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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 17, 1991

FURTHER REFERRALS:

Labor & Commerce
Finance

Date of Committee Action: 4-29-91

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 286

HOUSE BILL NO. 286

LOCAL EXCHANGE TELEPHONE CO. REGULATION

"An Act relating to regulation of local exchange telephone utilities; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 286 (CRA) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Richard J. Lopez</i>	X				
<i>Gail Phillips</i>	X				
<i>Bette Davis</i>	X				
<i>Samuel Baker</i>	✓				
<i>Sam Miller</i>	X				
<i>Cheri Davis</i>	X				
<i>John C. Gonzales</i>	✓				

Sam Miller

 CHAIRMAN'S SIGNATURE

Alaska State Legislature
House of Representatives

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DURING SESSION
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MILITARY & VETERANS AFFAIRS
PUBLIC SAFETY

Representative Juan M. Ivan

M E M O R A N D U M

TO: Representative Jerry Mackie, Chair
House Community and Regional Affairs Committee

FROM: Representative Ivan M. Ivan *JMI*

DATE: April 16, 1991 *JMI*

RE: Request for Hearing

Please consider this request to hear (pending referral) House Bill 286, an Act relating to regulation of local exchange telephone utilities; and providing for an effective date. In order to get this bill through the Legislature in a timely manner, I would respectfully request a hearing at your earliest possible convenience, preferably the week of April 22.

The main parts of the bill are as follows:

- * Allows phone utilities serving fewer than 2,500 customers to become economically deregulated and have the ability to adjust local rates and cost variations without the added expense of a full blown rate case. However, language is included that provides customers the opportunity to bring a company back under full regulation. A company does remain under the APUC's authority for quality of service standards and territorial assignment.
- * Allows telephone utilities to adjust rates in compliance with regulatory orders issued by the Federal Communications Commission or the APUC. Under current procedures whenever a shift in cost allocation among the interstate toll, intrastate toll and local jurisdictions, companies must go through rate case procedures just to comply with required adjustments. The language in the bill allows the shifts to take place without the expense of a rate case.

DISTRICT 25

AKIACHAK, AKIAK, ATMAUTLUAK, BETHEL, CHEFORNAK, EEK, GOODNEWS BAY, KASIGLUK, KIPNUK, KONGIGANAK, KWETHLUK, KWILLINGOK, MEKOYAK, NAPAIAK, NAPASKIAK, NEWTOK, NIGHTMUTE, NUNAPITCHUK, OSCARVILLE, PLATINUM, QUINHAGAK, TOOKSOOK BAY, TUNTUTULIAK, TUNUNAK

- * Provides the procedure for local exchange telephone utilities to alter rates up or down within an 8% range without going through the complete rate case process. Consumer notification and a method for consumers to respond through the APUC is provided in the bill. The 8% range is in keeping with the figure already allowed by the electric utilities.

I appreciate your consideration of my request. If I can be of assistance or answer any questions, please do not hesitate to contact me or Tom Wright of my staff at 452'.

Thank you.

IMI:tw

CS FOR HOUSE BILL NO. 286 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES IVAN, Jacko

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulation of local exchange telephone utilities; and providing for an
2 effective date."

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

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

5 (f) A local exchange telephone utility may adjust its rates in conformance with changes
6 in jurisdictional cost allocation factors required by either the Federal Communications
7 Commission or the Alaska Public Utilities Commission upon a showing of

8 (1) the order requiring the change in allocation factors;

9 (2) the aggregate shift in revenue requirement, segregated by service classes or
10 categories, caused by the change in allocation factors; and

11 (3) the rate adjustment required to conform to the required shift in revenue
12 requirement.

13 * Sec. 2. AS 42.05 is amended by adding a new section to read:

14 Sec. 42.05.383. LOCAL EXCHANGE TELEPHONE UTILITY RATE CHANGES. (a)

1 No more than once in a 12-month period, a local exchange telephone utility may adjust its
 2 monthly recurring local exchange rates and local private line rates by increasing the rates no
 3 more than eight percent or decreasing the rates no more than eight percent. The telephone utility
 4 shall publish notice of the change, as required by regulations adopted by the commission, at least
 5 60 days before the date of the change. The notice must include

- 6 (1) the reasons for the rate change;
- 7 (2) a description of the affected service; and
- 8 (3) an explanation of the right of a subscriber to petition the commission for a
 9 hearing on the rate change.

10 (b) At least 60 days before the date of the rate change, the local exchange telephone
 11 utility shall file with the commission a statement of intent to change rates containing

- 12 (1) a copy of the notice required by (a) of this section;
- 13 (2) the date of the most recent previous rate change made by the telephone utility;
- 14 and
- 15 (3) the increase in total gross annual local revenue expected to be produced by the
 16 proposed rates.

17 (c) The commission may require a local exchange telephone utility that proposes to
 18 change rates under this section to provide additional notice to subscribers of the utility as the
 19 commission considers appropriate. If the commission receives a petition or individual written
 20 requests from at least five percent of the subscribers of a local exchange telephone utility
 21 proposing a rate change under this section within 60 days after the notice was given to the
 22 subscribers, the commission shall review the proposed rate change. After notice to the local
 23 exchange telephone utility, the commission may suspend the rates during the pendency of the
 24 review and may reinstate the rates previously in effect.

25 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

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Representative Juan M. Juan

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SECTIONAL ANALYSIS-CS for HOUSE BILL 286 Draft 7-LS1207D, Date: 04-24-91

SECTION 1: This section allows telephone utilities to adjust rates in compliance with regulatory orders issued by the Federal Communications Commission or the APUC. Under current procedures, whenever a shift in cost allocation among the interstate toll, intrastate toll and local jurisdictions, companies must go through rate case procedures just to comply with required adjustments. The provision in section one allows the shifts to take place without the expense or burden of a rate case procedure.

SECTION 2: This section implements House Bill 168, passed by the legislature in 1990. It allows a local exchange telephone utility to adjust rates, up or down, within an 8% range without going through the complete rate case process. Consumer notification and a method for consumers to respond through the APUC is provided in this section. The 8% range is consistent with the figure already allowed for the electric utilities.

SECTION 3: Immediate effective date.

ALASKA TELEPHONE ASSOCIATION

POSITION PAPER ON HB 286

"An Act Relating To Regulation Of Local Exchange Telephone Utilities"

Since the late 1970s, policymakers throughout the nation have been moving toward streamlined regulation and deregulation of local exchange telephone utilities. Varied versions of simplified ratemaking and deregulation have been implemented in different jurisdictions. In all cases, however, two commonalities exist: motivation and results.

A prime motivating factor in this trend has been cost. The cost of regulation has risen to the point which makes it a significant contributor to rate levels. States have found that establishing a simplified procedure and deregulating certain classes of companies reduces the cost of service, thereby reducing pressure on the pocketbooks of customers.

These states have also found that simplified ratemaking and deregulation omits the necessity of committing regulatory resources to the minor cases, freeing them to concentrate on the more complex procedures and policy issues before them.

