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298

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Deregulation of refuse
 utilities
 Sponsor: Labor & Commerce Committee
 Requestor: Labor & Commerce Committee

Agency Affected: Commerce & Economic Dev.
 BRU: APUC
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
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REVENUE	0	0	0	0	0	0
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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) No fiscal impact for FY 90.

Prepared by: T.S. Moninski II, Executive Director Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 2/27/90

Approved by Commissioner: Larry Mercurieff *[Signature]* Date: 2/27/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 LW/dg16391D/22790a

6-1240E -
Cramer
2/8/90

Original sponsor(s): Labor & Commerce Committee

1 IN THE SENATE BY THE LABOR & COMMERCE COMMITTEE
 2 CS FOR SENATE BILL NO. 298 (L&C)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 SIXTEENTH LEGISLATURE - SECOND SESSION
 5 A BILL

6 For an Act entitled: "An Act relating to waste collection."

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

8 * Section 1. AS 29.35.050(b) is amended to read:

9 (b) The governing body of a municipality may not prohibit a
 10 person holding a valid certificate from the Alaska Public Utilities
 11 Commission from continuing to collect and dispose of garbage, refuse,
 12 trash, waste material, or provide other related services in an area in
 13 the municipality if the certificate authorizes the collection and
 14 disposal of [GARBAGE, REFUSE, TRASH, OR OTHER] waste material and
 15 providing of other services in the area, and the certificate was
 16 originally issued before the municipality provided similar services.
 17 Except as provided in (d) of this section, a [A] municipality may not
 18 provide for a garbage, refuse, trash, or other waste material collec-
 19 tion and disposal service in an area to the extent it lies in an area
 20 granted to a garbage, refuse, trash, or other waste material carrier
 21 by a certificate issued by the Alaska Public Utilities Commission to
 22 the carrier until it has purchased the certificate, equipment and
 23 facilities of the carrier, or that portion of the certificate that
 24 would be affected, at fair market value. A municipality may exercise
 25 the right of eminent domain to acquire the certificate, equipment, and
 26 facilities of the carrier, or that portion of the certificate that
 27 would be affected.

28 * Sec. 2. AS 29.35.050 is amended by adding a new subsection to read:

29 (d) A municipality may establish an intermediate transfer site

1 for the collection and disposal of waste material without purchasing
2 the certificate, equipment, or facilities of a waste material carrier
3 certificated by the Alaska Public Utilities Commission. The municipi-
4 pality may, without compensating a certificated waste carrier operat-
5 ing in the area, provide for or contract with a certificated or non-
6 certificated entity to provide for the collection and disposal of
7 waste material

8 (1) left at the intermediate transfer site; or

9 (2) generated by the municipal government or by the municipi-
10 pal school district.

11 * Sec. 3. AS 42.05.711 is amended by adding a new subsection to read:

12 (m) The collection and disposal, under AS 29.35.050(d), by a
13 municipality of waste material deposited at an intermediate transfer
14 site and of waste material generated by the municipality itself or by
15 the municipal school district is exempt from this chapter.

Original sponsor(s): Labor & Commerce Committee

1 IN THE SENATE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 298 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

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12 TRASH,] waste material [,] or provide other related services in an
13 area in the municipality if the certificate authorizes the collection
14 and disposal of [GARBAGE, REFUSE, TRASH, OR OTHER] waste material and
15 providing of other services in the area, and the certificate was
16 originally issued before the municipality provided similar services.
17 Except as provided in (d) of this section, a [A] municipality may not
18 provide for a [GARBAGE, REFUSE, TRASH, OR OTHER] waste material col-
19 lection and disposal service in an area to the extent it lies in an
20 area granted to a [GARBAGE, REFUSE, TRASH, OR OTHER] waste material
21 carrier by a certificate issued by the Alaska Public Utilities Commis-
22 sion to the carrier until it has purchased the certificate, equipment
23 and facilities of the carrier, or that portion of the certificate that
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13 site and of waste material generated by the municipality itself is
14 exempt from this chapter.
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ALASKA REFUSE UTILITIES ASSOCIATION

Suggested amendments to H.B. 499:

1. Page 2, line 9--delete the following:

"(2) generated by the municipal government, [OR BY THE MUNICIPAL SCHOOL DISTRICT.]"

2. Page 2, line 19--delete the following:

"site and of waste material generated by the municipality, [OR BY THE MUNICIPAL SCHOOL DISTRICT IS EXEMPT FROM THIS CHAPTER.]"

3. Page 2, line 21--add the following:

"Sec. 5. AS 42.05.____ is amended by adding a new section to read:

The legislature finds that authorizing competing public utilities for the collection and disposal of garbage, refuse, trash, and other waste materials may be injurious to the progress of waste recovery and recycling of materials and is a policy matter reserved for the legislature. The Alaska Public Utilities Commission is instructed to not issue competing certificates for the collection and disposal of garbage, refuse, trash, or other waste materials until the legislature finds that competition in this service is in the public interest."

4. Page 2, line __, add the following:

"Sec. 6. Sections 1, 2 and 4 of this act take effect on January 1, 1994. Except that this act takes affect immediately for all municipalities that have adopted a cap on their property taxes."

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON SB 298

April 26, 1989

The Commission supports SB 298. This legislation would deregulate garbage utilities in conformance with the recommendations in the 1979, 1985, and 1989 performance reviews (Sunset Audits) of the Commission by the Division of Legislative Audit. The Commission has consistently endorsed this recommendation both in its formal responses to these Sunset Audits and in its FY1988 Annual Report to the Legislature.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Deregulation of refuse
utilities

Agency Affected: Commerce & Econ. Development
BRU: APUC

Sponsor: Labor & Commerce Committee
Requestor: Labor & Commerce Committee

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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: _____

Approved by Commissioner: _____ Date: _____
Agency: Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Analysis:

If enacted, SB298 will completely remove the collection and disposal of refuse (garbage) utility service from APUC jurisdiction. This action will impact 43 of 311 certificated public utilities (13.8% of the total). Of these, 9 of 96 fully economically regulated refuse utilities (9.4% of the total) would be deregulated.

While this change in jurisdiction will provide some relief in terms of agency workload, it comes in the nature of a partial realignment of resources to responsibilities. When consideration is given to the fact that approximately 24% of the the APUC's staff has been lost to budget cuts since FY84, it would be imprudent from a management perspective to propose any additional reductions as a result of the jurisdictional change incorporated in this bill. Therefore, the APUC submits a zero fiscal note in response to this proposed legislation.

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 Mercurieff

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.

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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 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
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.

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STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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MAR - 9 1989

March 7, 1989

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.¹ 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.

¹Docket 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.² 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.

²Under 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.

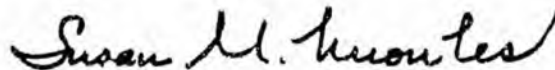
The Commission supports this recommendation.

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 Sokolov

In the Matter of the Consideration of Simplification of Small Utility Regulation) R-89-1
) 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

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1 which are economically regulated,¹ 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 ² \$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. (For example,

24 ¹Per 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."

²CS for SB569 (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.

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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.³

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,⁴ 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 ³The 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 ⁴Beginning 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

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

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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

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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.

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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 urged 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.)

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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.)

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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)

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**ELECTRIC UTILITIES
(1907 Calendar Year)**

Utility	Net Plant	Revenues		Units
		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. ¹	27,210,242	11,405,103	1,016,263	4,970
Church Electric Association, Inc.	366,771,700	93,533,988	5,394,175	60,007
Copper Valley Electric Association, Inc.	14,053,824	7,171,696	806,209	2,350
Golden Valley Electric Association, Inc.	138,156,7	39,115,609	3,173,267	26,784
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
Natanuska 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>\$327,258,369</u>	<u>\$22,173,595</u>	<u>184,506</u>

(This Appendix contains excerpts from the Commission's FY98 Annual Report to the Legislature; footnotes are omitted.)

12-89-1(1)
APPENDIX 1

ELECTRIC UTILITIES (CONT.)
(1987 Calendar Year)

Utility	Net Plant	Revenues		Assets
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,500,000 but Less Than \$5,000,000)</u>				
Alaska Power & Telephone Company	\$ 3,354,050	\$ 3,164,117	500,190	1,716
Arctic Utilities, Inc. ¹	2,152,979	3,146,001	249,226	26
Barrow Utilities and Electric Cooperative, Inc.	-----2	1,606,004	229,661	1,246
Bethel Utilities Corporation, Inc.	2,836,300	4,277,113	136,114	1,691
Kotzebue Electric Association, Inc.	6,449,004	2,790,390	420,407	973
Hushagak Electric Cooperative, Inc. ³	4,771,174	2,490,707	260,577	1,004
Tilimtit-Nalda Regional Electrical Authority	<u>5,620,503</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 & K, Inc.	H/A	095,014	H/A	70
Gwitchyan Zhee Utility Company ⁴	690,130	570,608	<110,310>	297
Haines Light & Power Company, Inc.	1,206,793	1,162,049	97,064	750
I-H-H Electric Cooperative, Inc.	1,522,832	695,272	<1,032>	259
McGrath Light & Power Company ⁴	1,069,476	037,306	143,931	231
Sand Point Electric, Inc. ⁵	430,301	939,039	2,132	400
Tanana Power Company, Inc.	751,797	551,930	01,250	104
Yakutat Power, Inc.	<u>674,831</u>	<u>693,330</u>	<u>45,659</u>	<u>201</u>
Subtotal	<u>\$ 6,000,400</u>	<u>\$ 7,095,260</u>	<u>\$ 377,343</u>	<u>2,622</u>

ELECTRIC UTILITIES (CONT.)
(1967 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Less Than \$500,000)</u>				
Andreanof Electric Corporation ¹	\$ 129,345	\$ 79,072	\$ 15,203	37
Hettles Light & Power, Inc.	316,722	373,529	<47,841>	49
Far North Utilities	355,414	112,315	<6,110>	44
Levelock Electric Cooperative, Inc. ²	75,534	144,844	29,344	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
Hapaklak Irceinaq Power Company ³	141,137	275,343	61,212	01
Northway Power & Light, Inc.	327,927	366,442	39,759	110
Pelican Utility Company	504,202	394,794	106,033	107
Teller Power Company	96,429	305,680	71,561	06
Subtotal	\$ 4,007,607	\$ 2,539,256	\$ 252,066	019
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 ¹ (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.	\$----- ²	\$ 804,907	\$ 74,685	900
Subtotal	\$----- ²	\$ 804,907	\$ 74,605	900
TOTALS	<u>\$157,479,366</u>	<u>\$100,761,430</u>	<u>\$15,929,031</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	\$163,811	26,076
Channel Sanitation Corporation	236,094	2,132,305	<390,404>	4,920
Drake's Sanitation, Inc. ¹	132,400	454,641	<8,716>	165
Eagle River Refuse, Inc.	105,610	932,965	32,697	4,110
Far North Sanitation, Inc.	1,569,616	1,214,258	133,867	712
Interior Services, Ralph E. Bartlett d/b/a	780,822	519,916	<23,940>	262
Kodiak Sanitation, Inc.	82,437	820,551	70,322	182
Peninsula Sanitation Company, Inc. ²	252,395	1,350,321	85,804	1,340
Wasilla Refuse, Inc. ³	130,780	541,037	74,584	702
TOTAL	<u>\$5,077,046</u>	<u>\$17,176,390</u>	<u>\$137,937</u>	<u>30,477</u>

GENERAL (WASTEWATER) UTILITIES
(1987 Calendar Year)

Utility	Net Plant ¹	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	\$18,099,005	\$<1,208,190>	49,140
College Utilities Corp. ²	<u>2,201,975</u>	<u>1,366,995</u>	<u>101,412</u>	<u>1,554</u>
Subtotal	<u>\$56,584,528</u>	<u>\$19,466,000</u>	<u>\$<1,106,778></u>	<u>50,694</u>
<u>(Gross Operating Revenue Less Than \$757,000)</u>				
Darrow Utilities and Electric Cooperative, Inc.	\$-----3	\$ 554,500	\$ 3,333	167
Salmantof Utilities, Inc.	50,000	004	514	3
Settlers Day Properties, Inc.	- 0 -	5,045	<159,390>	12
Subtotal	<u>\$ 50,000</u>	<u>\$ 560,509</u>	<u>\$ <155,543></u>	<u>182</u>
TOTALS	<u>\$56,634,528</u>	<u>\$20,027,309</u>	<u>\$<1,342,321></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	11/A
Anchorage Telephone Utility, Municipality of Anchorage d/b/a	219,695,213	87,020,300	1,669,758	112,107
General Telephone Company of Alaska	12,884,609	8,255,030	1,002,776	10,602
Interior Telephone Company	8,837,986	4,407,591	8,605	1,965
Matanuska Telephone Association, Inc.	91,414,691	29,325,474	1,381,100	25,418
Telephone Utilities of Alaska, Inc.	94,008,561	43,760,048	6,050,419	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>2,865</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	3,432,280	696,218	2,795
Nukluk Telephone Company, Inc.	2,731,542	1,363,916	347,815	642
National Utilities, Inc.	1,670,124	1,419,241	200,968	1,571
Nushagak Telephone Cooperative, Inc.	3,436,799	1,754,223	304,736	1,206
OTZ Telephone Cooperative, Inc.	<u>3,900,178</u>	<u>2,001,021</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>				
Dush-Tell, Incorporated	\$ 2,384,383	\$ 814,510	\$ <14,506>	520
Yukon Telephone Company, Inc.	<u>684,335</u>	<u>644,904</u>	<u><63,290></u>	<u>343</u>
Subtotal	<u>\$ 3,068,710</u>	<u>\$ 1,459,414</u>	<u>\$ <77,796></u>	<u>1163</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 ¹	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
Darrow Utilities and Electric Cooperative, Inc.	----- ²	2,497,134	421,071	300
College Utilities Corp. ³	<u>3,605,731</u>	<u>1,402,341</u>	<u>170,270</u>	<u>1,600</u>
Subtotal	<u>\$94,753,126</u>	<u>\$20,928,559</u>	<u>\$990,403</u>	<u>42,291</u>

(Gross Operating Revenue Less Than \$250,000)

Alpat Water Utility Company	\$ 93,299	\$ 22,702	\$ 9,976	76
Alyeska Utilities, Inc. ⁴	05,609	102,143	20,522	526
Chugiak Utilities	247,410	51,919	20,454	195
Dawn Development Corporation		(Not reported)		
Eagle Utilities, Inc.	- 0 -	29,459	7,860	83
Eklutna Utilities, Inc.	456,993	193,555	<66,475>	600
ERU, Inc.	66,600	9,727	<5,352>	34
Kwik Log Water System, Myron Alton Newton d/b/a	- 0 -	2,688	890	10
Natanuska Utility Company, Inc.	69,609	12,443	<1,159>	12
McGahan Utilities, Inc.	22,801	23,046	2,683	11/1
McKinley Utilities, Inc. ⁵	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.)
(1987 Calendar Year)

<u>Utility</u>	<u>Net Plant¹</u>	<u>Gross Revenues</u>	<u>Net Income</u>	<u>Users</u>
Pottor Creek Water Company	\$ 128,642	500	<3,653>	9
Romig Park Improvement Company ²	- 0 -	12,350	<3,174>	85
Sandlake Services, R. J. & Clara Rhodes d/b/a	35,648	28,366	9,310	138
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	116,903	30,415	630
Spensard Heights Water System, Wayne Cates d/b/a	5,742	4,057	<409>	40
Valley Water Company, Inc. ³	<u>230,175</u>	<u>157,600</u>	<u>54,560</u>	<u>265</u>
Subtotal	<u>\$ 2,536,656</u>	<u>\$ 1,041,120</u>	<u>\$ <5,460></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. 42.05.305. 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 46.45.010.

