

HB

72



## Alaska State Legislature

House of Representatives  
COMMITTEE ON STATE AFFAIRS

March 23, 1989

TO: Rep. Dave Donley  
Chairman, Committee on Labor and Commerce

FM: Rep. H.A. "Red" Boucher  
Rep. Loren Leman  
Rep. Ann Spohnholz

RE: Subcommittee on Solid Waste Utilities

The Subcommittee on Solid Waste Utilities has met to consider two questions.

I. Should solid waste utilities be deregulated by the APUC.

II. Should the Committee introduce legislation regulating recovery and recycling of solid waste.

Regarding Question I, the subcommittee has reviewed the past and current record on the issue of deregulating refuse utilities. Appendix One to this memorandum contains the legislative history of bills introduced in the eleventh legislature. There is no bill in the current legislature concerning deregulation of refuse utilities.

In addition, the subcommittee members met with representatives of the refuse industry, and also with Susan Knowles of the APUC, to ascertain their views on this issue.

The subcommittee has concluded that current statute requires the APUC to regulate refuse utilities (A.S. 42.05.720(F)). The fact that the legislature has considered and declined to change the statute affirms the prescribed public policy for APUC to follow.

The subcommittee is disconcerted by information from the refuse utilities that the APUC is de facto deregulating refuse utilities by encouraging applicants to apply for "certificates of public convenience

and necessity" in areas where existing refuse utilities are operating. This practice is not in conformance with the statute and should be changed in favor of stricter regulation.

The subcommittee's conclusion in favor of strict regulation is based on traditional economic theory of regulation that holds that the public interest is best served by allowing economies of scale to accumulate for capital and operational cost recovery. In exchange for the preferred monopolistic position enjoyed by most utilities, they are regulated in order to prevent public abuse in the form of excessive profits and substandard or discriminatory service. The practice of regulation saves the public from inconstancy that is the by-product of competitive markets. Regulation of utilities is especially applicable in thin markets, like most Alaskan communities, that need reliable service from fundamental utilities.

In addition, the subcommittee is persuaded that regulation of refuse utilities is necessary to protect public health and the environment. The commonplace occurrence of hazardous waste and toxic substances in our communities requires, in the opinion of this subcommittee, a measure of control and planning that can be achieved only by regulation. Issues regarding waste products and disposal methods are of increasing urgency in communities throughout the country. These issues deserve to be scrutinized more rather than less in order to preserve public health and the aesthetic values cherished in most Alaskan communities.

For the aforementioned reasons the subcommittee recommends that a letter of legislative intent be attached to HB 72 (APUC sunset bill) that reaffirms APUC's statutory mandate to regulate refuse utilities until the legislature chooses to change the statute. Suggested language follows:

The legislature finds that the APUC's practice of regulation of refuse utilities as required under A.S. 42.05.720 is inconsistent with that statute. It is the intent of the legislature that APUC should strictly regulate refuse utilities consistent with A.S. 42.05. 720.

Regarding the second question, i. e., should the Committee sponsor legislation requiring regulation of solid waste recovery and/or recycling. The subcommittee is of the opinion that the merits of the proposed legislation, Appendix Two, cannot be satisfactorily determined without public hearings. Consequently, the subcommittee supports introduction of the legislation so that public process will be available to determine its viability.

Work session

2-2-89

Present: Nonley  
 Collins: ~~Present~~  
 Lemar  
 Boyer  
 Boucher  
 Spokholz

Absent: ~~Present~~

000

Jim Fisher  
 6645 N. Douglas  
 Juneau AK

AK. Legal Services  
Supports

HB 48: Concept Lower rates for lower income  
 parties

094 Dave Hutchins Ex Dir REC

HB 72 Submitted amendments

Limited Competition

Fixed Overhead

Continuing Property Rights

add subsection Divs: Supp'd. be tax exempt  
 due to Lobbying

Comments of Lee Num:

exclude Liberally Constructed

Print + ...

## Teleconference

APUC  
#72

Mike Downs Wasilla

① Commercial Refuse license

② Unable to obtain till Sunset Bill  
deregulate  
of Waste  
disposal  
reviewed.

③ Suggest APUC check into persons  
wishing to  
allow open competition

336 Leman: Concern of APUC regulation of  
solid waste disposal

APUC felt one way to reduce costs - disallow  
having to regulate solid waste at all.

Mr. Downs felt some control was needed.  
Didn't think state should control  
who can obtain license & who  
can't. Should be put out to a  
competitive bid process.

370 Paul Robison Valley Refuse  
Would like deregulated so  
there could be competitive bidding.

Incl. <sup>Refuse</sup> Bus. regulated to size of building  
by APUC.

PUC Ties hands of om. Business.

409 Leman proposed which company

Brough. Landfill used for dumping

Leman: Are rates you're charged same for everyone?

No charge to anyone - Limits on what you can dump.

Number 457 Case against APUC

Private carrier could not be carrier of last resort.



```

*****
*
* DELIVER TO: LIOCLON
*
* ORIGINAL
* SENT: 02/02/89 TIME: 15:33
* FROM: LIOCFBX
* SUBJECT: HL&C; PL#1; HB71; 2-2
* PRINT DATE: 02/02/89 TIME: 15:33
*
*****

```

```

T/C NO: 89-01-89

DATE: FEBRUARY 2, 1989
SPONSOR: HOUSE LABOR & COMMERCE
SUBJECT: HB 72: EXTEND PUBLIC UTILITIES COMMISSION
MODERATOR: FRAN
SITE: FAIRBANKS

```

PARTICIPANT LIST  
FINAL STATS

```

*****
TESTIFIED

```

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

```

*****
OBSERVED

```

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. REBECCA GRAY - GOLDEN VALLEY ELECTRIC			
2.			
3.			
4.			
5.			

```

*****
TESTIFIED:
UNABLE:
OBSERVED:

```

\*\*\*\*\*  
\*  
\* DELIVER TO: LIOCLON \*  
\*  
\* ORIGINAL \*  
\* SENT: 02/02/89 TIME: 15:16 \*  
\* FROM: LIOCDAY \*  
\* SUBJECT: H L&C;APUC: ANCH. PL #1 \*  
\* PRINT DATE: 02/02/89 TIME: 15:17 \*  
\*  
\*\*\*\*\*

\*\*\* ANCHORAGE PARTICIPANT LIST \*\*\*

TO: ALL TELECONFERENCE SITES  
FROM: DAVID ----> ANCHORAGE

SUBJECT: \_\_\_\_\_HOUSE LABOR AND COMMERCE COMM. \_\_\_\_\_  
DATE: \_\_\_\_\_FEBRUARY 3, 1989 \_\_\_\_\_

TO TESTIFY:

- 1.) SUSAN KNOWLES - HB 72
- 2.) GORDON PARKER - HB 72
- 3.)
- 4.)
- 5.)
- 6.)

TO OBSERVE:

- 1.) W.B. FRANCIS
- 2.) STEVE HAMLIN
- 3.)
- 4.)
- 5.)
- 6.)

EOM ..... DJ

26

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act continuing the existence  
of APUC  
Sponsor: Rules Committee  
Requestor: Governor

Agency Affected: Commerce & Econ. Dev.  
BRU: APUC  
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The proposed legislation referenced above continues the APUC as it is currently configured for an additional four years. As such, the bill has no direct incremental or decremental effect on the agency's operating budget.

Prepared by: T.S. Moninski II, Executive Director Phone: 276-6222  
Division: Alaska Public Utilities Commission Date: \_\_\_\_\_

Approved by Commissioner: [Signature] Date: 1/2/88  
Agency: Commerce & Economic Development

Distribution (by preparer):

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

STATE OF ALASKA  
THE LEGISLATURE

FOUCH - STATE CAPITOL  
JUNEAU, ALASKA 998 01  
707 AND 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1989

SUBJECT: Intrastate competition in telecommunications  
(Work Order No. 6-0689)

TO: Senator Steve Frank

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 makes findings concerning telecommunications services in the state.

Sections 2 - 4 exempt utilities and services that are exempt under AS 42.13, enacted by section 5 of the bill, from regulation by the Alaska Public Utilities Commission (APUC) or by municipalities to the extent of the exemption granted under AS 42.13.

Section 5 adds a new chapter concerning regulation of intrastate exchange or interexchange telecommunications service.

Sec. 42.13.010 permits entities that did not hold APUC certificates of public convenience and necessity to provide intrastate telecommunications service on January 1, 1989, and that are not affiliated with a certificated entity, to provide interexchange service without being certificated. The entity must first file a notice concerning services and rates. Entities providing service under this section are not subject to regulation by the APUC. The definition section, sec. 42.13.300, defines "interexchange service" and "intrastate service."

Sec. 42.13.020 requires in subsection (a) that the APUC deregulate telecommunications services if an interested party requests and the requirements of the section are met. The commission may also act on its own motion to deregulate a service. The section applies to public utilities holding certificates of public convenience and necessity to provide intrastate telecommunications service. The commission must provide notice of the application and an opportunity for a hearing. The service is deregulated if the commission finds that the entity or affiliate of the entity does not have market power in that telecommunications service and is not affiliated with an entity having market power in that telecommunications service.

Under the rest of the section, the exemption applies only to the services exempted under (a). The APUC is directed to determine the fully distributed cost of the exempted and regulated services provided by the entity. The rates for regulated services may not include recovery of any of the costs of the exempted service. Rates for regulated services may increase only if the direct costs of the regulated service increase.

Sec. 42.13.030 sets out the notice that entities must file before providing an exempted service. The contents include the entity's name, address, a description of services and prices, and proof of the purchase of a bond required by the chapter. The notice must be kept up to date.

Sec. 42.13.040 permits the APUC to require that an entity that has been exempted under the chapter begin complying with regulatory requirements of AS 42.05 if the APUC finds that the entity has gained market power in a telecommunications market. The reimposition of regulation applies only to the extent a service or entity has market power.

Sec. 42.13.050 directs the APUC to establish a system for access charges to be paid by interexchange service providers to local exchange carriers. The local exchange carriers set the amounts by a tariff filing.

Sec. 42.13.060 directs the APUC to establish an intrastate telecommunications service universal service fund. The local exchange carriers maintain the fund. The purpose of the fund is to provide financial support as necessary to ensure that interexchange service is provided throughout the state at reasonable rates. The fund is to be used to reduce

exchange access charges and surcharges. The APUC may approve a tariff that reduces the charges and surcharges to zero if necessary to accomplish the purpose of the fund. The commission may change the method by which money from the fund is distributed if the change is necessary to achieve the purposes of the section. However, under section 8 of the bill, the commission must wait for two years after the fund is established before it may make changes.

Sec. 42.13.070 permits the APUC to authorize the local exchange carriers to form an association to help administer the access charges and the universal service surcharges.

Sec. 42.13.080 requires entities providing or proposing to provide interexchange service to post a surety bond payable to the local exchange carrier association or the carriers themselves. The bond is to be in an amount equal to 90 days estimated intrastate exchange access charges and surcharges.

Sec. 42.13.090 prohibits an entity from putting limitations on the resale of a telecommunications service. If a service is resold, the reseller receives credit for applicable exchange access charges if the credit is necessary to prevent double payment of the charges.

Sec. 42.13.100 prohibits entities from discriminating among customers or entities in providing access, service, or interconnection and requires entities to permit connection or the furnishing of a service when the public convenience and necessity require and the result will not cause substantial injury or a substantial detriment to the service.

Sec. 42.13.200 directs the APUC to refer to decisions of courts interpreting state and federal laws concerning monopolies and restraints of trade when determining whether an entity has market power under the chapter.

Sec. 42.13.300 defines terms used in the chapter.

Section 6 changes the current exemption from regulation under the state antitrust laws. The exemption for all public utilities holding certificates of public convenience and necessity is changed to remove utilities providing interexchange telecommunications service. The antitrust laws will apply to the provision of interexchange telecommunications service.

Senator Steve Frank  
Page 4  
February 21, 1989

Section 7 extends the termination date of the Alaska Public Utilities Commission to 1993.

Section 8 limits the APUC's power to change the method for distribution of the universal service fund for two years after the establishment of the fund.

Section 9 directs the APUC to adopt the regulations to establish the exchange access charges and the universal service fund on or before January 1, 1990.

Section 10 sets an effective date of January 1, 1990, for the sections creating the exemptions from APUC regulation and reimposition of regulation, requiring bonding, and prohibiting restrictions on resale of services and for the limitation of the exemption from the antitrust laws.

Section 11 makes the exchange carrier association section and the extension of the termination date of the APUC take effect immediately.

The remaining parts of the bill do not have a special effective date.

If I may be of further assistance, please advise.

TC:lmb  
L7/021

STEVE FRANK  
DISTRICT K  
SEAT A

119 N. Cushman. Rm. 213  
Fairbanks, Alaska 99701

While in Juneau  
P.O. Box V

Juneau, Alaska 99811  
(907) 465-3709

Capitol Rm. 514

# Alaska State Legislature



Senate

MEMBER  
Finance Committee  
Resources Committee  
Legislative Council  
Special Committee on Banking &  
Economic Development

VICE-CHAIR  
Community & Regional  
Affairs Committee

HB 12

TO: All Senators

FROM: Senator Steve Frank

RE: Intrastate Long Distance Telephone Competition

DATE: March 6, 1989

I am introducing legislation to allow competition in the long distance telephone industry within Alaska because I believe that due to changing technologies, competition is now feasible, and therefore in the Alaskan consumers best interest.

In free market economies we rely on competition as the most efficient mechanism to protect the consumer with regard to the price and availability of goods and services. However, when a monopoly evolves due to the basic nature of an industry, society has recognized the need for regulation to serve the public interest. But if fundamental technological changes in an industry occur and it is no longer a natural monopoly, that monopoly should not be perpetuated through protection from competition by regulations. To do so would be counter to our basic philosophy that competition is preferable to regulation.

The telecommunications industry has experienced this kind of fundamental technological change, especially in the delivery of long distance telecommunications. Satellite technology has replaced capital intensive land lines, drastically reducing costs and making the delivery of long distance service feasible on a competitive basis.

To understand the change in technology and why it has allowed the feasibility of competition, one must examine the basic elements of a single long distance telephone call. A long distance phone call is routed through the phone lines to the local phone company (local exchange carrier) and from there to the long distance carrier (interexchange carrier). It is the interexchange carrier that sends the message via satellite to an earth station in the distant city. From there it is routed to the local exchange company in the community that is being called and through the phone lines to the receiving telephone. It is important to keep in mind, the legislation would allow competition only on the long distance service (interexchange). Local Exchange Companies, which remain natural monopolies, would still be regulated by the

APUC for their portion (exchange tariff) of the total long distance rate.

An often used argument against competition in Alaska involves the myth that Alaska is unique and that it has higher costs, particularly in rural regions. The argument follows that those higher rural costs require a monopoly to provide service to the entire state, with huge subsidies flowing from urban to rural areas. In fact, we are unique. We are uniquely suited to competition because of our use of satellite technology rather than land line based technology. All that is required to provide competition in a community is a relatively inexpensive earth station and switch.

In addition, the assumption that the urban areas support the rural areas does not appear to be true as evidenced by information that Alascom has filed with the Alaska Public Utilities Commission (APUC), showing that there is not a significant subsidy flowing from urban to rural Alaska - if one exists at all.

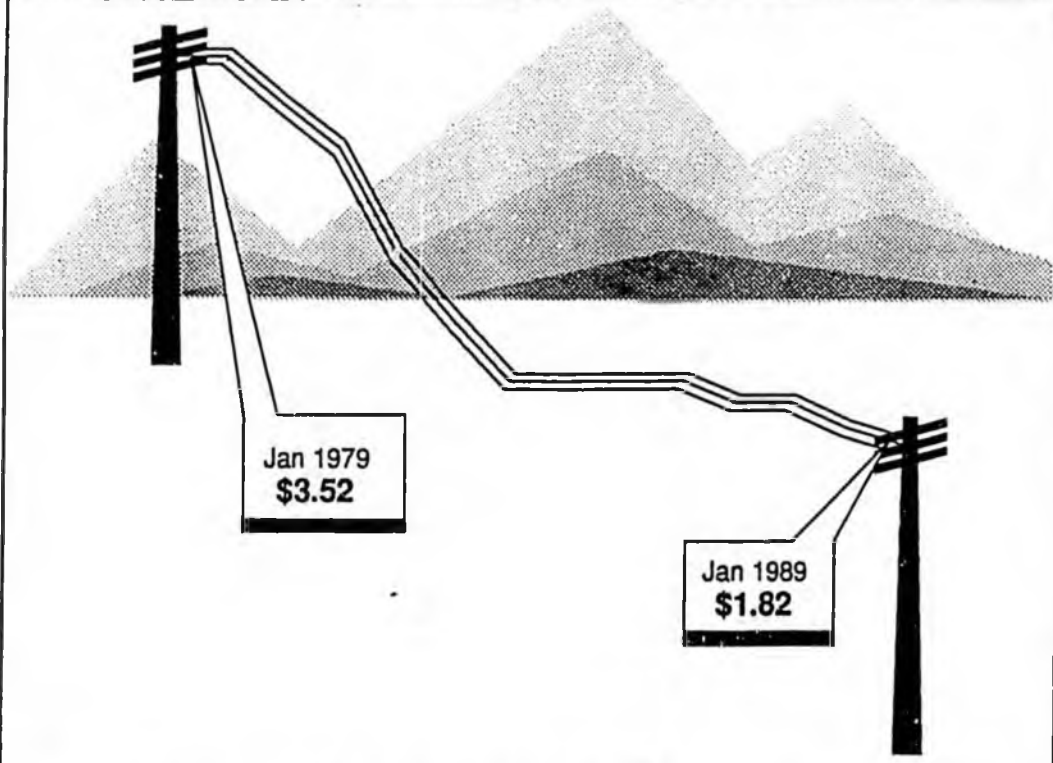
To protect rural consumers on routes not served by competition, the legislation specifically prohibits the dominant carrier (now Alascom) from raising rates on routes not served by competition. To further protect rural consumers, this legislation also provides for a universal service fund to protect telephone service throughout Alaska and to insure that rural rates remain reasonable.

History has shown in both the national and Alaskan experience, that competition has reduced long distance telephone rates. Since the Federal Communications Commission (FCC) opened the national interstate market to competition, American Telephone & Telegraph (AT&T) has reduced its rates by over 50%. Moreover, the assertion that monopolists cannot reduce their costs has been proved false as evidenced by the fact that, during the same period, AT&T has reduced its costs by over 30%. This reduction in costs has been achieved through a combination of operating efficiencies and improved technology. As a result of their competitively induced lower rates, AT&T has seen its total traffic volume increase. These three factors together; technological advances, operating efficiencies and increased demand, have allowed AT&T to remain healthy and thriving in the face of competition. Similarly, since the introduction of interstate competition in Alaska in 1982, long distance rates on interstate calls have decreased by roughly 50% while volumes have doubled, allowing Alascom to maintain its volume and profits. The dire predictions by Alascom about the effects of competition have not come true.

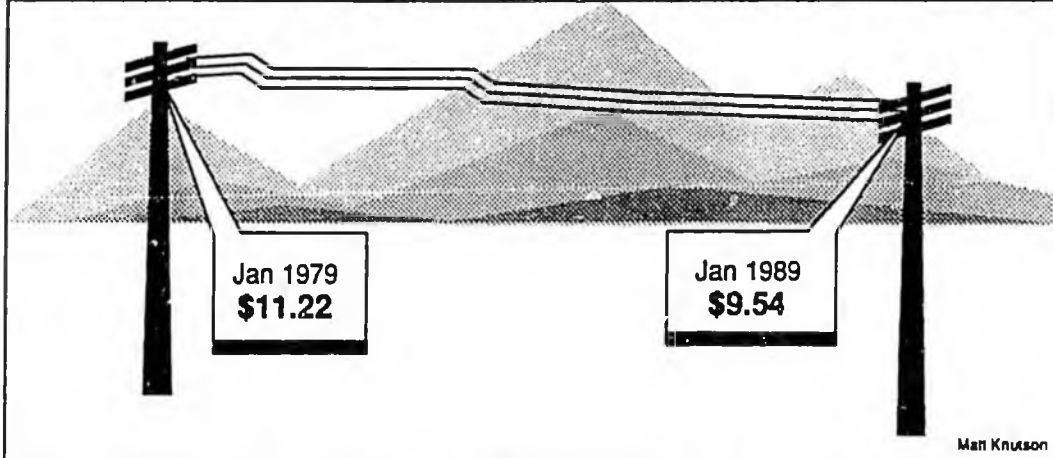
Therefore, based on both competitive economic theories and historical experience, it is reasonable to conclude that competition will result in lower long distance phone rates in the intrastate market for Alaskans.

Thank you for your consideration.

### Out-Of-State With Competition



### In-State Without Competition



Matt Knuson

Note: Alascom rates based on a \$10.00 call placed in January 1969

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1989

SUBJECT: Intrastate competition in telecommunications  
(Work Order No. 6-0689)

TO: Senator Steve Frank

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 makes findings concerning telecommunications services in the state.

Sections 2 - 4 exempt utilities and services that are exempt under AS 42.13, enacted by section 5 of the bill, from regulation by the Alaska Public Utilities Commission (APUC) or by municipalities to the extent of the exemption granted under AS 42.13.

Section 5 adds a new chapter concerning regulation of intrastate exchange or interexchange telecommunications service.

Sec. 42.13.010 permits entities that did not hold APUC certificates of public convenience and necessity to provide intrastate telecommunications service on January 1, 1989, and that are not affiliated with a certificated entity, to provide interexchange service without being certificated. The entity must first file a notice concerning services and rates. Entities providing service under this section are not subject to regulation by the APUC. The definition section, sec. 42.13.300, defines "interexchange service" and "intrastate service."

Sec. 42.13.020 requires in subsection (a) that the APUC deregulate telecommunications services if an interested party requests and the requirements of the section are met. The commission may also act on its own motion to deregulate a service. The section applies to public utilities holding certificates of public convenience and necessity to provide intrastate telecommunications service. The commission must provide notice of the application and an opportunity for a hearing. The service is deregulated if the commission finds that the entity or affiliate of the entity does not have market power in that telecommunications service and is not affiliated with an entity having market power in that telecommunications service.

Under the rest of the section, the exemption applies only to the services exempted under (a). The APUC is directed to determine the fully distributed cost of the exempted and regulated services provided by the entity. The rates for regulated services may not include recovery of any of the costs of the exempted service. Rates for regulated services may increase only if the direct costs of the regulated service increase.

Sec. 42.13.030 sets out the notice that entities must file before providing an exempted service. The contents include the entity's name, address, a description of services and prices, and proof of the purchase of a bond required by the chapter. The notice must be kept up to date.

Sec. 42.13.040 permits the APUC to require that an entity that has been exempted under the chapter begin complying with regulatory requirements of AS 42.05 if the APUC finds that the entity has gained market power in a telecommunications market. The reimposition of regulation applies only to the extent a service or entity has market power.

Sec. 42.13.050 directs the APUC to establish a system for access charges to be paid by interexchange service providers to local exchange carriers. The local exchange carriers set the amounts by a tariff filing.

Sec. 42.13.060 directs the APUC to establish an intrastate telecommunications service universal service fund. The local exchange carriers maintain the fund. The purpose of the fund is to provide financial support as necessary to ensure that interexchange service is provided throughout the state at reasonable rates. The fund is to be used to reduce

exchange access charges and surcharges. The APUC may approve a tariff that reduces the charges and surcharges to zero if necessary to accomplish the purpose of the fund. The commission may change the method by which money from the fund is distributed if the change is necessary to achieve the purposes of the section. However, under section 8 of the bill, the commission must wait for two years after the fund is established before it may make changes.

Sec. 42.13.070 permits the APUC to authorize the local exchange carriers to form an association to help administer the access charges and the universal service surcharges.

Sec. 42.13.080 requires entities providing or proposing to provide interexchange service to post a surety bond payable to the local exchange carrier association or the carriers themselves. The bond is to be in an amount equal to 90 days estimated intrastate exchange access charges and surcharges.

Sec. 42.13.090 prohibits an entity from putting limitations on the resale of a telecommunications service. If a service is resold, the reseller receives credit for applicable exchange access charges if the credit is necessary to prevent double payment of the charges.

Sec. 42.13.100 prohibits entities from discriminating among customers or entities in providing access, service, or interconnection and requires entities to permit connection or the furnishing of a service when the public convenience and necessity require and the result will not cause substantial injury or a substantial detriment to the service.

Sec. 42.13.200 directs the APUC to refer to decisions of courts interpreting state and federal laws concerning monopolies and restraints of trade when determining whether an entity has market power under the chapter.

Sec. 42.13.300 defines terms used in the chapter.

Section 6 changes the current exemption from regulation under the state antitrust laws. The exemption for all public utilities holding certificates of public convenience and necessity is changed to remove utilities providing interexchange telecommunications service. The antitrust laws will apply to the provision of interexchange telecommunications service.

Senator Steve Frank  
Page 4  
February 21, 1989

Section 7 extends the termination date of the Alaska Public Utilities Commission to 1993.

Section 8 limits the APUC's power to change the method for distribution of the universal service fund for two years after the establishment of the fund.

Section 9 directs the APUC to adopt the regulations to establish the exchange access charges and the universal service fund on or before January 1, 1990.

Section 10 sets an effective date of January 1, 1990, for the sections creating the exemptions from APUC regulation and reimposition of regulation, requiring bonding, and prohibiting restrictions on resale of services and for the limitation of the exemption from the antitrust laws.

Section 11 makes the exchange carrier association section and the extension of the termination date of the APUC take effect immediately.

The remaining parts of the bill do not have a special effective date.

If I may be of further assistance, please advise.

TC:lmb  
L7/021

# HOPKINS, SUTTER, HAMEL & PARK

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000  
TELECOPIER (202) 835-8138 (202) 775-1648 TELEX 440374

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA CHICAGO 60602  
DALLAS OFFICE 545 EAST JOHN CARPENTER FREEWAY 75062

JOE DIXON EDGE  
(202) 835-8242

## MEMORANDUM

TO: The Honorable Steve Frank  
P.O. Box V  
Juneau, Alaska 99811

FROM: Joe D. Edge  
Hopkins, Sutter, Hamel & Park

DATE: February 21, 1989

RE: Senate Bill 206 and the Impact of Intrastate  
Competition on Universal Service in Rural Alaska

---

You have asked me to examine the impact of SB 206 ; "An Act relating to intrastate competition in telecommunications" . . . , on the provision of intrastate long distance service at reasonable rates throughout Alaska. In discussing this issue, I will also address a number of questions which have been raised from time-to-time regarding the introduction of competition in Alaska long distance services.

In looking at this question, I have assumed that the central objective of the bill is to provide for a flourishing competitive intrastate long distance market while ensuring the availability of universal service at reasonable rates. I believe the bill will accomplish these objectives. SB 206 removes existing regulatory and structural barriers to competition in the Alaska market. At the same time, the bill provides for continuing regulation by the Alaska Public Utilities Commission ("APUC") in those areas where competition is not yet fully effective thus ensuring universal service at reasonable rates. Finally, the bill provides for a system of access charges and a Universal Service Fund administered by the Alaska telecommunications industry, under APUC supervision, which will ensure nondiscriminatory access to local exchange facilities and provide

support, where necessary, to ensure the provision of universal service at reasonable rates.

## INTRODUCTION

Today competition in long distance service is permitted nationwide in the interstate market and in forty-five of the states. Interstate long distance competition began over a decade ago in the lower 48 and has been a reality in Alaska since 1982.

Since the FCC opened the national interstate market to competition, long distance rates have declined by over 50% and many new services have been introduced. AT&T, which had a monopoly before the advent of competition, has lost some of its market share to competition but its traffic volumes have increased and it is a healthy and thriving company.

These same competitive benefits have been realized even in lower-48 rural interstate markets not yet reached by the networks of competing carriers such as MCI and Sprint. When competition appeared in interstate markets over a decade ago, AT&T vigorously opposed it arguing, among other things, that competition could lead to "deaveraging" of AT&T's toll rates with calls between urban areas priced lower than calls in rural areas. In more than ten years of competition in interstate markets, this has never happened. Not only has AT&T continued to "average" its rates throughout the country but so have MCI and Sprint even though the latter companies' rates are not regulated. Rural long distance rates have declined by over 50% just as urban rates have.

Alaska has also experienced the benefits of interstate competition. Although Alaska interstate competition was opposed with the same arguments made in the lower-48, none of the predicted harms have occurred. Interstate rates have declined by over 50% throughout Alaska. Today, Alascom, while losing market share to GCI, is carrying more traffic than when GCI entered the market. An enormous increase in calling has occurred as a result of lower rates and the stimulation resulting from the intensive marketing efforts of GCI and Alascom. And service has been improved as well. SB 206 will extend these benefits to the Alaska intrastate market.

### The Structure of the Alaska Market

Under the existing noncompetitive structure, the in-state long distance telephone market is served by a monopoly long distance carrier (Alascom) connecting with over two dozen local telephone companies. In order to provide long distance service,

Alascom generally must connect with local telephone companies for both origination and termination of each call within Alaska. Alascom pays the telephone companies for this access through a pooling mechanism whereby each telephone company determines its cost of originating and terminating in-state long distance calls and Alascom, as the pooling manager, settles with individual companies, covering each company's costs.

The total cost of providing in-state long distance service (about \$82.9 million in 1985) is made up of the cost of the exchange company settlements paid by Alascom (\$52.1 million) and Alascom's own network costs (\$30.8 million).<sup>1/</sup> Under the present system, customers, in some instances, pay rates that are higher than the cost of completing their call and, in other instances, pay rates that are lower than the cost of completing their call. The result is a form of subsidy from one group of telephone consumers to another. While it is often assumed that a large subsidy of this kind flows from urban areas to rural areas, as is shown below, the reality of the Alaska industry appears to be quite different.

Historically, Alascom has relied in part upon the assumption that this rural subsidy exists as a reason to keep competition out of Alaska. Eight years ago, Alascom attempted and failed to exclude competition from the Alaska interstate market by making dire predictions before the FCC that rural service would be jeopardized, rates would go up, and technological innovation would come to a halt.<sup>2/</sup> Likewise, Alascom has argued before the Legislature, the Alaska Public Utilities Commission, and elsewhere that competition is not in the public interest in Alaska because rural rates will go up as the funds available to subsidize rural areas are reduced through competition.

Recently, Alascom has taken this argument one step further by assuming that in the face of competition it will not attempt to lower its costs and that it will be allowed to make up any losses it incurs on competitive routes through increased rural rates. Over time, Alascom argues, rural rates will go up higher and higher as competition expands further and further. In the end, Alascom argues, it will be left with its last customer paying for the entire network.<sup>3/</sup>

---

<sup>1/</sup> See Appendix A.

<sup>2/</sup> See for example: Rebuttal Comments of Alascom in CC Docket No. 78-72, June, 1981, pp. 16-21; Supplemental Comments of Alascom CC Docket 78-72, January, 1980, pp. 94-100.

<sup>3/</sup> Alascom Response to Order # 14 and Pre-filed Testimony, APUC Docket U-87-25, August 26, 1988, pp. 11-12.

Alascom's argument is incorrect for a number of reasons: First, the actual subsidy flowing from the urban to the rural areas is quite small, if it exists at all, and can easily be funded through a universal service fund in which all carriers participate; second, Alascom's arguments assume it will be allowed to cross-subsidize any decreases in revenue due to competition by increasing the rates on its monopoly services - a notion that is contrary to the purpose of competition and which is expressly prohibited in the proposed legislation; and third, Alascom assumes that unlike carriers elsewhere, which have been faced with competition, it will not bring down its costs over time to meet the competitive challenge.

#### THE URBAN-RURAL SUBSIDY IS QUITE SMALL

According to data that Alascom presented to the APUC in April, 1987, calling between the cities of Anchorage, Fairbanks, and Juneau generates \$10.9 million more in revenue than it costs to provide the service. The excess revenue from these routes is said to be the source of the subsidy for rural calling. However, according to the Alascom data, \$7.3 million (or 67%) of the subsidy is used to support near-urban calling around the Anchorage market, leaving only \$3.6 million for the remainder of Alaska.<sup>4/</sup> In short, based upon Alascom data, urban callers are paying a large cross subsidy to themselves and the subsidy which flows from urban Alaska to rural Alaska is no more than \$3.6 million. (See Appendix A).

