

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004
10944 HOUSE LABOR & COMMERCE

Executive Summary

X This economic assessment examines the cost competitiveness of an Alaska Intrastate Gas Company (AIGC) proposal to provide a utility gas system in the Alaskan communities of Ketchikan, Sitka, and Juneau, Alaska. AIGC is proposing to supply, distribute, and sell utility gas to these communities in a series of systems with components developed, owned, and operated by AIGC and others. At a future date, natural gas may be the market fuel in the system. The success of the proposed project depends on the following factors:

- The AIGC cost of providing the service and how this cost compares to that of the readily available alternatives: fuel oil/bottled propane, and electricity.
- AIGC marketing, consumer acceptance, conversion costs, and meeting market projections
- Delivered Cost of wholesale propane gas cost into each community

This study focuses on the cost of providing utility gas service and the associated revenue requirements.

Summary Conclusions:

This project provides a competitive and clean alternative fuel source to Juneau, Sitka, and Ketchikan and is feasible if the assumptions, conditions, and projected annual/sales volumes are as presented in this economic assessment. Deviations from any assumptions, conditions, and projected sales volumes might increase or decrease the commodity price and affect both revenue requirements and feasibility for the proposed utility gas system.

The cost estimates and sensitivity analysis for the proposed utility gas system indicate that AIGC needs to manage the required infrastructure and associated costs to meet a competitive price targets over its first seven years of operation. Once customer conversions are complete and AIGC captures the market, its ability to increase pricing will improve. The models used indicate rate increases in years five, seven and ten. Montana-Dakota's financial model analyzed two scenarios, one with higher customer service rates than the other. The conservative model assumes a lower rate is necessary to achieve desired conversion rates than the other. With the conservative model, the internal rate of return, IRR, was 3.48% over the forty year life of the project and the aggressive model yields 8.45% IRR.

Montana-Dakota's research shows that the seafood processor loads are relatively insignificant. Accordingly, the commodity prices are higher than those assumed in earlier studies. Adding additional large peaking loads would significantly improve returns and allow for lower commodity pricing and increased conversions. To the extent AIGC can increase sales without increasing capital costs; it can reduce the commodity price. Conversely, to the extent sales do not materialize as projected, the commodity price would need to be higher and less competitive.

If the long-term price of propane can be reduced below the assumed \$0.43 a gallon or the delivery charge to Juneau is less than \$0.18 per gallon, the commodity price can be reduced. The financial model assumes a delivered price of propane to Juneau of \$0.61 per gallon. Some providers have verbally suggested that propane is available at a delivered price as low as \$0.40 per gallon. Montana-Dakota was unable to obtain any written confirmation of these lower

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prices; therefore, the attached models use substantiated pricing available on spot markets. To the extent that AIGC is able to acquire long term contract prices, the IRR improves dramatically.

X AIGC is working with the state of Alaska and other private parties to obtain propane from a refiner at Valdez. When this is complete, the propane can easily be moved to other markets.

Project Components

The analysis included a review of the major project elements as discussed below.

Customer Base

The system as analyzed was assumed to serve residential and commercial/industrial customers. Residential and small commercial customers primarily represent a space heating and hot water heating load. As a result, their sales are the greatest in the winter and relatively low in the summer.

The model does not incorporate potential bulk propane sales to the local bulk propane distributors. These distributors currently transport propane to Juneau using 12,000 gallon propane transports on barges. This type of transportation and the smaller volumes result in a delivered commodity price of approximately \$1.50 per gallon. This potential opportunity could improve returns. Alliances with these service providers can also create opportunities in nearby communities. Further, opportunities exist for added load and added returns through marketing of distributed generation (micro-turbines).

Utility Gas Delivery Chain

The study analyzed the utility gas delivery chain from propane procurement through customer billing and collection. The major elements in this delivery chain are as follows:

- Procure propane in Alberta and British Columbia.
- Ship the propane in railroad tanker cars to Prince Rupert, British Columbia. CN Rail would haul the railcars to and from the propane sources to its existing facilities at Prince Rupert
- The marine transport company loads the propane onto a bulk propane barge. Initially, this barge will transport approximately 500,000 gallons of propane per shipment.
- The barge would make a trip to Juneau, off-load the propane into AIGC's storage facilities, and return to Prince Rupert for the next round trip. AIGC will feed the Juneau distribution system from storage and will fill propane transports for distribution to smaller communities.
- AIGC will construct the needed infrastructure in each community from the dock to the distribution system. This infrastructure includes land-based storage and the vaporization ("send-out") facilities. Within each community, there may be multiple send-out facilities at multiple locations.
- Montana-Dakota is under contract with AIGC to operate the system.
- AIGC would contract with a local electric or water utility system for customer billing and collection.

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Community Infrastructure

Each community has different infrastructure requirements and the infrastructure used for this analysis is as follows.

In Juneau, existing docks will need modifications to accommodate loading arm for unloading the propane barge. In Sitka, the Marine transport company will make necessary modifications to handle product shipments. In Ketchikan, there is existing rail car infrastructure at the Saxman Seaport that can physically accommodate rail cars or can handle bulk storage deliveries.

In each community, there is a need for fuel storage, which would be provided by permanent land-based storage tanks.

There would be three send-out facilities in Juneau, two in Ketchikan, and one in Sitka. A pipeline would transport propane from the docking area to each send-out facility, where the propane would be vaporized and mixed with air to create utility gas.

Project Schedule

A preliminary project development schedule indicates that gas utility service could begin in July 2004 in Juneau, April 2005 in Sitka, and April 2006 in Ketchikan.

Revenue Requirements

Projected Sales

Montana-Dakota estimated the number of residential and commercial utility gas customers by performing detailed surveys and meeting with a significant number of customers to identify the critical parameters for conversion customers. The conversion rates are typical of what Montana-Dakota achieved in similar conversion situations in the Dakota's.

Montana-Dakota estimated annual sales to residential and small commercial customers by reviewing historical fuel oil consumption rates and converting those volumes to propane on a therm basis.

The data on annual sales were used to determine the transportation logistics for supplying the required fuel quantities. Heavy-demand-period usage was estimated for establishing in-community storage requirements.

Project Operating Costs

The annual costs to operate and maintain the in-community utility gas systems and AIGC's operations were estimated at approximate \$1,123,180 in the first year of operation and \$1,500,000 in year 7 when there is service in all three communities. These costs were developed based on assumed staffing levels and individual expense items. The spread sheets in the appendices of this report provide additional detail.

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Project Capital Costs

The estimated capital costs for the first 5 years Table ES-1.

TABLE ES-1

Estimated capital costs for Infrastructure in Ketchikan, Sitka, and Juneau

ITEM	Year 1	Year 2	Year 3	Year 4	Year 5
Liquid Storage Units:	\$2,500,000	\$1,000,000		750,000	
Send out facilities:	\$3,000,000	\$750,000		250,000	
Liquid Trunk Lines	\$3,000,000	\$1,500,000			
Liquid Pumping	\$750,000	\$750,000	\$750,000		
Distribution Facilities	\$7,433,377	\$2,734,450	\$3,164,562	\$66,816	\$84,353
Non-recoverable line-fill (propane):	\$1,000,000				
Vehicles, Tools and Equipment:	\$200,000	\$200,000			200,000
Total Capital Budget	\$17,883,377	\$6,934,450	\$3,914,562	\$1,066,816	\$284,353

Note: Costs are in 2003 U.S. Dollars.

Montana-Dakota performed preliminary engineering to establish a proposed layout of the gas distribution system for estimating purposes. Primary main routes will provide service to branches or laterals as customers request service. AIGC should not construct laterals unless sufficient numbers of customers request service to cost justify the expansion. An independent contractor, InfraSource, developed construction cost information as included in the appendices.

Capital Structure

For the financial model used in this study, debt structure has no effect on the rate of return. However, contrary to earlier studies, Montana-Dakota advocates a debt/equity structure of fifty/fifty. During the initial build-out, AIGC should use equity investments to construct the Juneau distribution system. Then, AIGC can use debt financing for expansion. The marketability of bonds for an on-going concern is significantly greater than for a start-up operation. Accordingly, the bonds will have a higher rating and lower interest rate if the debt is kept to less than fifty percent.

As is noted above, investors can anticipate a rate of return on investment of between 3.5 percent and 8.5 percent. Discussions with an investment banker in Seattle indicated that, for a project of this nature, some investor may be willing to invest for this range of returns. Recent sales of gas utilities indicate that venture capital is currently available for utility operations.

Conversion Requirement Based Commodity Price

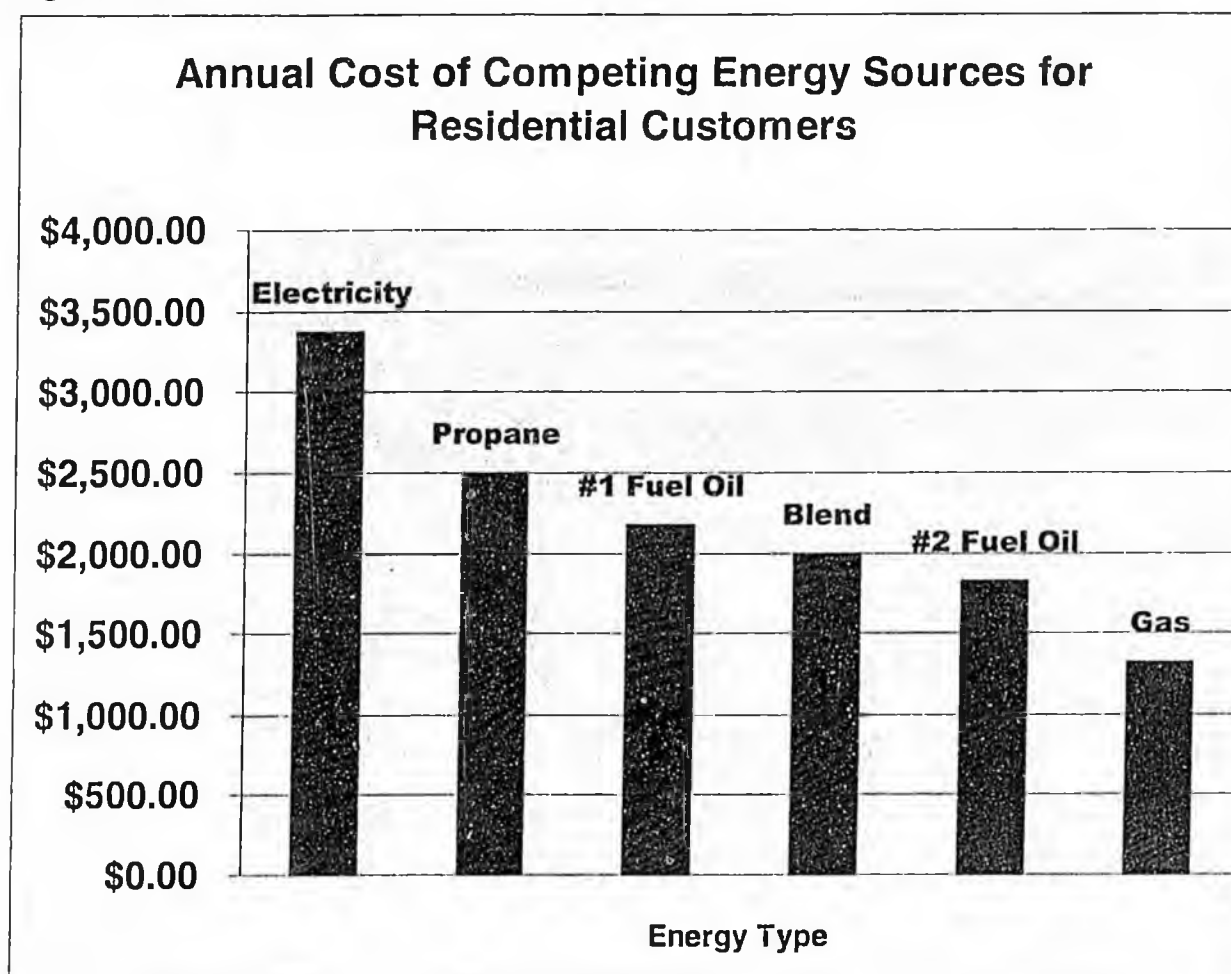
Approach

Montana-Dakota estimated the required utility gas commodity price based on competitive pricing with fuel oil in Juneau. Surveys of residential and commercial customers along with fuel oil dealers indicates that the average cost for number two fuel oil for residential customers in 2003 was approximately \$1.40 per gallon and \$1.20 for small commercial customers.

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Consumers must be able to reduce their energy costs enough to recover conversion expenses. Once customers recover the conversion expense, it will be possible to raise commodity prices sufficiently to provide a reasonable return on investment as is allowed by the Regulatory Commission of Alaska. Accordingly, the financial models indicate a rate increase of one dollar in the fifth, seventh and eleventh years. Figure ES-1 illustrates the competitive advantage of natural gas, assuming the pricing contained in the financial models.

Figure ES-1



Results

Certain AIGC costs are unavoidable, largely fixed, or beyond AIGC's ability to control. These costs are for cost of propane, propane transportation, depreciation, and taxes. Therefore, any cost reductions would have to come from operations and return to rate base or from increased sales. AIGC should be aggressive in controlling its costs, whether in capital investment or operations.

Key Assumptions and Sensitivity

The most important assumptions leading to these commodity rates are as follows:

- AIGC achieving the assumed conservative market penetrations for residential and small commercial customers, and sales will be at projected levels.

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- AIGC acquiring propane delivered to Juneau for an all inclusive price of less than \$0.50 per gallon.
- Historic price relationship between fuel oil and propane will continue in the future. Historically, the prices of fuel oil and propane have generally moved in the same direction at the same time.

The price is particularly sensitive to projected sales. The larger the volumes of utility gas sold without increasing the capital investment, the lower would be the commodity price to consumers. Figure ES-2 illustrates the anticipated build-out rate in Juneau assuming a conservative approach with gas priced at \$9.00/MMBtu. Figure ES-3 assumes that the customers will convert even if gas prices are slightly higher.

Figure ES-2

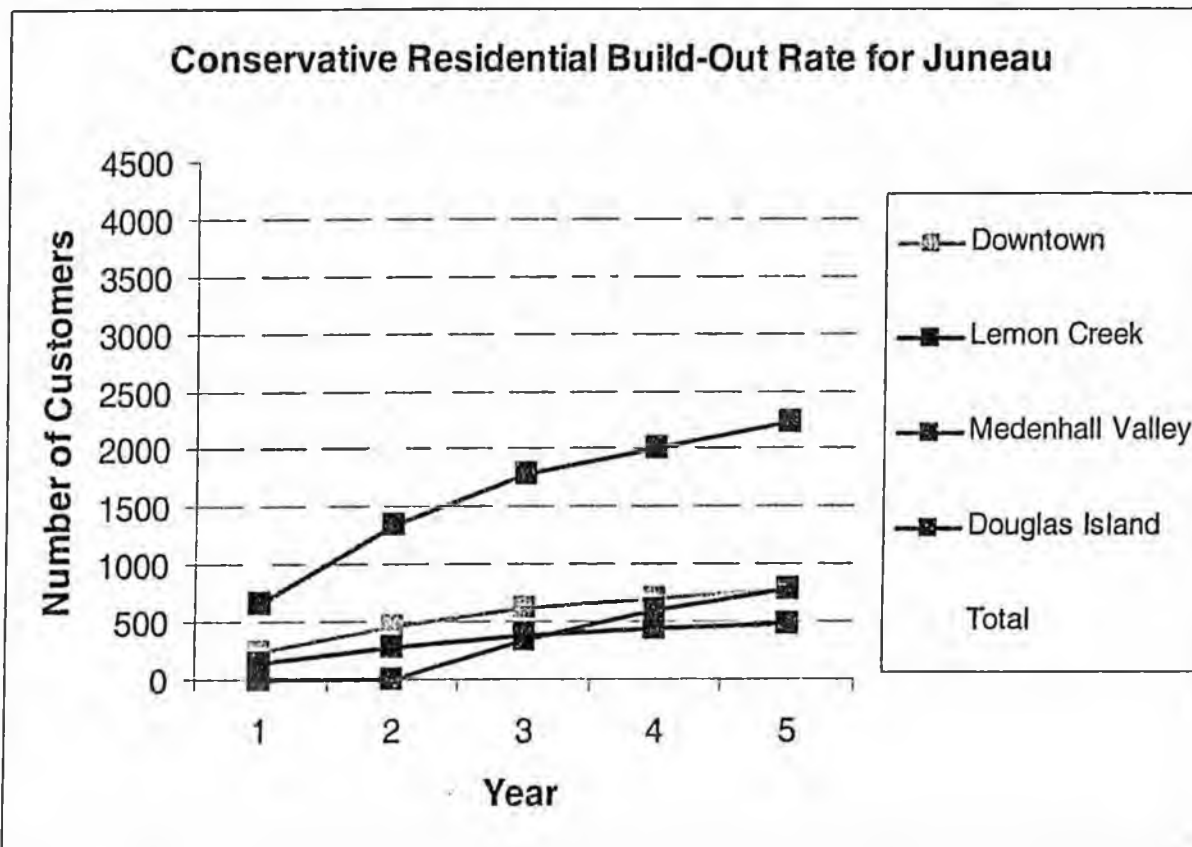
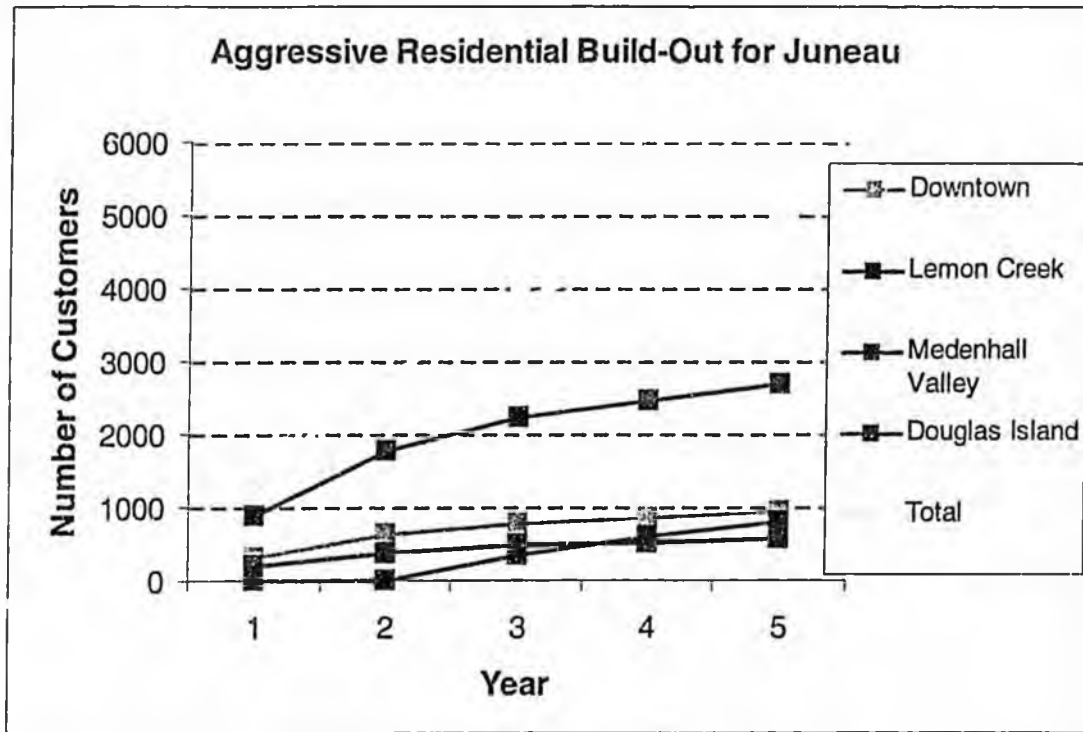
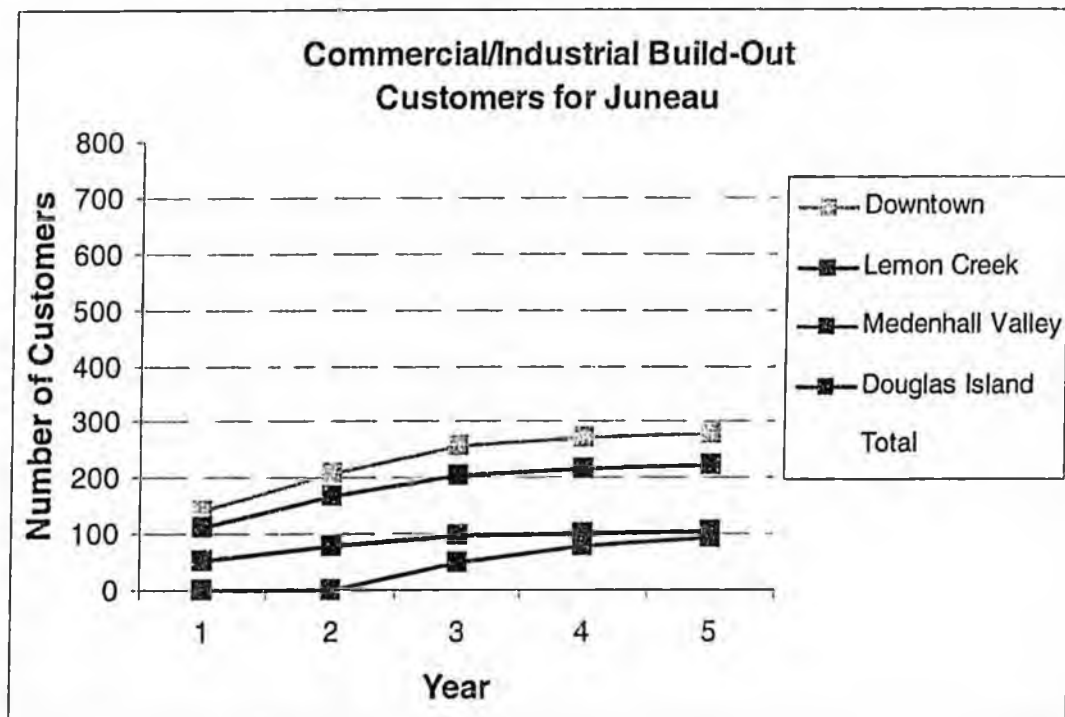


Figure ES-3



From the commercial standpoint, Figure ES-4 illustrates the anticipated commercial load regardless of the approach taken (Aggressive or Conservative).

