

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10585 SENATE JUDICIARY

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



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

### PURPOSE OF THE REPORT

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

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

### REPORT CONCLUSIONS

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

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

### FINDINGS AND RECOMMENDATIONS

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

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

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

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

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

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

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

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

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

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

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

November 30, 2001

08-20013-02

November 30, 2001

Members of the Legislative Budget  
and Audit Committee:

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

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

November 28, 2001

Audit Control Number

08-20013-02

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

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

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

Pat Davidson, CPA  
Legislative Auditor

## TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology .....	1
Organization and Function.....	3
Report Conclusions .....	5
Findings and Recommendations.....	7
Analysis of Public Need.....	11
Appendix A: Summary of Expenditures.....	17
Agency Response:	
Regulatory Commission of Alaska .....	19

## OBJECTIVES, SCOPE, AND METHODOLOGY

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

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

### Objectives

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

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

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

### Scope and Methodology

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

To address these areas we:

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

- Reviewed decisions made by the commission.

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

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

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

## ORGANIZATION AND FUNCTION

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

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

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

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

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

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

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

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

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

## REPORT CONCLUSIONS

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

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

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## FINDINGS AND RECOMMENDATIONS

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

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

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

### Recommendation No. 1

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

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

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

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

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

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

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

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

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

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

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

#### Recommendation No. 2

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

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

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

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

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

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

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

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

Recommendation No. 3

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

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

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

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

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

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## ANALYSIS OF PUBLIC NEED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RCA encourages public participation through a variety of methods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Please refer to the Findings and Recommendations section.

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## APPENDIX A

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

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

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

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

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December 26, 2001

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

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

Dear Ms. Davidson:

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

Recommendation No. 1

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

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

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

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

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

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

#### Recommendation No. 2

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

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

#### Recommendation No. 3

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

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

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

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

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

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

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

Sincerely,

REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson  
Chair

**Table 1**  
**UNBUNDLED NETWORK ELEMENT RATE COMPARISON MATRIX**

All Rates for RBOC in each State Unless Otherwise Noted

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Alabama	BS	1	\$15.24	\$2.50	\$0.0017	\$0.0015 Tandem Switching \$0.00036 & \$0.00004/mile Common Transport \$0.0015
		2	\$24.75			
		3	\$44.85			
		Avg	\$19.04			
Alaska	ATU	1	\$13.85	\$4.27	\$0.006595	\$0.004712 Tandem Switching \$0.000416 Termination
	ACS	1	\$19.19	\$1.38	\$0.00203	\$0.00155 Tandem Switching \$0.00023 Common Transport
Arizona	USW	1	\$21.98	\$1.61	\$0.0028	\$0.0014 Tandem Switching \$0.00088 Common Transport
Arkansas	SBC	3	\$18.75	\$2.75	\$0.004536 \$0.006137 \$0.002352	\$0.001665 Tandem Switching \$0.000423 - \$0.000534 plus per mile Common Transport
		2	\$31.60			
		1	\$71.05			
California	SBC	1	\$10.03	\$2.88	\$0.00594 set up/ \$0.00184 Originating \$0.007 set up/ \$0.00181 Terminating	\$0.00075 set up & \$0.00067 Tandem Switching \$0.00113 Terminating
		2	\$13.51			
		3	\$25.53			
Colorado	USW	BRA	\$19.65	\$1.15	\$0.00283	\$0.002007 Tandem Switching
		1	\$26.65			
		2	\$38.65			
		3	\$84.65			
Connecticut	SBC	1A	\$8.95	\$3.31	\$0.007151*	\$0.001984 Tandem Switching
		B	\$12.03			
		C	\$13.28			
		D	\$19.69			
		Avg	\$12.49			

\* On-NET Rate, includes shared transport

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
D.C.	VZ	1	\$10.81	\$1.55	\$0.003	\$0.001043 Tandem Switching \$0.00015 & \$0.00003/mile Common Transport
Delaware	VZ	1 2 3 Avg	\$10.07 \$13.13 \$16.67 \$12.05	\$2.23	\$0.003634 Originating \$0.001927 Terminating	\$0.0006688 Tandem Switching \$0.0001221 & \$0.0000022/mile Common Transport
Florida	BS	1 2 3	\$13.76 \$20.13 \$44.40	\$1.62	\$0.0008846	\$0.0001522 Tandem Switching \$0.0000039 Common Transport
Georgia	BS	1 2 3 Avg	\$14.21 \$16.41 \$26.08 \$16.51	\$1.85	\$0.001633	\$0.0006757 Tandem Switching \$0.0002126 Common Transport
Hawaii	VZ	Oahu Maui Hawaii	\$10.44 \$17.23 \$21.91	\$2.69	\$0.0076074	\$0.0012572 Tandem Switching \$0.0002710 Common Transport
Idaho	USW	1	\$25.52	\$1.34	\$0.0029	\$0.0032 Tandem Switching \$0.00218 Common Transport
Illinois	AIT	1A 1B 1C 2C Avg	\$2.59 \$7.07 \$11.40 \$11.40 \$9.81	\$5.01 Port rate includes unlimited switching	n/a	\$0.000215 Tandem Switching \$0.000809 Common Transport
Indiana	AIT	3 2 1 Avg	\$8.03 \$8.15 \$8.99 \$3.20	\$5.34	\$0.003444	\$0.000307 Tandem Switching \$0.00066 Common Transport

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Iowa	USW	Avg	\$20.15	\$1.15	\$0.00213	\$0.00424 Tandem Switching \$0.00134 Common Transport
Kansas	SBC	3	\$11.86	\$1.61	\$0.00131	\$0.000789 Tandem Switching \$0.000401-\$0.000475 Common Transport
		2	\$13.64		\$0.00169	
		1	\$23.34		\$0.00253	
		Avg	\$14.04			
Kentucky	VZ	1	\$17.44	\$4.02	\$0.0036192 originating \$0.0032276 terminating	\$0.0008209 Tandem Switching
		2	\$22.23			
		3	\$25.84			
		Avg	\$19.65			
	BS	1	\$13.54	\$2.61	\$0.002562	\$0.001096 Tandem Switching \$0.000426 Common Transport
		2	\$19.73			
		3	\$28.27			
		Avg	\$20.00			
Louisiana	BS	1	\$19.35	\$2.20	\$0.0021	\$0.0008 Tandem Switching \$0.00047 Common Transport
		2	\$22.84			
Maine	VZ	1	\$12.67	\$2.24 \$2.07 \$1.82	\$0.003197-\$0.00707 \$0.005262-\$0.002263 \$0.009101-\$0.005389	\$0.002575 - \$0.001776 Tandem Switching \$0.000886 - \$0.00000 Common Transport
		2	\$15.59			
		3	\$23.00			
		Avg	\$17.53			
Maryland	VZ	A1	\$12.11	\$1.90	\$0.0038	\$0.000695 Tandem Switching \$0.000353 Common Transport
		A2	\$12.85			
		B1	\$25.96			
		B2	\$18.40			
		Avg	\$14.50			
Massachusetts	VZ	1	\$7.54	\$2.00	\$0.004647-\$0.001872 \$0.004724-\$0.001872	\$0.00119 - \$0.000851 Tandem Switching \$0.002201-\$0.000489 Common Transport
		2	\$14.11			
		3	\$16.12			
		4	\$20.04			
		Avg	\$14.98			