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-)*

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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 § 5 ch 106 SLA 1977; am § 4 ch 45 SLA 1980; am § 3 ch 104 SLA 1986)

Effect of amendments. — The 1986 amendment added subsection (c).

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. *Honor Elec. Ass'n v. State, Pub. Utils. Comm'n, Sup. Ct. Op. No. 3327* (File No. S-1952), P.2d (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

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3 AAC 48.700 COMMERCE AND ECON. DEV. 3 AAC 48.720

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 42.05.411
AS 42.05.151 AS 42.05.421
AS 42.05.381 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 42.05.411
AS 42.05.151 AS 42.05.421
AS 42.05.381 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.

(b) 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. (ENR. 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

49.730

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.

(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~~.
(Eff. 1/1/87, Register 100) *3 AAC 48.700 - 3 AAC 48.790.*

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

(3) The cooperative files a rate case complying with the requirements of AS 42.05.411 and 3 AAC 48.275, and if 3 AAC 48.540(a) or (b) requires that cooperative to file a cost-of-service study. (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

Article 6. Miscellaneous Provisions

Section	Section
800. General administrative provisions	810. Delegation of authority
805. Waivers	820. Definitions

3 AAC 48.800. GENERAL ADMINISTRATIVE PROVISIONS. (a) Each utility and pipeline carrier has the continuing responsibility to conform the language of its tariff with the definitions in 3 AAC 48 and 3 AAC 52. A definition that is not substantially the same must be revised by means of an appropriate tariff filing.

(b) Definitions contained in 3 AAC 52.080, 3 AAC 52.150 and 3 AAC 52.340 also apply to the defined words as they are used in 3 AAC 48.010 — 3 AAC 48.820. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90)

Authority: AS 42.05.141 AS 42.06.140(a)
 AS 42.05.151 AS 42.06.350

3 AAC 48.805. WAIVERS. (a) Except for those that are also required under AS 42.05, any requirement in 3 AAC 48 may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion.

(b) Application for waiver under this section must be in writing and must set out the pertinent facts in sufficient detail to support a finding by the commission that no legitimate public interest will be served by enforcing the requirement designated in the application. An application under this section may be made to the commission by motion, petition, or, where appropriate, by a tariff advice letter.

(c) If modification of a requirement in 3 AAC 48 cannot be granted without also exempting the applicant from a provision of AS 42.05, the application for the modification or waiver must include application for exemption from the provision of AS 42.05.

(d) The commission will grant or deny an application, in whole or in part. The commission's decision will be announced by order or in a letter written "By Direction of the Commission." (Eff. 6/29/84, Register 90)

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>	<u>1988 Authorized</u>	<u>1988 Expenses and Encumbrances</u>	<u>1989 Authorized</u>
Personal Services	\$2,113,600	\$2,103,406	\$2,113,600
Travel	28,660	27,423	57,100 ^{2/}
Other Services	1,592,330 ^{1/}	1,224,346 ^{1/}	1,688,500 ^{2/}
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.



SENATE LABOR & COMMERCE COMMITTEE

Senator Richard I. (Dick) Eliason, Chairman

Senator Pat Rodey, Vice-Chairman

Senator Jan Falka

Senator Julmar Kerttula

Senator Jack Coghill

Proposed by

At Refuge Utilities Assn.

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3 PROPOSED COMMITTEE SUBSTITUTE FOR

4 SENATE BILL 298

5 IN THE LEGISLATURE OF THE STATE OF ALASKA

6 SIXTEENTH LEGISLATURE - FIRST SESSION

7 A BILL

8 For an Act entitled: "An Act relating to waste collection and
9 recycling."

10
11 Section 1. FINDINGS AND POLICY. (a) The legislature finds
12 that

13 (1) the recycling and reuse of garbage, refuse, trash or
14 other waste material ("Waste") and the material, resource, and
15 energy recovery from Waste would substantially extend the useful
16 life of existing solid waste disposal sites in the State of
17 Alaska, reduce the need for new landfills, save Alaska's environ-
18 ment, reduce outdoor pollution, and create jobs in the state;

19 (2) refuse utilities are ideally situated, to collect, and
20 recycle waste and to engage in recovery activity;

21 (3) the recycling and recovery activity is in its infancy
22 in the nation and particularly in the State of Alaska, derives
23 little or no profits for those engaged in the activity, and
24 requires that the legislature promote the activity whenever
25 possible;

26 (4) substantial volumes of Waste are needed to make the
27 recycling and recovery business economically viable which
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3 requires that certificated refuse utilities collect and control
4 the available waste in their service areas;

5 (5) it is in the public interest to encourage the existing
6 refuse utilities to develop the necessary technology and business
7 opportunities to engage in economical and efficient waste re-
8 cycling and recovery activities.

9 (b) It is the policy of the State to encourage Waste re-
10 cycling and recovery activities and to assist and encourage
11 refuse utilities to develop Waste recycling and recovery tech-
12 nology and to conduct an economical and efficient Waste recycling
13 and recovery business.

14 Section 2. AS 42.05.221 is amended to read:

15 (a) A public utility may not operate and receive compen-
16 sation for providing a commodity or service after January 1, 1971
17 without first having obtained from the Commission under this
18 chapter a certificate declaring that public convenience and
19 necessity require or will require the service. A certificate to
20 furnish collection and disposal service of garbage, refuse, trash
21 or other waste material in an area already served by a certif-
22 icated refuse utility may only be granted if the operating and
23 capital expense incurred by the utility and its affiliated inter-
24 ests on waste recovery is not 3% or more of the annual operating
25 and capital expense of the utility and the refuse utility will
26 not provide service to the satisfaction of the Commission. The
27 operating and capital expense incurred by the utility and its
28 affiliated interests for waste recovery for the 5 years prior to

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3 the filing of an application to serve in an area already served
4 by a certificated refuse utility may be averaged to calculate the
5 3% annual operating and capital expense figure. Where a public
6 utility provides more than one type of utility service, a sepa-
7 rate certificate of convenience and necessity is required for
8 each type. A certificate shall describe the nature and extent of
9 the authority granted in it, including, as appropriate for the
10 services involved, a description of the authorized area and scope
11 of operations of the public utility.

12 Section 3. AS 42.05.381 is amended by adding a new
13 subsection to read:

14 (e) All rates charged to a municipality by a utility fur-
15 nishing collection and disposal service of garbage, refuse, trash
16 or other waste material shall be regulated by the commission and
17 may not be exempt from regulation under AS 42.05.711(c).

18 (f) The commission shall adopt regulations for electric
19 cooperatives and for utilities which furnish collection and
20 disposal service of garbage, refuse, trash, or other waste mate-
21 rial setting a range for adjustment of rates by a simplified rate
22 filing procedure. A cooperative or utility furnishing collection
23 and disposal service of garbage, refuse, trash or other waste
24 material may apply for permission to adjust its rates over a
25 period of time under the simplified rate filing procedure regu-
26 lations. The commission shall grant the application if the
27 cooperative or the utility furnishing collection and disposal
28 service of garbage, refuse, trash, or other waste material

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3 satisfies the requirements of the regulations. The commission
4 may review implementation of the simplified rate filing procedure
5 at reasonable intervals and may revoke permission to use the
6 procedure or require modification of the rates to correct an
7 error.

8 Section 4. AS 42.05.711(d) is amended to read:

9 (d) The commission, on a finding that no legitimate public
10 interest will be served, may exempt a utility from all or any
11 portion of this chapter other than AS 42.05.221 - AS 42.05.281.

12 Section 5. AS 42.05.720 is amended by adding new paragraphs
13 to read:

14 (1) "resource recovery" means the process of obtaining
15 useful material or energy resources from waste;

16 (2) "energy recovery," means recovery in which all or a
17 part of the waste materials are processed to utilize the heat
18 content, or other forms of energy, of or from the material;

19 (3) "material recovery," means any process of obtaining
20 from waste, by presegregation or otherwise, materials which still
21 have useful physical or chemical properties after serving a
22 specific purpose and can, therefore, be reused or recycled for
23 the same or other purpose;

24 (4) "recycling," means any process by which solid waste
25 materials are transformed into new products in such a manner that
26 the original products may lose their identity;

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3 (5) "reuse," means the return of a commodity into the
4 economic stream for use in the same kind of application as before
5 without change in its identity;

6 (6) "waste" means garbage, refuse, trash or other waste
7 material;

8 (7) "waste recovery" means resource recovery, energy recov-
9 ery, material recovery, recycling or reuse of waste.

10 Section 6. No certificate may be granted to furnish col-
11 lection and disposal service of garbage, refuse, trash or other
12 waste material in an area already serviced by a certificated
13 refuse utility for 1 year from the effective date of this Act.

14 Section 7. This Act takes effect immediately under AS
15 01.10.070(c).
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Fairbanks North Star Borough

25th Silver Anniversary

April 25, 1989

Senator Dick Eliason, Chairman
Senate Labor and Commerce Committee
P.O. Box V
Juneau, Alaska 99811

Dear Chairman Eliason:

I want to express my appreciation for the introduction of Senate Bill No. 298, "An Act relating to deregulation of public utilities furnishing collection and disposal service of waste material," and stress my strong support of this legislation. I view deregulation as an absolute necessity for the continued survival of government-administered garbage collection services in the State of Alaska. Such legislation would finally implement the long-term (10 year) recommendation of the Alaska Public Utilities Commission for deregulation of this industry.

The Fairbanks North Star Borough currently has a widespread garbage collection system, with an annual operating budget of \$1.15 million. This entire system is serviced by APUC-certificated haulers, as required by Alaska Statute. Unfortunately, the absence of free market competition in this industry has greatly magnified and intensified the numerous problems we have experienced in trying to provide this service. The Borough's inability to initiate competitive procurement methods for the hauling of our public dumpsters and to enter into any contractual arrangements with the haulers for this service has resulted in a very non-cost-effective system. Nor is there any recourse for the Borough to ensure an acceptable quality of operation.

The problems involved in our solid waste collection system are severe and worsening. The current financial plight of all levels of government in Alaska demands the provision of cost-effective services. However, the legal monopolies granted to the APUC-certificated haulers make it impossible for us to provide cost-effective dumpster service. One of our local haulers has requested an 80 percent increase in APUC-authorized hauling rates. Nowhere in the justification for this increase was the hauler required to show that this increase would result in better service, or would solve the operational problems currently afflicting his servicing of public dumpsters.

While we do not yet know just what magnitude of increase will be forced upon us, we do know that this increase will not solve our operational problems with the dumpster system. We do know that under the current system of legal monopolies, the certificated haulers have no incentive for innovation. The result is a stagnated industry unwilling or unable to cope with rapidly evolving waste

Senator Eliason
April 25, 1989
page 2

regulations and liability issues. The current regulation of the waste hauling industry (which varies greatly from community to community) has prevented the Fairbanks North Star Borough, and other municipalities around the state, from developing innovative, economical solutions to the growing financial and operational problems facing garbage collection services in Alaska. Our continued inability to deal with these problems will soon force the elimination of public dumpster service in the Fairbanks area. APUC regulation of the waste hauling industry makes it impossible to overcome these obstacles.

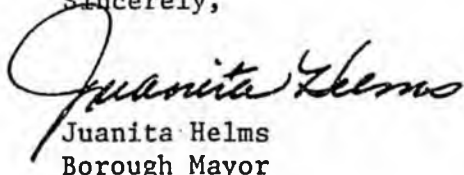
The argument that APUC regulation provides protection to public health and the environment is erroneous. The APUC provides almost exclusively economic regulation of this industry. A multitude of federal, state and local regulations covering the transport and disposal of solid waste, enforced by numerous agencies, will ensure that environmental and public health protection will not be compromised by deregulation.

I question the contention that the waste hauling industry must be protected from competition in order to allow these firms the economies of scale necessary for capitalization of equipment and operational cost recovery. The cost of the equipment necessary to service the public dumpster sites, while high, is not prohibitive. Well-managed hauling companies will survive and grow under deregulation, since they will have the equipment, experience and knowledge necessary to compete successfully in the free market environment.

I personally find it very difficult to explain to the citizens of the Fairbanks area that we have to eliminate a service that is exceedingly popular, and provides substantial public health and environmental benefits. But the Borough's current financial and operational difficulties make it impossible to continue the dumpster system unless this industry is deregulated. We need the passage of SB 298 to give us the ability to work toward solving our existing dumpster problems.

I am enclosing a copy of Fairbanks North Star Borough Assembly Resolution No. 89-035, "A Resolution Supporting Deregulation of Garbage and Solid Waste." I want to join the Assembly in urging the adoption of Senate Bill No. 298. Thank you very much for giving me the opportunity to express our position on this piece of legislation which is vital to the interests of the residents of the Fairbanks community.