Figure ES-4



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Competitive Price Comparison

As stated in earlier studies, the combined AIGC commodity price and service charge need to be competitive with the residential cost of fuel oil for space heating and hot water, or AIGC will not achieve the market penetrations assumed. Generally, the AIGC residential cost needs to be ten to twenty percent lower than the equivalent cost of fuel oil and electricity to attract a significant number of customers. This savings is necessary for potential consumers to be willing take action and incur a modest level of conversion costs.

Montana-Dakota contacted several manufacturers and HVAC contractors to estimate conversion costs and develop a level of confidence in the above described rate structure. If conversion costs are significant, the marginal savings from the utility gas service will need to be greater. For fuel oil users, the conversion cost may be modest; for electric hot water and space heat customers, the cost to convert can be significant.

The residential cost of electricity used in the comparison is the incremental cost of electricity from the applicable electric utility tariffs for residential customers. The comparative fuel oil prices used for each community are the 2003 historical prices obtained from consumers in Juneau.

With this conversion, there is not any efficiency improvement in the gas utilization equipment. Accordingly, this study includes a modicum of conservatism for consumers that purchase new equipment as opposed to conversion of existing equipment and/or appliances.

The commodity price needs to meet various competitive thresholds in each community for obtaining the space heat market. AIGC must capture the space heat market in order to have sufficient sales volumes. For commercial customers, the competitive advantage may not need to be as significant because of environmental concerns.

TABLE ES-2
Comparative Residential Cost of Competing Energy Sources

Description	JUNEAU				AIGC	Commercial	AIGC
	Electricity	Residential Fuel Oil #2	Fuel Oil Blend	Residential Fuel Oil #1	Residential Gas	Fuel Oil #2	Commercial Gas
Cost of Energy (Electricity in \$/kWh)	\$0.0922	\$ 1.42	\$ 1.51	\$ 1.61	\$ 9.00	\$ 1.20	\$ 8.00
Fuel Oil in \$/gallon-Gas in \$/MMBtu)							
Efficiency Ratings (%)							
Space Heat (New Appliances)(1)	100%	70%	70%	70%	85%	70%	85%
Space Heat (Burner Conversion)	N/A	70%	70%	70%	70%	70%	70%
Hot Water Heater (Boiler)(1)	N/A	70%	70%	70%	85%	70%	70%
Hot Water Heater (Tank type)	92%	55%	55%	55%	61%	55%	61%
Adjusted Cost (\$/MMBtu)							
Space Heat (New Appliances)	\$27.01	\$ 14.59	\$ 16.00	\$ 17.41	\$ 10.59	\$ 12.36	\$ 9.41
Space Heat (Burner Conversion)	N/A	\$ 14.59	\$ 16.00	\$ 17.41	\$ 12.86	\$ 12.36	\$ 11.43
Hot Water (Boiler)	N/A	\$ 14.59	\$ 16.00	\$ 17.41	\$ 10.59	\$ 12.36	\$ 11.43
Hot Water (Tank Type)	\$29.36	\$ 18.57	\$ 20.36	\$ 22.16	\$ 14.75	\$ 15.73	\$ 13.11
Savings							
Space Heat (New Appliances (1)	61%	27%	34%	39%		24%	
Space Heat (Burner Conversion)	N/A	12%	20%	26%		8%	
Hot Water Heater (Boiler)	N/A	27%	34%	39%		8%	
Hot Water Heater (Tank type)	50%	21%	28%	33%		17%	

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(1) This is for new non-condensing type boiler

The following data were used to calculate the estimated annual residential energy cost:

- Utility gas price of \$9.00/MMBtu (see Table ES-2) plus a monthly service charge of \$8.00 per month.
- Residential rates for electricity and fuel oil as presented in Table ES-2. For residential customers using fuel oil for water heat, it was assumed that electric hot water heat is used to maintain and increase the water temperature.
- Prices for fuel oil in each community obtained from the University of Alaska Fairbanks, Cooperative Extension Service, Food Cost Survey, September 1998 to September 2003.
- Efficiency rates for new space heat appliances and new hot water heaters as presented in Table ES-2.
- Average annual energy consumption by a residential user in each community for space heating and hot water heating: Ketchikan = 111.2 MMBtu, Sitka = 114.5 MMBtu and Juneau = 125 MMBtu.
- Assumed hot water heater energy use of approximately 21.6 MMBtu/year.

Additional Benefits: Health and Environment

From a community standpoint, the environmental advantages will also contribute beyond the economic advantages incorporated in this study. Costs for environmental clean-up and additional health care resulting from fuel oil use is not readily quantifiable, but it does exist.

Using natural gas in place of other fuels can help ease a number of environmental concerns such as greenhouse gas emissions, acid rain, smog, solid waste and water pollution. When natural gas is burned, it produces virtually no emissions of sulfur dioxide or particulate matter and far lower levels of "greenhouse" gases and nitrogen oxides than such competing sources of energy as oil and coal. In addition, unlike the oil, coal and nuclear processes, the natural gas process produces virtually no solid waste and has much less impact on water quality.

The inherent cleanliness of natural gas when compared with those other fuels, coupled with the high efficiency of natural gas equipment, means that substituting gas for the other fuels can help reduce the emission of the air pollutants that produce smog and acid rain and that could exacerbate the "greenhouse" effect.

The natural gas system is extremely efficient as are most types of appliances and equipment that operate on natural gas. Energy efficiency refers to the energy input per unit of useful energy output. In other words, energy efficiency measures how much energy is used or lost in providing such things as hot water, steam, warm or cool air. The higher the energy efficiency, the greater the conservation of energy and the lower the environmental impacts.

When the entire cycle of producing, processing, transporting and using energy is considered, natural gas is delivered to the consumer with a "total energy efficiency" of about 90 percent, compared with about 27 percent for electricity. Moreover, gas appliances and equipment are

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extremely efficient as evidenced by the fact that the residential use of gas per customer is about 16 percent less today than it was in 1980.

Additional Factors:

The following quote is from the American Gas Association's web site:

"Here are five reasons why AGA thinks natural gas is the fuel of the 21st Century:

Natural gas is America's natural wonder.

- That's why natural gas use has increased by 35 percent over the last decade, and is projected to grow by 45 percent by 2015.
- Natural gas costs less to use in your home than electricity, heating oil, propane or kerosene. On average, electricity costs almost four times more than natural gas.
- Natural gas customers paid less for their gas in 1998 than they did in 1987 -- about 24 percent less, in inflation-adjusted dollars.

Natural gas is the cleanest and most efficient fossil fuel.

- 99 percent of the natural gas we use in the United States comes from North America, and supplies are abundant.
- The 2 million-mile underground natural gas delivery system has an outstanding safety record.
- Regardless of the weather, you can depend on your natural gas utility to bring you America's best energy value.

Natural gas is safe, reliable -- and it's made in America.

- Natural gas is today's environmental energy choice -- increased use of natural gas can help address several environmental concerns simultaneously, including smog, acid rain and greenhouse gas emissions.
- Most electricity in the United States comes from coal, which produces far more emissions than natural gas.

Natural gas utilities are important to the nation and its economy.

- Gas utilities employ more than 151,000 people in all 50 states, with an annual payroll of nearly \$6.7 billion.
- Natural gas provides about 24 percent of all the energy used in the United States; one-third of the energy, if you exclude transportation fuels.
- Natural gas utilities operate and maintain more than 1.2 million miles of safe, efficient underground pipes -- an energy delivery system that is the envy of the world.

Your natural gas utility is your neighbor and your trusted energy partner.

- Gas utilities serve more than 60 million customers.

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- Your local gas utility has an investment in and a commitment to your community. Many gas utilities have been serving their customers for well over 80 years.
- Natural gas utilities are innovative and reliable, providing customers with a variety of services, products and -- most important -- America's best energy value.

PROPOSAL BACKGROUND

1.1 Overall Concept

This study began using the precepts and work presented in CH2M Hill's March 2002 report on the same project. Montana-Dakota Utilities Co. (Montana-Dakota) attempts to bring the conservative, yet creative concepts currently used in operating gas utilities and apply them to the Southeast Alaska project. While earlier reports took a broad-view approach to the three communities identified in Phase I, this analysis approached the project by focusing on the single community providing the greatest chance of success and possibility for return, Juneau.

From earlier reports, Alaska Intrastate Gas Company (AIGC) intends to provide utility gas service to the Southeast Alaska cities of Ketchikan, Sitka, and Juneau. After establishing service in these cities, AIGC's intends to extend service to 14 other Southeast Alaska communities in subsequent phases of the project. AIGC holds a Regulatory Commission of Alaska Certificate of Necessity and Public Convenience, No. 572, for utility gas service in these 17 communities. The AIGC concept is to buy propane in British Columbia and western Alberta, Canada transport it by rail tanker car to Prince Rupert B.C., then move propane by barge to each community.

Originally, the intent was to move rail cars to the various ports for distribution in each community. While this remains a possibility, Montana-Dakota explored the feasibility of using permanently mounted storage and piping product off and on the barge. This would eliminate the need for a large number of rail cars and the need for extensive dock modifications. Jim Jansen, with Alaska Marine Lines, provided the cost information shown in Appendix B. According to Mr. Jansen, the transportation of rail cars on barges is an inefficient use of barge capacity. The volumes required for this project are too large to allow mixing with General Cargo on a barge and too small to maximize the available tonnage on a small barge. Accordingly, the concept evaluated involves bringing large volumes to Juneau and then distributing from that storage facility to the smaller nearby communities. Therefore, propane shipments would be 500,000 gallons per shipment. As demand increases, the shipper can add tanks to the barge in 90,000-gallon increments.

AIGC should investigate alternative delivery approaches for each community as expansion occurs. Accordingly, they would off-load propane from the barge to land-based storage tanks. Sufficient storage is necessary to accommodate transportation delays from Prince Rupert and for the intervals between barge deliveries. Communities would either use propane vapor or propane/air mixtures for distribution throughout each community.

1.2 Propane Delivery Chain and AIGC Business Model

To focus on the distribution system and maximize efficiency of operations, an independent shipper such as Alaska Marine lines or Foss Maritime would provide transportation services. AIGC should prepare a request for proposal for a long-term contract (10-years) to provide transportation services including handling of the commodity from rail cars on shore through on shore delivery. The shipper should also provide a minimum of one-acre of land dockside for temporary storage.

AIGC should move liquid propane from the dock area to an inland storage facility and to the various send-out facilities in each community. This process eliminates the need for transporting propane by truck through the communities. While this approach slightly increases capital expenses, it increases reliability and decrease operational expenses associated with trucking.

After mixing with air, (50% propane vapor to 50% air) the gas mixture enters the distribution system at pressures as high as 60 psig. At the customer's premise, a regulator reduces the pressure to an acceptable consumption pressure.

AIGC and Alaska Electric Light and Power discussed the possibility of contracting meter reading and billing services. To the extent that AEL&P is currently reading meters and with remote meter reading devices, costs will be significantly lower than using AIGC's operations staff for these functions.

To minimize commodity costs, AIGC should acquire propane using long-term contracts. It may be beneficial to acquire large volumes of propane at low summer or spring rates and place it in storage at Edmonton or an alternative underground storage location for delivery as needed. Alternatively, and preferably, AIGC may be able to acquire large volumes of propane at Valdez. The existing refinery in Valdez has de-propanizing operations and may be able to provide adequate volumes at substantially lower prices.

AIGC would construct in-community infrastructure from the dock to the storage center and to the send-out facilities. Montana-Dakota is under contract with AIGC to provide design, build, operate and maintain services to AIGC.

To facilitate conversions, AIGC should work with a major boiler manufacturer to bring low-cost replacement equipment to the area along with manufacturer provided financing. Local mechanical contractors would provide appliance installation, conversions, and maintenance.

1.3 Project Development Schedule

This study focused primarily on the economics surrounding the Juneau distribution system. While the economics appear similar for Sitka, the Montana-Dakota has concerns related to the technical aspects of construction of a single system in Ketchikan. Accordingly, AIGC will need to perform detailed engineering studies before beginning construction of the Ketchikan system.

Preparation of the schedule includes the following key assumptions:

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- Equity financing available January 31, 2004.
- Moving immediately to make all necessary arrangements for its business, including engineering, permitting, fuel supply, transportation, and business arrangements.
- Juneau is the first community to receive service because it has the largest potential load and provides the greatest potential for successful implementation.
- Sitka would be the second community to receive service because development of docking, loading, and storage facilities at the Sawmill Cove Industrial Park appears to be straightforward.
- Ketchikan would be last because of the political environment and because of the difficulty excavating the rock. Further study will be necessary before beginning construction in this community. However, if it is not cost effective to construct here, alternative communities will provide similar or better returns on investment.
- AIGC to develop the communities sequentially with some overlap rather than concurrently. This allows the use of the same permitting, engineering, and construction resources over the course of several years. Lessons learned in the first community may apply to the second and so on. Concurrent development would place significantly greater demands on AIGC management resources. Further, by using equity financing in the first community, debt financing will become more readily available for future expansion. Typically, utilities operate with a debt/equity ratio of 50-50.
- After completing permit applications for Juneau, AIGC would prepare applications for Sitka and then for Ketchikan.
- It will take approximately 6 months to provide engineering for the send-out facility and distribution system for each community.
- Construction of the send-out facilities and distribution system will take place at a controlled rate to ensure that only those facilities necessary for confirmed load are constructed. Construction in the Juneau area would continue to occur over a three-year period as customers subscribe for gas. Accordingly, construction schedule is estimated as follows:
 - Juneau May 1, 2004
 - Sitka May 1, 2005
 - Ketchikan July 1, 2006

Based on this schedule, the analysis extends for 40 years assuming steady growth throughout the proposed markets.

1.4 Project Definition

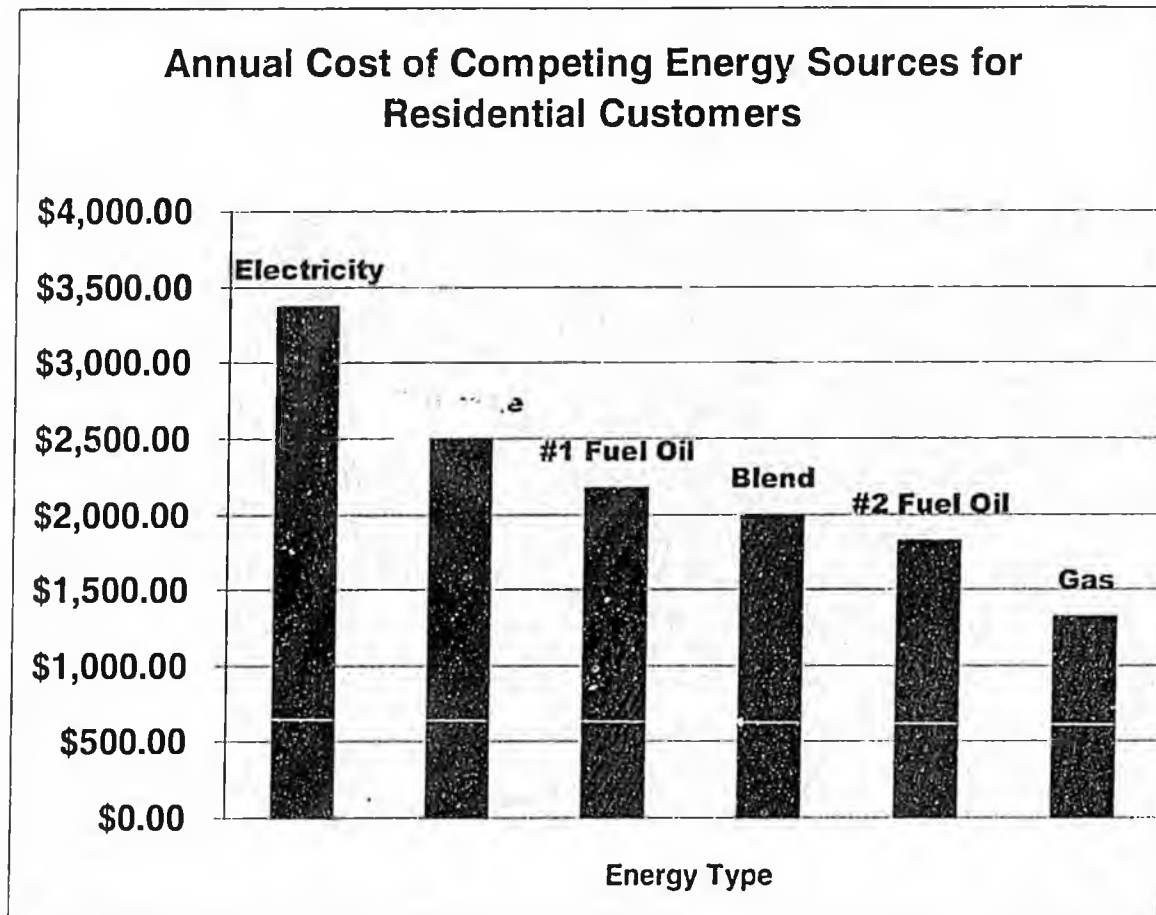
Early reports adequately define the project with the following changes:

- Central Storage facility near Lemmon Creek – This would allow for lower cost industrial property for storage applications.
- Pipeline transportation of liquid propane from the storage center to each send out unit and for transport from the dock – this eliminates the need to transport propane by truck throughout the community and reduces the aesthetic impacts at the send out facilities. This reduces risk of fire and reduces operating expense significantly. Further, it eliminates the need for extensive dock improvements in Juneau.
- Transportation from Prince Rupert to Juneau will be by others under contract reducing the significant expense and capital investment necessary associated with using rail cars for transportation and storage.
- Financing for Juneau should be 100 percent by equity) Once completed, the existing infrastructure would provide adequate cash flows to meet debt associated with expansion to the other communities. Earlier proposals implied an eighty-twenty debt to equity ratio, while Montana-Dakota's experience is that optimum financing occurs at a fifty-fifty debt/equity ratio.