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Michigan	AIT	A	\$8.47	\$2.53	\$0.001192	\$0.001058 Tandem Switching \$0.000446 Common Transport
		B	\$8.73			
		C	\$12.54			
		Avg	\$10.15			
Minnesota	USW	1	\$8.81	\$1.08	\$0.00181	\$0.00134 Tandem Switching \$0.001484 Common Transport
		2	\$12.33			
		3	\$14.48			
		4	\$21.91			
		Avg	\$17.87			
Mississippi	BS	1	\$16.71	\$2.11	\$0.0012771	\$0.0007834 Tandem Switching \$0.0004281 Common Transport
		2	\$21.45			
		3	\$29.75			
		4	\$38.59			
Missouri	SBC	1	\$12.71	\$1.74	\$0.001988	\$0.00151 Tandem Switching \$0.00019-\$0.000302 Common Transport
		2	\$20.71			
		3	\$33.29			
		4	\$18.23			
Montana	USW	1	\$26.69	\$1.45	\$0.0029	\$0.0068 Tandem Switching \$0.001459 Common Transport
		2	\$27.62			
		3	\$31.36			
		4	\$33.95			
		Avg	\$27.41			
Nebraska	USW	1	\$13.56	\$1.37	\$0.004131	\$0.002594 Tandem Switching \$0.001243 Common Transport
		2	\$27.12			
		3	\$54.24			
		Avg	\$14.32			
Nevada	SBC	1	\$11.75	\$1.63	\$0.00161	\$0.00171 Tandem Switching \$0.00727 Common Transport
		2	\$22.66			
		3	\$66.31			
		Avg	\$19.83			
New Hampshire	VZ	1	\$14.01	\$2.51	\$0.010697-\$0.003888	\$0.001589-\$0.001386 Tandem Switching \$0.001001-\$0.0000 Common Transport
		2	\$15.87			
		3	\$24.09			
		Avg	\$17.99			

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
New Jersey	VZ	1	\$11.95	\$1.90	\$0.005418 Originating \$0.003207 Terminating	\$0.001323 Tandem Switching \$0.0002486 & \$0.0000012/mile Common Transport
		2	\$16.02			
		3	\$20.98			
		Avg	\$16.17			
New Mexico	USW	1	\$17.75	\$1.38	\$0.0011083	\$0.001616 Tandem Switching \$0.001882 Common Transport
		2	\$20.30			
		3	\$26.23			
New York	VZ	1	\$11.83	\$2.50	\$0.003806-\$0.001508	\$0.00456-\$0.00067 Tandem Switching \$0.003141-\$0.000321 Common Transport
		2	\$12.49			
		3	\$19.24			
		Avg	\$14.81			
North Carolina	BS	1	\$16.71	\$2.19	\$0.0017	\$0.0009 Tandem Switching \$0.00034 Common Transport
North Dakota	USW	1	\$16.41	\$1.27	\$0.002	\$0.0084 Tandem Switching \$0.004392 Common Transport
		2	\$27.66			
		3	\$62.66			
Ohio	AIT	B	\$5.93	\$4.63	\$0.003226	\$0.000689 Tandem Switching
		C	\$7.97			
		D	\$9.52			
Oklahoma	SBC	3	\$12.14	\$2.18	\$0.002268	\$0.000956 Tandem Switching \$0.000266-\$0.000499 Common Transport
		2	\$13.65	\$2.21	\$0.002516	
		1	\$26.25	\$2.58	\$0.0038	
		Avg	\$14.84	\$2.25		
Oregon	USW	1	\$13.95	\$1.14	\$0.001463 originating \$0.00133 terminating	\$0.001596 Tandem Switching \$0.000005 - \$0.000012 Common Transport
		2	\$25.20			
		3	\$56.21			
		Avg	\$15.00			
Pennsylvania	VZ	1	\$10.25	Option A: \$2.67	\$0.001802 Originating \$0.001615 Terminating	\$0.000795 Tandem Switching \$0.000144 & \$0.000003/mile Common Transport
		2	\$11.00			
		3	\$14.00	Option B:** \$1.90		
		4	\$17.50			
		Avg	\$14.06			

\*\* Option A includes all vertical features. Option B includes all vertical features except 3-way calling.

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Rhode Island	VZ	1	\$12.05	\$4.47	\$0.01237 Peak \$0.00419 Off peak	\$0.01193 Tandem Switching \$0.002199-\$0.00027 Common Transport
		2	\$16.62			
		3	\$20.59			
South Carolina	BS	1	\$18.48	\$2.35	\$0.0019295	\$0.0006843 Tandem Switching \$0.0004672 Common Transport
		2	\$27.87			
		3	\$36.91			
South Dakota	USW	1	\$7.01	\$1.84	\$0.003469	\$0.001748 Tandem Switching \$0.001388 Common Transport
		2	\$18.54			
		3	\$24.37			
Tennessee	BS	1	\$13.19	\$1.89	\$0.0008041	\$0.0009778 Tandem Switching \$0.00038 Common Transport
		2	\$17.23			
		3	\$22.53			
		Avg	\$18.00			
Texas	SBC	3	\$12.14	\$1.94 \$2.15 \$3.25 \$2.90	\$0.002116	\$0.000794 Tandem Switching \$0.000123-\$0.000144 Common Transport
		2	\$13.65			
		1	\$18.98			
		Avg	\$14.15			
Utah	USW	1	\$14.41	\$0.89 \$0.90 \$1.02	\$0.002299 \$0.002664 \$0.002896	\$0.001059 Tandem Switching \$0.000921 Common Transport
		2	\$17.47			
		3	\$24.14			
		Avg	\$20.00			
Vermont	VZ	1	\$7.72	\$1.03	\$0.004003	\$0.000921 Tandem Switching \$0.000630 Common Transport
		2	\$8.35			
		3	\$21.63			
		Avg	\$14.41			
Virginia	VZ	1	\$10.74	\$1.30	\$0.004129 Originating \$0.002079 Terminating	\$0.000548 Tandem Switching \$0.000114 Common Transport
		2	\$16.45			
		3	\$29.40			
		Avg	\$13.597			

