

HB

314

SFIN

FILE

COMMITTEE REPORT
SENATE

FURTHER:

5/8/86

Date 5/12/86

Mr. President

The Committee on FINANCE considered HB 314 am
relating to the Alaska Public Utilities Commission Act; efd.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- ☐ do pass
- ☐ do pass with attached amendment(s)
- ☒ replace with/or adopt SCS for HB 314 (Fin)
- ☐ new title
- ☐ same title and recommends "DO PASS"
- ☒ and attached a ^{SFC} "LETTER OF INTENT"
- ☐ reports it back without recommendation
- ☐ recommends referral to _____ Committee

☒ NEW FISCAL NOTE

~~⊕~~ ^{SFC} Comin

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Rick Halford

[Signature]

[Signature]

[Signature] No Rec

[Signature]

Co - [Signature]
Chairman

do pass
Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

REQUEST

Bill/Resolution No.: SCS HB 314 (Fin)
 Title: Alaska Public Utilities
Act; efd

Sponsor: Davis
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Revision Date: _____

Agency Affected: Dept Commerce &
Economic Development

Alaska Public Utilities Commission
 Components: Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This fiscal note replaces all previous fiscal notes.

Prepared by: John C. Sackett, Co-chairman
 Division: Senate Finance Committee

Phone: 5/12/86
 Date: 465-3753

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Sackett
5/12/86

SENATE FINANCE COMMITTEE

Letter of Intent for SCS CSHB 314(Fin)

It is the intent of the Senate Finance Committee that duplicative reporting requirements for REA financed electric cooperatives be eliminated. Because of the similarity of the information required in REA quarterly reports, and that required by the APUC in it's annual report, the commission should allow submittal of REA forms for the annual reporting requirements of electric cooperatives.

Sackett
Adopted
5/12/86

Original sponsor: Davis

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR HOUSE BILL NO. 314 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities
7 Commission Act; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 42.05.251 is amended to read:

10 Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGH. Public
11 utilities have the right to a permit to use public streets, alleys,
12 and other public ways of a municipality [CITY OR BOROUGH, WHETHER HOME
13 RULE OR OTHERWISE,] upon payment of a reasonable permit fee and on
14 reasonable terms and conditions and with reasonable exceptions the
15 municipality [CITY OR BOROUGH] requires. The fee may not exceed the
16 actual cost to the municipality of the utility's use of the public way
17 and of administering the permit program. A dispute as to whether
18 fees, terms, conditions, or exceptions are reasonable shall be decided
19 by the commission. The commission may require a utility to add the
20 amount of any permit fee paid as a pro rata surcharge to its bills for
21 service rendered at locations within the boundaries of any municipal-
22 ity that [CITY OR BOROUGH WHICH] requires payment of a permit fee.

23 * Sec. 2. AS 42.05.361(c) is amended to read:

24 (c) The commission may reject the filing of all or part of a
25 tariff that [WHICH] does not comply with the form or filing regu-
26 lations of the commission [OR WHICH IS NOT CONSISTENT WITH THIS CHAP-
27 TER OR THE REGULATIONS OF THE COMMISSION]. A tariff or provision so
28 rejected is void. If the commission rejects a filing, it shall issue
29 a statement of the reasons for the rejection. Unless the utility and

1 the commission agree to an extension of time, the commission may not
2 reject a filing under this subsection after 45 days have elapsed from
3 the date of filing.

4 * Sec. 3. AS 42.05.381 is amended by adding a new subsection to read:

5 (e) The commission shall adopt regulations for electric coopera-
6 tives setting a range for adjustment of rates by a simplified rate
7 filing procedure. A cooperative may apply for permission to adjust
8 its rates over a period of time under the simplified rate filing
9 procedure regulations. The commission shall grant the application if
10 the cooperative satisfies the requirements of the regulations. The
11 commission may review implementation of the simplified rate filing
12 procedure at reasonable intervals and may revoke permission to use the
13 procedure or require modification of the rates to correct an error.

14 * Sec. 4. AS 42.05.431 is amended to read:

15 Sec. 42.05.431. POWER OF COMMISSION TO FIX RATES. When the
16 commission, after an investigation and hearing, finds that a rate
17 demanded, observed, charged or collected by a public utility for a
18 service, subject to the jurisdiction of the commission, or that a
19 classification, rule, regulation, practice, or contract affecting the
20 rate, is unjust, unreasonable, unduly discriminatory or preferential,
21 the commission shall determine a just and reasonable rate, classifica-
22 tion, rule, regulation, practice, or contract to be observed or al-
23 lowed and shall establish it by order. A municipality may covenant
24 with bond purchasers regarding rates of a municipally owned utility,
25 and the covenant is valid and enforceable and is considered to be a
26 contract with the holders from time to time of the bonds. The finan-
27 cial covenants contained in mortgages and other debt instruments of
28 cooperative utilities organized under AS 10.25 are also valid and
29 enforceable, and rates set by the commission must be adequate to meet

1 those covenants. However, a cooperative utility that is negotiating
2 to enter a mortgage or other debt instrument that provides for a
3 times-interest-earned ratio (TIER) greater than the ratio the commis-
4 sion most recently approved for that cooperative shall submit the
5 mortgage or debt instrument to the commission before the instrument
6 takes effect. The commission may disapprove the instrument within 60
7 days after its submission. If the commission has not acted within 60
8 days, the instrument is considered to be approved.

9 * Sec. 5. AS 42.05.431 is amended by adding a new subsection to read:

10 (b) A wholesale power agreement between public utilities is sub-
11 ject to advance approval of the commission. After a wholesale power
12 agreement is in effect, the commission may not invalidate any purchase
13 or sale obligation under the agreement. However, if the commission
14 finds that rates set in accordance with the agreement are not just and
15 reasonable, the commission may order the parties to negotiate an
16 amendment to the agreement and if the parties fail to agree, to use
17 the dispute resolution procedures contained in the contract.

18 * Sec. 6. AS 44.66.010(4) is amended to read:

19 (4) Alaska Public Utilities Commission (AS 42.05.010) --
20 June 30, 1989 [1986];

21 * Sec. 7. The amendments made by secs. 1 - 2 of this Act do not apply
22 to a proceeding begun before the effective date of this Act.

23 * Sec. 8. AS 42.05.431(b) enacted by sec. 5 of this Act applies only to
24 wholesale power agreements entered into on or after the effective date of
25 this Act.

26 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).

Sackett
5/12/86

SECTIONAL ANALYSIS FOR
SCS CSHB 314 (FIN)

- Section 1) Substitutes "municipality" for "city or borough, whether home rule or otherwise" to reflect changes made in the Municipal Code adopted last year, and limits the amount of the fee that a municipality may charge to the actual cost.
- Seciton 2) Requires the commission to issue a statement of reasons for rejecting a tariff filing, and imposes a time limit of 45 days on the commission's authority to reject a filing that is not consistent with the chapter or the regulations of the commission.
- Section 3) Adds a new section to require the commission to adopt regulations that permit a simplified rate filing procedure for electric cooperatives.
- Section 4) Requires the commission to consider the financial covenants contained in mortgages and other debt instruments of cooperative utilities when setting the rates they may charge.
- Section 5) Subjects wholesale power agreements between public utilities to advance approval by the commission. After a wholesale power agreement is in effect, the commission may not invalidate the agreement; however, if the rates are not just and reasonable, the commission may order the parties to negotiate an amendment to the contract.
- Section 6) Extends the termination date of the APUC for 3 years (1989).
- Section 7) Applicability section.
- Section 8) Applicability of wholesale power agreement section.
- Section 9) Immediate effective date.

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 26, 1986

SUBJECT: Sectional analysis of CSHB 314 (L&C)
(Alaska Public Utilities Commission Act)

TO: Representative Albert P. Adams
Chairman, House Finance Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of CSHB 314 (L&C).

Section 1 removes obsolete language about initial appointments to the commission.

Section 2 permits appointment of a person with a major in economics to the commission and requires that professional members of the commission have worked for at least five years in their professional fields.

Section 3 requires that actual experience be related to utilities management or regulation before the experience may substitute for a degree.

Section 4 reflects changes made to AS 42.05.151 in section 7 of the bill, relating to the powers of hearing officers and administrative law judges. It also lists those employees of the commission who are in the partially exempt service now.

Subsection (b) limits the employment of consultants to matters in which commission resources are insufficient to do the work.

Section 5 adds a new subsection requiring the commission to maintain accurate records of a consultant's work on a matter.

Section 6 directs that commission powers be interpreted to include powers "expressly conferred or reasonably implied"

instead of directing that the powers of the commission be "liberally construed to accomplish its stated purposes."

Section 7 amends the section on formal hearings to require the commission to assign as many matters as possible to a hearing officer or administrative law judge and to set out the procedures that the commission follows when it does not preside over a hearing. The hearing officer or administrative law judge enters a recommended decision which the commission may change or adopt.

Subsection (d) permits a commissioner who has not heard or read the testimony to participate in the decision after reviewing the record.

Sections 8 and 9 direct that the commission issue a certificate to a public utility if the services are required for the convenience and necessity of the public, which is the current law, or are in the public interest.

Section 10 adds new subsections setting out when an applicant is "fit, willing, and able" and clarifies that the applicant for the certificate has the burden of proof. It also imposes a time limit of six months on the commission's review of uncontested applications for certification.

Section 11 substitutes "municipality" for "city or borough, whether home rule or otherwise" to reflect changes made by the Municipal Code adopted last year and limits the amount of the fee that a municipality may charge to the actual cost.

Section 12 requires the commission to issue a statement of reasons for rejecting a tariff filing and imposes a time limit of 45 days on the commission's review. It also removes the commission's authority to reject a filing that is not consistent with the chapter or the regulations of the commission.

Section 13 adds a new subsection to require the commission to adopt regulations that permit a simplified rate filing procedure for electric cooperatives.

Section 14 limits the period of suspension of operation of a tariff to 10 months unless one of the listed reasons applies.

Section 15 provides that if the commission does not act on a tariff filing within the period of suspension allowed under section 14 of the bill, the tariff filing takes effect.

Section 16 clarifies language concerning return of amounts in escrow and requires the commission to authorize the release of the balance immediately after the hearing and decision.

Section 17 adds a new subsection permitting the utility to request that a tariff filing take effect on an interim basis.

Section 18 limits what costs may be allocated among the parties.

Section 19 removes the exemption of a telephone utility owned by a political subdivision. It also makes public utilities owned and operated by a political subdivision subject to statutes on joint use and interconnection of facilities as well as to the certificates sections, even though they are exempt from the rest of the chapter.

Section 20 removes the exemption from regulation of small telephone utilities, making them subject to regulation by the commission.

Section 21 permits a public utility, other than a local exchange telephone utility, that receives gross annual revenue of less than \$500,000 to elect to be exempt from regulation. The existing language of the subsection permits electric or telephone utilities that do not gross \$325,000 annually to elect to be exempt from regulation.

Section 22 removes the exemption from regulation of telephone cooperatives.

Section 23 limits the procedures by which a cooperative formed for the generation and transmission of electrical service may elect to be deregulated.

Section 24 amends the definition of "public utility" to clarify when the furnishing of natural or manufactured gas constitutes acting as a public utility.

Section 25 extends the termination date of the Alaska Public Utilities Commission to 1989.

Representative Adams
Page 4
March 26, 1986

Section 26 alters the terms of the two public members of the commission so that they will expire in different years.

Section 27 permits members of the commission on the effective date of the bill to continue to serve and to be reappointed even if they do not meet the new qualifications established in sections 2 and 3 of the bill.

Section 28 limits the application of the cited sections to hearings begun on or after the effective date of the bill.

Section 29 permits utilities that were exempt under existing law to continue to operate until the commission acts on the utility's application for certification if the utility applies for certification within 60 days after the effective date of the Act.

Section 30 permits a utility that was exempt from regulation under existing law to continue charging its customers until the commission has acted on its tariff filings if the utility files its complete tariff with the commission within 60 days after the effective date of the Act.

Section 31 repeals two exemptions from regulation. AS 42.05.711(g) is redundant because of the amendment to AS 42.05.711(f) in section 21 of the bill. The repeal of AS 42.05.711(i) was appropriate when the bill amended the definition of "public utility" in section 24 to remove garbage service from the definition. Since that change to the definition is no longer part of the bill, AS 42.05.711(i) probably should not be repealed.

Section 32 is an immediate effective date.

If I may be of further assistance, please advise.