MARKET STUDY

2.1 Potential Number of Customers

The potential number of customers is a vital part in the design of the proposed system. This analysis assumes sales to residential, small commercial customers, large commercial and industrial customers. Excluded at this time are sales for power generation and mining. This report focuses only on the Juneau area and does not include the communities of Sitka or Ketchikan. However, for financial analysis, the estimated loads are one-third of the anticipated total potential load in Juneau. Figure 2-1 illustrates the competitive advantage provided by propane/air compared to alternative energy costs. This figure assumes propane air at a rate of \$9.00/MMBtu.



2.1.1 Residential and Commercial/Industrial Customers

Four main geographic areas makeup the Juneau area: Douglas Island, Downtown, Lemon Creek and Mendenhall Valley. Information obtained from the Alaska Community Information Website indicated a current population of 30,981 (2002 DCED Certified Population). During the 2000 U.S. Census, there were 12,282 total housing units and 739 were vacant. One hundred eighty five of these vacant housing units are only for seasonal use.

To determine the potential residential and commercial/industrial markets, data was obtained from the Electric Utility and Municipal Water Utility that serve Juneau and the surrounding areas. The combination of this information allows a breakout of the

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percentages of population and the number of commercial/industrial accounts that exist in each of the four main areas of the city. The total number of services provided for the Municipal Water Utility was for one meter/service per building (similar for gas service) and if a facility is served by the water utility due to its proximity to other services it could also be served by gas. The electric utility currently serves areas where it may not be feasible to serve with gas because of the long main lines required to reach low density areas.

The population data for each of the four areas is shown in Table 2-1.

TABLE 2-1

Potential Customers in the four areas:

Area	Residential	Commercial/Industrial
Downtown Area	1,572	465
Lemon Creek	961	175
Mendenhall Valley	4,455	370
Douglas Island	1,746	156
Grand Totals	8,734	1,166

Montana-Dakota used historical "build-out" penetration rates and other experiences it has with other communities where gas service recently became available. This study includes two different residential scenarios, aggressive and conservative. The resulting numbers represents the potential residential market for AIGC utility gas service. The economics of an underground pipeline distribution system dictate that economic service can only be provided in areas where there is sufficient customer density to justify the investment. Based on visits to Juneau, assumptions were made as to the percentage of households in areas of sufficient density to justify pipeline service.

TABLE 2.2

Projected 5 Year Aggressive Residential Build-Out Rate for Juneau:

Area	Total Residential Households	Year One	Year Two	Year Three	Year Four	Year Five	Assumed Build Out Penetration Rate of Service	Total Households Receiving Service at Build Out
Downtown Juneau	1,572	314	314	157	79	79	60%	943
Lemon Creek	961	192	192	96	48	48	60%	576
Mendenhall Valley	4,455	891	891	446	223	223	60%	2,674
Douglas Island	1,746	0	0	349	262	175	45%	786
Total	8,734	1,398	1,398	1,048	611	524	57%	4,979

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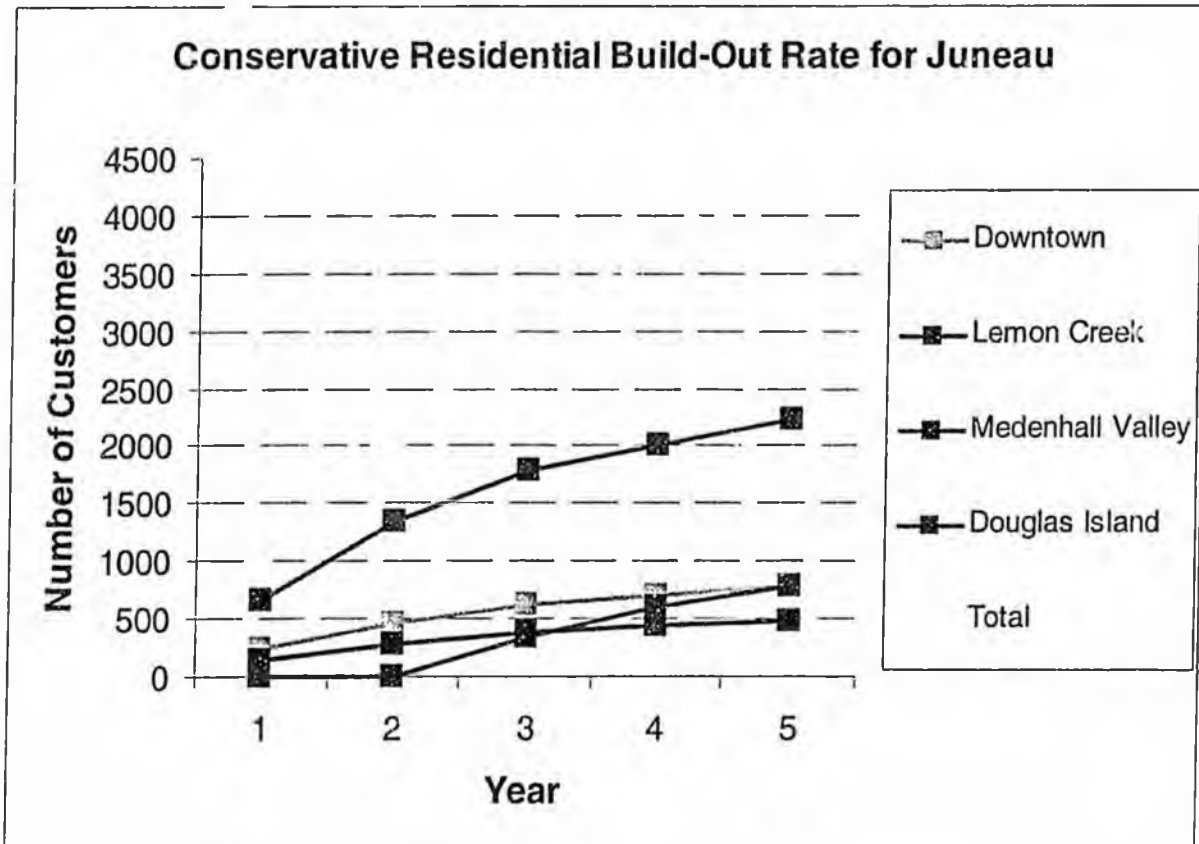
TABLE 2.2A

Projected 5 Year Conservative Residential Build-Out Rate for Juneau:

Area	Total Residential Households	Year One	Year Two	Year Three	Year Four	Year Five	Assumed Build Out Penetration Rate of Service	Total Households Receiving Service at Build Out
Downtown Juneau	1,572	236	236	157	79	79	50%	787
Lemon Creek	961	144	144	96	48	48	50%	480
Mendenhall Valley	4,455	668	668	446	223	223	50%	2,228
Douglas Island	1,746	0	0	349	262	175	45%	786
Total	8,734	1,048	1,048	1,048	612	525	49%	4,281

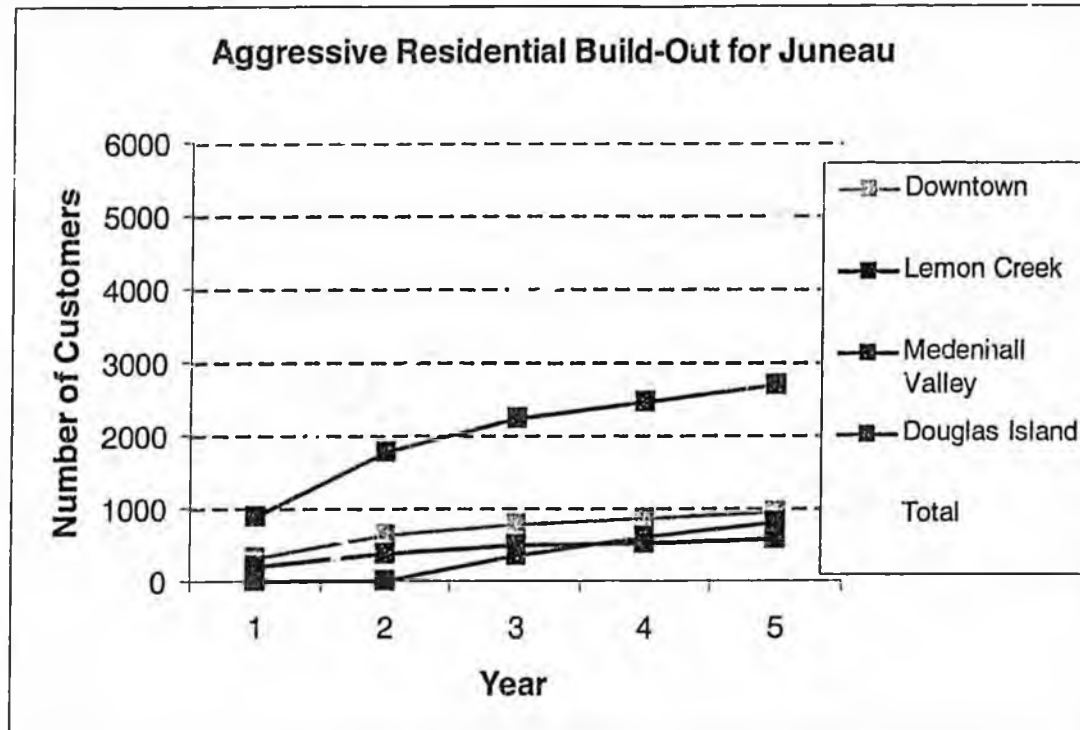
Figure ES-2 illustrates the anticipated build-out rate in Juneau assuming a conservative approach with gas priced at \$9.00/MMBtu. Figure ES-3 assumes that the customers will convert even if gas prices are slightly higher.

Figure ES-2



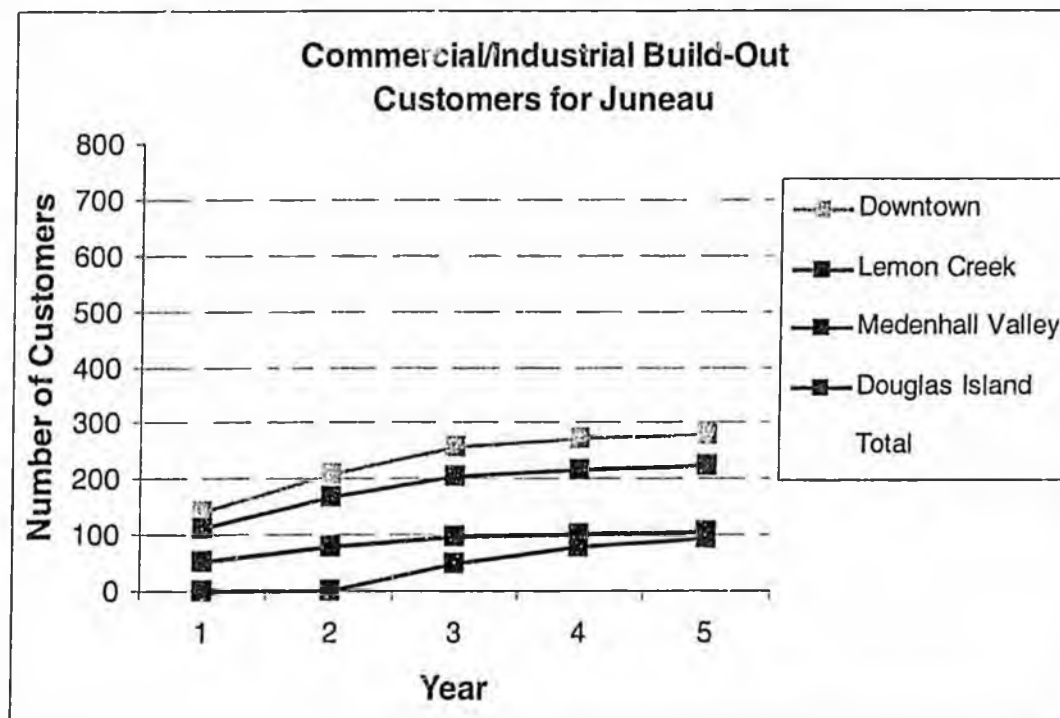
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Figure ES-3



From the commercial standpoint, Figure ES-4 illustrates the anticipated commercial load regardless of the approach taken (Aggressive or Conservative).

Figure ES-4



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2.1.2 Commercial Customers

The Commercial/Industrial numbers used compare favorably with the number of commercial services obtained from the local Municipal Water Utility. It is believed that the commercial/industrial customer will be a more predictable customer for gas service. Therefore the percentage of customers connected is a higher percentage rate in the earlier years. The numbers of commercial customers for each of the areas in Juneau are listed in Table 2-3.

TABLE 2-3
Number of Commercial/Industrial Customers:

Area	Total Commercial/Industrial Customers	Year One	Year Two	Year Three	Year Four	Year Five	Assumed Build Out Penetration Rate of Service	Total Com/Indus Receiving Service at Build Out
Downtown Juneau	465	140	70	47	14	9	60%	280
Lemon Creek	175	52	26	18	5	4	60%	105
Mendenhall Valley	370	111	56	37	11	7	60%	222
Douglas Island	156	0	0	47	31	16	60%	94
Total	1,166	303	152	149	61	36	60%	701

2.1.3 Seafood Processors

Contrary to earlier studies, seafood processors represent a small commercial load in the Juneau area. Most of the processors use some fuel oil for processing, propane for forklifts, and electricity for freezers and processing equipment lines. Micro-turbine applications might be a consideration however energy use numbers were not separately investigated.

2.2 Annual Gas Use Per Customer

2.2.1 Residential Customers

For Juneau, this study reviewed the information contained in the CH2MHILL report on usage by residential customer and compared it with similar towns in Montana-Dakota's service area on a heating degree days basis. It also looked at the data compiled from residential surveys conducted by Montana Dakota specifically for this study. The majority of residential customers surveyed use hot water boilers with baseboard convection units for home heating. These boilers also supply domestic or service hot water for the homes. Most of the Juneau homes surveyed use 1250 to 1350 therms (125-135 MMBtu) to space heat and provide hot water on an annual basis.

These numbers do not take into consideration additional volumes for gas fired appliances such as dryers, fireplaces and ranges. Many residents indicated a desire to cook with gas.

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2.2.2 Commercial Customers

The typical commercial customer uses 4,500 to 5,000 therms (450-500 MMBtu) per year, as indicated in the CH2M Hill report and verified by Montana Dakota surveys with some of the Juneau commercial/industrial customers. In support for this number, the AGA's Gas Rate Fundamentals indicates that restaurants use about 4,500 therms per year.

2.3 Market Penetration & Projected Number of Customers

The market penetration percentage rates indicated in the CH2Mhill report Table 2-6, are too aggressive based on Montana-Dakota's experience in converting towns and cities where gas service became available. The numbers shown in Tables 2.2, 2.2A and 2.3 represent Montana-Dakota's best estimate on percentage and projected number of customers that can be achieved with good marketing and promotional programs to bring a superior energy fuel to customers for their homes and businesses. In today's consumer-oriented business, service providers must be virtually concerned with the wishes of customers. Accordingly, providers must work with customers and attempt to satisfy their needs and expectations.

As options for energy suppliers increase, gas customers become more discerning and discriminating. As a result, marketing efforts by local gas distribution companies must become focused and energetic in order to retain or increase their customer base.

As stated in the CH2Mhill report, the penetration rates shown in Tables 2.2, 2.2A and 2.3 assume that AIGC would offer utility gas service at rates sufficiently lower than fuel oil. As the cost differential between utility gas and fuel oil narrows, the penetration rate will decrease. Neither the CH2Mhill report or the Montana Dakota analysis adjust the penetration rate based on the cost differential between the two fuels.

The Montana Dakota analysis does not assume that AIGC will secure any of the electrical generation load that may be available in or around the Juneau area. It further assumes that there is little growth (less than 1%) in the number of customers (i.e., the population in the AIGC service areas is not growing).

2.4 Projected Propane Sales

The projected sales in therms for the different areas of Juneau during the initial years of operation are shown in Table 2-4, 2-5 and 2.6. A summary of the totals are shown in Table 2-8. The same information, converted to gallons of propane plus 0.5 percent losses, is shown in Table 2-9. Table 2-9 shows Juneau at 9.7 to 10.7 million gallons of propane per year at the end of the first 5 year period. In year 5, residential sales are almost 60 to 64 percent of the total potential sales, and commercial/industrial sales are the remaining 36-40 percent of total potential sales.

TABLE 2-5

Five Year Projected Sales in Therms Aggressive Residential for Juneau:

Area	Year One	Year Two	Year Three	Year Four	Year Five
Downtown Juneau	392,500	785,000	981,250	1,080,000	1,178,750
Lemon Creek	240,000	480,000	600,000	660,000	720,000
Mendenhall Valley	1,113,750	2,227,500	2,785,000	3,063,750	3,342,500
Douglas Island	0	0	436,250	763,750	982,500
Totals	1,746,250	3,492,500	4,802,500	5,567,500	6,223,750

TABLE 2-6

Five Year Projected Sales in Therms Conservative Residential for Juneau:

Area	Year One	Year Two	Year Three	Year Four	Year Five
Downtown Juneau	295,000	590,000	786,250	885,000	983,750
Lemon Creek	180,000	360,000	480,000	540,000	600,000
Mendenhall Valley	835,000	1,670,000	2,227,500	2,506,250	2,785,000
Douglas Island	0	0	436,250	763,750	982,500
Totals	1,310,000	2,620,000	3,930,000	4,695,000	5,351,250

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TABLE 2-7

Projected Sales in Therms Commercial Customers:

Area	Year One	Year Two	Year Three	Year Four	Year Five
Downtown Juneau	700,000	1,050,000	1,285,000	1,355,000	1,400,000
Lemon Creek	260,000	390,000	480,000	505,000	525,000
Mendenhall Valley	555,000	835,000	1,020,000	1,075,000	1,110,000
Douglas Island	0	0	235,000	390,000	470,000
Totals	1,515,000	2,275,000	3,020,000	3,325,000	3,505,000

TABLE 2-8

Projected Sales in Therms Residential & Commercial:

Type	Year One	Year Two	Year Three	Year Four	Year Five
Residential Aggressive (RA)	1,746,250	3,492,500	4,802,500	5,567,500	6,223,750
Residential Conservative (RC)	1,310,000	2,620,000	3,930,000	4,695,000	5,351,250
Commercial (C)	1,515,000	2,275,000	3,020,000	3,325,000	3,505,000
Total (RA + C)	3,261,250	5,767,500	7,822,500	8,892,500	9,728,750
Total (RC + C)	2,825,000	4,895,000	6,950,000	8,020,000	8,856,250

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TABLE 2-9

Projected Sales in Gallons (Propane Sales Plus Losses):

Type	Year One	Year Two	Year Three	Year Four	Year Five
Residential Aggressive (RA)	1,921,520	3,843,040	5,284,524	6,126,307	6,848,425
Residential Conservative (RC)	1,441,484	2,882,968	4,324,452	5,166,235	5,888,352
Commercial (C)	1,667,060	2,503,341	3,323,116	3,658,729	3,856,795
Total (RA + C)	3,588,580	6,346,381	8,607,640	9,785,036	10,705,220
Total (RC + C)	3,108,544	5,386,309	7,647,568	8,824,963	9,745,147

Note: One Therm equals 100,000 Btu.