In fact, the rural subsidy is far smaller than this \$3.6 million figure, if it exists at all. It is likely that a portion of this \$3.6 million is used to support calling around other urban areas. The areas around cities other than Anchorage were not separately identified in the Alascom April, 1987, data but they likely have the same short haul pricing characteristic as the Anchorage market does. Thus, a portion of the remaining \$3.6 million is certainly absorbed in these urban markets.

In addition, much, if not all, of the remaining subsidy is absorbed in urban areas through the exchange company settlements process. In Alaska, certain urban telephone companies have higher intrastate long distance settlement costs than do most rural Alaska exchange carriers. (See Appendix B) Since the \$3.6 million subsidy figure was calculated by averaging urban and rural settlement costs, it masks these higher urban costs. Using the averaging approach in Alascom's April, 1987, data, the subsidy flowing from low-cost rural telephone companies to high-cost urban telephone companies through the settlements process is not accounted for. If the subsidy were to be

---

<sup>4/</sup> See Alascom's "Analysis of GCI Scenarios 1 and 2", presented at public hearing, APUC Docket No. R-86-2, April 8, 1987.

calculated using company-specific settlements costs, most, if not all, of the remaining subsidy would be absorbed by higher cost urban calling. (See Appendix C) Therefore, it is even possible that rural callers are in small measure subsidizing urban callers - a result that is totally contrary to the claims which have been made and accepted for years.

Even if rural callers were the recipients of a \$3.6 million subsidy, which they apparently are not, this is a relatively small figure - \$3.6 million is only 4.3% of Alascom's intrastate gross revenues and 1.3% of its total revenues.<sup>5/</sup> This money (equivalent to 1.7 cents per intrastate minute) could easily be funded through a universal service fund in which all long distance carriers participate.

SB 206 proposes such a fund whereby each long distance carrier pays a surcharge on access charges paid to the exchange companies. This fund would be administered by the industry and would make money available to local telephone companies in rural, high-cost areas. The local telephone companies will use this money to lower the amount of money interexchange carriers pay to originate and terminate long distance calls, thereby lowering the total cost of a long distance call and preventing rates from rising.

This type of pool is not new. After the Federal Communications Commission opened the interstate market to competition, it developed an access charge system and a fund similar to the one described above, known as the High Cost Fund. The federal subsidies flowing through these mechanisms as well as the cost separation process and the averaging of access charges through the National Exchange Carrier Association have been successful in keeping exchange and long distance rates down throughout rural America.<sup>6/</sup> In fact, in Alaska some rural

---

<sup>5/</sup> According to the Alascom data submitted to the APUC, Alascom 1985 intrastate toll revenues were \$83 million. Alascom's total revenues reported on its 1985 FCC Form M were \$291 million. (See Appendix C.)

<sup>6/</sup> The subsidies resulting from the exchange cost separations process, access charge averaging and the high-cost fund are available to all areas of the U.S., including Alaska. They are not the same as the subsidy flowing from AT&T to Alascom in the Alaska interstate market. The present FCC Joint Board proceeding dealing with the Alaska interstate market may alter the AT&T to Alascom subsidy but it is not concerned with and will not affect the nationwide exchange subsidies which are discussed here. In addition, the FCC Joint Board recently announced that it will not entertain proposals that would have the effect of shifting costs to the Alaska in-state market. Supplemental Order Inviting Comments in CC Docket 83-1376, FCC 88J-4, released January 3, 1989.

telephone companies receive so much money from federal subsidies that they charge Alascom little or no money to originate and terminate intrastate calls.<sup>7/</sup> This is one reason why many rural Alaska exchange companies have costs that are lower than the corresponding urban Alaska exchange company costs.

#### ALASCOM CANNOT RECOVER COMPETITIVE LOSSES FROM RURAL CUSTOMERS

Alascom argues that when competition enters the market, it will be forced to lower its rates on competitive routes thus incurring a loss. Alascom then argues that it will make up any decline in revenue by raising the rates charged to customers on monopoly routes. This argument assumes that Alascom would be allowed to engage in such cross-subsidization free from regulatory oversight. Alascom would attempt to use its monopoly power against the very groups of consumers that regulation was designed to protect from the use of monopoly power.<sup>8/</sup>

SB 206 proposes to foreclose this use of Alascom's monopoly power by requiring Alascom to allocate its costs between regulated and deregulated market areas. Should Alascom incur any decrease in revenue in its deregulated service, it could not raise rural rates to recover those revenues. SB 206 states that following deregulation of a service, the cost of any remaining regulated service may be increased only if the direct costs of such service increase.

Through this type of legislation, Alascom cannot raise rates in the rural areas to cover any decline in revenue on competitive routes. Rural rates can only go up if the direct costs on rural routes go up. In addition, to ensure that rural rates remain reasonable, the APUC may, if necessary, permit any increased costs to be recovered from the universal service fund.

#### COMPETITION WILL LOWER COSTS

Finally, the argument that competition is not in the public interest, due to the inherent subsidies in the Alaska telephone system, is flawed because it ignores the dynamic benefits of competition. Alascom assumes that when competition enters the

---

<sup>7/</sup> Testimony of Alascom in public hearing, APUC Docket No. R-86-2, April 8-9, 1987, p. 442.

<sup>8/</sup> ACAP pre-filed testimony of Dr. Michael Sheehan, October 28, 1988, pp. 37-38.

market it will continue to incur costs in the same way it would if it were still a monopoly. This kind of behavior would be totally inconsistent, not only with the behavior of business entities generally in the economy, but also with the experience in the telephone industry over the last decade as competition has been introduced throughout the country. The advent of competition led AT&T and other carriers to lower their costs and improve their service. Alascom would certainly do the same.

Alascom's reaction is not unprecedented. Every monopolist confronted with the possibility of competition attempts to forestall the inevitable beginning of competitive entry by making dire predictions that universal service will be destroyed. AT&T certainly made these arguments in profusion. So long as these arguments succeed the monopolist never changes its thinking or its behavior - it merely assumes that it will be impossible to reduce costs. When decision-makers reject these arguments and introduce competition, the monopolist immediately begins behaving as a competitor by reducing its costs and improving service. This is what happened when AT&T had to compete and what happened when Alascom had to compete in Alaska interstate services.

#### COMPETITION WILL BRING FASTER TECHNOLOGICAL ADVANCES TO RURAL ALASKA

The choice between monopoly and competition is not simply one of lower or higher telecommunications costs. In recent years, there has been a literal revolution in communications and computer technology. These technologies have not only led to cheaper and higher quality communications service, but they have spawned an entire generation of new information and technology - related industries. These industries have provided jobs and diversification for the economies of many areas throughout the U.S.

In the interstate market, competition is responsible for many of the technological advances that have been introduced in Alaska. For example, competition brought digital transmission to Juneau and Fairbanks as well as new private line services that are now available to consumers. New entrepreneurial companies, such as Meteor Data, Inc., have appeared on the scene to pioneer the provision of specialized service. And, mobile satellite technology (which competition will bring to Alaska by 1992) will lower costs and improve service in remote areas of Alaska. This technology will bring reasonably priced telephone service to each resident, even those who are not in villages having at least 25 people (see testimony of Ronald A. Duncan, House Special Committee on Telecommunications, January 1986).

## CONCLUSION

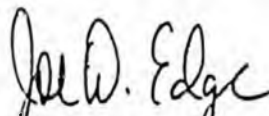
Alaska can benefit from the telecommunications revolution through the introduction of competition without jeopardizing the service which Alaska's rural residents have come to enjoy. Through careful legislation, rural ratepayers may be assured that their telephone rates will not go up as a result of competition.

SB 206 proposes such legislation through a universal service fund and the unbundling of competitive and non-competitive costs. Not only will rural rates not go up, it is very likely that they will decrease as competition leads to use of improved technology and more efficient ways to serve both rural and urban Alaska.

Intrastate competition will also help provide a path for competitive expansion to rural areas. Currently, competitive services are offered in Anchorage, the Matanuska Valley, the Kenai Peninsula, Juneau, Fairbanks, North Pole, and Adak. With intrastate competition, other regions of the state will soon see competition as well.

Competition in the telephone industry is not a new idea. The FCC and forty-five other states have permitted competition in long distance service. The result is predictable: where there is competition, rates go down, where there is no competition they do not.<sup>9/</sup> It is time for Alaska to reap the benefits of competition as well.

Respectfully,



Joe D. Edge  
Counsel for  
General Communication Inc.

JDE:jml  
Enclosures

---

<sup>9/</sup> Federal Trade Commission, Bureau of Economics, "The Impact of State Price and Entry Regulation on Intrastate Long Distance Telephone Rates." November 1988, p. vii. The Federal Trade Commission analysis indicated that states that permit competitive entry into the toll services market experience prices approximately 7 to 10 percent lower than states that do not allow entry.

## ALASCOM 1985 INTRASTATE MTS REVENUE DATA

	<u>Dollars Per Year</u>			
	(millions)			
	<u>ANC-FBX JNU ROUTES</u>	<u>ANC-MAT VALLEY KENAI ROUTES</u>	<u>REST OF STATE</u>	<u>TOTAL STATE LONG DISTANCE REVENUES</u>
Alascom revenues	22.5	10.2	50.2	82.9
Alascom cost	(2.5)	(3.1)	(25.2)	(30.8)
Average local Telephone Co. Settlements	(9.2)	(14.3)	(28.6)	(52.1)
Surplus or * (Subsidy)	10.9	(7.3)	(3.6)	(0.0)

\* A total of \$10.9 million in surplus revenue is earned on the Anchorage-Fairbanks-Juneau route. Of this amount, \$7.3 million is used to subsidize the Anchorage-Mat Valley-Kenai Routes. The remaining \$3.6 million is available to subsidize service in the remainder of Alaska. See "Analysis of GCI Scenarios 1 and 2" presented by Alascom at public hearing, APUC Docket No. R-86-2, April 8, 1987.

Above Average Cost Companies (Pool "Takers")\*

<u>Company</u>	<u>from average ¢/min.</u>	<u>Minutes (millions)</u>	<u>\$ (millions)</u>
ATU	(.127 - .119)	132.3	1.06
Bush Tel	(.213 - .119)	1.9	.18
FMUS	(.181 - .119)	33.2	2.06
MTA	(.135 - .119)	62.1	.99
Mukluk	(.309 - .119)	2.0	.38
OTZ	(.153 - .119)	5.8	.20
United	(.267 - .119)	10.4	1.54
Yukon	(.128 - .119)	<u>1.4</u>	<u>.01</u>
		249	<u>\$6.4</u>

Below Average Cost Companies (Pool "Donors")\*

<u>Company</u>	<u>from average ¢/min.</u>	<u>Minutes (millions)</u>	<u>\$ (millions)</u>
ASTAC	(.119 - .054)	11.9	.78
Bristol Bay	(.119 - .063)	2.7	.15
Copper Valley	(.119 - .100)	6.6	.13
Cordova	(.119 - .037)	2.5	.21
Gen Tel	(.119 - .075)	28.7	1.26
GSTC	(.119 - .084)	51.8	1.81
Interior	(.119 - .067)	5.9	.31
JDTC	(.119 - .083)	25.1	.90
Ketchikan	(.119 - .108)	8.3	.09
Nushagak	(.119 - .114)	3.3	.02
Sitka	(.119 - .086)	19.3	.64
TUA	(.119 - .042)	<u>1.4</u>	<u>.11</u>
		167	<u>\$6.4</u>

\* Data are for 1986. See Appendix C to APUC staff comments in Docket R-87-1, filed October 12, 1988 (attached).

MCS: POOL  
September 30, 1988

Appendix C

Telecom Toll Settlements by Exchange Carrier and Estimation of Per Minute Access Charges Given Mandatory and Optional Pooling by Urban LECs

Utility	1986 Term. Minutes	1986 Orig. Minutes	1986 Total Minutes	1986 Settlements				Calculated Rate/Minute			
				NTS	TS	B&C	Total	NTS	TS	B&C	Total
ARI	70,380,190	61,960,195	132,340,385	12,659,043	724,376	3,405,870	16,789,289	0.096 *	0.005	0.026 *	0.127 *
ASTAC	4,154,883	7,888,728	11,943,611	0	505,215	135,281	640,496	0.000	0.042 *	0.011	0.054
BRISTOL BAY	1,185,415	1,586,141	2,771,556	0	46,723	127,255	173,978	0.000	0.017 *	0.046 *	0.063
IN-TEL	906,382	1,064,738	1,971,120	251,652	132,075	34,527	420,254	0.128 *	0.067 *	0.019	0.213 *
JTC	3,006,780	3,652,489	6,659,269	458,419	140,987	43,341	642,747	0.069	0.021 *	0.018	0.100
CORONA	1,170,671	1,384,350	2,555,021	0	31,513	64,306	95,819	0.000	0.012	0.025 *	0.037
FRS	17,400,698	15,858,706	33,259,404	5,158,792	384,596	475,180	6,018,568	0.155 *	0.012	0.014	0.181 *
GEX-TEL	13,728,397	15,801,625	28,730,022	1,349,512	416,612	378,294	2,144,418	0.047	0.015	0.013	0.075
GTTC	25,950,485	25,895,852	51,846,337	3,050,506	527,114	779,611	4,365,231	0.059	0.010	0.015	0.084
INTERIOR	2,552,438	3,429,884	5,982,322	0	317,548	82,258	399,806	0.000	0.053 *	0.014	0.067
JOTC	13,097,238	12,017,424	25,114,662	1,582,475	174,567	399,088	2,076,050	0.060	0.007	0.016	0.083
KETCHIKAN	4,406,369	3,974,868	8,381,237	630,216	143,827	128,466	902,509	0.075	0.017 *	0.015	0.108
MTA	32,837,717	30,891,899	62,128,816	6,919,853	682,627	759,832	8,361,512	0.111 *	0.011	0.012	0.135 *
MUKLUK	364,178	1,158,956	2,023,134	356,579	186,622	82,827	625,228	0.176 *	0.092 *	0.041 *	0.309 *
NRISNAGAK	1,528,497	1,820,108	3,348,605	214,004	83,323	85,202	382,529	0.064	0.025 *	0.025 *	0.114
OTZ	2,696,914	3,139,596	5,836,510	612,291	149,733	131,345	893,369	0.105 *	0.026 *	0.023 *	0.153 *
SITKA	8,394,173	10,914,675	19,308,848	801,689	648,136	221,039	1,662,864	0.042	0.033 *	0.011	0.086
TUA	625,465	778,459	1,403,924	0	8,514	50,183	58,617	0.000	0.006	0.036 *	0.042
UNITED **	4,681,349	5,728,298	10,409,647	1,755,330	741,270	287,655	2,784,255	0.169 *	0.071 *	0.028 *	0.267 *
YUKON	432,160	855,566	1,487,726	0	124,738	65,218	189,956	0.000	0.084 *	0.044 *	0.128 *
<b>State Total:</b>	<b>209,400,579</b>	<b>208,123,757</b>	<b>417,524,336</b>	<b>35,728,361</b>	<b>6,162,116</b>	<b>7,757,010</b>	<b>49,647,495</b>				

Average Rate/Minute for LECs  
Revide:

0.086      0.015      0.019      0.119

- \* - Per Minute Rates are Above Average - LEC in a Pool Receiver
- NTS - Non-Traffic Sensitive
- TS - Traffic Sensitive
- B&C - Billing and Collection

\*\* UNITED 1986 Information was not available, 1985 data was employed.

Absorption of Subsidy by Alaska  
Urban Exchange Carriers

Three major urban carriers are subsidy recipients:

ATU	\$1.06 million
FMUS	2.06 million
MTA	<u>.99</u> million
	<b>\$4.11 million</b>

On the other hand the TU companies (JDTC & GSTC) are overall subsidy donors. TU has both urban and rural operations so the subsidy donation must be split into urban and rural components. TU is 71% urban (see p. 2 of this appendix) so;

GSTC	\$1.81 million
JDTC	<u>.90</u> million
	<b>\$2.71 million</b>

Urban portion is:

$\$2.71 \text{ million} \times .71 = \$1.92 \text{ million}$

Overall net subsidy from rural to urban exchanges arising through exchange settlements:

$\$4.11 \text{ million} - \$1.92 \text{ million} = \underline{\$2.19 \text{ million}}$

Derivation of Urban Component of JDTC/GSTC

JDTC, GSTC & Sitka are now TUA & TUNI which together have both rural and urban components.

JDTC, GSTC & Sitka are subsidy contributors and so their "urban" operations will offset the drain caused by ATU, FMUS & MTA thereby reducing the net rural to urban subsidy flowing through exchange settlements.

To derive the urban and rural components one possible approach is to divide the companies by line counts.\*

Since TUA is almost all "urban," 100% of its lines (and thereby its subsidy donation) should be counted as urban.

Within TUNI, North Pole, Kenai, North Kenai and Soldotna are urban and Sitka should be excluded because it is listed separately in the exchange company data we are using.

Thus:

<u>Company</u>	<u>Urban Lines</u>	<u>Rural Lines</u>
TUA	16,342	- 0 -
TUNI		
N. Pole	5,961	
Kenai	3,894	
N. Kenai	1,423	
Soldotna	5,369	
All Other**		<u>13,458</u>
	32,989	13,458

Total Lines\*\* = 46,447

Percent Urban = 71%

Percent Rural = 29%

TU Urban Subsidy "Donation"\*\*\*

\$2.71 mil X .71 = \$1.92 mil.

\* Using line counts may distort reality somewhat. However, if the rural to urban exchange subsidy existing generally in the Alaska market also exists within the urban/rural operations of TU, then using line counts overstates the TU urban "donation" and understates the rural to urban subsidy.

\*\* Sitka excluded.

Net Rural Subsidy

In a presentation to the APUC in Docket No. R-86-2, Alascom indicated that calling among Anchorage, Fairbanks, and Juneau generates surplus revenues of \$10.9 million which are available to subsidize calling in the remainder of Alaska. Of this amount, \$7.3 million is absorbed in short haul calling to points near Anchorage leaving \$3.6 million for the remainder of the state. Short haul calling around other cites absorbs an additional amount which was not shown in the Alascom analysis. Finally, since the Alascom analysis was predicated upon average rather than company-specific exchange settlements data and since exchange settlements represent over 60% of Alascom's cost of service, the use of company-specific settlements data will more precisely pinpoint the magnitude of subsidy flows between urban and rural areas of the state. The maximum available subsidy for rural areas is less than 1.4 million.

Total available subsidy	\$10.9 million
Less Anchorage area subsidy	(7.3) million
Less other urban area subsidy	(?) million
Less rural to urban exchange subsidy	<u>(2.19) million</u>
Maximum available subsidy	1.41 million
Maximum available subsidy*	0.68¢ per minute
State MTS average revenue**	39.8¢ minute
Maximum available subsidy as a percentage of State MTS revenue per minute	1.7%

\* Assumes 208 million intrastate minutes.

\*\* Assumes intrastate MTS revenues of \$82.9 million.

## LONG DISTANCE TELEPHONE COMPETITION

### QUESTIONS AND ANSWERS

Q: Why is competition allowed for out-of-state long distance calls but not for in-state calls?

A: Out-of-state calls are regulated by the federal government (Federal Communications Commission), which has permitted competition since the early 1970's. In-state calls are regulated by the state (Alaska Public Utilities Commission) which has not yet permitted competition.

Q: Do other states allow in-state long distance telephone competition?

A: Yes. Forty-five other states allow some form of in-state competition.

Q: What will be the result of in-state competition?

A: We can expect a result similar to what has happened with out-of-state competition. Telephone rates will come down on each route where competition occurs.

Q: If rates come down on some long distance telephone routes, will they go up in other areas as a result?

A: No. Senator Frank's bill would prohibit transferring costs from competitive routes to noncompetitive routes. Further, a "universal service fund" would be created to prevent rate increases on noncompetitive routes as a result of competition.

Q: Is it true that rural Alaska calls are heavily subsidized by urban calls?

A: No. According to Alascom data filed with the Alaska Public Utilities Commission, the net flow of subsidy from urban to rural Alaska is less than \$3 million out of \$83 million in revenue for in-state long distance calling.

Q: Why should the legislature make a decision to allow competition, rather than APUC?

A: The legislature established the overall policies for the APUC to carry out. While the APUC has the legal right to authorize competition, the issue is sufficiently important to consumers that it merits clear legislative direction.

Q: What changes have taken place in telephone technology that make competition possible?

A: Telephone technology is rapidly advancing. Improved satellites, microwave systems, fiber optic cables, exchange switches, and computer programs are making long distance service more efficient and less expensive.

Q: Why doesn't the APUC simply force the existing monopoly carrier to lower its rates?

A: There is no financial incentive for a monopoly carrier to reduce its rates, as it makes a profit based on its investment. The higher its costs, the more money it makes. It is difficult for a public utilities commission to have enough resources to prove that rates and costs are too high. Private competition is a simpler, more effective way to bring down rates.

Q: Does Senator Frank's bill limit which companies may compete in providing in-state long distance calls?

A: No. Any company may offer competitive services subject to a bonding requirement which assures payment to local telephone exchange companies for initiating or completing a call.

Q: Where will competition likely occur?

A: It is likely that competition will begin on routes which are currently competitive for out-of-state calls: Fairbanks, Anchorage, Juneau, Matanuska Valley, Kenai Peninsula, North Pole, and Adak. Other routes which are likely to be competitive are Ketchikan, Kodiak, Sitka and regional centers such as Bethel, Dillingham, and Nome.

Q: Won't competition create an inefficient duplication of facilities?

A: No. Competition will allow more companies to better serve consumers' needs. Competition in long distance services is similar to the grocery business. If one grocery store does not carry the brand you like, you can go to the other store.

THE IMPACT OF INTRA-STATE COMPETITION ON  
UNIVERSAL SERVICE IN RURAL ALASKA

A SUMMARY

The following summarizes a detailed analysis of the effects of Senate Bill 182 on intrastate long distance service in rural Alaska.

The analysis was conducted by Joe Dixon "Dick" Edge, a partner in the Washington, D.C. law firm of Hopkins, Sutter, Hamel & Park.

Mr. Edge began his legal career in 1974 as a trial lawyer for the Federal Communications Commission (FCC) in Washington D.C., where, for two years he represented the FCC in litigation involving competition in the telephone industry. For the ten years following, Mr. Edge worked in the firm of Hamel & Park, where he was initially recruited to represent the State of Alaska in the development of rural telecommunications. During his ten years at Hamel & Park Mr. Edge concentrated in telecommunications and antitrust law, with such clients as the State of Alaska, National Bank of Alaska, Northern Television, the Commonwealth of Puerto Rico, Wang Laboratories, Tandy Corporation, General Communication, Inc. (GCI) and others. Three years ago Mr. Edge moved to Anchorage and became Vice President and General Counsel for GCI representing them in their antitrust and regulatory litigation. Last September he returned to private practice in Washington, D.C. at his previous law firm of Hamel & Park which had merged with the Chicago firm of Hopkins & Sutter in July. In addition to his law degree, Mr. Edge holds a bachelors degree in Electrical Engineering and a masters degree in Law with an emphasis in economics and public utilities regulation.

Competition in intrastate telephone service is consistent with universal service in rural Alaska at affordable rates. SB permits such competition while establishing safeguards for use on noncompetitive routes.

Alascom is now the monopoly in-state long distance carrier. It uses local telephone companies to originate and terminate these calls, and pays an access charge for this service. Under the present system, some customers pay more than the actual cost of completing the call, and others pay less. The result is a form of subsidy from one group of telephone customers to another.

While it is commonly assumed that this subsidy flows heavily from urban to rural Alaska, data presented to the APUC by Alascom indicates that this subsidy is quite small: less than \$3.6 million out of total revenues of \$82.9 million. Most of the subsidy actually flows from urban to suburban routes.

To assure that rural telephone customers do not lose whatever small subsidy they receive, SB established a universal service fund. All long distance carriers would contribute to the fund which would be used to cover any shortfalls on high cost (noncompetitive) routes. The bill also prohibits Alascom from recovering any competitive losses from rural customers.

Competition will lower the cost of telephone service throughout the State and bring new technology to rural as well as urban Alaska.

## HISTORY OF TELECOMMUNICATIONS COMPETITION IN ALASKA

In 1969, RCA Alascom bought the Alaska Communications System from the military. As part of Alascom's bid proposal to the military, it agreed to provide service to all areas of 25 people or more.

By 1974, when Alascom had not expanded its system to rural Alaska, Congress and the FCC became concerned and requested a proposal for bush service from Alascom. In response, Alascom proposed a system consisting of large satellites in regional centers with terrestrial cable linking the regional centers.

Following an analysis of Alascom's proposal, the State of Alaska informed Alascom that its proposed system was inefficient and unreliable, asking Alascom to accept a proposal consisting of small earth stations in each village instead.

When Alascom refused to accept the state's alternative proposal, the state filed its own application in 1975 for 120 small earth stations to serve rural Alaska. In response, Alascom filed parallel applications with the FCC for the same small earth stations. Since the applications were overlapping, this created an impasse that could have lasted

several years. In an effort to avoid further delays in rural telephone service, the State of Alaska and the Alaska Legislature agreed to fund the small earth station program if Alascom installed and operated the earth stations.

The State of Alaska's application to the FCC was the first sign of competition and its resulting beneficial effect in Alaska.

In 1980, GCI filed an application with the FCC to provide communication service between Alaska and the Lower 48. Alascom opposed GCI's application even though competition had been accepted and was in full force in the lower 48 since the early 70's. Alascom argued to the FCC that competition in Alaska would destroy rural service, increase rates, and limit technological innovation. <sup>1</sup>

In November 1982, GCI began long distance service in Anchorage under continuing protests by Alascom. The issue of whether or not Alaska should have competition in the provision of long distance service to and from Alaska was not fully put

---

<sup>1</sup> See for example: Rebuttal Comments of Alascom in CC Docket No. 78-72, June 1981, pp. 16-21, Supplemental Comments of Alascom CC Docket 78-72, January, 1980, pp. 94-100.

to rest until 1984 when the FCC released a final order denying Alascom's applications for review - stating that Alascom's claims had been addressed and rejected on several occasions. 2

Since competition began in the interstate market, Alascom's rates have gone down by over 50% in urban as well as rural areas. Technological innovation has occurred bringing in more reliable and cost efficient digital service as well as new expanded private line services. Meanwhile rates within the state, where there is no competition, have increased since 1982.

The issue of competition within the State of Alaska was first addressed when the Alaska Public Utilities Commission (APUC) began a proceeding to determine whether or not Alaska should have competition within the state in August, 1983. The telephone industry and other participants filed several rounds of comments and attended two public hearings on the issue of intrastate competition. In addition, GCI filed proposed regulations which would establish the rules under which competitive services would be provided. Alascom opposed GCI's

---

2 See, Memorandum Opinion and Order, in Re Applications of GCI, File Nos. W-P-C-3345 et al., FCC 84-168 (April 24, 1984).

regulations making many of the arguments that it made in delaying interstate competition before the FCC.

In 1986, the APUC closed the proceeding on competition within Alaska without taking action. In response, GCI filed a formal application to provide service within Alaska as well as a new proposal for regulations.

Since 1986, the APUC has held two public hearings on the competitive question and has asked for comments from the industry on several occasions. Alascom continues to oppose competition and to this date the APUC has taken no action.

# HOPKINS, SUTTER, HAMEL & PARK

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000  
TELECOPIER (202) 835-8136 (202) 775-1648 TELEX 440374

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA CHICAGO 60602  
DALLAS OFFICE 545 EAST JOHN CARPENTER FREEWAY 75082

JOE DIXON EDGE  
(202) 835-8242

## MEMORANDUM

TO: The Honorable Steve Frank  
P.O. Box V  
Juneau, Alaska 99811

FROM: Joe D. Edge  
Hopkins, Sutter, Hamel & Park

DATE: February 21, 1989

RE: Senate Bill 206 and the Impact of Intrastate  
Competition on Universal Service in Rural Alaska

---

You have asked me to examine the impact of SB 206 ; "An Act relating to intrastate competition in telecommunications" . . . , on the provision of intrastate long distance service at reasonable rates throughout Alaska. In discussing this issue, I will also address a number of questions which have been raised from time-to-time regarding the introduction of competition in Alaska long distance services.

In looking at this question, I have assumed that the central objective of the bill is to provide for a flourishing competitive intrastate long distance market while ensuring the availability of universal service at reasonable rates. I believe the bill will accomplish these objectives. SB 206 removes existing regulatory and structural barriers to competition in the Alaska market. At the same time, the bill provides for continuing regulation by the Alaska Public Utilities Commission ("APUC") in those areas where competition is not yet fully effective thus ensuring universal service at reasonable rates. Finally, the bill provides for a system of access charges and a Universal Service Fund administered by the Alaska telecommunications industry, under APUC supervision, which will ensure nondiscriminatory access to local exchange facilities and provide

support, where necessary, to ensure the provision of universal service at reasonable rates.

## INTRODUCTION

Today competition in long distance service is permitted nationwide in the interstate market and in forty-five of the states. Interstate long distance competition began over a decade ago in the lower 48 and has been a reality in Alaska since 1982.

Since the FCC opened the national interstate market to competition, long distance rates have declined by over 50% and many new services have been introduced. AT&T, which had a monopoly before the advent of competition, has lost some of its market share to competition but its traffic volumes have increased and it is a healthy and thriving company.

These same competitive benefits have been realized even in lower-48 rural interstate markets not yet reached by the networks of competing carriers such as MCI and Sprint. When competition appeared in interstate markets over a decade ago, AT&T vigorously opposed it arguing, among other things, that competition could lead to "deaveraging" of AT&T's toll rates with calls between urban areas priced lower than calls in rural areas. In more than ten years of competition in interstate markets, this has never happened. Not only has AT&T continued to "average" its rates throughout the country but so have MCI and Sprint even though the latter companies' rates are not regulated. Rural long distance rates have declined by over 50% just as urban rates have.

Alaska has also experienced the benefits of interstate competition. Although Alaska interstate competition was opposed with the same arguments made in the lower-48, none of the predicted harms have occurred. Interstate rates have declined by over 50% throughout Alaska. Today, Alascom, while losing market share to GCI, is carrying more traffic than when GCI entered the market. An enormous increase in calling has occurred as a result of lower rates and the stimulation resulting from the intensive marketing efforts of GCI and Alascom. And service has been improved as well. SB 206 will extend these benefits to the Alaska intrastate market.

### The Structure of the Alaska Market

Under the existing noncompetitive structure, the in-state long distance telephone market is served by a monopoly long distance carrier (Alascom) connecting with over two dozen local telephone companies. In order to provide long distance service,

Alascom generally must connect with local telephone companies for both origination and termination of each call within Alaska. Alascom pays the telephone companies for this access through a pooling mechanism whereby each telephone company determines its cost of originating and terminating in-state long distance calls and Alascom, as the pooling manager, settles with individual companies, covering each company's costs.

The total cost of providing in-state long distance service (about \$82.9 million in 1985) is made up of the cost of the exchange company settlements paid by Alascom (\$52.1 million) and Alascom's own network costs (\$30.8 million).<sup>1/</sup> Under the present system, customers, in some instances, pay rates that are higher than the cost of completing their call and, in other instances, pay rates that are lower than the cost of completing their call. The result is a form of subsidy from one group of telephone consumers to another. While it is often assumed that a large subsidy of this kind flows from urban areas to rural areas, as is shown below, the reality of the Alaska industry appears to be quite different.

Historically, Alascom has relied in part upon the assumption that this rural subsidy exists as a reason to keep competition out of Alaska. Eight years ago, Alascom attempted and failed to exclude competition from the Alaska interstate market by making dire predictions before the FCC that rural service would be jeopardized, rates would go up, and technological innovation would come to a halt.<sup>2/</sup> Likewise, Alascom has argued before the Legislature, the Alaska Public Utilities Commission, and elsewhere that competition is not in the public interest in Alaska because rural rates will go up as the funds available to subsidize rural areas are reduced through competition.

Recently, Alascom has taken this argument one step further by assuming that in the face of competition it will not attempt to lower its costs and that it will be allowed to make up any losses it incurs on competitive routes through increased rural rates. Over time, Alascom argues, rural rates will go up higher and higher as competition expands further and further. In the end, Alascom argues, it will be left with its last customer paying for the entire network.<sup>3/</sup>

---

<sup>1/</sup> See Appendix A.

