

375

SCRA

SB

249

-

SB

259

0012

Test
Items

SB 249

Does not apply to fact proprietary in nature e.g. driving a truck
" " " " public property

Does affect fact of mun which are regulatory in nature
Bldg, fire safety are not reqd, but are done for public benefit

done Rose

Attorneys prob not happy w/249

Sec d(4) is different from other portions of bill, in that it addresses a course of action rather than inaction.

May want to qualify (4) in some way - dollar limit?

Individual immunity not affected by bill

Most suits do not go thru for settlement

L.B. Jacobson - Representing several small cities in SE

A& Sup Ct. has abrogated sovereign immunity for muni

↳ Wadale vs Cold Rush Hotel was final straw

↳ premise was that high settlements would not force state out of fire insp business - it did!

Insurance rates are being raised - a number of reasons

Petersburg

Bell vs Peters ^{sup Ct} - wrongful arrest - won, but cost \$K

Rose vs Peter ^{sup Ct} - doctor submitted guess credit card - requested further documents - sued for defam of char - settled for \$4.5K + 2K cost

Marysville vs Peter - bldg insp case (bldg fell over onto another)

- not ~~the~~ resolved yet

e.g. will not go in whistate for emer. fire response outside of city limits - nothing but peten. headaches.

Rake - advised not to adopt bldg/fire codes because of high

(2)

Craig - no coop in fire safety because of ~~no~~ liability

Skagway - zoning problems

Yakutat - repealed fire preven. code due to Jennings case -
also have no police

Summary - Muni could comply w/ standards set by Sup Ct,
but why at great expense

Jim Arling, F. H. H.

11/74 - 1/76 out of Ct settled 8 cases of ~~police~~ false arrest, etc

How much respon. should govt take for allowing govt busin
& actions to take place?

Rem. Law - Dome - Muni League Pres

Climate too good for suit - superabundance of
capable attys - opposes elim of (4)

Jim Elson - Kenai

insurance cos. looking @ Alaskans + Ak muni
Fire insur. rate lowered by insur - if this makes
muni liable, then rates raised again - dropping
insur would go from Class 7 to Class 9, cost \pm \$4M

Sharp - Juneau

Juneau downtown is Ct 5; drop insur would go to Ct 6 -
cause a 10% premium increase - cost = ? \$60 K

Insurers are pulling out of mkt - largely due
to Sup Ct decisions in these cases.

When there is authority & should have known of
problem then are liable - expenses to defend
Ak has limited liab for discretionary powers

Poten for Sup Ct to deny repeal of ordinances, a cessation of
other discretionary govt fact

In sec(4) - may want to limit by type (degree) of physical
activity.

Out-of-court settlements can hurt employee morale

TELEGRAM

HCA ALASKA COMMUNICATIONS ~~INC~~

PHONE: 586-6440

FUNEAU, ALASKA 99801

1977 APR 5 AM 12 42

02 124 NL TDA BETHEL AK 51 04-04 510P AST

PMS SENATOR JOSEPH ORSINI

JUN

PURSUANT TO SENATE BILL 249 (HB354) A BILL LIMITING MUNICIPAL
LIABILITY IN CERTAIN ACTIONS, THE MAYOR AND CITY MANAGER OF
THE MUNICIPALITY OF BETHEL STRONGLY SUPPORT AND URGE YOUR
ENDORSEMENT OF THE BILL DURING CURRENT LEGISLATIVE HEARINGS ON
THE BILL. THANK YOU AND BEST WISHES,

GENE R PELTOLA, MAYOR AND

BRUCE L BARTLETT, CITY MANAGER

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

PUNEAU, ALASKA 99801

02137 NL TDA HOMER AK 50 24-24 600P AST

1977 APR 5 AM 1 58

PMS SENATOR ORSINI

11223

JUN

URGENTLY REQUEST THAT YOU SUPPORT SB249. SITUATION SAME
AS MEDICAL MALPRACTIC FOR MUNICIPAL LIABILITY INSURANCE.
URGENT SOME LIMITS BE PLACED ON EXPOSURE.

LARRY C. FARREN, CITY MANAGER

HOMER, ALASKA

Test. in Form of SB 249

Anchorage

Fairbanks

Juneau

Several small Southeast communities
Kake, Petersburg, Gray, Skagway

Nome

Kenai

Valdez

Bob McVitty

Arch

Jenni Lee Brown

INDEX

1. SB 249
2. A Case for Limited Municipal Tort Immunity in Alaska
3. Explanation of HB 354 and SB 249

SB

259

REDI-NOTE

DATE April 7, 1977¹⁰

To Senator Joe Orsini, Alaska State Senate, Juneau

SUBJECT Utility Regulation

For your information, enclosed is a copy of my memo concerning Utility Regulation to the Anchorage Municipal Assembly, dated March 17, 1977. If I can provide further information, or be of assistance, please let me know.

Sincerely,

AUTOMATED COMMUNICATIONS, INC.

REH
Richard E. Hanger
President

~~AUTOMATED~~
COMMUNICATIONS INC.

5130 COMMERCIAL DRIVE
ANCHORAGE, ALASKA 99501
(907) 278-2548

SIGNED

Rediform • 45462

NO REPLY NECESSARY

REPLY REQUESTED - USE REVERSE SIDE

Poly Pak (50 sets) 4P462



Automated Communications, Inc.

3138 Commercial Drive
Anchorage, Alaska 99501
(907) 278-2548

*Sent to
Joe
O'Brien
Mr. Juncos*

March 17, 1977

TO: ANCHORAGE MUNICIPAL ASSEMBLY
FROM: RICHARD E. HANGER, PRESIDENT
AUTOMATED COMMUNICATIONS, INC.
SUBJ: UTILITY REGULATION

As I indicated at your meeting of March 8, 1977, our expertise is only in the area of ATU.

The purpose of this letter is to objectively give each of you what we consider facts in favor and against both methods of regulating the Utilities.

Assembly Regulation of the Utilities

Pro

1. More citizens attend and participate in Assembly meetings than attend PUC hearings. ACI has been the only participants and formal parties at the ATU hearings throughout the past 15 months, at the PUC.
2. Assemblymen are elected officials and are directly accountable to the people.
3. The Assembly may have fewer legal restrictions affecting their judgement and decisions.

Con

1. Tariffs are complex and difficult to understand. In order for the Assembly to effectively "judge", it will necessitate many hours of "homework".
2. Being elected could make it difficult to make good business decisions if decisions would be unpopular politically.
3. The Assembly would have to add additional staff with expertise in tariffs, legal, and accounting. No citizen's committee could spend the time necessary to handle this job.
4. The Municipality would be subject to far more legal suits, -- class action, individual, and special interest groups.
5. Must contend with the morality of the "Board of Directors" regulating their own company, which is a legal monopoly.

6. ATU is tied to a state-wide network, as well as to the "south 48". This automatically involves regulations of the FCC and PUC for inter and intra state activities. The Assembly would have to inter-relate with those agencies.

PUC Regulation of the Facility

Pro

1. Appointed officials are normally less likely to be influenced politically or by special interest groups.
2. Specializes in utility tariffs.
3. Required by law to:
 - a. Protect the financial viability of the Utility.
 - b. Assure them a fair rate of return.
 - c. And determine that tariffs are fair, just, non-discriminatory, non-preferential, and compensatory.
4. Already have a staff, on the Public payroll, who specialize in Utility matters.
5. Have access and experience with the other Utilities throughout Alaska, National Trade Associations (NARUC) etc., to compare requests and filings.

