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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 151 by Bennett

Simple interest (one percent per month), to be paid by utility companies to consumers, on their utility deposits. Interest shall be paid in accordance with regulations adopted by the commission.



Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

UTILITY DEPOSITS

JUNEAU- Alaska Electric Light & Power

Type of Customer: Residential Service: \$20 minimum
Mobile Home Service: \$30 minimum
Temporary Service: \$30 minimum
Small Commercial Service: \$20 minimum
Large Commercial Service: \$50 minimum
Manufacturers Service: \$500 minimum
Processors Service \$500 minimum
Street Light in Yard \$20 minimum

Persons with a history of poor credit may be charged 2 months projected electric bill, however this has never been required.

After 2 years of established good credit with the utility, deposits are refunded.

Total deposits (Nov. 80) held by AEL&P \$78, 655.00

Ketchikan- Ketchikan Public Utilities: Presently paying 6% per annum.

Type of Customers: Residential Service \$50 (minimum)
Business Service \$100 (minimum)

Business customers are evaluated to determine if a one month projected service should be required; (maximum)

Credit Service evaluates residential consumers, and when necessary requires a one month projected use as the deposit.

Deposits are refunded after one year of satisfactory service.

Total deposits held by Ketchikan Public Utilities- \$80,000

FAIRBANKS- Postion paper outlining Golden Valley Electric Assoc. enclosed in individual committee members files.

Anchorage - Anchorage Municipal Light and Power:

Type of Customer: More information coming;
Total Electric deposits \$29,000



Alaska State Legislature

Senate

JUNEAU, ALASKA

ANCHORAGE: Anchorage Municipal Light & Power

Type of Customer: Residential \$10 new customer; no deposit customers with good utility credit rating. Customers with poor credit history, 2 months projected service bill.

Commercial Service: \$50 without established usage; In the case of a new business with previously established owners, 2 months service calculated by averaging the prior 12 months service charges, will be assessed as the deposit.

Anchorage Water Utility:

Residential: \$20

Commercial: \$50

Anchorage Telephone and Tolls

Residential: \$50 (minimum)

Commercial: 2 months flat rate plus 2 months projected toll rate required as deposit.

All deposits are kept by the Utilities for 24 months, and at that time when customers demonstrate good credit, they are given a refund.

No interest is paid on utility deposits.

KODIAK- Kodiak Electric: Presently pays no interest on deposits.

Type of Customers: Residential: \$50 minimum

Small Commercial: \$100 minimum

Large Commercial: \$1,500 for consumers using
over 50,000 KVA

Maximum deposit required for persons with a poor credit history is two months projected service. Refunds are given after 2 years of demonstrated reliability. Total deposits held by Kodiak Electric as of Dec 1980- \$72,500.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

SUPPLEMENT TO REGULATION Q †

As amended effective January 15, 1981

SECTION 217.7—MAXIMUM RATES OF INTEREST PAYABLE BY MEMBER BANKS ON TIME AND SAVINGS DEPOSITS

Pursuant to the provisions of Section 19 of the Federal Reserve Act and § 217.3 of this Part, the Board of Governors of the Federal Reserve System hereby prescribe the following maximum rates¹ of interest per annum payable by member banks of the Federal Reserve System on time and savings deposits:

(a) Time deposits of \$100,000 or more. There is no maximum rate of interest presently prescribed on any time deposit of \$100,000 or more.

(b) Fixed ceiling time deposits of less than \$100,000. Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity	Maximum per cent
14 days or more but less than 90 days	5¼
90 days or more but less than 1 year	5½
1 year or more but less than 2½ years	6
2½ years or more but less than 4 years	6½
4 years or more but less than 6 years	7¼
6 years or more but less than 8 years	7½
8 years or more	7¾

(c) Saving deposits. No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit. No member bank shall pay interest at a rate in excess of 5½ per cent on any savings deposit that is subject to negotiable orders of with-

¹ The limitation on rates of interest payable by member banks of the Federal Reserve System on time and savings deposits, as prescribed herein, are not applicable to any deposit which is payable only at an office of a member bank located outside the States of the United States and the District of Columbia.

drawal, the issuance of which is authorized by Federal law.