There are 1.094895 gallons of propane per therm.

2.5 Monthly Sales Pattern

The projected residential and commercial/industrial monthly sales patterns for Juneau are shown in Table 2-10. The projections are based on heating degree day data with minor adjustments for restaurant loads during the tourist season and commercial industrial loads that happen primarily during the summer through fall months. These percentages do not take into account any electrical generation loads that may occur during any of the months.

TABLE 2-10

Projected Sales in Percentage By Month:

Month	Percentage of Annual Sales All Gas Customers	Month	Percentage of Annual Sales All Gas Customers
January	13%	July	5%
February	11%	August	5%
March	10%	September	6%
April	8%	October	8%
May	6%	November	11%
June	5%	December	12%

2.6 Peak-Hour Consumption Rates

The key parameter for sizing the local distribution facilities and send-out facilities is the projected peak-hour demand. This analysis, like the CH2Mhill report, assumed peak-hour demand at 0.05 percent of the annual sales in a given area. The number of customers served determines sales in an area.

Since a liquid propane line would extend from near downtown Juneau to Mendenhall Valley, send out facilities can be located at almost any location along this line. We agree with the CH2Mhill report that three send out facilities would be needed in Juneau (Mendenhall Valley, Lemon Creek, and the near the downtown area).

Three send out facilities would be planned for Juneau with the option of locating a potential fourth send out facility on Douglas Island as that build out progresses.

DISTRIBUTION SYSTEM

3.1 Introduction

In contrast to earlier studies, Montana-Dakota uses a construction estimator that establishes the required footage of infrastructure based on the number of customers. Accordingly, the capital model reduces or expands the capital improvements based on the projected number and location of customers. This reduces the risk of overstating the required capital investment if there is not adequate load to justify the expenditures.

As stated in earlier studies, each community would generally require the following infrastructure:

- Barge dock and loading
- Propane storage
- Facilities to vaporize the propane and mix with air (send-out facilities)
- Utility gas underground pipelines
- Maintenance equipment and local propane hauling
- Metering, billing, and collection

Each community's specific infrastructure would be different based on customer locations, the required delivery capacity, the location of the storage facilities, the availability and location of docking and unloading facilities, and land availability. As discussed earlier, several possible locations exist for each of these facilities.

To improve the accuracy of construction estimates, a third party contractor interested in bidding the required work developed an estimate for the construction in Juneau. Their work is in Appendix B.

3.1.1 In-Community Storage Considerations

Each community's consumption pattern determines the amount of in-community storage required for a reliable propane supply. Because of possible delays in propane delivery from the source to the community, it is appropriate to maintain in-community storage volumes sufficient to cover a plausible delivery interruption.

In addition to this reliability storage, there is a need for a working volume of propane that represents the equivalent of one barge's delivery. This propane is available to meet sales needs between barge deliveries. If there are barge delivery delays, the reliability storage is available.

Both the reliability and the working storage require the use of either tanker cars or storage tanks with a related leasing cost and/or capital cost for land, site development, rail sidings, tanks, and other needed infrastructure. There is also the cost of the fuel inventory committed to storage.

3.1.2 Approach to Propane Delivery

There are two basic approaches to propane delivery:

- Deliver propane to each community at a relatively constant rate, with surpluses going into in-community storage to be drawn down during high sales months
- Deliver propane to each community at the same rate at which it is consumed, reducing the amount of in-community storage needed

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This analysis indicates that real-time propane delivery is the most appropriate. By using Juneau as a central storage point for the entire area, rural deliveries can be more frequent and reduce the need for additional reliability storage in smaller communities. This further reduces the risk of a commodity shortfall in Juneau.

Since initial barge capacity would be approximately 500,000 gallons, AIGC will install approximately 1.5 million gallons of storage in Juneau. This would maximize volume discounts and reduce the frequency of barge deliveries.

3.2 Juneau

3.2.1 Barge Dock, Loading, and Storage

In contrast to earlier studies, this proposal includes using existing facilities currently available from either Alaska Marine Lines or Northland Shipping. Either dock location is acceptable and capable with minor improvements.

3.2.2 Propane Vaporization (Send-Out) Facilities

Analysis indicates that ultimately it will require three send-out facilities to serve the Juneau area: Mendenhall Valley, the Lemon Creek area, and the Gold Creek area. However, it will be feasible to provide initial delivery volumes from a single send out facility at Lemmon Creek and add additional send out capacity as needed. By having a liquids pipeline connecting the send out facilities to the central storage facility, it is not necessary to have individual storage at each location.

Approximate sizes are:

- Gold Creek Area 340 MMBtu/hour
- Lemon Creek Area 650 MMBtu/hour
- Mendenhall Valley 300 MMBtu/hour

3.2.3 Local Distribution System

Preliminary engineering has been completed. However, detailed engineering will be necessary based on customer requests for service in each specific area, to justify installation of the system. The trunk line layout is near completion.

3.3 Sitka

3.3.1 Barge Dock, Loading, and Storage

Alaska Marine Lines has existing dock space available for use in this project. By using remote storage, there is no need for extensive modifications or infrastructure at the dock. However, Sawmill Cove, the former site of the Alaska Pulp Company, has property available that could be available for rail transport or as an alternative storage location. Depending on load requirements, AIGC may need as much as 390,000 gallons of storage in Sitka.

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3.3.2 Propane Vaporization (Send-Out) Facility

The analysis indicates that one send-out facility is appropriate to serve Sitka. Sawmill Cove is about 4 miles from Sitka, too great a distance to locate a send-out facility there. Accordingly, AIGC will pipeline propane from Sawmill Cove to the facility.

AIGC will size vaporizers to meet the initial projected load, and add modules as demand necessitates. The facilities would need to provide 195 MMBtu/hour.

3.3.3 Local Distribution System

As described above, only preliminary engineering is complete for a propane-air pipeline distribution system. The estimating model for this analysis estimates quantities based on projected customer counts.

3.4 Ketchikan

3.4.1 Barge Dock, Loading, and Storage

The local bottled propane service provider currently uses propane railcar tankers to deliver and store propane at Saxman Seaport for the Ketchikan-area. This proposal assumes that AIGC can use the existing facilities to meet the local load requirements.

AIGC would need approximately 390,000 gallons of storage in Ketchikan. Since tanker capacity is approximately 500,000 gallons, storage should be available for similar volumes. The shipper could drop 250,000 gallons here and the remaining 250,000 gallons at Sitka.

This location would require significantly more engineering and refining of cost estimates to be a viable expansion of AIGC's system.

3.4.2 Propane Vaporization (Send-Out) Facilities

By using a centralized storage facility, it may be possible to use a single send out facility with complete redundancy to ensure reliability.

3.4.3 Local Distribution System

As described above, preliminary engineering has not begun for a pipeline distribution system. The estimating model for this analysis estimates quantities based on projected customer counts.

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PERMITTING

Permitting issues did not change from the CH2M Hill Study. Accordingly, Montana-Dakota will not restate those points here.

PROPANE SUPPLY

The propane supply is the most critical variable in the success of this project. As shown in the sensitivity files in Appendix B, propane prices over thirty cents per gallon have the potential to negate any potential earnings. Accordingly, for the success of this project, AIGC must ensure that they have a low cost reliable source of propane. That source can be either Canada via Prince Rupert or from alternative locations such as Valdez, Alaska. The commodity purchase prices along with transportation to Juneau are key to the project's success. At the time of this report, Montana-Dakota has not been able to identify a reliable source of propane at costs less than forty-seven cents per gallon at Edmonton, AB. However, there are rumored reports of the refinery flaring large volumes of propane at Valdez. If AIGC can capture 500,000 gallons of propane per month from Valdez and supplement with propane from Canada, AIGC can achieve an average price of thirty cents gallon. Alternatively, the State of Alaska could provide propane to AIGC at a fixed price. Further, they could retain ownership until it enters the distribution system.

From the CH2M Hill report, the projected annual purchases of propane make AIGC a significant buyer of propane in the Alberta and British Columbia areas. However, the Canadian Propane Industry Statistical Review 2000 from the Propane Gas Association of Canada states the following with regard to propane production: "Over the past 16 years, gas plant production has been the dominant source for Canadian propane... Propane production from gas plants and refineries totaled 12.3 million cubic meters in 1999..." In addition, "Alberta produced 98% of gas plant propane production and 26% of refinery propane production, accounting for 87 of total propane production in 1999." (available at: <http://www.propanegas.ca/propane/annual.htm>) In addition, British Columbia accounted for 3.5 percent of Canadian propane production in 1998 and 1.0 percent in 1999. Based on these production quantities, AIGC's needs would be a small portion of the total propane production in Alberta and British Columbia. A purchase level of 30 to 35 million gallons represents approximately 1 percent of the production. Therefore, the market can easily meet AIGC's needs.

TRANSPORTATION

Rather than develop an independent business unit to be responsible for transporting product, it is more prudent to contract these services with a long-term Agreement. Accordingly, Montana-Dakota relied on transportation cost information provided by Alaska Marine Lines (AML), Jim Jansen. A copy of AML's spreadsheet is Appendix B.

This approach benefits AIGC by eliminating the need for rail cars and the need for large capital investments in dock facilities.

OPERATING COST

Earlier studies separated the annual costs to operate the systems into two categories: the costs to operate the dock through city-gate facilities, and the costs to operate the AIGC business (AIGC). Under the present scenario, AIGC will be responsible through its contract operator, Montana-Dakota for both operations. Accordingly, for estimating purposes, this study assumes five contract employees and three AIGC employees. This is adequate for an operation of this magnitude and may even exceed long-term requirements. The spreadsheets in Appendix B include a more detailed breakdown of operating expenses.

7.1 Dock to City Gate Operations

This operation would be by pipeline based on the present scenario. Accordingly, operational expenses are limited primarily to utility expense.

7.2 AIGC Operations

Again, under the new scenario, the operations group will be responsible for the send out facilities and the operations. Two to three employees in each community can handle these responsibilities. Construction crews will be available to handle most growth requirements.

7.3 Total Operating Costs

The Spreadsheet in Appendix B illustrates anticipated operating expenses.

CAPITAL EXPENDITURES

8.1 Capital Expenditures

For this study, Montana-Dakota estimated construction costs based past experience to determine a unit cost for construction. By combining the unit cost with estimated footage per customer, they were able to develop an estimate of capital expenditures. This number reflects population densities derived from location inspections. A third party independent contractor provided confirmation of the estimate. Therefore, the estimates have a high degree of accuracy. It remains critical that expansion is controlled and planned based on customer connection Agreements. Once the trunk line is in place, distribution connections must be cost justified before implementation.

Dock modifications would be the responsibility of the transportation Company and are accordingly in their estimate. The information provided by Jim Jansen with Alaska Marine Lines describe those costs in greater detail.

REVENUE REQUIREMENTS

9.1 General Revenue Requirements:

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Earlier projections indicated there was a possibility of financing construction using debt financing and debt to equity structure of 80/20. Montana-Dakota's experience has been to limit utility operations to at fifty percent equity. Further, as a start-up utility, it is prudent to construct the first community using 100 percent equity financing. When the infrastructure is in place and AGIC begins generating revenue, debt financing will become more readily available and more prudent.

9.2 Sensitivity Analysis:

Montana Dakota's financial models prepared by Montana-Dakota allow exploration on a variety of alternative pricing scenarios. Based on Montana-Dakota's experience, the price of fuel oil will dictate the maximum acceptable sales price. The possibility for increasing market price once customers convert exists. However, prudent operations suggest that allowing consumers to recover from conversion costs before raising prices. Accordingly, for model purposes, rates increase in year seven. Montana Dakota's historical rate case experiences show that obtaining authorization for an acceptable return on investment is not nearly as difficult as maintaining a price structure competitive to alternative energy sources.

The true variables with respect to price sensitivity are product and transportation expenses. It is crucial that a commodity/transportation price for delivered propane in Juneau be less than fifty cents per gallon. With marine transport being approximately eighteen cents per gallon, from Ferndale and rail transportation to tidewater being approximately eleven cents per gallon, there is not adequate margin for propane costs. However, if AIGC can purchase 500,000 gallons per month from the State of Alaska in Valdez for a price below twenty cents per gallon, they can purchase an additional 500,000 gallons per month from suppliers in Edmonton for forty cents per gallon and become financially viable.

RESIDENTIAL CONVERSIONS

This section compares the estimated commodity prices paid by a residential consumer for utility gas service to the cost for a residential consumer who is using either electricity or fuel oil. To make a meaningful comparison, comparative costs of electricity and fuel oil were determined and the costs of the three fuels adjusted by the efficiency ratings for space heat and hot water heat.

The analysis does not include the customer costs to convert to utility gas, whether through burner replacements or furnace and hot water heater replacements. **The customer cost to convert is a significant cost, particularly for electric space heat customers.**

Interviews with local heating contractors performing both commercial and residential work in Juneau indicated that over 80% of the heating market is fuel oil, 10% electric and 5-6% propane. This information was verified by Montana Dakota's residential survey that showed 84% fuel oil, 10% electric and approximately 6% propane.

In the fuel oil market, 74% have hot water-non-condensing type boilers that use baseboard convection units, radiators, or hot water coils to heat (These units heat water as well, so they do not need a tank heater); 16% use forced air systems consisting of cabinet, heat exchanger, combustion system with necessary controls, vent system that carries combustion gases to outside of building, distribution motor, blower, piping and air filter; and 10% of the fuel oil systems use vented individual room heaters. The propane systems from Montana Dakota's residential surveys were 100% forced-air systems however the area contractors indicated that there are some propane boilers. The electric systems use combinations of a few boilers, the majority radiant baseboard, some thermal storage systems and some forced air systems.

This information illustrates that it is difficult to determine efficiency gains and thus savings potential for customers because of the large mix of age and type of equipment that exists in the Juneau area. Discussions with local heating contractors that serviced the boiler segment on an annual basis showed that the stack efficiency tests on boilers in the Juneau area ran from a low of around 60% efficiency to a high of approximately 80% after servicing depending on the age and type of the equipment. Our stack tests during our survey found stack efficiencies that ran from a low of 70% to a high of 80% on boilers that appeared to be receiving regular maintenance.

Most modern gas fired boilers have an Annual Fuel Utilization Efficiency (AFUE) in the 82 to 87% efficiency range for non-condensing type boilers to 92-98% efficiency ratings for the new condensing high efficiency boilers. Similarly, forced air furnace heating equipment built after 1990 are mandated to have a 78-83% AFUE with high efficiency units offering an AFUE of 88-97%. The following formula provides a means to estimate potential savings:

$$\frac{\text{Your current equipments efficiency rating}}{\text{Your new equipments efficiency rating}} \times \text{Current Fuel Bill} = \text{Estimated New Fuel Bill}$$

The following examples illustrate how the formula works.

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Example 1:

Your present boilers efficiency is rated at 60% and your annual fuel bill is \$1,500 and you replace it with a new 84% efficiency non-condensing gas boiler.

$$\frac{60}{84} \times \$ 1,500.00 = \$ 1,071.43$$

This provides an annual savings of \$428.57 from fuel. Additionally, you would reduce your annual maintenance cost from approximately \$104.00 to approximately \$35.00 per year. Therefore, you would see an approximate annual savings of \$500/year.

Example 2:

The same example above and you replace it with a condensing 91% efficiency boiler.

$$\frac{60}{91} \times \$ 1,500.00 = \$ 989.01$$

This provides an annual savings of \$510.99 from fuel. Additionally, you would reduce your annual maintenance cost from approximately \$104.00 to approximately \$61.00 per year. Therefore, you would see an approximate annual savings of \$550/year.

10.1 Comparative Fuel Costs

The electricity cost used for the comparison is the incremental cost of electricity from the applicable electric utility tariffs for residential customers. The fuel oil cost used is the 5-year average cost per gallon from data collected by University of Alaska Fairbanks (UAF), Cooperative Extension Service, Food Cost Survey, September 1998 through September 2003 (<http://www.uaf.edu/ace/fcs/fcs.html>). These costs obtained from UAF are assumed to be for No. 1 fuel oil with No. 2 fuel oil being approximately twelve-percent less and a blend of No. 1-2 fuel oil being approximately six-percent less than the number 1. This information would agree with the data gathered in Montana Dakota's residential survey conducted in mid December of 2003.

The costs were then adjusted to reflect an assumed efficiency rating for space heat and hot water heating appliances. For utility gas service, the following efficiency ratings apply:

	New Appliance Efficiency Rating	Burner Conversion Efficiency Rating
Space Heat	85	70
Hot Water Heat	61	70

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Description	JUNEAU				AIGC	Commercial	AIGC
	Electricity	Residential Fuel Oil		Residential	Fuel Oil	Commercial	
		#2	Blend	#1	Gas	#2	Gas
Cost of Energy (Electricity in \$/kWh Fuel Oil in \$/gallon-Gas in \$/MMBtu)	\$0.0922	\$ 1.42	\$ 1.51	\$ 1.61	\$ 9.00	\$ 1.20	\$ 8.00
Efficiency Ratings (%)							
Space Heat (New Appliances)(1)	100%	70%	70%	70%	85%	70%	85%
Space Heat (Burner Conversion)	N/A	70%	70%	70%	70%	70%	70%
Hot Water Heater (Boiler)(1)	N/A	70%	70%	70%	85%	70%	70%
Hot Water Heater (Tank type)	92%	55%	55%	55%	61%	55%	61%
Adjusted Cost (\$/MMBtu)							
Space Heat (New Appliances)	\$27.01	\$ 14.59	\$ 16.00	\$ 17.41	\$ 10.59	\$ 12.36	\$ 9.41
Space Heat (Burner Conversion)	N/A	\$ 14.59	\$ 16.00	\$ 17.41	\$ 12.86	\$ 12.36	\$ 11.43
Hot Water (Boiler)	N/A	\$ 14.59	\$ 16.00	\$ 17.41	\$ 10.59	\$ 12.36	\$ 11.43
Hot Water (Tank Type)	\$29.36	\$ 18.57	\$ 20.36	\$ 22.16	\$ 14.75	\$ 15.73	\$ 13.11
Savings							
Space Heat (New Appliances (1))	61%	27%	34%	39%		24%	
Space Heat (Burner Conversion)	N/A	12%	20%	26%		8%	
Hot Water Heater (Boiler)	N/A	27%	34%	39%		8%	
Hot Water Heater (Tank type)	50%	21%	28%	33%		17%	

(1) This is for new non-condensing type boiler

AIGC will compete against the alternate fuel adjusted cost per MMBtu. The above estimates for the customer cost of competing fuels do not include any competitive response by the electric utilities or fuel oil companies. They also do not include any propane pricing in that propane costs were so high in the Juneau area that this customer will easily be won over and easily converted to gas service. A 10 percent competitive reduction in alternate fuel prices would significantly affect the cost comparison.