Sincerely,


Juanita Helms
Borough Mayor

JH/rj
encl.

rj-5/rj10



Fairbanks North Star Borough

25th Silver Anniversary

FAIRBANKS NORTH STAR BOROUGH BRIEFING PAPER: DEREGULATION OF GARBAGE HAULING IN THE STATE OF ALASKA

PRESENTED TO:
SENATE LABOR AND COMMERCE COMMITTEE
APRIL 26, 1989

PRESENTED BY:
RICHARD JOY, DIRECTOR OF HEALTH AND SAFETY
FAIRBANKS NORTH STAR BOROUGH

The Fairbanks North Star Borough believes that the deregulation of garbage hauling as a public utility is an absolute necessity for the continued survival of government-administered garbage collection services in the State of Alaska. This belief is based upon the experience of the Borough in providing solid waste collection within our borough, through our relationship with the APUC-certificated haulers in the Fairbanks area. This relationship began in 1975 with the establishment of our first public solid waste dumpsters. Since that time, the garbage collection system has grown to 18 sites, with an operating budget of \$1.15 million. All of these sites are serviced by the certificated haulers, as required by Alaska Statute.

The history of this service has been one of constant growth, accompanied by the growing pains often associated with a rapidly evolving service. Unfortunately, the absence of free market competition in this industry has greatly magnified and intensified these problems. Throughout the last 14 years, the Borough has not been able to initiate any competitive procurement process for the hauling of our public dumpsters. Nor have we found any method to get the certificated haulers to enter into any contractual arrangements with the Borough for this service. The result has been, and continues to be, a very non-cost-effective system, with no recourse available for the Borough to rely on in ensuring an acceptable quality of operation.

Deregulation would result in a number of positive benefits to the Borough in our attempts to continue the provision of non-area-wide solid waste collection services in the borough. Unfortunately, the dumpster system is presently faced with both major financial and operational problems. Many of these problems have resulted from, or have been worsened by, continued government protectionism in the area of garbage collection. Such problems include excessive and uncontrollable hauling costs, poor quality of service, no contractual arrangements with the haulers, no ability to specify standard equipment, roadblocks to innovative operational solutions and no clear understanding of Borough and hauler liabilities in providing this service.

Because of this, we have identified the following major benefits which would accrue to the Borough if deregulation occurs. These would include:

1. the ability to use the competitive procurement process to obtain dumpster hauling services at lower cost;
2. the ability to enter into enforceable contracts with clearly defined standards of performance;
3. the elimination of uncontrollable cost increases; and
4. the ability to develop innovative solutions to cope with existing operational problems and current and future governmental regulations.

There are usually numerous arguments advanced to justify the continued regulation of an industry. However, these arguments can all be simplified to the belief that the ultimate benefit of such regulation is improved service to the consumer. In the case of garbage hauling in the Fairbanks area, regulation has not had this benefit. Instead, the public has received poorer service, while paying a higher cost, than would have been the case without deregulation.

The problems involved in our solid waste collection system are severe and worsening. The current financial plight of all levels of government in Alaska demands the provision of cost-effective services. However, the legal monopolies granted to the APUC-certificated haulers make it impossible for us to provide cost-effective dumpster service. One of our local haulers has requested an 80 percent increase in APUC-authorized hauling rates. Nowhere in the justification for this increase was the hauler required to show that this increase would result in better service, or would solve the operational problems currently afflicting his servicing of public dumpsters.

The eventual magnitude of this rate increase is not yet known. We do know that this increase will not solve our operational problems with the dumpster system. We do know that under the current system of legal monopolies, the certificated haulers have no incentive for innovation. This has resulted in a stagnated industry unwilling or unable to cope with rapidly changing solid waste regulations and liability issues. The ultimate result will be the elimination of a service that is called the most popular service our Borough provides, and which has clear benefits in public health and environmental protection.

The current regulation of the waste hauling industry has prevented the Fairbanks North Star Borough, and other municipalities around the state, from developing innovative, economical solutions to the growing financial and operational problems facing garbage collection services in Alaska. Continued APUC recommendations over the last 10 years for deregulation of this industry have been ignored by the State Legislature. The APUC response to this dilemma has been various attempts by the Commission to allow limited competition under its regulations. The unfortunate consequence of this bandaid approach to

these problems has been widely varying regulatory positions in different communities across the state.

Failure to comprehensively address these issues has turned them from problems into crises. Our continued inability to deal with these crises will soon force the elimination of public dumpster service in the Fairbanks area. APUC regulation of this industry makes it impossible to overcome these obstacles. Unless deregulation of the industry occurs, dumpster service will be eliminated in the Fairbanks North Star Borough.

It is very important to make a clear distinction between solid waste collection (which is currently regulated by the Alaska Public Utilities Commission) and solid waste disposal (which is regulated at the state level by the Alaska Department of Environmental Conservation). Many of the arguments against deregulation of garbage collection as a public utility confuse these two very different aspects of solid waste management. Simply put, waste collection involves the pickup and transport of garbage from its place of generation to its place of disposal. Waste disposal refers to the method of rendering the garbage environmentally safe and secure, whether that be by burning, burial or some manner of waste processing and minimization.

The major concern these days, across the nation, involves the proper disposal of solid waste. When we discuss garbage deregulation in the State of Alaska we are not referring to disposal. There are numerous regulations in place to adequately address disposal. For example, in the Fairbanks North Star Borough, anyone wishing to start a solid waste disposal facility would be required to follow federal EPA regulations to locate, develop and operate that facility. They would also have to obtain a state DEC permit to operate. And finally, the Borough's approval would also be necessary before such a facility could be opened. These overlapping environmental regulations ensures the adequate protection of public health and the environment.

Solid waste collection, on the other hand, is currently regulated by the APUC, primarily from an economic standpoint. Collection is almost entirely a transportation issue. That is probably why it was initially regulated by the Alaska Transportation Commission prior to the establishment of the APUC. Collection has very little environmental or public health consequences. Both the Borough and the State (through DEC and the State Troopers) do handle such things as uncovered load enforcement, littering, and improper handling of garbage at the generator's end. The remainder of the issues surrounding garbage collection are really no different than the transport of any other freight commodity, involving the movement of materials from point A to point B in the most economical fashion.

The argument that APUC regulation of waste haulers provides protection to public health and the environment is erroneous. The APUC provides almost exclusively economic regulation of this industry. The multitude of federal, state and local regulations governing the transport and disposal of solid waste, enforced by such entities as EPA, U.S. DOT, DEC, the Alaska State Troopers and even the Fairbanks North Star Borough, ensure that environmental and public health protection will not

be compromised even if APUC deregulation occurs.

For these reasons, any arguments made against deregulation on public health or environmental grounds is a non-issue. These arguments refer to disposal practices, not collection operations. They therefore have no relevance to the deregulation of solid waste collection in the state. This distinction between collection and disposal also highlights part of the Borough's reasons for deregulation. If garbage is simply another commodity to be transported, why should it be any more regulated than any other type of freight which is transported daily over Alaskan roads? While it may take some specialized equipment to load, carry and unload garbage, the price of such equipment is not so high as to eliminate all potential competition from the marketplace. Other firms have approached both the Borough or the APUC over the years, and indicated a willingness to compete with the existing haulers. The so-called economies of scale issue, often mentioned as one reason to regulate an industry as a public utility, does not seem to have been an item of major concern to these companies.

Economies of scale are associated with the need for certain utilities to have large enough operations to capitalize their equipment over a certain number of years, and to recover their full costs of operation. In the case of an APUC-certificated hauler, we believe that such an operation does not have the magnitude of equipment costs relevant to the economies of scale issue. If deregulation were to occur, it would appear that the previously-licensed haulers would actually have an advantage regarding the equipment issue, since they would already have the most expensive equipment, which may be more difficult for a company just starting out to acquire.

Another supposed argument against deregulation involves the trading of recycling legislation in exchange for continued APUC regulation of waste collection. However, this discussion again mixes collection and disposal issues. It also further confuses the issue by mixing types of waste recovery. Most waste recovery methods are tied to solid waste disposal operations. As mentioned earlier, disposal does not involve APUC-regulated businesses. Such disposal-linked waste recovery has not worked technically or economically in the State of Alaska. The Borough is currently a key participant in the largest effort to-date in this state to utilize resource recovery measures to reduce solid waste disposal costs. This effort has met with nearly total failure, with only about four percent of the municipal waste stream being processed or recycled. This is far short of the 90 percent resource recovery figure originally projected, and comes at a cost of over \$3 million.

Source separation and collection are the only recycling activities which could be directly linked to APUC haulers. These measures are practical only if there are markets for the recycled materials within economic hauling distance. This is not the case in Alaska, making it infeasible to recycle these materials. The biggest recycling mistake that has been made in other states is the passage of government regulations which force industry and others to recycle waste, when there are not available markets for the recycled materials. This recycling proposal would apparently repeat that exact mistake.

This proposal may also have the effect of forcing out the small recycling firms that are currently operating in Fairbanks and other localities. Approval of this proposal could put these firms in direct competition with the regulated waste haulers. The protection enjoyed by the haulers from competition, and the possible requirement for them to spend a portion of their operating costs on waste recovery would appear to virtually ensure the demise of many of the current small recycling businesses.

This discussion does highlight one problem with existing solid waste regulation in Alaska. Solid waste processing is almost unregulated, sitting as it does between DEC's disposal regulations and the APUC's collection regulations. With the continued interest in such processing, and the development of additional processing facilities, it is apparent that these facilities need to be better covered by state solid waste regulations. The best approach appears to be DEC regulation of such processing, due to the potential environmental impacts resulting from these operations.

In summary, the benefits to the public of the deregulation of garbage hauling in the state are overwhelming, and far outweigh the supposed disadvantages. Even the impact on the waste hauling industry would be beneficial, in the long run. The well-managed hauling companies would adapt and grow, as a result of their experience and knowledge, coupled with their available equipment. Additional companies in Fairbanks and other locations would welcome the opportunity to compete with the existing haulers to provide economical, high-quality service. Most of the certificated firms now involved in this industry began in the late-60's and early-70's, as small, family-run businesses. Similarly, those small businesses now willing to compete in the marketplace with the licensed haulers should not be shut out. The end result would be the availability of improved, lower-cost service.

April 26, 1989

A STATEMENT FROM DAVID BRANGAN, OF ALASKA FIBERGLASS
MANUFACTURING. 11711 SOUTH GAMBLE, ANCHORAGE 99515

REGARDING SENATE BILL 298 for presentation to the Senate
Labor and Commerce Committee hearing 4-26-89

Our concern is the deregulation of waste material.
Part of the process that we intend to incorporate in the
manufacture of fiberglass insulation products includes the
utilization of waste or recycled glass.

By deregulating this industry, the possibility would exist
that this would disrupt our ability to utilize the waste glass
resource - virtually rendering glass recycling (for us)
unreasonable.

Deregulation of this industry could hinder all aspects of
recycling in Alaska. It would render recycling a serious body
blow.

Thank you for allowing me to comment.

BARBARA J. STEVENS, Ph.D.

President and Senior Associate

EXPERIENCE SUMMARY:

Related research and hands-on consulting in ways to improve urban service delivery for the past fifteen years. Founded Ecodata in 1977. Prior to that, was Assistant Professor of Business Economics at Columbia University in New York. Served as project director of a major U.S. Department of Housing and Urban Development funded project designed to determine the impact of organizational arrangements for service delivery on service delivery costs and quality. Outputs of this project included extensive recommendations for improving service delivery of refuse collection, street sweeping, road repairs, traffic signal maintenance, janitorial services, payroll processing, parks maintenance, and street tree maintenance. This project built upon findings from a 1974-80 study of refuse collection and disposal, of which Dr. Stevens was co-principal investigator, involving analysis of organizational arrangement and its relationship to the cost, quality, and technology of service delivery.

Has published in academic and trade journals, spoken at national conferences, and provided expert testimony about research findings.

SELECTED PROJECT EXPERIENCE:

Oklahoma City, Oklahoma. Developed a methodology for procuring contract refuse collection services, both commercial and residential. Previously obtained disposal services, so that collectors without landfills might compete equally with those owning landfills. Bids for service provided opportunity for up to \$40 million in savings over five years. Contract for residential refuse collection allowed for guaranteed price for curbside recyclables collection, based on price of residential refuse collection. 1988

Seattle, Washington. Advised in preparation of RFPS for refuse collection services, including integrating increasing level of recyclables collection into the payment formula. Evaluated proposals and recommended selections to Council. Assisted in negotiations savings city up to 26% over previous year's costs for refuse collection. 1988.

New York City Trade Waste Association. Advised the Council of Presidents of the NYC Trade Waste Association about alternative research strategies for determining the ratio of loose waste to compacted waste. Implemented a statistical study of the compaction ratios achieved with commercial waste in New York City. Testified in rate hearing concerning findings. 1988

Stone Harbor, New Jersey. Provided an overall assessment of the borough's refuse collection and recyclables collection operation. Engagement involved redesigning the residential and commercial refuse collection routes. 1987

BARBARA J. STEVENS, Ph. D.

Denver, Colorado. As a subcontractor to Peat, Marwick, Main, Inc. developed econometric models to predict the costs of water supply over time. Predicted water supply costs based on time series analyses as well as on cross sectional analysis of a sample of water suppliers. 1987

Pittsburgh, Pennsylvania. As a subcontractor to Peat, Marwick Main, Inc. rerouted the water meter readers in Pittsburgh to minimize unproductive travel time and to equalize work assignments. 1988

Babylon, New York. Worked to procure refuse collection and recyclables collection services for the Town. This represented a change in arrangement for service delivery from private contracts between households and refuse collection firms to Town-wide mandatory collection, financed via a separate charge on the property tax. New service, including weekly collection of recyclables, provided at less than previous cost of regular refuse collection alone, due to realization of economies of contiguity and scale. 1986-88.

San Jose, California. Provided advice regarding the appropriate division of the City into solid waste collection districts. Advised on how to solicit bids and how to evaluate proposals for solid waste collection, and, as a separable issue, disposal. Compatibility with resource recovery facility and recycling programs was an essential characteristic of this project. Contracts awarded in September 1985 resulted in savings to City of \$70 million. 1984-88.

Brookhaven, New York. Advised the Town on how the existing license-non-regulated system for refuse collection could be modified so as to obtain waste flow control. Recommended districting with contracting, setting districts so as to allow all firms now operating in the Town to be eligible bidders. Estimated savings to households of over 35%. 1984.

