

ALASKA LEGISLATURE, COMMITTEES, 2003-2004 8672

10811 HOUSE JUDICIARY

1 as much meat as we can get in these abandonment of service
2 areas will serve us well.

3 COMMISSIONER HARBOUR: Just one question, does the earlier
4 definition of lines served go to this definition too? Another
5 way to ask that might be can you envision times in which a
6 carrier applied to discontinue professing less than 10 percent
7 market share and that was arguable, but based on a lack of
8 definition of line served or are we covered okay on that?

9 MS. KENYON: I have to admit that I'm not sure whether --
10 I mean, I believe that there are two different standards for
11 lines served, whether you're dominant.....

12 COMMISSIONER HARBOUR: Right.

13 MS. KENYON:versus whether you can.....

14 COMMISSIONER HARBOUR: In this case.

15 MS. KENYON:abandon service. And for abandoning
16 service you want -- you may want to have those lines be as
17 broad as possible to include all the lines controlled by the
18 carrier. And offhand looking at this I keep thinking why
19 didn't we include UNE lines in A and there may have been a good
20 reason, but.....

21 COMMISSIONER HARBOUR: Just something to think about it.

22 MS. KENYON: Yeah.

23 COMMISSIONER GIARD: Okay. On to number 2 which is what
24 abandonment of service rules should apply to -- sorry, sir.

25 CHAIR JOHNSON: I just wanted to stop and clean up (ph).

1 I'd say that --.....

2 COMMISSIONER GIARD: We can stop at.....

3 CHAIR JOHNSON:and I was -- know people are talking
4 about these options, you know, I'm continuing to listen for the
5 rationale that continues to support the dominant, non-dominant
6 distinction and that's still a live issue for me and frankly
7 I'll just put people on notice that if we were to abandon that
8 distinction the logical place for us to end up on this issue
9 might be the proposed option of the Rural Coalition that's set
10 out on page 13. But I don't want to delay our discussion
11 unnecessarily about that, but their proposal would -- obviously
12 makes a -- deletes the non-dominant distinction and there's
13 some -- I think we could scrib (ph) in that a little bit more.
14 But anyway I'd just -- I continue to have concerns about the
15 viability of that distinction in the local marketplace.

16 COMMISSIONER THOMPSON: Could I ask a question? The --
17 one of the main distinctions between the RC proposal and the
18 Staff proposal a couple pages later is the specificity in the
19 Staff proposal about who gets notice. Are you proposing
20 to.....

21 CHAIR JOHNSON: Oh, yeah, I guess I was focusing on that.

22 COMMISSIONER THOMPSON:just delete all that language
23 or are you focusing more on the first paragraph?

24 CHAIR JOHNSON: No, I was not.

25 COMMISSIONER THOMPSON: Okay.

1 CHAIR JOHNSON: You're right, I was not commenting
2 specifically.....

3 COMMISSIONER THOMPSON: Okay.

4 CHAIR JOHNSON:as to the Staff proposal and I
5 probably should take a look at that. I appreciate that.

6 COMMISSIONER THOMPSON: Okay.

7 COMMISSIONER GIARD: Item number 2, what abandonment of
8 service rules should apply to rate deregulated carriers. Staff
9 have recommended option number 2 which supply the same rules as
10 those selected in the previous section concerning regulated
11 markets. Is there discussion of this item?

12 COMMISSIONER STRANDBERG: Why do you feel we need the same
13 level of disclosure?

14 MS. KENYON: Actually it was I thought you'd get a broader
15 range of comments if you noticed it that way.

16 COMMISSIONER GIARD: But why would you not want -- if the
17 question's abandonment and making sure the customers aren't
18 left hanging.....

19 MS. KENYON: Uh-hum.

20 COMMISSIONER GIARD:high and dry by someone, why
21 does it make a difference whether a carrier is economically
22 deregulated or not?

23 MS. KENYON: It may not. This is your most conservative
24 standard to protect the public interest, that's why I felt that
25 with that in mind and you'd get a broader sense of comments

1 about whether or not there was any reason to relax that
2 standard.

3 COMMISSIONER THOMPSON: I think in general if you're
4 looking at a competitive market the responsibility to protect
5 the public interests of consumers becomes greater. So I
6 don't.....

7 MS. KENYON: Especially.....

8 COMMISSIONER THOMPSON:know why there should be a
9 different standard. I agree with the Staff recommendation.

10 COMMISSIONER GIARD: Any further discussion on that?
11 We're moving on. Okay. Section 53.240 retail rates. Staff
12 have several cites and item number 1 under what conditions and
13 to what extent should the Commission implement rate
14 deregulation.

15 2700

16 (Tape change)

17 Tape 3

18 0015

19 And there were several options proposed by the respondents.
20 Staff had recommended consider rate deregulation on a case by
21 case basis, but do not amend the regulations, to set triggers
22 for determining when to deregulate a market or service. Are
23 there Commissioner comments on this section?

24 CHAIR JOHNSON: I just wanted to note on -- at the outset,
25 I think this is one of the more complex and critical sections

1 of our whole proceeding and my thinking in this area is not
2 fully developed as yet. I think it's an area that we're going
3 to have to revisit. And I certainly invite people if they're
4 ready to go on these things to charge ahead, but I fully
5 anticipate we're going to have to revisit this issue again next
6 week. I don't think this is easy stuff.

7 And once again, it doesn't take very long to see where
8 this whole dominant carrier stuff that I'm concerned about
9 leads its way into this distinction as well, and anyway, I
10 don't want to impair or disrupt people from moving forward.
11 Commissioner Thompson?

12 COMMISSIONER THOMPSON: I want to talk about option 4 that
13 isn't there before everybody starts rummaging papers. And this
14 is where I'm back to the comments I made initially. I think if
15 we're talking about, again, thinking about why it is we
16 regulate at all and thinking about what's important, I would
17 rather see a standard in our regulation that describes a list
18 of -- list the things we think must be accomplished before it's
19 appropriate to relax rate deregulation. And those being
20 focused on an adequate consumer protection process that they
21 have, service quality standards, some kind of hot cut process.
22 It seems like a lot of the complaints we get are -- involve
23 switching from one provider to another.

24 And I'm not comfortable backing away from regulatory
25 oversight until we're sure that the market's really going to

1 work. So I don't have a specific list here today.

2 I've got some ideas. I'm interested in Staff's comments
3 as well, but what I envision is something that might be
4 analogous to the 271 process, that was mandated on the
5 Telecommunications Act that we escape because we didn't have a
6 bell. In other words that you would have a finding, a list of
7 things, standards that must be met when a finding was made that
8 they'd been met then any type of -- or the rate deregulation
9 would occur.

10 MS. KENYON: I guess the Staff position is figuring out
11 what that list is and what are the appropriate triggers is very
12 difficult to do and you always will have exceptions. The
13 market is very complex. If you deregulate prematurely that's
14 probably one of the worst things.....

15 COMMISSIONER THOMPSON: Uh-hum.

16 MS. KENYON:you an do. So that's why we were of the
17 opinion that it should be case by case.

18 COMMISSIONER HARBOUR: Well, can I understand,
19 Commissioner Thompson, you were suggesting that in forming an
20 application certain requirements needed to be accomplished.
21 That doesn't mean that the Commission couldn't find against
22 based on other criteria, but that to come to us.....

23 COMMISSIONER THOMPSON: I just think that.....

24 COMMISSIONER HARBOUR:that that list should be
25 accomplished.

1 COMMISSIONER THOMPSON: I'm concerned about leaving
2 it. It's discretionary here. And yes, you're going to have to
3 look at it on a case by case basis, but you'd have to do that
4 under my scenario as well to review whether these standards
5 should be met. I think it's be helpful to industry to provide
6 clear signals about the things we think are important. And
7 also to recognize that our role in a competitive market is
8 different. If we're shifting from the role of someone who
9 makes and enforces all the rules to someone who makes sure that
10 consumers get protected when the rules go away, when companies
11 control rates and prices, then we need to be looking at
12 different issues than we have traditionally.

13 And I feel more comfortable -- I agree that premature
14 deregulating the market is probably one of the worst things you
15 can do for a consumer and ultimately for the utilities involved
16 as well. So it's important to make sure that it's not
17 premature. So how do you know? Well, you make sure that
18 there's adequate protections in place, that there's adequate
19 processes in place to deal with the type of issues that come up
20 when a market transitions to competitive.

21 Our experience with the local market in Anchorage we saw
22 again today, the vast number of complaints we get are from
23 telephone consumers in Anchorage. Well, maybe we didn't do
24 such a good job of protecting them in the transition. I think
25 if we've going to embody in our regulations a process to

1 transition markets to competitive we need to take that
2 experience to heart and figure out what we didn't do so well in
3 Anchorage so that you don't see the same kind of skyrocketing
4 of consumer complaints in other markets as they transition to
5 competitive.

6 MS. KENYON: I've been thinking about this a lot and the
7 one thing I keep having problems getting around is that the
8 retail rates are used as the basis for wholesale rates. And as
9 a result until you have a full facilities based competitor I
10 don't know when you will be able to easily just say we're not
11 going to look at those retail rates anymore, just going to
12 assume the market can do -- can take care of all those options
13 for you.

14 COMMISSIONER THOMPSON: I app- --.....

15 MS. KENYON: That's the one thing I'm not.....

16 COMMISSIONER THOMPSON: Yeah.

17 MS. KENYON:sure how you put on a list.

18 COMMISSIONER THOMPSON: Well, how do you -- why can't you
19 deal with wholesale rates differently? I mean maybe the answer
20 is you can deregulate the retail market or not look at rates in
21 the retail market, but you still have some kind of -- you say,
22 you know, wholesale is different if service is being provided
23 by other competitors through those wholesale rates?
24 Maybe that's a different market.

25 MS. KENYON: Well, they're interrelated because.....

1 COMMISSIONER THOMPSON: Uh-hum.

2 MS. KENYON:because the ILECs retail rates are the
3 wholesale rates with a discount.

4 COMMISSIONER THOMPSON: Maybe the answer is setting
5 wholesale rates differently.

6 MS. KENYON: Can we do that under the Act? I though the
7 Act required us to use retail rates or federal policy, one or
8 the other, that's the only thing that -- I mean if I thought a
9 way around it I'd offer it....

10 COMMISSIONER THOMPSON: I don't know. That's worth
11 looking at.

12 MS. KENYON: Yeah.

13 COMMISSIONER THOMPSON: I don't know the answer off the
14 top of my head.

15 MS. KENYON: Yeah.

16 CHAIR JOHNSON: Well, I mean isn't that where we get in
17 involved in the 17 percent discount or something? Didn't they
18 set a standard, a default discount?

19 MR. TREUER: The default discount is already thrown out by
20 the Eighth Circuit.

21 CHAIR JOHNSON: Oh, okay. So did they -- does that
22 federal law currently require a case by case inquiry to
23 establish those rates?

24 MR. TREUER: It's set through the arbitration process.

25 MS. KENYON: It's not the discount rates that I'm

1 concerned about. I mean I'm assuming that's a given. But what
2 if the retail rate had something like well, this is a retail
3 rate, in order to get it you can't be a competitor. There's --
4 that's kind of a really extreme example, but I'm thinking the
5 terms and conditions are such that it is anti-competitive and
6 prohibits the wholesale provisioning of that service in one way
7 or another. We wouldn't be able to control that if you
8 deregulated the retail market.

9 COMMISSIONER HARBOUR: We should be able to work around
10 that.

11 COMMISSIONER THOMPSON: I think that's a different problem
12 and I'm going to have to think about language, but I think it's
13 a different problem.

14 MR. TREUER: Can I suggest that there may be a terminology
15 problem. I think....

16 COMMISSIONER THOMPSON: Uh-hum.

17 MR. TREUER:one of the most -- one of the biggest
18 rate deregulations you can do is what we discussed in the
19 previous section is to allow the incumbent to have upper
20 pricing flexibility and you're putting the incumbent then on
21 parity with everyone else. That's the biggest first step I
22 think.

23 The next step, I think we're really talking about
24 detariffing to some extent when we talk about rate
25 deregulation.

1 COMMISSIONER THOMPSON: Uh-hum.

2 MR. TREUER: And we have -- we've taken a step in that
3 direction in the IXC market by with a registration process
4 where we have on line tariffs and we don't do the same level of
5 review anymore. So I'd just like to point that out. If that
6 helps in the discussion.

