. Op. Att'y Gen. (Mar. 31; 663-93-0354).

<sup>4</sup> The Alaska Supreme Court has said the goal of statutory interpretation is to give effect to the intent of the legislature, with due regard for the meaning the statutory language conveys to others. Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 905 (Alaska 1987). Statutory construction begins with an analysis of the language of a statute construed in view of its purpose. Peninsula Marketing Ass'n v. State, 817 P.2d 917, 920 (Alaska 1991). However, the court does not adhere strictly to the "plain meaning" rule in interpretation of statutes. Lagos v. City and Borough of Sitka, 823 P.2d 641, 643 (Alaska 1991). Even where the statutory language considered alone seems to leave room reasonably for only one meaning, the court may consult legislative history and the rules of statutory construction, realizing that sometimes language that seems clear in the abstract takes on a different meaning when viewed in context. Homer Elec. Ass'n v. Towsley, 841 P.2d 1042, 1044 (Alaska 1992).

Paul Fuhs, Commissioner  
Department of Commerce and  
Economic Affairs  
Our File No. 661-94-0744

June 21, 1994  
Page 4

commissions, and establishing a procedure for zero-base periodic review and evaluation of their programs and activities." See Attachment 1. Section 2 of this bill proposed to amend Title 44 of the Alaska Statutes by adding a new chapter (AS 44.66), which would have terminated 84 state boards and commissions, including the Alaska Public Utilities Commission. The proposed AS 44.66.010(e) said:

Upon termination, each agency, board or commission shall continue in existence until July 1 of the next succeeding year for the purpose of concluding its affairs. Termination or dissolution shall not reduce or otherwise limit the powers of the agency, board or commission. One year after termination or dissolution each agency, board or commission shall cease all activities.

Committee substitutes for HB 1 modified the original bill in several ways. Most significant to the question addressed here is the reorganization which first appeared in the House State Affairs Committee substitute bill. (CSHB 1 (State Affairs); see Attachment 2). This amendment divided the sunset legislation between two different titles of the Alaska Statutes. Section 2 of the committee substitute proposed to amend Title 8 by adding a new chapter (AS 08.03), which would terminate 22 state boards involved in regulation of professions and occupational licensing. This proposal contained AS 08.03.010(c), which read:

Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities. (emphasis added.)

CSHB1 (State Affairs) also proposed, in Section 3, to amend Title 44 by adding a new chapter (AS 44.66). The proposed AS 44.66.010(a) would terminate an additional five boards and commissions. Among these was the Alaska Public Utilities Commission, scheduled for termination on June 30, 1980. The language of AS 44.66.010(b) in the committee substitute was

identical to the statute as it appears today;<sup>5</sup> it did not contain the two sentences underlined above in AS 08.03.010(c).

On March 29, 1977, Representative Gruening, the prime sponsor of the original bill and author of the committee substitute, testified before the House State Affairs Committee regarding the proposed committee substitute for HB 1.<sup>6</sup> Gruening described how the committee substitute was intended to work. In his discussion, Gruening used the Alaska Transportation Commission as an example of an affected agency. The Transportation Commission, like the Public Utilities Commission, was on the sunset list in Title 44, not in Title 8. Gruening said, in pertinent part:

Under that, July 1, 1979, the agency would be terminated. But there is written into the bill a grace period, so that if, if the, the agency has a year to wrap up its affairs, do whatever it wants to to carry out the remaining time it has, and that is exactly one year.

Tape of the House State Affairs Committee hearing on CS for HB 1, March 29, 1977 (emphasis and punctuation added).

The amended sunset bill, including the division of the sunset provisions into two different titles of the Alaska Statutes, was passed by the House on April 29, 1977. Two Senate committees then considered the bill, further amending it in ways not relevant here, and the Senate passed it on May 26, 1977. The House concurred in the Senate amendment on May 27, 1977. The Governor signed the bill into law on June 18, 1977. Ch. 149, SLA 1977.<sup>7</sup>

<sup>5</sup> See note 2, above.

<sup>6</sup> The Alaska Supreme Court has recognized that "[s]tatements made by a bill's sponsor during legislative deliberations are relevant evidence when the court is trying to determine legislative intent." Beck v. State Dept. of Transp. and Public Facilities, 837 P.2d 105, 117 (Alaska 1992) (citing Madison v. Alaska Dept. of Fish and Game, 696 P.2d 168, 176 (Alaska 1985)).

<sup>7</sup> In 1979 the legislature reorganized AS 08.03. It repealed AS 08.03.010(c), (d), and (e), re-enacted AS 08.03.010(c), and amended AS 08.03 by adding a new section, AS 08.03.020. Ch. 74, SLA 1979. The new section was identical to the repealed AS

We believe the legislative history reveals that the legislature did not intend to limit the powers and authority of the boards and commissions terminated under AS 44.66.010(a) during the wind-down year. As noted above, the common meaning of the words "expire" and "termination" is to come to an end. But it is obvious from the entire section as contained in both the original and subsequent versions that the legislature did not intend these words to have the meaning of a final ending. The drafters of the original bill did not think it was inconsistent for an agency to "expire," and at the same time, to "continue in existence for a year." The drafters also did not think it was inconsistent for an agency to continue for a year "for the purpose of concluding its affairs," and at the same time to have no reduction or limitation of powers for the one year of continued existence.