Timeliness is another factor leading more and more states to restructure their regulatory procedures. The current system of regulation in Alaska, for instance, is modeled on that created by the federal government in 1934. It is a cumbersome, time-consuming process which ill fits an industry attempting to combine customer needs with the technology of the 1990s.

The most significant result is the level of customer satisfaction. Simply put, the experience has been that customers are comfortable with simplified ratemaking and deregulation.

Attached is a copy of the latest study of state action on simplified ratemaking and deregulation. The study was compiled by the National Regulatory Research Institute, the research arm of the National Association of Regulatory Utility Commissioners.

The Alaska Telephone Association (ATA), a trade association representing the 22 local exchange telephone utilities authorized to provide service within the State of Alaska, has been concerned about the cost and timeliness of regulation for

many years. Our first discussion with Alaska Public Utilities Commission regarding methods of reducing the cost and increasing the efficiency of regulation occurred in 1984.

In 1990, at ATA's urging, the legislature passed overwhelmingly HB 168, calling on the APUC to implement a simplified rate filing procedure for local exchange telephone utilities. ATA had originally proposed language which described such a procedure in detail. However, at the request of the APUC, we agreed to a more general bill which left the details up to the APUC.

Almost a year later, HB 168 has not been implemented. No docket has been opened by the APUC. The only action taken thus far by the APUC was the summary rejection of proposed regulations filed by ATA in an effort to initiate the implementation of the legislation. Consequently, the legislature has before it HB 286.

SECTIONAL ANALYSIS OF HB 286

Section 1: This section allows the automatic applications of shifts in jurisdictional allocations resulting from regulatory decisions. Under current practice, if either the Federal Communications Commission or the APUC issues a decision requiring that costs previously allocated to either the interstate toll, intrastate toll or local jurisdictions be allocated to another jurisdiction, the company is required to file for subsequent commission approval to carry out the order.

This language would simply allow the company to accomplish the required shift without submitting to an additional complicated regulatory procedure.

Section 2: This language implements HB 168, passed by the legislature in 1990. It allows a local exchange telephone utility to adjust rates, up or down, by a maximum of eight per cent by notifying affected customers and the commission. The commission may investigate the adjustment upon receipt of requests by five per cent of the utility's customers. This concept is similar to that already in place for the electric industry.

As with any industry, costs of doing business for local exchange telephone utilities go up. This procedure will allow the utilities to accomplish modest adjustments and avoid the shock of large increases.

Section 3: The effective date of the legislation is immediate.

SURVEY OF STATE UTILITY COMMISSIONS ON REGULATORY OPTIONS FOR SMALL TELEPHONE COMPANIES

by
William Pollard
Dr. Raymond W. Lawton
David C. Wagman
James L. ...

Introduction: The purpose of this report is to delineate the regulatory options adopted by public utility commissions regarding the regulation of small telephone companies.¹ The impetus for this report is House Bill 563 that allows the Public Utility Commission of Ohio (PUCO) to establish or place into effect alternative ratemaking and regulatory procedures for basic local exchange service for telephone companies having fewer than 15,000 access lines. The alternative regulatory structures allows the PUCO to exempt such companies from many provisions and sections of Title 49. Considerable latitude was given to the PUCO in developing and implementing a regulatory environment specifically suited to the situation of small telephone companies in Ohio. In examining regulatory options for small telephone companies, the PUCO staff contracted with The National Regulatory Research Institute (NRRI) to conduct a survey of state utility Commissions to discover changes in regulatory structures aimed specifically at small telephone companies. The NRRI focused the survey on deregulation, exemptions, and simplified regulatory procedures for small telephone companies.

The NRRI assembled a research team, wrote a questionnaire, reviewed the questionnaire with PUCO staff and conducted a telephone survey of state utility commissions. Alternative regulatory structures have been adopted for small telephone companies and these alternatives fall into three general categories. They are:

1. Deregulation of ratemaking for local exchange services offered by small telephone companies of a specified size, with provisions for reregulation.
2. Simplification of reporting and filing requirements, and hearing procedures for small telephone companies for rate increases for local exchange services.
3. Other options not aimed exclusively at small telephone companies, but which affect how small telcos are regulated.

Under these three alternative regulatory structures, a commission retains regulatory control over quality of service standards and maintains a complaint and monitoring

¹This report was prepared by The National Regulatory Research Institute (NRRI) with funding provided by the Public Utilities Commission of Ohio (PUCO). The views and opinions of the authors do not necessarily state or reflect the views, opinions, or policies of the NRRI, the PUCO or the National Association of Regulatory Utility Commissioners.

structure. The emphasis of this report is on the changes in regulatory structure aimed specifically at small companies.

This letter report is organized into three sections. The first section covers state Commissions that have deregulated small telephone companies whether they are cooperatives, mutuals or for-profit companies. The second section focuses on state Commission regulatory structures that simplify the reporting, filing and hearing procedures for small companies operating under commission jurisdiction.

Deregulation: Mutual or Cooperative Telephone Companies: Ten Commissions responded to the telephone survey by indicating that they did not regulate cooperative or mutual telephone companies in their state. The states are: Idaho, Iowa, Minnesota, Missouri, Nevada, North Dakota, Oregon, South Dakota, Texas, and Utah. No rationale for the nonregulation of cooperatives was given.

For-Profit Telephone Companies

Three of the states that extended the deregulation of small telephone companies to for-profit telephone companies are: Iowa, North Dakota, and South Dakota. In each state, maximum size limitations are specified for the number of access lines or subscribers for deregulation to apply. One other state, Indiana, indicated that it had an enabling statute that allowed deregulation, but no company had yet been deregulated. The laws, rules, and procedures and other information obtained through the survey for each of these states are summarized below.

Iowa

Telephone companies operating in Iowa and having fewer than 15,000 access lines are not rate regulated, but do keep tariffs on file with the Commission, which monitors quality of service standards. If a telephone company has fewer than 3,000 access lines, the state utility Commission has never regulated these telephone companies. In both cases, the companies do not file rate increases, file cost support for rate increases, or go through rate cases.

The NARUC Annual Report on Utility and Carrier Regulation 1988 indicated that Iowa has 123 local exchange companies in its jurisdiction, 48 of which are cooperatives. The exact size distribution of these companies was not available because the telephone association in the state did not respond to the survey. However, no other state had more local exchange companies operating in its jurisdiction than Iowa. The Iowa law has been in effect for ten to twelve years with few reported complaints from subscribers, telephone companies, or other parties, according to the survey respondent.

North Dakota

North Dakota Annotated Code, Section 49-02-01.1 addresses the limitation of the Commission's jurisdiction to certain utilities. It states:

The rates for local exchange telecommunications service of any nonprofit telecommunications company or telecommunications company having less than three thousand subscribers, upon the vote of the company's owners or

board of directors, shall not be subject to the jurisdiction of the Commission.

