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168

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 168

Local Exchange Phone Cos./Tariff Filings

Received February 15, 1989
by The State Affairs Committee

Heard March 22, 1989
Heard March 23, 1989

Committee Substitute adopted March 23, 1989

Passed Out of Committee March 23, 1989
3 Do Pass
2 No Recommendation
1 Amend

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February 21, 1989
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CSHB 168

Section I.

Section One of the CS accomplishes the same intent as the original bill. The intent is to make the same simplified tariff procedures available to local telephone companies that are available to electric cooperatives in the current statute.

Whereas the original HB 168 added a new subsection to the host statute, (42.05.281) the CS simply adds the words, local exchange telephone utility, to the existing subsection referencing electric cooperatives.

Section One of the CS version is different from the original bill in one other respect. It deletes any reference to the percent of rate adjustment that may be requested, (i.e., the second sentence beginning on line 13 of the original bill is deleted).

Section II.

Section Two of the bill establishes deadlines within which the APUC must decide matters for which utilities are compelled to get their approval.

The original bill established a deadline of six months and twelve months for interim and permanent rate increases, respectively, for utilities with gross annual revenue over three million dollars. It establishes deadlines of five months and twelve months for utilities with gross annual revenue under three million dollars.

The CS keeps the same deadlines for all tariff filings that are revenue related.

The CS separates non-revenue related tariff filings, and establishes a six month deadline that may be extended for good cause.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 168
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Local exchange telephone
utilities/tariff filings
Sponsor: Boucher
Requester: House State Affairs

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		371.7	371.7	371.7	371.7	371.7
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT		12.6				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		394.3	381.7	381.7	381.7	381.7

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

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

FUNDING: (Thousands of dollars)

GENERAL FUND		394.3	381.7	381.7	381.7	381.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULLTIME		7.0	7.0	7.0	7.0	7.0
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached

Prepared by: T. S. Moninski II, Executive Director Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 2-21-89
 Approved by Commissioner: Larry Merculieff - SM Phone: 465-2500
 Agency: Department of Commerce & Economic Development Date: 2-24-89

Distribution (by preparer):

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

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HB 168

LOCAL EXCHANGE PHONE UTILITIES/TARIFF FILINGS

Section 1 of the bill would create a simplified ratemaking methodology for local exchange telephone utilities. While it will be necessary for the commission to assign resources to the task of promulgating regulations to implement this section, the ongoing fiscal impact is expected to be negligible.

Section 2 of HB 168 would impose an absolute 12-month processing deadline on tariff requests which are suspended for investigation. In estimating the fiscal impact of this bill, a number of assumptions must be made to define the commission's strategy in response to imposition of this constraint.

First, it is assumed that the jurisdiction of the commission is essentially the same as that which existed prior to enactment of HB 168. Next, the commission assumes the intent of this legislation includes the continued enforcement of high qualitative standards for staff investigations, analyses, reporting and ultimate commission decision making. It is further assumed that the commission should actually complete its required work within the time frame established rather than unilaterally rejecting filings that it cannot reach or, conversely, allowing requests to default to approval due to inadequate resources or investigative time. Finally, since the bill fails to provide for any exceptions, it is assumed that commission resources should be sufficient to comply with statutory time standards even during periods of peak workload.

If the assumptions stated above are valid, the only way to implement the legally mandated time standards expressed in HB 168 is by reinstating a substantial portion of commission staff resources which have been lost to budget reductions since FY 84. The participation of all professional categories would be impacted by this bill. The commission's finance section would be the most severely affected and would require reinstatement of all three Utility Financial Analyst positions that have been deleted due to budget cuts. The Engineering, Tariff and Consumer Protection sections would each require the reinstatement of one professional position. In support of this added contingent of professional staff, reinstatement of two clerical positions would also be required.

Position Title		Utility Engineer III		No. of Positions	1	Range/Step	19A	Barg. Unit	G
Time Status	Staff Months			12		Location		Anchorage	
						Election District			
Justification									
In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Engineering section previously lost as a result of budget reductions must be reinstated.									
Type of Expenditure			Amount						
1		2		3					
Salary		40,032							
Benefits		13,680							
Premium Pay									
Other									
Total Personal Services				53,712					
Travel				2,500					
Contractual									
Commodities									
Equipment				1,800					
Other									
Total Cost				58,012					
Funding Source for Total Cost									
Federal Receipts		1002							
G. F. Match		1003							
General Fund		1004		58,012					
I-A Receipts		1006							
CIP Receipts		1061							
Other									

**Request For
New Position**

Agency Commerce & Economic Development
 BRU Alaska Public Utilities Comm.
 Component Operations

FY 90

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 Revised Date

Position Title Administrative Support Technician III		No. of Positions 2	Range/Step 10A	Barg. Unit G
Time Status	Staff Months 24	Location Anchorage		Election District
Type of Expenditure		Amount		
1	2	3		
Salary	44,040			
Benefits	19,506			
Premium Pay				
Other				
Total Personal Services		63,546		
Travel				
Contractual				
Commodities				
Equipment		3,600		
Other				
Total Cost		67,146		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006	67,146		
CIP Receipts	1061			
Other				
Justification				
In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Administrative Support section previously lost as a result of budget reductions must be reinstated.				

**Request For
New Position**

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 BRU Alaska Public Utilities Comm.
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FY 90

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 Revised Date

Position Title Utility Financial Analyst II		No. of Positions 2	Range/Step 19A	Barg. Unit G	
Time Status	Staff Months 24	Location Anchorage		Election District	
Type of Expenditure		Justification			
		<p>In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Finance section previously lost as a result of budget reductions must be reinstated.</p>			
I	2				3
Salary	80,064				
Benefits	27,360				
Premium Pay					
Other					
Total Personal Services					107,424
Travel					5,000
Contractual					
Commodities					
Equipment		3,600			
Other					
Total Cost		116,024			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004				
I-A Receipts	1006		116,024		
CIP Receipts	1061				
Other					

**Request For
New Position**

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 BRU Alaska Public Utilities Comm.
 Component Operations

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 Revised Date

Position Title Utility Financial Analyst III		No. of Positions 1	Range/Step 21A	Barg. Unit G																																													
Time Status	Staff Months 12	Location Anchorage		Election District																																													
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>45,744</td> <td rowspan="4"></td> </tr> <tr> <td>Benefits</td> <td></td> <td>14,696</td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td></td> <td>60,440</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td>2,500</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td>1,800</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td>64,740</td> </tr> </tbody> </table>		Type of Expenditure	1	2	3	Salary		45,744		Benefits		14,696	Premium Pay			Other			Total Personal Services			60,440	Travel			2,500	Contractual				Commodities				Equipment			1,800	Other				Total Cost			64,740	Justification In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Finance section previously lost as a result of budget reductions must be reinstated.		
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**Request For
New Position**

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Position Title Consumer Protection & Info, Officer I		No. of Positions 1	Range/Step 14A	Barg. Unit G	
Time Status	Staff Months 12	Location Anchorage		Election District	
Type of Expenditure		Justification			
Amount		<p>In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Consumer Protection section lost as a result of budget reductions must be reinstated.</p>			
1	2				3
Salary	28,236				
Benefits	11,109				
Premium Pay					
Other					
Total Personal Services					39,345
Travel					
Contractual					
Commodities					
Equipment		1,800			
Other					
Total Cost		41,145			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		41,145		
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
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 Component Operations

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Position Title Utility Tariff Analyst II		No. of Positions 1	Range/Step 17A	Barg. Unit G
Time Status	Staff Months 12	Location Anchorage		Election District
Justification				
In order to comply with statutory deadlines and to facilitate the continued production of professional quality recommendations, reports, analyses, and testimony a portion of the staffing in the Tariff section previously lost as a result of budget reductions must be reinstated.				
Type of Expenditure		Amount		
1	2	3		
Salary	34,740			
Benefits	12,526			
Premium Pay				
Other				
Total Personal Services		47,266		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		49,066		
Funding Source for Total Cost				
Federal Receipts 1002				
G. F. Match 1003				
General Fund 1004		49,066		
I-A Receipts 1006				
CIP Receipts 1061				
Other				

