

# Report Highlights

## Why DLA Performed This Audit

In accordance with AS 24.20.271(11), the audit evaluates the accuracy of RCA's FY 19 annual report concerning statutory timelines, timeline extensions, and performance measures. The audit does not evaluate the effectiveness of RCA's decisions.

## What DLA Recommends

1. RCA's chair should ensure staff are trained to accurately present regulatory data in the annual report.
2. RCA's chair should develop written procedures for preparing the annual report.

# A Special Review of the Department of Commerce, Community, and Economic Development, Regulatory Commission of Alaska (RCA), FY 19 Annual Report

April 6, 2020

**Audit Control Number 08-30098-20**

## REPORT CONCLUSIONS

RCA publishes its utility and pipeline activities in one annual report, including information regarding compliance with its statutory timelines and other performance measures. Performance measures are established annually by the commission and included in the annual report. RCA's FY 19 performance measures are noted below.

**Target 1:** Review all utility and pipeline filings within applicable timelines.

**Target 2:** Review all utility and pipeline dockets within applicable timelines.

**Target 3:** Complete disposition of all informal complaints within established timelines.

**Target 4:** Participate in outreach opportunities to consumers.

The audit concluded RCA's annual report was materially accurate. Specifically, RCA accurately reported its compliance with statutory timelines covered in performance measures 1 and 2. Additionally, information supporting performance measure 3, covering timelines for informal complaints, and performance measure 4, covering outreach opportunities to consumers, was accurately reported.

Accuracy of information in RCA's annual report depends on the reliability of the data maintained in RCA's data management system. Auditors found that the data maintained in the system was reliable; however, auditors found instances where activity that occurred after FY 19 was incorrectly included in the FY 19 annual report. The inclusion of FY 20 activity did not impact conclusions regarding FY 19 compliance with statutory timelines.

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



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April 28, 2020

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA  
FY 19 ANNUAL REPORT

April 6, 2020

Audit Control Number  
08-30098-20

We have conducted an audit of the Regulatory Commission of Alaska's (RCA) annual report in accordance with AS 24.20.271(11). RCA is required to annually report the performance measures it has adopted, as well as its compliance with statutory timelines imposed on its activities. This audit reports on the accuracy of RCA's FY 19 annual report.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the conclusions presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

## ABBREVIATIONS

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ACN	Audit Control Number
AS	Alaska Statute
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DLA	Division of Legislative Audit
FY	Fiscal Year
RCA <i>or</i> commission	Regulatory Commission of Alaska

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# ORGANIZATION AND FUNCTION

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The Regulatory Commission of Alaska (RCA or commission) is responsible for ensuring safe, adequate, and fair public utility and pipeline services. The commission fulfills its responsibilities by allowing regulated entities to charge user rates and provide services in a manner consistent with both the public and regulated entities' interests. RCA has the authority to adopt regulations and to hold formal, quasi-judicial hearings to ensure that responsibilities are met.

The commission regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable television, and heat services through a certification process. A public utility or pipeline company must obtain a certificate of public convenience and necessity that describes the authorized service area and scope of operations. A certificate of public convenience and necessity is issued when RCA formally finds the applicant to be fit, willing, and able to provide the service requested.

In addition to the certification process, the commission may also economically regulate the rates, classifications, rules, practices, services, and facilities of public utility and pipeline companies covered by Alaska Statutes. The commission determines whether the rates being charged or proposed by regulated entities are fair, just, and reasonable.

All economically regulated utility and pipeline companies are required to maintain a tariff and operate under the terms of the tariff. Tariffs are the written terms, conditions, rules, and rates governing a company's conduct in providing public utility or pipeline services. The commission reviews all initial tariffs and tariff revisions.

The commission records in dockets the activities related to certifying and regulating public utility and pipeline companies, informal complaint resolutions, and regulation adoptions. These dockets are categorized into four types: utility, pipeline, complaint, and regulatory.

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As shown in Exhibit 1, RCA consists of five commissioners. The commissioners are appointed by the governor, confirmed by the legislature for six-year terms, and must either be a member of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public information from an accredited university. The commission's staff includes administrative law judges, engineers, financial analysts, consumer protection officers, and paralegals, as well as administrative and support staff. RCA also receives legal advice from counsel assigned to it by the Department of Law.

**Exhibit 1**

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**Regulatory Commission of  
Alaska Members as of  
March 31, 2020**

Robert Pickett, Chair  
*Term Expires March 2026*

Stephen McAlpine  
*Term Expires March 2021*

Antony Scott  
*Term Expires March 2022*

Daniel Sullivan  
*Term Expires March 2025*

Janis Wilson  
*Term Expires March 2024*

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Source: Office of the Governor, Boards and Commissions website.