TC:csH
c6/050

Alaska State Legislature

STEVE FRANK

DISTRICT 20A
Finance Committee

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Fairbanks, Alaska 99701
(907) 452-3421



White in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-3709

House of Representatives

Following is a section by section analysis of HB 314 (FINANCE):

Section 1 removes obsolete language about initial appointments to the commission.

Section 2 permits appointment of a person with a major in economics to the commission and requires that professional members of the commission have worked for at least five years in their professional fields.

Section 3 requires that actual experience be related to utilities management or regulation before the experience may substitute for a degree.

Section 4 reflects changes made to AS 42.05.171 in section 8 of the bill, relating to the powers of hearing officers and administrative law judges. It also lists those employees of the commission who are in the partially exempt service now.

Subsection (b) limits the employment of consultants to matters in which commission resources are insufficient to do the work.

Section 5 adds a new subsection requiring the commission to maintain accurate records of a consultant's work on a matter.

Section 6 directs that commission powers be interpreted to include powers "expressly conferred or reasonably implied" instead of directing that the powers of the commission be "liberally construed to accomplish its stated purposes."

Section 7 requires the commission to comply with open meeting laws and specifies that commission proceedings may not be closed to the public as adjudicatory proceedings.

Section 8 amends the section on formal hearings to require the commission to assign as many matters as possible to a hearing officer or administrative law judge and to set out the procedures that the commission follows when it does not preside over a hearing. The hearing officer or administrative law judge enters a proposed decision which the commission may change or adopt.

Subsection (c) permits a commissioner who has not heard or read the testimony to participate in the decision after reviewing the record.

Sections 9 and 10 direct that the commission issue a certificate to a public utility if the services are required by the public convenience and necessity or are in the public interest.

Section 11 adds new subsections setting out when an applicant is "fit, willing, and able" and imposing a time limit of six months on the commission's review of uncontested applications for certification.

Section 12 substitutes "municipality" for "city or borough, whether home rule or otherwise" to reflect changes made by the Municipal Code adopted last year and limits the amount of the fee that a municipality may charge to the actual cost.

Section 13 requires the commission to issue a statement of reasons for rejecting a tariff filing and imposes a time limit of 45 days on the commission's authority to reject a filing that is not consistent with the chapter or the regulations of the commission.

Section 14 adds a new subsection to require the commission to adopt regulations that permit a simplified rate filing procedure for electric cooperatives.

Section 15 limits the period of suspension of operation of a tariff to 10 months unless one of the listed reasons applies.

Section 16 provides that if the commission does not act on a tariff filing within the period of suspension allowed under section 13 of the bill, the tariff filing takes effect.

Section 17 clarifies language concerning return of amounts in escrow and requires the commission to authorize the release of the balance immediately after the hearing and decision.

Section 18 adds a new subsection permitting the utility to request that a tariff filing take effect on an interim basis.

Section 19 requires the commission to consider the financial covenants contained in mortgages and other debt instruments of cooperative utilities when setting the rates they may charge.

Section 20 subjects all wholesale power agreements between public utilities to advance approval of the commission. The commission may later order the parties to negotiate an amendment to the contract if rates set pursuant to the contract are found not to be just and reasonable.

Section 21 limits what costs may be allocated among the parties. Prohibits the commission from allocating the cost of services provided by the Department of Law.

Section 22 permits a public utility that receives gross annual revenue of less than \$500,000 to elect to be exempt from regulation. The existing language of the subsection permits electric or telephone utilities that do not gross \$325,000 annually to elect to be exempt from regulation.

Section 23 limits the procedures by which a cooperative formed for the generation and transmission of electrical service may elect to be deregulated.

Section 24 amends the definition of "public utility" to clarify when the furnishing of natural or manufactured gas constitutes acting as a public utility.

Section 25 extends the termination date of the Alaska Public Utilities Commission to 1989.

Section 26 alters the terms of the two public members of the commission so that they will expire in different years.

Section 27 permits members of the commission on the effective date of the bill to continue to serve and to be reappointed even if they do not meet the new qualifications established in sections 2 and 3 of the bill.

Section 28 limits the application of the cited sections to hearings begun on or after the effective date of the bill.

Section 29 specifies that the commission is prohibited from amending only wholesale power contracts that are entered into after the effective date of this act.

Section 30 permits utilities that were exempt under existing law to continue to operate until the commission acts on the utility's application for certification if the utility applies for certification within 60 days after the effective date of the Act.

Section 31 permits a utility that was exempt from regulation under existing law to continue charging its customers until the commission has acted on its tariff filings if the utility files its complete tariff with the commission within 60 days after the effective date of the Act.

Section 32 repeals an exemption from statute. AS 42.05.711 (g) is redundant because of the amendment to AS 42.05.711 (f) in section 22 of the bill.

Section 33 is an immediate effective date.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST Page 1 of 2

Bill/Resolution No.: CSHB 314 (Fin)
Title: An Act relating to the Alaska
Public Utilities Commission

Sponsor: Rep. Davis
Requestor: House Finance Committee
Date of Request: 4/25/86

Revision Date: 4/30/86

FISCAL DETAIL

Agency Affected: Alaska Public Utilities Comm.
BRU:

Components:

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	75.0	75.0	75.0	75.0	75.0
TRAVEL						
CONTRACTUAL	0	74.3	68.3	68.3	68.3	68.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	149.3	143.3	143.3	143.3	143.3

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	149.3	143.3	143.3	143.3	143.3
FEDERAL FUNDS						
OTHER						
TOTAL	0	149.3	143.3	143.3	143.3	143.3

POSITIONS :

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

SEE ATTACHED ANALYSIS

APA

Prepared by: Representative Al Adams, Chairman
Division: House Finance Committee

Phone: 465-3706

Date: 4/30/86

Approved by Commissioner:

Agency:

Date:

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

FISCAL NOTE ANALYSIS

CSHB 314 (Fin) Page 2 of 2

This bill includes cost savings features for the APUC. The bill does require, however, that new regulations be prepared to set up a simplified rate filing procedure. Contractual services for assistance with those regulations of 6.0 is included. The bill prohibits the Commission from allocating costs for assistant Attorney General services. Contractual services of \$68.3 are accordingly included as requested by the APUC. Section 8 of the bill provides that the Commission shall assign as many matters as possible to a hearing officer of administrative law judge. One new hearing officer has been included in the fiscal note at a cost of \$75,000 annually.

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

REQUEST Page 1 of 2

Revision Date : _____

Bill/Resolution No.: CSHB 314(L&C) No. 3
 Title: Joint Labor & Commerce
 Committee: Proposed Amendment to
AS 42.05
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 BRU: Alaska Public Utilities Commission

Components: Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		115.1				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		115.1				

CAPITAL		115.1				
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		115.1				
OTHER						
TOTAL		115.1				

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This fiscal note requests funding for a keyword indexing system for APUC substantive orders and decisions. The development of a keyword system has been a Commission priority for several years and has been recommended by three successive "Sunset" audit reports (most recently,

Prepared by: T. S. Moninski II, Deputy Director

276-6222

Division: Alaska Public Utilities Commission

Phone: _____

Date: 1/28/86

Approved by Commissioner: [Signature]

Agency: Commerce

Date: 1/26/86

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 314(L&C) No. 3 Page 2 of 2

recommendation number nine, pp. 15-16). Proposed changes to AS 42.05 which are directly related to other "Sunset" proposals require implementation of this system to support the timely research associated with staff and utility testimony, legal briefing and the Commission's own decision making process which results in new substantive orders. It is estimated that approximately 75.0 will be required to develop the keyword index and to analyze and apply the index to all prior Commission decisions. The balance of the request (40.0) relates to the development of data processing support (input requirements, storage, research and retrieval programs etc.) and data input requirements both for prior indexed orders and an ongoing in-house program for indexing current and future orders.

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date : _____

REQUEST Page 1 of 2

FISCAL DETAIL

Bill/Resolution No.: CSHB 314(L&C) No. 2
 Title Joint Labor & Commerce Committee
 Proposed Amendments to AS 42.05

Agency Affected: Commerce & Economic Development
 BRU: Alaska Public Utilities Commission

Sponsor : _____
 Requestor : _____
 Date of Request : _____

Components : Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		73.8	73.8	73.8	73.8	73.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		73.8	73.8	73.8	73.8	73.8

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		73.8	73.8	73.8	73.8	73.8
FEDERAL FUNDS						
OTHER						
TOTAL		73.8	73.8	73.8	73.8	73.8

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The APUC currently has an authorized Hearing Examiner position (PCN 08-6057). This position was unfunded at inception and continues to be unfunded through FY 87. As a result of forced vacancy in other vital agency positions, the Commission has been able to utilize the

Prepared by: T. S. Moninski II, Deputy Director
 Division: Alaska Public Utilities Commission

Phone: 276-6222
 Date: 1/28/86

Approved by Commissioner: _____
 Agency: Commerce

Date: 1/28/86

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 314(L&C) No. 2 Page 2 of 2

the hearing examiner on a 60% FTE basis. Successful implementation of proposed changes to AS 42.05.421 are directly tied to full utilization and full funding of the Hearing Examiner position.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

REQUEST Page 1 of 2

Revision Date : _____

Bill/Resolution No. : CSHB 314(L&C) No. 1
 Title : Joint Labor & Commerce
 Committee Proposed Amendment to
AS 42.05
 Sponsor : _____
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Commerce & Economic Development
 BRU : Alaska Public Utilities Commission

Components : Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		81.1	81.1	81.1	81.1	81.1
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		81.1	81.1	81.1	81.1	81.1

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		81.1	81.1	81.1	81.1	81.1
FEDERAL FUNDS						
OTHER						
TOTAL		81.1	81.1	81.1	81.1	81.1

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The APUC currently contracts with the Department of Law for the services of two Assistant Attorneys General (AAG). Although the second AAG position has been frequently documented as being critical to the efficient processing of APUC caseload, specific budget

Prepared by : T. S. Moninski II, Deputy Director

276-6222

Division : Alaska Public Utilities Commission

Phone : _____

Date : 1/28/86

Approved by Commissioner : [Signature]

Agency : Commerce

Date : 1/25/86

Distribution (by Agency preparing fiscal note) :

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 214(L&C) No. 1 Page 2 of 2

authorization for this position has never been forthcoming. The Commission has responded, again, by forcing vacancy in other necessary staff positions as well as foregoing other well justified expenditures in order to provide for approximately 50% of the RSA costs. The balance of the costs are currently provided via Program Receipts which are generated through cost allocation to the utilities per a Commission interpretation of AS 42.05.651/ This interpretation has been contested and an appeal of this practice is presently pending before the Superior Court. If the Court declares the cost allocation of AAG services to be illegal, the Commission will face the burden of full General Fund funding of this position. As noted in the analysis of the Hearing Examiner position, the full utilization of the AAG position is directly linked to the successful implementation of the proposed changes to AS 42.05.421. This fiscal note requests full funding of the AAG position.

JOHN SUND, REPRESENTATIVE

2505 2nd Avenue
Ketchikan, Alaska 99901
(907) 225-5552

While in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-4919

MEMORANDUM

TO: Rep. Al Adams, Chair,
House Committee on Finance

FROM: Rep. John Sund

RE: CSHB 314(L&C), relating to the APUC

There is a change I would appreciate the Finance Committee making to CSHB 314(L&C).

The requested change is to delete the proposed AS 42.05.711(b)(1), which is in Section 19 of the bill on page 10, lines 16-17.

The subsection I would like to see dropped would have the effect of putting the Ketchikan Public Utilities telephone service under regulation by the APUC. KPU is one of only two telephone utilities in the state that would be affected by this subsection.

Our basic concern is that this regulation is not needed. We have been contacted by the Mayor of Ketchikan (see the attached letter from Mayor Ted Ferry). He feels that this would add another level of regulation and increase costs to the consumer, and that the KPU Board and Ketchikan City Council are doing a good job overseeing the telephone operation. 'If it isn't broken, don't fix it' would characterize our position.

I am expecting more detailed testimony from the KPU attorney. Thanks very much for your help.

City of
Ketchikan

334 Front Street
Ketchikan, Alaska 99901
907-225-3111

March 7, 1986

Honorable John Sund
Representative, State of Alaska
Pouch V
Juneau, Alaska 99811

Dear John:

This letter is to confirm my testimony via teleconference on HB-314 as it relates to our community and the APUC (3-6-83).

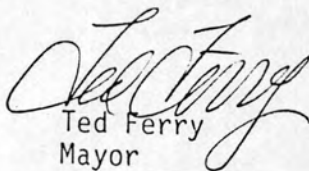
Having been first elected to the Ketchikan Public Utilities Board of Control in 1957 and subsequently been involved in the utility operation much of the past 29 years, I believe I can speak to the level of service provided to the community.