10.2 Cost Comparison

10.2.1 Fuel Use Efficiency Cost Comparison

AIGC indicated, and discussions during Montana Dakota's residential survey confirms, that AIGC would need to provide utility gas service at least 10-20 percent below the cost of competing fuels in order to readily attract customers. The greater the cost savings, the easier it would be to attract customers. If AIGC does not enjoy at least a 15 percent advantage, it is questionable that assumed market penetration would be achieved. Based on efficiencies, a customer installing new appliances would enjoy about a 20 percent plus efficiency advantage over one that converts an existing fuel oil furnace or boiler. However, the cost of the new appliances is much greater than the cost of burner conversion. An important point in comparing AIGC utility gas distribution to competing fuels is an incremental cost reduction seen by the customer compared against the total cost of utility gas service from AIGC. AIGC service includes both a monthly service charge and a commodity cost for gas. AIGC's weighted 5-year residential commodity price of \$9.00/MMBtu added to a weighted 5-year monthly service charge of \$0.77/ MMBtu to derive a combined utility gas price of \$9.77/MMBtu.

AIGC/Montana-Dakota Study

10.2.2 End User Cost Comparison

This section compares the annual cost of energy sources for residential customers based on the methods used for space heating and hot water heating. Currently, energy suppliers in Juneau charge different prices for residential and industrial customers. The calculated price for utility gas in this analysis assumes that residential customers will have a different commodity price because commercial/industrial customers will receive a discounted utility gas price to compete with existing fuel sources. Residential customers' base charge would be approximately half of the base charge for small commercial/industrial customers with a few top large industrial customers having a special base rate to help cover the higher cost of utility metering at these locations.

The following data appear reasonable for calculating the estimated annual residential energy cost:

- Utility gas prices of \$9.00/MMBtu plus a monthly service charge of \$8.00 per month.
- Residential rates for electricity and fuel oil as presented in Table 10-1. For residential customers using fuel oil for water heat.
- Propane customers will easily be won over based on the high price of propane in all Southeast Alaska.
- Efficiency rates for new space heat appliances and new hot water heaters as presented in Table 10-1.
- Average annual energy consumption by a residential user in Juneau = 125 MMBtu.
- Assumed hot water heater energy use of approximately 23 MMBtu/year.

10.3 Conclusion

Deviations from any assumptions, conditions, and projected sales volumes will increase or decrease the commodity price and affect both the revenue requirements and the feasibility for the proposed utility gas system. Increases in the commodity price that make the savings from utility gas service less than 15-20 percent will affect the assumed residential market penetration rates; reduced penetrations will result in a higher commodity price. The level of accuracy of the cost estimates and the results of the sensitivity analysis indicate that AIGC will have to aggressively manage the required infrastructure and associated costs in order to meet the competitive price targets over its first five years of operation. If there is a competitive response such as a lowering of alternate fuel pricing from fuel oil distributors and electricity providers, the challenge to AIGC will be that much greater.

Once established AIGC, occurring at year 5 in this analysis, the ability to offer a competitive price is much greater than it is during the startup phase. This is the challenge faced by all capital-intensive, startup undertakings. This analysis assumes that AIGC will be able to meet the build out projections shown in Table 2-2. If the served loads are less than those assumed, the 5-year commodity price would have to be higher. If there are other summer peaking loads available with minimal additional capital investment, the unit cost of the system will be less. Adding additional large winter peaking loads would not be nearly as beneficial to the commodity price as summer peaking loads. To the extent AIGC can increase sales without increasing capital costs; it can reduce the commodity price. Conversely, to the extent sales do not materialize as projected, the commodity price would need to be higher and less competitive.

APPENDIX A

A.1 Project Features Specified in State of Alaska Certificate of Public Convenience and Necessity

On December 31, 1998, Alaska Intrastate Gas Company (AIGC) received a State of Alaska Certificate of Public Convenience and Necessity No. 572 (Certificate) to furnish a natural gas, propane-air, or manufactured gas public utility service in 17 communities in Southeast Alaska subject to certain conditions. Initially, AIGC proposes to provide service to Ketchikan, Sitka, and Juneau, known as the Phase 1 communities.

The Certificate conditions are:

- a) On or before July 1, 2001, or prior to commencement of service, whichever should occur first, [AIGC] is required to file proof of its financial fitness and permanent financing for its proposed operations. In the absence of such proof, the provisions of AS 42.05.271 shall prevail. [AS 42.05.271 states that "A certificate may not be issued unless the commission finds that applicant is fit, willing and able to provide the utility services applied for ... and that the services are required for the convenience and necessity of the public."]
- b) AIGC should be required to notify the Commission when service is first initiated. AIGC's certificate should be subject to revocation if it is not providing service by July 1, 2001.
- c) Prior to commencement of service, AIGC should be required to file documentation demonstrating a financial plan for maintaining service for a two (2) year period of time after commencement of service if projected market penetration rates are not realized.
- d) AIGC will be subject to economic regulation by the Commission, and as such, it placed on notice that it is required to obtain Commission approval for all gas supply, (liquefied natural gas [LNG]) supply, and LNG barge transportation contracts prior to commencement of service. AIGC also required, as a condition of certification, to file a copy of its community LNG dock/storage facilities lease/purchase contract for Commission approval.
- e) If AIGC chooses to commence construction before securing proof of financing, it does so at its own risk and that there can be no reliance placed on any investment as an argument for retaining its Certificate in the absence of complying with the conditions attached to approval of its application.
- f) AIGC should be required to file semiannual reports regarding progress in all significant aspects of the utility's activities related to the provision of service. The significant aspects include status of financing, contract negotiations, contract execution, permit acquisition, engineering studies, construction studies, construction progress, updates to AIGC's marketing analysis and project economics.
- g) AIGC should maintain an absolute minimum of 30 days of storage reserve in each community at all times based on projected daily demand.

AIGC/Montana-Dakota Study

- h) Prior to commencement of service, AIGC should be required to file with the Commission for its approval a copy of an insurance policy for reimbursement to its LNG supplier of expense associated with shipping LNG under emergency conditions. The purpose of this policy is to hold customers harmless to the additional cost of alternative LNG supply sources during emergency periods.
- i) Once service begins, AIGC should be required to file reports with detailed information regarding any unplanned interruptions, which occur in its LNG supply. AIGC should file the reports within ten days after commencement of the interruption.
- j) AIGC should file annual reports with the Commission by the first day of April each year. Each report should contain historical information regarding peak daily demand and the minimum total days of storage reserve capacity available to meet that demand for each day and for each community during the immediately preceding months of November through March.
- k) AIGC's proposed rates should be approved by the Commission as inception rates. However, AIGC should be required to make a filing in compliance with 3 AAC 48.275(a) and 3 AAC 48.275(h) six months after its third year of operation using third year operating data for the test year. AIGC has indicated that the requirements of conditions (d) submittal of fuel contract, fuel supply reimbursement insurance, and (i) fuel supply interruptions reports will be applied to propane service. Condition (g), the requirement for 30 days of LNG storage, is expected to be revised to reflect the use of propane and the different transportation system that will be used. AIGC expects to be able to reduce the storage requirement to an amount based on a plausible delivery interruption scenario. This issue is discussed in more detail later in the report. On June 29, 2001, the RCA extended the deadline for AIGC to file proof of its financial fitness to July 1, 2002. The RCA also extended the deadline for AIGC to initiate service to July 1, 2003. AIGC expects to be able to adjust this date as long as it is making reasonable progress toward establishing service in the communities. In April 2001, the 22nd Alaska State House of Representatives unanimously passed a bill (HB236) that would allow the Alaska Industrial Development and Export Authority (AIDEA) to consider selling \$76 million in bonds to finance Phase 1 (Ketchikan, Sitka, Juneau) of the AIGC project. The Alaska State Senate has asked for a feasibility study of Phase 1 [this study] prior to taking action on HB236.

APPENDIX A – REGULATORY FRAMEWORK

A.2 Project Features Associated with AIGC Authorities and Obligations as an Alaskan Public Utility

Because of having the Certificate, once AIGC starts construction, Alaska public utility statutes will apply to its operation. This listing is not intended to be a complete legal review of AIGC's authorities and obligations. It is intended to provide an overview from the standpoint of its ability to construct and operate its systems in the various communities for which it holds the Certificate. Statutes that might apply to the construction of the project include:

The Certificate determines the AIGC RCA-approved service area(s) and prevents future duplication of service (AS 42.05.221). As a substitute for competition, rate regulation by the RCA is provided. As a public utility, AIGC has the right to a permit to use public streets, alleys, and other public ways of a municipality upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the municipality requires (AS 42.05.251). The fee may not exceed the actual cost to the municipality of the utility's use of the public way and of administering the permit program. A regulated public utility in Alaska shall pay to the commission an annual regulatory cost charge in an amount not to exceed the maximum percentage of adjusted gross revenue that applies to the utility sector of which the utility is part. A public utility having sewers, conduits, utilidors, poles, pole lines, pipes, pipelines, mains, or other distribution or transmission facilities shall, for a reasonable compensation, permit another public utility to use then when the public convenience and necessity require this use and the use will not result in substantial injury to the owner, or in substantial detriment to the service to the customers of the owners (AS 42.05.311).

In case of failure to agree upon the joint use or interconnection of facilities or the conditions or compensation for joint use or interconnections, the public utility, including any municipality, or an interested person may apply to the commission for an order requiring the interconnection (AS 42.05.321). A public utility may exercise the power of eminent domain for public utility purpose. This does not include the use of a declaration of taking. (AS 42.05.631) The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and charter, permit, franchise, ordinance, rule or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail. (AS 42.05.641) From an engineering perspective, the above Alaska Statutes grant AIGC the authority to install its distribution system in a municipality, subject to reasonable limitations by the municipality. The municipalities may also charge AIGC for the reasonable costs incurred by the municipality to accommodate the systems.

Appendix B – Supplemental Data from Economic Assessment Model

This appendix contains the following Supplemental Materials used in the economic assessment model:

- Appendix B-1 AIGC Conservative Financial Model
- Appendix B-2 AIGC Aggressive Financial Model
- Appendix B-3 InfraSource Construction Cost Letter
- Appendix B-4 Marine Transportation Information
- Appendix B-5 Customer Survey Summary Sheet

HB

450

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB450
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act reforming Workers' Compensation Board functions RDU Risk Management
 Component Risk Management
 Sponsor Rules
 Requester By request of the Governor Component No. 71

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 Significant reform to the adjudication process for workers' compensation claims is proposed in this comprehensive legislation.
 In time, these streamlining measures are projected to save allocated loss adjustment expenses presently incurred in resolving disputes in claim and benefit obligations.
 As an authorized self-insured employer, the state will experience these savings in its self-insurance program administered by Risk Management.
 In future years, Risk Management's workers' compensation premium assessments to state agencies will reflect the reductions actually realized as premium charges are developed from actual claims expense incurred.

Prepared by: J. Brad Thompson, Director Phone 465-5723
 Division Director Date/Time 2/11/04 7:13 AM
 Approved by: Mike Miller, Commissioner Date 2/11/2004
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB450-ACS-AC-2-9-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Workers' Compensation BRU Alaska Court System
 Component Appellate Courts
 Sponsor House Rules Component No. _____
 Requester Governor

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	186.1	186.1	186.1	186.1	186.1	186.1
Travel						
Contractual	2.4	2.4	2.4	2.4	2.4	2.4
Supplies						
Equipment	10.3					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	198.8	188.5	188.5	188.5	188.5	188.5

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	198.8	188.5	188.5	188.5	188.5	188.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	198.8	188.5	188.5	188.5	188.5	188.5

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	3					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Doug Wooliver Administrative Attorney
 Division: Alaska Court System
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver
 Agency: Alaska Court System

Phone 463-4750
 Date/Time 2/9/04 11:58 AM
 Date 2/9/2004

HB450-ACS-AC-2-6-04
Alaska Court System Fiscal Analysis

House Bill 450 makes several changes to the way the Department of Labor and Workforce Development (the agency) and the Alaska Court System resolve workers' compensation disputes and appeals. Most important for purposes of the court's fiscal note is that appeals from the newly-created Workers' Compensation Appeals Commission (commission) will bypass the superior court and go directly to the supreme court.

The court system does not believe that the creation of the new commission will result in a decrease in the number of workers' compensation cases that are appealed to the court system each year. However, bypassing the superior court will lead to a significant increase in the number of these appeals that go to the supreme court. This is because the superior court resolves about 75% of the workers' compensation cases appealed to the court system. Of the yearly average of 36 appeals filed with the superior court, only 9 (25%) are further appealed to the supreme court. Because the bill bypasses the superior court the supreme court anticipates that it will see all 36 cases.

Although the removal of these cases from the superior court will ease the workload of that court, the reduction is only slightly more than an average of one case a year per judge.¹ Although this will allow judges some additional time to focus on other cases, it is not a significant enough reduction to produce a cost savings. However, an additional 27 cases a year for the supreme court would represent a greater than 10% increase in its civil caseload.

In order to mitigate the impact of these additional cases the court will hire a central staff attorney with expertise in workers' compensation law to research the record and the legal issues associated with each of the workers' compensation cases. This assistance should reduce the time required to resolve these cases and lessen the impact they will have on other matters before the court.

Additionally, this note reflects the costs of an administrative assistant to assist the attorney and an additional clerical position to handle the increased paper work and to interact with the agency in the preparation of the records on appeal.

This note conservatively assumes that the number of cases appealed to the court system will not grow above the current average of 36 cases a year. Should that average increase the court system may be back before the legislature with a request for additional funding.

¹ By way of comparison, the statewide average of cases per superior court judge is 500 to 600 cases a year.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 450
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act reforming Workers' Compensation Board functions RDU Risk Management
 Component Risk Management
 Sponsor Rules
 Requester By request of the Governor Component No. 71

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Significant reform to the adjudication process for workers' compensation claims is proposed in this comprehensive legislation. In time, these streamlining measures are projected to save allocated loss adjustment expenses presently incurred in resolving disputes in claim and benefit obligations. As an authorized self-insured employer, the state will experience these savings in its self-insurance program administered by Risk Management. In future years, Risk Management's workers' compensation premium assessments to state agencies will reflect the reductions actually realized as premium charges are developed from actual claims expense incurred.

Prepared by: J. Brad Thompson, Director Phone 465-5723
 Division Director Date/Time 2/9/04 9:15 AM
 Approved by: Mike Miller, Commissioner Date 2/9/2004
 Agency Department of Administration

Subject: HB450

Date: Mon, 16 Feb 2004 08:05:15 -0900

From: Kevin Smith <kevins@amljia.org>


To: Tom Anderson <representative_tom_anderson@legis.state.ak.us>, josh_applebee@legis.state.ak.us

Rep. Anderson and Josh:

Attached is a letter of support for the packet on HB450, to be heard this afternoon in Labor & Commerce. I'd appreciate it if you could see that the committee gets a copy. I'll share it w/ the Administration.

Also, thanks again for the CSHB403. I anticipate it will move today?

Kevin Smith
Executive Director
AML/JIA
907-586-3222

 hb450.doc	<p>Name: hb450.doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
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WCCA WORKERS' COMPENSATION COMMITTEE OF ALASKA
P.O. Box 200631 • Anchorage, Alaska • 99520

February 6, 2004

Mr. Jim Sampson
President
Alaska AFL-CIO
2501 Commercial Drive
Anchorage, AK 99501

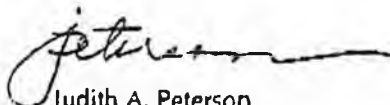
Dear Mr. Sampson,

The WCCA received a copy of your letter to Dick Cattanach, AGC, and agree that now would be an appropriate time to reconvene the ad hoc process. Proposals before the legislature will affect labor and management; both groups obviously have a stake in the health of Alaska's workers' compensation system and the way in which the laws and regulations are applied.

Members representing the WCCA during the ad hoc process will be Dick Cattanach, April Reilly, Laura Jackson, John Garrett and me.

I look forward to you or a member of the labor ad hoc committee contacting me regarding a convenient time to meet and discuss the bills currently before the legislature as well as other issues labor or management may have. I can be reached at 562-1633 or at jpeterson@pdstech.com

Sincerely,



Judith A. Peterson
President, WCCA

Cc: Senator Gene Terriault, Senate President
Dick Cattanach, AGC

ALASKA AFL-CIO

2501 Commercial Drive · Anchorage, Alaska 99501 · 907-258-6284 · Fax 274-0570

JIM SAMPSON
Executive President



BRUCE LUDWIG
Secretary / Treasurer

January 7, 2004

Mr. Richard Cattanach
Executive Director
Associated General Contractors
8005 Schoon Street
Anchorage, AK 99518

Dear Dick,

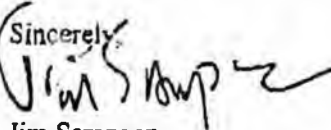
Last fall, Senate President Gene Therriault spoke with me about the insolvency of Fremont Indemnity Company and its impact on the Alaska Insurance Guaranty Fund and the workers compensation system in general. After my conversation with the Senate President, I invited Ms. Linda Hall, Director of the Alaska Division of Insurance to meet with representatives of labor on December 2, 2003 in Anchorage, Alaska to discuss the Fremont matter.

Because of these recent developments and the interest being expressed by some legislators and the administration in the subject of workers compensation, I have asked the labor members of the worker compensation labor/management ad-hoc committee to be prepared to meet with representatives of the employer side of the committee at a time mutually agreeable to the parties. As you know, over the last twenty years, labor and management have met together to find common ground on legislative changes to the workers compensation system and I am hopeful we can do so again this year.

As you know, Senate President Therriault has an institutional history regarding workers compensation legislation and has indicated to me that he expects any such legislation introduced this year to go through the ad-hoc committee process for agreement, before it is acted on by the legislature.

The following will represent labor on the ad-hoc committee: Kevin Dougherty, Jim Robison, Dave Ford and John Giuchici.

I look forward to working with you on the matter of workers compensation, as well as other issues of concern that you may have during the upcoming legislative session.

Sincerely,


Jim Sampson
President

cc: Senator Gene Therriault, Senate President

**ALASKA
LABOR-MANAGEMENT
AD HOC COMMITTEE
ON WORKERS' COMPENSATION**

March 5, 2004

The Honorable Pate Kott
Speaker of the House
Alaska House of Representatives
State Capitol
Juneau, AK 99801

The Honorable Gene Theriault
President of the Senate
Alaska Senate
Juneau, AK 99801

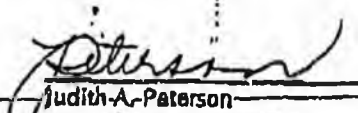
Gentlemen:

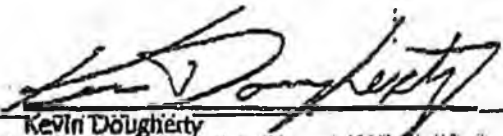
The Ad Hoc Committee, which consists of representatives from industry and labor, historically has met periodically to address issues that affect substantive changes (issues that affect benefits) in the Workers' Compensation Act. In January management and labor decided the time had come to address such issues again. In the mean time, the administration proposed SB311 and HB450, which deal with procedural issues (issues regarding the make up and management of the Board). Although the Ad Hoc Committee had never dealt with such issues previously, labor recommended the Ad Hoc Committee consider the bill.

The Committee reached agreement on sections of the bill that refer to the Guaranty Fund, capping out-of-state workers' compensation at what the employee would have earned in-state, placing some administrative responsibilities formerly vested in the Board with a Workers' Compensation Division Director, uninsured penalties and replacing the Superior Court with an appeals commission.

