ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SCRA 12

with the timeline extensions made by the commission under AS [illegible], and with other performance measures established by the commission.

* **Sec. 3.** AS 42.06.220 is repealed and reenacted to read:

Sec. 42.06.220. Annual report. The commission shall, by November 15 of each year, publish an annual report reviewing its activities during the previous fiscal year and notify the legislature that the report is available. The report must address the regulation of oil and gas pipeline facilities in the state as of June 30 and must contain details about the commission's compliance with performance measures reported by the commission.

* **Sec. 4.** AS 44.66.010(a)(3) is amended to read:

(3) Regulatory Commission of Alaska (AS 42.04.010) - June 30, <u>2013</u> [2007];

* **Sec. 5.** Section 1 of this Act takes effect January 1, 2009.

* **Sec. 6.** Sections 2 and 3 of this Act take effect January 1, 2008.

* **Sec. 7.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB16-COM-RCA-02-15-07
Bill Version: SB 16
() Publish Date:

Revision Date/Time (Note if correction):
Title: Extend Regulatory Commission of Alaska
Sponsor: Therriault
Requester: Senate Community & Regional Affairs

Dept. Affected: Commerce
RDU: Regulatory Commission of Alaska (399)
Component: Regulatory Commission of Alaska
Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		5,364.6	5,364.6	5,364.6	5,364.6	5,364.6
Travel		55.0	55.0	55.0	55.0	55.0
Contractual		1,530.9	1,530.9	1,530.9	1,530.9	1,530.9
Supplies		56.9	56.9	56.9	56.9	56.9
Equipment		12.6	12.6	12.6	12.6	12.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	7,020.0	7,020.0	7,020.0	7,020.0	7,020.0
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						
1141 - RCA Receipts		7,020.0	7,020.0	7,020.0	7,020.0	7,020.0
TOTAL	0.0	7,020.0	7,020.0	7,020.0	7,020.0	7,020.0

Estimate of any current year (FY2007) cost: 6,495.3
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal: X

POSITIONS

Full-time	57	57	57	57	57	57
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation extends the Regulatory Commission of Alaska (RCA) to June 30, 2015. In accordance with AS 44.66.010, funding is extended one year following the termination date allowing the commission to conclude its affairs.

The RCA is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Kate Giard, Chairman — Phone 907-276-6222
Division: Regulatory Commission of Alaska — Date/Time 2/14/07 11:00 AM
Approved by: Emil Notti, Commissioner — Date 2/14/2007
Agency: Commerce, Community, and Economic Development

(Revised 9/15/2006 OMB)

Alaska State Legislature

SENATOR
GENE THERRIAULT
Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax (907) 488-4271

Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3864
SENATE DISTRICT F

TO: Senator Donny Olson, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Gene Therriault
Senate Minority Leader

DATE: February 6, 2007

RE: SB 16 – RCA Sunset Extension Hearing Request

I respectfully request Senate Bill 16 be scheduled for hearing before the Senate Community and Regional Affairs Committee.

Senate Bill 16 would extend the Regulatory Commission of Alaska (RCA) to June 30, 2015. The Division of Legislative Audit conducted its statutory audit of the RCA and released that report on December 15, 2006. The Audit Division found that the RCA is meeting a valid public policy need and is serving Alaskans and therefore should be extended to June 30, 2015.

Thank you for your consideration.

Email: Senator_Gene_Therriault@legis.state.ak.us

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit

P.O Box 113300
Juneau, AK 9811-3300
(907) 465-3830
FAX (907)465-2347
legaudit@legis.state.ak.us

November 8, 2006

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

October 20, 2006

Audit Control Number

08-20048-06

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 44.66.010(a)(3), the Regulatory Commission of Alaska is scheduled to terminate on June 30, 2007.

In our opinion, the termination date for this commission should be extended. We recommend the legislature extend the termination date to June 30, 2015.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA or commission). Under AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process to determine whether the commission's termination date should be extended. Currently, AS 44.66.010(a)(3) requires the commission to terminate on June 30, 2007. If the legislature takes no action to extend the termination date, the commission will have one year from that date to conclude its operations.

Objectives

The following are the three central, interrelated objectives of our report:

1. To determine if the termination date of the commission should be extended.

2. To determine if the commission is operating in the public's interest.

3. To determine if the commission has exercised appropriate oversight of certificated utilities and pipeline companies.

The assessment of operations and performance of the commission was based on the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations.

Scope and Methodology

The major areas of our review included:

- assessment of management controls,
- compliance with statutory deadlines for certain formal proceedings,
- compliance with statutory notice periods for tariff filings,
- compliance with public notice requirements,
- evaluation of the regulation adoption process, and
- review of the consumer protection activities.

Our audit reviewed operations and activities of the commission from July 2002 through June 2006 (FY 03 – FY 06).

Our review of the major areas was supplemented with information obtained from individuals employed by, or representing, the regulated utilities and pipeline companies. Two surveys were conducted. The surveys consisted of various questions soliciting the opinions of these groups about the operations and decision making processes of RCA.

One survey was sent to a sample of individuals who were involved in docket[1] proceedings. Topics in this survey included: statutory timelines, communication of the statutory deadline for docket proceedings, timeliness of dockets without statutory timelines, the hearing process, statutes, regulations, RCA's overall operations, and usability of the commission's website. A sample of 77 individuals[2] was selected from the service list attached to each docket's final or last order. Twenty-six of the 77 (34%) individuals surveyed responded.

Another survey was sent to a sample of individuals from the regulated entities that had interactions with RCA's consumer protection section. Topics in this survey included: RCA's informal complaint process, regulations, RCA's overall operations, and the usefulness of the commission's website. A non-probability sample of 29 individuals was selected from a list[3] of contacts provided by the consumer protection section staff. Fifteen of the 29 (52%) individuals surveyed responded.

We evaluated dockets and tariff filings to determine that: 1) dockets were processed within the applicable, if any, statutory timelines or within tariff statutory notice periods; 2) certain data maintained in RCA's database systems is reliable; and 3) RCA provides adequate public notice of commission meetings, docket proceedings, and tariff filings.

Our evaluation covered dockets opened on or after July 1, 2002 through May 10, 2006. We excluded pipeline dockets since those proceedings have no statutory timelines. The total number of dockets in our population was 465. We tested a randomly-selected statistical sample of 35 dockets. We also reviewed all final decisions of rule-making[4] dockets closed during the period to ensure the closure was within statutory timelines.

In addition, RCA had 367 pending dockets at the end of FY 02. During our audit period, there were 796 dockets closed, including those pending at the end of June 2002. Of the 796, 211 were dockets on utility matters that had an associated statutory timeline.[5] We sampled 25 of these utility dockets to confirm closures were based on decisions on substantive issues.

Our scope for tariff filings included those filed on or after July 1, 2002 through June 8, 2006. We excluded tariff filings that were withdrawn or suspended and those that were related to

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[1] The term docket is used by RCA to refer to a formal proceeding before the commission.

[2] Forty-nine individuals were involved in utility dockets, 20 were involved in pipeline dockets, 7 were involved in both utility and pipeline dockets, and the remaining one was the public advocate in the Department of Law.

[3] Although, the list did not consist of all the utilities and pipelines regulated by RCA, they included companies that the consumer protection section had regular contact with during the audit period.

[4] A rule-making docket is a matter in which RCA considers certain additions, deletions, or amendments to its regulations.

[5] We excluded dockets already reviewed in our statistical sample.

quarterly or annual adjustments.[6] The total number of tariff filings in our population was 915. We tested a non-probability sample of 35 tariff filings.

During our field work, we also:

- Assessed the adequacy of management controls over the docket and tariff filing processes
- Reviewed RCA's mandated quarterly reports to the legislature
- Evaluated the reliability of certain data maintained in the commission's databases
- Analyzed consumer complaints against utilities filed with the commission
- Reviewed applicable statutes and regulations
- Contacted the state ombudsman, the office of victims' rights, the Alaska State Human Rights Commission, the U.S. Equal Employment Opportunity Commission, the Alaska Labor Relations Agency, and the equal employment opportunity staff within the Department of Administration
- Reviewed proposed legislation and related testimony
- Interviewed commissioners, RCA staff, and management of regulated entities
- Researched other states' regulatory commission websites, statutes, and regulations
- Reviewed RCA's annual reports and operational performance measures
- Analyzed the expenditures of the commission and appropriations of the regulatory cost charges paid by the regulated entities
- Read RCA's transcripts of certain public meetings and hearings as well as related commission decisions

[6] These tariff filings included adjustments due to power cost equalization allocations and RCA's regulatory rate charges.

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ORGANIZATION AND FUNCTION

The Regulatory Commission of Alaska (RCA or commission) was created July 1, 1999, upon reorganization of the Alaska Public Utilities Commission by Chapter 25, SLA 1999. Under state law, RCA is responsible for ensuring safe, adequate, and fair public utility and pipeline services. This is to be done by allowing regulated entities to charge users rates and provide service in a manner consistent with the interests of both the public and regulated entity. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

RCA regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable TV, and steam services. All pipelines, and all other public utilities with ten or more customers, are regulated by the certification process. A public utility or pipeline company must obtain a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested.

Exhibit 1

RCA Economically Regulated Certificates by Service Type

Telecommunications	63
Electric	32
Pipeline	19
Refuse	13
Water	11
Gas	6
Sewer	3
Cable TV	2

Besides the certification process, RCA also may economically regulates the rates, classifications, rules, regulations, practices, services, and facilities of public utilities and pipeline companies covered by statute. Utilities are subject to the RCA certification process but many are exempt from more extensive economic regulation. As of August 2006, there were 630 active certificated entities. Of these 149 were economically regulated. Exhibit 1 is a summary, by service type, of the economically regulated entities.

The commission consists of five commissioners appointed by the governor and confirmed by the legislature. The commissioners must either be a member of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited college or university. The commissioners serve six-year terms. (See Exhibit 2 for the current commissioners and their terms.)

Exhibit 2

Regulatory Commission of Alaska Members

Kate Giard, Chair
Term Expires March 2007

Anthony Price
Term Expires June 2010

Mark Johnson
Term Expires March 2009

Dave Harbour
Term Expires March 2008

Jan Wilson
Term Expires March 2012

The staff of RCA is organized around six major functions: administration, finance, tariff, engineering, common carriers, and consumer protection. RCA had 60 funded positions[7] in its $6 million FY 06 operating budget. A brief description of the services provided by each function is as follows.