Table E Rate Comparison Matrix

State	Company	Density Zones	Loop Rate (per month)	Port Rate (per month)	Switching (per MOU)	Tandem Switching and Transport (per MOU)
Washington	USW	1	\$7.91	\$1.34	\$0.0012	\$0.00141 Tandem Switching \$0.00217 Common Transport
		2	\$14.13			
		3	\$15.90			
		4	\$17.85			
		5	\$23.82			
	Avg	\$11.33				
West Virginia	VZ	1	\$14.99	\$1.60	\$0.008868 Originating \$0.005622 Terminating	\$0.0002394 Tandem Switching \$0.00067 Common Transport
		2	\$22.04			
		3	\$43.44			
		Avg	\$24.58			
Wisconsin	AIT	1	\$10.90	\$3.71	\$0.003451	\$0.000674 Tandem Switching \$0.001072 Common Transport
Wyoming	USW	BRA	\$19.05	\$1.53	\$0.003753	\$0.001642 Tandem Switching \$0.000318 fixed & per mile Tandem Transmission
		1	\$31.83			
		2	\$40.11			
		3	\$58.43			

STATE OF ALASKA  
THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

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

In the Matter of the Petition by GCI )  
COMMUNICATION CORP. d/b/a GENERAL ) U-99-141  
COMMUNICATION, INC., and d/b/a GCI for )  
Arbitration with PTI COMMUNICATIONS OF ) ORDER NO. 5  
ALASKA, INC., under 47 U.S.C. §§ 251 and )  
252 for the Purpose of Instituting Local )  
Exchange Competition )

In the Matter of the Petition by GCI )  
COMMUNICATION CORP. d/b/a GENERAL ) U-99-142  
COMMUNICATION, INC., and d/b/a GCI for ) ORDER NO. 5  
Arbitration with TELEPHONE UTILITIES OF )  
ALASKA, INC., under 47 U.S.C. §§ 251 and )  
252 for the Purpose of Instituting Local )  
Exchange Competition )

In the Matter of the Petition by GCI )  
COMMUNICATION CORP. d/b/a GENERAL ) U-99-143  
COMMUNICATION, INC., and d/b/a GCI for ) ORDER NO. 5  
Arbitration with TELEPHONE UTILITIES OF )  
THE NORTHLAND , INC., under 47 U.S.C. )  
§§ 251 and 252 for the Purpose of Instituting )  
Local Exchange Competition )

ORDER SELECTING FORWARD-LOOKING COST MODEL

BY THE COMMISSION:

### Background

On December 8, 1999, GCI COMMUNICATION CORP. d/b/a GENERAL COMMUNICATION INC., d/b/a GENERAL COMMUNICATION, INC., d/b/a GCI (GCI), filed, pursuant to 47 U.S.C. §§ 251 and 252,<sup>1</sup> petitions for arbitration with PTI COMMUNICATIONS OF ALASKA, INC. (PTIC), (Docket U-99-141), TELEPHONE UTILITIES OF ALASKA, INC. (TUA) (Docket U-99-142), and TELEPHONE UTILITIES OF THE NORTHLAND, INC. (TUNI), (Docket U-99-142). In this Order, those utilities will be collectively referred to as "the ACS companies".<sup>2</sup>

By Order U-99-141(1)/U-99-142(1)/U-99-143(1), dated January 27, 2000, (Order No. 1) the Commission directed the parties to file briefs by February 11, 2000, setting out which method or model each party believes should be used to compute forward-looking cost figures for use in developing rates and the reasons in support of using such method or model.

On February 11, 2000, GCI and the ACS companies filed briefs in response to Order No. 1. On February 25, 2000, both parties filed reply briefs.

GCI proposed that the Hatfield model, version HM 5.1, be used to compute forward-looking cost figures for use in developing rates in this arbitration. ACS proposed a cost study methodology created by ACS.

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<sup>1</sup>Sections 251 and 252 were added to the Communications Act of 1934 by the Telecommunications Act of 1966, codified at 47 U.S.C. §§ 151, *et seq.*, hereinafter "the Act".

<sup>2</sup>ACS (Alaska Communications System, Inc.) is the parent company of PTIC,

On February 24, 2000, the Commission hired Ben Johnson Associates, Inc. (BJA), as a consultant to review the parties' briefs and make a recommendation regarding an appropriate cost model to use in this arbitration proceeding. On March 30, 2000, BJA filed its report (Consultant Report), recommending that the Commission select the Federal Communications Commission (FCC) model to use to compute forward-looking cost figures. On March 24, 2000, GCI and ACS filed their comments on the Consultant Report.

Discussion

The Commission has decided that the FCC model recommended by BJA should be used in computing the forward-looking cost figures in this arbitration. The Commission has made this decision based on a number of considerations.

The FCC model, as described by BJA, is familiar to both parties involved in this arbitration and their consultants. It provides a neutral platform and is not subject to attack as being biased in favor of either party.<sup>3</sup>

Selection of the ACS model would place GCI at a time and resource disadvantage, as GCI is not familiar with the model's inner workings. In contrast, the FCC model is publicly available. It has been tested and has been explained by the FCC.

Although the Commission realizes that the output of the FCC model must

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TUA, and TUNI.

<sup>3</sup>BJA, in its report filed March 10, 2000, noted that the HAI model has primarily been funded and supported by interexchange carriers and has a reputation among ILECs as being biased toward excessively low costs. The ACS model was developed by one of the parties to this arbitration.

be converted to produce an unbundled network element output<sup>4</sup>, the Commission believes the parties can easily accomplish the conversion. Modifications to the model program should be limited to corrections for unique changes or agreed-upon error corrections.

The Commission has determined that the parties should use the FCC default inputs as a base-line for submissions. These inputs are a neutral representation of national average costs. The parties are free to propose changes or modifications to the default inputs, but all modifications, unless stipulated to by the parties, must be adequately supported with credible evidentiary data.

The Commission believes that the use of actual geocoded customer location is appropriate. This information can be derived from the ACS Martens database. Any disagreements between the parties as to modifications to the model program or input data are to be resolved through arbitration.

### ORDER

#### THE COMMISSION FURTHER ORDERS:

1. The Federal Communications Commission model is to be used to compute forward-looking cost figures for use in developing rates in this arbitration.
2. The Federal Communications Commission default inputs are to be used as a baseline with modifications by the parties in this arbitration.

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<sup>4</sup>The FCC model was designed to produce a universal service output.

3. Disagreements between the parties as to modifications to the model program or input data are to be resolved through the arbitration process.

DATED AND EFFECTIVE at Anchorage, Alaska, this 18<sup>th</sup> day of April, 2000.

BY DIRECTION OF THE COMMISSION

(SEAL)

# 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

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

June 21, 1994  
Page 2

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

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

June 21, 1994  
Page 6

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.