I have heard of no ground swell of public discontent. Ketchikan City Council met approximately 60 times this past year and the Public Utilities Advisory Board 18 to 20 times. I believe this provides the forum needed by which consumers can deal with their local elected "board of directors".

As Mayor, I went on record against HB-314. I did not deal with specifics until such time as management and myself can review the bill.

The City is against another level of supervision as it can only lead to additional costs for the consumer.

Respectfully,



Ted Ferry
Mayor

Sackett
5/12/86

CLOCKSIN - Mr. Speaker, I'm going to speak against the amendment. I guess I'd like to ask the members of the body to try to ignore who's on each side of this issue and look at the issue on its merits.

Mr. Speaker, the open meetings act, which is one of our favorite pieces of legislation of late, says in AS 44.62.310(d)(1), which is the reference at the last of this new subsection:

This section (meaning the section requiring open meetings) does not apply to judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding.

Mr. Speaker, the effect of the amendment, of course, would be to require that the Public Utility Commission provide open access to its deliberations in quasi-judicial proceedings where there is an adjudicatory proceeding, and it is quasi-judicial in nature. What a quasi-judicial proceeding is, in effect, is simply a proceeding where there are formal roles of procedure to allow the parties to the proceeding to make their arguments to the quasi-judicial office--here, the commission. And, then, the way the system is supposed to work is that that quasi-judicial body retires behind closed doors and discusses the decisions that it has to make.

Mr. Speaker, I think that that is a proper exception to the open meetings act, just as I think that there are other entirely proper exceptions to the open meetings act. I think it is entirely legitimate once the opportunity for taking the testimony and the arguments of parties to a proceeding--an adjudicatory proceeding-- (sic) that the decision can be made in a closed meeting. And, I see absolutely nothing wrong with that in quasi-judicial agencies.

A comparable situation would be one related to me on the floor of this House (and I hope I'm not stealing anybody's thunder by giving it as an example). Let's propose that juries were required to conduct their deliberations in open. I suspect that it would be very difficult, Mr. Speaker, for a jury to make open, careful, objective consideration of the evidence in a rape case when they had the victim and the defendant sitting in the jury room with them. It is simply not possible, Mr. Speaker. I think the open meetings act has traditionally recognized that that is not possible in a quasi-judicial proceeding, and I don't think we should single out the Public Utility Commission for this kind of amendment.

Mr. Speaker, there are a number of other quasi-judicial agencies in state government. None of them are required by the open meetings act to open their proceedings to the public. If this amendment passes, the Public Utility Commission would be the only quasi-judicial agency in government that would be forced to open its meeting. It's not fair, Mr. Speaker. It's not good policy. And, once again, I think we all recognize that there are legitimate exceptions to the open meetings act. This is one of them, and it ought to continue to apply to the Public Utility Commission.

Jim Clark
5/12/86

TRANSCRIPT OF APUC HEARING - REPRESENTATIVE STEVE FRANK

FRANK: I would like to ask a few questions of the APUC members now if I could. We will see if any other members of the Committee have any specific questions. On the proposed amendments that the Committee has received, I would like to go back and get some responses from the APUC Commissioners or executive director. On these issues, now the first one being the issue about whether they should be subject, the rate making and certification should be subject to the open meetings -- is my understanding correct that your main point is that it would tend to inhibit the debate and discussion? Is that the main thrust of the argument?

WEATHERLY: That is the main thrust Mr. Chairman with regards to the adjudicatory aspects of the Commission's proceedings. I would like to emphasize and Miss Rusch emphasized, that our meetings are open. The only portion, the only part that is not open is the decision making by the panel of Commissioners that are deciding a particular case.

FRANK: I am sorry. I was interrupted. Could you repeat that?

WEATHERLY: I was saying that our meetings are open to the public. As Miss Rusch indicated in her statement to the Committee, the only part that is not open to the public with regards to the adjudicatory proceedings is that part which deals with the decision making itself, as much as a jury listens to the evidence and is sequestered and makes the decision. The Commission panel makes that decision. How we would make a decision if the decision portion of it were in public, I really don't know. I go back to the jury. If the jury of a trial had to make the decision in public, how would it come down. I have

absolutely no concept. I know of no other state commission that goes through that exercise. The alternative would be, of course, to circulate the decisions, each Commissioner putting his or her thoughts down on paper on a proposed order, possibly three proposed orders, and circulating that with no quorum of the Commissioners ever getting together. It would be extremely cumbersome. And I suggest to you that the due process of the parties would be in jeopardy and the public interest would not be served.

FRANK: Okay. Just to follow up on that a little bit, are there proprietary types of information that should not be made public or ... I guess I am having a hard time understanding why you could not make a good decision in public. I mean would people be scared ... I mean I know us politicians are scared of making comments in public sometimes, but I am wondering why the Commissioners would be afraid, or why it would inhibit the discussion. And is there a reason, would it be inappropriate for competitors to know exactly why the decision was made the way it was or something like that, on a certification for example?

WEATHERLY: Well, on a certification or rate proceeding, or any proceeding by the Commission, the Commission comes up with an order that says why... we have a findings and facts and conclusions of law as to how we arrived at our decision. But I say, first of all, this is one Commissioner who has no problem at all in making a decision and whether I make it in closed or an open area. I suggest that the problem is one of the dialogue that just goes on between the Commissioners in arriving and weighing and balancing the facts. The question of demeanor evidence, for example. There is a lot of give and take among the Commissioners before we reach a consensus. And it is developing that consensus and developing the rationale that is just not -- I

think it would be extremely inhibiting and clearly not in the public interest. I would say it would also be dangerous to a very large degree also. We are not the same as the federal bodies and the Sunshine Law there. All of our meetings are open to the public, all of the evidence that is presented in the proceeding is open to the public and available to the public and remember, we can only make the decision based upon that record and that evidence that is made to the public.

FRANK: Okay, thank you.

UEHLING: Thank you Representative Frank. Representative Uehling here. Basically, could you be a little bit more specific about the kinds of things that are discussed in the meetings. In other words, would there be any time, any place, or any situation where you would not want to discuss something because there might be a competitor that might get that information at that particular meeting?

WEATHERLY: Discussion of rate of return for example is a prime consideration in just about any rate case that we ever sit in. What I was referring to -- demeanor evidence, for example, -- there is -- how do you say in public for example that Witness X was a little bit shifty in the way he or she replied to a particular question. When you read the record, the shiftiness does not come out. The court reporter does not say "witness X looks shifty when she or he replied to the question." That is extremely important in the Commission's deliberation. There are instances, for example, in the competitive arena where the Supreme Court has given us guidance that we can consider substantive evidence in a hearing and basically it would be a closed hearing. But all of the parties must be protected. The parties have rights to examine that evidence and we want in no

way to denigrate that, or to lessen that responsibility, but there is a full range of subjects in a rate proceeding, going to rate of return, the rate design, for example, technical issues that it is a give and take. For example, Commissioner X may have a very strong inclination to a particular type of rate design. I may be opposed to that, but in the give and take of the process and such, we can, we may come out with a compromise or consensus that will serve the utility and serve the public.

UEHLING: Just a follow up again, Representative Uehling, real quickly here. You talk about an emotional response from what could perceive, what you were saying, an emotional response that you would have in a meeting situation if someone were shift-eyed or something versus a factual kind of thing. I didn't quite catch that. Are you saying that you make decisions based on emotional things versus factual?

WEATHERLY: No. None whatsoever. What I was trying to get across is that the demeanor evidence also indicates the degree of credibility that sometimes you weigh as far as a witness is concerned. I have been in business about 10 years now and I have seen all shades of witnesses before the Commission. But I have also seen a Commissioner, for example, might say "well Witness X was -- didn't look like he was telling the truth." And then through the dialogue between the other panel members, it may come out and be the consensus that Witness X was nervous. Witness X may have been the first one on the stand, etc. The dialogue between the Commissioners and the decision making produces a better decision, pure and simple. I am not saying that it cannot be done in open session. What I am saying is that the decision will be delayed. It will be more confiscated. I mean it will be more complicated and it will not be a good decision.

FRANK: Mr. Weatherly, this is Steve Frank. Is there any evidence that you utilize any written evidence, like, you know, like you said rate of return, that is available to you and your closed deliberations that is not on the record, on the public record? I don't quite understand.

WEATHERLY: The Commission must make the decision based upon the record, which is a public record.

FRANK: Okay, so in other words, any rates of return or any costs or information proprietary -- no, I shouldn't, maybe proprietary is the the wrong word -- okay, Company A's facts that they lay before you in a public, or in the deliberations, they are open to the public, those records are the public record then?

WEATHERLY: Those records that are required by the filing of the Commission through regulation and also those, that evidence that is produced by the company, that evidence which is produced from discovery by the staff or other parties of the utility is all public record. That is correct.

FRANK: Okay, thank you. Any other questions on that topic? Okay. I would like to move then to the other suggestion from GCI that speaks to the fit, willing and able suggestion that the burden of proof be placed upon the party that opposes the action, I guess, or something like that. Can you give us a little bit more on that and explain why it is not in the public interest. Why that language would not be good.

WEATHERLY: Well, I would suggest Mr. Chairman that first of all we had a big debate over in the other committee on this old question of where the burden of proof should lie. The burden of proof -- there was a statement -- I think I articulated it, or

described it at the time, coming from a Supreme Court decision and it was a statement made before the other Committee which I characterized as a bold assertion. The bold assertion is also evidence here, that this way, that this new approach which has been suggested by GCI is taking the nation by storm, and all Commissions are adopting it. We immediately went back to NARUC, which is the National Association of Regulatory Utility Commissioners, which consists of all 50 states and surveyed whether in fact they were dropping the requirement for public convenience and necessity and the answer came back "no." There was no ground swell out there to issue changes. Public convenience and necessity goes back to before the turn of the century and there has to be demand for the service. There has to be a need for the service and basically, I guess we are looking at the language by GCI. It is basically self-serving on their part. They want to get into this particular market without going through the same oversight, the same review, the same guidelines that everyone else in getting the certificate has gone through. I am not quite ready to buy onto that until I see that the public is protected. I do not see this in their language.

FRANK: Okay, so you are saying that under the existing language, they would have to come in and show that they could benefit the public rather than showing that they would not hurt the public. Is that a fair way of saying it?

WEATHERLY: Absolutely. It has to be to the public good. To say that it would -- to grant a certificate and it is not contrary, and someone else testified earlier, that takes in a multitude of sin. There are a lot of things that may not be contrary to the public interest, but may be in fact contrary to the ultimate consumer. I am not saying that GCI should not have a certificate of public convenience and necessity to serve intrastate Alaska,

but I would suggest before we could even get to that, we would have to have an application from GCI in which to measure the merits of their operation. Right now they are trying to do, through a statute change before this Committee, before the Legislature, what they have not attempted to do through the APUC.

**Fiscal Impact Analysis:
CSHB 314 4/28/86 Revision**

Introduction:

This analysis supports the Alaska Public Utilities Commission's (APUC or Commission) 5/1/86 Fiscal Note in response to the above referenced bill. Before presenting the specific section comments, a brief introductory statement is presented here for clarification.

Earlier versions of HB 314 were followed by APUC sponsored fiscal notes. Each subsequent version of the bill typically required an updated fiscal analysis. In each case, however, the Commission took the opportunity to speak to not only the specific fiscal impacts of the bill, but also to the fact that the budget process had already produced an approximately ten percent reduction in personal services (five full-time equivalent positions). While concern for the pending budget reductions has not lessened, the Commission has opted to present this most current fiscal analysis net of the previously requested "reinstatement" increment. The section comments which follow, as well as the fiscal note itself, speak only to the workload and procedural impacts of the bill. The Commission encourages the Legislature to incorporate our earlier statements regarding the negative effects of the proposed budget reductions during its continuing review of the budget bills now in progress.

Fiscal Impact Analysis:

For purposes of economy, only those sections which have actual dollar impact will be discussed. Other sections can be presumed to have no new fiscal impact other than the general reference to anticipated budget constraints noted above.

Sec. 7 AS 42.05.161

Fiscal Impact: \$ 4.6 Contractual

4.6 Total

This section imposes specific limitations on the application of the "Open Meetings" law to certain Commission proceedings. The additional costs for this section include 1.0 for the public noticing process associated with increased numbers of public meetings and 3.6 for court reporting services associated with recording and transcribing these proceedings.

