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STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Mark Johnson, Chair
Kate Giard
Dave Harbour
James S. Strandberg
G. Nanette Thompson

REGULATORY COMMISSION OF ALASKA
701 West Eighth Avenue, Suite 300
Anchorage, Alaska

PUBLIC MEETING

October 22, 2003
9:00 o'clock a.m.

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1

P R O C E E D I N G S

2 Tape 1

3 0015

4 (On Record - 9:05 a.m.)

5 CHAIR JOHNSON: We are on record. It is October 22nd of
6 2003. And welcome to the scheduled regular Public Meeting, I
7 think that's correct, of the Regulatory Commission of Alaska.
8 I'm Mark Johnson, Chair of the Commission. With me are
9 Commissioner Strandberg, Commissioner Thompson, Commissioner
10 Harbour and Commissioner Giard. All members are present. We
11 have a quorum.

12 The first item scheduled on the agenda today is public
13 participation. Are there members of the public that desire to
14 address the Commission on matters that are relevant to the
15 activities of the Commission? Any member from the public
16 today? With that and being no takers, the public participation
17 section of the meeting is closed we can move on in peace.

18 The first item -- the next item on the agenda, I believe
19 is a report from our Consumer Protection -- oh, actually -- and
20 this has taken a couple of different forms. I had discussion
21 with Staff and what I'd like to do with the permission of the
22 Commission is to hear from Ms. Pitts on the quarterly report
23 from her section, the Consumer Protection Section. Without
24 objection I'd like to recognize Ms. Pitts.

25 MS: PITTS: Good morning, thank you, Mr. Chairman. I'm

1 going to be brief. I've got a little respiratory problem, but
2 you have a handout with the statistics for the last quarter
3 which is pretty clear.

4 We're below numbers in complaints this year over where we
5 were last year, taking into consideration last year the formal
6 proceeding that we opened about the local competition issue
7 here in Anchorage and also that we were accounting for
8 complaints in a different manner at that time so that accounts
9 for the differences in the percentages and numbers.

10 However, as you can see from the summary of Staff
11 resources we still do most of our contact and deal mostly with
12 telephone issues, that's still in the forefront. From that
13 first page you can see that we're doing -- about 84 percent of
14 what we do is deal with telephone issues.

15 Now on July, August and September '03 our electric
16 complaints were up. That would be attributed to in July
17 probably cut offs because weather is now warmer and the utility
18 gets more active in collecting and that would account mostly
19 for the increase in the electric complaints you see there.

20 And getting into September probably that last push to get
21 accounts current before we get into dark and cold season again
22 so we would likely be hearing from consumers either that don't
23 have the resources to pay or trying to find out what their
24 obligation is to pay all or make some kind of arrangements.

25 We're still averaging about 1,000 telephone calls per

1 month and not all of the calls that we take are -- concern
2 issues that are jurisdictional here. Nevertheless, we must
3 answer the phone so they're all counted in.

4 The total of filed complaints on the next page, you'll see
5 that the numbers are down quite a bit. Both -- while opened,
6 closed and pending complaints are all down.

7 And I just note that in 2002, as you may recall, we were
8 counting the telephone -- competition complaints, we were
9 counting them twice, once for each entity involved in the
10 complaint and as of July 1, '02 we started just counting them
11 once. So basically if you take 2002's numbers and take it in
12 half it would be a better comparison to compare to 2003 to
13 really see a comparison of where we are.

14 Again, on the next page we're doing mostly telephone
15 complaints, gas and electric crept in there, but those were
16 just a handful.

17 On that back page, that gives you an idea of who the main
18 players were, whose customer we heard from in July, August and
19 September. And, of course, most of the complaints are filed
20 from Anchorage customers and the main players in Anchorage, of
21 course, are GCI, ACS and to a lesser degree, very lesser
22 degree, AT&T Alascom.

23 So that is, kind of, a quick overview of the complaints.
24 And you've been made aware of other things we're doing in the
25 section as it relates to Gustavus' outage. And, you know, that

1 we're also doing the Bristol Bay election which we should be
2 issuing an order on here very quickly by the end of this month
3 would be our deadline for issuing the order announcing that
4 election.

5 And we are also about mid way or maybe a little better
6 into the annual report production. So that's it for the
7 section and I'll take any questions that you might have.

8 CHAIR JOHNSON: Are there questions for Ms. Pitts? It
9 appears not. Thank you, Agnes, we appreciate it.

10 MS. PITTS: Thank you very much.

11 CHAIR JOHNSON: The next item on our agenda is a
12 discussion which had begun in a prior meeting regarding an open
13 Docket, R-03-03 which pertains to a review of -- a Legislative
14 directed review of our telecommunications regulations. And
15 we've also placed on the agenda related dockets because the
16 matters touched upon are also addressed in other open Dockets,
17 R-02-06 and R-01-2 and we did that to provide notice to
18 everybody of what was on the table for discussion today.

19 Primarily, and if the Commission will indulge me a little
20 bit here, we have in front of us today a Staff report that
21 attempts to set out a variety of policy alternatives for our
22 consideration in connection with these dockets. I would say,
23 and I think most Commissioners have spent a fair amount of time
24 with this already, that it is a comprehensive report. It is
25 detailed. It provides a very detailed look at our regulations

1 and the options that are in front of us in connection with our
2 regulatory review process.

3 I will say that just from my standpoint I think it is --
4 it represents an enormous amount of work on the part of our
5 Common Carrier Section and we appreciate that. It's obviously
6 a fine work product.

7 What I'd like to do today, and I guess I'll just give a
8 little notice to folks, that what we're going to do today
9 probably isn't going to be very pretty. We're going to try to
10 go through this document as an aid to our decision making in
11 connection with this regula- -- excuse me, regulation review
12 docket and make some choices. Begin the process of making some
13 choices.

14 Ultimately we have a November 15th deadline for complete
15 of this project to the Legislature and it's important that we
16 stay on schedule to develop a work product that complies with
17 that deadline. Because of the way that this Commission is
18 structured and operates we don't have the ability to meet as a
19 group and debate a lot of the pros and cons of the issues.
20 Unfortunately or fortunately, depending on your perspective, we
21 have to do that in a forum like this.

22 And so I would just advise, of course, Staff and the
23 Commission and the industry people that are here today that
24 this may not be pretty. This is certainly not the end product
25 and I don't think anybody should draw any conclusions from our

1 discussion here today. Ultimately the end product is just
2 that, the end product, and any conclusions that might be drawn
3 should be drawn when we do complete work on this docket.

4 I would hope that we can have a full and rather free
5 discussion of all the policy alternatives that are open to us
6 today and make some fundamental decisions.

7 I do want to talk a little bit about schedule. We have
8 this meeting and I would hope that we would probably spend the
9 remainder of the morning on this issue to make as many
10 decisions as we as a Commission are able to make in that period
11 of time.

12 It's my intention to have a -- excuse me, Ms. Nizich
13 that's going to be a special public meeting on Wednesday of
14 next week in the morning at 9:00 a.m. -- commencing at 9:00
15 a.m. to probably complete the substantive work and discussion
16 on this matter.

17 And then I believe in recognition of the fact that we may
18 want to reflect a little bit on the decisions that are made
19 both in this meeting and on the meeting that will occur next
20 Wednesday we will -- I'm actually probably looking for a little
21 input from the Commission, I'd like to meet one more time and
22 I'm proposing that we meet Friday, October 31st to review and
23 basically take final action on the work that we will do today
24 and next Wednesday so that will provide us a little breathing
25 space to once again reflect on decisions that we have made at a

1 tentative level today and next Wednesday and take some final
2 action.

3 That's my proposal, and it might be useful if any one has
4 -- maybe I'll just at this point ask Commissioners if they have
5 comments on the proposed scheduled.

6 COMMISSIONER THOMPSON: The only thing I'd note is there
7 is a prehearing -- or a prehearing meeting. I don't know what
8 kind of schedule overlap you have or if you're intending to
9 start in the afternoon or have them use the hearing room. I
10 think that's going to need to be recorded.

11 CHAIR JOHNSON: Yes, it would be my intent to meet in the
12 afternoon of August 31st.

13 COMMISSIONER THOMPSON: Okay, okay.

14 (Off record discussion)

15 CHAIR JOHNSON: Okay. So are there any other comments on
16 the schedule, if not, that's going to be the way that we intend
17 to proceed.

18 I will comment that I know that puts a gap between the
19 meeting next Wednesday and the subsequent meeting on Friday,
20 that puts a fair amount of pressure on Staff. And the
21 alternative would be to meet the following week, but we do have
22 a hearing that commences on Monday that will occupy
23 considerable time of the Commission so maybe I -- does Staff
24 have comments on the proposed schedule? Lori.

25 MS. KENYON: I -- pardon me, I like the proposed schedule.

1 I think that it makes more pressure on Staff if you try to
2 squeeze it in, in early November because our deadline is
3 November 15 and there's a lot of things that have to happen in
4 those first two weeks in November. I'd rather you did it the
5 second -- the third meeting in October -- all the meetings in
6 October, pardon me.

7 CHAIR JOHNSON: Okay. Okay, with that out of the way
8 turning once again to the Staff report, it is a -- I'll do some
9 comments maybe adding a little bit to it. The Staff report
10 sets forth a number of policy alternatives to us. I had hoped
11 to develop more of an organized way of looking at it. I'm not
12 sure if I've been achieve that. And I think we've all been
13 struggling fairly mightily with the content.

14 I don't have a lot of direction to provide to folks today
15 other than the fact that I would hope that we would make some
16 decisions today. I fully anticipate that we will make
17 certainly many more decisions next Wednesday. And I don't have
18 a great deal of structure to today's activity. I do believe
19 it's important for us to have a good discussion and it's an
20 opportunity for Commissioners to inform one another as to
21 their various views on these issues.

22 With that, I guess, what I'd like to do is open the
23 discussion by asking members of the Commission if they have
24 comments particularly as to how we might organize this activity
25 today. If they have general comments as to any philosophical

1 issues, policy alternatives that are addressed in the Staff
2 report, let's certainly begin a discussion on the issues and we
3 will make progress today I'm fairly certain of that.

4 I don't know how far we're going to get, but with that and
5 with the permission of the Commission I would ask if there are
6 Commissioners that want to open the discussion, have some
7 opening comments?

8 COMMISSIONER GIARD: If I may Mr. Chairman?

9 CHAIR JOHNSON: Commissioner Giard.

10 COMMISSIONER GIARD: I just love to go first once in a
11 while.

12 CHAIR JOHNSON: Sure, please do.

13 COMMISSIONER GIARD: I was hoping that we could use the
14 Table of Contents that were prepared by the Staff which I used
15 when I went through and I, kind of, in my head ticked off
16 section by section so that gave me some guidance that I was
17 hitting the areas that I found were important to me.

18 So I would propose to the other members that we start with
19 the Table of Contents which starts with local market
20 competition and we start with Item number A and we proceed
21 through that.

22 I think that I'd spoken with Staff earlier and if we were
23 able to get to the point of -- through our discussions to --
24 through the bundling issues, up to the point of LEC wholesale
25 as a -- you know, as a -- perhaps a goal for today then we

1 could leave the next section for Wednesday. That would enable
2 the Staff to start drafting on the local market competition
3 section, so that would -- those are my conversations with Staff
4 and that would be my initial proposal today to the other
5 members.

6 CHAIR JOHNSON: Are there comments on this approach?
7 Commissioner Strandberg.

8 COMMISSIONER STRANDBERG: I would concur with Commissioner
9 Giard's approach. I would think that as we -- Ms. Kenyon and
10 her Staff and her associates have done an excellent job, I
11 think, in framing the issues.

12 It might be good as we go into each of these issues we
13 hear from Staff if they have any comments and maybe they can
14 summarize that their recommendation is on each of these because
15 we have a number of different positions that the parties have
16 taken and, indeed, there's a fairly detailed analysis that the
17 Staff has taken.

18 So, I think, we're going to have to be fairly careful to
19 consider all of the record and she -- our Staff's done an
20 excellent job in bringing the record to us. So, I guess, I
21 would support that approach.

22 I do have some, I guess, preliminary comments about where
23 just from a policy overview standpoint and I would be happy to
24 share it with my colleagues if that would be appropriate now,
25 Mr. Chairman?

1 CHAIR JOHNSON: Please do.

2 COMMISSIONER STRANDBERG: You know, generally speaking I
3 think I take the approach of as much as possible freeing up the
4 competitors in the market place with respect to retail rate
5 regulation. And, you know, I am sympathetic generally with the
6 need for restructuring freedom and I'm sympathetic with the
7 comments on dominance.

