

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

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1 on it that's another issue in terms of the materiality of
2 those changes. And that's -- that can e- -- from our --
3 standpoint we're happy to provide the Commission with the
4 information necessary to support and document why the
5 changes -- why we believe the changes are appropriate even
6 though they're outside the ranges. The Commission clearly
7 has the discretion to the extent that those -- if those
8 changes are immaterial or small or very close to the range
9 to approve them quickly without hearing and under its
10 discretion can do whatever level of review it finds
11 appropriate. So we were quite comfortable not addressing
12 materiality on the exceptions because one, we didn't
13 believe there would be many exceptions, and to the extent
14 that we -- there were we were more than happy to provide
15 that information to the Commission.

16 Q So as you do the -- as you look at the simplified
17 depreciation rate table, the rate table itself, as long as
18 the proponent was within the range that's.....

19 A The rates could be automatically implemented. There would
20 be no necessity to come to the Commission for approval.

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22 (Tape change)

23 Tape 5

24 0015

25 Q What about when you're talking about having the rates be

1 approved as December -- or whatever the rates are in place
2 December 31, 2003, or conversely, someone could choose to
3 adopt B, if there were a simplified rate table. The
4 regulation really doesn't discuss the implementation of
5 cha- -- if significant change. If your 2003 rate
6 structure is significantly different from the tables that
7 we identify and B you don't talk at all about any kind of
8 implementation period where there would be a sudden
9 change?

10 A The -- the intent was under A is to essentially
11 grandfather approval of all the existing depreciation
12 rates that are now in effect, that in most cases the
13 companies have had a depreciation study or been through a
14 rate case and depreciation rates have been actually looked
15 at and reviewed and approved. There's probably a couple
16 of exceptions where the companies are operating under
17 inception depreciation rates and they've never been
18 reviewed. That -- that was to be our starting point. In
19 other words, from -- as of -- whatever the date is that
20 the regulations go into effect, the depreciation rates
21 that the companies have in effect at that time would be
22 effectively approved rates. To the extent changes would
23 be required on a going forward basis then that would
24 happen under sub B or sub C of the new regulations.

25 Q Okay. The last question I have is do you truly believe

1 that the Coalition can get ACS and GCI and all the other
2 parties to agree on an Alaska statewide rate table?

3 A I don't think we're that far away, frankly, you know, if
4 you -- if you look at the comments or as we've looked at
5 the comments it appeared to us that GCI and both ACS were
6 coming a little bit closer to center. And I think even to
7 the -- to the extent that we don't absolutely agree on all
8 rates or on all categories this still goes a long way of
9 minimizing depreciation studies on those questioned
10 accounts. You know, we'd be happy to -- to live with
11 that. And to the extent we have questions accounts we
12 still streamline the process. We've eliminated two-thirds
13 if not seven-eighths of a study. And we've got -- we've
14 got procedures that allow us to implement those rates on a
15 timely basis.

16 Q Okay. I'd like.....

17 A And I think those are all good things from that
18 perspective.

19 Q I agree. There weren't -- that wasn't my last question.
20 I know I -- my last question is whether you think that
21 rate table should reflect for all Alaska an urban or --
22 and rural table?

23 A You know, they could. The -- it could easily be adopted
24 for small rural telephone companies. There are -- there
25 are good reasons to identify small companies from large

1 companies. We've contended on the -- on the competition
2 regulations generally that were much different than the
3 urban areas and need to be treated differently in the
4 competitive environment for lots of different reasons.
5 And this could easily fall into that category. And it
6 could easily be set up on an access line basis. And
7 companies that have access lines of fewer than whatever
8 the number, 25,000 access lines, could adopt as principle.
9 And that's easily -- easily put into the regulations.
10 That would work for us.

11 Q Okay. Well, all my other Commissioners are shifting in
12 their seats, so they obviously don't love depreciation as
13 much as I do so I'll be done. Thank you very much.

14 A Okay. Thank you.

15 BY CHAIR JOHNSON:

16 Q I just wanted to clarify, Mr. Honchen, so from your last
17 response is it your professional opinion that based on
18 your experience of -- extended experience up here that
19 one, there are differences in depreciation rates amongst
20 the large companies versus small companies, and/or
21 competitive environments versus non-competitive
22 environments? That's sort of one question. The second
23 question is do you believe that separate tables could be
24 developed?

25 A I -- in answer to your first question I don't know if

1 there are differences between the two. I do know that
2 it's been a contentious issue between GCI and ACS.— I
3 haven't reviewed the ACS rates recently to see where they
4 fit as they relate to the rural telephone companies' rates
5 which -- and lives which I have reviewed.

6 To the extent of carving the rural companies out from the
7 urban companies I think that could easily be done, but it
8 doesn't have to be done. Just from a -- as an
9 administrative standpoint there's lots of good reasons,
10 administrative ease and procedures that the FCC itself
11 carved out large cap companies when it developed its
12 tables, so there's -- there's no reason why we couldn't --
13 if GCI and ACS have particular depreciation issues that
14 don't involve us, if we don't have a dog in that fight
15 then we'd be happy to just carve out our issue and our
16 streamline process if it works for us.

17 HEARING EXAMINER OLSON: Mr. Honchen, are you seeing a
18 workshop process here possibly, a Commission sponsored workshop
19 approach here to see if we could.....

20 A That would be -- that would be.....

21 HEARING EXAMINER OLSON:shag out these numbers?

22 A a good suggestion. That could -- that's a fine way
23 of handling it.

24 HEARING EXAMINER OLSON: We're not intending to allow you
25 all now to ask Mr. Honchen questions, but the Commission is

1 going to allow you to make comments on the discussion has gone
2 on between his question and answer between the Commission and
3 Mr. Honchen if you have comments. Let's start with Jimmy
4 Jackson.

5 MR. JACKSON: I'll just very briefly. The Commissioner
6 asked whether -- what realistic chance Mr. Honchen thought that
7 there might be agreement. And they seem to be sort of focusing
8 on the FCC lives. And for the most part we don't have major
9 problems with the FCC lives. So if we're talking about using
10 the FCC lives I don't think that there's, you know, major
11 issues. As he indicated, you know, there may be a few
12 accounts.

13 There are a few other areas of the regulations where we
14 might think there needs to be a little bit of tweaking, but I
15 think it is conceivable without making promises.

16 HEARING EXAMINER OLSON: Mr. Shoup, Mr. Moninski?

17 MR. SHOUP: Generally ACS supports the idea of a workshop.
18 We support the idea of trying to develop tables. And we
19 particularly support the idea of looking at them in terms of
20 competition, competitive markets versus noncompetitive markets.
21 We think it's a constructive idea we'd like to explore and see
22 if it'll work.

23 HEARING EXAMINER OLSON: Mr. Saupe, any comments on the
24 discussion?

25 MR. SAUPE: No comment.

1 HEARING EXAMINER OLSON: Ms. Grahame, any further
2 comments?

3 MS. GRAHAME: No, thank you.

4 HEARING EXAMINER OLSON: Okay. Mr. Ayotte? I'm hoping
5 you're not going to say I would have had comments if I'd heard
6 the whole discussion.

7 MR. AYOTTE: I will pass. Thank you.

8 HEARING EXAMINER OLSON: All right. Thank you very much.
9 Then before we retire for the day can I ask Mr. Saupe and
10 anybody else whether you have figured out when your people
11 would be available? I'm still assuming that everyone from ACS
12 would be available except Mr. Shelanski from 12:00 to 3:00,
13 he'll be 12:00 to 3:00 and Mr. Saupe?

14 MR. SAUPE: Yes, I inquired of Mr. Miller, he can be
15 available Alaska time from 11:00 till 2:30 tomorrow. And I
16 also spoke to Mr. Ayotte who's on the line and can speak for
17 himself, but he told me that he could be available in the
18 morning before the lunch break.

19 HEARING EXAMINER OLSON: Okay. Just give me a minute
20 then. Suzie, let's just go off record for a second.
21 I'm going to try to figure out if we can accommodate scheduling
22 if we start at 9:00, then we have your people that aren't going
23 to be available for questioning. And let's just see if we can
24 work this out.

25 (Off record - 4:33 p.m.)

1 (On record - 4:38 p.m.)

2 HEARING EXAMINER OLSON: Okay. We're back on record.

3 And, Mr. Ayotte, you're still there, right?

4 MR. AYOTTE: Yes, sir.

5 HEARING EXAMINER OLSON: Okay. Off the record we were
6 trying to figure out the scheduling. We'll start up tomorrow
7 at 9:00 o'clock. The Commissioners are going to try to keep
8 focused on particular issues because the UNE issue, the
9 discussion that involves Mr. Miller and Mr. Shelanski we really
10 can't start that till noon our time. And so the Commission
11 will deal with other issues other than the UNEs beginning at
12 9:00 and we'll go through all the questions of the various
13 people we can. And if we have to break early, we'll break
14 early and come back at noon or something. Okay.

15 And I take it it's okay, Mr. Ayotte, if you're not
16 available for that UNE discussion because.....

17 MR. AYOTTE: Yes, that's fine.

18 HEARING EXAMINER OLSON: Okay. All right. Thank you
19 then.

20 Thank you for your patience with telephonic problems today
21 and appreciate your remaining there, Mr. Ayotte, so we could
22 call you back. And we'll see you all at 9:00 o'clock tomorrow
23 morning.

24 MR. AYOTTE: Thank you very much.

25 HEARING EXAMINER OLSON: Thank you, sir.

1 MR. AYOTTE: Bye now.

2 (Recessed-- 4:40 p.m.)

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UNITED STATES OF AMERICA)
)ss.
STATE OF ALASKA)

I, Rebecca Nelms, Notary Public in and for the State of Alaska, residing at Anchorage, Alaska, and Reporter for R & R Court Reporters, Inc., do hereby certify:

THAT the annexed and foregoing Public Hearing in Docket R-03-003 was taken by Suzan K. Olson on the 2nd day of September, 2003, commencing at the hour of 9:00 o'clock a.m, at the Regulatory Commission of Alaska in Anchorage, Alaska,

THAT this Hearing Transcript, as heretofore annexed, is a true and correct transcription of the proceedings taken by Suzan Olson and transcribed by Meredith Downing, Lynn Hall and myself.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 4th day of September, 2003.

Notary Public in and for Alaska
My Commission Expires: 10/10/06

25

STATE OF ALASKA
REGULATORY COMMISSION OF ALASKA

Before Commissioners: Mark Johnson, Chair
David Harbour
Kate Giard
James S. Strandberg
G. Nanette Thompson

In the Matter of the Commission)
Review of Rules and Regulations)
Governing Telecommunications) Docket R-03-003
Rates, Charges Between Competing)
Telecommunications Companies,)
and Competition in)
Telecommunications)
_____)

REGULATORY COMMISSION OF ALASKA
Anchorage, Alaska

VOLUME II
PUBLIC HEARING

September 3, 2003
9:00 o'clock a.m.

BEFORE: PAUL OLSON, HEARING EXAMINER

AND: MARK JOHNSON, CHAIR, RCA
DAVID HARBOUR, COMMISSIONER, RCA
KATE GIARD, COMMISSIONER, RCA
JAMES S. STRANGERG, COMMISSIONER, RCA
G. NANETTE THOMPSON, COMMISSIONER, RCA

APPEARANCES:

FOR THE RURAL COALITION: MS. HEATHER GRAHAME
MR. JEFFREY DILLEN

FOR AT&T ALASCOM: MR. WILLIAM SAUPE
MR. DAVID MILLER

FOR ACS: MR. TED MONINSKI
MR. DAVID SHOUP
MS. KAREN BRINKMANN

FOR ALASKA TELEPHONE ASSN: MR. JIM ROWE

FOR GCI: MR. JIMMY JACKSON
MR. MARK MODEROW

FOR DOBSON CELLULAR: MR. MARK AYOTTE

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P R O C E E D I N G S

2 Tape 1

3 0015

4 (On Record - 9:00 a.m.)

5 HEARING EXAMINER OLSON: Okay. We're back on record in
6 R-03-003 in a continuation of questions by the Commission and
7 similar to yesterday Commissioner Strandberg is going to begin
8 the questioning. So some of the questions, I understand, may
9 be general in nature requiring, perhaps, responses from
10 everyone, but it's up to the Commissioners how they're going to
11 deal with the particular inquiry.

12 Commissioner Strandberg, please.

13 COMMISSIONER STRANDBERG: Thank you, Hearing Examiner
14 Olson.

15 COMMISSIONER STRANDBERG: Well, I'm leading out the
16 questions here, I want to state that my concerns are for us to
17 develop as good a record as possible. We have, I think, some
18 very good thinking and some very good writing before us. There
19 are a number of proposals and they are widely differing
20 certainly. And I do want to deal with the ACS proposed
21 regulations this morning. I'm going to kick off on that and
22 I'm not sure I'm going to get through all of my questions, but
23 I will go for a while here.

