

1 STATE OF ALASKA
2 REGULATORY COMMISSION OF ALASKA
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5 Before Commissioners: Robert M. Pickett, Chairman
Stephen McAlpine
6 Rebecca Pauli
Norman Rokeberg
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12 REGULATORY COMMISSION OF ALASKA
701 West Eighth Avenue, Suite 300
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15 PUBLIC MEETING
March 8, 2017
16 9:00 a.m.
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1 P R O C E E D I N G S

2 CHAIRMAN PICKETT: Good morning.

3 This is a public meeting of the Regulatory
4 Commission of Alaska. It's Wednesday, March 8th,
5 2017 at 9:00 a.m. With me on the dais are
6 Commissioners Pauli, Commissioner McAlpine, and
7 Commissioner Wilson. We're anticipating that
8 Commissioner Rokeberg will be joining us shortly.
9 And I'm Bob Pickett, Chairman of the Commission.

10 Agenda item number one is public
11 participation. Do any members of the Anchorage
12 audience in the east hearing room care to address
13 the Commission this morning? Is there anyone
14 online who would care to address the Commission?

15 I'll go back to the east hearing room one
16 last time. Does anyone care to address the
17 Commission? Back online, anyone online? Hearing
18 none, agenda item number one, public
19 participation, is closed.

20 Agenda item number two is titled:
21 Presentation, The Alaska Plan (Christine O'Connor,
22 Alaska Telephone Association.) Unfortunately,
23 late last week I was informed that Christine had a
24 tragedy in her family, that she is not even in
25 town today. So we have rescheduled a presentation

1 on the Alaska Plan for the 24th of March. We will
2 have some additional discussion in other business.

3 So with that, I will close agenda item number
4 two. But before I get going too much further, one
5 thing I did forget at the outset, I wanted to
6 inform the public, we do have a consumer forum for
7 Alaskans tomorrow in conjunction with National
8 Consumer Protection Week.

9 The RCA consumer protection unit is
10 partnering with the Better Business Bureau and the
11 Attorney General's Office to provide a consumer
12 forum for Alaskans tomorrow from 10:00 to 11:00
13 a.m. And it focuses on how to avoid fraud, scams,
14 and unfair and deceptive business practices. It's
15 free and open to the public, and it will be
16 conducted here in the east hearing room.

17 With that, I'm moving on to agenda item
18 number three. And that is a discussion on
19 possible legislation exempting certain pipeline
20 carriers from regulation. I was contacted
21 probably about a month ago by Senator Giessel's
22 office concerning a possible piece of legislation
23 that would exempt certain pipeline carriers from
24 economic regulation.

25 And I'll just read the letter I have. And we

1 do have a draft piece of legislation at this
2 point. And I will say that we've had some
3 discussions involving Commissioner Wilson, myself,
4 and Attorney General Stuart Goering on some of the
5 concerns that I had expressed to Commissioner
6 Giessel on an earlier draft and some of the
7 implications of that.

8 So the letter was dated February 28th, 2017,
9 addressed to myself: Honorable Chair Pickett, I
10 respectfully request that the Regulatory
11 Commission of Alaska consider a proposal my office
12 is contemplating as legislation in the current
13 legislative session at its next hearing on
14 March 13th.

15 The proposal would affect provisions in state
16 law that cover the powers and duties of the
17 Commission as it relates to in-field pipelines.
18 As Alaska faces growing economic burdens,
19 policymakers in Juneau are evaluating ways to ease
20 that regulatory burden and the associated costs
21 without compromising the duty to public safety.

22 One way this can be achieved is through
23 identifying in-field pipelines that are operated
24 and transport the product of a single carrier but
25 are required to operate under a regulatory and

1 cost structure as though the pipelines have
2 multiple parties participating.

3 This causes an unnecessary cost to the
4 development of our resources at no added benefit
5 to the public. I am considering proposing
6 legislation that would empower the Commission to
7 exempt qualified infrastructure from those
8 provisions.

9 That exception would not be permanent and
10 would be subject to the Commission rescinding it
11 should any of the criteria not continue to be met.
12 Attached to this letter is the proposed language
13 for the potential legislation related to this
14 topic. I respectfully request the Commission to
15 take this into consideration and offer its view
16 and feedback at the Commission's meeting on
17 March 13th -- she's actually referring to the
18 meeting today.

19 So with that, we have another -- in addition
20 to what was provided by the Senator, a 2/28
21 working draft that has some slight modifications
22 to what we originally were provided.

23 And, Commissioner Wilson, you've been in on
24 some of these meetings. Do you have any thoughts
25 you would -- or background you would like to offer

1 at this point?

2 COMMISSIONER WILSON: Sure. I
3 guess, first, we need to begin this discussion by
4 talking about what the bill does. What this --
5 I'll call it a pre-bill. The pre-bill grants an
6 automatic exemption if a pipeline carrier collects
7 less than \$250,000 from intrastate shipments and
8 it makes a filing with the Commission. And that
9 filing would say, we make less than 250,000 and
10 we're declaring that we're exempt.

11 And so that's an automatic exemption. It's
12 not something that's discretionary with the
13 Commission. Its language is: The pipeline
14 carrier, quote, is exempt. That's one exemption
15 in the bill -- in the pre-bill.

16 The second exemption is an exemption that is
17 discretionary with the Commission. It allows the
18 Commission to grant an exemption to the pipeline
19 carrier upon a finding that it meets one of two
20 requirements; one is that it ships only affiliate
21 production, and the other is that it doesn't
22 collect enough revenue to pay for operations,
23 maintenance, depreciation, plus a reasonable rate
24 of return. In regulatory terms, that would be the
25 pipeline carriers in a confiscatory position.

1 They simply can't charge enough to make the
2 pipeline a going concern.

3 In addition to meeting those two
4 requirements, the Commission must find that the
5 exemption is in the public interest and that it is
6 justifiable on the basis of public convenience and
7 necessity. And this certainly is a discretionary
8 exemption with the Commission. The language is:
9 The Commission may grant an exemption if it
10 finds...