8 I am also concerned about the well being of the consumer
9 and, perhaps, one policy approach might be that we consider
10 with these market changes the issues of discontinuance of
11 service, carrier of last resort and to be fairly firm with
12 those aspect to make sure that every customer has an
13 opportunity for a basic service offering no matter what happens
14 in the market place between the competitors, because it's
15 relatively un- -- we're going into uncharted ground if we free
16 up the market and take some of these shackles that we have on
17 the ability for the participants to actually maneuver within
18 the market.

19 So as a general approach, I think, when I read the record
20 I stood back and tried to say well, what is going to be your
21 underpinning, Jim, as you have these discussions and that's
22 pretty much where I'm at on it, is I'd like to make sure that
23 every consumer has a basic service offering that they can get a
24 phone. And that they can get it in a timely fashion and they
25 can have a reasonable rate for that basic phone service.

1 And also along with that to seriously investigate ways
2 that we can, you know, change our market rules to allow much
3 better competition. And that's just, kind of, an opening
4 statement about where I'm basically going with this. Thank
5 you.

6 COMMISSIONER THOMPSON: (Indiscernible).....

7 CHAIR JOHNSON: Commissioner Thompson.

8 COMMISSIONER THOMPSON: I just have a comment on the
9 procedure proposed. I would concur with Commissioner Giard, it
10 just makes sense to go through in the order that has been
11 outlined with Staff.

12 And the only other comment I have is Commissioner
13 Strandberg suggests a Staff summary of each of these separate
14 points might be appropriate. With all due respect, I'm not
15 sure that's a good use of our time this morning. We've all
16 spent hours reading through the comments in doing this and I
17 think folks in the room are familiar with it. We would -- our
18 time would be more productive spent in the discussion and
19 debate and decisions on these rather than hearing about --
20 hearing again about summary of comment.

21 CHAIR JOHNSON: Other comments?

22 COMMISSIONER HARBOUR: You know, Mr. Chairman, I --.....

23 CHAIR JOHNSON: Commissioner Harbour.

24 COMMISSIONER HARBOUR:I think the procedural
25 suggestion is good. I liked Commissioner Strandberg's remarks

1 about charting new ground and in a second I'd like to comment
2 on that.

3 I appreciated your opening remarks framing the discussion.
4 I think that's important in a public meeting because these
5 proceedings are on record and available to the public. I think
6 you properly said that those who are here should be mindful
7 that final decisions aren't being made today in the discussion
8 and that it -- you know, there's going to be some interaction.

9 Later in your remarks you did use the word decisions today
10 and I think that what -- just speaking for one self would say
11 -- and probably with some degree of consensus around the table
12 as I'm reading body language, decisions in the sense that we're
13 trying to arrive at consensus, but as next week unfolds, the
14 meeting next week and the following meeting, it may well be
15 that because of the dynamics involved and the rationales
16 presented and, indeed, changes at the federal level or at the
17 Court level that occur, a quote, decision, that or a consensus
18 that had been achieved today might be changed. Is there -- and
19 I'm wondering if the Chairman and others generally agree with
20 that (indiscernible - interrupted).....

21 CHAIR JOHNSON: That's certainly -- yeah, I would
22 certainly agreed with that. I think that when I spoke of
23 decisions I meant preliminary decisions and would acknowledge
24 that as we fully inform ourselves that -- and I certainly am
25 not going to get too upset with people if they, in fact,

1 reconsider their views between now and taking final action. So
2 that's why I'm trying to, sort of, set the stage for and put
3 the focus on the end product.

4 You know, we're going to be doing -- frankly the process
5 we're going to do here is probably going to be pretty ugly in
6 some cases. I do ask that the members be patient with one
7 another because I think we're all just, sort of, searching for
8 some answers and illumination as we go through the process, but
9 I certainly want to sit back once again on the next Friday and
10 take a very careful look at what we have done and if it doesn't
11 look right to me I'm going to certainly reserve the right to
12 modify as appropriate positions I may have taken, but I would
13 hope people would keep an open mind throughout the process.

14 COMMISSIONER HARBOUR: Great, I appreciate it and I think
15 that frames it just perfectly.

16 As to Commissioner Strandberg's comment on charting new
17 ground. Again, for the benefit of the public, you know, it
18 seems like with all these industries, from my viewpoint, we're
19 -- in a way we're charting new ground in a lot of these areas
20 with a lot of industries and -- but we're focusing on
21 telecommunications for this and I -- while the Commission has
22 already been involved in decision making and in beginning
23 decision making on a number of the issues involved in the
24 amended version of House Bill 111, I think that that bill did
25 bring together a number of the issues and presents an

1 extraordinary opportunity.

2 And I hope the public recognizes though that probably part
3 of the reason behind your observation that it could be a messy
4 operation is that it is -- there's so much change involved in
5 this industry, perhaps, more than any other from my viewpoint,
6 and these owe to a number of factors.

7 We're dealing with basically a century old business -- or
8 industry caught up in a technological age that's influenced by
9 many factors. Technology is one of them, but also federal rule
10 making is another one of them and potential Congressional
11 action is another and Court decisions that we heard about
12 several times a month effect that and could effect the outcome
13 of the issues that are encompassed in this docket.

14 So I'd suggest that the work that we're doing between now
15 and November 15th is very important work and good work, but
16 what we're really coming up with in draft regs moving toward
17 final regulation changes is a living document that owing to
18 that charting of new ground is to be expected to be changing on
19 a frequent basis and so that regulation that I'm -- I'm looking
20 at is a living document and we're taking the first step. Thank
21 you.

22 CHAIR JOHNSON: Thank you. I guess I'm the only person
23 that really hasn't spoken in terms of how we're going to
24 proceed today. I'll be, perhaps the loan dissenter, I --
25 although I agree with the use of the Table of Contents, I'm not

1 sure if proceeding in the order which is set out in that Table
2 of Contents is going to be most productive because it -- I can
3 at least say this to my fellow Commissioners, I believe the
4 most difficult issues lie at the beginning and those will be
5 most time consuming on our part.

6 And I believe that there's a lot of other decisions that
7 we could made today that we would actually, I think, be time --
8 time would be best served if we were to make decisions as to
9 the remainder of the items set forth in the Table of Contents
10 and passing on the local market stuff 'cause I think that is
11 extremely complex and I think is probably going to involve most
12 of our time, but I will proceed -- and I -- obviously as the
13 majority wishes.

14 Are there -- I guess with that are there further comments
15 on issues that people want to talk about where we're going to
16 go today? Commission Thompson.

17 COMMISSIONER THOMPSON: Are we into the substance yet?

18 CHAIR JOHNSON: We are.

19 COMMISSIONER THOMPSON: Okay. One A. I'd like.....

20 CHAIR JOHNSON: This is the time.

21 COMMISSIONER THOMPSON: A one, I've got a question for
22 Staff about their proposed draft under option 2. The language
23 there varies from what was filed by the parties and I'm
24 wondering if it was your intent when you put as ordered by the
25 Commission to include competitive service areas recognized by

1 the Commission in either an order or through regulations. I
2 mean, it looks like ACS's proposal just talked about the
3 regulations and I suspect that your proposal used the language
4 order 'cause you were thinking of a different process and
5 acknowledging that competitive service areas are recognized
6 through a different process.

7 MS. KENYON: The reason I put it there is I wanted to make
8 sure that it was clear that it took an affirmative decision by
9 the Commission to designate an area as a competitive service
10 area. Bypassing the potential that a utility may say by
11 regulation it sort of happened and now we're in a competitive
12 service area by virtue of the regulation, but without
13 Commission action.

14 COMMISSIONER THOMPSON: So that the language in option 2
15 would preclude the regulations from setting forth standards
16 that utilities could basically self-certify to have complied
17 with. In other words, you're anticipating a process that even
18 if the regulations had standards for when we would recognize a
19 competitive service area there would be some kind of process
20 where the utility comes in with their evidence and says okay,
21 we're there and the Commission issues an order that says yes,
22 in fact, we recognize that's true.

23 MS. KENYON: That is correct, though I anticipate it would
24 be a fairly easy process. In many cases you're not going to
25 have a lot of debate about what is a competitive service area.

1 At least I'd like to think so. In the past we haven't. The
2 only question we've had is when it happens. We think there's
3 always been the idea, we knew the competitive service area, but
4 at what point did you have enough competition to warrant
5 invoking those rules.

6 COMMISSIONER THOMPSON: Okay. With that understanding
7 then I'd suggest language that might be a little bit different.
8 Instead of competitive service areas as ordered by the
9 Commission, perhaps, as recognized by the Commission in an
10 order would be better 'cause we don't really order competitive
11 service areas, we recognize that they are competitive.

12 MS. KENYON: That's consistent with what we had in mind.

13 COMMISSIONER THOMPSON: Yeah.

14 COMMISSIONER HARBOUR: Mr. Chairman and I wonder if I
15 could ask Commission Thompson.....

16 CHAIR JOHNSON: Go ahead.

17 COMMISSIONER HARBOUR:a question? Would it be --
18 you know, it probably goes without saying that any party can
19 petition us on matters like this or on our own motion we have
20 the ability to bring these issues up. Would it be well in this
21 case to include in your changed language a recognition that the
22 matter of a competitive service area may be brought to the
23 Commission by petition or on our own -- or by our own motion?
24 Does that -- is that.....

25 COMMISSIONER THOMPSON: I think it's implicit. I mean,

1 that's how we make decisions and it would be a drafting issue
2 but if Virginia was here -- we've got a stand-in for Virginia
3 today. She would tell us you shouldn't put language in there
4 that you don't need.

5 COMMISSIONER HARBOUR: Right. Well, I'm the first one to
6 lock heels in the face of legal advice. On the other end when
7 I read that it looks -- it just -- it looks like the Commission
8 wants to go out and mandate the competitive service areas
9 rather than act in response to some cause like a petition,
10 so.....

11 CHAIR JOHNSON: Could I just interject. I just want to
12 let people know that Mr. Landry is here today, but he has
13 another event that he has to go to. He has another client that
14 has a long standing appointment I believe at 10:00, is that
15 right, Jeff?

16 MR. LANDRY: That's correct, Mr. Chairman, I have to.....

17 CHAIR JOHNSON: So to some extent we are.....

18 MR. LANDRY:leave at 10 minutes to 10:00.

19 CHAIR JOHNSON:going to be flying blind relative to
20 legal counsel after that time, but hopefully we will have an
21 opportunity to look at any potential legal issues further on
22 down in the process. I just wanted to make people aware of
23 that resource issue. Sorry.

24 COMMISSIONER THOMPSON: That's okay.

25 COMMISSIONER STRANDBERG: I wanted to ask, Commissioner

1 Thompson, I guess I am looking 53.200(a), was it your intention
2 that those changes that you suggested would go directly as a
3 regs change? I mean, I'm looking at the reg and it's -- and it
4 reads, the provisions apply to all local exchange carriers that
5 furnish local exchange telephone service within the Anchorage
6 service area and any other service area as ordered by the
7 Commission. Were you suggesting to change that to competitive
8 service areas as recognized by the Commission in an order?

9 COMMISSIONER THOMPSON: Yes, substituting the specific
10 reference to Anchorage and substituting the language we talked
11 about, eliminating the specific reference to Anchorage.

12 COMMISSIONER STRANDBERG: Yeah, I think that's a good
13 change.

14 CHAIR JOHNSON: (Indiscernible) comments on this issue?

15 COMMISSIONER STRANDBERG: Do we want to move
16 (indiscernible - interrupted).....

17 COMMISSIONER THOMPSON: Let's move.....

18 CHAIR JOHNSON: Well, I.....

19 COMMISSIONER STRANDBERG:or do we want to say, yes,
20 that's our intent and have them draft and come back to us?

21 CHAIR JOHNSON: I guess what I'd like to do and I -- this
22 may be a little bit more cumbersome, but we are establishing a
23 written record for people to review. We are going to be
24 looking at, I think, Staff's best efforts at our final meeting
25 to capture decisions we made and set them forth. I guess I'm

1 giving another writing assignment to the Staff, but I think
2 they're not surprised.

3 I think to kind of make it a little bit more expeditious
4 I'd like to just, sort of, proceed on a consensus basis today
5 expressing our general policy choices without getting too
6 encumbered with a bunch of motions. I don't want to preclude
7 people from making motions if it's appropriate, but I don't
8 want to just slow things down by having a bunch of voting and
9 awkward motions, so is that agreeable to the Commission?

10 COMMISSIONER THOMPSON: Commissioner Johnson, I think
11 that's a good idea in fact because it's awkward to ask us to
12 vote on language we don't have in front of us, so.....