(d) Governmental unit time deposits of less than \$100,000. Except as provided in paragraphs (a), (f), and (g), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of 8 per cent.²

(e) Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than \$100,000. Except as provided in paragraphs (a) and (g), a member bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401, at a rate not in excess of 8 per cent.²

(f) 26-week money market time deposits of less than \$100,000. Except as provided in paragraphs (a), (b) and (d), a member bank may pay interest on any nonnegotiable time deposit of \$10,000 or more, with a maturity of 26 weeks at a rate not to exceed the rates set forth below:

Rate established (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit ("Bill Rate")	Maximum Per Cent
7.50 per cent or below	7.75
Above 7.50 per cent	Bill Rate plus one-quarter of one per cent

² The ceiling rate on this category is the highest fixed ceiling rate that may be paid on time deposits under \$100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association.

JANUARY 1981

† Destroy any previous Supplements.

Rounding rates to the next higher rate is not permitted and interest may not be compounded during the term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of \$10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (IRC 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.³

(g) Time deposits of less than \$100,000 with maturities of 2½ years or more. Except as provided in paragraphs (a), (b), (d) and (e), a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more that is issued on or after Thursday of every other week at a rate not to exceed the higher of one-quarter of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.25 per cent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. Except as provided below, in no event shall the rate of interest paid exceed 11.75 per cent. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

³ The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is 7.75 per cent when the Bill Rate is 7.25 per cent or lower, one-half of one per cent above the Bill Rate when the Bill Rate is above 7.25 per cent but below 8.50 per cent, 9.00 per cent when the Bill Rate is 8.50 per cent or above but below 8.75 per cent, and one-quarter of one per cent above the Bill Rate when the Bill Rate is 8.75 per cent or above.

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.⁴

(h) Obligations of the parent bank holding company of a member bank. Notwithstanding the above, interest may be paid on a deposit as defined in § 217.1(h) of this Part at a rate not to exceed the following schedule:

*Original
Maturity or
Redemption
Period*

2½ to
4 years

Maximum Per Cent:

For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For a successive period thereafter, interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 2½ year variable ceiling time deposits established pursuant to the provisions of § 217.7(g) in effect at the time the obligation was issued.

⁴ The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is one-quarter of one per cent above the rate that may be paid by member banks.

26 weeks or
more but
less than
2½ years
(\$10,000
minimum
denomina-
tion
required)

For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For a successive period thereafter interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 26-week money market time deposits established pursuant to the provisions of § 217.7(f) in effect at the time the obligation was issued.

14 days or
more but
less than
2½ years
(No mini-
mum de-
nomination
required)

Interest may be paid at the ceilings established pursuant to the provisions of § 217.7(b) in effect at the time the obligation is issued.

less than
14 days

No interest may be paid.



The Golden Heart City

OFFICE OF THE MAYOR

February 12, 1981

Seantor Don Bennett
Alaska State Senate
Pouch V - State Capitol
Juneau, AK 99811

Dear Don:

This is in reference to the Senate Bill requiring interest be provided on utility deposits. We now pay 8% locally. Without doing any research as to what other utilities are doing, I would prefer local option. However, I agree that interest should be paid.

I will be sending you some information on an engineering research facility for the University of Alaska in a few days.

Thank you for your efforts.

Sincerely,

Ruth E. Burnett
Mayor, City of Fairbanks

REB/mdw

SENATOR
DON BENNETT
P.O. BOX 2801
FAIRBANKS, ALASKA 99707



Senate

aid

LEGISLATIVE ADDRESS
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811

February 16, 1981

Duane A. White
Div. Customer Service Manager
P.O. Box 2008
Juneau, Alaska 99803

Dear Mr White;

Thank you for your letter regarding my Senate Bill 151 which I have introduced into the Senate recently. I appreciate your comments.

While I can appreciate the need for a utility to protect itself from potential deadbeats, I think it is equally important that people are entitled to a fair rate of return on their captured funds. In that short term time deposits are currently paying 14% to 15% interest, I see no reason why public chartered monopolies should not be required to pay 12%, as the monies which they hold is their insurance against loss. I think the citizen is also entitled to insure against their loss of earning power.

Rest assured that there are several other bills which I will introduce in the future which will, hopefully, insure that utility monopolies are both fair and equitable to the areas they serve.

Thank you again for your views and the information you copied me with.

Best Regards,

A handwritten signature in cursive script, appearing to read "Don Bennett".

Senator Don Bennett

cc Commissioner Zerbetz



Juneau & Douglas Telephone Company

A Member of Continental Telephone System

2093 Jordan Avenue / P.O. Box 2008
Juneau, Alaska 99803
(907) 789-0280

FEB 10 1981

January 27, 1981

Senator Don Bennett
P. O. Box 2801
Fairbanks, Alaska 99707

Dear Senator Bennett:

Thank you for soliciting our thoughts on your proposed bill which would require interest to be paid on customer utility deposits. The following are those thoughts.