11 And so we're not required to make that
12 finding. We must consider the public interest no
13 matter what -- whether it meets those criteria or
14 not, we must consider the public interest and have
15 the discretion to grant or deny the exemption.

16 So what's amended in this pre-bill is a
17 section that is relatively new to 42.06. It's
18 Section .601, which was enacted in 2013 with
19 respect to a gas pipeline regulated under 42.08,
20 which was a new provision intended for the large
21 natural gas pipeline from the Slope.

22 So that exemption was the first exemption
23 granted under 42.06 since its enactment in 1972.
24 There have been times when this Commission has
25 felt like it wanted to or wished it had the power

1 to grant exemptions under the Pipeline Act as we
2 do under 42.05. Under 42.05, the Commission --
3 there are a number of both mandatory and
4 discretionary exemptions. But there haven't been
5 under 42.06, and this would give those exemptions.

6 So what does the bill exempt the pipeline
7 carrier from? It does not exempt the pipeline
8 carrier from all of 42.06, from not being
9 regulated at all. It is, in fact, a very narrow
10 exemption. They are still required to meet all
11 requirements of 42.06 except justifying their
12 rates. They still have to be certificated. They
13 still have to get approval for connections,
14 approval for abandonment.

15 They still have to meet quality of service
16 requirements. They still must maintain a tariff
17 with us. They still must file rates with us.
18 They -- really what they don't have to do is to
19 justify those rates. So that's what the bill
20 does.

21 CHAIRMAN PICKETT: Stuart, did you
22 have anything you would like to add since you are
23 a party to these discussions?

24 MR. GOERING: Thank you, Chairman
25 Pickett. Actually, just two minor clarifications

1 to what Commissioner Wilson said. The first one
2 is that AS 42.08, the in-state Natural Gas
3 Pipeline Act, actually was not intended nor would
4 it apply to a large diameter export pipeline from
5 the North Slope.

6 It would only apply to an intrastate contract
7 carriage line. So it was really, I think --
8 although it technically has universal application
9 throughout the state, it was actually written to
10 facilitate what is now referred to as the ASAP
11 line as opposed to AK LNG.

12 COMMISSIONER WILSON: Thank you for
13 that clarification.

14 MR. GOERING: It's something of a
15 subtle distinction, but I didn't want to pass up
16 the opportunity because we don't talk about 42.08
17 very often. So I didn't want to pass up the
18 opportunity to clarify that.

19 COMMISSIONER WILSON: I think this
20 is the first time we've done this since its
21 passage.

22 MR. GOERING: The second thing is
23 to add to the things that this would not exempt a
24 carrier from even if they receive the exemption,
25 and that is that the nondiscrimination portions of

1 42.06 remain in place. So even though the
2 carrier's tariff would not be subject to the
3 approval of the Commission, this carrier would
4 still have an obligation to provide
5 nondiscriminatory service.

6 So if a nonaffiliated shipper, for example,
7 tendered shipments, it would still be entitled to
8 receive service under the exact same terms and
9 conditions that an affiliated shipper would.
10 And that, I think, is something that's relatively
11 important to retain largely because that's the
12 intention of common carriage, is to make sure that
13 all shippers, affiliated or unaffiliated, have
14 access to a pipeline on the same terms and
15 conditions.

16 And that's also the intent of the
17 Right-of-Way Leasing Act, specifically
18 AS 38.35.120 that actually requires most all
19 intrastate pipelines to be common carriers in the
20 state.

21 CHAIRMAN PICKETT: Thank you,
22 Mr. Goering. And I think what should also be
23 stated at this point is, the driver for this
24 possible piece of legislation is, with the smaller
25 pipeline carriers, the rate case expenses can

1 exceed the actual revenue the pipeline is
2 generating.

3 Now, how the 250,000 -- I mean, we have a
4 similar provision for garbage that's 300,000. I
5 can't exactly say how they arrived at 250 or
6 whatever. But I will say, the original concerns
7 that we had with some of the language and some of
8 the unaddressed -- the proponents, both Senator
9 Giessel and the pipeline carrier and their
10 counsel, were quite responsive to the concerns we
11 raised.

12 I think there's some things that are perhaps
13 DNR or revenue in terms of the potential benefits
14 to the state, but that's out of our wheelhouse, so
15 that's not something we're going to deal with.

16 So with that, I'm going to -- we're not
17 really being asked to take a position on a
18 specific bill with a number, because at this point
19 there is not one. But I think what Senator
20 Giessel is looking for is feedback. So when
21 things get to the point that that materializes and
22 perhaps a representative of the Commission is
23 called before a hearing, that we don't, you know,
24 say we haven't seen this thing. We have no idea
25 what it is or this kind of thing.

1 So just any general thoughts from the other
2 Commissioners that have not been involved with
3 this? Anything?

4 COMMISSIONER MCALPINE: As an
5 aside, Mr. Chairman, I leaned over and asked
6 Commissioner Wilson, Should I bring up garbage?
7 And she said, No.

8 CHAIRMAN PICKETT: Thank you very
9 much, Commissioner Wilson.

10 Let the record reflect that Commissioner
11 Rokeberg has joined us. We were just discussing
12 the potential piece of legislation for the
13 pipeline exemption and had Commissioner Wilson go
14 through some aspects of it. And Mr. Goering
15 offered his comments.

16 So do you have anything you would like to add
17 at this point, Commissioner Rokeberg?

18 COMMISSIONER ROKEBERG: No thank
19 you, Mr. Chairman. My apologies for being late.

20 CHAIRMAN PICKETT: You're just in
21 time for when you're going to get put on the hot
22 seat, though.

23 So with that, is it fair to say that, subject
24 to a review of the final language in the bill, the
25 Commission doesn't have any major issues with the

1 direction this is going?

2 Commissioner McAlpine?

3 COMMISSIONER McALPINE:

4 Mr. Chairman, two things. First of all, I would
5 pass on to Senator Giessel that we appreciate very
6 much being brought into the loop before it's
7 subject to passage on the floor. And, secondly,
8 it seems to be a piece of legislation that we
9 could support in that we don't want the cost of
10 regulation to exceed the ability to derive income.