Con

1. Are required by law to adhere to "Due Process" which necessitates formal hearings and notice to the Public.

Miscellaneous "Grey Areas"

1. ATU spent over \$400,000 on rate cases in the past 15 months. Some of that was attributable to deficient filings and questionable appeals, and some was attributable to the PUC being excessively lenient with ATU. If filings were better prepared and the regulating body were firmer, there would definitely be savings. Question -- Would the Assembly be more decisive than the PUC, thereby shortening the process?
2. With Assembly control -- They and the Mayor would have direct control over the cash, profits, charges, and where the money was used. Is this good or bad?
3. Would the taxpayers be paying for a second level of government staff, or would the PUC reduce their staff in proportion to that added to the Assembly?

3. Would the taxpayers be paying for a second level of government staff, or would the PUC reduce their staff in proportion to that added to the Assembly?
4. The major motivations for the pending Resolution and changes to AS 77-59 Utilities seem to be:
 - a. the excessive costs of recent rate cases.
 - b. the over-ruling by the PUC of the Municipal Ordinance which would have returned 100% of the profits to the original City Service Area.
 - c. the dismissal of a rate structure that would have increased cash flow and income in initial years, but left expenses and costs to be absorbed by future rate payers.
 - d. the refund of 1.2 million that is pending per PUC and Court Order, and which is being contested by ATU.

Are these valid motivations, and would they have arisen if ATU had been regulated by the Assembly rather than the PUC is a question which should be addressed.

5. Chairman Rose and Assemblyperson Sturgulewski have suggested amendments which would allow the Assembly to monitor and pre-judge filings before they go to the PUC. This would seem to be a "safe" way to arrive at some of the answers to the above questions.

ACI, as the only formal participant from the private sector in the past 15 months of hearings, feels qualified and willing to answer any questions of either side.

ACI, being in the telephone business and regulated by the free enterprise system and competition, rather than a regulatory body, feels we should abstain from taking sides. On behalf of our 200 business subscribers, we would need to poll them prior to speaking for them.

Sincerely,

AUTOMATED COMMUNICATIONS, INC.

SONA
Richard E. Hanger
President

cc: Mayor George Sullivan

Al Pistorius, Manager
Anchorage Telephone Utility

4/7/77
Joe
We have not met
but I'd be happy
to discuss this if
you have any
interest.
Rich
Hanger

SB 259

"city council or borough assembly may, by ordinance, elect"

severability

must act to, get in or get out

SB 208

property tax is main tax base; almost 2 year lag
before getting income

5B259

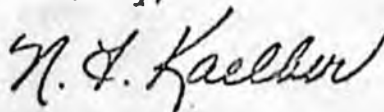
March 18, 1977

Mr. Dave Rose, Chairman
Anchorage Municipal Assembly
432E East 5th Avenue
Anchorage, Alaska 99504

Dear Mr. Rose:

At the regular meeting of the Water Utility Advisory Commission on Monday, March 14, the Water Utility Advisory Commission went on record opposing any move to remove the Water Utility and other non-competitive utilities from the jurisdiction of the Alaska Public Utilities Commission until such time as a firm plan for properly handling the utilities' financial and regulatory matters has been formulated and approved.

Sincerely,



Norman Kaelber
Chairman
Water Utility Advisory Commission

/sr

cc: Anchorage Municipal Assembly Members
Mayor George Sullivan

Ed - For your information.

supports legislation relieving noncompeting utilities owned by the Municipality of Anchorage from regulation by the Alaska Public Utilities Commission with respect to all matters other than service area certification.

Passed and approved by the Anchorage Assembly, this ____ day of _____, 1977.

Chairman

ATTEST:

Municipal Clerk

Requested by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Department of Law
For Reading: February 22, 1977 RWJ:lx

ANCHORAGE, ALASKA
AR NO. 77-7

A RESOLUTION RELATING TO EXEMPTION OF ANCHORAGE MUNICIPAL UTILITIES
FROM STATE REGULATION.

WHEREAS, electric, telephone, water and sewer utilities owned by the Municipality of Anchorage are now subject to regulation of all phases of their activities by the Alaska Public Utilities Commission; and

WHEREAS, no other municipally-owned utilities in the State of Alaska are subject to such regulation; and

WHEREAS, only the electric utility is engaged in competition with a private utility, and this competition will be eliminated by final certification of service areas; and

WHEREAS, policy reasons which may have existed for regulation of utilities owned by the City of Anchorage have disappeared with unification of the former City and Borough; and

WHEREAS, compliance with expensive, complex, and often inconsistent and unnecessary requirements of the Alaska Public Utilities Commission imposes a substantial and unwarranted burden on the Anchorage municipal ratepayer; and

WHEREAS, the Anchorage Assembly, as elected representative of all citizens in the Municipality of Anchorage, including all municipal utility ratepayers, is fully competent to provide for regulation of its utilities in the same manner as other municipalities;

NOW, THEREFORE, be it resolved that the Assembly of Anchorage

B. Resolution No. AR 77-7, a resolution relating to Exemption of Anchorage Municipal Utilities from State Regulation.

Mr. Besser moved, seconded to adopt AR 77-7.
by Mr. Brannon

Mayor Sullivan stated that they have hashed it over and there are feelings pro and con. He said there was an article in the Alaska Industry magazine mentioning how few people turnout at public hearings. We continually talk about home rule, he said, and he thinks this is one of the things that relates to home rule. Most home rule cities are not regulated in other states, he noted, and the finance people indicate this, and he thinks this may cause higher rates for Anchorage. He said that he would like to sit down with the Assembly and to work this out, if this is passed. He said there might be an effective date of July 1st or September 1st.

Chairman Rose handed the gavel to Vice-Chairman Brannon.

Mr. Rose said that he has a letter from Pete Argetsinger, Assistant Municipal Attorney, which goes into depth as to a scheme and pattern for this. He talks of Title 29 and what he himself is proposing is an ordinance that spells out how they will still self-regulate. Mr. Rose asked for a more orderly approach than what the Mayor has recommended. He would like to do two things, he said; one, do not vote it down; two, table it with specific recommendations that the Administration bring back an ordinance and bring it back on the table after the ordinance is introduced.

Mayor Sullivan asked if they would be willing to consider it as an emergency ordinance, and Mr. Rose replied he had no problem with that.

Mrs. Sturgulewski said that she felt nationally there have been developed some suspicion of monopolies and that is why these regulatory commissions are necessary. To request deregulation at this time, she said, is like letting the fox loose with the chickens, while Farmer John is on vacation. She mentioned the Charter Commission and its difficulty in getting information on finance from the utilities, and she felt they had better take a good look at this. She felt that there was a great deal of expertise involved and until they get the whole financial picture straightened out, they should move very slowly.

Mrs. Selkregg said that she supported Arliss' statement and that she would like to vote against it and study the issue for a longer period. She felt there should be a better informed public before making such a decision.

Mr. Walsh moved, but it died for lack of a second, to postpone action for a period of one month.

Mr. Rose moved, seconded by Mr. Besser to postpone AR 77-7, pending action by the Administration to draw an ordinance for introduction and hearing, which would basically impose those checks and balances contained in Title 29, applying to a home rule charter, with specific times and dates for hearings.

Mr. Rose said that then on the night of adoption, this resolution could come back before the Assembly.

Mr. Chiei said he would like to abstain from voting because they are under conflict because of the PUC.

UTILITIES
AR 77-7
Exemption of
Anch. Mun.
Utilities from
State Regulation

NAYS: Walsh, Selkregg, Knowles, Sturgulewski.
ABSTAIN: Chiei.