Houston, Texas. Advised in development of productivity and quality improvement program for solid waste department. Conducted management retreat to teach processes. Developed manual on how to evaluate service for privatization on a city-wide basis. Conducted several workshops in the program for key management. Evaluated three departments for opportunities for contracting out. 1986-87.

Montgomery County, Maryland. Investigated alternatives for replacing the existing solid waste disposal tipping fee system with a combined user charge/tipping fee system. The purpose of the study was to allocate solid waste costs to the actual generator of waste and develop a system which would serve to stabilize waste flow to county disposal facilities. 1984.

Norwalk, Connecticut. Developed an new management plan for providing refuse collection and recyclables collection to households in the city. Plan implemented, with first year results showing a 15% increase in households serviced together with a 25% decrease in overall program costs. 1983-87.

City of El Paso, Texas. Conducted a detailed analysis of the level, quality, and costs of solid waste services provided by the City, including: residential, brush and bulk, and commercial collection; transfer station operations;

BARBARA J. STEVENS, Ph. D.

and, specifications and maintenance, and management. Recommendations were made resulting in cost savings and quality of service improvements. 1983

Department of Housing and Urban Development. A study designed to determine if contract service arrangements are more efficient than municipal service arrangements for local services including public works, parks and recreation and general government support services. Developed survey instruments to gather information to explain cost differences in the provision of services (quality, technology, etc.). Provided recommendations for cities on how to reduce their costs of service delivery, for particular services. 1983-4.,

Camden County Municipal Utility Authority. Prepared reports advising on appropriate organization structure for sludge treatment plan. 1983.

Fort Worth, Texas, Director project to improve productivity of solid waste collection and disposal operation. Drafted request for proposal, evaluated bids, and recommended contracting out a portion of city's service units. Also recommended six major internal changes for an overall reduction in city costs of over 20%. Drafted request for proposal for landfill operation, and advised city in selection of contractor for savings of over 30%. 1981-86.

United States Department of Energy, Argonne Laboratories. Provided economic analysis of various subsidy programs to stimulate development of resource recovery projects, in general and for specific projects. 1981

Ministry of Finance, Venezuela. Advised on the efficiency of the non-petroleum sector industries of Venezuela, including solid waste management, water supply, public transit, electricity generation, and telephone service. 1982.

Kamal Adham Group. Evaluated alternate composting systems for investment potential in Middle East. 1981

New York City Department of Sanitation. Directed project to reroute over 1000 refuse collection vehicles. Project included interviewing all 350 foremen to determine supervisory concerns and individual routing constraints. Conducted series of one-day training sessions for all first and second line supervisors in the use of the continuous path routes drawn by Ecodata. Assisted those foremen who require aid during implementation. Implemented system saved over \$9.5 million in first year. Major source of savings a reduction in miles driven due to a decrease in deadheading. 1979-81

National Science Foundation. Co-principal investigator on project entitled: Evaluating the Organization of Service Delivery: Solid Waste Collection and Disposal. Directed on-site, mail, and telephone surveys to gather data on costs of waste handling (using a uniform cost accounting system and system productivity from 350 U.S. cities, on organizational arrangements of 1,500 counties, cities and states. Found contract collection significantly less costly than municipal collection, for large cities. Conducted economic evaluation of market structure of solid waste industry in three local markets with different regulatory structures -- found all competitive. Evaluated the potential joint economies of production for various public utilities.

BARBARA J. STEVENS, Ph. D.

lection, brush and trash collection, snow plowing -- with shared labor and equipment; found significant economies in unified production and production of seasonally complementary services. Wrote book evaluating seven matched pairs of efficient and inefficient service delivery. 1974-81

Joint Housing Committee, Cairo, Egypt. Prepared tender documents for 10 TPH compost plant. Assisted in developing scheme for extension of refuse collection services to previously unserved areas of Cairo. 1980-81

BA Capital. Evaluated the market for compost from municipal waste and sewage sludge produced in Washington, D.C. 1983

Polar Foundation, Caracas, Venezuela. Determined waste generation and composition from 69 industries, 5 types of commercial establishments and 3 types of residential units from directly obtained survey data. Recommended solid waste management plan for Caracas' different waste streams. 1977-80.

Dallas, Texas; Warren, Ohio; Newark, New Jersey; El Paso, Texas; Mt. Vernon, New York; Jersey City, New Jersey; River Edge and Oradel, New Jersey; Norwalk, Connecticut. Directed project in each of these cities aimed at improving productivity of solid waste management.

Assistant Professor, Graduate School of Business, Columbia University. (Courses in Real Estate Finance, American Public Housing since the New Deal University Seminar, Econometrics, Statistics, Business Forecasting, Cost Analysis, Operations, Research, Macro-and Micro-economics.). 1974-77.

EXPERT TESTIMONY:

Consolidated Waste. Testified on the nature of the solid waste industry relative to a petition before the Bureau of Public Utilities in New Jersey to acquire another refuse collection firm. 1986.

Jersey City, New Jersey. Testified in Administrative Law Court relating to proposed solid waste fee rate averaging scheme proposed by Hackensack Meadowlands Development Commission. Proposed rate increase eventually denied. 1985.

Waste Management, Inc. Prepared expert report on the nature of the regulation in the solid waste collection industry as part of submissions in response to a class action lawsuit alleging price fixing and customer allocation schemes. 1987-88.

Jefferson Parish, Louisiana. Testified on behalf of Parish being sued on anti-trust grounds for anti-competitive behavior in letting of contract for refuse collection and disposal. Issues on which testimony was prepared included economics of solid waste disposal and collection, and costs of various contested contractual provisions. 1985.

Anchorage Refuse, Inc. Prepared and delivered testimony before the Alaska Public Utilities Commission on the impact of competition between firms within a single service area on refuse collection costs and efficiency. 1983.

BARBARA J. STEVENS, Ph. D.

Morelli. Testified in hearing to determine the value of an asset in a terminated partnership. The asset under dispute was a lease for a landfill located in Washington State. 1981

Waste Management, Inc. Provided expert testimony in merger case being tried by U.S. Department of Justice under Section 7 of Clayton Act. Testified on economic structure of solid waste collection and disposal industry and the technology of waste handling. 1981

PUBLICATIONS:

"Cost Analysis of Curbside Programs," Bicycle, Vol. 29, #5 (May-June, 1988), pp. 37-38.

With E. Berenyi, "Does Privatization Work? A Study of the Delivery of Eight Local Services," State and Local Government Review, Vol. 20, #1, (Winter, 1988), pp. 11-20.

With G. B. Liss, "How San Jose Did It," Waste Age, Vol 17, #10 (October, 1986), pp. 85-102.

"Comparing Public- and Private-Sector Productive Efficiency: An Analysis of Eight Activities," National Productivity Review, Vol. 3, #4 (Autumn 1984), pp. 395-406.

Municipal Waste Management Systems: Planning and Practice. New York: Van Nostrand Reinhold, 1980.

With E.S. Savas. "Solid Waste Collection," in Local and State Productivity Improvement Handbook, Ed. Washnis. Washington, D.C.: National Academy of Public Administration, 1978.

"Economical Refuse Collection," in More for Less: How Municipalities Can Contract for Service, ed. Frazier and Olson. Washington, D.C.: Local Government Center Taxpayers' Foundation, 1980.

With E. Berenyi and E.S. Savas. "Evaluating the Organization and Efficiency of Urban Service Delivery Systems: Solid Waste Collection," in The Policy Cycle. Ed. May and Wildavsky. Beverly Hills, California: Sage Publications, 1978.

"The Cost of Residential Refuse Collection," "Service Arrangement and Cost of Residential Refuse Collection," and "Local Government Regulation of Residential Refuse Collection by Private Firms," in The Organization and Efficiency of Solid Waste Collection. Ed. E.S. Savas. Lexington, Massachusetts: D.C. Heath, Lexington Books, 1977.

Impact of the Federal Tax Code on Resource Recovery. Municipal Environmental Research Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio: GPO, 1977.

"Employment, Permanent Income and the Demand for Housing," Journal of Urban Economics, Vol. 6, #4 (October 1979), pp. 480-500.

BARBARA J. STEVENS, Ph. D.

With F. Edwards. "The Private Provision of Municipal Service: An Empirical Analysis of Alternative Refuse Collection Schemes," Journal of Industrial Economics, Vol. 27, #2 (December 1978), pp. 134-144.

"Scale, Market Structure and the Cost of Residential Refuse Collection," The Review of Economics and Statistics. (August 1978), pp. 428-438.

"Single Site Economies in the Construction of Multi-Family Housing," Land Economics, Vol. 51 (February 1975), pp. 50-57.

"Simulation As a Resource Recovery Plant Design Tool," ASME National Waste Processing Conference, New York (May 1981).

"A Method for Determining Processible Waste for a Resource Recovery Facility," 1980 National Waste Processing Conference, Washington, D.C., The ASME, 1981, pp. 49-51.

"Combining Services Can Cut Costs, Six-City Sanitation Study Indicates," 1981 Sanitation Industry Yearbook. Atlanta, Georgia: Solid Wastes Management, Communication Channels, Inc., 1980, pp. 78-98.

"Bulky Waste Problem -- Won't Go Away" American City and County, March 1980, pp. 51-53.

"The Administrative Cost of User Charges," EPA Conference on Solid Waste Management. Philadelphia, Pennsylvania. September 1978.

"Cost of Residential Refuse Collection and the Effect of Service Arrangement," Municipal Yearbook, 1977. Washington, D.C., International City Waste Management Association, 1977.

"Management Factors that Affect Refuse Collection Costs," Solid Wastes Management, September 1977, pp. 32-36.

Presented Papers:

"Curbside Collection Strategies and Implementation," 18th Annual Biocycle National Conference, Philadelphia, PA. May 1988.

"Integrating Recycling into Refuse Collection," National Solid Waste Management Association Waste Expo Conference, Washington, D.C. May 1988.

"Economics and Recycling, Does it Compute?" California Resource Recovery Association Conference, San Diego, CA, May 1988.

"Street Cleaning Efficiency," APWA Convention, Philadelphia, PA. September 1984.

"Measuring Efficiency and Effectiveness of Service Delivery in the Public Sector," NSWMA Conference, Houston, TX. October 1984.

BARBARA J. STEVENS, Ph. D.

"Identifying the Relative Efficiency and Effectiveness of Service Delivery in Your City," California Contract Cities Association, Palm Springs, CA. May 1983.

"Contracting: The Make or Buy Decision," Conference on Responding to Changing Fiscal Realities, U.USHUD, Washington, D.C., January 1983.

"Contracting Out," International City Management Association. Anaheim, California, September 1981.

"Solid Waste Collection Costs," Eighth Annual Missouri Solid Waste Management Conference. St. Louis, Missouri, July 1980.

"Multi-Service Production in City Government Waste Management." Western Economic Association. San Diego, California, June 1980.

"Management and Refuse Collection Productivity," National Solid Waste Management Association Convention,. New Orleans, Louisiana, May 1977.

"Improving Productivity in Urban Service Delivery." University of Wisconsin, Madison, Wisconsin, November 1976.

"Cost Accounting for Urban Service Delivery," University of Wisconsin, Madison, Wisconsin, November 1976.

EDUCATION:

Massachusetts Institute of Technology, PhD. in Economics, 1973. Field of concentration: Urban Economics, Micro- and Macro-theory, Econometrics, monetary Theory, Economic History. Thesis title: The Economics of Constructing Multi-Family Housing.

Wellesley College, Wellesley, Massachusetts. A.B. in Economics, 1968. Thesis title: The Effect of the Property Tax on the Housing Market in the City of Boston.

FELLOWSHIPS AND AWARDS:

Fellow, Joint Center for Urban Studies of MIT and Harvard, 1971-72.

Fellowship for research on the construction industry, Harvard University, 1971-72.

National Science Foundation Traineeship, 1968-1970.

Phi Beta Kappa, Wellesley College, 1968.

PROFESSIONAL MEMBERSHIPS:

American Public Works Association, American Economics Association, Western Economic Association, National Solid Waste Management Association, National Recycling Coalition.

BARBARA J. STEVENS, Ph. D.

American Public Work Association Institute for Administrative Management Committee on Local Public Works Association, 1981.

American Society of Civil Engineers, member of Solid Waste Legislative Review Committee, contributed to Digest of Solid Waste Laws and Regulations 1980-81.

By: Chris Birch
Introduced: 03/30/89
Adopted: 03/30/89

RESOLUTION NO. 89-035

A RESOLUTION SUPPORTING DEREGULATION OF
GARBAGE AND SOLID WASTE

WHEREAS, under current Alaska law the Alaska Public Utilities Commission regulates the operation of garbage and solid waste disposal through its certification process, and

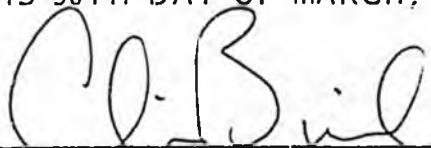
WHEREAS, the certification process results in needless expenditure of municipal funds in the procurement of garbage and solid waste collection and disposal, and

WHEREAS, if the collection and disposal of garbage and solid waste were deregulated municipalities could procure these services for the taxpayers of Alaska at a much lower cost than is currently the case, and

WHEREAS, it has been the experience in other industries that have been deregulated that costs immediately go down as market competition influences the industry that has been deregulated.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough urges the Alaska legislature to deregulate the collection and disposal of garbage and solid waste.

PASSED AND APPROVED THIS 30TH DAY OF MARCH, 1989.



Presiding Officer

ATTEST:



Clerk of the Assembly


Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

March 2, 1990

TO: Senator Dick Eliason, Chairman
Members of the Senate Labor and Commerce Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 298 - Relating to waste collection

The Alaska Municipal League supports SB 298 as introduced. The AML also supports the proposed CS for SB 298 (L&C) [Cramer 2/8/90] to the extent that it moves in the direction of deregulating solid waste services in municipalities by the APUC.

The Alaska Municipal League's 1990 Policy Statement states on page 38:

Deregulation of Solid Waste: The League supports statutory changes to eliminate APUC regulation of solid waste collection and disposal.