- Administration: This function is responsible for fiscal and personnel administration, budget preparation, and records management - including the case management system. The commission chair is responsible for this function and is aided by an administrative manager, a commission section manager, an advisory section manager, documents processing and accounting personnel, and other clerical support staff.

- Finance: This function examines, analyzes, and evaluates financial statements submitted for rate cases. The finance staff audits financial records of utilities and pipeline companies and examines historical operating year data and pro forma adjustments. These analyses are presented at proceedings before the commission.

- Tariff: This function examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative duties include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.

- Engineering: This function is responsible for certification proceedings and the investigation of utility and pipeline company procedures and practices affecting service quality. The engineering staff also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These analyses are presented in proceedings before the commission.

- Common Carriers: This function develops, recommends, and administers policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the State involving the use of wire, cables, radio, and space satellites.

- Consumer Protection: This function investigates and resolves informal consumer complaints, and is responsible for public affairs and media relations as well as responding to information requests.

As of July 2003, the responsibility of public advocacy for regulatory affairs was transferred to the Department of Law. The regulatory affairs and public advocacy section advocates on behalf of the public in utility matters that come before RCA. Regulatory cost charges from the regulated entities continue to fund the public advocate function.

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[7] This total does not include the assistant attorney general that the Department of Law furnishes to RCA through a reimbursable services agreement.

Exhibit 3 below, summarizes RCA's expenditures for the past four fiscal years. The funding source for almost all of these expenditures was the regulatory cost charges paid by the regulated entities. Beginning with FY 04, the expenditures for the public advocacy function, relocated to the Department of Law, are excluded from the amounts shown.[8]

Exhibit 3

Regulatory Commission of Alaska
Summary of Expenditures
FY 03 - FY 06

Expenditures	FY 03	FY 04	FY 05	FY 06
Personal Services	$3,896,539	$4,005,622	$3,764,473	$3,582,676
Travel	53,081	55,359	50,747	89,370
Contractual	1,756,621	2,001,549	1,377,995	1,657,384
Supplies	50,501	54,555	81,610	129,847
Equipment	134,579	85,536	-0-	74,764
Total	$5,891,321	$6,202,621	$5,274,825	$5,534,041

Source: RCA's FY 03 annual report and the State's accounting system.

[8] The regulatory affairs and public advocacy section within the Department of Law received $1 million in FY 04 from RCA and then was appropriated, from fees paid by regulated entities, $1.3 million and $1.4 million, respectively in FY 05 and FY 06.

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BACKGROUND INFORMATION

The Regulatory Commission of Alaska (RCA or commission) is currently working on two significant projects: the 2005 improvement initiative project and the development of a regulatory program for small hydropower projects within the State. The following is a brief summary of each of these projects.

2005 Improvement Initiative Project

In March 2005, the commission began, what it termed, the 2005 improvement initiative project. The three primary goals of the project were to improve RCA's transparency, accountability, and operational efficiency. In order to achieve these goals, the commission identified four primary objectives:

1. To improve the regulatory environment for pipeline companies by partnering with them to jointly identify areas where RCA processes could be improved.
2. To improve the regulatory environment for utilities by meeting with key regulated industries to understand their view of RCA's oversight processes. Part of this effort would be to involve the utilities in setting priorities for regulation and statute changes, identifying the needs for a case management information system, and modifying RCA business practices.
3. To improve the internal operating and management structure of the commission.
4. To implement an integrated case management system with a web portal to allow access by the regulated entities.

RCA's actions under the first three objectives are discussed throughout the Findings and Recommendation and Analysis of Public Needs sections. The following discussion relates to the progress in the implementation of a case management information system.

Internet Integrated Case Management System

In late 2004, RCA began a series of meetings and workshops asking the public and the regulated entities what information technology improvements they believed were needed for the commission. A working group was formed of individuals from the regulated entities to better define RCA's system needs.

As a result of this process, in 2005 RCA began several information technology projects. In 2006 the commission issued a request for proposals to obtain an integrated case management system. The star system, proprietary software of an information technology company known as ACO, was selected. In response to inquiries from the various entities regulated by RCA,

the commission established a user committee of volunteers. The user committee members also solicited feedback from other utilities, pipeline companies, and organizations that interact with RCA.

The user committee's objective was to develop the conceptual framework that would allow each regulated entity access to a web-based portal, secured by a password, through which all business interactions with RCA could be transacted electronically. The budget for the new case management system and the web-based portal is approximately $2.25 million. It is anticipated that these projects will be completed by the end of 2006.

Regulation of smaller scale hydropower projects

RCA is in the process of establishing a regulatory program for small hydropower projects that are currently regulated by the Federal Energy Regulatory Commission (FERC). In 1999, federal legislation was adopted that provided for the phasing out of FERC's role in Alaska involved with licensing and regulating hydropower projects of less than 5,000 kilowatts.

The main reason for transfer of such authority from FERC to state regulation was that *"Alaska presents special circumstances that favor local control over projects."*[9] In the view of congress, state regulation would be timelier and less costly for both the current operators of the small hydropower projects and entities seeking initial approval for project construction. Transfer of this authority was contingent on the State developing a regulatory process that met certain requirements and was approved by FERC.

In 2002, the state legislature adopted legislation[10] giving RCA authority to develop regulations as part of establishing a regulatory program for small hydropower projects within the State.[11] RCA opened a rule-making docket in December 2003 to begin the process of developing a regulatory program. A stakeholder advisory committee was formed and numerous committee meetings, workshops, and public meetings were held.

Proposed regulations were issued for public comment in April 2005. Although rule-making dockets are to be closed by a final order within 24 months, RCA exercised its discretion to extend the deadline by 90 days. In March 2006 the commission was still not prepared to adopt the regulations. At the commission's public meeting, RCA's assigned assistant attorney general advised that

> ... [state law]... *says* [the commission] *shall issue a final order in a rule-making proceeding... not later than 24 months after a petition of the regulation has been filed. ...my advice to* [the commission is] *that you have to follow that provision and*

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[9] Calendar No. 65, 106th Congress, Committee on Energy and Natural Resources report to the Senate on S. 422.
[10] Chapter 107, Session Law 2002
[11] Not included for state regulation are certain projects licensed or exempted under federal law before November 9, 2000.

issue a final order.... That is not obligating you to adopt the regulations, it's simply issuing a final order that would terminate the proceedings.

Accordingly, at the end of March 2006, RCA ordered the rule-making docket closed. In the final order the commission stated a new rule-making docket would be opened and the entire record of the closed docket would be incorporated into the new docket. As of the date of this report a new docket has not been opened. Due to the size and complexity of this regulation project, RCA is contracting for an attorney to assist in revising the proposed regulations.

Once the regulations have been edited, and a new docket opened, RCA intends to hold public meetings on the revised proposed regulations. The regulations would then be further revised as necessary, adopted, and submitted to the governor for eventual transmittal to FERC. The federal agency then has a year for its review. Only after FERC has approved RCA's regulatory program can the State take over regulatory responsibilities. The RCA chair anticipates this process will take approximately two more years from the date of the order for the additional public hearings.

In FY 07, RCA received a $150,000 appropriation from the State's general fund to continue the process of developing the small hydropower regulatory program. The costs associated with the project prior to FY 07, approximately $207,000 have been funded through RCA's regulatory cost charges from the current regulated entities.

(Intentionally left blank)

REPORT CONCLUSIONS

In developing our conclusion whether the termination date of the Regulatory Commission of Alaska (RCA or commission) should be extended, we evaluated commission operations using the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations. As discussed in the Findings and Recommendation section, we identified areas where regulation changes could improve RCA's efficiency and accountability. Given the quasi-judicial nature of how RCA operates, we recognize making these proposed regulation changes may be time consuming and attract extensive scrutiny and challenge by various parties that interact with RCA.

In our opinion RCA meets a valid public policy need and is serving Alaskans by: (1) assessing the capabilities of utility and pipeline companies to safely and capably serve the public; (2) evaluating tariffs and charges made by regulated entities; (3) verifying the pass-through charges to consumers from electric and natural gas utilities; (4) adjudicating disputes between ratepayers and regulated entities; (5) providing consumer protection services; and, (6) performing financial reviews of utilities for the State's power cost equalization program. RCA has demonstrated the commission serves a public need. Under AS 44.66.010(a)(3), RCA is scheduled to terminate June 30, 2007. We recommend the legislature adopt legislation extending RCA's termination date to June 30, 2015.

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FINDINGS AND RECOMMENDATION

In our previous sunset audit,[12] we made three recommendations. The first recommendation was for the Regulatory Commission of Alaska (RCA or commission) to propose legislation to clarify statutes imposing statutory timelines on certain proceedings. In 2002 legislation extending the termination date for RCA, the legislature adopted statutes setting specified timelines for the commission to follow in making certain kinds of decisions. The statutory timelines apply to about half of the regulatory decisions made by the commission. In Recommendation No. 1, of this review, we recommend the commission consider adopting further timelines for other actions not covered in statute.

A second recommendation stated RCA's chair should ensure that publication of notices of formal proceedings is monitored. While there are still some operational deficiencies with ensuring all discretionary public notices have appropriately been made, RCA consistently meets basic public notice requirements related to its decision making process. The concerns related to this prior audit recommendation have substantially been addressed.

The third prior recommendation suggested RCA either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation. RCA adopted the necessary regulations in February 2004.[13]

The following recommendation is based on the current sunset review.

Recommendation No. 1

RCA should proceed with the development of regulations that would enhance the transparency, accountability, and efficiency of the commission's decision making process.

In late 2004, RCA held public meetings inviting comments on possible regulation changes that would improve the way in which the commission operated. In the early part of 2005, based on comments from staff in addition to those received from regulated utilities and pipeline companies at the 2004 meetings, RCA adopted a regulation projects plan. This work plan is reviewed on a regular basis. Many of the projects would establish more accountability standards for RCA operations.

In the course of our review, we identified three areas where adoption of regulations would promote improved efficiency, accountability, and transparency of RCA's decisions. All areas

[12] *Department of Community and Economic Development, Regulatory Commission of Alaska, Sunset Review, November 26, 2002*, Audit Control No. 08-20021-03.
[13] These regulations became effective June 19, 2004.

