

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 80/2

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1 COMMISSIONER THOMPSON: Um-hum.

2 CHAIR JOHNSON: But if we retain that authority, would
3 that solve the problem that you've led to, Mr. Gazaway?

4 MR. GAZAWAY: It would give you a little more leeway as
5 far as what you could investigate. I think another issue you
6 might want to raise too is if you allow them to detariff, you
7 currently have what they call a filed tariff doctrine that
8 allows them to cover their liability.....

9 COMMISSIONER THOMPSON: Um-hum.

10 MR. GAZAWAY:against consumers. If you detariff you
11 probably will no longer have that. They will no longer have
12 that protection, plus you have the question of how they
13 implement their customer contracts if there's no longer a
14 tariff to follow. Will they do a standardized individual
15 contract? I mean there's issues related to a detariffing
16 proposal that aren't really necessarily addressed in what we
17 have in front of us. I mean because they haven't been raised
18 essentially by you.

19 COMMISSIONER THOMPSON: I'm aware of the filed rate
20 doctrine and I think that's something that we will undoubtedly
21 get comments on from the parties.....

22 CHAIR JOHNSON: Sure.

23 COMMISSIONER THOMPSON:when they're released. But
24 that's something that impacts them rather than us. I think
25 that they're the ones who are going to speak up about that.

1 The question for them is really what do you want? If you can't
2 have both, if it -- this current regime offers some protection,
3 is it more important to you to be able to price your services
4 to customers without oversight from this Commission than it is
5 to have whatever protection the filed rate doctrine offers you
6 from liability?

7 MR. GAZAWAY: I guess my other question would be what is
8 their redress? Is it necessarily in front of the Commission or
9 is it also in front of the courts through a contractual theory?

10 CHAIR JOHNSON: Is that something you want to address in
11 your regulations or you want to leave.....

12 MR. GAZAWAY: That's silent.

13 COMMISSIONER THOMPSON: You mean if the terms of the
14 contract is violated?

15 MR. GAZAWAY: If a customer is not pleased with service
16 and feels that they were inappropriately charged, do they need
17 to come to the Commission or can they go straight to the courts
18 under a breach of contract theory?

19 CHAIR JOHNSON: Yeah, I can see where it might be useful
20 for us to clarify that point. Because if we're detariffing
21 we're saying that we don't want to look at it on the one hand,
22 and so I -- I think it might be necessary to at least provide
23 some guidance on that point. Thanks.

24 COMMISSIONER HARBOUR: Well, Mr. Chairman, I think that's
25 what this is all about, is detariffing involves the giving up

1 of control. And you either give it up or you don't give it up.

2 CHAIR JOHNSON: Yeah.

3 COMMISSICNER HARBOUR: What's you're suggesting is a
4 middle ground where you give it up and keep the option in the
5 case of flagrant abuse or.....

6 CHAIR JOHNSON: Well, it relates more specifically to the
7 remedies though that the parties would pursue, and I think it's
8 actually for the narrow legal point. I don't think it's -- but
9 I -- we can have a broader discussion about this. I don't know
10 about that but we can have a broader discussion about that.

11 MR. GAZAWAY: If I could, I guess the point I was trying
12 to make was that this may be somewhat clear to the carriers but
13 how are you going to make it clear to the consumers as far as
14 what their rights and what their means of redress are?

15 CHAIR JOHNSON: Anyway, thank you, Mr. Gazaway. Thank
16 you.

17 MS. KENYON: Can I just raise one issue.....

18 CHAIR JOHNSON: Ms. Kenyon?

19 MS. KENYON:before you go, on this. The carriers
20 that are in the market will be using wholesale rates, at least
21 in part to provide competitive services. And those wholesale
22 rates are based on the retail tariff as it exists today. If
23 you detariff I think that that raises wholesale issues that you
24 should at least be aware of before you go down that road.

25 COMMISSIONER THOMPSON: Um-hum.

1 MS. KENYON: I mean one of the services that we do offer
2 by continuing to review the tariffs would be that we could look
3 at terms and conditions of service that may be anti competitive
4 to the wholesale service provider even though it's a retail
5 service that we're talking about. And you have a 72 hour
6 turnover before they have changes that go into effect under
7 this proposal. That may or may not be adequate time for the
8 wholesale provider to take into consideration what they need to
9 do. I guess if you have the tariff on line and you make sure
10 that all of the service offerings are on line, that may satisfy
11 the first concern about how does the carrier -- the wholesale
12 buyer know what the retail tariff is so that they can get the
13 deals they're supposed to get under your connection
14 arrangements. You know.....

15 COMMISSIONER HARBOUR: Mr. Chairman.....

16 CHAIR JOHNSON: Commissioner Harbour?

17 COMMISSIONER HARBOUR:I would challenge staff to
18 kind of keep an eye out for us on their nexus between various
19 of these sections, carrier of last resort provision and all
20 that kind of stuff. And while our overall effort is to assure
21 fairness in the market place, to identify a competitive market
22 place and to apply appropriate rules that are consistent with
23 the goals of the '96 Act, we want to make sure -- I'm speaking
24 for myself, that one of the results is not a little trap that
25 causes us to reverse the intent of the '96 Act and put us right

1 back where we were, and over night have some kind of a trigger.
2 Reverse what we're -- what our intent is. So I appreciate your
3 comments.

4 MS. KENYON: Thanks.

5 CHAIR JOHNSON: Commissioner Thompson?

6 COMMISSIONER THOMPSON: I'll be quick, I promise. You're
7 correct. And the wholesale rates are what I thought about when
8 I was drafting this but I ultimately concluded that there may
9 be more than one way to set wholesale rates. You're correct
10 that under the current way where they're offered as a
11 percentage discount off of retail, there would be implications
12 in this proposal for wholesale rates. But that may not be the
13 only way to set those rates. And we could talk about that
14 another day.

15 COMMISSIONER HARBOUR: Let's do.

16 CHAIR JOHNSON: Are there additional comments as to option
17 four and its implications? With that I think we'll move on.

18 COMMISSIONER GIARD: Okay. That would be item number 2 in
19 the section on page 22. Should there be parity in the
20 treatment of old carriers in competitive markets? Staff
21 recommend option two which is complete parity of regulation for
22 all carriers is not in the public interest at this time. Is
23 there Commissioner discussion on this particular item?

24 CHAIR JOHNSON: Well.....

25 COMMISSIONER GIARD: There's option one which is treat all

1 carriers in the market the same.

2 CHAIR JOHNSON: Actually I think option -- I would propose
3 option 3 because I really think -- personally I think that
4 option 2 makes the wrong statement. Option 2 would be a -- if
5 we were to adopt that, would be an affirmative statement by
6 this Commission that we were not concerned about parity, but I
7 think that's, in my estimation, the ultimate goal. Now we may
8 not be able to go to the ultimate goal today, but I'll -- I'm
9 not inclined to just reject that out of hand. So I don't like
10 option 2 the way it's proposed. If we're going to pass on
11 making an explicit determination as to parity of service, or
12 parity of regulation I think we just need to be silent.

13 COMMISSIONER THOMPSON: Or -- I would say it somewhat
14 differently and I think I'm agreeing with you. I know I'm
15 agreeing with you, that it sends the wrong message. Again to
16 finding a positively. Say there shall be parity except with
17 regard to things like designation of carrier of the last resort
18 and come up with a list of things that we are going to continue
19 to treat carriers somewhat inequitably on. If we decide we
20 have a carrier of last resort policy, obviously that's
21 something that's going to apply to one carrier and not the
22 other. So rather than saying no, they're not -- they're still
23 not equal, define how they are unequal and think carefully
24 about what goes on the list to make sure we've got all the
25 important policy concerns addressed.

1 COMMISSIONER HARBOUR: Commission Thompson, aren't all of
2 those that you referred to the ways in which there would not be
3 parity, wouldn't virtually all of those be the result of
4 federal mandate?

5 COMMISSIONER THOMPSON: No. Carrier of last resort is a
6 state policy.

7 COMMISSIONER STRANDBERG: Well, my thought is that just by
8 the nature of the beast where we have an investment intensive
9 network here, we're not going to be able to treat everybody the
10 same because one of them owns the network and the other people
11 are using the network with them. So I think where I'm coming
12 from on this is we're not going to be able to treat them the
13 same but we're going to have to establish some degree of
14 equivalence so that these people have somewhat the same
15 competitive footings where we possibly can. I think that's
16 perhaps the approach we need to take, and probably have to pass
17 on this and then where the actual work is is in some of these
18 other areas such as carrier of last resort, line extension,
19 some of these other things that we're going to push hard to see
20 if we can find solutions on.

21 COMMISSIONER HARBOUR: I have a more clear thought on
22 that. What we're trying to do is achieve parity except where
23 federal or state statutes dictate a particular approach.

24 COMMISSIONER THOMPSON: The right concept but it's not
25 statutes in some cases the carrier of last resort policy. Some

1 of the things are going to be in the regulations. And -- but
2 the idea is where there's an important public policy, that
3 would dictate otherwise.

4 COMMISSIONER GIARD: Mr. Chairman, we have HB-111, policy
5 6, which is a pretty strong directive to the Commission, I
6 think. It's not -- it tells us what the legislative intent
7 was, which says, you know, upon application for a certificate,
8 in areas where the Commission has determined there's -- it
9 seems somewhat immediate parity. I'm concerned that.....

10 CHAIR JOHNSON: I'm not seeing the word parity in
11 legislative -- in the.....

12 COMMISSIONER GIARD: Well, it's not in there but it's
13 the.....

14 CHAIR JOHNSON: Right.

15 COMMISSIONER HARBOUR: Same tariff and standards.

16 CHAIR JOHNSON: In my estimation what we are addressing
17 alleged policy 6 as to the specifics and we're not making a
18 general statement as to parity. But.....

19 COMMISSIONER GIARD: Okay.

20 CHAIR JOHNSON: I think we're actually doing a better job
21 than what this whole issue number 2. As my staff suggests, I
22 just don't think we have to go there.

23 COMMISSIONER GIARD: Okay. So I'm going to write we're
24 going to come back to this section.....

25 CHAIR JOHNSON: Well, I just think.....

1 COMMISSIONER GIARD:is that correct?

2 CHAIR JOHNSON: I don't think there's a whole lot to come
3 back to other than the fact we need to fix it if we are going
4 to adopt anything. It's just that we acknowledge that it's a
5 desirable goal.

6 COMMISSIONER GIARD: Okay. Okay.

7 CHAIR JOHNSON: And, you know, from my standpoint I think
8 we're making some pretty strong statements in terms of
9 achieving that goal. But.....

10 COMMISSIONER GIARD: Shall we move on then, with your
11 permission, to page 24, continued retail rate regulation of
12 some kind. Item number 1 -- I'm sorry, I'll do this. Item
13 number 1, should the dominant carrier retail rate standards be
14 relaxed in competitive markets?

15 CHAIR JOHNSON: You know, if I might, I spent a lot of
16 time going through these options here and I really think that
17 there's a substantial melding, if you will, or merger or
18 relationship between the proposal that Commissioner Thompson
19 proposed, the detariffing here. I think if you go with option
20 4 the necessity of addressing the options under this section
21 are -- is substantially reduced. But that's just my take on
22 it. I would ask other folks if they would reflect on that.
23 Reflect on the fact if we go with an option 4 as to
24 detariffing, what does that do to the options under this
25 section? For me, at least a substantially -- I'd sure like

1 somebody to correct me if that's wrong.

2 COMMISSIONER GIARD: I thought it went back to whether we
3 have a dominant carrier or not.

4 COMMISSIONER THOMPSON: Um-hum. It would be helpful to me
5 to have staff talk about the differences as you see them
6 between 2 and 4.

7 MS. KENYON: I'm not sure what you mean by 2 and 4. You
8 mean option 4.....

9 COMMISSIONER THOMPSON: Yes.

10 MS. KENYON:from the previous section for
11 detariffing? And option 2 here?

12 COMMISSIONER THOMPSON: No. I was talking about options 2
13 and 4 here, this section.

14 MS. KENYON: Okay. All right. Option 2, apply the status
15 quo to competitive areas means you would retain a dominant
16 carrier standard. And you would have the anticipation that
17 there may be a dominant carrier in the market. Option 4 says
18 you keep the regulation there but for whatever circumstances
19 may exist you really don't have a dominant carrier any more.
20 Either you've declared them all to be non-dominant or by effect
21 of regulation they're all non-dominant.

22 COMMISSIONER GIARD: There seemed to be a lot of
23 discussion in the hearing that we had about, you know,
24 shortening it up, and there was the seven day proposal and then
25 there was discussion by the parties and we talked about some of

1 the wholesale issues and seemed like the incumbent wanted --
2 Anchorage incumbent wanted seven days and there was 30 days. I
3 wondered if you guys had thought about, you know, coming to
4 something like 15 days or two weeks, or some shorter period of
5 time than 30 days?

6 MS. KENYON: Yes. And if I wouldn't mind, Phil has
7 brought to my attention, I probably didn't answer the previous
8 question correctly. I'd rather.....