24 And I wanted to talk with Mr. Moninski and with Dr.
25 Lehman. And, again, the purposes of my questions are to make

1 as good a record as possible so that we can move forward on
2 these issues. And so I'd like to start with Dr. Lehman. I was
3 quite interested in your writings. And I want to start my line
4 of questioning from the consumers' viewpoint there.

5 When I was reading here I was thinking continuously what
6 is going to be the impact on the ratepayer. We have companies
7 that are before us that are saying we have to change. We have
8 to change our rules because times are a changing. So the first
9 specific questions to you, Dr. Lehman, is you advocate that we
10 should have competitive rules when there are -- when we have
11 UNEs available.

12 Should we trust competitive forces immediately to protect
13 the consumer or what sorts of protections should the consumers
14 have if we adopt competitive rules, as you say, the minute UNEs
15 become available?

16 DR. LEHMAN Yes, I do advocate deregulation as soon as
17 UNEs are available. If I could put on my consumer hat for a
18 minute 'cause I am a consumer as well, the fear is will the
19 incumbent raise prices if there is nobody actually serving
20 people using those UNEs --.....

21 MR. LINDGREN: Dan Lindgren, KPU.

22 OPERATOR: Is joining the meeting.

23 DR. LEHMAN:the concern is will the incumbent raise
24 prices if there's the absence of somebody actually providing
25 service to some percent of the market and I really don't

1 believe that that can happen, at least not raising prices above
2 competitive levels. If the prices are below competitive
3 levels, then under competition they have to rise. There's no
4 way of preventing that. It's not sustainable to prevent that.
5 But if the prices are raised above competitive levels the
6 availability of UNEs ensure that a carrier can't sustain those
7 prices and somebody else will serve the customer better.

8 So I actually think as a consumer I would feel more
9 protected by knowing that both competitors or more than two in
10 the market are able to compete without having their hands tied
11 in any way, as opposed to regulations that tie one of the
12 competitor's hand behind -- or at least one hand behind their
13 back and mute the competitive effects on the other carrier that
14 might serve in that market.

15 I don't see anything that prevents a carrier from using
16 the UNEs to provide service and if -- you have to ask the
17 question what would happen in the worse case scenario? What
18 happens if prices are raised?

19 Well, if prices are raised, the UNE prices are sitting
20 there available for an entrant to come in and make that
21 unsustainable. So a price could -- somebody could try a price
22 rise, but I don't think they can be successful if it is above
23 competitive levels.

24 COMMISSIONER STRANDBERG: What effects do you feel your
25 proposal would have on a consumer's ability to secure a

1 telephone in a timely fashion?

2 - DR. LEHMAN: Well, I actually treated that -- the issue of
3 providing service and exit from an industry differently. I
4 mean, in an ideal world the cleanest thing would be to
5 deregulate the incumbent entirely, but I think there are some
6 special concerns about customers that the incumbent might not
7 want to serve any longer.

8 We've seen it with deregulation of airlines and of
9 railroads where both industries, certain communities were not
10 worth serving and people pulled out and they lost service. And
11 we've tried to enact policies in the air arena to prevent that
12 from happening and we've been less than successful, so that is
13 a real concern. And I did not advocate removing the carrier of
14 last resort responsibility except to highlight that it is a
15 problem.

16 In a competitive environment it really needs to be a
17 shared responsibility, but I stopped short of saying that
18 deregulation would include free right of exit, although in the
19 economists ideal world that really would go along with
20 deregulation, but that isn't what I proposed.

21 COMMISSIONER STRANDBERG: Okay, understanding you're
22 looking at it from an economist's viewpoint perhaps. You talk
23 about a contestable market, have you -- can you point us to
24 another market where the presence of UNEs has allowed
25 competitive rules to really go into effect effectively?

1 DR. LEHMAN: Well, one point of clarification, I don't
2 believe I used the term contestable market. I think that was
3 in Dr. Shelanski's.....

4 COMMISSIONER STRANDBERG: I'm sorry.

5 DR. LEHMAN:affidavit, but we're talking about the
6 same phenomenon.

7 COMMISSIONER STRANDBERG: Yeah.

8 DR. LEHMAN: I don't know of another industry where we
9 have taken the regulatory tact of unbundling requirements and
10 the way the FCC has interpreted the term based on cost. I
11 don't know of another example, so I believe this is -- it's
12 unique as far as I can think of offhand and I think that calls
13 for a fairly unique response, because the presence of those
14 requirements in the Act mean different things for regulation of
15 retail markets than we've seen in any other industry.

16 COMMISSIONER STRANDBERG: Well, you know, like in
17 California and other parts of the nation there was massive
18 deregulation and, you know, effectively a shift in paradigm and
19 in many cases those programs (indiscernible - simultaneous
20 speech).....

21 MR. McKENNA: Hugh McKenna

22 OPERATOR: Is joining the meeting.

23 COMMISSIONER STRANDBERG:ideas are sophisticated
24 enough and mature enough to really work in the Anchorage area
25 or.....

1 DR. LEHMAN: Well, specifically let's talk about
2 California for a minute 'cause it shows the example of the need
3 to recognize that retail and wholesale markets have a
4 relationship. I mean, in California very crudely what they did
5 was they regulate -- they continued to regulate the retail
6 rates and they deregulated the wholesale market and so
7 wholesale prices went through the roof for a variety of reasons
8 and retail prices were still capped and you have massive
9 problems. I mean, huge profits being made at the wholesale
10 level, lack of service, you know, it -- they failed to
11 recognize that retail and wholesale prices have a relationship.

12 In the particular context we're talking about here the
13 relationship is that in the Anchorage market particularly,
14 let's use that as an example, I see no way that consumers are
15 not adequately protected by both the current regulations and
16 the fact that there is a competitor quite willing and able to
17 serve people. What we want is two competitors quite willing
18 and able to serve people equally. That will be even more
19 choice for consumers. So I'm looking for more choice for
20 consumers, not less.

21 COMMISSIONER STRANDBERG: Okay. Have you thought about
22 doing any economic modeling of the Anchorage market prior to
23 instituting any sort of major paradigm shift just to see where
24 things go or do you advocate just doing it?

25 DR. LEHMAN: I'm not sure what modeling would be

1 appropriate. I mean, it's -- I'd be -- you know, economists
2 love to model so I'd be happy to think about what kind of
3 models, but I -- like I was saying yesterday, I think the
4 danger is of doing too little too late and I would hate to wait
5 for economists to model. I mean, the FCC economists took six
6 years to develop a synthesis model. We -- I don't think we can
7 wait six years while we'd play with models.

8 The concern that you're raising is the one that we're
9 going into somewhat unknown terrain, what will happen. And, I
10 think, you can provide the assurance you need the way other
11 states have done in their deregulation attempts which is to
12 just limit the amount of an increase that can occur in one year
13 or over a period of time that provides you with the safeguard
14 that even though we're not sure how it will actually work,
15 there is some protection in place. That's the simplest way to
16 offer that protection.

17 COMMISSIONER STRANDBERG: Right. You know, we've been
18 wrapped around the axle here pretty severely in our Consumer
19 Protection Section with difficulties, various difficulties, not
20 only associated with the rate, but also with just the provision
21 of service. Do you have any comments on how we can stay out of
22 that morass under which you propose?

23 DR. LEHMAN: I mean I've seen states where there are
24 different organizations of how some office of Consumer
25 Protection is organized. I don't have a strong opinion on

1 this, but my feeling from what I've seen is that if it is in an
2 autonomous agency it probably works better than it being within
3 the public utilities commission.

4 MR. MONINSKI: Commissioner, if I might also respond?

5 COMMISSIONER STRANDBERG: Certainly, Mr. Moninski.

6 MR. MONINSKI: It's my sense, and I think the data
7 supports this, that the majority of issues that have come
8 before the Commission by way of the Consumer Protection Section
9 have dealt with at its core operational relationships between
10 the ILEC and the CLEC.

11 What's being proposed with regard to regulatory relief in
12 competitive markets is really on the retail side of the
13 equation between LECs and end users, so those proposals I don't
14 think will really affect those other issues, and ACS believes
15 that as complex and difficult as some of those issues might be,
16 that that is one of the safeguards that the Commission retains
17 in a competitive market is to be able to have a place for
18 consumers to come and bring issues to be resolved the way that
19 we typically do them here, so from my perspective I would not
20 see that changing in any material degree and would not advocate
21 changing it in any material degree.

22 COMMISSIONER STRANDBERG: Thank you, Mr. Moninski and
23 thank you, Dr. Lehman. Now I'd like to talk with Mr. Moninski.
24 In your testimony on page 9 you speak in line seven.....

25 MR. MONINSKI: And this is initial or reply?

1 COMMISSIONER STRANDBERG: Yes, initial. You speak of
2 basic residential service safety net approach. Line 7.

3 MR. MONINSKI: I have it (ph).

4 COMMISSIONER STRANDBERG: Can you tell me what you had in
5 mind there, maybe a little bit more?

6 MR. MONINSKI: As we were developing our position in this
7 proceeding and these comments specifically, we began to ask
8 ourselves the very same questions that you were just asking Dr.
9 Lehman that even though we really do believe that market
10 dynamics and market forces will prove to be in the final
11 analysis the best tool to produce public protection, that at
12 the front end of this process there may be some misgivings on
13 all of our parts and certainly on the part of the Commissioners
14 as to whether or not you just flash cut to that kind of
15 arrangement.

16 We kicked around the idea of a safety net for those
17 customers who are least likely to be able to protect themselves
18 in the marketplace and we think of those as residential
19 customers for basic services. And we proposed the concept of
20 -- I'm sure we didn't invent it, but we proposed the concept of
21 a basic safety net for residential customers along the lines
22 that Dr. Lehman mentioned, perhaps, limiting the amount of
23 annual rate increases over some transitional period.

24 There was one that we had discovered in the state of
25 Wisconsin where apparently the basic residential rate is tied

1 to the median income in the market and in Wisconsin, I guess,
2 that data is available. I think the linkage is that it is one
3 percent of the median income. Perhaps somebody did an
4 affordability analysis and came up with that number, but those
5 were just a couple of ideas.

6 I don't know that we have exhausted the universe of things
7 that could be considered, but those were a couple that we
8 thought would work and that we would at least propose to the
9 Commission.

10 COMMISSIONER STRANDBERG: Okay. If we go with your
11 detariffing proposal what sort of criteria would you see that
12 we should employ to reenter the market if things are not
13 working right, have you thought about that?

14 MR. MONINSKI: To some extent we have. To some extent
15 that may need to be the subject -- we keep talking about
16 workshops for any number of different things. That may need to
17 be the subject of some further collective analysis and further
18 decision making on the part of the Commission.

19 Clearly one of the things that I think you would want to
20 look at, even though we have advocated that you don't have the
21 jurisdiction to enforce antitrust rule, but you certainly have
22 the wherewithal to keep those issues in mind as you monitor
23 market performance. If you began to see things that
24 consistently looked to you to be antitrust related, I think
25 that would be something that might trigger some action on your

1 part.

2 One action that it might trigger is some referral of that
3 issue to the appropriate enforcement agencies, but it could
4 certainly trigger some response on the part of the Commission
5 by way of seeing whether or not a market failure had occurred
6 and, perhaps, bringing yourselves back into the equation.

7 Thinks like price leadership, if you saw prices rising on
8 a consistent level getting beyond what Dr. Lehman mentioned as
9 competitive levels of pricing and having all competitors going
10 to those levels that would be something that you might be
11 concerned about.

12 You might also use substantial, out of the ordinary, or
13 extraordinary levels of consumer input that were bringing
14 issues to you about something you mentioned, Commissioner,
15 service quality, the ability to get service on a timely basis.

16 We will always have in anybody's network some reasonable
17 level of that kind of activity. We're all human. The network
18 are physical, things breakdown and so we're going to have those
19 kinds of issues at some reasonable level. If they turned out
20 to be unreasonable, if people were driving costs out of their
21 network to be competitive in such a way that networks generally
22 speaking were falling below acceptable levels, that may be
23 something that would cause you to want to come back into the
24 equation and assert some regulatory oversight.

25 COMMISSIONER STRANDBERG: I heard the wo-.....

1 DR. LEHMAN: Could I add something to that for (ph).....

2 -- COMMISSIONER STRANDBERG:-- Surely.