Exhibit 4

Statutory Timelines

In a special session in June 2002, legislative committees conducted extensive oversight hearings that focused on RCA's workload and the regulated utilities' complaints of slow processing of their requests. The legislature responded to these complaints by enacting statutory timelines for RCA decisions in several categories of utility regulatory matters. The addition of AS 42.05.175 provided, in part, the following:

(a) *The commission shall issue a final order not later than* ***six months*** *after a* ***complete application*** *is filed for an application...*

(b) *... the commission shall issue a final order not later than* ***nine months*** *after a* ***complete tariff filing*** *is made for a tariff filing that does not change the utility's revenue requirement or rate design.*

(c) *... the commission shall issue a final order not later than* ***15 months*** *after a* ***complete tariff filing*** *is made for a tariff filing that changes the utility's revenue requirement or rate design.*

(d) *The commission shall issue a final order not later than* ***12 months*** *after a* ***complete formal complaint*** *is filed against a utility or, when the commission initiates a formal investigation of a utility without the filing of a* ***complete formal complaint****, not later than* ***12 months*** *after the order initiating the formal investigation is issued.*

(e) *The commission shall issue a final order in a rule-making proceeding not later than* ***24 months*** *after a* ***complete petition*** *for adoption, amendment, or repeal of a regulation...*

(f) *The commission may extend a timeline required under (a) - (e)... if all parties of record consent to the extension or if, for one time only, before the timeline expires, the*

(1) *commission reasonably finds that good cause exists to extend...*

(2) *commission issues a written order extending the timeline and setting out its finding regarding good cause; and*

(3) *extension of time is 90 days or less.*

(g) *The commission shall file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under (f)(2)...* **[emphasis added]**

we identified for improvement were included in the commission's 2005 regulation projects plan – although as of the date of this report, the commission has not started the process of developing the necessary regulations. Our identified improvement areas include: (1) establishment of additional timelines; (2) adoption of rules related to discovery; and (3) defining when a record is considered complete and the given timeline starts. Further discussion of these issues is as follows:

1. Establishing timelines for matters not covered by statute. In 2002, legislation was passed imposing statutory timelines on certain matters that come before the commission. (Refer to Exhibit 4.) However, these timelines apply to about half of the matters decided by RCA, leaving many filings and applications submitted to the commission without any formal, widely recognized timelines. This ongoing concern about timeliness was also reflected in almost half of survey responses received from representatives of regulated entities.

   Our review of RCA's decisions indicated the commission is consistently meeting the timelines set out in statute. This demonstrates RCA is committed to being as timely as possible. We urge the commission to take the additional step of putting timelines, for the actions not covered by statute, into regulation.

2. Establishing standards for certain aspects of discovery. Part of the prehearing process, during which each party requests relevant information and documents from opposing parties, is termed discovery. Each side is attempting to discover pertinent facts. Generally, discovery devices include depositions,[14] requests for admissions,[15] interrogatories,[16] document production requests, and requests for inspection. Excessive discovery requests during the course of a proceeding can be used as a tactic to drive up the legal costs for the opposing party. Additionally, extended discovery may contribute to longer proceedings, which runs counter to the central intent behind statutory timelines adopted in recent years.

   In past years, the merits and possibility of placing some limits on discovery has been raised in public meetings between RCA commissioners, utility managers, and attorneys that specialize in regulation law. In comments received from respondents to our survey, the need for discovery guidelines and the use of what is termed "informal" discovery were listed as current suggestions for improvement. Under current regulations RCA does have the authority, on a case-by-case basis, to adopt procedural rules limiting the nature and extent of discovery.[17]

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[14]Depositions are proceedings in which a witness or party is asked to answer questions under oath before a court reporter.

[15]A request for admission is a request to a party that they admit certain facts. One party sends the other a request for admission so that issues, the parties agree upon, can be resolved and not have to be proven at hearing.

[16]Interrogatories are written questions sent by one party to the other for the latter to answer in writing under oath.

[17] See 3 AAC 48.091(l). Rulings that specifically limit certain aspects of discovery are typically set out in an order during the early part of a proceeding. RCA occasionally issues orders limiting discovery, typically doing so only if one of the parties make a request to do so, and can make a persuasive argument.

State court rules limit the number of interrogatories in civil matters to 30. Federal civil procedure rules limit interrogatories to 25. Many regulatory authorities in other states have adopted rules related to discovery. In such situations where limits are imposed, provisions are typically made to allow parties to seek additional discovery. To do so, however, a party wanting more discovery must convince the adjudicative authority (judge, commissioner, hearing officer, etc.) to suspend or expand the established limits. If similar rules were in place at RCA, a party making an extensive discovery request would first have to justify the need for a larger request.[18]

There is a need to balance due process against efficiency. There may be times when exceptions to an established standard may have to be made. However, there is merit in RCA's consideration of limiting some aspects of the discovery process in the interest of promoting more efficient proceedings. Adoption of such rules by RCA would shift the burden of justifying broad discovery requests to the requesting party.

3. Clarifying terms used in statute that relate to established timelines for certain formal proceedings. State law, in setting timelines for various RCA proceedings, refers to various matters as being "complete" before the related, specified time period begins. Terms such as *"complete application,"* or *"complete tariff filing"* serve as reference points that trigger the deadline for a given decision. (See Exhibit 4.) The statute states that a request from the regulated entity is complete when all requirements are complied with under RCA's statutes, regulations, and adopted forms.

However, the determination of completeness is made informally by the advisory section staff rather than by a written decision of the commission. A more formal process performed by the commissioners or administrative law judges, rather than the current delegation to staff, would provide greater clarity to the regulated entities as to the completeness of their requests.

Over a quarter of the respondents to our survey said they were not informed by RCA as to what the deadline date was for their particular matter of interest. Although the date a matter is first opened may be clear, it is often some time before the filing is considered complete. Determining when the initial filing is complete involves subjective judgment on the part of RCA staff. In evaluating RCA's compliance with the timeline provisions, we occasionally saw where the date—when a filing was considered complete—was sometimes changed upon further review of the file.

RCA's determination of the trigger date of the statutory timeline, the date of completeness, is a point on appeal in several cases in front of the Superior Court initiated during the audit period. Legal filings and responses in the RCA hearing process and

[18] A current proceeding provides an example of where discovery appears to be unreasonable. A regulated utility received five requests from an opposing party that involved developing responses to between 1,800 and 2,200 interrogatories (the count varying depending on how one chose to count various question sub-parts).

appeals of RCA decisions may be limited by adoption of such regulations. Clarification of what determines completeness, and the process to document and communicate the completeness date, could limit this as a point of contention.

If RCA adopted regulations to define when an initial application, filing, complaint, and petition are complete such action would enhance the transparency and accountability of the commission's deliberative process. Alternatively, the commission could develop the practice of issuing an order to memorialize the date of when the initial record is considered complete. Such an order date could be integrated into the commission's interactive internet web portal and all parties to a given matter would be on notice as to the deadline date for a given matter's final decisional order.

The commission has been very proactive in soliciting feedback from the public, and the utility and pipeline companies, which are involved with RCA on an ongoing basis. While this process has identified key areas where RCA could improve its operations, the priority for implementation has to date been given to other matters. For the three issues discussed—directly related to promoting efficiency, accountability, and transparency of RCA's decision making—we recommend that the commission take the next step and schedule the necessary hearing dockets.

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ANALYSIS OF PUBLIC NEED

The following analyses of commission activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

The Regulatory Commission of Alaska (RCA or commission) operates in the public interest in a wide variety of ways. The commission identifies its core services as including:

1. certification and economic regulation of utilities and pipeline companies;
2. assisting in the administration of the State's power cost equalization program;
3. review of tariffs;
4. resolution of disputes among service providers in various regulated industries;
5. consumer protection;
6. refinement of the State's utility regulatory framework; and,
7. serving as a technical resource for legislative and administrative decision makers.

In carrying out its responsibilities, RCA acts much of the time in a quasi-judicial manner. Accordingly, decisions must be supported by findings of fact, and the findings of fact must be based solely upon the evidence as it appears in the record of a given proceeding. RCA continues to be very concerned about affording all parties to a given decision appropriate due process, while at the same time being responsive to concerns about the timeliness of its decision making process.

RCA's efforts at resolving consumer complaints with regulated utilities also serve the public interest. The commission resolves most informal complaints within 30 days. Most of the regulated entities responding to our survey reported they were satisfied with the complaint resolution process.

RCA has responded well to legislative concerns about timeliness. In 2002, after extensive oversight hearings, the legislature put into statute specific time periods for RCA to follow in making various decisions. We reviewed 35 tariff filings and 35 formal proceedings. In no instance did RCA take longer than permitted, by statute, to make a given decision.

As discussed in Background Information, RCA did issue a final order to close a rule-making docket prior to completing the development of regulations related to hydropower projects.

While such action allowed the commission to technically comply with the established timeline, the central intent of the statute was circumvented. The commission continues to work on developing the regulations and does intend to reopen a formal docket in the future to adopt the necessary regulations.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

RCA's system, used to monitor progress of various hearing dockets and ensure impending deadlines are met, is adequate in promoting the issuance of timely decisions.[19] Such a system serves to prevent the triggering of default actions as provided for under the statutes for late decisions.

There is a lack of clarity about when timelines for certain decisions, as provided for in statute, actually begin. The time period for a decision begins when the initial record related to a proceeding is complete. However, there is no formally established definition in policy or regulation about when the initial record is complete. Determination of completeness is critical to designating when a given time period starts. Additionally, from a survey of selected parties involved with RCA proceedings, over a quarter of the respondents reported they had not been informed of any established deadline date related to their matter that fell under the statutory timelines.

Almost half of the survey respondents involved with proceedings not covered by a statutory deadline believed the length of time it took to resolve their matters was unreasonable. For survey respondents involved in pipeline proceedings, which are not covered by any statutory deadline, 60 percent believed the length of time for such proceedings was unreasonable. As discussed in Recommendation No. 1, we encourage the commission to develop regulations that establish timelines for matters not covered by state law.

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

RCA commissioners provided testimony regarding the impact that 2003 legislation would have on commission operations. The legislation clarified state law related to the regulation of pipelines. The legislation expanded RCA's authority to regulate rates charged to customers for natural gas transported through any pipeline in the State, where previously such authority had been limited to a designated natural gas pipeline.