<sup>2/</sup> See for example: Rebuttal Comments of Alascom in CC Docket No. 78-72, June, 1981, pp. 16-21; Supplemental Comments of Alascom CC Docket 78-72, January, 1980, pp. 94-100.

<sup>3/</sup> Alascom Response to Order # 14 and Pre-filed Testimony, APUC Docket U-87-25, August 26, 1988, pp. 11-12.

Alascom's argument is incorrect for a number of reasons: First, the actual subsidy flowing from the urban to the rural areas is quite small, if it exists at all, and can easily be funded through a universal service fund in which all carriers participate; second, Alascom's arguments assume it will be allowed to cross-subsidize any decreases in revenue due to competition by increasing the rates on its monopoly services - a notion that is contrary to the purpose of competition and which is expressly prohibited in the proposed legislation; and third, Alascom assumes that unlike carriers elsewhere, which have been faced with competition, it will not bring down its costs over time to meet the competitive challenge.

#### THE URBAN-RURAL SUBSIDY IS QUITE SMALL

According to data that Alascom presented to the APUC in April, 1987, calling between the cities of Anchorage, Fairbanks, and Juneau generates \$10.9 million more in revenue than it costs to provide the service. The excess revenue from these routes is said to be the source of the subsidy for rural calling. However, according to the Alascom data, \$7.3 million (or 67%) of the subsidy is used to support near-urban calling around the Anchorage market, leaving only \$3.6 million for the remainder of Alaska.<sup>4/</sup> In short, based upon Alascom data, urban callers are paying a large cross subsidy to themselves and the subsidy which flows from urban Alaska to rural Alaska is no more than \$3.6 million. (See Appendix A).

In fact, the rural subsidy is far smaller than this \$3.6 million figure, if it exists at all. It is likely that a portion of this \$3.6 million is used to support calling around other urban areas. The areas around cities other than Anchorage were not separately identified in the Alascom April, 1987, data but they likely have the same short haul pricing characteristic as the Anchorage market does. Thus, a portion of the remaining \$3.6 million is certainly absorbed in these urban markets.

In addition, much, if not all, of the remaining subsidy is absorbed in urban areas through the exchange company settlements process. In Alaska, certain urban telephone companies have higher intrastate long distance settlement costs than do most rural Alaska exchange carriers. (See Appendix B) Since the \$3.6 million subsidy figure was calculated by averaging urban and rural settlement costs, it masks these higher urban costs. Using the averaging approach in Alascom's April, 1987, data, the subsidy flowing from low-cost rural telephone companies to high-cost urban telephone companies through the settlements process is not accounted for. If the subsidy were to be

---

<sup>4/</sup> See Alascom's "Analysis of GCI Scenarios 1 and 2", presented at public hearing, APUC Docket No. R-86-2, April 8, 1987.

calculated using company-specific settlements costs, most, if not all, of the remaining subsidy would be absorbed by higher cost urban calling. (See Appendix C) Therefore, it is even possible that rural callers are in small measure subsidizing urban callers - a result that is totally contrary to the claims which have been made and accepted for years.

Even if rural callers were the recipients of a \$3.6 million subsidy, which they apparently are not, this is a relatively small figure - \$3.6 million is only 4.3% of Alascom's intrastate gross revenues and 1.3% of its total revenues.<sup>5/</sup> This money (equivalent to 1.7 cents per intrastate minute) could easily be funded through a universal service fund in which all long distance carriers participate.

SB 206 proposes such a fund whereby each long distance carrier pays a surcharge on access charges paid to the exchange companies. This fund would be administered by the industry and would make money available to local telephone companies in rural, high-cost areas. The local telephone companies will use this money to lower the amount of money interexchange carriers pay to originate and terminate long distance calls, thereby lowering the total cost of a long distance call and preventing rates from rising.

This type of pool is not new. After the Federal Communications Commission opened the interstate market to competition, it developed an access charge system and a fund similar to the one described above, known as the High Cost Fund. The federal subsidies flowing through these mechanisms as well as the cost separation process and the averaging of access charges through the National Exchange Carrier Association have been successful in keeping exchange and long distance rates down throughout rural America.<sup>6/</sup> In fact, in Alaska some rural

---

<sup>5/</sup> According to the Alascom data submitted to the APUC, Alascom 1985 intrastate toll revenues were \$83 million. Alascom's total revenues reported on its 1985 FCC Form M were \$291 million. (See Appendix C.)

<sup>6/</sup> The subsidies resulting from the exchange cost separations process, access charge averaging and the high-cost fund are available to all areas of the U.S., including Alaska. They are not the same as the subsidy flowing from AT&T to Alascom in the Alaska interstate market. The present FCC Joint Board proceeding dealing with the Alaska interstate market may alter the AT&T to Alascom subsidy but it is not concerned with and will not affect the nationwide exchange subsidies which are discussed here. In addition, the FCC Joint Board recently announced that it will not entertain proposals that would have the effect of shifting costs to the Alaska in-state market. Supplemental Order Inviting Comments in CC Docket 83-1376, FCC 88J-4, released January 3, 1989.

telephone companies receive so much money from federal subsidies that they charge Alascom little or no money to originate and terminate intrastate calls.<sup>7/</sup> This is one reason why many rural Alaska exchange companies have costs that are lower than the corresponding urban Alaska exchange company costs.

#### ALASCOM CANNOT RECOVER COMPETITIVE LOSSES FROM RURAL CUSTOMERS

Alascom argues that when competition enters the market, it will be forced to lower its rates on competitive routes thus incurring a loss. Alascom then argues that it will make up any decline in revenue by raising the rates charged to customers on monopoly routes. This argument assumes that Alascom would be allowed to engage in such cross-subsidization free from regulatory oversight. Alascom would attempt to use its monopoly power against the very groups of consumers that regulation was designed to protect from the use of monopoly power.<sup>8/</sup>

SB 206 proposes to foreclose this use of Alascom's monopoly power by requiring Alascom to allocate its costs between regulated and deregulated market areas. Should Alascom incur any decrease in revenue in its deregulated service, it could not raise rural rates to recover those revenues. SB 206 states that following deregulation of a service, the cost of any remaining regulated service may be increased only if the direct costs of such service increase.

Through this type of legislation, Alascom cannot raise rates in the rural areas to cover any decline in revenue on competitive routes. Rural rates can only go up if the direct costs on rural routes go up. In addition, to ensure that rural rates remain reasonable, the APUC may, if necessary, permit any increased costs to be recovered from the universal service fund.

#### COMPETITION WILL LOWER COSTS

Finally, the argument that competition is not in the public interest, due to the inherent subsidies in the Alaska telephone system, is flawed because it ignores the dynamic benefits of competition. Alascom assumes that when competition enters the

---

<sup>7/</sup> Testimony of Alascom in public hearing, APUC Docket No. R-86-2, April 8-9, 1987, p. 442.

<sup>8/</sup> ACAP pre-filed testimony of Dr. Michael Sheehan, October 28, 1988, pp. 37-38.

market it will continue to incur costs in the same way it would if it were still a monopoly. This kind of behavior would be totally inconsistent, not only with the behavior of business entities generally in the economy, but also with the experience in the telephone industry over the last decade as competition has been introduced throughout the country. The advent of competition led AT&T and other carriers to lower their costs and improve their service. Alascom would certainly do the same.

Alascom's reaction is not unprecedented. Every monopolist confronted with the possibility of competition attempts to forestall the inevitable beginning of competitive entry by making dire predictions that universal service will be destroyed. AT&T certainly made these arguments in profusion. So long as these arguments succeed the monopolist never changes its thinking or its behavior - it merely assumes that it will be impossible to reduce costs. When decision-makers reject these arguments and introduce competition, the monopolist immediately begins behaving as a competitor by reducing its costs and improving service. This is what happened when AT&T had to compete and what happened when Alascom had to compete in Alaska interstate services.

#### COMPETITION WILL BRING FASTER TECHNOLOGICAL ADVANCES TO RURAL ALASKA

The choice between monopoly and competition is not simply one of lower or higher telecommunications costs. In recent years, there has been a literal revolution in communications and computer technology. These technologies have not only led to cheaper and higher quality communications service, but they have spawned an entire generation of new information and technology-related industries. These industries have provided jobs and diversification for the economies of many areas throughout the U.S.

In the interstate market, competition is responsible for many of the technological advances that have been introduced in Alaska. For example, competition brought digital transmission to Juneau and Fairbanks as well as new private line services that are now available to consumers. New entrepreneurial companies, such as Meteor Data, Inc., have appeared on the scene to pioneer the provision of specialized service. And, mobile satellite technology (which competition will bring to Alaska by 1992) will lower costs and improve service in remote areas of Alaska. This technology will bring reasonably priced telephone service to each resident, even those who are not in villages having at least 25 people (see testimony of Ronald A. Duncan, House Special Committee on Telecommunications, January 1986).

## CONCLUSION

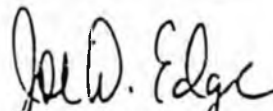
Alaska can benefit from the telecommunications revolution through the introduction of competition without jeopardizing the service which Alaska's rural residents have come to enjoy. Through careful legislation, rural ratepayers may be assured that their telephone rates will not go up as a result of competition.

SB 206 proposes such legislation through a universal service fund and the unbundling of competitive and non-competitive costs. Not only will rural rates not go up, it is very likely that they will decrease as competition leads to use of improved technology and more efficient ways to serve both rural and urban Alaska.

Intrastate competition will also help provide a path for competitive expansion to rural areas. Currently, competitive services are offered in Anchorage, the Matanuska Valley, the Kenai Peninsula, Juneau, Fairbanks, North Pole, and Adak. With intrastate competition, other regions of the state will soon see competition as well.

Competition in the telephone industry is not a new idea. The FCC and forty-five other states have permitted competition in long distance service. The result is predictable: where there is competition, rates go down, where there is no competition they do not.<sup>9/</sup> It is time for Alaska to reap the benefits of competition as well.

Respectfully,



Joe D. Edge  
Counsel for  
General Communication Inc.

JDE:jml  
Enclosures

---

<sup>9/</sup> Federal Trade Commission, Bureau of Economics, "The Impact of State Price and Entry Regulation on Intrastate Long Distance Telephone Rates." November 1988, p. vii. The Federal Trade Commission analysis indicated that states that permit competitive entry into the toll services market experience prices approximately 7 to 10 percent lower than states that do not allow entry.

## ALASCOM 1985 INTRASTATE MTS REVENUE DATA

	<u>Dollars Per Year</u>			
	(millions)			
	<u>ANC-FBX JNU ROUTES</u>	<u>ANC-MAT VALLEY KENAI ROUTES</u>	<u>REST OF STATE</u>	<u>TOTAL STATE LONG DISTANCE REVENUES</u>
Alascom revenues	22.5	10.2	50.2	82.9
Alascom cost	(2.5)	(3.1)	(25.2)	(30.8)
Average local Telephone Co. Settlements	(9.2)	(14.3)	(28.6)	(52.1)
Surplus or * (Subsidy)	10.9	(7.3)	(3.6)	(0.0)

\* A total of \$10.9 million in surplus revenue is earned on the Anchorage-Fairbanks-Juneau route. Of this amount, \$7.3 million is used to subsidize the Anchorage-Mat Valley-Kenai Routes. The remaining \$3.6 million is available to subsidize service in the remainder of Alaska. See "Analysis of GCI Scenarios 1 and 2" presented by Alascom at public hearing, APUC Docket No. R-86-2, April 8, 1987.

Above Average Cost Companies (Pool "Takers")\*

<u>Company</u>	<u>from average ¢/min.</u>	<u>Minutes (millions)</u>	<u>\$ (millions)</u>
ATU	(.127 - .119)	137.3	1.06
Bush Tel	(.213 - .119)	1.9	.18
FMUS	(.181 - .119)	33.2	2.06
MTA	(.135 - .119)	62.1	.99
Mukluk	(.309 - .119)	2.0	.38
OTZ	(.153 - .119)	5.8	.20
United	(.267 - .119)	10.4	1.54
Yukon	(.128 - .119)	<u>1.4</u>	<u>.01</u>
		249	<u>\$6.4</u>

Below Average Cost Companies (Pool "Donors")\*

<u>Company</u>	<u>from average ¢/min.</u>	<u>Minutes (millions)</u>	<u>\$ (millions)</u>
ASTAC	(.119 - .054)	11.9	.78
Bristol Bay	(.119 - .063)	2.7	.15
Copper Valley	(.119 - .100)	6.6	.13
Cordova	(.119 - .037)	2.5	.21
Gen Tel	(.119 - .075)	28.7	1.26
GSTC	(.119 - .084)	51.8	1.81
Interior	(.119 - .067)	5.9	.31
JDTC	(.119 - .083)	25.1	.90
Ketchikan	(.119 - .108)	8.3	.09
Nushagak	(.119 - .114)	3.3	.02
Sitka	(.119 - .086)	19.3	.64
TUA	(.119 - .042)	<u>1.4</u>	<u>.11</u>
		167	<u>\$6.4</u>

\* Data are for 1986. See Appendix C to APUC staff comments in Docket R-87-1, filed October 12, 1988 (attached).

LECs: POOL?  
September 30, 1988

Alascom Toll Settlements by Exchange Carrier and Estimation of Per Minute Access  
Charges Given Mandatory and Optional Pooling by Urban LECs

Utility	1986 Term. Minutes	1986 Orig. Minutes	1986 Total Minutes	1986 Settlements				Calculated Rate/Minute			
				NTS	TS	B&C	Total	NTS	TS	B&C	Total
AIN	70,380,190	61,960,195	132,340,385	12,659,043	724,376	3,405,870	16,789,289	0.096 *	0.005	0.026 *	0.127 *
ASTAC	6,156,883	7,888,728	11,943,611	0	505,215	135,281	640,496	0.000	0.042 *	0.031	0.054
BRISTOL BAY	1,185,415	1,586,141	2,771,556	0	46,723	127,255	173,978	0.000	0.017 *	0.044 *	0.063
IN-TEL	486,382	1,064,738	1,971,120	251,652	132,075	34,527	420,254	0.128 *	0.067 *	0.019	0.213 *
JTC	3,006,740	3,652,489	6,659,249	458,419	140,987	63,341	662,747	0.069	0.021 *	0.010	0.100
CORBOVA	1,178,671	1,386,350	2,557,021	0	31,513	64,306	95,819	0.000	0.012	0.025 *	0.037
FINS	17,400,690	15,858,786	33,259,484	5,158,792	384,596	475,180	6,018,568	0.155 *	0.012	0.014	0.181 *
GEN-TEL	13,728,397	15,001,625	28,730,022	1,349,512	416,612	378,294	2,144,418	0.047	0.015	0.013	0.075
GOTC	25,950,485	25,095,852	51,046,337	3,058,506	527,114	779,611	4,365,231	0.059	0.010	0.015	0.084
INTERIOR	2,552,438	3,429,884	5,982,322	0	317,548	82,258	399,806	0.000	0.053 *	0.014	0.067
JOTC	13,097,238	12,017,424	25,114,662	1,502,475	174,567	399,008	2,076,050	0.060	0.007	0.016	0.083
KETCHIKAN	4,406,369	3,974,868	8,381,237	630,216	143,827	128,466	902,509	0.075	0.017 *	0.015	0.108
MTA	32,837,717	30,091,099	62,128,816	6,919,853	682,627	759,032	8,361,512	0.111 *	0.011	0.012	0.135 *
MUKLUK	864,178	1,158,956	2,023,134	356,579	185,622	82,027	625,228	0.176 *	0.092 *	0.041 *	0.309 *
MUSKOGEE	1,528,497	1,820,108	3,348,605	214,004	83,323	55,202	382,529	0.064	0.025 *	0.025 *	0.114
OTZ	2,696,914	3,139,596	5,836,510	612,291	149,733	131,345	893,369	0.105 *	0.026 *	0.023 *	0.153 *
SIKA	8,394,173	10,914,675	19,308,848	801,689	648,136	221,039	1,662,864	0.042	0.033 *	0.011	0.086
TUA	625,465	778,459	1,403,924	0	8,514	50,183	58,617	0.000	0.006	0.036 *	0.042
UNITED **	4,681,349	5,728,298	10,409,647	1,755,330	741,270	287,655	2,784,255	0.169 *	0.071 *	0.028 *	0.267 *
YUKON	632,160	855,566	1,487,726	0	124,738	65,218	189,956	0.000	0.084 *	0.044 *	0.128 *
<b>State Total:</b>	<b>209,408,379</b>	<b>208,123,757</b>	<b>417,526,136</b>	<b>35,728,361</b>	<b>6,162,116</b>	<b>7,757,018</b>	<b>49,647,495</b>				

Average Rate/Minute for LECs  
Revised:

0.086      0.015      0.019      0.119

- \* - Per Minute Rates are Above Average - LEC is a Pool Receiver
- NTS - Non-Traffic Sensitive
- TS - Traffic Sensitive
- B&C - Billing and Collection

\*\* UNITED 1986 information was not available, 1985 data was employed.

Absorption of Subsidy by Alaska  
Urban Exchange Carriers

Three major urban carriers are subsidy recipients:

ATU	\$1.06 million
FMUS	2.06 million
MTA	<u>.99 million</u>
	<b>\$4.11 million</b>

On the other hand the TU companies (JDTC & GSTC) are overall subsidy donors. TU has both urban and rural operations so the subsidy donation must be split into urban and rural components. TU is 71% urban (see p. 2 of this appendix) so;

GSTC	\$1.81 million
JDTC	<u>.90 million</u>
	<b>\$2.71 million</b>

Urban portion is:

$\$2.71 \text{ million} \times .71 = \$1.92 \text{ million}$

Overall net subsidy from rural to urban exchanges arising through exchange settlements:

$\$4.11 \text{ million} - \$1.92 \text{ million} = \underline{\$2.19 \text{ million}}$

Derivation of Urban Component of JDTC/GSTC

JDTC, GSTC & Sitka are now TUA & TUNI which together have both rural and urban components.

JDTC, GSTC & Sitka are subsidy contributors and so their "urban" operations will offset the drain caused by ATU, FMUS & MTA thereby reducing the net rural to urban subsidy flowing through exchange settlements.

To derive the urban and rural components one possible approach is to divide the companies by line counts.\*

Since TUA is almost all "urban," 100% of its lines (and thereby its subsidy donation) should be counted as urban.

Within TUNI, North Pole, Kenai, North Kenai and Soldotna are urban and Sitka should be excluded because it is listed separately in the exchange company data we are using.

Thus:

<u>Company</u>	<u>Urban Lines</u>	<u>Rural Lines</u>
TUA	16,342	- 0 -
TUNI		
N. Pole	5,961	
Kenai	3,894	
N. Kenai	1,423	
Soldotna	5,369	
All Other**	<u>          </u>	<u>13,458</u>
	32,989	13,458

Total Lines\*\* = 46,447

Percent Urban = 71%

Percent Rural = 29%

TU Urban Subsidy "Donation"\*\*\*

\$2.71 mil X .71 = \$1.92 mil.

\* Using line counts may distort reality somewhat. However, if the rural to urban exchange subsidy existing generally in the Alaska market also exists within the urban/rural operations of TU, then using line counts overstates the TU urban "donation" and understates the rural to urban subsidy.

\*\* Sitka excluded.

Net Rural Subsidy

In a presentation to the APUC in Docket No. R-86-2, Alascom indicated that calling among Anchorage, Fairbanks, and Juneau generates surplus revenues of \$10.9 million which are available to subsidize calling in the remainder of Alaska. Of this amount, \$7.3 million is absorbed in short haul calling to points near Anchorage leaving \$3.6 million for the remainder of the state. Short haul calling around other cites absorbs an additional amount which was not shown in the Alascom analysis. Finally, since the Alascom analysis was predicated upon average rather than company-specific exchange settlements data and since exchange settlements represent over 60% of Alascom's cost of service, the use of company-specific settlements data will more precisely pinpoint the magnitude of subsidy flows between urban and rural areas of the state. The maximum available subsidy for rural areas is less than 1.4 million.

Total available subsidy	\$10.9 million
Less Anchorage area subsidy	(7.3) million
Less other urban area subsidy	(?) million
Less rural to urban exchange subsidy	<u>(2.19) million</u>
Maximum available subsidy	1.41 million
Maximum available subsidy*	0.68¢ per minute
State MTS average revenue**	39.8¢ minute
Maximum available subsidy as a percentage of State MTS revenue per minute	1.7%

\* Assumes 208 million intrastate minutes.

\*\* Assumes intrastate MTS revenues of \$82.9 million.

## LONG DISTANCE TELEPHONE COMPETITION

### QUESTIONS AND ANSWERS

Q: Why is competition allowed for out-of-state long distance calls but not for in-state calls?

A: Out-of-state calls are regulated by the federal government (Federal Communications Commission), which has permitted competition since the early 1970's. In-state calls are regulated by the state (Alaska Public Utilities Commission) which has not yet permitted competition.

Q: Do other states allow in-state long distance telephone competition?

A: Yes. Forty-five other states allow some form of in-state competition.

Q: What will be the result of in-state competition?

A: We can expect a result similar to what has happened with out-of-state competition. Telephone rates will come down on each route where competition occurs.

Q: If rates come down on some long distance telephone routes, will they go up in other areas as a result?

A: No. Senator Frank's bill would prohibit transferring costs from competitive routes to noncompetitive routes. Further, a "universal service fund" would be created to prevent rate increases on noncompetitive routes as a result of competition.

Q: Is it true that rural Alaska calls are heavily subsidized by urban calls?

A: No. According to Alascom data filed with the Alaska Public Utilities Commission, the net flow of subsidy from urban to rural Alaska is less than \$3 million out of \$83 million in revenue for in-state long distance calling.

Q: Why should the legislature make a decision to allow competition, rather than APUC?

A: The legislature established the overall policies for the APUC to carry out. While the APUC has the legal right to authorize competition, the issue is sufficiently important to consumers that it merits clear legislative direction.

Q: What changes have taken place in telephone technology that make competition possible?

A: Telephone technology is rapidly advancing. Improved satellites, microwave systems, fiber optic cables, exchange switches, and computer programs are making long distance service more efficient and less expensive.

Q: Why doesn't the APUC simply force the existing monopoly carrier to lower its rates?

A: There is no financial incentive for a monopoly carrier to reduce its rates, as it makes a profit based on its investment. The higher its costs, the more money it makes. It is difficult for a public utilities commission to have enough resources to prove that rates and costs are too high. Private competition is a simpler, more effective way to bring down rates.

Q: Does Senator Frank's bill limit which companies may compete in providing in-state long distance calls?

A: No. Any company may offer competitive services subject to a bonding requirement which assures payment to local telephone exchange companies for initiating or completing a call.

Q: Where will competition likely occur?

A: It is likely that competition will begin on routes which are currently competitive for out-of-state calls: Fairbanks, Anchorage, Juneau, Matanuska Valley, Kenai Peninsula, North Pole, and Adak. Other routes which are likely to be competitive are Ketchikan, Kodiak, Sitka and regional centers such as Bethel, Dillingham, and Nome.

Q: Won't competition create an inefficient duplication of facilities?

A: No. Competition will allow more companies to better serve consumers' needs. Competition in long distance services is similar to the grocery business. If one grocery store does not carry the brand you like, you can go to the other store.

THE IMPACT OF INTRA-STATE COMPETITION ON  
UNIVERSAL SERVICE IN RURAL ALASKA

A SUMMARY

The following summarizes a detailed analysis of the effects of Senate Bill 182 on intrastate long distance service in rural Alaska.

The analysis was conducted by Joe Dixon "Dick" Edge, a partner in the Washington, D.C. law firm of Hopkins, Sutter, Hamel & Park.

Mr. Edge began his legal career in 1974 as a trial lawyer for the Federal Communications Commission (FCC) in Washington D.C., where, for two years he represented the FCC in litigation involving competition in the telephone industry. For the ten years following, Mr. Edge worked in the firm of Hamel & Park, where he was initially recruited to represent the State of Alaska in the development of rural telecommunications. During his ten years at Hamel & Park Mr. Edge concentrated in telecommunications and antitrust law, with such clients as the State of Alaska, National Bank of Alaska, Northern Television, the Commonwealth of Puerto Rico, Wang Laboratories, Tandy Corporation, General Communication, Inc. (GCI) and others. Three years ago Mr. Edge moved to Anchorage and became Vice President and General Counsel for GCI representing them in their antitrust and regulatory litigation. Last September he returned to private practice in Washington, D.C. at his previous law firm of Hamel & Park which had merged with the Chicago firm of Hopkins & Sutter in July. In addition to his law degree, Mr. Edge holds a bachelors degree in Electrical Engineering and a masters degree in Law with an emphasis in economics and public utilities regulation.

Competition in intrastate telephone service is consistent with universal service in rural Alaska at affordable rates. SB permits such competition while establishing safeguards for use on noncompetitive routes.

Alascom is now the monopoly in-state long distance carrier. It uses local telephone companies to originate and terminate these calls, and pays an access charge for this service. Under the present system, some customers pay more than the actual cost of completing the call, and others pay less. The result is a form of subsidy from one group of telephone customers to another.

While it is commonly assumed that this subsidy flows heavily from urban to rural Alaska, data presented to the APUC by Alascom indicates that this subsidy is quite small: less than \$3.6 million out of total revenues of \$82.9 million. Most of the subsidy actually flows from urban to suburban routes.

To assure that rural telephone customers do not lose whatever small subsidy they receive, SB established a universal service fund. All long distance carriers would contribute to the fund which would be used to cover any shortfalls on high cost (noncompetitive) routes. The bill also prohibits Alascom from recovering any competitive losses from rural customers.

Competition will lower the cost of telephone service throughout the State and bring new technology to rural as well as urban Alaska.

EXHIBIT 2

1986

Per Minute State Toll Revenue Requirement

*costs they recover from Alascom*

<u>Utility</u>	<u>A</u> 1986 Intrastate Minutes 1/	<u>B</u> 1986 NTS-State Est. 2/	<u>C</u> 1983 TS-State Toll Alloc 2/	<u>(B + C)</u> Total State Toll Alloc	<u>(B + C)</u> A Cost/Min
ASTAC	8,925,770	0	361,590	361,590	.0405
ATU	56,114,162	3,937,415	2,074,592	6,012,007	.1071
BBTC	1,483,229	0	35,222	35,222	.0237
BUSH-TEL	804,866	113,581	78,943	192,524	.2392
Cordova	1,276,266	0	4,985	4,985	.0039
CVTC	1,467,050	282,607	93,057	375,664	.2560
FMUS	15,229,716	2,868,480	467,519	3,335,999	.2190
Gen-Tel	13,751,379	481,594	407,191	888,785	.0646
GSTC	24,382,945	2,520,335	206,648	2,726,983	.1118
ITC	3,263,797	0	287,819	287,819	.0881
JDTC	11,078,355	921,206	129,647	1,050,853	.0948
Ketchikan	3,523,305	442,992	85,754	528,746	.1500
MTA	17,178,537	5,054,153	296,791	5,350,944	.3114
Mukluk	974,033	256,164	147,954	404,118	.4148
Nushagak	1,545,858	135,813	18,336	154,149	.0997
OTZ	2,749,553	306,346	319,486	625,832	.2276
Sitka	6,968,697	539,618	421,990	961,608	.1379
TUA	760,002	0	21,254	21,254	.0279
United	5,141,736	1,008,521	768,829	1,777,350	.3456
Yukon	399,764	0	64,985	64,985	.1625
All other Company's	<u>20,935,981</u>	<u>0</u>	<u>315,496</u>	<u>315,496</u>	<u>.0151</u>
<b>Total</b>	<b>197,955,001</b>	<b>18,868,825</b>	<b>6,608,088</b>	<b>25,476,913</b>	<b>.1287</b>

1/ Alascom Response to Order Requesting Data, CC Docket 83-1376, July 15, 1986.

2/ Staff exhibit, Hearing on Subscriber Line Charges, Docket R-87-1, October 3, 1988.

APUC SUBCOMMITTEE'S

HOUSE LABOR AND COMMERCE

1. TELEPHONE: Rep. Gruenberg, Rep. Boucher, Rep. Collins
2. ELECTRIC: Rep. Boyer, Rep. Spohnholz, Rep. Leman
3. SOLID WASTE: Rep. Boucher, Rep. Leman
4. APUC ISSUES: Rep. Donley, Rep. Boyer
5. MISC. ISSUES: Rep. Donley, Rep. Gruenberg

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

VICE-CHAIRMAN, HOUSE  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

MEMBER, HOUSE LABOR AND  
COMMERCE COMMITTEE

CHAIR, CHILDREN'S CAUCUS



House of Representatives

FAIRBANKS

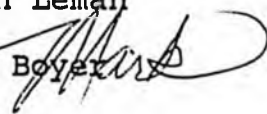
1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

## MEMORANDUM

TO: ✓ Representative Dave Donley  
Representative Ann Spohnholz  
Representative Loren Leman

FROM: Representative Mark Boyer 

DATE: April 3, 1989

SUBJECT: PROPOSED HOUSE BILL

Attached for your review is a proposed bill containing the amendments suggested by Dave Hutchens, Executive Director of the Alaska Rural Electric Cooperative Association. It will be brought before the committee for discussion tomorrow, Tuesday, April 4. Mr. Hutchens will be available for comments and questions.

Thank you.

MB/NJG/bhn

FAIRBANKS 20B

1 IN THE HOUSE

BY BOYER

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public utility regulation."

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

8 \* Section 1. AS 42.05.381 is amended by adding a new subsection to  
9 read:

10 (f) Dues or fees paid by a public utility to a trade association  
11 that is tax exempt under 26 U.S.C. 501(c)(6) (Internal Revenue Code)  
12 may not be disallowed as a business expense on the grounds that the  
13 trade association is engaged in lobbying.

14 \* Sec. 2. AS 42.05.461 is amended to read:

15 Sec. 42.05.461. CONTINUING PROPERTY RECORDS. The commission may  
16 require a public utility to establish, provide, and maintain as a part  
17 of its system of accounts, continuing property records segregated by  
18 the year of placement in service, including a list or inventory of all  
19 the units of tangible property used or useful in the public service,  
20 identifying the property by location or project [SHOWING THE CURRENT  
21 LOCATION OF THE PROPERTY UNITS BY DEFINITE REFERENCE TO THE SPECIFIC  
22 LAND PARCELS UPON WHICH THE UNITS ARE LOCATED OR STORED]. The commis-  
23 sion may require a public utility to keep accounts and records in  
24 [SUCH] a manner that shows [AS TO SHOW], currently, the original cost  
25 of the property when first devoted to the public service, and the  
26 related reserve for depreciation. Each public utility with annual  
27 revenues exceeding \$100,000 shall keep continuing property records.

28 \* Sec. 3. AS 42.05.720(3) is amended to read:

29 (3) "public" or "general public" means

1 (A) a [ANY] group of 10 or more customers that pur-  
2 chase the service or commodity furnished by a public utility and  
3 that is located outside or makes the purchase outside the certif-  
4 icated service area of the public utility; [AS DEFINED IN (4) OF  
5 THIS SECTION; AND]

6 (B) a person who purchases a utility service or prod-  
7 uct from a public utility and who is located in or makes the  
8 purchase in the certificated service area of the public utility;  
9 and

10 (C) a [ANY] utility purchasing the product or service  
11 or paying for the transmission of electric energy, natural or  
12 manufactured gas, or petroleum products that [WHICH] are re-sold  
13 to a person or group included in (A) or (B) of this paragraph or  
14 that [WHICH] are used to produce the service or commodity sold to  
15 the public by the utility;

STAFF: G. Baum

BILL #: HB 72  
DATE: 4/27/89

BILL TRACKING/HOUSE FLOOR FILE  
Representative Dave Donley

TITLE: AN ACT CONTINUING THE A.P.U.C.