I understand from representatives of several of our member municipalities that have been working on this issue that the proposed CS for SB 298 (L&C) represents a compromise to complete deregulation acceptable to representatives of private haulers and those municipalities with current and specific problems. If complete deregulation is not possible through this or other legislation this year, then AML supports the proposed CS for SB 298 as a compromise to deal with some specific and immediate problems, and recognizing that all compromises are not completely acceptable to all parties.

The collection and disposal of solid waste is a traditional municipal service. Title 29 grants the authority for the collection, disposal and regulation of solid waste to municipalities. However, Title 29 (AS 29.35.050 (b) also restricts a municipality from providing this service if a private provider holds a certificate. A municipality wishing to enter the solid waste collection and disposal business can purchase the certificate or acquire it under its powers of eminent domain. The proposed CS for SB 298 makes an exception to current law for the collection and disposal of waste material left at a transfer site or generated by the municipal government or by a school district.

Solid waste is a growing environmental concern replete with increasing federal and state regulation and increasing potential costs to municipalities and private operators. A municipality must have adequate

Senator Eliason re SB 298
March 2, 1990
Page 2

control over solid waste collection and disposal in order to meet its, in many cases mandated, responsibility to protect the public health and welfare, specifically, protecting the health of its citizens and the environment and to keep costs at the lowest possible level. Complete deregulation or partial deregulation of solid waste in municipalities by APUC would still allow municipalities to regulate and contract out these services under Title 29.

Again, AML supports SB 298 and the complete deregulation of solid waste collection and disposal in municipalities by the APUC but also supports the proposed CS for SB 298 (L&C) as an acceptable compromise to deal now with specific and immediate problems in several of our member municipalities. Thank you.

sab3:sb298



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669

PHONE (907) 262-4441

DON GILMAN
MAYOR

March 7 1990

The Honorable Dick Eliason
State Labor and Commerce Committee
P.O. Box V
Juneau, AK 99811

Dear Chairman Eliason:

On March 6, 1990, the Kenai Peninsula Borough Assembly unanimously adopted Res. 90-18, "Urging the State to Deregulate the Transportation of Municipal Solid Waste Transfer Sites" (Mayor). The assembly and mayor asked the enclosed resolution be forwarded to you.

Your review and consideration would be appreciated.

Thank you.

Respectfully,

Catherine Y. DeLacee,
Deputy Borough Clerk

ENC: (1)

Introduced by: Mayor
Date: March 6, 1990
Action: Adopted
Vote: Unanimous

KENAI PENINSULA BOROUGH

RESOLUTION 90-18

URGING THE STATE TO DEREGULATE THE TRANSPORTATION OF MUNICIPAL SOLID WASTE TRANSFER SITES

WHEREAS, refuse haulers with a gross annual income greater than \$220,000 are regulated by the Alaska Public Utilities Commission; and

WHEREAS, in the 1970's the Kenai Peninsula Borough asserted that after refuse was placed in the "green boxes" or transfer stations it became the property of the borough and did not fall under the jurisdiction of the hauler's permit, thus allowing the borough to haul, or contract for hauling, the refuse to the landfill; and

WHEREAS, the court rejected that position and determined that hauling of transfer boxes was within the scope of an existing hauler's permit and was a service already provided by that hauler; and

WHEREAS, because of provisions of Title 29 of the Alaska Statutes, a municipality cannot initiate its own hauling if the area is already served by a certified hauler unless the municipality "buys out" that carrier; and

WHEREAS, through a commission decision, the rate structure for hauling in the central Kenai Peninsula area is exempt from PUC review, but obtaining a permit is still subject to PUC determination of public convenience and necessity; and

WHEREAS, these circumstances cause the creation of a monopoly in many communities that is not subject to regulation of rate; and

WHEREAS, this prevents the borough from entering into a contract with competitive bids which would ensure the lowest possible cost to the taxpayers; and

Kenai Peninsula Borough
Resolution 90-18
Page 1 of 2 Pages

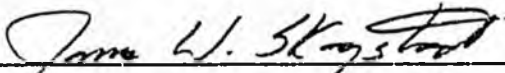
WHEREAS, legislation is before the Alaska State Legislature, which, if passed, would deregulate municipal transfer sites thus allowing the municipalities to competitively bid contracts for those hauling services;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Kenai Peninsula Borough supports legislation that would deregulate hauling of municipal "green boxes" or transfer site containers.

Section 2. That the clerk shall provided copies of this resolution to Senator Eliason, Chairman of the State Labor and Commerce Committee; Representative Donley, Chairman of the House Labor and Commerce Committee; Senators Binkley, Fischer, Kerttula and Szymanski; and Representatives Kubina, Navarre, Swackhammer, Wallis and Zawacki.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 6th DAY OF March, 1990.


James W. Skogstad, Assembly President

ATTEST:


Borough Clerk

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 90-027 AM

A RESOLUTION OF THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH SUPPORTING THE DEREGULATION OF SOLID WASTE COLLECTION AND DISPOSAL.

WHEREAS, the collection and disposal of municipal solid waste is a traditional police power function exercised to promote the public health, safety and welfare; and

WHEREAS, Alaska statutes currently require municipalities wishing to engage in solid waste collection and disposal to obtain a Certificate of Public Convenience and Necessity from the Alaska Public Utilities Commission (APUC); and

WHEREAS, the Alaska Public Utilities Commission has issued confusing orders regarding the regulatory scheme for solid waste collection and disposal; and

WHEREAS, the APUC statutes and its regulatory scheme for solid waste collection and disposal place an onerous burden on municipalities since it requires them to obtain special permission and to face legal challenges when attempting to implement the traditional police power function of solid waste collection and disposal; and

WHEREAS, SB 298 deregulates solid waste collection and disposal thereby eliminating the requirement that the Alaska Public Utilities Commission oversee municipal solid waste collection disposal; and

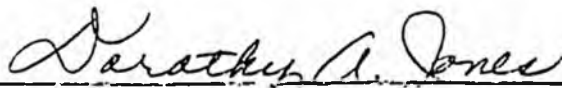
WHEREAS, SB 298 repeals a subsection of Title 29 which requires municipalities to purchase all or a portion of a Certificate of Public Convenience and Necessity of a utility

hauler if such certificate is affected by the municipality refuse collection and disposal services.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Matanuska-Susitna Borough supports the passage of legislation deregulating solid waste collection and disposal and repealing the onerous provisions of Title 29.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to Senator Eliason, Chairman of the State Labor and Commerce Committee; Representative Larson, Co-chairman of the Finance Committee; Representative Donley, Chairman of the House Labor and Commerce Committee; Senators Binkley, Fischer, Kerttula and Szymanski; and Representatives Menard, Kubina, Navarre, Swackhammer, Wallis and Zawacki; and all other members of the Alaska Legislature, and the Governor of the state of Alaska.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 6 day of March, 1990.



Dorothy A. Jones, Mayor

ATTEST:



Linda Dahl, Borough Clerk

(SEAL)



Alaska Center for the Environment

700 H Street, Suite 4 • Anchorage, Alaska 99501 • (907) 274-3621

April 26, 1989

Alaska State Legislature
Senate Labor and Commerce Committee
P.O. Box V
Juneau, AK 99811

Re: SB 298

Dear Members of the Committee:

The passage of SB 298 could have substantial negative impacts on Alaska's environment. Taking a hands off attitude concerning solid waste would be a step backward and would fly in the face of the lessons that we are learning nationwide about solid waste management.

DEC and the municipalities are ill equipped to effectively manage unregulated waste. DEC does not have enough staff to adequately monitor current landfills and is certainly in no position to take on new responsibilities. The State should maintain and strengthen existing regulations and controls, not abandon them.

The deregulation of garbage would also open the door to non-Alaskan firms, some of which have questionable reputations. The APUC can protect Alaska's environment and citizens from businesses that have little concern for Alaska.

We urge the committee not to pass out SB 298. At the very least, the bill should not be hastily passed at the end of the session, but should be held over for additional analysis, discussion, and public comment.

Thank you.

Sincerely,
Cliff Eames
Cliff Eames
Issues Director



May 23, 1989

The Honorable Dick Eliason
Chairman, Labor and Commerce Committee
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

Dear Chairman Eliason:

In addition to operating a refuse hauling business on the Kenai Peninsula, I also serve as President of the Alaska Refuse Utilities Association. The association has members from around the State and represents the interests and concerns of the small businessmen who operate these utilities.

We greatly appreciated the time which you took from your busy schedule to meet with us in Juneau to discuss S.B. 298, the committee bill which proposes to deregulate refuse utilities. As we stated during our meeting with you, we believe it is in the public interest to continue to regulate refuse. However, we are willing to work with you and the other committee members to develop compromise legislation which will be mutually satisfactory to everyone concerned with the refuse issue. As you may know, we have reached an informal agreement with the North Star Borough and the Kenai Peninsula Borough on the issue of large transfer containers, which is the boroughs' prime refuse concern.

The association would like to work with you and your committee during the interim to develop a committee substitute which would enjoy broad support among those interested in the refuse issue. Do you have any plans to work on S.B. 298 during the interim? If so, would you please give us notice of when the committee's meetings will occur so that we can participate in them in a positive and constructive manner.

Thank you for your attention to this matter.

Sincerely,

Sky Carver
President

Alaska Refuse Utilities Association



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

TESTIMONY ON CSSB 298 (L&C) REFUSE HAULING DEREGULATION

The Kenai Peninsula Borough supports CSSB 298 (L&C) and the issue of deregulation of the refuse hauling industry in general. This bill represents a compromise between municipalities and the refuse haulers. CSSB 298 (L&C) provides for the deregulation of municipal transfer sites, thereby allowing municipalities to haul or contract for the hauling of waste left at an intermediate disposal site.

The Kenai Peninsula Borough has sought deregulation of hauling of municipal transfer sites since the 1970's, when the borough asserted that after refuse was placed in these transfer sites, it became the property of the borough and did not fall under the jurisdiction of the hauler's permit, thus allowing the borough to haul or contract for hauling, the refuse to the landfill. The court rejected that position and determined that hauling of transfer boxes was within the scope of an existing hauler's permit and was a service already provided by that hauler. Because of provisions in Title 29 of the Alaska Statutes, a municipality cannot initiate its own hauling if the area is already served by a certified hauler, unless the municipality "buys out" that carrier.

Through a commission decision, the rate structure for hauling in the central Kenai Peninsula area is exempt from the normal PUC rate filing procedure, but obtaining a permit is still subject to PUC determination of public convenience and necessity. These circumstances cause the creation of a monopoly in many communities that is not subject to regulation of rate. This prevents the borough from entering into a contract with competitive bids which would ensure the lowest possible cost to the taxpayers.

In 1989, the certificated hauler in the borough requested a 25% rate increase in the two areas that still have regulated rates. The APUC denied the 25% increase but granted rate increases of 17.45% in the east peninsula area and 15.8% in the southern peninsula area. While the central peninsula area is not regulated, the hauler set those rates

to reflect the 17.45% increase awarded for the east peninsula area. Given this situation of a state agency determining the cost of doing business for a municipality, the ability of a local government to control its costs is lost. In reaction to these rate increases, and in an effort to contain the costs of the solid waste budget, the borough made a decision to remove five transfer sites which resulted in reduction of service to the public.

Due to pending EPA regulations requiring strict environmental controls, the borough is now strongly considering the concept of a central disposal site, which would require that waste generated in Seward, Kenai and Nikiski to be hauled to a site in Soldotna. With this increase in hauling, it is imperative that the borough be able to control the costs in this portion of the solid waste budget by being allowed to enter into a competitive bid situation, resulting in a contractual relationship with the hauler. Because only one hauler is now permitted to provide this service to the borough, this method of controlling costs is not available.

The Kenai Peninsula Borough appreciates your consideration of this legislation and urges you to pass CSSB 298 (L&C) from committee.



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 Sponholz

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.

Original sponsor: Hohman

Offered: 4/23/79
Referred: Judiciary

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 61 am H (re-engrossed)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public utilities; and providing for
7 an effective date."

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

9 * Section 1. AS 42.05.711(e) is amended to read:

10 (e) An [NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY
11 electric, water, sewer, garbage, or telephone utility that does not
12 gross \$50,000 [\$25,000] annually is exempt from regulation under this
13 chapter [HEREUNDER] unless 25 per cent of the subscribers petition the
14 commission for regulation.

15 * Sec. 2. AS 42.05.711 is amended by adding a new subsection to read:

16 (f) An electric, water, sewer, garbage, or telephone utility that
17 grosses more than \$50,000 and less than \$500,000 annually is exempt from
18 regulation under AS 42.05.010 - 42.05.211 and 42.05.291 - 42.05.721
19 unless 25 per cent of the subscribers petition the commission for
20 regulation.

21 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.
22 070(c).

Original sponsor: Hohman

Offered: 3/9/79
Referred: Judiciary

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 61

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public utilities, and providing for
7 an effective date."

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

9 * Section 1. AS 42.05.711(e) is amended to read:

10 (e) An [NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY]
11 electric or telephone utility that does not gross \$100,000 [\$25,000]
12 annually is exempt from regulation under the provisions of this chapter
13 other than the provisions of AS 42.05.221 - 42.05.281 [HEREUNDER] unless
14 25 per cent of the subscribers petition the commission for regulation.
15 In computing gross annual revenues under this subsection, the utility may
16 exclude revenues received from its single largest governmental consumer
17 for the delivery of services.

18 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
19 070(c).