According to the NARUC Annual Report on Utility and Carrier Regulation 1988, North Dakota had twenty-three local exchange companies operating in its jurisdiction. Fifteen of these companies were cooperatives or mutuals which operate on a not-for-profit basis. Thus, there are eight for-profit companies operating in the state with only five subject to the Commission's jurisdiction.²

South Dakota

South Dakota's small telephone companies have been deregulated under statute 49-315.1. This law applies to companies having fewer than 10,000 subscribers. South Dakota has acted since 1979 to eliminate regulation of small companies. Cooperatives were deregulated in 1980 and independents with fewer than 7,500 subscribers were deregulated in 1982. The 10,000-subscriber limit was instituted in 1987. The Commission still has authority to act upon complaints and examine problems concerning access charges and quality of service issues.

According to the NARUC Annual Report on Utility and Carrier Regulation 1988, there are thirty-odd local exchange companies operating in South Dakota, only one of which is subject to the Commission's jurisdiction for ratemaking. There was no indication of the number of cooperatives operating in the state.

Indiana

The rules and regulations for the Indiana Utility Regulatory Commission delineates procedures for the "Removal of Telephone Companies From the Jurisdiction of Commission for Approval of Rate and Charges." Under these rules and regulations, a telephone company must serve less than six-thousand access lines and not be a rural telephone cooperative. According to these rules and regulations, the telephone company or the lesser of 10 percent of the current access line subscribers of the telephone company or five-hundred subscribers must petition the Commission to schedule a public hearing to determine whether or not the telephone company should be removed from the Commission's jurisdiction over rates, charges, and financing. After a finding that the removal is in the public interest, such an exemption is granted to the petitioning telephone company.

The Commission may revoke or impose restrictions on this exemption from rate regulation on its own motion, or after receiving a petition filed by the utility consumer counsel; or the lesser of 10 percent of the telephone company's current access line subscribers, or five-hundred of the company's current subscribers.

Even though a telephone company may be exempt from the Commission's jurisdiction, it has to file an annual report with the Commission that includes certain kinds of information. The company must file a standardized income statement and balance sheet and any other information that the Commission

² Two local exchange companies are subject to rate regulation, one exchange company is price-cap regulated, and two foreign companies are price-cap regulated.

prescribes. The telephone company also must notify its customers that the income statement and balance sheet are on file with the Commission. A telephone company exempted from rate regulation must file with the Commission its tariffs for rates and charges and any subsequent changes in tariffs.

Indiana has not yet deregulated any telephone companies with less than six-thousand lines. The legislation went in to effect on July 1, 1988. The state has forty-two local exchange companies operating in the state, eight of which are cooperatives. Indiana's law seems to differ fundamentally from laws in Iowa, North Dakota, and South Dakota. In particular, the deregulation in Indiana requires a finding that the deregulation is in the public interest where in the other three states the deregulation was directly granted or required a vote of the qualifying companies' board of directors or a petition from subscribers. Whether or not the Indiana law as written will result in deregulation of a qualifying utility is still open to question. One company did apply and was unsuccessful.

Summary on Deregulation: Three of the four states that have deregulated small telephone companies tend to be sparsely populated, low-density states with a large number of companies operating under Commission jurisdiction. In the nine states that deregulated not-for-profit cooperatives, the action seems to be based on the notion that since the subscribers are the implied owners, management, elected by the subscribers, will operate in their interest in setting rates. Whether or not complaint procedures or quality-of-service inquiries were instituted for cooperatives or mutuals was not revealed by the survey data. In the three states that have deregulated for-profit telephone companies, both complaint procedures and quality of service monitoring remained a central feature of the Commission's involvement in the operation of the small companies.

For companies not subject to rate regulation in the four states, the size limitations are Iowa, 15,000 access lines; North Dakota, 3,000 subscribers; South Dakota, 10,000 subscribers; and Indiana, 6,000 access lines. South Dakota's size restriction leaves only one local exchange company subject to the Commission jurisdiction for rate regulation. Four local exchange companies are rate regulated in Iowa and five in North Dakota.

Simplified Ratemaking Model for Small Telephone Utilities: In the last several years a number of state Commissions have changed the way in which small telephone utilities are regulated. Based upon NRRI's survey of state Commissions, it was observed that eleven states have adopted regulatory structures for small telephone utilities in which rate hearings, cost studies, and other supporting data may not be required unless the Commission is petitioned by the telephone company, a consumers' counsel, or by a specified percentage or number of customers. Based on these observations, NRRI has constructed a generic model that gives an overview of how states have simplified their ratemaking process for small telephone utilities. While no Commission has revised its regulatory treatment in a way that incorporates all of the features of the model, this model is useful because it provides a benchmark against which alternative approaches can be compared.

The simplified ratemaking model (SRM) is illustrated in figure 1 and may be described as a "complaint-driven" approach to regulatory reform. Although the details of each state's approach differ, each *variation* of the SRM has traded off simplification for "a lack of complaints." The SRM approach essentially says that if

a small telephone utility initiates rate increases that do not cause consumers (or the Commission) to complain, then the full formal review of proposed rates is waived and the rates proposed by the utility will go into effect. If complaints are heard, then a ratemaking investigation will be conducted by the Commission.

Each of the features of the SRM is briefly described below in the same order they appear below. In a subsequent section the actual actions of eleven states are described.

A Listing of the Generic Features of the Simplified Ratemaking Model (SRM)

<u>Feature</u>	<u>Description</u>
Joint task force	The process to initiate a SRM may begin with a task force with members from the Commission, industry, legislators, and other interested parties.
Legislative action	Because the shift to a "complaint-driven" model from a traditional "administrative-due-process" model of ratemaking represents a significant change, state legislatures have passed laws instructing and/or authorizing Commissions to engage in simplified ratemaking for small telephone utilities.
Alternatives to rate-of-return regulation	SRM may or may not be included in a larger effort to have the Commission consider alternatives to rate setting through traditional rate-of-return regulation (AROR). Accordingly SRM may be embedded in an AROR effort or may simply run parallel to it. The legislation accompanying the SRM may or may not make this distinction clear.
Recognition that small telephone utilities are different from large telephone utilities	Small size, having a non-Bell corporate history, serving a rural/suburban population, and having a relatively homogeneous customer base are some of the features that distinguish small telephone utilities from large telephone utilities. From an SRM perspective rate case costs for small telephone utilities seem disproportionately high for the benefits received. The SRM may work for small telcos because notification may be easier and because of the homogeneity of interests (for example, getting 10 percent of the customers of a large local exchange carrier to petition may be extremely difficult because of the different economic interests and wider geographical area served, whereas this may not be the case for the customers of a small utility).
Definition of a small telephone utility	All SRM approaches have a specific definition of small telephone utility. Most of the definitions focus on the number of access lines, although some count the number of subscribers.