The Committee has scheduled no further meetings on the issue. We do, however, anticipate meeting in the future on substantive issues of concern to both management and labor.

Sincerely,


Judith A. Paterson
President, WCCA
Northwest Technical Services


Kevin Dougherty
Alaska Laborers

Page 2

Richard Cattanach
Associated General Contractors of Alaska

David Ford
Ironworkers Local 751

Laura Jackson
University of Alaska

John Guichii
IBEW

John Garrett
Alyeska Pipeline Service Company

Barbara Huff-Tuckness
Teamsters

April Relly
Rainproof Roofing, LLC

Jim Robison
Senior Alaskan

Cc: Con Bunde
Chairman, Senate Labor & Commerce Committee

Tom Anderson
Chairman, House of Representatives Labor & Commerce Committee

House Bill No. 450 // Senate Bill 311
Workers' Compensation System Improvement

Amendments do not change type, amount or computation of benefits paid to Alaskans; outside residents capped at Alaska rate.

- a. No change to compensation rates or benefits, including rehabilitation and medical benefits.
- b. Compensation rates for total disability capped at the rate recipient would receive if residing in Alaska.
- c. No reduction or cap in attorney fees.

Active, accountable and effective Division Director given new enforcement tools to enforce requirement to obtain insurance.

- a. Takes power and responsibilities formerly vested in the "Board" and places it with a Workers' Compensation Division Director:
 - Investigation powers, including subpoena, inspection of records, take testimony
 - Power to intervene in hearings directly, and
 - Power to make decisions affecting enforcement.
- b. The Director has discretion to bring matters before a hearing officer for decision and to appeal decisions to the Appeals Commission.
- c. The Director may seek new penalty (up to \$100/day/uninsured employee) against uninsured employers.
- d. Stop work orders and penalty hearings may be heard on shortened notice when Director shows employment conditions are hazardous.
- e. Director may seek default judgment in faster, streamlined process to stop defaulting employers leaving the state – and their liabilities behind.

Reorganization streamlines adjudicative and appeal process.

- a. A single hearing officer replaces 3-member Board panel (hearing officer, Employer Representative, and Employee Representative) that now hears cases and reviews settlements. As Hearing Officer is available at all times, logistical delay and expense is reduced.
- b. Three (3) member Appeals Commission replaces Superior Court appeals. Appeals Commission has 90 days to decide appeal; half the time for Superior Court (180 days). Transfer of record costs and delay decreased as hearings and appeals in same office.
- c. Appeals Commission of experienced attorneys will have expertise and capacity to quickly review and decide appeal.
- d. Reconsideration, Modification, Appeal process clarified.
- e. Provides mechanism for summary disposition of whole or part of claim or issue prior to a hearing on the merits.

House Bill No. 450 // Senate Bill 311
Workers' Compensation System Improvement

Consistency, and predictability increased in process.

- a. Hearing officers subject to appeal to single Commission addresses inconsistent decisions rendered by seven (7) different Board panels with appeals to multiplicity of Superior Court judges.
- b. All appeals will be decided by a single three (3) member Appeals Commission with expertise in workers' compensation law. Appeals decided by a single entity will insure predictability and consistency in the interpretation and application of the law. Review made directly to Supreme Court.
- c. Commission members have staggered terms that will allow different administrations to appoint new members without losing institutional knowledge of earlier members. Commission provides opportunity for to build consensus from divergent viewpoints and a coherent body of law.
- d. A single hearing officer may be designated to decide all discovery issues; current practice is to allow various non-attorney prehearing officers to decide discovery matters with appeal to the Board for enforcement.
- e. Explicit direction and standards put in place to avoid perception of bias and protect impartiality of hearing officers.
- f. Amendments bring Alaska's adjudicative and appeal mechanisms in conformity with such model states as Minnesota and Oregon; Workers' Compensation and Rehabilitation Law (Revised) Model Act by The Council of State Governments (found in Prof. Larson's Treatise).

Insurance code amendments strengthen Insurance Guaranty Fund, assigned risk pool for protection of employers and insurers.

- a. Workers' compensation insurers required to special cash or securities deposit to provide protection beyond the Insurance Guaranty Fund.
- b. Employers with greater than 25 million in net worth excluded from Fund liability to protect Fund assets.
- c. Insurance Guaranty Fund Board reconstituted to include representatives of management, labor, insurance licensees.

In companion bills HB 403 // SB 276

- a. Assessment on insurance premiums increased, and self-insured employers assessed a percentage of claims paid to rebuild the Fund.
- b. Assigned Risk Pool made self-funding by lifting the surcharge cap.
- c. Assessment base broadened across other insurance lines.

HB 450 - SB 311
Section by Section Analysis

This legislation substantially reforms the workers' compensation system. First, this legislation makes changes to the agency that protects workers compensation recipients from nonpayment by insolvent insurers, and protects employers who purchased insurance from liability in the event of insurer nonpayment. Second, it replaces the present system of administering the workers' compensation act, AS 23.30, with a new system that divides adjudication of claims and petitions arising under the act from the executive functions of administration, investigation, and enforcement. The Alaska Workers' Compensation Board, (board) composed of 7 panels of volunteer members and the Commissioner of Labor and Workforce Development, is removed and its adjudication functions are transferred to a Workers Compensation Appeals Commission, (commission), which is separated from the Division of Workers Compensation (division) and its director. Third, this legislation changes the process of adjudication to encourage consistency in legal interpretation. Cases are heard first by hearing officers. The commission, composed of three attorneys with experience in workers' compensation, acts as an appellate body with broad powers of review. The commission's decisions will be published and are binding on the hearing officers. The commission's decisions may be appealed directly to the Supreme Court, without review by the Superior Court. Fourth, the director is given stronger enforcement tools and direct power to administer, investigate, and enforce obligations. These include new civil penalties against uninsured employers, subpoena powers, the power to examine employer books, the power to intervene in disputed cases and the power to file an appeal.

In addition to fundamental structural changes, this legislation contains other systemic improvements. Provisions are made for summary disposition of cases, such as where there is no jurisdiction or where there are no disputes of material fact. Compensation paid to non-residents is capped at the rate that would be paid if the recipient resided in Alaska. Provisions are included that would allow stop work orders to be issued and civil penalties to be assessed against uninsured employers on short notice where the employment contains hazards that could reasonably be expected to immediately cause an employee death or serious physical harm.

Because the workers' compensation act is quite lengthy, and the board is responsible for or involved in almost all aspects of the current workers' compensation system, this legislation contains a large number of what are essentially conforming amendments, replacing the board with the director, a hearing officer, or the commission, as the function requires.

To assist the reader, an attached appendix groups the sections by general subject matter.

- Section 1** is a declaration of legislative intent to reform the workers' compensation insurance system to ensure payment of benefits when an insurer becomes insolvent, expand representation of workers compensation on the Alaska Insurance Guaranty Association, and reduce the costs of workers' compensation premiums to employers.
- Section 2** amends AS 08.18.101(1) to remove a reference to the board and transfers the authority to issue certificates of self-insurance from the board to the director of the division of workers' compensation.
- Section 3** creates a new statutory provision, AS 21.09.090(e) which provides that insurers that transact workers' compensation insurance in this state must maintain in the state a special deposit of cash or securities for the protection of persons in Alaska covered under workers' compensation insurance. The insurer must maintain this special deposit as long as there is any outstanding liability for workers' compensation. If an insurer is unable to pay workers' compensation because it is an insolvent insurer, the deposit will be immediately available to the Alaska Insurance Guaranty Association for continuation of claims benefits to eligible workers. This revision provides additional financial protection for Alaskan workers in the event that workers' compensation insurer becomes insolvent and unable to pay claims.
- Section 4** amends AS 21.24.130(d) to make a technical change regarding the special deposit described in Section 3 above.
- Section 5** repeals and reenacts AS 21.80.050 relating to the board of governors of the Alaska Insurance Guaranty Association. The composition of the board of governors of the Alaska Insurance Guaranty Association is modified by this provision to include representatives from management, labor and a licensed insurance provider, agent, broker or manager. This change will expand the expertise of the board of governors to better address workers' compensation issues. Section 107 below provides for the transition of the terms of the members of the current board of governors.
- Section 6** amends AS 21.80.180(6) to exclude workers' compensation claims from the definition of "covered claim" if the insured's net worth exceeds \$25,000,000 the year preceding the date the insurer becomes an insolvent insurer.
- Section 7** amends AS 23.30.05.067(a)(1)(B) to remove a reference to the board and to replace the board by the director of the division of workers compensation as the recipient of reports. This amendment conforms to the amendment to AS 23.30.155(m) at Section 81 below.
- Section 8** amends AS 23.05.067(e) to include fees received by the commission in those fees deposited in the workers' safety and compensation account. It also adds new language to permit the legislature to appropriate funds to the commission

and for administration and adjudication of claims and petition arising under AS 23.30.

Section 9 codifies a statement of legislative intent relating to the workers' compensation system. It declares the intent of the legislature to create a fair system not favoring to the interests of workers or employers, but based on mutual compromise. This declaration draws upon previous uncodified statements of legislative intent and adds language regarding the fair, careful and rational examination of evidence.

Section 10 repeals and reenacts AS 23.30.005. It creates, within the Department of Labor and Workforce Development, a Division of Workers' Compensation and a director of the Division, appointed by the commissioner. The director must have three years experience in the field of workers' compensation. The section gives the director general powers and duties regarding administration, regulation, investigation and enforcement of the workers' compensation laws and system. The department has the power to adopt regulations proposed by the director, instead of the board, regarding medical care and rehabilitation providers. This provision transfers certain administrative duties previously assigned to the board to the director, including the obligation to notify the state, or a political subdivision of the state, if it revokes a contractor's self-insurance certificate.

Section 11 adds three new statutory provisions. The first, AS 23.30.007, establishes a new workers' compensation appeals commission within the Department of Labor and Workforce Development, with jurisdiction to hear all administrative appeals arising under the workers' compensation act. The commission consists of three members, appointed for staggered terms of four years, appointed by the governor and confirmed by a majority of the legislature. The governor may make appointments to fill vacancies in the same manner for the completion of the vacant term. A majority of the members is a quorum. The governor appoints a commission chair from the commission members for a three-year term. Members must be licensed to practice law in Alaska, have five years experience of workers' compensation law, and take the oath of office. Reasons for removal by the Governor of a commission member are set out, as well as an opportunity to respond to the Governor's charges. Reasons for removal include: misconduct in office, ethical violations, conviction of a felony, conviction of a misdemeanor regarding workers' compensation, inability to serve or handle the caseload, incompetence, etc. The salary of members (Range 29) and the chair (Range 30) is stated. The commission is required to be housed separately from the division to mark the separation of the judicial process in the workers' compensation system from the administrative and enforcement process.

Section 11 also, in the new statutory provision AS 23.30.008, sets out the powers and duties of the new workers' compensation appeals commission and, in AS 23.30.009, the powers and duties of the chair of the commission. The commission replaces the superior court as the body hearing administrative appeals in the workers' compensation system, and its decisions will be binding and have the force of legal precedence. The commission's decisions are final and conclusive, except that the Supreme Court may review the commission's decisions. The commission operates like an appellate court, circulating confidential draft decisions among the members, and indexing and publicizing its formal decisions. The commission has the power to adopt regulations and rules of procedure for hearings and appeals, to adopt an official seal, and generally to carry out the powers and duties expressly granted or necessarily implied by the Act. The commission shall award attorney fees to successful appellants, but, as currently is the rule, attorney fees may not be awarded against an employee unless the appeal was frivolous, unreasonable or taken in bad faith. The chair of the commission exercises general supervision of the office of the commission. The chair has the power to employ and supervise staff and hearing officers, assign work, establish a time management system, manage the calendar of hearings and prepare the annual budget of the commission. The chair must prepare and make public an annual report of the commission's performance.

Section 12 amends AS 23.30.011(c), which relates to extraterritorial coverage of workers injured outside Alaska while working for Alaska employers or while under contract formed in Alaska. It removes references to the board and reassigns powers and duties to the division. Certificates of insurance issued by other states must be filed in the division instead of the board. The director replaces the board as the appointed out of state employer's agent for service of process. The director, instead of the board, shall serve notice of claims. Evidence of self-insurance must satisfy the director, instead of the board; and, the director may require the out of state employer to file satisfactory security to cover the amount of a claim.

Section 13 amends AS 23.30.012 relating to settlement of claims. It divides the current statute into two subsections. It removes references to the board and transfers from the board to the director the power to approve the form of settlements. It requires that settlements be filed in the division. A new provision requires that in cases where workers are not represented by an attorney licensed to practice in this state, or where a beneficiary is a minor, the settlement must be reviewed by a hearing officer and may be approved when it is in the best interests of the worker or beneficiary. The hearing officer may hold a hearing and require an impartial medical examination. This is a change from current

law, which requires all workers, regardless of representation or circumstances, to obtain board permission and approval to settle their claims.

Section 14 amends AS 23.30.015(b), which relates to assignments of rights to recover damages against third parties. It removes references to the board and changes the place to file compensation orders from the board to the commission, and conforms the statute language to modern use.

Section 15 amends AS 23.30.015(e). It removes references to the board and transfers the power to determine the attorney fee offset in third party settlements from the board to a hearing officer. It modernizes the statute language and assigns the director the duty to prepare a schedule of present values for determining third-party settlement offsets.

Section 16 amends AS 23.30.015(j) to remove references to the board, to change the recipient of notice of a third party action for damages from the board to the division, and to require additional notice to the commission if a hearing has been requested in the workers' compensation case.

Section 17 amends AS 23.30.025(a) to remove references to the board and to change the place where insurance company policy forms are filed from the board to the division.

Section 18 amends AS 23.30.030(5) relating to effective dates of policy termination by cancellation. It removes references to the board and reassigns the receipt of notice of termination from the board to the division.

Section 19 amends AS 23.30.030(6) relating to the power to make orders or awards against employers, insurers, or both. It removes references to the board and reassigns making the order or award from the board to a hearing officer.

Section 20 amends AS 23.30.040(a) relating to administration of the second injury fund, which is reassigned from the commissioner to the director. Also, it removes references to the board and reassigns the power to order payments from the fund from the board to the director.

Section 21 amends AS 23.30.040(d) relating to refund of a payment made into the second injury fund. It removes references to the board and reassigns the power to direct a refund from the board to the director.

Section 22 amends AS 23.30.041(a) to remove references to the board and reassign employment of the reemployment benefits administrator and authorization for his staff from the board to the director.

Section 23 amends AS 23.30.041(b) to remove references to the board and reassign from the board to the department the adoption of regulations implementing the reemployment benefits section and setting standards for rehabilitation specialists.

- Section 24** amends AS 23.30.041(d) to remove references to the board and reassign from the board to a hearing officer the power to review the decisions of the reemployment benefits administrator.
- Section 25** amends AS 23.30.041(h) to remove references to the board and to include a physician appointed by the director, instead of by the board, as a possible source of a prediction of medical stability for a reemployment plan.
- Section 26** amends AS 23.30.041(j) to modernize statute language, remove references to the board, and replace board with a hearing officer as the reviewer of reemployment benefits administrator decisions on rehabilitation plans.
- Section 27** amends AS 23.30.041(o) to remove reference to the board and replace the board with a hearing officer as the reviewer of decisions made by the reemployment benefits administrator on non-cooperation by an employee.
- Section 28** amends AS 23.30.041(p) to remove references to the board. It replaces the board with the director as the holder of a public meeting to select a proposed date on which a new edition of the US Department of Labor's Dictionary of Occupational Titles shall be implemented. The department replaces the board as the agency selecting the date proposed and the director replaces the board as the person giving notice of the selected date.
- Section 29** amends AS 23.30.041(q) to remove references to the board and replace the board with the division as the agency receiving filed waivers of rehabilitation benefits and serving notices of the waivers. The amendment also replaces the board with the director as the agency proscribing or approving the form of such waivers.
- Section 30** amends AS 23.30.045(d) relating to the requirement that awardees of contracts from the state or political subdivisions of the state have workers' compensation insurance. The amendment removes references to the board and changes the agency that furnishes proof of insurance from the board to the division, and the agency that grants certificates of self-insurance from the board to the director, conforming to Section 12 above.
- Section 31** amends AS 23.30.045(e) relating to the obligations of contracting agencies of the state or political subdivision of the state if a contractor has lost coverage. The amendment removes references to the board and replaces the board with the director as the agency notifying the state or political subdivision of the revocation of self-insurance, conforming to Section 12 above.
- Section 32** amends AS 23.30.065 to remove references to the board and to replace the board with the division as the agency with the power to require and inspect employer records of injury.
- Section 33** amends AS 23.30.070(a) to remove references to the board and to replace the board with the division as the agency where employer reports of injury to or

death of an employee are filed and which may require certain information in reports of injury or death.

Section 34 amends AS 23.30.070(b) to modernize language, to remove references to the board, to replace the board with the division as the agency where supplemental reports of the employee's condition are filed, and to replace the board with the director as the agency with power to require such reports.

Section 35 amends AS 23.30.070(d) to remove references to the board and to provide that compliance with the reporting requirements of the section are met by mailing to the division instead of the board.

Section 36 amends AS 23.30.070(f) to remove references to the board, to replace the board with a hearing officer, who after a hearing, may require an employer to pay the penalties for failure or refusal to report as provided by this section.

Section 37 amends AS 23.30.075 to remove references to the board, to replace the board with the division as the agency which must be provided satisfactory proof of financial ability to pay compensation and as the source of the copy of the certificate of self-insurance. The director replaces the board as the agency that may exercise discretion to require acceptable security, indemnity or bond from an employer to secure payment of compensation liabilities.

Section 38 amends AS 23.30.080(d) regarding proceedings to obtain stop work orders against uninsured employers. The amendment provides that the director may petition a hearing officer for a stop work order, replacing the general grant of authority of the board to issue a stop work order. A new provision permits the hearing to be held on short notice if the director presents evidence that a hazard in the employment constitutes a danger that could reasonably be expected to cause an employee of the uninsured employer death or serious physical harm. Finally, the amendment removes references to the board and transfers the power to assess a civil penalty from the board to a hearing officer.

Section 39 creates two new statutory provisions relating to penalties against uninsured employers. AS 23.30.080(e) authorizes the director to petition a hearing officer to order a civil penalty of \$100 for each uninsured employee for each day the employee is employed without coverage. The penalty is payable to the state. As in AS 23.30.080(d) relating to stop work orders, failure to file evidence of insurance with the division would create a rebuttable presumption of failure to insure. Also as in 23.30.080(d), the civil penalty hearing may be held on short notice if the director presents evidence that a hazard in the employment constitutes a danger that could reasonably be expected to cause an employee of the uninsured employer death or serious physical harm. AS 23.30.080(f) authorizes the director to declare an employer in default if the employer fails to pay a civil penalty under subsection 080(d)-(failing to

comply with a stop work order, \$1000 per day) or subsection 080(f) (failure to insure employee \$100 per employee per day) within seven days of the date ordered. Upon filing a certified copy of the penalty order and a declaration of default with the clerk of the superior court, the court shall enter judgment for default. The attorney general, as requested by the director, shall take appropriate action to collect on the default judgment, and a writ of execution may be issued on the judgment. The person against whom the judgment is issued may seek court review of the judgment as allowed by the Civil Rules.

Section 40 amends AS 23.30.085(a) relating to filing evidence of compliance with workers' compensation insurance requirements. The amendment removes references to the board, replaces the board with the division as the agency with which evidence is filed and which may provide copies of the certificate of self-insurance. The amendment also replaces the board with the director as the person who prescribes the form of evidence of insurance.