RCA's FY 21 operating budget totaled \$9.3 million and included 54 permanent and three nonpermanent positions.



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## BACKGROUND INFORMATION

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The Regulatory Commission of Alaska (RCA or commission) is required to publish an annual report covering its activities and compliance with statutory timelines.

Alaska Statute 42.05.211 requires RCA to publish an annual report concerning public utility services and performance measures:

*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 public utility service in the state as of June 30 and must contain details about the commission's compliance with the requirements of AS 42.05.175(a) – (e), with the timeline extensions made by the commission under AS 42.05.175(f), and with other performance measures established by the commission.*

Similarly, AS 42.06.220 mandates RCA annually report on pipeline activities and performance measures, stating:

*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.*

Alaska Statute 42.05.175(a) – (f) provides timelines for tariff filings, and regulatory and utility dockets. Alaska Statute 42.05.175(i) addresses timelines for adjudicated utility docket matters that are not already subject to a timeline under federal law or AS 42.05.175(a) – (e). Exhibit 2 on the following page presents AS 42.05.175 timeline requirements.

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## Exhibit 2

### Alaska Statute 42.05.175 Timelines

- (a) The commission shall issue a final order not later than 180 days after a complete application is filed for an application
- (1) for a certificate of public convenience and necessity;
  - (2) to amend a certificate of public convenience and necessity;
  - (3) to transfer a certificate of public convenience and necessity; and
  - (4) to acquire a controlling interest in a certificated public utility.
- (b) Notwithstanding a suspension ordered under AS 42.05.421, the commission shall issue a final order not later than 270 days after a complete tariff filing is made for a tariff filing that does not change the utility's revenue requirement or rate design.
- (c) Notwithstanding a suspension ordered under AS 42.05.421, the commission shall issue a final order not later than 450 days 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 365 days 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 365 days 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 730 days after a complete petition for adoption, amendment, or repeal of a regulation under AS 44.62.180 – 44.62.290 is filed or, when the commission initiates a rule-making docket, not later than 730 days after the order initiating the proceeding is issued.
- (f) The commission may extend a timeline required under this section 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 the timeline;
  - (2) commission issues a written order extending the timeline and setting out its findings regarding good cause; and
  - (3) extension of time is 90 days or less.
- (i) In adjudicated docket matters that come before the commission under state law or federal law and are not subject to a timeline under federal law or (a) – (e) of this section, the commission shall issue a final order not later than 180 days after the filing of an initiating petition. If the matter is commenced on the commission's own motion, the commission shall issue a final order not later than 365 days after the issuance of an order opening the docket. This subsection does not apply to a complaint against a utility, a petition to revoke a certificate of public convenience and necessity, or a functionally equivalent filing.

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Source: Alaska Statutes.

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# REPORT CONCLUSIONS

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The audit evaluates the accuracy and completeness of information reported in the Regulatory Commission of Alaska's (RCA or commission) FY 19 annual report concerning compliance with statutory timeline requirements and other performance measures adopted by the commission. The audit does not evaluate the effectiveness of RCA's decisions.

The commission publishes its utility and pipeline activities in one annual report, including information regarding compliance with its statutory timelines and other performance measures. Performance measures are established annually by the commission and included in the annual report. RCA's FY 19 performance measures are noted in Exhibit 3.

## Exhibit 3

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### RCA FY 19 Performance Measures

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**Target #1:** Review all utility and pipeline filings within applicable timelines.

**Target #2:** Review all utility and pipeline dockets within applicable timelines.

**Target #3:** Complete disposition of all informal complaints within established timelines.

**Target #4:** Participate in outreach opportunities to consumers.

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Source: RCA FY 19 Annual Report.

The audit concluded RCA's annual report was materially accurate. Specifically, RCA accurately reported its compliance with statutory timelines covered in performance measures 1 and 2. Additionally, information supporting performance measure 3, covering timelines

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for informal complaints, and performance measure 4, covering outreach opportunities to consumers, was accurately reported.

Accuracy of information in RCA's annual report depends on the reliability of the data maintained in the commission's data management system. Data maintained in the system was reliable; however, auditors found instances where activity that occurred after FY 19 was incorrectly included in the FY 19 annual report. The inclusion of FY 20 activity did not impact conclusions regarding FY 19 compliance with statutory timelines.

Detailed report conclusions are as follows.

RCA's FY 19 annual report data for utility dockets, pipeline dockets, tariff filings, and statutory extensions was accurate.

