

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10589 SENATE JUDICIARY

superior court that affirmed the commission's decision.

Order Regarding Fees and Costs

Chugach Electric Assn., Inc. v. Regulatory Comm. of AK & Municipality of Anchorage


Supreme Court No. S-09692

Date of Order: 6/21/02

Under Appellate Rules 508(e) and (f)(1), attorney's fees of \$1500 plus allowable appellate costs are awarded to the Appellees. On or before 7/1/02, the Appellees shall serve and file with this court an itemized and verified bill of costs.

Entered at the direction of Justice Carpeneti.

Clerk of the Supreme Court


Deputy Clerk

cc: Authoring Justice

Distribution:

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STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

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June 20, 2002

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

Dear Senator Taylor:

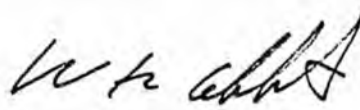
Thank you for your letter of June 18 clarifying your document request. I apologize for the confusion regarding the "industry e-mails" you requested. My understanding was that your request was directed at e-mails related to requests to utilities to testify on RCA authorization. Please find enclosed copies of all e-mails on my system, including the "Trash" folder, which were sent to a utility or the agent of a utility.

With respect to the other documents you requested, I am enclosing copies of all notices I filed pursuant to AS 39.52.130(b). A copy of the check sent to GCI was provided to you in my earlier response. For your convenience I am attaching another copy.

Finally, please find enclosed a copy of a letter recently received from the AARP commenting on reauthorization of the RCA. Please add this to our packet of materials under Tab No. 3. A revised list of exhibits is enclosed for your convenience.

Sincerely,

REGULATORY COMMISSION OF ALASKA


G. Nanette Thompson
Chair

Attachments

cc: Members of the Senate Judiciary Committee
The Honorable Rick Halford, Senate President
RCA Commissioners

REGULATORY COMMISSION OF ALASKA

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

RCA TESTIMONY AND EXHIBITS

To

Senate Judiciary Committee Hearings

June 12 – 13, 2002

(Revised June 20, 2002)

1. Testimony of G. Nanette Thompson, Chair, RCA
2. Comparative Charts – Agency Performance
3. Comments in Support of Reauthorization of RCA (packet)
4. Alaska Legislative Audit #08-20013-02
5. 1998 NRRI Evaluation of APUC
6. 2000 NRRI Report on RCA
7. Memorandum from Landry, Dept. of Law, re APUC Sunset (6/21/94)
8. AS 44.66.010
9. AS 42.05.711
10. UNE Rate Comparison Matrix
11. 5/20/02 Letter to Senator Taylor from Chair Thompson
12. FY2001 Annual Report (2 Volumes)
13. U-00-115(18) – GHU/CUC
14. R-00-4(2) IXC applications
15. R-02-4 Notice of Inquiry – Small Water & Sewer System Certifications
16. R-00-5(2) Joint Use Regulations
17. U-98-151(8) Crimsonview
18. U-99-141(5) et al. GCI/PTI/TUA/TUNI Cost Model
19. U-97-82(11) - Order on Rural Exemption
20. U-96-89(8) Anchorage Arbitration Order
21. Reimbursement check for Thompson trip costs (2000)
22. Letter from Thompson regarding emails/correspondence to and from utilities on effect of sunset (6/17/02)
23. U-94-002 (T-HREA) and U-96-114 (FMUS) - Cost allocation orders; related emails
24. Material relating to Boysen email
25. Material requested on June 18, 2002

Re: verizon select services

Subject: Re: verizon select services

Date: Thu, 21 Feb 2002 19:46:02 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: allan.thoms@verizon.com

You're welcome.

You'll always get such quick answers if you make such easy requests. It was almost out the door anyway, just a quick slap shot required.

Nan

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

From: allan.thoms@verizon.com

Date: Thursday, February 21, 2002 7:21 am

Subject: verizon select services

> Well I owe you big time. That was the *quickest* turn around on a
> request the company has ever received. Thank you I appreciate your
> effort. Let me
> know if I can return the favor.

>

>

> ~~~~~

> Allan T. Thoms

> Vice President - Public Policy

> & External Affairs

> Phone: 425/261-5691

> Fax: 425/261-5262

> allan.thoms@verizon.com

>

>

>

Subject: Recommendation on #25

Date: Sun, 13 Jan 2002 15:21:04 -0900

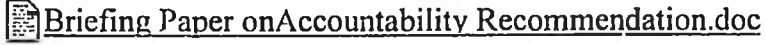
From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: ballen@ak.usda.gov, eric@areca.org, mkohler@areca.org, jstaser@denali.gov, bgordon@gci.net, pat_poland@dced.state.ak.us

Bill-

Attached in the assigned briefing paper on recommendation #25. I hope getting it to you a few days late is not a problem. Bill Gordon tries to politely remind me about this obligation a few days before the holiday, but I failed to take the hint.

Nan

	<p>Name: Briefing Paper onAccountability Recommendation.doc</p> <p>Type: WINWORD File (application/msword)</p> <p>Encoding: base64</p> <p>Download Status: Not downloaded with message</p>
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Subject: Re: Legislation

Date: Thu, 21 Feb 2002 06:44:43 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: Bob Grimm <bob.g@aptalaska.com>

Bob:

Yes, I am aware of it. I was in Juneau yesterday when it was introduced. We are looking carefully at the language to understand its impact.

Nan

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

From: Bob Grimm <bob.g@aptalaska.com>

Date: Wednesday, February 20, 2002 10:08 am

Subject: Legislation

> Nan:

>

> Are you aware of HB496 and SB324. If appears to affect cities and
> subdivisions of the state that provide telecommunication services.

>

> FYI

>

> Robert Grimm, President

> Alaska Power & Telephone Company

> 191 Otto Street

> PO Box 3222

> Port Townsend, WA 98368

> 1-800-982-0136 ext. 120

> 1-360-385-1733 ext. 120

> 1-360-385-7538 fax<?xml:namespace prefix = o ns =

> "urn:schemas-microsoft-com:office:office" />

>

> <" target="1"><http://www.aptalaska.com/> <http://www.aptalaska.com>

>

> <<mailto:bob.g@aptalaska.com>> bob.g@aptalaska.com

>

>

>

Re: RE: Tuesday 2/19 i Juneau

Subject: Re: RE: Tuesday 2/19 i Juneau

Date: Mon, 18 Feb 2002 15:32:24 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: Dana Tindall <dtindall@gci.com>

CC: 'Nanette Thompson' <nanette_thompson@rca.state.ak.us>, Ron Duncan <rduncan@gci.com>

Thanks for the offer, but I've got early meetings on Tuesday. I got on the later flight today-off the milk run anyway.

Count me in as a definite maybe for dinner on Tuesday-I am getting hooked for something else. (They are the BORG, resistance is futile, but I am trying anyway.) Leave me a message at the Baranof with the details of where and when.

Nan

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

From: Dana Tindall <dtindall@gci.com>

Date: Monday, February 18, 2002 8:29 am

Subject: RE: Tuesday 2/19 i Juneau

> Nan, we have a tues night dinner scheduled with the staff if you are
> interested. I am currently wait listed on planes for Tuesday.

> Don't know

> if I will get on, but the dinner will take place anyway.

>

> I am working on trying to get Ron to drop me in Juneau on the jet on

> Tuesday. If I get a ride - do you want one?

>

> Dana

>

> > -----

> > From: Nanette Thompson [SMTP:nanette_thompson@rca.state.ak.us]

> > Sent: Sunday, February 17, 2002 6:37 PM

> > To: Dana Tindall

> > Subject: Tuesday 2/19 i Juneau

> >

> > Dana-

> > I am heading to Juneau Monday afternoon (or Tuesday am if I can

> > get a

> > seat on the plane). I'll be there Tuesday evening. If you are

> > planning one of the gatherings you mentioned, I can attend.

> > You can reach me in Juneau either at the Baranof, e-mail, or via the

> > DCED Commissioner's office where I will be camped when I am not

> > roaming the halls of the Capitol.

> > Nan

> >

> >

>

Subject: Re: RE: Recommendation on #25

Date: Tue, 15 Jan 2002 03:32:34 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: Eric Yould <Eric@areca.org>

It went on to Bill to meet his deadline, but if you have heartburn with any part of it after you have a chance to look at it more closely, let me know and I'll talk to Bill. I was not intending to overrun the group.

I am travelling, and will be back in the office Wednesday.

Nan

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

From: Eric Yould <Eric@areca.org>

Date: Monday, January 14, 2002 10:32 am

Subject: RE: Recommendation on #25

> Nan

>

> Plz give me the opportunity to review this write-up a little more
> closely (by the end of today) before you send it on to Bill Allen.

> As a general

> rule, I agree with our assessment regarding HB 267, but I still
> have a major

> problem with #25 as presently written.

>

> Eric

>

> -----Original Message-----

> From: Nan Thompson [mailto:nan_thompson@rca.state.ak.us]

> Sent: Sunday, January 13, 2002 3:21 PM

> To: ballen@ak.usda.gov; eric@areca.org; mkohler@areca.org;

> jstaser@denali.gov; bgordon@gci.net; pat_poland@dced.state.ak.us

> Subject: Recommendation on #25

>

>

> Bill-

> Attached in the assigned briefing paper on recommendation #25. I
> hope

> getting it to you a few days late is not a problem. Bill Gordon

> tries

> to politely remind me about this obligation a few days before the

> holiday, but I failed to take the hint.

> Nan

Re: The Flume

Subject: Re: The Flume

Date: Thu, 03 Jan 2002 08:17:55 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: "Jim Rowe" <jrowe@arctic.net>

I'll do some surfing to look for an alternative.
I am not in the office this week.

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

From: "Jim Rowe" <jrowe@arctic.net>

Date: Wednesday, January 2, 2002 10:18 am

Subject: The Flume

> *I went to the Flume website. It doesn't look very exciting there.*

>

Subject: Re: Sitka & Zaina

Date: Sat, 23 Mar 2002 08:57:00 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: "Jim Rowe" <jrowe@arctic.net>

I am cleaning out my in-box in preparation for taking next week off. I don't think I ever gave you a final answer on Sitka. I can't attend. I have to be in Kotzebue Thursday for ATAC (telehealth project). I can't be out of the office that whole week because of hearing/decision schedules. Too much juggling.

You very discreetly did not say anything about the substance of the discussion about the PAS regs, but your face during the discussion suggested unease. Perhaps your shoes were tight. Its okay to tell me what you think about an R docket. The due process concerns that exist in U dockets do not apply.