3 DR. LEHMAN: The -- GCI expressed a concern about the
4 ongoing legal issues about some of the rural exemptions and I
5 would think that it would be appropriate if there are
6 significant legal changes that that might warrant a change in
7 regulatory status. I would echo that I think workshops would
8 be a good, sort of, forum in which to look at the alternatives,
9 but certainly the Commission has to have the prerogative to go
10 back in when there's significant changes or when conditions
11 warrant it.

12 COMMISSIONER STRANDBERG: Thank you, Dr. Lehman, and that
13 does bring me to the next question. On page 14, Mr. Moninski,
14 you talk about public interest standards need to be developed
15 to ensure that the objectives of the rural exemption are
16 achieved and maintain. Any comments on how we would develop
17 those standards?

18 MR. MONINSKI: Well, as you've already heard in testimony
19 in this proceeding public interest standards developed at the
20 front end of a process is a difficult thing to do and we
21 acknowledge that. I actually think it would take a separate
22 rule making for the Commission to undertake that exercise.
23 Like in the case of identify multiple ETCs, there isn't any
24 clear guidance yet either form the Act or from the FCC or from
25 state commissions generally as to how to go about doing that.

1 I think that in the case of terminating the rural
2 exemption the public interest component of that has also not
3 been well defined. It may be that you cannot define with such
4 specificity in a rule as to make further adjudications
5 unnecessary. I think you still will perform some level of case
6 by case analysis, but it would be really helpful to applicants
7 and intervenors to have some idea of what the general
8 boundaries of the public interest determination would be. I
9 don't have anything substantive to offer in that regard, but I
10 do think that separate rule making would probably be the right
11 approach.

12 COMMISSIONER STRANDBERG: And maybe at this point I can
13 solicit any comments from any of the other parties on that
14 question?

15 MR. JACKSON: That particular question?

16 COMMISSIONER STRANDBERG: Yes.

17 MR. JACKSON: I think on that particular question our only
18 comment would be that as Mr. Moninski indicated that because of
19 the difficulty of developing such standards we think that they
20 can actually be developed better in a case by case basis rather
21 than trying to develop them in advance because developing in
22 advance will almost always include, sort of, other factors that
23 should be considered on a case by case basis, so I think
24 probably you'll waste a lot of time in the rule making
25 proceeding.

1 COMMISSIONER STRANDBERG: Any other comments on that?

2 Mr. Rowe.

3 MR. ROWE: Can I be heard from here?

4 COMMISSIONER STRANDBERG: Sure.

5 MR. ROWE: I consider that in a public interest
6 determination in bringing competition to an area you need to
7 consider the sustainability of that competition, not that its
8 -- the enter of it is deemed in the public interest, but that
9 the sustainability of it and the sustainability of investment
10 in the infrastructure for the people in the rural areas is
11 going to be determining whether the public interest is served
12 not that immediately there is choice, but in the future that
13 there's going to be quality of service.

14 MS. GRAHAME: Yes.

15 COMMISSIONER STRANDBERG: Ms. Grahame.

16 MS. GRAHAME: For the record this is Heather Grahame on
17 behalf of the Rural Coalition. As you know from our opening
18 comments yesterday we think it's unlikely that in Alaska's
19 rural areas at this point in time that there will be many
20 challenges to the rural exemption because of the time it takes
21 to terminate it, because of the subsequent need to negotiate
22 and arbitrate interconnection agreements and the ability of
23 subsequent competitors to use the pick and choose rule to step
24 in the shoes of the initial competitor that spent the time and
25 the resources developing those agreements and particularly

1 given the lower cost of developing a stand alone wireless
2 network.

3 It is our position that public interest issues must be
4 addressed, but our focus would be in the context of multiple
5 ETCs and making sure that the rural ILECs have a chance to
6 respond when a second ETC is designated in their area in order
7 to protect consumers and ratepayers particularly outside the
8 area where competition is initiated.

9 COMMISSIONER STRANDBERG: Mr. Moninski, I wanted to get
10 into your tariff that's Exhibit A and I have some question -- I
11 am keeping my questions under control so that my fellow
12 Commissioners will have plenty of time so there is a finite
13 amount of time.

14 On page 5 I wanted to ask you about this seven day notice
15 tariff concept that you have. Ms. Arnett of our group does a
16 sterling job in tariff review. Can you, maybe, talk to me
17 about how you would envision that we would interact together?
18 I mean, that's a very short time for a tariff to come through
19 and for us to take a look at it. Do you think that's
20 reasonable?

21 MR. MONINSKI: Yes, I do. I think it's reasonable in one
22 -- from one perspective because that is one of the current time
23 lines that we use for FCC tariff filings for local exchange
24 carriers. If a local exchange carrier makes an FCC filing that
25 does not raise rates those are submitted on a seven day cycle.

1 If they do raise rates, then it goes to a 15 day cycle.

2 Now, harkening back-to my long distance days prior to the
3 time that the FCC totally detariffed the long distance market,
4 non-dominant carriers were making their tariff filings at the
5 FCC on 24 hours notice and then the FCC actually took the last
6 appropriate step and completely detariffed the IXC industry on
7 the interstate side.

8 There are some presumptions that go along with using those
9 kinds of abbreviated filing cycles. The presumptions mainly go
10 to the degree to which a tariff filing will be evaluated,
11 analyzed, that there would be interaction between Commission
12 Staff and the parties. Clearly there is the opportunity to do
13 those kinds of things when you're talking about a 30 or 45 day
14 tariff review cycle and much less opportunity to do those kinds
15 of things in a seven day cycle or even a 15 day cycle. The
16 presumption is part of the advocacy.

17 The presumption is that we don't need the level of tariff
18 analysis and review and interaction when we are talking about
19 offers that are coming into a competitive market and this
20 particular regulation only triggers when the Commission has
21 determined that a market is competitive so that would be my
22 response, is that it's been proven to be reasonable in another
23 regulatory forum and the reasoning behind it, the rational
24 behind it is sound in both jurisdiction. It is appropriate and
25 it can work here in Alaska as well.

1 COMMISSIONER STRANDBERG: How can we handle, Mr. Moninski,
2 the issue of discrimination between rate classes under a
3 competitive market where there's many, many different
4 offerings, conceivable promotional offerings, how can we assure
5 ourselves that consumers across class are being treated fairly
6 under your proposal?

7 MR. MONINSKI: One of the things to remember, I think, in
8 responding to that question is that the statute that governs
9 our behavior does not require absolute equality. The statute
10 talks about unreasonable discrimination. And I think there's a
11 number of ways for unreasonable discrimination to be
12 identified.

13 Certainly one of the ways is the way that we do it now, we
14 file on lengthy review cycles and Commission Staff has an
15 opportunity to thoroughly look at the tariff and at least make
16 some preliminary indications or findings from the Staff's
17 perspective that something might be unreasonably
18 discriminatory.

19 There are other ways for unreasonable discrimination to
20 surface. It may not be the best example, but when I was
21 driving down around town here recently I passed two gas
22 stations. One gas station had a price for gas that was 10
23 cents -- a full 10 cents lower than the gas station that was
24 right across the street. Is that unreasonably discriminatory,
25 maybe, but what happened. A lot of people weren't going to the

1 gas station that had that 10 cents per gallon higher rate and
2 the market resolved those discrimination issues. So the
3 availability of substitutes and reasonable alternatives in the
4 marketplace will police those kinds of things much more quickly
5 that we could do through the regulatory process.

6 And finally, if -- again, if it still became an issue
7 beyond what the marketplace was able to resolve, then I think
8 the Commission would be hearing about these things by way of
9 its Consumer Protection Office and if you heard it often enough
10 I think you would step up and say there's a problem here, we
11 need to look into it and you would do that.

12 COMMISSIONER STRANDBERG: Okay. On page 9 the definition
13 of competitive local exchange market, item 6, you know, some of
14 the ACS Companies have widely diverse exchanges. What would
15 happen in your mind from a regulatory standpoint if a couple of
16 your exchanges went competitive, but other exchanges stayed
17 rural, I mean, how would we handle the costs? I mean, on the
18 one hand we'd be regulating on a monopoly basis, you know,
19 economically regulating and on another hand we'd be doing
20 competitive market. How do we put a firewall in there?

21 MR. MONINSKI: It is ACS's advocacy that the determination
22 of a competitive market be made on a location specific basis.
23 We have, for example, in ACS of the Northland, just using the
24 Glacier State study area as an example since there's no
25 exemption and (ph) that study area has been terminated, we have

1 multiple locations, geographically dispersed locations and it's
2 probably reasonable to assume that the entire study area will
3 not become competitive simultaneously.

4 So, I think, our perspective was that we would go in and
5 identify competitive areas for purpose of applying the relaxed
6 regulation proposals that we had come up with.

7 Those locations within that study area that were not
8 competitive, that didn't meet the test of paragraph 6 would
9 continue to be subject to all of the other requirements that
10 currently existed if they were, indeed, completely a de facto
11 monopoly. If there was only one carrier in that market then
12 the existing regulations, not the competitive regulations but
13 the more routine, standard regulations would apply to those --
14 to tariff filings for those locations.

15 We do have today tariff filings that we have made -- it's
16 a fairly new phenomenon, but we have made tariff filings that
17 identify locations specifically where certain offers are going
18 to be available. And we found a way to work through the
19 mechanics so that that will happen and I don't think that that
20 will be an issue.

21 If you're talking about broader issues of rate cases and
22 how you would do a rate case where you had a mixed bag of
23 competitive and noncompetitive locations, I'm not sure that --
24 I'm not sure that ACS has been able to think about rate cases
25 beyond the current proceedings that it is in right now, so I

1 don't know that I've got any good answers for you in that
2 regard.

3 I do have a lot of confidence in the ability of accounting
4 and financial folks to be able to segregate those kinds of
5 things and make a presentation to you if one would be needed to
6 establish some overall rate proceeding, if one were to happen.
7 Again, it's -- it's hard to think about that beyond the horizon
8 of the cases that we're in right now.

9 COMMISSIONER STRANDBERG: Okay. Thank you, Mr. Moninski.
10 And I did want to, mindful of the time, ask one or two
11 questions of the Rural Coalition defining (ph) their
12 regulation. And I wanted to thank you for putting an extensive
13 amount of time in on a very, if I might say, thorough
14 regulation. And, I guess, my first question is in just -- in
15 looking at the requirements for -- that you proposed for
16 competitive entry they seems -- it seems to be really a high
17 barrier for someone to hurdle in order to go into competition
18 in these rural areas and, I guess, I'm looking specifically on
19 page 8 concerning the ETC designations. It just seems like a
20 really, really high barrier for us to levy on someone who
21 wants to go into competition especially since our statute, you
22 know, tells us really to -- that competition is good. Can you
23 respond on that?

24 MS. GRAHAME: Yes, let me first say that we drafted these
25 -- well, let me ask Mr. Dillen to respond and then I'll follow

1 up.

2 MR. DILLEN: Our intent behind these regulations certainly
3 was not to put a burden in anyone's way. Again, I'd like to
4 distinguish between entry here and access. The ETC designation
5 is, sort of, access to the Universal Service funds and not
6 actually to a market.

7 COMMISSIONER STRANDBERG: Right.

8 MR. DILLEN: But the requirements here, this was
9 constructed through the types of considerations that the
10 Commission had already put forth in previous ETC designations,
11 those being in the Alaska Digital Case in U-02-39(5) and these
12 were just to be representative. Again, this list could it be
13 tightened up, could it be shortened, could it be amended,
14 certainly. The ones that I would point to that we have
15 particular interest in would be, for example, Item J.

16 This is really one of the linchpins which is taking into
17 consideration the impact of the re-balancing of the ILEC rates
18 on consumer rates prior to ETC designation just to see what the
19 consumer impact would be once the ILEC reacts to that ETC
20 petition, but among these others, again, we were just trying to
21 get a representative list in place. The concept was to get a
22 structure out, not to put a burden in anyone's way.

23 MS. GRAHAME: Yeah, if I might follow up on that. The
24 Commission under HB 111 has a very short time in which to
25 react. Similarly, when the Commission issued its opening order

1 in this docket the parties had a short time to react. We
2 recognize that if we want -- we being the Rural Coalition, if
3 we want the Commission and the parties to give serious
4 consideration to our proposed regulations we felt we had to get
5 them out as soon -- in the opening round in order to give the
6 parties an opportunity to comment.

7 And certainly if we had had a little bit more time these
8 would have been, you know, perhaps, a little bit tighter. In
9 looking at them now we can see some edits we would like to
10 make, but at the end of the day what we wanted to do is to put
11 out a concept. Can these be changed, can these be altered,
12 absolutely, but it's the concept that we were trying to get
13 across.