At Juneau and Douglas Telephone Company we require deposits only when a customer is a known credit risk or when he or she cannot prove any sort of established credit history. We try to use good judgement when requiring deposits as we do not desire to offend our customers, nor do we particularly enjoy the administrative effort associated with handling deposits. In all cases, deposits are refunded when the customer has demonstrated reliability.

The idea of requiring the utility to pay interest on deposits is common and in most States it is required. However, it seems to me that it has more political than economic value.

Consider: deposits are used to minimize write-offs of uncollectible bills because such write-offs, being a legitimate business expense, are passed on to all customers as a portion of the monthly rate. Therefore, deposits are used to protect the paying customers from those who fail to pay. Interest paid on deposits is also a legitimate business expense and is passed on to all customers as a portion of the monthly charge. Therefore, the reliable customer ends up paying more for his/her service so that we can pay interest to the high-risk customer. This has never made any sense to me.

Thank you again for your inquiry. For your information I have enclosed a copy of that section of our tariff which covers establishment of credit and deposits.

Sincerely,

Duane A. White
Div. Customer Service Mgr.

DAW:sd

Enclosure

JUNEAU AND DOUGLAS TELEPHONE COMPANY

State of Alaska
Public Utilities Commission

RULE NO. 5

DEPOSITS (continued)

A4 Return of deposits

B1 The utility will refund the deposit in accordance with the following

C1 When an application for telephone service has been cancelled prior to the establishment of service, the deposit will be applied to any charges applicable in accordance with the tariff schedules and the excess portion of the deposit will be returned, and the applicant will be so advised.

C2 When the customer's credit may be otherwise established in accordance with Rule No. 4 and upon the customer's request for return of the deposit.

C3 Upon discontinuance of telephone service, the utility will refund within 60 days the customer's deposit or the balance in excess of unpaid bills for that service, and the customer will be so advised.

C4 After the customer has paid bills for telephone service for 12 consecutive months without having had this service temporarily or permanently discontinued for nonpayment of bills, or the customer has not been delinquent in payment more than once in any 12 consecutive months, the utility will refund the deposit.

(L)

(L)

(L) Material formerly shown in revised form on First Revised Sheet No. 27 of this schedule.

Advice Letter No. 78

Effective APR 18 1977

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By [Signature] Title PRESIDENT

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT (continued)

A2 Reestablishment of credit (continued)

B2 An applicant who previously has been a customer of the utility and during the last twelve months of the prior service has had service temporarily or permanently discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility, and will be required to reestablish credit by making the deposit prescribed in Rule No. 5 before the utility will be obligated to provide service.

(C)

(C)

Material omitted now shown in different form on First Revised APUC Sheet No. 25 or withdrawn in its entirety.

Advice Letter No. 27 Effective March 20, 1974

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By C. N. Morris Title PRESIDENT

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT

A1 Establishment of credit

Each applicant for telephone service will be required to establish credit, which will be deemed established upon qualifying under any one of the following:

(C)

B1 Applicant has been a customer of the utility or any other telephone utility in the State of Alaska in the last two years and during the last twelve consecutive months that service was provided has paid all bills for such service, without having been temporarily or permanently discontinued for nonpayment thereof.

B2 Applicant is the owner of the premises upon which the utility is requested to furnish service, or is the owner of other local real estate; in the case of business service; real estate must be business property.

B3 Applicant furnishes a guarantor satisfactory to the utility to secure payment of bills of applicant for telephone service requested in the application.

B4 Applicant's credit is otherwise established to the satisfaction of the utility.

(C)

B5 Applicant makes the deposit prescribed in Rule No. 5.

(T)

A2 Reestablishment of credit

(L)

B1 A customer whose service has been discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility for the premises for which service is to be restored and may be required to pay a reconnection charge as prescribed in Rule No. 9 under "Restoration - Reconnection Charge" and to reestablish credit by making the deposit prescribed in Rule No. 5, before service is restored.

(L)

(L) Material formerly appeared on Original APUC Sheet No. 26 in different form.

(continued)

Advice Letter No. 27 Effective March 20, 1974

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By C. N. Morris Title PRESIDENT

Customer Security Deposits

GVEA's present minimum deposit schedule is \$50 for an owner, \$70 for a renter, and \$100 for a total electric.

Present APUC regulations call for return of security deposits within 24 months, unless there is documented credit infractions, or interest must be paid on the deposited amount.