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[19] There are three components of RCA's system. First, each matter filed with RCA is assigned to a responsible "docket manager" who monitors subordinates' progress in preparing the matter for decision. Second, the RCA commission section manager maintains a database to monitor workflow and to continually advise the commissioners and staff as to the needed allocation of resources. Thirdly, weekly meetings with the RCA chair, administrative law judges, and staff are held to review the status of all open dockets.

According to testimony, RCA worked with the Department of Law to assist in developing 2004 legislation that provided for assessments to fund the public-advocacy function related to utility and pipeline regulation. This function was transferred from RCA to the Department of Law by Executive Order #111. The legislation clarified RCA's authority under the Executive Order and provided for independence between the commission and the public-advocate function.

RCA testified about the impact proposed 2005 legislation would have on commission operations. The legislation would have permitted privately owned utilities to be eligible for certain state water and sewer infrastructure grants. Grant eligibility under the legislation would have been contingent on the recipient utilities remaining under RCA's regulatory oversight. The legislation was adopted by the House but not the Senate.

RCA testified in hearings related to proposed 2005 legislation exempting certain water and sewer utilities from regulation. More specifically, the proposed legislation exempted such utilities owned by local governments, if the utility did not compete with a regulated utility. RCA's chair testified the commission could support the legislation if certain safeguards were in place to protect the affected consumers of the utility. Under the final draft of the legislation, RCA's chair would have been charged with reviewing the existence and appropriateness of such safeguards. If the chair determined the measures were adequate, the commission would notify the administration that the utility was exempt from RCA's regulation. The legislation was adopted by the House but not the Senate.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

RCA affords the public the opportunity to speak at publicly noticed meetings of the commission. The quasi-judicial manner in which RCA operates provides extensive opportunity for all interested and affected parties to informally and formally respond to proposed regulations and decisions.

In addition, as part of its operating mission, RCA has an active consumer protection function which provides utility customers an avenue to seek resolution of complaints. RCA generally tries to resolve disputes between customers and utilities informally, before opening a formal complaint.

Exhibit 5
Consumer Complaints Filed with RCA during FY 06

	Number Filed	Percentage Of Total Complaints
Telecommunications	247	60%
Electric	91	22%
Water / Sewer	34	8%
Natural Gas	20	5%
Refuse Collection	18	4%
Cable Television	5	1%
Totals	415	100%

As reflected in Exhibit 5 on the previous page, RCA opened 415 formal complaints in FY 06. RCA resolved almost 90 percent of these complaints within 30 days. Additionally, almost 90 percent of the respondents to our survey, who were involved with the informal complaint resolution process, reported they were satisfied or very satisfied with the process.

RCA uses a variety of methods of notifying the public of formal proceedings. All notices appear on the commission's and the State's website. Notices are also placed in newspapers in the affected regions of the State, posted at the local post office, or included with utility customer billings.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

RCA's internet website is another tool that is instrumental for communicating with the public. Besides notices of upcoming meetings, formal actions are posted along with the commission's annual reports, discussions of major regulatory issues, and a forum is provided for public comment. The process for filing a consumer complaint is explained and visitors to the website can subscribe to direct e-mail notices related to specific topics of interest.

Survey respondents report that RCA's internet website is easy to use for finding sought after information and the site provides sufficient information regarding dockets and filings. RCA makes a computer terminal available at its office for the public to use for researching commission records. As discussed in Background Information, the commission sought and facilitated the formation of stakeholder groups to assist in the process of developing regulations for smaller hydropower projects. The commission has often used this consensus-building approach in developing regulations and making certain operational decisions.

In December 2004, in response to frustrations voiced by pipeline companies, the commission began holding informal meetings with certificated companies. The meetings developed a listing of suggestions about how the oversight process for pipelines could be improved. In March 2005, a follow-up meeting was held that documented the steps RCA had already taken and the commission's strategy to further address the concerns of the companies. These efforts should be continued to improve the commission's regulation of pipelines.

RCA has used a public process to identify priorities for possible changes in regulations. Beginning in late 2004, commissioners solicited suggestions from staff, the public, and regulated entities about what regulations should be amended or adopted. At a January 2005 public meeting, RCA adopted a list of 11 proposed regulation projects. (See Recommendation No. 1.)

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

The state ombudsman and the office of victims' rights report receiving no complaints about RCA since our previous sunset review four years ago.

RCA orders and decisions are subject to appeal to the state courts. Since the prior sunset review, 26 of the commission's final orders reflecting docket decisions have been appealed to the State's Superior Court. The Superior Court has remanded three of the decisions back to RCA for further proceedings.

Additionally, the State's Supreme Court has issued decisions related to four RCA docket decisions, resulting in one decision being remanded back to RCA for further proceedings.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

As discussed in Organization and Function, "entry" into the provision of public utility services or the operation of a pipeline is regulated through the issuance of a certificate of public convenience and necessity. A public utility or pipeline carrier must obtain from RCA a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested. The commission generally regulates the rates, services, and practices of these entities.

To that end, RCA employs utility financial analysts and utility engineers to perform the appropriate analyses to make a determination of an applicant's capabilities before granting a certificate. Since 2002, RCA has issued 53 certificates of public convenience and necessity.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence of RCA's hiring practices or appointments that were contrary to state personnel practices. Since our sunset review during 2002, no complaints have been filed with any of the following: (1) Alaska State Commission on Human Rights in the Office of the Governor; (2) U.S. Equal Employment Opportunity Commission; (3) Alaska Labor Relations Agency with the Department of Labor and Workforce Development; or (4) staff specializing in equal employment opportunity issues in the Division of Personnel within the Department of Administration.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Half of the respondents, to our survey of parties to formal proceedings, reported they do not believe the existing statutes meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by statutory changes were:

- protection of rural exemptions,
- provision of business incentive to encourage investment in Alaska,
- amendment of the Pipeline Act (AS 42.06) to provide RCA a greater degree of discretion in deciding pipeline-related issues,
- clarification of statutory timelines due to recent RCA decisions,
- establishment of varying degrees of regulation based on complexity and financial impacts,
- shortening of the statutory timeline for decisions in rate proceedings, and
- amendment of AS 42.05.175 to segregate the timeframes between adjudicative proceedings and the time given for the commission to issue its final order at the close of such proceedings.

In addition, the results of our surveys showed that 43 percent of the respondents do not believe the existing regulations meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by regulation changes were:

- deregulation of competitive markets,
- revision of ex parte communication rules,
- clarification of what constitutes a complete application/filing and when RCA must determine and document such completeness,
- addition of discovery limitations, and provision for use of more informal discovery.

As discussed in Background Information, RCA began in March 2006, what it termed, the 2005 improvement initiative project. This project included setting priorities for statute and regulation changes with input from the regulated entities through the public meeting process.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

According to 55 percent of the survey respondents, RCA's overall operations have improved somewhat or significantly during the past four years. Eighty-eight percent (88%) of survey respondents reported the efficiency of the commission's hearing process has stayed the same or improved with 46 percent of the respondents reporting the hearing process over the past four years has become more efficient.

Since FY 03, RCA's operational performance measures have evolved. The current chair of RCA is planning to implement a review of the performance measures and in the process obtain input from the regulated entities. The current performance measurements include:

- issuing all orders within statutory deadlines;
- closing as many cases as the number received each year; and,
- limiting the number of its decisions that are appealed to the Superior Court.

RCA has substantially accomplished the above operational performance measures. See Recommendation No. 1 which identified regulations that could improve RCA's efficiency and effectiveness.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Under state law,[20] utilities owned and operated by local governments are exempted from regulation. The exemption of utilities owned and operated by governmental units is a common feature of utility regulation statutes across the country. The main reason for such a law is the accountability to the public for utility rates and services thought to be more efficiently accomplished through the local government electoral process. Accordingly, regulating rates and service through a quasi-judicial adjudicatory process such as RCA could be considered duplicative in instances where a local government utility is not exempted.

This issue of possible duplication is reflected in recent efforts of the Municipality of Anchorage (MOA) to have the city's water and sewer utility exempted from RCA oversight. In both the 2003-04 and 2005-06 legislatures, bills have been considered that would amend the statutes related to such exemptions. The central purpose of the proposed legislation was to further specify that water and sewer utilities owned by a local government, such as MOA,

[20] AS 42.05.711 (b) states in part "*...public utilities owned and operated by a political subdivision of the state ... are exempt from* [RCA oversight]." The statute does allow such utilities to opt for regulation upon the election of the political subdivision's governing body. More significantly though, if such a utility "*directly competes with another utility or electric operating entity* [subject to RCA regulation]." then the exemption does not apply. In such a situation the political subdivision utility remains subject to RCA regulation.

would be exempt from regulation. The exemption would continue to be contingent on the utility not competing with other regulated water and sewer utilities.[21]

[21] An earlier attempt in the early 1990s by MOA to be exempted from RCA failed largely because of concern over the city's ownership of both a water and sewer utility along with an electrical utility. Since the commission determined MOA's electrical utility did compete with other regulated utilities, this precluded exemption of the water and sewer utility. The commissioners at the time were concerned joint ownership of an exempted water and sewer utility and nonexempt electrical utility could lead to a shifting of costs between the two entities. It was determined that such possible cost-shifting could be unfair to competing electrical utilities.

DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT
Regulatory Commission of Alaska

Sarah Palin, Governor
William C. Noll, Commissioner
Kate Giard, Chairman

December 6, 2006

Ms. Pat Davidson, Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson,

The Regulatory Commission of Alaska (RCA) received your Confidential Preliminary Audit Report on November 14, 2006. The Commissioners met in Executive Session on November 22, 2006. for the purposes of discussing the report and have formulated this response.

We believe a governmental agency must never stop trying to improve. It must never rest on its laurels or forget that just beyond the horizon lies a better way to do business, one that's more efficient, promotes greater accountability or enhanced transparency.

After three years of concentrated efforts, the RCA is a better, more efficient and responsive regulatory agency. Yet, our mission is not complete. We must strive to continually deliver an improved and balanced regulatory environment that achieves our statutory mandate of protecting the public interest. We are wholly committed to that goal.

This audit report delivers a straight-forward and comprehensive evaluation of the Agency. We appreciate the work of the legislative auditors who spent four months immersed in Alaska's complex regulatory environment. The resulting management letter includes three recommendations that are germane and timely. We will implement them without question.

