

HB

515

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FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 515
(H) Publish Date: 3/4/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Municipal Water & Sewer Utilities RDU RCA Audits & Investigations (508)
Component RCA Audits & Investigations
Sponsor Labor & Commerce
Requester House Community & Regional Affairs Component No. 2740

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(45.7)	(61.0)	(61.0)	(61.0)	(61.0)	(61.0)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1141)	(45.7)	(61.0)	(61.0)	(61.0)	(61.0)	(61.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 - RCA Receipts	(45.7)	(61.0)	(61.0)	(61.0)	(61.0)	(61.0)
TOTAL	(45.7)	(61.0)	(61.0)	(61.0)	(61.0)	(61.0)

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from Regulatory Commission of Alaska (RCA) oversight. The RCA Audits & Investigations component will see a reduced workload as a result of this legislation. The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency.

AWWU is expected to pay a total of approximately \$406,550 in RCCs in FY 2004. The RCA estimates \$45.7 of this reduction would occur in RCA Audits & Investigations. Some RCCs would be realized in FY 2005 if an effective date of July 1, 2004 is assumed.

Prepared by: Mark K. Johnson, Commissioner, Chair Phone (907) 276-6222
Division Regulatory Commission of Alaska Date/Time 3/3/04 5:38 PM
Approved by: Edgar Blatchford, Commissioner Date 3/3/2004
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 515
(H) Publish Date: 3/4/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Municipal Water & Sewer Utilities RDU Regulatory Commission of Alaska (399)
Component Regulatory Commission of Alaska
Sponsor Labour & Commerce
Requester House Community & Regional Affairs Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(258.8)	(345.6)	(345.6)	(345.6)	(345.6)	(345.6)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1141)	(258.8)	(345.6)	(345.6)	(345.6)	(345.6)	(345.6)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 - RCA Receipts	(258.8)	(345.6)	(345.6)	(345.6)	(345.6)	(345.6)
TOTAL	(258.8)	(345.6)	(345.6)	(345.6)	(345.6)	(345.6)

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	-2	-2	-2	-2	-2	-2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from Regulatory Commission of Alaska (RCA) oversight. The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

AWWU is expected to pay a total of approximately \$406,550 in RCC's in FY 2004. The RCA estimates loss of this revenue will result in the loss of 2 positions within the agency for a total reduction of \$258.8 in this component. The precise distribution of operating expense reductions has not been determined at this time. Some RCC's would be realized in FY 2005 if an effective date of July 1, 2004 is assumed.

Prepared by: Mark K. Johnson, Commissioner, Chair Phone (907) 276-6222
Division Regulatory Commission of Alaska Date/Time 3/3/04 5:36 PM
Approved by: Edgar Blatchford, Commissioner Date 3/3/2004
Agency Department of Community & Economic Development

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 515 BY: Representative Tom Anderson

TITLE: "An Act relating to the regulation of municipal water and sewer utilities not in competition with other water and sewer utilities."

House Bill 515 would exempt Anchorage Waste Water Utility from regulation by the Regulatory Commission of Alaska (RCA). Except for the City of Pelican, no other municipal owned water/wastewater utility is regulated by the RCA. (Pelican requested regulation of its water utility by the RCA).

The Municipality of Anchorage believes the current RCA regulation processes are cumbersome, slow, expensive, and non-responsive to local needs. Ratepayers are required to pay for the expensive RCA regulatory process as a surcharge on every bill, whether or not their utility has a case pending. For example, from 1993 until 2003 AWWU never had a rate increase from the RCA or the APUC, yet ratepayers have paid a regulatory assessment to the RCA as part of every bill. In 2004 AWWU ratepayers are projected to pay about \$500,000 to the RCA to cover the costs of regulation. The greatest costs appear in the form of regulatory delay in obtaining approval of a requested change.

The MOA is directly accountable to ratepayers served by the utilities - they are voters. The Municipality has experience successfully regulating enterprise activities. The Port of Anchorage, Solid Waste Services and Merrill Field are all financially sound and provide first class customer service. Municipal public hearings are held on any proposed rate increase and the public is very involved in the hearing process.

HB 515 changes existing law by adding lines 5 thru 8 on Page 2. This language states that a water or sewer utility owned by a political subdivision not directly competing with another water or sewer utility is exempt from RCA regulation.

I would ask for your support on HB 515.