SPONSOR/S: Governor

WHAT BILL DOES: Continues APUC until June 30, 1993 (1989)

COMMITTEE REFERRALS/BILL HISTORY

COMMITTEE	VOTE (DP, DNP, NR)	CS?
<u>L+E</u>	<u>7 DO PASS</u>	<u>NO</u>
	<u>7 DO PASS (SHULTZ ABSENT)</u>	
<u>FINANCE</u>	<u>3 NO VC (GILL, DAVIS, HOFFMAN, BEIGER, WALLIS)</u>	<u>NO</u>

EXPLAIN DIFFERENCE/S IN CS: NO CS

FISCAL IMPACT: ZERO

FLOOR MANAGER: DONLEY STAFF: G. Baum PHONE: 4954

SUPPORTERS: ALL  
OPPOSITION: none

FLOOR FIGHT? (WHO AND WHY) MAYBE QUESTIONS ABOUT LB+A RECOMMENDATIONS  
AMENDMENTS?:  
YES/NO/MAYBE NO

COMMENTS:

JANUARY 10, 1989, HOUSE JOURNAL

HOUSE BILL NO. 72 by the Rules Committee by request of the Governor, entitled:

"An Act continuing the existence of the Alaska Public Utilities Commission; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Finance Committees.

A zero fiscal note was published January 9, 1989.

The Governor's transmittal letter, dated January 9, 1989, appears below:

HB 72

"Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to continue the existence of the Alaska Public Utilities Commission for four years (AS 44.66.010(c)). Under current law, the commission is scheduled to "sunset" June 30, 1989 (AS 44.66.010(a)), and will go into its "wind-down" year under AS 44.66.010(b).

The purpose of the commission is to protect the public; its continuation is fundamental to the welfare of the people of our state. This protection involves overseeing the availability, cost, and quality of the utility services that are essential to daily life and of the pipeline services that are essential to the state's economy. Furthermore, the presence of a vigilant, competent regulatory commission is especially critical given the adverse economic conditions currently facing so many of our citizens, businesses, and public institutions.

I urge your early and favorable consideration of this bill so that the commission can continue to serve the public interest.

Sincerely,

/s/

Steve Cowper  
Governor"

APRIL 12, 1989, HOUSE JOURNAL

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 72

"An Act continuing the existence of the Alaska Public Utilities Commission; and providing for an effective date."

Recommending do pass (7): Donley (Chairman), Spohnholz, Collins, Leman, Boucher, Boyer, Gruenberg

A previous zero fiscal note by the Department of Commerce & Economic Development, published January 9, 1989, applies.

HB 72 was referred to the Finance Committee.

APRIL 25, 1989, HOUSE JOURNAL

The Finance Committee has considered:

HOUSE BILL NO. 72

"An Act continuing the existence of the Alaska Public Utilities Commission; and providing for an effective date."

Recommending do pass (7): Larson (Co-chairman), Swackhammer, Brown, Koponen, Phillips, Barnes, Ulmer  
No recommendation (3): Hoffman (Co-chairman), Rieger, Wallis

A previous zero fiscal note by the Department of Commerce & Economic Development, published January 9, 1989, applies.  
HB 72 was referred to the Rules Committee for placement on the calendar.

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act continuing the existence  
of APUC  
Sponsor: Rules Committee  
Requestor: Governor

Agency Affected: Commerce & Econ. Dev.  
BRU: APUC  
Components: Operations

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

**POSITIONS:**

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

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

The proposed legislation referenced above continues the APUC as it is currently configured for an additional four years. As such, the bill has no direct incremental or decremental effect on the agency's operating budget.

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

Phone: 276-6222

Date: \_\_\_\_\_

Approved by Commissioner: [Signature]  
Agency: Commerce & Economic Development

Date: 1/2/88

**Distribution (by preparer):**

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

HOUSE COMMITTEE ACTION - HB 72:

JANUARY 20, 1989, LABOR AND COMMERCE COMMITTEE MEETING

SUSAN KNOWLES, COMMISSIONER, ALASKA PUBLIC UTILITIES COMMISSION (APUC), reported that the commission was a public protection agency which regulates public utilities and pipelines. The primary duty of the commission was to issue certificates of public convenience and necessity for utility service areas and pipeline routes to applicants who prove they are qualified to go into business. For certificated entities, the APUC performs economic regulations in the areas of rates charged, terms and conditions of service to the public, and oversees the practices, services and facilities of the enterprises that are regulated. An additional responsibility was to compute the cost and assistance amount that are allowed to electric utilities under the power cost equalization program. Commissioner Knowles then explained that the jurisdiction of the APUC extends to cable television, electric, gas, radio common carriers, garbage, sewer, telephones, water and oil and gas pipelines. The extent of the jurisdiction depends on the type of entity, the ownership of the entity, and the size of the entity.

Additionally, Commissioner Knowles noted, consumers of these public utilities can choose an option allowable under the law to conduct elections to become deregulated from the commission.

Commissioner Knowles then explained the simplified procedures for rate-making as set forth in the statutes. At this point Commissioner Knowles passed out copies of the APUC's annual report, with explanations of each section. Commissioner Knowles ended her statements with support of HB 72, and urged the committee to pass the bill as quickly as possible.

Number 270

Rep. Leman asked Commissioner Knowles where, if any place, could the APUC reduce the budget and still provide the service that they are mandated to provide. He also inquired as to the cost reduction in areas of preparing rate cases.

Number 295

Commissioner Knowles referred to the FY 1989 plan section of the annual report, page number 80. The section regarding small utilities rate-making has been identified by the APUC as one of their objectives during the current year.

In answer to Rep. Leman's first question, Commissioner Knowles felt there could not be a reduction in the present budget and keep the standard of competency that is required.

Number 336

Rep. Leman stated that the legislators are in a position of having to make reductions, and perhaps changes will have to be made in what is now being required of different

commissions to accommodate those reductions.

Number 345

Commissioner Knowles spoke of local entities that could control and oversee some areas now under the APUC's authority. She felt that the bottom line was establishing the areas of greatest needs and using the existing resources to meet those needs.

Number 395

Rep. Leman asked Commissioner Knowles if she would be willing to work with the legislature in determining where savings could be made within the APUC budget. She answered in the affirmative.

Number 410

Rep. Collins spoke of her concern with the telecommunication expenditures, and asked for clarification from Commissioner Knowles on the impact of this issue to the consumer.

Number 425

Chairman Donley informed Commissioner Knowles that the committee had requested additional hearings to be held to investigate, in depth, cost saving measures. He then asked the commissioner if there were any additional materials that could be supplied to committee members on the issue of budget reduction. Chairman Donley also asked the APUC to prioritize their responsibilities on the basis of the constitutional mandates, the statutory mandates, and the things they are doing that are not required by law. He requested information on areas that the APUC was required to do, but felt they could not, because of insufficient resources.

Number 481

Commissioner Knowles stated that she would like to see HB 72 pass as a sunset bill.

Number 513

Rep. Leman inquired if Commissioner Knowles had information that the committee could refer to on the telecommunication case the APUC has been working on. He felt that a decision of that magnitude should be decided by policy makers of the legislature rather than the APUC.

Number 521

Commissioner Knowles felt that the issue of intrastate long distance competition was properly delegated to the expertise of the commission.

Number 575

DR. DAVID KNUTSON, ALASKA CONSUMER ADVOCACY PROGRAM (ACAP), gave support of the continuation of the APUC. He stated six points in which the ACAP offered their support.

Dr. Knudson stated he felt that only with regulation could consumers be protected from utility monopolization.

TAPE FIVE, SIDE B

Number 000

Dr. Knudson gave further testimony in support of the APUC. He suggested several books for the committee to read that dealt with the area of monopolies.

Number 238

Chairman Donley told members of the commission that he felt the key issue was program receipts versus general funds. He requested that information on this issue be given to the committee for review if it has already been gathered by the commission.

Number 275

JEFF BOHMAN, ALASKA PUBLIC INTEREST RESEARCH GROUP (AkPIRG), spoke in support of HB 72 and the APUC. He felt there were three areas for the committee to look at.

1. Consideration of the extension of the APUC.
2. The range of responsibilities of the APUC.
3. Where the funds come from for the APUC to operate.

Mr. Bohman also spoke of the need for the APUC to have additional staffing and greater computer capabilities.

Number 364

LEE NUNN, representing the MUNICIPALITY of ANCHORAGE, told Chairman Donley they would like to work with the legislature very closely in regards to HB 72. He explained that there are four municipalities within Anchorage that come under the control of the APUC:

1. Municipal Light and Power
2. Anchorage Water and Waste Water
3. Solid Waste Water
4. Anchorage Telephone Utilities

Mr. Nunn objected to the funding to the APUC for the rate case costs of Anchorage Telephone Utilities. He felt that a large portion of the reason for those costs was due to the liberal interpretation clause in the existing legislation. He stated that the APUC's charter needs to be more precisely defined so as to have narrower bounds on the rate cases that come before it.

Mr. Nunn stated he felt that precise language was needed to allow municipalities to become deregulated and that the Anchorage Borough Assembly could oversee these entities.

Number 445

Rep. Leman asked for clarification on the APUC statute in regards to deregulations. He then asked Commissioner Knowles the differences between private utility regulation and municipality regulation.

Number 507

Mr. Nunn stated that he supported the philosophy of the APUC, but for private utilities only.

Number 570

Chairman Donley asked for clarification on the APUC statutes that place the ML&P (Municipal Light & Power) under APUC regulation. He then inquired of Commissioner Knowles as to the language involved for a utility to deregulate.

TAPE SIX, SIDE A

Number 000

CAROLYN GUESS, member of the APUC, spoke in support of HB 72 as sunset legislation.

Ms. Guess asked the committee to explore avenues of

rate-payer concepts and utility-payer concepts. She volunteered information that the APUC had gathered on these items for committee review.

Number 099

Chairman Donley explained dedicated funds versus general funding, with the understanding that both types have to go through the budget process.

Number 161

KATHLEEN WHITAKER, MEMBER OF THE APUC, spoke in support of HB 72. She felt that regardless of the decision to allow competition in long distance communication, someone will have to manage those areas. Ms. Whitaker commented that the best manager was the existing one, the APUC.

Number 210

JACK HUGES, VICE PRESIDENT OF GCI, urged the committee to accept competition in telecommunications for the state of Alaska.

Mr. Huges stated that the legislature needed to set forth appropriate policy guidelines with regards to the regulation of telecommunication within the state of Alaska. Mr. Hughes preferred that the committee address the broader issues in regards to continuation of the APUC at this time, rather than just the sunset issue.

Number 288

Rep. Leman inquired if Mr. Hughes had seen any records comparing Alascom's profit and loss since the arrival of GCI.

Mr. Hughes responded that GCI had originally stated that Alascom would not suffer a profit loss with competition and felt that the last six years proved there was a market for telecommunication competition within the state of Alaska.

Number 341

Chairman Donley adjourned the teleconference at 11:40 a.m.

#### FEBRUARY 2, 1989, LABOR AND COMMERCE COMMITTEE MEETING

Chairman Donley called the House Labor and Commerce Committee meeting to order at 3:00 p.m. He announced the meeting was a WORK SESSION for HB 48 and HB 72. WORK SESSION tapes of the meeting can be found at the House Labor and Commerce Committee Room, Capitol Building #17, or the Legislative Reference Library. Chairman Donley adjourned the meeting at 4:00 p.m.

#### FEBRUARY 14, 1989, LABOR AND COMMERCE COMMITTEE MEETING

Chairman Donley established subcommittees for HB 72, the Alaska Public Utilities Commission (APUC) bill. The breakdown was as follows:

1. Telephone: Rep. Gruenberg, Rep. Boucher, Rep. Collins
2. Electric: Rep. Boyer, Rep. Spohnholz, Rep. Leman
3. Solid Waste: Rep. Boucher, Rep. Leman
4. APUC Issues: Rep. Donley, Rep. Boyer
5. Misc. Issues: Rep. Donley, Rep. Gruenberg



Donley

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

February 14, 1989

Audit Control Number

08-1354-89-R

Commissioner, Department of Commerce and Economic Development	Larry Mercurlieff
Deputy Commissioner, Department of Commerce and Economic Development	Jeffrey W. Bush

Members of the  
Alaska Public Utilities Commission

Chairperson	Susan M. Knowles
Member	Carolyn S. Guess
Member	Peter Sokolov
Member	Louis E. Agi
Member	Kathleen L. Whiteaker

# STATE OF ALASKA

AUDIT DIVISION  
P.O. BOX W  
JUNEAU, ALASKA 99811-3300

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

February 21, 1989

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

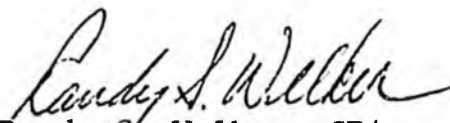
February 14, 1989

Audit Control Number

08-1354-89-R

The objectives of this audit were to examine the activities of the Alaska Public Utilities Commission to determine if there is a demonstrated public need for its continued existence and if the commission has been operating in an efficient and effective manner.

The audit was conducted in accordance with generally accepted governmental performance auditing standards. Audit scope and methodology are discussed in the Report Objectives, Scope, and Methodology section of this report. Audit results may be found in the Report Conclusions, Findings and Recommendations, and in the Analysis of Public Need sections of this report.



Randy S. Welker, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Report Objectives, Scope, and Methodology . . . . .	1
Organization and Function . . . . .	3
Report Conclusions . . . . .	5
Findings and Recommendations . . . . .	7
Analysis of Public Need . . . . .	19
Appendix:	
Summary of Appropriations and Expenditures . . . . .	23
Agency Response:	
Alaska Public Utilities Commission. . . . .	25

## REPORT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have examined the activities of the Alaska Public Utilities Commission (hereinafter referred to as APUC or the commission) to determine if there is a demonstrated public need for its continued existence and if the commission has operated in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether APUC should be reestablished. The law now specifies that the commission will terminate June 30, 1989 and have one year from that date to conclude its affairs.

The policy and audit approach utilized by the Division of Legislative Audit for performance reports can best be described as "audit by exception." This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made, and little time is devoted to reviewing well-run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

Discussion of the objectives, scope, and methodology of our review follows.

### Objectives

APUC was created to regulate public utilities so that citizens could enjoy adequate service at the lowest reasonable rates. The primary objective of this audit, therefore, was to determine whether the public need for the commission continues to exist.

The secondary objective was to review the commission's major functions, namely certification of utilities, tariff actions, investigations, and complaint follow-up for effectiveness in meeting the public need. The tertiary objective was to evaluate these functions in particular, and the APUC's operations in general, for economy and efficiency of operation.

Our analysis of public need, findings and recommendations, and our conclusions have been summarized in the appropriate sections of this report.

## Scope and Methodology

The primary emphasis of our audit was on the factors outlined in the Analysis of Public Need section of this report. Alaska Statute 44.66.050 requires that these factors be considered in the determination of the commission's continued existence. To address these areas, we analyzed the need for regulation of the various industries, reviewed pertinent academic literature, considered the regulatory status and trends nationwide, interviewed commissioners and staff, reviewed APUC's statutes and regulations, contacted the State Ombudsman and the Equal Employment Opportunity offices, analyzed consumer complaints against utilities filed with the commission, and reviewed decisions made by the commission.

The effectiveness and efficiency of the commission was addressed through the above procedures and also by contacting and requesting assistance from all certificated utilities and by reviewing individual files.

Our review of decisions, complaints, tariff actions, hearings, investigations, and certifications was performed primarily on a sample of FY 88 items. These were selected on a judgmental basis to allow us to focus on certain activities and industries.

## ORGANIZATION AND FUNCTION

Public utility regulation in Alaska has evolved substantially since the creation of the Public Services Commission (PSC) in 1959. That three-member body had jurisdiction over electric power, heat, water, gas, oil or other petroleum products (except by pipeline), telephone or telegraph communications, and community sewer services. In 1960 PSC gained responsibility for transportation utilities which it regulated until the creation of the Alaska Transportation Commission in 1966.

PSC was replaced by a three-member Alaska Public Utilities Commission in 1970. Regulated industries then included electrical, telecommunications, water, steam, sewer, gas, and petroleum when no competition existed. A 1973 amendment added garbage, refuse, trash or other waste to the list. Amendments passed in 1980 provided exemptions from economic regulation for cable television services and other utilities with low annual gross revenues as well as establishing a provision allowing economic deregulation by consumer vote for certain utility groups. With abolition of the Alaska Pipeline Commission in 1981, jurisdiction over pipelines passed to APUC.

In addition to jurisdictional changes, composition of APUC also changed. Alaska Statute 42.05.040 originally required one member to be a law school graduate, one to be a university graduate with a major in engineering, and one to be a university graduate with a major in finance, accounting, or business administration. Two additional positions were added to the commission in 1975 for which no special qualifications were established. All members are appointed by the Governor and confirmed by the Legislature for six-year terms.

Under AS 42.05 and AS 42.06, APUC is charged with the responsibility to ensure the furnishing of adequate service to all public utility patrons, without discrimination, and at the lowest reasonable rates consistent with the interests of both the public and the utility. Statutory provisions direct the commission, after determining an applicant is fit, willing, and able to provide utility service, to issue that applicant a Certificate of Public Convenience and Necessity. After issuance of this certificate the commission then regulates the rates, classifications, rules, regulations, practices, services, and facilities of a public utility, unless it is exempted or deregulated. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

The staff of APUC is divided into six major functions: administration, engineering, communications carriers, consumer protection, finance, and tariffs. In total, APUC employs 40 people with an operating budget for FY 89 of \$3,884,100. A brief description of the services provided by those functions follows:

Administration. An executive director, hired by the commission, is responsible for directing all staff functions and acts as a liaison between staff and commissioners and between the commission and legislature. He is responsible for records and document management, fiscal and personnel administration, and budget preparation and is assisted in these duties by an administrative assistant, document processing personnel, and other clerical support staff.

Engineering. This section is responsible for the investigation of utility procedures and practices affecting quality of service, review of legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. Their evaluations are presented in proceedings before the commission.

Communications Carriers. This section was established by 1976 legislation to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the State involving the use of wire, cables, radio and space satellites.

Consumer Protection and Information. Major responsibilities for this section include investigation and resolution of consumer complaints, public relations, and information dissemination.

Finance. Activities carried out by this section include the examination, analysis, and evaluation of financial statements submitted for rate cases, audits of financial records of utilities, examination of financial information comprising historical operating year and pro forma adjustments, and the presentation of these analyses at proceedings before the commission.

Tariff. This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, as well as meeting all public notice requirements on tariff filings and maintenance of current master tariffs for all utilities.

## REPORT CONCLUSIONS

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various commission practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report to assist them in evaluating the potential impact of any policy changes.

### Report Conclusions

In our opinion, the Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated by APUC. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

Although this economic justification is valid for the majority of utilities regulated by APUC, we evaluated their jurisdiction for potential areas of deregulation for several major reasons: (1) to comply with the intent of sunset legislation which attributed public disenchantment with state government to a proliferation of that government; (2) in recognition of the fact that the cost of regulation may exceed its benefits; (3) the increased demands being placed on commission resources; and (4) the State's ability to provide those resources.

Our analyses revealed several industries where regulation could be eliminated with minimum negative public impact. Our initial criteria was whether the service was essential for modern living to the average Alaskan and, if so, whether the industry operated as a natural monopoly. Although it is uncertain whether rates under deregulation would be higher or lower, deregulation should provide benefits such as competitive alternatives to existing services and more innovative services and rate designs. Additionally, services may be provided in areas not previously served as a result of eliminating the barrier to entry into the marketplace that has been erected by certification and the cost of regulation. While refuse collection services may be considered essential by many, this industry is not a natural

monopoly and should not be regulated (See Recommendation No. 1A). Radio communication carriers do not provide an essential service and also should not be regulated (See Recommendation No. 1B). Cable television may be considered essential by many and may also be a natural monopoly in the small and medium size towns. However, the statutes have created state sanctioned monopolies without the companion public protection against unreasonable and discriminatory rates and services. Further, federal law prohibits full economic regulation. The State should cease cable certification (See Recommendation No. 1C).

We are also convinced that small utilities should be exempted from economic regulation on the basis that the cost of regulation likely exceeds its benefits to consumers. We further recommend that the consumers of these exempted utilities be allowed a reasonable opportunity to elect economic regulation (See Recommendation No. 1D).

We recommend that the utilities owned by the Municipality of Anchorage be exempted from economic regulation. This exemption and the companion opportunity to elect economic regulation should be available to Anchorage as it is to all other municipal governments in the State (See Recommendation No. 1E).

We believe that the commission's costs should be fully allocated to consumers, but only to those consumers of utilities who continue to be regulated. We consider this regulatory funding approach to be most equitable to all the State's citizens. It should also encourage the elimination of any unwarranted economic regulation when combined with consumer regulatory elections (See Recommendation No. 2).

We recommend that APUC develop a topical reference system for commission orders and court decisions (See Recommendation No. 3).

A review of commissioner appointments showed that appointment terms expire on the same date for the two consumer members. As this situation could cause a significant disruption of commission activity, we recommend that the statute be changed to require the staggering of these appointments (See Recommendation No. 4).

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

Alaska Statute 42.05 should be amended to eliminate certain unnecessary regulatory functions of APUC.

Public convenience and necessity require certain services to be provided. Such services have traditionally included electric, telephone, gas, water, and sewer. The nature of these businesses do not lend themselves to competition; they are capital intensive and have permanent physical connections to their customers. The economies of scale of these industries are such that one company may be able to serve an entire market at a lower cost than could two or more companies; therefore, competition could not decrease prices to consumers in the long run and would only result in wasted capital resources through duplicate facilities. Note that this "natural monopoly" relates not only to the relationship between fixed and variable costs but also to the characteristics of the market. As these services are considered essential and as the long-run cost is lowest if only one company is allowed to serve, a monopoly is awarded in the form of a Certificate of Public Convenience and Necessity to a company that is determined to be fit, willing, and able.

As these services are essential, the demand for them is relatively inelastic in terms of service price or available funds. A monopoly coupled with inelastic demand can result in excessively high prices as well as price and service discrimination between consumers. Uncontrolled economic power has been considered economically, politically, and socially unacceptable in a democratic society. The alternatives are to nationalize the utilities or to regulate their services as a substitute for effective competition, with regulation being the preferred method. Regulated public utilities are required to make specified service levels available at approved rates to all consumers in their designated service areas.

In addition to the concerns over economic power, the public interest may also serve to extend regulation into situations where competition would have significant undesirable side effects on the quality of life in the area. For example, competition could create a black forest of utility poles or the continual digging to bury cables or pipe.

However, it may not be appropriate to economically regulate all certificated utility companies. For example, the cost of regulation may outweigh its potential benefits or the consumer's control over service and rates that already theoretically exists in that the company is a member-owned cooperative or it is owned by a political subdivision.

Further, overriding all the above considerations, the public interest being addressed must represent a substantial portion of the State's population; unique situations should be addressed at the local level.

While we acknowledge that not everyone will subscribe to this theory of regulation, we believe it to be fundamentally sound. Utilizing these principles, we analyzed APUC's jurisdiction and determined that governmental control in the following areas was unwarranted.

- A. Alaska Statute 42.05 should be amended to cease certification and regulation of companies furnishing collection and disposal service of garbage, refuse, trash, or other waste material.

Whether an individual considers refuse collection to be an essential service for modern living depends primarily on where they reside in the State. However, even essential services should generally not be regulated unless they are natural monopolies. For example, we do not believe that essentials such as food and clothing should be regulated.

Refuse collection, as with most enterprises, has certain economies of scale that affect its operations. However, these economies of scale are not such that one company can obviously provide the area-wide services for a significantly lower total cost than could several competitors. Relative to traditionally-regulated industries, refuse collection requires less capital, and thus they have a higher percentage of variable costs and less significant economies of scale. Further, the competition within service areas in several locations defeats the natural monopoly premise in the larger markets. We believe that a natural monopoly could occur in this industry in only the very small markets and that these do not warrant regulation due to the cost to benefit relationship.

Therefore, refuse collection should not be regulated unless there are overwhelming negative side effects present under competition in this industry. We acknowledge the possible negative effects of increased truck traffic, refuse pickup scheduled throughout the week in individual neighborhoods, and consistency problems as companies adjust to the economic realities of competition. However, these problems did not overwhelm the residents of the Mat-Su Borough as a result of the residential competition which began in 1985. Further, the Alaska Municipal League has adopted a resolution asking that refuse collection be de-regulated.

In response to our previous sunset audit recommendations to deregulate this industry, APUC expressed concern over the health and sanitation problems that could occur if these companies were removed from their jurisdiction. These health and sanitation issues are presently under the jurisdiction of local communities and also the Department of Environmental Conservation.

There are presently forty-three certificated refuse companies; nine of these are economically regulated under AS 42.05.711, as they have annual gross revenues of greater than \$200,000. Although APUC has no time sheet data upon which to estimate the cost to regulate these forty-three companies, the commission states in their FY 88 Annual Report that the time dedicated to refuse is excessive relative to agency resources and the resultant public benefit, and they recommend that this industry be deregulated.

B. Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

There are currently ten certificated radio common carriers in Alaska. Radio Common Carrier (RCC) services include radio paging, mobile radiotelephone, and improved mobile telephone public utility services.

The commission opened an investigative docket on the subject of deregulation of RCCs in 1981 which resulted in a 1982 decision to cease economic regulation of this industry. The commission cited as justification, among other things, that RCC service was not an essential service. As RCC service is not essential to the average Alaskan, we concur with the commission that it should not be economically regulated. We further contend that services that are not essential should not be certificated.

In that 1982 decision, APUC stated that the certification process should be continued to monitor the interconnection to the telecommunications network and to prevent cross-subsidization of non-monopoly RCC services by monopoly local exchange telephone services. However, both these concerns can be monitored through the continuing processes of certification and economic regulation of local exchange services.

Cellular phones are relatively new to Alaska, and APUC has not yet decided if or how they should be regulated. We understand these phones provide a higher sound quality at a higher cost than conventional radio phones and over a shorter range; as such, they may be even less of an essential service to the average Alaskan.

Alaska Statute 42.05.711(d) reads as follows: "The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter." [Emphasis added.] As the 1982 decision categorically deregulated an entire industry, not an individual utility, this order may be illegal. We are not recommending that this statute be amended to allow categorical deregulation, as this power should be retained by the Legislature. Rather, we are recommending that the statute be amended to specifically deregulate RCC services; this would incidentally resolve the question.

C. Alaska Statute 42.05 should be amended to cease certification of cable television.

We do not consider cable television an essential service, particularly in view of the large number of Alaskans who receive off-the-air network television or broadcasts from the Rural Alaska Television Network. The premise of "essential" is also defeated by a review of the cable television service in Anchorage in which large sections of the service area are not yet cabled 9 years after the certification was awarded. The 1988 service expansion added only 1 mile of cable for 83 homes and businesses. While we acknowledge that it takes years for a new utility to cover a service area, we submit that this standstill, even in consideration of the economic decline, indicates that this service has a higher elasticity of demand than would an "essential" service.

As it is not an essential service, it should not be regulated as a public utility. Although the statutes do not allow economic regulation, they do require certification of the companies. APUC has responded by issuing certifications for exclusive service areas. This has created state-sanctioned monopolies with legally protected service areas, yet the statutes do not provide the companion public protection against unreasonable and discriminatory rates and services. The statute should, therefore, be amended to remove the certification requirement.

However, there are many who believe that cable television is essential to modern living or that it is essential so that we may fully realize our First Amendment right of freedom of speech. If it is first decided that cable television is essential, then the natural monopoly issue must also be considered in the regulatory determination.

We believe that cable television may be a natural monopoly in the small and medium-sized towns. As such, these may be candidates for economic regulation. However, the cost of regulation may outweigh the benefits for these small markets. The economic regulation that is available is also limited to basic services, as the federal Cable Communications Policy Act of 1984 prohibits price regulation of the premium packages. In the largest cities, the competitive environment indicates that there is not a natural monopoly present for cable television, thus certification and economic regulation is inappropriate.

The federal Cable Act was designed to promote the expansion of cable television systems by promoting local franchising and limiting rate regulation. This law would not allow any rate regulation in Anchorage or Fairbanks but would allow basic service rates to be regulated in other areas such as Juneau or Homer. It does, however, appear to allow us control over the possible competitive side effect of duplicate cabling. By statute we could require the segregation of cable distribution companies and these could be fully regulated. The cable programming could then be opened to competition.

In summary, regardless as to whether or not cable television is viewed as essential, we recommended that the present certification requirement be deleted from the statute. To the extent that this service is deemed essential, municipal franchising or certification and regulation of distribution-only companies should be considered.

We also must point out a potential liability to the State under the Cable Act if this recommendation is implemented. The Cable Act outlines specific criteria which must be shown to deny a franchise and the proposed statute amendment would categorically retract the certificates (franchise) without this showing. However, the Attorney General's Office indicated to us that the State would prevail in court. We recommend that a formal opinion on this potential liability be obtained from the Attorney General before this statute is amended.

- D. Alaska Statute 42.05 should be amended to exempt the smaller utilities from economic regulation.

Electric, telephone, gas, water, and sewer utilities have traditionally been considered essential services and are often natural monopolies. Nevertheless, we should refrain from economic regulation if its cost

exceeds the benefits. However, this information is not available nor can it be reasonably generated. "Cost" would include incremental APUC and utility time and materials as well as the effect of project delays on long-term rates; this component of the equation could be studied and estimated. The "benefits" of regulation include a financially stable utility providing consistent service uniformly to customers who are assured of equitable rates and services now and in the future; this cannot be quantified.

Nevertheless, in consideration of the State's dwindling resources and the public's disenchantment with the proliferation of state government, we believe that it is appropriate for us to presume that the cost of regulation presently exceeds its benefits for many smaller utilities and that the gross revenue exemption levels provided in the statutes should be raised.

Alaska Statute 42.05.711 exempts electric and telephone utilities with gross revenues under \$50,000 from certification and economic regulation. It also allows a utility's consumers to elect economic deregulation for cooperatives, electric or telephone utilities with less than \$325,000 in annual gross revenues, and for any utility which does not gross \$100,000 annually. We propose that an across-the-board gross revenue-based exemption from economic regulation be established. Three options are presented in the following table. It was prepared based upon APUC's FY 88 Annual Report and represents all utilities that are currently economically regulated with the exclusion of the industries we have recommended for categorical deregulation.

Number of affected utilities and customers, based upon gross revenues:

Type	Under \$500,000		Under \$750,000		Under \$1,000,000	
	Util.	Customers	Util.	Customers	Util.	Customers
Electric	10	819	15	1,990	18	2,691
Telephone	-0-	-0-	1	343	2	863
Gas	-0-	-0-	-0-	-0-	1	908
Water	22	3,715	22	3,715	22	3,715
Sewer	2	15	3	382	3	382
<u>Total</u>	<u>34</u>	<u>4,549</u>	<u>41</u>	<u>6,430</u>	<u>46</u>	<u>8,559</u>
<u>Percent</u>	<u>40.5%</u>	<u>.8%</u>	<u>48.8%</u>	<u>1.1%</u>	<u>54.8%</u>	<u>1.5%</u>

The above percent calculations represent the reduction in the coverage of economic regulation under each revenue scenario; however, we caution the inference from the table that APUC's workload would decrease

proportionate to the decrease in the number of utilities. While there certainly should be some relationship, the commission has no time sheet data available to correlate these factors.

In concert with an amendment to exempt these smaller utilities, the following areas should also be addressed:

1. The petition provision which allows customers to request economic regulation of exempted utilities should be amended. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is much too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. For example, the petition requirement could be set at the lesser of 5% or 500 customers.
2. This proposed gross revenue exemption statute should not take effect for 6 months to allow utility customers who wish to retain regulation to do so without interruption.
3. The results of past deregulation elections should be honored, thus not requiring a new vote on failed deregulation elections.
4. The customers who continue the benefits of APUC's economic regulatory oversight should be expected to pay for this service (See Recommendation No. 2).

E. Alaska Statute 42.05 should be amended to cease mandatory economic regulation of certain utilities owned by political subdivisions.

Alaska Statute 42.05.711(b) generally exempts utilities owned by political subdivisions from economic regulation, unless they so elect. However, it also provides that if any of a subdivision's utilities directly competes with any other certificated utility then all the subdivision's utilities shall be economically regulated. We presume the intent of this provision was to eliminate the wasting of resources from facility duplication resulting from the then ongoing electric service area dispute as well as preventing the cross-subsidization of rates which might accompany such a dispute. The only utilities falling under this provision, at present, are owned by the Municipality of Anchorage.