14 And as Mr. Dillen said a lot of the factors on page 9 was
15 actually -- were actually pulled from Order No. 5 in your
16 Digitel order, so, in fact, the wording in many of these is
17 identical. So we were not trying to put forward a barrier to
18 entry. We were simply trying to codify the kinds of
19 information that this Commission had requested of Alaska
20 Digitel, requests that we thought were reasonable.

21 COMMISSIONER STRANDBERG: Okay. Thank you very much.
22 Mindful of the time, I have many more questions, but I think I
23 will turn it over to other Commissioners and I may be back.
24 Thank you.

25 HEARING EXAMINER OLSON: Mr. Ayotte?

1 MR. AYOTTE: Yes.

2 HEARING EXAMINER OLSON: Sometimes we forget people that
3 are appearing telephonically. I don't want to forget that the
4 Commissioners have given opportunities to comment and if you
5 desire to comment you should speak up and let us know, okay?

6 MR. AYOTTE: Thank you.

7 HEARING EXAMINER OLSON: Okay.

8 COMMISSIONER THOMPSON: I want to start by following up on
9 a couple of Commission Strandberg's questions. The first one
10 you answered, Dr. Lehman, you said that the greatest fear was a
11 price raise. I'm not -- don't we also have another
12 responsibility -- or isn't there also another fear that we have
13 in this market and that's the one that was evidenced last
14 summer by the proceeding that Commissioner Strandberg also
15 referenced where consumers are in a position where they're not
16 able to switch because of poor relations between the CLEC and
17 the ILEC. I mean, is a price increase really the greatest fear
18 that consumers have or is it not being able to make the choice
19 that they want because of poor relationships between the
20 companies?

21 DR. LEHMAN: I think the greatest fear in terms of a
22 deregulation of retail service proposal is of a rate increase.
23 I think that's the bottom line to be concerned about.

24 The -- that does not mean that there's not a major concern
25 about the functioning of wholesale markets and it's under

1 federal law this Commission has a role and a responsibility to
2 ensure that where UNEs are necessary that they are provided and
3 provided at an appropriate level of quality of service. So
4 that concern doesn't disappear if you deregulate retail rates.
5 If anything it accentuates the fact that that is a
6 responsibility and why that's there.

7 COMMISSIONER THOMPSON: So then would it be fair to say
8 that your suggestion that the existence of UNE rates should be
9 the basis for us to reduce our level of regulation in the local
10 market, presumes that customers can switch easily between
11 carriers, between providers?

12 DR. LEHMAN: I think if they can't then you're in
13 violation of what the law has charged you with doing. I mean,
14 the wholesale market has to function properly. The fact that
15 there may be a potential that it will not function, I don't
16 think should come into play in terms of what kind of retail
17 regulations. You know, you can't based retail regulation on
18 the hypothetical possibility that it won't work right and if it
19 doesn't work right you have a direct responsibility already and
20 even under my deregulation proposal to fix that.

21 COMMISSIONER THOMPSON: Yeah. Well, I think we have some
22 experience here that you may not be familiar with about it not
23 working right. And don't you think if it's a presumption that
24 the markets are going to be functioning, that we would have a
25 responsibility first to make sure the rules are in place so

1 that the market does function and consumers can make choices
2 before we back-off in terms of review?

3 DR. LEHMAN: I think availability of UNEs implies that
4 they -- I mean, what I mean by availabilities is that they can
5 be utilized.

6 COMMISSIONER THOMPSON: Okay.

7 DR. LEHMAN: Potentially one of the issues that, you know,
8 if you were considering how would -- under what conditions
9 would deregulation, sort of, be back -- would you turn your
10 back on it and go back in and regulate, that also would be an
11 appropriate trigger if the wholesale market ceases to function
12 properly,.....

13 COMMISSIONER THOMPSON: Um-hum.

14 DR. LEHMAN: That certainly would be an appropriate time
15 to re-regulate retail markets. In fact, that gives very good
16 incentives for incumbents to keep that market working right.

17 COMMISSIONER THOMPSON: Okay. That was one of the
18 questions that was asked of ACS that I wanted to give the other
19 parties a chance to comment on and that is what triggers do you
20 think are appropriate for Commission intervention? When do we
21 need to get involved again if we adopt this proposal by ACS,
22 what triggers do you think are appropriate for Commission
23 intervention?

24 MR. JACKSON: We may both have comments, but Ms. Tindall
25 will begin.

1 MS. TINDALL: Well, first of all, I'd like to back up a
2 little and just address what I think from an economic point of
3 view has to underlie ACS's proposal.

4 I would agree with Dr. Lehman that the availability of
5 UNEs would constitute deregulation, but for a few things. When
6 you talk about competition and market forces resolving
7 competitive issues, you're essentially hopefully talking about
8 an almost perfect competitive market where there are a number
9 of entrants, there are no barriers to entry, there are no
10 barriers to switching. Customers literally have free choice
11 and can move freely between providers.

12 Anytime you're talking about deregulating 'cause you're
13 going to let competitive forces take over, you have to take
14 into account whether or not those presumptions are true,
15 whether or not consumers do have free choice, whether or not
16 there are a number of providers, whether or not the market is
17 functioning as close to perfectly as possible. And if it's not
18 you have to make allowance in regulation for where there's
19 imperfections in the market.

20 So I do disagree strongly with Mr. Moninski that the
21 issues of consumers not being able to freely switch as we had
22 this summer is a separate issue from whether or not there
23 should be deregulation upon the availability of UNEs, because
24 the precursory to deregulation is you only deregulate as far as
25 the market's functioning clearly.

1 So in answer to your question directly, I think it's very
2 difficult once you have deregulated to step back in and turn
3 back the clock and start re-regulating again. I think it's
4 incumbent upon regulators to only deregulate to the point where
5 the market is functioning the way the market is supposed to be
6 functioning.

7 And I also have an issue with the 75 -- the UNE
8 availability to 75 percent of the market because that
9 essentially means there's 25 percent of the market then that
10 don't have a choice and how do you account for them. So I
11 don't think there is a good way to come back in and start
12 regulating one you started deregulating. I don't think there
13 are good triggers for re-regulation.

14 If you're talking about triggers for stepping in and
15 knocking heads 'cause people aren't following existing rules,
16 those would be violation of rules, but you can't but the genie
17 back in the bottle and so it's incumbent upon the regulators
18 to, you know, ensure the market is functioning the way it's
19 supposed to be functioning prior to deregulation.

20 MR. JACKSON: And if I can add since I'm a lawyer somewhat
21 more legalistic response. The final policy which you've been
22 directed to implement is that the Commission may deny any rate
23 increase to protect the public. And along the lines of what
24 Ms. Tindall said I think you give that away if you follow the
25 ACS proposal. You have no opportunity.

1 You don't even know about the filing before it goes into
2 effect under their significant competition level. And there's
3 really no difference between their significant competition
4 level and their competition level because one's in a majority
5 and the other at 75 percent and you're almost always going to
6 be at 75 percent immediately, so you would have no authority to
7 deny the rate increases so you would be giving away the power
8 which I think the Legislature said you should exercise.

9 And I agree with Ms. Tindall you can't put the genie back
10 in the bottle. And it is important to focus on increases
11 'cause that's the only place where we really have a difference
12 with ACS.

13 In terms of our -- I mean, under today's rules the only
14 time that there's a difference in the standards to the two
15 companies is in the case of rate increases. And why does GCI
16 have the position it does? I mean, you know, in lots of ways
17 the best thing that can happen to us is for them to raise their
18 rates. You know, they raised their rates in Anchorage and we
19 got a lot of market share out of that. You know, alternatively
20 we could have gotten more money out it by raising our rates, so
21 -- I mean, you know, that's a good thing for us in lots of ways
22 if they raise their rates.

23 But we do think there's some very significant public
24 interest issues involved in a market which isn't fully
25 competitive allowing them to totally raise their rates with no

1 review by you whatsoever. It does create the -- I mean, the
2 tie which has been mentioned between the availability to switch
3 and the rate increase -- I mean, that was one of the events
4 that really precipitated one of the crises regarding
5 customers switching over is because, you know, that whole issue
6 has, sort of, had its peaks and valleys and one of the peaks
7 was so many customers wanting to switch over after the increase
8 and they weren't able to.

9 So, I guess, just summing up I think it's contrary really
10 to one of the policies to implement that proposal and I would
11 agree that you can't put the genie back in the bottle 'cause
12 you don't even know what's happening under the significant
13 competition level.

14 And you also have all your other issues. Commissioner
15 Strandberg mentioned deregula- -- or discrimination.
16 Geographic rate averaging, how are you going to enforce that
17 rule. I mean, ACS says get rid of it, but we don't think
18 that's a good idea, so if you're going to keep it, how are you
19 going to enforce it if you detariff and there are other issues.

20 How are you going to deal with proposals like the CMEC
21 which you have. Will they be able to implement a CMEC with
22 absolutely no notice or seven days notice under their proposal?
23 I guess our answer is you just shouldn't go there.

24 COMMISSIONER THOMPSON: Does -- excuse me, I want to
25 hear --.....

1 DR. LEHMAN: Could -- could -- could I add to that or not?

2 No.

3 COMMISSIONER THOMPSON: No, not right now.

4 DR. LEHMAN: Okay.

5 COMMISSIONER THOMPSON: Does AT&T or ATA or the Rural
6 Coalition have any responses to that, on appropriate triggers
7 for reinvolvement by the Commission in the market? I hear
8 silence.

9 MS. GRAHAME: I have --.....

10 COMMISSIONER THOMPSON: Okay.

11 MS. GRAHAME: This is Heather Grahame. I have one minor
12 comment. And that is rather than identify -- I understand why
13 you're asking the question and maybe one way to handle it is to
14 simply include in the proposed regulations a clause whereby you
15 reserve the power to change the regulatory environment if it is
16 not -- if the market evolves in a way that is adverse to the
17 public interest. That way you're reserving as much power to
18 yourself as you want and you may need, because that way you
19 aren't limiting yourself to specific circumstances.

20 COMMISSIONER THOMPSON: I'm thinking about how that works
21 as a practical matter. For us to get involved in setting new
22 rules means we open an R docket. It could take a year. That's
23 not effective response to a market -- our changing market
24 condition. How does it really work? And this question goes
25 back to ACS. You talk about us getting reinvolved. Explain to

1 me as a practical matter how we can effectively reimpose
2 regulation on an area in the market that's been deregulated?

3 MR. MONINSKI: I think in some respects it follows what
4 Ms. Grahame just said, this Commission has in the past on a
5 case specific basis deregulated certain things. You have
6 deregulated, for example, voice mail. You have deregulated
7 billings and collections agreements, but in every one of those
8 instances that I'm familiar with you have specifically and
9 expressly in your orders reserved the right of the Commission
10 to step back in and typically using the language step back in,
11 in the event that that unreasonable discrimination has been
12 detected.

13 COMMISSIONER THOMPSON: But those were not circumstances
14 when that regulation -- when our authority was being exercised
15 pursuant to specific language in a regulation such as you've
16 suggested. In other words, if we adopt your proposal we would
17 have to go through another R docket to change the rules.

18 MR. MONINSKI: I don't think so. I think Ms. Grahame
19 points out the appropriate procedural way to do that which is
20 to include in your regulations some express reservation of
21 jurisdiction to deal with specific issues that you think you
22 might become concerned with which would then, I think, avoid
23 the need for subsequent rule making.

24 COMMISSIONER THOMPSON: Okay, all right. I have one other
25 follow up question to your -- one of your responses to

1 Commissioner Strandberg and he was asking you about the seven
2 day and you acknowledged that the FCC uses 15 days for rate
3 increases. I was going to ask why -- why do you think the 15
4 -- the 7/15 day split is not appropriate for us? Why should we
5 review even rate increases under a seven day rule?

6 MR. MONINSKI: I'm not sure if I mentioned it or not, but
7 these are dominant carrier rules at the FCC. The dominant car-
8 -- LECs at the FCC making their access filings are declared
9 dominant in their markets.....

10 COMMISSIONER THOMPSON: Um-hum.

11 MR. MONINSKI:and under these dominant carrier rules
12 you have seven days for rate decreases, 15 days for rate
13 increases. What we're proposing in ACS' draft regulations
14 would be at the point where a market is deemed competitive,
15 even though we haven't reached that level of significant
16 competition, that the ILEC in that market would be designated
17 as non-dominant and, therefore, that.....

18 COMMISSIONER THOMPSON: Okay.

19 MR. MONINSKI:distinction would get us there.

20 COMMISSIONER THOMPSON: If we presume that all carriers
21 are treated equally in those markets and as Dr. Lehman said,
22 our greatest fear is rate increases, why shouldn't we allow 15
23 days to review rate increases and seven days for other
24 proposals?