Sec. 8 AS 42.05.171(a)

Fiscal Impact: \$ 149.9 Personal Services

149.9 Total

This section continues to direct the Commission to utilize hearing officers to the maximum extent possible. The APUC believes that the most effective method of responding to this legislative directive is to establish such hearing officers as Commission employees and has proposed two such positions. The Commission is also accutely aware of the anticipated general fund constraints in FY87 and future years, and is fully prepared to take the alternative approach of using contractual hearing officers which can be funded by program receipts and cost allocations per AS 42.05.651.

Sec. 14 AS 42.05.381(e)

**Fiscal Impact: \$ 28.1 Personal Services
3.0 Contractual**

31.1 Total

This section implements simplified rate filing scheme for cooperative electric utilities. In its earlier analysis, the Commission based its fiscal impact projections on a procedure that would require quarterly updates to be filed by the utilities. Recently the Commission has indicated its intent to establish the simplified filing procedure with only semi-annual filings. As a result, the earlier fiscal impact of 62.2 has been reduced by one-half to 31.1.

Sec. 21 AS 42.05.651

Fiscal Impact: \$ 68.3 Contractual

68.3 Total

This section would preclude future APUC cost allocations for the services of the Assistant Attorney General associated with any given docket. In its earlier fiscal note, the Commission raised the question of whether the language in a previous version of this section might not prevent such cost allocations in the future. The current language makes it clear that, as a matter of policy, such cost allocations will be discontinued. Since the Reimbursable Services Agreement with the Department of Law for the two Assistant Attorneys General assigned to the Commission is partially funded by program receipts, the prospective change in cost allocations requires that this funding obligation be transferred to the general fund. 68.3 in additional general fund contractual dollars is necessary to compensate for the loss of program receipts. The Commission considers this element of the fiscal note to be its highest priority.

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: 4/28/86**REQUEST**

Bill/Resolution No.: CSHB 314
 Title: Alaska Public Utilities
Commission Act

Sponsor: _____
 Requestor: Finance Committee
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Ak. Public Utilities Commission
 BRU: APUC

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		178.0	178.0	178.0	178.0	178.0
TRAVEL						
CONTRACTUAL		75.9	75.9	75.9	75.9	75.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		253.9	253.9	253.9	253.9	253.9

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		253.9	253.9	253.9	253.9	253.9
FEDERAL FUNDS						
OTHER						
TOTAL		253.9	253.9	253.9	253.9	253.9

POSITIONS :

FULL-TIME		2.5	2.5	2.5	2.5	2.5
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Specific comments and section analysis are attached.

Prepared by: T.S. Moninski II, Executive Director
 Division: Alaska Public Utilities Commission

Phone: 276-6222 Ext. 117
 Date: May 1, 1986

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Jim Clark
5/12/86

A welcome opening

When it comes to conducting the public's business in public, the legislature should lean to the side of openness. That's why the state House did the right thing when it voted to bring ratemaking decisions at the Public Utilities Commission under the Open Meetings Act. The Senate should follow suit before it adjourns.

The move would break new ground. Just as judges and juries do not deliberate in public, state law now exempts "quasi-judicial" decisions by state agencies from the open meetings law. That exemption allows the utilities commission to decide utility rates in private — although it does hold full open hearings before retiring to make rate decisions.

Yet there are some important distinctions between the courts and the utility commission. Utility rate cases are not disputes between private parties; they affect wide segments of the public. Since regulated utilities have a monopoly, customers can't switch to a competitor if they object to the rate set by the commission.

The legal standard for setting rates, "just and reasonable," allows the commission wide latitude. Policy considerations, such as designing rates to encourage energy conservation, or political factors, such as strong consumer opposition (or lack of it) to a rate increase, could affect a decision.

It is possible that opening up rate decisions could harm the way the utilities commission does business. But it's hard to judge whether the commissioners' opposition to open decision-making reflects legitimate concerns or just an attachment to old habits. For now, the legislature should make the commission at least try. And unless experience shows that the change leads to flawed decisions, the people should keep the right to watch this part of their government in action.

Anchorage Daily News
5-10-86

Alaska State Legislature

House of Representatives

Phone: •
(907) 465-3892



Labor and Commerce Committee

To: Rep. Al Adams, Chairman, House Finance
House Finance Members

From: House Labor and Commerce Comm. Rep. Navarre, ^{MN}
Chairman

Date: March 10, 1986

Subject: HB 314 An Act Relating the The Alaska Public
Utilities Commission Act, and providing for an
effective date.

HB 314 passed from HL&C on 3/10. Some issues remain unsettled, however, and we request that you explore them when you address this bill.

1. Wholesale power agreements: ARECA (Alaska Rural Electric Cooperatives Assn.) proposed language that the commission could not amend wholesale power agreements after they were in effect. After testimony from the commission and Dave Hutchins of ARECA the committee was unsatisfied about whether the utilities needed unamendable wholesale power agreements when they go to the private market for financing.

We ask you to address this issue and determine whether the provision suggested by ARECA is necessary for their financial stability.

There was also suggested language regarding mortgages and debt instruments added to .431, which you will find in your file. Currently the PUC must respect municipal bond

covenants; the ARECA language extends coverage to mortgages and debt instruments of the electric co-ops.

2. Permanent rates: Testimony from the commission expressed concern over the ability to make rates interim and refundable after rates have gone into effect. ARECA stated that the need for financial stability when the REA loans are diminished requires nonrefundable permanent rates. There was also some question about whether the proposed language simply restated existing law. The committee elected to remove sections 42.05.431(b) & (c), which are in the work draft dated 3/6/86 in your file.

3. There is a drafting error in addition to the one which has been corrected. Labor & Commerce adopted the attached language, amending 42.05.720(4)(d). The draft you received still does not reflect the exact language adopted. Please consider a CS Finance incorporating the attached language.

If you have any questions or need any information which was not included in your referral file, please contact me or my staff.

*Edith
Correction*

ALTERNATE: (D) furnishing natural or manufactured gas to the public for compensation by transmission or distribution, except as necessary for a producer to supply first sale gas to an entity, other than a public utility in which the producer has an affiliated interest, if the distribution or transmission facilities to the point of sale are either located entirely within the production leasehold or unit of the producer or, to the extent that they are not located within the leasehold or unit, the facilities are valued at \$1,000,000 or less or are declared by the producer to be a common carrier subject to regulation under AS 42.06 [OF NATURAL OR MANUFACTURED GAS TO THE ALASKA PUBLIC FOR COMPENSATION];

*error of omission in journal
Irene ^{asked} make copy of journal or
consider putting corrected CS*

*P12, line 11 add "or are - etc -
in highlights*

MEMORANDUM

State of Alaska

TO: Representative Mike Navarre
Chairman, House Labor & Commerce
Committee

DATE: February 26, 1986

FILE NO:

TELEPHONE NO:

FROM:

Carolyn S. Guess
Commissioner
Alaska Public Utilities
Commission

SUBJECT:

Comments on HB 314
(2/22/86 Subcom-
mittee draft)

Attached is the Commission's response to some of the proposed changes and additions to AS 42.05. We hope this information will assist your Committee in its deliberations on February 27, 1986.

Because a number of changes to AS 42.05 have been telephonically communicated to me, we would like the opportunity to refine or correct our comments, if necessary, after the workshop tomorrow.

Jack Farleigh, the Executive Director of the Commission and Virginia Rusch, one of the assistant attorneys general assigned to the Commission, will be in attendance in addition to myself to answer question from members of the Committee.

AS 42.05.141(a)

The Commission opposes the deletion of the language in (a)(1) "and the powers of the commission shall be liberally construed to accomplish its stated purpose."

From a practical standpoint, the elimination of the words "liberally construed" could sharply curtail the Commission's authority to assist utilities in "gray" circumstances. For example, could the Commission grant temporary operating authority to address emergency conditions such as those found in Cold Bay in 1984 and in Central in 1985?

In addition, the Commission is concerned that removal of the words "liberally construed" could affect its decision (now on appeal in Superior Court) to deregulate garbage service in the Mat-Su Borough as well as to limit the Commission's authority in allowing competitive utility service in other utility areas.

AS 42.05.171.196

The Commission opposes placing the appeal procedure in the statute. We believe it is appropriately adopted through regulations.

However, if the Committee intends to statutorily define the appeal procedure, the Commission requests that the 60-day timeframe refer to the time the appeal is submitted to the Commission for decision. Because an appeal may necessitate briefing, oral argument and possibly the submission of additional evidence, a 60-day timeframe may be inadequate if it starts running when the appeal is filed. In addition, in complicated proceedings or in the event of an unexpected occurrence such as a Commissioner participating in an appeal leaving the Commission, an extra 60-days decision time should be provided.

The Commission believes that the statute should specifically set forth that the appeal of a Commission decision and subsequent Commission action should not be included within the 12-month suspension period.

The following language carries out the intent of our comments:

AS 42.05.196 APPEAL OF THE FINAL DECISIONS TO THE COMMISSION. When a decision of a hearing officer, administrative law judge, or panel of the commission is appealed to the commission, the commission shall review the record and the briefs of the parties. The commission may permit the parties to submit additional evidence for good cause and may hear oral argument. If an appeal is taken from the decision of a panel of the commission, the commission members who did not serve on the panel shall attend the hearing. The commission shall issue a decision affirming, modifying, or reversing the decision of the presiding officer or panel within 60 days after [THE FILING OF] the appeal[.] is submitted for decision, absent entry of a finding of good cause to extend the period for no more than an additional 60 days. A majority of the commission must concur in the decision[.] on the appeal. Any time required to decide an appeal under this section shall be added to the time permitted for the commission to make final decision under AS 42.05.421(a).

AS 42.04.361(c)

The Commission does not object to the additional language; however, it proposes that this subsection be perfectly clear that it references only the form or filing requirements of the Commission. Therefore, the language "or that is not consistent with this chapter or regulation of the Commission" should be eliminated. Without this deletion it could be argued that the Commission might have to make a final decision on the justness and reasonableness of a utility request within 45 days. The Commission does not believe that that is the Committee's intent.

AS 42.05.421(a)

The Commission supports the proposed language that would require it to issue a final order within a 12-month suspension period which should begin after the 45-day public notice and response period. This is consistent with Recommendation No. 6 of the Legislative Budget and Audit Sunset Review.

However, the Commission believes, based on its experience over the past ten years, that the list of exceptions to the 12-month suspension period should be increased to include the following:

- Issues of safety, quality of service or reasonableness of management practices which cannot be decided separately from the tariff filing;
- a utility whose records and accounts are kept at a location outside the state;
- unusually complex situations or issues or other good cause.

In addition, the Commission opposes the qualifier in proposed AS 42.05.421(a)(2) that the period of suspension must equal the length of delay caused by the utility. The Commission's hearing schedule is generally set three to four months in advance; therefore, if a utility request causes delay for 30 days, it cannot be guaranteed that the Commission could fit a hearing into its existing schedule within a 30-day timeframe. If a utility requests a delay, it should be rescheduled for the first available hearing slot in the Commission's current schedule.

This procedure is used by the court system and appears fair to the utility causing the delay and to those utilities whose calendared hearings would be subject to change to "squeeze" in a proceeding in order to accommodatethe proposed language.

AS 42.05.431(b)

The Commission opposes new 431(b). It believes it must have the authority to amend the rates in a wholesale power agreement when costs change. Without this authority, wholesale power sales will be effectively deregulated and could be made at rates which do not properly recover the utility's costs. This could result in either an overrecovery or underrecovery of revenues. In addition, together with the proposed language in AS 42.05.431 which mandates rates adequate to meet debt covenants, this proposed language could result in subsidization of wholesale rates by retail ratepayers. There should be no more support for this legislation than legislation which would exempt from Commission regulation large industrial user contracts with utilities, thereby creating a situation in which residential and small commercial customers could be made to subsidize the rates of a large customer. At the present time, wholesale power agreements exist between Chugach Electric and Matanuska Electric and Homer Electric; in addition the tieline between Anchorage and Fairbanks is being used to transport wholesale power from Anchorage electric utilities to Golden Valley Electric Cooperative.

The Commission believes the proposed addition to the statute would result in bad regulation which is worse than no regulation. For that reason it believes it is preferable to deregulate cooperative utilities that sell wholesale power rather than insert the new provision.