I am going to try not to check e-mail next week.

Ta ta

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

From: "Jim Rowe" <jrowe@arctic.net>

Date: Thursday, March 7, 2002 12:19 pm

Subject: Sitka & Zaina

> Nan,

>

>

>

> I still believe it is valuable to have you networking. Could we
> impose on you to stop in Sitka on Tuesday evening on the way back
> from your
> week in the Islands just to spend Wednesday with us? No presentation.
> Patty will be on that morning. Permit ATA to provide your
> accommodations for Tuesday and Wednesday nights and cover additional
> travel costs. And suggest that you do stay around for the Business
> lunch, board meeting and the evening banquet. You have been and
> likely will continue to be away from home a lot so I understand
> (and won't
> complain) if you decline this one.

>

>

>

> Item two: For Lisa's visit week of May 4, what day(s) or times would
> you like to have her attention or direct her elsewhere? I know
> that the
> legislature can turn the plans upside down, but let's plan anyway and
> punt if we have to.

>

>

>

> Lew got me some material that will be a good starting point.

>

>

>

> Jim

>

>

>

> Jim Rowe

>

> Executive Director

>

> Alaska Telephone Association

>
> 201 E. 56th, Suite 114
>
> Anchorage, AK 99518
>
> 907/563-4000
>
> 907/562-3776 fax
>
>
>
>

Subject: Re: Rhyner

Date: Tue, 11 Jun 2002 21:41:10 -0800

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: "Jim Rowe" <jrowe@arctic.net>

Thanks for your words of encouragement. This week is truly a test. I left a message for Jack on Monday-did he mention that he got it? I called you tonight at home after I finally got home from soccer Mom duty. I was going to ask what was coming next, since you have been right about several significant developments. The kicks in the gut for the day were the news that Jeanne will be a witness tommorrow, and the polling of staff by two of the commissioners who were fishing for management complaints. I can't understand this behavior.

Nan

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

From: "Jim Rowe" <jrowe@arctic.net>

Date: Tuesday, June 11, 2002 8:51 pm

Subject: Rhyner

> Nan,

>

> I hope you are holding up in what seems to be a treacherous week.
> When it gets nasty, try to remember that there are people involved
> who hold you (personally) in high regard.

>

> There is more on your plate than is fair, but if you think of it
> tomorrow, you might acknowledge Jack's letter to Taylor. He and
> his staff have produced a Compass article that will be published
> in the next couple of days. Hopefully tomorrow. He said after it
> is printed Robin should have no recourse but to invite him to give
> testimony. He also spoke with Robin quite a while today to no
> avail.

>

> Jack plans to attend the hearing tomorrow morning and will be
> prepared to give testimony in the afternoon. I've seen the agenda
> and anticipate no opportunity, but hope the media makes some
> inquiries as to why.

>

> Now I share with you something I've kept around for a lot of years.

>

> To laugh often and much; to win the respect of intelligent
> people and the affection of children; to earn the appreciation of
> honest critics and endure the betrayal of false friends; to
> appreciate beauty; to find the best in others; to leave the world
> a little better place than we found it, whether by a healthy
> child, a garden patch or a redeemed social condition; to know even
> one life breathed easier because you lived. This is to have
> succeeded. Jim

>

Re: Neptune

Subject: Re: Neptune

Date: Tue, 18 Jun 2002 18:26:47 -0800

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: "Jim Rowe" <jrowe@arctic.net>

I saw that on ACS' 10K and wondered who they were loaning money to. I noticed because I thought it odd that a company in such allegedly dire financial straits could loan \$15 in cash to a third party.

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

From: "Jim Rowe" <jrowe@arctic.net>

Date: Tuesday, June 18, 2002 9:58 am

Subject: Neptune

> I just got a call. At the Neptune bankruptcy hearings last week
> it was
> publicly disclosed during cross examination that ACS has an agreement,
> signed last December, to loan Neptune \$15M for a three year right to
> purchase the terrestrial infrastructure in Alaska and pricing control
> during that time.

>

>

>

> Jim Rowe

>

> Executive Director

>

> Alaska Telephone Association

>

> 201 E. 56th, Suite 114

>

> Anchorage, AK 99518

>

> 907/563-4000

>

> 907/562-3776 fax

>

> jrowe@arctic.net

>

>

>

>

Subject: Re: Request For Commission Intervention Re: ACS Delays In Processing Customer Conversion and New Line Orders

Date: Wed, 13 Feb 2002 13:31:36 -0500

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: Martin Weinstein <mweinstein@gci.com>, phil_treuer@rca.state.ak.us

CC: Dana Tindall <dtindall@gci.com>, Gina Borland <yborland@gci.com>, Rick Hitz <rhitz@gci.com>, dawn_bishop-kleweno@rca.state.ak.us

I am in Washington, and won't be able to set a meeting until early next week. I will be back in touch with all of you when I return. I am concerned about this issue if it affects customers. I am interested in the record on who you have been working with at ACS to solve this problem, when and the results of those efforts.

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

From: Martin Weinstein <mweinstein@gci.com>

Date: Wednesday, February 13, 2002 1:06 pm

Subject: Request For Commission Intervention Re: ACS Delays In Processing Customer Conversion and New Line Orders

> Nan, I am sending you this e-mail in addition to the voice mail
> message I
> left on your phone this morning. Nan, we are encountering serious
> delays(6-8 weeks) in getting our customer conversion orders and
> orders for new
> lines processed by ACS. By contrast, in some cases, we have
> learned that
> ACS local customers have been able to get new lines installed in
> one day.
> We have discussed these matters with ACS but have been unable to
> come to
> agreement on how to correct the problems. We told ACS that we
> would have to
> go to the Commission given the lack of agreement. To avoid
> further harm to
> our customers and to come to a solution as expeditiously as
> possible, we ask
> that you convene a meeting at your earliest convenience with
> ourselves and
> ACS to discuss a resolution to these customer-affecting problems.
> Thank
> you. Marty W.
>

Subject: Fwd: Undeliverable: Recommendation on #25

Date: Mon, 14 Jan 2002 03:23:51 -0900

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: mkohler@avec.org

Meera-

I am sending this again because I got your address wrong the first time.

Nan

Subject: Undeliverable: Recommendation on #25

Date: Sun, 13 Jan 2002 15:21:12 -0900

From: System Administrator <postmaster@areca.org>

To: nan_thompson@rca.state.ak.us

Your message

To: ballen@ak.usda.gov; eric@areca.org; mkohler@areca.org; jstaser@denali.gov; bgordon@gci.net; pat_poland@dced.state.ak.us

Subject: Recommendation on #25

Sent: Sun, 13 Jan 2002 15:21:04 -0900

did not reach the following recipient(s):

mkohler@areca.org on Sun, 13 Jan 2002 15:21:07 -0900

The recipient name is not recognized

The MTS-ID of the original message is: c=us;a=

;p=areca;l=EXCHANGE0201140021YZHGVV02

MSEXCH:IMS:ARECA:EXCHANGE:EXCHANGE 0 (000C05A6) Unknown Recipient

Subject: Recommendation on #25

Date: Sun, 13 Jan 2002 15:21:04 -0900


From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: ballen@ak.usda.gov, eric@areca.org, mkohler@areca.org, jstaser@denali.gov, bgordon@gci.net, pat_poland@dced.state.ak.us

Bill-

Attached in the assigned briefing paper on recommendation #25. I hope getting it to you a few days late is not a problem. Bill Gordon tries to politely remind me about this obligation a few days before the holiday, but I failed to take the hint.

Nan

	<p>Name: Briefing Paper on Accountability Recommendation.doc</p> <p>Type: WINWORD File (application/msword)</p> <p>Encoding: base64</p> <p>Download Status: Not downloaded with message</p>
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Subject: Re: Committee Meeting

Date: Wed, 15 May 2002 19:30:30 -0800

From: Nan Thompson <nan_thompson@rca.state.ak.us>

To: Nancy Hayes <nhayes@rdmail.rural.usda.gov>

CC: Meera Kohler <mkohler@avec.org>, Jeff Staser <jstaser@denali.gov>,

Bill Allen <ballen@ak.usda.gov>, Bob Poe <bpoe@aidea.org>,

Jamie Kenworthy <jkenworthy@astf.org>, Mike Black <Michael_Black@dced.state.ak.us>,

Steve Weaver <sweaver@anthc.org>

I am scheduled to be out of town on the 20th.

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

From: Nancy Hayes <nhayes@rdmail.rural.usda.gov>

Date: Wednesday, May 15, 2002 4:00 pm

Subject: Re: Committee Meeting

> Bill Allen is available on May 20 at 2:00. Does that work
> for everyone?

>

> Nancy

>

> Meera Kohler wrote:

> >

> > I am not available May 21 through May 24. Sorry! I just got
> back from

> > Juneau, where I've been since 5/12 so I couldn't respond
> earlier. I am

> > available Monday May 20.

> >

> > Meera

> >

> > -----Original Message-----

> > **From:** Nancy Hayes [<mailto:nhayes@rdmail.rural.usda.gov>]

> > **Sent:** Tuesday, May 14, 2002 4:05 PM

> > **To:** Meera Kohler; Jeff Staser; Bill Allen; Bob Poe; Jamie
> Kenworthy; Nan

> > Thompson; Mike Black; Steve Weaver

> > **Subject:** RE: Committee Meeting

> >

> > It looks like May 23, Thursday is the day everyone can make

> > it so far except for Mike Black. Since Jeff has a morning

> > meeting, how about 1:00? Let me know.

> >

> > Nancy

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift.

Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is accommodations and meals during the Alaska Telephone Association convention. I was the keynote speaker at the convention (1/20-8:45 am) and attended the proceedings for the rest of the time I was in Hawaii.

My estimate of its value is \$ 700.

I received it from the Alaska Telephone Association.

The date of receipt was 1/19-1/22.

I can take or withhold the following official action that affects the giver: Individual members of the Alaska Telephone Association are regulated utilities. The association sometimes files comments on behalf of its membership in regulatory dockets.

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

Ninette Thompson
(Signature)

1/20/02
(Date)

Ninette Thompson
(Printed Name)

Chair
(Position Title)

Anchorage
(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

(Date)

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift.
Yes No

Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is airfare, accommodations and meals at the Emerging Issues Policy Forum in Jacksonville, Florida.

My estimate of its value is \$1,500.

I received it from the Emerging Issues Policy Forum, organized by a telephone industry consultant.