11 CHAIRMAN PICKETT: And I think that
12 accurately summarizes my general position.

13 Commissioner Wilson?

14 COMMISSIONER WILSON: And I think
15 first and foremost what we need to say about this
16 bill is, if it is passed, can we administer it
17 appropriate -- do we think it's appropriate for us
18 to administer in a reasonable way? And I think
19 that it passes that test. I'm glad to see that
20 the notification of exemption is there in the
21 bill.

22 That the exemption, although it's mandatory,
23 it's not, as I first described, automatic. It
24 depends upon a filing so that the public knows
25 when this happens, when it becomes exempt.

1 CHAIRMAN PICKETT: And a corollary
2 to that is that the pipeline carriers that, say
3 they were to be exempted under this provision,
4 would still have to file their annual reports. So
5 we would have the trigger in the event that they
6 passed the threshold.

7 COMMISSIONER WILSON: And if we
8 wanted to require some kind of special reports to
9 alert us to this, we also have the authority under
10 this. This doesn't change that authority. We can
11 still have special reports filed to make certain
12 that they're not, in the middle of the year, going
13 over the -- or not meeting -- no longer meeting
14 the requirements.

15 And, as you know, under AS 42.05, we have a
16 problem sometimes when garbage goes above or below
17 300,000 in figuring out when the exemption occurs.
18 So I approve of this language completely.

19 CHAIRMAN PICKETT: And with the
20 consent of the Commission, it's my intent, once
21 the transcript is available, I will take the
22 appropriate sections of the transcript and provide
23 them to Senator Giessel and contact her and just
24 let her know what the sentiment of the Commission
25 is on this. And if at some future date there is a

1 very specific piece of legislation with a bill
2 number and they ask a position, we'll do it at
3 that time. So with that, I will close this agenda
4 item, agenda item number three.

5 Agenda item number four is other business.
6 And I'm going to start and ask Commissioner
7 Rokeberg to address a couple of items. The first
8 one I'd like him to address is an update on the
9 TRS status and what your read is with this
10 session, and maybe summarize our conversation with
11 Representative Kito yesterday.

12 COMMISSIONER ROKEBERG: Thank you,
13 Mr. Chairman. There is an outstanding I docket,
14 I-15-003, that the Commission has been working for
15 a number of years, several years, on modernizing
16 and updating the telecommunications relay
17 services, which are required by legislature that
18 the RCA implement and work with the industry in
19 providing for these services.

20 It's -- we undertook a workshop and a number
21 of other public meetings in learning about the
22 issue during the past year. And I've worked to
23 draft a bill for legislation in Juneau -- it, I
24 hope, sometime this week will be introduced
25 formally -- which does two primary things; one of

1 which is change the current proviso for a
2 surcharge to local exchange carriers only, and
3 changes that language to telecommunications
4 service provider, which in essence will broaden
5 the base of the surcharge to include wireless and
6 VoIP services. Very similar to what we've done
7 under the AUSF expansion of the surcharge.

8 Additionally, there would be one other
9 modification to the statutory language, which
10 would change the term "speech impairment"
11 to "speech disability" to currently reflect the
12 more respectful term of art used in their
13 community and that has been adopted by the FCC in
14 their regulations. A seemingly modest
15 arrangement.

16 One of the issues that has been ongoing --
17 and I've been dealing with the ATA and Christine
18 on this -- is how we implement the charges as to
19 whether it's to be revenue or lines or numbers.
20 Currently under the TRS provisions in our regs, we
21 do charge on landline access lines and those
22 numbers. And we, during the course of the
23 workshop and afterwards for the last several
24 months, have been trying to develop a consensus
25 among the industry about their preferences.

1 My current understanding is that there seems
2 to be a preference to utilize the line counts,
3 which is the current methodology. But this may
4 cause some problems in terms of levels of
5 confidentiality and particularly in the areas
6 revolving around Voice-over-Internet Provider
7 services.

8 And so, therefore, Mr. Chairman, I would like
9 to be able to offer a motion today to ask the
10 telecommunications industry under a protective
11 order to provide the Commission, through its I
12 docket, the preferences and the numbers of access
13 lines for both wireless and VoIP services
14 effective on January -- that were in effect on
15 January 1 of '17, this year.

16 And, also, additionally, make a general
17 inquiry as to the nature of the current surcharge,
18 particularly the two-tiered level now that we have
19 a differential between the customer residential
20 services and multiline business services. Viewing
21 the number of states throughout the country that
22 have this, there seems to be no consistent real
23 pattern. Albeit, it may be on the side of having
24 a single-level surcharge and not making a
25 distinction between business and consumers.

1 So getting some feedback on that might be
2 helpful. But particularly, as I suggest, it
3 hopefully will not affect the bill. But it puts
4 us in a position that we'd like to hit the ground
5 running, particularly on the cycle of our
6 agreement with Sprint now, the current provider of
7 services under our orders that does an annual
8 fiscal year budget.

9 And part of this program is that during the
10 last cycle of surcharge arrangements, we went
11 through significant amounts of surplus cash and
12 decided as a Commission to try to achieve
13 approximately a \$300,000 working balance in the
14 account. We did raise substantially the surcharge
15 rate. And I'm happy to report we are very near to
16 reaching that equilibrium level in the account.

17 With the expansion to wireless and VoIP, it's
18 our goal to lower the overall surcharge level.
19 What happens will be somewhat of a shift, of
20 course, away from all landline users having to
21 bear the 100 percent brunt, moving and shifting it
22 to these other types of services and, thereby,
23 lowering the rates.