7 COMMISSIONER THOMPSON: Yeah.

8 COMMISSIONER GIARD: Lori, can you talk to me about the
9 automatic triggers 'cause when I was reading option 1 it seems
10 like what we're coming back to on this is that we would go to
11 an entire proceeding again on a case by case basis without any
12 automatic triggers. And part of the benefit of reviewing these
13 is to loosen some of the regulatory burden on the industry.
14 And I can't see where we couldn't fit both automatic triggers
15 and, you know, the criteria, if we set a quality criteria like
16 they have in -- where they've done price caps and other things
17 in the Lower 48 and we couldn't build that into the application
18 or -- so that the LEC says okay, you know, I've met 75 percent
19 or more of the customers, there's a CLEC and a C -- ETC, which
20 is capable or reaching 75 percent more of the customers and we
21 have these policies in place, therefore, unless we hear from
22 you in the next two weeks, you know, we're rate deregulated.

23 MS. KENYON: Okay. For example, let's say you take the --
24 take an option where you said automatic triggers, and they met
25 all the requirements. There may still be loopholes that you're

1 very concerned about like line extension policies.

2 COMMISSIONER GIARD: Right.

3 MS. KENYON: And it's very difficult to craft something
4 that says -- that we've thought of everything to protect the
5 public interest. That's our problem. We have -- I mean I
6 personally tried and obviously other more intelligent people
7 could come up with a good answer, perhaps that I didn't, but
8 it's how do you do it that you have made sure that you're still
9 protecting the public interest if you've just created a
10 checklist?

11 COMMISSIONER GIARD: Well, you're not going to be able to
12 protect the public interest. I mean that's something that is
13 kind of the balance of having a competitive marketplace. If we
14 really wanted to protect the public interest to the extreme
15 that we could we would never deregulate anything. We'd keep
16 them right by the neck. And I'm concerned that we have an
17 opportunity here to loosen and then we want to make sure we can
18 grab them again if they misbehave by putting in some of the
19 policy items that Commissioner Thompson was talking about, but
20 that the automatic triggers seem to be something that, you
21 know, really lets us take our hands off and say okay, we've
22 established this, we've looked at it, here are the things we
23 want you to meet, and we could put in here somewhere if
24 subsequently Ms. Pitts tells us that you have 150 complaints,
25 you know, we yank you back in. But I don't know.....

1 MS. KENYON: Well, once you deregulate it's hard to go
2 back.

3 COMMISSIONER GIARD: It's hard to go back. It's not
4 impossible to go back.

5 MS. KENYON: And, you know, how far do you want to go in
6 your first steps here? This is a radical departure from what
7 you.....

8 COMMISSIONER GIARD: I don't want to be on the bleeding
9 edge, but I surely wouldn't mind being on the leading edge. I
10 really don't want to be in the middle. That's my personal
11 feeling.....

12 COMMISSIONER STRANDBERG: Well, I'd just like to say I
13 think that we're probably not going to get to a conclusion on
14 this today, but I am reflecting on the comments of both
15 Commissioner Giard and Commissioner Thompson. And I would like
16 to see if we could develop that 271 like list with some healthy
17 abilities for the Commission to really influence what actually
18 happens in a proceeding. I think that may be -- you know, and
19 like Commissioner Thompson I don't have the list, but it seems
20 to me that the parties, at least ACS has attempted to do that
21 in their comments with a relatively limited list which they'd
22 have to comply with in order to....

23 COMMISSIONER GIARD: Right.

24 COMMISSIONER STRANDBERG:tariff (ph). So with that,
25 you know, I'd like to suggest that we work towards that.

1 COMMISSIONER THOMPSON: And I guess on the enforcement
2 standard I would put -- because I recognize it's pretty tough
3 to re-regulate after you've deregulated, so in terms of
4 enforcement I'd do fines or require refunds. Give us the power
5 to require them to refund what customers have paid or something
6 like that, that rather than having them hauled back in and re-
7 regulate 'cause you can't really do that. Once they're gone
8 they're gone. But you can through an economic process give
9 them a great dis-incentive to continue to serve if they're slip
10 below the standards that they initially met.....

11 MS. KENYON: You're limited under statute, I believe, of
12 the amount of fine that you can assess.

13 COMMISSIONER THOMPSON: Well, what if it's a customer
14 refund instead of a fine. I don't know if it falls within the
15 same restriction.

16 MS. KENYON: You've had court battles over how far your
17 ability is to refund. I mean retroactive refunding.....

18 COMMISSIONER THOMPSON: Uh-hum.

19 MS. KENYON:I could see you being in court on that.
20 And if you just deregulate the market you have also other
21 questions about do they continue to do accounting, follow your
22 accounting rules, things like that. I guess that's for a later
23 date.

24 COMMISSIONER THOMPSON: Uh-hum.

25 MS. KENYON: But I just don't -- I guess.....

1 COMMISSIONER THOMPSON: I guess my answer to that would
2 be.....

3 MS. KENYON:I've seen it too many times in the Lower
4 48 that fines have been totally ignored. They're a very --
5 they try as hard as they can and the commissions have come up
6 with these fantastic fines and the practice that generated
7 where the reason why they gave them the fine continues. It's
8 more economically viable to continue down a path and just pay
9 the fine. It's like having a parking ticket.

10 COMMISSIONER THOMPSON: Yeah. No, I agree. I understand
11 the issue. And we're going to have to think creatively about
12 how to assess an economic consequence, but I guess all on the
13 theory that we're moving to a market where customers have
14 choices and, you know, they're making decisions based on
15 economics rather than regulation about whether they're going to
16 enter and serve and who they're going to buy from, that that
17 type of signal would be more appropriate, but I recognize that
18 it's got to be the right amount or it doesn't really make a
19 difference to people and it's not going to -- I just -- I think
20 that's probably a more productive way of enforcing than talking
21 about re-regulating 'cause you can't really do that once you've
22 gone down the path and loosened things. And you asked about
23 things like accounting requirements, it makes a difference
24 whether or not the company gets Universal Service benefits or
25 some of the other ones because you -- I don't think we can

1 abate the accounting requirements under the circumstances.

2 MS. KENYON: Well, could you even rate -- if you
3 deregulate then is it -- from your last comment are you
4 suggesting you might not be able to deregulate if they're
5 getting USF funds?

6 COMMISSIONER THOMPSON: Well, I guess we need to better
7 define for purposes of discussion what deregulation is. What I
8 mean is getting out of the requirement that each service
9 offering to customers be written in a tariff that we review and
10 approve or not. I'm thinking of it more in the context of
11 detariffing. And in the context of the utility's ability to
12 set its own rates based -- rather than having to prove to us
13 that they need the money before they raise the rates.....

14 MS. KENYON: Uh-hum.

15 COMMISSIONER THOMPSON:let them decide whether this
16 is -- you know, whether they want to charge their customers
17 this or not. I'm not thinking of it in terms of not having any
18 accounting requirements because I think we're still going to
19 need some if -- especially for the companies that get Universal
20 Service monies. I don't think we can fulfill our
21 responsibilities to the federal government to the other states
22 that get those monies without having some knowledge of how
23 those funds are used.

24 COMMISSIONER STRANDBERG: And I guess the carrier of last
25 resort, the dominance issue, and a basic service offering so

1 that no matter what does happen in the marketplace there is
2 some sort of safe harbor where a consumer can go to get a basic
3 phone, that might be a concept that could be considered here.
4 So it might allow us to let loose more of the market as long as
5 we had some safety net in there so that people can get service.

6 COMMISSIONER THOMPSON: Well, you can put that on the
7 list. You can say you have to have a basic offering that
8 is.....

9 COMMISSIONER STRANDBERG: Right.

10 COMMISSIONER THOMPSON:phone service and nothing
11 else.....

12 COMMISSIONER STRANDBERG: Exactly.

13 COMMISSIONER THOMPSON:and it can't be -- ever go
14 above this rate.

15 COMMISSIONER STRANDBERG: Right, that might be one
16 approach here.

17 COMMISSIONER GIARD: Item -- is there further discussion,
18 Mr. Chairman?

19 CHAIR JOHNSON: So we were talking -- or I just wanted to
20 clarify for my own benefit. We're talking just sort of
21 generically in terms of the question of the conditions which
22 ought to apply before we embrace some sort of rate
23 deregulation, is that correct?

24 COMMISSIONER THOMPSON: I'm going to.....

25 CHAIR JOHNSON: I'm trying to clarify where we are.

1 COMMISSIONER THOMPSON: I'm going call tariff detariffing
2 because it's.....

3 COMMISSIONER GIARD: Detariffing is a good term.

4 COMMISSIONER THOMPSON: The term rate deregulation has
5 become confusing.

6 CHAIR JOHNSON: Okay. Obviously I think there's a need
7 for a whole lot of discussion. Commissioner Giard, I guess
8 from my standpoint if you're trying to flow from that point
9 into -- on page 24 into a discussion of continued retail rate
10 regulation of some kind and that it go through a series of
11 option, I think that that discussion is going to hinge a lot on
12 what we decide relative to the -- what we just went through.

13 COMMISSIONER GIARD: I'm sorry, sir, I didn't understand.

14 CHAIR JOHNSON: I'm just not sure if we can take up.....

15 COMMISSIONER THOMPSON: One of the options is do not --
16 you know, status quo.

17 CHAIR JOHNSON: Yeah.

18 COMMISSIONER THOMPSON: I mean so what are you proposing?

19 CHAIR JOHNSON: Well, I guess I'm just mindful of the time
20 and I'm trying to figure out is there other -- to utilize a
21 term that I think Commissioner Strandberg used to me yesterday,
22 is there other low lying fruit elsewhere in the Staff
23 discussion that would -- that we could allow and give them
24 direction on outside of this local market structure.....

25 COMMISSIONER THOMPSON: I'd ask.....

1 CHAIR JOHNSON:discussion?

2 COMMISSIONER THOMPSON:them what -- is there
3 anything else, you know, we'll.....

4 CHAIR JOHNSON: In the time that we have remaining here.

5 MS. KENYON: As much as you can get done today I'd
6 actually get done. As far as low hanging fruit if I were to
7 guess what the low hanging fruit is it may be the depreciation,
8 the ETC, I don't know what you want to do about the LECs and
9 the wholesale -- the LEC wholesale UNE things or -- I mean
10 corporate restructuring, I don't know how much discussion. I
11 mean only you folks know how much debate -- how much difference
12 of opinion you may have amongst yourselves. I can't guess to
13 that. That's where -- whether or not you have low hanging
14 fruit.

15 CHAIR JOHNSON: Yeah, I agree that those are items that
16 might be ripe, if you will, for discussion and at least allow
17 you -- give you folks a little direction and we can return to,
18 I think, those deep think issues that probably are so time
19 consuming next week, but it would allow you folks to sort of
20 spread out your work load and not just get hung up in one area
21 that's incomplete is where I'm going.

22 COMMISSIONER THOMPSON: So can we talk about.....

23 CHAIR JOHNSON: I was hoping we could talk about
24 depreciation I guess I'll be real blunt about it.

25 COMMISSIONER GIARD: That's my very favorite subject.

1 CHAIR JOHNSON: And I thought from our earlier efforts to
2 discuss results of the hearing that there was substantial
3 consensus in my opinion around the Rural Coalition proposal,
4 and then there was subsequent discussions by Staff. I guess
5 what I am suggesting, they had a -- we just jump back to page
6 68, 69, I'd like the Staff recommendation option 2.
7 (Indiscernible - voice lowers).....

8 COMMISSIONER THOMPSON: I want to clarify whether by lives
9 you mean projection lives in that sentence?

10 MS. KENYON: Which sentence are you referring to?

11 COMMISSIONER THOMPSON: Revised RC proposals to refer to
12 lives and net salvages instead of rates, do you mean projection
13 lives?

14 MS. KENYON: Yes, under B line 2 it says projection lives.

15 COMMISSIONER THOMPSON: Okay.

16 MS. KENYON: That would be the language you would be
17 adopting --

18 COMMISSIONER THOMPSON: Okay.

19 MS. KENYON:not adopting. Issuing for public notice
20 with some minor text around it for content.

21 COMMISSIONER THOMPSON: Okay. Then I concur as well.

22 CHAIR JOHNSON: So is it correct as I look at this that if
23 we answer question 1, that is should the Commission develop a
24 rate, life, net salvage range tables to simplify the
25 depreciation process? And we selected option 2 that that would

1 mean we would not address your second question, should the
2 Commission adopt non table based approach to comply with House
3 Bill 111?

4 MS. KENYON: I think you still have to tell me what
5 happens if they don't take the table.

6 CHAIR JOHNSON: Okay.

7 MS. KENYON: And one of the things that you can say is
8 that well, status quo, I don't want any more regulation, to
9 define that what happens if they don't take the table.
10 Otherwise you still have to go through the issue 2.