25 MR. MONINSKI: That's certainly an option. In a relative

1 world a 15 day cycle is better than a 30 day cycle. Our
2 ongoing belief is that the market will discipline the
3 participants, especially when it comes to things like rate
4 increases.

5 And I think that we have heard in this hearing and in
6 these pleadings about how ACS implemented an interim rate
7 increase for Anchorage and that's true and GCI has told you
8 repeatedly what happened as a result of that. Has ACS gone
9 back and scratched its head about that decision? I'm sure that
10 it has and hopefully when we get to the point where rates can
11 either over time or by virtue of rate cases that are pending
12 become truly re-balanced, I think a lot of those issues will
13 get resolved. We haven't come in and asked you for another one
14 after the first one.

15 COMMISSIONER THOMPSON: Okay. I want to ask all of the
16 parties some questions about the bundling restrictions. And
17 I'll start with ACS because it was -- I think the issue was
18 raised first in their testimony, but I'm giving everybody fair
19 warning that I'm going to be interested in comments from
20 everyone on this. I'm not sure I understand clearly what
21 bundling restrictions ACS is asking for relieve from and so
22 I'll start by having you state that clearly. What is it that
23 you're -- which regulation do you believe is now applied
24 unfairly to ACS that should be lifted?

25 MR. MONINSKI: That's actually a pretty easy one, ACS

1 believes that it is under a certificate condition that was
2 imposed by virtue of the -- first by virtue of the --
3 certification of the former ATU Long Distance Company and later
4 that -- those conditions were readopted and, in fact, reimposed
5 in Anchorage for all of the ACS Companies once ACS became the
6 acquiring entity. It is, I believe, only a restriction on the
7 on the bundling of local and intrastate long distance services,
8 but that is -- that's the restriction that we are attempting to
9 address by virtue of the draft regulation that is before you.

10 COMMISSIONER THOMPSON: Okay. If that's the restriction,
11 bundling intrastate long distance and local service, how would
12 we reconcile a proposal that eliminated that bundling
13 restriction with geographic rate averaging or are you proposing
14 that that concept should be dispensed with as well?

15 MR. MONINSKI: That -- it is our advocacy that for
16 purposes of LEC and LD bundles that you waive the provision of
17 the regulation that requires intrastate long distance rate
18 averaging. It is ACS's position that as a matter-of-fact long
19 distance rates have already been deaveraged. I recognize that
20 you have a regulation in place.

21 We probably all have a tariff that appears to be compliant
22 with that regulation, but the simple fact is when you take a
23 look at how special plans and programs and offers have come
24 into existence and how they've been marketed as a de facto
25 matter long distance rates have already been deaveraged.

1 The proposal that we make for waiving the deaveraging
2 regulation-as it would apply to bundles, I don't believe would
3 do any further harm or any more serious harm to the
4 Commission's regulations than already exist today.

5 COMMISSIONER THOMPSON: Okay. I'm interested in the other
6 parties' comments on relief of -- or whether or not we should
7 waive in the case of local and intrastate long distance the
8 bundling restriction and the impact of that -- your answer on
9 geographic rate averaging?

10 MR. JACKSON: I'll just be (indiscernible) front table I
11 guess. I would agree with Mr. Moninski that the only
12 restriction that exists is regarding instate long distance and
13 local, that's the only bundling restriction. It is -- in their
14 certificate it is effectively also applied against us through
15 the geographic rate averaging rules, so I don't think we are --
16 I don't think we are any or maybe a slight degree more free to
17 bundle than they are in that context.

18 I would have to hear Mr. Moninski's specific examples,
19 which I didn't, in support of his belief that there's already
20 effectively been geographic rate deaveraging. I don't think I
21 would agree with that or at least I'm certainly not aware of
22 any facts that would make that the case.

23 And we do not support the waiver or the repeal of the rule
24 against geographic rate averaging. We think it is -- had
25 beneficial effects and that it should be maintained and, you

1 know, there's -- people always like to use the cream skimming
2 word, but for a LEC like ACS that operates almost as a long --
3 distance company that operates almost exclusively in the -- in
4 the -- or as a long distance company operates almost
5 exclusively in the urban areas, that's essentially what it
6 would allow them to do would be to ignore the rural markets and
7 market their bundled products in the Anchorage, Fairbanks and
8 Juneau areas.

9 COMMISSIONER THOMPSON: I know AT&T is going to have
10 something to say about this.

11 MR. SAUPE: Well, we do have a concern and we've expressed
12 it over the years that local companies with substantial market
13 power or in many cases monopoly power not be allowed to
14 leverage that by making a bundle with instate long distance.
15 That gives them an unfair advantage in competing with us in the
16 long distance market that we can't replicate and so that's why
17 we fought so hard to make clear that those anti- -- that
18 specific anti-bundling restriction continued to apply to ACS.

19 We also continue to support geographic rate averaging. We
20 think it's been effective and it's -- should be continued and
21 agree with what's implicit in your question that if that
22 bundling restriction is lifted it would undermine geographic
23 rate averaging for the reason Mr. Jackson just said that in the
24 urban areas there could be these linkages that would give
25 discounts to people unavailable to people in the rural

1 communities where the bundled isn't offered.

2 COMMISSIONER THOMPSON: Um-hum. Well, maybe that does not
3 have to happen, but I can't figure out how we would be able to
4 prevent it.

5 MR. SAUPE: Yeah, I can't either.

6 COMMISSIONER THOMPSON: Okay. Does ACS believe that the
7 local, intrastate long distance bundling restriction is applied
8 significantly different to ACS than to the other companies in
9 the state?

10 MR. MONINSKI: It is my recollection that when some other
11 IEC affiliated long distance companies were being certificated
12 that a similar anti-bundling provision was applied to them. In
13 that regard I think the former ATU and now ACS has been treated
14 similarly as other ILECs that were spinning off IEC affiliated
15 LD companies.

16 GCI, the IEC, does not have a similar restriction other
17 than the, sort of, ancillary restriction that's imposed by
18 geographic rate averaging.

19 It's interesting to note in the case of AT&T, AT&T
20 although it probably shouldn't be remains the dominant instate
21 long distance company and it has an affiliated IEC. Kind of
22 the reverse situation. There is no restrictions on bundling
23 that have been imposed on AT&T that I'm aware of, so there
24 certainly are some differences between ACS relative to CLECs,
25 but I believe ACS has been treated the same way as other ILECs

1 have been treated.

2 COMMISSIONER THOMPSON: One of the -- I'm going to move on
3 and talk about, again to all parties hopefully eventually,
4 concerns about market domination. One thing -- one issue
5 that's raised by the proposal and I don't know that it's been
6 raised as much by any of the parties in their comments here,
7 but it's certainly something we heard about during the
8 Legislative hearings last year was a fear that if we remove all
9 regulatory oversight from the market we'll go from -- basically
10 from one monopoly to another. And I'm wondering if any of the
11 parties have an opinion about when -- is that a concern we
12 should have? Should we do anything actively to ensure that
13 doesn't happen? When should we become involved again or what
14 market indicator should we be monitoring to make sure that we
15 don't -- once the -- all regulatory oversight is removed go
16 from one monopolist to another?

17 DR. LEHMAN: As with your earlier question I certainly
18 think if it did go from one monopolist to another that would be
19 an appropriate reason for the Commission to step back in.

20 I guess you have to ask is it more likely that you would
21 move from one monopolist to another in the current environment
22 or under the proposed ACS deregulation proposal and I think the
23 current environment bears that potential much more. If two
24 entities are free to compete in the some way then one will win
25 out over the other if they are really better at meeting

1 consumers needs.

2 In the present environment--it's not that clean. You know,
3 we can't tell whether that's been the conclusion that consumers
4 reached or whether it was a conclusion reached filtered through
5 a variety of different regulatory treatments that are not
6 symmetrically applied. And so I think the worse temptation is
7 in the present environment to put the Commission in the
8 position of managing the market shares which would not be a
9 competitive outcome.

10 It would ensure you always have more than one provider,
11 but, I mean, we've seen 40 -- we saw 40 years of airlines
12 deregulation premised on the idea that the regulatory body
13 should keep all of the carriers afloat and it didn't serve
14 consumers well.

15 So there -- I have no idea if unleashed whether one or more
16 providers would end up in the market, but that would certainly
17 warrant you stepping back in, but you'd know the reason why one
18 survived and the others didn't.

19 COMMISSIONER THOMPSON: The Rural Coalition used the term
20 natural monopoly in its testimony so I'm presuming that that
21 carries with it some underlying belief that such a market
22 exists. Do you think that is just -- were your comments
23 specifically and exclusively directed to the rural areas or to
24 some of the other markets that are not competitive?

25 MS. GRAHAME: Well, the -- the reference to a natural

1 monopoly was simply an example of a factor for the Commission
2 to consider in determining whether any area in particular might
3 be competitive. And I believe that's the only place we
4 referenced that and we have no objection to removing it.

5 COMMISSIONER THOMPSON: Okay, all right.

6 MR. JACKSON: Could I.....

7 COMMISSIONER THOMPSON: Go ahead if you have other
8 comments about that.

9 MR. JACKSON: Go ahead.

10 MS. TINDALL: I can't state strongly enough how much we
11 believe this issue is a red herring. There is no threat at all
12 that one company will go out of business to be replaced by
13 another that has been put forth on the record. There's no
14 evidence. There's been a lot of assertions, there's been a lot
15 of hand wringing, but there has been no evidence put forth.

16 Indeed, from all things that we can tell ACS is getting
17 stronger every day, at least that's what they tell their
18 shareholders. And, in fact, what happens if ACS were to
19 declare bankruptcy some day is they reorganize and they come
20 out stronger and probably debt free and a tougher competitor or
21 else they sell their company to someone else.

22 This of all the things the Commission has to worry about
23 in moving to new regulations for deregulating a competitive
24 market should be the least of its worries. It is absolutely a
25 red herring and GCI plans to present evidence in some of the

1 Commission's other dockets on why we believe it to be a red
2 herring.

3 MR. JACKSON: And just very briefly just on the natural
4 monopoly issue and I mentioned this yesterday, I mean, at least
5 under some interpretations, perhaps, the wireline, local loop
6 is a natural monopoly at least in some areas and one of the
7 things that the telecom enables is to have competition in all
8 the other elements of the service even though the loop might be
9 a natural monopoly in some areas and that's what UNEs are all
10 about so that it, sort of, overcomes the possibility that maybe
11 the UNE is a natural monopoly.

12 COMMISSIONER THOMPSON: Okay. I want to move on and ask
13 for some more specific comments about tariff reviews and in
14 ACS' regulations and in several of the others -- I know there
15 were comments yesterday at the hearing about the differing
16 levels of Commission review of tariff filing over time, what I
17 want to understand is what the parties -- I'm assuming that
18 everyone would -- or that all parties would believe that we
19 should review tariffs filed by any party consistently. That we
20 should apply the same rules to everybody.

21 The record should reflect that I'm seeing nods all around,
22 okay. If we're going to do that what rule should we be
23 applying? If we're going to have seven days to review tariffs
24 we're not going to be reviewing them the same way. What should
25 we be looking at them for?

1 And I'll throw out some ideas and you can say yes or no
2 and add anything else you might think is appropriate. --Now some
3 of the things we review tariffs for are discrimination, another
4 possibility in a competitive market is anti-competitive
5 provisions and we're back to geographic rate averaging, too. I
6 mean, that issue is implied in tariff review. There is
7 implications in different filings on if there -- if geographic
8 rate averaging is something that we -- a policy we continue,
9 it's a policy that we may or may not have to review reflected
10 in tariffs, so what are we supposed to be looking for in seven
11 days?

12 MR. MONINSKI: Well, I'll start since it was ACS's seven
13 day proposal. It was difficult for me to be one of the persons
14 that nodded his head to the question that you asked should all
15 tariffs be treated the same or should all tariffs be evaluated
16 the same.

17 COMMISSIONER THOMPSON: But you did.

18 MR. MONINSKI: Well,.....

19 COMMISSIONER THOMPSON: Are you taking it back?

20 MR. MONINSKI: No, I'm adding a qualification. I think
21 that all tariff filings of similarly situated providers in the
22 same market should get the same review. I do believe that.

23 COMMISSIONER THOMPSON: Okay. Define that term?

24 MR. MONINSKI: If, for example, AT&T and GCI and ACS make
25 a tariff filing in Anchorage I believe that those filings

1 should all be subject to the same standards of review.

2 COMMISSIONER THOMPSON: Okay. Does that -- does it matter
3 whether it's a retail market tariff, a wholesale market tariff,
4 a long distance tariff?