Annual reporting requirements	Small telephone companies may have different annual reporting requirements from large utilities under an SRM approach. This may be specified by legislation or derived from the generic rulemaking authority of the Commission.
Monopoly services	The central focus of SRM is on monopoly services provided by a small local telephone company. A state may have other proceedings that address the issues associated with the provisioning of nontraditional and nonmonopoly services by a small telephone company.
Commission oversight and authority on non-ratemaking issues	SRM deals with ratemaking and Commission authority to deal with other issues, such as quality of service or rate discrimination, and is often explicitly recognized in the SRM legislation.
Petition for permanent regulation	SRM legislation may offer two instances where permanent regulation may be petitioned. Here the utility would be subject to whatever form of regulation was being practiced by the Commission. One form of petition is to have the customers of the utility petition, the other is to have the board of directors of the utility petition. The focus here is not on a complaint that is connected with one proposed rate increase, but rather on allowing the utility or its customers to opt out of SRM and to use some other method for setting rates.
Utility initiated rate increase	The heart of the SRM approach is the initiation of the process by the small utility. Traditional ROR has this same feature, but what distinguishes SRM is that the utility knows that if it can establish a rate below a complaint threshold, the rate will automatically be adopted. Some SRM have complaint thresholds defined by the number of petitioners needed to complain and others use various financial measures.
Commission notification of proposed rate increase	SRM requires the utility to send the Commission a notice of the proposed rate increase and may specify the form and content of the information needed. The utility must notify the Commission within a specified number of days prior to the date the utility wishes the rate to take effect.
Customer notification of proposed rate increase	The utility must notify its customers a specified number of days prior to the date of the scheduled increase and this notification must follow certain rules.
Complaint initiated by customers	If a specified number of customers complain and petition the Commission before the notification period expires, the Commission is required to investigate the proposed rates.

Petitions typically need to be signed by 5 to 10 percent of a utility's customers.

Action by a Commission on its own motion to initiate an investigation of a proposed rate increase. Complaint initiation by the consumer's counsel or others

In addition to a customer complaint, an investigation may be initiated by the Commission after its inspection of the rate material sent to it under the notification procedure. Guidelines may or may not exist that would explicitly mark the occasions when the Commission must initiate a rate investigation and when it may not investigate.

Some SRM approaches allow the consumers' counsel and others to initiate a complaint that must be investigated by the Commission. These parties must follow any applicable time constraints.

Investigation of complaint

SRM legislation specifies that once an official complaint has been received, the Commission must have a formal rate investigation.

Ratemaking guidelines

If a small utility has a proposed rate increase that fits within certain guidelines, the Commission may not be able to act, absent a complaint from consumers. The guidelines can focus on the dollar value of the increase, the size of the monthly bills of an average residential consumer, the percentage increase, or the financial condition of the utility.

External factors

Small telephone companies may have their cost of operation significantly affected by changes in access and in pooling arrangements. Commissions, in an SRM proceeding, may need to recognize the impact of these factors.

Rate increase moratorium

When a Commission sets rates after an investigation, there may be a time limit such that the utility cannot restart the SRM process for a specified time period. When there is no investigation the small telephone utility may or may not have a limit on when it can next propose a rate increase.

Implement rules

Even where detailed SRM legislation exists it may be necessary for a Commission to institute a rulemaking procedure in order to clarify potential problem areas and to inform all parties of how the Commission interprets the statute. Commissions may not revise their rules if consensus exists among all parties regarding the intent of the SRM statute.

Eleven states have adopted regulatory structures in which rate hearings, cost filings, and other supporting data are not required unless the Commission is petitioned by the telephone company, a consumers' counsel, or a specified percentage or number of subscribers. There are maximum size limitations for

telephone companies to qualify for these exemptions. States having this regulatory structure are Illinois, Indiana, Montana, Nebraska, Kansas, Virginia, Oklahoma, Oregon, Texas, Utah and Wisconsin. Each of these regulatory arrangements is discussed below, beginning with Nebraska. Following this discussion, similar proposals made by the Ohio Telephone Association are compared and contrasted to these procedures in the eleven states.

Nebraska

Pursuant to Nebraska law, telephone companies having less than five-thousand subscribers are not subject to rate regulation by the Public Service Commission unless:

1. The Board of Directors of the company elects to be regulated by the PSC,
2. A proposed rate increase exceeds 30 percent in any one year for any subscriber's service,
3. 5 percent of the subscribers petition the Commission to regulate the rates of the company,
4. The PSC declares that the company is subject to rate regulation.

Exempt companies are required to notify their subscribers and the PSC at least sixty days in advance of the effective date for any proposed rate change. In turn, the subscribers of the exempt company may petition the PSC to determine rates in lieu of those proposed by the company. Unless petitions from at least 5 percent of the company's subscribers are attained by the effective date of the proposed rate change, the Commission will not step in to determine the rates for the company. In addition, the subscribers of an exempt company may petition the PSC in order for the Commission to declare the company subject to rate regulation. If at least 51 percent of the company's subscribers petition for rate regulation, the company will become subject to rate regulation until at least 51 percent of the company's subscribers petition to have the company exempted from rate regulation.

In addition to this exemption for telephone companies with less than five-thousand subscribers, Nebraska has a more general exemption for basic local exchange service rates. Telephone companies in Nebraska are not subject to basic local exchange service rate regulation by the PSC unless one of the following occurs:

1. A company requests the Commission to prescribe fair and reasonable rates,
2. The Commission reviews the basic local exchange rate of any company if the rates for its local service area have increased by more than 10 percent within any consecutive twelve-month period,

3. The Commission reviews basic local exchange rates if a petition is filed within sixty days of notice of the rate change to affected subscribers by:
 - a. 5 percent of all affected subscribers if the company has up to 50,000 access lines
 - b. 3 percent of all affected subscribers if the company has 50,000 but not more than 250,000 access lines
 - c. 2 percent of all affected subscribers if the company has more than 250,000 access lines.

Under this rule, basic local exchange rates are the flat monthly charge for an access line, whether the service is provided on a flat or measured basis. These rates do not include charges resulting from action by a federal agency or taxes imposed by a governmental body which are billed by a telecommunications company to its customers.

As a result of these laws, small telephone companies have three alternative processes for rate filings: (1) the traditional ratemaking process before the PSC, (2) procedures under the law exempting small companies which are defined as having five-thousand or less subscribers, and (3) procedures under the law exempting from regulation all basic local exchange service rates.

Some problems have occurred with regard to the implementation of these laws and center on the confusion created by the coexistence of laws for small companies and basic local exchange rates. The above rules and regulations were drafted pursuant to Nebraska telecommunications law and promulgated under typical administrative procedures, which included timely notice and public hearings. Small telephone companies have filed applications pursuant to all three laws regarding rate filings. The three laws applying to telephone company rate filings have caused considerable confusion with regard to the filing of petitions by the affected customers. This confusion is related to the ability of the Commission to become involved in small company rate filings. According to the respondent to the questionnaire at the Nebraska Commission, a solution to these problems would be to amend the law that exempts small companies from basic local exchange service rate regulation. Thus, small company rate filings would be handled by the traditional ratemaking process or the process set up by the small company law.

The Nebraska law sets out a framework, elements of which can be found in Illinois, Indiana, Kansas, Montana, Oklahoma, Oregon, Texas, Utah, Virginia, and Wisconsin. Each of these states has its own variations on this framework and each state Commission's implementation of these rules is discussed below.