**Request For
New Position**

Agency Commerce & Economic Development
 BRU Alaska Public Utilities Comm.
 Component Operations

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STATE OF ALASKA

Item 3

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 168

February 21, 1989

The Commission opposes Section 1 of HB 168. This Section extends the simplified rate filing procedure currently allowed for electric cooperatives under AS 42.05.381(e) to all local exchange telephone companies (LECs). The existing law was premised on the elected board of directors of electric cooperatives assuming responsibility for rate changes. The proposed bill would extend this ratemaking option to all LECs regardless of their ownership or size. Rate increases for electric cooperatives are limited to 8 percent per year or 20 percent over three years under Commission regulations which can be modified, if necessary. HB 168 would allow LECs to increase their rates by 10 percent per year by statute. The level of rate increases permitted under a simplified filing procedure should not be established by statute, and, in any event, 10 percent annually is too high. It would allow LECs to double their rates in less than 8 years without significant regulatory oversight. In addition to the above, the Commission questions whether LEC regulation is amenable to this simplified process given the complexities of separating costs and revenues between local, interstate and intrastate toll services. Lastly, if this regulatory scheme is good policy for the LECs, it is difficult to imagine why an argument could not be made that it is equally applicable to all other types of utilities. This

logic and conclusion effectively results in no utility regulation in Alaska.

The Commission also can not support Section 2 in its present form. Any deadlines for Commission action must be established with due consideration of the resources available to the Commission to perform its duties and of the consequences of any inability to do so. Also, any deadlines should have some provision for extensions under extenuating circumstances. While a fixed time period may be desirable and achievable in most instances, the time periods established under the bill are too short and too restrictive for a number of reasons:

(1) Given budget cuts in recent years, the Commission is presently overloaded without imposing any additional time constraints on its performance.

(2) It is not appropriate to size the Commission Staff (per the attached fiscal note) in order to assure that cases that are particularly large or complex, or that happen to be filed contemporaneously, can be handled within a narrow time period. Rather, it is preferable to use scheduling flexibility to smooth out workload where necessary.

(3) To the extent that cases currently take longer than one year to process, it is just as likely to be a function of utility delay as it is regulatory delay. If the Commission were bound by a one year time frame, it would have to be much more stringent with respect to the quality of utility filings and requests for extension of time. In addition, it would not be a desirable

result if permanent rate requests were either rejected or accepted prior to completion of Commission review simply because the time period had run out.

(4) Any utility which requests interim rate relief and meets certain minimal standards is granted an interim rate increase within 45 days of filing its request. Requiring a second interim within six months is an administrative and regulatory burden and increases the likelihood that a refund may be necessary. The Commission believes that the provision to increase an interim rate to the level of the permanent rate request should not be exercised until one year has passed, so this additional financial protection would be invoked only in those instances where rate cases had been unduly protracted.

While the Commission continues to prefer the existing statutory language, it would suggest that if the approach in Section 2 is adopted, the provisions be clearly targeted at tariff filings in which utilities request general rate increases to offset a revenue shortfall. In addition, the time frames should be enlarged after due consideration of the Commission's duties and resources and the actual impact of both existing and proposed deadlines on utilities. Lastly, there should be a provision for extending the full time period under extenuating circumstances. Attached is alternative draft legislation for Section 2 addressing some of the Commission's concerns.

Attachment

HB 168

AS 42.05.421 is amended to read:

(a) When a tariff filing is made containing a new or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing.

Pending such a hearing the commission may, by order stating the reasons for its action [SUSPEND THE OPERATION OF THE TARIFF FILING FOR]:

(1) suspend the operation of any tariff filing which does not include an increase in the utility's revenue requirement for an initial period not longer than six months beyond the time it would otherwise go into effect, and for such additional periods as appropriate;

(2) suspend the operation of a tariff filing which includes an increase in the utility's revenue requirement for a period not longer than 12 months before an interim rate increase equal to the requested rate increase goes into effect and, absent good cause shown, not longer than -- months before a permanent rate increase goes into effect if the annual gross revenues of the utility making the filing are more than \$3,000,000; and

(3) suspend the operation of a tariff filing which includes an increase in the utility's revenue requirement for a period [2]

not longer than 5 months [150 DAYS] before an interim rate increase equal to the requested [NEW] rate increase goes into effect and, absent good cause shown, not longer than one year before a permanent rate increase goes into effect if the annual gross revenues of the utility making the filing are \$3,000,000 or less.

ALASKA TELEPHONE ASSOCIATION

POSITION PAPER ON H.B. 168, AN ACT RELATING TO SIMPLIFIED
REGULATION OF LOCAL EXCHANGE TELEPHONE UTILITIES; AND
RELATING TO SUSPENDING THE OPERATION OF TARIFF FILINGS

Since the implementation of the consent decree requiring AT&T to divest itself of its local exchange telephone companies in 1984, the telecommunications industry has been completely restructured. The old system of settlements, that is, cost recovery through negotiated agreements between local exchange companies (LECs) and interexchange carriers (IXCs), has been done away with at the interstate level in favor of a new system of carrier access charges, that is, charges paid by IXCs to LECs for access to the local loop. Competition in the provision of interstate, interexchange services has become practice.

This restructuring has resulted in a rethinking of standard methods of regulation, both at the federal and the state level. Since 1984, 25 states have passed legislation pertaining to deregulation of telecommunications exchange services. Most of the legislation pertains to the provision of interexchange services. Very few omit the maintenance of universal service as a continuing goal. Most of them do, however, consider, to varying extents, the effect on basic local service.

Indiana, for instance, enacted legislation which allows a LEC

serving less than 6,000 access lines or a representative group of their customers to petition for deregulation in the areas of rates, charges and financing. Missouri deregulated rates of cooperative telephone companies. Oregon deregulated rates for LECs with fewer than 15,000 lines. Virginia provided for relaxed regulation for small investor owned LECs. Texas provided for a range of rates concept for certain LECs, whereby rates could be altered within a predetermined range without the expense and time involved for a full rate case.

Since that first round of state action, there has been enough passage of time to determine the effect on consumers and the LECs. That effect has been universally good. In an article in the January issue of Telematics: The National Journal of Communications Business and Regulation, Warren G. Lavey and Ronald W. Gavillet track the progress of these moves toward less regulation. This excellent article concludes: "While measuring the success of these efforts is difficult, all indications are positive. No legislature or commission with experience in lighter burdens for small companies has subsequently increased or reimposed regulatory requirements. On the contrary, Iowa, Minnesota, South Dakota and Virginia have raised the maximum number of access lines for small telephone company exemptions, and the Wisconsin Public Service Commission has recommended the same action."

The states referred to in the Lavey-Gavillet article have adopted differing size limitations for relaxed regulation. Looking briefly at the list, we find the following:

Illinois - 15,000
Indiana - 6,000
Iowa - 15,000
Minnesota - 30,000
Missouri - 25,000
Montana - 5,000
Nebraska - All Companies
Ohio - 15,000
Oklahoma - 15,000
Oregon - 15,000
South Dakota - 10,000
Texas - 5,000
Utah - 5,000
Virginia - Gross Revenues Less Than \$10 Million
West Virginia - 2,500
Wisconsin - 7,500

There are two differences between these states and Alaska which come to mind in terms of the size and structure of LECs. First, the companies in Alaska are much smaller overall than in any of the other states. There are 22 LECs providing service in Alaska. Of those, all but two would be eligible for relaxed or streamlined regulation in Minnesota; 19 in Missouri; 17 in Illinois, Iowa, Ohio, Oklahoma or Oregon; 15 in Montana, Texas, Utah or Wisconsin; and 13 in West Virginia. Of the four largest companies in Alaska (that is, over 20,000 access lines), three are consumer or municipally owned.

Second, Alaska has heretofore not been subjected directly to competition in telecommunications services to the extent these other states have felt. The question of intrastate competition is being pressed, however. Additionally we have

been and are being subjected to cost shifts as a result of the interstate competitive market. Stated simply, costs that were previously borne by ratepayers nationwide are, over an eight year transition period which ends in 1992, be shifted back to ratepayers within the state. How those costs will, in turn, be divided between intrastate toll ratepayers and local ratepayers has not yet been determined.