AS 42.05.431(c)

The Commission's practice is to declare a utility's existing rates to be interim and subject to refund only after finding sufficient cause to believe that the existing rates are unreasonably high. Furthermore, the rates are made refundable prospectively, that is forward from the date the rates are declared interim. The Commission has never required a utility to refund monies which were collected in the past under permanent rates. If the Committee wants statutory language to expressly prohibit the latter practice only, the following language will maintain the Commission's existing authority to declare permanent rates interim and refundable prospectively, but will prevent the Commission from requiring a utility to refund any monies which have already been collected pursuant to permanent rates.

AS 42.05.431(c) The commission may not require a utility to refund a permanent rate; provided, however, that this provision shall not preclude the commission from declaring existing rates interim and refundable from the date of such declaration forward, if warranted, pending further investigation and hearing.)

The Commission allocates only those costs it incurs which are not funded as part of its overall operating budget. These costs include the travel and per diem of Staff incurred during its investigation, travel and per diem of Commissioners to attend a hearing away from Anchorage, the costs of a court reporter, the costs to transcribe a proceeding, long distance telephone charges, xeroxing and postage associated with a specific proceeding. These are referred to in AS 42.05.631 as out-of-pocket expenses.

In addition, if the Commission Staff lacks the professional staff necessary in a specific investigation, because of either the magnitude of the proceeding (all Alascom proceedings) or the complexity of the issues (anti-trust law, rate of return expertise), consultants are hired. The process for hiring a consultant must conform to the regulation of the Department of Administration (see attachment).

Because the Commission's budget funds only one-half of an assistant attorney general funded in its operating budget and the workload of the Commission requires two full-time attorneys to aid and represent the Commission and its Staff, the Commission has interpreted its statute to provide authority to allocate unfunded costs of its assistant attorneys general to the specific proceedings in which they represent Commission Staff. Some utilities do not agree that the Commission has the authority to allocate these contracted costs and the matter is currently before the Superior Court.

The Commission acknowledges that any costs allocated to a utility as a result of a Commission proceeding are passed on to its consumers; this is analogous to current practice which allows a utility to include its costs of processing a case before the Commission in rates charged to its consumers, including its attorney's costs. If the Commission's budget were fully funded to cover costs of its attorneys general, there would be no allocation of these costs. Because the Commission has not been persuasive in this argument in its budget presentations, the result is to recover these costs from the utility's consumers who benefit from adequate Commission processing of a utility's request.

The proposed amendment to AS 42.05.651 would restrict the Commission's ability to thoroughly process a utility's request and is strongly opposed.

MEMORANDUM

To: Carolyn S. Guess
Commissioner

Date: February 26, 1986

From: Ted Moninski
Deputy Director

Subject: Professional
Service
Contracting

This memorandum outlines the steps involved in the process to secure a professional services contract as defined by AS 36.98 and Sections 8102 - 8193 of the Alaska Administrative Manual. Attached is a list prepared during the course of the "Sunset" review which identifies actual contracts from 1978 through October, 1985, with a computation of the average processing time (in days) from Authority to Negotiate (ATN) to contract approval. Also attached is a copy of my October 11, 1985, memo to you interpreting this information.

Professional Services Contracting

- Identify need for professional contract services.
- Prepare ATN request (includes description of services to be provided and justification for use of contract services).
- If agency proposes to use any solicitation method other than that described in statute and regulations (ie. sole source), an Alternative Procurement Method (APM) package must accompany the ATN. The ATN/APM steps will take from one day to one week.
- ATN approval through the Department of Commerce (DC & ED) and approval by Department of Administration's (DOA) Contract Review Committee (CRC) takes from two to four weeks. If contract is for legal services (attorney or hearing officer), ATN must also be approved by the Department of Law (Law) adding approximately one to two weeks to the ATN approval process.
- ATN approved; the agency proceeds to a formal Request for Proposal (RFP) step if the ATN amount is \$ 25,000 or greater. If less than \$ 25,000, the RFP step is scaled down to an informal process as approved in the ATN (ie. requiring the contacting of at least three prospective contractors.) This step, measured from preparation of RFP to closing date for responses will take from 3 weeks (informal) to six weeks for formal RFP's.

- RFP evaluation: Informal RFP's can be evaluated in one to two weeks. Formal RFP's, by law, require a minimum three-person evaluation team using a point-scoring method to select the ultimate contractor and will take from two to four weeks depending on the complexity of the engagement.
- Contract drafting and execution: This function is performed by the agency and takes from one to two weeks depending on the standard nature (or lack thereof) of the engagement.
- Contract document approval: The executed contract takes the exact same approval route as the original ATN (DC & ED to CRC with approval by Law required for legal services contracts). This step will take from two to four weeks depending on current approving agency workload and the degree of priority this agency is able to attach to the transaction.
- Once the contract document is approved by CRC, the parties may commence performance according to its terms and conditions.

By this scenario, the optimum time-line for professional service contracts is approximately sixty days (ATN to contract approval). The worse-case time-line is about one hundred sixty days. Actual experience as reflected in the attachments seem to support this analysis with an average processing time for all contracts at eighty-four days.

cc. John B. Farleigh

Garbage collection has been a primitive, feudal business, but technology and environmental concerns are shifting the balance from the mob and cartels toward legitimate big business.

The garbage game

By James Cook

A few years ago, in a small town maybe 50 miles outside of New York, the board of managers of one of the local condominiums began worrying about its garbage collection costs—\$142 a month when the condominium opened, \$860 a month less than a year later, and no end of increases in sight. And so, when the grounds superintendent offered to take the garbage to a town dump not far away, the board said, Why not? and notified its private garbage collector his services were no longer needed.

Soon afterward the board chairman got a call from the garbage company. "Lady," a voice said, "you know, we'd like to have you stop this. Because—well, we checked you out, and we could take measures." He detailed the pattern of her husband's life, the time he left the house every morning, caught the bus to Manhattan, walked to his office, went out to lunch, went back to the bus terminal, caught his bus and arrived home again. "I mean we could take measures." The condominium dropped the project immediately, and the condominium's bill for a

Garbage gulls at Fresh Kills, Staten Island

reduced schedule is now over \$1,000 a month.

"To me it's unfair," says one board member. "People get their legs busted and their arms broken and their heads bashed in. The next town even had to give up a scheme they had had to pick up their own garbage. They had even bought their own trucks."

Americans spend about as much money getting rid of their garbage—maybe \$15 billion a year—as they do on cigarettes and magazines, and nearly as much as they do on foreign travel. About 60% of the residential garbage and almost all of the commercial garbage is handled by private companies.

At the moment, this private business is divided among no fewer than 10,000 individual enterprises. Sound like a highly competitive business? It isn't. Says Angelo J. Aponte, New York City Commissioner of Consumer Affairs, "Anybody who believes there is free enterprise in the trade waste industry in this country is operating under an illusion."

As that condominium discovered in that town outside of New York, fragmentation and competition are not necessarily the same thing. Few industries are more prone to cartelization than the garbage industry.

Generalize about an industry with 10,000 private companies, perhaps 82,000 local communities, and you'll be wrong somewhere. Even so, there's a pervasive dynamic here—of which organized crime, not surprisingly, is a part—that tends toward monopoly.

In the U.S.' older cities at least, garbage disposal is still largely an ethnic business. As the various waves of immigration broke over the U.S., the newcomers invariably moved into the least desirable jobs, and garbage pickup was a natural point of entry. In the New York area, garbage collection came to be dominated by people of Italian descent—Calabrians and Sicilians in New York and Long Island, immigrants from a town near Naples in much of New Jersey. But the business is by no means an Italian specialty. Elsewhere other ethnic groups have predominated—Armenians in southern California, Dutch in Chicago, Scandinavians in Minnesota.

These garbage collection businesses were family businesses, most of them,

mom-and-pop operations with mom keeping the books, pop and the kids driving the truck, picking up the garbage. It's a local business, and cost depends on how much garbage can be picked up over how much distance in how much time—how many stops there are, how much waste is picked up per stop, how close together the stops are, how far away the dump site is. Anything that lengthens the pickup time, stretches the distance or diminishes the volume increases the cost. In a business like this, competition may be a boon to the customer, but it is an unmitigated curse to the businessman.

And so these immigrant carters, joined by bonds of blood and community, decided not to cut one another's throats. One operator would give another a hand if his truck broke down or a driver took sick. In San Francisco, the community of interest was so strong that around 1920 the various local garbage collectors dissolved their individual companies into cooperatives (now Sunset Scavengers and Golden Gate Disposal), which soon after came under regulation by the city. To be a San Francisco scavenger, at least until a decade ago, you often had to be from Genoa. Elsewhere, in the newer cities of the Sunbelt, the ethnic identity is fading. Even so, the first big publicly owned garbage company, Browning-Ferris Industries, is known in the trade as the Wasps—after the group of Southerners that dominate the company.

To see the garbage industry at its most elemental, try New York City. For decades, most of

New York's collection was municipal, but back in 1956 the city decided it would no longer collect commercial garbage and proceeded to offer to the commercial carters some 52,000 new customers, enlarging the private market at a stroke by 70%.

The private market in New York City is not quite so private as it may look. Close to 80% of the city's garbage, whether collected by civil servants or private carters, goes into landfills the city maintains in Brooklyn and Staten Island, either directly or via a fleet of 90 city-owned barges.

Fattening on the more profitable commercial business and living off the city's nonprofit landfills, New York's private garbage business has flourished, with



Aponte of New York City's Consumer Affairs Department

"Anybody who believes there is free enterprise in the trade waste industry in this country is operating under an illusion."

300 or so private carters trundling the 5,000 miles of city streets like elephants on wheels.

It's the pattern that prevails in many U.S. cities, with the municipality picking up residential garbage and the private companies handling the higher-priced commercial and industrial waste—where the real money is.

It's a big business, absorbing \$200 million of New York City's \$20 billion operating budget and generating maybe \$210 million in revenues for the private companies. Profitable, yes. Competitive, no.

In New Jersey and New York, as even the Department of Consumer Affairs (DCA) will concede, the garbage industry is built around the feudal notion of property rights. Tear down a grocery and put up a skyscraper, and the garbageman that served the grocery store usually keeps the business—and keeps it for life. No one will attempt to compete with him.

Even where a brand-new area opens up, the competition is fleeting. When the New Jersey Sports & Exposition complex went up in a swamp a few years ago, 11 companies bid for the initial contract. When the contract came up for bid a second time, only 2 companies bothered to bid. "Once the person became the lower bidder," as New Jersey Deputy Attorney General Steven J. Madonna explained to a congressional committee, "that was his contract for life."

But doesn't the bidding system, which is used by most government agencies, undercut the feudal possession of property rights? Not necessarily. One-time garbageman and FBI undercover informant Harold Kaufman describes "courtesy" bids. "When a customer puts out bids"—to pick up trash at rest stops on the New York State Thruway, for example—"the carter who 'owns' the stop submits a bid, gets two or three other carters to submit higher bids, sometimes at twice the price..."

What do these feudal rights so zealously enforced actually consist of? Not territories but stops—street locations and even floors of individual buildings. A territorial monopoly would be more efficient, certainly more rational, but the system is neither efficient nor rational. Fifteen commercial carters serve the 14-block commercial strip on Columbus Avenue north of 72nd Street, for instance, at tremendous excess cost.

The customers are virtual captives. As one carter told a businessman who moved into a Madison Avenue building a while back, "You've got a choice. You can either pay me or we go through the trash and find anything that has your name on it and we dump it on the door-



Goldstock of New York State's Organized Crime Task Force

On Long Island, as in New Jersey, more is involved than venal management and corrupt unions.



Long Island carter Sal Arellino

"A strong union makes money for everybody, including the wise guys."

step. If that don't work, we dump you on the doorstep." Primitive but effective. The threats are not usually so specific, but who wants to take unnecessary chances over something like trash removal? Thus many of the carters own their customers almost as a feudal right.

These feudal powers have, in effect, been turned into property rights. According to Commissioner Aponte, a 150-stop route in Manhattan sells for 47 times monthly revenues, vs. 20 in New Jersey and 15 in west Florida, maybe 10 or 12 nationwide. If the carters really make only 10 cents on the dollar, as DCA regulations require, a Manhattan buyer is paying 40 times annual earnings for the route.

New York Carting sold its \$6,000-to-\$7,000-a-month U.N. contract for 60 times monthly revenues, an investment that would require five years to recover.

"Would you pay 60-to-1 if you thought you could lose the business in a year?" one ex-garbageman asks.

Or if you really earned only 10 cents on the revenue dollar? Commissioner Aponte figures the industry has been underreporting its stops by as much as 25% and, as a result, understating both its revenues and its net income. When Kings County Carting proposed selling out to another carter last fall, 39 new accounts suddenly appeared on its books, though the DCA discovered Kings had been serving some of the customers for years.