13 CHAIR JOHNSON: Sure.

14 COMMISSIONER THOMPSON:it's probably more
15 appropriate. And I would encourage Staff if you don't feel
16 like you're getting appropriate guidance on the basis of this
17 somewhat freewheeling discussion to speak up and let us know if
18 you need more guidance, but I think it would be more productive
19 today if the result was enough guidance to Staff that they can
20 actually draft the regs and then come back and vote on those.

21 CHAIR JOHNSON: Okay. Are we --.....

22 COMMISSIONER GIARD: Yeah, that's fine.

23 CHAIR JOHNSON:we comfortable with this process.....

24 COMMISSIONER STRANDBERG: I concur with that process.

25 CHAIR JOHNSON: Okay. With that then I think we have

1 rough agreement on that. I would -- this may be an appropriate
2 point -- and I haven't really addressed substantive issues so
3 far, I spent a certain amount of time with this and scratched
4 -- and I'll just let people know where I am at the outset.

5 I am concern that the proposed structure -- or some of the
6 structure in language that has been proposed both by the
7 parties and may already exist in our regulations, I haven't
8 conducted a microscopic review of them, may make our overall
9 market structure too complex.

10 And I'm guided a little bit by -- I did go out -- somewhat
11 outside the record and looked at a statutory provision in the
12 State of Washington that in my estimation did a good job of
13 highlighting this problem. In that in Washington State they
14 have made an effort to look at competition from the standpoint
15 of product offerings and competition from -- in general from
16 the standpoint of markets. They are substantially less
17 involved with making classifications of carriers.

18 Yet our proposal as I've looked at it or the way we've,
19 sort of, attacked this docket, we, of course, have several
20 distinctions in terms of between -- among carriers. We also
21 have distinctions among markets. We talk about market power.
22 We made no distinctions on the basis of product, although we,
23 sort of, flow that into a discussion of market power, but I'm
24 concerned that there -- or maybe an observation that it may be
25 possible for us to develop structurally a regulatory scheme

1 that includes fewer variables, so that's where I'm going and it
2 will be an interesting discussion here this morning.
3 Commissioner Thompson.

4 COMMISSIONER THOMPSON: I appreciate your comments 'cause
5 I -- I think -- and it fits well with, sort of, an overall
6 impression I had that we'll become evident as we go through
7 some of the specifics of the subsequent pages which is that I
8 would generally favor a regulatory scheme that's more positive
9 rather than restrictive.

10 In other words, rather than saying we, the Commission, are
11 going to take the responsibility for evaluating the facts and
12 you have -- and we will decide when the market's competitive,
13 and then instead set goals. Think as an agency about what the
14 reasons are that we regulate. What it is, you know, based on
15 the evidence we have in front of us about consumer complaints
16 and other issues we believe will be important, focus our
17 regulatory approach on getting the carriers -- getting industry
18 to positively meet the standards we feel are appropriate and
19 then -- in those areas and then relax standards.

20 In other words, rather than evaluating whether or not if
21 they've -- making them do certain things when they go to
22 competitive, say what we care about are, you know, consumer
23 protection, we care about service quality, we care about
24 whatever is on the list and as soon as you make -- as soon as
25 we can get through the list and say you've meet all these

1 standards then, you know, we'll relax the regulatory approach,
2 because that's why we regulate.

3 We regulate to protect consumers so if we have assurance,
4 if we think though what we need to have the assurance that
5 consumers are protected and we're satisfied that it's there, we
6 don't need to regulate any more.

7 CHAIR JOHNSON: Yeah, okay. I appreciate that. I just --
8 I'm going to be looking, and I'm not fully there yet, but I'm
9 trying to figure out a way where we can really fold
10 distinctions that focus on carriers and classifications of
11 carriers into a more -- and a broader analysis of markets, but
12 anyway that's just what I'm looking for. I'm not totally sure
13 how we're going to do it yet, but the dominant/non-dominant
14 distinction for me is cumbersome and I think we need to keep
15 our eyes on that as we go through this process, but sorry for
16 the speech folks. I just (indiscernible - interrupted).....

17 COMMISSIONER GIARD: Mr. Chairman, if I may, as I was
18 reading through these.....

19 CHAIR JOHNSON: Commissioner Giard.

20 COMMISSIONER GIARD:regs it seems to me that within
21 Alaska we have really, kind of, two specific markets, the urban
22 versus the rural. And the competitive likelihood in each
23 market is really quite different based on reading of the record
24 and listening to the testimony.

25 It seems like out in the Bush, the rural market, the real

1 rural market there's going to be competition for wireless, so
2 it's a wire line or incumbent LEC competing against a wireless
3 provider. And that the market that they're trying to via for
4 is really the market for the access charges because that
5 provides a substantial revenue flow to the incumbent LEC in the
6 Bush.

7 And it is possible if you can envision wireless
8 promulgating itself out in rural areas that as -- rather than
9 replacing the line to the home, the cellular phone will
10 actually become the long distance mode. And I think that the
11 Rural Coalition was very concerned about that aspect of
12 competition. And I don't know that reading the regulations
13 that we have really addressed, you know, kind of that concern.

14 In urban Alaska there's more like a wireline to wireline
15 competition. It seems that there's facilities based
16 competition in the three urban areas or, perhaps, more in the
17 more urban areas. So as we go through this it seems very
18 challenging for us to create regulations which will respond
19 adequately to the needs of those rural communities and the
20 needs of our urban areas because competition means very
21 different things to both of those.

22 COMMISSIONER THOMPSON: Got one (ph).....

23 CHAIR JOHNSON: Comments on this issue? I have a comment.
24 Go ahead.

25 COMMISSIONER THOMPSON: Okay. Do you want to go first?

1 CHAIR JOHNSON: No, you go first.

2 COMMISSIONER THOMPSON: Okay. I would caution my
3 colleagues or ask you to think carefully about any regulatory
4 scheme that basis distinctions on the technology used by the
5 providers to provide the service. I would, I think, generally,
6 philosophically it's important to look at these things from the
7 perspective of a consumer which is that it's a communication
8 technology.

9 And that if you look at the history of regulation,
10 probably especially over the last 15 years in the U.S. that in
11 cases where a regulatory scheme has been designed based on a
12 particular type of technology or technologies it has fallen
13 flat after a couple of years because industry and the engineers
14 of the world are ahead of us in terms of doing it.

15 So I'd like to think of things rather than having our
16 regulations at all based on a particular technology or
17 technologies, but thinking of them as consumers do as a
18 communications technology.

19 COMMISSIONER HARBOUR: Mr. Chairman, I didn't know this
20 subject would come up so early and (indiscernible -
21 interrupted).....

22 CHAIR JOHNSON: I think we're going to go a lot of
23 different directions and I think we ought to just go with it,
24 Commissioner Harbour.

25 COMMISSIONER HARBOUR: Okay. I wanted to see if Staff

1 could obtain a copy of the report from TNS Telecoms that was
2 noted in the paper yesterday. The record in our proceeding
3 pretty much shows that the -- the actual replacement of
4 wireline by wireless to be relatively small. And this new
5 study while it's Lower 48, I assume although I don't know,
6 doesn't go into that detail. It says that household spending
7 for wireless phone service grew 9 percent while spending on
8 traditional phones dropped 4 percent. And as of midyear the
9 average household spent 48.28 a month on wired phone service
10 and 44.63 on wireless. So that represents a chemistry that I
11 think is much different than I gleaned from our record. And in
12 the spirit of being -- as was just said more current with
13 technological change, I think it'd be good to have that and
14 review it in this context. Thank you.

15 CHAIR JOHNSON: If I could -- and I appreciate your
16 comment on the ETC designation and I know we're trying to work
17 through from the beginning to the end and ETC is at the end,
18 but I'm going to jump here anyhow. I really believe that the
19 appropriate way for us to deal with ETC issues is to not
20 address them in this docket and, in fact, open a new docket to
21 address those issues and here is the rationale is that ETC
22 designation is inherently federal although obviously
23 authority's delegated to this Commission to make those
24 determinations, but it is a product and a creature of federal
25 law. It is always going to have it's kind of own set of rules

1 and those rules will always be in my estimation in addition or
2 somewhat outside of whatever sort of market structure we
3 attempt to cobble together. I believe that we do need to look
4 at ETC issues, but I think attempting to weave ETC issues into
5 our market structure at this point will be difficult and time
6 consuming and they'll be a high potential for error in the
7 course of doing that. I personally believe that ETC issues are
8 an important -- are certainly important to rural carriers in
9 the state and I would like to deal with them separately as I
10 believe that the overall regulatory scheme anticipates that
11 they'll be dealt with separately. But that -- that's my
12 proposal to people, I would really think it'll simplify our
13 discussion if we proceed in that manner, but.....

14 COMMISSIONER GIARD: Except, Mr. Chairman, I was.....

15 CHAIR JOHNSON:(indiscernible - simultaneous speech)
16 comments on that.

17 COMMISSIONER GIARD:wondering how we then define,
18 you know, competitive service area which I wasn't really
19 thinking much of the ETCs when I was making my comments, I was
20 thinking of the challenge for Alaska of defining a competitive
21 service area. I was looking at the Staff's definition under
22 option 4, in those certificated local exchange service area
23 where multiple carriers are certificated to provide local
24 exchange service and are actually providing local exchange
25 service throughout the area. And my question that came to mind

1 as a result of studying that was really, you know, is wireless
2 service a local exchange -- does this contemplate wireless in
3 rural Alaska, do you consider that if there's a wireless ETC
4 which is offering service in rural Alaska will this option 4
5 provide the ILEC with an ability to -- or the Commission
6 ability to determine that it's a competitive service area? I
7 thought when I read it it primarily looked at facilities based
8 or wireline, maybe it's just a distinguishment that Staff can
9 make.

10 MS. KENYON: All right. The -- our proposal has two
11 parts, the first sentence would not allow you to -- well, I
12 shouldn't say would not allow you, the first sentence sets the
13 standard in and of itself would not anticipate a wireless
14 carrier being something that would trigger the competitive
15 service area. The second sentence though would let you do --
16 designate any area you wanted, if you felt that the wireless
17 service provided a competitive alternative that warranted the
18 regulations, the committed (ph) regulations you apply, you
19 could designate any area you wanted as a competitive service
20 area. It's just that the first sentence tells you under what
21 conditions you pretty much are guaranteeing to people you're
22 going to designate that area as a competitive service area.
23 And the second sentence is where you get the flexibility to say
24 well, we'll look at special circumstances and designate it as
25 warranted.

1 COMMISSIONER GIARD: If I.....

2 CHAIR JOHNSON: Commissioner Thompson, please?

3 COMMISSIONER THOMPSON: I'd offer a comment going back to
4 your remarks a moment again, Commissioner Johnson, which would
5 be support. And now I'll put on my joint board hat. As a
6 member of the Federal and State Joint Board on Universal
7 Service that's an issue that we're actively working on, it's
8 been referred -- the issue of designation of ETC is part of the
9 portability proceeding. We stated publicly that we're going to
10 have our recommendation to the FCC by the end of the year. So
11 yet another reason for steering clear of that in this docket is
12 the fact that there's at least a likely -- a possibility that
13 the rules may change or some more guidance may be available
14 from a federal -- on the federal level relatively soon. And I
15 think in response to Commissioner Giard, I think where you're
16 getting yourself in trouble perhaps is in understanding of what
17 being an ETC means or not. That just has to do with Universal
18 Service,.....

19 COMMISSIONER GIARD: Uh-hum.

20 COMMISSIONER THOMPSON:you can have multiple
21 carriers and they don't have to have Universal Service to offer
22 service in a competitive service area and I don't know that we
23 need to deal with that issue here in order to decide what a
24 competitive area is.

25 COMMISSIONER GIARD: Well, would you agree that then when

1 we go through this provision that a wireless telephone or a
2 cell phone can be considered a local exchange service then?

3 COMMISSIONER THOMPSON: Yeah.

4 COMMISSIONER GIARD: Okay.

5 COMMISSIONER STRANDBERG: And I think the advantage of the
6 language that the Staff has posed here is that it gives us the
7 option to make those decisions on a case by case basis, indeed
8 it may be different under different circumstances and in that
9 sense I agree with Commissioner Thompson that we need to be
10 technology transparent on this. So probably a more general
11 language which gives us the option to make decisions based on
12 individual records would be better in this case.

13 COMMISSIONER THOMPSON: Right. So not just wireless,
14 cable telephony, voice over IP, I think that that -- the range
15 of communication services that are or will be available soon to
16 consumers are ones we should be thinking about and proceed as
17 Commissioner Strandberg put it, in a technology neutral manner.