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.

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

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

June 21, 1994  
Page 9

interpretation that the powers of an agency that expires under Title 44 are not curtailed during the wind-down year. It appears that the legislature has acquiesced in, and even come to rely on, the Department of Law's advice that an agency's powers are not curtailed during a sunset year.

C. Budget and powers

Finally, we think that the authorization of the full budget of the Public Utilities Commission in the FY 95 budget passed by the legislature and signed by the Governor on June 15, 1994 is evidence that the legislature did not intend to reduce or otherwise limit the authority of the commission between July 1, 1994, and June 30, 1995. Spending authority at the full amount requested by the commission would appear unnecessary if the commission's only function during the year is to dismantle itself.

We think the spending authority was intended to support functioning in accord with the commission's statutory powers and authority, AS 42.05 and AS 42.06, which were not repealed by the legislature.

CONCLUSION

We conclude the impact of AS 44.66.010(a)(4) on the Alaska Public Utilities Commission is to impose an additional duty to prepare for closing, but not to eliminate the commission's power to conduct its regulatory functions. The Commission should comply with the sunset law by preparing for the exigency that it may be required to cease all activities, lay off all staff and close its doors at the end of the next fiscal year. We suggest the commission should examine the time demands and completion dates of its current workload, determine what additional investigations can be accomplished by the end of the sunset year, develop a plan to conclude as many matters as possible before the end of the year, and publicize plans to wind down and phase out by June 30, 1995. We emphasize that how to do this is within the commission's discretion since the statutes offer little guidance.

JDL/VAR/rmg

Attachments: 3

cc: Don Schröer, Chairman, Alaska Public Utilities Commission  
Bob Lohr, Exec. Dir., Alaska Public Utilities Commission

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

June 21, 1994  
Page 10

Kristie Leaf, Director  
Boards and Commissions

Lynn Bartlett, Office of the Governor's Chief of Staff

# STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3469  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

May 20, 2002

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

Re: SB 2010

Dear Senator Taylor:

When we met on May 8 to discuss HB 333 you opined that sunseting the agency would have little effect because the next governor and legislature could revive the agency. Since that meeting, the legislature adjourned without extending the agency operations and I have begun planning for the agency's sunset year. If the legislature does not reauthorize the agency, there will be a significant impact on utilities, consumers and the state's budget before the next legislature has the opportunity to act.

Under state law, the RCA "expires" if it is not reauthorized by July 1, 2002. AS 44.62.010(a). The agency may continue for one year after termination "for the purpose of concluding its affairs." AS 44.62.010(b). As Chair, I have the legal obligation to begin winding down agency operations on July 1, 2002 with the goal of closing the agency by July 1, 2003.

I plan to meet with staff and industry in June to discuss the timing of the wind down process. The RCA's operations during the sunset year is the topic for discussion with industry representatives at the next Bench and Bar scheduled for June 5, 2002. We will inform them of the following impacts of sunset, and discuss the sequence and timing of the following actions:

**1. Cessation of Work on Regulations Dockets.** Continuing to work on new regulations would be pointless without an agency to administer them. All pending regulations dockets; including pole attachments, access charges, Public Advocacy Section regulations and small water and sewer utility certifications, would be closed. Both the PAS regulations docket and the proceeding on small water and sewer utility certifications were opened this year at the suggestion of the legislative auditor.

**2. Transition of PCE Administration to Another State Agency.** The RCA determines the level of PCE funding due to eligible communities. We collect the cost of administering that program from the utilities that benefit from it. We will transfer administration of that program to another state agency that will need general fund support to continue this work.

**3. Not Reviewing New Applications.** The RCA reviews applications for new utilities and pipelines and requests to transfer operating authority to insure that the applicant is fit, willing and able to offer service and that the proposed service is in the public interest. Last year we received 73 such applications. We would stop review of all applications, and not accept new ones. This would impact developers who install and request certification of the water and sewer utilities they install in new subdivisions and applications for new oil and gas pipelines.

**4. Concluding Existing Caseload.** We will evaluate the existing caseload and prioritize it based on public interest and time required to resolve each case. We will try to conclude as many as we can before the agency closes. Loss of staff that seek more stable employment will diminish our ability to conclude cases.

**5. Not Accepting New Cases.** We will evaluate all new filings to determine if they can be concluded in our sunset year and whether doing so would serve the public interest. New complaints and tariff filings we cannot handle will be returned to the utilities, pipeline companies and consumers with an explanation that we are unable to process them because the legislature terminated the agency. The following types of matters will not be handled after the RCA ceases to exist:

- **Consumer Complaints** - The RCA handled over 600 consumer complaints last year.
- **Federal Funding Certifications** - Under federal law, the RCA must certify local telephone companies' eligibility for federal universal service reports before funding is distributed. Telephone companies received more than \$70 million last year under these programs, enabling them to serve high cost areas of the state.
- **Rate changes** Without regulatory oversight, it is not clear whether utilities and pipelines are free to serve whichever customers they choose at prices they are free to set without review, or if they must stay at the current prices indefinitely. This uncertainty is likely to negatively affect all utilities' ability to attract investment capital. Every consumer of a utility service statewide is at risk of seeing a rate increase or their service terminated.

Letter to Senator Taylor  
05/20/02  
Page 3 of 3

In summary, a sunset year will dramatically impact utilities and utility consumers statewide beginning July 1, 2002 when the RCA terminates. The regulatory and legal confusion is likely to undermine utilities' efforts to obtain financing for new projects and impact consumers of all utility and pipeline services statewide. As responsibilities are transferred to other state agencies that lack the ability to collect the costs of their operations from consumers, there will be additional demand on state general funds. I urge your prompt endorsement of SB 2010.

Sincerely,

REGULATORY COMMISSION OF ALASKA

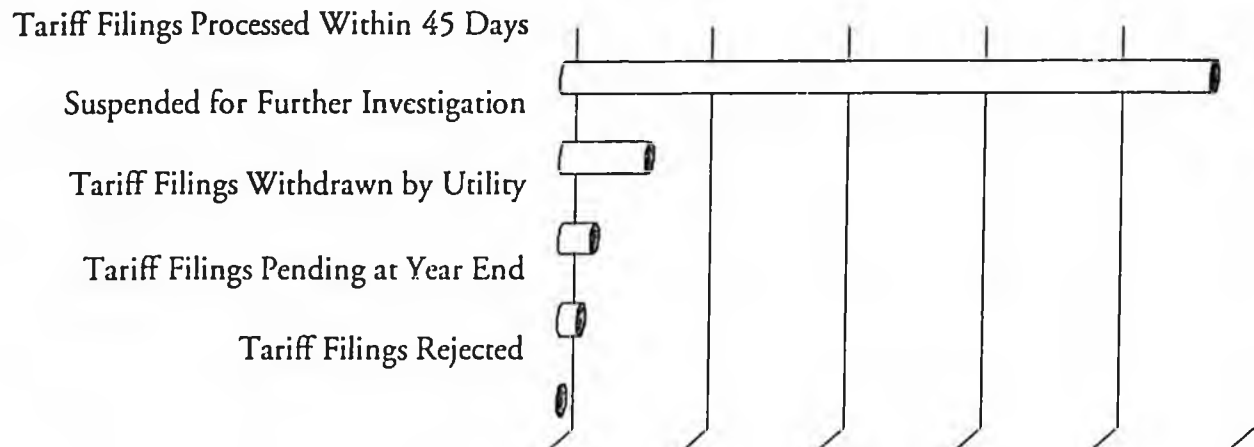
A handwritten signature in black ink, reading "G. Nanette Thompson" with a long horizontal flourish extending to the right.