SB 61 AN ACT RELATING TO PUBLIC UTILITIES; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: HCS CS * AM H (RE-ENG)

PRIME SPONSORS: HOHMAN

DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION
01/18/79	01	0049	FIRST READING -- COMMITTEE REPORTS	03/23/79	11	0731	FIRST READING -- COMMITTEE REPORTS
03/09/79	02	0417	COM -- CS05	04/23/79	12	1011	COM -- CS06
03/15/79	03	0502	JUD -- COM CS03	04/28/79	13	1160	JUD -- COM CS07
03/21/79	04	0577	RLS -- OTHER05				
03/22/79	05	0601	SECOND READING	05/02/79	14	1305	SECOND READING
03/22/79	06	0601	COM CS ADOPTED BY UNAN CONSENT	05/02/79	15	1305	COM CS ADOPTED BY DIV 29-07-04
03/22/79	07	0601	ADVANCED TO 3RD READING BY UNAN CONSENT	05/02/79	16	1306	AM01 ADOPTED BY DIV 23-06-11
				05/02/79	17	1306	ADVANCED TO 3RD READING BY UNAN CONSENT
03/22/79	08	0601	THIRD READING	05/04/79	27	1340	AM02 ADOPTED BY UNAN CONSENT
03/22/79	09	0602	PASSED BY DIV 20-00-00	05/04/79	28	1340	ADVANCED TO 3RD READING BY UNAN CONSENT
03/22/79	10	0602	EFFECTIVE DATE VOTE SAME AS PASSAGE	05/02/79	18	1306	THIRD READING
				05/02/79	19	1306	PASSED BY DIV 27-06-07
				05/02/79	20	1307	EFFECTIVE DATE VOTE SAME AS PASSAGE
				05/02/79	21	1307	NOTICE OF RECONSIDERATION GIVEN
				05/04/79	22	1339	ACTION NO. 021 RESCINDED BY UNAN CONSENT
				05/04/79	23	1339	ACTION NO. 020 RESCINDED BY UNAN CONSENT
				05/04/79	24	1339	ACTION NO. 019 RESCINDED BY DIV 36-00-04
				05/04/79	25	1340	READ AGAIN THIRD TIME
				05/04/79	26	1340	RETURNED TO 2ND READING BY DIV 34-00-06
				05/04/79	29	1341	READ AGAIN THIRD TIME
				05/04/79	30	1341	PASSED BY DIV 26-08-06
				MM 05/04/79	31	1341	EFFECTIVE DATE PASSED BY DIV 33-00-07

10001111

...e from "nay" to "yea."
...: from "nay" to "yea."
...ote from "nay" to "yea."

DING OF SENATE BILLS

...c third time.

HCS CSSB 61amH be returned to
d Amendment No. 2.

...l HCS CSSB 61amH be returned
...ific amendment?" The roll was
...esult:

...on, Barnes, Beirne, Bettisworth,
...n, Buchholdt, Carney, Chatterton,
...Duncan, Eliason, Freeman,
...Gardiner, Haugen, Hayes,
...rt, McKinnon, Malone, Martin,
...fe, Miller, Montgomery, Moss,
...Osterback, Parker, Parr,
...ps, Randolph, Rogers, Schaeffer,
...Zharoff.

...Guy, Halford, Meekins, Miles,
...ell.

...orth:

...ater," insert "sewer,"

...asked unanimous consent that
...There being no objection,

...d unanimous consent that HCS
...grossed, advanced to third
...passage. There being no
...d.

HCS CSSB 61amH(re-eng) was read the third time.

The question being: "Shall HCS CSSB 61amH(re-eng) pass the
House?" The roll was taken with the following result:

Yeas: 26 Anderson, Bettisworth, Branson,
Buchholdt, Carney, Cotten, Duncan,
Eliason, Freeman, Fuller, Gardiner,
Haugen, Hurlbert, Malone, Martin,
Miller, Moss, Munson, Osterback,
Parker, Parr, Phillips, Randolph,
Schaeffer, Smith, Zharoff.

Nays: 8 Barnes, Beirne, Chatterton, Haynes,
McKinnon, Metcalfe, Montgomery,
Rogers.

Not
voting: 6 Brown, Guy, Halford, Meekins,
Miles, O'Connell.

Representative Branson changed her vote from "nay" to
"yea."

And so, HCS CSSB 61amH(re-eng) passed the House.

Mr. Anderson moved the effective date clause.

The question being: "Shall the effective date clause on
HCS CSSB 61amH(re-eng) be adopted?" The roll was taken
with the following result:

Yeas: 33 Anderson, Barnes, Beirne, Bettisworth,
Branson, Buchholdt, Carney,
Chatterton, Cotten, Duncan, Eliason,
Freeman, Fuller, Gardiner, Hayes,
Hurlbert, McKinnon, Malone, Martin,
Metcalfe, Miller, Montgomery, Moss,
Munson, Osterback, Parker, Parr,
Phillips, Randolph, Rogers, Schaeffer,
Smith, Zharoff.

Nays: 0

Not
voting: 7 Brown, Guy, Halford, Haugen, Meekins,
Miles, O'Connell.

And so, the effective date clause was adopted.

HCS CSSB 61amH(re-eng) was referred to the Chief Clerk
for re-engrossment.

CS The question being: "Shall COMMITTEE SUBSTITUTE FOR SENATE
 SB BILL NO. 61 (relating to public utilities) pass the Senate?
 61 The roll was taken with the following result:

Yeas: 20 Bennett, Bradley, Colletta,
 Dankworth, Fahrenkamp, Ferguson,
 Hackney, Hohman, Kelly, Kerntula,
 Meland, Mulcahy, Ray, Rodey,
 Sackett, Stimson, Sturgulewski,
 Sumner, Tillion, Ziegler

Nays: 0

and so, COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 61 passed
 the Senate.

Senator Colletta moved and asked unanimous consent that
 the roll call on the passage of the above bill be con-
 sidered the roll call on the effective date clause.
 Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 61 was referred
 to the Secretary for engrossment.

SB SENATE BILL NO. 130 (establishing incentives for students
 130 to attend colleges and universities in Alaska) was read
 the second time.

Senator Rodey moved and asked unanimous consent that
 SENATE BILL NO. 130 be held until the March 27 calendar
 in second reading. Without objection, it was so ordered.

UNFINISHED BUSINESS

President Tillion appointed the following members to a
 Special Committee on the Permanent Fund:

Senator Sumner, Chairman
 Senator Rodey
 Senator Hohman
 Senator Sackett
 Senator Mulcahy

The reconsideration of the follow
 up this legislative day and the b
 the Secretary for engrossment.

SENATE BILL NO. 192 (leasing
 state land for oil and gas d

HOUSE BILL NO. 179 amended S
 Facility Authority

SPECIAL ORDER

Senator Tillion moved and asked un
 be excused on March 23. Without o
 was excused.

Senator Rodey moved and asked unani
 be excused from a call of the Senat
 10:30 a.m. Without objection, Senat

Senator Sackett moved and asked unan
 be excused from a call of the Senat
 objection, Senator Sackett was excu:

Senator Kelly moved and asked unani
 be excused from a call of the Senat
 objection, Senator Kelly was excused

Senator Ray moved and asked unanimo
 excused, March 23. Without objectio
 excused.

ENGROSSMENT

The following bills have been engross
 President and Secretary and transmit
 consideration:

COMMITTEE SUBSTITUTE FOR SENATE

COMMITTEE SUBSTITUTE FOR SENATE
 (Finance)

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3 RESPONSE TO AUDIT COMMITTEE REPORT ON
4 DEREGULATION OF REFUSE UTILITIES

5 In its recent report, the audit committee has concluded that
6 refuse utilities should be deregulated because the cost of reg-
7 ulating refuse collection and disposal exceeds the benefits of
8 such regulation. This conclusion is not supported by the facts
9 and realities of refuse collection and disposal.

10 The public wants the safest, and most healthful, economical,
11 efficient, inexpensive and environmentally desirable garbage
12 collection and disposal system available. Competition is not the
13 best way to insure these benefits. Normally, in the general
14 market arena, the competitive model will produce these benefits
15 with elementary levels of regulation. This however is not the
16 case with garbage collection and disposal. Free competition in
17 the refuse industry is not in the public interest because of the
18 substance and nature of garbage itself and because of the nature
19 of the service involved.

20 The audit committee quickly acknowledges some of the nega-
21 tive effects of open competition in the refuse indus-
22 try--increased truck traffic, frequent refuse pick-ups in res-
23 idential neighborhoods, and consistency problems. In so briefly
24 summarizing and dismissing these negative effects, the committee
25 both avoids facing the nature and extent of the problems and
26 neglects to consider a number of other consequences to the public
27 convenience and necessity. In addition, the committee mischarac-
28 terizes and ignores the APUC's recent experiments in deregulation

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3 in the Matanuska-Susitna Valley and draws a number of other
4 inaccurate conclusions about the larger system of regulation.

5 Deregulation of refuse carriers certainly will result in
6 increased refuse truck traffic in both commercial and residential
7 neighborhoods. Frequent refuse pick-ups by a number of carriers,
8 a necessary consequence of deregulation, will also mean that
9 unsightly refuse will be placed on curbs on a daily basis, as
10 individual haulers set their own pick up schedules. Both of
11 these consequences will have serious effects on the public health
12 and safety over the entire service area. The noise and dangers
13 associated with large trucks in residential streets need no
14 elaboration. The presence of trash awaiting pick up on each day
15 of the week increases the possibility of spillage and scattering
16 by dogs and due to a variety of other circumstances. Addition-
17 ally, in the event of spillage from trucks, it would be impossi-
18 ble to determine who among a number of carriers was responsible
19 for the spillage. It would be even more difficult to require
20 somebody to pick it up.

21 Deregulation will lead to a number of other adverse impacts.

22 Initially, increased competition among refuse haulers for
23 business would lead to a constant door-to-door and mail sollicita-
24 tion of residents for their business by refuse carriers attempt-
25 ing to gain a sufficient number of customers to make service
26 economical. This sollicitation would be a on-going concern as
27 carriers entered and left the market.
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There are few natural barriers to entry into the refuse business. All it takes is a pick-up truck and little muscle. If the industry is deregulated, entry will be further facilitated and the business will attract entrants that may have nothing else to do at the moment and who possess little or no business knowledge. These entrants will last only long enough to gather a few customers and to find out that they are losing money. At the same time, they will quickly learn that the way to success, if at all possible, is to attract a lot of customers with low rates and speedily collect and dispose of the garbage. Under such pressures, utilities will have no incentive, or time to recycle or compact material to save landfill area. Spillages are not cleaned up, and the competitor believes he will not get caught because so many competitors serve the same areas.

Ease of entry under a deregulated scenario would also mean there is little incentive for any of the competitors to have anything more than the absolute minimum investment in equipment and maintenance. Furthermore, there would be little incentive to buy expensive, high-technology equipment that is far more efficient, sanitary, and safe than a broken down old garbage truck or pick-up. Thus, better collection technology does not automatically translate into a more desirable competitive position. In simple terms, competition would tend to drive better equipment out of the market, since a utility owner could not be assured that his investment in such environmentally desirable, safe, and sophisticated equipment could be paid for over time. Such

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3 equipment requires all the customers a utility can get, and open
4 competition would spread such customers out among a number of
5 competitors.

6 Deregulation means that not only that anyone can begin a
7 refuse collection and disposal business but also that refuse
8 utilities can as easily go out of business. Most of the competi-
9 tors that started competing with Alma Corporation and WRI in the
10 Mat-Su Borough no longer exist. Under deregulation, people who
11 have lost service may find it inconvenient to locate a new carri-
12 er willing to serve them. Another and more significant conse-
13 quence is that as deregulation continues and new competitors keep
14 entering and leaving a service area, customers grow tired with
15 the sporadic service, lose faith altogether in the system, and
16 begin using the free transfer sites. This change-over from
17 reliance upon refuse carriers to use of the free transfer sites
18 undermines the stability of the remaining utilities and
19 over-burdens the transfer sites.

20 There are no real benefits to be associated with competition
21 in the refuse industry. The committee appears to believe that
22 competition will lower rates. This reasoning is defective.
23 Especially in a market in which haulers come and go freely,
24 without regulation, customers quickly come to realize that the
25 most important thing is that refuse be collected weekly without
26 interruption. Customers are willing to pay slightly more for
27 this level of service. Thus, while rates in freely competitive
28 markets may move lower at first, they will stabilize and then

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3 rise as customers develop loyalty to the stronger competitor, and
4 as that competitor captures a larger market share and raises its
5 rates to cover his costs of competition, past losses, purchasing
6 other competitors, and the lost returns he failed to realize
7 during the competitive battle. The end result of free competi-
8 tion in the refuse industry is that sooner or later, the strong-
9 est competitor has most if not all of the business with no rate
10 or service regulation. The APUC's experience in the Mat-Su
11 Valley illustrates these principles. The competitive model has
12 not worked there. Those competitors that charged less than the
13 rate that was required to earn a reasonable return are no longer
14 in business and appear to have stayed in business for a short
15 period of time.

16 The audit committee also bases its conclusion on its percep-
17 tion that the APUC is spending an excessive amount of time of
18 regulating refuse utilities. As the attached charts demonstrate,
19 the APUC is spending limited time on refuse matters. In brief
20 summary, between January 1, 1983 and December 31, 1988, APUC
21 Commissioners and Hearing Officers spent 142 hearing hours on
22 certification matters and 37 hearing hours on rate hours. These
23 figures hardly constitute an excessive amount of time for the
24 regulation of refuse utilities.

25 Finally, recommending that the APUC no longer regulate
26 refuse carriers, the audit committee relies on local regulation
27 of the refuse industry by municipalities. This local regulation
28 simply does not exist. As a practical matter, local communities

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3 are not taking responsibility for health and sanitation issues
4 connected with the refuse industry, nor is the Department of
5 Environmental Conservation. Even were these entities to take
6 such responsibility, implementing such regulations would be
7 costly regardless of the method chosen.

8 If the municipality decides to engage in competitive con-
9 tracting for the collection and disposal of refuse, it will need
10 personnel to write, let, manage, and oversee those contracts.
11 The municipality would need appropriate expertise to evaluate
12 requests for rate increases and would be taking on considerable
13 potential liability for the improper disposal of hazardous wastes
14 handled by those contractors.

15 If the municipality decided to regulate on a franchise
16 basis, the municipality would still need to develop the certi-
17 fication, rate regulation, and service regulation expertise
18 possessed by the APUC.

19 If the municipality decided simply to open its area to
20 unregulated competition, it would need to develop environmental
21 safety standards. This process would become substantially more
22 expensive as the number of refuse carriers increased in the
23 municipal area.

24 Regardless of the form of regulation adopted by a municipal-
25 ity, the result would be higher rates for the collection and
26 disposal of refuse. When local political bodies are responsible
27 for rate-making, higher rates inevitably result because those
28 entities do not fully understand the refuse collection and

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disposal business and rate-making concepts. Thus, unless a municipality is willing to expend considerable sums of money to attract and obtain the necessary level of expertise to regulate rates, or to establish and revise contractual rates, customers are far better off under regulation by a commission that is primarily designed, organized, and operated to regulate the rates and services of utilities.

For all these reasons, deregulation of refuse utilities is contrary to the public health, safety, and convenience.