An analysis of the utility dockets, pipeline dockets, tariff filings, and statutory extensions verified that the commission accurately reported its compliance with statutory timeline requirements.

Not all data for regulatory dockets was found to be accurately reported.

An analysis of regulatory dockets verified that, in the FY 19 annual report, the commission accurately reported its compliance with statutory timeline requirements. However, the annual report also included additional information for dockets that was found to be inaccurate, such as the date opened and final order date. Two of two regulatory dockets tested either incorrectly reported the date opened or lacked reporting of the final order date. (Recommendation 1)

RCA's FY 19 annual report contained docket information for actions after June 30, 2019.

During review of the utility, pipeline, and regulatory dockets presented in the annual report, the audit identified 33 out

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of 263 dockets reported a final order date and/or date closed after June 30, 2019. (Recommendation 2)

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# FINDINGS AND RECOMMENDATIONS

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The audit<sup>1</sup> of the Regulatory Commission of Alaska's (RCA or commission) FY 17 annual report contained no recommendations. There are two new recommendations as a result of this audit.

**Recommendation No. 1:** The audit tested two of the four regulatory dockets presented in the FY 19 annual report and found the following:

**RCA's chair should ensure staff are trained to accurately present regulatory data in the annual report.**

- final order date for one docket was not included in the annual report; and
- open date reported for one docket did not match hard copy documentation and was incorrect by one month.

According to commission management, the inaccurate reporting was due to staff turnover and lack of adequate training.

Alaska Statutes 42.05.211 and 42.06.220 require the commission publish an annual report reviewing its activities during the previous fiscal year and addressing the regulation of public utility service and regulation of oil and gas pipeline facilities in the state as of June 30<sup>th</sup>. Inaccurate or misreported regulatory data in the commission's annual report may mislead policy makers and other report users.

We recommend RCA's chair ensure staff are trained to accurately present regulatory data in the annual report.

**Recommendation No. 2:** RCA's FY 19 annual report included data for utility, pipeline, and regulatory dockets that occurred after June 30, 2019. Specifically, 33 of 263 dockets reported a final order date and/or close date that occurred after June 30, 2019.

**RCA's chair should develop written procedures for preparing the annual report.**

Alaska Statutes 42.05.211 and 42.06.220 require the commission publish an annual report reviewing its activities during the previous

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<sup>1</sup> Department of Commerce, Community, and Economic Development, Regulatory Commission of Alaska, FY 17 Annual Report (ACN 08-30091-18).

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fiscal year and addressing the regulation of public utility service and regulation of oil and gas pipeline facilities in the state as of June 30<sup>th</sup>.

According to commission management, actions after June 30, 2019, were incorrectly included in the FY 19 annual report due to a lack of written procedures.

We recommend RCA's chair develop written procedures for preparing the annual report to ensure data for dockets is reported as of June 30<sup>th</sup> in accordance with statutory requirements.



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# OBJECTIVES, SCOPE, AND METHODOLOGY

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In accordance with Title 24 of the Alaska Statutes, we have reviewed the information pertaining to statutory timelines, timeline extensions, docket and tariff detail, and performance measures in the Regulatory Commission of Alaska’s (RCA or commission) FY 19 annual report.

## Objectives

The objective of the audit was to determine if the commission’s FY 19 annual report accurately presents information regarding the timeline requirements of AS 42.05.175(a) – (e), commission timeline extensions implemented under AS 42.05.175(f), and the commission’s adopted performance measures.

The commission’s FY 19 annual report was examined to determine data accuracy for the reporting of:

- utility, pipeline, complaint, and regulatory dockets;
- tariff filings;
- timeline extensions; and
- RCA-adopted performance measures.

## Scope

We reviewed dockets that were in open status at any point during FY 19 and tariff filings that were processed during the same time period. We also reviewed outreach activities conducted during FY 19.

## Methodology

Random samples of docket and tariff filings were selected and evaluated to determine the accuracy of the docket and tariff data presented in the commission’s FY 19 annual report. For populations less than or equal to 250, sample sizes were ten percent of the population. For populations greater than 250, sample sizes were selected based on low control risk, low inherent risk, and high audit risk.

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For each sample, selected case management system data used to compile the annual report was compared to the commission's supporting records. Testing results were projected to the population. The random samples included the following:

- twenty of 197 utility docket;<sup>2</sup>
- seven of 62 pipeline docket;
- two of four regulatory docket;
- twenty-two of 214 complaint docket; and
- twenty-two of 313 tariff filing.