The date of receipt was 1/12-1/15.

I can take or withhold the following official action that affects the giver: This forum was attended by state and federal commissioners, and industry leaders. We discussed national level policy issues. I spoke on two panels, and attended the meetings the rest of the time I was there. I was invited because of my role on the Federal-State Joint Board of Universal Service. No Alaskan utilities attended, although universal service is an important revenue source for rural telephone companies in Alaska.

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Nanette Thompson
(Signature)

1/28/02
(Date)

G. Nanette Thompson
(Printed Name)

Chair
(Position Title)

Anchorage
(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Michael Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift. Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is Airfare, hotel accommodations, 2 dinners, airport transportation

I hosted the NCTA Convention on the state regulators perspective, five

My estimate of its value is \$ \$2,500.00

I received it from National Cable and Telecommunications Assn.

The date of receipt was 6/10-12/01

I can take or withhold the following official action that affects the giver:

In my role on the federal-state Universal Service Joint Board
I evaluate policy questions relating to distribution of universal service

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Narette Thompson
(Signature)

6/18/01
(Date)

G. Narette Thompson
(Printed Name)

Chair, RCA
(Position Title)

Anchorage
(Location)

DCED
(Division/Agency/Corporation/Board/Commission)

Michael Nizich, Governor's Office
(Designated Ethics Supervisor)

Approved: _____ (initials) _____ (Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Nilsen, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I cannot take official action that may affect the person who gave me the gift. Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is Airfare and hotel accommodations in San Diego, CA. I was a speaker at their current policy issues forum.

My estimate of its value is \$ 1200.

I received it from Competition Policy Institute

The date of receipt was 3/11 - 13/01

I cannot take or withhold the following official action that affects the giver: None

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200-AS 11.56.240.

G. Norette Thomas
(Signature)

4/3/01
(Date)

G. Norette Thomas
(Printed Name)

Chair, Commissioner
(Position Title)

Anchorage
(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor) Approved: _____ (initials) (Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift. Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is Airfare and hotel accommodations in Santa Fe, New Mexico. I was a speaker at their forum on Current Issues in Utility Policy.

My estimate of its value is \$ \$1,000.

I received it from New Mexico State University

The date of receipt was 3/24-28/01

I can take or withhold the following official action that affects the giver: None

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200-AS 11.59.249.

G. Nanette Thompson
(Signature)

4/3/01
(Date)

G. Nanette Thompson
(Printed Name)

Chair, ~~REG~~ Commission
(Position Title)

Anchorage
(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials) (Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Michael A. Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? [X] Yes [] No

I can take official action that may affect the person who gave me the gift. [] Yes [X] No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is RT Airfare to Tallahassee Florida, 2 nights Lodging

My estimate of its value is \$ 2,221.00

I received it from Florida State University

The date of receipt was 1/31 - 2/2

I can take or withhold the following official action that affects the giver:

None. I was an invited speaker at a symposium entitled "Investing in Florida's Digital Future," sponsored by FSU.

The gift was received by a member of my family [] Yes [X] No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Nanette Thompson (Signature)

2/5/01 (Date)

G. Nanette Thompson (Printed Name)

Chair, RCF (Position Title)

(Location)

Regulatory Commission of Alaska (Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: (initials)

(Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Mizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift.
Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is Roundtrip airfare to Billingham, charter flight to Agulowak Lodge, two nights' accommodations and meals at the lodge, and one day of guided fishing.
My estimate of its value is \$ \$1,200

I received it from GCI

The date of receipt was 7/6-7/8/00

I can take or withhold the following official action that affects the giver:

GCI is a regulated public utility.

The gift was received by a member of my family Yes No

My two children accompanied me.
I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Nnette Thompson
(Signature)

7/10/00
(Date)

G. Nnette Thompson
(Printed Name)

Chair
(Position Title)

Anchorage
(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

(Date)

*Also on the trip were Lisa Sutherland (Sen. Stevens' aide) and her husband.
If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Nike Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift.

Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is Round trip ^{and three meals.} airfare in a charter flight from Kotzebue to Noatak and the Red Dog mine. I was accompanied by representatives of the companies, *

My estimate of its value is \$ 350

I received it from GCE, AT&T and DTL Telephone Coop split the cost

The date of receipt was 4/15-16/00

I can take or withhold the following official action that affects the giver:

All three phone companies are regulated by the KCA.

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Norette Thompson
(Signature)

4/20/00
(Date)

G. Norette Thompson
(Printed Name)

Chair, KCA
(Position Title)

(Location)

Regulatory Commission of Alaska
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

(Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT

REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963

PHONE: (907) 276-6222

FAX: (907) 276-0160

TTY: (907) 276-4533

February 1, 2000

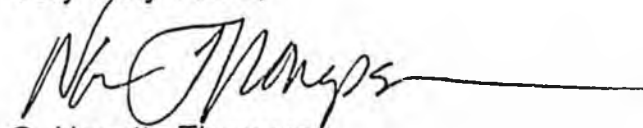
Mike Nizich, Administrative Director
Division of Administrative Services
Office of the Governor
PO Box 110001-0001
Juneau, AK 99811-0001

Re: Ethics Disclosure Form

Dear Mike:

Enclosed is an Ethics Disclosure Form I completed to notify you of a gift received from the Alaska Telephone Association. I am submitting this to you because I understand that you are my ethic supervisor. As Chair of the Regulatory Commission of Alaska I am the ethics supervisor for that agency, but I was directed to submit my disclosure forms to you. Please contact me if you have any questions.

Very Truly Yours,



G. Nanette Thompson
Chair

Enclosure

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: Mike Nizich, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

Was the gift given to you because you are a state employee or a member of a state board or commission? Yes No

I can take official action that may affect the person who gave me the gift.

Yes No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is: a hotel room at the Alaska Telephone Association convention in Kona, Hawaii for four nights. I was a speaker at the convention on 1/17/00 on general policy issues, and not on any specific case.

My estimate of its value is \$ 800.

I received it from Alaska Telephone Association.

The date of receipt was 1/16/00 to 1/19/00.

I can take or withhold the following official action that affects the giver:

Members of the ATA appear as parties in adjudicatory hearings, usually as opponents. The ATA files comments as a group in some regulatory dockets. Yes No

The gift was received by a member of my family Yes No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

G. Nanette Thompson
(Signature)

1/04/00
(Date)

G. Nanette Thompson
(Printed Name)

Chair, Regulatory Commission of Alaska
(Position Title)

Anchorage
(Location)

RCA
(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

(Date)

Comments in support of reauthorization of the RCA

Packet Contents

<u>Date</u>	<u>From</u>
6/19/2002	Marguerite Stetson, Member/AARP Alaska Executive Council
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 Durcan, 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



SAMPLE BEING SENT BY E-MAIL AND US MAIL TO AARP ACTIVISTS

TO: AARP Alaska Members and Friends
FROM: Marguerite Stetson
AARP Alaska Executive Council Member for Advocacy
DATE: June 17, 2002

WE NEED YOUR HELP!

As you know from the media, Governor Knowles has asked the Legislature to come into special session to deal with the reauthorization of the Regulatory Commission of Alaska (RCA).



AARP supports the reauthorization of the Regulatory Commission of Alaska and requests that you contact your Senator and Representative and ask them to vote "AYE" for RCA reauthorization.

BACKGROUND:

AARP is a consumer organization. Half of our members are over age 65 and half are younger. Most of our members are heads of their households. Our members use a variety of utilities: gas, electric, telephones and the internet. When utilities want to change their services, they must submit a proposed change to the Regulatory Commission of Alaska. It is the responsibility of the RCA to be a consumer "watchdog" and, under the rules and guidelines provided by the Legislature, to assure that our utility companies and telephone companies "do the right thing" and provide us needed services at reasonable rates. Consumer organizations like AARP rely on the RCA because it is the only organization that exercises some oversight and control over utilities.

The RCA is the only organization our members can turn to if they have a consumer complaint about their utility or telephone company.

The reauthorization of the RCA has become embroiled in partisan politics and telephone company squabbles. AARP has no interest in the politics of this debate nor do we care to participate in inter-company name-calling.

We are, however, very interested in the continuing existence of the Regulatory Commission of Alaska. As consumers, we need the RCA's oversight authority. After

watching the last session of the Legislature when virtually no important problems were resolved, we do not have confidence that the reauthorization of the RCA should wait for the next session in January, 2003. We believe the RCA should be reauthorized and it should be done now, when the special session convenes on June 24.



Please contact your Senator and Representative and ask them to vote "AYE" and reauthorize the Regulatory Commission of Alaska.

Thank you for your consideration.

Sincerely,

Marguerite Stetson

Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

* If you have an email address please send that address with your full name to:
ak@aarp.org

"This Alert is being sent by AARP Alaska State Office, 3601 "C" Street, Suite 1420, Anchorage, AK 99503, 907.341.2277, ak@aarp.org. Please visit www.aarp.org for more information about AARP generally, and www.aarp.org/privacy.html to read AARP's privacy policy. Copyright 2002, AARP. All rights reserved."

To unsubscribe from this alert and remove your name from the distribution list, please call, email, or mail us a note to the above address with that request.

AARP is nonpartisan and does not support, oppose, or give money to candidates or any political party.

AARP educates on the peace-of-mind issues of most concerns to voters age 50+.

Your Senator for District M

**Honorable Rick Halford
President of the Senate
Alaska Capitol, Room 107
Juneau, AK 99801-1182**

**1.907.465.4958 (voice)
1.907.465.4928 (fax)**

**District Office:
P.O. Box 190
Chugiak, AK 99567-0190**

**1.907.694.4958 (voice)
1.907.694.0549 (fax)**

senator_rick_halford@legis.state.ak.us

If you have an email address please send that address with your full name to:

ak@aarp.org

This will save AARP Alaska money and enable you to receive Alerts and Information in a timely manner – thank you.

Your Representative for District 25

Honorable Fred Dyson
Alaska Capitol, Room 104
Juneau, AK 99801-1182

1.800.342.2199 (toll free)
1.907.465.4587 (fax)

District Office:
10928 Eagle River Road, Suite 140
Eagle River, AK 99577
1.907.694.6683 (voice)
1.907.694.1015 (fax)

representative_fred_dyson@legis.state.ak.us

If you have an email address please send that address with your full name to:

ak@aarp.org

This will save AARP Alaska money and enable you to receive Alerts and Information in a timely manner – thank you.