9 COMMISSIONER GIARD: Oh, I'm sorry. Sure.

10 MS. KENYON:get that fixed and then go towards
11 yours. Option 4, they totally eliminated what were dominant.
12 It's the Rural Coalition's proposal. So in effect you wouldn't
13 have -- all of the carriers would provide -- would be under the
14 non-dominant provision. Option 2 has the understanding you may
15 have an dominant carrier. Regarding the time, 15 versus 30
16 versus 2, given the number of tariffs that we get today, we get
17 quite a number. If you want us to review them in any way,
18 shape or form, and you want opportunity for public comment and
19 to consider that public comment before you let something go
20 into effect, you pretty much need 30 days. We're at the -- in
21 my opinion, at the bottom of the -- as low as we can go on
22 that.

23 MR. TREUER: May I.....

24 COMMISSIONER GIARD: Sure.

25 MR. TREUER: Just one thing. If you're talking about a

1 carrier with a rate -- proposing a rate increase, if you want
2 customers to have the opportunity to switch carriers, you
3 really need 30 days to give them the full amount of time to
4 switch.

5 COMMISSIONER THOMPSON: To go back to Mark's original
6 question, I think that if -- depending on how option 4 that we
7 discussed previously comes out. You may not -- I mean it would
8 impact how this is drafted and even the necessity for it
9 perhaps.

10 COMMISSIONER GIARD: Okay.

11 CHAIR JOHNSON: As in it may not be necessary?

12 COMMISSIONER THOMPSON: Um-hum.

13 CHAIR JOHNSON: Yeah.

14 COMMISSIONER GIARD: Well, it'd be necessary for the rural
15 areas perhaps but not Anchorage. So.....

16 COMMISSIONER THOMPSON: Well, depends on how you -- what
17 kind of definitions you end up with.

18 COMMISSIONER GIARD: Under option 4? Because it looks
19 like under option 4.....

20 COMMISSIONER THOMPSON: Well, I think option 4, what you'd
21 have are markets that are not competitive at all and maybe this
22 would otherwise be necessary for sort of the intermediate
23 markets where there's some -- depending on how you define
24 dominant, non-dominant or competitive service areas, or maybe
25 markets where there's not -- they don't meet the standards in

1 the option 4 that we were discussing a few minutes ago, but
2 there is some competition and you want to have some different
3 degree of regulation in those markets.

4 COMMISSIONER GIARD: Okay. I'm comfortable with the 30
5 days because I think that we're going to address the
6 Anchorage.....

7 COMMISSIONER THOMPSON: We're going to address the
8 Anchorage market and -- earlier in the proceeding. I wasn't
9 thinking about that sort of thing.

10 COMMISSIONER GIARD: Okay.

11 COMMISSIONER HARBOUR: Mr. Chairman?

12 CHAIR JOHNSON: Commissioner Harbour?

13 COMMISSIONER HARBOUR: Maybe I'm wrong, but I think the
14 testimony reflected more a sense of the parties that there be
15 an equal time period than it be a specific time period.
16 Although some certainly advocated seven days, 30 days, 15 days,
17 but there seemed to be more of a concern that it be the same.

18 CHAIR JOHNSON: Ms. Kenyon?

19 MS. KENYON: There was a lot of concern about parity in
20 the regulations. And it goes back to who we decide is dominant
21 and who isn't. Because if they're all non-dominant for a
22 service then they all have the same time period. But if you
23 believe that a carrier is dominant for a service you might want
24 to have a different time period because that gives you more
25 time to think about it before you let the filing go into

1 effect, and it can't automatically go into effect by accident.

2 CHAIR JOHNSON: Oh.

3 MS. KENYON: At least there's -- I shouldn't say can't,
4 but there's less opportunity for that.

5 CHAIR JOHNSON: In addition, the differences in the time
6 periods also is -- perhaps a necessity because it allows our
7 staff more time to review a much more detailed filing in
8 connection with a dominant carrier's change, is that correct?

9 MS. KENYON: That is correct.

10 CHAIR JOHNSON: Yeah. There's more review.

11 COMMISSIONER GIARD: There's less work because we're going
12 right to the end of it.

13 CHAIR JOHNSON: In some markets. Maybe. Actually we're
14 going to be -- anyway, it's.....

15 MS. KENYON: It's the ones that are the most complex that
16 take up most of our time. There's dozens of tariffs that go
17 into effect automatically. Dozens is probably an
18 understatement -- that go into effect automatically without
19 much of our review or attention. But it's that one out of a
20 few that you get that you have to ask questions about because
21 there's -- either the tariff isn't clear or there may be anti-
22 competitive effects or discrimination issues. Those may still
23 be here. So.....

24 CHAIR JOHNSON: Yeah.

25 COMMISSIONER GIARD: Probably will.

1 CHAIR JOHNSON: Comments on this?

2 COMMISSIONER STRANDBERG: So I understand you, your
3 position is -- I think you're saying the dominant/non-dominant
4 distinction is still quite valuable and you need 30 days.

5 MS. KENYON: Yes. And most of the time they don't come in
6 for rate increases so we rarely see a 45 day filing. They're
7 almost all -- in effect they're almost always 30 days anyway.

8 COMMISSIONER GIARD: Move on to page 27, item number 2,
9 should the Commission eliminate the regulation that specifies
10 the dominant carrier retail rate rules? There's not a lot of
11 options under this one. Do the Commissioners have any
12 discussion that they would like to have on this item? We then
13 moved forward, I believe.

14 CHAIR JOHNSON: Yeah.

15 COMMISSIONER GIARD: Okay. We address number -- I guess
16 number 3. Should -- item number 3, should the Commission
17 delete the regulation requiring just and reasonable and non-
18 discriminatory retail rates?

19 COMMISSIONER THOMPSON: I'm sorry, Kate. What page are
20 you on?

21 COMMISSIONER GIARD: I'm on page 27 now, item number 3.
22 Kind of buzz through those. The staff have promoted option
23 number 3 which is do not delete and expand the regulation. Is
24 there a discussion on this item by the Commissioners?

25 CHAIR JOHNSON: I'll just say for myself I'm not -- and

1 with all deference to staff, I think that expanding this is --
2 you know, it's a further exercise of our authority that I just
3 don't think is going to be productive for us. And I would just
4 leave it the same. I'm an option 2 fan here.

5 COMMISSIONER GIARD: Any further discussion by
6 Commissioners?

7 CHAIR JOHNSON: I think maybe if we're trying to provide
8 some closure to these issues, we can get a feel from everybody
9 else where they are on that between option 2 and 3 actually.
10 Like I say, I like option 2.

11 COMMISSIONER THOMPSON: It would be helpful to me to get
12 some discussion from staff about what you think the words,
13 conditions and carries are going to effectively do to modify
14 this regulation.

15 MS. KENYON: Well, in practice we look at whether the
16 conditions are just and reasonable, not just the rates. So I
17 think by adding the word conditions, it makes it a little
18 clearer what we're doing. However, since in practice we're
19 applying it that way anyway and it may not be a necessary
20 change, and -- you know, my personal opinion, I don't really
21 have a problem with option 2, I just thought option 3 was --
22 perhaps provided a little bit more certainty that this
23 regulation applies to both customers and carriers and
24 conditions and rates.

25 COMMISSIONER STRANDBERG: I think I support option 2.

1 COMMISSIONER GIARD: Okay. Me too. Okay.

2 COMMISSIONER HARBOUR: Mr. Chairman, I'll go with number 2
3 too. However, I didn't read -- I thought that maybe staff used
4 the word expand the regulations maybe have been more successful
5 if the word clarify had been used. So, you know, I can see the
6 merit in option 3 but we've got -- we can work another word
7 through the selection.

8 COMMISSIONER GIARD: All right, Commissioner Harbour. We
9 shall move to number 4, how should the Commission comply with
10 the rate increase policy of the legislature? That's on page
11 28. The staff's recommendation is ahead on page 30 under
12 option 5. And I was confused. Lori, how does this relate to
13 the other decisions that we make?

14 MS. KENYON: Let me reread this again, please.

15 COMMISSIONER GIARD: Okay.

16 MS. KENYON: I think this is a variation of the status
17 quo, related to whether or not you have a dominant carrier.
18 And we're assuming that you maintain dominant/non-dominant
19 carrier regulations but there is a point in time when you'd
20 declare that the incumbent is no longer dominant for a service
21 at which time it would be free to increase rates under the same
22 rules. So that's essentially the variation -- it's essentially
23 the status quo. You obviously would not be able to take this
24 option if you totally -- I mean this option is only applicable
25 assuming you do have dominant/non-dominant carrier regulation.

1 MR. TREUER: Under dominant carrier regulations the
2 dominant carrier wouldn't necessarily be the incumbent.

3 CHAIR JOHNSON: Further discussion on this one?

4 COMMISSIONER GIARD: I was thinking that what we were
5 talking about would be some kind of safety net approach on
6 price caps for the basic service and then they'd be free to
7 increase all they wanted whenever they wanted and everything
8 else is.....

9 CHAIR JOHNSON: The other services, as I understand it,
10 yeah, it could increase away at your own peril.

11 COMMISSIONER GIARD: So is that what option 5 does?

12 MS. KENYON: Depends on what you do as far as detariffing.
13 If you detariff.....

14 COMMISSIONER GIARD: Okay.

15 MS. KENYON:then anybody could increase any rate
16 they wanted. It -- in some ways detariffing means you don't
17 have the option to do House Bill 111, Policy 9, because you
18 could not deny a rate increase to protect the public interest.
19 You'd just let the rate increase go into effect upon
20 detariffing.

21 COMMISSIONER THOMPSON: Except the increase for basic
22 services.

23 COMMISSIONER GIARD: Right.

24 MS. KENYON: It really doesn't limit -- I mean I'm less
25 concerned in some ways for the basic service than I am for some

1 of the services where the carrier may retain market power. Or
2 a higher level of market power.

3 CHAIR JOHNSON: Well -- but in the finish, I think option
4 4 gives the Commission the ability to look at those particular
5 services, right?

6 MS. KENYON: It depends on how you craft it.

7 CHAIR JOHNSON: Okay.

8 COMMISSIONER THOMPSON: What kind of services are you
9 thinking about?

10 MS. KENYON: Line extensions, private lines, subdivision
11 agreements, access charges, those are the main ones I -- I
12 would be extremely concerned about ever detariffing until you
13 had a really good case that says to your satisfaction that
14 there is a sufficient level of competition in the market to
15 address concerns.

16 COMMISSIONER STRANDBERG: That's -- really, I think we've
17 attempted to deal with that with Nan's option 4 previously.

18 MS. KENYON: It depends how it's crafted.

19 COMMISSIONER GIARD: Yeah. I can work with that. Okay.
20 Item number 5 on page 30, how should the Commission comply with
21 the rate decrease policy of the legislature? Staff
22 recommendation, option 3, which is on page 32, I think. Oh,
23 pardon me. Staff recommend option 5 which is on page 33. And
24 they have crafted a new regulation which is documented below.
25 Is there any Commissioner discussion on the proposal of staff?

1 They have a second option if you don't go for option 5, and
2 that was the one I was referencing which was option 3.

3 COMMISSIONER STRANDBERG: To what extent does this modify
4 what we're actually doing now?

5 MS. KENYON: Well, option 5, if you take it, applies to
6 monopoly as well as competitive carriers because that's what we
7 interpreted House Bill 111 to say you had to do. So you've
8 broadened -- you've created more rate flexibility for the
9 monopoly markets under this option 5. And you've also limited
10 which -- in which cases you can disapprove a rate decrease and
11 those cases are on page 34, if it violates an existing
12 statutory requirement or it leads to predatory pricing, below
13 cost pricing, in subsidization -- cross subsidization or at a
14 competitive pricing practices. The first bullet, if it
15 violates a statute, that's pretty much what we do today. If
16 something violates a statutes we're going to bring it to your
17 attention and you can review it at a tariff action meeting.
18 Bullet 2, about predatory pricing, was an attempt to respond to
19 the House Bill language about state and federal anti-trust law
20 principals.

21 COMMISSIONER STRANDBERG: So is this for all
22 telecommunications carriers?

23 MS. KENYON: Yes.

24 COMMISSIONER STRANDBERG: And this is in competitive and
25 non-competitive areas as well?

1 MS. KENYON: Yes.

2 COMMISSIONER THOMPSON: Um-hum.

3 COMMISSIONER STRANDBERG: And so if you could just focus
4 on non-competitive areas, how would this change how we deal
5 with non-competitive areas?

6 MS. KENYON: All right. In non-competitive areas you are
7 required to have a 45 day time limit and you could review in
8 any way, shape or form you'd like a rate decrease. And
9 normally they probably have to give you quite an extreme level
10 of data in response. They may -- they still would have to
11 provide you with the data because you haven't changed what the
12 tariff filing requirements are for the monopoly carriers. But
13 what you have done is you've given -- well, I think it's a good
14 question. I'm not sure how much more you've given them because
15 you -- certainly today, if they came in for a rate decrease and
16 it violated statutory requirements or it was predatorially
17 priced, you would suspend it if you suspect that was the case.

18 COMMISSIONER STRANDBERG: Right.

19 MS. KENYON: You'd suspend those at almost any time for
20 the monopoly carrier today as you would under this. But I
21 guess it clearly -- more clearly spells it out. I'm not sure
22 that it -- I'm not sure that it does a whole lot effectively
23 because you still have the statutory requirements you have to
24 follow.

25 COMMISSIONER STRANDBERG: So they're still required to

1 make filings. It's -- what this does is to state how we're
2 going to deal with those filings.