5 MR. MONINSKI: Yes.

6 COMMISSIONER THOMPSON: Okay.

7 2700

8 (Tape Change)

9 Tape 2

10 0015

11 MR. MONINSKI: Yeah, it -- I mean, right now -- and I
12 guess I should qualify it further, right now I am talking
13 about, and these regs are basically addressing, the filing of
14 local tariffs, local retail tariffs, not local wholesale
15 tariffs which I concur would need to be handled via a separate
16 procedural path. And long distance tariffs as I think about it
17 because I believe that the long distance market is competitive
18 at this point and I don't believe that we have any dominant
19 carriers in the long distance market that -- even on a
20 statewide basis, I believe that all those LD tariffs should be
21 evaluated the same way. But I would think though that the
22 standard of review for tariffs in Anchorage for example would
23 be different than a tariff that ACS might file today for Kenai
24 where there is no competition. And I'm comfortable with that
25 distinction.

1 And the reason why I think seven days works or the reason
2 why one day-worked at the FCC was that there was a presumption
3 that goes into deferring to the marketplace to do some of the
4 things that the FCC used to do and that this Commission
5 currently does do. I do think that in seven days you can make
6 a determination as to whether or not there is any egregious or
7 unreasonable discrimination in the tariff. I don't know what
8 kind of rate averaging issues there would be in local tariffs,
9 there would be in LD tariffs.

10 The other thing too is that even in the case of FCC
11 tariffs, FCC tariffs under the 7 day rule or under the former
12 24 hour rule, they were allowed to go into effect. It didn't
13 necessarily means that the FCC simply had its 24 hour shot and
14 if it didn't find anything it walked away, we had a number of
15 tariffs that were filed over a period of years where the FCC
16 allowed the tariffs to go into effect subject to an accounting
17 order or in -- which would be an analogue to this Commission's
18 interim approval and then we had to go back over a period of
19 time and true that tariff up and you might be subject to
20 refunds. And those kinds of issues continue to exist. So I
21 think that there are tools out there that would allow this
22 Commission to get offers into the marketplace quickly without
23 necessarily having to completely abdicate its responsibilities
24 for those tariffs.

25 COMMISSIONER THOMPSON: Okay. In that answer I heard

1 discrimination, I didn't hear anything about noncompetitive
2 provisions. If your competitor filed a tariff that said custom
3 -- we're saying, you know, customers only have to pay \$1 a
4 month for phone service, but if they switch to another carrier
5 they owe us, you know, 100 at the end of the month, is that
6 something we should look at?

7 MR. MONINSKI: Yes.

8 COMMISSIONER THOMPSON: So you would add noncompetitive
9 provisions to part of our review?

10 MR. MONINSKI: I would, but with -- but I wouldn't change
11 anything else that I've said so far. I think that if somebody
12 puts a tariff out there that says what you just characterized
13 it to say I think there's going to be a lot of customers who
14 are going to take a look at that and say no way and they either
15 won't subscribe to that tariff or they'll become offended by it
16 and that -- and being offended will cause them to go to the
17 other providers.

18 COMMISSIONER THOMPSON: Okay.

19 MR. MONINSKI: I think the marketplace will discipline
20 that kind of behavior.

21 COMMISSIONER THOMPSON: Okay. What does everybody else
22 think about what we should be reviewing tariffs for in 7 days
23 or 15 or whatever?

24 MR. JACKSON: And if I -- I want to start by partly
25 agreeing with Mr. Moninski and the same caveat, I mean, your

1 existing rules for the competitive markets say that certain
2 tariff filings can go into effect upon 30 days notice without
3 Commission approval. So I think that those regs very
4 definitely contemplate a different something that you apply in
5 noncompetitive rules so I'll agree with Mr. Moninski to that
6 extent. We -- obviously we don't agree with the 7 day, but, I
7 mean, I'll set that sort of aside and say in whatever period of
8 time you have what should you be looking for. And I think the
9 things that you mentioned are correct, it's anti-competitive
10 provisions, discriminatory provisions, provisions that violate
11 geographic rate averaging and there are probably some others,
12 but those are the only ones I think of.

13 COMMISSIONER THOMPSON: Okay. Anybody from the back
14 table?

15 MS. GRAHAME: Yes, the Rural Coalition's regulations
16 provide for 30 days, not seven and they provide for, you know,
17 tariff filings to go into effect within 30 days with the normal
18 caveat that the Commission can set them aside in the event of
19 unreasonable discrimination, unreasonable disadvantage or
20 prejudice are the normal things that the tariff folks look at.

21 COMMISSIONER THOMPSON: Okay.

22 MS. GRAHAME: Seven days -- frankly, while I -- we very
23 much appreciate why ACS has put seven days in its regulations,
24 30 days give competitors a chance to look and to complain and
25 to raise issues if they see them and gives the Staff a little

1 bit more time.

2 COMMISSIONER THOMPSON: Okay. All right.

3 MR. MONINSKI: Commissioner, I just wanted to mention to
4 you that I think Mr. McKenna is on line, he did file some
5 testimony here that would follow this line of questioning if
6 you had any questions for him.

7 COMMISSIONER THOMPSON: Well,.....

8 MR. MCKENNA: And I'm here, Ted.

9 COMMISSIONER THOMPSON: Okay. Well, if you have any
10 comments in response to the question just asked, feel free to
11 offer them.

12 MR. MCKENNA: Okay. The very last thing that I would have
13 added to the list of things for you to look at would be
14 Lifeline kind of considerations.

15 COMMISSIONER THOMPSON: Uh-hum.

16 MR. MCKENNA: I would say that needs to be looked at as
17 well.

18 COMMISSIONER THOMPSON: Okay.

19 MR. MCKENNA: So with those four elements I think that's
20 complete.

21 COMMISSIONER THOMPSON: Okay. Thank you.

22 MR. SAUPE: Commissioner?

23 COMMISSIONER THOMPSON: Uh-hum.

24 MR. SAUPE: Ms. Catlin would like to respond on behalf of
25 AT&T to that question.

1 COMMISSIONER THOMPSON: Okay.

2 MS. CATLIN: AT&T Alascom believes that the tariffing
3 rules probably do need to be changed in some way to levelize
4 (ph) them and it would need to be -- they need to be changed
5 based on a couple of different factors, the market, whether
6 it's IXC or local and then within those markets how access
7 tariffs are treated relative to retail tariffs. Now we believe
8 that a seven day rule is a bit short for local, we are fairly
9 comfortable with 30 days for either local or long distance.

10 COMMISSIONER THOMPSON: Uh-hum.

11 MS. CATLIN: For local the reason that it's difficult for
12 us is because we do provide service to our local customers via
13 total service resale.....

14 COMMISSIONER THOMPSON: Uh-hum.

15 MS. CATLIN:and that is a rather short period of
16 time for us to respond. We're not completely opposed to it,
17 but for us 30 days is better.

18 COMMISSIONER THOMPSON: Okay.

19 MR. McKENNA: Is it useful -- this is Hugh McKenna, is it
20 useful for the Commission to specify in this conversation that
21 you're talking about instances of price increases, as Ted
22 Moninski mentioned before that is price decreases are a whole
23 different class of consideration?

24 COMMISSIONER THOMPSON: Well, that's the distinction
25 that's been made in some of the comments and not in others.

1 And I think we'd -- I don't know if you were on line earlier,
2 but when we started this line of inquiry I asked Mr. Moninski
3 why he thought the distinction that the FCC created was not
4 appropriate for this market. Do -- is that something you think
5 we should look at when we're making new rules, have a different
6 rule for price increases as opposed to decreases or price
7 increases and anything else?

8 MR. MCKENNA: Well, you know, that's my sense and I hope,
9 Ted, that doesn't make me inconsistent with your point of view,
10 but it almost seems by definition that for things which give
11 greater competitiveness which are price decreases that they
12 would seem to call for less scrutiny than price increases.

13 COMMISSIONER THOMPSON: Okay. Go ahead.

14 MR. MCKENNA: Ted, do you agree?

15 MR. SAUPE: If I could just reiterate, as a total service
16 reseller it doesn't matter whether the price is going up or
17 down. Our issue is a little different from yours, we have to
18 scramble to get our systems -- get notice to our customers, to
19 make changes within a very short period whenever the wholesale
20 provider makes a change regardless of what direction it's in.
21 So that's our concern.

22 COMMISSIONER THOMPSON: Okay.

23 MR. MCKENNA: Okay. And, you know, I think Ted has
24 further stated that this only applies in cases where markets
25 have already been determined to be competitive.

1 COMMISSIONER THOMPSON: Yeah.

2 MR. McKENNA: So I understand the point to be in
3 competitive markets should price decreases be permitted for
4 rapid review, my sense is yes.

5 COMMISSIONER THOMPSON: Okay. My next question is a very
6 specific one. On page 32 of your testimony, line -- it's the
7 second -- first sentence that begins on that page. It says
8 retail rates and access rates should be allowed to move toward
9 cost. Are you -- my question is are you suggesting that access
10 rates are not now based on cost?

11 MR. McKENNA: Who was the question directed to?

12 COMMISSIONER THOMPSON: Mr. Moninski.

13 MR. MONINSKI: The proposal that we've put forward for
14 regulatory relief, price deregulation, detariffing applies to
15 retail rates and special access rates.

16 COMMISSIONER THOMPSON: So should this be special access
17 rates in this sentence?

18 MR. MONINSKI: Yes.

19 COMMISSIONER THOMPSON: Okay. Then it makes more sense.
20 Okay.

21 MR. MONINSKI: And I apologize for the omission.

22 COMMISSIONER THOMPSON: Okay. I just -- later on in that
23 paragraph you discuss Alaska Universal Service Fund and this is
24 something that AT&T has proposed use of that fund to support
25 transport or long distance as well. A question for AT&T on

1 that, in your proposal you also suggest that accounting
2 requirements and they're couching your testimony as relief from
3 dominant carrier requirements and I'm looking at page 4 where
4 you had a list of the specific requirements that you want to be
5 relieved from including performance reports.

6 How in my mind should I reconcile a proposal that would
7 allow the state Universal Service Fund to fund the cost --
8 additional cost of transport -- higher cost of transport
9 presumably to some of the rural areas with a proposal that says
10 don't make us use the uniform system of accounts, have us
11 report less? I mean, is the Universal Service support going to
12 be based on something other than costs, how are we going to
13 keep track of what payments should be made if we don't have
14 accounting information?

15 MR. SAUPE: Well, I'll start and I'll let Ms. Catlin
16 continue. As we've conceived this subsidy support it would be
17 based on cost and there would be a need to demonstrate the cost
18 differential in some fashion. Right now we are subjected to
19 these accounting requirements and other obligations as dominant
20 carrier that GCI for example as a non-dominant carrier isn't
21 subject to. Under our proposal the fund would be equally
22 available to all competitors,.....

23 COMMISSIONER THOMPSON: Uh-hum.

24 MR. SAUPE:it's not -- it wouldn't be, you know,
25 what I facetiously referred to as an incumbent's relief act, it

1 would be competitively neutral, available to anyone.....

2 COMMISSIONER THOMPSON: Uh-hum.

3 MR. SAUPE:who builds facilities in Bush areas. So
4 presumably some method of accounting for those costs would need
5 to be developed. In the past we have proposed forward looking
6 costs and that could require a cost model, the only one we have
7 available is now probably very stale, but GCI did a.....

8 COMMISSIONER THOMPSON: Uh-hum.

9 MR. SAUPE:forward looking cost model and that would
10 be something that could be considered in the workshop, how to
11 reconcile those concerns. But the historical costs that we're
12 now required to account for aren't necessarily -- wouldn't
13 necessarily be the basis for the subsidy that we've requested
14 which we've proposed would be based on forward looking costs.

15 COMMISSIONER THOMPSON: Okay.

16 MS. CATLIN: The -- all I would have to say to that is
17 yes, our initial sizing of the subsidy we exclusively used a
18 filing GCI made as to their costs of deploying their DAMA
19 network and that was the most efficient competitor model and we
20 were looking at it from a forward looking model as close as we
21 could get to what the FCC had recommended for looking at LEC
22 UNE costs.

23 COMMISSIONER THOMPSON: Okay.

24 MS. CATLIN: It's -- okay.

25 COMMISSIONER THOMPSON: On the subject of that proposal,

1 what does GCI think about the necessity for use of the state
2 Universal Service Fund support transport, GCI or the Rural
3 Coalition whose members have long distance affiliates as well?

4 MR. JACKSON: Would you repeat the question, I just.....

5 COMMISSIONER THOMPSON: AT&T has proposed.....

6 MR. JACKSON: Yeah.

7 COMMISSIONER THOMPSON:again in this proceeding that
8 we use the state Universal Service Fund to support some of the
9 high costs of offering long distance in rural Alaska and
10 they've argued that they were -- have been unable to make
11 investments because of the cost differential. What does GCI
12 think about this?