24 And one reason that I'm asking for this
25 resolution is to get better determination on the

1 actual number of lines we have and to be able
2 to --

3 CHAIRMAN PICKETT: Commissioner
4 Rokeberg, could I interrupt you?

5 COMMISSIONER ROKEBERG: Sure.

6 CHAIRMAN PICKETT: What I'd like to
7 do is succinctly state the motion, get a second,
8 and then have discussion on --

9 COMMISSIONER ROKEBERG: Right.
10 That would be most expeditious. Thank you very
11 much, Mr. Chairman, for doing that.

12 Mr. Chairman, I move that an order be issued
13 in Docket I-15-003 requiring all telecommunication
14 service providers in Alaska to provide line count
15 or equivalent information for the access line,
16 wireless, and interconnected Voice-over-Internet
17 Protocol (VoIP) service they provided on
18 January 1st, 2017.

19 I move that this line count or equivalent
20 information be provided pursuant to a protective
21 order under 3 AAC 48.040(b)(4) providing a
22 mechanism to protect this information from public
23 disclosure pending the outcome of any proceeding
24 challenging confidential treatment of this
25 information, without requiring the

1 telecommunications service providers to initially
2 file a petition for confidential treatment of this
3 information.

4 I further move that these telecommunications
5 service providers be required to inform us of
6 their position on whether the current two-tiered
7 Telecommunications Relay Service (TRS) funding
8 mechanism set out in 3 AAC 51.040 should be
9 maintained in the event TRS surcharge
10 responsibility is expanded to wireless
11 interconnected VoIP service providers.

12 CHAIRMAN PICKETT: Thank you. Is
13 there a second for Commissioner Rokeberg's motion?

14 COMMISSIONER WILSON: Second.

15 CHAIRMAN PICKETT: Further
16 discussion. would you care to elaborate anymore,
17 Commissioner Rokeberg?

18 COMMISSIONER ROKEBERG: That
19 takes -- the motion itself takes much of the
20 discussion into account. But two things, it is
21 the goal of the Commission to lower the overall
22 surcharge by making a shift and looking at our
23 universal service providing accounts.

24 And right now our carrier section has looked
25 at FCC Form 477 and tried to determine the amount

1 of mobile telephony lines in Alaska. And
2 according to the December 15 FCC supplemental
3 Table 1, there was approximately 678,000 mobile
4 telephony lines in Alaska. And then further,
5 wireline end users who switched to access lines
6 and interconnected VoIP subscriptions were
7 approximately 300,000. So as of this date a year
8 ago, we had almost 1 million lines in Alaska.

9 So this is a disaggregated -- or this is an
10 aggregated overall picture. But what we'd like to
11 be able to do is more drill down and get a little
12 bit better. Plus we want to hear the preferences
13 back because -- on how the surcharge is collected.
14 Currently Sprint has a contract with a company
15 called Solex that does the actual collections.
16 And, actually, by putting that intermediary in
17 there, I think provides a certain level of
18 confidentiality for that treatment.

19 We also have a rulemaking docket right now
20 where we're trying to provide further protection
21 of the information that may -- you know, I think
22 most telecommunication providers concerned --
23 consider confidential. And we're working on that.

24 But by doing this, this would give us an
25 opportunity to receive information from you and,

1 also, to get your feedback and try to clarify
2 exactly going forward how we should assess the
3 surcharge.

4 One of the things that's interesting, it's
5 difficult to -- we've just embarked on a VoIP
6 surcharging for AUSF, and that remains to be seen,
7 but that's done on a revenue basis. And there's
8 an FCC safe harbor rule for calculating the
9 assessments when looking at the VoIP services. So
10 if we have like a bifurcated surcharge system,
11 that may be one way to do it.

12 Generally what I've heard, though, is
13 preferences about access line count. So we'd like
14 to know that. These are -- we're offering
15 confidentiality right out of the shoot, and we are
16 sensitive to that. But it will enable us to be
17 able to -- on an aggregated basis be able to
18 respond to the legislature and tell them where
19 we're headed, with the goal being eventually to
20 upgrade our service equipment levels.

21 Right now we're only providing what's called
22 a CapTel telephone and TTY. Well, TTY, by FCC
23 ruling, is going to be replaced with what's called
24 RTT within the next 18 months to two years. It
25 will be like an ability for people to carry on a

1 text conversation by selecting CapTel phones. But
2 they're really very antiquated. And I've been
3 told by the FCC they will be supported until the
4 last one breaks. However, the new technology is
5 coming into play. We need to be prepared to do
6 that. Hopefully the FCC will support that
7 financially.

8 what we're also finding out, the other piece
9 of equipment we've been doing is CapTel, but not
10 always. Some of the CapTel phones are analog and
11 some are digital. Like last-mile connections in
12 the rural areas of Alaska don't always conform
13 with the requirements of the instrument that we've
14 given these people.

15 And, therefore, the long and short of it is
16 we've been providing, with a significant amount of
17 time, effort, and money, equipment that is so
18 antediluvian it doesn't even work well. And it's
19 almost -- I think it's a real shame that -- I
20 don't think we're servicing and doing our job
21 under the statutes and under the policy of the
22 state to serve the communities' deaf, hard of
23 hearing, and speech-disabled people.

24 And I believe that even under current rates
25 of funding we can expand into -- my goal is we're

1 going to start this quarter an iPad/tablet
2 program, pilot program to service this area
3 better. And hopefully there's a significant
4 amount of interest to expand our equipment
5 programs to include amplified phones and ringing
6 devices at the next level on another pilot program
7 going into next fiscal year.

8 We can do this under almost current budget
9 levels without really expanding the surcharge in a
10 gross basis by smoothing it out over the various
11 services. So the total amount of cash flow coming
12 in came very close to maybe about as little as
13 \$30- to \$50,000 a year that we could be able to do
14 this. But we're doing pilots and we'll see how
15 the program goes.

16 So that's an overview of where we're headed.
17 I think we're on the right track. And I'd like
18 the support of the telecommunications industry in
19 being able to do this in a more seamless -- and I
20 also ultimately think the impact on the individual
21 bills will go down and we'll be able to provide
22 more services. Thank you, Mr. Chairman.

23 CHAIRMAN PICKETT: Are there any
24 Commissioner questions or comments concerning the
25 motion before us? Commissioner Pauli?

1 COMMISSIONER PAULI: Commissioner
2 Rokeberg, what information do you hope to gather
3 from the unaggregated line count? How would that
4 information help you in this process versus the
5 aggregated?