11 CHAIR JOHNSON: Okay. There are four options under that
12 section. The Staff -- I don't think there's a Staff
13 recommendation amongst the four options, is that correct?

14 MS. KENYON: I think I may be going and confusing myself.
15 Under old option 2 on page 69, that we just got off of.....

16 CHAIR JOHNSON: Oh, I.....

17 MS. KENYON:I think we do have what -- we do explain
18 what happens. I think it's.....

19 COMMISSIONER THOMPSON: Uh-hum.

20 MS. KENYON:D there.....

21 COMMISSIONER THOMPSON: Uh-hum.

22 MS. KENYON: any change in depreciation shall be
23 developed after consideration of actual useful lives, so we do
24 address -- and other depreciation changes. I take it back. I
25 don't think you necessarily have to do should the Commission

1 adopt a non-table approach.

2 CHAIR JOHNSON: Okay. So we don't have to do that one.
3 And I know there was a lot of work put in there. Four options
4 set out. Those are roads we don't have to take, is that.....

5 MS. KENYON: That's correct.

6 CHAIR JOHNSON: Okay. Do we -- should we address the
7 burden of proof, question number 3 at the top of page 74. And
8 there are options there. Is there discussion on this? There's
9 a Staff recommendation regarding option 2. Other questions or
10 comments about this?

11 COMMISSIONER THOMPSON: Question.....

12 CHAIR JOHNSON: Depreciation expert?

13 COMMISSIONER THOMPSON:is for -- a question for the
14 person who is not here which is whether we need this section in
15 light of the.....

16 COMMISSIONER GIARD: Right.

17 COMMISSIONER THOMPSON:reference to burden of proof
18 in the adjacent section, but that's a Virginia question.

19 COMMISSIONER STRANDBERG: That's our attorney.

20 CHAIR JOHNSON: Those -- I fully anticipated that we could
21 have those legal discussions, I guess, down the road. We may
22 not have an answer on that burden of proof question for you.

23 MS. KENYON: Uh-hum.

24 CHAIR JOHNSON: There is a question about interim booking
25 in the depreciation section.

1 COMMISSIONER GIARD: Well, I think this interim booking
2 goes back to the time that it took the industry to get an
3 answer on depreciation. And I wonder if -- I mean if they're
4 going to adopt the table then they won't really need interim
5 booking provisions. I mean did you guys have a.....

6 MS. KENYON: It helps. I think that the table will
7 hopefully reduce the time that we need to devote and the
8 industry needs to devote to develop the depreciation rates.

9 The interim booking proposal of the Rural Coalition also
10 -- it went part and parcel with their rate table. There's a
11 presumption that the rates the utility would use on an interim
12 basis would be the ones eventually adopted 'cause they're in
13 the rate table, so since you're away from a rate table concept
14 I think it makes it more difficult to adopt an interim booking
15 concept 'cause there's not a presumption of success.

16 COMMISSIONER GIARD: So Staff recommended omit the interim
17 booking section. So that's where they -- there's no interim
18 booking of depreciation.

19 MS. KENYON: They would have to specifically ask you to be
20 able to do that.....

21 COMMISSIONER GIARD: Right.

22 MS. KENYON:they can't do that today.

23 COMMISSIONER GIARD: They can't do that automatically?

24 MS. KENYON: Right.

25 COMMISSIONER GIARD: Right. Because if they use the table

1 then we're automatically going to approve it, the table that we
2 all create.

3 COMMISSIONER STRANDBERG: Right.

4 COMMISSIONER GIARD: Is that correct my understanding?

5 COMMISSIONER STRANDBERG: I guess I'm not understanding
6 this. It seems to me that there's perhaps more credence to
7 allow interim booking if we have the table rates because, you
8 know, then the utility using the table rates there's a much
9 greater likelihood that those will be the final rates.

10 COMMISSIONER GIARD: Oh, I thought the table.....

11 MS. KENYON: You don't have table rate.

12 COMMISSIONER GIARD:rates would be automatic.
13 Sorry.

14 MS. KENYON: I'm sorry.

15 COMMISSIONER STRANDBERG: Go ahead (indiscernible).....

16 COMMISSIONER GIARD: No, I'll (indiscernible - away from
17 microphone).....

18 MS. KENYON: If you accepted Staff's recommendation you've
19 got table lives and table salvages.

20 COMMISSIONER STRANDBERG: Okay.

21 MS. KENYON: Then they have to figure out the rate.....

22 COMMISSIONER GIARD: Uh-hum.

23 MS. KENYON:that's an extra step to figure out the
24 rate. We don't know what rate they can come up with. They
25 could come up with a wide range given those lives.

1 COMMISSIONER STRANDBERG: Okay.

2 COMMISSIONER HARBOUR: This is a keep it simple question.
3 But for the purpose of discussion while I've had a number of
4 discussions with a number of experts on this subject. I think
5 for the record I'd love to hear Staff's comment and then if
6 Commissioner Giard feels so inclined I'd love her views on the
7 earlier -- some earlier suggestions that it could be kept
8 simple by using -- by employing IRS depreciation rules and rate
9 making. You know the pro's being proposed is, you know, that's
10 theoretically an audited procedure, that it's confirmed in
11 other documentation. That it's confirmed in tax returns. Can
12 you discuss a little bit the effect particularly if you feel
13 there is a momentous effect on ratepayers from employing a
14 simpler concept like that one including, I guess, accelerated
15 depreciation which is a part of that whole concept?

16 MS. KENYON: Well, traditionally the Commission has not
17 accepted point carte blanche the IRS depreciation rates. You
18 need -- usually have some type of record to show that the rate
19 is developed based on what the utility actually has, the plant
20 and its expected life and other factors that you feel are
21 important. The IRS tables are very flexible. They allow
22 accelerated depreciation. You lose a lot of control over what
23 that rate is and whether or not that rate is appropriate if you
24 say well, just for rate making purposes we'll let you use the
25 IRS tables. That really doesn't give you -- I mean that

1 doesn't really put a lot of restraint on what depreciation rate
2 the utility may use. And it could allow the utility to
3 implement a rate even though it's -- essentially has recovered
4 most of its investment through depreciation expense in the
5 past, but it could still charge a high rate just because it's
6 in the IRS tables and is allowed, so while you would be able to
7 perhaps modify those life tables, I'm guessing here 'cause I --
8 but you might be able to have some type of IRS consideration
9 when you develop the life in salvage tables. I'm not
10 recommending that you do that.

11 COMMISSIONER GIARD: You know, Commissioner Harbour, I
12 think one of the really terrific opportunities that comes out
13 of the Rural Coalition proposal was that we finally get to
14 establish depreciation lives for Alaska. And that is and has
15 always been it seems to me in the articles I've read a
16 contention of the industry is that yes, we have these FCC, but
17 they were formed in the Lower 48, this gives us an opportunity
18 to establish rates or lives based on what happens in Alaska.
19 And I think the IRS has the same problem, I think, that the FCC
20 would in that it's really not Alaska based. And that was why I
21 substantially supported the Rural Coalition and then the
22 Staff's proposal because we finally get to have something for
23 Alaska.

24 COMMISSIONER HARBOUR: Thank you. Do you have something
25 -- anything to add?

1 MS. KENYON: I agree with what Commissioner Giard said.

2 COMMISSIONER GIARD: That's the first time she's agreed
3 with me today. Say it again.

4 MS. KENYON: I agree.

5 CHAIR JOHNSON: Just coming back then, did we address then
6 the interim booking question? Did we resolve that?

7 COMMISSIONER THOMPSON: No, we didn't resolve it.

8 CHAIR JOHNSON: What --.....

9 COMMISSIONER GIARD: (Indiscernible - simultaneous speech)
10 Staff's recommendation?

11 CHAIR JOHNSON: What do you think, Kate?

12 COMMISSIONER GIARD: I think the Staff is.....

13 CHAIR JOHNSON: Depreciation expert?

14 COMMISSIONER GIARD:on board. I think they're on
15 line so I wouldn't do it. I would just eliminate it as the
16 Staff recommended.

17 CHAIR JOHNSON: Commissioner Strandberg?

18 COMMISSIONER STRANDBERG: I'm going to -- I need to do
19 some reading on this because I think we need to be responsive --
20 you know, it is going to take some time for us to do these
21 depreciation studies even under a new renewed strengthened
22 resolve for us to move them faster. And it's just not clear to
23 me that we should not allow an interim booking and I just want
24 to read, so I'm reserving judgment on that.

25 CHAIR JOHNSON: Commissioner Thompson?

1 COMMISSIONER THOMPSON: I'm with Kate.

2 CHAIR JOHNSON: Okay. I agree with Commissioner Giard
3 primarily because I trust her judgment in this area. Are there
4 further comments on this interim booking question issue?
5 Number 5, should the Commission allow utilities to implement
6 special amortization? We have choices between a RC, Rural
7 Coalition proposal and then the Staff recommendation is that we
8 not include this section. They believe it's not necessary.
9 Commissioner Giard?

10 COMMISSIONER GIARD: One of the concerns that I had in
11 this section was if we have like stranded plant or some, you
12 know, situation like that, if that would then automatically
13 fall under this special amortization. So I went with the
14 Staff's recommendation on that because I was -- we had some
15 conversations about stranded plant and I was worried about the
16 implications of that. And I just didn't know if I was dealing
17 with something that's in the same range. And what your
18 thoughts were on this?

19 MS. KENYON: I agree with your comment.

20 COMMISSIONER GIARD: (Off record comment).

21 CHAIR JOHNSON: So where does that leave us as to this
22 question number 5?

23 COMMISSIONER GIARD: Well, I would go with the Staff
24 recommendation.

25 CHAIR JOHNSON: Okay. And then I think the final issue

1 presented to us in this section is number 6, should the
2 Commission adopt a new regulation for new class of property?
3 The Rural Coalition had a proposal and then there's a Staff
4 recommendation indicating that this is not necessary.
5 Commissioner Giard?

6 COMMISSIONER GIARD: Well, on this one, Mr. Chairman, I
7 went with the RC proposal rather than the Staff simply because
8 of the new technology or something and we may want to then have
9 an opportunity to add this new class of property into the
10 existing live table, so we want an ability to make that table a
11 living document or a living table, walking, breathing thing, so
12 that's the reason I felt the RC proposal was a little more
13 forward looking. So.....

14 CHAIR JOHNSON: Comments?

15 COMMISSIONER THOMPSON: I don't understand it. I don't
16 understand what they mean by a new class of property and why it
17 would be important.

18 COMMISSIONER GIARD: Well, my interpretation of the new
19 class of property meant that there's something that is in the --
20 has something that's brand new that isn't -- doesn't fit
21 within the existing categories. I don't know what the new
22 thing is, but it would have maybe a brand new technology or a
23 brand new piece of equipment or something that we hadn't
24 considered in the tables that we're going to create. And
25 that's the only reason I felt that the RC's proposal kind of

1 encompassed what do we do in that situation.

2 COMMISSIONER THOMPSON: I don't understand how frequently
3 this happens?

4 COMMISSIONER GIARD: I think it would probably happen very
5 rarely. I mean, you know, those property categories have
6 existed for years and years and years.

7 COMMISSIONER THOMPSON: Well, what happens now when this
8 situation occurs if there's some utility plant that doesn't fit
9 into any of the categories? What do you do now?

10 MS. KENYON: Probably an example of it was when they
11 didn't have a cable category for fiber.....

12 COMMISSIONER THOMPSON: Uh-hum.

13 MS. KENYON:people were trying to figure out how we
14 treat fiber, and how.....

15 COMMISSIONER THOMPSON: Uh-hum.

16 MS. KENYON:obviously you'd have a different -- to
17 me it would be obvious you'd have -- you get a different life
18 for a fiber cable than you would for a metallic cable. And
19 what I've seen in the studies is that they can figure out how
20 much plant that they've got in each category, how much is
21 fiber, how much is cable. They can assign a life to both.
22 Figure out sort of the effective weight to give those factors,
23 then merge it into this composite rate they'd apply for the
24 full accounts. So arithmetically we do what the Rural
25 Coalition I believe -- the end result of what the Rural

1 Coalition's proposal was, but what we don't do is say they have
2 now a new line item in their uniform systems of accounts that
3 is for a particular type of plant category that didn't exist
4 before and a depreciation rate for it.

5 It wasn't so much that what they wanted was objectionable
6 as much as it's not -- we're not sure it's really necessary.