3 MS. KENYON: It states it and it provides a little bit
4 more certainty as to when you would not allow a rate decrease.
5 But since you comply with the statutes anyway, you're -- I
6 guess what this says is you can't disallow a rate decrease on a
7 whim. You know, if you can show the rate decrease may violate
8 statutes or it may violate the predatory pricing and so on
9 principals then you would suspend it for further review. And
10 anything else you'd let go.

11 COMMISSIONER STRANDBERG: Right. And so you're not
12 envisioning any changes on any filing requirements for a rate
13 decrease, you know, to lessen the amount of paperwork?

14 MS. KENYON: No, I don't think you can. Not if you want
15 to be consistent with House Bill 111, because it says you want
16 to be -- the House Bill 111 implies you -- just states you have
17 to do it within principals of state or federal anti-trust laws.
18 I'm not sure that you can do that without knowledge of what the
19 change is.

20 COMMISSIONER STRANDBERG: Okay.

21 COMMISSIONER HARBOUR: Mr. Chairman? But the intent of
22 House Bill 111 uses the word unilaterally. That implies a
23 minimal amount of approval. I guess we're -- you're saying
24 that House Bill 111, policy 3, would contradict other Alaska
25 statutes that require that it not be a unilateral decision on

1 the part of the utility.

2 MS. KENYON: I've asked our -- I didn't ask for Jenny, but
3 Jeff Landry -- assistant attorney general Jeff Landry about
4 what happens -- how do you read the House Bill 111 provisions
5 in light of our statutes and he said you have to read them as a
6 whole. And I guess I'll pause for Virginia to comment
7 since.....

8 MS. RUSCH: Well, I wouldn't argue with that, you have to
9 read them as a whole.

10 CHAIR JOHNSON: Ms. Rusch, could you use the microphone,
11 please?

12 MS. RUSCH: I wouldn't argue with that. You do have to
13 read them as a whole. I don't know exactly the thrust of his
14 advice further than that.

15 MS. KENYON: I don't think he had further advice than
16 that. He just said that you -- the statutes that say you have
17 to have just and reasonable rates and all of the other statutes
18 quoted earlier in this section, they continue. House Bill 111
19 doesn't trump them.

20 COMMISSIONER STRANDBERG: Let me ask, if this is possible
21 from our counsel, Ms. Rusch, can you paraphrase what are the
22 state and federal anti-trust laws that we are actually trying
23 to comply with, or is that too complex a question for you and
24 what's stopping us from reducing the amount of -- like I say,
25 if you can't answer that question shortly, just tell me. But

1 I'm honestly wondering what the root of the reason is why we
2 cannot reduce the tariff filing requirements on these rate
3 decreases.

4 CHAIR JOHNSON: Could I just interject? I'm aware that a
5 number of years ago the assistant attorney general Zoble
6 authored an opinion that he submitted to this commission, or
7 predecessor commission, relative to the scope of anti-trust
8 laws. And although I've not reviewed that, that might be
9 something that we can make available to the Commissioners. I
10 recall the opinion as being quite lengthy and fairly
11 comprehensive. That's just from my memory bank.

12 COMMISSIONER HARBOUR: Mr. Chairman -- excuse me. On that
13 subject though, what happened was that the legislature put
14 subject to state and federal anti-trust laws. I think it's
15 almost a no brainer that we would not want to create something
16 that was in violation of state or federal anti-trust laws.
17 That's not the problem. The problem is that the language
18 unilaterally reduce consumer rate seems to run into conflict
19 with other laws that are not necessarily anti-trust laws. You
20 know, just and reasonable and -- and I'm wondering -- and I
21 appreciate the staff's effort to walk a balancing line here how
22 do you develop an option that respects policy 3, but doesn't
23 put us into conflict with existing statutes. And I think
24 you've tried to do that. I'm wondering if on your option 5,
25 the bottom of page 33, we say notwithstanding (a) of this

1 section, the Commission will disapprove and require
2 modification. That in itself runs a little close to saying no,
3 not unilateral.

4 COMMISSIONER GIARD: That's right.

5 COMMISSIONER HARBOUR: Right? But let's say we say that.
6 How do we say it and not be at odds with policy 3,
7 notwithstanding any of this section the Commission will
8 disapprove or require modification of a rate increase that --
9 suppose we just said violates an existing statutory
10 requirement? And then use that language -- including those
11 concerning undue discrimination and provisioning of just and
12 reasonable rates. Nobody could really argue with that. It
13 seems to me that when we get down to 2, all of those predatory
14 pricing, below cost, all of those flow from unjust and
15 unreasonable any how. So maybe we would be ahead by
16 eliminating the subsection 2 and just including subsection 1 in
17 the (b) notwithstanding.

18 MS. KENYON: The reason why we put in section 2 was to try
19 to address the -- what they meant by in compliance of state and
20 federal anti-trust laws. Though I agree conceptually that a
21 lot of what you see in option -- in bullet 2 is included in
22 existing statutory requirements of bullet 1.

23 MR. GAZAWAY: Can I add one thing? You often have anti-
24 competitive practices in there. And from a policy point of
25 view you have examples in the past where a carrier's come in

1 with a five year term discount program where they get reduced
2 rates for a five year period. And the proposed termination
3 penalty on that proposal first, before it was addressed by the
4 Commission, was to make the customer pay the entire five year
5 term even if they terminated within the first year. And so I
6 think there are some anti-competitive concerns that are also
7 implicated by rate reductions that are not addressed by
8 existing statute or by anti-trust materials.

9 COMMISSIONER GIARD: Let the buyer beware. You know, let
10 the buyer beware. Someone is going to sign a contract, it's an
11 independent operating entity.

12 MR. GAZAWAY: To what degree do we ensure there's some
13 sort of consumer education by the utility?

14 COMMISSIONER GIARD: Let the buyer beware. In a free
15 market enterprise it's the buyer's responsibility.

16 MS. KENYON: But these apply to monopoly areas as well
17 because the legislature told us it had to be for all
18 telecommunications carriers. And I'd like to add to one of the
19 things I said earlier, to address the unilateral concern. I
20 think where we were going with that is the (a) which says a
21 carrier may reduce rates without approval after notice. So
22 that's something they don't have today. Right now you have to
23 affirmatively approve a rate reduction in a monopoly area, but
24 under (a) that they could do it after notice provided it looked
25 like it didn't violate statutes or the predatory pricing

1 bullet.

2 COMMISSIONER HARBOUR: I think we need a little work on
3 (b).

4 CHAIR JOHNSON: Further comments on option 5? I -- go
5 ahead, Commissioner Thompson.

6 COMMISSIONER THOMPSON: I think it's fine but I'd like the
7 opportunity to look at the AG opinion. That'd be helpful.

8 CHAIR JOHNSON: Yeah. I recall that it exists. I'm not
9 sure if I have a copy myself. It is fairly lengthy. It's
10 about a 20 page document.

11 MS. RUSCH: I'll see if I can locate it.....

12 CHAIR JOHNSON: Yeah.

13 MS. RUSCH:and distribute it to the Commissioners.

14 CHAIR JOHNSON: I'll just speak for myself. I think that
15 -- I like option 5 in large part. I think there's maybe
16 actually a way we can make the language parallel some other
17 review elements that we have in some other areas. But --
18 anyway. Is there objection to moving on?

19 COMMISSIONER GIARD: Unh-unh. Do the Commissioner want to
20 discuss item number 6, how should the Commission treat bundling
21 of local and long distance services, or shall we just move on
22 to bundling and deal with that when we get to bundling, Mr.
23 Chairman?

24 CHAIR JOHNSON: Yeah. I think since we have a separate
25 tab for it, maybe we could defer that discussion because.....

1 COMMISSIONER GIARD: Okay. So we won't go to the bundling
2 right now. How should the Commission treat promotional
3 offerings? How should we?

4 CHAIR JOHNSON: Well, in my estimation the solution to
5 that question is to be found in the first sentence of this,
6 issues concerning local promotional offerings were not raised
7 in Docket R-3-03. And I just don't think we need to go there.

8 COMMISSIONER GIARD: I don't understand promotional
9 offerings. It's in a different docket?

10 CHAIR JOHNSON: Mr. Strandberg?

11 COMMISSIONER STRANDBERG: The problem that has been with
12 promotional offerings over the years that some of them just
13 keep going and going and going, and.....

14 CHAIR JOHNSON: Deflect (ph) the money.

15 COMMISSIONER STRANDBERG: Yes. And it's been an issue.
16 And I don't think it's a matter that we need to take up in this
17 docket here.

18 COMMISSIONER GIARD: Okay. Okay. Then we are down to
19 section -- item H, which is miscellaneous provisions. Billing
20 and contract forms. There have been proposed two options. Do
21 the Commissioners want to discuss this section at all? The
22 staff have recommended option number 2, which is to require all
23 carriers a 20 percent more market share to comply with
24 3 AAC 48.230.

25 CHAIR JOHNSON: Comments on this? I'll go out on a limb

1 and say that I like option 2. I think it's consistent with the
2 notion of regulatory parity. But then that may just be me.

3 COMMISSIONER STRANDBERG: The Lord giveth and taketh.

4 COMMISSIONER THOMPSON: I would go even further out on a
5 limb and say that for all of the issues that are raised in this
6 subsection or miscellaneous, I agree with the staff
7 recommendation.

8 COMMISSIONER GIARD: Okay.

9 CHAIR JOHNSON: Maybe we could just take a moment to scan
10 through those.

11 COMMISSIONER HARBOUR: Yeah. I just have one comment on
12 the word lines again. The -- Commissioner Thompson, in an
13 earlier section, had suggested perhaps that be defined in a way
14 that was technology neutral. And we want to make sure that the
15 way we use these in the different sections is consistent.

16 COMMISSIONER THOMPSON: I agree. Which one are you
17 talking about? Which.....

18 COMMISSIONER GIARD: Page 35.

19 COMMISSIONER HARBOUR: Option 2.....

20 COMMISSIONER GIARD: Option 2 under page 35.

21 COMMISSIONER HARBOUR:page 35.

22 COMMISSIONER THOMPSON: Okay.

23 COMMISSIONER HARBOUR: Lines.....

24 COMMISSIONER STRANDBERG: Indeed that's a new term. Been
25 dealing with access lines, now.....

1 COMMISSIONER THOMPSON: Okay.

2 COMMISSIONER HARBOUR: Well -- and Commissioner Thompson
3 has suggested another term all together. So.....

4 COMMISSIONER THOMPSON: Okay. But I agree we should be
5 consistent.

6 COMMISSIONER STRANDBERG: What -- if I might ask, on
7 option 2, page 36, what is your expectations of the effect,
8 again considering where we are at now with the regulation and
9 new definitions of dominant status, what's the practical effect
10 of still requiring dominant carriers to comply with -- to make
11 275A filings -- A & H filings?

12 MS. KENYON: Well, if you -- presumably you could only
13 have a dominant carrier for a service if you believe they had
14 market power or could influence the rates in an inappropriate
15 manner. And you'd be concerned that a rate increase was not
16 justified, in which case you would want to have detailed
17 information at the time the tariff was filed. And 275A
18 provides you with that. It gets you the information to support
19 a rate increase when made by a carrier that you believed is
20 dominant. Now if you were to deregulate the market, then it
21 wouldn't matter. I mean for a service or however you did it.

22 COMMISSIONER STRANDBERG: So where we're at now, just so I
23 can keep focused on this, is that if we do adopt these new
24 dominant definitions, in effect we're going to find that some
25 of the areas don't have a dominant carrier and.....

1 MS. KENYON: Right.

2 COMMISSIONER STRANDBERG:so there won't be the
3 275A's going on there.

4 MS. KENYON: That's right.

5 COMMISSIONER STRANDBERG: All right.

6 CHAIR JOHNSON: Maybe just need to keep -- are there
7 further questions about the cost support question?

8 COMMISSIONER STRANDBERG: I guess I'd make this comment.
9 Regarding the allowance for unilateral rate decreases, and
10 we're dealing -- you know, that -- the concern I have is the
11 amount of filings that we're still requiring utilities to make
12 state wide. And indeed, if we're -- where I think we're at
13 here is that the previous issue that we dealt with with respect
14 to rate decreases is that we're still going to require a fair
15 amount of cost support for these filings, but we're better
16 defining the criteria under which we will review those.

17 CHAIR JOHNSON: Yes.

18 COMMISSIONER STRANDBERG: I believe that's where we are at
19 here. And to be frank with you, I'm going to have to think
20 about that some more because we're moving through things pretty
21 fast. But I think I do have it bracketed about where we are at
22 on that.

23 MS. KENYON: The rate -- allowing rate decreases sounds
24 like a really good thing. You know, who could argue that a
25 rate decrease is not in the public interest? But when you look

1 at it you could use rate decreases to create any type of rate
2 you want. You could selectively reduce the rates to the
3 customers you liked and not the ones you didn't like. And
4 there's -- it has a lot of potential public interest issues.

5 COMMISSIONER GIARD: I'm concerned in the rate decrease
6 area that it would be very normal thing for a competitor to
7 enter a market and the incumbent immediately goes into a rate
8 decrease mode. And that -- because we've said that all
9 telecommunications providers can get decreased rates whenever
10 they want. And I don't know that we have any kind of -- you
11 would think that the CLEC coming in would then say anti-
12 competitive behavior, blah, blah, blah, but I don't know how we
13 would prove that. I mean the legislator said all.