We know that costs are being shifted from interstate to intrastate and that companies will have to seek rate adjustments. We also know that if companies are obligated to go through a full rate case to make the necessary adjustments, the result will be simply additional costs to customers. It should be noted that we are not asking for deregulation. We are only asking in HB 168 that the Commission be directed to devise a simplified proceeding to allow all companies to move quickly and with a minimum of cost to react to these pressures which are outside of their control. We are asking for a procedure which has worked well in other states and, since its implementation for electric utilities, has worked well in Alaska.

The second section of HB 168 simply requires the Commission to complete its review of a rate filing within one year. As we note above, the pressures on LECs are coming quickly and the days when lengthy delays can be afforded are gone. We do not believe that 12 months is unreasonable. Again looking at

other states, we find several with considerably shorter

limitations: Arkansas - Currently developing range of rates system providing for ten days notice.

Kentucky: Rates are automatically allowed on an interim & refundable basis after six months.

Nebraska: Commission must act within five months if consume objection is received.

Pennsylvania: Nine months on major rate cases.

South Dakota: Except for Bell, no Commission action required.

Wisconsin: Unlimited time for action for companies over 7,500; six months allowed for smaller companies upon complaint. It should be noted that the Wisconsin Commission supports legislation which would provide a seven month limitation for companies under 50,000 access lines.

Georgia: Rate allowed on interim & refundable basis after five months.

Ohio: Rate allowed on interim & refundable basis after nine months.

New York: 11 months limit. Company can voluntarily agree to extend.

Iowa: Ten months on major rate cases; can be extended under certain circumstances.

Washington: 11 months.

Oregon: Six months with 60 day extension.

Florida: Eight months.

Utah: Eight months.

In summary, the companies providing local exchange telephone service note the transitory nature of the industry today.

They advise the legislature that there is a necessity to revise the system of regulation to provide for reduced costs and more prompt reaction. The industry asks that the

Commission be directed, through HB 168, to promulgate and implement regulations which provide for a streamlined rate adjustment proceeding for all companies, with proper provision for consumer protection and based on a predetermined range of rates. The industry further asks, through passage of HB168, that the Commission be required to respond to rate filings and issue a decision within one year.

LOCAL EXCHANGE TELEPHONE COMPANIES CERTIFICATED IN ALASKA

Company	Access Lines
Anchorage Telephone Utility	112,241
Telephone Utilities of the Northland	34,648
Matanuska Telephone Association	25,744
Fairbanks Municipal Utilities System	23,361
Telephone Utilities of Alaska	15,013
GTE of Alaska	11,234
Ketchikan Public Utilities	7,003
Copper Valley Telephone Coopertive	2,932
United Utilities	2,588
Interior Telephone	2,086
National Utilities	1,551
OTZ Telepone Cooperative	1,542
Nushagak Telephone Cooperative	1,286
Arctic Slope Telepone Association Cooperative	1,256
Cordova Telepone Cooperative	1,185
Bristol Bay Telephone Cooperative	894
Mukluk Telephone	537
Bush-Tell	411
Yukon Telephone	320
North Country Telephone	90
Bettles Telephone	50
Summit Telephone	40

Telematics

THE NATIONAL JOURNAL OF COMMUNICATIONS BUSINESS AND REGULATION

Volume 8, Number 1, January 1989, Monthly

Regulation of Small Exchange Telephone Companies: Lighter Burdens in 17 States

By Warren G. Lavy and Ronald W. Gavillet

Small exchange telephone companies face several disadvantages in attempting to provide services comparable in rates and quality to those of large exchange telephone companies.

Because they serve fewer subscribers and low-density (rural) areas, most small companies are unable to gain the economies of scale and density evident in this industry. Moreover, these carriers usually serve a lower proportion of "premium" subscribers, such as businesses and users of custom-calling features.¹

Regulatory burdens can add to the operational disadvantages of small exchange telephone companies. These burdens include the expenses of filing tariffs, preparing cost support, witnesses attending and briefs for rate changes, and the costs of reports on operations and financial performance. On a per subscriber basis, these regulatory activities typically impose heavier burdens on small telephone companies than on their large ones.²

Heavy regulatory burdens are neither inevitable nor essential to effective regulation of small exchange telephone companies. This paper reviews legislative and regulatory developments in seventeen states that impose lighter burdens on small

Warren G. Lavy is a partner and Ronald W. Gavillet is an associate at the Chicago office of Skadden, Arps, Slate, Meagher & Flom. The authors are grateful for the research assistance of Lisa Barbieri in the preparation of this article.

exchange telephone companies than on large ones. Although the intent is similar across these states, they differ in what qualifications are necessary for lighter burdens, the nature of the exemptions, and when and how the exemptions were enacted.³

While measuring the success of these efforts is difficult, all indications are positive. No legislature or commission with experience in lighter burdens for small companies has subsequently increased or reimposed regulatory requirements. On the contrary, Iowa, Minnesota, South Dakota and Virginia have raised the maximum number of access lines for small-company exemptions, and the Wisconsin Public Service Commission has recommended the same action. The Chairperson of the Iowa Utilities Board recently observed that small companies in that state have performed well under lighter regu-

Continued on page 2

ARTICLES

Rewriting the "Computing Devices Rules": The FCC's Ongoing Struggle To Regulate Design in a Dynamic Industry

By Lawrence J. Movshin

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The FCC's efforts to protect communications services from computer interference has been marked by informal regulatory oversight. A more comprehensive regulatory proceeding is being closely watched to see if the Commission can anticipate developments in a rapidly changing industry.

DEPARTMENTS

On the Podium:

AT&T's Richard Romano

24

The Docket

17

latory burdens in terms of both rates and service quality. Additionally, subscribers served by small companies have almost universally endorsed continuation of lighter burdens.

The U.S. Department of Commerce recently concluded that regulatory burdens on small rural telephone companies should be further reduced:

[T]he current trend toward reducing regulatory burdens on small rural communications companies should be continued, and indeed, accelerated. It is difficult enough to operate a very small, independent telephone system in a remote rural area without the Government imposing an array of regulatory requirements essentially designed for much larger entities. And while the elimination of virtually all regulation may pose some risks, they likely are far smaller in rural areas, where company and community tend to be even more closely tied than is true in larger population locales.⁴

More states should lighten the regulatory burdens for small companies, and those states which have already done so should further limit the burdens of filing data and responding to commission inquiries.

Rationale for Lighter Regulatory Burdens

Decisions by legislatures and regulatory commissions to impose lighter regulatory burdens on small companies have been justified on the basis of (1) community accountability, and (2) cost-benefit analysis.

Community Accountability. Subscribers served by small companies typically have closer social and economic contacts with the companies' owners and managers than do subscribers served by large companies. The greater community accountability ("peer pressure") of companies decreases the need for review by regulatory commissions. Statements from Iowa, Illinois and Oregon illustrate this rationale for lighter burdens.

As the Chairperson of the Iowa Utilities Board stated:

In large part, Iowa's success with deregulation of small LECs [local exchange carriers] is due to the nature of life in rural, small town Iowa. Typically, the small LEC provides service only to its own local community or, in addition, to a few neighboring communities. The manager and board of directors of a small LEC are the neighbors and friends

of their customers. The immediacy of that relationship keeps the management and ownership closely in tune with and responsible to the customers. In effect, these small LECs are subject to a far more intrusive form of regulation—local public pressure—than that exercised by the IUB. Without the strong and special sense of community found in rural Iowa, I don't believe deregulation of telephone rates would be nearly as effective.⁵

Similarly, the Illinois Commerce Commission noted that "for small local exchange carriers, informal community pressure will prevent unnecessary rate increases."⁶ Also, in granting several requests by small companies not to keep tariffs on file, the Oregon Public Utilities Commission observed that the service areas for these companies are "small and compact [and] the customers likely have more direct influence on rates and service than the customers of large utilities."⁷

Cost-Benefit Analysis. Cost-benefit analysis weighs in favor of less regulation for small companies. Fewer subscribers cause higher costs per subscriber from certain regulatory burdens for small companies. The costs of many activities (e.g.,



Telematics
THE NATIONAL JOURNAL OF COMMUNICATIONS BUSINESS AND REGULATION

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a rate case or a report on service quality) vary relatively little with differences in the size of exchange telephone companies. Consequently, the cost of some regulatory activities are more likely to outweigh its public benefits; this supports lighter burdens for small companies.