G. Nanette Thompson  
Chair

cc: Members of the Alaska Legislature  
Governor Tony Knowles  
Alaska Rural Electrical Cooperative Association  
Alaska Telephone Association

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

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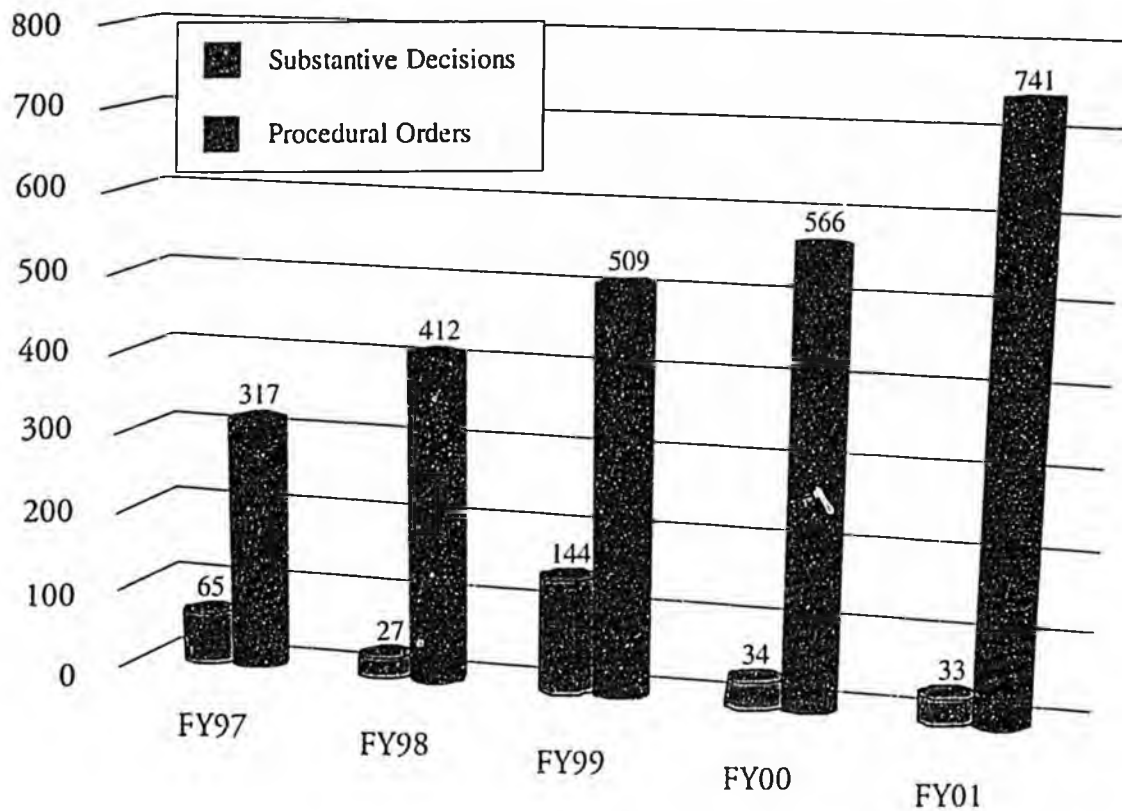


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During FY01 there were 576 tariff filings submitted to the Commission. Of these, 475 were processed routinely (generally within 45 days of receipt). Of the remaining filings, 63 were suspended for further investigation, 1 was rejected, 23 were withdrawn,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

*Source: Regulatory Commission of Alaska*

# RCA DECISIONS



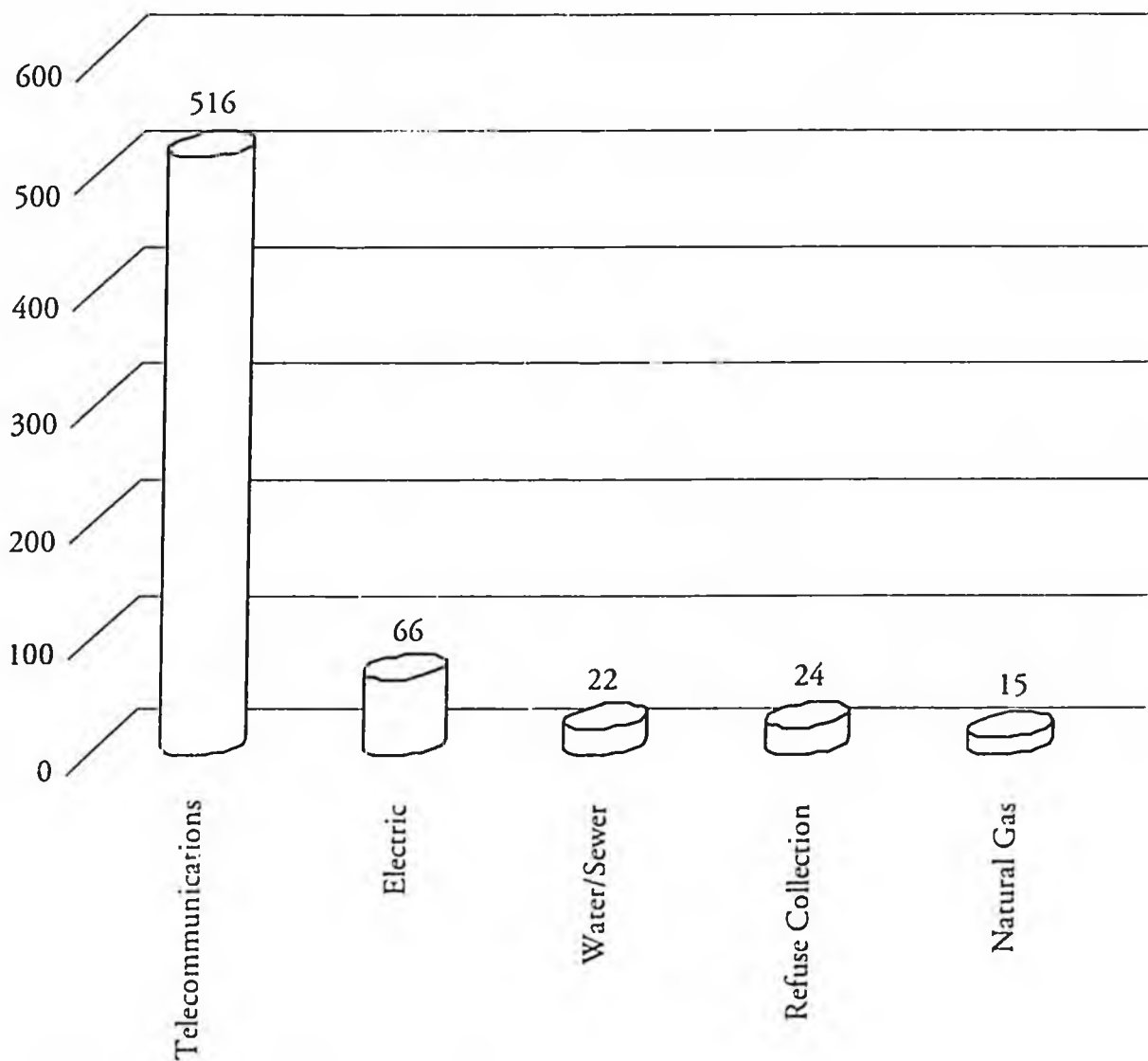
The RCA focuses on decision-making.  
More substantive orders are issued than procedural orders.