13 MR. JACKSON: We, I don't think, support a Universal
14 Service Fund for long distance. If there's a problem with long
15 distance that issue can be addressed much better by the
16 Commission taking up the access charge reform docket which has
17 been sitting around for a long time now. I guess I'm going to
18 complain a little bit and I apologize before I do so.

19 I pretty seriously considered bringing up access charges
20 in response to policy number 1 that's set out by the
21 Legislature 'cause it talks about payments to carriers being
22 fair. We tried to take a very narrow view of what was going to
23 be accomplished in this docket and to be very narrow. I sort
24 of think in a way we're losing out because we made that choice
25 because I think some other people have gone much further afield

1 from the specific proposals in the Legislature. So I wish I
2 had brought up access charges and said that they're unfair as
3 the dickens and you need to deal with them. And that would do
4 a lot more to promote competition and reduce the cost of
5 service to the Bush areas than probably a subsidy could.

6 COMMISSIONER THOMPSON: Okay. Does Rural Coalition
7 have.....

8 MR. JACKSON: And.....

9 COMMISSIONER THOMPSON: Oh, go ahead.

10 MR. JACKSON:Ms. -- I'm sorry, Ms. Tindall may want
11 to add.

12 MS. TINDALL: Let me just say -- take out his he doesn't
13 think we support it, we don't support it. And.....

14 COMMISSIONER THOMPSON: Okay.

15 MS. TINDALL:I agree we need access charge reform.

16 COMMISSIONER THOMPSON: Okay.

17 MS. GRAHAME: I don't think I'd like to take a position at
18 this time. The Rural Coalition has taken a position on this
19 issue in the past, I think it was in R-98-01 and.....

20 COMMISSIONER THOMPSON: Uh-hum.

21 MS. GRAHAME:we wrote those comments five years ago
22 and I just don't remember what our position was exactly and it
23 may very well have changed since then due to, you know, the
24 changed environment. So I.....

25 COMMISSIONER THOMPSON: Okay.

1 MS. GRAHAME:don't think I want to take a position
2 at this time.

3 COMMISSIONER THOMPSON: Okay. Fair enough. We've been
4 going for an hour and a half do you want to take a break?

5 HEARING OFFICER OLSON: Sure.

6 COMMISSIONER THOMPSON: Okay. Go ahead.

7 MR. SAUPE: Commissioner, can I make one quick
8 comment.....

9 COMMISSIONER THOMPSON: Uh-huh.

10 MR. SAUPE:on the access reform which is that we
11 strongly support it, we absolutely would love to see it come
12 forward. It doesn't necessarily solve the problem that we've
13 talked about because either through some sort of Commission
14 mandated rate reduction to reflect the reduction in access or
15 through competition we'd be back in the same pickle where the
16 rates would be competed down to a penny or so above access.

17 In order to continue to compete in the high density urban
18 areas we would need to meet those prices. That would require
19 us to continue to serve at below cost prices in the 150 or so
20 locations where we continue to have the only facilities and so
21 it wouldn't solve our problem. It would -- it's long overdue
22 and it's necessary, but it's not directly relevant to the
23 concern we've raised.

24 COMMISSIONER THOMPSON: Okay. ACS also has a long
25 distance affiliate, do you have a position on that use of state

1 Universal Service Funds to support long distance service?

2 MR. MONINSKI: I thought about raising my hand, but our
3 position is probably not as clearly defined as what you heard
4 from GCI and AT&T. We do have a long distance affiliate, at
5 this point in time, melded into the question of fairness and
6 cost recovery to the provider has to be the issues of the
7 impact on consumers. I've said this to this Commission before
8 that when you take a look at a consumer's bill these days and
9 you add up all of the various surcharges that are out there,
10 state and federal, things become extremely difficult for end
11 users to comprehend and to cope with.

12 And if we're now talking about an Alaska Universal Service
13 Fund bump that might be related to supporting Universal Service
14 for the IXC markets, we could be talking about a fairly
15 substantial end user surcharge that would flow through the
16 process that is normally used to recover AUSF support. And I'm
17 concerned about that and I think the Commission needs to be
18 concerned about that too and to consider that in the context of
19 the comments that you've heard today.

20 I'm not arguing that AT&T hasn't raised an important issue
21 that we need to think about, but I think we need to have that
22 -- those end user consumer issues on the table at the same
23 time. ACS LD does not have a specific position on the need for
24 AUSF support, it would certainly be an active participant if
25 this Commission were to move in that direction and consider it

1 further.

2 COMMISSIONER THOMPSON: Thank you. Okay.

3 HEARING EXAMINER OLSON: Let's come back about 10:50, and
4 we'll go off record and we'll take a recess.

5 (Off record - 10:34 a.m.)

6 (On record - 10:55 a.m.)

7 HEARING EXAMINER OLSON: We're back on record for
8 continuing Commission questions by Commissioner Thompson.

9 COMMISSIONER THOMPSON: And I've got one follow up on the
10 Universal Service proposal from AT&T that I wanted to ask
11 before I forget. Your -- on page 7 you talked about proceeds
12 being distributed based on market share of billed minutes in
13 those areas. My question's a practical one, how do you keep
14 track of that information and is that something that the
15 companies keep track of in a standard way?

16 MR. SAUPE: I'm not sure of the answer to that question,
17 certainly as to how other companies keep track of it and.....

18 COMMISSIONER THOMPSON: How does AT&T keep track of that?

19 MR. SAUPE: It would help to have Ms. Catlin here and
20 perhaps others.....

21 COMMISSIONER THOMPSON: All right.

22 MR. SAUPE:to know for sure. Yeah, that was the
23 proposal that we floated a couple years ago, there are other
24 ways it could be -- there are other ways it could be handled,
25 you know, specific construction subsidies could be provided for

1 facilities construction for example. You know, there are other
2 possible ways to solve the problem, but.....

3 COMMISSIONER THOMPSON: And Ms. Catlin is just walking in
4 the door so we can.....

5 MS. CATLIN: Yes.

6 MR. SAUPE: If you could repeat your question for her?

7 COMMISSIONER THOMPSON: In your testimony on page 7, AT&T
8 suggests that the proceeds for that Alaska Universal Service
9 Fund support for long distance could be distributed based on
10 market share of billed minutes in rural areas. And my question
11 is how do you keep track of that information, is there a
12 standard way amongst or between companies that that
13 information's compiled?

14 MS. CATLIN: There isn't a standard way that it's
15 complied. At this point we don't have access to those minutes,
16 however there have been new regulations promulgated that I
17 believe require all carriers to file their minutes at the end
18 of the year so that would be one method if my understanding of
19 that requirement is correct.

20 COMMISSIONER THOMPSON: When you say you don't have access
21 to those minutes that's because that's something the LECs keep
22 track of, right?

23 MS. CATLIN: Well, we don't have access to other carrier's
24 billed minutes, we have access to our own.

25 COMMISSIONER THOMPSON: Okay.

1 MS. CATLIN: And then with respect to LEC billed Alascom
2 minutes, I believe we can get those also. So the bill -- we
3 know we have the minutes we bill and I believe I can have
4 access not to the customer information, but to the billed
5 minutes for my field (ph) customers.

6 COMMISSIONER THOMPSON: Okay. Do any of the other parties
7 have comments on whether that's an appropriate way, appropriate
8 measure for distributing funds, appropriate thing to track,
9 market share of billed minutes?

10 MR. JACKSON: I'd just briefly -- I guess I suspect it has
11 at least the potential of some major disputes. As you know
12 there are -- have been some pretty major disputes recently
13 regarding measurement of access minutes. Those disputes I
14 would say are growing rather than diminishing and I think you
15 could have some similar disputes regarding billed minutes.

16 COMMISSIONER THOMPSON: Uh-hum. Ms. Grahame.

17 MS. GRAHAME: The Rural Coalition agrees with Mr. Jackson.

18 COMMISSIONER THOMPSON: Can you explain to me why the
19 potential for disputes -- or I don't know if you agree that --
20 he's characterized them as growing, why is that happening?

21 MS. GRAHAME: Jack? If the Commission permits I'd
22 like.....

23 COMMISSIONER THOMPSON: It would be helpful if he
24 understands and can explain it to me.

25 MR. JACKSON: Well, since I said it was growing can I just

1 answer that first and certainly.....

2 COMMISSIONER THOMPSON: Well, yeah, okay. You can answer
3 it and then give him a chance to think about his answer. I'm
4 sorry. Okay.

5 MR. JACKSON: I get.....

6 COMMISSIONER THOMPSON: I'm being indulged.

7 MR. JACKSON: Thank you. I -- the reason I think growing
8 is because we're coming up with and more disputes, in fact,
9 we're seeing more and more disputes because we're analyzing the
10 reporting of traffic more carefully than we had in the past.

11 COMMISSIONER THOMPSON: Okay.

12 MR. JACKSON: As -- with 800 traffic it is frequently very
13 difficult to determine jurisdiction and it is very easy to
14 disguise the jurisdiction. Even someone who is trying to
15 report 100 percent honestly there are some estimates that have
16 to be made and there's some difficulties in doing it perfectly
17 particularly with 800 traffic and that's even if you're trying
18 to do it perfectly. There are also enormous incentives to
19 cheat because of the enormous difference between state and
20 federal.....

21 COMMISSIONER THOMPSON: Uh-hum.

22 MR. JACKSON:access charges.

23 COMMISSIONER THOMPSON: Okay.

24 MS. GRAHAME: And I'd like Mr. Rhyner who's the president
25 and chairman of TelAlaska to respond to your question,

1 Commissioner Thompson.

2 COMMISSIONER THOMPSON: Okay. Thank you.

3 MR. RHYNER: Actually I was going to respond to your
4 question as the chairman of the Rate Development Committee for
5 the Alaska Exchange Carriers Association and I think Mr.
6 Jackson did a fairly decent job of defining the issues and the
7 problems.

8 COMMISSIONER THOMPSON: Okay.

9 MR. RHYNER: 800 traffic is a major issue and that's the
10 routing of traffic and I think you're fully aware that we're
11 already.....

12 COMMISSIONER THOMPSON: Uh-huh.

13 MR. RHYNER:in the process of doing an audit on
14 AT&T.....

15 COMMISSIONER THOMPSON: Uh-hum.

16 MR. RHYNER:at the moment so there is a growing
17 concern with the reporting of minutes of use.

18 COMMISSIONER THOMPSON: Okay. Thank you. And I
19 appreciate my colleagues' indulgence. I will acknowledge that
20 is a bit off track, but.....

21 MS. CATLIN: Commissioner Thompson, I'd like to respond to
22 that also. I -- AT&T Alascom believes that at least after this
23 audit we will all know more about some of the difficulties with
24 reporting that we have seen and therefore we don't view it as
25 growing, we view it as hopefully shrinking as we identify the

1 problems.

2 COMMISSIONER THOMPSON: I want to ask next everyone
3 generally about a question that most of the commentators offered
4 a proposal on which is what standard we should use to determine
5 a market competitive? And what I'm interested in is hearing
6 your comments on each other's proposals. There was market
7 share percentages proposals, Dr. Lehman had one for either UNE
8 -- availability of UNEs or ETC designation.

9 I read and understand your individual proposals, what I'm
10 interested in is your comments on everybody else's, why they
11 wouldn't work or which ones you think might have some merit or
12 which part of them. And the other overall question -- and I'm
13 going to rattle on more than I should, which is another
14 suggestion has been made that we should have a multi-part test
15 that might be applied differently in different markets, do you
16 think that works, are there some tests that are going to be
17 more appropriate for the smaller rural markets that are perhaps
18 not appropriate in the urban markets?

19 MR. JACKSON: I'll start, I guess.

20 COMMISSIONER THOMPSON: You're brave, go ahead.

21 MR. JACKSON: And let me make a slight clarification for
22 ours. Our -- for the competitive service area we do not have a
23 market share criteria, our market share criteria comes in at
24 the significant competition level. My comments regarding ACS'
25 standards would be that -- and I guess that I could also

1 address the competitive market area definition and the
2 significant competition....

3 COMMISSIONER THOMPSON: Uh-hum.

4 MR. JACKSON:distinction. I think that there's
5 really no difference between their two proposals, one is a
6 majority and one is 75 percent. And in most cases the amount
7 of time that it's going to take to move from a majority of the
8 people having a choice to 75 percent of the people having a
9 theoretical choice is, you know, going to be measured in days
10 or weeks or something. It has to be -- happen so fast that
11 it's sort of insignificant. So that's what I see as the
12 problem there.

13 We think significant competition really means that, you
14 know, a lot of people out there are exercising their choice, we
15 think the, you know, competitive service area would come into
16 being as soon as someone is in the entire market offering
17 service to all the people in the market, the customers have an
18 actual choice.