This cost-benefit justification for lighter regulatory requirements recognizes that ratepayers served by small companies benefit from less regulation. Less regulation of these companies does not mean that they will undertake unreasonable rate increases or let service quality deteriorate. Rather, lower regulatory costs mean lower rates.

The cost-benefit rationale appears in a legislative finding in Minnesota,⁸ a recommendation for legislation by the Wisconsin Public Service Commission,⁹ a report of the Illinois Commerce Commission,¹⁰ and an order of the Oregon Public Utilities Commission.¹¹

Success of Lighter Regulatory Burdens on Small Companies

The states' successful experience with lighter regulatory burdens on small exchange telephone companies is indicated by three factors: (1) actions in five states to increase the maximum size of telephone companies qualifying for lighter burdens; (2) a statement from one state on the performance of small companies under lighter burdens; and (3) endorsements from subscribers served by almost all small companies subject to lighter burdens for continuation of such regulation.

Maximum Size. First, four states have raised the maximum size of telephone companies qualifying for lighter burdens, and a fifth state's Commission recently recommended similar action. Expansion of these provisions indicates that the states were satisfied with their experience.

When enacted in 1981, Minnesota's provision was limited to companies serving fewer than 2,500 customers; this covered 56 companies. In 1984, 18 more companies were included when the threshold was raised to 15,000 customers. In 1987 the legislature extended the provision to companies with fewer than 80,000 customers.¹²

Similarly, Iowa raised its exemption from 2,000 access lines (enacted in 1969) to 15,000 access lines and customers (enacted in 1983). The increase exempted six additional companies from rate regulation.¹³ South Dakota increased its exemption from 7,000 subscribers in 1979 to 10,000 subscribers in 1987.¹⁴ In 1987, Virginia expanded the availability of streamlined regulation from companies with less than \$10 million in gross revenues to include companies with gross revenues between \$10 and

\$30 million that are not subsidiaries of an interstate holding company.¹⁵ Along the same lines, the Wisconsin Commission proposed to raise its maximum qualification from 7,500 customers to 9,000 access lines.¹⁶

Performance Review. Another positive measure is regulators' direct assessment of how small companies have performed under lighter burdens. The Chairperson of the Iowa Utilities Board recently concluded that:

Iowa's experience with deregulation of its small LECs has been positive. Their average local service rates are at or below the rates of the five rate-regulated companies, their service levels are perceived as adequate as noted in the fact that service complaints registered with the IUB on a per capita basis for the small LECs are no higher than for rate-regulated companies. Furthermore, it's our impression that the nonrate-regulated LECs have done as good a job as their regulated brethren in updating equipment.¹⁷

This positive review of small companies' rates, service quality, and technological advances is based on 25 years of experience with lighter regulation in Iowa.

Subscriber Endorsements. A third positive indication appears in states that give subscribers served by small companies an opportunity to elect to have their carriers subject to heavier regulation. Subscribers have almost universally endorsed continuation of lighter requirements for small companies.

South Dakota¹⁸ and Nebraska¹⁹ enacted provisions to permit such elections in 1982, but neither state has had a petition filed calling for an election. A similar provision in Oklahoma was enacted in 1988, but also has not been used by subscribers.²⁰ Since 1988, approximately 40 small companies in Wisconsin have been subjected to lighter burdens;²¹ rate regulation has been reapplied to only one company there as a result of a subscriber petition.²²

State-by-State Review

Here is a summary of the status of small exchange telephone company regulation in 17 states with lighter regulatory burdens.

Alaska. Companies with gross revenues less than \$50,000 annually may elect to be exempt from all regulation unless 25 percent of the subscribers petition for regulation.²³ Carriers with gross revenues less than \$925,000 must obtain certification from the Commission but may opt out of all other

Threshold -
subscribers
& access lines
gross rev.

45

regulations,²⁴ provided they receive support from a majority of their subscribers voting in an election.²⁵

Illinois. Companies that are not a subsidiary of a holding company outside of Illinois and serve fewer than 15,000 subscribers may have streamlined tariff review.²⁶ However, an investigation into a rate change may be held upon petition by five percent of the affected subscribers or on a motion by the Commission. Currently, 87 small companies are covered by this provision.²⁷ The Illinois Independent Telephone Association has stated that Commission staff often requests small companies to provide cost support and other data related to tariff filings.²⁸ Illinois has not streamlined the annual reports that must be filed by small companies.

Indiana. Companies serving fewer than 8,000 access lines may, upon petition, be exempt from Commission approval requirements for rates, charges, and financing.²⁹ Tariffs and annual reports must still be filed by these carriers.³⁰ Regulation may be reimposed upon petition by 10 percent or 500 (whichever is less) of the subscribers.³¹

Iowa. Companies serving fewer than 15,000 access lines and fewer than 15,000 customers are not subject to rate regulations, including exemption from rate of return restrictions.³² Annual reports and tariffs are still filed by these carriers, and service quality is still regulated. Approximately 150 small carriers are covered by this provision.

Minnesota. Companies serving fewer than 30,000 subscribers are not subject to general rate case requirements.³³ Tariffs and annual reports must still be filed, and service quality and depreciation schedules continue to be regulated.³⁴

Missouri. Since 1987, companies serving fewer than 25,000 subscriber access lines have received streamlined review of rate and tariff changes.³⁵ Hearings for rate increases are not mandatory, and a decision must be issued within 150 days.

Montana. Companies serving fewer than 5,000 subscribers in the state are not subject to rate regulation, but proposed rates can be reviewed upon petition by 10 percent of the subscribers or by the consumer counsel.³⁶ The Commission does not require these carriers to file tariffs.

Nebraska. All exchange companies have enjoyed significant rate flexibility since January 1, 1987.³⁷ Hearings for basic rates are necessary for carriers serving fewer than 50,000 access lines only if 5 percent of their subscribers complain; rate changes for carriers serving 50,000 to 250,000 access lines are reviewed only if 3 percent of their subscribers complain; carriers serving over 250,000 access lines have a hearing only if 2 percent of subscribers complain.³⁸

Another statute provides that exchange companies serving fewer than 5,000 subscribers are not subject to rate regulation unless (1) at least 51 percent of the subscribers petition to apply rate regulation to the carrier; (2) 5 percent of the subscribers petition to apply rate regulation to a specific rate change; or (3) rate increases exceed 30 percent in a given year.³⁹ Rate regulation can later be removed if at least 51 percent of the subscribers petition.⁴⁰

Ohio. In December 1988, Ohio enacted legislation allowing the Commission to exempt a telephone company having fewer than 15,000 access lines from regulation, except as to (1) procedures for abandoning facilities and dealing with service complaints, (2) requirements of adequate service and facilities, just and reasonable charges, minimum service standards, filing rate schedules and charging of schedule rates, and (3) authority of the Commission to order changes in utility operations. A small telephone company must apply for such an exemption.⁴¹

Oklahoma. Companies serving fewer than 15,000 subscribers are not subject to rate regulation unless 51 percent of the subscribers petition to change the status of the carrier's regulation.⁴² In a specific rate case, however, rate regulation may be imposed if the rate increase exceeds \$2.00 per access line, or if 15 percent of the subscribers petition to apply rate regulation to that specific rate case.⁴³ Tariffs are filed by these carriers, but the reasonableness of the rates is not reviewed unless rate regulation is applied.

Oregon. Companies serving fewer than 15,000 access lines and not affiliated with any other Oregon utility are exempt from rate review and financing approval provisions.⁴⁴ However, if 10 percent or 500 subscribers (whichever is less) petition within 10 days of the effective date of the proposed rate increase, a hearing will be held.⁴⁵ There has yet to be a hearing as a result of subscriber petitions.