Source: Regulatory Commission of Alaska

# CONSUMER COMPLAINTS TO RCA

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

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



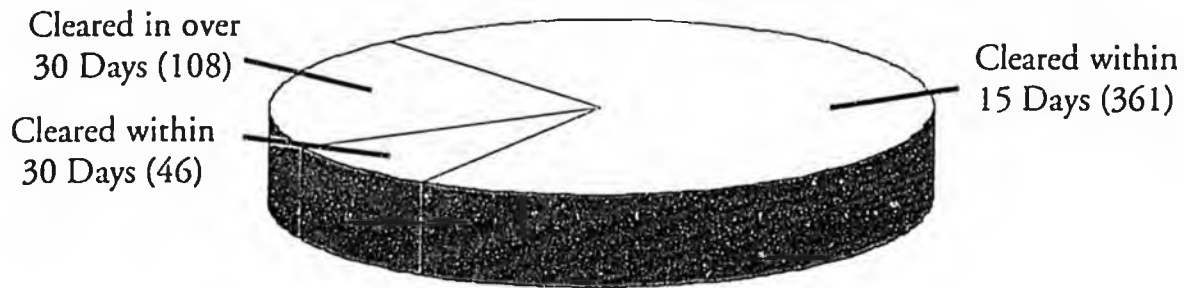
*Source: Regulatory Commission of Alaska*

# CONSUMER COMPLAINTS TO RCA

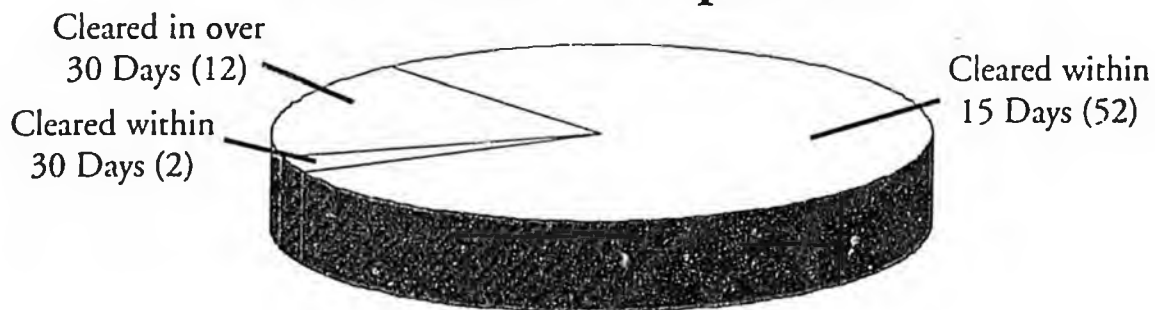
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*The Regulatory Commission of Alaska handled 643 complaints between July 1, 2001 and May 28, 2002*

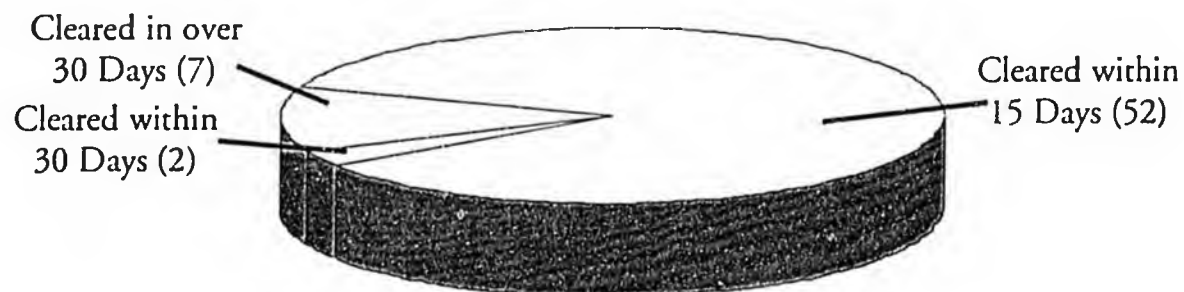
## Telecommunications (516 complaints)



## Electric (66 complaints)



## Other Utilities (61 complaints)



*Source: Regulatory Commission of Alaska*

## Comments in support of reauthorization of the RCA

### Packet Contents

Date	From
6/10/2002	William M. Nugent, President/Nat. Assoc. of Reg. Commissioners
6/10/2002	David W. Wirick/National Regulatory Research Institute
6/6/2002	Jack Rhyner, CEO/TelAlaska
6/6/2002	Jim Rowe/Alaska Telephone Association
6/5/2002	Kathleen Q. Abernathy, Commissioner/FCC
5/23/2002	Kirk Duncan, Division Mgr/Waste Management of Alaska
5/17/2002	Henry P. Lang, P.E./Lang Consulting
5/17/2002	Don C. Schroer/Former APUC Chairman
5/14/2002	J. Jeffrey Mayhook, Esq.
5/10/2002	Attorneys & Consultants Who Practice Before the RCA (14)
5/10/2002	Mark Helmericks, President/Colville, Inc.
5/6/2002	Michael J. Felix, President/CEO - AT&T Alascom
5/3/2002	Anthony M. Izzo, President/ENSTAR Natural Gas
5/2/2002	Dana L. Tindall, Sr. Vice President/GCI1
5/1/2002	Jim Rowe/Alaska Telephone Association
2/27/2002	Eric Yould, Executive Director/ARECA



N A R U C  
National Association of Regulatory Utility Commissioners

June 10, 2002

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

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

Dear Mr. Presidents:

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

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

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

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

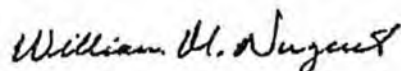
In addition, legislatures across the country and around the world are directing utility commissions to protect consumers from "slamming" (the switching of customers from one supplier to another without the customers' knowledge), "bait and switch" pricing practices, and other consumer abuses.