Illinois

Pursuant to Section 13-504 of the Illinois Public Utilities Act, small local exchange telecommunications carriers may file noncompetitive tariffs under a streamlined tariff filing process. Provisions of the telecommunications law relating to ratemaking for noncompetitive telecommunications services do not apply to proposed changes in rates or activity which would affect rates if the service in

question is provided by a local exchange telecommunications carrier which (1) has no more than fifteen-thousand subscriber access lines, and (2) is not a subsidiary of a holding company incorporated outside Illinois. Changes in rates proposed by companies meeting the above criteria are permitted as long as (1) the changes are filed with the Commission, and (2) thirty days' notice of the changes is provided the Commission and potentially affected customers. The proposed changes are not subject to suspension by the Commission, but may be investigated by the Commission upon (1) its own motion, or (2) after at least 5 percent of the potentially affected customers of the carrier files a complaint with the Commission requesting an investigation. If the Commission finds the proposed changes to be unjust or unreasonable it is authorized, subsequent to proper notice and hearing, to establish just and reasonable tariffs. Proposed tariffs become effective thirty days after filing with the Commission.

Indiana

The Indiana Utility Regulatory Commission has, in addition to its deregulatory option discussed above, a set of procedures that delineate a streamlined filing, reporting, and hearing process. Article 14 of the Indiana Annotated Code delineates the rules for small utilities. Rule 1 deals with rate changes. A small utility under this rule is defined as having fewer than five-thousand customers as of the date any applications for rate change are filed. The rule applies to water, gas, and telephone utilities as well as to any municipal utility or distribution cooperative. Under this article a small utility must file an application with the secretary of the Commission and serve a copy of the application on the office of the utility consumer counsel. In addition to the application, the small utility must furnish evidence of publication of a notice of filing of the application for rate change no later than ten days after the filing of the application. This must be done in a newspaper of general circulation in counties in which the utility renders service. The notice should advise the public of the date of rate changes and indicate that the rate change is to occur without the costs of a public service Commission hearing unless ten individuals, firms, corporations, or associations or ten complainants of all or any of these forgoing classes affected by the proposed rate change request a hearing, or the utility consumer counsel requests a public hearing. The public notice should also state the approximate percentage increase in revenues requested if the increase is across-the-board, or the approximate percentage increase to each class of customer. In addition to the public notice, the company is required to notify each customer in writing that the application has been filed with the same information requirements as for the public notice.

Once the application for a change in rates is made, the Commission staff has up to ninety calendar days to review the application and report to the secretary of the Commission with recommendations. The Commission staff may recommend approval, amendment of, or a public hearing on the application. The Commission must issue an order on the application for rate change, however, the order may not be issued sooner than thirty days after the filing date. The Commission has the power to extend the ninety-day period when needed. If a request for a formal public hearing on an application is received or instigated by the Commission, the Commission has at least thirty calendar days to render a decision. Ten customers are needed to petition the Commission for a hearing. If no formal hearing is required, the Commission may issue an order on the application for rate change based on the data in the application and the reports filed by the Commission's staff.

Kansas

Rule 82-1-204, classifies electric, gas, water, and telephone utilities, distinguishing between large and small utilities. A Class "A" telephone utility is defined to include local exchange companies with twenty-thousand or more access lines and all interexchange companies and resellers. A Class "B" telephone utility is defined to include local exchange companies with less than twenty-thousand access lines.

Pursuant to Rule 82-1-231, fixed utilities other than Class "A" utilities may elect to follow simplified procedures for filing applications in rate cases outlined in Rule 82-1-231b. Under Rule 82-1-231b, "electric, gas, water and telephone utilities, other than Class A, may elect to prepare a less extensive application with schedules that are more appropriate to the operations of smaller utilities." To be considered pursuant to this rule, written notice of intent to file a rate case application must be received by the Commission not less than thirty nor more than ninety days prior to the filing date of the application. The applicant utility must inform the Commission's technical staff regarding (1) its approximate revenue requirement, (2) any proposed changes in the apportionment of the revenue requirement among rate classes, and (3) any proposed rate design changes. Further, the applicant must have held a public meeting, for which adequate notice was provided, in order to inform customers of the proposed rate filing. Subsequent to consideration of the application, the Commission may (1) approve the application as filed, (2) approve the application with modifications, (3) suspend the application pending a hearing regarding the application and further investigation by the technical staff, or (4) deny the application. If the Commission approves the application as filed or with modifications, the proposed rates are temporarily set for a comment period of ninety days. If "substantial comment" is received from customers, then further investigation and a hearing may be necessary. Subsequent to the comment period, the temporary rates may be instituted as permanent rates or set aside for further investigation and hearing by the Commission. For "good cause," requirements of this rule may be waived by the Commission.

The rule relating to classification of small and large telephone utilities and expedited rate filings for small telephone utilities in Kansas were not the result of a recent enactment. Rather, the Corporation Commission pursuant to its own regulatory authority implemented the classification system and expedited the rate filing process at the recommendation of the Commission staff. The specific rule changes resulted from negotiations between the Commission staff and representatives (which included various telephone company officials) of the Kansas Telephone Association. Furthermore, comments from interested parties (namely individual telephone companies) were considered in implementing the two revisions. The Commission is awaiting its first use of the classification scheme and expedited rate filing process, though problems arising from the revisions are not expected. In addition, the Commission recently adopted an expedited access charge proceeding for all telephone companies operating in the state of Kansas, except Southwestern Bell and United Telephone. In terms of future revisions, the telephone companies are now seeking rules permitting rate increases up to \$2 per customer per year without a hearing, provided a specified threshold of customers opposed to the rate increase is not surpassed.

Montana

The Montana Public Service Commission has a set of rules and procedures that simplify the rate regulation of small telephone companies. Under this set of rules, a small telecommunications provider means a person, partnership, corporation, or other entity providing regulated telecommunications service to less than five-thousand subscribers in Montana. This definition does not include rural telephone cooperatives. The rules and procedures for rate increases contain provisions for (1) notifying Commission, customers, and the consumers counsel, (2) petitioning the Commission to review the proposed increase, and (3) Commission action on the proposed increase.

The rules specify that a notice of the proposed rate increase by a small telecommunications provider be mailed to each affected subscriber, the Commission, and the Montana consumers' counsel. The notice must include a summary of the justification for the proposed rate increase, a list of the number of affected subscribers in each category of rate proposed to be increased, and, if requested by the Commission, a list of the names of the affected subscribers. The notification to customers is required to include a schedule of the proposed rates, the effective date of the proposed rate increase, and a description of the petition procedure.

Commission review and determination of rate increases only takes place if a petition for review is received within the sixty-day period. The petition must come from at least 10 percent of the affected customers, or from the consumers' counsel, or the Commission may act on its own motion. If by the sixtieth day following notice to subscribers of a proposed rate increase the Commission has not received a petition for review, the Commission must certify this fact to the small telecommunications provider and the proposed rate increase becomes effective as published in the notice of proposed rate increase.