06/19/2002 12:57 FAX 9073412270

AARP ALASKA STATE OFFICE

006

AARP Alaska

MEMORANDUM

TO: Members of the Alaska State Legislature

FROM: AARP Alaska

SUBJECT: Reauthorization of the
Regulatory Commission of Alaska (RCA)

AARP believes that all Alaskans must be able to rely on the availability of safe, affordable and high quality energy and telecommunications services.

The RCA is the only state agency with the authority to protect residential consumers in these ever-changing and often volatile utility markets.

Utility services are essential services and are critical to the quality of life of Alaskans - of all ages.

As a percentage of their monthly budget, many older persons spend 3 to 4 times more on utilities than the average household.

We need the RCA; all consumers do!

Please reauthorize the Regulatory Commission of Alaska during this special session and help ensure all consumers receive the protections they deserve.

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

June 17, 2002

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

Re: Requested Information Regarding E-mails

Dear Senator Taylor:

During the Senate Judiciary Committee meetings last week, you requested copies of e-mails from me to members of the utility industry requesting that they testify in support of the RCA's reauthorization. I do not recall sending any e-mails to any utility asking for their support. Instead I recall responding to inquiries from utilities about what was going on and what they could do to help. My response was generally that they should contact members of the legislature to voice their opinions.

To comply with your request, I searched through the Sent Mail portion of my e-mail box. There are no e-mails that fit that description. I also checked with our Information Systems department to determine if it was possible to retrieve messages that were moved to Trash after they were read. As of the time this memo is written, I do not have a conclusive answer as to whether that is possible and, if it is, what must be done to obtain and sort through them. As soon as the Information Systems technicians let me know what is possible, I will provide you with an update.

I started posting the Sunset Update on our website after I received so many of those inquiries that they were becoming time consuming. If there are any e-mails that fit the committee's description, they are likely to convey the same information that is in the Sunset Updates. Copies of those updates are attached for your information.

Sincerely,

REGULATORY COMMISSION OF ALASKA



G. Nanette Thompson
Chair

cc: Members of the Senate Judiciary Committee
The Honorable Rick Halford, Senate President
RCA Commissioners

Subject: Sunset Updates

Date: Mon, 17 Jun 2002 15:03:01 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

CC: Keith H Norton <keith_norton@rca.state.ak.us>

Here are the pages which have been posted.

Craig

The Senate Judiciary committee moved its hearing on the Regulatory Commission of Alaska to Wednesday, June 12, beginning at 1 pm., and Thursday, June 13, beginning at 10 a.m. The hearings will be at the Legislative Information Office and are open to the public.

The Anchorage Legislative Information Office is located at 716 W 4th Avenue, Suite 200, Anchorage, AK 99501-2133.

Phone: (907) 269-0111

Fax: (907) 269-0229

TDD: (907) 269-0260

Anchorage_LIO@legis.state.ak.us

RCA Sunset Update – 5/9/02

In a letter to Senator Robin Taylor dated May 8th, Governor Tony Knowles expressed his strong support for immediate action on the RCA's Sunset legislation (CS for HB 333). The bill is currently pending in the Senate Judiciary Committee

(chaired by Taylor) and no hearing is scheduled before the end of the regular session.

Knowles committed to call a special legislative session to consider the RCA's sunset legislation if the Legislature fails to act during the remainder of the regular session.

An electronic copy of Knowles' letter can be found at: http://www.state.ak.us/rca/hot_topics/govoffice.pdf

RCA Sunset Update—May 13, 2002

The House amended SB 115 yesterday to include extension of the RCA. They modified the language of HB 333 to extend the agency for two years instead of four, and added a provision to make the bill effective on the date that the Commissioner of Administration awards the contract for study of the telecommunications industry that was funded last year. The referenced RFP is Statewide Telecommunications Study Consultant Rfp 2002-0200-3329. It is available through the state's on-line public notice system.

RCA Sunset Update - 5/17/02

The legislature adjourned without acting on the RCA's sunset bill. The Governor has identified action on the agency's reauthorization as a priority in the special session that convenes today. Because all bills died at the end of the regular session, our bill needs to pass through both bodies again. If you would like to comment, please contact your legislative representatives at <http://www.legis.state.ak.us/poms/>

Sunset Update –June 4, 2002

Governor Knowles has called a special session of the Legislature for June 24, 2002, to vote on reauthorization of the RCA. If the RCA is not reauthorized before July 1, 2002, the agency expires under state law and we will begin the process of closing the agency.

The Senate Judiciary Committee has scheduled hearings on June 11 beginning at 1:30 and June 12 beginning at 10 in the Anchorage Legislative Information office. The notice indicates that a teleconference bridge will be available.

If you are concerned about the RCA's reauthorization you may contact the members of the Alaska legislature and/or appear at the hearing to offer testimony. When they are not in session, the electronic public opinion message system does not work, but their interim contact information is at: <http://www.legis.state.ak.us/infodocs/infodocs.htm>

RCA Sunset Review

The RCA was recently audited by the Legislature's Division of Budget and Audit in preparation for a periodic review of its activities by the legislature. The auditor concluded that the agency was performing well and its operations should be extended to July 1, 2006.

A complete copy of the audit report is available at:

<http://www.legaudit.state.ak.us/pages/digests/2002/20013dig.htm>

HB 333, which extends the RCA to June 30, 2006, passed the House April

22nd and is currently in the Senate Judiciary Committee, chaired by Senator Robin Taylor. HB 333 has not been scheduled for hearing. Without action on this bill in the Senate Judiciary Committee, the bill will not pass to the Senate floor for a vote and the RCA will be sunsetted. The agency will be required to wind down its current operation beginning July 1, 2002 and close its doors on June 30, 2003. Sunsetting the RCA will have an enormous impact on all utilities, pipelines and consumers of utility and pipeline services in Alaska.

If you would like to comment on this legislation, you may send a Public Opinion Message to your legislators at:

<http://www.legis.state.ak.us/poms/>

[RCA Home Page](#)

Craig Hice <Craig_Hice@RCA.State.AK.US>

sunset web page letter

Subject: sunset web page letter

Date: Mon, 17 Jun 2002 16:02:58 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>,
Keith H Norton <keith_norton@rca.state.ak.us>

One more sunset web page

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.

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,

ALASKA

REGULATORY COMMISSION OF

G. Nanette Thompson

Chair

cc: Members of the Alaska Legislature

Governor Tony Knowles

Alaska Rural Electrical Cooperative Association

Alaska Telephone Association

Craig Hice <Craig_Hice@RCA.State.AK.US>

[Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

Subject: [Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

Date: Mon, 17 Jun 2002 16:05:36 -0800

From: Keith Norton <keith_norton@rca.state.ak.us>

To: Dawn D Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

Dawn,

Here is the original email for the update that Craig just sent.

Keith

Subject: Re: [Fwd: [Fwd: sunset update for 5/20] Do this first!]

Date: Mon, 20 May 2002 11:42:49 -0800

From: Craig Hice <craig_hice@rca.state.ak.us>

To: Keith Norton <keith_norton@rca.state.ak.us>

CC: Christin M Krieger <christin_krieger@rca.state.ak.us>

Ok it is out there please double check and make sure this is what we wanted.

Craig

Keith Norton wrote:

Craig,

Here is the text of the "Update"...

To: Keith H Norton <keith_norton@rca.state.ak.us>, Christin M Krieger

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

Subject: sunset updatefor 5/20

Date: Mon, 20 May 2002 10:26:48 -0800

From: Nanette Thompson <nanette_thompson@rca.state.ak.us>

Organization: Regulatory Commission of Alaska

To: Dawn Bishop-Kleweno <dawn_bishop-kleweno@rca.state.ak.us>

The House moved HB 2001 over to the Senate over the weekend where it was

sent with the companion bill, SB 2010, to the Senate Judiciary committee. A letter explaining the consequences of sunsetting the RCA was sent to the legislature this morning.

[Fwd: [Fwd: [Fwd: sunset update for 5/20] Do this first!]]

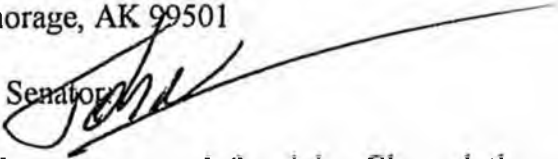
(Add link to letter)

Joe Griffith
General Manager

CHUGACH
POWERING ALASKA'S FUTURE

June 18, 2002

The Honorable John Cowdery
Alaska State Senate
716 West Fourth, Suite 530
Anchorage, AK 99501

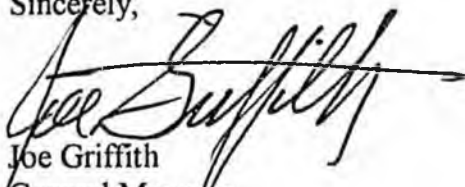
Dear Senator 

Thank you very much for giving Chugach the opportunity to share our comments last week at the legislative hearings in preparation for the special session.

For your information, I have attached copies of the presentations of Bruce Davison, President; Gene Bjornstad, retired General Manager; and by me. If you need any additional information, please don't hesitate to call me.

Thanks again for your interest in good government.

Sincerely,


Joe Griffith
General Manager

Attachments

June 10, 2002

The Honorable Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Senate
State Capitol, Room 121
Juneau, Alaska 99801-1182

Dear Mr. Chairman:

I am writing this letter on behalf of Chugach Electric Association's Board of Directors and its 60,000 members to express our appreciation for your willingness to address the current problems that exist with the Regulatory Commission of Alaska's (RCA) ratemaking processes. As we have shared with you during prior conversations, Chugach Electric Association, Inc. (Chugach) is frustrated with the current process. There are three primary problems we wish to outline:

1. The Commission takes way too long to make decisions – A hearing on Chugach's 1998 Test Year rate case was held in September, 2001, and the decision was not issued until six months later. Chugach's 2000 Test Year general rate case was filed in July, 2001 – we are unlikely to have a decision within 18 months.
2. The Commission does not control its proceedings well – over 57,000 pages of discovery to five parties each have been disclosed thus far after two rounds of discovery in our pending rate case. There are four rounds of discovery scheduled.
3. The Commission considers the same issues in multiple proceedings (issues never seem to go away) – in our current case, the Commission is considering a financing issue it has considered twice before.

The message we are sending is that the existing process is quite inefficient and our members are not getting much value from the regulatory processes before the RCA. Chugach members pay for the RCA in their monthly electric bill through the regulatory cost charge. In addition, base electric rates are also impacted by this inefficiency (that is, costs are driven up by the expenses of outside counsel and the staggering costs of discovery). The Chugach Board of Directors has an obligation to its members to assure that costs incurred are for the benefit of its members. The current high costs of regulation and more importantly, the diversion of key staff resources, are benefiting no one.