14 COMMISSIONER STRANDBERG: But balancing that, I mean we
15 practically see these tariff filings come in and they are
16 complex. You see rates going up with -- for some categories of
17 service and going down for other categories of service. And I
18 just don't see any way out of us requiring these filings. I am
19 concerned about the amount of paper that flows through the darn
20 place but -- I'll just make that comment here with respect to
21 the tariff cost support point here.

22 MS. KENYON: In competitive markets we do not require 275A
23 information for rate decreases. Now for rate increases, that's
24 a whole different story. And then for the monopoly areas you
25 require rate support for a variety of category of changes.

1 COMMISSIONER GIARD: I don't know the legislature really
2 had it together when they made that recommendation.

3 CHAIR JOHNSON: I'm not going to ask anybody beyond the
4 table here to comment. Probably in Juneau I think they crafted
5 all this stuff for us. But anyway -- accounting standards.

6 COMMISSIONER GIARD: Lori, can we please go over option
7 number 4?

8 MS. KENYON: All right.

9 COMMISSIONER GIARD: Page 38.

10 MS. KENYON: Option number 4 was intended to try to create
11 parity between the carriers and the market.

12 COMMISSIONER GIARD: Right.

13 MS. KENYON: We're no longer saying if you're incumbent
14 you got to do the accounting standards. We're saying if you
15 meet these criteria you need to -- the first bullet says well,
16 if we're going to give you state Universal Service Funds, you
17 better show us how you're going to use them. And that's why
18 you would need -- the USOA and the jurisdictional separations
19 gives you that tool. Access charges, that's pretty much a done
20 -- in my opinion that's -- you need that. That's not really
21 debatable.

22 COMMISSIONER GIARD: Right.

23 MS. KENYON: The subscriber line charge depends on what
24 you do in your access charge reform docket. One of the key
25 proposals that's before you in that docket is to come up with a

1 subscriber line charge. And if you do, chances are you will
2 need to figure out if the subscriber line charge rate is
3 reasonable or not. In which case you may still need the tools,
4 USOA and jurisdictional separations. Wholesale services, the
5 reason that's in there is for -- you essentially -- the way I
6 understand the way the Act works, is that wholesale services
7 are avoided costs. Retail rates less of what it costs. And
8 this -- keeping these USOA and jurisdictional separations
9 allows you to better define what avoided costs are. Everybody
10 knows what the USOA is. It's a commonly applied practice. The
11 dominant carrier. Again, if you're -- if you really believe
12 you have a dominant carrier then you want to be able to look at
13 its rates. Occasionally, if not -- I mean occasionally when
14 they want a rate decrease or whatever situation you believe is
15 necessary, but you still need the tools if the carrier is
16 dominant for a service. You know, if not, you know, they could
17 -- they would need to show you why. But for any regulation you
18 have here a carrier can always ask for waiver. But these are
19 the presumptive standards we're proposing. That if you meet
20 any one of these then you have to continue to use our
21 accounting standards.

22 CHAIR JOHNSON: Is it an appropriate time for a question,
23 but the thing about option 4 is, is this not imposing
24 additional new regulations on carriers that are not now subject
25 to these requirements?

1 MS. KENYON: Let me look at them again. I think the one
2 where it might occur is let's say a competitor becomes dominant
3 for a service. Right now none of them are.

4 COMMISSIONER GIARD: Right.

5 MS. KENYON: But if in the future one of them does, then
6 the day that you say that they're dominant for a service, I
7 imagine that you'll also get a request for waiver of this
8 requirement and you can deal with it at that time. But it
9 would imply that they'd have to come in and use your accounting
10 standards and your separations.

11 CHAIR JOHNSON: A little broader question, and.....

12 MS. KENYON: Oh, yeah. Carrier of last resort as well.
13 That's.....

14 CHAIR JOHNSON: Okay.

15 MS. KENYON:another place. If they become a carrier
16 of last resort, a non-dominant carrier, then it would.....

17 CHAIR JOHNSON: Well, my question becomes to what extent,
18 and I'm searching my limited memory here, is there support for
19 this type of approach in the comments that we received when we
20 opened the docket?

21 MS. KENYON: Well, the comments that you've received, I
22 think the closest to what I can think of is the Rural Coalition
23 that basically says if you're in the state access charge pool
24 then you have to continue to use the uniform system of accounts
25 and jurisdictional separations. The reason why I say -- kind

1 of hesitant to say it's the same, because once you have
2 competition in an area usually you let them leave the pool. So
3 the standards would no longer apply. The -- I don't know that
4 there's much discussion about this option because it really
5 hasn't been before anybody yet. You've had some people that --
6 a lot of the commenters are trying to avoid continuing
7 accounting -- continuing following these accounting practices.
8 But these are the tools that you use. So.....

9 COMMISSIONER STRANDBERG: What's the practical effect of
10 implementing option 4? What I'm seeing is we're going from
11 just dominant carriers being required to, you know, a different
12 set of criteria.

13 MS. KENYON: Well, if -- all other things being equal, I
14 don't believe that there is much practical change in what would
15 happen. Because the current incumbents would remain under the
16 USOA and jurisdictional separations as they are today. The
17 non-dominant carriers, to the extent they suddenly would fall
18 under one of these options, I would anticipate that that's
19 going to be a fairly significant event in your market. If, for
20 example, you decide to share carrier of last resort
21 responsibility, that's a significant event. And you will be
22 very familiar at that time if you want them to continue -- to
23 follow this regulations or if you agree with any waiver they
24 might file. The problems with the USOA and jurisdictional
25 separations is once you get away from your standard it's going

1 to be extremely difficult to go back. The incumbents currently
2 follow this. So continuing to follow it has, I guess in my
3 opinion -- I know there will be others who disagree with me,
4 has this little incremental cost compared to having to go back
5 to them if you let them -- if you relax the standard now and
6 they follow some other method.

7 2700

8 (Tape change)

9 Tape 3

10 0015

11 COMMISSIONER GIARD: I guess my comment on this is the
12 same as yours, Mr. Chairman, in that I was concerned that the
13 criteria are such that a CLEC which hasn't had to comply would
14 all of a sudden have to comply and that would be just a
15 material and substantial cost to the CLEC. So I was wondering
16 if there was any way that the uniform system of accounts
17 actually benefits us, just say for example if the carrier were
18 determined to be a carrier of last resort, do we really need
19 the CLEC -- if that was a CLEC that was then determined, do we
20 really need them to change to the uniform system of accounts,
21 is that something that we really need to have in there?

22 MS. KENYON: You might. And the reason I put it in there
23 is one of the things you're going to -- if I were looking at a
24 carrier for last resort one of the things I would really love
25 to know is how their maintenance expense changed over time, how

1 much they were investing, factors that are -- financial factors
2 that may change over time. If you don't have a standardized
3 way of looking at those then you lose the ability to have a
4 time -- a time comparison.....

5 COMMISSIONER GIARD: Uh-hum.

6 MS. KENYON:so that you can tell exactly what
7 they're doing. And they may define things differently than you
8 do, what if they're -- they redefined what maintenance means
9 under their uniform -- under their system of accounts so that
10 it's not really the same as what you were thinking it was, then
11 their financial records to you would provide a lot less
12 information than you may need when you're concerned about a
13 carrier of last resort.

14 COMMISSIONER GIARD: I don't have any more questions.

15 CHAIR JOHNSON: Mr. Gazaway, did you have a comment?

16 MR. GAZAWAY: Well, I was just going to mention that some
17 carriers did raise this issue in the bundling docket as far as
18 they thought that since were no -- I guess for a lack of better
19 term competitive parity with demand, that perhaps some of these
20 accounting standards be imposed upon.....

21 COMMISSIONER GIARD: Right.

22 MR. GAZAWAY:the larger CLEC.

23 COMMISSIONER STRANDBERG: And certainly if we have a basic
24 service offering that we're going to have to look at from any
25 one of these carriers we're going to want that underlying cost

1 data.

2 MS. KENYON: And if I may add, Phil mentioned something
3 just a moment ago, a lot of the incumbents currently have to
4 file the federal uniform system of accounts anyway. Now it's
5 -- ours is different in many areas, but we are -- ours is based
6 on the federal rules.

7 CHAIR JOHNSON: But isn't our -- but I look at our
8 regulations, don't we just pare down the level of detail from
9 the federal system primarily to form ours?

10 MS. KENYON: I think maybe the opposite, we have more
11 detail under ours than the feds.

12 COMMISSIONER THOMPSON: I guess I didn't understand well
13 enough the breadth of the recommendation before. So it's your
14 intent that regardless that the same -- this USOA and
15 jurisdictional separations regulations would apply under all of
16 these circumstances? So I guess I'm not being very articulate.
17 What I -- what struck me as inconsistent in the last couple of
18 minutes is.....

19 (Off record comments)

20 COMMISSIONER THOMPSON: All right. I heard two things in
21 the last couple minutes that struck me as inconsistent. One is
22 a representation of gee, that this wouldn't -- this is -- would
23 apply to carriers that are already doing this anyway so it's
24 not going to be an additional burden. And then there was the
25 discussion about it applying to all carriers who are carriers

1 of last resort and is we anticipate that obligation being
2 shifted to people who are not necessarily incumbents now then I
3 don't understand how this option would not broaden the number
4 of carriers who are required to follow the USOA and
5 jurisdictional separations procedures.

6 MS. KENYON: It would.....

7 COMMISSIONER THOMPSON: Okay.

8 MS. KENYON:if you do that. Yes, it's -- what -- my
9 comment about it not being an additional cost was only
10 referring to the ones who are currently using it.

11 COMMISSIONER THOMPSON: Okay.

12 MS. KENYON: You know, it would be a material and
13 significant cost to carriers that are currently --.....

14 COMMISSIONER THOMPSON: Right.

15 MS. KENYON:at least in my opinion, I think it
16 would.....

17 COMMISSIONER THOMPSON: Yeah, it would be, it would be
18 huge.

19 MS. KENYON:be a significant cost to the ones who
20 aren't using it yet.

21 COMMISSIONER THOMPSON: Well, then I have concerns as a
22 policy matter with having carrier of last resort on the list
23 because I think that's something as a matter of public policy
24 we want to encourage people to do. And to make a part of
25 assuming that obligation what will become a potentially huge

1 accounting expense is mixed signals. I mean, if we -- if
2 carrier of last resort is something we really want to assure,
3 we want carriers to be willing to step up to the plate and do
4 it, why are we making it so difficult and burdensome for them.

5 MS. KENYON: There is some truth to that, that it could
6 discourage some from becoming carriers of last resort if they
7 felt they didn't want to have to do your -- their high level of
8 accounting. At the same time you could give waiver for those
9 that you felt had a good reason not to follow the uniform
10 system of accounts because it was such a burden to them. So I
11 think our -- my understanding is you'd address that concern
12 through the waiver process.

13 COMMISSIONER GIARD: Let's move on.

14 CHAIR JOHNSON: What I'd like to -- we are at the time
15 pretty much we indicated we're going to take a break and I do
16 think that it's probably appropriate to take a break 'til 1:30
17 and allow people to get lunch and to recharge and regroup
18 everybody. So that would be my intent to recess this hearing
19 until 1:30 and we will come back here at that time, pick up at
20 this point. Anything that needs to be addressed before we go
21 off record? I'd like to thank folks, I think we've had a
22 productive morning, we are making progress and.....

23 UNIDENTIFIED VOICE: Please, may I go (indiscernible -
24 away from microphone).....

25 CHAIR JOHNSON: That would be fun wouldn't it? With that

1 we'll go off record and I -- although I did note that Mr. Rowe
2 left, I guess the ATA showcase is currently underway and he
3 wanted me to put in a plug for people visiting. I may go --
4 actually go over there and look around, but anyway thanks.

5 (Off record - 11:30 a.m.)

6 (On record - 1:35 p.m.)

7 CHAIR JOHNSON: And we are on record in -- thank you. We
8 are back in record in this special public hearing to consider
9 R-03-03 and its predecessor dockets. Commissioner Thompson,
10 did you have something you wanted to start out by saying?

11 COMMISSIONER THOMPSON: Lori and I -- I just working on
12 the promised option 4 and I don't expect people to read it and
13 talk about it right now, but I'm handing it out and I have a
14 bunch -- oh, you made a bunch of copies too?

15 MS. KENYON: Yeah. Do you have enough for the panel?

16 COMMISSIONER THOMPSON: Yes, I do.

17 MS. KENYON: Okay.

18 CHAIR JOHNSON: Okay.

19 COMMISSIONER THOMPSON: So when an appropriate time
20 comes.....

21 CHAIR JOHNSON: Yeah.

22 COMMISSIONER THOMPSON:and I can tell you what I did
23 if you want me to talk about it now, but I don't want to put
24 everybody in the spot of having to discuss it not.....

25 CHAIR JOHNSON: No.

1 COMMISSIONER THOMPSON:having read it.

2 CHAIR JOHNSON: Yeah, let's do this. Let's -- we will
3 have probably one or more breaks, we are going to take a break
4 at 3:00 o'clock sharp, there are some other -- there are some
5 things going on on the floor and we'll take a 15 minute break
6 at that point in time so we'll be breaking from 3:00 to 3:15
7 for the benefit of the public and the staff here. And there
8 may be some other opportunities we can double back and
9 certainly coming out of that break might be a good time to talk
10 about this.