Oklahoma

Telephone companies which serve less than fifteen-thousand line subscribers within the state and telephone cooperative are not subject to local exchange rate regulation by the Oklahoma Corporation Commission. These regulations and rules have no effect whatsoever over the Commission's authority to regulate rates for intrastate toll, access rates, and charges. However, there are certain circumstances in which local exchange rates are subject to rate regulation. They are:

1. The company elects by action of its board of directors to be subject to such local exchange rate regulation by the Commission,
2. The proposed local exchange rate increase exceeds \$2 per access line per month in any one year,
3. 15 percent of the subscribers petition the Commission to regulate local exchange rates, or
4. The Commission declares that the company shall be subject to local exchange rate regulation by the Commission.

Exempted companies are required to notify the Commission and each of the subscribers of the company of the proposed local exchange rate change at least sixty days prior to the date the proposed rate is to become effective. The notice to subscribers should be in a form prescribed by the Commission and include the schedule of the proposed local exchange rates, the effective date of the rate increase, and the procedure necessary for the subscribers to petition the Commission to examine and determine the reasonableness of the proposed rates. If by the effective date of the proposed rates the Commission has not received petitions from at least 15 percent of the subscribers, the proposed rates become effective as published in the notice to subscribers. If an appropriate petition is received, the Commission notifies the company that the proposed rate shall be examined and a determination made as to the reasonableness of the proposed local exchange rates. Rates so determined by the Commission shall be in effect for at least one year.

The subscribers of a telephone company not subject to the rate regulation of the Commission may petition the Commission to declare the company subject to rate regulation. If 51 percent of the subscribers of the company have properly petitioned the Commission, the company is subject to rate regulation for local exchange rates. Similarly, a petition from 51 percent of the subscribers to a company can remove the company from the rate regulation of local exchange rates.

Oregon

The Public Utility Commission of Oregon exempts telecommunications utilities serving less than fifteen-thousand access lines in Oregon from regulation of rates, regulation of purchasing, and regulation of issuance of securities. The small telephone company must petition the Commission for this exemption, and the Commission must find the exemption to be in the public interest. The regulations stipulate that the Commission may hold hearings with regard to the reasonableness of proposed rates if the small telephone company or the lesser of 10 percent of the subscribers or five-hundred subscribers petition the Commission. Under these stipulations, the company is required to provide notice to customers at least forty-five days prior to the date the rates take effect.

Texas

In Texas, Section 43B of the Public Utilities Reform Act gives authority to the Commission to adopt streamlined regulatory treatment for utilities serving fewer than five-thousand access lines. The change was intended to allow the small companies the flexibility to respond to significant competitive challenges in certain service markets. It also allows small companies to have small rate increases through a greatly streamlined process.

The new filing requires the company to notify its customers and the Commission at least sixty days in advance and to provide the Commission with certain specified financial information. Upon a complaint signed by at least 5 percent of all affected subscribers, the Commission must review the proposed change. Unless a complaint is heard, the Commission only reviews proposed changes if the total gross revenues are increased by more than 2 1/2 percent or if the proposed change would increase any rate by more than 25 percent with the exception of basic local service. The rate for basic local service is limited to a maximum increase of 2 1/2 percent of the companies' total gross annual revenue.

No particular changes have been made to the substantive rules of the Commission. Staff felt that this meant that all parties understood the legislative changes and that no further elaboration was necessary. Texas is also undergoing a number of regulatory reforms primarily directed at the larger companies, and some of these changes have been elaborated in the substantive rules.

One small telephone company filed under Section 43B and modified its tariff filing in order to meet certain objections of the Commissioner examiner. No complaints were received from this company during the hearing.

Utah

Utah has streamlined its rate filing procedures for telephone utilities with less than five-thousand subscriber access lines. A utility's proposed rate increase may become effective upon filing of the tariff revisions and necessary information to support a determination by the Commission that the proposed rate increase is just and reasonable. The utility must provide thirty days' notice to the Commission and to all potentially affected access line subscribers of the proposed increase.

The Commission may initiate an investigation on its own or in response to a complaint and may approve the proposed rates or set rates that it finds to be just and reasonable. An investigation is required if 10 percent of the utility's potentially affected subscribers file a complaint or petition requesting an investigation and a hearing. This approach follows the basic outlines used in the other states examined in this section.

Virginia

Pursuant to Section 56-531 of the Code of Virginia, a small investor-owned telephone utility is defined as (1) not including any cooperative, (2) having gross annual operating revenue not exceeding \$10 million, or (3) having gross annual operating revenue greater than \$10 million but less than \$30 million and not being a subsidiary of an interstate utility holding company and owning, managing or controlling the plant and equipment operated in Virginia.

Pursuant to Section 56-532 of the Code of Virginia, any change in tariffs of a small investor-owned telephone utility becomes effective thirty days after notice of the tariff change has been mailed to customers. This provision does not apply if (1) a protest is filed by either 5 percent or 150 of the customers subject to the company's tariffs, whichever is less, or (2) the Commission investigates the utility's tariffs after at least thirty days' notice.

Whenever a protest is filed by the customers, the Commission is authorized to suspend the proposed tariffs for up to 150 days subsequent to the filing date of the proposal. Also, the Commission is authorized to suspend the utility's proposed tariffs on its own motion. If the proposal is suspended, the Commission is required to hold a hearing to determine whether the proposed tariffs are just and reasonable. Notice of the suspension and hearing time are to be given prior to the expiration of the utility's thirty-day notice for changing tariffs. After the hearing, the Commission is authorized to set aside tariffs proposed by the utility and substitute those it deems just and reasonable. If consideration of the tariff

proceeding is not concluded and an order not issued by the end of the 150-day suspension period, the proposed tariffs become effective. Whenever proposed tariffs become effective in such a manner, the Commission must:

1. Require the utility to post bond for any refund ordered by the Commission,
2. Require the utility to maintain detailed accounts of the amounts received as a result of the proposed tariff increase,
3. Require the company to refund the portion of the tariff increase deemed to be unjustified after the hearing is completed and the decision rendered.

Wisconsin

The 1989 Wisconsin Act 344 defined small telephone companies as having less than nine-thousand access lines in use³ and gave the Commission the explicit rulemaking authority to modify regulatory practices and procedures for small telephone utilities. This act revised the small telecommunication flexible regulation portion of Act 297, passed in 1986. The act deals both with simplification and ratemaking.

The small telephone utility can change its rates on its own initiative as long as it follows specific notification rules, and a valid customer petition is not received. The act specifies a rate of return that fluctuates with a utility's equity. The range is based upon the Moody average of yields on Baa public utility bonds existing on January 1st of each year. The rate may be up to 3.65 percent above the Moody's index for telephone companies with a common stock equity of 70 percent or more. It increases to 8.65 percent above the Moody's index for utilities with 25 percent equity. Utilities with equities below 25 percent are not subject to review if they pay less than 50 percent of earnings in dividends or submit financial plans to show how they are building equity.

The act establishes time frames for customers to petition for permanent regulation, or to challenge proposed rates, or on other matters. At least 9.5 percent of the affected customers must petition the Commission within a sixty-day period. The act sets 150 days (or 180 days if a hearing is involved) for cases to be reviewed by the Commission.

Act 344 took effect May 11, 1990 and the process to begin to incorporate the provisions of the act into the formal rules and procedures of the Commission is expected to begin in Fall 1990.⁴ A task force composed of Commission and Wisconsin telephone association staff, plus various intervenors worked to revise the old law and recommend Act 344. It is anticipated that a similar task force structure may be used to help in the preparation of the rules and procedures.