Chugach is not the only electric utility that has concerns with the RCA. Eric Yould, Executive Director of ARECA, stated in a recent letter to House Finance Co-Chairman Eldon Mulder: "...the regulatory process is still broken and must be fixed. The present process costs the electric utility industry much time and ... money to run the regulatory gauntlet."

Public Comments by Eugene N. Bjornstad
Senator Taylor's Committee
Sunset Review of RCA
June 12, 2002

Good afternoon. My name is Eugene Bjornstad. I am the former General Manager of Chugach Electric Association. I am recently retired but would like to offer my prior experience with the Regulatory Commission of Alaska (RCA) for your consideration.

First of all, Senator Taylor, I appreciate you and your committee's efforts to improve the regulatory process. It is never easy to lead change. I truly admire your leadership position on this issue.

As you are aware, Chugach has also led the way to change in many areas. A few include getting ready for competition through benchmarking and adopting best practices from industry leaders. In the past five years, Chugach prepared itself for competition by looking at emerging technologies, promoting innovation and offering new services to its members. None of this change came easy, but Chugach is a better organization today because it was not afraid of change, and did not stick its head in the sand and ignore the future.

So too must the regulatory process change. Utilities are extremely dependent on the regulatory process, and cooperative member's equity and corporations' profits can be affected by decisions, and more importantly indecisions, of the Commission. The legislature has a duty to insure that the regulatory process is fair and serves the best interest of utility ratepayers.

Both the RCA and its predecessor organization, the APUC, failed to provide value to utility ratepayers.

Let me provide you with a few examples:

- In my last year with Chugach Electric as General Manager, my direct reports and I supervised much of the efforts to comply with several rounds of discovery requests from Alaska Electric Generation Transmission, Matanuska Electric Association and the Public Advocacy Staff (PAS) in our present general rate case.
- At times, Chugach had as many as 40 employees, the majority of whom are in management positions, including senior management, working on nothing but responses to discovery requests. I estimate in excess of 6000 hours of employee time was spent responding to these discovery requests.
- In addition to the staff time dedicated to discovery requests, 11 members of staff, including myself, made themselves available for depositions by AEG&T/HEA and MEA in the proceeding, some being deposed twice.

CORRECTION

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



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

June 10, 2002

The Honorable Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Senate
State Capitol, Room 121
Juneau, Alaska 99801-1182

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Honorable Robin Taylor
Chair, Senate Judiciary Committee

June 10, 2002
page 2

We concur with Mr. Yould's comments and welcome the Committee's involvement. Addressing the ineffectiveness of the RCA's current regulatory process will benefit all of our constituents. We believe there are solutions to the problems we are encountering, but steps must be taken now to start the process.

If you have any questions regarding this letter, please do not hesitate to contact me or Joe Griffith, Chugach's General Manager. We would be happy to meet and further discuss this important matter at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Davison". The signature is written in a cursive style with a large, stylized "D" at the end.

Bruce Davison
President, Board of Directors

Public Comments by Eugene N. Bjornstad
Senator Taylor's Committee
Sunset Review of RCA
June 12, 2002

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Let me provide you with a few examples:

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- At times, Chugach had as many as 40 employees, the majority of whom are in management positions, including senior management, working on nothing but responses to discovery requests. I estimate in excess of 6000 hours of employee time was spent responding to these discovery requests.
- In addition to the staff time dedicated to discovery requests, 11 members of staff, including myself, made themselves available for depositions by AEG&T/HEA and MEA in the proceeding, some being deposed twice.

- These deponents necessarily spent numerous hours away from their normal duties preparing for and attending their depositions.
- The documentation prepared in response to the parties is staggering. Chugach made nearly half a million copies of pages responsive to discovery requests. In just the first two rounds, the parties have propounded a total of 184 interrogatories, 190 requests for production, and 13 requests for admission on Chugach.

All of this comes on the heels of the Commission's order stating its intent to "limit the contentiousness of the case" by limiting the number of discovery requests. In contrast, just the opposite occurred. The number of requests in the current docket already surpasses that of Chugach's 1998 Test Year matter, which the RCA did not decide until after the 2000 Test Year matter was filed.

In summary, the current process is not efficient. It is extremely disruptive to staff. It diverts critical resources from normal business activities, and it is also extremely burdensome. Entire conference rooms full of documents have been produced. This all adds up to costs – costs for staff, legal counsel, and document preparation. In addition, because Chugach is not receiving its permanent rate increase request, it is losing \$200,000 for each month that implementation of its request is delayed.

I encourage the Committee to use good management and problem-solving techniques to reinvent the regulatory process from the bottom up. Although we cannot solve the problem today, I do believe, with a commitment to change, good leadership and the use of industry experts, the regulatory process can become more timely and efficient.

Senator Taylor, I appreciate the opportunity to express my views and would be happy to answer any questions from the Committee.

Comments by Bruce Davison
Senator Taylor's Committee
Sunset Review of RCA
June 12, 2002

Good afternoon. My name is Bruce Davison. I am President of the Chugach Electric Association Board of Directors. I appreciate the opportunity to address the Committee on behalf of Chugach's 60,000 members.

So far, you have heard from Chugach's former General Manager, Gene Bjornstad, and our new General Manager, Joe Griffith. Gene has 20 years of utility management experience, and Joe has management and regulatory experience dating back some 17 years.

The testimony of these experienced managers indicates that the current regulatory process is not providing true value for our member/owners.

As testified and presented, the regulatory process takes too long, is not controlled by firm timetables and guidelines, and many issues fail to be finally, and I emphasize finally, resolved.

Rather than repeat the problems we have with the RCA, let me offer some suggestions as to how the regulatory process can be improved.

First of all, it is time for the RCA to undergo its own benchmarking study and identify areas for improvement. Gene Bjornstad mentioned that modern management techniques should be used to reinvent the process. The RCA should undergo a process review under the direction of an oversight committee empowered by the state government. This oversight committee should work with the RCA and regulated parties to get to the heart of the problem and make recommendations for improvement. The oversight committee should be comprised of professionals familiar with utility and regulatory processes. The oversight committee should be tasked with presenting a review and recommendation to the state government within a one-year timeline.

Second, it appears that some additional leadership or management coordination needs to take place to manage the workload of the RCA. The Chair needs a senior-level staff person to plan, organize, and control the overall process. The staff also needs modern management techniques and tools to assist in the change process.

Thirdly, the RCA needs to lighten its caseload. Proceedings need to be managed within set timetables and guidelines. Processes need to be created that place boundaries on discovery. Filings need to be scrutinized to be sure that issues are not readdressed in multiple forums.

Lastly, the RCA needs a better method of resolving disputes between parties. Benchmarking judicatory processes of successful entities would be a good start.

In short, the regulatory process needs to be more efficient.

We offer these suggestions in the spirit of cooperation and with the intent of offering solutions rather than only criticisms.

As far as large electric utilities, we prefer no economic regulation, as our elected boards are perfectly capable of balancing the needs of the Association with the needs of our member/owners.

In summary, we seek to be heard, we ask for leadership in promoting change, and we stand ready to assist in any way we can.

Thank you for the opportunity to comment.

Comments by Joe Griffith
Senator Taylor's Committee
Sunset Review of RCA
June 12, 2002

Good afternoon. My name is Joe Griffith. I am the General Manager of Chugach Electric Association. Though I was just recently appointed to this position, before that I was Executive Manager overseeing regulatory matters.

Chugach is a member-owned cooperative consisting of 60,000 retail members. Chugach also sells power wholesale. The result is that Chugach supplies most of the electric power for the Anchorage area, almost all of the power for the Matsu Valley and Kenai Peninsula areas, and supplies substantial amounts of power to the Fairbanks area. It is important to note that as a cooperative, our members elect the directors that sit on our Board of Directors. And, they have elected well. We have dedicated and knowledgeable directors with considerable professional expertise which meet over 25 times a year, ensuring that they keep very close track of our members' interests.

The message I bring to you today is simple: our members are not getting good value from the regulatory processes before the RCA. Chugach continues to have serious difficulties with the regulatory process before the RCA.

Before I elaborate on that message, let me say that it is with considerable trepidation that I appear before you. Many would say that it is a fool's errand to complain publicly about an agency that has such absolute power and authority over every aspect of each of our utility's operations. This agency sets the prices at which we sell our services. It sets the terms of our service. It has virtually unlimited investigative authority and ultimately, in extreme circumstances, has the authority to take on management authority at the company.

But despite the risks, we feel we owe it to our members to give you the benefit of our experience. However, I want to stress that what we have to say is offered in the spirit of constructive criticism and we trust and hope that it will be accepted that way.

Let me tell you a little about our experience which is, of course, unique. With a few notable exceptions, when we are actually able to get a decision, we are generally happy with the narrow result. It's getting a result that is the problem. There are three points I want to make in this regard:

First, the Commission takes far too long to make decisions. Let me give you a couple of examples.

- 1) A rate case was opened in 1996. A hearing was held in September, 2001, and a decision was issued six months later in March, 2002. This rate review process is over 6 years old and still open.

- 2) The 2000 Test Year general rate case was filed in July, 2001, and we are unlikely to have a decision before 18 months has passed.

Second, the Commission does not control its proceedings well. In excess of 60,000 pages of discovery have been disclosed thus far after two rounds of discovery. There are four rounds of discovery scheduled.

Third, the Commission has a tendency to make the least final decision possible in many circumstances. The result is that issues don't go away. In our current rate case, the Commission is considering a financing issue it has considered twice before. The Commission confronted the issue once in a separate docket opened to decide whether to investigate the claim. It closed the docket, finding no basis for investigation, but allowed consideration of the issue in the case I just mentioned that has been open for six years. They rejected the claim again in that case, but now it's back in the 2000 Test Year case. The Commission seems to have trouble with the issue of finality. As I said, the Commission sets prices at which we can sell our services, but once they have set the price and we have sold the service, the Commission asserts it has the right to and actually does go back in time to change that price. You can imagine trying to run a business when you can't know whether the revenues you receive are going to be taken back years later.

In conclusion, Chugach looks to the Commission to perform its role. We think they have an important role in Alaska. In a sense, we are a customer of the RCA. From our perspective, one of its main functions is to adjudicate cases which come before it. The RCA has become ineffective in performing this function.