Mr. Rose moved, seconded to table AR 77-7.
by Mr. Besser

Mrs. Selkregg requested PIO to prepare information for the public as to what the PUC does as an educational process.

Mr. Rose asked if the Administration would assent, they would like to try to rough out an ordinance and flesh it out and make it available to the Assembly.

Vice-Chairman Brannon called for the vote to table, and it passed:

AYES: Walsh, Marsh, Selkregg, Besser, Rose, Baer.

NAYS: Brannon, Knowles, Sturgulewski.

ABSTAIN: Chiei.

C. Ordinance No. AO 77-59, an ordinance Adopting Title 26 of the Anchorage Code to be Entitled "Utilities".

1. Assembly Memorandum No. AM 142-77, regarding same.
2. Assembly Memorandum No. AM 142-77A, regarding same.

Chairman Rose again had the gavel and said that he would like to put this aside temporarily and take it up at the later meeting, if there was no objection; there was no objection.

D. Ordinance No. AO 77-23, an ordinance Adopting a Title 24 of the Anchorage Municipal Code to be entitled "Streets and Rights-of-Way".

1. Assembly Memorandum No. AM 59-77, regarding same.
2. Resolution No. AR 77-24, a resolution establishing a Schedule of Permit Fees as provided in Section 24.30.090 D of the Municipal Code of Ordinances.
 - a. Assembly Memorandum No. AM 59-77B, regarding same.

Mrs. Sturgulewski moved, seconded by Mr. Brannon to approve AO 77-23.

Mrs. Sturgulewski suggested that the amendments included in AR 77-24 be approved, and Mr. Swing pointed out that AM 59-77B included all the amendments.

Mrs. Sturgulewski moved, seconded by Mr. Walsh to amend by approving AM 59-77B, which contained all the amendments.

AYES: Chiei, Walsh, Marsh, Selkregg, Besser, Rose, Brannon, Knowles, Sturgulewski, Baer.

NAYS: None.

Chairman Rose then asked for the vote on AO 77-23 as amended, and it passed:

AYES: Chiei, Walsh, Marsh, Selkregg, Besser, Rose, Brannon, Knowles, Sturgulewski, Baer.

NAYS: None.

Mr. Walsh moved, seconded by Mr. Besser to approve AR 77-24.

Chairman Rose asked if there were any problems with this, and Mr. Swing said that Mr. Bollinger would be able to respond.

Mr. Bollinger said that there will be no fee unless what is proposed endangers the right-of-way, then a fee of \$2.50 would be charged.

There was further discussion of planting of trees, retaining walls and rock gardens in this area, and Mr. Bollinger said that if someone was going to put a large boulder on top of a gas line, then there might be a problem, but other than that, he did not foresee any.

seconded by Mr. Smith, floor until after the public
and it was passed hearing on the next item.
without objection,

II. Resolution No. AR 77-7, a resolution relating to exemption
of Anchorage Municipal Utilities from State Regulation.

UTILITIES
AR 77-7

The public hearing on Resolution No. AR 77-7 was opened.

RUTH MOEN stated that she would like the Assembly to not take action on removing non-competitive utilities from under APUC regulation. She does not believe, she said, that the cost to her from the utility would go down were they not regulated by APUC and she views APUC as a sort of guard against the fact that rates could be raised indiscriminately. She lives in an outlying area, she said, and receives no benefit from the profits of the utilities, only pays into them.

RICHARD HANGER stated that he is in business putting in private PBX systems in Anchorage. A legal monopoly is the best reason for regulation, he said. Any changes of tariffs or other provisions, he said, must meet basic rules to stand a test in court, no matter who regulates them. Mr. Hanger noted that the APUC has a budget of \$1.3 million and a staff of 31 people. A staff will be required by whoever does the regulating, he said, and he estimated a bare minimum of 3 if the Assembly regulates municipal utilities. He distributed to the Assembly an article on the APUC and a handout relative to typical charges from ATU to an Anchorage business firm.

LLOYD MORRIS of Communications Engineering stated that his firm holds a certificate of convenience and necessity from the APUC to provide radio-telephone service in Anchorage. He has a problem, he said, understanding how ATU is non-competitive, since it does have a certificate to provide the same service as his company, although, it does not at this time to do so. If ATU did provide this service for which it is certified, he said, it would definitely be competing with Communications Engineering, which would place ATU in the identical position of the electric utility competing with CAU. For this reason, Mr. Morris stated, he feels that ATU should be withdrawn from the resolution before the Assembly.

BOB JOHNSON stated that for the past three years he has been on the Water Commission, working with the Anchorage Water Utility. He recommended approval of the resolution before the Assembly. When AWU was placed under the APUC regulation, he recalled, it was placed there because their service extended beyond their jurisdiction and there were excesses practiced on the people outside of their jurisdiction but which received the services. This condition, he said, no longer exists. APUC regulation impacts their growth, he continued; it takes 9 to 18 months to get a case through the Commission because the Commission must weigh that case against all others in the state. But meanwhile, he said the utility cannot sell bonds because there is no revenue coming in to justify bonds. The Water Commission was satisfied, he said, with the work of the APUC. Mr. Johnson recommended that the Administration hire the expertise necessary and take it under Municipal control so that the utilities can move at the speed they need to move. He continued with recommendation that the Municipality establish these utilities as public corporations under one head and that the utilities pay taxes or contributions in lieu of taxes and operate in a business like manner and the Assembly would approve or disapprove any rates. He would envision the Assembly sitting as an appellate body, he continued, rather than a hearing body on rate cases.

PAT REDMOND, speaking as a consumer, stated at first glance she does not want her public utilities taken out from under APUC regulation. Some of the things she considered were the cost of Municipal regulation, the time and the politics. Most utilities are regulated, she said, and she would like for Anchorage's to be regulated, and by APUC.

owned by the former City, she said, go to the former City; and those who live outside need the protection of APUC. If a utility is not competing with others, she continued, that means it is a monopoly and that means it should be regulated. The Assembly should consider, she pointed out, that the APUC has a great deal of expertise; and should be a body that the Municipality works with, rather than against. Were this the case, she said, she doubted that the bills for rate cases would have been as high as they have been. Mrs. Frohne noted that Fairbanks is looking at asking to be regulated by APUC; and in closing she stated that deregulation from APUC and Municipal regulation indeed require a vote of the people under the provisions of the Charter.

JEFF LOWENFELS, a private citizen, noted that he was speaking as such, although in the past he has represented APUC, since he works in the Attorney General's Office. He stressed that he was speaking as a private citizen. Generally, he stated, the rule is that rate case expenses are passed to the subscribers. In the \$400,000 Municipal case, he said \$150,000 was disallowed by APUC and the rest will be passed on. Speaking to comments in favor of self regulation, Mr. Lowenfels stated that he would hate to think of the quality that would be sacrificed by removal from APUC jurisdiction. The Commission and its staff spend an incredible amount of time, he said, working on the cases that go before them; and he does not feel the Assembly has the time nor the guts to handle a hot rate case. He continued that he did not feel it would be fair to the rate-payers to have the issue of quality, and cost of service kicked around as a political football. In regard to the previous statement that there were no longer any problems of discriminatory rates, Mr. Lowenfels noted that ATU attempted to set up 5 rate zones- the further from the center of town one lived, the higher the rates they would pay.

IKE WALDROP, business manager for IBEW, stated that he favors the resolution, feeling that it could result in substantial savings to the utilities. The consumers would be protected and better served, he continued, because the Assembly is more responsive, being an elected body, elected by the rate-payers.