Alaska State Legislature

Legislative Research Agency




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January 19, 1990

MEMORANDUM

TO: Senator Dick Eliason

FROM: Gordon S. Harrison 
Director

RE: Regulation of Refuse Collection and Disposal in Alaska
Research Request 90.190

You asked for background information on the regulation of refuse collection and disposal in Alaska. This memorandum provides an overview of the regulatory regime currently in place.

The collection of refuse and the disposal of it are subject to different types of regulation.

Refuse Collection

Garbage collection service is considered a public utility in Alaska and falls under the jurisdiction of the Alaska Public Utilities Commission (APUC). All garbage collection services must obtain a certificate of public convenience and necessity from the APUC. By granting a certificate, the APUC determines that the proposed service is in the public interest. Jurisdiction of the APUC extends into incorporated areas. Thus, municipal governments that operate a refuse pick-up service (as do the Municipality of Anchorage and the Matanuska-Susitna Borough, for example) must hold certificates from the APUC.

If a municipality with a certificate chooses to contract its garbage collection service to a private firm, that firm does not have to obtain its own certificate. It is presumed to be operating under the certificate held by the municipality. However, if a firm wished to compete with the municipal service, or if it wanted to operate in an area of the municipality not reached by the municipal service, it would need to obtain a certificate from the APUC. (Currently in Anchorage, the municipality operates a collection service in the compact metropolitan area and a private company with its own certificate operates in the outlying areas.)

Senator Eliason
January 19, 1990
Page 2

The APUC also regulates rates charged by private garbage haulers, but only those over a minimum size. Alaska statutes exempt from rate regulation collection services with gross annual revenues of \$200,000 or less.¹ Municipal utilities are exempt from rate regulation by the APUC.² It is assumed that a municipality will establish rates for its utility service according to a public process, and that in general sufficient political accountability for these matters exist at the local government level.

In Juneau, garbage is collected by a private firm, Channel Sanitation, whose annual revenues exceed \$200,000 and whose rates are regulated by the APUC.

Garbage Disposal (Landfills)

Landfills and garbage incinerators are not considered public utilities in Alaska, and therefore they are not regulated by the APUC. That is, they do not need a certificate of public convenience and necessity to go into business, and the rates they charge are not regulated. However, the operation of garbage disposal sites and garbage incinerators is regulated by state and federal laws and regulations administered by the Alaska Department of Environmental Conservation (DEC). A permit from DEC is required to open a landfill; and the permit holder must abide by stipulations regarding cover material, leachate (toxic liquid that seeps into ground water or streams), attraction of animals, and other aspects of its operation. An incinerator also requires a permit from DEC, which administers the federal clean air standards.

The federal government has established standards and guidelines for landfills. These are administered by the Environmental Protection Agency (EPA). However, the EPA does not currently have an active monitoring or enforcement program. Proposed changes to federal law could propel EPA into a more active role in landfill permitting and regulation in the near future.

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

¹ AS 42.05.711 (i) exempts trash collectors with gross annual revenue of \$200,000 or less "unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the [APUC] for regulation." There has never been a petition submitted under this provision.

² AS 42.05.711 (1) allows the governing body of a municipality to elect to be subject to regulation by the APUC. No municipalities have voluntarily submitted their refuse collection utility to APUC rate regulation, but municipalities have voluntarily put other utilities under it (the publicly owned and operated telephone and electric utilities in Anchorage are regulated by APUC, for example).

Alaska State Legislature



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Legislative Research Agency

February 14, 1990

MEMORANDUM

TO: Senator Dick Eliason

FROM: Leola Weimer *LW*
Legislative Analyst

RE: Regulation of Refuse Collection and Disposal in Alaska
Research Request 90.190 (Supplemental Information)

You asked which municipalities held certificates to provide refuse service from dumpsters to landfills.

There are two types of dumpster services: 1) roll on/off service, and 2) public dumpsters. The roll on/off service typically services large commercial enterprises (e.g., a supermarket) and requires a specialized truck onto which the entire dumpster is rolled on and off. Public dumpsters, on the other hand, typically do not require the removal of the entire container.

The table of certified refuse collectors provided in the first supplemental to 90.190 identifies those who provide roll on/off service. In Anchorage, this service is provided by Anchorage Refuse, Inc. and Eagle River Refuse, Inc.. In the Matanuska-Susitna Borough, roll on/off service is provided by Wasilla Refuse, Inc. and All Alaska Enterprises. None of these certificate holders are municipally owned.

According to Bill Marshall of the Alaska Public Utilities Commission (APUC), all municipalities that hold refuse certificates may provide dumpster-to-landfill services. They are not, however, required to do so. A municipality may choose to contract its dumpster service. If the municipality holds a certificate, the subcontractor may operate under the municipality's certificate. If, however, the municipality does not hold a certificate (e.g., in the Kenai Borough), private contractors must obtain a certificate to provide refuse service.

If a municipality (or borough) seeks to obtain a certificate to initiate service in an area already serviced by a private certificate holder, the municipality must buy out its potential competitor. Alaska Statute 29.35.060(b) states that:

The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste

Senator Eliason
February 14, 1990
Page 2

material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. A municipality may not provide for garbage, refuse, trash, or other waste material collection and disposal service . . . until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value.¹

In short, a municipality may not initiate service in competition with a person who already holds a certificate. If a municipality wishes to expand service into an area in which a certificate has already been issued, the municipality must first buy out its potential competitor.

According to Assistant Attorney General Jim Baldwin, this statute applies only to governing bodies such as municipalities and boroughs. It does not apply to private companies that wish to compete with municipal, borough or private certificate holders. There is a question as to whether or not this statute requires a municipality to buy out a borough certificate holder to prevent competition. In the past, the term "person" was not been extended to include governing bodies such as municipalities or boroughs.²

Attachment

¹For the complete text of the statute, see attachment.

²Attorney General Opinion 74, James E. Douglas, assistant attorney general, February 22, 1974.

for injury to person or property. 63 ALR2d 1088.

Mandamus, liability of municipal corporation for damages to successful plaintiff or relator in. 73 ALR2d 930, 34 ALR4th 487.

Waiver of, or estoppel to rely upon, contractual limitation of time for bringing action against municipality or other political subdivision. 81 ALR2d 1039.

Pledging parking meter revenues as unlawful relinquishment of governmental power. 83 ALR2d 649.

Revocation, prior to execution of formal written contract, of vote for decision of public body awarding contract to bidder. 3 ALR3d 864.

Power of municipal corporation to submit to arbitration. 20 ALR3d 629.

Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Liability of municipality on equal contract for value of property or work fur-

nished without compliance with bonding requirements. 33 ALR3d 1184.

Power of eminent domain as between state and subdivision or agency thereof, or as between different subdivisions or agencies themselves. 38 ALR3d 1293.

Validity of "freezing" ordinances or statutes preventing prospective condemnation from improving, or otherwise changing, the condition of his property. 36 ALR3d 761.

Validity and construction of statute or ordinance providing for repair or destruction of residential building by public authorities at owner's expense. 43 ALR3d 916.

Right of governmental entity to maintain action for defamation. 45 ALR3d 1318.

Power of municipal corporation to lease or sublet property owned or leased by it. 47 ALR3d 19.

Recovery of exemplary or punitive damages from municipal corporation. 1 ALR4th 448.

Sec. 29.35.020. Extraterritorial jurisdiction. (a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to protect its water supply and watershed, and may enforce the ordinance outside its boundaries. Before this power may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

Power granted does not deprive city of other powers. — There was no reason that the grant to the council of power to extend roads and trails from its limits to certain points without its limits under a former, similar provision in any manner deprived the council of any of the implied

or necessary powers which it would have enjoyed, in the absence of any such express grant in the charter. *Town of Ketchikan v. Zimmerman*, 4 Alaska 336 (1911).

If authority had not been expressly given by a former, similar provision for a

city to purchase land outside of the incorporated limits and to divert a stream beyond its limits and prevent it from reach-

ing the incorporated limits, such authority was necessarily implied. *Town of Seward v. Margulov*, 9 Alaska 364 (1938).

Collateral references. — 66 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions. §§ 227, 228, 436, 660 et seq.

62 C.J.S., Municipal Corporations, § 141; 63 C.J.S., Municipal Corporations, § 1050-1062.

Standing of municipal corporation or other governmental body to attack zoning of land lying outside its borders. 49 ALR3d 1120.

Sec. 29.35.030. Eminent domain. (a) A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.260 — 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — Cost of substitute facilities as measure of compensation paid to state or municipality for condemnation of public property. 40 ALR3d 143.

Consideration of fact that land owner's remaining land will be subject to special assessment in fixing severance damages. 59 ALR3d 634.

Sec. 29.35.040. Emergency disaster powers. (a) A municipality that is wholly or partially in an area that is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonarea-wide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310.

(b) Powers granted by this section must be initiated within a period of not more than five years after the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years. (§ 10 ch 74 SLA 1985)

Sec. 29.35.050. Garbage and solid waste services. (a) A municipality may be ordinance

(1) provide for the establishment, maintenance, and operation of a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

(2) require all persons in the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance;

(3) award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees;

(4) pay for garbage and solid waste collection and disposal from available money;

(5) require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality;

(6) fix charges against the property owners or occupants of premises for the collection and disposal; and

(7) provide penalties for violations of the ordinances.

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. A municipality may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the Alaska Public Utilities Commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality may exercise the right of eminent domain to acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq. 62 C.J.S., Municipal Corporations, ¶ 279, 651

Liability of municipal corporation for damages for maintenance of sewer disposal plant as nuisance. 40 ALR2d 1198. *Municipal liability for maintenance of public dump as nuisance.* 62 ALR2d 1134.

Sec. 29.35.060. Franchisees and permits. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the Alaska Public Utilities Commission and may permit the

use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the Alaska Public Utilities Commission shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq. 64 C.J.S., Municipal Corporations, 1720.

Motive of council passing ordinance as

to franchise as affecting validity thereof. 32 ALR 1628. *Forfeiture of street railway franchise for breach of condition.* 34 ALR 1420. *Municipality's liability in damages for refusal to grant franchise.* 37 ALR2d 694

Sec. 29.35.070. Public utilities. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that it is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) — (k).

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

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

Meaning of "invested capital". — "Invested capital," as used in a former, similar provision, meant the initial investment, regardless of subsequent

changes in ownership, plus capital additions and minus accrued depreciation. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

The term "invested capital" as used in a former, similar provision should not have been construed to mean fair value, nor was the utility entitled to the benefit of any appreciation in value, nor should the term have been construed to mean that which was paid for a utility by the last purchaser. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

Alaska State Legislature

Legislative Research Agency



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February 2, 1990

MEMORANDUM

TO: Senator Dick Eliason

FROM: Leola Weimer (W)
Legislative Analyst

RE: Regulation of Refuse Collection and Disposal in Alaska
Research Request 90.190 (Supplemental Information)

You asked for additional information regarding refuse collection in Alaska. This memorandum provides a list of refuse collectors certified by the Alaska Public Utilities Commission (APUC) to operate in Alaska.

The names, addresses and geographic location of all certified refuse collectors are shown in Table 1.

Table 2 shows certain operating characteristics of these certified operators. For the purposes of this table the following definitions apply.

Competitive: more than one operator is certified to collect refuse in a specified service area.

Restricted: a certificate holder may service only residential customers in certain areas.¹

Regulated: gross operating revenue greater than \$200,000.00 and therefore rates are regulated by APUC.

¹ The Mat-Su Borough is the only service area where there is restricted service. Historically, Alma Corporation and Wasilla Refuse were the only certified operators in their respective areas. It was determined by APUC that commercial service should be restricted in these specific areas to their historically exclusive operators. APUC granted exclusive commercial service to Alma Corporation and Wasilla Refuse within their original certificated areas. However, it did not grant them exclusive commercial service in their expanded service area. Residential service, on the other hand, is competitive throughout the Mat-Su Borough.

Senator Eliason
February 2, 1990
Page 2

Attached is a page from the APUC FY 88 annual report which (1) lists those operators whose rates are regulated by APUC, and (2) shows a sample of monthly residential refuse rates charged by the regulated private operators.

We also have the legal descriptions of each service area and additional documentation, which is available to you upon request.