Chugach has and will continue to participate in good faith and try to make work whatever regulatory structure the legislature determines is best, but the current situation is not good for our members. We currently pay \$365,475 to fund a regulatory process that adds little value and costs the members hundreds of thousands of dollars annually and, more importantly, diverts the considerable talents of my staff on work which benefits no one, for example in our 2000 Test Year rate case, we have already expended over 6,000 staff hours and we still have months to go. We need to expedite and improve the process.

Possible Questions

1. What do you recommend?
2. Why does a coop with an elected board need regulatory oversight?
3. Does Chugach (or other coops or munis) need to be regulated?

Clara Page - 05-5.4

Woods - 2.4

Jan 26

SB

21

Alaska State Legislature

Senate



Official Business

State Capitol
Juneau, AK. 99801-1182

SENATOR DONALD OLSON

SPONSOR STATEMENT

SB 21, Fines by the State Medical Board.

I introduced SB 21 to increase the monetary sanction that the State Medical Board may impose on a licensee upon a finding of professional or ethical misconduct. The bill increases the maximum penalty from the \$10,000 limit that is currently in statute to \$25,000.

I feel the justification for SB 21 is twofold. First, I believe that the maximum sanction of \$10,000 does not provide a sufficient monetary deterrent, given the economic status of many licensees. Most often, the severity of the penalty is in no manner equivalent to the damage caused in extreme cases of misconduct. Furthermore, the \$10,000 limit has not been changed since it was first enacted 14 years ago.

A second reason for SB 21 is the increasing costs that the board is experiencing in its caseload management of misconduct allegations. It is not unusual for the costs of a misconduct determination to exceed the \$10,000 penalty limit. Since the activities of the board are wholly supported by licensure fees and fines, increased costs of operation usually translate into license fee increases. SB 21 offers a second way to meet increasing caseload costs. It expands the board's cost recovery ability through increased fines. In practice then, the financial burden for this regulatory activity may be shifted more from the general membership to the wrongdoers themselves.

Currently, the board has 188 cases that are open for potential investigation and adjudication by the Division of Occupational Licensing. During calendar year 2000, 130 new cases were opened and 133 closed. This effort resulted in 35 disciplinary actions against medical board licensees. In fiscal year 2000, the costs of pursuing misconduct charges exceeded \$160,000.

Tony Knowles, Governor

Alaska

**Department of Community
and Economic Development**

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occl

January 19, 2001

*Alaska State Legislature
State Capitol
Juneau AK 99811*

At its meeting of January 18, 2001, the Alaska State Medical Board reviewed Senate Bill 21 which would increase the maximum amount of civil fines that could be imposed by the board from \$10,000 to \$25,000. The board voted unanimously to support this bill.

The board appreciates the consideration of the members of legislature in this matter and hopes the bill will receive speedy and favorable action.

Sarah A. Isto, M.D.

Sarah A. Isto, MD

Chair

Alaska State Medical Board

Letters of Support

"Promoting a healthy economy and strong communities"

SB

25

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): 1/5/01 Dept. Affected: Corrections
 Title: Interstate Compact for Adult Supervision BRU: Administration & Operations
 Component: All
 Sponsor: Rules Committee
 Requester: Governor Component Number: 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel	13.7	5.7	5.7	5.7	5.7	5.7
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	18.0	18.0	18.0	18.0	18.0	18.0
TOTAL OPERATING	31.7	23.7	23.7	23.7	23.7	23.7

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	31.7	23.7	23.7	23.7	23.7	23.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	31.7	23.7	23.7	23.7	23.7	23.7

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

All States joining the Interstate Compact for Adult Offender Supervision will be assessed a fee depending on the size of the offender population, etc. The State of Alaska has been tentatively assessed at \$18,000/year. These fees will pay for the administrative costs of the Compact.

It is anticipated that the first year of the new Compact, there will be at least three meetings of the Interstate Commission in order to develop the by-laws and rules by which the Compact will operate. All joining States will have their Interstate Compact Commissioner or designee attend in order to provide input. This fiscal note provides for three trips to Washington D.C., where the main office of the Compact will be. The travel expense reflects 3 roundtrip airfares at \$1500 each, 5 days per diem for each trip at \$42/day and 4 nights in a hotel in Washington D.C. per trip at \$150/night. Additionally, I have included two meetings of the State Council the 1st year for 4 people. The cost includes airfare at \$500 per member as well as \$115/day per diem for 3 days each. The subsequent years reflect one meeting for each body.

Prepared by: Candace Brower Phone 465-4652
 Division: Commissioner's Office Date/Time 1/5/01 3:45 p.m.
 Approved by: Margaret M. Pugh, Commissioner Date 1/5/01
 Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

We have not requested a position in this fiscal note. There is someone in an equivalent position already in place in the Department. At some time in the future, it may become necessary to request an additional position should the demands of the workload become too great.

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532
www.gov.state.ak.us

January 10, 2001

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Halford:


With this bill I transmit today, Alaska has the opportunity to increase supervision of criminal offenders who travel across state lines, thereby contributing to the growing national interest in protecting victims' rights. This bill allows Alaska to participate in the Interstate Compact for Adult Offender Supervision, joining other states in replacing the now-outdated Interstate Compact on Probation and Parole.

The current compact was enacted in 1937 and can no longer adequately deal with the more than four million offenders on probation and parole, 250,000 of which will cross state lines this year. The proposed new compact provides for an interstate commission to coordinate the transfer and supervision of probationers and parolees between states, as well as enforcement mechanisms for states who fail to abide by the rules of the compact.

A state council would also be created to exercise oversight and advocacy concerning the state's participation in the Interstate Commission as well as to make recommendations to the legislature to facilitate the operations and procedures of the compact within the state.

I urge your prompt and favorable consideration of this bill.

Sincerely,


Tony Knowles
Governor

Sponsor
Statement/Sectional

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

TALKING POINTS

- Interstate compacts are not new or unique. There are more than 200 interstate compacts in existence today, and 17 are Corrections and Crime Control compacts. While all states, the District of Columbia, Puerto Rico and the Virgin Islands are party to the existing Parole and Probation Interstate Compact, it is actually rather rare to have that many party states.
- Interstate compacts are:
 - (a) Agreements between two or more states that bind them to the compact's provisions.
 - (b) Subject to the substantive principles of contract law.
 - (c) Protected by the constitutional prohibition against laws that impair the obligations of contracts.
 - (d) This means that:
 - Compacting states are bound to observe the terms of the agreements -- even if those terms are inconsistent with other state laws.
 - Compacts have the force and effect of statutory law.
 - Compacts take precedence over conflicting state laws.
- There are over 4 million offenders on probation and parole in the United States today. 250,000 will cross state lines this year.
- Offenders who travel from state to state are currently overseen by about 3,285 different local parole and probation offices, which operate within 860 different agencies. This fragmented system makes it nearly impossible to adequately account for all offenders.
- Managing offender populations is becoming increasingly complex. State and local governments are passing measures dealing with special offender and high-risk groups such as registration of sex offenders and notification to victims regarding offender locations. Probation and parole must be able to satisfy compliance requirements, track the location of offenders, smoothly transfer supervision authority, and when necessary return offenders to the originating jurisdictions. Interstate activity involving offenders must be governed by public policies that ensure equity and justice for all involved parties, including victims of crime.

- States are responsible and can be held liable for the movement and actions of offenders who move in and out of their state. This should be of increasing concern for states, given the ease of interstate travel we currently enjoy.
- The existing compact has been in existence, unchanged, since 1937. It is two pages long and currently costs states about \$400 per year to participate.
- The existing Compact authority and structure are seriously outdated. Symptoms include: the rule making group is not specifically created in compact language and is not legally empowered to carry out certain key activities; it is difficult to create new rules; there is limited ability to enforce rule compliance; and exchange of case information is slow and unreliable.
- The current Compact has no provisions for staff and no national system or agency to monitor the flow of offenders from state to state.
- Under the existing compact, violations are frequent. There is simply not a structure presently in place that can effectively monitor the movement of parolees and probationers across state lines.
- Primary goals of the revised Interstate Compact include:
 - (a) The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support.
 - (b) Policymaking level appointment representations of all member states on a national governing commission which meets annually to elect the compact operating authority members, and to attend to general business and rule making procedures.
 - (c) Rule making authority, provision for significant sanctions to support essential compact operations.
 - (d) Mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.)
 - (e) Compel collection of standardized information.
- The revised Compact is the result of nearly a year of public hearings, research and informed dialogue among legislators, attorneys general, parole and probation officials and victims' rights groups.
- The Compact can be in place, ready to work, by July 1, 2001 if passed by 35 states or upon passage by the 35th state.

- The revised Compact is a contract between states. As such, states wishing to participate in a compact must adopt identical Compact provisions.
- The Compact mandates more efficient communications between states and state agencies. It compels creation of National Database, utilizing current communications technology that will allow states to share critical offender information.
- The revised Compact facilitates state autonomy **AND** national cooperation:
 - (a) By establishing State Councils, a state appointed group which will oversee the interests of all three branches of government in that state, states can ensure that state officials are aware of the Compact and that the state is taking full advantage of the Compact's structure and benefits.
 - (b) By participating in the National Commission, composed of voting members from all member states and territories, states will help to develop the means to identify, track and account for the controlled movement of offenders. The Commission would also promulgate rules for states as well as resolve disputes between states.
- States determine the structure, composition and budget of the State Councils.
- State Council membership must include at least one representative from the legislative, executive and judicial branches of government, victim groups and the Compact Administrator.
- Each state determines the qualifications of the Compact Administrator who shall be appointed either by the Governor in consultation with the Legislature and the Judiciary; or by the State Council.
- State dues in support of the National Commission are based on a formula to be developed by the state within the National Commission. Key components will include a state's population and a state's volume of interstate movement of offenders. Smaller states with a lower volume of offender movement could expect to pay less and a larger state with a higher volume of offender movement could expect to pay proportionately more.
- Rules and bylaws for the National Commission are developed and passed by the Commission and have the effect of law upon states. However, should a majority of states reject a rule, it will have no further force and effect in any Compacting State. Existing rules and bylaws under the current compact will remain in effect during the first year until the Commission promulgates rules and bylaws which supercede the previous rules.
- The National Commission will have an Executive Committee, composed of Compact Administrators from member states.

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Senator Pete Kelly
District P

Senate Bill 37

“An Act relating to collective negotiation by physicians with health benefit plans; and to health benefit plan contracts with individual competing physicians.”

Senate Bill 37 attempts to level the playing field for Alaska’s patients and the physicians who care for them.