BERT AYER, representing HALO, stated that his organization is opposed to passage of this resolution. Members of the Hillside feel the need for a disinterested party, he said, which is not a party of the body politic, to regulate their telephone and electric utilities. They do not feel, he continued, that the time has come for Municipal regulations. They were also very upset, Mr. Ayers said, about the condition of the Anchorage Water Utility. They also feel, he said, that ATU would be in better condition if it did not support the general fund as much as it does.

AL PISTORIUS of ATU stated that he felt sure the Assembly could do just as good a job as the APUC and probably with less money. Relative to complaints, Mr. Pistorius said he felt sure the utility was responsive at this time, no matter who was calling with the complaints. If people really looked at the cost of providing the service, in the more outlying areas, he said, the subsidy is really in reverse, with the urbanized area supporting or contributing to service in the outlying areas. Speaking to the telephone systems, Mr. Pistorius noted that last year Anchorage ranked 16th in the nation size-wise among private companies. Speaking to the municipal systems, Mr. Pistorius noted that Alaska has four municipal utility systems and the only other one in the United States is in Montana.

TOM STAHR of the electric utility stated that Seattle City Light is regulated by the municipal government. They provide excellent service, he said, and have the lowest rates in the nation. The State regulates utilities in an adjacent area, he continued, at a much higher cost. Mr. Stahr stated that he felt regulation should be done by the Assembly. Seattle, he noted, does have a rate department and it goes from that rate department to the city council.

he does not look forward to putting on the table hearings, he said, one before the Assembly and one before the APUC. Mr. Merrell said he had no objection to letting the Assembly know what they are going to do and going to take before the APUC; but he definitely does not want two hearings. Mr. Merrell pointed out to the Assembly that the Anchorage Water Utility started a rate case in late 1974 which went on through all of 1975; an interim rate was granted in 1976 and they just had the final hearings now, in 1977. That's an awfully long time to wait to get a rate established, he said; and he feels the Assembly would be more responsive.

There being no one else who wished to be heard, the hearing was closed.

Mr. Marsh moved, to approve Resolution No.
seconded by Mr. Smith, AR 77-7.

Mayor Sullivan noted that the Administration was only asking for non-competitive utilities to be taken out from under the jurisdiction of APUC. This was generally the intent of the statute passed by the Legislature some years ago, he said. The Municipality suffers on its bond sale rates, he continued, because we are regulated by the State. There is delay upon delay with the APUC, he said, because of additional material they request or changes in their rules; and these delays amount to months and months. Some decisions take well over a year, he said. He cited the telephone rate case as an example, it started in 1975, at which time the only figures available were for 1974, then in May of 1976, Mayor Sullivan continued, the Commission directed the Municipality to forget the '74 figures and to work on '75, so that all of the work done and time spent had to be dropped in order for the work on '75 figures to begin. In the meantime, the Mayor said, the Municipality had been negotiating with RCA and was successful in reaching a substantial settlement, which increased the toll revenues. That was what the Municipality needed and along with the settlement the need for cash dropped. If the rate increase had been granted prior to the favorable settlement with RCA, he pointed out, the Municipality would have had to go back to APUC for a rate increase. It was not the APUC action, he said, but the settlement with RCA which improved their case position for ATU.

Mr. Marsh stated that he had served on City Council when the Council managed the utilities; and he felt that they were responsive and effective in their job.

Mrs. Sturgulewski stated that she could not support the motion, feeling that more needed to be known about staffing, time commitment, cost, etc. This is a very sensitive issue, she said, and the Assembly has an extra ordinary responsibility, particularly to the people outside the City Service Area, on the issue. She has not seen enough, she said, in the Municipality proving itself to be able to say that now is the time that it can regulate its own utilities.

Mr. Brannon moved, to postpone action on
seconded by Mr. Marsh, Ordinance No. AO 77-59 and
Resolution No. AR 77-7 for
two weeks; these items to be
scheduled as a Special Order
of Business at that meeting.

Mr. Chiei asked to be allowed to abstain from voting, noting that he was now involved in a hearing before the APUC.

Question on the motion to postpone was called and it was passed.

AYES: Walsh, Marsh, Rose, Brannon, Smith, Baer

NAYS: Knowles, Sturgulewski

ABSTAINING: Chiei

veto message on Ordinance No. AO 77-32, nothing, record, the Assembly's official receipt of the veto.

GLEN HEATHERLY came forward and asked why the residents of the area had not heard more about the Ridgeview Manor matter; and Mr. Walsh asked if this item could be taken up as a Special Order of Business next week.

There was no indication from the Assembly that they wished to discuss the matter further.

Mr. Rose noted that with the veto of Ordinance No. AO 77-32 next week's meeting would begin at 6 o'clock and would be under the old Assembly rules of procedure.

There being no further business to come before the Assembly, the meeting was adjourned at midnight.

Chairman

ATTEST:

Municipal Clerk

Date Approved: _____

MEMORANDUM

April 19, 1977

SUBJECT: CS for SB 259
TO: Guy Van Doren, Administrative Assistant
Senate Rules Committee
FROM: Jack Chenoweth, Legislative Counsel

CS for SB 259, offered by the Senate Community and Regional Affairs Committee, terminates the exemption from regulation by the Alaska Public Utilities Commission of regional electrical authorities. I have been asked to redraft CS for SB 259 to restore regional electrical authorities the exempt status they now enjoy.

The restoration of the exemption can be accomplished by amendment of the Committee Substitute --

Page 1, following line 26: Add a subsection (h) to read:

(h) The provisions of this chapter, other than secs. 221 - 281 of this chapter, do not apply to a public utility owned and operated by a regional electrical authority organized under AS 18.57 unless the owner and operator elects to be subject to the provisions of this chapter.

JC:lnk

cc: Senator Joe Orsini, Chairman
Senate Community & Regional Affairs Committee

its snag

Utility bill support defeated

"powerful vested interests in Seattle." adoption of the language would "lock us because it would not give the state time for the move before the existing contract Seattle expires.

id he also was concerned about "locking ch has ripped off Alaska for years."

Haugen, R-Petersburg, countered that have serious financial impact on the cost goods to Southeast Alaska because of the ting costs which would be involved from gham.

owper, D-Fairbanks, also worried about e tourist trade.

e Hohman, D-Bethel, said he had ested the Division of Marine Transpor- information on any move plans, but had

minute presentations amount to a Hohman said. "There are special here in Bellingham, too.

ame as the committee was about to close rtation general fund operating budget spute on the spending level of \$11.2

eeting, the committee also stalled over he financially troubled University of

railroad BI probe

involved an alleged criminal offen- se.

GAO investigator Dave Lawson of Seattle efused to provide any details of the investigation. He said the report would be reviewed with the railroad next month before it is release.

William Dorcy, general manager of the railroad, was in St. Louis and unavailable for comment. His staff released this statement:

"The Alaska Railroad ac- knowledgees that it is currently the subject of a periodic GAO audit. The railroad wishes to state that this is a standard audit procedure being per- formed by the General Accounting Office the same as any other audit that is periodically given other government agencies.

D.L. Allen, the assistant general manager of the railroad, and other ranking railroad officials said they had no idea what matters may have been referred to the FBI.

By SUZAN NIGHTINGALE
Daily News Staff Writer

The Anchorage Assembly Tuesday angrily defeated a motion to support legislation providing for the deregulation of municipal utilities.

Action on the resolution had been postponed three times previously by the group, which is divided on the need to support deregulation legislation at this time.