HB 515

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FN # 1	\$	CED	<u>2740</u>	3.3.04
FN # 2	\$	CED	<u>2417</u>	3.3.04

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**TESTIMONY OF MARK PREMO, GENERAL MANAGER,
ANCHORAGE WATER & WASTEWATER UTILITY,
on HOUSE BILL NO. 515, before the
HOUSE FINANCE COMMITTEE on April 20, 2004.**

Mr. Chairman and distinguished committee members,

My name is Mark Premo and I am the General Manager of the Municipality of Anchorage Water and Wastewater Utility, which is commonly referred to as AWWU.

I am testifying this morning in support of HB 515.

This bill would exempt AWWU, from economic regulation by the Regulatory Commission of Alaska, and place it in the same status of every other municipally owned water/wastewater utility in Alaska, except one.

First some background.

AWWU is two separate utilities, both subject to economic and service area regulations by the RCA.

The Water Utility, a former City of Anchorage utility, has been under RCA regulation since inception of the APUC in 1970.

The Anchorage Sewer Utility, which was formerly owned by the Greater Anchorage Area Borough, was voluntarily submitted to the APUC for regulation in 1971.

An umbrella organization, AWWU, was formed in 1975, following unification of the Municipality of Anchorage.

The Municipality of Anchorage in 1991 petitioned the then APUC to exempt AWWU and its electric utility from regulation.

The Commission split evenly, by a 2-2 vote, on the question of exempting the electric utility and AWWU.

The opinion by the commissioners opposing self-regulation cited competition by the Municipality's electric utility and telephone utility with other utilities as the primary reason why AWWU should remain regulated by the state.

No commissioner suggested then or has since suggested that competition between the water and wastewater was present, nor is there any competition there today.

Why does the Municipality of Anchorage desire exemption from RCA Regulation?

1) The current RCA regulation processes and procedures are slow and expensive

From 1993 to 2003, AWWU never requested a rate increase yet AWWU ratepayers have paid approximately \$2.8 million in regulatory assessments to the RCA during this period as part of every monthly bill and are projected to pay \$485,000 in 2004 to cover the cost of regulation.

Our figures differ from the RCA because they are actual projected payments in 2004 versus billings for the State fiscal year as estimated by the RCA.

There were a number of minor relatively simple procedural tariff filings during this period of time.

However, the greater cost to AWWU and its customers is in the form of the cost of preparing filings and regulatory lag.

History shows that local regulation is faster, less structured and more economical.

2) Current RCA regulations and procedures are non-responsive to local needs.

The RCA process was designed for private utilities and is not entirely appropriate for municipal utilities.

The RCA process is very structured.

The Municipality is more responsive to local needs and is directly accountable to the ratepayers, who are served by the utilities. These customers are Municipal voters.

Public hearings are held by the Municipality on all rate matters.

I ask for the Committee's support of HB No. 515.

Self regulation has worked effectively across the nation, in other Alaskan communities, and in Anchorage.

Also, contrary to statements by the RCA, there is no fundamental regulatory philosophy for the Legislature to address in consideration of this bill. The Legislature decided years ago that public ally owned Municipal utilities did not require RCA oversight.

Anchorage has regulated its own public utilities for many more years than have state regulators.

The Municipality of Anchorage has a proven track record of effectively regulating the Port of Anchorage, Merrill Field and Solid Waste Services.

All are financially strong, highly reputable enterprises that provide excellent customer service. Rate changes have been infrequent.

AWWU has provided its customers excellent service, low, stable rates and sound finances.

For more than a decade rate payers have benefited as AWWU has reduced positions and expenses by leveraging technology and improving business processes while at the same time increasing spending on system repairs and rehabilitation,

This has all been done without direction and assistance (or value added) from the RCA.

Over the years, the mayor and assembly have made sound decisions in their oversight of AWWU and other municipally owned utilities.

The Municipality of Anchorage Administration supports the establishment of a strong independent Board to oversee and regulate AWWU in lieu of the RCA.

The rate making process would be very similar to the RCA process of developing Revenue Requirements and Cost of Service to meet the traditional "Cost causer-Cost payer" regulatory approach.

In conclusion, with the passage of HB No. 515, Municipal regulation of AWWU will balance consumer protection with the financial soundness and AWWU will continue to operate on a sound business basis.

This bill only makes a minor adjustment to the existing statute to facilitate the proper self-regulation of AWWU.

The RCA would still continue to regulate the AWWU water and wastewater service areas.

Here is an analysis of the changes we made to the house version of this bill:

1. Page 1, line 5:

We amended Section 1 to add "AS 06.50" to the list of licensees exempt from the department's ability to order compliance with federally chartered financial institutions. This was required to make Section 50 consistent with other exempt licensees.