The Anchorage service area dispute has been resolved and the present day competition is in the form of economy energy sales of electricity and perhaps telephone communication systems. This type of competition does not encourage the massive facility duplication or the cross-subsidization of rates that a service area dispute might. Service area concerns can be adequately addressed through the certification process without economic regulation.

In conjunction with an amendment to delete this mandatory economic regulation, the following areas should also be addressed:

1. The utilities previously regulated by APUC due to competition should continue to be so regulated unless rejected by the governing body.
2. A governing body should be allowed to withdraw a previous election.
3. The consumers who, through their local government, have chosen to continue the benefits of APUC's economic regulatory oversight should be expected to pay for this service. Specifically, the Municipality of Anchorage Assembly should decide whether their utilities should be regulated locally or by APUC. If they choose to "hire" APUC to perform this regulatory function in their behalf, citizens from all across the State should not be forced to pay for that service with General Funds (See Recommendation No. 2).

Recommendation No. 2

Alaska Statute 42.05 and Alaska Statute 42.06 should be amended to more fully allocate the costs of regulation.

APUC is currently being funded primarily by General Funds with a program receipts supplement from partial direct allocations of cost. The statutes require the cost of investigations and hearings to be allocated among the parties, including the commission, as is just under the circumstances. The commission has traditionally not allocated costs to itself and has allocated only the hired consultant fees, attorney general services, and other incremental out-of-pocket costs. In a 1988 decision, the Alaska Supreme Court interpreted the present statutes on cost allocations to disallow attorney general services. The court also remanded the case back to the commission to determine what portion of the cost allocation they should absorb.

Basic fairness prescribes that only the consumers who benefit from the regulatory services provided by APUC should pay the cost of this service. This is the "user fee" concept of funding. A funding method should also be designed to allow responsive adjustments to be made in the level of regulation as desired by consumers. With these criteria in mind, we have briefly commented on three predominate alternatives.

To the extent of its general funding, any approach fails to equitably match the regulatory cost to the consumers who benefit. General funding may be viewed as a payment by all citizens all across the State, while the benefit may accrue primarily to consumers in Anchorage. The utilities owned by the Municipality of Anchorage have contributed greatly to the commission's workload, yet a significant portion of the total cost of the proceedings is paid out of General Funds.

General funding is also less responsive to appropriate regulatory levels; in fact, it probably wastes some of the State's dwindling resources. Given that there is a regulatory cost/benefit break-even point and that certain consumers are given the opportunity to elect full economic regulation, general funding will likely be perceived as payment by "someone else" with the result that regulation will always be extended past this break-even point. Thus, government is providing an unnecessary service.

Funding of APUC through a gross receipts tax levied against the utilities and pipelines that is passed through to consumers could provide a reasonable matching of costs to beneficiaries. This assumes tax rates were established by utility size, by industry, and by level of regulation. However, there would always be inequities.

This tax approach would be responsive to regulatory needs only to the extent that the matching is accurate. However, taxation has traditionally focused on ability to bear rather than resource utilization and, thus, such a funding approach may not be responsive. For example, if a tax was designed which levied 100% of the commission's costs against the pipeline companies and none to the utilities, this approach would do nothing to reduce unnecessary regulation of the utilities.

Full and direct allocation of the commission's costs provides the most accurate and defensible matching among the three alternatives. As such, it would not only be an effective method in eliminating unwarranted government regulation but it could also make the regulatory process more efficient by encouraging adequate and appropriate filings.

To administer this full allocation program would require time sheets for commission staff and attorney general

services, and the use of account codes to share docket proceeding costs among the parties and to allow recovery of general overhead. The administrative cost of this program should be less than with the tax approach but, of course, greater than with the General Fund design. These costs could potentially be offset by increased staff efficiency through time sheet accountability. We believe the benefits of a full-cost allocation program would far outweigh a slightly higher administrative cost.

Based upon the above, we recommend that the statutes be amended to establish a full-cost allocation funding approach for APUC. In conjunction with this shift toward program receipts funding, AS 42.05.651 and AS 42.06.610 should be amended, as follows:

1. These statutes should be amended to specify that all costs of the commission may be allocated.
2. Alaska Statute 42.05.651 should be changed to require interim allocation, rather than awaiting completion of a proceeding. The commission has estimated their unbilled utility allocations at \$1.6 million with an average age of 3.0 years. We note that the related pipeline statute, at AS 42.06.610, already requires interim billings. However, APUC does not appear to be in compliance, with their estimated unbilled pipeline allocations at \$2.1 million with an average of 4.7 years. Further, APUC should amend their regulation at 3 AAC 48.157 which provides for cost allocations after pipeline hearings rather than on the required interim basis.
3. These statutes presently require allocation to the parties of a proceeding including the commission; these should be modified to exclude the commission. However, the provisions allowing the commission to allocate among the parties as is reasonable and just should be retained, thus the commission may occasionally absorb some costs indirectly and have a need for minimal General Fund monies.
4. For economically regulated companies, on a case-by-case basis, the commission should be allowed to determine whether the costs being allocated are to be passed through to the consumers.

#### Recommendation No. 3

APUC should develop a topical reference system for commission orders and court decisions.

The commission is a quasi-judicial agency which issues decisions based upon finding of fact and conclusions of law.

These decisions are in the form of written orders that have the effect of law and are subject to judicial review.

The commission's orders are filed chronologically and also within the docket (case) files. Decisions from the courts on appeals of commission orders are filed with the related docket. However, no topical cross-reference system is maintained.

At present, the best catalog of prior actions is institutional memory. Obviously, such a memory-based system cannot provide true access to precedent when needed by commissioners, staff, utilities, consultants, and attorneys. A cross-reference system would allow analysis by staff and decisions by the commission to be made consistently from case to case and in accordance with relevant court decisions. It would also aid utilities and their consultants and attorneys to adequately prepare for filings and hearings.

The Legislature, in conjunction with their FY 89 appropriation to APUC, provided the following: "It is the intent of the Legislature that the commission use the additional permanent part-time position to develop a keyword index filing system for all future commission orders and that prior year orders be incorporated into the system as possible." However, the part-time position was not actually authorized and the system has not yet been designed.

#### Recommendation No. 4

Alaska Statute 42.05.030 should be amended to stagger the appointments of the two consumer members of the commission.

In 1975 the commission was expanded from three to five commissioners. Appointments were made to both the new positions for the standard six-year terms with both terminating on the same date. All other APUC commissioner terms have been appropriately staggered. Because the potential for disruption of commission activity would be high with two new commissioners coming on at the same time, we recommend the terms of the consumer members be staggered.

Currently, the terms are scheduled to end as follows:

Consumer seats (2):	November 1, 1993
Engineering seat:	October 31, 1990
Finance seat:	October 31, 1992
Legal seat:	October 31, 1994

The statute required the governor to stagger the initial appointments. However, as this was not done for the consumer members, we recommend the statute be amended to also require the necessary staggering of subsequent appointments.

(Intentionally left blank)

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of commission activities indicate both positive and negative factors as they relate to the public need factors defined in AS 44.66.050. These analyses were not intended to be all-inclusive, but address those areas we were able to cover within the scope of our review.

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

The commission has conscientiously attempted to allow only qualified applicants to provide utility services and to regulate them in such a manner as to ensure adequate service at the lowest reasonable rates. In finding that no public interest would be served through regulation, APUC administratively exempted some utilities through the discretionary power granted at AS 42.05.711(d).

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

The Alaska Public Utilities Act (AS 42.05) and Pipeline Act (AS 42.06) provide broad discretionary power to the commission to carry out its mandated responsibilities. The jurisdiction provided under these statutes should be limited to require regulation only of industries where the greatest public interest may be served (See Recommendation No. 1).

The budgeting approach and the statutes should be modified to fully allocate the commission's costs to consumers, but only to those consumers of utilities who continue to be regulated. We consider this regulatory funding approach to be most equitable to all the State's citizens. It should also encourage the elimination of any unwarranted economic regulation when combined with consumer regulatory elections (See Recommendation No. 2).

The commission has not developed a topical reference system for commission orders and court decisions (See Recommendation No. 3). APUC has not been successful in obtaining additional personnel or funding for this task.

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

In their FY 88 Annual Report, APUC highlighted certain problems they perceive with the current statutes and also outlined options and recommended solutions.

APUC broached the question of who should pay the cost of regulation and also presented several options on a public policy level. However, they placed the emphasis on agency funding, rather than on equity to the State's citizens or on the potential elimination of unwarranted regulation (See Recommendation No. 2).

The commission recommended that the statutes be amended to allow interim billing of cost allocations for utilities, similar to that allowed for pipelines. We concur, however, we believe that these billings should be required, and we assert that they are in fact already required for pipeline cases (See Recommendation No. 2).

The commission recommended a statute change to allow them to increase certificate application fees to fully reflect the cost of processing these filings. We would concur if it were not for our recommendation which would effectively allocate these costs on a comprehensive basis (See Recommendation No. 2).

APUC also recommended that the exemption scheme at AS 42.05.711 be reviewed and revised. We agree and have outlined our suggestions at Recommendation No. 1. The commission specifically recommended the deregulation of refuse collection.

They requested clarification of AS 42.05.431 which establishes the power of the commission to fix rates. APUC is uncertain how the dispute resolution procedures under subsection (b) could be used to renegotiate wholesale power contract rates if the commission finds them to be unjust and unreasonable.

The commission suggested that, if the Legislature intended for utilities who are not economically regulated to pay interest on customer deposits, AS 42.05.711 should be amended to reflect this intent. They further recommended that unclaimed deposits not be escheated to the State. We disagree with this second recommendation, as it may provide a disincentive to locate the true owners of these funds.

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

Formal proceedings are properly and timely noticed and are open to the public. The commission has held public hearings and formal proceedings within the service areas of the utilities before them to facilitate public attendance and participation. APUC also staffs a Consumer Protection and Information Section to resolve complaints and disseminate information.

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

All formal proceedings, including hearings on proposed regulations, are noticed and open to the public. Any interested person or party may intervene in a formal proceeding if that intervention will benefit, but not unduly delay the proceeding. The commission has also held informal workshops with attorneys and utility representatives in an attempt to be more responsive to the needs and concerns of those groups.

6. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, to the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

The commission has adopted regulations for informal and formal complaint procedures. Procedures include a requirement that the complaint be made first with the utility before being filed with the commission. If the complaint cannot be resolved informally, formal procedures, including an investigation, may be initiated. The Office of the Ombudsman also occasionally handles utility or APUC-related complaints. We found the complaint resolution process to be operating satisfactorily.

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

The commission, prior to granting a Certificate of Public Convenience and Necessity to a public utility, is required to determine that the applicant is fit, willing, and able to provide the service. APUC employs

utility financial analysts and utility engineers to perform the necessary analyses to make this determination.

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

We found no evidence of hiring practices or commission appointments that are contrary to state personnel practices. No complaints have been filed with the Human Rights Commission or the Division of Equal Employment Opportunity.

9. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency board or commission to better serve the interests of the public and to comply with the factors.

Please refer to the previous section, Findings and Recommendations.

APPENDIX

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION  
SUMMARY OF APPROPRIATIONS AND EXPENDITURES  
For Fiscal Years 1988 and 1989  
(UNAUDITED)

<u>Category</u>	1988 <u>Authorized</u>	1988 Expenses and <u>Encumbrances</u>	1989 <u>Authorized</u>
Personal Services	\$2,113,600	\$2,103,406	\$2,113,600
Travel	28,660	27,423	57,100
Other Services	1,592,330	1,224,346	1,688,500
Supplies	21,000	20,800	22,000
Capital Outlay	<u>3,910</u>	<u>3,910</u>	<u>2,900</u>
<u>Total</u>	<u>\$3.759.500</u>	<u>\$3.379.885</u>	<u>\$3.884.100</u>

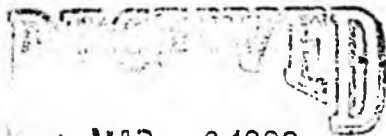
Note: The information included in this summary was obtained from APUC records and the state accounting system. This information has not been audited by us and, accordingly, we express no opinion on it.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222



MAR - 9 1989

March 7, 1989

LEGISLATIVE  
AUDIT

Mr. Randy Welker  
Legislative Auditor  
Division of Legislative Audit  
State of Alaska  
P. O. Box W  
Juneau, Alaska 99811-3300

Re. Response to Preliminary Audit Report

Dear Mr. Welker:

The following is the response of the Commission to the preliminary audit report and recommendations submitted by the Division of Legislative Audit on February 14, 1989, as a result of its performance review of the Commission.

The Commission concurs with the fundamental conclusion of the report that the

Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. (Page 5.)

The Commission does not agree with all of the statements of regulatory theory and philosophy in the preliminary audit report but has focused its comments on the actual recommendations.

Recommendation No. 1A

Alaska Statute 42.05 should be amended to cease certification and regulation of companies furnishing collection and disposal service of garbage, refuse, trash, or other waste material.

The Commission supports this recommendation as it did the identical recommendation made in the 1979 and 1985 Sunset Audits. The auditor's statement that the public health and sanitation aspects of this service are monitored by local governments and the Department of Environmental Conservation addresses the Commission's previous reservation on deregulation.

Recommendation No. 1B

Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

The Commission concurs with this recommendation based on the character of radio common carrier (RCC) services and the current regulatory status of RCCs operating in the state. However, as noted in the Commission's response to the same recommendation in the 1985 Sunset Audit, future developments in the telecommunications industry may require reimposition of RCC regulation at some later time.

The Commission also believes that its authority to partially or fully deregulate a particular utility industry in response to current circumstances is a desirable and appropriate supplement to the legislative action advocated by the auditor. Accordingly, the Commission requests legislative guidance on the validity of its decision to economically deregulate the RCC industry in the event this recommendation is not implemented by statute.

Recommendation No. 1C

Alaska Statute 42.05 should be amended to cease certification of cable television.

The Commission concurs with this recommendation with some qualifications, as it did with the same recommendation in the 1985 Sunset Audit. The recommendation appropriately eliminates the anomaly in the current regulatory scheme for cable television (CATV) service whereby CATV providers hold monopoly certificates but are economically deregulated. However, the Commission would encourage the Legislature to use its legal and research staffs to examine the implications of the following on full CATV deregulation: (1) the Cable Communications Policy Act of 1984, (2) the Federal Communications Commission's recent initiatives to eliminate the existing ban on cross-ownership of CATV and telephone companies, (3) the availability and status of local government oversight, (4) shared use of rights-of-way, (5) community access and institutional network use of CATV systems, and (6) disposition of certificates held by existing CATV providers. In any event, as noted in response to the 1985 Sunset Audit recommendation, CATV certification is not a large element of the Commission's workload.

Recommendation No. 1D

Alaska Statute 42.05 should be amended to exempt smaller utilities from economic regulation.

The Commission opposes this recommendation because it disagrees with the auditor's unsupported presumption that the cost of economic regulation presently exceeds its benefits for smaller utilities. Rather, the Commission concludes from its experience

that regulation of small utilities is at the core of its public protection function, especially given the geographic and demographic characteristics of Alaska. The Commission also believes that the burden and cost of regulation on smaller utilities can and should be reduced administratively, and it is currently addressing this issue.

As the auditor points out, it is extremely difficult to quantify the cost of regulation, both to the regulated and to the regulator. At the same time, it is relatively easy to inflate or deflate cost figures to support a given predisposition for or against regulation. Regardless of amount, costs are relatively meaningless unless they are compared to benefits.

The Commission agrees with the auditor that the primary benefits of regulation are a financially stable utility which provides reliable, safe service to all customers at reasonable, non-discriminatory rates. With the exception of 22 water companies, the utilities affected by this recommendation are providing service in rural Alaska and are predominantly electric utilities. It has been the Commission's experience that the need for regulation and the potential benefits provided by regulation are frequently greater for smaller utilities than for larger utilities for many reasons, including, the logistical challenge of operating in remote locations; inexperienced personnel; unsafe facilities as a result of non-compliance with the National Electric Safety Code; lack of familiarity with utility management, maintenance, and accounting procedures; discriminatory actions by utility management; failure to request rate increases when needed; and procurement of wrong equipment. In addition, it can be argued that the consumers in rural Alaska are even more captive than those in the urban areas, and, therefore, are particularly dependent on a high level of protection.

Although the reduction in workload would be approximately commensurate with the loss of Commission staff over the past three years if this recommendation were enacted, and from that standpoint may be appealing, the Commission does not believe that the public interest would be served by wholesale deregulation of utilities serving perhaps the most (or one of the more) vulnerable segment(s) of the ratepaying public.

The Commission believes that the concern about the cost of regulation that has been voiced by the auditor as well as others, for the most part, is directed at the expense (both in time and dollars) associated with regulatory requirements when a utility desires or needs to change its rates. The Commission has recognized for some time that the regulatory scheme that exists and has been applied to both large and small utilities should be examined. To that end, on February 3, 1989, the Commission has issued a Notice of Inquiry. The purpose of the Inquiry is to receive information which would assist the Commission in proposing regulations to simplify rate and other regulatory proceedings for smaller utilities. A copy of this order is attached. (See Appendix A.)

In summary, the Commission believes that the issue of the cost of regulation as it relates to the smaller-sized utilities can be substantially mitigated through administrative procedures rather than legislation which would eliminate the important public protection function today provided by economic regulation.

However, if the Legislature believes public policy is better served by deregulating smaller utilities, the Commission would propose, as it did in response to the 1985 Sunset Audit, the following amendment to AS 42.05.711 to expand the deregulation election process found in AS 42.05.712 which would replace the provisions of AS 42.05.711(e), (f), (g), and (i):

All utilities which have gross revenues of \$500,000 or less may elect to be exempt from the provisions of AS 42.05, other than AS 42.05.221-42.05.281, under the procedures described in AS 42.05.712.

This approach conforms with the Commission's position that regulation for utilities that heretofore have been regulated should be continued unless the people most affected, the consumers, vote to become deregulated.

The Commission also concurs with the auditor's suggestion that consideration be given to reducing the number of customers required to petition for regulation under AS 42.05.711.

Recommendation No. 1E

Alaska Statute 42.05 should be amended to cease mandatory economic regulation of certain utilities owned by political subdivisions.

The Commission supports the philosophy underlying this recommendation. However, the Commission does not believe that elimination of AS 42.05.711(b)(2) is necessary to achieve the auditor's objective and has proposed an alternative legislative approach and language.

It is reasonable that if regulation is elected at one time by a governing body as currently provided under AS 42.05.711(b)(1), then a future governing body should have similar authority to vote to revoke that election. If such revocation is exercised, it is presumed that the public protection function provided by the Commission will be assumed by the governing body of the

political subdivision, thus giving affected consumers a forum and recourse for concerns and complaints.

The Commission recognizes that this recommendation presently affects only the Municipality of Anchorage. It is pertinent to consideration of this recommendation that, at the present time, there are a number of outstanding issues before, and outstanding requirements by, the Commission for the Anchorage Water and Wastewater Utility (sewer), the Anchorage Telephone Utility, and the Anchorage Municipal Light and Power Department.<sup>1</sup> It is reasonable to assume that the Anchorage Assembly would take into consideration the status and results of proceedings before the Commission at such time as it considers any decision to end economic regulation by the Commission.

---

<sup>1</sup>Docket U-87-47 is an investigation into the general management practices of Anchorage's sewer utility. In Dockets U-88-18 and U-87-61 the Anchorage Telephone Utility is before the Commission requesting a 54.83% rate increase and responding to an investigation into the general and financial management practices of the utility. Commission decisions are currently pending in these sewer and telephone cases. At the present time, the Municipal Light and Power Department is required to provide an equity management plan and obtain Commission approval before further debt refunding is issued because of its poor financial condition.

Rather than eliminating AS 42.05.711(b)(2), as the auditor appears to suggest, AS 42.05.711(b) should be expanded to provide for deregulation of a municipal entity if its governing body so elects, once competition no longer exists between it and other utilities, and to allow the governing body of a political subdivision to revoke a previous election. The Commission believes it is desirable to continue a protective mechanism for regulated utilities in the event a future situation arises involving competition with a municipal utility. Proposed language is attached. (See Appendix B.)

Recommendation No. 2

Alaska Statute 42.05 and 42.06 should be amended to more fully allocate the costs of regulation.

The Commission concurs in part, and opposes in part, this recommendation. The Commission agrees with the auditor's suggestion that, in light of the current economic climate as well as a recent court decision, discussion should be focused on the appropriate method to fund this agency. Clearly, the time is ripe to evaluate funding options; however, the Commission disagrees with the method of funding advocated by the auditor. Regardless of the outcome of the broader funding discussion, the Commission concurs that AS 42.05.651(a) should be amended to allow interim allocations during a proceeding and to exclude the Commission from bearing any costs of a hearing or investigation.

The Commission opposes the auditor's "full and direct allocation of the Commission's costs" approach to funding for several reasons. First, the Commission believes that this is the most costly and cumbersome funding option from an administrative perspective. In order to allocate all costs, it would be necessary to develop an extensive cost accounting system to track direct costs and to allocate indirect costs to each utility or pipeline carrier. It would also be necessary to establish an accounting staff and procedures to bill, audit, and collect cost allocations on a regular basis. The costs to design and to provide the personnel and other resources required to implement a system to recover the Commission's budget would be substantial. The Commission also anticipates that its energies would be diluted from substantive regulatory responsibilities to accounting and auditing of cost allocations.

Second, the "full allocation" approach does not accurately and equitably allocate indirect costs. A number of Commission activities do not fall within categories that are readily allocable to specific cases in the manner suggested in the audit. These include: administrative duties such as preparation of the annual budget or responses to administration, legislative, or other agency (both state and federal) requests; generic cases; requests from consumer and utility groups to participate in educational efforts; training; regulations proceedings; court appeals; Commissioner time; all non-regulatory briefings and meetings. In addition, there are a number of Commission activities where the cost-benefit of maintaining individual time records for cost allocation purposes may not be justified. Under the auditor's recommendation, all indirect costs would apparently be assigned to utilities and pipeline carriers on the same basis as the direct cost assignments they have received. The effect of this approach is to shift the cost of statewide regulation to those entities who happen to have proceedings during the year and to ignore the public protection benefits associated with the

availability of regulation for all certificated and regulated entities. The alternative to this imprecise, inequitable allocation of indirect costs is to continue to provide a significant portion of the Commission's ongoing budget from the General Fund, which conflicts with the objective of the "full allocation" scheme.

Third, the "full allocation" approach is contrary to the auditor's underlying economic thesis that utility consumers are motivated by (or should be motivated by) the cost of regulation when choosing the appropriate amount of regulation. In particular, the allocation of indirect costs suggested by the auditor bears no real relationship to the direct costs which are allocated, thus inflating the cost of regulation and sending an incorrect economic signal. It will also be much more difficult for utilities and pipeline carriers to budget for, and incorporate in rates, the cost of regulation than it would be under other alternative funding approaches.

Lastly, a "full allocation" program does not address the legal concern of incurring costs, through the program receipts process, in one fiscal year and recovering them through the allocation process until subsequent fiscal years. In addition, this recommendation appears to conflict with recent administration and legislative discussions on the resolution of the Commission's financial exposure for program receipts payments as a result of a 1988 Supreme Court decision.

The Commission believes that the focus of the funding discussion should be on the other options: Continuation of general funding

and the "user fee" concept of funding.<sup>2</sup> To paraphrase what the Commission stated on page 85 of its FY1988 Annual Report to the Legislature, the issue is:

Who should pay for regulation: taxpayers (general fund) or ratepayers (user fees)? There are advantages and disadvantages to each approach. However, a preference for the former is largely based on a policy premise that regulation is a responsibility of government and a right to which all citizens are entitled, while the latter may best be supported on a policy premise that the cost-causer should be the cost-payer. In the end, the policy that is adopted may depend on balancing those objectives as well as the budget itself.

The Commission is prepared to respond to specific questions about each of these funding options and will work with all interested persons in determining the optimum funding methodology to enable the Commission to carry out its public protection function.

---

<sup>2</sup>Under a user fee approach, certificated and regulated utilities and pipelines are directly assessed fees usually based on gross revenues, which approximate the Commission's budget approved by the Legislature.

Recommendation No. 3

APUC should develop a topical reference system for commission orders and court decisions.

The Commission supports this recommendation, which was previously made in the 1979, 1984, and 1985 Sunset Audits. The Commission also reiterates that funding is essential to the implementation of this recommendation.

The almost-realized funding in the Commission's FY89 budget would have provided a part-time person to reference current decisions. However, the historical decisions made during the past 18 years, with particular emphasis on the last 12 years, are an integral and equal, if not more important, component of a reference system which would serve all who are directly and indirectly affected by Alaska utility regulation. The Commission believes the historical reference system could be developed through a one-time capital appropriation and that the current reference system could be maintained with a part-time person.

Recommendation No. 4

Alaska Statute 42.05.030 should be amended to stagger the appointments of the two consumer members of the commission.

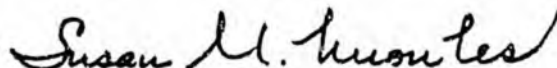
The Commission supports this recommendation.

## Appendix

The Commission also finds that the Appendix at page 23 of the preliminary audit report which summarizes Commission appropriations and expenditures for FY1988 and FY1989 is somewhat misleading because of the current sources and uses of funding from the General Fund and program receipts. Accordingly, attached to this response as Appendix C is a copy of page 23 with suggested footnotes to explain the variations in amounts presented.

While it disagrees with some of the specific findings and recommendations in the preliminary audit report, the Commission supports the auditor's underlying objective of matching the duties and the resources of the agency (and the state) and looks forward to working with the Legislature in its consideration of the audit report. Please feel free to contact me if you have any questions about this response.

Sincerely,



Susan M. Knowles  
Chairman

Attachments

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Susan M. Knowles, Chairman  
Carolyn S. Guess  
Louis E. Agi  
Kathleen L. Whiteaker  
Peter Skolov

In the Matter of the Consideration ) R-89-1  
of Simplification of Small )  
Utility Regulation ) ORDER NO. 1

ORDER ISSUING NOTICE OF INQUIRY FOR  
SIMPLIFICATION OF SMALL UTILITY REGULATION

BY THE COMMISSION:

Introduction

A longstanding objective of the Commission and a subject of frequent legislative interest is simplification of regulation of small utilities. As a result, the Commission identified this as one of its program priorities for the current fiscal year. At its Public Meeting on November 22, 1988, the Commission adopted a work plan for addressing this objective, the first step of which is issuance of this notice of inquiry (NOI).

Background

A substantial number of the public utilities operating in Alaska are businesses providing service in small, geographically dispersed areas of the state; almost all of these operate outside the major urban areas of the state. Of the 94 utilities

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

11/11/89

1 which are economically regulated,<sup>1</sup> the following chart indicates,  
 2 by gross revenues and type of service, utilities that could be  
 3 proposed within a definition of a small utility. (Financial and  
 4 customer information for all economically regulated utilities is  
 5 provided on Appendix 1, an extract from the Commission's FY 1988  
 6 Annual Report.)

7 UTILITY	8 GROSS REVENUES				
	9 Less than <sup>2</sup> \$1,000,000	10 Less than \$ 500,000	11 Less than \$ 250,000	12 Less than \$ 100,000	13 Less than \$ 50,000
14 Electric	18	10	4	1	0
15 Gas	1	--	--	--	--
16 Refuse	5	1	--	--	--
17 Sewer	3	2	2	2	2
18 Telephone	2	--	--	--	--
19 Water	<u>22</u>	<u>22</u>	<u>22</u>	<u>15</u>	<u>14</u>
20 TOTAL	51	35	28	18	16

21 For utilities subject to economic regulation, the reg-  
 22 ulatory scheme that exists applies uniformly to both large and  
 23 small utilities with relatively few exceptions. , example,

24 <sup>1</sup>Per 3 AAC 48.820(43), "'economic regulation' means that the  
 25 commission's jurisdiction extends to matters concerning rates and  
 26 charges for public utility or pipeline carrier services, quality  
 of service provided by the utility or pipeline carrier to its  
 customers or shippers, management practices of the utility or  
 pipeline carrier, and customer or shipper complaints concerning  
 the services furnished by a utility or pipeline carrier."

<sup>2</sup>CS for SB369 (L&C), which was introduced in the last ses-  
 sion of the Legislature, proposed a simplified scheme of rate  
 regulation for utilities with annual gross revenues of \$1,000,000  
 or less.

1 certain recordkeeping requirements are less complex for smaller  
2 sized utilities.) Since the Commission's statute is modeled  
3 after a "Lower 48" average-size utility, a number of real or  
4 potential problems exist with the present regulation of small  
5 utilities.<sup>3</sup>

6 First, by its nature, regulation is a complex, techni-  
7 cal process. The basic ground rules for utility regulation in  
8 Alaska are set forth in statute and regulations which exceed 150  
9 pages in length and are written in the terminology (both legal  
10 and technical) which is peculiar to these documents as well as to  
11 utility regulation. State regulation is also influenced by, and  
12 at times dictated by, national trends and developments. An ex-  
13 tensive bibliography of regulatory texts, periodicals, and court  
14 and commission cases have been applied to and interpreted in  
15 hundreds of Commission decisions. Additionally, there is no in-  
16 dex of Commission decisions,<sup>4</sup> further complicating the process  
17 for small, less experienced and sophisticated utilities. Thus,  
18 small utilities face a formidable challenge in acquiring a work-  
19 ing understanding of the rules, vocabulary, and formulas of the  
20 process sufficient to operate as regulated businesses.

21 \_\_\_\_\_  
22 <sup>3</sup>The substantial assistance provided in regulatory matters  
23 by Commission Staff (Staff) to smaller utilities attests to the  
24 very real circumstances that face both these utilities and the  
25 Commission under the traditional regulatory scheme.

26 <sup>4</sup>Beginning in 1979, with support of Legislative Audit recom-  
mendations, the Commission has unsuccessfully sought funding for  
development of an index of its decisions.

1                   Second, small utilities, because of their geographic  
2 locations and higher costs of operation, find personnel special-  
3 ized in regulatory matters unavailable or extremely costly. Many  
4 of the smaller utilities are basically one-person operations or  
5 have few employees. As a result, they must be "jacks of all  
6 trades" specializing in maintaining adequate service above all  
7 else. Their skills are focused in the area of operations, which  
8 are especially critical and challenging in rural Alaska, not in  
9 the particular aspects of engineering, accounting, and record-  
10 keeping which are typically required in the regulatory process.  
11 As a result, small utilities may find the complexities of the  
12 regulatory process disinviting, if not overwhelming; may not  
13 maintain records in accordance with regulatory requirements; and  
14 may find it difficult, without some guidance and assistance, to  
15 provide the information necessary to meet the same standards of  
16 proof for rate and other tariff revisions which are required of  
17 larger utilities. This, coupled with a natural reluctance to  
18 raise rates to their neighbors, can jeopardize the long-term  
19 operation and existence of a utility. Furthermore, individuals  
20 who are struggling to maintain viable utility operations in a  
21 harsh environment or are otherwise independent-minded Alaskan  
22 entrepreneurs may have little time or use for the complexities  
23 and requirements of regulation. Regulation is more likely to be  
24 ignored and less likely to fulfill its stated public purposes  
25 under these circumstances.

26

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 275-6222

1                   Third, the costs of compliance with standardized infor-  
2 mation and recordkeeping requirements may be high relative to  
3 other costs and revenues for small utilities. Absent in-house  
4 expertise, the small utility is often put in a position where it  
5 must contract for outside assistance to fulfill its regulatory  
6 needs. The costs incurred for attorneys, accountants, and en-  
7 gineers, as well as for hearings before the Commission, can have  
8 a direct and material effect on the rates paid by consumers.  
9 While regulatory costs may be a relatively small portion of over-  
10 all costs for larger utilities, they may actually be a signifi-  
11 cant contributor to the rate increases required by smaller utili-  
12 ties. As a result, small utilities may not be able to afford the  
13 unavoidable costs of exercising their rights and fulfilling their  
14 responsibilities under regulation. This problem is multiplied  
15 for those small utilities operating in remote locations.