7 COMMISSIONER THOMPSON: Okay.

8 COMMISSIONER STRANDBERG: I support the Staff on this one.

9 COMMISSIONER GIARD: I'm cool. I'm fine with it.

10 CHAIR JOHNSON: Okay. I think there's support for the
11 Staff.

12 That brings us to the end of the depreciation section and
13 also pretty much noon. And I know that we have a lengthy
14 adjudication this afternoon. I think that's probably about as
15 far as you're going to be able to go today.

16 Just for the benefit of everybody, next Wednesday it's my
17 intent to work through the remaining issues and to at least
18 give Staff direction as to everything that remains either in --
19 of course, from my perspective there may be a number of cases
20 where we don't decide to do anything, but we're going to work
21 through those next Wednesday and we should be prepared --
22 there's nothing else pending that day as I understand it, so we
23 may work the morning and then take a lunch break and then come
24 back to complete that task.

25 Then on Friday there was some further conversation --

1 there is another proceeding that is scheduled to begin on
2 Friday morning, I'm talking about next Friday now, and that may
3 be somewhat lengthy. We will need to have -- we may have a
4 better indication as time goes on, but the point is that we're
5 definitely meeting in the afternoon on Friday and there may be
6 a need to slide this meeting somewhat later in the day as to
7 take final action as to the decision making in this docket. We
8 will -- I'm going to ask everybody to remain a little bit
9 flexible on that, but we'll set a time, but the time may be a
10 little bit impacted by the other proceeding that would be --
11 commence that morning, but we will come back at some time on
12 Friday afternoon to complete action on the docket, so I think
13 we've made good progress here today and I think it's important
14 for us to start a dialogue, and I think it's been a very
15 constructive dialogue. And I'd like to thank the members for
16 being patient with one another and I think we've established a
17 good record. We've avoided to many -- I don't think there have
18 been many if any circumstances where there's been simultaneous
19 inquiries or statements being made, so I think we do have a
20 good solid record.

21 I know there's a lot of work yet to be done and I know I
22 started the session here today by commending Staff, I'd like to
23 reiterate that. I think that this report is very thorough and
24 they should be congratulated for work well done. So there was
25 a great deal of work to be done, but we've come a certain

1 distance today and I'd like to thank folks. So that's the end
2 of item number 2 on our agenda.

3 Is there other business to come before the Commission here
4 today? Nothing else?

5 COMMISSIONER HARBOUR: Move adjournment.

6 CHAIR JOHNSON: Moved to adjourn.

7 COMMISSIONER THOMPSON: Second.

8 CHAIR JOHNSON: Seconded by Commissioner Thompson. Is
9 there objection? None noted. With that we are adjourned at
10 12:01. Thank you very much, Folks.

11 (Recessed - 12:02 p.m.)

12 1383

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

THAT the annexed and foregoing Public Meeting held on October 22nd, 2003, was taken by Suzan K. Olson, commencing at the hour of 9:00 o'clock a.m, at the Regulatory Commission of Alaska in Anchorage, Alaska;

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this October 24th, 2003.

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

30

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

SPECIAL PUBLIC MEETING

October 29, 2003
9:07 o'clock a.m.

TABLE OF CONTENTS

ITEM	ISSUE	PAGE
1	Public Participation	n/a
2.	R-01-2 R-02-6 R-03-3 Telecommunications Regulations	03

PROCEEDINGS

1

2 Tape 1

3 0015

4 (On record - 9:07 a.m.)

5 CHAIR JOHNSON: Good morning. It is October 29th and this
6 is the scheduled -- maybe this is a special public meeting,
7 Special Public Meeting for the Regulatory Commission of Alaska.
8 With me are Commissioners -- I'm Mark Johnson, Commissioner,
9 and with me are Commissioners Strandberg, Thompson, Harbour and
10 Giard.

11 The first item listed on our agenda is public
12 participation, are there members of the public present here
13 today that have a desire or need to address the Commission on
14 matters of interest to the Commission? If not, and hearing no
15 response, we will close the public participation segment of our
16 meeting and move to item 2 which is listed as continued
17 consideration of revisions to our telecommunications
18 regulations, specifically Docket R-03-3, but also encompassing
19 Dockets R-01-2 and R-02-6.

20 And at our last public meeting on this matter we were
21 going through a Staff options paper that is in my view quite
22 detailed and we had made some headway. The intent today is to
23 the best of our ability complete our review of that document.
24 And we have reserved another meeting on Friday for further
25 consideration of this issue. I -- once again, let's just back

1 up. The intent today is to try to make our first cut, if you
2 will, our first effort to work our way through the various
3 options that are presented in the Staff report. And then I do
4 believe it may be appropriate for obviously Staff to do some
5 consolidation of our thoughts at the end of today's meeting and
6 we will review that summary on Friday.

7 I have scheduled all day today to get through this if
8 necessary. It's my intent to have this meeting continue until
9 11:30 at which time we'll take a break for lunch and allow
10 people to regroup a little bit and we'll return here at 1:30 to
11 complete our task here today. So we had -- were proceeding on
12 an informal basis through the Staff summary previously and I'd
13 hoped that we could continue that approach, a certain amount of
14 back and forth. And we were not making motions to any great
15 extent, we were trying to address issues as best we could.

16 I had discussions with Staff yesterday, it may be
17 cumbersome and probably inefficient for us to try to recap
18 where we were at the end of the last meeting, I don't think
19 that Staff is prepared to do that. I think it would probably
20 be a little bit unfair to put them through that at this time.
21 And I'm happy -- and Commissioner Giard was involved, we had
22 considered a variety of issues and I believe at the time we
23 adjourned we had -- primarily we had worked on some local
24 market structure issues and then we -- at the very end we had
25 diverted to address some other issues relating to depreciation

1 and I, frankly, don't recall what else. But there are some
2 issues that we have addressed and some that we have not.

3 I would be interested if any Commissioners have additional
4 thoughts on how we're going to proceed today or what we think
5 might be the most efficient way to proceed?

6 COMMISSIONER STRANDBERG: I like what we were doing last
7 time and I think Commissioner Giard seemed to have her -- have
8 a good handle on just kind of moving us through. Either one of
9 us, we need to just keep moving through the issues.

10 COMMISSIONER GIARD: Commissioner Strandberg, I was just
11 giving you an example so that perhaps today you could lead.

12 CHAIR JOHNSON: Maybe I'll just start the discussion by
13 making this admission. I have been very busy over -- since we
14 last met and I'd expressed concern and my interest in
15 developing a more simplified market structure. And had some
16 productive conversations with Staff during that time.

17 And it would be my -- my first thought was that it would
18 be very desirable if we could figure out a way to eliminate the
19 dominant, non-dominant distinction in our regulations. I'm not
20 sure if that's possible and I probably moved beyond that to
21 some extent. But I know that that was probably causing a lot
22 of anxiety for Staff because it really affected the structure
23 of what we had in front of us, but I just want to clarify that,
24 that I -- it's -- I'm probably going to be abandoning that not
25 because I don't think it's a good idea, it's just that at this

1 point in time making that change may be a little bit too
2 cumbersome. Now there may be times and opportunities down the
3 road when I may take up that effort again, but I'm not going to
4 consider that matter further. So that will clarify. That's
5 not to say I'm -- and I'm -- I've been looking at existing
6 market structure rules quite a bit to try to figure out if
7 there's modifications we can make, maybe we can deal with
8 those. I am continuing to look at that, for example, I'd spent
9 sometime with Staff this morning talking about our current
10 retail tariff standards in the local markets and I may come
11 back to that, but I just wanted to -- that's just a preface
12 about what I've been doing and I'm not sure if anybody really
13 cares, but I thought that might provide a little help for
14 folks.

15 Commissioner Giard, did you have a place where you wanted
16 to start today?

17 COMMISSIONER GIARD: (Indiscernible - away from
18 microphone).....

19 CHAIR JOHNSON: You -- give us a citation and we will make
20 our move.

21 COMMISSIONER GIARD: My attempt to defer this action to
22 Commissioner Strandberg obviously didn't work. So I believe,
23 Mr. Chairman, that we moved forward from section 53.220,
24 determination of dominant status, which your comments bring us
25 back to this section again today.

1 UNIDENTIFIED VOICE: What page are you on?

2 COMMISSIONER GIARD: Sorry?

3 CHAIR JOHNSON: Probably 7.

4 COMMISSIONER GIARD: Oh, I apologize, page 7,.....

5 CHAIR JOHNSON: Page 7.

6 UNIDENTIFIED VOICE: Okay.

7 COMMISSIONER GIARD:where the Staff has given us
8 some relevant legal cites from both HB 111 and from our own
9 currently existing regs. There are several issues and options,
10 the first issue is should the Commission continue to maintain a
11 distinction between carriers based upon market dominance. If
12 the body wouldn't mind I would like the Staff to just kind of
13 talk about market dominance just a little bit, background, if
14 you don't mind, Lori?

15 MS. KENYON: It's a broad subject, is there a particular
16 area that you want me to talk about?

17 COMMISSIONER GIARD: Well, we have two options,.....

18 MS. KENYON: Uh-hum.

19 COMMISSIONER GIARD:option 2 which was GCI, ACS and
20 Staff recommendation, was maintain dominant classification in
21 noncompetitive markets and for incumbent LECs during transition
22 period to competitive market. And one of the concerns I had
23 about that was our definition of competitive market. Did we --
24 I can't remember,.....

25 MS. KENYON: I don't believe that you had finalized what

1 you believed.....

2 COMMISSIONER GIARD: Right.

3 MS. KENYON:to be a competitive market.

4 COMMISSIONER GIARD: That was my quandary, Mr. Chairman,
5 when I was looking over this particular one. And that it seems
6 like this is building like a pyramid as I was watching the
7 building of the pyramids the other night on TV, shall we just
8 move forward and have the discussion about the dominant, non-
9 dominant without knowing what we've decided for the competitive
10 market structure?

11 COMMISSIONER STRANDBERG: I think we need to move through
12 the issues, discuss them, we may have to iterate back.

13 COMMISSIONER GIARD: Okay.

14 COMMISSIONER STRANDBERG: The --.....

15 CHAIR JOHNSON: Fine. I.....

16 COMMISSIONER STRANDBERG:this is a better process.

17 COMMISSIONER GIARD: All right.

18 CHAIR JOHNSON: I anticipate doubling back.

19 COMMISSIONER GIARD: Okay.

20 CHAIR JOHNSON: I've got a -- don't be surprised if I
21 throw something else out there this afternoon.

22 COMMISSIONER GIARD: Okay.

23 MS. KENYON: Well, assuming just for rhetorical purposes
24 that our competitive service area definition is everywhere that
25 there is competition, however we all define it, then the idea

1 of having a dominant and non-dominant classification allows you
2 to provide additional scrutiny of rate increases of a carrier
3 that appears to have market power because of maybe it has many
4 of the facilities in place or it has other ways of controlling
5 the market or the rates. This would allow you -- for example
6 if a carrier came in and proposed a 25 percent rate increase
7 for a particular service that at the time that they filed the
8 tariff and if they were dominant they'd have to explain why a
9 25 percent was right by providing you actual data.

10 Now if you didn't have a dominant classification and if
11 you treated them all the same then on day one when you receive
12 that 25 percent rate increase you'd essentially have -- that's
13 all the information you'd have. You know it was a 25 percent
14 rate increase, but you really wouldn't know much about the
15 justification for why. Now you could suspend either a dominant
16 or a non-dominant filing and we do if we find that the rates
17 don't look right for whatever reason or we question them and
18 ask for further clarification.

19 The big key here as I see it is the timing and when you
20 get the information you might need to decide your position.
21 Because if you create -- if you eliminate the dominant and the
22 non-dominant carrier classes then what you -- and assuming that
23 you still ask for some tariff information and justification of
24 rates that you find unusual, assuming you all do that then you
25 have less time to evaluate a dominant carrier's -- an old

1 dominant carrier's filing because they didn't give you the
2 information that you might have needed on day one, instead you
3 have to wait the period of time to ask for it.....

4 COMMISSIONER GIARD: Right.

5 MS. KENYON:when you actually do need it.

6 COMMISSIONER GIARD: Okay.

7 MS. KENYON: That's one of the key things about the retail
8 rate side. Now also with the way we've structured our
9 regulations today dominant carrier comes with a lot of other --
10 we use dominant carrier as a flag to see whether or not they
11 have to qualify for other requirements like uniform system of
12 accounts,.....