LAST WEEK, the assembly voted to postpone action once more on the resolution, pending a comprehensive meeting on municipal utilities. However, a petition circulated by the administration Tuesday changed the assembly's mind.

Titled "Anchorage Assembly Statement of Support for CSSB259," the petition said, "The press of time and the pending absence of several assemblymen makes it impractical for the assembly to act at a regular meeting" to support the legislation. The measure was signed by Ben Marsh, Paul Baer, Don Smith, Fred Chiel, Ernie Brannon and Dave Walsh. Mayor George Sullivan signed for Bill Besser after securing the Hawaii - vacationing Besser's per- mission over the telephone.

However, at Tuesday's meeting three assembly members — Arlisa Sturgulewski, Lidia Selkregg and Tony Knowles — said they had not even seen the petition or had been asked if they wanted to sign it. Municipal attorney Rick Garnett denied that the document had been selectively circulated, but several assembly members were unconvin- ced.

"THAT'S LUDICROUS," Dave Rose said, referring to the cir- culation pattern of the petition. "You don't call people in Hawaii if

(Continued on Page 2)

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R-Anchorage, signed the committee report "do not pass."

The resolution would implement most of the recommendations of the Alaska Salary Commission. Under the legislation, the governor would be paid \$52,992. The lieutenant governor's salary of \$47,304 would also be the new salary level for department commissioners.

Longevity pay increases of 3.75 per cent of the annual salary for each two years of continuous service — starting this year — are included for most state officials except legislators.

State officials received pay raises from the legislature in 1977 but the raises were repealed by state voters last August. The legislative raises granted by the resolution are smaller than the \$15,000 salaries legislators gave themselves in the 1975 raises.

Ann Spohnholz takes a lunch day.

● Bottle

(Continued from Page 1)

expand his facilities to handle returnables. "All of that gets passed right on to the consumer," he says.

Walt Beckmann, head of liquor distribution for Anchorage Co-Storage, sees the same problems.

"The wholesaler and retailer would have to add extra space to keep the bottles and they'd have to hire additional help to handle them. The distributor would have to buy additional trucks, and have the additional problems of shipping cans and bottles outside

● Utility bill

(Continued from Page 1)

you aren't going to make a reasonable effort to contact people here."

Selkregg called the petition, which gives the impression the majority of the assembly supports the legislation," despite the fact the body had not taken official action, "a devious approach."

Brannon, who signed the petition, expressed surprise that some assembly members had not seen it. After determining that three members had not seen the document, Brannon said, "If all assemblymen did not have the option to see the petition, I'm going to vote no."

ASSEMBLY MEMBERS Walsh and Chiel, who had signed the petition, said they would change their votes, too, swinging the official vote against the deregulation legislation.

The final vote was 7-2 not to sup-

port the utility legislation. Assembly members Rose, Knowles, Walsh, Brannon, Sturgulewski, Selkregg and Chiel voted not to support the legislation. Smith and Baer voted in favor of it. Marsh and Besser, who support the deregulation legislation, were absent.

In other business Tuesday, the assembly:

— Approved a \$106 million budget for the Anchorage School District for 1977-78;

— Adopted a resolution opposing legislation requested by Rep. Mike Beirne which relates to revenue sharing for hospital construction and

— Adopted a resolution supporting Rep. Mike Miller's returnable beverage container bill. Smith attempted to substitute Sen. Mike Colletta's bill for support instead but his motion died for the lack of a second.

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REMEMBER

"If We Can't Repair Your Watch or Jewelry
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Readers write...

'APUC hurts'

Dear Editor:

Contrary to your editorial of April 21, Anchorage ratepayers are hurt, not helped, by APUC regulation of municipally - owned utilities. The direct costs of regulation in terms of staff time, attorney's fees and the cost of rate studies is very high, in the vicinity of \$800,000 for the current rate cases. Much more important however are the indirect effects of regulation on the power of the utilities to raise capital.

Bond counsel for the Municipality recently testified in favor of Senate Bill 259. Counsel pointed out that Alaska is one of very few states in which municipally - owned utilities are subject to regulation as to rates by an appointed state board. Because the Municipality does not have power to control rates, it cannot unequivocally guarantee to bond purchasers that the rates will be sufficient to meet payments on bonds. This being so, the bond buyer is motivated to purchase municipals from a state where no such problem exists. At the very least, the market will demand higher interest, which means more cost to the ratepayer.

Construction of ML&P's waste heat generator has been held up nearly two years because of the PUC's delay in authorizing rate increases sufficient to enable the utility to raise capital for the project. As a result, the taxpayers of Anchorage have lost millions of dollars in wasted fuel consumption and in increased project costs. The Municipality was forced to go to the Supreme Court for an Order requiring the PUC to set rates high enough to meet outstanding bond covenants. Without that Order, the project would still be stalled.

Another example of the inefficiency of the APUC is that in April of 1975 we filed for approval of a standard pass - thru provision allowing the Municipality to increase electric rates by the amount necessary to pay any increased gas fuel costs ordered by the APUC. The commission finally acted on this in January of 1977 and gave a partial favorable ruling. The problem with that ruling is that we have to practically put on a new rate case again before APUC every time they order a gas cost increase to ML&P. In their Order they tend to treat Anchorage differently than the other utilities in Alaska. The other utilities, as I understand it, are more or less allowed automatic fuel rate adjustments without having to appear again before APUC and plead the adjustment.

The main difficulties with PUC

4/27/77

Got something to say? Then say it, and send it to Readers Write, The Daily News, P.O. Box 1640, Anchorage, Alaska 99510. We invite readers to express their views. We ask that letters be typed, if possible, and signed with an address and phone number.

regulation have been (1) delay, and (2) lack of understanding by the PUC of municipal utilities and their financial operations — all of which are unfavorable to Anchorage rate users.

In recent proposed regulations dealing with utility bond sales, the PUC required 60 days prior notice of the interest rate. However, the interest rate on bonds cannot be known until the day of the sale. Therefore, the proposed rule would stop all utility bond sales. Proposals of this sort simply illustrate the PUC's lack of sensitivity to the realities of running municipal utilities.

Your assertion that without PUC regulation utility rates would be higher than they are is completely unfounded. Your assumption seems to be that local elected officials, responsible to the people, would set higher rates than state level bureaucrats. Such an assumption flies in the face of all logic about the behavior of elected officials and has no support in the experience of other areas which do regulate utility rates locally.

Your bare recitation of numbers and percentages, of course, has no meaning without reference to the wildly increased costs of fuel and labor with which the utilities have been stricken in recent years.

Finally, it should be emphasized that SB 259 does nothing more than give the Anchorage Assembly the option to withdraw from PUC regulation if it believes that such a course is warranted. Obviously, the matter would be fully explored in terms of how to secure the necessary expertise and what administrative structure is most appropriate before any action was taken to deregulate.

It seems inconceivable that persons genuinely committed to local decision - making would reject local option on a matter as important to the community as utility regulation. It also seems odd that the Assembly can approve a \$60,000,000 utility budget, but not feel qualified to deal with utility rates.

George M. Sullivan
Mayor

SB 259

Rick Garnett -

PUC is overburdened now ; don't have any public outcry
for muni util reg by PUC

Anch util are regulated because MLP + Chugach are in compet.

Other non-compet muni util are not regulated

Original hassle btwn Kenai + Homer Elec - one of jurisdiction
of territory → PUC in defining service areas

Filhs - boundaries regulated by APUC?