16                   Fourth, small utilities may have financial characteris-  
17 tics which differ from those traditionally identified with  
18 economically regulated utilities. In particular, some of these  
19 utilities have a small investment in rate base (plant investment)  
20 relative to revenues and expenses in contrast to utilities which  
21 require large investments of fixed assets in relation to revenues  
22 generated. There are a number of reasons for this difference,  
23 including, the utility may not be capital intensive by nature  
24 (e.g., refuse utilities); the utility has received government  
25 grants to finance its plant (e.g., water or electric utilities);  
26 the utility was initiated with and financed by a real estate

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-8222

1 development (e.g., water utilities); or the utility owner has  
2 contributed substantial "sweat equity" in one or more years of  
3 the utility's operation which is not reflected in booked capital  
4 investment (e.g., all small utilities). Minor fluctuations in  
5 revenues and expenses have significant consequences for the  
6 financial condition of small utilities with higher ratios of  
7 revenues to assets. Predictable fixed charges are a low portion  
8 of these utilities' expenses, and they may not have the cash flow  
9 cushion provided by depreciation expense and return on investment  
10 (as compared to operating expenses) which is available to more  
11 capital intensive industries. The lead time and requirements of  
12 regulation may be particularly critical to these small utilities.

13 Fifth, one of the consequences of the decrease in Com-  
14 mission resources without a corresponding decrease in statutory  
15 responsibilities and workload is that it is increasingly dif-  
16 ficult for the Commission to provide the necessary level of as-  
17 sistance to small utilities. For example, there have been a num-  
18 ber of instances in the past where Staff has essentially prepared  
19 and processed a small utility's rate case, in particular, where  
20 the financial health of the business depended on rate relief.  
21 For some, it is the Staff's analysis which provides the utility  
22 with the input to determine the level of rate adjustment it needs  
23 to meet its operating costs. The Staff routinely provides  
24 guidance and assistance on other regulatory matters as well.  
25 While the need for and interest in providing this type of support  
26 still exists, it is not possible to continue the past level of

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

1 service with existing resources. Therefore, other mechanisms  
2 must be developed to simplify the regulatory process for small  
3 utilities and to reduce their reliance on individualized support.

4 The above discussion of small utility regulation should  
5 not be read to imply that consumers of small utilities require  
6 less protection than those of large utilities. In fact, ex-  
7 perience may suggest that the need is greater. Similarly, the  
8 above problems with regulation of small utilities in no manner  
9 diminish the Commission's statutory obligation to assure that  
10 consumers of economically regulated small utilities are protected  
11 with respect to the cost, terms, and conditions of service they  
12 receive and the reliability and safety of facilities that are  
13 providing those services. The statute is relatively indifferent  
14 to utility size in prescribing the general duties and respon-  
15 sibilities of both the regulators and regulated but allows the  
16 Commission through the promulgation of regulations to implement  
17 the law in its specifics.

#### 18 Discussion

19 It is the policy of the Commission to minimize the bur-  
20 dens and costs of regulation for utilities to the greatest extent  
21 possible. However, balance is required in order to both assure  
22 the protection of customers of a monopoly providing an essential  
23 service and to assure the continued financial and operational  
24 viability of these utilities. The goal of this proceeding is to

25  
26

1 implement this policy for small utilities by examining the cur-  
2 rent approach to regulation and by developing simplified pro-  
3 cedures for that regulation which minimize administrative and  
4 regulatory burdens and costs for utilities and regulators. It is  
5 the Commission's intent to solicit input from all interested per-  
6 sons on this subject by issuing this NOI and to use that input  
7 for drafting regulations. The regulations would, in turn, be  
8 noticed for comment and suggested changes prior to being  
9 promulgated.

10           While there are many facets of small utility regulation  
11 which are worthy of reassessment and refinement, the Commission  
12 believes that its initial focus should be on the ratemaking pro-  
13 cess. For the reasons discussed earlier in this Order, ratemak-  
14 ing is perhaps the least discretionary and most critical of the  
15 regulatory functions for small utilities. As a corollary to its  
16 ratemaking review, the Commission intends to examine the annual  
17 report forms currently used by small utilities for simplifica-  
18 tion, wherever possible, and for maximum coordination with the  
19 supporting information requirements of rate cases. The Commis-  
20 sion understands that there are also opportunities for simplify-  
21 ing other areas of small utility regulation, such as the prepara-  
22 tion and processing of miscellaneous tariff filings. While com-  
23 ments are welcome on the full range of regulatory reform for  
24 small utilities, the Commission's anticipated order of priority  
25 in this inquiry is: (1) ratemaking; (2) annual report forms; and  
26 (3) other matters.

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

1 Interested persons are encouraged to provide the Com-  
2 mission any and all information and suggestions which they  
3 believe are relevant to this inquiry. However, to facilitate  
4 comments to the NOI, the list of questions which follow includes  
5 issues which the Commission believes should be considered. Some  
6 questions are more relevant for utilities or their representa-  
7 tives responding to this inquiry, while others may be more ap-  
8 propriate for a response from Staff or other interested parties  
9 such as the Alaska Consumer Advocacy Program, the Alaska Rural  
10 Electric Cooperative Association, or the Alaska Telephone As-  
11 sociation. All respondents are encouraged to be as specific as  
12 possible and, where appropriate, to detail the content and format  
13 of any forms which may be proposed.

14 1. What should be the objectives of any procedures for  
15 simplifying ratemaking and reporting functions for small  
16 utilities?

17 2. What should be the criteria for being designated a  
18 "small" utility which is eligible for participation in simplified  
19 ratemaking procedures?

20 3. What approach should be used to simplify the ratemaking  
21 process for small utilities? For example,

22 a. Should the emphasis be on making periodic rate case  
23 filings easier?

24 b. Should a simplified rate filing procedure similar to  
25 that found in AS 42.05.381(e) and 3 AAC 48.700 -- 3 AAC 48.790 be  
26 adopted? (A copy of these provisions is attached as Appendix 2.)

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

1 c. Should some other alternative to traditional rate  
2 base/rate of return regulation be implemented such as a ratio of  
3 operating expenses to revenues?

4 4. What is the minimum amount of information needed to per-  
5 form the type of small utility regulation which is proposed?

6 5. What additional information (above that suggested in  
7 response to question 4) would be desirable or necessary to in-  
8 crease the accuracy or accountability of small utility regula-  
9 tion; what is the cost/benefit of acquiring that information?

10 6. What, if any, forms or information are provided to other  
11 state or federal agencies by small utilities which could be sub-  
12 stituted for some or all of the forms required for rate cases or  
13 Commission annual reports? (Please provide a sample.)

14 7. Is it possible to develop a substantially similar set of  
15 forms to be used for both rate case filings and annual reports by  
16 small utilities? (Please provide examples of proposed forms.)

17 8. What are the most difficult sections of the annual re-  
18 port forms for small utilities to complete? Why?

19 9. What are the most useful and the least useful sections  
20 of the annual report? Why?

21 10. What, if any, changes should be made in the procedures  
22 for processing small utility rate filings in order to minimize  
23 their administrative complexity and cost? (Please provide an  
24 example.)

25  
26

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

Alaska Public Utilities Commission  
420 "L" Street, Suite 100  
Anchorage, Alaska 99501  
(907) 276-6222

1 11. What level of support have small utilities been provided  
2 by Commission Staff for ratemaking or other regulatory require-  
3 ments? (Individual utilities should be as specific as possible.)

4 12. What level of support, guidance, or assistance is neces-  
5 sary for the Commission to provide to small utilities?

6 In conclusion, the Commission is issuing this NOI to  
7 solicit comments on and suggestions for simplification of the  
8 regulation of small utilities consistent with the Commission's  
9 responsibilities under the law. Written responses to this NOI  
10 should be filed no later than April 3, 1989, with reply comments  
11 due no later than May 1, 1989. Further procedures and schedules  
12 will be established upon review of those comments.

13 ORDER

14 THE COMMISSION FURTHER ORDERS:

15 1. By issuance of this notice of inquiry, a proceeding  
16 is opened for the purpose of considering simplification of reg-  
17 ulation of small utilities.

18 2. All interested persons may submit comments in  
19 response to the notice of inquiry no later than 4 p.m.,  
20 April 3, 1989.

21 3. All interested persons may submit reply comments no  
22 later than 4 p.m., May 1, 1989.

23 DATED AND EFFECTIVE at Anchorage, Alaska, this 3rd day of Febru-  
24 ary, 1989.

25 BY DIRECTION OF THE COMMISSION  
(Commissioner Louis E. Agi, not participating)  
26 (S E A 'L)

**ELECTRIC UTILITIES**  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$5,000,000)</u>				
Alaska Electric Generation & Transmission Cooperative, Inc.	\$ 17,139,417	\$ 16,256,727	\$ 86,170	1
Alaska Electric Light and Power Company	34,739,603	15,000,700	1,360,802	10,370
Alaska Village Electric Cooperative, Inc. <sup>1</sup>	27,210,242	11,485,183	1,016,263	4,970
Chugach Electric Association, Inc.	366,771,780	93,533,988	5,394,175	60,007
Copper Valley Electric Association, Inc.	14,053,824	7,171,696	886,209	2,358
Golden Valley Electric Association, Inc.	138,156,431	39,115,609	3,173,267	26,704
Homer Electric Association, Inc.	82,327,628	31,168,368	2,551,630	17,239
Kodiak Electric Association, Inc.	32,519,997	14,044,493	2,325,809	4,354
Natanaska Electric Association, Inc.	106,672,760	37,879,553	4,648,728	27,479
Municipal Light & Power Department, Municipality of Anchorage d/b/a	<u>146,962,166</u>	<u>61,594,072</u>	<u>722,462</u>	<u>30,040</u>
Subtotal	<u>\$966,553,848</u>	<u>\$327,258,309</u>	<u>\$22,173,595</u>	<u>184,506</u>

(This Appendix contains excerpts from the Commission's FY88 Annual Report to the Legislature; footnotes are omitted.)

IR-87-1(1)  
APPENDIX I

ELECTRIC UTILITIES (CONT.)  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,500,000 but Less Than \$5,000,000)</u>				
Alaska Power & Telephone Company	\$ 3,354,850	\$ 3,164,175	\$ 580,190	1,716
Arctic Utilities, Inc. <sup>1</sup>	2,152,979	3,146,571	249,226	26
Barrow Utilities and Electric Cooperative, Inc.	----- <sup>2</sup>	1,606,004	229,661	1,246
Bethel Utilities Corporation, Inc.	2,036,500	4,277,113	136,114	1,691
Kotzebue Electric Association, Inc.	6,449,804	2,790,398	420,487	973
Mushagak Electric Cooperative, Inc. <sup>3</sup>	4,771,174	2,490,787	260,577	1,004
Tillingit-Haida Regional Electrical Authority	<u>5,628,503</u>	<u>2,906,005</u>	<u>400,024</u>	<u>975</u>
Subtotal	<u>\$ 25,193,970</u>	<u>\$ 20,557,933</u>	<u>\$ 2,356,279</u>	<u>7,711</u>

(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,500,000)

Aniak Light and Power Company, Inc.	\$ 526,320	\$ 741,912	\$ 119,449	150
G & R, Inc.	N/A	895,814	N/A	70
Gwitchyaa Zhee Utility Company <sup>4</sup>	690,130	570,608	<110,318>	297
Haines Light & Power Company, Inc.	1,206,793	1,162,049	97,064	75
I-H-H Electric Cooperative, Inc.	1,522,832	695,272	<1,032>	259
McGrath Light & Power Company <sup>4</sup>	1,069,476	837,306	143,931	231
Sand Point Electric, Inc. <sup>5</sup>	438,301	939,039	2,132	400
Tanana Power Company, Inc.	751,797	551,930	81,250	104
Yakutat Power, Inc.	<u>674,831</u>	<u>693,338</u>	<u>45,659</u>	<u>201</u>
Subtotal	<u>\$ 6,000,480</u>	<u>\$ 7,095,268</u>	<u>\$ 377,343</u>	<u>2,622</u>

ELECTRIC UTILITIES (CONT.)  
(1987 Calendar Year)

<u>Utility</u>	<u>Net Plant</u>	<u>Revenues</u>		<u>Assets</u>
		<u>Total Revenues</u>	<u>Net Income</u>	
<u>(Gross Operating Revenue Less Than \$500,000)</u>				
Andreanof Electric Corporation <sup>1</sup>	\$ 129,345	\$ 79,072	\$ 15,203	37
Bettles Light & Power, Inc.	316,722	373,529	<47,041>	49
Far North Utilities	355,414	112,315	<6,110>	44
Levelock Electric Cooperative, Inc. <sup>2</sup>	75,534	144,844	20,344	69
Hanley Utility Company, Inc.	266,322	111,344	<66,862>	84
Middle Kuskokwim Electric Cooperative, Inc.	1,714,495	375,093	<21,233>	152
Napaklak Ircinaq Power Company <sup>3</sup>	141,137	275,343	61,212	81
Northway Power & Light, Inc.	327,927	366,442	39,759	110
Pelican Utility Company	504,282	394,794	106,033	107
Teller Power Company	96,429	305,600	71,561	86
Subtotal	\$ 4,007,607	\$ 2,539,256	\$ 252,066	819
TOTALS	<u>\$1,002,635,913</u>	<u>\$357,450,046</u>	<u>\$25,159,203</u>	<u>195,650</u>

GAS UTILITIES  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$5,000,000)</u>				
ENSTAR Natural Gas Company <sup>1</sup> (a division of Seagull Energy Corporation)	\$157,479,366	\$99,956,451	\$15,855,146	70,223
Subtotal	\$157,479,366	\$99,956,451	\$15,855,146	70,223
<u>(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,500,000)</u>				
Darrow Utilities and Electric Cooperative, Inc.	\$----- <sup>2</sup>	\$ 804,987	\$ 74,685	900
Subtotal	\$----- <sup>2</sup>	\$ 804,987	\$ 74,605	900
<b>TOTALS</b>	<u>\$157,479,366</u>	<u>\$100,761,438</u>	<u>\$15,929,831</u>	<u>79,131</u>

REFUSE AND GARBAGE UTILITIES  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Customers
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$200,000)</u>				
Anchorage Refuse, Inc.	\$2,458,004	\$ 9,210,396	\$163,011	26,076
Channel Sanitation Corporation	276,094	2,132,305	<390,404>	4,920
Drake's Sanitation, Inc. <sup>1</sup>	132,400	454,641	<0,716>	165
Eagle River Refuse, Inc.	105,610	932,965	32,697	4,110
Far North Sanitation, Inc.	1,569,616	1,214,250	133,067	712
Interior Services, Ralph E. Bartlett d/b/a	780,022	519,916	<23,940>	262
Kodiak Sanitation, Inc.	82,437	020,551	70,322	102
Peninsula Sanitation Company, Inc. <sup>2</sup>	252,395	1,350,321	05,004	1,340
Wasilla Refuse, Inc. <sup>3</sup>	130,700	541,037	74,504	702
<b>TOTAL</b>	<u>\$5,077,046</u>	<u>\$17,176,390</u>	<u>\$137,937</u>	<u>30,177</u>

GENERAL (WASTEWATER) UTILITIES  
(1987 Calendar Year)

Utility	Net Plant <sup>1</sup>	REVENUES		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,000,000)</u>				
Anchorage Water and Wastewater Utility, Municipality of Anchorage d/b/a	\$54,302,553	\$10,099,805	\$<1,200,190>	49,140
College Utilities Corp. <sup>2</sup>	<u>2,281,975</u>	<u>1,366,995</u>	<u>101,412</u>	<u>1,554</u>
Subtotal	<u>\$56,584,528</u>	<u>\$19,466,800</u>	<u>\$&lt;1,106,778&gt;</u>	<u>50,694</u>
<u>(Gross Operating Revenue Less Than \$750,000)</u>				
Narrow Utilities and Electric Cooperative, Inc.	\$----- <sup>3</sup>	\$ 554,500	\$ 3,333	367
Salmantof Utilities, Inc.	50,000	004	514	3
Settlers Bay Properties, Inc.	<u>- 0 -</u>	<u>5,045</u>	<u>&lt;159,390&gt;</u>	<u>12</u>
Subtotal	<u>\$ 50,000</u>	<u>\$ 560,509</u>	<u>\$ &lt;155,543&gt;</u>	<u>302</u>
TOTALS	<u>\$56,634,528</u>	<u>\$20,027,309</u>	<u>\$&lt;1,342,321&gt;</u>	<u>51,076</u>

**TELECOMMUNICATION UTILITIES**  
(Long Lines and Local Exchange Carriers)  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Main Access Lines
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$4,000,000)</u>				
Alascom, Inc.	\$329,029,964	\$281,030,131	\$42,456,392	N/A
Anchorage Telephone Utility, Municipality of Anchorage d/b/a	219,695,213	87,020,380	1,669,758	112,107
General Telephone Company of Alaska	12,884,689	8,255,030	1,002,776	10,602
Interior Telephone Company	8,837,986	4,407,591	8,605	1,965
Katanuska Telephone Association, Inc.	91,414,691	29,325,474	1,381,188	25,418
Telephone Utilities of Alaska, Inc.	94,008,561	43,760,048	6,850,419	34,031
Telephone Utilities of the Northland, Inc.	22,871,989	14,845,183	2,058,959	14,297
United Utilities, Inc.	<u>15,760,748</u>	<u>7,651,037</u>	<u>652,195</u>	<u>2,065</u>
Subtotal	<u>\$794,503,841</u>	<u>\$476,294,874</u>	<u>\$56,080,292</u>	<u>201,285</u>
<u>(Gross Operating Revenue Greater Than \$1,000,000 but Less Than \$4,000,000)</u>				
Arctic Slope Telephone Association Cooperative, Inc.	\$ 3,429,404	\$ 3,828,686	\$ 564,797	855
Bristol Bay Telephone Cooperative, Inc.	3,073,711	1,517,469	150,112	942
Copper Valley Telephone Cooperative, Inc.	10,453,257	3,432,288	696,218	2,795
Hukluk Telephone Company, Inc.	2,731,542	1,363,916	347,815	642
National Utilities, Inc.	1,670,124	1,419,241	208,968	1,571
Hushagak Telephone Cooperative, Inc.	3,436,799	1,754,223	304,736	1,206
OTZ Telephone Cooperative, Inc.	<u>3,900,178</u>	<u>2,001,821</u>	<u>349,989</u>	<u>1,540</u>
Subtotal	<u>\$ 28,695,015</u>	<u>\$ 15,317,644</u>	<u>\$ 2,622,635</u>	<u>9,611</u>
<u>(Gross Operating Revenue Less Than \$1,000,000)</u>				
Dash-Tell, Incorporated	\$ 2,384,383	\$ 814,510	\$ <14,506>	520
Yukon Telephone Company, Inc.	<u>684,335</u>	<u>644,904</u>	<u>&lt;63,290&gt;</u>	<u>343</u>
Subtotal	<u>\$ 3,068,718</u>	<u>\$ 1,459,414</u>	<u>\$ &lt;77,796&gt;</u>	<u>863</u>
TOTAL	<u>\$826,267,574</u>	<u>\$493,071,932</u>	<u>\$ 58,625,131</u>	<u>211,779</u>

**WATER UTILITIES**  
(1967 Calendar Year)

Utility	Net Plant <sup>1</sup>	Revenues		Users
		Gross Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,000,000)</u>				
Anchorage Water and Wastewater Utility, Municipality of Anchorage d/b/a	\$91,067,395	\$17,029,084	\$391,062	40,305
Barrow Utilities and Electric Cooperative, Inc.	----- <sup>2</sup>	2,497,134	421,071	300
College Utilities Corp. <sup>3</sup>	<u>3,605,731</u>	<u>1,402,341</u>	<u>178,270</u>	<u>1,608</u>
Subtotal	<u>\$94,753,126</u>	<u>\$20,928,559</u>	<u>\$990,403</u>	<u>42,293</u>
<u>(Gross Operating Revenue Less Than \$250,000)</u>				
Alpat Water Utility Company	\$ 93,299	\$ 22,702	\$ 9,976	76
Alyeska Utilities, Inc. <sup>4</sup>	85,689	102,143	20,522	526
Chugiak Utilities	247,418	51,919	20,454	195
Dawn Development Corporation		(Not Reported)		
Eagle Utilities, Inc.	- 0 -	29,459	7,868	83
Eklutna Utilities, Inc.	456,993	193,555	<66,475>	600
ERU, Inc.	66,608	9,727	<5,352>	34
Kwik Log Water System, Hyron Allon Newton d/b/a	- 0 -	2,608	890	18
Hatanuska Utility Company, Inc.	69,689	12,443	<1,159>	12
McGahan Utilities, Inc.	22,801	23,046	2,683	11/1
McKinley Utilities, Inc. <sup>5</sup>	69,742	9,924	1,635	34
Norfolk Utilities, Inc.	696,505	248,156	235	866
Omlin Water Utility, Paul Omlin d/b/a	31,216	4,437	533	15
Pelican Utility Company		(Not Reported)		

WATER UTILITIES (CONT.)  
(1907 Calendar Year)

<u>Utility</u>	<u>Net Plant<sup>1</sup></u>	<u>Gross Revenues</u>	<u>Net Income</u>	<u>Users</u>
Potter Creek Water Company	\$ 128,642	500	<3,653>	9
Romig Park Improvement Company <sup>2</sup>	- 0 -	12,350	<3,174>	85
Sandlake Services, R. J. & Clara Rhodes d/b/a	35,648	28,566	9,310	130
Settlers Bay Properties, Inc.	- 0 -	8,670	<62,000>	62
South Central Utilities, Inc.	81,577	1,323	<22,103>	11
Southeast Utilities, Inc., Robert H. Scott, Evelyn V. Scott, Charles J. Schneider and Marlene C. Schneider, S & S Development d/b/a	214,912	116,983	30,415	630
Spensard Heights Water System, Wayne Cates d/b/a	5,742	4,057	<409>	40
Valley Water Company, Inc. <sup>3</sup>	<u>230,175</u>	<u>157,600</u>	<u>54,568</u>	<u>265</u>
Subtotal	<u>\$ 2,536,656</u>	<u>\$ 1,041,128</u>	<u>\$ &lt;5,468&gt;</u>	<u>3,715</u>
TOTAL	<u>\$97,289,782</u>	<u>\$21,969,607</u>	<u>\$984,935</u>	<u>46,000</u>

Sec. 42.05.365. Interest on deposits. (a) A public utility may collect and retain a deposit for contracted recurring monthly service. A public utility that collects and retains a deposit of over \$100 for recurring monthly service shall pay interest on that deposit at or before the time it is returned. Interest paid under this section shall be at the legal rate of interest at the time the deposit is made. However, if the deposit is placed in an interest bearing account, the utility shall pay the interest rate of the interest bearing account.

(b) If delinquent payments result in interruption of service, a public utility is not required to pay interest under (a) of this section for 12 months after reestablishment of service. (§ 1 ch 50 SLA 1986)

Cross references. — For legal rate of interest, see AS 45.45.010.

Sec. 42.05.381. Rates to be just and reasonable. (a) All rates demanded or received by a public utility, or by any two or more public utilities jointly, for a service furnished or to be furnished shall be just and reasonable; however, a rate may not include an allowance for costs of political contributions, or public relations except for reasonable amounts spent for

- (1) energy conservation efforts;
- (2) public information designed to promote more efficient use of the utility's facilities or services or to protect the physical plant of the utility;
- (3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance; or
- (4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown.

(b) In establishing the revenue requirements of a municipally owned and operated utility the municipality is entitled to include a reasonable rate of return.

(c) A utility, whether subject to regulation by the commission or exempt from regulation, may not charge a fee for connection to, disconnection from, or transfer of services in an amount in excess of the actual cost to the utility of performing the service plus a profit at a reasonable percentage of that cost not to exceed the percentage established by the commission by regulation.

(d) A utility shall provide for a reduced fee or surcharge for standby water for fire protection systems approved under AS 18.70.081 which use hydraulic sprinklers.

(e) The commission shall adopt regulations for electric cooperatives setting a range for adjustment of rates by a simplified rate filing procedure. A cooperative may apply for permission to adjust its rates over a period of time under the simplified rate filing procedure regulations. The commission shall grant the application if the cooperative

*(See attached regulations (3AAC 48.700 - 3AAC 48.790) pp. 428-433.)*

R-89-1(1)  
Appendix 2

ne ex-  
atca  
  
tion.  
lity  
the  
ding  
ions,  
ishes  
ed or  
copy  
ts or  
ificat-  
it, or  
at its  
mity  
spec-  
  
mis-  
  
sion.  
ets a  
nless  
the  
days  
2 ch

101,  
ments  
at "do  
before

satisfies the requirements of the regulations. The commission may review implementation of the simplified rate filing procedure at reasonable intervals and may revoke permission to use the procedure or require modification of the rates to correct an error. (§ 6 ch 113 SLA 1970; am § 1 ch 86 SLA 1976; am § 6 ch 106 SLA 1977; am § 4 ch 45 SLA 1980; am § 3 ch 104 SLA 1986)

Effect of amendments. — The 1980 amendment added subsection (e).

#### NOTES TO DECISIONS

Lobbying expenses excluded from revenue requirement. — The commission acted reasonably and within its statutory authority in excluding lobbying expenses as part of a utility's revenue requirement. *Homer Elec. Ass'n v. State, Pub. Utils. Comm'n, Sup. Ct. Op. No. 3327 (File No. S-1952), 12d (1988).*

#### Sec. 42.05.385. Charges for water and sewer line extensions.

(a) A water or sewer line extension may not be constructed unless the legislative body of each municipality through which the extension passes has approved the extension. This subsection does not apply to an extension that will not create any charges or assessments against the adjacent property.

(b) Except as provided in (c) of this section, when utility service is available to a property owner as a result of a water or sewer line extension, the utility offering the service through the extension shall notify the property owner, according to the procedure set forth for service of process in the Alaska Rules of Civil Procedure, of the charges and interest due the utility if the property owner elects to obtain the utility service through the extension. The property owner does not owe the charge for the extension until the property owner connects to the extension.

(c) Except as provided in (e) of this section, and unless the property owner connects to the extension,

(1) charges do not accrue against the property for construction of the extension;

(2) interest does not accrue against the property for the construction of the extension; and

(3) a lien or encumbrance may not be levied against the property for the construction of the extension.

(d) If the costs of constructing a water or sewer line extension have been paid by charges collected under this chapter, a utility may not charge for connection to the extension an amount greater than the actual cost of the connection.

(e) The provisions of this section do not apply to a water or sewer line extension constructed by a municipality under AS 29.46. (§ 1 ch 107 SLA 1986)

explaining the reason for the action and stating that the action is without prejudice to refiling.

(b) If an application is found to be partially incomplete or defective, a letter may be written to the applicant containing the statement "By direction of the commission" in which attention is directed to the omitted material or defects and specifying a future date when the application may be dismissed unless satisfactory action is taken to correct the deficiencies of the application. If the applicant needs additional time to perfect his application, he may request an extension at least five days before the deadline date specified in the commission's letter. The commission may then by letter grant or deny the request or specify an alternative deadline date.

(c) If the commission's technical staff finds that an application, which is otherwise complete, lacks certain information needed to determine and fully evaluate its merits, the commission may request the applicant to furnish it, by a specified date, in a letter written "By direction of the commission" and the applicant shall supply it by the date specified as a condition precedent to any further action by the commission other than dismissing the application. (Eff. 1/13/73, Register 44)

Authority: AS 42.05.141(1)  
AS 42.05.151

**3 AAC 48.660. BURDEN OF PROOF.** Every applicant shall have the burden of furnishing whatever information and data that may be required to prove to the commission's satisfaction that the applicant has, or will, comply with the governing law and the provisions of any applicable rule, regulation or order of the commission. When a governing law requires the commission to make a finding in regard to any application, the applicant shall, in each case, have the burden of furnishing whatever information, data, and documents may be required to prove to the commission's satisfaction that the finding is justified. (Eff. 1/13/73, Register 44)

Authority: AS 42.05.141  
AS 42.05.151

**Article 5. Simplified Rate Filing Procedures  
for Electric Cooperatives**

Section  
700. Application and purpose  
710. Filing requirements  
720. Supporting information  
730. Notice and effective date  
740. Rate adjustments  
750. Calculation of TIER

Section  
760. Target TIER determination  
770. Limitations on use of simplified procedure  
780. Application of rate increases  
790. Cost-of-service filings

3 AA  
3 A  
pose  
42.05  
justi-  
nized  
th  
orga  
base  
AAC  
Auth  
  
3  
men  
AAC  
0  
AAC  
req  
sen  
per  
the  
3 A  
AA  
wil  
fil  
per  
set  
Ao  
  
di  
si  
ri

**3 AAC 48.700. APPLICATION AND PURPOSE.** (a) The purpose of 3 AAC 48.700 — 3 AAC 48.790 is to implement AS 42.05.381(e) and to establish simplified, expedited filing and rate adjustment procedures for those nonprofit electric cooperatives organized under AS 10.25 and regulated by the commission.

(b) If allowed or required by 3 AAC 48.740, an electric cooperative organized under AS 10.25 may adjust rates no more than quarterly based on the filing requirements and other conditions set out in 3 AAC 48.710 — 3 AAC 48.790. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.381

AS 42.05.411  
AS 42.05.421  
AS 42.05.431

**3 AAC 48.710. FILING REQUIREMENTS.** (a) A rate adjustment filing under 3 AAC 48.700 — 3 AAC 48.790 is governed by 3 AAC 48.240 and 3 AAC 48.270.

(b) A cooperative that adjusts its rates under the authority of 3 AAC 48.700 — 3 AAC 48.790 shall then file all of the information required by 3 AAC 48.720 for whichever period is elected, quarterly or semi-annual, whether or not a change in rates is requested, until permission to discontinue the filing is granted by the commission or the cooperative submits a filing in accordance with AS 42.05.411 and 3 AAC 48.275. A cooperative that files the information required by 3 AAC 48.720 for each quarterly period shall file that information within 60 days after the end of each quarter, and a cooperative that files the information required by 3 AAC 48.720 for each semi-annual period shall file that information within 90 days after the end of the semi-annual period. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.381

AS 42.05.411  
AS 42.05.421  
AS 42.05.431

**3 AAC 48.720. SUPPORTING INFORMATION.** (a) In accordance with 3 AAC 48.710(b), a cooperative shall file with the commission the following information for each quarterly or semi-annual period:

- (1) APUC Form 201 (Modified REA Form 7);
- (2) a schedule and explanation of all amortized expenses;
- (3) a schedule and explanation of all pro forma and normalizing adjustments;
- (4) a schedule and explanation of each line item on APUC Form 201 which has increased or decreased more than 10 percent from the previous 12-month period;
- (5) a schedule of the calculation of the cooperative's Times Interest Earned Ratio (TIER), calculated in accordance with 3 AAC 48.750;

(6) a schedule showing the ratio of residential class kilowatt-hour sales to total kilowatt-hour sales for the current 12-month period and the ratio that existed when the cooperative last filed a cost-of-service study;

(7) if appropriate, a schedule showing the ratio of retail kilowatt-hour sales as a percentage of total retail and wholesale kilowatt-hour sales, and the ratio that existed when the cooperative filed its last cost-of-service study; and

(8) a copy of the cooperative's annual certified audit, including any adjusting journal entries.

(h) If a cooperative proposes to adjust rates in accordance with 3 AAC 48.740 based on its quarterly or semi-annual filing, the cooperative shall file with the commission the following additional information:

(1) tariff sheets showing any proposed adjustments to the cooperative's rates;

(2) if applicable, power cost equalization updates, including tariff sheets;

(3) a copy of the resolution of the board of directors of the cooperative authorizing the requested increase in rates; and

(4) a narrative description or evidence of the cooperative's actions taken to comply with the notice requirements in 3 AAC 48.730. (EIT, 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

48.730

3 AAC 45.730: NOTICE AND EFFECTIVE DATE. (a) A cooperative's rate adjustment filing under 3 AAC 48.700 — 3 AAC 48.790 is governed by 3 AAC 48.280 and will become permanent at the end of the notice period described in AS 42.05.411 unless the commission suspends the filing in accordance with AS 42.05.421. If the commission suspends the filing, the commission will, in its discretion, allow the filing to take effect on an interim basis, subject to refund.