Section 41 amends AS 23.30.090 to remove reference to the board and substitute the director for the board as the agency that issues certificates of self-insurance. This section adds a provision for a hearing conducted by hearing officer before revocation of self-insurance certificates, and for the director to amend, adopt or reject the hearing officer's proposed decision.

Section 42 amends AS 23.30.090 to add a new statutory provision, AS 23.30.090(b), that testimony in a self-insurance revocation hearing shall be recorded but not transcribed unless further review is initiated.

Section 43 amends AS 23.30.095(a) to conform language to modern usage. It also removes references to the board and replaces the board with a hearing officer as the agency that reviews employee claims for medical benefits beyond two years from the date of injury, and authorizes continued care or treatment.

Section 44 amends AS 23.30.095(c) relating to reports and claims for medical treatment by removing references to the board and reassigning its functions. This section replaces the board with the division as the agency that receives filed physician reports; replaces the board with the director as the agency that approves the form for reports; and, replaces board with a hearing officer as the agency that decides to excuse failure to give notice and makes awards of medical benefits. This section also transfers authority to make regulations from the board to the director, who proposes regulations, and the department, which adopts the proposed regulations.

Section 45 amends AS 23.30.095(d) to remove references to the board and transfer authority from the board to a hearing officer to order suspension of payment of compensation during a period of unreasonable refusal to obtain medical treatment.

- Section 46** amends AS 23.30.095(e) relating to independent medical examinations. It removes references to the board and transfers from the board to a hearing officer the authority to make orders for medical examinations, suspend or forfeit compensation during a period of refusal to attend an examination, and order autopsies in cases of death. It also modernizes the language of the statute and conforms it to current usage.
- Section 47** amends AS 23.30.095(f) relating to regulation of fees charged for medical treatment. The amendment removes references to the board. It transfers authority to regulate charges for medical treatment to the department and adopt, by regulation, fee schedules. It transfers to the director authority to determine usual, customary and reasonable fees in the community and propose fee schedules to the department for adoption.
- Section 48** amends AS 23.30.095(h) to remove references to the board and replaces the board with the division as the place pleadings and physician reports are filed. The amendment also modernizes language in the statute to current usage.
- Section 49** amends AS 23.30.095(j) to remove references to the board and to reassign from board to the director authority to appoint a medical services review committee or contract with organizations to assist and advise the director, instead of the board, in matters respecting medical care under the workers' compensation act.
- Section 50** amends AS 23.30.095(k) to remove references to the board and transfers authority to the director to require a second independent medical examination from a list maintained by the director. The report of the examination is sent to the division instead of the board.
- Section 51** amends AS 23.30.100(a) to remove a reference to the board and substitute the division as the recipient of notice of an injury or death. The amendment also modernizes the statute language.
- Section 52** amends AS 23.30.100(c) to remove reference to the board and substitute the division's office as the recipient of filed notices of injury or death.
- Section 53** amends AS 23.30.100(d) to remove references to the board and to transfer authority to a hearing officer to determine that an employer has not been prejudiced by failure to give notice or to excuse the failure to give notice. The amendment also modernizes the language of the statute.
- Section 54** amends AS 23.30.105(a) to remove references to the board and transfers to a hearing officer the authority to determine if an employee who fails to file a claim within the time allowed by the statute has full right to claim compensation, time limitations notwithstanding.
- Section 55** amends AS 23.30.107 to remove references to the board and to replace the board with the division as the agency where a petition for protective order

must be filed and where workers' compensation files are maintained. The amendment also replaces the board with the division and commission as agencies that may release records as provided by the statute and replaces the board with the commission or a hearing officer as authorized to discuss records in a decision and order.

Section 56 amends AS 23.30.108(a) to remove a reference to the board and replace the board with the division as the agency where a petition is filed. The amendment also conforms language to correct usage. This section also amends AS 23.30.108(b) to remove references to the board and substitute office of the commission for board as the agency scheduling prehearing conferences, and replacing the board's designee with a hearing officer as the person conducting the prehearing conference. In addition, the division is required to notify the commission of petitions for protective orders. Finally, this section amends AS 23.30.108(c) to authorize a hearing officer, instead of the board's designee, to direct parties to release or produce documents and make rulings on discovery matters. It creates a new provision for an expedited review of a hearing officer's discovery rulings by the commission and sets deadlines for response to a petition for review by the commission.

Section 57 amends AS 23.30.110 to remove references to the board throughout the statute and to transfer certain powers and duties to hearing officers and the office of the commission. The amendment also adds petitions to the statute to regularize procedure for claims and petitions into a single process, and adds the phrase "opposing party" to include persons other than the employer who require service of a claim or petition. This section substitutes certified mail for registered mail. It provides that the office of the commission is the place to file an affidavit of readiness for hearing. A hearing officer, instead of the board or board designee, is authorized to conduct pre-hearing conferences, plan discovery and other preliminary matters, and set a reasonable hearing date if a party opposes a hearing request. A hearing officer, instead of the board, shall schedule unopposed hearing requests within 60 days, and give notice to the parties. This section transfers authority to prescribe controversion forms from the board to the director. This section also transfers authority to make decisions and grant continuances from the board to the hearing officer. The word "parties" replaces "claimant and employer" as persons who may present evidence at a hearing. In addition to the authority to award benefits, the amendment adds authority to dismiss a claim, after an employee's death. Finally, the language of the statute is conformed to current usage.

Section 58 creates two new statutory provisions, AS 23.30.110(i) and (j), which authorize the dismissal of certain claims before a hearing on the merits and the grant of summary decisions in certain instances. Dismissal of claims, described in AS

23.30.110(i), may occur when the claim is for relief that cannot be granted under the workers' compensation act, there is a lack of jurisdiction over the subject of the claim or the person requesting dismissal, there is improper service of the claim, the claim has not been prosecuted or a hearing not requested within two years as required by the statute, or, the claim is barred by a statute of limitation. If defects in jurisdiction, service or the requested relief are cured within 60 days, the order of dismissal may be vacated. Grant of summary decision on petition, authorized in AS 23.30.110(j), is permitted at any time if a hearing officer determines that all reasonable discovery has been made on the issues presented in the petition, and the record shows there is no genuine issue of material fact and the petitioner is entitled to a decision as a matter of law. The hearing officer may file a compensation order in favor of the petitioner if the summary decision disposes of all issues in the claim regarding the petitioner. This provision establishes a means of obtaining final rulings on matters of law where the facts are not disputed, without forcing parties to proceed together to a full hearing on the merits.

Section 59 creates a new statutory provision, AS 23.30.112, relating to the qualification, employment, authority and duties of hearing officers. This amendment provides that claims and petitions will be heard by hearing officers employed by the commission. The amendment provides that hearing officers must be licensed to practice law in Alaska and have three years of experience in workers' compensation or a similar field of practice. This amendment places hearing officers in the partially exempt service, provides for their salary at Range 24, and exempts them from AS 23.40. This amendment sets standards for performance of their duties. Authority previously granted to the board is transferred to hearing officers: to issue subpoenas and request enforcement of their subpoenas by the superior court, require reports of treatment, and arrange hearings to preserve testimony in other states. This amendment transfers to hearings by hearing officers certain provisions regarding standards for hearings previously conducted by the board. A new provision makes specific which portions of the Alaska Administrative Procedure Act apply to hearings. New provisions set standards for impartiality, performance of duties and disqualification from a hearing. Another new provision prohibits *ex parte* communications with the hearing officer. Finally, this amendment transfers from the board to the hearing officer the requirement that the hearing be recorded and be public.

Section 60 amends AS 23.30.115 relating to witness fees and subpoenas to appear as a witness. This section removes references to proceedings before the board and substitutes hearings before a hearing officer or the commission. This section substitutes the word "hearing" for "proceeding" because witnesses (as distinct from parties) are not required by subpoena to appear at other forms of

proceedings before the commission or a hearing officer. A new provision is added to allow the commission clerk to issue subpoenas for hearings, depositions, and production of records, and to direct the superior court to enforce the subpoenas at the request of the commission as provided in AS 44.62.590.

Section 61 amends AS 23.30.120(b) to remove a reference to the board and transfer to a hearing officer the authority to excuse failure to give notice. This amendment conforms to Section 53 above. There is no change to the substance of AS 23.30.120, which contains the presumption that “a claim comes within the provisions” of the workers’ compensation act.

Section 62 repeals and reenacts AS 23.30.122, relating to determinations of the credibility of witnesses. The former statute provided that the board had the sole power to determine credibility of witnesses and that the board’s findings concerning the weight of a witnesses testimony, including medical testimony and (unsworn) reports were conclusive. The amendment transfers to the hearing officer only the sole power to determine the credibility of a witness who appears before the hearing officer in hearing. Section 65 includes provisions transferring to the commission the authority to make conclusive findings concerning the weight of evidence. A new provision is added to require specific findings when credibility is disputed.

Section 63 creates a new statutory provision, AS 23.30.124, which clarifies the process and time for reconsideration of a compensation order (hearing officer’s decision) and limits the delay of finality of a compensation order by limiting the time for reconsideration. Reconsideration may be ordered upon the hearing officer’s own motion or on petition of a party filed within 15 days of mailing of the compensation order. The hearing officer’s power to order reconsideration expires 30 days after the compensation order. If the hearing officer does not file an order of reconsideration within 30 days of the date the compensation order was mailed, any pending petition for reconsideration is denied. However, if a hearing officer issues an order of reconsideration, then the compensation order which is being reconsidered is stayed until the decision on reconsideration is filed by the hearing officer. The hearing officer must file his or her decision on reconsideration within 30 days of when the order for reconsideration was filed. This amendment also provides that reconsideration is made on the record and any additional argument allowed by the hearing officer.

Section 64 repeals and reenacts AS 23.30.125 relating to review of compensation orders. It replaces superior court review of board decisions with commission review of compensation orders (hearing officer decisions). The amendment sets a date on which compensation orders are final unless review is undertaken. It makes explicit that the commission has the power to review hearing officer

decisions and orders, and that orders may not be suspended, reconsidered or set aside except through the commission process. This amendment also creates a provision for stays on appeal, requiring that a party desiring a stay of an order pending appeal to produce evidence of irreparable damage and allowing a hearing on the stay by the commission on three days notice to the parties and director.

Section 65 creates four new statutory provisions relating to commission review of director decisions, commission procedure on appeal, commission authority to review and judicial review of commission proceedings. The first, AS 23.30.126, establishes commission review of director decisions that affect a right, privilege, benefit or duty under the act. It describes the method of undertaking review and allows 30 days for a director decision to be appealed to the commission. This provision also establishes the same standard for obtaining a stay of appeal of a director decision as of a compensation order; the party seeking a stay must demonstrate irreparable damage.

The second new statute, AS 23.30.127, establishes the basic procedure for appeal to the commission. This provision allows the director to intervene in an appeal, and, if a party does not have legal representation and the order appealed concerns an unsettled question of law, the director may file an appeal on behalf of the unrepresented party. This provision sets a 30-day period for appeal of a compensation order or a director decision. It describes the documents that must be filed with the commission to initiate an appeal and a cross-appeal. It authorizes the commission to charge a fee up to \$100 for filing appeals and cross appeals, but exempts the state and political subdivisions of the state from the filing fee. It authorizes the commission to require an appellant to pay costs of preparing a transcript and preparing the record on appeal. Cross appellants and intervenors may be required to share in the costs. This provision grants the commission general authority to make rules and orders for the prompt fair and just disposition of appeals and authorizes the commission to require written briefs.

The third new statutory provision in Section 65, AS 23.30.128, establishes the commission's broad authority to review and act on appeals. The commission may review de novo all exercises of discretion, factual findings, and legal conclusions below, except that a hearing officer's findings regarding the credibility of a witness who appeared in the hearing is binding on the commission. Any other finding, including the weight given expert evidence, may be set aside by the commission. If not set aside, the hearing officer's findings are conclusive. This statute provides that the commission review will be on the record, except that briefs and argument shall be allowed. The exception is that the commission may receive evidence in applications for a stay of a decision below (see section 64 above), attorney fees and costs of

appeal, waiver of fees for indigent appellants, and dismissal of appeals for failure to prosecute or settlement. This provision also gives the commission wide discretion to act on appeal. The commission may expedite appeals. It may affirm, reverse or modify a decision; remand matters it determines were improperly or insufficiently developed, or remand for further action without relinquishing jurisdiction. It may reconsider its decisions on specific grounds listed in subsection (f): misapplication or failure to apply directly controlling law; overlooking or misconceiving a material fact; misunderstanding a material question in the case presented on appeal; or, applying law that has subsequently changed. AS 44.62 does not apply to proceedings of the commission. This provision balances shorter time for appeal and reconsideration (30 days) with sufficient time for collegial consideration of the merits of the appeal before a commission decision (90 days). This provision sets out clearly when a decision of the commission is final, to avoid confusion as to dates of finality.

The fourth new statutory provision exempts the commission from the grant of superior court jurisdiction over judicial appeals of administrative agency decisions contained in AS 44.62.590 and states that commission orders may not be otherwise appealed to the superior court. The purpose of this provision is to eliminate appeal to the superior court, and to provide that decisions of the commission may be appealed directly to the Supreme Court. This provision withdraws workers' compensation appeals from the jurisdiction of the superior court, which the legislature may do by law. See, Art. IV, Sec. 1 of the Alaska Constitution, see also AS 22.10.020(d). It does not encroach on the judicial power reserved to the courts under Art. IV, Sec. 15, because incidental effects of substantive change do not trigger Art. IV, Sec. 15 requirements. See, *Wienegardner v. Greater Anchorage Borough Bd. Of Equalization*, 534 P.2d 541, 547 n. 18 (Alaska 1975). This provision does not affect the right to seek declaratory judgment in superior court on matters affecting workers' compensation law, as, for example, to declare a regulation invalid or to require coverage under an insurance contract. This provision also establishes the standard of review for commission findings of the weight to be accorded witness testimony and commission findings of fact, which must be supported by substantial evidence in light of the whole record.

Section 66 amends AS 23.30.130 to remove references to the board, transfer the authority of the board to modify decisions to a hearing officer, conform the statute language to modern usage, and to add the director to those who may petition for modification of a compensation order. This provision also limits modification based on mistake of fact to mistake of material fact. This provision does not limit the type of fact that may be the subject of mistake, but does require that the mistake be one that is important to the outcome.

- Section 67** amends AS 23.30.135 regarding investigation proceedings before the division to remove references to the board, transfer the authority of the board to make investigations under the act, take testimony and hold hearings to the director, give the director power to issue subpoenas and examine records relating to the investigation and requires the superior court to enforce the director's subpoenas.
- Section 68** amends AS 23.30.140 to remove reference to the board and transfer the authority of the board to require appointment of a guardian to receive compensation to the director.
- Sections 69** amends AS 23.30.145(a) to remove references to the board, transfer the authority of the board to award attorney fees to a hearing officer, and conform the language of the statute to modern usage.
- Sections 70** amends AS 23.30.145(b) to remove references to the board, transfer from the board to a hearing officer the authority to award costs and attorney fees and conform the language of the statute to modern usage.
- Section 71** amends AS 23.30.155(a) to remove a reference to the board and transfer the authority to prescribe forms from the board to the director.
- Section 72** amends AS 23.30.155(b) to remove a reference to the board and transfer from the board to a hearing officer the authority to vary periodic payments from the biweekly standard.
- Section 73** amends AS 23.30.155(c) to remove references to the board, transfer the authority of the board to prescribe forms to the director, and replace the board with the division as the agency receiving notices and filings of compensation reports. The language of the statute is also conformed to modern usage.
- Section 74** amends AS 23.30.155(d) to remove references to the board and replaces the board with the division as the agency where controversion notices are filed. The amendment also conforms language to modern usage.
- Section 75** amends AS 23.30.155(e) to remove a reference to the board and transfer the authority to excuse nonpayment of compensation from the board to a hearing officer.
- Section 76** amends AS 23.30.155(f) removes a reference to stay of payment on appeal issued by a court and substitutes a reference to stay of payment by order of the commission. This conforms to the provisions of Section 64 above.
- Section 77** amends AS 23.30.155(h) to remove references to the board, transfer the authority to initiate investigations, order independent medical examinations, and take other action to protect the parties' rights from the board to the director. The provision also gives the director the authority to file petitions in

disputed matters for a hearing before a hearing officer. The provision also conforms the language of the statute to modern usage.

Section 78 amends AS 23.30.155(i) to remove references to the board and transfer the authority to require the employer to make deposits with the Department of Revenue to secure payment of compensation from the board to the director.

Section 79 amends AS 23.30.155(j) to remove a references to the board and transfer the authority to approve offset of overpayments exceeding 20% of periodic compensation payments from the board to a hearing officer.

Section 80 amends AS 23.30.155(k) to remove reference to the board and transfer the authority to inspect receipts from the board to the director.

Section 81 amends AS 23.30.155(m) to remove references to the board. This provision transfers to the director the authority of the board to prescribe forms; the authority of the commissioner to review the timeliness of insurer and adjuster annual reports; and the authority of the commissioner to give notice of penalties. This provision also replaces the board with the division for the agency receiving annual reports.

Section 82 amends AS 23.30.155(o) to remove references to the board. It transfers the obligation to notify the division of insurance of frivolous or unfair controversion determinations from the board to the director, and the authority to make such determinations from the board to a hearing officer.

Section 83 amends AS 23.30.170(a) to remove references to the board, modernize the language of the statute and conform it to other usage in the act, replace the board with the division as the recipient agency for petition filings, transfer the authority to make investigation from the board to the director, and transfer authority to make supplementary orders to a hearing officer.

Section 84 amends AS 23.30.170(b) to remove references to the board, transfer the authority to declare awards in default from the board to a hearing officer, and transfer authority to request collection of defaulted payments by the attorney general from the commissioner to the director. The provision also makes a technical amendment, replacing applicant with petitioner to conform to current usage.

Section 85 amends AS 23.30.175(a) to remove references to the board and transfer the authority to determine spendable weekly wages, order adjustment of compensation rates, and direct deduction of prior payments from unpaid compensation from the board to a hearing officer.

Section 86 creates a new statutory provision, AS 23.30.175(b)(5), which caps compensation paid to non-resident recipients at the compensation rate the recipient would receive if residing in Alaska. The effect of the amendment is to allow compensation rates paid to a non-resident to decrease by cost of

living adjustments for the recipient's area of residence, but not to allow the compensation rate to rise higher than the Alaska rate if the cost of living is higher in the recipient's area of residence.

Section 87 amends AS 23.30.175(c) to remove a reference to the board and transfer the authority to provide cost of living comparisons from the board to the department.

Section 88 amends AS 23.30.180 to remove a reference to the board and transfer the authority to determine inflation adjustments and reductions of permanent total compensation for prior payment of permanent partial disability compensation from the board to a hearing officer. This amendment also conforms the language of the statute to modern usage.

Section 89 amends AS 23.30.190(b) to remove a reference to the board and transfer the authority to adopt schedules for injuries that cannot be rated by use of the American Medical Association Guides from the board to the department.

Section 90 amends AS 23.30.190(d) to remove references to the board, transfer from the board to the director the requirement to hold open hearings on the adoption date for new editions of the American Medical Association Guides and the authority to select and publish a date that new editions will be used for impairment ratings.

Section 91 amends AS 23.30.200(b) to remove a reference to the board and transfer the authority to fix wage-earning capacity from the board to a hearing officer.