2. Page 3, line 25:

Delete "1,200" Insert "2,000" This was changed to address Senator Bunde's requests that the bill be changed to be more "revenue neutral." Although this does not solve the entire problem, it helps.

3. Page 5, line 16 and 17:

Delete the entire last sentence starting with "Upon receipt of the license," This change was made because other sections of the bill address the return of the bond.

4. Page 8, line 17:

Insert after "\$75" "per examiner hour" Again, this was made to address the revenue concerns with the bill.

Page 12, line 7:

Delete language that reads "up to \$25 if the payment is return unpaid" and replace with "as provided in AS 09.68.115(a)(2) if the payment is returned unpaid." AND

Page 13, lines 15-18.

Delete subsection (D) completely. Change subsection (C) to read: (C) an additional fee by the licensee is not allowed, except for a NSF fee allowed by AS 09.68.115(a)(2).

These two changes were made in part to account for HB 115, which proposes to change the NSF fee to \$30. By referring to the statute instead of a specific dollar amount, this concern is removed even for future amendments to the NSF statute.

DRAFT

Anchorage Water and Wastewater Utility

SELF-REGULATION FOR MUNICIPAL WATER AND SEWER UTILITIES

Introduction

The Municipality of Anchorage and the Anchorage Assembly have designated "Regulating Anchorage's Own Water/Wastewater Utilities" as an important municipal legislative priority for 2004. This bill would exempt AWWU from regulation by the Regulatory Commission of Alaska (RCA), the same status that every other municipally owned water/wastewater utility in Alaska, except one. Anchorage as the largest, most highly sophisticated city in the state, is fully capable of properly regulating its own municipally owned utilities. Self-regulating Anchorage's water/wastewater utility will save rate-payers money and enhance local control.

Why is the MOA requesting exemption from RCA Regulation?

Except for the City of Pelican, no other municipally owned water/wastewater utility is regulated by the RCA. (Pelican requested regulation of its water utility by the RCA.)

AWWU has provided its customers excellent service, low, stable rates and sound finances, as well as continuity of management. Over the years, the mayor and assembly have made sound decisions in their oversight of municipally owned utilities. Municipal public hearings are held on any proposed rate increase. Municipal regulation will continue to balance consumer protection with the financial soundness of the public utility. It will require the utilities to continue to operate on a sound business basis. The process will be accountable to local people, more responsive, timely and economical than current RCA regulation.

Local Regulation of Municipal Water and Wastewater Utilities

The Municipality is directly accountable to the ratepayers served by the utilities. They are the voters. The Municipality is more responsive to local needs. The MOA has experience successfully regulating enterprise activities. Anchorage has extensive experience regulating other municipally owned enterprises. The Port of Anchorage, Merrill Field and Solid Waste Services are all financially sound and provide first class customer service. Actually, Anchorage has regulated its own public utilities for more years than have state regulators. Local regulation is faster, less structured and more economical. Public hearings are held by the Municipality on rate matters.

The MOA believes the current RCA regulation processes and procedures are cumbersome, slow, expensive, and non-responsive to local needs. AWWU ratepayers paid about \$350,000 in 2003, and are projected to pay about \$500,000 in 2004, to the

RCA to cover the cost of regulation. The greater cost is in the form of regulatory lag, the delay in obtaining approval of a requested rate change. It was designed for private utilities and is not entirely appropriate for municipal utilities. Despite a legislative mandate to speed up processing of regulatory filings, the commission still faces a substantial backlog of work. Ratepayers are required to pay for the expensive RCA regulatory process as a surcharge on every bill, whether or not their utility has a case pending. For example from 1993 until 2003 AWWU never had a rate increase from the RCA or the APUC, yet ratepayers have paid a regulatory assessment to the RCA as part of every bill.

What will self regulation accomplish?

Self regulation has worked effectively in other Alaskan communities, in Anchorage with the Port of Anchorage, Merrill Field and Solid Waste Services and across the nation. The MOA has a proven track record of effectively regulating the Port of Anchorage, Merrill Field and Solid Waste Services, which are all financially strong and highly reputable enterprises. Self regulation has proven to be cost effective, timely and responsive to local needs, while protecting consumer rights.

The Municipality in 1991 petitioned the APUC (predecessor to the RCA) to exempt AWWU and the electric utility from regulation. The Commission split evenly, by a 2-2 vote, on the question of exempting the electric utility and AWWU. The opinion by the commissioners who opposed self-regulation cited competition by the electric utility and telephone utility then owned by Anchorage with other utilities as the primary reason why AWWU should remain regulated by the state. No commissioner suggested that water/wastewater competition with another utility was present. Nor is there competition here today.