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

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

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

Sincerely,



William M. Nugent, President  
NARUC

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

Contact: Brad Ramsay 202.898.2207 or jramsay@naruc.org

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

According to President Nugent:

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

\*\*\*\*\*

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

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

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

###

## The National Regulatory Research Institute



1080 Carmack Road  
Columbus, Ohio 43210-1002

Phone: 614/292-9404

FAX: 614/292-7196

June 10, 2002

Representative Brian Porter  
3430 Fordham Drive  
Anchorage, AK 99508

Dear Representative Porter:

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

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

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

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

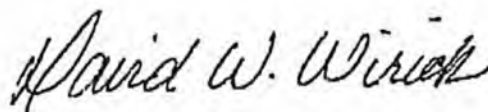
Over the past several years, I have worked onsite with more than 30 state regulatory commissions around the nation. As might be expected, they function at differing levels of effectiveness and efficiency. I regard the RCA to be one of the most professional and hard-working.

Page Two

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

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

Sincerely,



David W. Wirick

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

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

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

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

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

Commissioner Thompson and Senate Judiciary Committee members:

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

Sincerely,

Everette Anderson  
Administrative Office Manager  
TelAlaska

June 6, 2002

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

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

Dear Senator Taylor:

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

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

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

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

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

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

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

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

Sincerely,

Jack Rhyner, CEO  
TelAlaska

**Alaska Telephone Association**

**Steve Hamlen**  
President

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

**James Rowe**  
Executive Director  
jrowe@alaskatol.org

June 6, 2002

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

RE: Judiciary Committee Hearing

Dear Senator Taylor:

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

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

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

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

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

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

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

Best Regards,

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

Jim Rowe

cc: Members Alaska State Senate



OFFICE OF  
THE COMMISSIONER

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

June 5, 2002

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

Dear Representative Ogan:

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

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

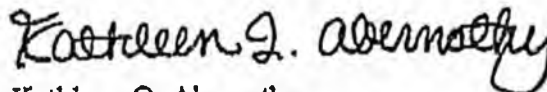
Chairman Thompson has proven an extremely effective leader and valuable colleague. Largely as a result of her organizational skills and hard work, the Joint Board is operating more efficiently than ever before. Even more importantly, from a substantive standpoint, Chairman Thompson has been a leading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

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

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

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

Sincerely,



Kathleen Q. Abernathy  
Commissioner, FCC

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

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

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

**Organization:** RCA

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

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

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

Subject: RCA Sunset

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

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

To:

"Senator\_Alان\_Austerman@legis.state.ak.us"<Senator\_Alان\_Austerman@legis.state.ak.us>  
"Senator\_Ben\_Stevens@legis.state.ak.us"<Senator\_Ben\_Stevens@legis.state.ak.us>,  
"Senator\_Bettye\_Davis@legis.state.ak.us"<Senator\_Bettye\_Davis@legis.state.ak.us>,  
"Senator\_Dave\_Donley@legis.state.ak.us"<Senator\_Dave\_Donley@legis.state.ak.us>,  
"Senator\_Donny\_Olson@legis.state.ak.us"<Senator\_Donny\_Olson@legis.state.ak.us>,  
"Senator\_Gary\_Wilken@legis.state.ak.us"<Senator\_Gary\_Wilken@legis.state.ak.us>,  
  
"Senator\_Gene\_Therriault@legis.state.ak.us"<Senator\_Gene\_Therriault@legis.state.ak.us>,  
  
"Senator\_Georgianna\_Lincoln@legis.state.ak.us"<Senator\_Georgianna\_Lincoln@legis.state.ak.us>,  
"Senator\_Jerry\_Ward@legis.state.ak.us"<Senator\_Jerry\_Ward@legis.state.ak.us>,  
"Senator\_John\_Cowdery@legis.state.ak.us"<Senator\_John\_Cowdery@legis.state.ak.us>,  
  
"Senator\_John\_Torgerson@legis.state.ak.us"<Senator\_John\_Torgerson@legis.state.ak.us>,  
"Senator\_Johnny\_Ellis@legis.state.ak.us"<Senator\_Johnny\_Ellis@legis.state.ak.us>,  
"Senator\_Kim\_Elton@legis.state.ak.us"<Senator\_Kim\_Elton@legis.state.ak.us>,  
"Senator\_Loren\_Leman@legis.state.ak.us"<Senator\_Loren\_Leman@legis.state.ak.us>,  
"Senator\_Lyda\_Green@legis.state.ak.us"<Senator\_Lyda\_Green@legis.state.ak.us>,  
  
"Senator\_Lyman\_Hoffman@legis.state.ak.us"<Senator\_Lyman\_Hoffman@legis.state.ak.us>,  
"Senator\_Pete\_Kelly@legis.state.ak.us"<Senator\_Pete\_Kelly@legis.state.ak.us>,  
  
"Senator\_Randy\_Phillips@legis.state.ak.us"<Senator\_Randy\_Phillips@legis.state.ak.us>,  
"Senator\_Rick\_Halford@legis.state.ak.us"<Senator\_Rick\_Halford@legis.state.ak.us>,  
"Senator\_Robin\_Taylor@legis.state.ak.us"<Senator\_Robin\_Taylor@legis.state.ak.us>

Dear Senators

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

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

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

- [Fwd: RCA Sunset]

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

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

<<Robert.Lindquist.vcf>>

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

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

Dear Senator,

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

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

Thanks,

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

---

Robert Lindquist < <a href="mailto:Rlindquist@wm.com">Rlindquist@wm.com</a> > Director of Regulatory Compliance Waste Management of Alaska
--

Life Member  
AEE

**LANG**  
CONSULTING

Henry P. Lang, P.E.  
ELECTRIC POWER/ENGINEER

2117 Deloit Drive  
Anchorage, Alaska 99517

Member  
AEPF

Tel/Fax: (907) 274-7440  
e-mail: hplang@aol.com

Post-Net Fax Note	7671	Date	5/17/02	Page	2
To	Ann	From	Henry P Lang		
Subject	Continuation RFA				
Page 1	226 6222	Page 2			
Page 3	226 0160	Page 4			

Dear Mayor George Wuerch,

Nov. 23, 01

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

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

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

Sincerely,

Incl.