11 COMMISSIONER THOMPSON: Okay.

12 CHAIR JOHNSON: Or sooner if (indiscernible - simultaneous
13 speech).....

14 COMMISSIONER THOMPSON: All right.

15 CHAIR JOHNSON: But I did want to sort of pick up where we
16 had left off and we were discussing, I believe, accounting
17 standards. I'm not sure if that had been resolved, but roughly
18 we were on page 34, 35.

19 COMMISSIONER THOMPSON: I thought we were on page -- all
20 right. We were talking about option 4 on page 38 though,
21 right?

22 COMMISSIONER HARBOUR: Yes. Accounting standards.

23 CHAIR JOHNSON: So had we reached a decision about our
24 preferences on the accounting standards and jurisdictional
25 separations? Anybody want to say anything further about this

1 subject, maybe we had -- I'm not sure if we know or what we had
2 agreed to at all in this area?

3 COMMISSIONER THOMPSON: I'll take a stab at it. We were
4 sort of leaning towards option 4. I have concerns about
5 including carrier of last resort in on the list and I think we
6 talked about, but I didn't hear a strong support for any of the
7 other options.

8 CHAIR JOHNSON: Does it work if that section is deleted
9 from option 4? Maybe I'll pose the question that way, do you
10 have any thoughts on that?

11 MS. KENYON: I'm looking at it. I think it could still
12 work, my preference is to have the carrier of last resort
13 there, but I think it works if it's not, you know, but that's
14 just this -- depends on how much information you want to keep
15 at what detail for the carrier that is the carrier of last
16 resort.

17 CHAIR JOHNSON: Is that your.....

18 COMMISSIONER STRANDBERG: And.....

19 CHAIR JOHNSON: Commissioner Strandberg.

20 COMMISSIONER STRANDBERG:if I could ask, what is the
21 reasoning behind requiring those or the -- just so we
22 understand, requiring these accounting standards for the
23 carrier of last resort?

24 MS. KENYON: If you have a carrier of last resort you
25 probably want to understand how much maintenance it's doing,

1 how much plant it continues to invest over time, whether or not
2 it's letting its plant go to seed, how much maintenance expense
3 it has from year to year so that you can compare and compare it
4 to other utilities. Including -- keeping of the carrier of
5 last -- I mean, the USOA for carrier of last resort give you a
6 standardized accounting system to be able to allow that to
7 happen. Otherwise a carrier is able to change its accounting
8 system from year to year and there really -- it's going to be
9 very difficult for you to determine exactly how much it'd
10 devoted to those critical functions of a carrier of last
11 resort.

12 COMMISSIONER STRANDBERG: I don't think I'd include it.

13 CHAIR JOHNSON: Additional thoughts on this?

14 COMMISSIONER GIARD: I'm wondering if we shouldn't put in
15 a statement in there which says if you're not doing it now you
16 don't have to do it in the future. It's a big, big, big
17 change.

18 CHAIR JOHNSON: Here's.....

19 COURT REPORTER: I can't hear you.

20 COMMISSIONER GIARD: It's a big change.

21 CHAIR JOHNSON: Here's my question is that it seems to me
22 that these entities have to keep their records -- their
23 financial records in some format and if they're not using the
24 uniform system of accounts they're using some other method. I
25 guess why does it reflect that much of a burden, they've got to

1 use a standard one, I use the uniform system of accounts as
2 proffered by the FCC.

3 MS. KENYON: They have to use a standard and they're using
4 their own, general accounting principles are -- I think is what
5 they call it. They probably don't have the same formats as the
6 accounts used for the USOA so it means that they'd have to take
7 every piece of property the way it's recorded on their books
8 and recategorize it into the expenses, revenues and plant
9 buckets that the USOA uses. You'd have to do it once and once
10 you've done it it's probably -- your continuing expense isn't
11 that difficult, it's just that one time to convert to the new
12 system which is fairly burdensome.

13 COMMISSIONER THOMPSON: And I would also note they may
14 have to be using the method they are now for other reasons so
15 it might require them basically to create another set of books
16 and.....

17 COMMISSIONER GIARD: It will, another whole set of books.

18 COMMISSIONER THOMPSON:create and maintain. So it's
19 not just while creating it may be expensive, you're going to
20 end up -- you're putting them in a position of having to
21 maintain two accounting systems.

22 CHAIR JOHNSON: Let me ask -- let me pose the question
23 this way just to kind of get some more background. Do
24 interexchange carriers operating in the state now, intrastate
25 interexchange carriers, do they comply with the uniform -- with

1 the operating account system, the FCC account system?

2 MS. KENYON: Alascom complies, I believe, with both the
3 state and the federal account systems, but none of the others
4 do to my knowledge.

5 COMMISSIONER THOMPSON: And complains about that.
6 They.....

7 MS. KENYON: Yes, Alascom -- one of their proposals before
8 you is that they would not have to use the state USOA.

9 COMMISSIONER THOMPSON: Uh-hum.

10 CHAIR JOHNSON: Okay. And the others do not?

11 MS. KENYON: The other non- -- the non-dominant IXC's do
12 not have to use any accounting standard that I'm aware of, I
13 think that's -- remember MCI World Com scandal and all of that
14 is.....

15 COMMISSIONER STRANDBERG: Yeah, I remember that.

16 CHAIR JOHNSON: I'd rather not go into that. Okay. I'm
17 just trying to get an understanding here. Further
18 comments.....

19 COMMISSIONER GIARD: Mr. Chairman, you've heard that
20 there's the tax set of books, there's the financial set of
21 books, what you'd be asking for is to do a complete set of
22 general ledger, all transactions, everything has to be done a
23 third time. It is a -- I can't emphasize to you what a huge
24 undertaking and how every single ILEC in the state would like
25 to be away from the burden of doing it, it's a tremendous

1 amount of effort at a very granular level. So I hesitate to,
2 you know, put that on someone if there isn't a really good
3 reason.

4 CHAIR JOHNSON: Okay. I certainly understand that. I
5 guess, what -- why I'm looking for that competitive parity, you
6 know.

7 COMMISSIONER GIARD: Well, we could always take it off the
8 ILECs.

9 CHAIR JOHNSON: Yeah. Well,.....

10 MR. GAZAWAY: Can I put out there we're also going to deal
11 with the same issue in the interexchange market?

12 CHAIR JOHNSON: Yeah.

13 MR. GAZAWAY: And they're talking about a subsidy in that
14 market is one of the proposals. And as I believe Staff's
15 recommendation has to do with basically the same recommendation
16 to impose it on both parties if they seek access to inter -- to
17 subsidies particularly.

18 CHAIR JOHNSON: Well, I guess the discussion we've had so
19 far to me, what I hear it saying is that this is a -- for an
20 entity that has to comply with this, this is a large burden.

21 COMMISSIONER THOMPSON: Uh-hum.

22 COMMISSIONER GIARD: Huge.

23 CHAIR JOHNSON: And so I guess I -- at that point I get
24 more sensitive to the issues that have been raised from ILECs
25 regarding the burden. That's all the discussion leads me to be

1 concerned about. At the same time I can't imagine -- to impose
2 burdens on somebody that's not currently, you know, required to
3 comply with the standard is equally distasteful, so I'm not
4 sure if this is a real happy place to be in life.

5 MS. KENYON: There's two burdens that I could see being
6 argued, one is the burden of conversion and the other is burden
7 of maintenance. And they've been under the burden of
8 maintenance for -- since the '70s or '80s, however -- I forget
9 when we instituted the USOA. And it just -- it comes down to
10 what tools you think you think to have.

11 COMMISSIONER STRANDBERG: And I would comment that one of
12 the other criteria is any carrier that receives State Universal
13 Service Funds so there is quite a number of carriers that do
14 receive that. So I guess in the context of considering the
15 effect that option 4 would have, I think we need to be careful
16 about this.

17 MS. KENYON: For option 4 I think there may only be three
18 carriers that currently receive State Universal Service Funds
19 excluding Lifeline, but that may change depending upon what you
20 do with your access charge reform.

21 COMMISSIONER STRANDBERG: Uh-hum. So in a sense the
22 impact of this -- the actual impact really is determined -- is
23 -- really depends on where we go in other parts of this?

24 COMMISSIONER THOMPSON: Yeah, that's a good point, Lori.

25 CHAIR JOHNSON: So having heard all this is there a

1 consensus or agreement as to any of these options?

2 COMMISSIONER GIARD: Well, I would ask maybe that as we go
3 through and make some firm decisions on the other areas we
4 consider whether those companies that we detariff and the
5 markets that we make significant changes in, whether really
6 it's necessary and if we don't look at the parity issue a
7 little bit more between competitors in a market.

8 COMMISSIONER STRANDBERG: I guess I'd like to see where we
9 come out with other aspects of this before I make a
10 determination.....

11 CHAIR JOHNSON: Okay. So we're going to revisit on this
12 one, but understand our time for revisiting a lot of this stuff
13 is getting kind of short, shortish.

14 COMMISSIONER GIARD: Not kind of.

15 COMMISSIONER STRANDBERG: Yeah, well, what's.....

16 COMMISSIONER GIARD: About this big.

17 COMMISSIONER STRANDBERG:the option then, the option
18 is to write a list, adopt option 4, look at the list and
19 maybe.....

20 CHAIR JOHNSON: Read the comments when they come in I
21 guess.

22 COMMISSIONER THOMPSON: I'd say option 4 without carrier
23 of last resort. I think I hear some agreement to get rid of
24 that.

25 COMMISSIONER HARBOUR: Let's do that to start.

1 COMMISSIONER STRANDBERG: I agree with that.

2 CHAIR JOHNSON: I'll hold my nose on that one I guess and
3 move forward. All right. That's not a real happy choice for
4 any of us.'

5 COMMISSIONER THOMPSON: No.

6 CHAIR JOHNSON: Tariff advice letter formats, maybe I
7 could just ask Staff to explain a little bit about option 2. I
8 didn't have the full text of 52.390 in front of me and if you
9 could just explain how adding the new subsection is going to
10 impact this whole situation?

11 MS. KENYON: Okay. Currently when a carrier files a
12 tariff advice letter is has to include some information
13 including the estimated number of customers or shippers who
14 will be affected by each separate schedule listed and the
15 estimated annual revenues under both the existing and the
16 proposed rates. Now that's a requirement that we make them do
17 and if they don't include that information we reject the tariff
18 filing. However in most cases we don't really need that
19 information at least not from a practical level, we look at it
20 mainly if they want to discontinue a service because we want to
21 see how many customers are affected. It is useful however
22 during rate increases as we found out recently. So I guess
23 what we're proposing here -- I want to reread it to make sure I
24 know exactly what it says. It allows them to exclude this
25 information except for when they're trying to dis- -- planning

1 on discontinuing a service, but we are allowed to ask for it if
2 we need it. And I'm tempted to try to amend this by saying
3 proposes to discontinue or increase the rate for a service
4 under this proposal because I can see how under a rate increase
5 you might want to know what that -- how much revenues are
6 involved and how many customers are involved, but in most other
7 cases we probably don't care.

8 MR. GAZAWAY: Can I point out that in application this is
9 somewhat of an unequal criteria because a new carrier has no
10 customer base for which they can base any estimates on, it's
11 purely speculative.

12 CHAIR JOHNSON: Just so I'm clear though as to option --
13 is it a fair statement to say that option 2 is a relief of some
14 portion of regulatory burden?

15 MS. KENYON: Yes.

16 CHAIR JOHNSON: Okay. I personally like option 2.

17 COMMISSIONER THOMPSON: Me too.

18 COMMISSIONER GIARD: Okay.

19 CHAIR JOHNSON: Moving forward and perhaps to one of the
20 more difficult issues our carrier of last resort.....

21 COMMISSIONER HARBOUR: I just -- as we.....

22 CHAIR JOHNSON:discussion.

23 COMMISSIONER HARBOUR:turn to that, Mr.
24 Chairman,.....

25 CHAIR JOHNSON: Commissioner Harbour.

1 COMMISSIONER HARBOUR: I'd like to make note of the
2 note that Staff put in there about considering option 2 for the
3 IXC.

4 CHAIR JOHNSON: Yeah. Carrier of last resort, I will --
5 at the risk of always serving as some sort of a lightening rod,
6 I'd -- and I know that the analysis suggests that the option 3
7 proposed by GCI in Docket R-02-06 has some -- requires some
8 filling out, but I can tell you that I'd sure like to start
9 from -- philosophically that's where I like to start from is I
10 think there ought to be an effort on our part to develop some
11 sort of framework to provide for sharing of carrier of last
12 resort responsibilities in certain markets. With that I'll
13 invite comment.

14 COMMISSIONER THOMPSON: Did you just support option 3?

15 CHAIR JOHNSON: I think so. With -- and I acknowledge
16 that it's deficient and I think that that's -- in terms of
17 specifics, but.....

18 COMMISSIONER STRANDBERG: You mean it's just not developed
19 enough?

20 CHAIR JOHNSON: Well, obviously Staff points out that
21 there are problems with what is advanced here by GCI.

22 COMMISSIONER HARBOUR: Mr. Chairman, I think option 5 that
23 Staff suggested gives the Commission the option of going toward
24 a 3 direction or a 6 direction.

25 COMMISSIONER THOMPSON: And I would also -- I had marked

1 option 5 because I think -- I agree that a 35 percent bench
2 mark's a good standard, it's one we should apply, but it may
3 not in all circumstances to be appropriate to shift the burden
4 when you reach the -- that limit or that number and number 5
5 allows you to take that into account.