What about that supposed 10% profit margin on revenues? Anyone who would believe that garbage collection returns only 10% would believe that Manhattan taxi drivers live on their salaries or that waiters tell the IRS what they really get in tips.

In New York City, the garbage industry's rates are theoretically based on costs plus 10.9%.

Costs? How do you calculate those costs? The tipping charge—the charge the carter pays the city to take his garbage—is based on a compaction ratio of 3.5-to-1. That is, the carter pays the city \$9.25 to dispose of a cubic yard of waste, which has been compacted from 3.5 cubic yards picked up from the customer.

The DCA, however, suspects that the actual compaction rate is more like 7-to-1, so that a cubic yard yields twice as much revenue as the formula says it does. If this is so, the carter, who collects a trifle less than \$8 per cubic yard from his customers, has tipping costs of about \$1.30 per cubic yard of garbage collected, not the \$2.60 in costs figured under the DCA formula. The difference, of course, flows straight into "net" income.

The carters would be less than human if they did not sometimes charge the customer for more waste than they actually pick up. Take Jumbo Carting, one of the city's largest, with 16 trucks and maybe a thousand customers. Over a 17-month period Jumbo charged Bristol-Myers for removing 3.5-cubic-yard containers that actually held only 0.75 cubic yards—\$23 to \$27 a container, that is, rather than \$5.25. More spectacularly, the Roger Smith Hotel complained a few years ago that New York Carting was collecting 25 to 50 tons of garbage a month and charging it for 200—some \$1,000 a month instead of \$200. The hotel was right, and New York Carting, which had clearly overreached by overcharging 400%, eventually lost its license. More modest overcharges almost certainly go undetected.

If not 10%, then, how much return on revenues can a carter expect? All the evidence suggests that in New York City, at least, the industry aims at making a minimum 50 cents on the dollar.

Carters, it is true, will try occasionally to steal a stop if they see an opportunity, but the risks are high. One west Florida garbage-man told a meeting of his colleagues: "Anybody takes my customers, I'll burn his house and kill his kids."

What keeps the carters and their competitive instincts in line is the threat of personal or economic injury, sometimes through the unions, sometimes through the carters' associations. On Long Island, says Ronald Goldstock, head of the New York State Organized Crime Task Force, the carters' association divides territories and guarantees property rights, and the union—Teamsters Local 813—sees that those rights are enforced. It's the same structure of control the McClellan Committee found in the New York City garbage industry 30 years ago and that a group of New Jersey officials laid out before a congressional investigating committee 4 years ago.

But on Long Island, at least, as in New Jersey, more is involved than venal management and corrupt unions. According to Goldstock, the real power in the Long Island trade association is represented by the head of Salem Sanitary Carting, Salvatore Avellino, who's also a member of the Lucchese crime family now headed by Antonio Corallo. Corallo controls the association through Local 813, which in turn is controlled by the head of the

Gambino family, Paul Castellano. "When we control the men, we control the bosses even better" is how Avellino puts it. "A strong union makes money for everybody, including the wise guys."

According to tapes Goldstock played for the President's Commission on Crime, the 24 members of the association fork over \$100,000 a quarter, nearly \$500,000 a year altogether, to Corallo, who splits it with Castellano. So in the end it's the mob that controls the Long Island garbage industry, not through its ownership of the carting companies themselves, but through its ability to enforce the property rights system. "I see it as payment for a service," says Rand Corp. senior economist Peter Reuter. "The prime beneficiaries are the carters rather than the racketeers, who are best seen as instruments for a cartel."

Such feudal patterns have been uncovered in many of the older, particularly eastern, cities, and even in some of the newer cities of the Sunbelt, from Florida to California. Primitive. Feudal. Anachronistic. But technology is slowly changing things. Technology and people's concern for the environment.

Since the late Sixties environmental regulation has forced the industry to move from open to closed trucks, from open burning at town dumps to burial at sanitary landfills, and from landfills to resource recovery plants that turn garbage into electricity. A decade ago the Resource Conservation & Recovery Act even created another and different industry entirely—hazardous waste disposal. What generations of law enforcement failed to change, technology and social pressures are slowly eroding. In its most basic sense, capitalism is coming to the garbage industry.

Technology changed garbage from a labor-intensive to a capital-intensive business. In the process of mechanization, labor costs dwindled from as much as 65% of the revenue dollar back in the 1950s to maybe 35% today, while capital costs rose correspondingly. A fully equipped truck these days costs over \$100,000, vs. \$35,000 a decade ago.

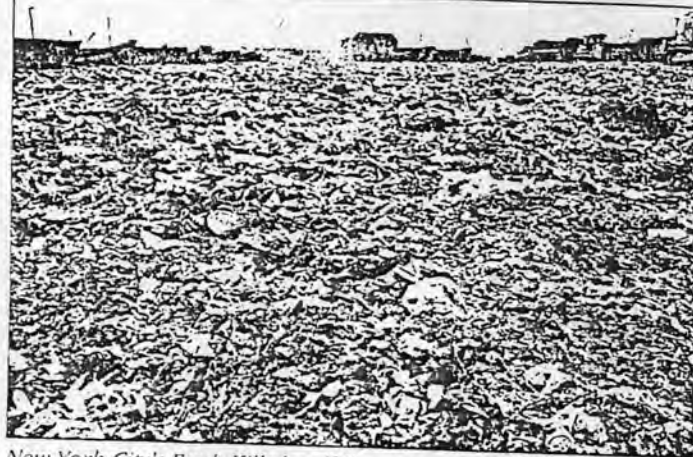
So the time was ripe for go-getters like Tom Fatjo, the Houston accountant and part-time garbageman who in the late Sixties began turning the garbage business into a modern industrial enterprise, integrated from trash can to landfill. Fatjo bought control of a publicly owned



Lucchese family head Antonio (Ducks) Corallo controls the carting association through Local 813, which in turn is controlled by the Gambino family.

\$24 and a profit vs. \$28 and no profit

The contrasts are sharp. At the Fresh Kills landfill on Staten Island, where 85% of New York City's garbage will soon end up, plastic bags topple into the water as barges unload; soiled rags spill on the roadway as dumpsters crawl to the dump site. Scavenger gulls flock, flies swarm, and the odor of revoltingly ripe garbage hangs in the air. But just 60 miles to the north, at the Al Turi landfill in Goshen, trucks filled with pre-



New York City's Fresh Kills landfill
Fifteen years left of life.

compacted waste descend tidily on earthen ramps into the depths of an open pit. There are virtually no birds, no flies and no odors hanging in the air. Is this simply the difference between old and new styles in dumping or the difference between public and private enterprise?

The 3,000-acre Fresh Kills landfill is 37 years old. As of Jan. 1, the 24-hour dump will accept a staggering 18,500 tons of garbage a day, producing roughly \$28 million in annual revenues from a constant stream of 1,000 trucks and 90 barges. No wonder the dump is expected to reach 500 feet above sea level—which would make it the highest point on the Eastern Seaboard—and exhaust itself by the year 2000.

Some 70% of the waste arriving at Fresh Kills is picked up by municipal workers. Private carters bring the rest, either directly by truck, at \$19 to \$28 a ton, or via one of New York City's nine existing marine transfer stations, for hauling by barge at \$30 to \$46 a ton.

FORBES visited Fresh Kills one drizzly day recently. A barge full of infectious hospital waste had just come in, and thousands of screeching gulls circled. The Dock Digger, a huge crane, cautiously lifted the cuttings, hypodermics and swabs from the barge and dropped them into an open bin. A panzer-like wagon, crawling on a road constructed of garbage, hauled the bin half a mile to the dumping site. At the base of a heap of open garbage it was tipped. A bulldozer buried run-of-the-mill city waste on top of that. Then a Rexus, a heavy machine moving on spiked rollers, rode up and down, compacting the mattresses and tin cans. Lastly, it was covered by clay.

"We've had cases of hepatitis," admits Warren Curry, deputy superintendent. "The gulls don't come in contact with human beings. We're worried about the flies."

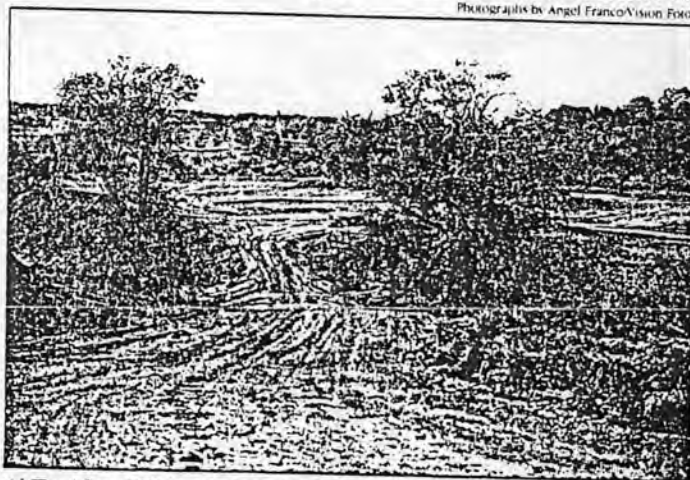
Fresh Kills, for all the apparent chaos, is well organized. Not long ago a gentleman from New York City inadvertently threw out the ashes of his late father with the garbage. Sanitation men were able to track down the urn at Fresh Kills and retrieve it.

North of the city, the privately run, 100-acre Al Turi landfill has an expected life of 12 more years. Alfred DeMarco, who owns the site, says he spent \$3 million before it was even opened in 1983. Legal fees took the bulk, but about \$500,000 was spent on engineering and laying the 2-foot-thick clay base that lines the landfill. The clay base is meant to seal in the leachate—the witches' brew that seeps down through the garbage and into the water table. At Al Turi, gravity draws the leachate into a concrete holding station, which then recirculates the liquid into the garbage. The reason: Leachate facilitates the decomposition of waste.

The Al Turi landfill looks almost clinical in its handling of 900 tons of waste a day. A brick entrance and a neat row of small pines and hills block the view from the road. Well-maintained gravel roads circle down into the pit, where a single trailer dumps garbage. Only a few gulls circle the 50 yards of exposed garbage because a bulldozer is close behind, covering the waste with 6 inches of dirt. Garbage has already been compacted twice (it goes through a transfer station) before arrival at Al Turi.

Where the two landfills differ most spectacularly is

Photographs by Angel Franco/Vision Photos



Al Turi landfill in Goshen, N.Y.
State of the art?

in the economics. Both have methane recovery projects, which bring in a 12.5% royalty for the city and 15% for privately run Al Turi. At Al Turi, however, it costs between \$22 and \$24 a ton for dumping, which piles up to \$10 million in annual revenues, netting DeMarco a pleasant \$1.7 million pretax. The up to \$28 a ton that New York charges private carters, in contrast, does not include a profit. It simply covers costs.—Richard Morais

machinery company, Browning-Ferris Industries, and began acquiring garbage collection outfits by the score, offering BFI stock in exchange and keeping on the old managers for at least three to five years to run the old companies.

BFI was literally buying out the old feudal rights and retiring the feudalists. It could do so profitably because the economies of scale, capital and technology created a kind of synergy that made the acquisitions more valuable to BFI than they had been to the sellers. "You have to buy these companies," says the director of one state investigative committee. "It's an implicit recognition of property rights." At least in most of the nation's older cities.

Over the years, Browning-Ferris was joined by such companies as Waste Management, SCA Services, Canada's Laidlaw Industries and, most recently, Genstar, a San Francisco-based construction company that a year ago acquired the 40% of SCA Waste Management spun off to pacify the Justice Department. Big companies, all of them, heavy in assets and market power, which last year probably generated close to 25% of the private industry's total revenues (see table, p. 129).

Other large public companies may be in the making. Western Waste went public two years ago, San Francisco's Sunset Scavengers has become a garbage conglomerate under the name Envirocal, and sizable combines appear to be forming in the New York metropolitan area.

"If you don't get big enough, you're not going to be in this business," says New York carter Vincent Promuto, a onetime guard with the Washington Redskins who also heads the New York garbage industry's waste-to-energy project. "The whole idea is to try to get as much on that truck as you can. You're trying to accumulate and buy out and merge your customers as close as you can to each other, so that you don't waste any time in the transportation."

Says BFI boss Harry Phillips: "As you build your volume with customers in a given locale, you increase the density of your routes and thereby decrease the time required to service each customer—15 minutes per customer at the start, 7 minutes later on. The other guy picks up in 15, and it costs him \$10.50. We go out

and charge \$7 or \$8. We are charging below his cost, and he says that's predatory pricing. Well, it isn't, not when we charge below his cost, only when we charge below ours."