18 COMMISSIONER HARBOUR: On a voice over IP, well, we don't
19 regulate that field.

20 COMMISSIONER THOMPSON: Right. And that's the one
21 certificated.....

22 COMMISSIONER HARBOUR: So you're saying that we could name
23 it as influencing a definition of a competitive service area
24 without regulating it?

25 COMMISSIONER THOMPSON: The question about whether or not

1 we regulate it is open and we don't need to name it. I think
2 what we need to be is mindful of that there is a plethora of
3 technologies over which consumers can receive communications
4 services and we should not tailor regulations for a specific
5 technology.

6 COMMISSIONER HARBOUR: Good. I like the term
7 technologically transparent, Commissioner Strandberg.

8 COMMISSIONER STRANDBERG: You know, as Commissioner
9 Thompson says there's a lot of these issues that are developing
10 in front of the FCC and indeed the voice over -- voice over
11 internet protocol issue is really developing before us. So I
12 think it would definitely be to our advantage and to the
13 state's advantage to keep these general.

14 COMMISSIONER HARBOUR: Well, the court system is
15 participating in that evolution too.

16 COMMISSIONER GIARD: Well, it's the question of
17 certificated, I mean, are you -- if you have voice over IP is
18 that a certificated local exchange service, certificated to
19 provide local exchange service? I mean, I just want to be sure
20 when this is drafted.....

21 UNIDENTIFIED VOICE: Right.

22 COMMISSIONER GIARD:that we do what you say and that
23 that is as broad as possible.

24 COMMISSIONER STRANDBERG: I would make the comment that,
25 you know, we would have a docket to certificate and at that

1 time we would consider the record on whether or not to
2 certificate a utility. So, you know, this would -- the issue
3 would be developed probably in that docket.

4 COMMISSIONER GIARD: All right. It's the voice of
5 experience. And I have another question. And that is that
6 when we talk about a competitive service area in option 4 the
7 -- which this is essentially similar to what GCI had proposed
8 without the facilities based, but the Staff added the words
9 throughout the area.

10 The portion or portions, and I have some comments about
11 those -- that phrase, of a certificated local exchange service
12 area where multiple carriers are certificated to provide local
13 exchange service and are actually providing local exchange
14 throughout the area. Now I wondered if that precluded -- you
15 know, throughout the area implies to me 100 percent, it has to
16 be 100 percent throughout the area, has to cover it and I was
17 concerned about those three words, throughout the area.

18 MS. KENYON: We talked about this at the Staff level and
19 all of the Staff that are sitting here believe you should use
20 the words throughout the area. The first sentence is where
21 you're basically guaranteeing that if an area meets this
22 characterization you're going to consider it a competitive
23 service area. So based on the legislative language that says
24 competitive service areas should take into account of whether
25 actual competition exists in the area, we felt that you -- in

1 order to know if competition exists it had to be throughout the
2 area.

3 Otherwise what you could conceivably do is guarantee
4 competitive service area status to someplace that had maybe a
5 competitor that could -- was capable of serving 70 percent of
6 the area, but not the remaining 30 percent and then you could
7 have price flexibility for that 30 percent of the customers
8 that didn't have a competitive choice. We also believed that
9 for the most part if you're talking about a wireline carrier
10 once they get an interconnection agreement in place they're
11 going to be able to serve throughout the area either through
12 UNEs or through wholesale. And did I leave anything out, I
13 think I may have, folks?

14 UNIDENTIFIED VOICE: I don't think so.

15 COMMISSIONER HARBOUR: I have a question for Lori on that
16 same subject. The language actually providing local exchange
17 service throughout the area, is pretty definitive as compared
18 to a number of the comments that we got from the parties. Some
19 of the parties advocated that the day a competitor is
20 certificated that -- in effect that becomes a competitive area.

21 And what this says is that the Commission has to consider
22 whether or not actual exchange service is being provided
23 throughout the area. So that implies that there would be a
24 history, a period of time during which the Commission could
25 determine whether or not actual competition existed in the area

1 perhaps by product or by those lists that you discussed earlier
2 of qualifications. Am I right in that?

3 MS. KENYON: Yes. And to give you an example once you --
4 what we've done in the past or something very similar is you
5 know you've got a certificated carrier that just entered an
6 area, a new area. And the first day you give them the
7 certificate they really can't provide much service and it may
8 be that you require them to give you status reports that say
9 well, now I can or cannot provide service. And if you think
10 those -- you could also poll the other carriers in the market
11 to be make sure that they are not being disadvantaged by the
12 competitor slow rolling those status reports, but in any event
13 I think it could be quite simple, you know, either the
14 competitor can or cannot serve most of the market.

15 And you can just simply release an order then to say well,
16 it looks to us sufficiently competitive. And that's what we've
17 done in the past, they're not normally a big deal where you
18 have a whole proceeding and getting -- well, a lot of testimony
19 on this issue.

20 COMMISSIONER HARBOUR: Earlier we had a discussion about
21 the legal comments as to adding language in regulations that
22 might be redundant or overlapping.

23 MS. KENYON: Uh-hum.

24 COMMISSIONER HARBOUR: When I had suggested the idea of
25 actually in effect restating that on the -- these types of

1 issues like whether it's a competitive service area could be
2 brought by motion or at the Commission's own motion and this is
3 an example of what that -- you know, your suggestion that
4 perhaps the newly certificated entity be required to give
5 progress reports which is an added regulatory requirement.
6 Another way to approach it or would be -- I say another way,
7 would be to permit the incumbent or basically invite parties to
8 by motion suggest when competition was active in the area and
9 maybe using certain baselines or measurements.

10 MS. KENYON: We have a proposal to that effect if it would
11 -- to address this issue. What you could do as part of option
12 4 at the tail end of it, you could have another sentence that
13 says the Commission may pursuant to request or under its own
14 motion recognize locations or service areas as a competitive
15 service area or something to that effect. We could put that
16 language in there and maybe pretty it up some, maybe make that
17 a combination of -- I mean, the last sentence in option 4 and
18 merge it with the sentence I just wrote -- read could get you
19 where you wanted to go.

20 COMMISSIONER HARBOUR: Mr. Chairman, if the -- you know, I
21 know that we're really rough drafting this, if the colleagues
22 don't object I'd like to see that kind of draft language
23 included because our legal counsel's going to be reviewing the
24 whole thing anyway for efficiency and regulatory format
25 so,.....

1 CHAIR JOHNSON: Okay.

2 COMMISSIONER HARBOUR:you know, we can make changes
3 later if we need to, but let's get in the kitchen sink.....

4 CHAIR JOHNSON: Yeah.

5 COMMISSIONER HARBOUR:if we believe the kitchen sink
6 belongs.

7 CHAIR JOHNSON: That's fine, let's just get that option on
8 the -- you know, out there. I think Staff's going to do that.

9 COMMISSIONER GIARD: Mr. Chairman, I was looking --
10 actually I was looking at this in terms of the portion or
11 portions of a certificated local exchange service area and I
12 was concerned with -- if we were to designate portions of an
13 area, I thought ACS' recommendation of a community within a
14 certificated local exchange service area was a broader way of
15 identifying those -- it is implicit that if you take that
16 broader definition perhaps you will not be able to have, you
17 know, competition throughout the entire area, but I think it's
18 much broader and allows for -- allows the companies to more
19 readily and easily allocate cost between their regulated and
20 nonregulated operations.

21 What I was concerned about when I read portion or portions
22 of was that you can actually go down to the very granular level
23 and have, you know, a housing section or a subdivision
24 determined to be unregulated -- or regulated whereas the rest
25 of the area surrounding it would be unregulated and the company

1 would have to allocate its costs accordingly. And I was
2 worried that would be too -- I mean, really it would be
3 burdensome whereas if you have a community you can identify the
4 cost of the community, I mean, you can think of the communities
5 within Anchorage, the Municipality of Anchorage, we have
6 Girdwood, Eagle River, you know, Chugiak, Anchorage. So I was
7 -- I felt that a broader definition like (ph) the one that ACS
8 proposed was probably favorable. Those are my feelings on it.

9 CHAIR JOHNSON: Commissioner Strandberg.

10 COMMISSIONER STRANDBERG: In the context of writing a
11 regulation it might -- I'd just ask Commissioner Giard to
12 consider this, that we would want to have the ability under our
13 regulation to consider as many different circumstances that
14 could occur and the words a portion of might actually give us
15 more latitude than the words a community within.

16 I agree with you that very likely we would be considering
17 communities within a service area if there's more than one
18 community within a service area or indeed if it is a community
19 or it's just a subdivision, but to keep it as general as
20 possible and still fulfill the aims and the goals of where
21 we're heading I think -- I would suggest that we may want to do
22 that here, take that approach.

23 COMMISSIONER HARBOUR: Mr. Chairman.

24 2700

25 (Tape change)

1 Tape 2

2 0015

3 COMMISSIONER HARBOUR: Yeah. I appreciate the concern
4 that in a given service area if there are enclaves where the
5 competitor does not provide service that determining the area
6 competitive could potentially be a problem for those enclaves.
7 And so I appreciate your comments, Commissioner Giard, and I'm
8 just wondering -- I'm brainstorming now, if there were a
9 comment that within the total service area of the incumbent the
10 rates charged to the enclaves, to the areas without
11 competition, would be no higher than the rates charged in the
12 competitive area, would that take care of the problem without
13 going through the difficult apportionment of cost scenarios
14 that you'd be forced to go through if you had to set rates for
15 the enclaves?

16 CHAIR JOHNSON: Could -- I'm not going to respond there,
17 I'm just going to -- if I may, just jump in here. And I know
18 people are kind of struggling with the best way to define a
19 competitive service area, I would say as a policy matter that
20 if it's our obligation to insure the benefits of competition
21 accrue to consumers part of that is an, I think, exercise of
22 self-restraint on our part, that is we must be willing to
23 accept that we have less regulatory reach and we may, in fact,
24 be less able to regulate in terms of the granularity of
25 analysis.

1 Now -- I mean, I guess what I'm saying is that if we're
2 going to allow competition to take place in a competitive
3 service area from my perspective part of that is us making an
4 affirmative decision that we're not going to look at things at
5 an excessively minute level. We have to let go of the reins
6 and we have to be willing to say that Congress in its wisdom
7 determined that establishment of a competitive market for local
8 services is in the public interest and we are supportive of
9 that and that we need to allow that competition to take place
10 and part of the fallout from that is that we will have less
11 control over those markets, we'll have less control over the
12 provision of services, we'll have less control over the prices.

13 And so I think we're making a mistake when we start to --
14 you know, we've gone from a regulated marketplace and now what
15 we're trying to do is serve -- in essence have regulated
16 competition which I think is a far more difficult task, but we
17 need to learn to let go in that process. But that's more of a
18 policy call, I know we're struggling to try to get the best
19 definition here, but I'm loathe for us to try to appropriate to
20 ourselves the authority to regulate at that level and I think
21 that's a formula for a whole lot of heartbreak, but.....

22 COMMISSIONER THOMPSON: I've got a couple specific
23 questions about option 4 for Staff and I'll ask the one that's
24 probably easier first. In the second line you used the word
25 carriers and I was thinking that's used a lot of other places

1 in the regulation. The question is is that still an
2 appropriate term if we're talking about a technology neutral
3 policy, what's a carrier and is that -- would provide --
4 telecommunications providers or some other term be better?

5 MS. KENYON: If you want to make it as broad as possible
6 you might want to use the term telecommunications provider or
7 competitor. Carriers I do believe restricts it to some degree.
8 I keep getting back to though, this is -- this first sentence
9 is what would commit you to declare a competitive service area.

10 COMMISSIONER THOMPSON: Uh-hum.

11 MS. KENYON: So if you make it too broad you -- you know,
12 you could be creating a situation where you said well, I know
13 what we said, but we really didn't mean it. That's my only
14 concern is that you might want to keep some limits on it and
15 then under the second sentence of option 2 you would still be
16 able to declare any area you wanted a competitive service area.
17 In.....

18 COMMISSIONER HARBOUR: Commissioner Thompson, could I.....

19 MS. KENYON: Sure.

20 COMMISSIONER HARBOUR: Wouldn't a lot of these kinds of
21 issues be resolved if we included a good definition section,
22 for purposes of this section carrier is defined as and then
23 just put in whatever -- however we define it without worrying
24 about what the dictionary says that -- apply it to that
25 section?

1 COMMISSIONER THOMPSON: Then you're getting into kind of
2 drafting contortions, I think you ought to say what you mean.
3 And the question really is is the term carrier appropriate in
4 the market, the world we have today. I think it's a term that
5 was used historically to describe traditional wireline
6 telecommunications providers, but in the world that there's
7 other -- I mean, there's providers that use other technologies
8 and should we be using a term that more clearly states that
9 we're looking at all platforms, not just the traditional
10 wireline to avoid the kind of confusion we had at the beginning
11 where Kate was asking well, gee, is a wireless carrier a
12 carrier too in your definition.