6 COMMISSIONER ROKEBERG: Well, the
7 primary reason we want to get individual company
8 counts, we don't have that information now. All
9 we have is -- we do have it as it relates to
10 landline. We have certain areas we have some of
11 this, but we don't have readily available
12 information to verify the number of lines and how
13 this would work as far as surcharging is
14 concerned.

15 And we want to get that sorted out. And any
16 suggestions along those lines, we'd greatly
17 appreciate it. That's why we're doing this step
18 to try to get your feedback in finding out how we
19 should best mechanically, if you will, organize
20 this and implement it.

21 COMMISSIONER PAULI: Okay. But the
22 number of lines itself, I mean, how is -- by area,
23 is that just additional information or will it
24 actually impact the final decision?

25 COMMISSIONER ROKEBERG: It's just

1 the total number of lines each communication
2 carrier has. We're not trying to determine, at
3 this juncture, any study area or any differential
4 of that nature. That's up to you guys on other
5 issues.

6 COMMISSIONER PAULI: Because I'm
7 just trying to figure out if the information -- if
8 you can still proceed without the unaggregated or
9 disaggregated line count information.

10 COMMISSIONER ROKEBERG: Well, we
11 are going to continue. The idea is that how we
12 implement -- once we have the authority from the
13 legislature to move the surcharge to include
14 wireless and VoIP, we need the practical effect of
15 how the mechanics are collecting it and working
16 with the carriers in doing so.

17 So that's what our goal is, and we're
18 sensitive to the level of confidentiality. And
19 right now I need to be able to answer a
20 legislator's question, which is: If you're going
21 to shift the surcharge onto these other services,
22 what's the net effect and cost going to be to the
23 individual consumer? Without having the numbers,
24 I can't do that.

25 I mean, right now I can make an estimate

1 based on FCC numbers and our own internal numbers.
2 But it would be helpful if we had those numbers.
3 And if there's -- and particularly, I'd really
4 like to get a consensus about what the industry
5 wants -- how they want to do the surcharge and
6 what would be the easiest and best way.

7 So any comments along those lines is very
8 appreciated. So I think the ultimate goal here is
9 to expand the equipment and be able to lower those
10 incidents and costs that end up on every
11 consumer's bill every month.

12 Also, the fact is, we may be one of the few
13 states that has a two-tiered system between
14 residential and business lines. It's a double up.
15 Right now we're at \$0.09 for the consumer lines
16 and we're at \$0.18 for business lines. So is that
17 necessary? You tell me. I'd appreciate it.

18 COMMISSIONER PAULI: And my other
19 question is, I don't have any regs with me, but I
20 believe that typically when there's some sort of
21 motion or petition on the confidentiality, there
22 is an opportunity for someone to file a response
23 or an objection.

24 And I'm not sure who that would be in this
25 case, but I don't know if that's a process that we

1 would need to follow perhaps --

2 CHAIRMAN PICKETT: Stuart, do you
3 have any thoughts on that?

4 MR. GOERING: If you can give me
5 just a moment to pull that up.

6 The Commission's regulation on confidential
7 records begins with 3 AAC 48.040. And if I could
8 ask Commissioner Rokeberg to remind me of the
9 specific provision that he was suggesting that we
10 could rely on, that would be helpful.

11 COMMISSIONER ROKEBERG: .040(b)(4),
12 according to Judge Walker.

13 MR. GOERING: Okay. So 3 AAC
14 48.040(b) is the provision which essentially
15 declares records to be confidential and not open
16 to inspection unless they are released. In other
17 words, these are -- if we resort to this, if these
18 qualify, then they would automatically be that
19 way. They wouldn't be -- what's the best way to
20 put it? It wouldn't require any petition for
21 confidentiality, and it wouldn't require the
22 Commission to go through the balancing test and
23 give interested parties the opportunity to weigh
24 in and object to that.

25 So in this particular case, this is (b)(4),

1 records classified as confidential and under
2 protective order of the Commission or the court.
3 You -- what I think Commissioner Rokeberg's motion
4 encompasses is the Commission essentially issuing
5 a confidentiality order, and that would make the
6 records confidential to begin with.

7 Now, that's not to say the people who think
8 they need to have access to it can't petition for
9 access to it. It simply says the process you use
10 to declare them confidential is done up front and
11 then people -- anyone who are members of the
12 public or -- because it's in an I docket, there
13 are no parties -- but if there were parties in a
14 proceeding, they would have to opportunity,
15 certainly, to come in and say, we need access.

16 And typically what happens is the Commission
17 allows access but under certain conditions that
18 protect the confidentiality of the information,
19 such as requiring nondisclosure agreements and
20 that sort of thing.

21 So there's a process, but the process is all
22 in the back end. Once you've issued the
23 confidentiality order, if the materials that are
24 filed fit within the conditions of the
25 confidentiality order, then they would be

1 automatically confidential under this provision.

2 CHAIRMAN PICKETT: Commissioner

3 Pauli, does that answer your question?

4 COMMISSIONER PAULI: It does. I
5 would think that -- is the order that you're
6 envisioning, would it just say line counts -- I'm
7 not sure what language you're looking for in the
8 order.

9 CHAIRMAN PICKETT: Commissioner
10 Rokeberg?

11 COMMISSIONER ROKEBERG: Well, the
12 information I'm looking for in my motion is to
13 provide the line count for access lines, wireless,
14 and VoIP services as of January 1.

15 CHAIRMAN PICKETT: Does that
16 address your question?

17 COMMISSIONER PAULI: I think it's
18 about -- yes.

19 CHAIRMAN PICKETT: Other
20 Commissioner comments or questions on the motion
21 before us? Seeing none, we'll move on to the
22 vote.

23 All those in favor of the motion say aye.

24 (Collective aye.)