South Dakota. Companies serving fewer than 10,000 subscribers are exempt from regulation.⁴⁶ However, if 5 percent or 25 subscribers (whichever is greater) petition, an election among all subscribers to return the carrier to regulation will be held.⁴⁷ These carriers exempt from regulation are not required to file annual reports or tariffs with the Commission, but are still subject to service quality regulations.

Texas. Companies serving fewer than 5,000 access lines may change rates under streamlined procedures.⁴⁸ The Commission has discretion whether to investigate the rate change. However, the Commission will investigate an increase if 5

percent of the affected subscribers petition, if the gross revenues increase 2.5 percent, or if any one rate increases 25 percent annually.⁴⁹

Utah. Companies serving fewer than 5,000 access lines are not required to enter into hearings to support rate increases.⁵⁰ However, a hearing may be held on the Commission's motion or if 10 percent of the subscribers challenge the rate increase. Twelve of the state's 14 exchange carriers are covered by this provision.

The Commission has adopted rules to implement this statute,⁵¹ and has held proceedings pursuant to this provision. The normal proceeding involves three steps. First, a streamlined rate filing is made. Next, the Commission reviews and audits the figures informally. Third, a community hearing is held. If over 10 percent of the subscribers complain, a formal hearing will be convened.⁵²

Virginia. Companies with gross operating revenues of less than \$10 million, or with gross operating revenues of \$10-30 million and not a subsidiary of an interstate holding company, have streamlined tariff review.⁵³ However, on the Commission's motion or petition of the lesser of 5 percent or 150 subscribers, a hearing will be required for any rate change.⁵⁴

The Commission's rules address notice requirements and minimum support for rate changes, and remove the annual informational filing requirements.⁵⁵ Seven of the nine small companies have filed rate changes using these streamlined procedures. The Commission has never suspended rates on its own motion, nor held a hearing based on customer complaints.

West Virginia. Tariff suspension periods are shorter for companies serving fewer subscribers; tariffs for carriers serving fewer than 2,500 customers cannot be suspended more than 125 days.⁵⁶

Wisconsin. Companies serving fewer than 7,500 customers may elect flexible rate regulation.⁵⁷ The flexible regulation includes pricing limitations and provisions allowing customers to petition for review of rate changes and for reapplication of rate regulation. The Commission may also investigate rate changes. Only one of the approximately forty carriers covered by this provision has had rate regulation reapplied as a result of a customer election.⁵⁸

The Commission has proposed guidelines to the legislature addressing the Commission's exercise of its discretion to investigate rate changes.⁵⁹ In addition, the Commission is recommending raising the small-carrier definition from 7,500 to 9,000 customers, and limiting customer elections for regulation to one per 12-month period.

Conclusion

The reasons for relieving small exchange telephone companies from certain regulatory burdens are strong, and there is a positive record from lighter burdens on small companies in 17 states.

Additional deregulation of small companies appears justified. One such action would further limit the need for cost support and hearings when small companies change rates, and further limit reports from small companies. For example, some states that now allow commission staff on its own initiative to request additional information from small companies could limit such inquiries to instances when a substantial percentage of the affected subscribers petition the Commission. A second action along these lines would raise the maximum size of companies for which small-company exemptions are available. Finally, additional states could adopt lighter regulatory burdens for small companies.

NOTES

1. See W. Lavy, *Factors Influencing Investment, Costs, and Revenues of REA Telephone Companies* (Harvard Program on Information Resources Policy 1982).
2. When the Federal Communications Commission decided to reduce certain regulatory burdens for small but not large exchange carriers, the Commission reasoned that "large companies have sufficient administrative resources and economies of scale to satisfy burdens of existing tariff filing requirements. These advantages are not available to the small telephone companies." *Regulation of Small Telephone Companies*, 2 FCC Rcd 8811, at 8812 (1987). See also United States General Accounting Office, *Telephone Communications: Issues Affecting Rural Telephone Service*, 27-30 (1987).
3. All of the regulatory burdens analyzed here involve procedures for changing rates and reporting operational and financial results. This paper does not address certain widespread measures such as allowing small companies to use average cost schedules for toll compensation (rather than preparing individual cost studies), and to use fewer accounting classifications.
4. National Telecommunications and Information Administration, *Telecom 2000: Charting the Course for a New Century* 94 (1988).
5. D. Nagel, *A Case Study of Iowa's Experiences in Implementing Deregulation* 6 (unpublished speech Sept. 26, 1988).
6. Illinois Commerce Commission, *1987 Annual Report on Telecommunications* at 5 (1988).
7. *Petition of Hallx Telephone Co.*, Order No. 88-584 at 2 (Or. May 31, 1988). See also *Petition of Eagle Telephone System*, Order No. 88-581 at 2 (Or. May 12, 1988); *Petition of Midvale Telephone Exchange, Inc.*, Order No. 88-585 at 2 (Or. May 31, 1988); *Petition of Pine Telephone System, Inc.*, Order No. 88-1215 (Or. Oct. 18, 1988).
8. "The cost of regulation was believed to outweigh the benefits which the customers of these small companies were receiving." Minnesota State Planning Agency, *Re-*

part of the Interagency Task Force on Telecommunications Regulation 52 (Dec. 1986).

9. The Wisconsin Commission proposed the following statement of legislative intent:

The legislature finds that the telecommunications industry is in a state of transition, providing new sources of competition and experiencing changes in technology, public policy and federal regulatory and judicial initiatives which are revolutionizing the industry. To respond to those changes and to recognize their small consumer base and volatile earnings, small telecommunications utilities shall be given a lesser degree of regulation than other local exchange carriers, unless the other local exchange carriers are subject to competition. It is the intent of the Legislature to give small telecommunications utilities greater flexibility and to reduce their regulatory burdens, costs, and delays by permitting those companies to establish their rates for service, depreciation rates, profit sharing and classifications without commission review, investigation and approval.

Letter from C. Thompson (Chairman) to Hon. R. Shoemaker (State Representative) (Jan. 5, 1988).

10. "This provision also reduces the regulatory costs that are incurred by the company (and hence the ratepayers) and the Commission in traditional rate cases." Illinois Commerce Commission, *supra*, at 5.

11. See, e.g., *Petition of Pine Telephone System, Inc.*, Order No. 88-1215 (Or. Oct. 18, 1988) ("Relief from the [tariff] filing requirements should reduce Pine's costs and increase its flexibility, allowing more efficient operations and lower rates for monthly service.").

12. Minn. Stat. Ann. § 237.075, Subd. 9; Minnesota State Planning Agency, *supra*, at 52-53.

13. Iowa Code Ann. § 478.1; D. Nagel, *supra*.

14. S.D. Codified Laws Ann. § 49-31-5.1 (1987 Amendment).

15. Va. Code § 58-531 (1987 Amendment).

16. Letter from C. Thompson, *supra*.

17. D. Nagel, *supra*, at 6.

18. S.D. Codified Laws Ann. § 49-31-5.2.

19. Neb. Rev. Stat. § 75-509.01(3).

20. Okla. Stat. tit. 17 § 137(F).

21. Wis. Stat. Ann. § 195.218, 215.

22. See Letter from Wisconsin Public Service Commission to C. Schroeder, Peoples Telephone Company (May 11, 1988).

23. Alaska Stat. § 42.05.711(e).

24. *Id.* § 42.05.711(f).

25. *Id.* § 42.05.712.

26. Ill. Ann. Stat. ch. 111 2/3, § 13-504.

27. Illinois Commerce Commission, *supra*, at 5.

28. Personal communication from Illinois Independent Telephone Association to authors.

29. Ind. Code Ann. § 8-1-2-88.5.

30. *Id.* § 8-1-2-88.5(e),(f).

31. *Id.* § 8-1-2-88.5(d).

32. Iowa Code Ann. § 478.1.

33. Minn. Stat. Ann. § 237.075, Subds. 3, 9.

34. Minnesota State Planning Agency, *supra*, at 53.

35. Mo. Ann. Stat. § 392.290(4),(5).

36. Mont. Code Ann. § 69-9-902, 907.

37. Neb. Rev. Stat. § 98-808.

38. *Id.* § 88-803(3).