13 MS. KENYON: Well, I can tell you that the way this was
14 drafted it was intended that a wireless carrier would not be
15 necessarily a trigger for the competitive service area. I have
16 not seen evidence that wireless competition provides
17 significant restraint upon any incumbent carrier.....

18 COMMISSIONER THOMPSON: Uh-huh.

19 MS. KENYON: as far as its material pricing. And
20 that may be someplace where, you know, there may be
21 disagreement between me and various of the panel members for
22 this, it's your decision to make obviously. If I could -- I
23 don't want to use up your time if you find you'd rather talk
24 amongst yourselves, but I'd like to comment a little bit about
25 some of the things that have been spoken today about this

1 section?

2 COMMISSIONER THOMPSON: Yeah, I think I'm -- I've got one
3 more question,.....

4 MS. KENYON: Okay.

5 COMMISSIONER THOMPSON:but I can come to it later.
6 Go ahead.

7 MS. KENYON: It was never our intent that this section be
8 used to say a street or a subdivision is competitive versus
9 noncompetitive. Would -- we're talking about are portions of a
10 certificated service area, you're talking about something that
11 could be a third of the state. We always intended that this
12 would likely by a community. Why we didn't use the word
13 community is because community is undefined and, you know, what
14 does the word mean.

15 I think what you need to do is be able to look on a map
16 and know what the competitive service areas are. And that's
17 why it's a portion -- why we used the language we did, portion
18 or portions because community was nonspecific and there may be
19 ambiguity there as to what is a community.

20 COMMISSIONER GIARD: So you think the words portion or
21 portions are broader than ACS' definition of a community,
22 so.....

23 MS. KENYON: Could eas- --.....

24 COMMISSIONER GIARD:that was your intention in
25 putting in there.....

1 MS. KENYON: Could easily be.

2 COMMISSIONER GIARD:because when I read it I read it
3 from the industry's perspective of, you know, I'm going to have
4 Anchorage area and then, you know, I'm going to have 15
5 different portions that aren't competitive. Is GCI completely
6 -- you know, would GCI meet this definition, actually providing
7 local exchange service throughout the area?

8 MS. KENYON: I would believe so, I think all of ACS AN
9 would probably fit there, certainly Fairbanks, Juneau, as a
10 matter of fact, anywhere that GCI's an ETC that would certainly
11 fit this because they have to serve throughout the area.

12 COMMISSIONER GIARD: So what I was thinking of when I was
13 reading that was earlier when I first arrived here we were
14 talking about Fairbanks and there were portions of Fairbanks at
15 the time which I thought GCI couldn't offer similar services,
16 there was -- so that's not --.....

17 MS. KENYON: No.

18 COMMISSIONER GIARD:Salcha or somewhere up there, so
19 they -- once they get in there they've got it all?

20 MS. KENYON: I believe so, they have ETC status for the
21 entire Fairbanks study area and they have the obligation to
22 serve so you could easily declare all of your existing
23 competitive service areas right now as, you know, the future
24 competitive service areas under the proposed regulation.

25 COMMISSIONER GIARD: So they're actually providing local

1 exchange service throughout the area in Fairbanks?

2 MS. KENYON: My understanding is they've declared that
3 they are doing that. The only -- there might be maybe.....

4 COMMISSIONER GIARD: Because I thought there were little
5 places that we were concerned that they weren't able -- and
6 that's why this throughout the area kind of stuck with me.

7 MS. KENYON: They're obligated to serve under their ETC,
8 so if there's a place that they're not serving right now I
9 think we could fairly ask them why aren't you serving. But I'm
10 -- my understanding is that if there's pockets it's not much.

11 COMMISSIONER STRANDBERG: One comment might be,
12 Commissioner Giard, that in the situation with GCI they have an
13 interconnection agreement and they can basically rent portions
14 of the ACS network.

15 COMMISSIONER GIARD: Right. Right.

16 COMMISSIONER STRANDBERG: And pretty much that gives them
17 access to the entire area where ACS serves. Now whether
18 they're going to serve high cost customers or low cost
19 customers, that will -- that is another issue, but if they do
20 have ETC designation there is a basic requirement under that,
21 you know, that they do provide service for any customer who
22 wants it. So any of these competitive carriers that have these
23 interconnection agreements pretty -- and they have an ETC
24 designation, by definition they're going to be throughout the
25 entire area.

1 CHAIR JOHNSON: Commissioner Thompson.

2 COMMISSIONER THOMPSON: My other question,.....

3 CHAIR JOHNSON: Yes.

4 COMMISSIONER THOMPSON:and this is for purposes of
5 discussion. It would be helpful to me to have Staff state why
6 the words are certificated to provide local exchange service
7 and are important in this sentence. And I'm thinking that if
8 what we're doing is looking at -- if what we're trying to
9 determine is if customers really have options, is there enough
10 of a possibility that they may have options that aren't
11 certificated, do we want to make sure they're certificated for
12 other policy reasons, tell me why we need those words?

13 MS. KENYON: All right. And it goes back to the
14 philosophy about whether or not you believe a wireless carrier
15 provides enough competition to warrant you relaxing the rates
16 or the rate policies for an incumbent carrier. Certificated
17 local exchange service would make it in my mind a lot more
18 difficult for someone to argue a cellular provider meets this
19 first sentence, those requirements.

20 Now you could take away the word certificated and it not
21 -- probably wouldn't matter a whole lot. I know that right now
22 many wireless carriers are not certificated so it may mean --
23

24 COMMISSIONER THOMPSON: Uh-hum.

25 MS. KENYON:that mean you could -- that may mean --

1 restrict this further. I would suggest you keep though the
2 words local exchange service because you're essentially --
3 that's the service that we're talking about is whether or not
4 is -- you have a competitive alternative. If it's not a
5 comparable or exactly like local exchange service I guess I
6 would ask is it an effective competitor that you should be
7 allowing the incumbent to take the variety of rate changes that
8 we allow under our competitive service area regs.

9 COMMISSIONER THOMPSON: Okay. Well, with that -- oh, go
10 ahead, I'm sorry.

11 CHAIR JOHNSON: What've you got?

12 COMMISSIONER THOMPSON: I was just going to offer some
13 other general edits that follow up on that discussion based on
14 that because I think that we -- I would suggest that when we do
15 the draft it should instead read, the portion or portions of a
16 certificated local exchange service area where multiple
17 telecommunications providers instead of carriers and I would
18 leave are certificated to provide local exchange
19 (indiscernible). And then say instead of and are actually just
20 say and provide local exchange service throughout the area. I
21 listened to the discussion that -- and the question
22 Commissioner Giard had asked which is the same one I had and I
23 now appreciate why leaving that language might be important.

24 CHAIR JOHNSON: Okay. Could I pose a -- and I realize --
25 I appreciate that, thank you. I may -- somebody might accuse

1 me of arguing against my own position here, but is there value
2 in taking the provision or one aspect of competitive service
3 area definition that was proposed by the Rural Coalition and
4 including it in ours and that is the provision that provides
5 that an area where the rural exemption has been lifted, is
6 there a economy in us including that task and designation in
7 this definition, will that save us work, will that add work to
8 our plate or what do you think, Lori?

9 MS. KENYON: There are areas where you've left -- where
10 you've lifted the rural exemption and there are no competitors
11 so I don't think that if -- I don't advise you to add that. I
12 think Glacier State's study areas, the example that was in the
13 comments that came to mind that you've lifted it there.

14 COMMISSIONER THOMPSON: So it may not -- it may save us
15 work, but it may cause a lot of people heartache.....

16 CHAIR JOHNSON: I guess.....

17 COMMISSIONER THOMPSON:(indiscernible - simultaneous
18 speech) consumers in the.....

19 CHAIR JOHNSON: Back to me I guess because if you -- that
20 raises a question of whether or not the rural exemption ought
21 to have been lifted but if.....

22 COMMISSIONER STRANDBERG: Are you trying to let go here,
23 is that what you're trying to do?

24 CHAIR JOHNSON: I'm trying very hard. Actually, you know,
25 I have several goals, I -- and I appreciate the advice, I'm

1 just trying to figure out a way where we can establish some
2 symmetry in the marketplace and make -- and once again this is
3 inconsistent with what I just argued on ETC, but where we can
4 make designations have dual purposes. But that was what I was
5 looking for and having heard what was just said that may not be
6 possible. We'll move on. I -- well, anyway I may have more to
7 this as we move on, I just.....

8 COMMISSIONER GIARD: Mr. Chairman, I just want to
9 state.....

10 CHAIR JOHNSON: Please.

11 COMMISSIONER GIARD:that taking out those words are
12 certificated to provide local exchange service out of that
13 phrase just kind of melts away all my concerns that we were
14 being too restrictive. So.....

15 CHAIR JOHNSON: Okay.

16 COMMISSIONER GIARD:just should have let
17 Commissioner Thompson go first and we would have been through
18 this a lot quicker. So I think that that's a very good change.

19 CHAIR JOHNSON: Okay.

20 MS. KENYON: Could I have clarification because I'm not
21 sure that I understood. I thought that you were keeping.....

22 COMMISSIONER THOMPSON: Uh-huh.

23 MS. KENYON:certificated in.....

24 COMMISSIONER THOMPSON: I was.

25 MS. KENYON:and you're saying we're keeping it --

1 taking it out.....

2 COMMISSIONER GIARD: No, you said take out certificated
3 (indiscernible - simultaneous speech).....

4 CHAIR JOHNSON: Could you restate your proposal,.....

5 COMMISSIONER THOMPSON: Okay.

6 CHAIR JOHNSON:Commissioner Thompson?

7 COMMISSIONER THOMPSON: Okay. The portion -- I was
8 leaving it in, Kate, the portion I was thinking about taking
9 out.....

10 COMMISSIONER GIARD: Then it got taken out?

11 COMMISSIONER THOMPSON:and then I changed my mind.

12 CHAIR JOHNSON: Start -- go ahead (indiscernible -
13 simultaneous speech).....

14 COMMISSIONER THOMPSON: Portions of certificate -- of a
15 certificated local exchange service area where multiple
16 telecommunications providers are certificated to provide local
17 exchange service and provide local exchange service throughout
18 the area.

19 COMMISSIONER STRANDBERG: Commissioner Thompson, why would
20 you want to leave that in, it seems to me if you took the
21 certificated out it would allow us in the future if things
22 change that a PCS carrier who's not certificated, but, in fact,
23 is providing local service -- I mean, if there is evidence in
24 the record it would allow us to have a wider discretion in our
25 decisions?

1 COMMISSIONER THOMPSON: I guess I was persuaded by the
2 comments or the implications of Ms. Kenyon's comments that some
3 of the uncertificated carriers may not be providing services
4 that are comparable. I think the basis for allowing a market
5 to go competitive is where a customer has choices. And if we
6 don't -- considering the lack of controls we now have over
7 service quality for some of those carriers, we may be leaving a
8 consumer with no choice. Until we have -- or unless there's
9 some other way through the regulations to establish quality of
10 service standards I don't think that's appropriate.

11 CHAIR JOHNSON: Can I suggest that this might be one of
12 those areas that we might want to revisit,.....

13 COMMISSIONER THOMPSON: Uh-hum.

14 CHAIR JOHNSON:I think that we've put up.....

15 COMMISSIONER GIARD: Okay.

16 CHAIR JOHNSON:a pretty good point on it already,
17 but I don't want to get bogged down by (indiscernible -
18 simultaneous speech).....

19 COMMISSIONER THOMPSON: No, I think that's a good idea,
20 we'll see what happens elsewhere.

21 CHAIR JOHNSON: All right. Yeah, we can do some
22 scribening (ph) and.....

23 COMMISSIONER THOMPSON: Uh-huh.

24 CHAIR JOHNSON:make some proposals when we get a
25 more -- a little further on down the line here.

1 COMMISSIONER GIARD: Okay. Well, I'm not melted away
2 anymore so just hang onto that. I'm back to my, you know,
3 shifty feeling about it.

4 CHAIR JOHNSON: Is there somebody who wants to pick up the
5 ball at this point?

6 COMMISSIONER THOMPSON: Do you want to go to number 3?

7 CHAIR JOHNSON: Are we charging straight ahead here in
8 life?

9 COMMISSIONER THOMPSON: All right. I'll.....

10 CHAIR JOHNSON: Let's -- okay. Let's go to number 3 since
11 we're there on page (indiscernible - simultaneous speech).....