25 CHAIRMAN PICKETT: Opposed?

1 COMMISSIONER PAULI: Opposed.

2 CHAIRMAN PICKETT: Let the record
3 reflect Commissioner Pauli dissented. It passed
4 four to one.

5 I have another item under other business I'm
6 going to ask Commissioner Rokeberg to help me
7 with. You remember in January at the first public
8 meeting we had, Oran Paul from Fairbanks Water &
9 Sewer come down and addressed the Commission on
10 the issue of interest rates for utilities on the
11 refund issue.

12 When we suspend dockets and allow interim
13 rates, they're done on an interim and refundable
14 basis or the money is put in trust. Typically the
15 utility elects to take the interim and refundable.
16 And we've applied the 10.5 percent as long as I've
17 been on the Commission.

18 And I think that over the last couple years
19 there's been a sense that that number is so
20 disconnected from market realities that it
21 probably is time to look either in rulemaking or
22 through legislation to address that anomaly. And
23 Commissioner Rokeberg and I had some discussion
24 yesterday with Representative Kito.

25 And it's fairly late in the session. And it

1 will be a pretty heavy lift for something to
2 actually happen this session, but in a general
3 sense, I believe there is some thinking that we
4 need to have an easily discernable benchmark rate,
5 prime rate, discount rate, something like that
6 with some sort of an adder.

7 The original theory of the 10.5 was it was
8 somewhat viewed as being punitive to the utility,
9 in the event they filed a rate request that was
10 just out of line. That it had a tempering affect
11 on what they actually would file that hopefully is
12 closer to what is ultimately awarded by the
13 Commission. And I can argue that both ways in
14 terms of the cases that I've seen over the last
15 nine years.

16 But Commissioner Rokeberg, would you jump in
17 and summarize what your take was on our
18 conversation yesterday?

19 COMMISSIONER ROKEBERG: Thank you,
20 Mr. Chairman. We had a conversation with
21 Representative Kito, who is the chairman of the
22 House Labor and Commerce Committee. And he'd been
23 approached by a utility lobbyist who worked on
24 presumably a committee bill on this particular
25 topic. And we've had conversations and a

1 presentation by GHU CUC about this, and they've
2 had a significant interest in this over the years.

3 They're a small industrial utility in the
4 Fairbanks area. And there was even a case -- a
5 2009 case that had basically ruled on this
6 particular issue and had been remanded to the
7 Commission by the superior court. So that issue
8 has been percolating for some time.

9 I've been viewing it for several years, and I
10 think the -- there's been some inertia and some
11 difficulty moving forward because there's not been
12 a real consensus on the part of the Commission
13 about how to approach this. We could either do it
14 in a docketed order, which there's certain schools
15 of thought that we could do that. Or we could
16 introduce a regulatory rulemaking docket to do
17 that in order to have further testimony and input
18 from the industry.

19 Or the more expeditious and, because of my
20 past background, I think, speedier method of
21 introducing legislation to do the same thing much
22 more quicker, surgical way of doing stuff.
23 Albeit, sometimes I've found that historically
24 when you have a bill that has the RCA's name in
25 the title, a lot of mischief can happen. So we're

1 a little reluctant sometimes to do that. So
2 that's been another factor involved.

3 But, nevertheless, I truly believe, as the
4 Chairman points out, that there is a disconnect
5 between the statutory interest rate, which in my
6 personal opinion is not a mandate of this
7 Commission to follow. It's clear that we've
8 deviated from that and historically have been able
9 to address our own interest rate patterns before
10 this.

11 Even most recently there was a case where an
12 arm's-length bargain between Doyon Corporation and
13 the federal government was accepted as the
14 contract interim interest rate by agreement, and
15 we accepted that. So this is another deviation
16 from that.

17 But one of our concerns right now is that
18 there's -- to have an interim interest rate,
19 particularly on a large revenue requirement rate
20 case, is that we need to make sure it has certain
21 elements in it. So we're concerned about any
22 statute being introduced that's oversimplified and
23 doesn't really work for our circumstances.

24 Among them are making sure that the formula
25 arithmetically is such that it can be utilized on

1 a relatively short-term basis. In other words,
2 inside of a year for the compounding and how it's
3 constructed. Because many interim rates are
4 relatively short term and, you know, going
5 typically from -- anywhere from, say, six months
6 to a year and a half, in that general ballpark
7 range. There could be some outliers, but that
8 probably would be the majority of them.

9 So having a compounded rate that has certain
10 flexibility that's based on a benchmark rate and
11 we -- my personal preference is using the prime
12 rate of the 12th Federal Reserve Bank in San
13 Francisco, which is currently at 3.75, with an
14 additional percentage or basis points, let's say
15 200 to 300 basis points, over that rate to more
16 reflect what interest rates would be, say, at the
17 current rates. which at 300 basis points, it
18 would be 6.75. which is certainly a far stretch
19 from 10.5 but more reflective of rates.

20 Because we are -- the idea is to incent the
21 companies to set and have the Commission approve
22 rates that are as close as possible to what their
23 ultimate final rate will be and not have it to
24 incur penalties or overshoot the market. So
25 that's the balancing act.

1 On the other hand, the market rates that are
2 reflected in the marketplace -- and it's been now
3 half a decade where the general prime rate has
4 been about 2- -- or 3.25 percent, or we're getting
5 close to that at least five or six years. And so
6 there's a real disconnect between the 10.5 and
7 what true market rates are.

8 Additionally, we need to have the ability to
9 allow the utilities to make the option of either
10 going into escrow or into a trust account.
11 Because currently escrow accounts tend to be cash
12 negative. It's more expensive to set up an escrow
13 account sometimes than any interest you might
14 receive from it.

15 So even on some smaller utilities, we've
16 allowed like a trust account deposit that is much
17 cheaper to maintain rather than going to a
18 physical institution that has escrow fees. And
19 everybody's favorite bank in Alaska, First
20 National Bank of Alaska, does it, but they'll
21 charge you money.

22 So, at any rate, we need a system that works
23 equitably and fairly for everybody, protects the
24 consumers, and a reasonable return on their money
25 that they may have prepaid into on an interim

1 rate. They're reimbursed for that without a
2 burden onto the utility. The problem is finding
3 consensus. And that's where we are today,
4 Mr. Chairman.