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

Attachments

TABLE 1

REFUSE COLLECTORS CERTIFIED TO OPERATE IN ALASKA

Certificate	Borough	Company	Address	Town	Zip	Telephone
	Anchorage					
387		Beluga Environmental Services, Inc. (BESI)	3700 Spenard Road	Anchorage	99503	561-7424
217		Anchorage Refuse, Inc. (ARI)	6301 Rosewood Street	Anchorage	99502	563-3717
284		Anchorage, Municipality of (MOA)	P.O. Box 196650	Anchorage	99519	561-1906
218		Eagle River Refuse, Inc. (ERRI)	P.O. Box 1028	Eagle River	99577	688-3501
	Arctic					
283		Calville Environmental Services (CES)	8600 Sultana Drive	Anchorage	99516	345-0594
231		North Slope Borough Utilities (NSB)	P.O. Box 69	Barrow	99723	852-2611
	Bristol Bay					
233		Patterson Sanitation & Refuse Svc, Inc.	P.O. Box 174	Nalnek	99737	822-3330
	Haines					
203		Haines Sanitation (HS)	P.O. Box 575	Haines	99827	766-2736
391		Slagway, City of (SKAGWAY)	P.O. Box 415	Skagway	99840	983-2297
	Juneau					
402		Juneau Sanitation Corporation (JSC)	2634 John Street	Juneau	99801	364-3777
195		Channel Sanitation Corporation (CHANNEL)	P.O. Box 21267	Juneau	99802	78C-4288
	Kenai					
403		C & S Enterprises	P.O. Box 1177	Kenai	99611	283-3977
211		Seward Service (SS)	P.O. Box 524	Seward	99664	224-5965
209		Peninsula Sanitation Co., Inc. (PSC)	P.O. Box 1209	Soldotna	99669	283-9390
	Ketchikan					
201		Tongass Sanitation (TONGASS)	P.O. Box 7701	Ketchikan	99901	225-5561
398		Ketchikan, City of (KETICHIKAN)	2930 Tongass Ave	Ketchikan	99901	225-1000
	Kodiak					
222		Kodiak Sanitation, Inc. (KSI)	P.O. Box 449	Kodiak	99615	486-5308
	Mat-su					
232		Alma Corporation (ALMA)	P.O. Box 200089	Anchorage	99520	276-3229
371		Matanuska-Susitna Borough (MAT-SU)	P.O. Box 1608	Pulmer	99645	745-4801
282		Palmer, City of (PALMER)	231 W. Evergreen Ave.	Palmer	99645	745-3271
342		Sutton Sanitation Services (SUTTON)	P.O. Box 226	Sutton	99674	745-0244
385		Valley Refuse (VR)	4360 Cedarwood/ P.O. Box 874433	Wasilla	99687	376-3663
374		Mackenzie Refuse (MACKENZIE)	P.O. Box 873921	Wasilla	99687	264-8201
204 & 206		Wasilla Refuse, Inc. (WRI)	1101 Wasilla Fishhook Road	Wasilla	99687	376-2158
370		All Alaska Enterprises (AAE)	P.O. Box 872547	Wasilla	99687	376-2084
	North Star					
216		Interior Services (INTERIOR)	400 Sanduui Road	Fairbanks	99704	452-1517
219		Far North Sanitation Services, Inc. (FAR NORTH)	P.O. Box 289	Fairbanks	99707	456-6979
276		Fairbanks, City of (FAIRBANKS)	2121 Peger Road	Fairbanks	99701	452-1881
220		Drake's Sanitation, Inc. (DRAKE'S)	Box 55087	North Pole	99705	488-6435
	Sitka					
235		March Disposal (MARCH)	P.O. Box 1373	Sitka	99835	747-8267
396		Sitka, City & Borough of (SITKA)	304 Lake Street	Sitka	99835	747-3294
	Other					
349		Aniak Disposal Service (ADS)	P.O. Box 161	Aniak	99557	645-4368
266		Delta Sanitation (DELTA)	P.O. Box 40	Delta Jet	99737	895-4331
198		Dillingham Refuse, Inc. (DRI)	P.O. Box 75	Dillingham	99576	842-2529
223		Copper Valley Construction Company (CVCC)	Mile 187 Box 165	Glennallen	99588	822-3252
251		McGrath Trash & Refuse (MTR)	P.O. Box 35	McGrath	99627	524-3633
279		Irwin's Garbage Disposal (IRWIN'S)	P.O. Box 144	Nenana	99760	832-5654
288		Noabia Niign, Ltd. (NNI)	P.O. Box 476	Northway	99764	778-6497
331		Petersburg, City of (PETERSBURG)	P.O. Box 329	Petersburg	99833	772-4203
299		Thorne Bay, City Of (THORNE BAY)	P.O. Box 19110	Thorne Bay	99919	828-3380
243		J. D. Refuse Service (JD REFUSE)	P.O. Box 363	Tak	99780	883-2751
362		Williwaw Services, Inc (WSI)	P.O. Box 84	Unalaska	99685	
202		Valdez Alaska Terminals, Inc. (VATI)	P.O. Box 6769	Anchorage	99502	243 1414
200		Bob's Disposal Service. (BOB'S DISPOSAL)	P.O. Box 402	Yakutat	99689	784-227

Prepared by the Legislative Research Agency, February 1990 (90.19051).

TABLE 2

STATUS OF CERTIFIED REFUSE COLLECTORS

Certificate	Borough	Company	Ownership	Competitive	Restricted	Regulated	Notes
	Anchorage						
387		Beluga Environmental Services, Inc. (BESI)	private				1
217		Anchorage Refuse, Inc. (ARI)	private			x	2
284		Anchorage, Municipality of (MOA)	municipal				
218		Eagle River Refuse, Inc. (ERRI)	private			x	2
	Arctic						
283		Calville Environmental Services (CES)	priv	x			3
231		North Slope Borough Utilities (NSB)	borough	x			4
	Bristol Bay						
233		Patterson Sanitation & Refuse Svc, Inc.	private				
	Haines						
203		Haines Sanitation (HS)	private				
391		Skagway, City of (SKAGWAY)	municipal				
	Juneau						
402		Juneau Sanitation Corporation (JSC)	private	x			5
195		Channel Sanitation Corporation (CHANNEL)	private	x		x	6
	Kenai						
403		C & S Enterprises	private	x			7
211		Seward Service (SS)	private	x			7
239		Peninsula Sanitation Co., Inc. (PSC)	private	x		x	7
	Ketchikan						
201		Tongass Sanitation (TONGASS)	private				8
398		Ketchikan, City of (KETICHIKAN)	borough				8
	Kodiak						
222		Kodiak Sanitation, Inc. (KSI)	private				
	Mat-su						
232		Alma Corporation (ALMA)	private	x	x	x	9,15
371		Matanuska-Susitna Borough (MAT-SU)	borough	x			
282		Palmer, City of (PALMER)	municipal	x			8
342		Sutton Sanitation Services (SUTTON)	private	x	x		13
385		Valley Refuse (VR)	private	x	x		10,14
374		MacKenzie Refuse (MACKENZIE)	private	x			
204 & 206		Wasilla Refuse, Inc. (WRI)	private	x	x	x	2,11,15
370		All Alaska Enterprises (AAE)	private	x			2
	North Star						
216		Interior Services (INTERIOR)	private	x		x	
219		Far North Sanitation Services, Inc. (FAR NORTH)	private	x		x	
276		Fairbanks, City of (FAIRBANKS)	municipal	x			
220		Drake's Sanitation, Inc. (DRAKE'S)	private	x		x	
	Sitka						
235		March Disposal (MARCH)	private				
396		Sitka, City & Borough of (SITKA)	borough				
	Other						
349		Aniak Disposal Service (ADS)	private				
266		Delta Sanitation (DELTA)	private				
198		Dillingham Refuse, Inc. (DRI)	private				
223		Copper Valley Construction Company (CVCC)	private	x			7
244		McGrath Trash & Refuse (MTR)	private				
279		Irwin's Garbage Disposal (IRWIN'S)	private				
288		Naabio Niign, Ltd. (NNI)	private				12
331		Petersburg, City of (PETERSBURG)	municipal				
299		Thorne Bay, City of (THORNE BAY)	municipal				
243		J. D. Refuse Service (JD REFUSE)	private				
362		Williwaw Services, Inc (WSI)	private				
202		Valdez Alaska Terminals, Inc. (VATI)	private				
200		Bob's Disposal Service. (BOB'S DISPOSAL)	private				

NOTES:

- 1 Targeted service area (SA): is commercial
- 2 Roll on/all service provided.
- 3 Potentially competitive but targeted service area is commercial oil field clean up.
- 4 Potentially competitive but different targeted service therefore not actually competitive.
- 5 Not in operation because service is pending court decision.
- 6 Potential competitor JSC pending a court decision.
- 7 Competition within portions of overlapping service area.
- 8 Potentially competitive but an informal agreement not to compete.
- 9 Ownership transfer to WRI is pending APUC commissioner decision.
- 10 Residential service only.
- 11 The only holder of two certificates.
- 12 Ownership is by village corporation.
- 13 Portion of service area restricted to residential service only.
- 14 Service area restricted to residential service only.
- 15 Exclusive commercial service within original service area.

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.	\$2,458,804	\$ 9,210,396	\$163,811	26,076
Channel Sanitation Corporation	276,894	2,132,305	<390,484>	4,920
Drake's Sanitation, Inc. ¹	132,488	454,641	<8,716>	165
Eagle River Refuse, Inc.	185,610	932,965	32,697	4,118
Far North Sanitation, Inc.	1,569,616	1,214,258	133,867	712
Interior Services, Ralph E. Bartlett d/b/a	788,822	519,916	<23,948>	262
Kodiak Sanitation, Inc.	82,437	820,551	70,322	182
Peninsula Sanitation Company, Inc. ²	252,395	1,350,321	85,804	1,340
Wasilla Refuse, Inc. ³	<u>130,780</u>	<u>541,037</u>	<u>74,584</u>	<u>702</u>
TOTAL	<u>\$5,877,846</u>	<u>\$17,176,390</u>	<u>\$137,937</u>	<u>38,477</u>

SAMPLE MONTHLY RESIDENTIAL REFUSE RATES
(As of June 30, 1988)

COMMUNITY	1 RECEPTACLE	2 RECEPTACLES	UTILITY
	1 PICK-UP/ WEEK	1 PICK-UP/ WEEK	
Anchorage	\$ 13.34	\$ 13.34	Anchorage Refuse, Inc.
Eagle River	13.34	13.34	Eagle River Refuse, Inc.
Fairbanks	12.00	12.00	Far North Sanitation Service, Inc.
Fairbanks	12.00	12.00	Drake's Sanitation, Inc.
Fairbanks	6.00	6.00	Interior Services, Ralph E. Bartlett d/b/a
Girdwood/Alyeska	11.50	11.50	Peninsula Sanitation Company, Inc.
Homer	9.23	12.98	Peninsula Sanitation Company, Inc.
Hope-Turnagain Arm	11.50	11.50	Peninsula Sanitation Company, Inc.
Juneau	18.44	18.44	Channel Sanitation Corporation
Kenai	10.13	10.13	Peninsula Sanitation Company, Inc.
Kodiak	5.50	5.50	Kodiak Sanitation, Inc.
Mat-Su Valley	20.00	20.00	Wasilla Refuse, Inc.

¹Information presented for year ending 4/30/87.

²Information presented for year ending 6/30/87.

³Information presented for year ending 3/31/88.

GARBAGE DEREGULATION: ISSUES AND ANSWERS

WHY DEREGULATE GARBAGE HAULING?

- Would allow competitive procurement (lower cost for services).
- Could enter into enforceable contracts (better quality of service).
- No rate increases imposed (eliminate uncontrollable increases).
 - * 80% rate increase proposed by Fairbanks hauler
- No incentive for innovative solutions to existing problems under monopoly set-up (lack of competition stops innovative actions).
- Bottom line: regulation should give improved service to consumer. regulation of Alaskan waste haulers has resulted in poorer service and higher cost

IS MORE, NOT LESS, REGULATION NEEDED?

- APUC regulation is almost exclusively economic regulation.
- Many agencies regulate the transport and disposal of solid waste (EPA, U.S.DOT, ADEC, AST, FNSB) for environmental and public health concerns. APUC deregulation won't effect those regulatory efforts.
- APUC has recommended deregulation for last 10 years.
- APUC regulatory attempts to increase competition have resulted in widely differing regulatory structures in various communities.

WILL DEREGULATION GREATLY INCREASE ENVIRONMENTAL RISK?

- Current debate over risks/liabilities of waste management is centered on disposal.
- APUC regulations affect collection/transport, not disposal.
- Collection/transport is completely separate issue from disposal.

WHAT WILL BE THE IMPACT OF DEREGULATION ON THE EXISTING HAULERS?

- Competition will favor existing, well-managed firms, due to the advantage of already purchased equipment, and increased knowledge and experience.
- Deregulation will allow other willing companies to compete with the existing haulers, with improvements in service and costs.
- Other firms interested in competing with the existing haulers don't appear concerned with economies of scale issue.
- Cost of the necessary equipment, while high, is not prohibitive.

SHOULD CONTINUED REGULATION BE TRADED FOR INCREASED RECYCLING?

- This argument again mixes collection and disposal issues.
- Proposal further confuses issue by mixing types of waste recovery.
- Most waste recovery tied to disposal (which doesn't involve APUC-regulated businesses).
- Such disposal-linked recycling doesn't work economically in AK.
- Source separation and collection only recycling activities which could be directly linked to APUC haulers.
- Effect would be to force existing small business recyclers out of the marketplace while protecting haulers from competition
- Solid waste processing in AK is almost unregulated, sitting between ADEC's disposal regulations and APUC's collection regulations.
- Best approach would be ADEC regulation of such processing, not APUC (due to the environmental vs. economic outlook of the two agencies)

ALASKA PUBLIC UTILITIES COMMISSION
Hearings, 1983-1988:
Collection and Disposal of Garbage, Refuse, and Trash

I. Hearings Pertaining to Certification Matters.

<u>Docket(s)</u>	<u>Date(s) of Hearing(s)</u>	<u>Off'rs or Comm'rs Present</u>	<u>Hearing Hours</u>	<u>Off'r-Hours/Comm'r-Hours</u>
U-83-8, Valley Refuse, et al.	10/17, 19, 31/83 11/1/83 12/6, 7/83 2/1/84	Comm'rs Agi, Weatherly	49	98
U-83-60, Drake Sanitation; U-84-70, North Pole Trash Serv.; U-85-24, North Pole Trash Serv.	6/18/85	Off'r Jackson	2	2
U-88-75, Mat-Su Borough	2/24/87	Comm'rs Agi, Guess	2	4
U-86-97, Juneau Sanitation Corporation	9/15/87	Off'r Jackson	7	7
U-87-21, C & S Enterprises	5/23-24/88	Off'r Jackson	11	11
U-88-22, Alma Corporation	7/20/88	Off'r Jackson Comm'rs Agi, Sokolov, Whiteaker	5	2
U-88-22, Alma Corporation; U-88-45, All-Alaska Enterprises; U-88-56, Sutton Sanitation	10/24/88	Off'r Jackson Comm'rs Agi, Knowles, Sokolov	45	18
		Subtotals	76	142

11. Hearings Pertaining to Rate Matters.

<u>Docket (s)</u>	<u>Date(s) of Hearing(s)</u>	<u>Off'rs or Comm'rs Present</u>	<u>Hours</u>	<u>Off'r-Hours/Comm'r-Hours</u>
U-85-36, Anchorage Refuse;	11/1/85	Off'r Jackson	5	5
U-85-44, Eagle River Refuse	11/4/85	Off'r Jackson	2	2
U-87-58, Far North Sanitation	2/29/88	Off'r Jackson	1	1
	3/1/88	Off'r Jackson	4	4
	3/1-2/88	Off'r Jackson	4	4
U-88-2, Anchorage Refuse;	6/6/88	Off'r Jackson	3	12
U-88-3, Eagle River Refuse		Comm'rs Agi, Knowles, Sokolov		
U-88-17, Interior Services;	11/1/88	Off'r Jackson	5	5
U-88-39, Interior Services;				
U-87-64, Interior Services	11/2/88	Off'r Jackson	4	4
		Subtotal:	28	37
		TOTAL:	<u>104</u>	<u>179</u>