12 COMMISSIONER THOMPSON: Okay. I can start the discussion
13 with the perennial questions about the staff option which is
14 option 3. I see the words fair treatment and I wonder about
15 how a standard like that that's as broad, ambiguous as fair
16 treatment is going to be applied.

17 MS. KENYON: It is broad. I'm trying to remember if we
18 quoted the House Bill 111 on this one.

19 COMMISSIONER THOMPSON: Uh-hum.

20 CHAIR JOHNSON: That.....

21 COMMISSIONER THOMPSON: That doesn't.....

22 CHAIR JOHNSON: I think that's

23 COMMISSIONER THOMPSON:address my concern.

24 CHAIR JOHNSON: Yeah.

25 COMMISSIONER THOMPSON: I think that's in there, but.....

1 CHAIR JOHNSON: I think that's why they did this.

2 COMMISSIONER THOMPSON:I don't know that that.....

3 MS. KENYON: Yeah.

4 COMMISSIONER THOMPSON:helps us. If I'm thinking
5 about regulations as setting standards that I'm -- and
6 providing me with guidance about what to do, this doesn't
7 provide me with much guidance.

8 MS. KENYON: Would you prefer the old traditional just and
9 reasonable which is what we have historically used as a
10 standard?

11 COMMISSIONER THOMPSON: There is a lot of legal precedent,
12 decisions from both this agency and courts, about what just and
13 reasonable means so I know what that means. I don't know what
14 fair means.

15 MS. KENYON: I think we just trying to follow the
16 legislative.....

17 COMMISSIONER THOMPSON: Okay.

18 MS. KENYON:language directly and I agree that fair
19 is ambiguous. I don't think we would have any objection to
20 replacing fair with just and reasonable.

21 COMMISSIONER HARBOUR: Well, I think on points like this
22 if that ends up in the final regulation, Mr. Chairman, it would
23 be good in our final summation to equate things like that we do
24 with the legislative language, that it is -- it is responsive
25 to the legislative language using appropriate terms.

1 CHAIR JOHNSON: I don't think it's any huge deal, I would
2 say that it might be that this ought to be a little more -- to
3 think about the extent to which the Telecommunications Act and
4 this action by the Legislature is suggesting a different
5 regulatory direction that has historically been the case. So I
6 -- I'm actually supportive of the staff recommendation because
7 I think it reflects that it's not just the old monopoly
8 regulation, but that's -- that may be just me. Can we -- may
9 we move on.....

10 COMMISSIONER STRANDBERG: Yes.

11 CHAIR JOHNSON:(indiscernible - simultaneous
12 speech).....

13 COMMISSIONER STRANDBERG: I would say I think I support
14 the staff recommendation on this one because,.....

15 UNIDENTIFIED VOICE: Yep.

16 COMMISSIONER STRANDBERG:you know, we've used just
17 and reasonable in terms of rates more than we have in treatment
18 and I'll just make that comment and we can move on.

19 CHAIR JOHNSON: I think.....

20 COMMISSIONER THOMPSON: And perhaps their concern.....

21 CHAIR JOHNSON:we can talk it about further.

22 COMMISSIONER THOMPSON: Ye'h, can be addressed by somehow
23 defining what that is or saying as part of our legislative
24 history.....

25 CHAIR JOHNSON: Yeah.

1 COMMISSIONER THOMPSON:and discussion that we think
2 fair is just and reasonable. I'm just concerned about a
3 standard that's -- the responsibility of enforcing a
4 standard.....

5 CHAIR JOHNSON: Okay.

6 COMMISSIONER THOMPSON:that's meaningless.

7 CHAIR JOHNSON: I think we've had a good discussion here
8 and we can move on with that one and maybe come back to it next
9 week.

10 MS. KENYON: Excuse me, so you haven't really decided what
11 you want to do on that, right?

12 CHAIR JOHNSON: That's correct.

13 MS. KENYON: Okay. I just want to make sure, I'm sorry to
14 be kind of blunt about it, but.....

15 CHAIR JOHNSON: Well, I -- no, I think (indiscernible -
16 simultaneous speech).....

17 COMMISSIONER GIARD: Have we decided anything yet?

18 CHAIR JOHNSON: We have decided that we're focusing on
19 option 3 and as to the exact form of that I think is open to a
20 little further discussion. I don't think there's a whole lot
21 of scribening that's going to take place there, it's not going
22 to have a cascading effect elsewhere in this process. So can
23 -- may I return to the discussion just -- and I know we're sort
24 of jumping outside of the organized thing, is there a consensus
25 regarding the ETC question? I think -- as I interpreted.....

1 COMMISSIONER THOMPSON: Uh-hum.

2 CHAIR JOHNSON:Commissioner Thompson, that she was
3 supportive of addressing.....

4 COMMISSIONER THOMPSON: Uh-hum.

5 CHAIR JOHNSON:ETC issues in a separate docket and
6 that is my.....

7 COMMISSIONER THOMPSON: Uh-hum.

8 CHAIR JOHNSON:interest. And I am interested in
9 addressing those issues, I just don't think that we need to do
10 it R-03-03, but, Commissioner Strandberg.

11 COMMISSIONER STRANDBERG: I wonder if the Staff has any
12 input on that?

13 MS. KENYON: My main concern is whether or not it's the
14 right time to start the investigation because I know that the
15 Joint Board and the FCC are investigating ETC issues and they
16 may give you requirements or guidance that may affect your
17 deliberations. So opening up an ETC docket may be fine, but
18 when, is it -- should it be done immediately or should we be,
19 you know, waiting for the FCC to act or at least see what the
20 Joint Board's going to do?

21 CHAIR JOHNSON: My preference is to act and do it, you
22 know, in the course of this proceeding, that is to spin it out
23 of this proceeding because it's been addressed by significant
24 parties, it's certainly be wrangled with this Commission
25 already, and I think it deserves a place on our priority sheet

1 rather than not being listed at all. So I would prefer to act
2 now as opposed to wait.

3 COMMISSIONER STRANDBERG: Well, let me see if I can make
4 this comment. You know, the question of designation of ETC
5 status, of course, I don't think we should deal with that here,
6 but the parties have put that forth as if they have ETC status
7 that that would be some sort of a determinant in our
8 establishment of competitive areas. And in that sense I think
9 we're going to have to consider those comments from the Staff,
10 but that's about as far as it ought to go. So I think we do
11 need to consider the comments, but as far as any sort of work
12 on, you know, whether -- on the way that a telecommunications
13 provider would gain ETC status, I don't think that has any
14 place in this docket.

15 COMMISSIONER HARBOUR: Mr. Chairman, I'd -- I'm persuaded
16 by those comments for the reason that in determining a
17 competitive area whether the person has ETC status or supplies
18 services without the benefit of ETC, this -- the process needs
19 to be determined in this docket anyway. How.....

20 CHAIR JOHNSON: If.....

21 COMMISSIONER HARBOUR:ETC is determined then can be
22 delayed.

23 CHAIR JOHNSON: Okay.

24 COMMISSIONER GIARD: I think the Rural Coalition was very,
25 very, very concerned about what has happened recently and as

1 you designate ETC status then there is the sharing of Universal
2 Funds, but there's also the competition and as you have
3 competition in an environment, that's probably what we need to
4 deal with here. The more technical aspects of how you define
5 ETC status does not belong here. So as long as we hit the --
6 as long as we deal with, I think, the Rural Coalition's issues
7 or partial -- a portion of the issues as it deals with
8 competition, then I think we've met our obligation to the time
9 and effort that they spent putting it together.

10 CHAIR JOHNSON: Okay. I think we've probably beat this
11 horse enough for right now.

12 COMMISSIONER GIARD: Who was the guy that put the shoe on
13 the table?

14 CHAIR JOHNSON: Moving along. Would someone like to --
15 would this be a good time for us to take a short break, we've
16 been at this for an hour and a half and maybe people want to go
17 to the restroom and collect thoughts and maybe develop a new
18 plan of attack, but we're -- as people are seeing it's a long
19 process and I anticipate it's going to be a long process, it's
20 an important process so we're going to move forward. Did you
21 have something before we broke, Lori? Okay. Can we -- let's
22 go off record and let's try to keep the break short because the
23 time we spent mucking around.....

24 COMMISSIONER STRANDBERG: How long?

25 CHAIR JOHNSON: Let's go with 10 minutes and while we're

1 -- I'll be back here at 10:40 by this clock. Thank you.

2 (Off record - 10:30 a.m.)

3 (On record - 10:45 a.m.)

4 CHAIR JOHNSON: We are back on record. We've been having
5 a, I think, a good discussion of the (indiscernible)
6 alternatives represented in this docket. It was proposed
7 during the break for better or for worse and in recognition of
8 the fact that we have the ability to double back in this
9 meeting or in future meetings that we perhaps pick up the pace
10 a little bit and at least make some calls. I think --
11 Commissioner Giard in particular expressed to me that there may
12 be a number of places where there are no concerns or no options
13 that we want to -- going to take so maybe we can move a little
14 bit more rapidly through the text. Rather than me have to do
15 that and since she proposed it,.....

16 COMMISSIONER GIARD: I'd be happy to.

17 CHAIR JOHNSON:I think I'm going to let Commissioner
18 Giard sort of talk for awhile and I think it -- once again I
19 think we need to move and do what we can. And I don't want to
20 discourage discussion by anybody on any point, but I think
21 there may be some opportunities for us to make some decisions
22 and move on to areas where we do need to spend more time.
23 Commissioner Giard.

24 COMMISSIONER GIARD: Well, if I get to hear myself asking
25 questions then I'd probably be less inclined to talk. So we

1 were at the position of item number 4, is that correct?

2 COMMISSIONER THOMPSON: Page 5, you got it.

3 COMMISSIONER GIARD: Page 5, item number 4, and the
4 question is should the Commission delete the existing option
5 for waiver under 3 AAC 53.200(c). The Staff have recommended
6 no change and I wondered if the panel had any discussion points
7 on that, is there any discussion on the Staff's recommendation?

8 COMMISSIONER THOMPSON: I didn't understand ACS' reasoning
9 either.

10 COMMISSIONER GIARD: Okay. Is there any -- would you like
11 to move on?

12 CHAIR JOHNSON: Yes, I think.....

13 COMMISSIONER GIARD: Okay. The next one is item number 5,
14 should the Commission add a new section 3 AAC 53.200(d)
15 regarding inconsistency in regulation. The Rural Coalition had
16 made one recommendation and the Staff recommended do not add a
17 section subject to legal counsel indication that the proposed
18 section is needed. Is there any discussion about the Staff's
19 recommendation or should we move forward?

20 CHAIR HARBOUR: Concur.

21 COMMISSIONER GIARD: Okay. Moving on.....

22 UNIDENTIFIED VOICE: (Indiscernible - away from
23 microphone).....

24 COMMISSIONER GIARD: Commissioner Harbour said concur. We
25 are on now item B, certification. Item number 1, should the

1 Commission clarify that certification requirements do not apply
2 to exempt carriers. Our staff recommended no change, is there
3 any Commissioner who would like to discuss that point?

4 CHAIR JOHNSON: Just to the point -- wow, you're doing all
5 the work here, this is fun.

6 COMMISSIONER GIARD: I'm practicing to be chairman someday
7 when I grow up.

8 CHAIR JOHNSON: Other than the fact that I haven't fully
9 dealt with this issue myself, I have not reached conclusions on
10 this one so we may come back if I get some other idea. That's
11 all I have.

12 COMMISSIONER STRANDBERG: I concur with the Staff on this
13 one.

14 COMMISSIONER GIARD: Thank you.

15 COMMISSIONER STRANDBERG: Let's move on.

16 COMMISSIONER GIARD: And, Staff, is this going -- are you
17 able to just take notes? Okay.

18 MS. KENYON: Yes.

19 COMMISSIONER GIARD: Item number 2 is should the
20 Commission allow registration in place of certification for
21 small local carriers in new competitive markets. There were
22 some options that were proposed. Staff proposed no change to
23 this section, their pro (ph) financial review lessens the
24 chance of a small CLEC going under subjecting consumers to lost
25 money and temporary lack of service. So does any Commissioner

1 have discussions on the Staff's option number 2?

2 COMMISSIONER STRANDBERG: Well, I think first of all we're
3 going to need to hear from a regulations attorney about whether
4 or not we can do it. I -- go ahead.

5 CHAIR JOHNSON: I guess it -- where I was coming down on
6 this one is that I don't see where this was a matter that was
7 either posed to us by the Legislature or raised by one of the
8 parties. I'm not even sure if we should deal with this in any
9 way. Correct me if I'm wrong with that, but I don't.....