This was set by the APUC to allow the utilities protection against potential bad debt losses from new customers until satisfactory credit history has been established.

One must keep in mind that electric utilities are in a somewhat unique and precarious position in the business world as they are required to provide electric service to all comers (including known high risks) on a credit basis.

One hundred percent of the utilities business is on a credit basis, with each customer provided energy on credit for at least a 60-day span before service can be terminated for non-payment. The only protection afforded the utility is the security deposit.

GVEA has ^{had} an A-1 Credit policy in effect for over ten years that functions as follows:

1. Each account is reviewed on an annual basis (in March-April).
2. All accounts that have been active for the past twelve months and have no more than one monthly payment infraction are classified A-1 Credit and their security deposit returned.

3. GVEA returned 1465 deposits
totaling \$58,750.00 in May 1980.

We feel that in this way only the consumer who has not established an acceptable credit record is required to continually post a security deposit; the good-pay customer is relieved of the deposit requirement.

A program which would require the accrual and payment of interest on utility security deposits would impose accounting costs to administer such a program that would more than likely exceed the interest paid, i.e., interest @ 8% on a \$50 deposit would only be \$4 annually.

Also, such a program would require GVEA, in the majority of cases, to pay interest to those customers who have a history of bad payment and over extension of credit; this would be at the expense of the A-1 Credit customers.

GVEA has never had a past-due-penalty assessment policy on overdue billings chiefly because of a high ratio of administrative cost to revenue received by such a policy. If GVLA is required to implement ~~an~~ interest payment on deposits, the costs of this would have to be covered by additional revenue generated elsewhere. The most likely and justifiable avenue would be a past-due penalty assessment on delinquent accounts.

Our objection is that both the interest and past due penalty policies are very heavily laden with costs of administration that the consumer would come out considerably on the short end of the stick.

It is GVEA's position that the most economical and fairest method is to require new consumers to put security deposits up front until each has demonstrated a pattern of credit integrity.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Commerce & Economic Development	Sponsor (Principal) Bennett	Bill Number SB 151
Department Position		
Division Director	Date Carolyn S. Guess	Date 2/23/81

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill
3. Program Effects of Bill	

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments: There is no consensus of the Commission regarding its position on this legislation which involves the controversial issue of requiring utilities to pay interest on deposits. There is agreement, however, that through the promulgation of regulations, the Commission has the authority to effect the intent of the proposed legislation. Because it has not been persuaded or requested to promulgate such regulations, this has not been done to date.

The Commission is in agreement that if utilities are required to pay interest on deposits, the rate of interest should be set by the Commission and adjusted annually, if necessary. This is the practice in a number of states and provides for consideration of changing economic conditions.

In support of this legislation, it is argued the Alaska Municipal Code requires municipal utilities to pay interest on customer deposits (AS 29.48.060); thus AS 42.05 should be made consistent as a matter of policy. In addition, some utilities regulated by the Commission do

(Cont'd) pay interest on deposits. As monthly utility bills increase, especially ^{for} the electric energy, the deposit required may become very sizeable, potential several hundred dollars. For those more sophisticated utilities employing computerized billing, the expenses associated with interest computation and record keeping are minimal. The administrative cost to the utilities will vary, however, depending on the number of consumers, the location and sophistication of the utility's operation.

In opposition to this legislation, interest paid on deposits is recovered through the ratemaking process and, therefore, ultimately borne by all consumers.

Under the Commission's regulations (3 AAC 48.420) as a condition of receiving service, a utility may require a deposit equal to the estimate of two monthly billings. The utility may not retain that deposit for more than two years providing that in the interim period the utility has not been forced to disconnect the consumer's service for reasons of delinquency and that there has been no more than one delinquent payment in any 12 consecutive months. The proposed legislation could require a utility to pay interest on rather large deposits if the customer has a track record of delinquent payments, therefore requiring responsible utility customers to bear the interest expense of those customers who have been financially irresponsible. It is also argued that the purpose of a deposit is to guarantee to the utility that customer's bill will be paid and does not presume that utilities are in the banking business.

If the Legislature believes an alternative to the proposed legislation is desirable, the Commission through proposed regulations can receive evidence and comments regarding whether payment of interest on deposits should be mandated for all utilities economically regulated by the Commission.

tion to keep its poles, tracks, pipes, or other equipment in a safe and proper condition, it has no right to impose a tax for revenue purposes except such as it is expressly authorized to levy and collect by the legislative power creating it. *Town of Seward v. Seward Water & Power Co.*, 5 Alaska 52 (1914).