13 COMMISSIONER GIARD: Right.

14 MS. KENYON:separations and for IXC markets, quality
15 of service. So while you could revise those regulations you --
16 that would be something -- if you decided to get rid of the
17 dominant carrier status you'd probably want to look down the
18 road to see what other changes may be needed.

19 COMMISSIONER GIARD: Okay. That's very helpful, Lori,
20 thank you.

21 COMMISSIONER HARBOUR: Commissioner Giard,.....

22 COMMISSIONER STRANDBERG: May I ask.....

23 COMMISSIONER HARBOUR:just to keep us focused too, I
24 think listening --.....

25 COURT REPORTER: I can't hear you.

1 COMMISSIONER HARBOUR: listening to the Chair's
2 comments a few minutes ago, it -- we're not, I don't believe,
3 discussing whether to eliminate dominant or non-dominant
4 categories, but how -- rather how to define market power and
5 dominant categories, right, so we could focus more on that than
6 -- on how rather than if.

7 COMMISSIONER GIARD: Do any of the Commissioners -- I'm
8 sorry, Mr. Strandberg?

9 COMMISSIONER STRANDBERG: One comment, and that is in just
10 looking at the regulations I think maybe the -- just so we're
11 all on the same sheet of music, I'm looking at 53.220(b) and
12 basically it say here until changed under (a) of this section,
13 the incumbent carrier in any service area is a dominant carrier
14 and all other local exchange carriers in that service are non-
15 dominant carriers. So I'm believing that we need to start from
16 there, potentially changing that potential regulation and then
17 moving forward.

18 And I guess I was interested in -- from Ms. Kenyon and her
19 group, if you have any recommendations on how to move forward
20 from that especially in relation to the recommendation that
21 you've made to us?

22 MS. KENYON: I can tell you that in our discussions the
23 dominant, non-dominant carrier definition is what took up most
24 of our time, it's one of the more critical pieces that you have
25 to deal with. I also want to mention -- Phil noted something

1 else, I wanted you to understand as well that if you're a
2 dominant carrier if you want a rate increase we've got 45 days
3 to look at it as opposed to a non-dominant carrier which we'd
4 have 30. So that's another key distinction in how we treat the
5 retail tariff filings.

6 As far as where you start and where you go, given how much
7 -- how key a concern this is for the panel perhaps the dominant
8 -- looking at what dominant carrier is might help you, but I
9 think you could go either way, you could either look at what
10 rules apply and then decide which ones are dominant or you
11 could decide which ones are dominant and then decide what rules
12 to apply. It's your discretion.

13 COMMISSIONER STRANDBERG: So what we're doing now is
14 determining what is dominance and what is not dominance and you
15 have an extensive recommendation on that particular point for
16 the LECs?

17 MS. KENYON: We do. And if you choose to keep a dominant,
18 non-dominant category then we propose a change in that
19 definition which would sort -- in many ways get you away from
20 market power as the key. We allow more flexibility, we allow
21 -- under our proposal I believe it's a 60 percent standard that
22 would for some of the services get you to non-dominant status
23 even though there might be a chance you may still have market
24 power if you're a carrier, but that gives you the -- the
25 carrier additional flexibility.

1 COMMISSIONER STRANDBERG: And you're proposing basically
2 an automatic trigger with option for case by case review,
3 that's.....

4 MS. KENYON: Yes.

5 COMMISSIONER STRANDBERG:your recommended approach
6 in this matter?

7 MS. KENYON: Yes, as well as carving out some services
8 where it appears that you probably should not relax the
9 dominant standard.

10 COMMISSIONER STRANDBERG: And what services -- just so we
11 can get on the same sheet, what services are those?

12 MS. KENYON: Line extensions, subdivision agreements,
13 private line services, and that's not to say that those remain
14 in the dominant category forever, but that that requires a
15 higher burden of proof in order to become non-dominant under
16 our proposal.

17 COMMISSIONER STRANDBERG: So you're taking off the table
18 -- you're proposing to take off the table the line extension
19 issue?

20 MS. KENYON: Exactly. That -- that's -- if you -- I
21 forget the exact language, but I think it's if you own many of
22 the facilities in an area then line extensions are not -- you
23 don't get the non-dominant status for line extensions.

24 UNIDENTIFIED VOICE: Oh, I thought you were looking for
25 these.....

1 MS. KENYON: Yeah.

2 UNIDENTIFIED VOICE:new services.

3 COMMISSIONER STRANDBERG: What page is that?

4 COMMISSIONER GIARD: It's on page 10 on the top,
5 Commissioner.

6 MS. KENYON: Yes.

7 COMMISSIONER STRANDBERG: Thank you.

8 MS. KENYON: Yes, and I believe the criteria is a carrier
9 that holds a facilities monopoly for the provision of local
10 exchange loops in a location and we define that as
11 dominant.....

12 COMMISSIONER STRANDBERG: Got you.

13 MS. KENYON:for those services.

14 COMMISSIONER STRANDBERG: All right. Thank you.

15 COMMISSIONER GIARD: So if the body would like we'd open
16 the discussion on item number 2 which is if the Commission
17 continues to designate dominant carriers what standard should
18 be used. There's several options that the various entities
19 brought forward, they are summarized here and option -- with
20 option 3 being summarized by the Staff. And the first part
21 under option 3 is item (a), a local exchange carrier is
22 dominant for the provision of retail service in a location,
23 talking about market share. Market share at -- that the Staff
24 recommend is 60 percent or more. If a carrier retains 60
25 percent or more and no single CLEC had obtained a market share

1 of 20 percent or more in that location as determined by the
2 Commission. Are there any Commissioner comments on item (a)
3 under option 3?

4 CHAIR JOHNSON: Commissioner Thompson.

5 COMMISSIONER THOMPSON: This has the term provision of
6 retail service, what are you including in that?

7 MS. KENYON: Pretty much everything that's a service to a
8 customer except for those services that are carved out by (c).
9 And when I say customer I mean a residential or business
10 customer as opposed to a carrier customer.

11 COMMISSIONER THOMPSON: Why did you choose to set --
12 articulate standards like this rather than as presumptions,
13 rebuttable presumptions? It seems like, you know, just
14 procedurally --.....

15 COURT REPORTER: I can't hear you.

16 COMMISSIONER THOMPSON:that procedurally there are
17 advantages to having standards identified as presumptions that
18 can be rebutted sometimes easier.

19 MS. KENYON: Oh, for example, like the other options where
20 they identify what criteria you would look at for market share
21 -- for market power, is that what you're talking about by
22 rebuttal presumptions or are you saying that we should point
23 blank just state if you are -- if you offer these services and
24 you own the monopoly facilities you're considered dominant
25 until proven otherwise? I'm not sure I know what you mean.

1 COMMISSIONER THOMPSON: I'll come back to it because I'm
2 struggling with how to change -- put the concept into language,
3 I'll come back to that.

4 COMMISSIONER GIARD: Well, it seems to me that this is
5 rather old fashioned regulation, just chatting with my
6 Commissioners in a forum and it's -- you know, there's a lot
7 that's happened in both the Anchorage markets and other
8 markets, I mean, we pretty much are at a point where it seems
9 like we could make some standards, something a little bit more
10 flexible than, you know, 60 percent. I imagine kind of proving
11 that you have a market share of 60 percent or more or that no
12 single local exchange has obtained a market share of 20 percent
13 or more, I mean, I could imagine if someone says no they only
14 have 59, no they have 60, you know, we'll be in here for four
15 months trying to decide. And if you just walk out and take a
16 deep breath you can tell that there's competition in Anchorage.

17 And, you know, market power is a pretty important
18 indication of market dominance, I just wondered if we can
19 figure something else out.

20 CHAIR JOHNSON: Yeah, if I might and in defense of the
21 Staff recommendation, they have subsection (e) which is really
22 sort of a safety valve that gives you the sort of flexibility
23 that you just described. I like the way they fashion -- I'm
24 always a little fearful when we come up with a regulation that
25 is long just in terms of length because it -- sometimes it

1 suggests complexity.

2 I'm not sure if this is necessarily a complex regulatory
3 regime to apply because I like the -- for example, the 60
4 percent trigger, if that's not a close question then it's an
5 automatic and it really relieves the Commission of that sort of
6 detailed inquiry you've described. So I might want to tweak a
7 little bit of what I see in option 3, but I think option 3 is
8 pretty well assembled. That's just my view.

9 MR. TREUER: I had one thing.

10 CHAIR JOHNSON: Sure.

11 MR. TREUER: The way -- when we were discussing these, we
12 recognized that the automatic trigger would probably almost
13 certainly in Anchorage make the dominant -- current dominant
14 carrier non-dominant on the day the regulations went into
15 effect. It probably would also work in Fairbanks and I believe
16 Juneau, I think GCI's market share in Juneau is like 19
17 percent. I don't -- although that depends on their mix of UNE
18 loops versus wholesale loops.

19 MS. KENYON: Right.

20 MR. TREUER: So we were aware that the automatic trigger
21 would kick in almost automatically. So they are in a sense old
22 fashion because they continue to use the kind of designations,
23 but they also have administrative simplicity when you actually
24 implement the regulations.

25 COMMISSIONER GIARD: But are they reactive enough to the

1 existence of real competition because there's a bridle on the
2 incumbent, you know, a saddle, weights, you know, they're in a
3 race but they're weighted down intentionally.

4 MR. TREUER: It -- I think the provision that allows an
5 incumbent to petition the Commission when there's a competitor
6 coming into the market so that they have an opportunity to show
7 that they're facing a significant competitor and on day one
8 could become non-dominant, the day that the competitor is
9 authorized to provide service or begins providing service, I
10 think that gives them a great deal of flexibility and gives the
11 Commission a great deal of flexibility to respond on a case by
12 case basis. We have -- you look at the 23 different LECs we
13 have in the state, they're all very different.

14 COMMISSIONER GIARD: Uh-hum.

15 MR. TREUER: It's going to be very hard to fashion
16 regulations, general regulations, that address every single one
17 of those markets. And I think this gives you a great deal of
18 flexibility as well.

19 COMMISSIONER STRANDBERG: I'm a little concerned about the
20 exclusions, the item (c) and basically as near as I can tell
21 the concept is that the carrier that basically has the network
22 is still going to be responsible for construction service, line
23 extensions and subdivision agreements. Those have been a hot
24 button for us. Do you think that we're really addressing
25 everything we have to address with those exclusions?

1 MS. KENYON: The -- if you're asking should we add more to
2 the list or should we take things off the list?

3 COMMISSIONER STRANDBERG: I'm just -- more than anything I
4 think I'm talking to my fellow Commissioners here as to whether
5 or not we're accomplishing the goals of the legislation by
6 those exclusions and indeed are those still the weights and the
7 shackles as Commission Giard spoke of still on the incumbent in
8 a competitive market, is it appropriate to leave those there?

9 COMMISSIONER THOMPSON: I think by looking at the list,
10 and I'd ask for confirmation from Staff, it looks like they
11 came up with those based on customer complaints that the agency
12 has dealt with over recent years. And if our goal as a
13 regulatory agency is to protect the consumers and this is --
14 these are areas where the parties have not been able to work it
15 out, there's been a failure of the competitive market to
16 address these problems even under the regulatory regime we have
17 now, it would be appropriate to continue to exercise some
18 oversight that -- I'm more concerned about how this list should
19 change, you put a list like this in regulations well, you know,
20 something else will be disputed next year, maybe some of these
21 things will be worked out and they can go off the list.

22 Might it be more appropriate to say that the Commission
23 can continue to exercise authority in areas that -- where they
24 receive a certain number of consumer complaints, maybe that's
25 not clear enough about where we could exercise authority,

1 but.....

2 COMMISSIONER STRANDBERG: I would offer -- I agree with
3 you, Commissioner Thompson, my point is though it may be that
4 those responsibilities need to be shared as opposed to
5 remaining with the incumbent under a competitive market.

6 COMMISSIONER HARBOUR: I wonder if maybe including them as
7 done -- in their own section, maybe including them under (e) as
8 examples of the discretionary judgments the Commission will
9 make on a case by case basis. Here's the thing, Commissioner
10 Strandberg, I want to ask you if -- let's take in extreme,
11 suppose that entire exclusionary paragraph were eliminated, how
12 would the Commission assure Universal Service when nobody
13 wanted to do a certain provisioning?

14 COMMISSIONER STRANDBERG: I -- you know, that is the
15 question. I mean, that, in fact, I think comes to one of the
16 major points in the difficulties in attempting to deal with a
17 competitive marketplace and that is how do we assure that the
18 customer can get served with some sort of a basic service
19 offering. We have to balance that against a apparent levying
20 of a significant responsibility on the incumbent in a -- and
21 whether or not we're actually having competitive market parity.