Anch Telephone served areas outside of city → APUC regulation

Unified Anch ended many of these conflict areas

Anch Taxpayers + ratepayers pay a cost

Costs:

- delay $1\frac{1}{2} \rightarrow 2$ yrs Dec 75 → Feb 77+ of rate increases

eg. waste boat retaining, delay → cost of fuel + over cost cost

-- prep for APUC (requires heavy burden of proof) \$800K so far

Have appointed board supervising elected officials - who
knows the affected people better

- PUC could use more staffing

- Seattle

Meizer - finan consultant to Anch since 1939 - market Anch bonds

Dec 74 began having trouble marketing bonds^{\$7M} (MLP)
due to insufficient revenues. Public finan again began 7/76

'75 - Fed reg require "full disclosure" - require expanded
info., incl sup. Ct. decisions, need for short term finan, etc

77 - \$10M elec + \$9M phone. Due to problems of reg →
fewer bids, including past bidders - extra cost of \$132K
for phone \$179K for elec. Several underwriters + investors
will not buy bonds unless mun. has complete control
Wash, Ore do not have reg of muni util by
public util comm.

"Many other" states do not have this

Beligratis - ^{Chicago} muni bond underwriter - (buy muni bonds for substitutes)
Such muni being regulated could → other Ak. muni
bonds rates going up
If situation gets sufficiently bad, access to market may be
denied

Support concept of muni council responsibility
Very few states have muni util reg by PUC
Sharp diversity exists in PUC's expertise nationwide

Holman - ^{Seattle} bond counsel - ²⁰⁰⁴ legal opinion approvals
Could think of no benefits to such by reg. by APUC
APUC cannot seem to separate part financing of util
from public util financing - don't seem to understand
differences.

Taxpayers are ratepayers; "gouging" goes to util op or
into gen'l fund.

Elected officials tend to be later authorizing rate increases rather
than early

lower cost borrowing gives pub util the advantage over priv
util more than the savings in not going before PUC

"never seen problem of m. in overcharging"

Sound operating proced sometimes requires advance rate increases -

PUC problem since base increases on historic data
APUC wanted to regulate rates without regard to existing
covenants -

Anch has consistently had reduced rates as greater experience

Killeen - chm of Pub Util Bd

oppose coming under APUC - well enough regulated now

Mikell - member Pub Util Bd

could foresee problems with timing for

APUC should be an arbitration fact

Zerbet, - APUC Chm - been with them for 6 yrs

not in public interest to change existing law
no change in workload?

{ ^{Point} Increase costs due to "tremendous task" of comingling - ?

Net result would be a decrease in APUC costs

Believe would be more costly to Anch public
rate structure (who pays what rates); ^{rate level} consumer complaints

"consumer-oriented commission" ^{quality of serv}

"APUC better able to protect public than as elected officials"

better educated by education (in-house) + OJT

AK. is one of few states with any requirements of PUC members
Commissioners have generated experience due to conducting own
hearings - don't think more ~~of~~ background is necessary
Full time AG acts as counsel to APUC

APUC approval of bonds would enhance their marketability -
testimony of Meyers before APUC

Retro case expense is heavily spent on consultants -

Marketby - ~~Energy~~ Mgr. Enron Sys - Chugach Elec Co-op
45,000 customers - largest in state

oppose SB259 - support PUC concept - want to be regulated
- support Comm Sub. (all should be reg by APUC)

Co-op has to be responsible to its members

APUC less subject to polit pressure - is best

APUC should have more \$ to reduce regulatory lag.

Cap funding largely thru Fed loans/guarantees (7%)

Berry - Muni League

Policy statement - oppose muni reg by APUC

Banfield - representing port util

1970 bill changed existing law to put muni under reg. -
port util wanted muni util to be regulated - muni
were willing to accept geographic defn. of area of regulation
but intent was to eliminate compet by dividing it

In FCC on bill they put in that all util would be regulated.

Separation of util fact is not that difficult

Muni should be completely exempt - much more difficult to sell bonds now ~~than~~

Meter reader in Juneau - \$19/hr

\$135 K → \$740 K for diesel generator

Sharp - Juneau

Local control of util

Have to build the facil, then see how much it would cost

INDEX

- #1 SB 259
- #2 CSSB 259
- #3 Title 42 PUBLIC UTILITIES & CARRIERS
- #4 Sec. 42.05.141 GENERAL POWERS AND DUTIES OF THE COMMISSION on page 6 (paper clipped)
- #5 Sec. 42.05.221 CERTIFICATES REQUIRED SUBSECTION (f) on page 10 (paper clipped)
- #6 Sec. 42.05.711 EXEMPTIONS on page 31 (paper clipped)

OUTLINE OF MUNICIPALITY OF ANCHORAGE

TESTIMONY TO THE SENATE CRA COMMITTEE RE: SB 259

INTRODUCTION

Appreciate opportunity to be heard. Hope committee will review situation carefully in light of the facts and testimony presented. Will show that the present regulation is unsound in theory, harmful in practice, and likely to become more harmful in the future. Problem is systemic rather than personal in nature.

A. Status quo. Under the present statutory scheme all Anchorage municipally-owned utilities are regulated by the PUC because one of those utilities, ML&P, is "in competition." No other municipally-owned utilities in the entire state are subject to regulation except on a voluntary basis.

B. How the status quo evolved.

a) PUC regulation was extended to municipal utilities primarily because of service area disputes between those utilities and private utilities. In two well known Supreme Court cases, Homer Electric v. Kenai, and Chugach v. Anchorage, the Supreme Court requested the Legislature to deal with the service area problem.

b) With respect to one municipal utility, ATU, there may have been some rationale for rate regulation because ATU served customers outside the boundaries of its owner, the City of Anchorage.

C. Changed Circumstances. Since unification rate payers and taxpayers are virtually the same. Service area delineation has occurred. SB 259 does not affect the PUC's service area jurisdiction.

D. Historical Arguments. It is asserted that the City of Anchorage impaired the capital of its utilities. But

a) payments in lieu of taxes, allowed by Commission, exceeds payments made to City (Exhibit A).

- b) There was no harm to consumer. City error, if any, was not seeking rate increase sooner.

E. Past and Present Harm From Regulations.

- a) Substantial delays have occurred in securing needed rate increases (Exhibit B). These delays increased the cost of capital improvements to the detriment of rate payers. See, generally, Stahr memo (Exhibit C).
- b) Direct costs are large. Rate studies required to meet the "burden of proof" imposed by the Commission are very expensive (Exhibit D).
- c) Litigation over PUC decisions has been extensive. Power has a tendency to expand, especially bureaucratic regulatory power. Municipality has prevailed in many cases. Refer to APUC v. GAAB, Carlson interfund decision, ML&P bond case, rate suspension case. Litigation is very costly in terms of attorney's fees (Exhibit E) and delays. There is a close analogy to City-Borough conflicts which spurred unification. Costs will be a particular problem if the ATU order disallowing costs of litigation stands (Exhibit F).

F. Indirect And Potential Harm Based On Bond Market Reactions. Very few municipal utilities are regulated as to rates (Exhibit G). Of those which are regulated, most do not raise capital primarily by sale of revenue bonds. Testimony of bond counsel and financial advisors Beligratis, Holman.

G. Capability of PUC. PUC is substantially overburdened and this factor accounts for much of the delay and hasty consideration of issues. Anchorage matters are a substantial factor in the PUC's work load (Exhibit H). (b) The APUC has no particular expertise in local government affairs, particularly financing of local utilities. Consistently attempts to force municipal utilities into mold of private utilities. See Sterling Gallagher testimony (Exhibit I).