Section 711 of the Alaska Public Utilities Regulatory Act was amended as recently as the year 2000 by SB 324 to protect Ketchikan's public utilities, which have been self-regulated for 50 years, from the risk of regulatory takeover by the RCA in light of possible telephone competition. This bill expands that municipal exemption to any municipally owned water or wastewater utility that is not directly competing with another utility. AWWU fits this bill.

History of Regulation of AWWU

AWWU is two separate utilities, both subject to economic and service area regulation by the Regulatory Commission of Alaska (RCA). The Water Utility (AWU), a former City of Anchorage utility, has been under RCA regulation since inception of the Alaska Public Utilities Commission (APUC) in 1970. Anchorage Sewer Utility (ASU), which was formerly owned by the Greater Anchorage Area Borough, was voluntarily submitted to the APUC for regulation in 1971. The umbrella organization, Anchorage Water and Wastewater Utility (AWWU), was formed in 1975, following unification; however, the two utilities continue to be separate enterprise funds and to be regulated as separate utilities with separate certificates and tariffs by the RCA (formerly APUC).

Local Regulation of Municipal Water and Wastewater Utilities

The Municipality of Anchorage (MOA) owns Anchorage Water and Wastewater Utilities. HB 515 would provide the MOA the same regulatory responsibility over these utilities as state law provides to every other municipally owned water/sewer utility in Alaska except Pelican. Local regulation of these utilities is overdue because:

- 1) The Municipality is directly accountable to the ratepayers served by the utilities. They are the voters.
- 2) The Municipality is more responsive to local needs.
- 3) The MOA has experience successfully regulating enterprise activities. They are financially sound.
- 4) With a single exception, no other municipally owned water and wastewater utility in the state is economically regulated.
- 5) Local regulation is faster, less structured and more economical.
- 6) Public hearings are held by the Municipality on rate matters.

The Regulatory Commission of Alaska (RCA) process is lengthy, costly and inflexible. It was designed for private utilities and is not totally appropriate for our municipal utilities.

Ratepayers are required to pay for the expensive RCA regulatory process as a surcharge on every bill, whether or not their utility has a case pending. For example from 1993 until 2004 AWWU never had a rate increase from the RCA or the APUC, yet ratepayers must pay a regulatory assessment to the RCA as part of every bill. (There was a slight rate reduction for wastewater in 2001.)

Despite a legislative mandate to speed up processing of regulatory filings, the commission still faces a substantial backlog of work.

Last year the agency was controversial. The battle over its sunset extension required a special session to resolve.

RCA commissioners turn over frequently and often lack experience in utility regulation before their appointment.

The process is generally not responsive to local needs and differences.

The rates, services and practices of Solid Waste Services are under the local control of the Mayor and Assembly.



Municipality of Anchorage

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Mayor Mark Begich

Office of the Mayor

MEMORANDUM

DATE: February 3, 2004

TO: The Honorable Tom Anderson, Chair
House Labor & Commerce Committee

FROM: Anchorage Mayor Mark Begich 

SUBJECT: Self-regulation of Anchorage Water and Wastewater Utilities

The Municipality of Anchorage and the Anchorage Assembly have designated "Regulating Anchorage's Own Water/wastewater Utilities" as a top municipal legislative priority for 2004. This would require an exemption from regulation by the Regulatory Commission of Alaska (RCA), something that every other municipally owned utility in Alaska, except one, already enjoys.* Anchorage as the largest, most highly sophisticated city in the state, is fully capable of soundly regulating its own municipally owned utilities. Self-regulating Anchorage's water utility would save rate-payers money and enhance local control.

AWWU has provided its customers excellent service, low, stable rates and sound finances, as well as continuity of management. Over the years, the mayor and assembly have made sound decisions in their oversight of municipally owned utilities. Municipal public hearings are held on any proposed rate increase. Municipal regulation will continue to balance consumer protection with the financial soundness of the public utility. It will allow the utilities to continue to operate on a sound business basis. The process will be accountable to local people, more responsive, timely and economical than current RCA regulation.

Anchorage has extensive experience regulating other municipally owned enterprises. The Port of Anchorage, Merrill Field and Solid Waster Services are all financially sound and provide first class customer service. Actually, Anchorage has self-regulated its public utilities for more years than have state regulators.