³ Previously this had been legislatively defined as less than 7,500 customers.

⁴ The Wisconsin Commission is in the process of reorganizing itself from a functional structure into one organized along industry lines, such that a new telecommunications division will be in place to regulate telecommunications utilities.

Due to the heavy work load at the Commission it is not now known how long it will take to develop the rules and procedures. Section 42 of the act establishes the following nonstatutory provisions that affect implementation of the Act by having the Commission

1. Issue an order establishing the Moody's average of yields on Baa public utility bonds in order to determine the target rate per the act,
2. Prepare a report to the legislature summarizing the experience of the Commission in regulating small telephone utilities and including recommendations on the need for changes,
3. Govern rate changes pending but not in effect, or a rate review commenced before the effective date by the law existing before the effective date of this subsection,
4. Submit proposed rules establishing percentages used to calculate target rates to the legislative council staff no later than the first day of the tenth month beginning after the effective date of this subsection.

Revising the rules should help in dealing with the waiver requests of small telephone utilities. Under Act 344 utilities can ask the Commission for a waiver; three did so within one week of the effective date of the act. One waiver was denied because it did not comply with existing Commission policy on directory assistance. Another waiver was approved because it resolved an abnormality created by raising pay phone charges to 25 cents. Waivers not acted upon within twenty days are automatically denied. Staff feel that 20 days is sufficient time for truly routine items, but inadequate for items requiring staff research and scheduling of reasonable discussion time on the calendar of the official Commission's agenda.

Annual reports are filed in April and companies are expected to be told by October whether they are overearning according to the several criteria. Eight telephone utilities have voluntarily initiated rate reductions or refunds since publication of the act.

Summary of Simplified Ratemaking Approaches: The eleven state Commissions that have adopted simplified ratemaking procedures have many key features in common. First, each law or procedure specifies a maximum size for telephone companies that can avail itself of the law. Second, there is a specified notice period during which the Commission and affected customers must be notified of the proposed change in rates. Third, some percentage of customers or number of customers may petition the Commission to review the reasonableness of the rates. Fourth, procedures specify which parties may petition the Commission and whether the Commission on its own accord may review the reasonableness of the rates. Finally, the procedures for some state Commissions specify an upper limit on the proposed rate increase, while other state Commissions have no set criteria for determining the reasonableness of the proposed rate increase. Each of these features is summarized in Table 1.

Table 1
Summary of Key Features of Streamlined Regulatory Hearings

<u>State</u>	<u>Size of Company</u>	<u>Days Notice</u>	<u>Petition Size</u>	<u>Petitioners</u>	<u>Limit on Rate Change</u>
Illinois	15,000 lines	30	5% of affected subscribers	Notification required customers or commission	Commission review and approval.
Indiana	5,000 customers	90	10 customers	Any customer or consumers counsel notification required	Commission staff reviews and makes recommendation
Kansas	20,000 lines	90	Substantial comment	Notice and public hearing	Commission review and approval
Montana	5,000 customers	60	10% of subscribers	Notification required subscribers and consumers counsel	None mentioned
Nebraska	5,000 customers	60	5% of subscribers	Customers, the company's board or commission	30% for any one customer group or 10% for local
Oklahoma	15,000 lines	60	15% of subscribers	Notification required customers, the company's board or commission	\$2 for local exchange rates
Oregon	15,000 lines	45	Lesser of 10% or 500 subscribers	Notification required customers, the company's board or commission	None mentioned
Texas	5,000 lines	60	5% of affected subscribers	Notification required customers, commission	25%, except for local service

Table 1 (Continued)
Summary of Key Features of Streamlined Regulatory Hearings

<u>State</u>	<u>Size of Company</u>	<u>Days Notice</u>	<u>Petition Size</u>	<u>Petitioners</u>	<u>Limit on Rate Change</u>
Utah	5,000 lines	30	10% of affected subscribers	Notification required customers, commission	None mentioned
Virginia	\$10 mil. in gross operating revenues	30	Lesser of 5% or 150 customers	Notification required customers or commission	Commission review and approval
Wisconsin	9,000 lines	60	Less of 9.5% or 500 subscribers	Notification required customers, the company's board or commission	Based on rate of return criteria

Source: Survey Data.

Other Regulatory Options: The actions by state Commissions in the previous two sections followed common lines of reasoning and focused on certain key variables or factors. For example, nearly all states in section three included a provision for a customer petition, with the major differences being whether a 5 percent threshold versus a 10 percent level was chosen. In this section, approaches Commissions have used that are not complaint driven are examined.

Alternatives to Rate of Return Regulation

Three states have modified their treatment of their small telephone utilities within the context of their movement away from rate base/rate of return regulation. These states are Missouri, Colorado and Florida. Each is described below.

Missouri

Missouri has modified its regulatory treatment for all telecommunications utilities. H.B. 360 established a set of procedures and definitions that classify services offered by telecommunications companies as competitive, transitional and noncompetitive. Telephone companies having fewer than 25,000 subscriber access lines are defined as small companies and have accelerated procedures for Commission approval of a proposed rate increase.

Acceleration occurs because of the time the Commission has for consideration of the proposed increase. Large utilities may have their rate increase suspended six months beyond the initial 120-day suspension period. Small companies can only have a suspension period of 150 days, after which the rates shall be considered approved for all purposes.

The Commission has the authority to require different forms of annual reports and may exempt any telecommunications utility from filing annual reports until further order of the Commission. The Commission has not acted to modify the reporting requirements for small utilities.

Colorado

Colorado has undergone a change in its regulatory regime similar to that in Missouri. Legislation (H.B. 1336) has the Commission classify services according to their competitive characteristics and prescribes the type of regulation appropriate for each type. Title 40, article 5 of this bill treats small telephone companies differently for access charges. Small companies are defined as having fewer than fifty-thousand access lines and may elect to have services remain under rate-of-return regulation rather than have them classified as competitive services. The intent of H.B. 1336 is to create a three-tier structure whereby telecommunications services are defined as fully regulated, subject to flexible regulation, and deregulated. The regulation of small telephone utilities would otherwise follow this pattern. Small companies receive different treatment for reporting. Colorado allows its average schedule companies to use a simplified form.

Florida

Florida has legislation authorizing the Commission to undertake alternative regulation for telephone utilities having fewer than 100,000 access lines. S.B. 2398 requires large telephone utilities to file financial reports every four years and small companies to file every five years. Both are to use the same filing reports.

The frequency of the surveillance report (earnings report) for small companies has also been changed. Large companies are required to file monthly, whereas only quarterly reports are necessary from small companies.

S.B. 2398 will not become effective until October 1, 1990. Staff is considering whether to reduce the information required in the five year filing for small telephone companies.

Small Rate Increases

Three states address the issue of small utilities through the use of criteria that are used to evaluate the size of the rate increase. "Small" increases are not subject to rate case investigation, whereas those exceeding the criteria are investigated. The three states are New York, California, and Mississippi. Each is described below.