We again thank Legislative Audit for a fair and honest evaluation and seek support of the Alaska Legislature for the recommendations contained therein.

Sincerely,

Kate Giard, Chairman

701 W. 8th Street, Suite 300, Anchorage, Alaska 99501-3469
Telephone: (907) 276-6222 Fax: (907) 276-0160 Text Telephone: (907) 465-5437
Website: http://www.commerce.state.ak.us/rca/

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UTILITY SERVICES OF ALASKA, INC.
PROVIDING ADMINISTRATIVE SERVICES TO
COLLEGE UTILITIES CORP. AND GOLDEN HEART UTILITIES, INC.

January 26, 2007

Governor Sarah Palin
State of Alaska
Box 110001
Juneau, AK 99811

RE: REGULATORY COMMISSION OF ALASKA SUNSET REVIEW

Dear Governor Palin:

Changes are needed to the Alaska Statutes regarding the Regulatory Commission of Alaska (RCA). I believe the following, at a minimum, is needed:

1. Reduce the statutory time allowed for rate cases from 15 months to 9 months, which is the time line for many other commissions (see Legislative Budget and Audit Report data for support).

2. Limit discovery by all parties in RCA matters. There is currently no limit.

3. Place Regulatory Affairs and Public Advocacy (RAPA) under the control of the RCA. It is now an independent agency with little or no oversight.

4. Raise both the qualifications and salary of the RCA Commissioners. Pay should be equal to that of Superior Court judges. The appropriate pay will attract qualified candidates.

5. Create within the RCA the position of Chief of Staff or Executive Director to exercise staff control and to act as a liaison with utility personnel.

BACKGROUND

Our water and wastewater utilities serve more than 8,500 customers in the greater Fairbanks area which represents a population of over 50,000.

Our utilities are regulated by the Regulatory Commission of Alaska as to rates, regulations and service. We believe the level of service our utilities provide is of the highest quality. To bear this out, the RCA has received an average of less than six complaints per year from our customers for the past seven years. (This includes those related to rising rates).

PO BOX 80370, FAIRBANKS, AK 99708-0370 PHONE 907-479-3118, FAX 907-474-0619

As result of a rate filing stipulated March 19, 2003, our utilities were required by the RCA to file for, among other things, new rates that would levelize both water and wastewater rates between the two utilities, GHU and CUC, i.e., postage stamp rates, by August 1, 2005, based on a 2004 test year.

Our utilities made attempts to file early and to make the expected difficult process simpler, but did not succeed. With permission from the RCA, our complete filing was filed August 22, 2005. The filing was rejected for what we believed to be minor deficiencies. Commission staff informed us that they were directed to reject filings if at all possible to diminish work load and extend timelines.

The initial filing was split into three parts and the rate portion of the filing was finally accepted by the RCA on October 7, 2005. The statutory timeline of 15 months then started. A final decision was issued January 8, 2007, the last day of the statutory timeline, all based on a test year of 2004 for rates that should have been in effect for late 2005 and 2006.

At the point the filing was accepted, the real difficulties began. There were four intervening parties, including RAPA. Discovery took months with huge costs. The hearing was finally held in Fairbanks the last week of August 2006. In the meantime, as sales were sharply declining and costs sharply rising, our utilities attempted in January 2006 to supplement the October 7, 2005 filing to update it for new increased costs, and to correct some errors that had been made in the original filing. That supplemental filing was rejected so our utilities filed for additional rate relief June 5, 2006 based on a 2005 test year. Interim relief was granted in August 2006.

We received the final decision in the first case on January 8, 2007, more than four months after completion of the hearing in the matter. In the interim, the June 5, 2006 filing, with many of the same issues expected to be resolved by the January 8, 2007 decision, is now in the throes of discovery over many of the same issues.

Costs to our utilities alone in the 2004 test year case are more than $1 million. These costs are for legal, consulting, rate of return experts, cost of service study contractors and other direct outside expenses. Utility staff time, which is substantial, is not included, nor are the costs of the interveners, including RAPA. The added revenue requirement being requested in the 2004 case is about $2.3 million. Additionally, our 2005 test year case is now stacking up new costs. Discovery in the 2004 case consisted of several hundred requests resulting in approximately 15,000 pages being produced. The January 8, 2007 decision allowed recovery of only $118,094/year for three years, of the $1 million required to be spent.

We do not believe the regulatory process, as outlined above, serves our ratepayers, employees or shareholders. From our perspective, we believe the process is broken and in dire need of repair.

1. The statutory timeline is far too long. The process simply expands to fill the available time. In 2006, during RAPA discovery, items produced in early discovery, one to two months before reply testimony was due, were not examined until the same week reply testimony was due. We know this because our production of same was inadvertently incomplete! Upon discovering this omission and calling it to our attention (the week reply testimony was due), we produced correct documents within hours. To require four and half months to adjudicate case matters after hearing is too long. Many other jurisdictions have statutory or voluntarily utilize timelines of 9 or 10 months. The statute needs to be changed to 9 months. If a mistake is made either in favor of or against the utility, a prompt refiling can be made by the utility or required by the RCA. (See the results of the Legislative Budget and Audit review of the RCA for Sunset Review for supporting documents for reduced statutory timelines.) Rates need to be in effect during the computed time frame, not one to two years later.

2. Discovery is totally out of hand. The volumes of data requested by various parties, mostly RAPA and other interveners, is beyond analysis, with costs out of sight. There are basically no discovery rules in what has become a near court like affair. At the least, rules of discovery ought to be adopted similar to other legal venues, with an eye to limits on discovery both in time and amount.

3. RAPA was created by our late governor from the RCA's Public Advocacy Section, so the governor could exercise control over pipeline regulation. This change was ill conceived at best. RAPA is now responsible to no one. It appears to be run by the Attorney General even through control ought to in part be exerted by the RAPA staff section head. This appears not to be the case. RAPA contributes to large costs, case delays, and huge difficulties for the RCA. The RAPA group needs to be brought back under the control of the RCA so someone can exercise oversight.

   Informal discussion and discovery during RCA proceedings is almost non-existent. The process is controlled by attorneys and a utility almost never really gets to "tell its story". This lack of dialog between the utilities and the RCA must change. Dialog must be required by statute, especially during the time between initial filing and suspension. Settlement discussions need to be mandated by statute.

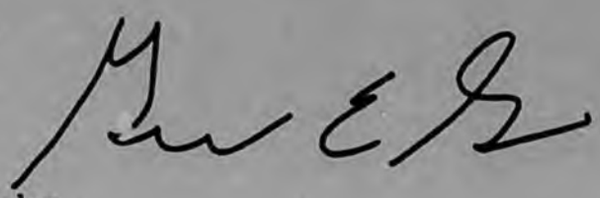
4. Commissioner's current pay levels are about $85,000/year and are set by the legislature. Qualifications are not set at a high bar. This is wrong. Pay should be set at a higher level and automatically adjusted when other state salaries are adjusted. Superior Court judge levels are an appropriate place to start. Qualifications ought to be at the level of

Masters in Business Administration, professional engineers, a senior attorney, or similar high qualifications.

5. The RCA staff does not really have a leader. The Commission Chair, which rotates, tries to do this but considering adjudicative and hearing duties, this is very difficult. Consequently, staff memo/analysis/decisions reached during the 45 day timeframe before statutory suspension are often times not properly reviewed, analyzed or thought out. The RCA needs a chief of staff or an executive director through which this control can be exercised. This should be spelled out by statute. This could alleviate the ex parte issue.

The continuing health of the state's utilities along with a balance to protect ratepayers demands that these issues be addressed.

Sincerely,



George Gordon
Director of Regulatory Affairs

cc: Senator Gene Therriault
Senator Joe Thomas
Senator Gary Wilken
Representative David Guttenberg
Representative Scott Kawasaki
Representative Michael "Mike" Kelly
Representative Jay Ramras
Representative John Coghill Jr.

Golden Heart Utilities and College Utilities Corporation
PO Box 80370
Fairbanks, Alaska 99708

Public Comment - Docket # R-06-1
By: Dan Gavora, President/CEO
October 11, 2006

1. **On-site Analysis:** Create a process that requires RCA staff to perform an on-site analysis of utility rate filings.

    a. Opportunity to create a dialog with staff and allow the utility to answer staff questions
    b. Reduce the number of outstanding issues to be resolved at hearing
    c. Expedite the process

2. **Joint Meeting:** *Before* ex parte begins, convene a meeting of the Commissioners assigned to the filing, the administrative law judge and Commission staff to review issues identified by staff at the on-site review.

    a. Opportunity to narrow the issues before proceeding

3. **Pre-filed Testimony:** Require utilities to file prefiled testimony *after* staff review of the utility's filing and issuance of Staff Memo.

    a. Allows the utility an opportunity to address items and correct errors staff may have found or that staff may have made in its review. This may potentially reduce the number of issues that proceed to hearing

4. **Intervenors:** Give the administrative law judge the authority to review potential intervenor(s) statement of issues. If a potential intervenor(s) position is, or can be, represented by RAPA, allow RAPA to do their job and represent the public.

    a. Reduce costs for the Commission and the Utility while the public is still adequately represented by RAPA
    b. Reduce and possibly liminate unnecessary costs to intervenors

5. **Previously Approved/Accepted Utility Practices:** Shift the burden of proof to the party asking to change a previously approved/accepted utility practice.

    a. An example at GHU/CUC is previous rate case costs
    b. Prepaids

6. **Concise Regulations**: Develop RCA regulations and staff to provide better customer service to its customers, the "utilities" throughout Alaska

a. Eliminate as much of the uncertainty as possible. For example, if a filing is rejected, provide specific direction on how to correct the filing.
b. Improve and allow dialog between staff and the utility

7. **Timeframe:** Reduce the number of months the Commission has to issue a final order in a rate proceeding. It is currently 15 months in the State of Alaska.

   a. According to the State of Michigan Public Service Commission the average length of time for US cases less than $100 million is 10.9 months. However, the states with populations similar to Alaska have an average of 9.3 months. A copy of the study is attached to these comments.