5 CHAIRMAN PICKETT: Thank you. And
6 we do not have a specific bill before us. We're
7 being asked to take a position. But I think it's
8 fair to say that legislators are involved with
9 this. And the utilities that have been, you know,
10 encouraging action on this are, you know, looking
11 sort of for a general sense from the Commission.

12 So this would be appropriate if other
13 Commissioners have any thoughts on this issue.
14 There's nothing specific. When I talked to Oran
15 at Fairbanks Water & Sewer about a month and a
16 half ago, I said, Yeah, in theory we probably will
17 be supportive of the concept. But the devil is in
18 the details.

19 So that's sort of where we're at right now.
20 Commissioner Rokeberg?

21 COMMISSIONER ROKEBERG:
22 Mr. Chairman, the only thing I would recommend to
23 the Commission right now is, in keeping with our
24 traditions and rules of allowing conversations
25 between the parties, with some blessing by the

1 Commission in a public meeting -- because one
2 thing right now is that my personal preference
3 would be to talk to the people at GHU to see where
4 they were going and try to come to some common
5 agreement, at least if they're going to go out and
6 ask like a Fairbanks legislator to introduce the
7 bill, on the other hand.

8 So it may be appropriate if you wish today to
9 consider granting like yourself and myself at
10 least joint authority to be able to speak for the
11 Commission on this issue.

12 CHAIRMAN PICKETT: So what you
13 would be proposing is like a phone call to Oran or
14 Kristin to try to elicit what their thinking is
15 and bring it back to the Commission?

16 COMMISSIONER ROKEBERG: Yes, I
17 think so. Something like that. And, also, the
18 form of the bill and how it would -- any statute
19 to make sure it conforms to the needs, as I
20 pointed out, that are kind of peculiar to our
21 actions in terms of escrow accounts, trust
22 accounts, various things like that.

23 I don't want to put our -- we shouldn't put
24 ourselves in a situation where we're actually
25 going to be coming out against a piece of

1 legislation or asked for significant amounts of
2 amendments, if we can avoid that by just working
3 on the basis of it. You know, hopefully it's
4 possible something could happen this year. The
5 chances are kind of not entirely likely.

6 CHAIRMAN PICKETT: I'm not even
7 sure we'd need a motion for that. I think you and
8 I can get on the phone and call them like today or
9 tomorrow.

10 COMMISSIONER ROKEBERG: Right.

11 CHAIRMAN PICKETT: But the
12 Commission is not taking a specific position
13 saying this is the benchmark and it's 350 basis
14 points.

15 COMMISSIONER ROKEBERG: Right.

16 CHAIRMAN PICKETT: That comes in a
17 different forum. So what I'm looking for today is
18 just feedback from the other Commissioners.

19 Commissioner McAlpine?

20 COMMISSIONER MCALPINE: Couple of
21 things, Mr. Chairman. First of all, I would like
22 to have it put on a public meeting agenda so that
23 we can get the input from all of the utilities.
24 And I think, obviously, that the kind of
25 information we're going to -- the feedback that

1 we're going to get is going to be toward reducing
2 the interest rate.

3 CHAIRMAN PICKETT: So you're saying
4 like the next public meeting just have an agenda
5 item?

6 COMMISSIONER MCALPINE: Yeah. So
7 that we can get input from everyone else. And,
8 secondly, there is, on the part of this
9 Commission, a tendency to ascribe to certain past
10 Commissioners a doctrine. And there are multiple
11 doctrines that we allude to at times. And without
12 ascribing any particular doctrine to any past
13 Commissioner, we might say the Kate Giard doctrine
14 or the Tony Price doctrine or the T. W. Patch
15 doctrine.

16 And we all know that they have taken a
17 certain position with respect to certain issues.
18 And this particular issue, the high interest rate
19 that -- what I call the default interest, because
20 there's several interest rates in statute. For
21 instance, on a judgment there's an interest rate
22 that ties to the federal reserve.

23 But the 10.5 percent is a statutory interest
24 rate. And there is a certain past Commissioner
25 who believed that having a 10.5 interest rate on

1 suspended dockets, that it was punitive. It was
2 recognized to be punitive. It was designed to be
3 punitive. And it ensured that, in rate cases,
4 people didn't come in with exorbitant rates --
5 exorbitant rate requests, for fear that if they
6 had to make a refund, that it would be punitive.

7 And that particular Commissioner's theory was
8 that by keeping punitive rates, we received more
9 legitimate rate requests. So in putting it on the
10 docket, Mr. Chairman, what I would like to see is
11 not only the utilities coming in and -- because my
12 forethought is that they're going to come in and
13 ask for a reduced rate, obviously.

14 And that if you had some consumer groups come
15 in, they may say that 10.5 percent is way too low.
16 I don't know. But what I would like to hear is
17 that being addressed in the context of the public
18 hearing.

19 CHAIRMAN PICKETT: And I will put
20 that on as an agenda item for the 24th of this
21 month.

22 COMMISSIONER ROKEBERG:
23 Mr. Chairman?

24 CHAIRMAN PICKETT: Just before we
25 have Norman jump in, I almost hate to see what

1 doctrine is going to be assigned to me in my
2 absence from the Commission.

3 COMMISSIONER MCALPINE: I am, too.

4 CHAIRMAN PICKETT: Please be
5 silent.

6 Commissioner Rokeberg?

7 COMMISSIONER ROKEBERG: As an
8 historic point, there's several Lisankie
9 doctrines, too, that we don't want to forget.

10 But, Mr. Chairman, I think we just heard from
11 Commissioner McAlpine the rationale to start a
12 rulemaking docket, which would be another
13 alternative. And I don't -- wouldn't necessarily
14 object to that. It does provide the forum for
15 people to come in and let us know what's going on
16 within the industry and then in the general
17 public. That may have some merit.

18 CHAIRMAN PICKETT: But before we
19 get to that, we'll do two things. We'll contact
20 the proponent of the current effort in the
21 legislature today or tomorrow. And then I will
22 put it on as a public agenda item for the meeting
23 on the 24th.