22 CHAIR JOHNSON: Ms. Kenyon.

23 MS. KENYON: I think that your concerns are noted, but
24 that where you need to be addressing that issue is in the
25 carrier of last resort section because what this says is

1 anybody who has the monopoly facilities, be it the dominant or
2 -- current dominant or existing non-dominant carrier, we don't
3 care. If you have -- if you're a carrier and you hold monopoly
4 facilities then you have to file rate -- rates like a dominant
5 carrier essentially. And it doesn't mean that the incumbent
6 has only the responsibility for the line extensions, those --
7 it doesn't require that it be only the incumbent.

8 COMMISSIONER STRANDBERG: Yes, and not only rates, but
9 tariffs and.....

10 MS. KENYON: Yes.

11 COMMISSIONER STRANDBERG: I take your point that these --
12 perhaps these matters do need to be addressed under the carrier
13 of last resort when we do consider the carrier of last resort
14 issues and how if we indeed do want to make those shared --
15 more shared than to lay them on the incumbent.

16 CHAIR JOHNSON: I guess what I'd like to do to try to
17 allow us to move along a little bit, I personally think that
18 option 3 is the position from which we want to start and we may
19 want to double back and have some further discussions on this.
20 Are we comfortable with option 3 what -- Commissioner Harbour?

21 COMMISSIONER HARBOUR: I'm comfortable with it, I just
22 wanted to clarify with Staff one question. For the concern in
23 which the competitive ratios are achieved of 60 percent, 20
24 percent and so forth, how does this address the situation where
25 there's an enclave that while generally in the area or --

1 there's the 60/20," in this part of that area the company with
2 market power actually has 95 percent, and then how do you --
3 being that this is a three dimensional matrix we're working
4 with, add to that the complexity of dissimilar services, it may
5 be that the 60/20 applies to lines and the other criteria you
6 mentioned, but -- is that again where (e) takes care of those
7 kind of variables?

8 MS. KENYON: Yes, (e) is where -- that gives you the
9 opportunity that if your trigger -- automatic trigger appears
10 to be premature for some areas that you could say well, you're
11 not dominant everywhere but in this location or part of a
12 location.

13 COMMISSIONER HARBOUR: So to some extent the tradeoff is
14 that while the ILEC may have reduced burdens of -- filing
15 burdens and so forth as a whole, it still may retain a burden
16 for filing for a geographical enclave or for a certain type of
17 service?

18 MS. KENYON: Only if you choose to let that happen because
19 the way this would work, let's say you had a city or a location
20 where you had one of those enclaves where someone, one carrier
21 had dominance and market power -- I mean, had market power,
22 they had 100 percent of the lines. The way this is worded in
23 option 3 the whole location becomes non-dominant for that
24 carrier once they meet that magic 60 percent, 20 percent share.
25 Only if you decide that we have a problem, we have to carve out

1 this piece, do you run into the situation that you have
2 suggested where then they have to figure out how do we apply
3 the 30 and 45 day tariff guidelines. And I grant you that may
4 be a bit confusing if there's a part of a city that's still
5 considered dominant.

6 COMMISSIONER HARBOUR: Right. No, that clarifies, I think
7 that (e) is important.

8 MS. KENYON: Yeah.

9 COMMISSIONER HARBOUR: Thanks.

10 COMMISSIONER THOMPSON: Commissioner Johnson, I appreciate
11 your suggestion that we -- although I'm not sure how this is
12 going to work, we're going -- we've got a lot on our double
13 back list, I agree that option 3 -- before we move on I --
14 there's one issue I want to raise because I think it may affect
15 the drafting coming back again which is in subsection (b) it
16 refers to lines. And again based on my technology neutral
17 stance I'm not sure lines is the right way to count customer
18 contacts.

19 MS. KENYON: Access lines?

20 COMMISSIONER THOMPSON: Well, access lines, why are we
21 using -- why don't we use customer connections or something
22 that is not -- some words that are not linked to --
23 specifically linked to a particular technology?

24 MS. KENYON: Because right now if you link it with a
25 technology then the 60 percent and the 20 percent are easily

1 identified standards. If you say by any technology then you
2 have to figure out well, how many lines are served by voice
3 over the internet, how many lines might be served by wireless,
4 and your standard is no longer clear and certain. Now granted
5 that does link it to a technology at least for this automatic
6 trigger, but I think that's not such a bad idea because it's
7 understandable.

8 If you think that a wireless carrier is to the point -- or
9 any other technology is to the point where dominance status is
10 no longer the right thing to do then you still have (e) as a
11 matter of -- way of giving the non-dominant status. So it's
12 really pretty flexible, it's just the automatic trigger which
13 is where we're trying to be the most careful as being clear as
14 to what we mean. And we do mean in this case lines, access
15 lines, I think is probably the.....

16 CHAIR JOHNSON: You know, (indiscernible) works within
17 itself, I think that we do have that relief valve though in
18 subsequent sections. And we've obviously got freedom to
19 consider a lot of stuff, but this -- you're right, it is rather
20 specific at it relates to the trigger.

21 COMMISSIONER THOMPSON: I appreciate the explanation, it
22 is clearer I'd agree, but I'm just concerned about thinking
23 ahead in a market five or 10 years from now when we may have a
24 voice over IP or some other technology that has what would
25 otherwise be considered dominant share and I suppose if that

1 occurs we have (e) available.

2 CHAIR JOHNSON: Of course the other thing that we have
3 available to us in the event of significant technology shift of
4 that nature is we have the ability to amend the regulations to
5 reflect the change.

6 (Off record comments - voices lowering)

7 COMMISSIONER GIARD: So what happens in the case of GCI
8 doing phone over cable because then you have -- that's
9 something that I keep reading in the newspaper and other places
10 that that, you know, may be on the horizon and not five or 10
11 years out, but maybe -- I don't know, I'll just make it up,
12 tomorrow. So what happens with access lines under control of
13 the carrier, I mean, that's something that -- I mean, I don't
14 know really, but it could happen. So how would we be able to
15 determine -- if they did that in Juneau or Fairbanks, somewhere
16 where there isn't as much competition?

17 MS. KENYON: Well, under provision (a) I think that once
18 GCI started providing local service over cable facilities the
19 way I understand they're going to be doing it then (a) would
20 happen faster, your automatic trigger would happen faster. As
21 far as (c) where you're saying if a carrier holds monopoly
22 facilities for the provision of local exchange loops I think
23 arguably you could say the cable facility is providing
24 competition on a facilities basis to the incumbent and then
25 you'd have -- at -- once you decided that had happened you

1 could say well, the non- -- the incumbent's no longer dominant
2 for a lot of these services that are listed in (c).

3 COMMISSIONER GIARD: So are -- you're satisfied that the
4 way that this is drafted would allow the Commission adequate
5 flexibility in the case of those type of technologies which may
6 be here tomorrow?

7 MS. KENYON: I believe it is -- yes, for all of the wire
8 based technologies which you.....

9 MR. TREUER: We're at cable modem line is considered a
10 access line.

11 MS. KENYON: No, but a cable modem line wouldn't be
12 considered an access line because that's a data service and
13 it's a interstate service, I thought that last -- but if it's a
14 local exchange cable line then I think it would be.

15 COMMISSIONER HARBOUR: So.....

16 COMMISSIONER GIARD: Does that address your concern,
17 Commissioner Thompson?

18 COMMISSIONER THOMPSON: No. It makes -- it highlights
19 what the problem might be because I think what I just heard is
20 that it's not -- those aren't access lines. I know on a local
21 exchange how you define it as a local exchange versus long
22 distance, but.....

23 COMMISSIONER GIARD: Do we need item -- subsection (b)?

24 MR. TREUER: I'm not sure that that's --

25 COMMISSIONER THOMPSON: Well, the exclusion.....

1 MR. TREUER:I necessarily agree that it wouldn't be
2 an access line.

3 COMMISSIONER STRANDBERG: I think it.....

4 MS. KENYON: Well, you should speak up then.

5 MR. TREUER: I don't necessarily agree that it wouldn't be
6 considered an access line, a cable modem line wouldn't be
7 considered.

8 COMMISSIONER STRANDBERG: I think some of this may be
9 resolved in the actual writing of the definitions, I mean, the
10 definition of market share and the definition of an access
11 line. It would seem that we would -- and maybe it's too
12 granular for right now, I mean, we need to keep talking about
13 concepts, but certainly that's something in the drafting that
14 we might be able to work with Commissioner Thompson's concerns.

15 COMMISSIONER GIARD: Any other.....

16 COMMISSIONER THOMPSON: No. Yeah, I would support some --
17 you could either do it in the definition, but it seems kind of
18 convoluted to have it -- a definition that includes lines here
19 that aren't lines somewhere else. I would suggest that you
20 just think of a new word, call it customer connections and
21 define it yourself so it can be broader.

22 COMMISSIONER HARBOUR: Yeah, Commissioner Strandberg, last
23 time I had to -- because of some other situations urged that we
24 be constructing as we go along a definitions list that needed
25 to be added and I think that goes to it and particularly if

1 we're creating new words to account for new concepts in
2 technology.....

3 COMMISSIONER STRANDBERG: Right.

4 COMMISSIONER HARBOUR:and we need to do that.

5 COMMISSIONER STRANDBERG: I would support Commissioner
6 Thompson's approach. Conceivably -- I think there's some work
7 to be done on that though.

8 COMMISSIONER GIARD: Okay. I just have one other
9 questions about holds a facilities monopoly and is Anchorage a
10 facilities based monopoly, are there other facilities based
11 competition in Anchorage?

12 MS. KENYON: It's rather limited right now. If you don't
13 -- it depends on how you define facilities based monopoly. For
14 this purpose it's the lines they actually control, it does not
15 count UNE lines and since the majority of the lines, virt- --
16 almost all of the lines in Anchorage are still owned by the
17 incumbent, they would clearly fall under (c). However once the
18 competitor started having monopoly lines, if they ever did,
19 they would also fall under (c).

20 COMMISSIONER GIARD: Are you read to move on, Mr.
21 Chairman? Five minutes ago, right?

22 CHAIR JOHNSON: No. No, I think it's -- obviously there's
23 some concerns here, it -- but may we move on?

24 COMMISSIONER GIARD: Okay.

25 COMMISSIONER THOMPSON: Sure.

1 CHAIR JOHNSON: Okay.

2 COMMISSIONER GIARD: And we're on page 11, item number 3,
3 when using access lines as a measure of a carrier's dominance
4 should the Commission also include lines sold to another LEC
5 through total service resale is the question the Staff
6 proposed.

7 COMMISSIONER THOMPSON: I would say yes.

8 COMMISSIONER GIARD: Yes is the recommendation. Does
9 anybody have any discussion points on that? Okay.

10 So we're on to section 53.230, discontinuation of service.
11 I do not believe that we addressed that before because I have
12 no notes on it, if anyone wants to correct me?

13 COMMISSIONER THOMPSON: I think we didn't.

14 COMMISSIONER GIARD: Okay.

15 CHAIR JOHNSON: It's new territory.

16 COMMISSIONER GIARD: All right. The first issue is item
17 number 1, under what conditions may a carrier discontinue and
18 abandon service. There are several options with option number
19 3 being the Staff's recommendation, I believe, correct me if
20 I'm wrong.

21 COMMISSIONER THOMPSON: And there was a new option 3 or a
22 new revision to option 3 that included one additional word, I'd
23 appreciate clarification of why you added retail to (a)?

24 MS. KENYON: I added retail because I thought for any
25 wholesale provision of service you would want more than 30 days

1 to review it. Wholesale implies the carrier has physical
2 facilities in place. Most of your non-dominant carriers --
3 existing non-dominant carriers don't own any facilities or very
4 -- you know, they may have a switch, but they don't really have
5 any transport so that just -- it would kick them into the other
6 category, but for retail they could abandon service.

7 . COMMISSIONER GIARD: I think there's also the question of
8 lines served again in this matter. If you designate a wireless
9 as an ETC, is that going to be a problem?

10 COMMISSIONER THOMPSON: Yeah.

11 COMMISSIONER GIARD: Because you're talking about a 10
12 percent market share?

13 COMMISSIONER THOMPSON: What about customers?

14 COMMISSIONER GIARD: Right. It's just something to
15 consider. Okay. Any other discussion on that item? Number 2,
16 what abandonment of service rules should apply to rate
17 deregulated carriers. Option 2 is by the staff where they
18 would like to apply the same rules as those selected in the
19 previous section. We did go over this before, I apologize.