10 COMMISSIONER GIARD: I don't see any place.....

11 COMMISSIONER THOMPSON: That would be supportive of no
12 change?

13 CHAIR JOHNSON: Yes.

14 COMMISSIONER THOMPSON: Yes.

15 COMMISSIONER GIARD: Okay. Section number C on page 7,
16 section 53.220, determination of dominant status. We all slow
17 down. Issues, the Staff cite some relevant legal cites, HB-
18 111, policy 2 and 3 AAC 53.220(a). The issues the Staff
19 identified is one, should the Commission continue to maintain a
20 distinction between carriers based on market dominance. The
21 Staff have recommended option 2 which would maintain dominant
22 classification in noncompetitive markets and for incumbent LECs
23 during transition period to a competitive market.

24 The Staff notes that GCI and ACS also recommended that
25 option. Any discussion about this matter?

1 COMMISSIONER HARBOUR: I have a quick comment and a
2 question.

3 CHAIR JOHNSON: Commissioner Harbour.

4 COMMISSIONER HARBOUR: First of all, I compliment the
5 Staff on using the term upon petition or on its own motion.
6 Anyway not to be too cute. Going on further, determine whether
7 local exchange carrier has market power in its service area and
8 as appropriate designate or change the designation of the local
9 exchange carrier's dominant or non-dominant -- I've only been
10 here nine months, can you tell me any action that we've taken
11 in the past along these lines to redesignate or designate?

12 MS. KENYON: Are you talking about page 9, option 3?

13 COMMISSIONER HARBOUR: Page.....

14 MS. KENYON: Sorry.

15 COMMISSIONER HARBOUR: I'm sorry, am I in the wrong place,
16 I was on.....

17 COMMISSIONER GIARD: Page 8, option 2, Lori.

18 COMMISSIONER HARBOUR: Okay. Well, I'm on the wrong page
19 then, I will withhold then. Pass, I'll get back to that one.

20 COMMISSIONER THOMPSON: I've got a question for
21 Commissioner Johnson about this one. This would be -- we've
22 got the language here that talks about dominant classification.

23 CHAIR JOHNSON: Well, if I might, I know that there's
24 House Bill 111 policy language and there's regulations
25 language, but we also know that dominant, non-dominant

1 distinctions are, of course, still used at the FCC level and
2 has a rich history. I can tell you that this is an area where
3 I fully intend to spend a lot of time between now and the next
4 meeting better informing myself as to the evolution of the
5 dominant, non-dominant market standard. I know that -- you
6 know, obviously it's -- exists at the IXC level and I want to
7 look to see how much of that is still alive at the federal
8 level and how much of it ought to be still alive here at the
9 state level.

10 And it's sort of interesting, on the one hand, the Legislature
11 adopted and used the language in House Bill 111, I find myself
12 in sort of the uncomfortable position of thinking that the
13 Legislature might have been wrong in doing that, that they may
14 be making a distinction that does not have a good use. I just
15 don't know. I don't know, I -- this is a -- one of those deep
16 think issues that I expect to spend a fair amount of time with.

17 COMMISSIONER STRANDBERG: And I would comment that this is
18 interrelated with a number of other issues. So what I would
19 propose is that we pass on it right now and get into the meat
20 of things and we may have to come back to it in the context of
21 other items.

22 CHAIR JOHNSON: Did you have further questions,
23 Commissioner Thompson?

24 COMMISSIONER THOMPSON: Unh-unh.

25 CHAIR JOHNSON: You didn't really get to your question,

1 did you?

2 COMMISSIONER THOMPSON: I think you said you were going to
3 think about it some more because.....

4 CHAIR JOHNSON: Could I put you on the spot and get the
5 benefit of your thinking just as we're sitting here a little
6 bit?

7 COMMISSIONER THOMPSON: I think you raised the issue of
8 what those words mean in a federal context and it's true that
9 they have a rich history, but it's also true that it is a
10 history that because of events after the Telecommunications Act
11 in 1996 the FCC is moving away from and that's because of the
12 difficulties that Staff's aware of and we've talked about here,
13 of defining what dominant and non-dominant is.

14 So I am intrigued by the concept you raised earlier of
15 focusing our efforts rather than on the characteristics of the
16 carrier, of the characteristics of the market and the services
17 offered and that might allow us to -- after we've gone through
18 that and more fully explored the ideas that I guess we're going
19 to hear about next Wednesday, figure out whether we still need
20 to be thinking about carriers in this way or not.

21 CHAIR JOHNSON: Yeah, thank you, I appreciate that. I
22 know I raised the issue, but I can -- and you may just be
23 further along in your thinking on this than I am, but what's --
24 can I -- I'm truly interested in developing ways that we can
25 simply the regulatory structure and classifications. And this

1 one sticks out to me. Are there further comments about
2 dominant and non-dominant?

3 COMMISSIONER GIARD: So, Mr. Chairman, is the will of the
4 body that we come back to dominant status section of this next
5 week and just move on to discontinuation or do you want to go
6 through the discussion of market power and the triggers of
7 items number 2 which if the Commission continues to designate
8 carriers what standard?

9 CHAIR JOHNSON: I would -- I guess just to provide a
10 little bit -- maybe we can a little further down the road
11 today, I would propose that we defer discussion entirely.

12 COMMISSIONER GIARD: Okay.

13 COMMISSIONER THOMPSON: I was going to.....

14 CHAIR JOHNSON: Go ahead.

15 COMMISSIONER THOMPSON: I think it might help you in your
16 thinking about whether or not we need to continue to use the
17 classification is -- help all of us if we understand what the
18 implications of that are. So I don't know how many
19 (indiscernible - simultaneous speech).....

20 COMMISSIONER GIARD: It's not very long.....

21 COMMISSIONER THOMPSON: It's not very long.

22 COMMISSIONER GIARD:but it is -- the discussion is
23 potentially rich in terms of market power and automatic
24 triggers.

25 COMMISSIONER THOMPSON: Yeah.

1 COMMISSIONER GIARD: I think.....

2 CHAIR JOHNSON: Okay. Let's -- I mean, let's kind of make
3 a first --

4 COMMISSIONER THOMPSON: Dive in and see if we can
5 make.....

6 CHAIR JOHNSON:cut at it. Let's not get embroiled
7 in, you know, a bunch of distinctions that we're going to have
8 to go back and revisit, but anybody that wants to jump in,
9 I.....

10 COMMISSIONER GIARD: Well, item number 2 was the subject
11 of a significant amount of debate by the participants who
12 responded. And the item number 2 is if Commission continues to
13 designate dominant carriers what standard should be used. The
14 Staff have made a recommendation which is an automatic trigger
15 with an option for a case by case review. And so I'll leave
16 that discussion -- I guess we could use that as a starting
17 point for our discussion. They talk about a local exchange
18 carrier's dominant for the provision of retail service in a
19 location if its market share in that location is 60 percent or
20 more and no single local exchange carrier, ETC, has obtained a
21 market share of 20 percent or more at that location as
22 determined by the Commission. Is there discussion on item A of
23 the Staff's recommendation?

24 CHAIR JOHNSON: Commissioner Thompson.

25 COMMISSIONER THOMPSON: Why'd you come up with 60 percent?

1 MS. KENYON: It's what was used by the FCC.

2 COMMISSIONER THOMPSON: Do you know why they said 60
3 percent, is it based on some kind of economic study?

4 MS. KENYON: I have to admit I don't really know. In the
5 past I have always assumed those numbers are somewhat
6 arbitrarily set.

7 CHAIR JOHNSON: If -- could -- Lori, I'm sorry, it was --
8 you said FCC's (indiscernible) in what proceeding?

9 MS. KENYON: When the FCC was considering whether to allow
10 AT&T to become non-dominant they used a 60 percent market share
11 as part of their analysis.

12 CHAIR JOHNSON: So that's an IXC?

13 MS. KENYON: For an IXC,.....

14 CHAIR JOHNSON: Okay.

15 MS. KENYON:definitely. For a local -- that's why
16 we picked 60. Anything you want to add?

17 MR. TREUER: No, I'm not sure that they -- I'm not exactly
18 sure they used 60 percent as the threshold, I think AT&T may
19 have had 60 percent market share at the time and they decided
20 to designate them as non-dominant.

21 CHAIR JOHNSON: I see Mr. Saupe nodding his head back
22 there? Okay.

23 MR. SAUPE: I'm not yawning.

24 COMMISSIONER GIARD: That's because he's gone to sleep.

25 COMMISSIONER THOMPSON: And the other question is about

1 the last phrase in B, not including lines leased as UNE loops.
2 I'd like a little discussion about why those should be
3 excluded?

4 MS. KENYON: I think that what we were looking at under --
5 A and B go together.

6 COMMISSIONER THOMPSON: Uh-hum.

7 MS. KENYON: A is pretty much targeted for a retail
8 market, whether or not they're dominant in the retail market.
9 And for purposes of that under B you wouldn't include the UNE
10 loops because technically your competitor could provide service
11 by UNE loops and give you quite a bit of competition in the
12 retail market.

13 COMMISSIONER THOMPSON: Uh-hum.

14 MS. KENYON: If you exc- -- if you -- in other ways if you
15 included the UNE loops, if you didn't have this B provision
16 then the incumbent could be dominant.....

17 COMMISSIONER GIARD: Forever.

18 MS. KENYON:for quite a long period of time.....

19 COMMISSIONER THOMPSON: Uh-hum.

20 MS. KENYON:even though it may physically have lost
21 quite a number of customers to its competitor that served using
22 UNEs.

23 COMMISSIONER THOMPSON: Okay. And then that ties into the
24 question that rises out of B, what's retail market, provision
25 of retail services?

1 MS. KENYON: Well, we've used that term consis- -- well,
2 it's a term we've used a lot in our past regulations and I'm
3 not sure we ever really defined it. You can.....

4 COMMISSIONER THOMPSON: But.....

5 MS. KENYON:look at 53.240 and we used the term
6 retail markets.

7 COMMISSIONER THOMPSON: Yeah.

8 MS. KENYON: It generally means that the services provided
9 to consumers as opposed to other carriers.

10 COMMISSIONER THOMPSON: Well, I'm thinking for example if
11 you establish a dominant standard and you say market share has
12 to be 60 percent it's important to know what market you're
13 talking about, is it business and residential, does it include
14 -- you know, are you looking at the market service by service.
15 In other words there's a lot of different services that a
16 residential or business customer can buy, are we going to be
17 looking at gee, for, you know, this particular type of service
18 the competitor doesn't have 60 -- or the -- it's -- we didn't
19 meet the 60 percent standard, but for the other one they do.
20 What if the competitor doesn't even offer a certain type of
21 service or are you looking at offerings overall by a provider
22 in that market? It seems like that might be the source of some
23 confusion.

24 MS. KENYON: Do you want to (indiscernible) this one?

25 COMMISSIONER THOMPSON: Go ahead.

1 MR. TREUER: I think we're talking about access lines
2 so.....

3 UNIDENTIFIED VOICE: (Indiscernible).....

4 MR. TREUER:access lines is a measure of overall
5 market power within the retail market. And so.....

6 COMMISSIONER THOMPSON: That standard makes more sense.

7 MR. TREUER: Yeah.

8 COMMISSIONER THOMPSON: I think that the language here
9 should reflect that because otherwise it's -- it could be
10 really -- it could be confusing.

11 MS. KENYON: I'm not sure I understand what you're
12 suggesting we do? It says percent access lines.....

13 COMMISSIONER THOMPSON: Okay.

14 MS. KENYON:right now is why.

15 COMMISSIONER STRANDBERG: And, you know, when the reg is
16 just retail service.....

17 COMMISSIONER THOMPSON: Yeah.

18 COMMISSIONER STRANDBERG:they just talk about retail
19 service in the existing.....

20 COMMISSIONER THOMPSON: Okay.

21 COMMISSIONER STRANDBERG:reg.

22 COMMISSIONER GIARD: Lori, do we really need the and under
23 item number A, as if the market share in a location is 60
24 percent or more do we really need the and because I thought I
25 saw somewhere that GCI has like 19 percent in one area and 21

1 percent in another area, do we -- is the and absolutely
2 critical there because you could have in the new world say
3 there's a lot of -- I mean, it's not likely, but maybe there's
4 a lot of competition, but no single person has 10 percent. I
5 mean, if their whole market is less than 60 percent or -- do we
6 really need that other item?

7 MR. TREUER: I think we were thinking about the situation
8 in which one carrier had 60 percent of the market and you had
9 40 carriers with 1 percent of the market each, that's a big
10 difference from a situation where you have one carrier with 60
11 percent and two competitors with 20 percent each. So.....