6 COMMISSIONER GIARD: Well, Mr. Chairman, I think I'm
7 comfortable with the 35 percent that GCI came up with. I'd be
8 comfortable with option 3 if we were to review it. I'm
9 concerned that we are still requiring ourselves to, you know,
10 make decisions on items and not have enough triggering
11 mechanisms.....

12 COMMISSIONER THOMPSON: Uh-hum.

13 COMMISSIONER GIARD:in and so.....

14 COMMISSIONER STRANDBERG: Right.

15 COMMISSIONER GIARD:I'm concerned that those can
16 become long, drawn out battles when maybe somebody doesn't want
17 to become a carrier or share the carrier of last resort.

18 COMMISSIONER THOMPSON: Your point is well taken.

19 COMMISSIONER STRANDBERG: And I concur with Commissioner
20 Giard, I think I do support the 35 percent, it's more of a
21 definitive treatment.

22 COMMISSIONER THOMPSON: Okay. It sounds like you got.....

23 CHAIR JOHNSON: Well, but -- you know, I guess the part
24 for me is yeah, if you look at this you get to a 35 percent
25 threshold and the important part is then what, you know, then

1 what do we do.

2 COMMISSIONER THOMPSON: Okay. Well, that.....

3 COMMISSIONER STRANDBERG: It's not developed enough,.....

4 CHAIR JOHNSON: Yeah.

5 COMMISSIONER STRANDBERG:but I think the basic
6 concept is that we provide a trigger.....

7 COMMISSIONER GIARD: Right.

8 COMMISSIONER STRANDBERG:and we give some additional
9 direction to the market.

10 COMMISSIONER THOMPSON: How about we say to Staff that we
11 like option 3, but we would ask them to the extent that they're
12 able, to flesh it out a little bit, explain what happens when
13 you get to 35 percent. In other words, do you end up with a
14 proceeding, do you end up with -- what do you share, how do we
15 decide what you share?

16 COMMISSIONER STRANDBERG: And how do you share.

17 MS. KENYON: We can come up with proposals, but the more
18 that you can talk about that now and tell us what you like that
19 would help. For example let's say that we have a -- I think
20 you two types of situations that come to play, one is where
21 you've got a new exchange and you try to figure out who has to
22 be the carrier of last resort.

23 COMMISSIONER THOMPSON: Uh-hum.

24 MS. KENYON: And then you've got line extensions where you
25 have to figure out who gets to serve a subdivision that nobody

1 wants to serve.

2 COMMISSIONER THOMPSON: Uh-hum.

3 MS. KENYON: Or is it a question of do you -- if you have
4 a volunteer, if your existing carrier of last resort comes
5 forward and installs a facilities, is that a situation where
6 you're happy and will let them do that or do you insist upon
7 them sharing in some monetary manner where they come in. I --
8 it's just such a broad question, it would help me if you.....

9 COMMISSIONER THOMPSON: Well, it would also -- I think
10 would help to frame the discussion if you talked about what
11 being carrier of last resort means and maybe your two examples
12 -- I mean, it means that you have to serve everybody that's in
13 your service territory, right?

14 MS. KENYON: Right. And as an ETC they already have that
15 responsibility under reasonable request.

16 COMMISSIONER THOMPSON: Right.

17 COMMISSIONER STRANDBERG: And.....

18 MS. KENYON: So I think what we're talking about is who
19 gets to build, I think that's where the issue is here.

20 COMMISSIONER STRANDBERG: And is that in -- are we going
21 to differentiate between competitive and noncompetitive areas
22 or does that -- obviously, I mean, if we're in noncompetitive
23 areas we are going to have an exchange?

24 MS. KENYON: If you're in a noncompetitive area then you
25 don't have anybody else putting forth.....

1 COMMISSIONER STRANDBERG: Right.

2 MS. KENYON:a carrier of last resort -- you don't
3 have any other carrier of last resort but the incumbent, so it
4 would only be in competitive areas this would come up.

5 COMMISSIONER STRANDBERG: Right.

6 CHAIR JOHNSON: Is it appropriate to say that -- use your
7 phraseology, you said who gets -- in case of new areas who gets
8 to serve, is it not better to put that in terms of who is
9 required to serve?

10 MS. KENYON: Who has to build.

11 COMMISSIONER THOMPSON: Right.

12 CHAIR JOHNSON: Yeah, yeah.

13 MS. KENYON: In every market -- competitive market that
14 you have, you have at least two fairly -- two carriers with
15 fairly strong presence that are both ETCs. So you have two
16 carriers that are required to serve a customer upon reasonable
17 request. What comes into play is where -- which one -- which
18 carrier has the obligation to build out facilities to meet the
19 needs of the public and it -- in some areas there's a little
20 bit of overlap too because obviously in your ETC proceedings
21 how -- who has to build has come into play though the
22 requirement is that you only to own some facilities, you don't
23 have to build facilities, you just have to serve by resale. It
24 may -- I mean, plus some (ph) facilities for an ETC. I'm not
25 sure I've explained that very well, but.....

1 COMMISSIONER HARBOUR: To help you I think we need to make
2 a fundamental decision before going on to the details and that
3 goes back to the lines definition. If we're going to include
4 wireless in that then a -- 35 percent is composed of wireless
5 then provisioning wireline is a non-issue.

6 COMMISSIONER STRANDBERG: And I would comment that
7 actually this technology transparency issue to a certain extent
8 when we talk about these ETCs, you know, we've had recent
9 dockets where we've got the build out by -- for example
10 wireless carriers is considerably different from the build out
11 in a wireline carrier.

12 COMMISSIONER GIARD: I would make an adjustment to GCI's
13 -- I'm not quite sure why the last sentence on option 3 is
14 there, but I would delete it. I'm not really sure why to the
15 extent that a non-dominant carrier contributes to a carrier of
16 last resort obligations a non-dominant should receive
17 appropriate discounts or credits. I don't know that that
18 should be mixed up in there if we are considering GCI's
19 recommendation. I.....

20 COMMISSIONER THOMPSON: Well, that's part of the
21 commercial relationship between the two of them and I think I
22 agree with you that I don't --.....

23 COMMISSIONER GIARD: Right. They can.....

24 COMMISSIONER THOMPSON:I don't know if I want to get
25 involved in that.

1 COMMISSIONER GIARD: I wouldn't want to put that into
2 regulation in particular, let them battle that out.

3 CHAIR JOHNSON: Well,.....

4 COMMISSIONER GIARD: No offense, Mr. Chairman. I was
5 comfortable with the bench marking concept.....

6 CHAIR JOHNSON: Okay.

7 COMMISSIONER GIARD:I guess is what I would like to
8 say.

9 CHAIR JOHNSON: Let me -- and I'm -- at the risk of sort
10 of speaking out loud here and I -- nobody can be held
11 responsible for this, I just want to throw this out as an idea.
12 Is -- if, in fact, we have a circumstance where the 35 percent
13 threshold is exceeded and the trigger pulled if you will, what
14 is the problem with this Commission on a periodic basis.....

15 COMMISSIONER GIARD: Right.

16 CHAIR JOHNSON:sitting down and conducting a
17 proceeding for purposes of assigning by geography carrier of
18 last resort obligations to various areas and then allocate the
19 cost -- and we might have to look backward at this, but based
20 on market shares that currently exist. If you have two
21 carriers and one has 40 percent of the market and the other
22 one's got 36 percent of the market, why wouldn't we go and
23 assign those responsibilities based on those percentages and we
24 could look at the costs, I guess, on a cost basis. Is that too
25 complicated? Extremely.

1 COMMISSIONER THOMPSON: It's kind of what I was thinking.
2 It's an intriguing concept and it would certainly achieve a
3 fair result, but is it worth the complexity.

4 CHAIR JOHNSON: Yeah.

5 COMMISSIONER THOMPSON: I mean, there's a lot of ways you
6 could do it, one is you could say okay, every time there's an
7 unserved area you have to do one, you got to do the next one.

8 CHAIR JOHNSON: Right.

9 COMMISSIONER THOMPSON: Just do one after the other. The
10 other issue take a map and you say where's the -- you know, the
11 unbuilt areas, we're going to carve those up. And you take
12 some risk that no building's ever going to occur in some of
13 those areas, but you decide that the perfect is impossible to
14 achieve or at least not worth the cost. And you do it -- I
15 don't know how often this is really an important issue in
16 competitive markets. I can recall a couple of times in the
17 last years where it's come up.

18 CHAIR JOHNSON: Yeah.

19 COMMISSIONER STRANDBERG: Right.

20 CHAIR JOHNSON: I can tell you that I'm looking at a
21 similar kind of concept in the IXC context, with us conducting
22 a.....

23 COMMISSIONER STRANDBERG: Right.

24 CHAIR JOHNSON:comparative hearing.....

25 COMMISSIONER STRANDBERG: One.....

1 CHAIR JOHNSON:to address these issues.

2 COMMISSIONER STRANDBERG:issue is.....

3 CHAIR JOHNSON: Where are we?

4 COMMISSIONER THOMPSON: She couldn't hear your last
5 comment.

6 CHAIR JOHNSON: I am looking at this concept in the
7 context of the IXC marketplace where it would involve us
8 conducting a comparative hearing on a period basis, it might be
9 annually to basically assign responsibilities for carrier of
10 last resort by geography or other means.

11 COMMISSIONER STRANDBERG: I would make the comment that
12 we're kind of dealing with different animals here. In the LEC
13 situation.....

14 CHAIR JOHNSON: Yeah, sure.

15 COMMISSIONER STRANDBERG:in competitive areas we
16 have -- if I can use the term incumbent, that actually owns the
17 network and the way that we've been having competition actually
18 developing is either through resale or through UNEs or indeed
19 we have the concept of other platforms coming in, another --
20 indeed different technologies serving. So I think that just
21 blithely (ph) saying that we're going to share this carrier of
22 last resort, we're going to have to consider actually the
23 implementation of that. Indeed if we have a subdivision coming
24 into existence how does that work, does the subdivision
25 developer put the lines in and then bequeath them or put them

1 into the network or does the utility purchase -- build that
2 build out, the owner of the network. Is it right that we would
3 require somebody who's renting the majority of their network to
4 actually do the build out. Any comments on that, Ms. Kenyon?

5 MS. KENYON: I agree completely that there's a lot of
6 unanswered questions. It almost seems to me that you're being
7 asked to buy a blind pig in a poke, you don't have a good
8 proposal before you, but you're being asked to agree with it
9 essentially in philosophy and the details may not work out
10 well. For example the telecommunications plant, some of it
11 lasts up to 40 years, that may implicate how often you want to
12 look at the carrier of last resort who has to build -- there's
13 -- how they even interconnect their physical facilities. And
14 what if the customers want one but not the other in an area
15 that you've assigned carrier of last resort.....

16 COMMISSIONER STRANDBERG: Right.

17 MS. KENYON:responsibilities to company A instead of
18 B.

19 COMMISSIONER STRANDBERG: I think this is one where yes,
20 we need -- this is a good idea to share this carrier of last
21 resort, but the actual development of the rules here are going
22 to be very complex, very difficult.

23 COMMISSIONER HARBOUR: This is why, Mr. Chairman, that
24 while I like others am attracted to the concept of a trigger,
25 because one likes triggers doesn't necessarily mean that a

1 trigger applies in every instance. And in this case I think
2 this discussion we've had illustrates exactly why Staff
3 recommended option number 5 because it acknowledges that within
4 the Commission resides the ability on a case by case basis to
5 make these decisions. And if we come up with any kind of a
6 concept, any kind of a concept that I've heard mentioned today,
7 you do -- you provision this one, you provision this one, what
8 I -- we should be looking for simplicity out of this whole
9 project, not added complexity. And the minute we -- the minute
10 somebody hits a 1/3 or 35 percent trigger and then is told that
11 every other one you're going to have to do they're going to
12 argue that only every third one should they have to do. And
13 then because some divisions are more expensive than other
14 subdivisions they're going to argue that there's a valuation
15 difference. And we've discussed that and we've all agreed it's
16 an interesting concept, but not nearly well enough fleshed out
17 to suggest and draft regulations at this time. So I stay with
18 option 5 for that reason.

19 COMMISSIONER STRANDBERG: Well, let me ask this question,
20 is this something that we have to put regulation -- draft
21 regulations out under this docket? I believe it's already in
22 one of the other dockets, is it not

23 MS. KENYON: If you're trying to get away from a dominant
24 status, dominant carrier status and if you accept Staff's
25 recommendation of how you define dominant carrier, then in some

1 markets for some services you might not have a dominant carrier
2 in which case you have to change -- if you want a carrier of
3 last resort you're going to have to make a change because right
4 now it's based on dominance.

5 COMMISSIONER THOMPSON: So my comment is then if we're not
6 going to make much more progress because there's too many
7 details to flesh out today, for purposes of drafting
8 regulations that go out to notice that we go back to 5. And
9 there's certainly the opportunity in the context of those
10 comments for any party to submit a more completely detailed
11 proposal that might become acceptable, but we're not going to
12 figure that out today.

13 CHAIR JOHNSON: Yeah.

14 COMMISSIONER STRANDBERG: No.

15 CHAIR JOHNSON: I think it's just concluding, and I agree
16 with that, I do think that we could have an entirely -- we'd
17 have an extremely large and detailed and anguishing inquiry if
18 this were the only issue in a docket.....