8. **Goal:** Create efficient and balanced regulatory process for the utility company, utility customers and the Commission.

   a. Commission can make significant strides to prevent adversarial relationships between parties
   b. Reduced costs for all parties
   c. Potentially lead to fewer rate filings due to reduced regulatory lag
   d. The ultimate winners will be the rate payers

Jennifer M. Granholm
GOVERNOR

STATE OF MICHIGAN
PUBLIC SERVICE COMMISSION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER
DIRECTOR

J. Peter Lark
CHAIR

Robert B. Nelson
COMMISSIONER

Laura Chappelle
COMMISSIONER

To: J. Peter Lark, Chair
Robert Nelson, Commissioner
Laura Chappelle, Commissioner

From: Gary Kitts

Subject: Rate Case Processing

You requested that the Commission Staff conduct an analysis of the length of time required to process a rate case in Michigan compared to other states. To do so, we used data published by Regulatory Research Associates, Inc. regarding rate cases decided between January 1, 1990 and December 31, 2003. We included any cases that were initiated by an application filed by the utility, but did not include any initiated by the Commission on its own motion, on the motion of the Commission Staff, or on the motion of another agency, such as a Consumers Counsel. The total number of cases during this 14-year period was 824, of which 19 were in Michigan. The study includes rate cases from all states except Alaska (we were unable to find any rate cases in the data base) and Nebraska, which relies primarily on municipal regulation. The results of our study are shown in the following table and the specific details for each state are attached.

	Michigan	U.S. Average
Unadjusted Case Time	11.4 Months	10.9 Months
Cases of $100 Million or more (Percent)	21.1 %	9.6 %
Adjusted Case Time	11.4 Months	11.7 Months

The first line of this table indicates that the actual average time to complete a rate case in Michigan was 11.4 months compared to 10.9 months in the rest of the country – a difference of approximately two weeks. However, this average fails to take into account the relative size of the cases involved. It has been our experience (indeed it should be obvious) that large cases require more time than short cases. On average, a rate increase request of $100 million or more lasts 7.3 months longer than a smaller rate case. This difference is significant, because in Michigan 21.1% of all rate requests are for $100 million or more compared to only 9.6% in the rest of the country. Thus, the proportion of large controversial rate cases in Michigan is more than double that in the other states. When an adjustment is made for case size, Michigan's average rate case is actually completed in less time than in other states.[1]

[1] (21.1% - 9.6%) x 7.3 months = 0.8 months.

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In addition, it is important to recognize the significant impact of the recent increase in rate requests. Between 1990 and 2003, Michigan utilities filed rate requests totaling slightly more than $900 million, an average of approximately $65 million per year. However, this year companies regulated by the Commission are asking for rate increases of approximately $950 million. Thus, utility rate requests this year exceed the total requests for the prior 14 years. Along with these traditional rate requests, Consumers and Detroit Edison have asked for an additional $1.1 billion in asset recovery costs pursuant to MCL 460.10d(4) and other relevant sections.[2] Finally, in the next month or so, we anticipate the filing of new rate cases totaling approximately $500 million. Thus, this year, the Commission is faced with rate filings in excess of $2.5 billion, almost triple the total volume over the last 14 years. It goes without saying that it will be a challenge to address these requests, especially in light of the fact that the Commission Staff has been reduced from 240 in 1992 to 148 today.

State	Total $	Wtd $	Months	Wtd Month
Alabama	14.5	0.04%	7.0	0.00
Arizona	1048.4	2.97%	14.3	0.42
Arkansas	136.1	0.39%	10.1	0.04
California	1578.1	4.47%	15.2	0.68
Colorado	331.2	0.94%	9.4	0.09
Connecticut	1327.1	3.76%	6.4	0.24
Delaware	104.8	0.30%	15.0	0.04
District of Columbia	445.6	1.26%	10.3	0.13
Florida	544.5	1.54%	7.1	0.11
Georgia	681.7	1.93%	6.1	0.12
Hawaii	534.7	1.52%	20.0	0.30
Idaho	66.8	0.19%	10.0	0.02
Illinois	2914.0	8.26%	11.2	0.93
Indiana	460.4	1.30%	11.6	0.15
Iowa	504.7	1.43%	8.6	0.12
Kansas	402.7	1.14%	9.1	0.10
Kentucky	185.8	0.53%	8.2	0.04
Louisiana	139.2	0.39%	14.8	0.06
Maine	225.1	0.64%	8.6	0.05
Maryland	1084.4	3.07%	5.8	0.18
Massachusetts	712.1	2.02%	6.5	0.13
Michigan	909.9	2.58%	11.4	0.29
Minnesota	473.0	1.34%	12.1	0.16
Mississippi	120.1	0.34%	4.8	0.02
Missouri	862.9	2.45%	9.0	0.22
Montana	255.6	0.72%	11.0	0.08
Nevada	284.8	0.81%	5.5	0.04
New Hampshire	21.2	0.06%	12.0	0.01

[2] These are total rather than annual asset recovery costs for these items.

New Mexico	78.5	0.22%	10.1	0.02
New Jersey	1990.4	5.64%	11.7	0.66
New York	3132.2	8.88%	12.2	1.08
North Carolina	445.7	1.26%	6.6	0.08
North Dakota	32.2	0.09%	7.2	0.01
Ohio	1604.8	4.55%	11.3	0.51
Oklahoma	225.3	0.64%	20.5	0.13
Oregon	879.9	2.49%	11.0	0.27
Pennsylvania	1693.3	4.80%	8.6	0.41
Rhode Island	89.0	0.25%	7.9	0.02
South Carolina	361.9	1.03%	8.0	0.08
South Dakota	19.7	0.06%	5.2	0.00
Tennessee	63.6	0.18%	6.8	0.01
Texas	3427.6	9.72%	14.3	1.39
Utah	512.0	1.45%	8.5	0.12
Vermont	279.9	0.79%	9.5	0.08
Virginia	827.2	2.34%	15.8	0.37
Washington	1058.7	3.00%	8.1	0.24
Wisconsin	1573.7	4.46%	9.0	0.40
West Virginia	457 7	1.30%	9.3	0.12
Wyoming	157.1	0.45%	7.0	0.03
	35279.8	100.00%		10.9

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Regulatory Commission of Alaska

Regulatory Commission of Alaska
Fiscal Year 2006 Annual Report
for the period July 1, 2005 to June 30, 2006

Table of Contents

Honorable Lyda Green, President of the Senate

Honorable John Harris, Speaker of the House

It is an honor for us to present the Regulatory Commission of Alaska's Annual Report for Fiscal Year 2006, filed pursuant to AS 42.05.211 and AS 42.06.220.

This annual report highlights the issues and activities upon which the Commission has focused during the year. We appreciate the opportunity in the coming year to continue serving the citizens of Alaska.

Respectfully,

Kate Giard, RCA Chair

Dave Harbour, Commissioner

Mark Johnson, Commissioner

Anthony Price, Commissioner

Jan Wilson, Commissioner

How Does the Commission Work?

The Alaska Legislature created the Regulatory Commission of Alaska in 1999, giving it broad authority to regulate 198 utilities and 21 pipeline carriers throughout the State. As of this annual report, the Commission monitors 630 active certificates for public utilities and pipelines. These certificates cover a broad range of activities, from provisional certificates for small village water and wastewater systems to fully regulated telecommunications, electric, and natural gas monopolies.

Authority

Alaska Statutes 42.04 - 42.06 and other statutes authorize the Commission to regulate public utilities by certifying qualified providers of public utility and pipeline services and to ensure that they provide safe and adequate services and facilities at just and reasonable rates, terms, and conditions. This keeps rates as low as possible while allowing the regulated entities an opportunity (but not a guarantee) to earn a fair return. The Commission also determines the per kilowatt-hour support for eligible customers of electric utilities under the Power Cost Equalization program (AS 42.45).

Structure

Five full-time Commissioners are appointed by the Governor and confirmed by the Legislature for six-year terms. Each year, the Commission elects a Chairman for a one-year term. Upon election, the Chairman assumes responsibility for administrative functions of the Commission, becomes the policy spokesperson, assigns dockets, and coordinates public meeting activities, in addition to shouldering regular commissioner docket work. The Chairman is ultimately responsible for the timeliness of the Commission's adjudication process, meeting statutory timelines, and serving as the Commission's liaison to the Legislative and the Executive branches of state government.

Core Services

Our core services include certification, regulating rates and services, calculating subsidy rates for the Power Cost Equalization program, tariff review, dispute resolution, consumer protection, and service as an information resource for the Executive and Legislative braches of government.

The Commission's staff includes Administrative Law Judges, engineers, financial analysts, telecommunications specialists, tariff analysts, consumer protection officers, paralegals, administrative and support staff.

Process

As a regulatory decision making body, the Commission exercises a delegated legislative power. Each regulatory decision is reached quasi-judicially – that is to say, the decision must be based on evidence of record gathered in docketed proceedings. All dockets are closely scheduled, but the due process rights of parties, carefully observed by the Commission, mainly govern their timing.

In the course of a hearing, parties participating may include the subject public utility and Regulatory Affairs Public Advocacy section of the Attorney General's Office.

In cases where millions of dollars may be at stake, or important issues of regulatory policy arise, a number of intervenors, representing interests as diverse as low-income customers and large industrial customers, may also participate. They too may employ expert witnesses and attorneys. Intervenors often seek involvement because regulatory decisions distribute outcomes as gains or losses to particular parties. Cases raise issues of law, economics, accounting, finance and engineering that can establish legal precedent for future cases.

Parties present sworn testimony and evidence of expert witnesses on matters at issue. Witnesses may be cross-examined by the attorneys representing each party.

Reaching decisions, which consider the often-competing interests of concerned parties, in pursuit of outcomes which protect and promote the overall public interest, is one way to view the Commission's role. Each decision, which can be appealed to state or federal court, must be supported by the evidentiary record and applicable laws and regulations.

When do we need the Regulatory Commission of Alaska?

In most cases, when utilities request changes in either their rates or types of services they provide, the Commission provides notice to the public and allows thirty days for comments. The Commission then acts to approve or disapprove the utility's proposal. Public notices appear as advertisements in the local newspaper or are otherwise distributed or published as our statutes or regulations require. Some notices are also provided directly by the utilities in the form of flyers mailed with utility bills.

Decision Making

Reaching decisions, which consider the often-competing interests of concerned parties, in pursuit of outcomes which protect and promote the overall public interest, is one way to view the Commission's role. Each decision, which can be appealed to state or federal court, must be supported by the evidentiary record and applicable laws and regulations.

Whom does the Regulatory Commission of Alaska regulate?