In a perfect world, equal bargaining power would exist between the medical care providers and the health insurers. Big hospitals have more equal bargaining power with the health insurers than the typical Alaskan physician in a solo or small group practice. Obviously, a gross inequity in bargaining power exists and there is no conceivable way any health insurer will bargain with an individual doctor regarding individual contract provisions other than on a take it or leave it basis. The resultant effect is physician service contracts heavily weighted in favor of the insurance company. The bottom line is that, in many respects, this adversely affects the care that patients receive. For example, requiring a physician to use lower cost treatment when a higher cost treatment may be medically necessary or preventing a physician from discussing alternative treatments.

Independent, competing physicians are prevented from any collective action by the federal anti-trust laws to which, ironically, the insurers are not subject. This fact plus the market concentration of health insurers causes the imbalance in bargaining power. With insurers having such a high degree of leverage, a balance of interest no longer exists in the market for health care delivery and finance.

Senate Bill 37 can permit independent, competing physicians to collectively negotiate with health insurers in regard to the provisions of physician services contracts to provide quality health care to Alaskans. When the provisions set forth by SB 37 are met, behavior that would otherwise violate the anti-trust laws will be exempt from anti-trust scrutiny. The test for qualifying exemption varies depending on the identity of the party performing the action in question. However, SB 37 will still prohibit a group of independent competing physicians from striking or otherwise engaging in activities that would result in a boycott.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

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January 19, 2001

Senator Robin Taylor
Chair, Senate Judiciary Committee
State Capitol Building
Juneau, Alaska 99801-1182

Re: SB 37 – Physician Negotiations with Health Benefit Plans.

Dear Senator Taylor:

The State of Alaska, Department of Law submits the following written comments regarding SB 37, "An Act relating to collective negotiation by physicians with health benefit plans; and to [allow] health benefit plan contracts with individual competing physicians." This bill is essentially identical to CS for Senate Bill 256 (Fin) introduced by Senator Kelly during the Twenty-First Legislature in 2000. The following comments, therefore, are essentially the same comments provided by the department to Senator Tim Kelly last year, with minor modifications.

In general, the department has serious legal and policy concerns regarding the collective negotiation aspects of this bill. We believe the bill, if passed, may result in substantial harm to consumers in the form of increased health care costs and reduced health care options. Further, the level of state involvement provided in the bill may not be sufficient under the state action doctrine to immunize physicians from federal anti-trust enforcement.

I. Purpose of Senate Bill 37.

Collective negotiations of price and price related terms by physicians is considered "per se" illegal price fixing in violation of state and federal antitrust laws. See Arizona v. Maricopa County Medical Society, 457 U.S. 332 (1982). SB 37 attempts to displace free market competition and allow competing physicians to collectively negotiate with health plans on non-price and price terms of a contract under certain circumstances. The bill also attempts to provide the physicians immunity from prosecution under federal antitrust laws, through the state action doctrine, by establishing a review process of the negotiations and contracts through the Office of the Attorney General.

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II. Issues relating to SB 37.

A. Harm to Consumers.

The Department of Law agrees with the concerns relating to collective negotiations by physicians raised by Federal Trade Commission (FTC) representative, Richard Feinstein, in the oral testimony given before the Finance Committee on February 25, 2000, and in the letters submitted to the Committee dated May 13, 1999, and October 29, 1999, relating to collective negotiation legislation in Texas and Washington, D.C. Those letters are attached. Since that time, Texas legislation has been enacted, but not implemented because of serious issues related to the drafting of regulations.

Specifically, according to the FTC, allowing physicians to collectively negotiate on price terms will not ensure better care for patients, and may result in substantial harm to consumers. For instance, likely increased rates negotiated by physicians under negotiated contracts threatens to raise health care costs for individuals, employers, and state and federal governments, and may reduce access to care and increase the number of uninsured. The FTC's conclusions are based on prior investigations and enforcement actions where similar results occurred when physicians collectively negotiated price terms. See October 29, 1999 letter from FTC to Robert R. Rigsby, Office of Corporate Counsel, Washington, D.C., pg. 2.

Further, as discussed by Robert Lohr, Director, Alaska Department of Community and Economic Development, Division of Insurance, in his March 30, 2000, letter submitted to the Senate Finance Committee, a recent study conducted by Charles Rivers Associates, Inc., estimates that private health insurance premiums would rise by approximately 5 to 13 percent under the pending federal legislation (H.R. 1304) permitting health care professionals to negotiate collectively with health care plans. Based on this study, and Mr. Lohr's discussions, it can be assumed that Alaska will experience similar increased health care costs as a result of collective negotiations by physicians, absent adequate limits on the collective bargaining.

B. Limits on collective bargaining are not sufficient to protect consumers from substantial harm.

1. Market share limits.

SB 37 provides that health plans must have substantial market power, defined as 15% of the market share, before they will be subject to *price* negotiations by physicians. Where a health plan has less than 5% market share, the physician group may not exceed 30% of the market in the physician's geographic service area. *Non-price terms* can be negotiated regardless of market share.

Although the bill appears to make the concept of market power an important limitation on physician's ability to collectively negotiate price terms, these provisions are not based on accepted concepts of market power in a legal or economic sense. See FTC letter dated October

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29, 1999. Specifically, a 15% market share is not ordinarily presumed to constitute market power. Accordingly, even though a health plan may meet the presumption of market power under the bill, it may not, in fact, have the market power which gives them the ability to reduce prices below competitive levels. Absent a showing that *actual market power* is held by a health plan, there is no justification for collective negotiations.

Further, the bill's limits on physician group size do not reflect the potential market power (ability to raise prices) of physician groups. Currently, SB 37 lacks a cap on the market share of a physician group when negotiating *price terms* with a health plan that has greater than 5% of the market share. This may result in a disproportionately large physician group (up to 100% of the market share in a geographic market) negotiating with a small health plan (as small as 5% market share), resulting in substantial market power by the physicians. The limit on the market share of physicians groups and the corresponding market share limit placed on health plans does not necessarily reflect *actual market power*, and may underestimate the economic clout of a physician group which is dealing with a small health plan.

The bill attempts to cure the above problems by giving the Attorney General the authority to limit the percentage of practicing physicians represented by an authorized third party. The limitation provides, however, that the number of physicians, under any circumstance, cannot be less than 30% of the market of practicing physicians in the geographic service area. This does nothing to cure the problem, and the bill still provides the potential for a physician group to be formed with significant economic clout. There is an exception in the bill which states the limit does not apply if the market of practicing physicians in the geographic service area or proposed geographic service area consists of 40 or fewer individuals. This leaves smaller towns such as Barrow, Sitka, or Ketchikan vulnerable to physician groups that could exercise market power.

2. Prohibition on boycotts/concerted action.

Another limitation in SB 37 relates to the prohibitions on boycotts and concerted action by physicians. The two sections in the bill that address these provisions raise significant questions of interpretation and may not offer adequate protections to consumers.

Section 23.50.020 (a) prohibits competing physicians from engaging in boycotts relating to the non-price terms and conditions listed in that subsection. A similar prohibition is conspicuously absent from the price and price related terms and conditions listed in subsection (c). It is not clear whether this omission was purposeful. The effect is significant, however, in that the prohibition on boycotts is absent for price and price related terms.

Subsection (k) of the bill, relating to concerted action by physicians, does not fully correct the problem. Subsection (k) provides that new section 23.50.020 does not authorize competing physicians to act in concert in response to a report issued by an authorized third party related to the third party's discussions or negotiations with a health benefit plan. First, this section does not clearly prohibit concerted action, such as boycotts. It only states that it is not authorized by the section. Subsection (k) needs to be amended to provide that concerted action

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is clearly prohibited, as it is in subsection (a). Second, the only conduct that is affected under subsection (k) is concerted action *in response to* third party discussions/negotiations with health plans. Concerted conduct by physicians *prior to, or during* negotiations, is not affected by this section. Therefore, for instance, a boycott or strike by physicians in response to a health plan's refusal to collectively negotiate with a physician group on price terms would not be prohibited by this subsection.

Another issue, which must be clarified, relates to the definition of boycott. As the FTC points out in its letter to the Washington D.C. Corporate Counsel, dated October 29, 1999, it is unclear whether the boycott prohibition is intended to bar agreements not to deal with health plans except on collectively-determined terms, or whether it would only prohibit agreements to withhold services from third parties, in order to pressure health plans to accede to the contract terms demanded by the physician group. *Id.* at pg. 4. The bill needs to be clarified to indicate which type of boycott is prohibited by this section, the former being the much more coercive type of boycott which should not be allowed.

Even if the bill was amended, as suggested above, so that it was clear that all types of boycotts and concerted action are prohibited, SB 37's authorization of collective bargaining would still present a serious risk of anticompetitive harm. The FTC has previously observed that collective negotiations by nature convey an implied threat that if the health plan does not agree to the terms presented by the physician group the plan will be unable to obtain agreements with individual group members. *Id.* By immunizing agreements among physicians on the prices and other terms they will accept from a health plan, SB 37 facilitates coordinated conduct among physicians, such as collusive refusals to deal that, even though not authorized by the bill, would be difficult to detect and prosecute. Because the purpose of the bill is to allow physicians to exert leverage over health plans in order to get more favorable terms, prohibiting concerted action by physicians would likely not eliminate the coercive force of collective bargaining, or obviate concerns that the bill would increase the likelihood of concerted refusals to contract with health plans. *Id.*

C. Immunity Issues – State Action Doctrine

In order for collective private activity, such as proposed in this bill, to be shielded from the antitrust laws, the bill must satisfy the "state action doctrine" as set out in *California Retail Liquor Dealers Assn. v. Mid Cal Aluminum, Inc.* 445 U.S. 97 (1980); *Southern Motor Carriers Rate Conference, Inc. v. United States*, 471 U.S. 48 (1985) and *FTC v. Ticor Title Ins. Co.*, 504 U.S. 621 (1992). Under this doctrine, antitrust liability is avoided only if (1) the challenged action is the result of a clearly articulated and affirmatively expressed state policy to supplant competition, and (2) the action is "actively supervised" by the state. Actual state involvement, not deference to private price fixing arrangements under the general auspices of state law, is the precondition for immunity from federal law. *Ticor*, 504 U.S. at 621, 112 S. Ct. 2169, 2176 – 77.