Reading these provisions together in an effort to give meaning to all of them, one must conclude that "expiration" under the Sunset Law triggers a period of special scrutiny by the legislature, and that an agency must prepare to phase out its operations, but that its authority to carry out its assigned functions during the sunset year continues undiminished. A board, commission, or agency that "expires" under the Sunset Law would cease its activities only at the end of an additional year. The sponsor of the bill described the one year of continued existence as a "grace period."

The committee substitute that divided the sunset provisions between Titles 8 and 44 of the Alaska Statutes clearly continued the "grace period" concept described above in the Title

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08.03.010(c), (d), and (e). In 1980 the legislature amended AS 08.03.020(c) by adding the language "unless the board is continued or reestablished for a longer period under AS 08.03.010." See, e.g., sec. 2, ch. 36, SLA 1980. Otherwise, the legislature has not amended AS 08.03.020 since 1980. The legislature has, however, amended the re-enacted AS 08.03.010(c) continuously since 1980 as it reauthorized the various professional boards. Similarly, the legislature has amended AS 44.66.010(a) on an almost yearly basis since 1978 as it either reauthorized various boards and commissions or created new boards and commissions that became subject to sunset review. AS 44.66.010(b) and (c) have not been amended.

Paul Fuhs, Commissioner  
Department of Commerce and  
Economic Affairs  
Our File No. 661-94-0744

June 21, 1994  
Page 7

8 portion of the sunset provisions. AS 08.03.020(a).<sup>8</sup> However, the last two sentences of AS 08.03.020(a) were left out of the sunset provisions in Title 44, which applies to the Public Utilities Commission. AS 44.66.010(b).<sup>9</sup> In our extensive review of the available legislative history, we found nothing to explain the difference, or to indicate that a distinction was intentionally made. Representative Gruening's explanation of the intended "grace period" during which the Transportation Commission could "do whatever it wants" makes clear that the sponsor of the bill did not contemplate any different treatment of the agencies included in the Title 44 sunset provisions.

#### B. Interpretation since enactment

In 1979, after the legislature failed to extend the Alcoholic Beverage Control Board, the Deputy Commissioner of the Department of Revenue wrote to the Department of Law asking about the effect of that action on the Board's activities during the sunset year. Like the Public Utilities Commission, the Alcoholic Beverage Control Board is an agency falling under the Title 44 sunset provisions. The Department of Law advised the Board that "there was no intention to strip the regulatory boards terminated under AS 44.66. of their powers during the year in which they are closing out." 1979 Inf. Op. Att'y Gen. (Nov. 9; J-66-103-80). See Attachment 3.

In the seventeen years since the Sunset Law was adopted, at least five different Title 44 boards and commissions, on seven different occasions, have expired under AS 44.66.010(a) and functioned during the succeeding year under subsection (b).

The Alaska Transportation Commission expired on June 30, 1979, functioned during the succeeding year, and was continued by the legislature in 1980. Sec. 1, ch. 115, SLA 1980. (This agency was eventually terminated by an initiative. 1983 Initiative Proposal No. 2, sec. 6.)

The Alcoholic Beverage Control Board also expired on

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<sup>8</sup> Except for internal cross-references reflecting the subsequent reorganization, this statute is identical to the CSHB 1 (State Affairs) version quoted at p. 3.

<sup>9</sup> See note 2, above.

Paul Fuhs, Commissioner  
Department of Commerce and  
Economic Affairs  
Our File No. 661-94-0744

June 21, 1994  
Page 8

June 30, 1979, functioned during the succeeding year, and was continued by the legislature in 1980. Sec. 11, ch. 131, SLA 1980.

The State Board of Parole has expired twice, June 30, 1980, and June 30, 1982, functioned during the succeeding years, and was continued by the legislature in 1981 and 1983, respectively. Sec. 1, ch. 32, SLA 1981; Sec. 1, ch. 20, SLA 1983. This year, the legislature again failed to extend this Board, so it will once again expire on June 30, 1994.

The Alaska Code Revision Commission expired June 30, 1985, functioned during the succeeding year, and was continued by the legislature in 1986. Sec. 1, ch. 121, SLA 1986. This commission expired again on June 30, 1993, and was not extended by the legislature in the session just completed.

The Alaska Women's Commission has a more convoluted legislative history. It expired on June 30, 1987, functioned during the succeeding year, but was not continued by the legislature in 1988. On June 23, 1988, Governor Cowper signed Administrative Order No. 110 establishing the Interim Women's Commission in the Office of the Governor. The order took effect July 1, 1988, so that there would be no time gap between the discontinued Alaska Women's Commission and the Interim Women's Commission. Under the order, the Interim Women's Commission was to remain in existence until the adjournment of the next legislative session. In 1989, the legislature extended the duration of the Interim Women's Commission to June 30, 1989, and reestablished the Alaska Women's Commission, effective July 1, 1989, as a continuation of the Interim Women's Commission. In 1993, the Governor, by Executive Order No. 84, merged the Women's Commission with the Alaska Commission on Children and Youth to create a new Alaska Human Relations Commission in the Governor's Office.

The Alaska Supreme Court has recognized that, in statutory interpretation, some weight should be given to an administrative interpretation, "and especially so if it is longstanding." Nat'l Bank of Alaska v. State, Dept. of Revenue, 642 P.2d 811, 815, n.5 (Alaska 1982). In Matanuska-Susitna Borough v. Hammond, 726 P.2d 166, 178 (Alaska 1986), the court also recognized that the legislature may be assumed to have acquiesced in a longstanding agency interpretation. With regard to this issue, the legislature has done nothing in fifteen years to express disagreement with the Department of Law's 1979