39. *Id.* § 75-809.01.

40. *Id.* § 75-809.01(5).

41. Ohio Rev. Code § 4927.04.

42. Okla. Stat. Tit. 17 § 137(B),(F).

43. *Id.* § 137(B)(2),(3).

44. Or. Rev. Stat. § 757.870.

45. *Id.* § 757.870(6).

46. S.D. Codified Laws Ann. § 49-31-5.1, 5.2.

47. *Id.* § 49-35-5.2.

48. Tax. Rev. Civ. Stat. Ann. Art. 1448c Sec. 43B.

49. *Id.* Sec. 43B(6)(c).

50. Utah Code Ann. § 54-7-12(6).

51. Utah Admin. R. § 760-944.

52. See *Union Telephone Company*, Case No. 87-084-01 (Utah Dec. 31, 1987).

53. Va. Code Ann. § 58-531, 632.

54. *Id.* § 58-532.

55. See *Adopting Rules to Implement the Small Investor-Owned Telephone Utility Act*, Case No. PUC880017 (Va. Sept. 19, 1988).

56. W. Va. Code § 24-2-4a.

57. Wis. Stat. § 195.218.

58. See Letter from Wisconsin Public Service Commission to C. Schroeder, *supra*.

59. See Letter from C. Thompson, *supra*.

HB 168
OPENING STATEMENT
by
Rep. H. A. "Red" Boucher

HB 168 was introduced at the request of the Alaska Telephone Association. It has two purposes.

- 1) Its first purpose is to require the APUC to adopt regulations that would allow local telephone companies (not long distance companies like Alascom and GCI) a simplified, less costly procedure for changing telephone rates. The range of rate changes encompassed by the bill, as presently written, would have to be less than ten percent in any twelve month period. The change in rates may be an increase or a decrease.
- 2) The second purpose of HB 168, is to establish certain time periods in which the APUC must act on matters that utility companies are required to submit to them for approval. Presently, there is no deadline for Commission action. HB 168's time period for APUC action is six months for interim rate changes and one year for permanent rate changes. (Interim rate changes for utilities with less than three million dollars gross annual revenue have a five month deadline instead of a six month deadline.)

HB 168 would benefit the telephone utility companies that operate in communities throughout the state. The key question to which I invite the committee's urgent attention, and to which I want all witnesses to attend, /is whether this legislation erodes APUC's mandate to protect telephone consumers from arbitrary increases in telephone rates. /

Alaska Consumer Advocacy Program
Comments on HB 168

March 22, 1989

The Alaska Consumer Advocacy Program represents residential utility consumers in electric, natural gas, water, waste water, and telephone hearings throughout the State of Alaska. We support (1) sound utility management, (2) fair and just regulation of public utility monopolies, and (3) the lowest utility rates that are reasonable and just for ratepayers.

ACAP opposes HB 168 very strenuously. We understand that Alaskan local exchange telephone utilities are anticipating increased financial pressures for the next several years. We believe, however, that the present HB 168 is not proper and that it will not bring relief to local exchange telephone utilities in financial need ... or for that matter ... provide lowest cost possible telephone services that are just and reasonable to ratepayers throughout Alaska.

Here in outline form is why ACAP is against HB 168:

- (1) the philosophical basis underlying the proposition is an improper extension of existing regulatory law,
- (2) it provides for imprudent economic regulation of monopoly services in local exchange telephone utilities,

The Alaska Consumer Advocacy Program
Post Office Box 103111
Anchorage, Alaska 99510

(3) it gives shortened review periods for APUC to examine interim and permanent rate requests that would invite disaster, and

(4) this bill would undo current telephone economic regulation to the point that long State of Alaska court intervention would be extremely likely,

At this point ACAP would like to expand upon and clarify the points identified above. What is wrong with the philosophy that was used to allow electric cooperatives the opportunity of a simplified rate-making process? Nothing is wrong with this procedure when it is used by a coop. If the coop Board of Directors uses this procedure to set electric rates which are too high, this same electric coop refunds these overpayments back to its owner-members. If the coop members do not like what the Board of Directors have done with their electric rates, the coop Board of Directors can be voted out. This simplified rate filing procedure limits the participating electric coop to a maximum rate increase of 8% per year or to 20% over a three year period.

One of the problems with HB 168, is that local exchange telephone companies are not all cooperatives (coops). These local exchange telephone companies are: (1) coops, (2) municipally-owned like ATU, or (3) private investor owned utilities. How do ratepayers

retrieve overpayments made to municipally-owned or privately owned utilities? How do they get their money back? Under HB 168 it is not clear under what conditions the APUC staff will even have access to the books of a local exchange telephone company: if the LEC were inside the 10% per year rate increase ceiling, why would APUC intervene? Under the mechanics of HB 168, it would seem that ratepayers would not get their money back (or more likely, even know that it was missing).

For many years local exchange telephone utility companies have provided better service and at very reasonable rates. This was done because of good company people, modern equipment, ratepayers who paid rates, and the regulatory bodies which set fair and reasonable rates for all. Speaking for ACAP, I can see this in my ATU bills: in January 1976 I paid ATU \$8.75 for a residential telephone service. In January of 1989 my same residential bill was \$12.72. In thirteen years my bill had increased only 45% or at a rate of 2.9% per year. When I called ATU, one of their personnel, told me informally that their estimate was lower than mine: about 2.2% per year counting their entire pending telephone rate request. Why is this important?

At 2.9% per year, a \$.10 phone call become: a \$.15 (14.5)

phone call in 10 years time.

HB 168 asks for automatic, unlimited in number, rate increases of up to 10% per year for local exchange telephone companies.

At 10% per year, a \$.10 phone call becomes a \$.25 (23.6) phone call in 10 years time.

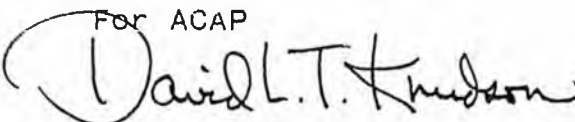
This shows how differently our past at 2.2% growth rates will compare with a proposed 10.0% growth rate: \$.15 vs. \$.25.

Under present statutes and administrative regulations, the APUC performs economic regulation of local exchange telephone utilities because they are natural monopolies. For the business and financial risks that they face prudently, APUC authorizes rates to keep these utilities healthy ... without destroying the ratepayers they serve. Without the timely review of the APUC, unfair or excessive returns can be paid to poorly regulated utilities. Under HB 168 a local exchange telephone utility, could achieve the following book rates of return: 14% in year one growing to 45% by year five, and to 109% by year ten. The rates that would produce such abnormal rates of return on utility investment are paid by normal, decent people who are currently under economic strain themselves. HB 168 lacks sufficient tariff oversight by APUC to be fair, just, reasonable, or prudent regulation of local exchange telephone companies.

Regarding HB 168 Section 2. AS 42.05.421(a) an attempt to speed the review process by establishing or by advancing review deadlines for APUC in considering tariff filings:

This proposal is destructive of any attempt to perform reasonable and just oversight of regulated utilities. This section, if enacted, would almost immediately produce a blizzard of poorly, half, or improperly drawn proposals by countless legal entities whose only plan would be to seek "relief" while burying the APUC in paper. If, by chance or by design, APUC were forced by lack of personnel or by budget shortfall "to pass a deadline" would ratepayers have legal right to judicial review in court. Yes, they would. ACAP believes that economic regulation should be fair to the regulated utilities and consumers. Legislation such as HB 168 Section 2 is not responsible.

Thank you.

For ACAP

David L.T. Knudson

Amendment

page 2, line 11, after \$3,000,000 insert the phrase

"unless the commission extends the period for good cause."

more specific " "

"clear + convincing evidence to extend the period"

Role: DOR
protect the course. Not their role to
offer evidence. Review a balance.