H. General Policies - There Is A Double Anomaly in the Status Quo.

The present regulatory scheme asserts implicitly that the Anchorage Assembly is unable and unwilling to protect its taxpayers and ratepayers by responsible management of its utilities. Only Anchorage stands under this implied indictment. Concerns about due process are groundless. Title 29.48 setting out procedures for local utility regulation apply to home rule municipalities (Exhibit J), and establish the basis for regulation at the present time in most municipalities in the state. Commissioner Hall gave an excellent account of these provisions in his THREA Decision. Additionally, the work of the Anchorage Interim Utilities Commission should be considered. This commission was established in the Charter to focus on the best approach to utility management and regulation. Its final report has just been submitted for Assembly consideration (Exhibit K).

I. This Matter Is Not Of Interest To Anchorage Alone. Testimony from Commissioner Sterling Gallagher showed the statewide effect of PUC encroachments on the decision-making prerogatives of municipal utilities. PUC recently proposed regulations giving the Commission the veto power over issuance of revenue bonds by municipal utilities. Upon being informed of this development, other municipalities responded in no uncertain terms as to their attitude toward even the possibility of PUC regulation of their affairs (Exhibit L). It should be noted that the PUC has drafted legislation with substantially the same effect and that the comments of other Alaska municipalities remain relevant (Exhibit M).

CONCLUSION

PUC regulation of Anchorage utilities alone is fundamentally unfair. This regulation has caused frustration and waste. Continued regulation will damage the standing of Anchorage and all other Alaska utilities in the bond market. We ask the Legislature to resolve the problem by enacting SB 259.

MUNICIPALITY OF ANCHORAGE

STATEMENT IN SUPPORT OF SB 259

INDEX OF EXHIBITS

- Exhibit "A" - Schedule of Payments In Lieu Of Taxes
- Exhibit "B" (1-7) - Status of Rate Cases
- Exhibit "C" (1-5) - Statement of Thomas R. Stahr, Manager ML&P
- Exhibit "D" (1-3) - Summary of Rate Case Expenses
- Exhibit "E" - Summary of Legal Costs for APUC Matters - Six Months
- Exhibit "F" - Excerpt from PUC Order re Attorney's Fees
- Exhibit "G" - Table of State Regulation of Municipal Utilities
- Exhibit "H" (1-2) - Summary of Municipality Item Before APUC
- Exhibit "I" (1-4) - Excerpt from testimony of Sterling Gallagher
- Exhibit "J" (1-2) - Excerpt from Title 29 regarding Municipal Utility Rate Procedures
- Exhibit "K" - Transmission letter from James Hendershott, Chairman Interim Utility Commission
- Exhibit "L" (1-9) - Letters from Various Municipalities in Response to Proposed APUC Regulation
- Exhibit "M" (1-2) - Proposed APUC Bill Extending PUC Control over Bonding of Municipal Utilities

ANCHORAGE TELEPHONE UTILITY
 Schedule of Payments In Lieu of Taxes/Contributions
 to General Fund For Years 1971 - 1982

<u>Year</u>	<u>Payment in Lieu of Taxes</u>	<u>Contributions to City of Anchorage General Fund</u>	<u>Total</u>
1971	365,105	401,990	767,095
1972	502,104	477,442	979,546
1973	591,324	475,672	1,066,996
1974	---	1,102,400	1,102,400
1975	---	1,117,040	1,117,040
1976	442,696#	549,930##	992,626
1977	1,787,000*	1,243,000**	3,030,000
1978	1,946,000*	1,209,000**	3,155,000
1979	2,097,000*	1,285,000**	3,382,000
1980	2,222,000*	1,323,000**	3,545,000
1981	2,345,000*	1,398,000**	3,743,000
1982	2,443,000*	1,431,000**	3,874,000

One-quarter year only

Restricted 1/2 year per U-76-6(6)

* At 18.63 mills

** 40% payout of return on actual equity allowed by APUC U-76-6(12). Assumes fully authorized rate of return is actually earned by ATU.

STATUS OF RATE CASES

Remainder of 1977

Anchorage Telephone Utility

Assuming toll settlement negotiations with RCA are relatively successful, additional increases to local subscriber revenue will not be necessary this year. In-depth reviews of revenue requirements should be made at least every six (6) months, immediately after the audit is available and prior to year-end.

Natural Gas and Power

Although a request for rate adjustment is not planned for this year, there are two (2) factors that could make one necessary:

1. Any substantial increase to natural gas costs.
2. A substantial drop in power rates resulting from the warm winter. Since revenue reports have not been available this year, the impact can not be projected.

A rate restructuring hearing that will not have an impact on revenue, is scheduled for April 25, 1977.

Anchorage Water Utility

As soon as the 1976 audit is complete, a detail review must be made, with the possibility that new rate revisions may have to be filed this year. An interim request may be required following labor settlements.

Anchorage Sewer Utility - Erie River

An interim increase of about 110% across-the-board will be filed on March 15, 1977. Permanent rate restructuring and revenue requirement will be completed as soon as accounting records become available.

STATUS OF RATE CASES
Remainder of 1977

page 2

Anchorage Sewer Utility - SA 40

As soon as the 1976 audit is available, a complete revenue requirement and cost of service study must be initiated. A filing with the APUC should be made by August.

Anchorage Sewer Utility - Girdwood

The rate filing is scheduled for August.

ETN
3/4/77

RATE CASE HISTORY

Municipal Light and Power

Prior to July, 1975, Municipal Light and Power had never applied for a rate increase from either the APUC or the City Council. There had, however, been certain rate reductions implemented several years ago.

1975

- June 24 The first interim increase of 15.75% was requested for increased natural gas and labor costs.
- July 8 The APUC granted the 15.75% increase.
- October 13 A request was filed for an interim increase to 29.72%.
- October 21 At a APUC hearing, an oral request was made to increase the interim request from 29.72% to 31.1%.
- October 23 The APUC granted a 29.72% increase over original rates.
- October 23 A request was filed for an overall increase of 51.75%.

1976

- January 19 The APUC denied the 51.75% request, however, a 31.1% overall increase was granted. The difference reflected the amount required for bond coverage.
- February 25 ML&P petitioned for reconsideration of 51.75% rate denial. The APUC failed to act on the petition.
- March 12 ML&P filed for a Permanent Injunction in the Superior Court for 51.75% rate.
- April 20 The Superior Court granted permanent injunction.

RATE CASE HISTORY
Municipal Light and Power

page 2

May 11 The APUC appealed to the Supreme Court

May 21 ML&P filed permanent rate request for \$5,258,437
or an overall 64.45%.

June 11 The Supreme Court affirmed in part and reversed
in part the Superior Court decision.

August 5 The APUC set a revenue requirement hearing for
September 20, 1976, and a rate restructuring hearing
for January 17, 1977.

September 3 The APUC denied staff request to reject ML&P filing.

September 20 A public hearing was held on Permanent 64.45% rate.

October 25 The APUC granted 52.39% Permanent Increase. The
reduction from requested 64.45% was primarily due
to the APUC revision to depreciation rates and an
assumed equity of 70/30 rather than 60/40. The
denied portion amounted to approximately \$1,000,000.

December 22 ML&P requested, and was granted a continuance on
the rate restructuring hearing from January 17, 1977,
to April 25, 1977.

RATE CASE HISTORY

Anchorage Water Utility

Prior to 1976, the Anchorage Water Utility had received an increase from the City Council of approximately 20% in 1970.