(b) A cooperative shall provide to its customers prior individual notice of the intent of its board of directors to consider participation in the simplified rate filing procedure established in 3 AAC 48.700 — 3 AAC 48.790. That notice must include, at a minimum,

(1) the purpose of 3 AAC 48.700 — 3 AAC 48.790 and its possible effect on recurring electric rates on a quarterly or semi-annual basis, whichever is appropriate;

(2) the time and place of the board of director's meeting scheduled for consideration of the appropriateness and desirability of participation in the simplified rate procedure; and

3 AAC 48.740 . COMMERCE AND ECON. DEV. 3 AAC 48.760

(3) acknowledgment that the major responsibility for rate adjustments under the simplified procedure will rest with the board of directors of the cooperative rather than with the commission.

(c) A cooperative shall provide its customers with reasonable notice of any rate adjustments approved by its board of directors either before or at the time the rate adjustment takes effect. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.740. RATE ADJUSTMENTS.** If a cooperative's TIER deviates from the cooperative's Target TIER, the cooperative may adjust rates in accordance with 3 AAC 48.700 — 3AAC 48.790 to achieve its Target TIER. If a cooperative's TIER is more than five percent above the cooperative's Target TIER, the cooperative shall reduce rates to achieve its Target TIER. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.750. CALCULATION OF TIER.** A cooperative's TIER is calculated for the most recent 12-month period, based on the information filed in accordance with 3 AAC 48.720 and on the following principles:

(1) the annualized long-term interest expense for the period must be used;

(2) the actual operating expenses for the period must be normalized to remove nonrecurring items and to adjust for items normally amortized for ratemaking purposes, and may also be normalized to reflect pro-forma adjustments for known and measurable changes that are more than likely to continue through the period in which the rates will be in effect;

(3) interest income must be included in the determination of TIER to the extent that interest income exceeds short-term interest expense. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.760. TARGET TIER DETERMINATION.** (a) The Target TIER (Times Interest Earned Ratio) for a cooperative is the TIER approved by the commission in that cooperative's last general rate case or the TIER established under (b) of this section.

48.790

3 AAC 48.770 ALASKA ADMINISTRATIVE CODE 3 AAC 48.790

(b) By petition separate from another proceeding under 3 AAC 48.700 — 3 AAC 48.790, a cooperative may request that a new Target TIER be set, based on consideration of the cooperative's present equity levels, optimum equity levels, cost of debt, growth rate and capitalization, mortgage covenants, the capital credits retirement program of the cooperative, and other relevant factors. (EFF. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

3 AAC 48.770. LIMITATIONS ON USE OF SIMPLIFIED PROCEDURE. (a) Rate adjustments allowed under 3 AAC 48.700 — 3 AAC 48.790 may not exceed a cumulative 20 percent increase in any three-year period, or a cumulative eight percent in any 12-month period, excluding purchased power and fuel costs rate adjustments.

(b) For good cause shown, the commission will, in its discretion, revoke or deny a cooperative's authority to request an increase under the simplified rate filing procedure in ~~3 AAC 48.700~~ = 3 AAC 48.790. 3 AAC 48.700 - 3 AAC 48.790. (EFF. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

3 AAC 48.780. APPLICATION OF RATE INCREASES. A rate increase granted under 3 AAC 48.700 — 3 AAC 48.790 must be applied as an across-the-board adjustment to all recurring charges, except the customer charge. (EFF. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

48.790

3 AAC 48.790. COST-OF-SERVICE FILINGS. To ensure that a cooperative's rates properly reflect the cost to serve the various classes of customers, a cost-of-service study in accordance with 3 AAC 48.540(c) — (h) must be filed if

- (1) the residential class kilowatt-hour sales as a percentage of total kilowatt-hour sales, on an annual basis, changes by more than 5 percent from the percentage that existed when the cooperative last filed a cost-of-service study; or
- (2) the retail kilowatt-hour sales as a percentage of total retail and wholesale kilowatt hour sales, on an annual basis, changes by more than 5 percent from the percentage that existed when the cooperative last filed a cost-of-service study; or



Appendix B

42.05.711 (b) is amended to read:

(b) Except as otherwise provided in this subsection, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 -- AS 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter and may elect to revoke a previous election to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter; when the direct competition ends the governing body of the political subdivision may elect not to have one or more of the utilities or electric operating entities owned and operated by the political subdivision subject to this chapter.

## APPENDIX

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION  
SUMMARY OF APPROPRIATIONS AND EXPENDITURES  
For Fiscal Years 1988 and 1989  
(UNAUDITED)

<u>Category</u>	1988 Authorized	1988 Expenses and Encumbrances	1989 Authorized
Personal Services	\$2,113,600	\$2,103,406	\$2,113,600
Travel	28,660	27,423	57,100 <sup>2/</sup>
Other Services	1,592,330 <sup>1/</sup>	1,224,346 <sup>1/</sup>	1,688,500 <sup>2/</sup>
Supplies	21,000	20,800	22,000
Capital Outlay	<u>3,910</u>	<u>3,910</u>	<u>2,900</u>
<u>Total</u>	<u>\$3,759,500</u>	<u>\$3,379,885</u>	<u>\$3,884,100</u>

Note: The information included in this summary was obtained from APUC records and the state accounting system. This information has not been audited by us and, accordingly, we express no opinion on it.

Commission Footnotes:

- 1/ The "Other Services" category is predominantly funded through program receipts which can only be expended for case related activities which are reimbursable by cost allocations. The difference between the 1988 authorization and expenditure in this category is because of a lapse in program receipts funds which were not required for case related expenses.
- 2/ Since FY1982, "Travel" and "Other Services" budget authorizations have been funded by both the General Fund and program receipts: For FY1989, the funding ratio is \$27,100 General Fund to \$30,000 program receipts for the "Travel" category and \$473,500 General Fund to \$1,215,000 program receipts for the "Other Services" category.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX 9, JUNEAU 99811

(907) 465-3892



April 20, 1989

## MEMORANDUM

To: House Finance Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: HB 72 - Continuing the APUC

Last week the House Labor and Commerce Committee passed out a "clean" version of HB 72 after a half dozen public hearings spanning a period of several months.

We did so because we believe it is in the best interest of the public to have HB 72 stand on its own and to address concerns raised in the APUC annual report and recommendations made by LB&A in separate legislation so that HB 72 would not be "held hostage" to force legislative action on public utility issues other than continuation of the APUC.

Subsequent to passage of HB 72 the House Labor and Commerce Committee introduced legislation concerning regulation and recycling of solid waste and a bill dealing with regulation of electrical utilities. We will be considering additional legislation addressing the remaining issues outlined in the reports referenced above.

The APUC is an essential state agency and its continuation is necessary for the protection of the public's health, safety and welfare. HB 72 received a unanimous "do pass" vote in the House Labor and Commerce Committee. I urge the House Finance Committee to pass the measure on to the full House with the same recommendation.

L+C  
BILLS { HB 300 - ELECTRICAL  
HB 307 - RECYCLING  
HB 35 - SOLID WASTE REGULATION

"RED"  
UP TO DATE  
IN L&C { HB 13 - UNIVERSAL SERVICES  
HB 168 - TIME LINES FOR APUC

SB 168 - "Competition"  
(FRANK)

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1989

SUBJECT: Can HB 72 be amended without a title change  
(Continuing the APUC)

TO: Representative Dave Donley  
Chairman, House Labor and Commerce Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked whether HB 72 could be amended by adding other provisions concerning the Alaska Public Utilities Commission without also amending the title.

The question arises because the state constitution requires, in art. II, sec. 13, that the subject of a bill be expressed in its title. The title of HB 72 reads:

An Act continuing the existence of the Alaska Public Utilities Commission; and providing for an effective date.

The date to which the existence of the APUC was extended could be amended, but I am unable to think of any other change to the APUC that would be permitted in this bill without amending the title.

If I may be of further assistance, please advise.

TC:kb  
wkk3/087



## Representative H.A. "Red" Boucher

---

Chairman House Committee on State Affairs • Special Committee on Telecommunications

### MEMORANDUM

April 4, 1989

TO: Rep. Dave Donley

FM: Rep. Red Boucher  
Chairman, Subcommittee on Solid Waste Utilities

RE: Comments on Minority Report of March 30, 1989

This is a critique of the three points raised in the Minority Report that purport to rebutt the Majority Report of March 23, 1989.

The first point deals with whether or not A.S. 42.05.720 (4)(F) is intended to include solid waste utilities within the APUC's regulatory scheme. The minority report suggests that the APUC should be left to its own determination of legislative intent despite the clear language in the statute:

"utility includes every corporation...that owns, operates, manages or controls any plant or system for (F) furnishing collection and disposal service for garbage, refuse, trash or other waste material;

Despite this unambiguous citation (which should be read in conjunction with AS 42.05.221(a)) the minority report would have us believe that regulation of waste utilities is somehow a new twist of interpretation. The objective situation testifies that waste utilities have been regulated since the statute went into effect... regulation is the status quo. To contend that deregulation is the intent of the statute when deregulation is the result of having no statute at all is ridiculous.

As to whether or not a legal opinion should be sought as to the intent of the statute, the legislature is its own and the ultimate arbiter of legislative intent. Also, the language and facts are too clear to ask for a legal opinion when there is no purpose other than fishing for obtuse angles for debate.

The second point of rebuttal in the minority report involves whether or not prospective competitors in a deregulated market are concerned about economies of scale. The minority misses the point. It is not whether prospective competitors are concerned about economies of scale; the point is that the advantages of scale are good for the public because the public pays less for a utility service that is a compulsory cost to citizens about which they do not have a choice to spend or not to spend. Our society deems it prudent not to have competition and redundant investment in utility services where costs are mandated to the public. That is the rationale for regulation.

The third point in the minority report is that public health and environment are not the concerns of APUC. The reality of the situation is that protection of public health, safety and environment costs money and requires investment in expensive trucks, incinerators and a related equipment. Utilities are deserving of a return on their investment which must be part of their rate base and tariff structure approved by the APUC. Public and environmental health are an integral part of the "Standards of Service and Facilities" requirements of the APUC statute (A.S. 42.05.291). To suggest that inspections by OSHA, Health and Social Services or DEC are a substitute for regulatory, economic incentives that have worked in the U.S. for more than a hundred years is a misreading of regulatory powers.

# CHANNEL CORPORATIONS

CHANNEL SANITATION CORPORATION  
CHANNEL EQUIPMENT RENTAL INCORPORATED  
CHANNEL LANDFILL, INC.

March 30, 1989

Representative Dave Donley  
Chairman House Labor and Commerce Committee  
PO Box V  
Juneau, AK 99811

Dear Representative Donley:

The APUC is attempting to get through the Legislature a Bill to deregulate the garbage business. As a member of the Alaska Refuse Haulers Association, we are opposed to deregulation for several reasons.

Financially, deregulation would drastically effect the quality of service. Operators would not be able to afford to buy quality equipment nor would they be able to obtain financing for decent equipment without any guarantee of income. There certainly wouldn't be any incentive to make an investment like Channel Sanitation has made.

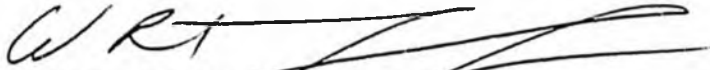
There would be less incentive to recycle because the market would be so divided there would be no real volumes to make it economically feasible to recycle.

As it stands now, DEC and EPA know who the haulers of all waste material are including hazardous wastes. If there were three to four times the number of haulers, they would have less control of how these wastes were being handled. More seriously, the location of where they were being dumped. Deregulation would cause a lot more illegal dumping and litter as the haulers would be trying to cut all expenses in order to compete. The litter problem would increase because there would be companies hauling in all types of vehicles that wouldn't have the capacity to contain the garbage.

Letter to Rep. Donley  
March 30, 1989  
Page 2

This issue is a financial and environmental problem. If you agree, please let your opinion be known by writing to Jerry Reinwand.

Very truly,



W.R. Tonsgard, Jr.  
Chairman of the Board

WRT/jak

cc: House Labor & Commerce Committee Members

Rep. H. Boucher  
Rep. M. Boyer  
Rep. V. Collins  
Rep. M. Gruenberg, Jr.  
Rep. L. Leman  
Rep. A. Spohnholz  
File



## Alaska State Legislature

House of Representatives  
COMMITTEE ON STATE AFFAIRS

March 23, 1989

TO: Rep. Dave Donley  
Chairman, Committee on Labor and Commerce

FM: Rep. H.A. "Red" Boucher  
Rep. Loren Leman  
Rep. Ann Spohnholz

RE: Subcommittee on Solid Waste Utilities

The Subcommittee on Solid Waste Utilities has met to consider two questions.

I. Should solid waste utilities be deregulated by the APUC.

II. Should the Committee introduce legislation regulating recovery and recycling of solid waste.

Regarding Question I, the subcommittee has reviewed the past and current record on the issue of deregulating refuse utilities. Appendix One to this memorandum contains the legislative history of bills introduced in the eleventh legislature. There is no bill in the current legislature concerning deregulation of refuse utilities.

In addition, the subcommittee members met with representatives of the refuse industry, and also with Susan Knowles of the APUC, to ascertain their views on this issue.

The subcommittee has concluded that current statute requires the APUC to regulate refuse utilities (A.S. 42.05.720(F)). The fact that the legislature has considered and declined to change the statute affirms the prescribed public policy for APUC to follow.

The subcommittee is disconcerted by information from the refuse utilities that the APUC is de facto deregulating refuse utilities by encouraging applicants to apply for "certificates of public convenience

and necessity" in areas where existing refuse utilities are operating. This practice is not in conformance with the statute and should be changed in favor of stricter regulation.

The subcommittee's conclusion in favor of strict regulation is based on traditional economic theory of regulation that holds that the public interest is best served by allowing economies of scale to accumulate for capital and operational cost recovery. In exchange for the preferred monopolistic position enjoyed by most utilities, they are regulated in order to prevent public abuse in the form of excessive profits and substandard or discriminatory service. The practice of regulation saves the public from inconstancy that is the by-product of competitive markets. Regulation of utilities is especially applicable in thin markets, like most Alaskan communities, that need reliable service from fundamental utilities.

In addition, the subcommittee is persuaded that regulation of refuse utilities is necessary to protect public health and the environment. The commonplace occurrence of hazardous waste and toxic substances in our communities requires, in the opinion of this subcommittee, a measure of control and planning that can be achieved only by regulation. Issues regarding waste products and disposal methods are of increasing urgency in communities throughout the country. These issues deserve to be scrutinized more rather than less in order to preserve public health and the aesthetic values cherished in most Alaskan communities.

For the aforementioned reasons the subcommittee recommends that a letter of legislative intent be attached to HB 72 (APUC sunset bill) that reaffirms APUC's statutory mandate to regulate refuse utilities until the legislature chooses to change the statute. Suggested language follows:

The legislature finds that the APUC's practice of regulation of refuse utilities as required under A.S. 42.05.720 is inconsistent with that statute. It is the intent of the legislature that APUC should strictly regulate refuse utilities consistent with A.S. 42.05. 720.

Regarding the second question, i. e., should the Committee sponsor legislation requiring regulation of solid waste recovery and/or recycling. The subcommittee is of the opinion that the merits of the proposed legislation, Appendix Two, cannot be satisfactorily determined without public hearings. Consequently, the subcommittee supports introduction of the legislation so that public process will be available to determine its viability.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### CONSIDERATION OF THE MAJORITY REPORT

POINT #1: "The subcommittee has concluded that current statute requires the APUC to regulate refuse utilities (AS 42.05.720(4F)). The fact that the legislature has considered and declined to change the statute affirms the prescribed public policy for the APUC to follow."

REBUTTAL: The APUC is proceeding with a form of deregulation they believe they are authorized to implement. In fact, the failure of the Legislature to pass legislation prohibiting the APUC from pursuing deregulation may actually represent tacit approval of the APUC's actions. Additionally, no legal opinions were presented that substantiated the subcommittee's interpretation of AS 42.05.720(4F).

In fact, the majority report of the subcommittee suggests the need for additional intent language.

POINT #2: "The subcommittee's conclusion in favor of strict regulation is based on traditional economic theory of regulation that holds that the public interest is best served by allowing economies of scale to accumulate for capital and operational cost recovery."

REBUTTAL: The fact that others desire to compete indicates they do not share the monopolists concerns with respect to economies of scale. The situation is that those already largely capitalized and who enjoy monopoly are asking for protection, while those seeking entry into the market without guarantees are not dissuaded by traditional economic theory.

POINT #3: "The subcommittee is persuaded that regulation of refuse utilities is necessary to protect public health and the environment."

REBUTTAL: APUC is responsible for economic and service regulation. APUC deregulation should have no effect on health and safety concerns monitored by other agencies of the state.

I concur with the recommendation of the subcommittee with respect to the second question, i.e., should the Committee sponsor legislation requiring solid waste recovery and/or recycling.



H.B.72  
FILE

February 3, 1989

~~W.D. Donley~~  
~~Chairman~~

The Honorable Dave Donley  
Chairman  
Labor and Commerce Committee  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Chairman:

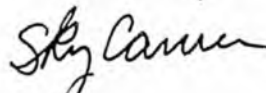
In addition to operating a refuse disposal utility on the Kenai Peninsula, I serve as President of the Alaska Refuse Utilities Association. Our Association is comprised of the state's major refuse utilities with membership in every major Alaska community.

We anticipate that the issue of deregulating refuse may come before your Committee in the near future, particularly if the sunset audit report prepared by the Division of Legislative Audit follows previous recommendations made by the Division's staff. However, until the Division's report is finalized and brought before your Committee--and the Division's recommendations are made public--it is the association's position that it is premature to take any legislative action on the refuse issue. For that reason we have not requested the Committee to address some of the legislative proposals the Association would like to see enacted into law.

We would, however, like to let you know of our interest in discussing several of the Association's legislative proposals

with either the full Committee, or a Subcommittee which has been given the responsibility of reviewing the full spectrum of public policy concerns regarding refuse disposal. We believe there are compelling policy reasons for leaving APUC regulation of refuse in place. However, we also believe there are improvements which can be made to the present statutory framework which will provide continued protection to the ratepaying consumer and to the environment, while at the same time lifting much of the current self-inflicted workload which has developed at the APUC regarding refuse dockets. Therefore, we request the opportunity to appear before the Committee to discuss refuse deregulation whenever you believe it would be appropriate. Thank you for your consideration of this request.

Sincerely,



Sky Carver  
President  
Alaska Refuse utilities Association

## STATEMENT IN SUPPORT OF RECYCLING LEGISLATION

This statement supports the legislation that promotes recycling and recovery of energy and resources from waste ("Waste Recovery") by refuse public utilities that collect and dispose of refuse from residence of the State of Alaska. Most of these utilities are already engaged in Waste Recovery. The natural operations of these utilities make them ideally suited to carry out Waste Recovery activities. The utilities collect refuse either directly from residential and business customers and in some Boroughs by emptying optimally placed Borough owned containers used by residence in the immediate areas of the containers. The utilities operations cause their vehicles to visit these collection sites, residential homes and businesses periodically and in most cases at least once a week. The management and operations already in place to provide this utility service are ideal to also be used in the Waste Recovery business.

The Waste Recovery business is highly risky. The price paid for recyclable materials widely fluctuates in the market. Energy recovery requires substantial investments in waste burning equipment, energy recovery equipment, and electrical generating apparatus. Due to the general content of garbage it is also necessary to invest in equipment and labor to sort out recyclable materials. Often this can be done by the homeowner before the utilities collect the garbage from either the homeowner or the container sites provided by Boroughs.

The Waste Recovery business also demonstrates that substantial economies of scale in operating the business are realized if the utilities collect as much waste as possible. Guaranteeing the utilities this volume of material is crucial to viable Waste Recovery businesses in the State. The difference between losing money or breaking even in the Waste Recovery business can be directly attributable to the volume of material available for Waste Recovery. Spreading this volume out among many different Waste Recovery businesses means that none will risk investment in the business. Except for non-profit organizations, most non-utility operated Waste Recovery businesses have failed.

The Legislature is already well aware of the landfill problems faced by the communities in this State. Landfills are very expensive and will become more so in 1991 when the new Environmental Protection Agency regulations take effect. Thus, anything the Legislature can do to prolong the life of these landfills is in the public interest. Waste Recovery will extend the life of our landfills.

The Waste Recovery business is a local business, and thus employs labor in the State. The recycling business currently engaged in by Anchorage Refuse Inc. is a prime example of local

employment. Its recycling business has grown to such an extent that it now employs 27 persons in Anchorage. As its recycling business matures, more persons will be employed.

The utility Waste Recovery Act is drafted to give the refuse utilities a secure volume of garbage and to place a burden on them to engage in Waste Recovery from that garbage. The utilities are required to spend at least 3% of their annual expenses on Waste Recovery activity or face competition in their service areas. This encourages the private sector to carry out Waste Recovery and places little or no burden on the public sector.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

AN ACT

Relating to waste collection & recycling

---

Section 1. FINDINGS AND POLICY. (a) The legislature finds that

(1) the recycling and reuse of garbage, refuse, trash or other waste material ("Waste") and the material, resource, and energy recovery from Waste would substantially extend the useful life of existing solid waste disposal sites in the State of Alaska, reduce the need for new landfills, save Alaska's environment, reduce outdoor pollution, and create jobs in the state;

(2) refuse utilities are ideally situated, to collect, and recycle waste and to engage in recovery activity;

(3) the recycling and recovery activity is in its infancy in the nation and particularly in the State of Alaska, derives little or no profits for those engaged in the activity, and requires that the legislature promote the activity whenever possible;

(4) substantial volumes of Waste are needed to make the recycling and recovery business economically viable which requires that certificated refuse utilities collect and control the available waste in their service areas;

(5) it is in the public interest to encourage the existing refuse utilities to develop the necessary technology and business opportunities to engage in economical and efficient waste recycling and recovery activities.

1  
2  
3 (b) It is the policy of the State to encourage Waste re-  
4 cycling and recovery activities and to assist and encourage  
5 refuse utilities to develop Waste recycling and recovery tech-  
6 nology and to conduct an economical and efficient Waste recycling  
7 and recovery business.

8 Section 2. AS 42.05.221 is amended to read:

9 (a) A public utility may not operate and receive compen-  
10 sation for providing a commodity or service after January 1, 1971  
11 without first having obtained from the Commission under this  
12 chapter a certificate declaring that public convenience and  
13 necessity require or will require the service. A certificate to  
14 furnish collection and disposal service of garbage, refuse, trash  
15 or other waste material in an area already served by a certif-  
16 icated refuse utility may only be granted if the operating and  
17 capital expense incurred by the utility and its affiliated  
18 interests on waste recovery is not 3% or more of the annual  
19 operating and capital expense of the utility and the refuse  
20 utility will not provide service to the satisfaction of the  
21 Commission. The operating and capital expense incurred by the  
22 utility and its affiliated interests for waste recovery for the 5  
23 years prior to the filing of an application to serve in an area  
24 already served by a certificated refuse utility may be averaged  
25 to calculate the 3% annual operating and capital expense figure.  
26 Where a public utility provides more than one type of utility  
27 service, a separate certificate of convenience and necessity is  
28 required for each type. A certificate shall describe the nature

1  
2 and extent of the authority granted in it, including, as  
3 appropriate for the services involved, a description of the  
4 authorized area and scope of operations of the public utility.  
5

6 Section 3. AS 42.05.711(d) is amended to read:

7 (d) The commission, on a finding that no legitimate public inter-  
8 est will be served, may exempt a utility from all or any portion  
9 of this chapter other than AS 42.05.221 - AS 42.05.281.

10 Section 4. AS 42.05.720 is amended by adding new paragraphs  
11 to read:

12 (1) "resource recovery" means the process of obtaining  
13 useful material or energy resources from waste;

14 (2) "energy recovery," means recovery in which all or a  
15 part of the waste materials are processed to utilize the heat  
16 content, or other forms of energy, of or from the material;

17 (3) "material recovery," means any process of obtaining  
18 from waste, by presegregation or otherwise, materials which still  
19 have useful physical or chemical properties after serving a  
20 specific purpose and can, therefore, be reused or recycled for  
21 the same or other purpose;

22 (4) "recycling," means any process by which solid waste  
23 materials are transformed into new products in such a manner that  
24 the original products may lose their identity;

25 (5) "reuse," means the return of a commodity into the  
26 economic stream for use in the same kind of application as before  
27 without change in its identity;  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(6) "waste" means garbage, refuse, trash or other waste material;

(7) "waste recovery" means resource recovery, energy recovery, material recovery, recycling or reuse of waste.

Section 5. No certificate may be granted to furnish collection and disposal service of garbage, refuse, trash or other waste material in an area already serviced by a certificated refuse utility for 1 year from the effective date of this Act.

Section 6. This Act takes effect immediately under AS 01.10.070 (c).



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE LOREN LEMAN  
465-2095

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

TO: Representative Dave Donley  
Chairman, House Labor and Commerce Committee

FROM: Representative Loren Leman *Loren*

DATE: March 30, 1989

SUBJ: COMPETITION IN WASTE COLLECTION/DISPOSAL

---

After consideration of the presentation made by the subcommittee chairman, representatives of the monopoly providers, and meeting with the Chairman of the Alaska Public Utilities Commission (APUC), I find that I do not concur with the recommendation made by a majority of the subcommittee.

There are five principal reasons for this divergence in opinion.

(1) The APUC has reviewed the situation and has come to the conclusion that this is an industry that does not require monopoly to serve the public interest.

AS 42.05.720(4F) notwithstanding, the APUC believes they have the authority to initiate the limited competition they have authorized. I agree.

(2) Allowing citizens the economic freedom to compete does not repeal or restrict health and safety regulations. I am not aware of evidence to support the contention that monopolies have a better compliance record with health and safety regulations than do competing businesses.

(3) The current monopolists largely began as "Mom & Pop" operations collecting refuse. The gate should not be shut for the "Mom & Pops" of the 1990s--those who are willing to accept the challenges of free competition.

(4) The public is better served by having the freedom to choose. With competition, the businesses will have to take the consumers into account in ways a monopolist may be able to ignore.

(5) Remote areas will be better served by competition. Competing firms have an incentive to innovate. A protected monopolist has little incentive to innovate. The presumption should be to allow the competing enterprise an opportunity to provide the service. If some areas remain unserved that the Legislature believes should be served, corrective action could be taken. The right of Alaskans to compete should be honored.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 9981

### CONSIDERATION OF THE MAJORITY REPORT

POINT #1: "The subcommittee has concluded that current statute requires the APUC to regulate refuse utilities (AS 42.05.720(4F)). The fact that the legislature has considered and declined to change the statute affirms the prescribed public policy for the APUC to follow."

REBUTTAL: The APUC is proceeding with a form of deregulation they believe they are authorized to implement. In fact, the failure of the Legislature to pass legislation prohibiting the APUC from pursuing deregulation may actually represent tacit approval of the APUC's actions. Additionally, no legal opinions were presented that substantiated the subcommittee's interpretation of AS 42.05.720(4F).

In fact, the majority report of the subcommittee suggests the need for additional intent language.

POINT #2: "The subcommittee's conclusion in favor of strict regulation is based on traditional economic theory of regulation that holds that the public interest is best served by allowing economies of scale to accumulate for capital and operational cost recovery."

REFUTTAL: The fact that others desire to compete indicates they do not share the monopolists concerns with respect to economies of scale. The situation is that those already largely capitalized and who enjoy monopoly are asking for protection, while those seeking entry into the market without guarantees are not dissuaded by traditional economic theory.

POINT #3: "The subcommittee is persuaded that regulation of refuse utilities is necessary to protect public health and the environment."

REBUTTAL: APUC is responsible for economic and service regulation. APUC deregulation should have no effect on health and safety concerns monitored by other agencies of the state.

I concur with the recommendation of the subcommittee with respect to the second question, i.e., should the Committee sponsor legislation requiring solid waste recovery and/or recycling.

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

WHEREAS, AS 42.05 requires that the furnishing of services to collect and dispose of garbage, refuse, trash or other waste material be regulated as a public utility for the purpose of accomplishing efficient, timely, safe, healthy, and environmentally sound handling of garbage and assuring that potentially hazardous garbage and waste is handled in a manner that promotes and protects the public health and environment;

WHEREAS the Legislature has not changed the statute regarding regulation of collection and disposal of garbage, waste, trash and other waste materials;

WHEREAS, without legislative authority, the Alaska Public Utility Commission's practice has tended to deregulate the collection and disposal of garbage, refuse, trash or other waste material and the Alaska Public Utilities Commission has decided that it is not in the public interest to regulate the number of providers of such service; and

WHEREAS, there are increasing environmental risks associated with the disposal of garbage, refuse, trash or waste material and there is only beginning to evolve a technology to adequately deal with the risks, and

WHEREAS, the Legislature believes that the Alaska Public Utilities Commission shall follow AS 42.05 with respect to the

regulation of the collection and disposal of garbage, refuse, trash or other waste material such regulation shall be carried out under traditional public utility standards.

BE IT RESOLVED by the Alaska State Legislature that it is in the public interest to continue the regulation of services for collection and disposal of garbage, refuse, trash and other waste materials, that the Alaska Public Utilities Commission shall regulate the collection and disposal of garbage, refuse, trash or other waste material as it regulates other traditional public utility services.

# Fairbanks North Star Borough

## GARBAGE DEREGULATION

### Historical Summary

In 1970, the Alaska State Legislature repealed AS 42.05.196, a statute which imposed in unambiguous language the requirement that an applicant for an area already served by a certificated utility show that the existing service was unsatisfactory, which indicated that the Legislature intended to leave the decision to allow or prohibit competition to the Public Utilities Commission.

In August, 1979, the Legislative Auditor issued a report as part of the "Sunset Review" of the Alaska Public Utilities Commission (APUC). Recommendation #3 of this report suggested that "AS 42.05 should be amended to allow the Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash and other waste material."

The Legislative Auditor based the above recommendation on the following considerations:

1. The APUC did not have sufficient funds or personnel to regulate these utilities;
2. The refuse industry is not capital intensive, as fixed utilities are;
3. Competition in this industry would not be detrimental to the public interest;
4. 91% of states returning questionnaires to the auditor did not regulate refuse utilities.

In 1980, the Alaskan Legislature reviewed the question of continued regulation of refuse collection by the APUC. The 1980 Legislature considered the recommendation of the APUC 1979 Sunset Audit Report to remove the refuse service industry from regulation by the APUC. The Legislature mandated continued regulation of refuse collection. (From the April 6, 1988, Memorandum of Clarification, Wasilla Refuse, Inc., vs. State of Alaska, APUC.)

In June, 1983, APUC staff issued a white paper concerning deregulation of garbage. The staff suggested that APUC consider the issues of allowing overlapping service areas and of economically deregulating all refuse utilities. Staff concluded, after reviewing the nature of the refuse utility service, that in many respects refuse utilities have characteristics of businesses functioning in the unregulated sector of the economy, rather than other regulated Alaskan utilities. The economic ratios discussed in the paper indicate that refuse utilities are unique to the regulated utility industry: entry into a refuse utility is not capital intensive; and refuse utilities are not physically connected to the customer (i.e., the customer can change services). Staff recommendations in the white paper included:

1. enactment of a policy of certificating refuse utility applicants that can demonstrate fitness, willingness, and ability; and
2. exemption of all refuse utilities from economic regulation.

The staff concluded that refuse collection is not a "natural" monopoly and should not be regulated as such by allowing exclusive service areas and imposing cost-based rate regulation.

The white paper also mentioned that in Document U-80-18(6), Marche Sanitation and Far North Sanitation were authorized to provide refuse service to commercial customers within the Fairbanks City limits. It was determined that the two companies did not constitute either "identical" utility services or "undesirable duplication of facilities." Because Marche was exempt from economic regulation and Far North was economically regulated, which the APUC perceived as unfair to Far North, the APUC economically deregulated Far North to give it an equal basis on which to compete with Marche.

As an aside, Far North Sanitation bought out Marche Sanitation several years ago and currently (March, 1989) provides the only commercial refuse service within the Fairbanks City limits. The city itself provides residential refuse collection services.

In August, 1986, Heather Stockard, Borough Environmental Services Director, sent a memo to Mark Andrews, Assistant Borough Attorney, on the Subject of the legal ownership of garbage. The memo stated that the FNSB pays two refuse haulers to maintain and empty 18 rural dumpsters, and that the Borough was obligated to use certificated haulers. The Borough at that time was soliciting proposals for alternative solid waste handling and/or processing methods.