With the need for capital rising rapidly, the industry has begun to consolidate everywhere, even in New York City. New York has only 464 carting licenses these days, vs. 691 in 1978, and 30 or so routes change hands under DCA jurisdiction every year. A decade ago the average firm owned 3 trucks; now the average is up to 6, and there are 30 to 40 companies that have more than 15 trucks. So far, none of the national companies has moved into New York City, which, though consolidating, is still in the family, so to speak.

North of the city, Thomas Milo and Alfred DeMarco, either singly or in partnership, have absorbed a dozen or so firms in the last 20 years. Although some of these companies were once said to be controlled by the mob—Milo himself is the son of a reputed Genovese family member—DeMarco dismisses any suggestion that they still are. "Unfortunately in this country you sometimes suffer for the sins of your father," he says. "Our company gives good value for the dollar."

On Long Island, however, the mob apparently has ambitions of creating a monolith of its own. Mob lieutenant Sal Avellino was overheard saying a while back: "If there's going to be ten of us, four of us, picking up the garbage, I want to tell you who's going to be picking up. We're going to knock everyone out, we're going to knock everybody out, absorb everyone—eat them up."

In the mid-Seventies two Columbia professors, E.S. Savas and Barbara Stevens, made a series of ground-breaking studies that confirmed what everybody had long suspected: that private firms with municipal contracts or franchises could pick up garbage far more cheaply than municipalities, even though they had to pay taxes and earn a profit. Private firms were better managed, Savas and Stevens concluded. They tended to use smaller crews, larger vehicles, pay lower salaries and fringe benefits, and were more likely to make two loads per shift. At any rate, on average, municipal collection costs per household were 29%



New York carter Vincent Promuto, head of the industry's waste-to-energy project

"The whole idea is to try to get as much on that truck as you can . . . to accumulate and buy out and merge your customers as close as you can to each other."

higher than those of the private firms.

Contract service, Stevens discovered, is lower cost than either franchised or municipal services, and all three are lower cost than private carters competing for business in the same territory. What makes the difference is the monopoly the municipalities make possible—a public monopoly in which the municipality picks up the garbage, a private monopoly in which a private company picks up the trash on a contract or franchise basis. "Instead of five postmen delivering the mail, you have one," says Stevens, who now runs Ecodata, a consulting firm, "so you get the economy."

P private or public, mob or legitimate, the business inevitably tends toward monopoly. Like electricity and water supplies, garbage collection in a given area is more efficiently handled by a single outfit, and if you can't win a municipal franchise, there are other ways to achieve the same ends. That's where cartels, mob-dominated and otherwise, come in.

Over the past 20 years federal and state agencies have brought more than a dozen antitrust suits against companies and trade associations in the garbage industry—in Philadelphia, Los Angeles, Atlanta, Chicago and Syracuse; in Wisconsin, Arizona, New Jersey, Florida and New York—all alleging conspiracy to allocate customers and territories, to fix prices and eliminate competition: in short, to maintain the property rights system.

"In the carting industry," says Rand Corp.'s Peter Reuter, "the more competitive the market structure [i.e., the more fragmented the market], the higher the probability a customer allocation agreement exists, since the agreement will restrict growth opportunities for efficient firms," and so prevent them from dominating the market.

As Stevens sees it, by putting garbage contracts or franchises up for competi-



*Gambino family chieftain
Paul Castellano*

**The carters kick in
nearly \$500,000
a year, which is split
50-50 between Corallo
and Castellano.**

tive bidding, the municipalities can combine the price advantages of competition with the cost efficiencies of a geographic monopoly. That is what New York City failed to do in opening commercial trash to private companies. Ironically, the emergence of the municipal market has increased the pressure to consolidate even more. How many companies have the resources to bid on the \$116 million, 100-truck contract Waste Management just won in San Jose?

As the heaps of garbage mount, so do the capital costs—and not only of equipment but of landfills as well. When open burning was prohibited under the 1970 Clean Air Act, town dumps began being supplanted by sanitary landfills and the disposal end of the business became capital-intensive for the first time. Given the increased complexity in the design, construction and technology involved in a sanitary landfill, you could easily spend millions developing a leakproof repository where waste could be covered with a layer of earth. So the larger, better-financed companies again had the edge.

"It's a much higher risk business than collection," says Donald F. Flynn, Waste Management's chief financial officer, "more capital-intensive, with a higher break-even point. You always risk that it may not be permitted or a competing site may open closer to the market. But when landfills are successful, they are higher return than collection"—and probably much higher.

As environmental pressures mounted, municipal dumps began closing everywhere. All told, something like 7,000 have closed since 1975, and of the 13,000 that remain another 6,000 are expected to shut down by 1990. Inevitably the price of disposal has gone up, and carters have been having to travel farther and farther to find a place to dispose of their waste. In the most extreme example, Hempstead, N.Y. began spending \$63 a

Smelling like a rose

Garbage may not seem much of a glamour business, but in the hands of the few corporate go-getters that have emerged from the thousands of small local garbage outfits over the past 20 years, it looks remarkably like one. These publicly owned waste disposal companies in fact rank among the fastest-growing, highest-profit enterprises in all of U.S. industry.

	Revenues (\$mil)	Net income (\$mil)	Recent price	Recent P/E	Debt/ equity ratio	—Latest 12 mos— net profit margin	ROE	—5-year average— ROE	Growth sales	Growth EPS
Browning-Ferris Inds	\$1,001	\$ 89	48½	16	0.2	9.5%	22.6%	22.6%	16.2%	21.3%
Laidlaw Inds	130	15	14½	19	0.4	14.7	35.8	24.7	35.0	28.9
Waste Mgmt	1,315	143	58½	18	0.6	10.5	17.7	22.9	26.5	22.5
Western Waste Inds	69	3	10	17	0.8	4.3	9.1	34.6¹	25.5²	6.4²

¹Four years. ²Three years.

ton (\$30 of it for transportation) to ship its garbage 80 miles to the Al Turi landfill in Goshen, N.Y. (see box, p. 127).

"I thought I would never in my life see anybody pay \$63 a ton to dispose of waste, but we are doing that," says BFI's Phillips. "Long Island has got a crisis. Boston is coming pretty close to it."

In the circumstances, it's hardly surprising that the emerging national companies early on began backing up their collection operations with landfills. "If you don't control your disposal costs," says Waste Management's Don Flynn, "you have a risk to your business of somebody else causing a significant cost dislocation. So the integration of collection and disposal is vital to success in the market, and that's an ability we have that small individual companies for the most part don't have." In short, if you control the landfill, you can control the collection as well.

In Pittsburgh one landfill operator claims BFI acquired control of various strategically situated landfills and then set about preventing competing landfills from being opened, tried to buy up the others that remained and generally put the squeeze on the competition. In Denver 11 independent carters charge that BFI raised their costs and cut their revenues by cutting its collection charges in markets close to the dumps and raising the fees it charged the independent haulers for using its dumps. In Los Angeles carters have been shut out of dumps by Teamster contracts prohibiting dumps from taking garbage except from Teamster drivers, and in New Jersey landfills shut out competitors' trash to keep them from bidding on municipal contracts.

The pressure on available landfills is so extreme that it has already spawned yet another new industry—resource recovery, or waste-to-energy plants. Eight of the new generation of mass-burning plants are already in operation, or so the American Boiler Manufacturers Association calculates, another 25 are under construction, and dozens of others are in the planning stage. Most of these plants, in most circumstances, wouldn't have a prayer of competing with landfill costs, except that, where landfills aren't available, as they aren't in parts of Florida, California, New Jersey and New York, people will pay whatever amount is necessary to keep from choking on their own garbage.

The industry's biggest market is inevitably New York City, whose enormous



Suburban carter Alfred DeMarco

"Our company gives good value for the dollar."



Ecodata's Barbara Stevens

"Instead of five postmen delivering the mail, you have one, so you get the economy."

Fresh Kills landfill (see box) is likely to last only another 15 years. In that period, however, the city hopes to build as many as eight waste recovery plants, the first of which—a \$250 million plant at the Brooklyn Navy Yard—was approved by the Board of Estimate in August. But the price is high. The Brooklyn plant will dispose of garbage for \$30 to \$35 a ton, vs. the \$28 the city charges at Fresh Kills.

Though collection in New York and other major cities is still chiefly in the hands of the traditional operators, the technology of waste recovery may be shunting them to the sidelines. New York's private garbage industry plans a jointly owned 750-ton-a-day plant for the South Bronx, but in other major cities most of the owner-operators so far are outsiders like Allied-Signal, Ogden and Blount. Former Westchester County Executive Alfred DelBello, head of the Allied-Signal unit that will build and operate the Brooklyn plant, understands well that the day of the landfill is almost over. Westchester closed all its incinerators and then all its municipal landfills, and so gradually forced the area's garbage into the waste-to-energy plant the county was sponsoring. "Our business," says DelBello, "is to close landfills."

And so the garbage industry has moved into the public spotlight. The garbage man is no longer just a dim shape in the alley: He has become a multibillion-dollar presence in the economy, with tens of thousands of public stockholders, a political constituency of considerable magnitude, and enormous power to influence both the natural and economic environment.

In the end the increasing public exposure of the large public companies is likely to do more than either law enforcement or trustbusters can to dissipate the muscle tactics and profiteering that have been endemic to the business. In some ways, the garbage industry resembles the casino gambling industry a decade or so ago. As the big public companies supplanted the original mob-dominated owners, the industry inevitably cleaned up its act and had to in order to maintain the approval of regulators, stockholders and Wall Street alike.

The garbage business is too large, the challenges and opportunities too vast, for the industry not to keep its house in order. "We don't want territories," BFI's Harry Phillips says firmly. "What we are trying to do is get more business from the competition. It's a tough world out there." ■

MEMORANDUM

TO: Carolyn Guess, Chairman

DATE: November 29, 1986

FROM: John B. Farleigh
Executive Director

SUBJECT: Alternative Funding

Staff recommends consideration of the following means of alternate funding for the APUC. This alternate funding for the agency includes filing fees, required statutory allocation of expenses and gross revenue tax based on either interstate or intrastate revenues. The total funding required \$4,155,900 is the proposed FY 87 budget for the APUC.

Filing Fees

Based on estimated applications for CPC&N's from parties that would not be economically regulated and subject to a gross revenue tax. (10 @ \$500)

\$5,000

Statutory Allocations

AS 42.06.610 provides that the Commission shall allocate costs among the parties..... estimate based on FY 87 program receipt budget

\$500,000

Gross Revenue Tax Allocation

This allocation represents funding for the remainder of the FY 87 budget after filing fees and statutory allocations

\$3,650,900

	<u>Percentage</u>	<u>Amount</u>
AS 42.06 Pipeline Carriers	20	\$831,200
AS 42.05 Public Utilities	80	\$2,819,600
Total	100	\$3,650,800

Based on a preliminary review of resource allocation for regulations under AS 42.05 and AS42.06.