Most entities providing telecommunications, electric, natural gas, water, sewer, garbage, or steam services to ten or more customers are required to have a certificate to operate. A public utility or pipeline carrier must obtain a certificate of public convenience and necessity, which describes the authorized service area and scope of operations of the utility. A certificate may be issued when the Commission finds the applicant to be fit, willing, and able to provide the service. The Commission regulates the rates, services, and practices of utilities that meet the criteria for a certificate of public convenience and necessity to provide service to the public for compensation. However, there are utilities that are not economically regulated; these include local, government-owned utilities, very small utilities, most cable television providers, cellular phone service, and cooperatives whose members have voted to become deregulated. The Commission also regulates oil and gas pipeline carriers that operate within Alaska.

Statutory Deadlines

In a special session in June 2002, legislative committees conducted extensive oversight hearings that focused on the Commission's workload and the regulated utilities' complaints of slow processing of their requests. The Legislature enacted statutory deadlines to address the utilities' concerns. These deadlines are embodied in AS 42.05.175 and cover certain applications, tariff filings, complaints, and rule-making dockets. The Commission followed this enactment by implementing additional deadlines, both in regulations and with respect to its internal operations.

As part of its Sunset Review Report issued in October 2006, the Division of Legislative Audit found "[o]ur review of RCA's decisions indicated the commission is consistently meeting the timelines set out in statute. This demonstrates RCA is committed to being as timely as possible. We urge the commission to take the additional step of putting timelines, for the actions not covered by statute, into regulation."[1]

The Commission is meeting the report's call for additional steps in setting and communicating its deadlines and has opened several rule-making dockets which may add or modify deadlines. These include:

R-06-001 – In the Matter of the Consideration of Changes to Regulations Addressing Completeness Determinations for Applications

R-06-007 – In the Matter of the Consideration of Regulations Dockets for FY 07

R-06-009 – In the Matter of the Consideration of Deadlines for Final Orders in Commission Proceedings

R-06-010 – In the Matter of the Consideration of Potential Changes to Statutes Governing the Procedures and Operations of the Regulatory Commission of Alaska

The Commission has also improved its internal procedures, to include issuing Initiating Orders in dockets which specify the applicable statutory deadline date or indicate that the date will be provided once the docket information necessary to set the date has been received. Finally, the Commission is anticipating going "live" with its new case management system and its associated web portals by early Fiscal Year 2008. This system will improve the setting, communication, and achievement of deadlines of all kinds to affected staff, utilities, consumers, and the general public.

General Rules

AS 42.05.175(f): The Commission may extend the statutory timeline for up to 90 days if the Commission (1) reasonably finds good cause to extend the deadline, and (2) issues a written order setting out good cause and extending the timeline.

AS 42.05.175(h): If the Commission does not issue and serve a final order on certain applications or suspended tariffs within the statutory timeline (and does not extend the timeline under subsection (f)), the application/tariff is considered approved and goes into effect immediately.

[1] Sunset Review, October 20, 2006, Audit Control Number 08-20048-06, page 17

Deadlines

Type	Current Rule
Application completeness - CPCN.	**3 AAC 48.661(f) 15 business days.**
	3 AAC 48.660 (a) and (b) - unacceptable or incomplete applications.
Application for a new or amended CPCN.	AS 42.05.175(a)(1)-(4)
Transfer of, or acquisition of a controlling interest in, a CPCN. Application to extend the service area.	3 AAC 48.661(a)-(d) Within 6 months after filing complete application. 3 AAC 48.661(d) - within 6 months after filing complete application.
Acquisition of a controlling interest - pipeline carriers	
Name Change	**3 AAC 48.661(e) - 3 months**
Application for a new IXC CPCN.	(3 AAC 52.360(d) and .661(a)) - within 90 days from date completed application filed.
Cost Allocation Manual subject to investigation	**None.**
Depreciation Studies - For LEC Telecoms	(3 AAC 48.425(f) & (g)) - 90 days after filing, unless suspended.
Depreciation Studies - all others	**None.**
Disaggregation study	None.
Discontinue, abandon, or suspend service	
- utilities (AS 42.05.261)	**None.**
- pipelines (AS 42.06.290)	**None.**
ETC Designation	None.
Interconnection	
- Utilities (except telecom) (AS 42.05.321(a))	**Failure - petition - AS 42.05.175(d) - 12 months**
- telecomm (AS 42.05.321(b)(47 USC 252(b)(1)(C) & (e)(4))	**Arbitrated - 9 months from interconnection request**
	Negotiated - 90 days from date of filing.
- Pipeline (AS 42.06.340)	**None.**
Petitions for nondominant status	3 AAC 53.220(a)(1); (a)(2) or (3) - None.
Petition for review of dominant or nondominant status	**3 AAC 53.220(d)-(f) - None.**
Regulations dockets	AS 42.05.175(e) - 24 months.
Tariff revision that does not change rate/rate design	
- utilities	**AS 42.05.175(d) - Within 9 months after complete tariff filing made.**
- pipelines	**None.**
Tariff revision that changes utility's rate/rate design	AS 42.05.175(c) - Within 15 months after complete tariff filing made.
Tariff rate revision or Initial rates - pipeline	**None.**
Tariff revisions - LECs in CLEMS	Dominant. Retail rate decreases/new retail service offerings/special contracts for retail services become effective 30 days after filing. 3 AAC 53.240(c) Retail rate increases become effective 45 days after filing. 3 AAC 53.240(b), 3 AAC 48.200(a) Changes to tariff rules and regulations become effective 45 days after filing. 3 AAC 48.220(a).
Tariff revisions - LECs in CLEMS	**Nondominant.Changes to retail rates/special contracts for retail services become effective 30 days after filing. 3 AAC 53.240(a). Changes to tariff rules and regulations become effective 45 days after filing. 3 AAC 48.220(a).**
Tariff revisions - IXCs	Retail rates/new retail service offerings/special contracts for retail service become effective 30 days after filing. 3 AAC 52.370(b). Wholesale rate decreases become effective 30 days after filing. 3 AAC 52.375(b). Wholesale rate increases/new wholesale service offerings/special contracts for wholesale service become effective 45 days after filing. 3 AAC 52.375(b), 3 AAC 48.200(a).
Formal complaint	
- utilities.	**Within 12 months after formal complaint is filed; if Commission initiates docket, deadline is 12 months from the issuance of the order initiating investigation.**
- pipelines	**None.**

FY 06 Statutory Deadline Extensions

FY 2006	Docket	Parties	Date	By Parties	By HEA	Total extensions
	U-03-085	OTZ Telephone Cooperative & Attorney General	08/16/05	1		
	U-03-093/ U-05-022	Jolliffe Water	09/9/05		1	
	U-05-004	GCI	09/23/05		1	
	U-05-035	Cook Inlet Refuse, Inc. & Industrial Refuse	11/01/05	1		
	U-05-007	College Utilities Corporation & James J. Allen	11/25/05	1		
	U-05-054	ENSTAR & Attorney General	12/01/05		1	
	U-05-022	Jolliffe Water	12/08/05		1	
	R-03-005	None	12/16/05	1		
	R-04-001	None	03/06/06		1	
	U-06-02	ENSTAR, Attorney General, Marathon Oil Company, James Walker, Tesoro Alaska Company, Trading Bay Oil Company	05/25/06	1	1	
FY 2006 Total				5	6	11
FY 2005 Total				6	3	9
FY 2004 Total				8	4	12
FY 2004 - FY 2006 Totals				19	13	32

Tariff Filing Deadlines

Utility Type	Authority	Filing Period	Notice Rule
General Authority-Utility	AS 42.05.411		
General Authority-Pipeline	AS 42.06.390		
DOC			
Rate Filings-Retail	3 AAC 52.370/3 AAC 52.390	30 days	Utility Notice-Newspaper
Rate Filings-Wholesale	3 AAC 52.375/3 AAC 52.390	30 days	Utility Notice-Web
Rule Only Filings	3 AAC 48.220/3 AAC 52.390	45 days	Utility Notice
LEC			
Nondominant Competitive	3 AAC 53.243 (U-05-055)	Takes effect upon filing	Utility Notice
Dominant Competitive	3 AAC 53.240/3 AAC 53.290/U-01-34(23)	30 days	Utility Notice
Non-Competitive	3 AAC 53.070/3 AAC 53.110	45 days	Commission Notice
Refuse			
Anchorage-Competitive	U-04-119(2)	45 days	Commission Notice
Fairbanks-Competitive	L9700633/U-95-071/U-02-067	30 days	Utility Notice
Non-Competitive/Other	3 AAC 48.220/3 AAC 48.280	45 days	Commission Notice
Electric			
COPA	3 AAC 48.220/3 AAC 52.504	45 days	No Notice
COPA Exceptions	3 AAC 48.220/3 AAC 52.504	45 days	Commission Notice
PCE	3 AAC 48.220/3 AAC 52.650	45 days	No Notice
Simplified Rate Filing	3 AAC 48.730	45 days	Utility Notice
Other	3 AAC 48.220/3 AAC 48.280	45 days	Commission Notice
Water	**3 AAC 48.220/3 AAC 48.280**	**45 days**	**Commission Notice**
Wastewater/Sewer	3 AAC 48.220/3 AAC 48.280	45 days	Commission Notice
Gas			
GCA	3 AAC 48.220/3 AAC 52.506	45 days	No Notice
GCA Exceptions	3 AAC 48.220/3 AAC 52.506	45 days	Commission Notice
Other	3 AAC 48.220/3 AAC 48.280	45 days	Commission Notice
Steam - All except Aurora	**3 AAC 48.220/3 AAC 48.280**	**45 days**	**Commission Notice**
Aurora	U-97-044/U-97-139	Takes effect in 30 days	
Pipeline			
Initial rates/rules	3 AAC 48.220/3 AAC 48.280	90 days	Commission Notice
Other	3 AAC 48.220/3 AAC 48.280	30 days	Commission Notice

*Special case specific adjustments are not listed.