Performance measures reported in the commission's FY 19 annual report were evaluated for accuracy. The evaluation included:

- examining the testing results of the case management system's data for docket, timeline extension, and tariff filing;
- recalculating all performance measures reported in the FY 19 annual report; and
- inquiring of agency management concerning outreach activities completed during the year and examining program materials.

During the course of the audit, we also:

- examined Alaska Statutes specific to RCA to determine statutory timeline and reporting requirements;
- conducted interviews with RCA management and responsible personnel to gain an understanding of case management system data and the information presented in the FY 19 annual report; and
- assessed control procedures over the case management system data.

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<sup>2</sup> There were 12 docket with timeline extension during FY 19 and all 12 were utility docket. We randomly selected three of the 12 utility docket that had timeline extension during FY 19 as part of our sample. Their timeline extension were evaluated and compared to supporting records.

# Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

OFFICE OF THE COMMISSIONER  
Anchorage Office

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Main: 907.269.8100  
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October 6, 2020

Kris Curtis, CPA  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

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OCT 06 2020

LEGISLATIVE AUDIT

RE: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development, Regulatory Commission of Alaska, FY2019 Annual Report Audit, September 16, 2020

Dear Ms. Curtis,

Thank you for the opportunity to respond to the conclusions, findings, and recommendations issued in the preliminary audit of the Regulatory Commission of Alaska's (RCA) FY2019 annual report.

The Department of Commerce, Community, and Economic Development (Department) agrees with your conclusion that the RCA's annual report is materially accurate and that the data in the RCA's data management system is reliable.

- Recommendation 1: the RCA's chair should ensure staff are trained to accurately present regulatory data in the annual report.


The department agrees with this recommendation. Training staff to enter data into the annual report is necessary to accurately present data and produce the annual report with accuracy and consistency.

- Recommendation 2: the RCA's chair should develop written procedures for preparing the annual report.

The department agrees with this recommendation, and the RCA has affirmed their intent to develop written procedures to ensure that data entered in the annual report is accurately presented.

If you should have additional questions, please feel free to contact me at 269-8100.

Sincerely,

  
Julie Anderson  
Commissioner

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# Agency Response from the Regulatory Commission of Alaska



STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

*Michael Dunleavy, Governor  
Julie Anderson, Commissioner  
Robert M. Pickett, Chairman*

Regulatory Commission of Alaska

Date: October 6, 2020

**RECEIVED**

OCT 06 2020

**LEGISLATIVE AUDIT**

Kris Curtis, CPA, CISA  
Legislative Auditor  
Division of Legislative Audit  
Legislative Budget and Audit Committee  
Alaska State Legislature  
PO Box 113300  
Juneau, AK 99811-3300

RE: Confidential preliminary audit report on Department of Commerce, Community, and Economic Development, Regulatory Commission of Alaska, FY 19 Annual Report Audit, September 16, 2020

Dear Ms. Curtis:

On September 16, 2020, the Regulatory Commission of Alaska (RCA) received the confidential preliminary audit report on the RCA's FY 19 annual report. You requested that a response address the Report Conclusions as well as the Findings and Recommendations.

The RCA appreciates the preliminary audit report's conclusions that the RCA accurately reported the status of statutory timeline extensions, performance measures, utility and pipeline dockets, and tariff filings. The RCA appreciates and recognizes the importance of consistent, complete, and accurate information.

The RCA is pleased that the preliminary audit report confirms the commission's hard work on the FY 19 annual report. The RCA also appreciates the preliminary audit report's two recommendations.

- Recommendation No. 1 – RCA's chair should ensure staff are trained to accurately present regulatory data in the annual report

Regarding the first recommendation, the RCA agrees with ensuring staff are accurately trained in presenting data in the annual report. The RCA plans to develop written procedures for use when creating the annual report. This will ensure that data entered in the annual report is accurately presented. Staff can follow the procedures to accurately report data and

- Recommendation No. 2 – RCA's chair should develop written procedures for preparing the annual report.

Regarding the second recommendation, the RCA agrees that written procedures should be created. Having written procedures will help to ensure consistency over the years of how information is reported and entered into the annual report.

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The RCA will continue to implement and enforce written procedures to ensure data is consistent, complete, and accurately reflected in the annual report. The RCA will also develop and implement a written procedure manual for the annual report.

We thank Legislative Audit for a fair and honest evaluation. The RCA also recognizes it must strive to continually maintain the standards that have been established.

Respectfully yours,



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Robert M. Pickett  
Chairman

cc: The Honorable Julie Anderson  
Commissioner  
Department of Commerce, Community, & Economic Development