19 COMMISSIONER THOMPSON: So offering service to everybody
20 in the market so how does that mesh with the Rural Coalition's
21 ETC designation, that's one of the requirements?

22 MR. JACKSON: The ETC issue is -- and particularly for
23 wireless carriers, I believe is an incredibly difficult and
24 complex issue. And I think that if it's going to be considered
25 it truly deserves a docket all of its own. And that it's going

1 to be difficult to deal with until some of the federal actions
2 take place. —

3 Dr. Lehman and Michael Burke (ph) and I were having a
4 conversation about this over the break and, you know, it is a
5 problem in all sorts of ways and I don't -- if you're dealing
6 with wireless ETCs as the source of competition, even though I
7 don't believe they're competing and our position is they're not
8 actually competing with the wireline, there probably are
9 different criteria necessary, a different set of criteria.

10 The -- I think -- the Rural Coalition also proposes that
11 as soon as a rural exemption is lifted that it be deemed a
12 competitive service area which, you know, as I think they also
13 acknowledge the rural exemption -- after you lift the rural
14 exemption you have to go through the interconnection
15 arbitration and negotiation and then after you've gone through
16 that you need some long period of time for anybody to actually
17 start servicing. So under the best of circumstances I think
18 there's a long period of time between when a rural exemption's
19 lifted and when the competitor's actually providing service. I
20 do not think that's a good criteria for the definition of a
21 competitive service area.

22 COMMISSIONER THOMPSON: Okay.

23 MS. GRAHAME: I'll weigh in next. Let me first say that
24 we reviewed GCI's criticism of the Rural Coalition's definition
25 of a competitive service area with respect to the rural

1 exemption and we wouldn't have any problem adding the
2 --additional language and where the CLEC is actually providing
3 service. We think that makes sense.....

4 COMMISSIONER THOMPSON: Okay.

5 MS. GRAHAME:and we don't have a problem with that.
6 So I don't think you and I have a disagreement on that, Jimmy.
7 The Rural Coalition advocates the use of a multi-part test to
8 be applied to different areas, we think that's a very good idea
9 because we do think competitive entry is going to proceed very
10 differently depending on whether an area is -- I'm going to say
11 urban or rural.

12 That does beg the question though of what is urban and
13 what is rural and we would advocate defining a rural area using
14 an access line count and I don't have a suggestion with me
15 today as to what that might be. I would like to confer with
16 the Rural Coalition members about that, but we think that that
17 would be a useful definition.

18 COMMISSIONER THOMPSON: If you're going to count access
19 lines what happens when a wireless carrier's in there, are you
20 going to count the wireless lines as well or just landlines?

21 MS. GRAHAME: I think -- my off the cuff thought on this
22 without conferring with the Rural Coalition members was to use
23 a landline access line count.

24 COMMISSIONER THOMPSON: Okay.

25 MS. GRAHAME: The Rural Coalition has looked at the

1 definitions of the competitive trigger of both ACS and GCI and
2 we have, you know, concerns about each of those as applied to
3 rural areas. With respect to ACS', the trigger is really
4 potential consumer coverage and that doesn't work.....

5 COMMISSIONER THOMPSON: Uh-hum.

6 MS. GRAHAME:in a rural area for the reasons I
7 discussed in my part of the Rural Coalition's opening comments
8 yesterday. If a wireless carrier can serve three businesses in
9 a very small rural area it doesn't matter if they can serve
10 only 25 percent of the area,.....

11 COMMISSIONER THOMPSON: Uh-hum.

12 MS. GRAHAME:they don't have to serve 90 percent,
13 they will very significantly effect the economics of providing
14 affordable service in a rural area particularly those that have
15 geographically disparate local exchange service areas.
16 Secondly, we don't know how ACS measures consumer coverage, we
17 don't know how you measure that. Third, there has to be a
18 regulatory process we suspect under ACS' proposal whereby a
19 carrier is changed from being identified as dominant to non-
20 dominant and as a practical matter it takes so little time for
21 a wireless company to get into a rural market and to capture a
22 customer or two or three that our fear is that the necessary
23 regulatory time to address those issues would really be too
24 late. Fourth, we don't see as applied to a rural market the
25 wisdom or the need for retaining the dominant, non-dominant

1 distinction. And, finally, in the ACS proposal there's no
2 opportunity for a rural company to say to you within a certain
3 number of days here's the effect on consumer rates, what are we
4 going to do about it. And I -- and we want you to have that
5 information as part of the public interest test and if you've
6 had a chance to read our regs you'll know we propose doing it
7 within a relatively short period of time. But those are our
8 principal concerns about the ACS test.

9 With respect to the GCI test it retains the non-dominant
10 distinction for what appears to be 180 days and that's simply
11 way too long a process. Secondly, there's no mention of --
12 again there's no opportunity for an ILEC to get -- to bring
13 information to you regarding the effect on consumer rates.
14 And, finally, with respect to the significant -- or
15 significantly competitive area which would require CLECs to
16 acquire more than 20 percent of the market, again that's just
17 not -- we don't think that's realistic as applied to rural
18 areas.

19 COMMISSIONER THOMPSON: Okay. Thank you, Ms. Grahame.

20 DR. LEHMAN: I'll jump in next then.

21 COMMISSIONER THOMPSON: Uh-huh.

22 DR. LEHMAN: GCI correctly recognizes that the real test
23 for competitive service area should be does the incumbent
24 exercise or does any carrier exercise market power. What I
25 don't think is correct is that there's any linkage between

1 market share and market power, I think it's a step in the wrong
2 direction to be looking at market share as a backward looking
3 measure of what has already happened when the focus should be
4 on consumer choice before it happens and enabling that choice
5 to be maximized. So I guess my reaction is that a measure -- a
6 trigger that depends on a market share measure is just not
7 appropriate for the environment that we have.

8 MR. MONINSKI: And if I could I'd like to correct one
9 mischaracterization about ACS' proposal. As I've said before
10 ACS proposes an evolutionary regulatory relief scheme and its
11 definition of competitive market does not rely on the provision
12 of facilities based competition. So, for example, in Anchorage
13 had things gone differently and had AT&T entered the market
14 first before GCI, AT&T has entered its markets at least to date
15 on a total service resale basis. Under ACS' proposal once AT&T
16 was in the Anchorage market on a total service resale basis
17 where the majority of customers in Anchorage could select AT&T
18 as its provider, that would trigger the first level of relief
19 that ACS proposes.

20 And so it is -- where Mr. Jackson suggested a moment ago
21 that there's no real difference between the first point on the
22 continuum and the second I would disagree with that. There --
23 depending upon how competition enters the market there could be
24 a significant difference if competition comes in first on a
25 resale -- total resale basis and then later evolves to a

1 facility basis.

2 COMMISSIONER THOMPSON: Okay. Can you address Ms. Grahame's concern about how you define or how you measure consumer coverage in the context of your proposal?

3 MR. MONINSKI: Consumer coverage on a total service basis is pretty issue to measure.

4 COMMISSIONER THOMPSON: Uh-hum.

5 MR. MONINSKI: The total service reseller comes in and simply purchases everything you have available off of your tariff and it is able to cover 100 percent of the market almost immediately.....

6 COMMISSIONER THOMPSON: Uh-hum.

7 MR. MONINSKI:on a total service resale basis. On a facilities basis there may have to be some showing that would be presented to the Commission. Anchorage might be a little more complicated given that it has multiple wire centers. In other markets where they're served by a single wire center it would be quite easy. If a facilities based competitor co-located a switch in that wire center and had access via an interconnection agreement to UNE loops, one would presume it would be loops throughout the market and it would be pretty easy to determine whether or not the 75 percent threshold had been made.

8 Dr. Lehman reminded me that too that included in our definition of facilities based competition is the UNE platform

1 version of facilities based competition, there again where a
2 competitor could access your switch and all of your loops, I
3 think it would be an easy thing to come in and demonstrate for
4 the Commission that 75 percent or more of the market is being
5 covered.

6 MR. JACKSON: Can I make a small technical point in
7 response to that?

8 COMMISSIONER THOMPSON: Go ahead.

9 MR. JACKSON: There are a lot of instances where even
10 though you're co-located at a switch you do not have access to
11 the loops at that switch.....

12 COMMISSIONER THOMPSON: Uh-hum.

13 MR. JACKSON:and that's because of field
14 electronics.

15 COMMISSIONER THOMPSON: Uh-hum.

16 MR. JACKSON: And so I'd have to amend Mr. Moninski's
17 point a little bit there, is you don't -- there -- in some
18 markets this is a lot more true than others, but in Fairbanks
19 it's very, very true that even you're at the wire center you
20 don't get access to many of the loops there. UNEP (ph) does
21 resolve that problem, but UNEP is.....

22 COMMISSIONER THOMPSON: Uh-hum.

23 MR. JACKSON:itself a controversial topic and.....

24 COMMISSIONER THOMPSON: Uh-hum.

25 MR. JACKSON:subject to possible -- some constraints

1 in the future. So I'll just make that slight clarification.

2 COMMISSIONER THOMPSON: Okay. Thank you.

3 MR. SAUPE: Well, as to local market definitions I'd like
4 -- if you could remember to ask the question to Mr. Miller. I
5 would make one factual point, our total service resale in
6 Anchorage has only been residential, it's never been business.
7 So it doesn't necessarily undermine Mr. Moninski's theoretical
8 point, but as a factual matter you may raise the question as to
9 whether that makes a market fully competitive.

10 The other observation I'd make is in general I believe we
11 support a graduated approach, I'm not sure we're here today to
12 give you a percentage or an actual -- but the thing about
13 market share, it shouldn't be the only test, but it does give
14 you some indication of whether somebody can actually do it and
15 is doing it and that consumers really have choice. And there
16 are impediments to getting service out and you might
17 theoretically have someone who's certificated, but either
18 through lack of cooperation by the ILEC or for other reasons or
19 their own incompetence maybe they're not actually out there
20 offering a valid choice to consumers and, in fact, there
21 continues to be a carrier with market power.

22 Which brings me to the long distance market and our
23 definition of dominance which we would be happy to live with,
24 it's a multi-factor test, market share being only one of the
25 factors that you would consider. The test doesn't include a

1 specific bright line, but it is a factor that can be considered
2 for the reason I just mentioned. So I would just reiterate our
3 support for a multi-factored test of market power which I agree
4 with Dr. Lehman is the essential question.

5 COMMISSIONER THOMPSON: Okay. Thank you. In ACS'
6 regulations they propose that customers be informed about
7 choices and changes in rates and tariffs by posting on
8 websites, internet web pages. Not everybody in the state and
9 not everybody even in Anchorage has internet access, do you
10 think that's an effective way to provide consumers with
11 information, what other -- what else should we do to make sure
12 that competitive market functions effectively by making sure
13 customers have access to the information they need to make an
14 affected (ph) choice?

15 MR. MONINSKI: That is our proposal, Commissioner.
16 Without being unduly critical of current procedures, ACS
17 believes that website positing while not perfect as you suggest
18 will reach far more consumers than the current process of
19 advertising tariffs in newspapers of general circulation. But
20 the reality is -- having said that, you know, that perhaps was
21 -- is offered as a surrogate for newspaper publication which is
22 a better approach, it was offered because that was the approach
23 that the FCC used when it detariffed the interstate long
24 distance market.

25 But the simple fact of the matter is that it will be this

1 kind of notice that will most likely get the attention of
2 consumers and we all use it, we all use media advertising to do
3 that and that's how information will get to the consumers will
4 be by virtue of direct contact from sales people, marketing
5 staff, mass media advertising and things of that nature.

6 COMMISSIONER THOMPSON: Does anybody else have any
7 comments about the effectiveness of web notice versus what we
8 do now or.....

9 MR. MCKENNA: Yeah, I'd like to make a comment, this is
10 Hugh McKenna. I would reinforce what Ted just said, it's in
11 the company's interest to have maximum possible coverage and
12 communications with potential consumers. And I don't think
13 anyone is suggesting that the web coverage alone's enough, I
14 think what Ted just said is that it's in the company's interest
15 to have maximum possible exposure of the idea and it will use
16 commercial means to do that.

17 COMMISSIONER THOMPSON: Okay.

18 MR. JACKSON: I guess just -- notice is certainly a
19 problem and I guess I don't even have an opinion of whether the
20 newspaper ads or the web is more effective. But our concern
21 isn't going to be getting notice to customers of the new
22 innovations that the companies want to tout, the issue that
23 you're really faced with is how the customer's going to get
24 notice when there's a \$3 increase as opposed.....

25 COMMISSIONER THOMPSON: Uh-hum.