New York

The New York Commission has a long-standing method for treating small telephone, electric, gas, and water utilities differently from large utilities. More than a

decade ago the New York legislature passed a statute requiring the Commission to hold rate case hearings except when the utility's requested increase was less than \$100,000 or less than 2.5 percent.

Staff noted that the state telephone association has from time to time raised the issue of increasing the \$100,000 limit. No action has been undertaken at the Commission or by the legislature to raise this limit.

New York also has an existing law that allows simplified filings and rate case proceedings for small utilities. The utilities are differentiated by their class size, with class A telephone utilities having the most detailed requirements and procedures and class D the least detailed requirements and simplified procedures.

California

California has an approach that is similar in some respects to New York's. The California Commission issued general order 96-A that stated that "Any utility or district of a utility may request authority for a general rate increase by an advice letter filing (rather than by a formal application) if the projected annual operating revenues, including the requested increase, are no greater than \$750,000."

There have been no small company rate cases since 1985. Staff report that the companies claim that the expense and difficulty in forecasting a forward-looking test year in a climate of regulatory change, increased competition, the 1986 tax reform, and the Commission's investigation into alternative regulatory frameworks have been responsible, in part, for the lack of filings.

Mississippi

H.B. 885 was enacted into law in 1989 and encouraged the Commission to investigate innovative ratemaking procedures, including the use of "formula type rate of return." If a formula approach is used, each revenue adjustment will be separately considered for the purpose of determining whether a hearing is required. A hearing shall be required to determine a utility's compliance with the formula rate plan and the accuracy of the data prior to making any change in the revenues if the cumulative change in any calendar year exceeds the greater of \$200,000 or 4 percent of the annual revenues of the utility.

Like New York, Mississippi uses the size of the increase, rather than the size of the utility to determine the need for a Commission investigation. The Commission still retains the necessary authority to set just and reasonable rates.

Accelerated Procedures

Minnesota

Minnesota has legislation authorizing the Commission to adopt alternative regulatory structures, but prescribes that the end product be an incentive regulation plan. In a separate statute small companies are identified as having fewer than thirty-thousand access lines. These companies have a simplified rate filing and may not require a full hearing if the preliminary investigation by the Department of Public

Service does not reveal the need for a full hearing. Small telephone utilities file a simple one-page annual report.

Summary

Two main approaches were examined in this section. New York, California, and Mississippi address the issue of "small rate increases" rather than small companies. For all practical purposes, however, these limits are generally used only for small utilities.

The Missouri, Colorado, and Florida Commissions' treatment of small telephone utilities is entirely within the context of their larger alternative rate-of-return proceedings. Their focus is on changes that are not complaint driven, but which are largely guided by the principles governing the larger reform effort. Under this approach small telephone utilities simply have fewer requirements placed on them compared with large utilities.

Alaska Telephone Association

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Claude Zike
President

Gordon Parker
Executive Director

April 15, 1991

To: Tom Wright
From: Gordon Parker
Re: Rate Case Expenses

I have not yet been able to get information from all the companies who have had recent rate cases. There are two yet outstanding. I will get their figures to you as soon as I have them. Meanwhile, I want to get what I have to you.

Please keep in mind that these figures represent solely the cost of prosecuting the rate case. Therefore, the per access line cost presented is on top of the rate adjustment which was eventually granted.

<u>Company</u>	<u>Rate Case Expense</u>	<u>Per Access Line</u>
Interior	\$187,000	\$74.56
United	25,000	8.49
Bristol Bay	35,000	32.68
Yukon	30,000	88.24

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 286

April 29, 1991

The Commission recognizes the benefits of simplified ratemaking but opposes HB 286 because it fails to adequately protect the consumers of local telephone companies and because it is premature.

Local telephone companies are part of a statewide telephone network that provides both local and long distance service. Local telephone companies are more complex than other utilities because they have costs and revenues which must be separated into three categories: local, intrastate toll, and interstate toll. With the introduction of intrastate long distance competition, the local telephone companies are making annual filings to the Commission which include this cost and revenue data. These filings are currently used for determining what charges intrastate long distance companies will pay to access customers through the local telephone companies. However, they also include information which will allow the ratemaking process for local services to be simplified and expedited without compromising protection of the consuming public. This is the Commission's current mandate under legislation passed last year (HB 168). Therefore, it would be premature to consider deregulation of local telephone utilities before taking the intermediate step of stream-

lining regulation. To do so would be to put the public at risk without demonstrable benefits which can otherwise be achieved under simplified ratemaking procedures.

In particular, the Commission finds Section 3 of the bill to be contrary to the public interest. Under this section, local telephone utilities would be entitled to rate increases of 8% per year regardless of what rate of return they are earning or whether costs are increasing. This proposal is radically different in scope and structure from the current rules governing simplified ratemaking for electric cooperatives. The proposal in Section 3 essentially is devoid of the public protection checks which balance the quasi-automatic rate adjustments allowed for electric cooperatives, including limits on increases based on allowed earnings, votes by their elected boards prior to requesting rate adjustments, quarterly or semi-annual filings, required rate decreases, etc. In addition, by any standard, this section is exceedingly liberal (with ratepayer money) relative to the approaches which have been adopted in other jurisdictions for allowing rate flexibility for telephone utilities.

Section 2 of the bill appears to be an automatic adjustment clause for changes in the rules governing separation of costs between the local, intrastate toll, and interstate toll jurisdictions. Unlike fuel costs, these changes do not occur overnight or without warning; rather, they are considered in lengthy federal or state proceedings with the resultant changes

occurring at some future time or in phases. With the annual access charge filings required by intrastate long distance competition, there is no need for an automatic adjustment provision. These cost changes can readily be included in rates each year through existing procedures.

Section 5 of the bill would economically deregulate 9 of the 18 local telephone companies fully regulated by the Commission based on the number of access lines they serve. The local telephone companies deregulated by this section are monopolies. Without regulation, there is no protection in place for consumers against the monopoly provision of essential communications service. This is particularly critical in the areas served by the small utilities deregulated by this bill. If the cost of regulation is too high, then the answer is to simplify regulatory procedures, not to fully deregulate the utilities. In addition, there are already provisions in the statute allowing the consumers of many of these utilities to vote to be deregulated if they believe it is desirable to do so.

In conclusion, the Commission finds that HB 286 poses risks to the public interest. In addition, the Commission believes that its existing legislative mandate and recent developments in related telecommunications matters, notably intrastate long distance competition, have set the stage for simplification of local telephone company ratemaking. This course should be maintained and completed before further deregulation is considered.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB0286a

Revision Date: _____ Department Affected: DCED

Title: Regulation of Local Exchange telephone utilities ARU: APUC

Sponsor: Rep. Ivan, Jacko Component: _____

Requestor: Rep. Ivan, Jacko COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact for FY91

Prepared By: Ray W. Hoffmann, Acting Exec. Director Phone: 276-6222

Division: Alaska Public Utilities Commission Date: 4/26/91

Approved by Commissioner: Heim A. Nilsen

Agency: Department of Commerce & Economic Development Date: 4-25-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).