Am. Jur., ALR and C.J.S. references.—37 Am. Jur., Municipal Corporations, § 48 et seq.

Sec. 29.48.060. Public utilities rates. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (2 ch 118 SLA 1972)

This section was intended to refer, not only to franchises thereafter to be granted, but to franchises then in existence. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924); *Town of Cordova v. Alaska Pub. Util.*, 9 Alaska 196 (1937).

City may not contract away power to fix rates of utilities.—A city may not contract away its power to fix, and from time to time change, the rates to be charged by private organizations engaged in furnishing public services. Such action is prohibited by this section and by AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080). *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But may contract as to rates for its own services.—This section and AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080) have no effect upon the power of a city to fix contractually the rates to be charged a user of a municipally owned public utility. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Rates may not be irrevocably fixed.—There is not necessarily included in the power of a municipality to pro-

Motive of council passing ordinance as to franchise as affecting validity thereof, 32 ALR 1525.

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

64 C.J.S. Municipal Corporations § 1726.

vide lights for a city, the power to enter into a binding contract whereby the rates to be charged by a public utility corporation shall be irrevocably fixed. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864, (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

All the operator of a public utility is entitled to is a reasonable return on his net capital investment, represented by property actually used and useful in the public service, and then only provided that his operation is efficient and economical. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

But rates fixed too low are confiscation of property. — Where the rates prescribed are not sufficient to meet operating expenses, there is not merely an incidental diminution in the value of plaintiff's property, such as would be unavoidable upon any exertion of the police power to fix rates which diminished income, but a confiscation in the constitutional sense, and the enforcement of the ordinance should be enjoined, without prejudice, however, to the right of the city to take such further proceedings as it may deem necessary in connection with the amendment of its ordinance.

Pichotta v. City of Skagway, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

Meaning of "Invested capital" section, means regardless of ownership, plus minus accrued value. *City of Skagway v. F. Supp. 999* (D. Alas. 1948). The term "invested capital" should not be construed to mean value, nor is it the benefit of value, nor should be construed to mean for a utility by

Sec. 29.48.070. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (2 ch 118 SLA 1972)

Am. Jur. and ALR references.—37 Am. Jur., Public Utilities, § 48 et seq.

Sec. 29.48.070. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (2 ch 118 SLA 1972)



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line 21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 166 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertently excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.

Revenue and Taxation
Title 43

Services. at 21

ns. (a) A p...
of far as it g...
of gas or of...
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§ SLA 1970)

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Sec. 42.05.601. Actions to recover penalties; disposition. (a) Actions to recover penalties under this chapter shall be brought by the attorney general in a court of competent jurisdiction.

(b) All penalties recovered under the provisions of this chapter shall be paid to the commission and deposited by it in the general fund of the state. (§ 6 ch 113 SLA 1970)

Sec. 42.05.611. Penalties cumulative. (a) All penalties imposed under this chapter are cumulative and an action for the recovery of a civil penalty is not a bar to any criminal prosecution; a criminal prosecution is not a bar to an action for the recovery of a civil penalty.

(b) Neither a criminal prosecution nor an action to recover a civil penalty is a bar to an enforcement proceeding to require compliance, or to any other remedy provided by this chapter. (§ 6 ch 113 SLA 1970)

Sec. 42.05.621. Joinder of actions. Under the applicable court rules, appeals from orders of the commission, applications for enforcement of commission orders and actions for recovery of a penalty may be joined. The court may in the interests of justice separate the actions. (§ 6 ch 113 SLA 1970)

Article 9. Miscellaneous Provisions.

Section	Section
601. Eminent domain	671. Public disclosure of information
641. Regulation by municipality	681. Validity of certain certificates
691. Expenses of investigation or hearing	691. Utility classes
71. Application fees	

Recap of former article. — Section 601, 641, 691, 71, 1970 repealed former Article 9 of the "General Provisions." The former article consisted of §§ 42.05.610 — 42.05.650 and derived from ch 199, SLA 1970; ch 156, SLA 1969; ch 95, SLA 1968; ch 74, SLA 1964; and ch 123, SLA 1963.

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Sec. 42.05.631. Eminent domain. A public utility may exercise the right of eminent domain for public utility uses. This section does not require the use of a declaration of taking. (§ 6 ch 113 SLA 1970)

Sec. 42.05.641. Regulation by municipality. The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision or regulation of the commission and a charter, permit, franchise, ordinance, rule or regulation of such a local governmental entity, the certificate, order, decision or regulation of the commission shall prevail. (§ 6 ch 113 SLA 1970)