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

Memo 5/17/02

called Rep Ethan Berkowitz & Sen Loren Leman today - in special session to continue support of RFA funding.

The Times Magazine, May 20, article "California Scheming" highlights the need for "Regulation" Nation's Energy of Chicago is proposing to build a PP in its old ship creek plant - to sell power to Ft. Rich (see my ltr to Sakata Feb 2, 02).

We need to keep the RFA viable to prevent outside interests encroaching in this area. Good grid facilities: LEA, ML&P & MEA would provide economy of scale etc.

ELECTRIC POWER/ENGINEER  
2117 Deloit Drive  
Anchorage, Alaska 99517

Project: KAPP TO EAFB - LOAD FLOW EFFICIENCY

Job #

INTER-OFFICE GENERAL COMMUNICATIONS

Telephone  Conference  Memo  Other

FROM: Person Henry Lang Firm Lang Consulting

TO: Person Albert Sakata Firm Sakata Engineering

SUBJECT: Review of Project dated 1/25/02 - Sakata Engr. Services

Background: ADN Jan 14, 02 Restoring the Flow  
The Knick Arm P.P. was built by CEA in the 1950's. Randy Hobbs, one of the current owners of the plant, said his company is working with Nations Energy of Chicago to again produce power at the plant.

We discussed my review comments regarding questions that may be asked by officers in his presentation. In general, the report reads well. Al will remove reference of "short circuit" on page 6.  
With RFA out to ML&P & CEA to provide a SS at the Ft. Rich P.P. & power - what will be the impact on KAPP proposal to provide power and at what energy cost/kWh.  
Who will dispatch power in emergency & planned outages?  
How will Ft. Rich & EAFB handle catastrophe power outages: SLEP, earthquake, etc?  
Will KAPP have a contingency plan?  
I gave Albert copy of ADN Jan 14, 2002 article on "Restoring the Flow" - listing Nations Energy; Randy Hobbs etc.  
Copy To: This was a pro-bono review - a true professional courtesy. Bob Wuerch King

Don C. Schroer

May 17, 2002

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

Dear Senators and Representatives:

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

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

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

Sincerely,



Don C. Schroer

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

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

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

May 14, 2002

VIA FAX and EMAIL

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

Re: CSHB333 – RCA Sunset Bill

Dear Senator Taylor:

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

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

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

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

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

Very truly yours,

J. Jeffrey Mayhook

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

May 10, 2002

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

Re: *Reauthorization of the Regulatory Commission of Alaska*

Dear Senator Taylor:

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

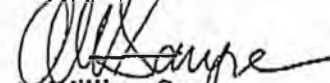
The termination of the Alaska Public Utilities Commission and its replacement just three years ago by the RCA was disruptive, but appropriate under the circumstances. The situation today is very different. While by no means perfect, the RCA has worked hard to clear up the backlog it inherited and to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

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

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

Very truly yours,

ASHBURN & MASON, PC



A. William Saupé

KEMPPPEL, HUFFMAN AND ELLIS, PC



Dean D. Thompson

The Honorable Robin Taylor  
May 10, 2002  
Page 2

BRENA, BELL & CLARKSON, PC

*Robin O. Brena*  
Robin O. Brena

GENERAL COMMUNICATION, INC.

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

DORSEY & WHITNEY, LLP

*Heather H. Grahame*  
Heather H. Grahame

HONCHEN AND UHLENKOTT, INC.

*Loren V. Uhlenkott*  
Loren V. Uhlenkott

GENERAL COMMUNICATION, INC.

*Martin M. Weinstein*  
Martin M. Weinstein

ASHBURN & MASON

*for Julian L. Mason*  
Julian L. Mason

LAW OFFICE OF ROBERT E. STOLLER

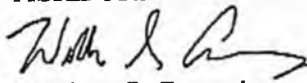
*Robert E. Stoller*  
Robert E. Stoller *by RKS*

The Honorable Robin Taylor  
May 10, 2002  
Page 3

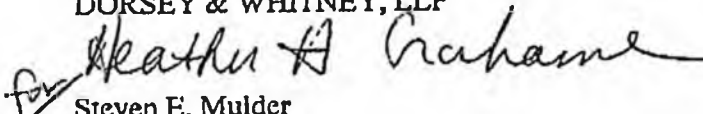
DeLISIO MORAN GERAGHTY & ZOBEL, PC

  
Joseph M. Moran

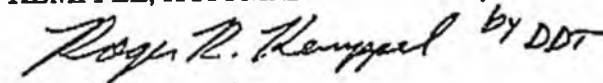
ASHBURN & MASON

  
William S. Cummings

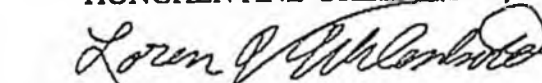
DORSEY & WHITNEY, LLP

  
for Steven E. Mulder

KEMPEL, HUFFMAN AND ELLIS, P.C.

  
for Roger R. Kempel

HONCHEN AND UHLENKOTT, INC.

  
for Larry G. Honchen

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

N:\SJ\WA\WSITaylor2



**Colville Incorporated**

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

May 10, 2002

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

Dear Senator Taylor and Members of the Judiciary Committee,

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

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

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

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

Best wishes,  
Colville, Inc.

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

Mark Helmericks,  
President

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

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



Michael T. Felix  
President/CEO

2101 Bill Drive  
Anchorage, AK 99501-1100

May 6, 2002

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

SUBJECT: HB 333 - REGULATORY COMMISSION OF ALASKA SUNSET BILL

Dear Senator Taylor:

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

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

Thank you for your assistance and support.

Sincerely,

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

Michael T. Felix  
President/CEO



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

May 3, 2002

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

Dear Senator Taylor:

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Izzo", written over a horizontal line.

Anthony M. Izzo  
President

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

May 2, 2002



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

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

Dear Senator Taylor:

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

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

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

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

Senator Robin Taylor  
May 2, 2002  
Page 2 of 2

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

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

Sincerely,



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

**Alaska Telephone Association**

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Steve Hamlen  
President

James Rowe  
Executive Director  
jrowe@alaskatel.org

May 1, 2002

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

RE: CSHB333 - RCA Sunset Bill

Dear Senator Taylor:

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

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

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

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

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

Sincerely,



Jim Rowe

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



# PUBLIC NOTICE

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

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[ftp.fcc.gov](ftp://ftp.fcc.gov)

DA 01-2927  
December 18, 2001

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

CC Docket No. 96-45

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

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

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

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

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

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