19 COMMISSIONER STRANDBERG: Right.

20 CHAIR JOHNSON:and so I.....

21 COMMISSIONER HARBOUR: Mr. Chairman, I had one thing we
22 haven't spent much time discussing, one of the carrier of last
23 resort options suggested by at least one and I think a couple
24 of the parties which involved the application of AUSF as the
25 way to solve it. And we haven't even gone into that and

1 that.....

2 CHAIR JOHNSON: Yeah.

3 COMMISSIONER HARBOUR:could be part of a formula
4 that was triggered too. So with that in mind I think option 5
5 gives -- makes all that available.

6 COMMISSIONER GIARD: Well, I don't like option 5, I don't
7 think it moves, I don't think it does anything.

8 CHAIR JOHNSON: I would say this that option 5 is
9 consistent with the legislative intent, House Bill 111.

10 COMMISSIONER GIARD: I think we're well beyond option 5 in
11 a couple of our markets, I don't think that it's -- I mean,
12 we're going to have to hold an entire hearing to determine
13 whether, you know, we should have carrier of last resort
14 sharing in the Anchorage market. And just.....

15 CHAIR JOHNSON: And that could be a --.....

16 COMMISSIONER GIARD: It's against (indiscernible) market.

17 CHAIR JOHNSON:that could be a detailed inquiry. I
18 mean, we're talking about significant burdens. I -- and we may
19 want to put together a much more -- a much deeper record than
20 what we -- on that subject to make that determination. That's
21 just my thought on it, I don't know if we have quite enough to
22 go on to figure out to assign those responsibilities based on
23 what's been offered here.

24 COMMISSIONER STRANDBERG: And if I remember the actual
25 hearing there were some questions asked and I think the

1 industry people themselves said well, we haven't got that
2 developed, but there's a -- there may be a way that we can get
3 together and develop this and I would just advocate that
4 approach, that we put something in here that makes everything
5 hang together and then hopefully we will be able to work with
6 the industry and -- to actually develop some decent rules that
7 work.

8 COMMISSIONER GIARD: Well, Commissioner, I think that
9 that's what has already been done and the industry has come in
10 and carrier of last resort was a pretty significant item. And
11 I guess putting the regulation together which says that, you
12 know, until the Commission directs otherwise, it's basically
13 saying well, we'll just sit and wait for the industry to come
14 forward again. I mean, I imagine ACS will be in here the day
15 after saying, you know, we'd like to share the
16 responsibilities. GCI came forward with a very responsible
17 recommendation and -- so anyway. I'm -- I just -- I mean, I
18 see a trend developing that I'm concerned with which is that,
19 you know, many of the particularly key components because we're
20 under the burden of time, I worry that we're not going to flesh
21 them out as well as maybe we could.

22 CHAIR JOHNSON: Well, it.....

23 COMMISSIONER THOMPSON: Well, you're right, but we also
24 need a good record in order to flesh it out and I think the
25 most responsible thing to do at this point since we're under a

1 deadline that the Legislature gave us is to get something out.

2 COMMISSIONER GIARD: Okay.

3 COMMISSIONER THOMPSON: And we'll have plenty of time,
4 we'll get comments and we'll have plenty of time to talk about
5 this again several times I'm sure before we reach a conclusion.
6 I agree absolutely that ultimately just saying we'll figure it
7 out later is not the right answer, but I don't think we have
8 before us a record that'll --.....

9 CHAIR JOHNSON: Right.

10 COMMISSIONER THOMPSON:would allow us to figure it
11 out today.

12 CHAIR JOHNSON: If I might I think -- and in fairness I
13 think from my perspective we've already made some significant
14 decisions even here today. And I know that there's always
15 going to be somebody that's going to be satisfied we didn't go
16 further, but when looked at in the aggregate I think this work
17 product will reflect a fairly substantial shift in a number of
18 areas.

19 COMMISSIONER GIARD: Okay.

20 COMMISSIONER HARBOUR: Mr. Chairman, I just had one
21 comment especially for the record today. The AUSF concept as
22 it applies to carrier of last resort is an important new idea.
23 It was not submitted in great detail nor was there a formal
24 proposal as to exactly how it would be executed nor any
25 representation of industry consensus. If parties want us to

1 seriously consider that then I think our process is going to
2 allow some coalition of thinking to occur on that subject. And
3 that could well be the answer to a lot of the complexity that
4 we've discussed. And although it presents some challenges, but
5 I think option 5 keeps the door open, it's a place marker as
6 Commissioner Strandberg referred to and it does not prohibit us
7 as Commissioner Giard is concerned for developing a final
8 resolution being as that the Legislature required the
9 implementation of draft.....

10 CHAIR JOHNSON: Yeah.

11 COMMISSIONER HARBOUR:regulations by November 15th;
12 not final regulations.

13 CHAIR JOHNSON: Just to -- maybe the last word on this,
14 I'd.....

15 COMMISSIONER GIARD: You think you're going to get the
16 last word.

17 CHAIR JOHNSON: I'm not sure. I do believe.....

18 COMMISSIONER GIARD: I'm comfortable with that.

19 CHAIR JOHNSON:from the comments made earlier that
20 there is a lot of support here on the panel for some sort of
21 trigger and I think there's -- you know, we need to pick up and
22 move with that, I'm just not sure if we're capable of moving on
23 that one today.

24 COMMISSIONER GIARD: Okay. I'm gone -- I'm good.

25 CHAIR JOHNSON: Okay.

1 COMMISSIONER THOMPSON: We've got to rock and roll, we're
2 not even halfway through.

3 CHAIR JOHNSON: We are cruising.

4 COMMISSIONER STRANDBERG: Yeah, but she wants us to rock
5 and roll.

6 CHAIR JOHNSON: I've turned the page, I'm on page 42.

7 COMMISSIONER THOMPSON: Yeah, I am too, but you're still
8 not halfway through.

9 COMMISSIONER HARBOUR: We done all the hard stuff though.

10 COMMISSIONER STRANDBERG: Commissioner Giard, are you able
11 to move us forward?

12 COMMISSIONER GIARD: Oh, I didn't know.....

13 COMMISSIONER THOMPSON: Crack that whip.

14 COMMISSIONER GIARD:that my job -- okay. They just
15 only do that to stop me talking about the other thing. It's a
16 ruse, I'm aware of it though. Section 53.290(e) statement that
17 no implicit modification of waivers are intended. The Staff
18 recommends retain provision (e). Does anybody have any
19 comments about this section at all?

20 CHAIR JOHNSON: No, I like the Staff recommendation.

21 COMMISSIONER GIARD: Okay. I have some discussion on
22 notice requirements.

23 CHAIR JOHNSON: Notice requirements.

24 COMMISSIONER GIARD: Pardon me.

25 CHAIR JOHNSON: No, go ahead, Kate.

1 COMMISSIONER GIARD: There was kind of just housekeeping
2 change frankly that was recommended by the Staff and ACS and
3 the Rural Coalition. Does anybody have any discussion about
4 this particular area? No. Okay. Seven day rule for
5 transferring customers. Okay. There -- option 3 is no changes
6 are proposed which is the Staff recommendation.

7 CHAIR JOHNSON: Yeah, I think that's the -- probably the
8 wise course because I do think that the other two options
9 although they may have some interest were both propounded in a
10 different docket and maybe they need to be addressed there. I
11 think that the prudent course here is to go with option 3 and
12 note the -- that the triennial review may be involved in this.

13 COMMISSIONER THOMPSON: Well, there's a number of things.
14 It's -- we may -- there's a hot cut process that we will have
15 to -- issue we'll have to address out of that order. The 7 day
16 rule, there's a couple of dockets that it's been -- an
17 interpretation of it has been at issue.

18 COMMISSIONER STRANDBERG: Yes.

19 CHAIR JOHNSON: Okay.

20 COMMISSIONER THOMPSON: It may end up getting changed, but
21 not here.

22 COMMISSIONER GIARD: Okay. Item number J, section 53.299
23 definitions.

24 COMMISSIONER STRANDBERG: Excuse me, Commissioner Giard, I
25 think we had some other miscellaneous changes.

1 COMMISSIONER GIARD: You know I just ignored it because I
2 know we're going to go into corporate restructure. Does
3 anybody have any problems with.....

4 COMMISSIONER STRANDBERG: No.

5 COMMISSIONER GIARD:or discussion on definitions?

6 COMMISSIONER STRANDBERG: Commissioner Harbour, did you
7 want to talk about definitions today?

8 COMMISSIONER HARBOUR: Again?

9 COMMISSIONER STRANDBERG: But we need to move on, I
10 shouldn't be.....

11 COMMISSIONER GIARD: Okay. We're into the area of
12 restructuring freedom.

13 CHAIR JOHNSON: Oh, your favorite.

14 COMMISSIONER THOMPSON: Passed the halfway mark, no we
15 didn't.

16 COMMISSIONER GIARD: Okay. The issue that's before us is
17 should the Commission amend its rules to allow a greater degree
18 of structural freedom. And there were -- recommendation of the
19 Staff at this time is to make no change, is there discussion on
20 the other options that were presented by the industry?

21 CHAIR JOHNSON: I would just -- from my perspective on
22 this docket I'd -- I do believe that the Staff accurately
23 points out that this matter may be outside the scope of the
24 requirements of House Bill 111. And without really reflecting
25 on the merits of the proposals I think we'd be wise not to

1 embrace some of this stuff right now. We've got other
2 stuff.....

3 COMMISSIONER GIARD: Okay. So we're moving onto bundling.
4 Bundling.

5 CHAIR JOHNSON: We are -- are we not cruising now?

6 COMMISSIONER THOMPSON: We're almost to the halfway point
7 in Staff's memo. It's.....

8 COMMISSIONER GIARD: Okay. On page 50, issues A, should
9 the bundling of local exchange and intrastate interexchange
10 service be allowed in competitive service areas, if so, should
11 there be any restrictions. And I think from my perspective
12 there was a lot of information that probably came to the
13 Commissioners prior to my being seated here about this. It was
14 a very interesting area,.....

15 COMMISSIONER THOMPSON: Uh-huh.

16 COMMISSIONER GIARD:I couldn't see why you wouldn't
17 allow it.

18 COMMISSIONER THOMPSON: Long story.

19 COMMISSIONER GIARD: I gathered that. So I'll just let
20 you guys kind of discuss that.

21 COMMISSIONER STRANDBERG: (Indiscernible) background.

22 COMMISSIONER THOMPSON: So does that --.....

23 COMMISSIONER GIARD: Seemed logical to me.

24 COMMISSIONER THOMPSON:is that an expression of
25 support on your behalf for option 1?

1 COMMISSIONER GIARD: Yeah, I don't ---.....

2 COMMISSIONER THOMPSON: Okay.

3 COMMISSIONER GIARD:I knew that I didn't know enough
4 about it because it seemed pretty easy to me to make a decision
5 so I knew that I was missing something. What in particular am
6 I missing, there's something geographic averaging, is that what
7 really is the barrier here?

8 COMMISSIONER THOMPSON: Part of it. And part of it is
9 you're coming into it when there are -- there is competition.
10 And the history -- the time -- it's a timing issue like it is
11 with a lot of things, you know, when is the market committed
12 and we need transition, but I don't think there's much
13 disagreement that it's appropriate for competitive service
14 areas.

15 MR. GAZAWAY: Can I give you some historical perspective
16 on it? It was introduced when several incumbent local exchange
17 companies were seeking IXC certificates and competition was in
18 its infancy so to speak, wasn't -- wasn't in existence in any
19 area except for Anchorage. And as a means of insuring that the
20 incumbent local exchange carrier did not use its point -- its
21 role as the primary point of customer contact and control of
22 their essential facilities for an unfair competitive advantage,
23 at that time the Commission, which was actually the APUC,
24 decided it was appropriate to restrict the incumbents from
25 bundling local exchange and long distance services. That's

1 just basically your historical basis for that restriction.

2 COMMISSIONER STRANDBERG: I believe -- correct me if I'm
3 wrong, but the reason for the bundling restrictions was -- was
4 that on the LEC side or was that on the IXC side?

5 MR. GAZAWAY: There were restrictions imposed on
6 interexchange carrier certificate, in other words they applied
7 to be -- local exchange carriers applied to have a
8 interexchange carrier certificate and as part of that approval
9 process restrictions against bundling were imposed along with
10 the restrictions you just glazed over on corporate freedom,
11 restructuring freedom.

12 MS. KENYON: Imposed on the local carrier.

13 COMMISSIONER STRANDBERG: On the LEC?

14 MS. KENYON: Local carrier.

15 COMMISSIONER THOMPSON: Right.

16 MS. KENYON: Yes.

17 COMMISSIONER STRANDBERG: Right. Right. That was -- I
18 was trying to remember which -- where the restrictions were.

19 MR. GAZAWAY: The restrictions were placed on the
20 interexchange carriers approval process, actually it was
21 imposed in the dockets addressing the interexchange carrier's
22 applications.

23 MS. KENYON: Right.

24 COMMISSIONER GIARD: I have a question for Staff if I may,
25 it says here bundling makes it nearly impossible for the RCA to

1 insure that USF funds are only used for intended purposes.

2 MR. GAZAWAY: Unrestricted bundling where you don't have
3 any kind of cost allocation between your different revenue
4 sides?