Judicial hearing

course to be affected on
8's - larger hearing

problems

- 1) Absolute time period problem
- 2) heavy work load - care of
same time - set what big
work load - need Flex - C-7.
365 trading cover -

b. Example / Checklist Contact Sheet

LEGISLATIVE SPONSOR: House State Affairs

TC DATE/DAY: Wed Mar 22 ^{Mar 23}

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30-10:00

LEGISLATIVE REFERENCE: HB 1168

JUNEAU ROOM: C-102

SUBJECT: Local Exchange Phone Costs/Tariff Filings

BRIDGE: _____

OF PORTS: _____

CONTACT: Ann PH: 4931

DATE TAKEN/BY: 3/15/89 Pagan
3/20/89 Gordon/1/07

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

Anchorage

Homer

See List on Reverse Side

Barrow *

Wrangell

Bethel

Palmer - Tom Minnich

~~? King Salmon~~

~~Delta Junction *~~

745-9410

~~Dillingham~~ * *cancelled 3/20 per Gordon (called)*

(off ref) would like to listen

Fairbanks

ALL LIO'S

Glennallen *

Juneau

Ketchikan

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

Kodiak

Kotzebue

~~Mat-Su~~

Nome

Petersburg *

Sitka

Soldotna

~~Valdez *~~

OFFNETS: _____

CHAIRING SITE: Juneau

CHAIRPERSON: Rep. Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

Gordon coming to Juneau. SPECIAL INSTRUCTIONS

Introduced: 2/13/89
Referred: Labor & Commerce
and Finance

4/5 OAGS

INTCUM ↑
9970 APPROV.

Item 1
6-0777A

PCUM ↑ (you occasionally a balance)

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 HOUSE BILL NO. 168
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 simplified regulation of local exchange telephone utilities; and relating to sus-
SEE Boucker statement pending the operation of tariff filings."

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

Board's advisory prop.
RASC change
Commission is secondary

10 * Section 1. AS 42.05.381 is amended by adding a new subsection to
11 read: *Apply procedure*

12 (f) The commission shall adopt regulations for a simplified rate
13 filing procedure for local exchange telephone utilities. The regu-
14 lations must allow a local exchange telephone utility to apply for
15 permission to adjust its rates by not more than 10 percent during a
16 period of 12 consecutive months. The commission shall grant the
17 application if the utility satisfies the requirements of the regu-
18 lations. The commission may review implementation of the simplified
19 rate filing procedure at reasonable intervals and may revoke permis-
20 sion to use the procedure or require modification of the rates to
21 correct an error or for other good cause.

22 * Sec. 2. AS 42.05.421(a) is amended to read:

23 (a) When a tariff filing is made containing a new or revised
24 rate, classification, rule, regulation, practice, or condition of
25 service the commission may, either upon written complaint or upon its
26 own motion, after reasonable notice, conduct a hearing to determine
27 the reasonableness and propriety of the filing. Pending the [SUCH A]
28 hearing the commission may, by order stating the reasons for its
29 action, suspend the operation of the tariff filing for a period not

→
Is he suggesting this
LANGUAGE ?

A SAUSAGE ?

1 longer than

2 (1) [AN INITIAL PERIOD NOT LONGER THAN] six months before
3 an interim rate equal to the requested rate goes into effect and not
4 longer than one year before a permanent rate goes [BEYOND THE TIME
5 WHEN IT WOULD OTHERWISE GO] into effect if the annual gross revenues
6 of the utility making the filing are more than \$3,000,000; and

7 (2) [NOT LONGER THAN] 150 days before an interim rate equal
8 to the requested new rate goes into effect and 'not' longer than one
9 year before a permanent rate goes into effect if the annual gross
10 revenues of the utility making the filing are \$3,000,000 or less.

ATW position

- 1) cost req ↓
- 2) Req delay shortened.

Original sponsor: State Affairs Committee

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 168 (State Affairs)

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 simplified regulation of local
7 exchange telephone utilities; and relating to sus-
8 pending the operation of tariff filings."

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

10 * Section 1. AS 42.05.381(e) is amended to read:

11 (e) The commission shall adopt regulations for electric coopera-
12 tives and for local exchange telephone utilities setting a range for
13 adjustment of rates by a simplified rate filing procedure. A cooper-
14 ative or telephone utility may apply for permission to adjust its
15 rates over a period of time under the simplified rate filing procedure
16 regulations. The commission shall grant the application if the coop-
17 erative or telephone utility satisfies the requirements of the regu-
18 lations. The commission may review implementation of the simplified
19 rate filing procedure at reasonable intervals and may revoke permis-
20 sion to use the procedure or require modification of the rates to
21 correct an error. → 1) CONCERN BROAD SWEEP OF THIS

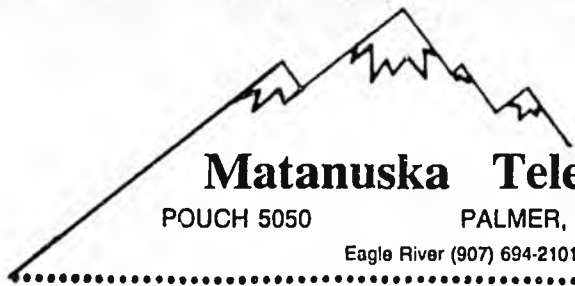
22 * Sec. 2. AS 42.05.421(a) is amended to read:

23 (a) When a tariff filing is made containing a new or revised
24 rate, classification, rule, regulation, practice, or condition of
25 service the commission may, either upon written complaint or upon its
26 own motion, after reasonable notice, conduct a hearing to determine
27 the reasonableness and propriety of the filing. Pending the [SUCH A]
28 hearing the commission may, by order stating the reasons for its
29 action, suspend the operation of the tariff filing. For a tariff

1 filing that does not include an increase in the utility's revenue
2 requirement, the suspension may last for a period not longer than six
3 months beyond the effective date established in the tariff filing
4 unless the commission extends the period for good cause. For a tariff
5 filing that includes an increase in the utility's revenue requirement,
6 the suspension may last for a period not longer than

7 (1) [AN INITIAL PERIOD NOT LONGER THAN] six months before
8 an interim rate equal to the requested rate goes into effect and not
9 longer than one year before a permanent rate goes [BEYOND THE TIME
10 WHEN IT WOULD OTHERWISE GO] into effect if the annual gross revenues
11 of the utility making the filing are more than \$3,000,000; and

12 (2) [NOT LONGER THAN] 150 days before an interim rate equal
13 to the requested new rate goes into effect and not longer than one
14 year before a permanent rate goes into effect if the annual gross
15 revenues of the utility making the filing are \$3,000,000 or less.
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Matanuska Telephone Association, Inc.

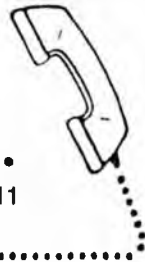
POUCH 5050

PALMER, ALASKA 99645

PHONE (907) 745-3211

Eagle River (907) 694-2101

Wasilla (907) 376-3211



Thomas R. Minnich
President/C.E.O.

RECEIVED

MAR 27 1989

March 22, 1989

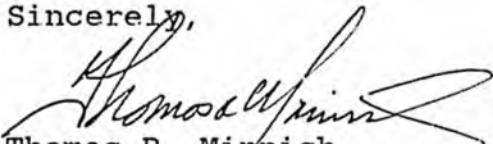
Representative H.A. Red Boucher
State Affairs Committee
Alaska State Legislature
P.O. Box V (MS421C)
Juneau, Alaska 99811

Dear Representative Boucher:

As you recommended on March 22nd, I have reduced my testimony to writing and am forwarding same for your information and that of your committee.

Thank you for the opportunity to testify.

Sincerely,


Thomas R. Minnich
President/CEO

crg

enclosure

My name is Thomas R. Minnich, I am presently President/CEO of Matanuska Telephone Association, Inc. Matanuska Telephone serves in excess of 26,000 access lines in eleven exchanges, reaching from Eagle River as far north as Healy, Anderson, and Clear and serving Denali Park.

I am a member of the United States Telephone Association Board of Directors the nations largest such association serving over 1300 telephone companies including the Bell companies and GTE. I am a member of the Board of Directors of the Alaska Telephone Association, and have been in the industry for over thirty-three years.