Total FY 87 Funding Requirement

\$4,155,900

ALASKA PUBLIC UTILITIES COMMISSION
OIL PIPELINE COMPANIES TOTAL REVENUES
(1984 REPORTING YEAR)

*

UTILITY	GROSS REVENUES IN (000)	INTRASTATE REVENUES IN (000)	TOTAL COMPANY ALLOCATION	INTRASTATE ALLOCATION	Cost per foot
AMERGA HESS	57,290		12,195		
AKCO	901,217	26,153	189,520	348,884	.00273
BP	624,099	3,512	131,244	46,851	.00015
COOK INLET	20,280	7,807	4,265	104,147	.00627
EXXON	834,353	4,587	175,457	61,191	.00051
GOLDEN VALLEY ELECTRIC ASSOC.	763	763	161	10,179	.00060
KENAI PIPE LINE CO.	4,931	4,931	1,037	65,780	.00289
KUPARUK PIPELINE CO.	2,296		483		
KUPARUK TRANSPORTATION COMPANY	8,174		1,719		
MURIL ALASKA	155,431	907	32,606	12,100	.00048
PHILIPS ALASKA	49,006	111	10,306	1,481	.00018
SUNCO	1,236,230	6,615	259,970	88,246	.00044
TESORO	4,922	6,922	1,456	92,341	.00918
UNION ALASKA	50,885		10,201		
TOTAL	3,952,572	62,308	831,200	831,200	

ALASKA PUBLIC UTILITIES COMMISSION
UTILITY ALLOCATIONS
OR ALTERNATIVE FUNDING

Page A-1

	GROSS REVENUE	INTRASTATE REVENUE	ALLOCATION TOTAL CO. REVENUE	ALLOCATION INTRASTATE REVENUE
ELECTRIC UTILITIES	298,500,730	298,500,730	868,337	1,260,776
GAS UTILITIES	131,307,586	131,307,586	301,980	554,611
REFUSE UTILITIES	12,603,404	12,603,404	36,663	53,233
WASTEWATER UTILITIES	20,516,932	20,516,932	59,685	86,657
TELECOMMUNICATIONS UTILITIES	490,132,328	188,431,724	1,425,795	795,878
WATER UTILITIES	16,205,036	16,205,036	47,140	68,445
TOTALS	969,268,016	667,567,612	2,819,600	2,819,600

47.05

ALASKA PUBLIC UTILITIES COMMISSION
ELECTRIC UTILITIES-TOTAL REVENUES
(1994 REPORTING YEAR)

	GRASS REVENUES	TOTAL COMPANY ALLOCATION	INTRASTATE ALLOCATION	COST per KWH
ALASKA ELECTRIC LIGHT & POWER CO.	14,002,076	40,732	59,141	.00029
ALASKA POWER & TELEPHONE CO.	2,634,071	7,663	11,126	.00072
ALASKA VILLAGE ELECTRIC COOP., INC.	11,462,005	33,343	48,412	.00185
ANILAK LIGHT & POWER CO.	554,392	1,613	2,342	.00169
ARCTIC UTILITIES, INC.	4,294,405	12,453	18,139	.00109
BARROW UTILITIES & ELECTRIC COOP.	2,001,465	5,822	8,454	.00041
BEINEL UTILITIES CORP.	4,403,185	12,809	18,598	.00076
BEULLES LIGHT & POWER	424,597	1,235	1,793	.00215
CHUGACH ELECTRIC ASSOC.	91,258,790	245,470	395,447	.00021
COFTER VALLEY ELECT. ASSOC.	5,979,555	17,395	25,256	.00055
EGEGIA LIGHT & POWER	82,846	241	350	.00185
CITY OF GALENA	686,411	1,997	2,899	.00182
G&K INC.				
GRITCHYGA THREE UTILITY	520,115	1,513	2,197	.00189
GOLDEN VALLEY ELECT.	39,377,905	114,550	166,320	.00044
HAINES LIGHT & POWER	1,304,787	3,796	5,511	.00069
HOMER ELECTRIC ASSOC.	25,067,303	72,921	105,877	.00038
I-H-H ELECT. COOP.	572,206	1,665	2,417	.00177
KODIAK ELECTRIC ASSOC.	9,970,859	29,005	42,114	.00068
KOTZEBUF ELECTRIC ASSOC.	2,759,973	8,029	11,657	.00093
LEVYLOCK ELECT. COOP.	122,418	356	517	.00208
MAULEY UTILITY CO.	77,966	227	329	.00167
NATAMUSKA ELECT. ASSOC.	32,711,035	95,156	138,161	.00035
NANAKOTA POWER CO.	121,140	352	512	.00127
MCGRATH LIGHT & POWER CO.	768,776	2,236	3,247	.00131
MUNICIPAL LIGHT & POWER CO.	40,900,484	118,979	172,751	.00026
NORTHWAY POWER & LIGHT, INC.	314,537	915	1,329	.00102
PUSHAGAL ELECTRIC COOP.	2,230,008	6,487	9,419	.00088
TANANA POWER CO.	553,576	1,610	2,338	.00138
ULUITI-NAIINA REGIONAL ELECTRIC AUTHORITY	2,571,999	7,482	10,863	.00149
VALUITAT POWER CO.	721,258	2,245	3,260	.00098
TOTAL	298,500,230	868,337	1,260,226	

ALASKA PUBLIC UTILITIES COMMISSION
GAS UTILITIES-TOTAL REVENUES
(1984 REPORTING YEAR)

*Cost per
Customer annually*

UTILITY	REVENUES	TOTAL COMPANY ALLOCATION	INTERSTATE ALLOCATION
SERIAL	129,424,374	376,425	546,648
BOERUM UTILITIES	714,550	2,072	3,018
KERAT UTILITY SERVICE CORP.	1,170,712	3,406	4,245
TOTAL	131,309,586	381,280	554,611

ALASKA PUBLIC UTILITIES COMMISSION
 ALASKA UTILITIES
 (1984 REPORTING YEAR)

UTILITY	GROSS REVENUES	TOTAL COMPANY ALLOCATION	INTRASTATE ALLOCATION	Cost per customer annually
ANCHORAGE REFUSE	7,140,855	20,794	30,195	\$ 1.28
BURTON (GEYER & CO. (HOFF AND TURN. AKA))	123,724	544	817	21.55
BURTON GEYER & CO. (HOMER)	224,306	453	947	3.71
CHADDER SANITATION	2,103,373	6,115	8,084	2.26
EAGLE RIVER REFUSE	620,795	1,806	2,622	.57
EAP NORTH	1,072,369	3,120	4,529	6.01
FOOTAK SANITATION	591,087	1,720	2,497	9.60
PERISCULA SANITATION	648,823	1,887	2,740	2.74
TOTAL	12,603,404	36,663	53,233	

ALACIA PUBLIC UTILITIES COMMISSION
WASTEWATER UTILITIES TOTAL REVENUES
(1994 REPORTING YEAR)

Page A 1

UTILITY	GROSS REVENUES	TOTAL COMPANY ALLOCATION	INTERSTATE ALLOCATION	Cost per customer annually
ANCHORAGE SEWER UTILITY	19,563,270	54,962	82,713	\$ 2.09
COLLEGE UTILITIES COOP.	879,743	2,559	3,716	2.58
BARROW UTILITIES	52,603	153	222	\$ 74.00
SOURMOUNT	405	1	2	.67
SETELLERS BAY	211	3	4	.57
TOTAL	20,516,232	59,685	86,657	

ALASKA PUBLIC UTILITIES COMMISSION
TELECOMMUNICATION UTILITIES-TOTAL REVENUES
(1983 REPORTING YEAR)

UTILITY	GROSS REVENUES	INTRASTATE REVENUES	TOTAL COMPANY ALLOCATION	INTRASTATE ALLOCATION	Cost per Main station annually % of gross revenues
ALASKON, INC.	272,824,651	62,476,005	793,790	263,879	
ANCHORAGE TELEPHONE UTILITY	192,404,618	70,004,170	318,258	295,676	3 2.62
ARCTIC SLOPE TELEPHONE CO-OP., INC.	3,238,978	1,441,074	11,459	6,090	4.75
PRISTON F&I TELEPHONE	1,510,436	801,534	4,394	3,385	5.14
PUSH-TILL	759,592	480,263	2,210	2,029	4.45
COPPER VALLEY TELEPHONE	3,203,480	1,628,281	9,320	6,877	2.55
GENERAL TELEPHONE CO.	7,303,568	5,120,817	21,246	21,629	2.28
GLACIER STATE TELEPHONE	33,911,378	13,425,521	98,648	57,001	2.35
INTERIOR TELEPHONE	3,957,258	1,331,632	11,513	5,582	3.16
JUNEAU & DOUGLAS TELEPHONE	15,907,743	9,046,013	46,276	38,208	2.70
KATAGUELA TELEPHONE CO-OP.	20,035,488	12,026,078	58,425	50,774	2.13
NATIONAL UTILITIES	1,088,583	544,222	3,167	2,299	71.1
PUSHAGAK TELEPHONE COOPERATIVE	1,203,170	564,948	3,501	2,386	2.81
PIZ TELEPHONE	1,466,503	1,163,445	4,266	4,914	71.2
SITKA TELEPHONE	6,825,899	3,158,778	19,857	13,342	2.17
TELEPHONE UTILITIES OF ALASKA	1,657,883	804,520	4,823	3,398	2.37
UNITED UTILITIES	4,530,175	4,102,157	13,202	17,327	5.70
YUKON TELEPHONE	493,625	251,514	1,436	1,062	5.05
TOTAL	490,132,328	188,431,924	1,425,795	795,828	

ALASKA PUBLIC UTILITIES COMMISSION
WATER UTILITIES-TOTAL REVENUES
(1984 REPORTING YEAR)

Page A 1

UTILITY	GROSS REVENUES	TOTAL COMPANY ALLOCATION	INTRASTATE ALLOCATION	Cost per customer annually
ANCHORAGE WATER UTILITY	13,003,352	33,817	54,924	\$ 1.71
BOHIG FUEL	13,153	34	56	.68
FAIRFORD UTILITY	1,353,983	3,521	5,719	635.33
FRIDGES, R.J.	14,651	38	62	.44
COLLIER UTILITIES CORP.	1,119,537	2,202	4,724	3.23
IGAIL OIL CO	2,666	7	11	.85
ALASKA UTILITIES	89,519	220	374	.76
HOUGHTON	21,310	55	90	.51
HOBOLE UTILITIES	183,467	490	796	1.16
McKENLEY UTILITIES	350	1	2	.04
SES	91,899	237	388	.64
McGARD, ALBERT	24,575	64	104	1.39
VALLEY WATER	113,546	295	480	2.91
ELIOTHA	118,018	307	499	1.09
CRISTAL UTILITIES	40,452	105	171	1.18
SETTLERS PAY PROP.	3,911	10	17	.27
SPEARED HEIGHTS	6,747	18	29	1.16
TOTAL	16,205,036	42,140	68,445	

Jim Clark
5/12/86

Introduced: 3/22/85
Referred: Labor & Commerce
and Finance

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 314 am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Public Utilities

7

Commission Act; and providing for an effective date."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. AS 44.66.010(a)(4) is amended to read:

10

(4) Alaska Public Utilities Commission (AS 42.05.010) --

11

June 30, 1989 [1986];

12

* Sec. 2. AS 42.05.161 is amended by adding a new subsection to read:

13

(c) A commission meeting is open to the public under AS 44.62.-

14

310(a), except that the commission may conduct a meeting in executive

15

session under AS 44.62.310(b) and (c). A meeting of the commission

16

may not be closed to the public under AS 44.62.310(d)(1).

17

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-

18

10.070(c).

REASONS FOR THE OPEN MEETING AMENDMENT

APUC proceedings are subject to the Open Meetings Act. (AS 44.62.310(a)). Under existing law, APUC proceedings must be held in public unless they are "adjudicatory proceedings." (AS 44.62.310(d)(1)). Ratemaking proceedings affect every utility consumer within a given service territory. Yet, under the existing act, they are considered adjudicatory and the Commission makes ratemaking decisions behind closed doors.

A second class of proceedings that should be included under the Open Meeting requirements are certification proceedings in which the APUC selects a utility which will be given a service area in some part of the state. The effects of such a decision, once made, impact hundreds or thousands of local utility consumers who must then buy service from a company selected for them by the APUC. There is no legitimate public policy reason why such deliberations should be held behind closed doors.

The APUC would not lose its "quasi-judicial" status by being required to hold its meetings in public. The APUC is neither a trial jury nor an appellate court. While parties before it have procedural due process rights, that fact has absolutely nothing to do with whether the APUC should deliberate publicly.

An analogy to this situation exists at the federal level. The so-called alphabet regulatory agencies (the FCC, FERC, etc.) are subject to broad public meeting requirements under the federal "Sunshine Act." These Commissions must conduct ratemaking proceedings in a public meeting under the "Sunshine Act."

OPEN MEETINGS AMENDMENT

April 8th

Arguments have recently been made that the open meetings amendment to HB 314 "singles out" the APUC, that the APUC is like a jury and should be able to deliberate its adjudicatory decisions behind closed doors.

It is true that the open meetings amendment singles out the APUC. Since the merging of the pipeline and transportation commissions into the APUC, the APUC is the only classical economic regulatory agency of its kind in Alaska. The APUC has authority over a variety of industries and makes decisions that affect literally everyone in Alaska, from how much an Alaskan consumer pays for utility services to what entity becomes the franchised service provider for a given area.

Decisions that affect all Alaskans should be open to all Alaskans. The APUC is not a jury. The APUC makes adjudicatory decisions for the purpose of setting rates and deciding which entity will provide a given service.

At the federal level, economic regulatory agencies such as the FCC and FERC operate under broad public meeting requirements known as the "Sunshine Act." Under the "Sunshine Act," adjudications such as rate making and certification proceedings are conducted in open before the public because of their far reaching impact on the public. By analogy, the APUC should do the same.