Active supervision, for the purpose of obtaining immunity under federal antitrust law means the regulatory agency must "have and exercise ultimate control over the challenged

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conduct." *Parrick v. Burget*, 486 U.S. 94, 100 (1988). In this context the issue is whether "the state has exercised sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among the parties." *Ticor*, 112 S. Ct. at 2177. The Court has held that a state did not actively supervise price arrangements when it did not establish the prices, review the reasonableness of the prices, monitor market conditions, or engage in any pointed reexamination of the program. *Midcal*, 445 U.S. 92, 105-106 (1980).

Several aspects of the provisions of SB 37 raise questions as to the adequacy of state supervision authorized by the bill, thereby reducing the likelihood that the legislation meets the requirements of the state action doctrine immunizing physicians from prosecution under federal antitrust laws. First, the limited nature of information that a third party representative must provide to the Attorney General to obtain approval to negotiate raises the question as to the extent the Attorney General can exercise sufficient independent judgment and control to make the determinations required under the bill. For example, the Attorney General must determine whether the third party has complied with the physician market share limits under the bill in order to decide whether the proposed negotiations exceed the authority granted under the chapter. The third party, however, is not required to provide any information necessary to make such a determination, such as information relating the physicians they represent, their specialty areas, market shares, etc.

Second, the bill imposes substantial responsibilities on the Attorney General to approve or not approve a proposed negotiated contract, utilizing specific criteria, but provides only a very short time frame (30 days) within which to make that fact intensive determination, and does not require that the parties provide any information to the Attorney General to make such a determination. Moreover, the regulatory scheme established by the bill contains no mechanism for members of the public, or others affected by the decision, to offer evidence and argument relating to the costs or benefits of the proposed contracts. All of these factors suggest that no substantive review is contemplated by the legislation, nor would the Attorney General be in a position to exercise independent judgment and control in determining the reasonableness of negotiated terms of the contract.

Finally, rather than putting the burden on the proponents of a contract to demonstrate that the proposed contract complies with the articulated standards, SB 37 puts the burden on the Attorney General to make that determination without any information to assist in the review. This is contrary to established legal principles that the party requesting a change from the status quo has the burden of proving that the requested action is justified. The proponents of a negotiated contract are the entities with the information and knowledge necessary to establish that the criteria have been met. SB 37's failure to place the burden on the proponents of the contract to demonstrate that the standards for approval have been met is further indicia that a substantive review of the contract terms is not contemplated by the legislation.

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For these reasons, it may be found that the level of state involvement provided in SB 37 may not be sufficient "active state supervision" under the state action doctrine to immunize physicians from federal antitrust enforcement.

D. Issues relating to Geographic Service Area

1. AS 23.50.020(d) refers to geographic service area, which is defined to mean the "geographic area of the physicians seeking to jointly negotiate." This definition raises a couple of issues that need to be addressed. First, it is unclear what standards are to be used to determine the geographic area of a physician under the definition. This will need to be clarified before an accurate and consistent market share analysis can be performed under the bill. Second, a health plan's market share is calculated based on the physician group's geographic service area. It will need to be confirmed that information can, in fact, be obtained about a health plan's market share within a particular physician group's geographic service area. If it cannot, then the market share analysis contemplated in the bill will not be able to be performed.

2. AS 23.50.020(h) - (j) provides standards for approval by the Attorney General of a collective negotiation. A number of the standards, however, appear vague, making it impossible to determine what factors are contemplated under the standard and whether the factors are appropriate for the Attorney General's consideration. For instance, it is not clear what sort of factors or terms would fall under the category "promotion of health care infrastructure and medical advancement" found in subsection (i)(3). Also, to provide a balanced consideration of factors, the standards should be amended under subsection (j) to allow the Attorney General to consider whether the proposed contract terms impose impediments or decrease access to quality patient care, when weighing the anti-competitive effects of the contract terms.

III. ERISA Preemption Issues.

The collective negotiation provisions of this bill apply to "health benefit plans" instead of "health care insurers." We understand that this wording was intended to include self-funded health plans within the scope of the bill in addition to fully insured plans. This change, however, raises a federal preemption issue under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA preempts all state laws that relate to an employee benefit plan, which by definition includes a "health benefit plan." ERISA regulates the administration of employee health care benefits as well as the structure of the plans. While there is case law that may seem to narrow the breadth of the broad ERISA preemption, this bill is still a high risk of preemption to the extent that the bill will affect the benefits and administration of a health benefit plan. This risk can be avoided by restricting the application of the bill to entities traditionally regulated under Alaska's insurance laws, which was the approach used by Texas in similar legislation passed in 1999.

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IV. Miscellaneous Issues.

Written testimony submitted to various committees last year, and proposed AS 23.50.020(f)(2) indicate that negotiation with an authorized third party is not mandatory for health benefit plans. However, the language in proposed AS 23.50.020(c) and (d) imply that all health benefit plans are required to negotiate with an authorized third party unless it can prove that it does not have substantial market power. The bill needs to clarify whether such negotiations are voluntary or not.

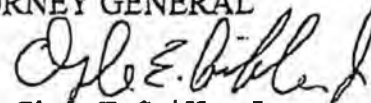
By using the term "health benefit plan" in the bill, insurance companies are not subject to the bill's requirements as may have been intended. If this is not the legislature's intent, then the bill should be amended to clarify that insurers are subject to this bill.

If you have any questions regarding these written comments, please let us know.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Clyde E. Sniffen, Jr.
Assistant Attorney General

cc: Members, Senate Judiciary Committee
Senator Pete Kelly
Mike Abbot, Office of the Governor
Robert Lohr, Division of Insurance
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Bureau of Competition
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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

May 13, 1999

The Honorable Rene O. Oliveira
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Dear Representative Oliveira:

The Bureau of Competition of the Federal Trade Commission is pleased to respond to your request, dated May 5, 1999, for comment on Senate Bill 1468, "An Act Relating to the Regulation of Physician Joint Negotiation" (SB 1468), which currently is being considered by the Texas legislature.⁽¹⁾ The bill would permit competing physicians to jointly negotiate contractual terms with health plans under certain circumstances. Our understanding is that SB 1468 has been adopted by the Texas Senate, and that a vote on a similar measure is expected in the House of Representatives in the very near future. Given the limited time available, we highlight three concerns about the bill, but are not able to provide a complete analysis of all the issues that the bill raises.

The Commission has previously expressed serious concerns about the impact on consumer welfare of a federal proposal to enact an antitrust exemption intended to authorize collective negotiation between health service practitioners and health plans. In testimony before the Committee on the Judiciary of the United States House of Representatives in July 1998, the Commission opposed enactment of H.R. 4277, the "Quality Health-Care Coalition Act of 1998." The Commission stated that the exemption would immunize "a broad range of anticompetitive joint conduct by physicians and other health care professionals that could seriously harm consumers and undermine efforts to promote high-quality, cost-effective health care for consumers." Furthermore, the Commission pointed out, the exemption would impair innovation in health care financing and delivery, and reduce choices among alternative health plans. Finally, the Commission noted that an antitrust exemption is not needed in order to allow physicians collectively to express their concerns about patient care and quality of care issues that may arise from their participation in managed care plans, or to permit them to enter into joint ventures that can offer better alternatives to patients or to health plans. A copy of the Commission's testimony is enclosed for your information.

The bill being considered by the Texas legislature differs from H.R. 4277 in various respects. In contrast to the federal proposal, which would simply provide an antitrust exemption for collective negotiations, SB 1468 requires some oversight of the negotiating process by the Texas Attorney General. In addition, SB 1468 would limit to 10% the proportion of physicians in a geographic area who could negotiate collectively, unless the Attorney General approved inclusion of a larger number in the group. The bill allows collective negotiation of certain types of fee-related issues only where the Attorney General determines that the health plan has substantial market power.

It is not clear, however, to what extent these differences would reduce the potential for anticompetitive effects otherwise likely to arise from the authorization of collective bargaining among competing physicians. For example, the provision in Section 29.09(b) that no joint negotiation shall represent more than 10% of the licensed physicians in a defined geographic area provides no significant limitation on the aggregation of bargaining power by many types of physician groups. For many medical specialties, a group including *all* the physicians in a particular speciality or subspeciality would constitute less than 10% of all licensed physicians, and their combination in a single bargaining group could give them significant market power over health plans.⁽²⁾ Although the bill permits the Attorney General to raise or lower the percentage in particular cases, it does not provide any standards to guide the Attorney General's decision. It is unclear, for example, whether the bill's intent is that the Attorney General limit bargaining groups to 10% of a properly defined antitrust market. Without such a limitation, the 10% cap on the size of physician bargaining groups does not protect against the risk of substantial consumer harm.

Second, it is not clear to what extent the bill's use of a health plan market power screen for some types of collective bargaining would limit potential consumer harm. The bill prohibits collective negotiation on certain specified fee-related issues, unless the Attorney General determines that a health plan with which physicians are negotiating possesses "substantial market power." However, the bill provides no standard for determining when substantial market power will be deemed to exist. We are uncertain whether the intent is to have the Attorney General apply established antitrust principles of market power analysis, or whether the reference in the bill's preamble to "imbalances" in bargaining power suggests some other approach that would compare the bargaining power of a plan to that of an individual physician. In addition, the scope of arrangements to which the market power screen applies is limited. For example, negotiating over formulation and application of physician reimbursement methodology is not subject to the requirement that the health plan have substantial market power, though such matters plainly can have a direct and substantial effect on fee levels. Collective negotiation about other "non-price" issues also can have a substantial effect on the cost of services that the plan covers, as well as limiting the options available to plans to meet consumer demand for high-quality and affordable health insurance.

Third, the bill imposes substantial responsibilities on the Attorney General that could be difficult to carry out given the time frames provided in the bill and the fact-intensive nature of the issues. Moreover, we note that the regulatory scheme established by the bill contains no mechanism for members of the public, or others who stand to be affected by the Attorney General's decision, to offer evidence and views pertaining to the costs and benefits of the proposal or any of the underlying issues. In addition, the bill provides little guidance as to how the discretion granted to the Attorney General is to be exercised. For example, section 29.09(b) of the bill directs the Attorney General to approve a request to enter into joint negotiation or a proposed contract if the applicants demonstrate that "the likely benefits resulting from the joint negotiation or proposed contract outweigh the disadvantages attributable to a reduction in competition" that may result, but it provides no criteria to guide the Attorney General in evaluating benefits or disadvantages, or in weighing one against the other.⁽³⁾

We hope you find these comments helpful. Should you have any additional questions concerning this issue, please contact Richard Feinstein at 202-326 3688.

Sincerely yours,