24 Commissioner Wilson, did you have anything
25 you wanted to weigh in?

1 COMMISSIONER WILSON: As everyone
2 on the dais is well aware and as I've stated at
3 public meetings before, I am in favor of this
4 being done through legislation rather than through
5 regulation. So anything we can do to encourage
6 the process, I think you should be doing.

7 CHAIRMAN PICKETT: Commissioner
8 McAlpine, did you have any other thought?

9 COMMISSIONER MCALPINE: I'd just
10 let the record reflect that I do not subscribe to
11 Commissioner Rokeberg's notion that the fastest
12 way to get things done is through the legislature.
13 Although, I would concur in his remark that when
14 you put something in front of the legislature, it
15 is subject to shenanigans.

16 CHAIRMAN PICKETT: Okay. On that
17 happy thought, I'm moving to another item under
18 other business, and that is to make the Commission
19 aware of some intent language that has been put
20 into the RCA budget on the House side.

21 Rich Gazaway and myself had a fairly
22 extensive conversation with Representative
23 Guttenberg a couple weeks ago on some intent
24 language that he had put in that was asking the
25 Commission to do a study, no fiscal note attached,

1 comparing the Alaska Plan to the Alaska Broadband
2 Plan and make specific recommendations for
3 financing the gap, I guess, or moving forward to
4 expand broadband in the state no later than
5 December 1st, 2017 to the House finance committee,
6 the Senate finance committee, and the legislative
7 finance committee.

8 After that, had some conversations with
9 Representative Seaton's office. And that language
10 at this point, unless it has changed in the last
11 day or two, is -- I'll just read it: It is the
12 intent of the legislature that the Regulatory
13 Commission of Alaska provide to the House finance
14 committee, the Senate finance committee, and the
15 legislative finance committee by December 1st,
16 2017 an analysis of Alaska's current broadband
17 coverage and providers' planned coverage
18 expansions and a description of the remaining gaps
19 in the statewide broadband infrastructure in
20 financing.

21 Again, no fiscal note, a rather compressed
22 time frame to do a study. Most of you remember a
23 couple of years ago the legislature directed the
24 Commission to look at the Railbelt electric
25 system, and they gave us a year to do that and

1 provided 250,000 in general fund money to
2 accomplish that.

3 And we happen to have about 75- or 80,000 in
4 remaining ARRA money that we're able to, you know,
5 tie to that. And that was the genesis of our
6 legislative findings and recommendation concerning
7 reformation and changes to the Railbelt electrical
8 system.

9 Those were entities that we economically
10 regulated, and we had a great deal of information
11 that had been thoroughly vetted and tested. And
12 so on a very granular basis down to depreciation
13 studies, specific assets we're aware of coming
14 into play, and all of the tariff provisions that
15 we approve, not to mention all the rate cases and
16 transmission cases, we had a much better basis
17 going forward.

18 In the telecommunications industry, that is
19 not where we're at. Quite frankly, when it comes
20 to cost data that has been tested and vetted in
21 terms of the individual carriers and the
22 companies, we know very little when it gets right
23 down to it.

24 And so if we're going to be asked to do this,
25 we'll -- if this language manages to survive

1 through the whole legislative process and becomes
2 part of the intent language, we'll do the best we
3 can. But, for the record, I'm just putting it out
4 there that your expectations had better be very,
5 very realistic and not some pie in the sky
6 aspirational stuff.

7 So with that, I will turn it over to any
8 comments the other Commissioners have.
9 Commissioner McAlpine?

10 COMMISSIONER MCALPINE: I should
11 point out that in at least three states, I've been
12 informed -- I haven't seen the actual
13 legislation -- but there is proposed legislation
14 in three states. And I don't know where
15 Representative Guttenberg is going with this, but
16 in those three states there is proposed
17 legislation to abolish entirely the state USF
18 funding as we know it today and redirect all of
19 the state USF funding to broadband.

20 And I believe Utah, New Mexico, and off the
21 top of my head, I'm not sure what the third state
22 is. It may be -- is it Colorado or South Dakota?
23 I don't recall. But you could probably check that
24 out. And I'm not sure what is directing
25 Representative Guttenberg's attention. But just

1 for the benefit of the listening audience, there
2 are states that are actually looking at putting
3 all of the state USF funding into broadband.

4 CHAIRMAN PICKETT: And that will be
5 part of the discussion that we will have on the
6 reformation of the state AUSF program and where it
7 ends up landing.

8 So any other Commissioner comments or
9 questions? I just wanted to bring this
10 information to everyone's attention because it is
11 out there. It is my intent, probably at the
12 second public meeting in April, to request that
13 AUSAC come in and make a presentation to the
14 Commission on the most current revenues and
15 expenditures with the state AUSF fund.

16 So just getting that out there. There will
17 be a formal request probably in the next week to
18 that effect. And with that, that's all I have
19 under other business. Is there any other business
20 Commissioners would care to bring to our
21 attention? That closes out agenda item number
22 four.

23 Mr. Goering, is there a need for an executive
24 session?

25 MR. GOERING: No, there is not.

1 CHAIRMAN PICKETT: Is there a
2 motion to adjourn this public meeting at
3 10:03 a.m.?

4 COMMISSIONER MCALPINE: So moved.

5 CHAIRMAN PICKETT: Second?

6 COMMISSIONER WILSON: Second.

7 CHAIRMAN PICKETT: All those in
8 favor say aye.

9 (Collective aye.)

10 CHAIRMAN PICKETT: Thank you for
11 attending this morning.

12 (Adjourned - 10:03 a.m.)

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1 TRANSCRIBER'S CERTIFICATE

2 I, Adrianell Poteet Sorrels, hereby
3 certify that the foregoing pages numbered 1
4 through 49 are a true, accurate, and complete
5 transcript of the Public Meeting, held at the
6 Regulatory Commission of Alaska on March 8, 2017,
7 transcribed by me from a copy of the electronic
8 sound recording to the best of my knowledge and
9 ability.

10 _____
11 Date Adrianell Poteet Sorrels, Transcriber

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