5 COMMISSIONER GIARD: Right.

6 MR. GAZAWAY: That point was actually raised by the Rural
7 Coalition.

8 COMMISSIONER GIARD: I saw that.

9 MR. GAZAWAY: And their -- I believe their perspective on
10 that is if you do not know what portion of the revenues from a
11 bundled package are allocated to the local exchange side you
12 have a harder time determining their revenue picture for
13 determining USF needs and whatnot.

14 COMMISSIONER GIARD: How did Staff overcome that and make
15 the recommendation that they made which was option 1, are they
16 comfortable with that?

17 MR. GAZAWAY: You mean as far as allowing it? Well, that
18 goes to the next question which is what restrictions should you
19 impose once you decide.....

20 COMMISSIONER GIARD: Okay.

21 MR. GAZAWAY:to allow it.

22 COMMISSIONER GIARD: Should we just move on? Is there any
23 discussion with Staff recommendation of item number 1, which is
24 to allow bundling of services in competitive areas?

25 CHAIR JOHNSON: Well, at the risk -- I just want to ask

1 the Commission, there is a complete and open docket at this
2 time that addresses bundling. Bundling is not, to my
3 knowledge, mentioned in House Bill 111 at all. I don't know
4 how efficient it's going to be for us to try to embrace and
5 decide this issue in this docket when there are other avenues,
6 I mean, they're not imaginary, they're actual dockets in front
7 of this Commission that we can pick up this issue at anytime
8 and pursue it in greater depth. I would note that based on the
9 comments there's only one proposal by the commentators, it's
10 reflected in here today as it pertains to bundling. I just --
11 I'm pretty uncomfortable in proceeding on this basis.

12 COMMISSIONER THOMPSON: The reason Staff has it included
13 in here at the risk of speaking out of turn, is that it really
14 fits -- it's an issue that fits in with all these other ones
15 and it makes sense to think about them at the same time if what
16 you're trying to do is comprehensive restructuring. It -- I'd
17 rather see us do -- I think we could do a better job if we
18 thought about all the important issues together rather than
19 saying we don't have to do that one now, let's just skip it.
20 And then you have to come back and figure out how to fit it in.
21 This is one that -- it's an important part of how carriers
22 operate in competitive markets.

23 MS. KENYON: The only -- pardon me, the only thing I would
24 add is that for example let's say you thought that bundling was
25 so important that you wouldn't allow it or that you had -- you

1 would allow it under strong restrictions, that may affect your
2 decision on whether or not you want to deregulate certain
3 services and under what conditions.

4 COMMISSIONER THOMPSON: Uh-hum.

5 MS. KENYON: You just -- those seem to go together in some
6 degree.

7 COMMISSIONER STRANDBERG: Well, it -- again it seems that
8 maybe we don't have, you know, complete draft regulation on
9 this, but certainly we're going to be hard pressed not to allow
10 it. It, in fact, is occurring and indeed the definition of
11 what bundling is now is quite different from what it was even
12 two years ago given the changes in technology. So I guess I'm
13 going to have to support the Staff recommendation on this one,
14 I think they're reading the tea leaves so to speak in a lot of
15 ways.

16 COMMISSIONER GIARD: I think they're reading the tire
17 tracks on the road, I mean, bundling it happens and it's just
18 the way life is today.

19 MR. GAZAWAY: Can I point two things out regarding this?
20 One is that.....

21 COMMISSIONER STRANDBERG: Yes, Mr. Gazaway.

22 MR. GAZAWAY: First of all let me say I don't think you
23 necessarily need a draft regulation, this rule is not in the
24 regulations right now.

25 COMMISSIONER THOMPSON: Uh-hum.

1 COMMISSIONER STRANDBERG: Right.

2 MR. GAZAWAY: And you're --.....

3 COMMISSIONER THOMPSON: Right.

4 MR. GAZAWAY:there are some bundling inquiries
5 underway at the federal level. If you were to adopt a
6 regulation you would have a harder time changing those rules
7 because of the process involved in regulations than you would
8 if you were to issue a Commission order addressing the issue.
9 That being first that -- the second thing I guess I would point
10 out that -- I didn't mean to bore you, but the second thing I
11 would make out is I kind of do think this is ripe, this is an
12 issue that if I can speak for one of the carriers, I think they
13 have raised it as a issue of competitive parity and they are
14 very concerned with the Commission's -- well, I hate to use
15 this term, creditability, but regulatory lag in dealing with
16 it. So I think at least in competitive areas there is some
17 urgency to find a resolution.

18 COMMISSIONER STRANDBERG: So if we don't have any draft
19 regulations how are we dealing with it?

20 MR. GAZAWAY: That goes back to the first point.....

21 COMMISSIONER THOMPSON: On a case by case basis.

22 MR. GAZAWAY:which is I don't think we need to do it
23 through draft regulations, we can do it in the order that
24 issues the other regulations for comment. I should probably
25 defer to Virginia on that, but that would be my take.

1 COMMISSIONER THOMPSON: No, it's been -- if you'll recall
2 it comes up in the context of tariff reviews and I would --
3 it's been handled on a case by case basis. I'm sorry.

4 MS. KENYON: Oh, while she's thinking about whether we
5 should allow bundling by order or by regulation, just to point
6 out the time lines, if you want a complex order on bundling
7 November 15th is coming awful quick.

8 COMMISSIONER GIARD: How about a simple order on bundling.
9 Let's.....

10 COMMISSIONER HARBOUR: Well, Mr. Chairman, I think if we
11 again put the Staff recommendation in as a place keeper, if we
12 -- we can through the -- after the draft is initiated and
13 through the following comment period, if in that period of time
14 an order is issued then that makes the regulatory approach
15 moot. But meanwhile we have a place keeper.

16 COMMISSIONER GIARD: I think those local competitors who
17 want to bundle will probably make recommendations for us if we
18 put it in there as a place holder. I think if they didn't I
19 would be very disappointed.

20 COMMISSIONER STRANDBERG: And what do you mean by put -- I
21 mean, what do you -- what would you mean by putting it in as a
22 place holder, would that.....

23 COMMISSIONER GIARD: We just say.....

24 COMMISSIONER STRANDBERG:be a statement in our order
25 just.....

1 COMMISSIONER GIARD: I think just allow bundling of
2 services in competitive areas. I don't know, Virginia knows
3 and so we send something out there.

4 MR. GAZAWAY: I guess my inquiry is are you actually --
5 are you assuming that they haven't commented on the bundling
6 issues, that's --.....

7 COMMISSIONER GIARD: No, they've commented.

8 COMMISSIONER THOMPSON: Right.

9 MR. GAZAWAY:this binder here is all comments on
10 bundling.

11 COMMISSIONER THOMPSON: No, there's a lot of comments on
12 it.

13 CHAIR JOHNSON: Yeah.

14 COMMISSIONER GIARD: Okay. So it's well commented on.
15 Maybe we should move onto the next issue (indiscernible -
16 simultaneous speech).....

17 COMMISSIONER THOMPSON: I think that's a good idea.

18 COMMISSIONER GIARD:bothering us. How should
19 geographic rate average discrimination issues be addressed.

20 CHAIR JOHNSON: I think that the caterpillar just ran over
21 me so that's all right.

22 COMMISSIONER THOMPSON: So we read the tire tracks? I
23 like that one.

24 COMMISSIONER GIARD: Okay. The Staff have a variation
25 which is an option 2. There's a UII variation and a Staff

1 variation of option 2. So -- I'm sorry, we're on page number
2 55.

3 COMMISSIONER THOMPSON: I guess I've got a question which
4 is if you're going to require them to offer those services in a
5 bundled packaged also individually, doesn't that kind of
6 undermine the ability to bundle?

7 MR. GAZAWAY: That actually goes to not necessarily -- are
8 you talking about the last sentence that --.....

9 COMMISSIONER THOMPSON: Right.

10 MR. GAZAWAY:of option number -- the Staff's
11 variation of option 2? That actually goes to not necessarily
12 the carrier -- the larger carriers that you're used to dealing
13 with here, we had an application process at one time where a
14 carrier proposed to come in state and wanted interexchange and
15 local exchange certificates and the only way you could get
16 local exchange service was to take it along with their
17 interexchange service. That's what that sentence is intended
18 to address.

19 MS. KENYON: So would it be fair to say that you're
20 talking about having a discrete service offering, but it might
21 be at a different rate than in the bundle?

22 MR. GAZAWAY: I'm sorry, say that again?

23 MS. KENYON: Is it fair to say then that you'd have a
24 discrete -- if you had this example, local and IXC services in
25 the same bundle, they'd have to have discrete offerings for

1 local and for IXC, though it may be at a different rate than
2 what's in the bundle, is that what you're trying.....

3 MR. GAZAWAY: Well, actually you put the sentence in, I've
4 had a hard time responding to that.

5 MS. KENYON: Well, no. My concern was what he was saying
6 is that if you allow the consumer to be able to purchase an
7 unbundled service is they want to and that you're not forcing
8 them to buy this bundle, that's what that was intended to be?

9 COMMISSIONER THOMPSON: Uh-hum. I think that's kind of
10 what the point of bundling is from the company's perspective
11 though. They figure out what they can offer economically as a
12 group and.....

13 MS. KENYON: Well, that's -- you're not saying they
14 couldn't bundle, but you're saying that if you do bundle you
15 also have a separate service off -- a separate plan for
16 (indiscernible) service or a separate rate that says okay, I
17 can also buy this individually if I want to, I'm not forced to
18 all buy the bundle and only buy the bundle.

19 MR. GAZAWAY: Let me rephrase that. I think the question
20 is can they only allow bundled offerings and no other services
21 period.

22 COMMISSIONER STRANDBERG: This may be a question of
23 letting go.

24 COMMISSIONER THOMPSON: Yes.

25 COMMISSIONER STRANDBERG: I mean, if it's a competitive

1 market this may be the time just to -- okay, we're going to
2 stand back and let them duke it out on a competitive level.

3 COMMISSIONER THOMPSON: Stand back and watch the train
4 wreck.

5 CHAIR JOHNSON: Here, here.

6 MR. GAZAWAY: So I guess my question would be does that
7 mean you're going back to option 1?

8 COMMISSIONER THOMPSON: No, I think that what I'm talking
9 about is option 2 without the last sentence.

10 COMMISSIONER STRANDBERG: Right.

11 MR. GAZAWAY: So the option 2, UUI, United Utilities
12 variation?

13 COMMISSIONER THOMPSON: No. Option 2, staff variation
14 without the last sentence.

15 MR. GAZAWAY: That's option 2,.....

16 COMMISSIONER THOMPSON: Okay.

17 MR. GAZAWAY:UUI's variation.

18 COMMISSIONER THOMPSON: Okay.

19 CHAIR JOHNSON: Yes, I'm sorry, so did we go with option
20 2.....

21 COMMISSIONER THOMPSON: Well, we haven't voted yet on
22 option 2, UUI, which is very similar to option 2,.....

23 CHAIR JOHNSON: Yeah.

24 COMMISSIONER THOMPSON:GCI.

25 CHAIR JOHNSON: Okay. Further thoughts by the Commission?

1 MR. GAZAWAY: And I think you could have basically implied
2 option 2 for GCI and UUI are the same, it's just UUI stated it
3 a little more refined.

4 COMMISSIONER THOMPSON: Yeah, I'm having trouble
5 understanding the difference and the difference is the words at
6 rates specified in the bundle. The problem with that is if
7 it's a bundle.....

8 COMMISSIONER GIARD: Right.

9 COMMISSIONER THOMPSON:you don't specify individual
10 rates. So I'm not quite sure how that works.

11 MR. GAZAWAY: No, we recommend that they do specify
12 individual rates. For one reason for allocating the revenues
13 amongst different jurisdictions.

14 COMMISSIONER THOMPSON: Okay.

15 COMMISSIONER STRANDBERG: Allocate revenues between
16 different jurisdictions?

17 MR. GAZAWAY: There's kind of two issues involved too,
18 they also have to determine what long distance rate is
19 applicable because -- this is where I probably -- because they
20 want to -- we want to make them have that rate available
21 statewide, not just in competitive areas and so without knowing
22 what the rate is obviously you can't do that.

23 MR. TREUER: It may be useful to distinguish between
24 bundling where you have a single rate for two services and
25 tying where you have a package where you're required -- in

1 order to get one service you're required to get the other
2 service, but you have two separate rates within the bundle.

3 2700

4 (Tape' change)

5 Tape 4

6 0015

7 COMMISSIONER HARBOUR: Question, if the bundle is for
8 local and long distance service, local implies that you've got
9 a local service area somewhere. If you've got a local service
10 area somewhere how can you separate -- how can you make that
11 rate available statewide if you don't serve statewide locally.
12 You just serve a local area. And therefore if it's a bundle
13 and you can't force 'em to make the bundle available because of
14 the long distance capability in Barrow if the -- if the local
15 area that's part of the bundle is Anchorage because there is no
16 local service in Barrow by that carrier.

17 MS. KENYON: And I think what they're saying is they
18 wouldn't have to serve -- they wouldn't have to sel. the local
19 part of it statewide, only the long distance part.

20 COMMISSIONER HARBOUR: But I don't think that's what we've
21 just been discussing as being distasteful to us is forcing them
22 to because the bun- -- the economy to the company of the bundle
23 is the bundle not to our forcing them to split apart the bundle
24 and saying that economy you achieve in the bundle now we want
25 you to make it available unbundled up in Barrow.