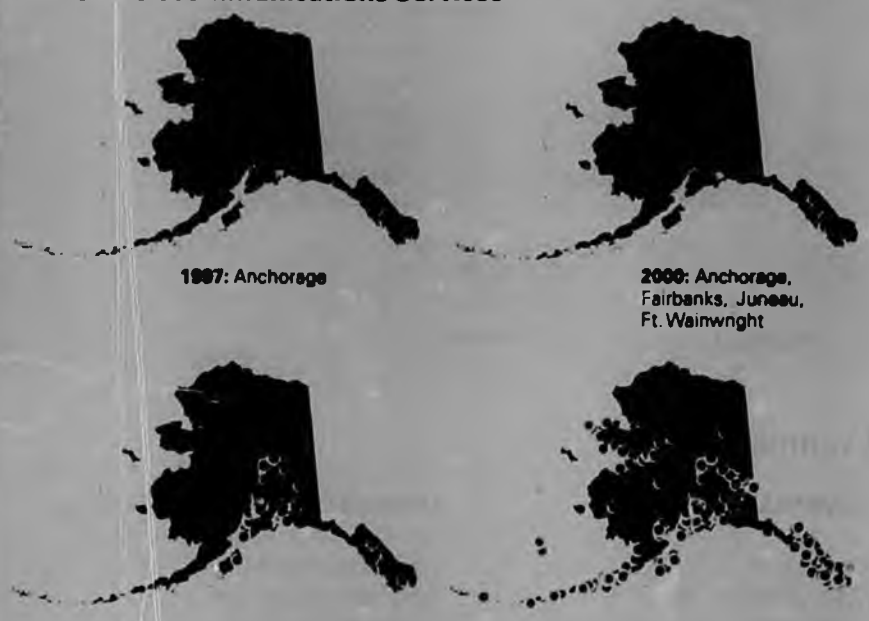
Competition in Local Telecommunications

Congress enacted the Telecommunications Act of 1996 (the Act), with the goal of promoting local competition across the United States while ensuring universal service and affordable rates. In 1997, the Commission approved the first application for competitive local exchange service in Alaska, allowing GCI Communication Corp. (GCI) to enter the Anchorage market.[1] The Juneau and Fairbanks markets became competitive soon thereafter, with GCI completing phase-in of service to the Fairbanks and Juneau areas in 2001 and 2002 respectively.

The Anchorage, Juneau and Fairbanks markets are now among the most competitive in the United States, based on competitor market share. In recognition of the level of competition in these markets the Commission granted ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of Alaska, Inc. (for its Juneau study area) nondominant carrier status on February 22, 2006. As a result, local carriers that operate in the Anchorage, Juneau, and Fairbanks markets may implement upon filing, and without Commission approval, most retail rate changes, subject to certain safeguards. As of June 30, 2006, all other incumbent local exchange carriers and ACS of Alaska, Inc. (for its Eielson and Ft. Wainwright exchanges) remain dominant carriers.

In 2005, GCI sought approval to enter several rural local markets in Alaska (Docket U-05-004). While the Commission granted GCI conditional authority to serve in roughly 90 additional exchanges, GCI has yet to actually begin local service in any of these new areas. The first location where GCI is expected to provide local service is in Eagle River, Alaska, in the Matanuska Telephone Association service area. The Commission's key decisions in Docket U-05-004 are under appeal.[2]

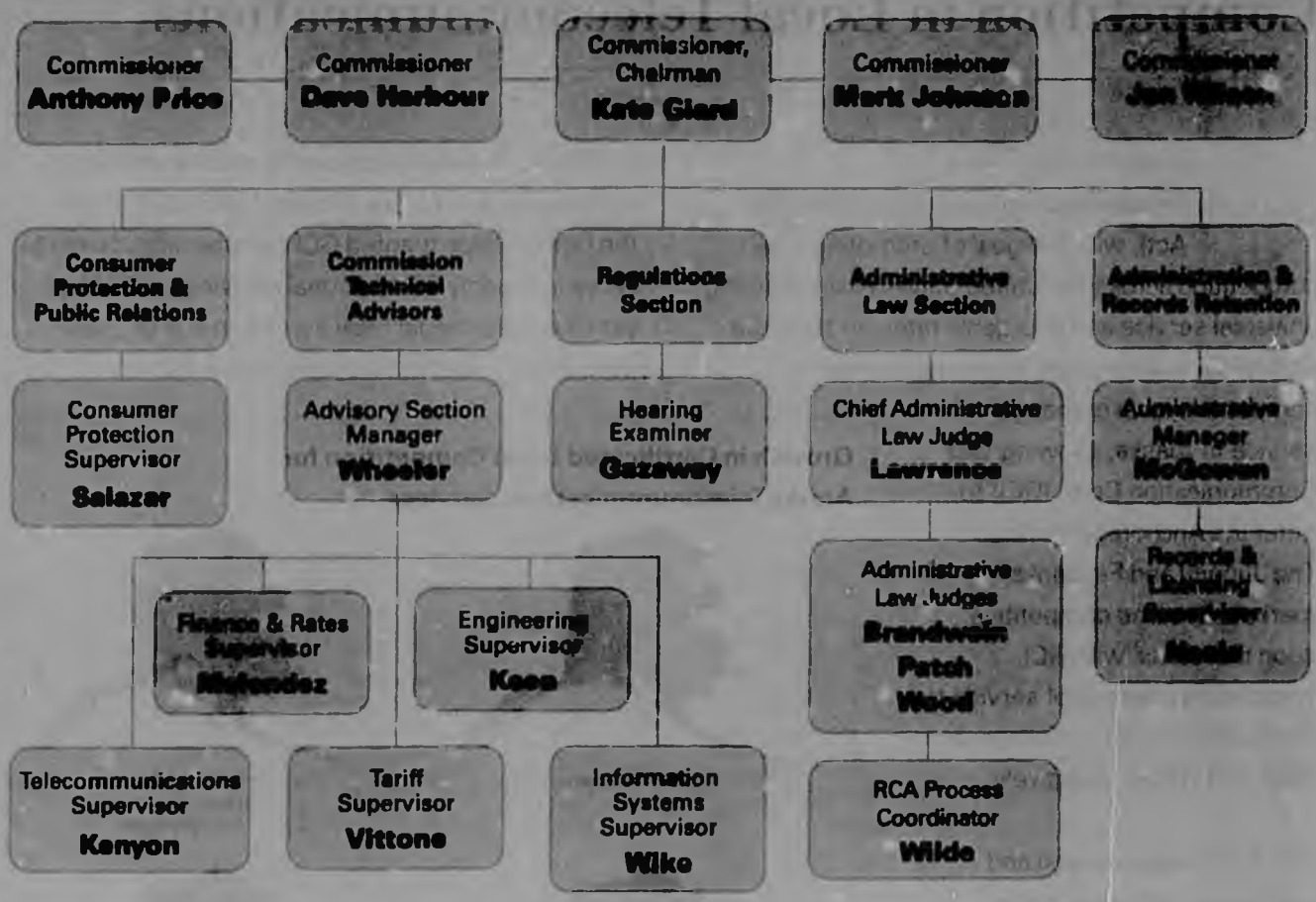
Growth in Certificated Local Competition for Alaska Telecommunications Services



[1] Order U-96-24(1), dated February 4, 1997.

[2] Telecommunications has entered a phase of dramatic technological changes, allowing more companies to offer more services to more customers and challenging traditional regulatory methods. The Commission is now managing the fundamental upheaval associated with these changes, including addressing the impacts to rural systems and consumers as competition appears in the telephone exchanges serving these areas. The Commission has several rule-making dockets related to this issue, including docket R-05-007 regarding affordability and R-06-002 on Access Charge policies.

Commission Organization



Commission Staff

COMMISSIONERS

Kate Giard, Chair 263-2110
Mark Johnson 263-2101
Dave Harbour 263-2102
Tony Price 263-2112
Jan Wilson 263-2130

Commission Administration
Brian Beard 263-2162
Lael Henry

Regulation Section
Rich Gazaway 263-2164
Barb Ward

Consumer Protection
Grace Salazar 263-2134
Tammy Alexander
Rose Weaver

Accounting and Human Resources
Joyce Mcgowan 263-2132
Dorothy Tauaese-Puletapuai

Records & Filing
Pamela Neale 263-2141
Natasha Brown
Selinda Grenn
Katey Lamberson

ADMINISTRATIVE LAW SECTION

David Lawrence 263-2127
TW Patch 263-2109
JP Wood 263-2153
Deb Brandwein 263-2125
Ann Wilde 263-2163
Mary Margaret Bingham
Susan Donovan
Annabel Chavez
Celeste Hayes

Assistant Attorneys General

Rob Royce 269-5103
Christine Moore 269-5565

ADVISORY SECTION

Dennis Wheeler 263-2107

Telecommunications
Lori Kenyon 263-2123
Phil Treuer
Wendy Arnett
"Jess" John Paul Manaois

Engineering
James Keen 263-2121
Keven Kleweno

Finance
Felix Melendez 263-2119
Chris Smith
Tyler Clark
Julie Vogler
"Lori" Laurentia Mike

Tariffs
Mary J. Vittone 263-2116
Jennifer Meiwes
Jana Grenn
Nancy Mercer

Information Systems
David Wike 263-2157
Vince Joseph
Alan Swircenski

Commissioner Biographies

Kate Giard
Commission Chair
Appointment: June 1, 2003 - March 1, 2007
Chair: July 1, 2004 - Present

Chairman Giard's work experience includes ten years as a public accountant working for national CPA firms in Massachusetts, Michigan, and Alaska. As a practicing CPA, Chairman Giard's clients covered a wide spectrum of industry including manufacturing, banking, natural resources, and retail companies.

In addition to working for KPMG as a public accountant in Alaska, Chairman Giard served as the chief operating officer of Alaskan Choice Television, promoting wireless cable services over UHF frequencies in Anchorage, Fairbanks, and Wasilla and working on Federal Communications Commission regulatory issues.

Chairman Giard most recently served as chief fiscal officer for the Municipality of Anchorage from 2000 until her appointment to the Commission, where she gained a working knowledge of the Commission's regulation of Anchorage's wholly owned utilities. Chairman Giard lives in Anchorage with her two children.

"We believe a governmental agency must never stop trying to improve. It must never rest on its laurels or forget that just beyond the horizon lies a better way to do business, one that is more efficient, promotes greater accountability or enhanced transparency.

"After three years of concentrated efforts, the Commission is a better, more efficient and responsive regulatory agency. Yet, our mission is not complete. We must strive to continually deliver an improved and balanced regulatory environment that achieves our statutory mandate of protecting the public interest.

"We are wholly committed to that goal."

- Chairman Giard