12 COMMISSIONER GIARD: And as I was looking at -- thinking
13 about these, I was thinking about that really this market is
14 Alaska and there hasn't been like the plethora of CLECs to
15 enter this market and provide the kind of competitive service
16 because frankly we don't have the population and we do have, I
17 think, some of the lowest telephone rates in the country so
18 there hasn't been like this huge influx of people saying let's
19 go to Alaska and provide service.

20 MS. KENYON: Well, that's not -- well, our concern is
21 whether or not you have enough competitive pressure such that
22 the incumbent effectively doesn't have any market power and
23 under an automatic trigger it could have 60 -- it could have 20
24 percent of the market and still have a lot of market power.
25 What we're getting here is an -- is the idea that not only is

1 the incumbent facing competition, but that there really is a
2 competitor out there that's making a difference and we thought
3 that the 20 percent really was a -- is actually a pretty low
4 level. You look at the existing markets GCI really hasn't been
5 operating in Fairbanks and Juneau all that long and we actually
6 looked at the charts that were provided in the comments about
7 how long it took a comp- -- GCI to get to the 20 percent
8 level,.....

9 COMMISSIONER GIARD: Yeah, I remember that.

10 MS. KENYON:it was really pretty quick.

11 MR. TREUER: Can I add something else to this? I think
12 what we're -- one of the important things we were trying to do
13 here is to avoid a burdensome administrative procedure with
14 every single LEC that faces competition. Where we have an
15 objective standard or trigger that kicks in that sort of avoids
16 us having to go through these proceedings, but at the same time
17 there's other provisions in here that allows -- I think the --
18 another really important one is the one that allows a LEC to
19 petition the Commission whenever there's a competitive LEC
20 applying for certification or a LEC or a wireless carrier
21 petitioning for ETC status. It allows the LEC to come -- the
22 incumbent to come in and petition to be classified as non-
23 dominant at the same time, it lets them --.....

24 COMMISSIONER GIARD: Uh-hum.

25 MR. TREUER:gives them the same opportunity to be a

1 non-dominant carrier as soon as the competitor enters the
2 market. So and -- I viewed this as sort of administrative
3 efficiency by having an objective trigger, but it also provides
4 other safeguards for you to step in if you think that the
5 objective trigger is not working.

6 COMMISSIONER THOMPSON: Access lines, that's pretty
7 technology specific, is there another word that you can use
8 that doesn't -- isn't linked to copper wire? I think I
9 understand the concept you're trying --.....

10 COMMISSIONER GIARD: Uh-hum.

11 COMMISSIONER THOMPSON:what about customer
12 connections or something like that, I don't know?

13 MS. KENYON: If you want it to be simple and
14 administratively easy to figure out the trigger, then access
15 lines is probably the word you want to use. If you're talking
16 about different technologies like voice over the internet and
17 cellular, you probably want to have a little bit more time and
18 thinking about it and maybe not want an automatic trigger to
19 determine if dominance is there. So A and B have to do with
20 the administrative ease part while, I guess, if you're talking
21 about maybe there's another carrier out there or a provider
22 that means dominance is not an issue anymore, that one --
23 that's probably not an automatic trigger situation.

24 MR. TREUER: If you use customer connections there could
25 theoretically be rural areas of the state where the incumbent

1 would automatically become non-dominant as soon as the
2 regulations go into effect by virtue of the fact that there are
3 wireless carriers out there serving that may have more than 40
4 percent of the market or.....

5 COMMISSIONER THOMPSON: Yeah, okay.

6 COMMISSIONER GIARD: Can I ask a question, because it
7 seems like Commissioner Thompson's point is really driven
8 toward making us free of the burdens of the old copper wire.
9 And I was looking at the way the -- I was reading in the paper
10 about satellite television and the coverage, couldn't we move
11 more toward a household rather than access lines, move toward
12 more of a household designation?

13 COMMISSIONER THOMPSON: But what do you have -- what
14 happens if, you know, there's more than one type of
15 communication service purchased by members of the household and
16 they purchase from different providers, where do (indiscernible
17 - simultaneous speech).....

18 COMMISSIONER GIARD: Well, I mean, you -- what they
19 normally do is in television market you have surveys that are
20 made that are found out who's your telephone provider. And if
21 an ILEC comes in and says look, we don't think that we're
22 dominant anymore, we've done this survey and less than 60
23 percent of the households are covered -- have our service, you
24 know, and our service is defined as, you know, telephone line
25 to the house. You know, it -- it's much broader than access

1 lines which is basically wiring.

2 COMMISSIONER STRANDBERG: It would seem to me that A and B
3 are definite triggers under the circumstance where we have
4 wireline competition. The issue of this -- these other
5 technologies or being able to embrace other types of service
6 are covered later on in really the other clauses and I think
7 I --.....

8 COMMISSIONER GIARD: Okay.

9 COMMISSIONER STRANDBERG:just to kind of move things
10 along I would say that this seems to kind of work.

11 COMMISSIONER GIARD: All right. I'm sorry, I was eating.
12 So we can go on. There's further sections C, D, E and F, would
13 Commissioners like to speak to the items in either of those
14 sections?

15 COMMISSIONER THOMPSON: Why'd you pick the list that you
16 did in C?

17 MS. KENYON: Okay. We have had consumer complaints and
18 active proceedings involving line extension policies,
19 effectively construction practices, subdivision agreements, so
20 I believe that those merited having a further look without
21 having an automatic trigger. The interexchange access
22 services, I think some could argue that that is a
23 noncompetitive service because whatever carrier is selected by
24 the customer for their local, they automatically get the same
25 carrier providing their access service so there is no -- and we

1 haven't seen it either, that there's hardly any price
2 competition going on for access services so that needed to be
3 included in the list.

4 Data services and private line services were included
5 because those can depend upon where you have actual facilities
6 in place. And I'm a bit concerned that at the -- since we
7 haven't really looked at the triennial review order of the FCC
8 in the detail we would like, I don't know how that affects
9 those services and I was concerned about well, if you don't
10 necess- -- if the competitor didn't have facilities we don't
11 know if that's -- those are really -- if the company could
12 still have market power there. Interconnection services are
13 pretty obvious why they're in there.

14 COMMISSIONER HARBOUR: I have a question for Staff. The
15 term provisioning is covered by several of the categories that
16 you put in there so that's why that word doesn't appear
17 anywhere, right?

18 MS. KENYON: The word provisioning can mean a lot of
19 different things; to a lot of different people is why.....

20 COMMISSIONER HARBOUR: Right. So you're just more
21 specific with --.....

22 MS. KENYON: We're.....

23 COMMISSIONER HARBOUR:usually it encompasses a -- at
24 least one, but maybe more of the terms that you've chosen,
25 right?

1 MS. KENYON: Uh-hum.

2 COMMISSIONER HARBOUR: Does this section -- doesn't it
3 kind of address the concern I earlier expressed about enclaves
4 in a -- say an area that's deemed competitive, but there's a
5 subdivision, there's an area that some of the services that
6 you've named in say -- are provided by one provider, therefore
7 a monopoly provider, so this is really intended to meet that
8 concern of the enclave within a competitive area?

9 MS. KENYON: Well, we didn't really have that in mind.
10 What we had in mind here is you get tariffs, you get proposals
11 from utilities that say when I'm going to expand into a
12 subdivision and provide service this is how much I'm going to
13 charge the developer. Those types of agreements is what I had
14 in mind when I said subdivisions, these are the treatment of
15 contracts and similar documents that have to do with the actual
16 physical laying of the cable because right now in the local
17 markets the customers really don't have an option except for in
18 rare circumstances. They -- if they want a cable going to that
19 subdivision they're going to contact ACS because GCI isn't
20 really providing that service. That's what I had in mind.

21 COMMISSIONER HARBOUR: Okay.

22 COMMISSIONER GIARD: Lori, what does item F do for us?

23 MS. KENYON: All right. It responds to the criticisms
24 that have been placed at the Commission that has never clearly
25 identified what it will consider when it determines the carrier

1 is dominant. So what F does is it says when we are going to
2 investigate a situation where somebody says I'm no longer
3 dominate because of this or we want to review whether or not
4 we're -- they are dominant for a particular service that we've
5 been treating them as dominant for, 7 identifies what we'll
6 look at.

7 COMMISSIONER GIARD: So there's an automatic trigger in A
8 and tells us how to do it in B and then in F if we do go in an
9 item by item evaluation that's opposed in C then we would have
10 F as an additional guideline?

11 MS. KENYON: It could be in C or in E that you'd have
12 additional guidelines.

13 COMMISSIONER GIARD: Okay. So.....

14 MS. KENYON: Or D for that matter.

15 COMMISSIONER GIARD:in a typical market or in a
16 straightforward market A is -- A as modified or as explained by
17 B is a sufficient trigger?

18 MS. KENYON: That's a sufficient trigger for most of the
19 -- what I call voice type services that you hear so much about
20 on the TV and advertised. C provides some limits to that.....

21 COMMISSIONER GIARD: Right.

22 MS. KENYON:and if -- and then if you want to go
23 further beyond that then you'd look at D, E and F.

24 COMMISSIONER GIARD: Okay. Do other Commissioners have
25 any more questions about that particular section? No?

1 CHAIR JOHNSON: I just reminded myself that I'm on the
2 record so I decided not to say something.

3 COMMISSIONER GIARD: Item number 3, when using access
4 lines as a measure of the carrier's dominance should the
5 Commission also include lines sold to another LEC through total
6 service resale. Is there any discussion from the Commission on
7 that particular item? No?

8 Moving on to section D. Section 53.230 discontinuation of
9 service. The Staff says that this section cannot be viewed in
10 isolation of other proposed regulation changes. And then they
11 go on to their issues which is item number 1, under what
12 conditions may a carrier discontinue and abandon service. The
13 Staff has provided some options that are several pages long --
14 or they review options that are several pages long and then
15 they make a Staff recommendation which is in option 3, use the
16 interexchange carrier service abandonment rules as a template
17 for the local carrier rules. And is there any discussion by
18 Commissioners on that area?

19 COMMISSIONER THOMPSON: Only that I'm recalling the times
20 that we've used these rules in the IXC context and there was a
21 couple times where for different reasons we needed more
22 information or the progress -- we ended up extending the
23 deadlines a little bit. Do you see the same sort of
24 flexibility being available here, in other words the standard
25 -- is this a workable time frame do you think to get adequate

1 notice out and give the Commission time to decide?

2 MS. KENYON: I'd like to reread it before I comment on
3 that. I think it does, I think that your main constraint is if
4 -- under option -- under point A, you get a small carrier that
5 comes in and says I want to abandon service in 30 days and you
6 believe they have some type of critical service that requires
7 -- merits longer than a 30 day review.

8 COMMISSIONER THOMPSON: Uh-huh.

9 MS. KENYON: This doesn't really allow you that, you're
10 stuck with a 30 day review period for the small carriers unless
11 -- and you could say -- you'd have to conclude that they
12 weren't -- that the service was needed for the public
13 convenience and necessity in order to make them continue to
14 serve.

15 MR. TREUER: All right. I'd just add one thing. The
16 market -- IXC and the local market are a little different in
17 this respect that most of the long distance carriers we have
18 certificated are simply resellers and if they go out of
19 business no one even notices sometimes. In the local exchange
20 market if they're -- you have a customer that's linked to
21 you.....

22 COMMISSIONER THOMPSON: Uh-hum.

23 MR. TREUER:directly and if you go out of business
24 they're going to know it right away. So it is -- it is a
25 little more crucial in the local.....

1 COMMISSIONER THOMPSON: Yeah.

2 MR. TREUER:exchange market. Unless they're a total
3 service reseller, but I don't -- even then I don't know if
4 there's an automatic provision where you go back to the
5 facility -- underlying facility based carrier.

6 MS. KENYON: I don't know that there is, I think you just
7 lose service if the reseller quits. Unless you -- obviously
8 they have to come to you first, assuming they obey this rule,
9 you'd have 30 days advance notice before they quit local
10 service, but.....

11 (Off record comments)

12 CHAIR JOHNSON: Which option are we currently discussing
13 or we're not just (indiscernible - simultaneous speech).....

14 COMMISSIONER GIARD: I'm sorry, we're under option 3.

15 CHAIR JOHNSON:specific options?

16 MS. KENYON: If I could add? You currently operate under
17 the rule where a non-dominant carrier can discontinue local
18 service after 30 days notice. So that's where you're starting
19 from and Staff's proposal goes -- actually make it a stronger
20 standard because we're -- we have sort of a size constraint
21 added to that.

22 COMMISSIONER STRANDBERG: I would support the Staff's
23 position on this one whereas talking about Commissioner's
24 Johnson's comments of complex regulations and wanting to
25 simplify them for competitive areas as we moved through I think