Questions asked of the attorney were:

1. Is a garbage hauler with 10 or fewer customers required to have a certificate of Public Convenience and Necessity from the APUC? And if not, what constituted a "customer": one dumpster, one department, one Borough?
2. Who owns the garbage when? At what point does ownership transfer to the Borough - - could a contractor use garbage from the dumpsters for his own purposes?

Answers to the above questions were as follows:

1. No, the 10 or fewer customers exemption did not apply to the Borough.
2. The picked up refuse is considered "collection" until the final disposal site at the landfill; therefore, a contractor could use refuse from the Borough dumpsters for his own purposes.

From an August 20, 1986, memo to FNSB Assembly from Juanita Helms, Borough Mayor:

The memo mentioned that garbage collection was regulated by the APUC and that the FNSB must contract only with the franchised certificate holder in any given area to provide rural dumpster service. The Mayor stated that she believed that

Garbage Deregulation  
page 3

the FNSB and other local governments may benefit from deregulation of garbage. She would endorse a consolidated effort to lobby for the required legislative changes.

From a December, 1986, informational sheet to the Borough's Pollution Control Commission (PCC) concerning deregulation of garbage collection services:

Statement of Problem: FNSB provides garbage collection for residents on a nonareawide basis (outside the cities of Fairbanks and North Pole) with 18 rural dumpsters. Because garbage services are regulated by the Alaska Public Utilities system, the Borough has to contract on a non-competitive basis with two APUC certificated haulers. The APUC has been unresponsive to complaints about inadequate service by the certificated haulers.

Costs of refuse disposal had increased 12-18% each year since beginning of program. It was estimated that the desired outcome of deregulation could result in cost savings of 30-35%.

The sheet stated that if refuse regulation continued, the results would be that local taxpayers would continue to pay too much for refuse service; free market competition and entry into the garbage industry would be restricted; and the Borough would remain nearly powerless to penalize contractors for inadequate service.

From a January 7, 1987, memo to Dick Jackson, Administrative Director, from Heather Stockard, Environmental Services Department Director:

Subject: Proposed Meeting with APUC:

The memo listed several items H. Stockard wished to discuss with the APUC:

- \* conflicting information about the tariff rate for Interior Services;
- \* complaints about Interior Services;
- \* Drake's and Interior's proposed revised tariff schedules;
- \* draft final solid waste report which had section on tariffs which showed that the FNSB was being substantially overcharged for dumpster service;
- \* explain the FNSB stand on garbage deregulation.

From a January 20, 1987, memo to Dick Jackson, Administrative Director, from Heather Stockard, Environmental Services Department Director:

Subject: January 16, 1987, trip to Anchorage to work with APUC:

The memo listed the results of H. Stockard's meeting with the APUC:

- \* in general, the APUC staff was extremely supportive of the FNSB deregulation of garbage efforts;
- \* Interior Services had not filed for an approved tariff;
- \* Drake Sanitation's tariff seemed to allow Drake an excessively high rate of return -- a full investigation was never done;
- \* language requiring municipalities to buy out existing utility when they take over the service was removed from the statute several years previous.

Garbage Deregulation

page 4

The memo recommended that the Borough:

- \* continue working with the Legislature towards deregulation of garbage services;
- \* file a petition with the APUC requesting an investigation of Drake's tariff;
- \* file a petition with the APUC requesting an investigation to determine why Interior Services is not fully regulated;
- \* if Interior Services files a tariff request, the FNSB should file a petition to intervene and request a full cost-of-service review;
- \* consider the option of applying for competing certificates in all areas of the Borough.

From a March 27, 1987, letter to Ray Wipperman, APUC from Heather Stockard, Environmental Services Department Director:

Subject: Interior Services Did Not Appear to be Fully Regulated by the APUC

- \* Interior had exceeded \$200,000 threshold for years on FNSB payments alone;
- \* the FNSB has received complaints about Interior's service they provide;
- \* Interior does not have an approved tariff;
- \* the FNSB urges the APUC to investigate the above problems of Interior Services.

From a July 27, 1987, letter from Juanita Helms, Mayor, to the APUC:

The FNSB was seeking temporary authority to perform garbage collection services due to developing health problems with overflowing dumpsters at Interior Services sites. Two of four of their trucks were out of service for emergency repairs.

August 13, 1987, the Matanuska Susitna Borough was issued a Certificate of Public Convenience and necessity to collect and dispose of refuse. They are currently contracting with an operator who has a subcontractor doing the actual refuse collecting. The Mat-Su Borough's certificate allows them to collect municipal refuse only.

From a September 14, 1987, letter to Mrs. Judy White, APUC, from Heather Stockard, Director, Health and Safety:

Subject: FNSB comments on Tariff No.1 for Interior Services filed by Ralph Bartlett on August 13, 1987

- \* The FNSB is Interior Services' largest customer;
- \* The FNSB disagrees with Bartlett's statement that the utility has a special contract with the FNSB. The document, which was drafted in 1983, was not approved as a special contract and had expired;
- \* The FNSB would object to tariff being set higher than \$2.40/cubic yd. Would also request tariff be made interim and refundable pending a cost of service study;
- \* Not addressed in the filing was the issue of \$21/ton tipping fee, effective 10/01/87;

Garbage Deregulation

page 5

- \* It is difficult to comply with Rule 130, Section A of the filing which states that "Informal complaints against a public utility shall be made first to the utility." It was almost impossible to reach Interior Services during business hours as they had only a message phone.

From an October 5, 1987, APUC response to Legislative Audit concerning deregulation of garbage:

The APUC concurred in the recommendation that refuse collection agencies should not be regulated by the APUC, but that local governments should be given the responsibilities of issuing Certificates of Public Convenience and Necessity, and regulating the utilities.

However, the major municipalities rejected the contention that they were in a superior position to regulate refuse and waste disposal services. They also expressed concerns about health problems from improper waste disposal, aesthetic concerns and traffic problems if numerous refuse collectors made continuous pick ups and deliveries in residential areas; and that many operators would enter the market and then fail to perform as promised, which would leave customers without reliable refuse service.

From a January 8, 1988, Memorandum of Opinion and Judgment, Wasilla Refuse, Inc., vs. State of Alaska, APUC.

It was determined that Wasilla Refuse, Inc. would be subject to economic regulations as they were a utility which furnished refuse collection and disposal and had revenues greater than \$200,000. However, the APUC indicated that it should be expressly stated that newly certificated carriers would not be subject to economic regulation even if they exceeded the \$200,000 statutory threshold.

From an April 11, 1988, Memorandum of Clarification, Wasilla Refuse, Inc. vs. State of Alaska, APUC

It was the opinion of the court that the APUC must subject all carriers which exceed the \$200,000 gross revenue threshold to economic regulation, or, exempt all carriers exceeding the \$200,000 threshold from economic regulation pursuant to the power given by the APUC under AS 42.05.711(d).

From August 11, 1988, notes to Gene Hardy, Borough Attorney, from Richard Joy, Acting Health and Safety Director:

Subject: Garbage Services by Regulated Haulers in the FNSB

The following problems were documented as a result of regulated refuse services:

- \* The FNSB was not able to use a competitive bidding process to select a contractor to haul the public dumpsters or to operate the transfer station. This resulted in:

- higher cost of service
  - no control of costs
  - no contractual agreement with the hauler if the hauler does not want to enter into one
  - no ability to specify standard equipment
  - conflicting laws and regulations between the tax cap and tariff increases
- \* The APUC failed to adequately monitor and control the certificated firms:
- poor complaint response as there was no local APUC representative
  - too far removed from the local situation
  - appears only recourse is a full hearing to correct small operational problems
- \* The Borough cannot use FNSB employees or equipment to haul dumpsters or operate the transfer station.
- \* It is nearly impossible for the FNSB to develop innovative, cost effective ways to provide collection service or do long range planning since certificated haulers have a vested interest in maintaining the status quo.

Plans to help solve above problems:

- \* Oppose tariff increases
- \* Try to get interior services under contract. Drake Sanitation currently is under contract as a result of a North Pole Transfer Station litigation settlement.
- \* Look at option of no dumpster service, replace with easier to monitor system of transfer stations

From an August 16, 1988 memo to Juanita Helms, Mayor, FNSB, from Richard Joy, Acting Health and Safety Director.

Subject: Topics for meeting with Governor Cowper

- \* Possible deregulation of garbage service
- \* APUC currently regulates garbage collection as a public utility
- \* FNSB pursued the possibility of deregulation for the last 2 years
- \* APUC may feel deregulation is appropriate now
- \* problems:
  - FNSB not able to use competitive bidding process for dumpster and transfer station operations. This results in high cost of service and poor performance by hauler
  - absence of APUC staff in Fairbanks results in inadequate monitoring and control of licensed firms
  - FNSB cannot develop new, innovated solutions to garbage collection as the haulers have a vested interest in maintaining the status quo.

MAR 20 11:00 FAIRBANKS NS BOROUGH

## Garbage Deregulation

page 7

In a March 9, 1989, telephone conversation between Ray Wipperman, Chief, Consumer Protection Section and Joan Hardesty, Environmental Specialist. Mr. Wipperman stated that there are currently certificated haulers in the Mat-Su Borough which compete in the same area, for the same residential business. He said one result has been an increase in the number of residential customers who utilize the residential pick up option. He also stated that the FNSB could seek a Certificate of Public Convenience and Necessity from the APUC, but he was sure our current certificated haulers would object and that there was no telling what the APUC would decide.

### Current Problem

Current problems include:

- \* No competitive selection process leads to:
  - higher costs
  - no direct control over possible cost increases
  - no contractual agreements with dumpster haulers
  - no ability to specify standard equipment
  - no recourse to fix operational problems with dumpster haulers
  - no clear statement of Borough/hauler liabilities in providing this service
  
- \* Interior Services current request for a rate increase has led to a direct confrontation with the Borough's voter-approved tax cap. While this rate hike, which was originally requested as an 80% increase, will be somewhat less than that, it is believed that this increase will be at least 25%. An increase of this magnitude would result in an additional yearly cost of over \$100,000 in dumpster haulage fees. The tax cap effectively puts a lid on total nonareawide expenditures. The Borough's solid waste collection system has been funded by nonareawide taxes since 1986, when the State Legislature revised Alaska Statute Title 29. One result of these revisions was to require local governments to tax for nonareawide services on a nonareawide basis. This caused the Borough to revise its taxing structure for this service. Because the Borough is already at the tax cap limit for total nonareawide taxes, any increased expenditures in dumpster costs would come at the expense of the two other nonareawide services: economic development or ambulance service outside the cities of Fairbanks and North Pole. Total Borough budgets for the three programs for Fiscal Year 1988-89 are as follows:

- economic development	-	\$ 98,850
- emergency medical services	-	736,310
- solid waste collections	-	1,241,630

These figures show that even a zeroing out of funding for economic development would not pay for just this year's projected increase in dumpster costs. Also, unlike dumpsters, economic development is a voter-approved service. There is sufficient money in the emergency

Garbage Deregulation  
page 8

medical services (EMS) budget to fund necessary increase in the solid waste collections budget. However, nonarea-wide EMS is also voter-approved, and involves a service which has direct and substantial benefits in saving people's lives. Increased funding for garbage dumpsters, at the expense of the EMS program, does not appear to be a reasonable choice.

STEVE FRANK  
DISTRICT K  
SEAT A

119 N. Cushman, Rm. 213  
Fairbanks, Alaska 99701

*While in Juneau*  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709  
Capitol Rm. 514

# Alaska State Legislature



## Senate

MEMBER  
Finance Committee  
Resources Committee  
Legislative Council  
Special Committee on Banking &  
Economic Development

VICE-CHAIR  
Community & Regional  
Affairs Committee

TO: All Senators  
FROM: Senator Steve Frank  
RE: Intrastate Long Distance Telephone Competition  
DATE: March 6, 1989

I am introducing legislation to allow competition in the long distance telephone industry within Alaska because I believe that due to changing technologies, competition is now feasible, and therefore in the Alaskan consumers best interest.

In free market economies we rely on competition as the most efficient mechanism to protect the consumer with regard to the price and availability of goods and services. However, when a monopoly evolves due to the basic nature of an industry, society has recognized the need for regulation to serve the public interest. But if fundamental technological changes in an industry occur and it is no longer a natural monopoly, that monopoly should not be perpetuated through protection from competition by regulations. To do so would be counter to our basic philosophy that competition is preferable to regulation.

The telecommunications industry has experienced this kind of fundamental technological change, especially in the delivery of long distance telecommunications. Satellite technology has replaced capital intensive land lines, drastically reducing costs and making the delivery of long distance service feasible on a competitive basis.

To understand the change in technology and why it has allowed the feasibility of competition, one must examine the basic elements of a single long distance telephone call. A long distance phone call is routed through the phone lines to the local phone company (local exchange carrier) and from there to the long distance carrier (interexchange carrier). It is the interexchange carrier that sends the message via satellite to an earth station in the distant city. From there it is routed to the local exchange company in the community that is being called and through the phone lines to the receiving telephone. It is important to keep in mind, the legislation would allow competition only on the long distance service (interexchange). Local Exchange Companies, which remain natural monopolies, would still be regulated by the

APUC for their portion (exchange tariff) of the total long distance rate.

An often used argument against competition in Alaska involves the myth that Alaska is unique and that it has higher costs, particularly in rural regions. The argument follows that those higher rural costs require a monopoly to provide service to the entire state, with huge subsidies flowing from urban to rural areas. In fact, we are unique. We are uniquely suited to competition because of our use of satellite technology rather than land line based technology. All that is required to provide competition in a community is a relatively inexpensive earth station and switch.

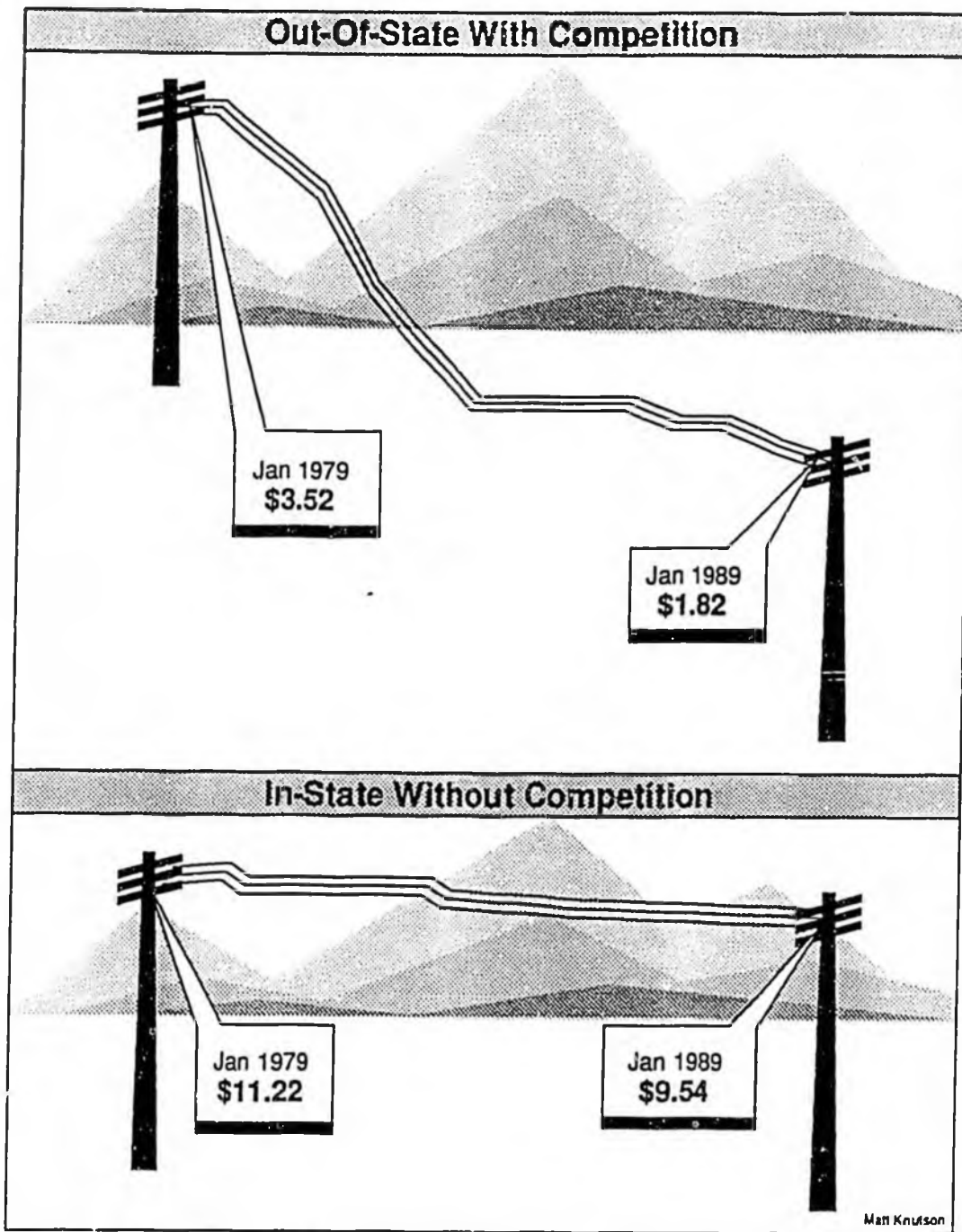
In addition, the assumption that the urban areas support the rural areas does not appear to be true as evidenced by information that Alascom has filed with the Alaska Public Utilities Commission (APUC), showing that there is not a significant subsidy flowing from urban to rural Alaska - if one exists at all.

To protect rural consumers on routes not served by competition, the legislation specifically prohibits the dominant carrier (now Alascom) from raising rates on routes not served by competition. To further protect rural consumers, this legislation also provides for a universal service fund to protect telephone service throughout Alaska and to insure that rural rates remain reasonable.

History has shown in both the national and Alaskan experience, that competition has reduced long distance telephone rates. Since the Federal Communications Commission (FCC) opened the national interstate market to competition, American Telephone & Telegraph (AT&T) has reduced its rates by over 50%. Moreover, the assertion that monopolists cannot reduce their costs has been proved false as evidenced by the fact that, during the same period, AT&T has reduced its costs by over 30%. This reduction in costs has been achieved through a combination of operating efficiencies and improved technology. As a result of their competitively induced lower rates, AT&T has seen its total traffic volume increase. These three factors together; technological advances, operating efficiencies and increased demand, have allowed AT&T to remain healthy and thriving in the face of competition. Similarly, since the introduction of interstate competition in Alaska in 1982, long distance rates on interstate calls have decreased by roughly 50% while volumes have doubled, allowing Alascom to maintain its volume and profits. The dire predictions by Alascom about the effects of competition have not come true.

Therefore, based on both competitive economic theories and historical experience, it is reasonable to conclude that competition will result in lower long distance phone rates in the intrastate market for Alaskans.

Thank you for your consideration.



Note: Alascom rates based on a \$10.00 call placed in January 1969

## HISTORY OF TELECOMMUNICATIONS COMPETITION IN ALASKA

In 1969, RCA Alascom bought the Alaska Communications System from the military. As part of Alascom's bid proposal to the military, it agreed to provide service to all areas of 25 people or more.

By 1974, when Alascom had not expanded its system to rural Alaska, Congress and the FCC became concerned and requested a proposal for bush service from Alascom. In response, Alascom proposed a system consisting of large satellites in regional centers with terrestrial cable linking the regional centers.

Following an analysis of Alascom's proposal, the State of Alaska informed Alascom that its proposed system was inefficient and unreliable, asking Alascom to accept a proposal consisting of small earth stations in each village instead.

When Alascom refused to accept the state's alternative proposal, the state filed its own application in 1975 for 120 small earth stations to serve rural Alaska. In response, Alascom filed parallel applications with the FCC for the same small earth stations. Since the applications were overlapping, this created an impasse that could have lasted

several years. In an effort to avoid further delays in rural telephone service, the State of Alaska and the Alaska Legislature agreed to fund the small earth station program if Alascom installed and operated the earth stations.

The State of Alaska's application to the FCC was the first sign of competition and its resulting beneficial effect in Alaska.

In 1980, GCI filed an application with the FCC to provide communication service between Alaska and the Lower 48. Alascom opposed GCI's application even though competition had been accepted and was in full force in the lower 48 since the early 70's. Alascom argued to the FCC that competition in Alaska would destroy rural service, increase rates, and limit technological innovation. 1

In November 1982, GCI began long distance service in Anchorage under continuing protests by Alascom. The issue of whether or not Alaska should have competition in the provision of long distance service to and from Alaska was not fully put

---

1 See for example: Rebuttal Comments of Alascom in CC Docket No. 78-72, June 1981, pp. 16-21, Supplemental Comments of Alascom CC Docket 78-72, January, 1980, pp. 94-100.

to rest until 1984 when the FCC released a final order denying Alascom's applications for review - stating that Alascom's claims had been addressed and rejected on several occasions. 2

Since competition began in the interstate market, Alascom's rates have gone down by over 50% in urban as well as rural areas. Technological innovation has occurred bringing in more reliable and cost efficient digital service as well as new expanded private line services. Meanwhile rates within the state, where there is no competition, have increased since 1982.

The issue of competition within the State of Alaska was first addressed when the Alaska Public Utilities Commission (APUC) began a proceeding to determine whether or not Alaska should have competition within the state in August, 1983. The telephone industry and other participants filed several rounds of comments and attended two public hearings on the issue of intrastate competition. In addition, GCI filed proposed regulations which would establish the rules under which competitive services would be provided. Alascom opposed GCI's

---

2 See, Memorandum Opinion and Order, in Re Applications of GCI, File Nos. W-P-C-3345 et al., FCC 84-168 (April 24, 1984).

regulations making many of the arguments that it made in delaying interstate competition before the FCC.

In 1986, the APUC closed the proceeding on competition within Alaska without taking action. In response, GCI filed a formal application to provide service within Alaska as well as a new proposal for regulations.

Since 1986, the APUC has held two public hearings on the competitive question and has asked for comments from the industry on several occasions. Alascom continues to oppose competition and to this date the APUC has taken no action.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE LOREN LEMAN  
465-2095

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

HB 72 Fil

### M E M O R A N D U M

TO: All Members of the House  
FROM: Rep. Loren Leman *Loren*  
DATE: April 5, 1989  
SUBJ: Intrastate telecommunication competition

Today, I introduced legislation to allow intrastate interexchange telecommunication competition.

#### ADVANTAGES:

- 1) Competition will lead to lower costs and greater efficiency.
- 2) Universal service at reasonable rates is protected.
- 3) Provides clear policy mandate for Alaska Public Utilities Commission.

#### OBJECTIONS:

- 1) The Bush will go dark. The bill provides for regulation by the APUC that requires cost and income separation for entities participating in competitive and monopoly markets.
- 2) Bush telecommunications costs will skyrocket. According to ALASCOM's 1985 Intrastate MTS revenue data filed with the APUC, the subsidy flowing from urban to rural areas is at most 7.2% of rural costs.
- 3) ALASCOM will lose AT&T subsidy. The FCC is reviewing the subsidy regardless. Also, there is no evidence the rate integration subsidy will be endangered by competition.
- 4) Alaskan market too small to allow competition. GCI and others do not think so. We should let the market decide.
- 5) Decision should rest with APUC. The APUC has been considering competition for more than three years. The bill decides the public policy question of competition; APUC is still responsible for determining most of the "how".

SUNSET PROVISION: My bill includes a sunset provision for 1993. A future legislature will review APUC's evaluation of competition and determine if competition is worth preserving.

## ALASCOM 1985 INTRASTATE MTS REVENUE DATA

	<u>Dollars Per Year</u>			
	(millions)			
	<u>ANC-FBX JNU ROUTES</u>	<u>ANC-MAT VALLEY KENAI ROUTES</u>	<u>REST OF STATE</u>	<u>TOTAL STATE LONG DISTANCE REVENUES</u>
Alascom revenues	22.5	10.2	50.2	82.9
Alascom cost	(2.5)	(3.1)	(25.2)	(30.8)
Average local Telephone Co. Settlements	(9.2)	(14.3)	(28.6)	(52.1)
Surplus or * (Subsidy)	10.9	(7.3)	(3.6)	(0.0)

\* A total of \$10.9 million in surplus revenue is earned on the Anchorage-Fairbanks-Juneau route. Of this amount, \$7.3 million is used to subsidize the Anchorage-Mat Valley-Kenai Routes. The remaining \$3.6 million is available to subsidize service in the remainder of Alaska. See "Analysis of GCI Scenarios 1 and 2" presented by Alascom at public hearing, APUC Docket No. R-86-2, April 8, 1987.

Proposed by ARECA  
February 2, 1989

AS 42.05.720(3) Definitions, "Public" is amended to read:

(3) "public" or "general public" means

(A) any group of 10 or more customers that purchase the service or commodity furnished by a public utility as defined in (4) of this section and that is located or purchases the product or service outside the certificated service area of a public utility; [AND]

(B) any person, association or corporation that purchases a utility service or product and that is located or purchases the product or service within the certificated service area of a public utility; and

[(B)] (C) any utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products which are re-sold to an individual or [A] group included in (A) or (B) of this paragraph or which are used to produce the service or commodity sold to the public by the utility;

Comment: This amendment adds a third way to qualify as "public" under AS 42.05. The "Public" would be (1) ten or more customers outside a certificated service area, (2) one customer within the certificated service area of a utility, and (3) a utility buying a product or service for resale. This amendment was drafted in this way to continue to permit utility type sales, without regulation, to fewer than 10 customers outside of an area certificated to a utility while treating any such sale within a certificated territory as a utility transaction. This amendment would give the commission the authority to protect the financial health of Alaska's utilities from being undermined by other entities who can "cherry pick" the best customers with no responsibility to serve the less desirable customers.

Proposed by ARECA  
February 2, 1989

AS 42.05.461 is amended to read:

AS 42.05.461. Continuing Property Records. The commission may require a public utility to establish, provide, and maintain as part of its system of accounts, continuing property records segregated by the year of placement in service, including a list or inventory of all the units of tangible property used or useful in the public service identifying the property by location or project [, SHOWING THE CURRENT LOCATION OF THE PROPERTY UNITS BY DEFINITE REFERENCE TO THE SPECIFIC LAND PARCELS UPON WHICH THE UNITS ARE LOCATED OR STORED]. The commission may require a public utility to keep accounts and records in such a manner as to show, currently, the original cost of the property when first devoted to the public service, and the related reserve for depreciation. Each public utility with annual revenues exceeding \$100,000 shall keep continuing property records.

Comment: The purpose of this proposed amendment is to permit regulated utilities to keep the same kind of continuing property records for the APUC as they are required to keep for REA, CFC, and other lenders. Without this amendment, the present law actually requires a detailed mapping system to identify the location, by legal description, of every crossarm and bolt in the system.

Proposed by ARECA  
February 2, 1989

AS 42.05.381 is amended by adding a new subscription:

AS 42.05.381(f) Dues or fees paid to a trade association that is tax exempt under Section 501(c)(6) of the Internal Revenue Code shall not be disallowed as a business expenses because the trade association is engaged in lobbying.

Comment: The purpose of this proposed amendment is to protect the existence of associations like ARECA by establishing in the law that dues paid to such associations are an appropriate business expense for the member utilities.



## Representative H.A. "Red" Boucher

---

Chairman House Committee on State Affairs • Special Committee on Telecommunications

March 29, 1989

Dave Donley  
Representative  
P.O. Box V  
Juneau, Alaska 99811

Dear Dave,

In the process of researching the workload of APUC, I found out that there is no record of "aging" for the dockets under consideration. In other words, the Commission doesn't make available to the public, the length of time each case has been under consideration.

I suggest that intent language would be appropriate in the sunset bill as follows:

"The Commission shall publish in their annual report the filing date for each matter pending before them for action."

Sincerely,

A handwritten signature in cursive script that reads "Red".

H.A. "Red" Boucher  
Representative

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



January 23, 1989

Gordon Parker  
Alaska Telephone Association  
201 E. 56th Avenue, Suite 230  
Anchorage, Alaska 99518

Dear Gordon:

Thanks for your January 13 letter regarding HB 72, extending the termination date for the Alaska Public Utilities Commission.

A copy of your letter has been included in the House Labor and Commerce Committee members files. We look forward to hearing your proposals during future meetings on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dave Donley".

Representative Dave Donley, Chair  
House Labor and Commerce Committee

cc: Members files

dd/gb

subsequent

# Alaska Telephone Association

201 E. 56th Avenue / Suite 230  
Anchorage, Alaska 99518  
(907)563-4000 / FAX (907)562-3776

W. D. Pyron  
President

Gordon Parker  
Executive Director

January 13, 1989

Hon. Dave Donley, Chairman  
House Committee on Labor & Commerce  
House of Representatives  
P.O. Box 4  
Juneau, Alaska 99801

Dear Rep. Donley:

I have been advised that you have scheduled a hearing on sunset review of the Alaska Public Utilities Commission for January 20. The Alaska Telephone Association, and the 21 local telephone companies which I represent, are very interested in this proceeding.

Unfortunately, I have an unbreakable commitment on that date. I will be in Norman, Oklahoma at the University of Oklahoma participating in the fourth year of a six year educational program in which I am enrolled.

ATA will have proposed amendments to the APUC statutes. We have been working with Rep. Boucher on suggested language. On January 6, I met with the Commission to discuss our proposal. As a result of that conversation, I am recommending to my Board of Directors that we make some changes in our proposal. They will act on my recommendations on January 25. When that is accomplished, I would ask to meet with you to present our suggestions and would then be prepared to testify before your Committee.

I have spoken with Ginger on your staff who informs me there will be additional hearings. I thank you for understanding our absence and assure you of our participation in this proceeding.

If I can be of assistance, please don't hesitate to call.

Sincerely,

  
Gordon Parker

GP/jv



# Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HJR 37 HB 155  
HCR 2 HB 166  
HB 72

DATE: 3-30-89

PLACE: C-17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL
Paula Halley	State Comm for Human Rights	500 "A" St. Suite 202 Anchorage AK 99501		907 272-8706	907 372-7174	(Y) N	HB 155
Tom Lawson	DCED	PO Box 0 Juneau	99801		465-2017	(Y) N	HCR 2
Mary Pierce	WICHA	4000 Old Seward Hwy Suite 203 Anch, AK	99503	907 563-3414	W/C	Y (N)	
DAVID JOHNSON	ASMA	3012 Tongass Ave Ketchikan AK	99901	907 225-6396	907 225-5149	Y (N)	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



# Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HB 166  
HB 92  
HB 72

HB 155

DATE: 4-4-89

PLACE: C-17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT WHICH BILL?
GORDON EVANS	HIAA	318 4TH ST., JUNEAU	99801		586-3210	<input checked="" type="radio"/>	N	HB 92
MIKE COUGHLIN	RET/BEN	P.O. Box CR JUNEAU 99811		4	465-4470	Y	N	HB 92 IF NEEDED
Paul Zoller	DIO, U	Powh D Juneau			465-2175	<input checked="" type="radio"/>	N	HB 92
Kip Leff	Asst Admin				465-4430	<input checked="" type="radio"/>	N	HB - 155
Dennis Scholl, PhD	Alaska Mental Health Board	419 6th St, Suite 124 Juneau, AK 99801 →			465-3071	<input checked="" type="radio"/>	N	HB - 92
CONNIE J. SIPE	OAC				5-350	Y	N	To answer questions/obs H
Mary Piere	MICA	4000 Old Seward Anch AK 99503			563-3414	<input checked="" type="radio"/>	N	HB-166
Clark Liruewing	APA	217 Second Street Suite 204 Juneau				<input checked="" type="radio"/>	N	If true
Beth Bertie	AGO	Juneau				Y	<input checked="" type="radio"/>	HB-166
						Y	N	
						Y	N	



# Representative Dave Donley, Chair

## House Labor & Commerce Committee

SUBJECT OF MEETING:

HB 155      ~~HB 72~~  
 HB 235      HB 166

DATE: 4-6-89

PLACE: C#17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL?
John Manning	HSS	Box H-060 Juneau	99811		465-23027	Y <input checked="" type="checkbox"/>	
Kim Smith	MICA	10301 GLACIAL HWY JUNEAU	99801	789-0631	789-2910	<input checked="" type="checkbox"/> N	HB 166
Beth Kerttula	AG's	AGO				Y <input checked="" type="checkbox"/> N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	