20 COMMISSIONER THOMPSON: Uh-hum.

21 COMMISSIONER GIARD: Okay. So is there any further
22 discussion on that because I did write that we went over this
23 and we selected option or we had noted further discussion on
24 option 2. Sorry. I'll crank this little sucker down here.
25 Right. Sorry. You know what, I'll ask Commissioner Harbour if

1 I can share his? Okay. We had a big discussion on rate
2 deregulation and detariffing, so I believe that we went through
3 that section. That would be on page 19, are there any further
4 comments? '

5 We talked a great deal about rate deregulation and we were
6 concerned with the term deregulation and so Commissioner
7 Thompson made statements about detariffing. Are there any
8 questions from Staff on that particular section?

9 MS. KENYON: I'm not sure I know what you want us to do on
10 that section.

11 CHAIR JOHNSON: It -- if I might, and I have to admit at
12 the last meeting I was thinking along some different lines
13 here, but would this be -- it would be useful to me if we could
14 make an effort to recap what decisions were previously made in
15 this area.

16 COMMISSIONER GIARD: Okay.

17 CHAIR JOHNSON: And my -- I may have some -- it's -- are
18 you prepared to do that, Lori, or do you have that kind of
19 detail and.....

20 MS. KENYON: To my knowledge I don't believe you fully
21 decided this issue.

22 COMMISSIONER GIARD: No, we moved on.

23 CHAIR JOHNSON: Okay.

24 MS. KENYON: And there were a number of Commissioners that
25 were -- desiring to talk about an additional option not on the

1 list.....

2 COMMISSIONER GIARD: That's right.

3 MS. KENYON:having to do with under what conditions
4 would you detariff or deregulate a retail service. And Staff
5 has presented an option for your review though we personally
6 within the section believe that rate detariffing is probably
7 one of the more critical areas and that any checklist isn't --
8 we're not really comfortable with any checklist just because
9 it's such a critical area. We'd rather that you look at these
10 on a case by case basis as the issue comes up. And I think
11 that that's where I remembered we'd left off.

12 CHAIR JOHNSON: Commissioner Thompson.

13 COMMISSIONER THOMPSON: Yeah, as the proponent of option 4
14 I appreciate -- I worked with Staff and did some drafting, we
15 went back and forth and I'm still of a mind -- it's a different
16 -- represents a different approach. It sets standards that
17 must be positively met that are designed to reflect the
18 important -- the role that the Commission would have to protect
19 consumer interests in a competitive market. So rather than
20 stating a standard as a negative it states them in the
21 positive.

22 As soon as you meet these hurdles, these being things that
23 we think are important to protect consumers in a competitive
24 market, you can be economically deregulated.

25 (Off record comments - copies of option 4)

1 CHAIR JOHNSON: Could we -- let's go off record for just a
2 few minutes and we can get that put together and.....

3 COMMISSIONER THOMPSON: Okay.

4 CHAIR JOHNSON:we'll allow people to kind of absorb
5 the options. So let's go off record.

6 (Off record - 9:52 a.m.)

7 (On record - 10:06 a.m.)

8 CHAIR JOHNSON: We are back on record and during the
9 unscheduled break we had distributed the option 4 which --
10 Commissioner Thompson did you want to speak to option 4?

11 COMMISSIONER THOMPSON: I do. And I thought.....

12 CHAIR JOHNSON: I know I have one question, but go ahead
13 and speak to it now.....

14 COMMISSIONER THOMPSON: It had been.....

15 CHAIR JOHNSON:(indiscernible - simultaneous speech)
16 my question.

17 COMMISSIONER THOMPSON:e-mailed to everybody, I
18 apologize for people not having it here. There's one --
19 there's a couple of changes that I would make to what was
20 distributed and as I explained the process was that it was
21 edited again by Lori and she's been busy working on other
22 things and so have I so we've gone back and forth a few times,
23 but looking at it sitting here I would delete 3 -- sections 3
24 and 10 and I would change number (c) 5. The intent with that
25 was to have as a safe harbor a requirement that basic service

1 be provided at unb' dled rates at or below our rate cap by all
2 providers that would be subject to this. In other words that
3 no matter what else happened a customer would know that they
4 could at least get a basic connection. And somehow the concept
5 of basic got lost in the drafting and redrafting.

6 I recognize what that will -- including that word will
7 necessitate somewhere else a definition and I don't intend to
8 take up the group's time talking about that today, but for
9 purposes of discussion I -- if you eliminate the word the and
10 substitute basic that better reflects the concept.

11 COMMISSIONER STRANDBERG: Yeah.

12 CHAIR JOHNSON: Interestingly enough I've -- we've been
13 sort of working in parallel. I'd taken a slightly different
14 approach in terms of the drafting of this, but before we get to
15 that I guess the question that I would pose to you relative to
16 option 4 -- and I'd ask you to contrast it with option 3, I
17 believe that option 4 might unwittingly put us in a -- restrict
18 our discretion when it comes to making decisions about
19 detariffing whereas option 3 really preserves our -- the
20 latitude for the Commission to make the kind of case by case
21 inquiry that I think is most productive. Maybe you could speak
22 to that?

23 COMMISSIONER THOMPSON: I think that you've raised a good
24 concept and it does -- I think it -- option 4 provides clearer
25 standards. My concern with option 3 is it's really not a

1 decision, it says will decide when we get the case presented to
2 us which is the safest and always the way we as an agency can
3 make sure we're making the right decision on the right case,
4 but it's not helpful to industry. And I think what we heard
5 loud and clear during the last session and during the last year
6 was that there is a need for us to send -- make clearer what
7 the standards would be for loosening regulatory control of some
8 markets and option 4 is an attempt to set those standards out.
9 It's an attempt to do it in a positive fashion by focusing on
10 the issues that I think are important for us in terms of
11 regulating a competitive market.

12 So rather than looking at it easing -- as easing
13 restrictions it looks at it -- looks at the concept of
14 deregulation as once these safeguards that -- which are the
15 list of things we need to do to protect consumers are in effect
16 there is no role for us in setting rates any longer. I think
17 it's just good public policy to give people -- give industry
18 clear signals about what the standards are.

19 CHAIR JOHNSON: And I don't think we're really having a
20 sharp dispute here. I -- interestingly enough with my approach
21 and I'm -- I have it roughly drafted although it's not quite in
22 final form as yet would be to -- and it does not allow those --
23 this sort of detailed inquiry as you suggested, but allows the
24 Commission to make designations of areas where we believe
25 detariffing is appropriate. And then I've got -- interestingly

1 enough I just want to say I think -- and it's appealing to me
2 is that -- I should probably get my language in front of me.
3 It's right here.

4 Allow -- for example the approach that I have and I tried
5 to draft language that would amend 240, it would read something
6 like this follows, in service areas determined by the
7 Commission. Obviously that -- we're back to the same problem
8 where this discussion started,.....

9 COMMISSIONER THOMPSON: Uh-hum.

10 CHAIR JOHNSON:but then it would allow local
11 exchange carriers to reduce rates and offer new and prepackaged
12 services, I've rewritten existing language to some extent, upon
13 30 days notice. Excuse me, retail service without approval of
14 the Commission after 30 days notice to the Commission. So
15 that's similar to what we currently have operating in the
16 Anchorage area today.

17 But then also provide -- and here's the basic service
18 part, under this subsection a local exchange carrier in a
19 competitive service area shall maintain a current tariff
20 offering basic -- a basic service option available to all
21 retail consumers in the area consisting of those services
22 defined by the Federal Communications Commission 47 CFR
23 54.101(a), that's the.....

24 COMMISSIONER THOMPSON: Uh-hum.

25 CHAIR JOHNSON:basic offering. I do think that it

1 would be productive for us to define that -- or at least equate
2 our basic service offering to some standard that's sort of.....

3 COMMISSIONER THOMPSON: Uh-hum.

4 CHAIR JOHNSON:universal application, but -- and
5 then my approach would be that if a carrier that wanted to
6 raise rates to the basic service offering would be subject to a
7 full rate review and -- by the Commission. But that would be
8 my.....

9 COMMISSIONER THOMPSON: Uh-hum.

10 CHAIR JOHNSON:thought. And I know that's a
11 different -- somewhat different than what you've proposed,.....

12 COMMISSIONER THOMPSON: Uh-hum.

13 CHAIR JOHNSON:but I think we -- to a great I think
14 we're moving along parallel paths here.

15 COMMISSIONER THOMPSON: Uh-hum. No, I agree. And I think
16 that that concept of us just looking at the basic service rates
17 is entirely consistent with this. I like the reference --
18 cross-reference to the FCC definition as a good option for
19 defining basic service.

20 CHAIR JOHNSON: I can tell you -- I can put my language in
21 front of the Commissioners either this afternoon -- probably
22 this afternoon at 1:00 o'clock if that would help at all, but I
23 know we may be deferring an awful lot of stuff here and so I'm
24 concerned.

25 COMMISSIONER THOMPSON: Well, doing that would -- if you

1 give it to us before the break, I don't know if you're going to
2 give it to us before or after, but then we could work on maybe
3 integrating.....

4 CHAIR JOHNSON: Yeah.

5 COMMISSIONER THOMPSON:the two concepts. I'd be
6 happy to look at that because I'm going to need to edit this
7 one again anyway.

8 COMMISSIONER HARBOUR: I have a.....

9 CHAIR JOHNSON: Commissioner Harbour.

10 COMMISSIONER HARBOUR: Under option 4 under the main
11 sentence (a) we say that we may allow detariffing when the
12 following conditions are satisfied. And I also like (b) later
13 on which is the (e) of this section,.....

14 COMMISSIONER THOMPSON: Uh-hum.

15 COMMISSIONER HARBOUR:not withstanding rate
16 deregulation will allow. So we do have some discretion, but
17 I'm wondering if a company comes to us and has -- and feels
18 that it's -- believes that it's satisfied all of these
19 conditions -- and it looks like an intimidating list although
20 going through it it looks like, on analysis, factors all of
21 which would logically have to be resolved anyhow. But what if
22 one of them were arguable, I mean, of course all of them are
23 arguable, but look at number 7. Let's say in good faith the
24 applicant has done everything but it could be argued that a
25 significant number -- whatever.....

1 COMMISSIONER THOMPSON: Uh-hum.

2 COMMISSIONER HARBOUR:someone can successfully argue
3 is significant has occurred within two years. So the whole
4 detariffing result is delayed because it's arguable that the
5 company had a significant number of complaints sometime during
6 the last two years. So what occurred to me is rather than
7 using the word satisfied under (a) above, substitute with the
8 words appropriately addressed because it's somewhat subject to
9 judgment all the way through anyhow and I don't believe that
10 appropriately addressed makes it any -- it still provides the
11 guidelines and the signals, the measurements to the industry
12 that you had wanted, but it doesn't say with the -- but with
13 the word satisfied it looks as though all of those must be
14 without exception carried out just the way we're.....

15 COMMISSIONER THOMPSON: Well, subsection (b) takes care of
16 that issue which is notwithstanding (a) we can deregulate when
17 it's deemed in the public interest. Appropriately addressed
18 weakens the list, it says we just have to talk about them, you
19 don't have to meet the things on the list. I think it's
20 important for us to send a signal that these are the things
21 that's important to us that you do if you're going to operate
22 in a regulated environment because these are the things we need
23 in place to make sure that your customers are protected.

24 COMMISSIONER HARBOUR: Well, I.....

25 COMMISSIONER THOMPSON: I appreciate the concern, you're

1 right, but that's what the first sentence of (b) is meant to
2 address. And I agree -- it's with clenched teeth that I have
3 significant number in there because it violates one of my
4 general principles which is don't put in standards that are
5 meaningless. But it's hard to say in struggling with that what
6 -- because it's a relative concept, it's -- it may be
7 significant, two complaints may be significant or 200 may not
8 depending on what the context is.

9 So I decided we -- I have to leave with significant even
10 though it's ambiguous because I can't define it meaningfully in
11 here.

12 COMMISSIONER STRANDBERG: I guess I have one question and
13 that is as the additional obligations we've got the basic
14 service offering, I believe that you were talking about
15 potentially putting that obligation in under subsection (c).

16 COMMISSIONER THOMPSON: Uh-hum.

17 COMMISSIONER STRANDBERG: And then what about the carrier
18 of last resort responsibilities, are we feeling that those are
19 adequately addressed by that being a condition for detariffing
20 because we have the carrier of last resort listed in item (a) 8
21 as opposed to having an actual requirement that exists?