RCA regulation is slow, expensive and partially duplicates the review process that the municipal administration and assembly already apply. AWWU ratepayers pay in excess of \$500,000 per year to the RCA to cover the cost of regulation. The greater cost is in the form of regulatory lag, the delay in obtaining approval of a requested rate change.

* The City of Pelican requested continued RCA regulation of its water utility when it was sold.

Community, Security, Prosperity

The Municipality in 1991 petitioned the APUC (predecessor to the RCA) to exempt AWWU and the electric utility from regulation. The Commission denied the request for self-regulation of the electric utility. By a 2-2 vote, the commission split on the question of exempting AWWU. The opinion by the commissioners who opposed self-regulation cited competition by the electric utility with other electric utilities as the reason why AWWU should remain regulated by the state.

To accomplish the exemption from RCA regulation a new section is needed in AS 42.05.711:

“A water/wastewater utility owned by and serving a first class or home rule municipality is exempt from regulation by the Commission, other than AS 42.05.221 - 42.05.281 and 42.05.385.”

This section was amended as recently as the year 2000 by SB 324 to protect Ketchikan's public utilities, which have been self-regulated for 50 years, from the risk of regulatory takeover by the RCA in light of possible telephone competition.

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2004 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES
LEGISLATION

ISSUE/PROJECT NAME: Regulating our own utilities
ISSUE/IMPROVEMENT TYPE: Legislation- Utility
STATE GRANT REQUEST: None
LOCAL MATCH: N/A
PRIORITY: 1

ISSUE/PROJECT DESCRIPTION:

We support state legislation that would include the Municipality of Anchorage utilities in the existing exemption from regulation by the Regulatory Commission of Alaska (RCA) already provided to other municipally owned utilities.

Anchorage utilities are the only municipal utilities in Alaska subjected to state regulation. The sole exception is the City of Pelican's water utility, where Pelican requested to be regulated by the RCA. Anchorage ratepayers pay higher rates for this state "service" but these regulatory charges are not imposed on any other municipal utility, except Pelican. Currently Anchorage ratepayers pay \$930,000 per year.

Municipal regulation would continue to balance consumer protection with the financial soundness of the utilities. It would be:

Directly accountable to local people
More responsive
More timely
More economical
Simpler

The Municipality has extensive experience regulating other municipally owned enterprises. They are all financially sound and also provide first class customer service. For example, the Solid Waste Services Collection Utility has been regulated by the Municipality for many years. Its customers enjoy among the lowest refuse collection rates in the country. The rates for residential and commercial refuse collection have not increased in the past thirteen years.

Voters in the Municipality would hold the Mayor and Assembly members, those elected officials who would set and approve utility rates, fully accountable – and they do vote.

During the recent California energy crisis the utilities regulated by the state public utilities commission got in trouble, with the largest gas and electric utility having to file bankruptcy. On the other hand, municipally owned utilities fared very well.

POLITICAL SUBDIVISIONS:

Community Council: Anchorage
Assembly Section: 9
Legislative District(s):
House: 16-32
Senate: I-P

CONTACT PERSON: Robert Lohr, Management Systems Officer, 343-4467

ANCHORAGE WATER UTILITY
 RATE HISTORY
 1992 THROUGH 2004

Docket/Order	Type of Rate Increase	Rate Increase Received	Effective Date of Increase	Single Family Rate	Commercial Metered Rate
per U-90-64(4)	Permanent	6.00%	3-Jun-92	\$24.75	\$3.14
per U-94-89(5) COSS	Cost of Service ⁽¹⁾	0.00%	1-Jun-95	\$25.80	\$2.64
per U-04-023(1)	Interim	13.61%	23-Feb-04	\$29.35	\$3.00

⁽¹⁾ Cost of Service rates reallocate costs to customer classes without changing the total revenue to the Utility

ANCHORAGE WASTEWATER UTILITY
 RATE HISTORY
 1992 THROUGH 2004

Docket/Order	Type of Rate Increase	Rate Increase Received	Effective Date of Increase	Single Family Rate
per U-90-64()	Permanent	14.89%	8-Jun-92	\$21.65
per U-94-88(5)COSS Cost of Service ⁽¹⁾		0.00%	1-Jun-95	\$21.80
per LO# L0001127	Permanent	-2.75%	1-Jan-01	\$21.20
per U-04-022(1)	Interim	8.06%	23-Feb-04	\$22.90

⁽¹⁾ Cost of Service rates reallocate costs to customer classes without changing the total revenue to the Utility