I speak in support of House Bill No. 168. It must be understood that this bill is not a deregulation bill but a bill that hopefully will reduce the regulatory burden and costs for the local exchange carriers and their consumers. I had hoped that the the Alaska Public Utilities Commission would see this bill as an opportunity to do just that, as well as reducing the administrative burden and costs to the Commission. I am sorry that this is not the case.

In this time of budget restraints and financial problems, both business and government should look for ways to reduce costs. This bill would allow the Commission to do this in conjunction with the local exchange carriers.

Since 1984 and deregulation, twenty-five states have seen fit to pass some legislation pertaining to a form of regulatory relief. Approximate eleven states have passed legislation which speak directly to local exchange service rates and filings.

As deregulation comes to Alaska and our industry changes, as it certainly will, more and more costs will shift to the consumer. The industry knows this and the Commission knows this. Why add to this additional cost the lengthy and burdensome procedures that now exist in rate hearings and filings if a simplified and less costly method can be developed.

As to the concerns expressed as to how the public can be protected from repeated and excessive rate increases, House Bill No. 168 allows the Commission to grant the application for a rate increase only if the utility satisfies the requirements of the regulation. In other words, safeguards could be built into the simplified method of filing.

In addition, as far as a coop is concerned, we have an elected Board of Directors which management must convince first before even applying to the Commission for said rate increase. I am certain that the new simplified method would require that a telephone utility make a complete filing justifying its current rates before it could use the simplified method in the future.

I believe that House Bill No. 168 is a positive step toward regulatory relief in the State of Alaska and reducing the cost and burden on local exchange carriers and their customers, as well as reducing the costs and burdens of administration on the Alaska Public Utility Commission.

In that regard I would urge the committee to look upon this bill with favor and I urge the passing of this bill in Alaska Legislative bodies.

Thank you for the opportunity to testify.



OTZ TELEPHONE COOPERATIVE, INC.

P.O. BOX 324
KOTZEBUE, ALASKA 99752
(907) 442-3114

March 31, 1989

Representative H.A. "Red" Boucher
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Boucher:

I appreciate the opportunity afforded me and other local exchange companies to address the House State Affairs Committee regarding HB168, "An Act Relating to Simplified Regulation of Local Exchange Telephone Utilities."

I understand that this bill will now come before the Labor and Commerce Committee of which you are also a member. I look forward to an opportunity to add further testimony or provide clarification of any questions which this committee may have. For your information, I am enclosing a copy of my previous testimony before the House State Affairs Committee.

Please contact me if I can assist you in any way with your further study of this legislation. I firmly believe that simplified regulation is a goal long overdue, and one which will become increasingly critical as the local telephone companies face the extensive changes and challenges ahead.

Sincerely,

Loren J. Karro
General Manager

cc: OTZ Board of Directors
Gordon Parker, Executive Director, ATA

enclosures\

LJK:lc

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APR 05 1989

Testimony before House State Affairs Committee

March 23, 1989 (via teleconference in Kotzebue)

My name is Loren Karro, and I am the General Manager of OTZ Telephone Cooperative. OTZ, a member owned, full service telephone company, serves 1,535 telephone lines and twelve separate exchanges within the Northwest Arctic Borough.

The local exchange companies in Alaska are asking the legislature to recognize that changes in the nature of telephony have increased the need for them to be able to react to changing revenues within a reasonable amount of time and without costly regulatory burdens.

As has been stated by other involved parties, the precedent for decreased regulatory requirements has already been set. In the last five years, 25 states have passed legislation to decrease the regulation of or to deregulate telephone services. In not one state, in not one instance, has experience with decreased regulation led to a tightening of regulatory controls. On the contrary, most states have reacted by extending the deregulation to a greater number of companies and to cover a greater number of circumstances. Legislation passed in 1986 provided for relaxed filing standards for electric cooperatives in Alaska.

Comments filed by the Alaska Public Utilities Commission warn of possible outrageous rate increases which might happen under this

legislation. However there is no experience, in Alaska or in those other states that have allowed for relaxed regulation, that any company has or even could so abuse their powers. In fact, a study by a leading national journal of communications and regulation states that "Less regulation ...does not mean [the telcos] will undertake unreasonable rate increases or let service quality deteriorate. Rather, lower regulatory costs mean lower rates."

The Commission further comments that LEC regulation may not be amenable to simplified regulatory processes because of the intricacies of the separations procedures which divide costs and revenues between local, interstate and state toll services. I assert that it is because of the intricacies of and critical changes to these processes that the local companies so desperately need simplified rate and regulatory procedures. There are numerous docketts at both the federal and state level, any one of which could critically impact the revenues of the local exchange companies. Costs are continually being shifted from the toll to the local service sector, and local service companies need to be able to react to these changes. These changes are totally beyond the control of the local telco; they may present increased expenses or decreased revenues which are not due to lack of efficiency, improper operating procedures or poor investment decisions on the part of the telco.

Present tariff change filings result in serious financial burdens to the companies. One small local exchange company spent over \$100,000 on their last rate case. This amounted to over \$80 per

subscriber for that one filing! In imposing financial burdens such as this, it may well be asked whose interest the Commission is trying to protect. These costs are then added to the revenue requirements of the phone company, and thus further increase the rates needed from the subscribers.

The second part of HB 168 simply establishes a time limit in which the Commission must act. This area has been a bone of contention with the utilities for years. If a phone company finds itself with a revenue shortfall and must file for a tariff change, they at present may well spend an inordinate amount of money and well over a year before the Commission approves the change. By this time the financial burden on the company has increased, the financial shortfall has been exacerbated by another year of insufficient rates, and further changes to the revenue stream beyond the control of the company may have already occurred. It does not seem to me that asking for a years limit for examination of and action on a simplified tariff filing is unreasonable. The APUC has proposed adding the phrase "ability to extend this period for good cause". Such a phrase is a legalize clause which is written so as to allow a "liberal interpretation", and could result in rendering this portion of the bill unenforceable.

The Commission says that such a time limitation would require increased staffing of the Commission. In fact, the simplified rate filing process means simplification for both the telco and the regulatory commission. Instead of going through full public hearings, voluminous filings and extensive involvement, the

Commission staff would be able to review the abbreviated filing, check that the utility is acting in accordance with the regulations, and that the percentage change is not beyond the threshold allowed. It would appear that such a process would greatly reduce the regulatory burden for all parties involved. The Indiana legislature has suggested a smaller staff for their public utility commission because of the reduced work due to the introduction of simplified tariff filings.

Alaskan local exchange companies such as OTZ are close to their subscribers, and are under the significant pressure of community accountability in all their actions. We have historically acted responsibly to keep local rates affordable and to pursue the goal of universal service. However, cost shifts from the national to the Alaskan ratepayers which will be culminated in 1992, and continuing shifts from the toll to the local sector on both the federal and state level, mean additional revenue requirements beyond the control of the local operating companies. The local exchange industry is unique among utilities in this respect. We need to be able to react to these changes in a timely manner, and without extensive filings which would cause additional financial burdens to the subscribers. The telecommunications industry today is anything but static; and the industry in those states which have already enacted regulatory simplification has shown that it can and does act both responsibly and responsively to the needs of its subscribers. The Commission's fears are ungrounded and reactionary.

I would be happy to provide additional information to the committee, and will send a copy of my comments to anyone who wishes them. I appreciate the opportunity to testify before you.



OTZ TELEPHONE COOPERATIVE, INC.

P.O. BOX 324
KOTZEBUE, ALASKA 99752
(907) 442-3114

March 31, 1989

Shirley Genteurann
Kobuk River Lodge & General Store
Ambler, AK 99786

Dear Shirley:

Thank you for your letter about the need for a payphone in Ambler.

We agree that a payphone is needed. Our old switching equipment did not allow for payphones, but we no longer have that limitation.

Our policy is to install a payphone in a location that is open to the public as many hours as possible, and is agreed to by the city council. Your store would seem to be a convenient location, however we need a letter from either the mayor or the city council requesting it be put there. Perhaps you can speak to them and have them send a letter of request.

We do have a supply problem in obtaining payphones, as long back orders are common. However, if the city agrees we will work with you to get a payphone installed as soon as possible.

Sincerely,

Loren J. Karro
General Manager

LJK:lc