22 COMMISSIONER THOMPSON: Well, it doesn't have -- my
23 concept of it was it doesn't have to be by the carrier that's
24 -- I mean, as long as there is somebody providing the service
25 in the area there's a carrier of last resort. Again that's to

1 make sure if -- that everybody gets service. Or are you trying
2 to highlight that that -- even somebody designated as a carrier
3 of last resort may be inconsistent? I suppose it depends on
4 how you -- what responsibilities you attribute to that carrier.
5 And those are things we have yet to discuss.

6 The other way that this interrelates with the other
7 discussions is in section 5, because the standard of 40 percent
8 may well need to change depending on what we do with the
9 dominant, non-dominant definition.

10 COMMISSIONER STRANDBERG: And then I guess the other
11 question was the item 6, that no subsidies are flowing,
12 basically that takes -- that would take out -- off the --
13 wouldn't that take off the table Fairbanks? Basically this
14 would pretty much regulate this whole thing to the Anchorage
15 wouldn't it?

16 COMMISSIONER THOMPSON: Yes, and that is in some ways
17 unfortunate, but I think it's necessary. Lori and I struggled
18 with this and couldn't think of -- I couldn't think of another
19 way out of it. The reason for that is that we have a
20 responsibility as a state commission to certify appropriate use
21 of federal Universal Service Funds and I don't know how we can
22 fulfill that responsibility if we don't have some idea about
23 how the costs are -- how they're using the revenues they are
24 receiving to cover cost. So.....

25 COMMISSIONER STRANDBERG: But.....

1 COMMISSIONER THOMPSON: yes, it would effectively
2 exclude, but again those may not be markets that are -- the
3 markets who -- that currently receive Universal service support
4 may or may not continue in the future based on changes in the
5 program. This is designed to operate under whatever system
6 exists.

7 COMMISSIONER STRANDBERG: So you're saying that you two
8 thought about that and you don't find any way that we can, you
9 know, certify that the funds are being used correctly if
10 detariffing has occurred?

11 COMMISSIONER THOMPSON: I don't want to speak for Lori,
12 she's very.....

13 COMMISSIONER STRANDBERG: Maybe we can ask Lori?

14 MS. KENYON: I guess in my personal opinion you should not
15 give up control over how funds are spent in any way, shape or
16 form. And by detariffing essentially you would lose the
17 ability to determine how those funds were used to reduce local
18 rates it at all at least for the incumbent. And I believe that
19 it's in the best interest of the public for you to control and
20 understand how those funds are used to the extent you can
21 legally.

22 COMMISSIONER STRANDBERG: But there's no way to legally
23 ascertain that the funds are used in accordance with USF rules
24 unless we have the right to evaluate tariffs from a cost basis,
25 I guess is basically what we're saying?

1 MS. KENYON: I'm not a lawyer so I can't tell you what's
2 necessarily legal. Certainly you certify annually that GCI is
3 providing service in accordance with the appropriate
4 regulations that say you.....

5 COMMISSIONER THOMPSON: Uh-hum.

6 MS. KENYON:have to use funds appropriately.....

7 COMMISSIONER THOMPSON: That's true.

8 COMMISSIONER GIARD: Right.

9 COMMISSIONER STRANDBERG: That's my point.

10 COMMISSIONER THOMPSON: Okay.

11 MS. KENYON:and you do not regulate them in a
12 revenue requirement setting like you would for -- in a monopoly
13 carrier.

14 COMMISSIONER STRANDBERG: Right.

15 MS. KENYON: But there is an additional -- part of what
16 rationale you've used in GCI's case is that GCI's rates were
17 below the incumbent's and that was sufficient rationale for you
18 to be able to say that they appear to be -- they swore they
19 were going to do it right, their rates appear to be in line, we
20 find that they are acceptably using the funds.

21 If you then detariff all the carriers then you have no way
22 of asserting to the FCC that we know that they're using the
23 funds properly. And, in fact, your obligations to do so may
24 lapse under federal rules because under federal rules if you do
25 not have tariffing authority it could be questioned that they

1 wouldn't even file a certification with you because rate --
2 pardon me, deregulated carriers certify to the FCC on how they
3 use funds, not to the state.

4 COMMISSIONER STRANDBERG: And we've been through this on a
5 number of occasions and I don't want to get hung up on this,
6 but I'd suggest that we do a little work on that particular
7 part of it because I would personally like to make sure that
8 this does not just focus on Anchorage, that it would be an
9 enduring product for the rest of the state.

10 MS. KENYON: Excuse me, I'm not sure I heard you.

11 COMMISSIONER STRANDBERG: I'm saying that it seems to me
12 that by putting 6 in here we are pretty much only allowing this
13 to really apply to the Anchorage area which is really the only
14 competitive areas here where there are not subsidies flowing.

15 MS. KENYON: Under (b) you could change that, but you're
16 correct, the automatic -- I'm not sure if automatic trigger is
17 the appropriate term here, but these checklists certainly would
18 appear to make Anchorage different from the other areas because
19 Anchorage doesn't -- I guess -- you might want to qualify 6 if
20 you continue here to say loop support because they may get some
21 other supports that are used to reduce interstate services and
22 we wouldn't be interested in restricting those because we have
23 no authority there.

24 COMMISSIONER STRANDBERG: And one last question, would it
25 be possible for us to include a section in here to require that

1 notwithstanding the fact that we're detariffing the carrier's
2 still required to live up to USF rules and, in fact, to
3 certify with us each year that they are, in fact, using
4 those funds correctly?

5 MS. KENYON: But it gets into -- for me it would be
6 confusing because the federal rules say that if you don't
7 regulate them they follow the federal rules that say you
8 certify with the feds. Now you've actually done that with
9 Alaska Digital though, you said as a condition of ETC status
10 they have to certify with you and that would be an area where
11 you have authority, but I'm not sure how much -- where you --
12 if you really get where you need to go by just having that one
13 -- what you just proposed at least in my opinion.

14 COMMISSIONER GIARD: Lori, is there a big difference
15 between having them certify with the feds versus certifying
16 with us?

17 2700

18 (Tape change)

19 Tape 2

20 0015

21 MS. KENYON: Yes. The feds essentially -- they send a
22 letter that says I use the funds properly and they get
23 automatic authorization for -- I mean they fulfill their
24 responsibility by sending the letter that simply says yes, I
25 did it right. If you -- if they certify with you then your

1 standards are whatever you wish them to be. You could say you
2 got to show to us a construction plan, if that's something
3 you'd like to see. You got to show us that your rate of return
4 is in order if that's something that you -- for carriers that
5 do rate of return. You have a lot more control if it's -- if
6 you define the rules.

7 . COMMISSIONER GIARD: So is there a way that we can do, you
8 know, as Ronald Reagan famously said, trust but verify? I mean
9 is there some way that we could, you know, have the option,
10 obligation if we're concerned, to audit at the entity's cost or
11 -- I mean it seems like if we take the entire rest of the state
12 out of this other than Anchorage, don't know that we've really
13 achieved as much as we possibly could in this regulation. So I
14 was wondering if -- because I don't know a whole lot about this
15 particular area, if there wasn't some way that we could, you
16 know, trust but verify.

17 MS. KENYON: Well, let's say you verified and you found
18 out that you think their rates should be 10 percent lower than
19 what they are. Pick your carrier.....

20 COMMISSIONER GIARD: Our rates should be 10 -- I'm only
21 concerned about the Universal Service, right?

22 MS. KENYON: Well, let's say that you found from your
23 investigation that the Universal Service Funds were not used
24 appropriately and as a result of that investigation you believe
25 the rate should be lower. If you've detariffed there's nothing

1 you can do about it.

2 COMMISSIONER GIARD: Other than send.....

3 MS. KENYON: At least seems.....

4 COMMISSIONER GIARD:a letter to the Universal
5 Service Fund and let them know that we're very concerned.

6 MS. KENYON: Well, there is -- that is your main hammer.
7 You could withdraw ETC status if you don't think that they're
8 using the funds appropriately. Politically that's -- you have
9 to have fairly strong grounds.....

10 COMMISSIONER GIARD: This is a body who doesn't care about
11 politics.

12 MS. KENYON: The -- to address your other concern,
13 Provision B under option 4 would give you the authority to
14 deregulate any service anywhere. Matter of fact, you have that
15 authority now and the Commissioner has exercised it in the past
16 for things like voice mail.

17 COMMISSIONER GIARD: Um-hum.

18 MS. KENYON: So this doesn't really prevent you from
19 detariffing other services as you see fit. What we're -- what
20 this is about is under what conditions are you pretty much
21 guaranteeing you're going to detariff if they meet the laundry
22 list. And that's why it's so critical that it be -- it may be
23 better to be more conservative rather than less conservative in
24 this instance.

25 COMMISSIONER GIARD: Any other discussion issue on this

1 particular section? So Mr. Chairman?

2 CHAIR JOHNSON: I think that this is -- since this is
3 essential we need to make sure amongst all of us which of these
4 options -- do we like option 4 or do we -- where are we on this
5 one? I just think that we probably got to the point where we
6 need to make some decisions here to put those pieces of the
7 pyramid into place. Thoughts on this?

8 COMMISSIONER STRANDBERG: Well, I do think I need to think
9 about it more but I greatly appreciate Commissioner Thompson's
10 efforts on this. And I think this is a good approach. I feel
11 that we need some more work on this item 6 with this subsidy
12 issue and I think that it's a pretty deep subject. There's
13 been a lot of comments on what it takes to certificate funds
14 here on a number of dockets here. Indeed some of us have felt
15 that we need to look at rate of return, make sure that the
16 rates are not too high. But there's been different positions
17 stated, specifically that the Universal Service Funds are a
18 revenue offset, so there's a number of different ways to look
19 at this. And so I would just say I generally support the
20 concept. I'd like to find a way that we don't have to relegate
21 these conditions just to the Anchorage market.

22 CHAIR JOHNSON: Additional comments as to option 4?

23 COMMISSIONER THOMPSON: I'll rework this and give you a
24 new version after lunch.

25 CHAIR JOHNSON: I guess my comment is I would like to tie

1 it specifically to the Universal Service definition, the basic
2 option. The other thing that I find interesting, of course, is
3 that my efforts actually would result in a higher level of
4 regulation than the way you had proposed.

5 COMMISSIONER THOMPSON: Um-hum.

6 CHAIR JOHNSON: I would propose to continue to regulate
7 that -- the price of that basic service offering whereas you
8 would set a rate cap.

9 COMMISSIONER THOMPSON: Um-hum.

10 CHAIR JOHNSON: But with that -- and I'm -- I guess I'm
11 concerned that -- I want to spend a little bit more time with
12 the factors that you've listed, but by and large with, you
13 know, the change that I've identified I think it -- I'm pretty
14 comfortable with it.

15 COMMISSIONER THOMPSON: Okay.

16 CHAIR JOHNSON: So with that I think we have something --
17 Mr. Gazaway, did you have something to offer?

18 MR. GAZAWAY: Well, there was an issue you might want to
19 consider is what access to their cost supporting information
20 are you going to have even under detariff's environment if you
21 request it?

22 COMMISSIONER THOMPSON: What do we need it for?

23 MR. GAZAWAY: Well, there's -- ACS's proposal was that you
24 would be able to investigate below cost pricing and what-not,
25 and without access to cost supporting information I don't see

1 how you can have any level of review of their rate.

2 CHAIR JOHNSON: You know supported by the Johnson Plan?

3 COMMISSION THOMPSON: Well, I don't understand why you
4 would be investigating below cost pricing?

5 MR. GAZAWAY: Well, there's other issues involved too. I
6 mean do you want to look at whether they're cross subsidizing
7 or are there any kind of review you want to have? If you do
8 you probably need to reserve some sort of writing or
9 regulations to be clear on that.

10 COMMISSIONER THOMPSON: Um-hum. I think the only thing --
11 sounds like the only thing we care about, and I don't -- if I'm
12 misstating what I think I'm hearing from colleagues, I'm sorry,
13 correct me, but I think it's the basic service and the cost of
14 those that we're concerned about. And you're right, if you're
15 only looking at costs of one service you have -- you don't
16 really know affectively that it's being priced correctly. But
17 I think that's a leap we're willing to make.

18 CHAIR JOHNSON: If I may -- might point out, in the
19 proposal that I have that you now have, I would retain a
20 paragraph -- kind of a clean up paragraph right here.....

21 COMMISSIONER THOMPSON: Um-hum.

22 CHAIR JOHNSON:that allows the Commission to
23 investigate circumstances where there's unfair pricing, that
24 sort of thing. It's a predatory kind of environment. I think
25 that's merited in existing regulation now.