Section 92 amends AS 23.30.205(e) to replace the commissioner with the director for receipt of notice of award or adjudication respecting the second injury fund.

Section 93 amends AS 23.30.205(f) to replace the commissioner with the director as the recipient of notice of possible claim against the second injury fund.

Section 94 amends AS 23.30.215(d) to remove references to the board, transfer the authority of the board to a hearing officer to commute payments of future compensation to persons residing outside the United States or Canada, and conform the language of the statute to modern usage. This amendment also adds the director and employer to the persons who may petition for commutation.

Section 95 amends AS 23.30.220(a) to remove references to the board, transfer the authority to determine matters relating to gross weekly earnings from the board to a hearing officer and conforms the language of the statute to modern usage.

Section 96 amends AS 23.30.240 to transfer the authority to approve executive officer waivers of coverage from the commissioner to the director.

- Section 97** amends AS 23.30.250(b) to remove references to the board, transfer the authority to determine and order reimbursement in cases in which a person obtained compensation and benefits by knowingly making false and misleading statements. This amendment also transfers the authority to make attorney fee awards against that person, and to declare an order in default, from the board to the hearing officer.
- Section 98** amends AS 23.30.260 to remove a reference to the board, transfer the power to approve fees for representation to a hearing officer and commission, clarifies that the statute refers to representation or advice with respect to a claim, and conforms the language of the statute to modern usage.
- Section 99** amends AS 23.30.395(28) to remove a reference to the board and replaces the board with the division as the agency which is furnished proof of financial ability to make direct payments.
- Section 100** amends AS 23.30.395 to add new subsections defining the commission, director, division and hearing officer.
- Section 101** amends AS 39.25.120(c)(14) to remove a reference to the board and substitute the division as the employer of the rehabilitation administrator.
- Section 102** amends AS 39.25.120(c) to add new subsections including hearing officers and the reemployment benefits administrator of the division in the list of partially exempt employees.
- Section 103** amends AS 39.50.200(b)(31) to remove a reference to the board and substitute the commission.
- Section 104** amends AS 44.62.330(a)(15) to remove a reference to the board and to substitute the division and director. This provision also modernizes the reference to the act by substituting the statute citation.
- Section 105** repeals AS 21.39.155(c), relating to the assigned risk pool, and AS 23.30.395(3), defining the board.
- Section 106** provides that the cap on non-resident compensation rates applies only to compensation for injuries on or after the effective date of Section 86.
- Section 107** creates a new provision of uncodified law that establishes a transition period during which the director of insurance will name members of the board of governors of the Alaska Insurance Guaranty Association to serve staggered initial terms, sets dates of expiration of the current board of governors and permits a member of the board to continue to serve until a successor is appointed.
- Section 108** creates a new provision of uncodified law that establishes the initial appointment of members of the commission by staggered terms.

Section 109 creates a new provision of uncodified law that establishes a transition period during which matters pending before the board may be completed, setting an expiration date for the terms of members of the board, and providing for continuation of effect notwithstanding a transfer of function from the board to the commission or director. This provision also continues in force all regulations, orders, decisions, or certificates issued by the board until revoked, modified or vacated under the provisions of this bill; continues in effect all contracts, rights, liabilities or obligations; and transfers the property of the board or other state agencies to implement the provisions of this bill.

Section 110 creates a new provision of uncodified law permitting the director of insurance in the Department of Community and Economic Development and Department of Labor and Workforce Development to proceed to adopt necessary regulations to implement this bill, but not before the effective date of the bill.

Section 111 gives Section 110 an immediate effective date.

Section 112 gives all Sections except Section 110 an effective date of July 1, 2004.

Appendix

Changing insurance guaranty assoc.	Creating the commission system	Creating or changing legal process	New penalties or other enforcement changes	Essentially conforming amendments
<p>Sec 1 is a declaration of legislative intent</p> <p>Sec 3 creates AS 21.09.090(e) which provides that insurers that transact workers' compensation insurance in this state must maintain in the state a special deposit of cash or securities</p> <p>Sec 5 reenacts AS 21.80.050 to expand the board of governors of the Alaska Insurance Guaranty Association.</p> <p>Section 6 amends AS 21.80.180(6) Excludes wkrs' comp claims from "covered claim" if the insured's net worth exceeds \$25,000,000</p> <p>Sec 105 repeals AS 21.39.155(c) relating to assigned risk pool</p> <p>Sec 107 uncodified law provides transition period for new Ak Ins Guaranty Assoc , members serve staggered terms.</p>	<p>Sec 9 codifies statement of legislative intent re: the workers' compensation system.</p> <p>Sec 10 repeals & reenacts AS 23.30.005. Creates in Dept of Labor a Division of Workers' Compensation and a director.</p> <p>Sec 11 adds new AS 23.30.007, create workers' compensation appeals commission</p> <p>Adds new AS 23.30.008, sets out the powers & duties of new commission.</p> <p>Adds new AS 23.30.009 sets out powers & duties of chair of commission.</p> <p>Sec 59 creates new AS 23.30.112 establishing hearing officer employment & qualifications. Sets standards of impartiality & disqualification & bars ex parte communication. May issue subpoenas, require medical examinations, arrange hearings, as board did. Parts of APA made to apply.</p>	<p>Sec 13 amends AS 23.30.012 re: settlement of claims, allows w/o approval if EE has lawyer.</p> <p>Sec 56 amends AS 23.30.108 relating to discovery. Discovery conferences conducted by hearing officer, who can issue orders, expedited review of discovery orders allowed to the commission.</p> <p>Sec 57 adds petitions to permitted pleadings, allows all parties to present evidence at hearing, allows hearing officer to hold scheduling conferences and set reasonable hearing date.</p> <p>Sec 58 creates a new provision for dismissal of claims: relief demanded cannot be granted under the act, no jurisdiction, improper service, failure to prosecute, statute of limitation. Also gives hearing officer power to grant summary judgment if no dispute of fact and discovery complete.</p> <p>Sec 60 amends AS 23.30.115 to allow commission clerk to issue subpoenas.</p>	<p>Sec 38 amends AS 23.30.080(d) to authorize the director to seek a stop work order against uninsured employers and to allow the hearing for the order to be heard on short notice when job hazards present could cause immediate death or serious physical harm to workers. Penalty is \$1000 if order is disobeyed.</p> <p>Sec 39 creates two new statutes about penalties against uninsured employers. AS 23.30.080(e) allows the director to seek civil penalties of up to \$100/day per uninsured employee. It also allows the hearing for penalty to be heard on short notice when job hazards present could cause immediate death or serious physical harm to workers. The second new statute, AS 23.30.080(f) authorizes director to declare default if penalties in (d) or (e) are unpaid more than 7 days, file with court for judgment and request attorney general to enforce judgment by writ of execution.</p>	<p>Sec 2 amends AS 08.18.101(1)</p> <p>Sec 4 amends AS 21.24.130(d)</p> <p>Sec 7 amends AS 23.30.05.067(a)(1) (B)</p> <p>Sec 8 amends AS 23.05.067(e)</p> <p>Sec 12 amends AS 23.30.011(c)</p> <p>Sec 14 amends AS 23.30.015(b)</p> <p>Sec 15 amends AS 23.30.015(e).</p> <p>Sec 16 amends AS 23.30.015(j)</p> <p>Sec 17 amends AS 23.30.025(a)</p> <p>Sec 18 amends AS 23.30.030(5)</p> <p>Sec 19 amends AS 23.30.030(6)</p> <p>Sec 20 amends AS 23.30.040(a)</p> <p>Sec 21 amends AS 23.30.040(d)</p> <p>Sec 22 amends AS 23.30.041(a)</p> <p>Sec 23 amends AS 23.30.041(b)</p> <p>Sec 24 amends AS 23.30.041(d)</p> <p>Sec 25 amends AS 23.30.041(h)</p> <p>Sec 26 amends AS 23.30.041(j)</p> <p>Sec 27 amends AS 23.30.041(o)</p> <p>Sec 28 amends AS 23.30.041(p)</p> <p>Sec 29 amends AS 23.30.041(q)</p> <p>Sec 30 amends AS 23.30.045(d)</p> <p>Sec 31 amends AS 23.30.045(e)</p> <p>Sec 32 amends AS 23.30.065</p> <p>Sec 33 amends AS 23.30.070(a)</p> <p>Sec 34 amends AS 23.30.070(b)</p>

Appendix

Changing insurance guaranty assoc.	Creating the commission system	Creating or changing legal process	New penalties or other enforcement changes	Essentially conforming amendments
<p>Sec 1 is a declaration of legislative intent</p> <p>Sec 3 creates AS 21.09.090(e) which provides that insurers that transact workers' compensation insurance in this state must maintain in the state a special deposit of cash or securities</p> <p>Sec 5 reenacts AS 21.80.050 to expand the board of governors of the Alaska Insurance Guaranty Association.</p> <p>Section 6 amends AS 21.80.180(6) Excludes wkrs' comp claims from "covered claim" if the insured's net worth exceeds \$25,000,000</p> <p>Sec 105 repeals AS 21.39.155(c) relating to assigned risk pool</p> <p>Sec 107 uncodified law provides transition period for new Ak Ins Guaranty Assoc , members serve staggered terms.</p>	<p>Sec 9 codifies statement of legislative intent re: the workers' compensation system.</p> <p>Sec 10 repeals & reenacts AS 23.30.005. Creates in Dept of Labor a Division of Workers' Compensation and a director.</p> <p>Sec 11 adds new AS 23.30.007, creates workers' compensation appeals commission</p> <p>Adds new AS 23.30.008, sets out the powers & duties of new commission.</p> <p>Adds new AS 23.30.009 sets out powers & duties of chair of commission.</p> <p>Sec 59 creates new AS 23.30.112 establishing hearing officer employment & qualifications. Sets standards of impartiality & disqualification & bars ex parte communication. May issue subpoenas, require medical examinations, arrange hearings, as board did. Parts of APA made to apply.</p>	<p>Sec 13 amends AS 23.30.012 re: settlement of claims, allows w/o approval if EE has lawyer.</p> <p>Sec 56 amends AS 23.30.108 relating to discovery. Discovery conferences conducted by hearing officer, who can issue orders, expedited review of discovery orders allowed to the commission.</p> <p>Sec 57 adds petitions to permitted pleadings, allows all parties to present evidence at hearing, allows hearing officer to hold scheduling conferences and set reasonable hearing date.</p> <p>Sec 58 creates a new provision for dismissal of claims: relief demanded cannot be granted under the act, no jurisdiction, improper service, failure to prosecute, statute of limitation. Also gives hearing officer power to grant summary judgment if no dispute of fact and discovery complete.</p> <p>Sec 60 amends AS 23.30.115 to allow commission clerk to issue subpoenas.</p>	<p>Sec 38 amends AS 23.30.080(d) to authorize the director to seek a stop work order against uninsured employers and to allow the hearing for the order to be heard on short notice when job hazards present could cause immediate death or serious physical harm to workers. Penalty is \$1000 if order is disobeyed.</p> <p>Sec 39 creates two new statutes about penalties against uninsured employers. AS 23.30.080(e) allows the director to seek civil penalties of up to \$100/day per uninsured employee. It also allows the hearing for penalty to be heard on short notice when job hazards present could cause immediate death or serious physical harm to workers. The second new statute, AS 23.30.080(f) authorizes director to declare default if penalties in (d) or (e) are unpaid more than 7 days, file with court for judgment and request attorney general to enforce judgment by writ of execution.</p>	<p>Sec 2 amends AS 08.18.101(1)</p> <p>Sec 4 amends AS 21.24.130(d)</p> <p>Sec 7 amends AS 23.30.05.067(a)(1) (B)</p> <p>Sec 8 amends AS 23.05.067(e)</p> <p>Sec 12 amends AS 23.30.011(c)</p> <p>Sec 14 amends AS 23.30.015(b)</p> <p>Sec 15 amends AS 23.30.015(e).</p> <p>Sec 16 amends AS 23.30.015(j)</p> <p>Sec 17 amends AS 23.30.025(a)</p> <p>Sec 18 amends AS 23.30.030(5)</p> <p>Sec 19 amends AS 23.30.030(6)</p> <p>Sec 20 amends AS 23.30.040(a)</p> <p>Sec 21 amends AS 23.30.040(d)</p> <p>Sec 22 amends AS 23.30.041(a)</p> <p>Sec 23 amends AS 23.30.041(b)</p> <p>Sec 24 amends AS 23.30.041(d)</p> <p>Sec 25 amends AS 23.30.041(h)</p> <p>Sec 26 amends AS 23.30.041(j)</p> <p>Sec 27 amends AS 23.30.041(o)</p> <p>Sec 28 amends AS 23.30.041(p)</p> <p>Sec 29 amends AS 23.30.041(q)</p> <p>Sec 30 amends AS 23.30.045(d)</p> <p>Sec 31 amends AS 23.30.045(e)</p> <p>Sec 32 amends AS 23.30.065</p> <p>Sec 33 amends AS 23.30.070(a)</p> <p>Sec 34 amends AS 23.30.070(b)</p>

Appendix

Changing insurance guaranty assoc.	Creating the commission system	Creating or changing legal process	New penalties or other changes	Essentially conforming amendments
	<p>Sec 64 replaces superior court review of board decisions with commission review of hearing officer decisions. Gives commission power to issue stays.</p> <p>Sec 65 four new statutes setting up commission system of appeal. AS 23.30.126 – review of director decisions by board (eg revoking self ins.) AS 23.30.127 – establishes basic process of appeal to the commission. AS 23.30.128 – gives commission broad powers of review on appeal. AS 23.30.129 eliminates superior court jurisdiction of appeal from commission and provides direct supreme court review.</p> <p>Sec 100 defines commission, director, division and hearing officer</p> <p>Sec 102 places hearing officers in partially exempt service.</p> <p>Sec 105 repeals definition of Board</p>	<p>Sec 62 gives hearing officer sole power to determine credibility of a witness that appears before him, adds requirement to make findings if credibility disputed, in Sec 65 below commission has power to make conclusive findings re: weight of evidence, hearing officers findings re weight of evidence conclusive if not disturbed by commission.</p> <p>Sec 63 provides for reconsideration of hearing officer decision by hearing officer (New AS 23.30.124)</p> <p>Sec 65 four new statutes setting up commission system of appeal. AS 23.30.126 – review of director decisions by board (eg revoking self ins.) AS 23.30.127 – establishes basic process of appeal to the commission. AS 23.30.128 – gives commission broad powers of review on appeal. AS 23.30.129 eliminates superior court jurisdiction of appeal from commission and provides direct supreme court review.</p>	<p>Sec 41 amends AS 23.30.090 to allow a hearing before a hearing officer before revocation of self insurance certificate, director may adopt, reject or amend proposed decision. Sec 42 provides such hearings will be recorded and public.</p> <p>Sec 67 gives the director powers to investigate, inc. subpoena records, take testimony, etc.</p> <p>Sec 77 gives director power to order independent medical exams, initiate investigation, file petitions in disputed cases.</p> <p>Sec 78 gives director power to require employer to make deposits with state to secure payment of compensation</p> <p>Sec 86 amends AS 23.30.175(b)(5), caps compensation paid to out of state recipients at the rate they would receive in Alaska</p> <p>Sec 94 amends AS 23.30.215(d) to allow director to ask for commutation of payments to foreign residents.</p>	<p>Sec 35 amends AS23.30.070(d) Sec 36 amends AS23.30.070(f) Sec 37 amends AS23.30.075 Sec 40 amends AS 23.30.085(a) Sec 43 amends AS 23.30.095(a) Sec 44 amends AS 23.30.095(c) Sec 45 amends AS 23.30.095(d) Sec 46 amends AS 23.30.095(e) Sec 47 amends AS 23.30.095(f) Sec 48 amends AS 23.30.095(h) Sec 49 amends AS 23.30.095(j) Sec 50 amends AS 23.30.095(k) Sec 51 amends AS 23.30.100(a) Sec 52 amends AS 23.30.100(c) Sec 53 amends AS 23.30.100(d) Sec 54 amends AS 23.30.105(a) Sec 55 amends AS 23.30.107 Sec 61 amends AS 23.30.120(b) Sec 68 amends AS 23.30.140 Sec 69 amends AS 23.30.145(a) Sec 70 amends AS 23.30.145(b) Sec 71 amends AS 23.30.155(a) Sec 72 amends AS 23.30.155(b) Sec 73 amends AS 23.30.155(c) Sec 74 amends AS 23.30.155(d) Sec 75 amends AS 23.30.155(e) Sec 76 amends AS 23.30.155(f)</p>

Appendix

Changing insurance guaranty assoc.	Creating the commission system	Creating or changing legal process	New penalties or other changes	Essentially conforming amendments
		Sec 66 permits modification of compensation	Essentially conforming amendments (cont'd)	Sec 79 amends AS 23.30.155(j) Sec 80 amends AS 23.30.155(k) Sec 81 amends AS 23.30.155(m) Sec 82 amends AS 23.30.155(o) Sec 83 amends AS 23.30.170(a) Sec 84 amends AS 23.30.170(b) Sec 85 amends AS 23.30.175(a) Sec 87 amends AS 23.30.175(c) Sec 88 amends AS 23.30.180 Sec 89 amends AS 23.30.190(b) Sec 90 amends AS 23.30.190(d) Sec 91 amends AS 23.30.200(b) Sec 92 amends AS 23.30.205(e) Sec 93 amends AS 23.30.205(f) Sec 95 amends AS 220(a) Sec 96 amends AS 23.30.240 Sec 97 amends AS 23.30.250(b) Sec 98 amends AS 23.30.260
			Sec 99 amends AS 23.30.395(28) Sec 101 amends AS 39.25.120(c) (14) Sec 103 amends AS 39.50.200(b)(31) Sec 104 amends 44.62.330(a)(15) Sec 106 effective date for application of Sec 86 Sec 108 uncodified law staggers commission member terms Sec 109 uncodified law providing transition from board to commission Sec 110 uncodified law directing regulation adoption Sec 111 effective date for Sec 110 Sec 112 effective date for remaining sections	

**ALASKA
LABOR-MANAGEMENT
AD HOC COMMITTEE
ON WORKERS' COMPENSATION**

February 24, 2004

The Honorable Tom Anderson
Representative
Alaska House of Representatives
State Capitol
Juneau, AK 99801

Dear Representative Anderson:

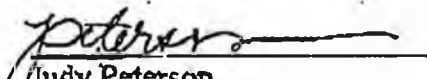
The Alaska Labor-Management Ad Hoc Committee on Workers Compensation is in its twenty-third year of service as a private citizen volunteer group formed to fairly address concerns regarding the Alaska Workers Compensation System. Historically, it is through the efforts of the Ad Hoc Committee that major legislation was passed in 1983, 1988, 1995 and 2000 which has saved Employers millions of dollars in premiums while preserving injured workers' benefits.

Currently, the Alaska Labor-Management Ad Hoc Committee is fully considering these bills as well as other worker compensation issues. We will report to you by March 9th following our full consideration. Our goal, of course, is

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Page 2

to assure that a balanced bill will preserve the interests of both Alaska employers and injured workers. We look forward to that effort.

Thank you for your assistance.

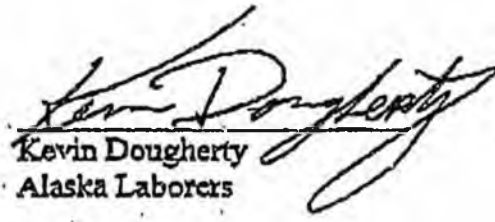

Judy Peterson
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Alaska Laborers

David Ford
Ironworkers Local 751

John Guichli
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HB

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