1976

- February 10 An interim rate request was filed using a September 30, 1975 Test Year. The revenue requirement was \$1,156,922 (excluding \$331,000 fire protection) or 35.91%.
- March 26 The APUC allowed \$32,214 (excluding \$331,000 fire protection) or about 1% increase. Interfunds totaling \$554,250 were excluded.
- April 7 AWU filed petition for reconsideration
- April 23 APUC allowed interfunds of \$554,250, bringing interim increase to 15.96%.
- May 7 APUC allowed additional revenue of \$140,037 for bond coverage requirements. The total interim revenue at this point was \$726,501 or about 22%.
- July 15 A permanent rate increase of 73% was filed, using a 1975 test year. Approximate revenue requirement of \$2,474,600.
- October 20 At prehearing conference, APUC allowed increase in interim rate to 54.6%.

1977

- January 15 A hearing was held on permanent rate of 73%.

RATE CASE HISTORY
Anchorage Water Utility

page 2 .

March 1

A Permanent rate increase of 51.4% was allowed, resulting in increased revenue of \$1,742,451. Reasons for decrease:

- * APUC did not allow CIP in rate base
- * APUC did not allow depreciation on contributed plant
- * APUC allowed 70/30, rather than 65/35

RATE CASE HISTORY

Anchorage Telephone Utility

Other than certain selective rate revisions, ATU had not received a general rate increase since 1961.

1975

December 4 Filed a Permanent and Interim rate increase showing a \$3,901,693 deficiency (approximately 30% over 1974 subscriber revenue) based on a 1974 Test Year. APUC suspended the permanent request as being incomplete.

1976

March 15 APUC granted an interim increase of \$1,127,032 (approximately 9%), but disallowed all interfund charges totaling \$1,290,088.

March 30 ATU appealed to the Superior Court that APUC acted unreasonably. The Superior Court granted the appeal.

April 9 APUC allowed inclusion of interfunds in interim rate. The total revenue increase allowed was \$2,417,120.

May 17 Permanent rate was filed using a 1975 Test Year. Request Revenue Requirement of \$2,107,724.

July 14 A Revenue Requirement of \$1,036,853 or 6.88% was conditionally granted (later corrected to 6.93%).

1977

February 17 The APUC reduced Revenue Requirement to \$1,012,756 or 6.55%. The reduction included recalculation of MUSA and disallowance of certain rate case expenses.

ATU will ask for reconsideration of reduction, citing increased PERS (P.R.) benefits and non-represented five percent (5%) salary increases.

TO: The Honorable Joseph Crsini, Chairman
Senate Community & Regional Affairs Committee

FROM: Thomas R. Stahr, Municipal Light & Power Manager

SUBJECT: Summary of Report on Cost Impact of APUC Regulation
On ML&P Consumers

The attached report details the costs and savings to ML&P customers which are engendered by APUC regulation. Primarily it deals with the cost impact of delays in the construction of our waste heat generating plant. These delays were caused by our inability to sell revenue bonds until rates and regulatory rulings would permit revenue bond sales. The salient points of the report are as follows;

Regulatory delay in increasing rates resulted in direct savings to consumers of \$1,790,490.

Financing delays related to rates and APUC rulings have delayed the on line date for waste heat utilization two years. This will increase natural gas consumption 4.5 billion cubic feet and increase fuel costs \$2,992,950.

The gas lost because of regulatory delays would have been sufficient to heat nearly all Anchorage homes for one year.

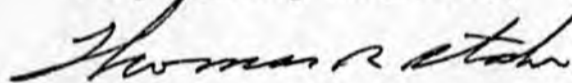
The construction delays will result in increased plant costs of \$5,000,000 principally due to price escalation and capitalized interest. This cost increase will require \$8,950,000 additional in principal and interest payments over the life of the plant.

For every dollar our customers saved because of delayed rate increases, they will have to pay \$6.65 in the future to pay for natural gas wasted and material cost escalations caused by the same delay.

If one considers the likely future cost of replacing the extra natural gas consumed each dollar saving because of delayed rate increases will ultimately cost our customers \$19.18.

There is considerable cause for concern that APUC regulatory principles will force the acceptance of future energy generation options which have high life cycle costs and are wasteful of nonrenewable resources.

Respectfully submitted,



Thomas R. Stahr, Manager
Municipal Light & Power
Municipality of Anchorage

TRS:gml

INCREASED COSTS TO ML&P CUSTOMERS
BECAUSE OF REGULATION BY APUC

INTRODUCTION

The direct costs of regulation such as rate case expenses, costs of special studies and costs incurred by the regulatory agency are in general only the minor part of the total costs the consumers must bear because of regulation by the Alaska Public Utilities Commission. Like an iceberg, the bulk of the problem is submerged and not ascertained by casual scrutiny.

ML&P has, in my opinion, been quite successful in minimizing direct regulatory costs, but despite our best efforts and substantial help from the former City of Anchorage, we have been unable to prevent multimillion dollar cost increases, which our customers must ultimately bear, and the utility has been forced to waste substantial amounts of natural gas which can never be replaced and must be paid for by our customers. Both of these problems are directly due to being regulated by the APUC.

BACKGROUND

In 1973, the City Council of the former City of Anchorage determined it would be in the best public interest to construct a combined cycle power plant (i.e., utilize waste heat for power generation) and utilize the low level waste heat (i.e., approximately 80°F) from this plant to heat the municipal water supply as required to prevent freezing problems. Certainly the emerging energy crisis has demonstrated the wisdom of this decision. Financing limitations precluded the award of a turnkey contract which would require front end funding. Thus procurement on a piecemeal basis was the next best alternative. The first gas turbine was ordered in 1973 and the waste heat turbine-generator and boiler were ordered in early 1974, and scheduled completion (first waste heat generation) was for mid 1976.

In December of 1974, a bond sale was held to obtain an additional \$6,000,000, primarily for continuing this project. Due to the impending New York default extremely high interest rates were bid, additionally, we were advised that substantial increases in the cost of natural gas fuel would occur the following year. Based on these factors, it was not prudent to increase our debt until we could be reasonably certain of sufficient income to repay it and meet the bond covenants. At this time, the exact amount of the fuel increase was not known so it was not possible to meet the regulatory test of "known and measurable," nevertheless, not to include a reasonable estimate of the effect of the anticipated fuel increase in the projected income available for bond debt service would be highly improper. Thus, we were effectively in a regulatory "Catch 22" position where we could not sell bonds without a rate increase or some assurance increased fuel costs would not erode the already minimal amounts available for debt service coverage and we could not request a rate increase based on cost increases which were not "known and measurable." On April 20, 1975, we filed for a fuel adjustment clause because having such a clause in our tariff would allow us to sell enough bonds to keep the waste heat project on schedule. This move was unsuccessful because validated tariff sheets incorporating a fuel adjustment clause were not issued by the APUC until December 27, 1976.

On July 16, 1975, we obtained some interim rate relief though it was not sufficient to sell bonds. To help keep the waste heat

project going (not on schedule though) and provide funds for much needed system reinforcements the City of Anchorage made 4.5 million dollars available to ML&P by means of short term loans. This was done only after we had been able to obtain only \$600,000 in short term bank financing. In the latter part of 1975 additional interim increases granted were sufficient for a bond sale but the order contained language to the effect that the APUC was not compelled to honor our bond covenants. This prevented municipal revenue bond sales by any regulated municipal utility. This problem was, of course, rectified by the courts, but by this time the waste heat generating project was irrevocably delayed. Additionally, ML&P suffered a loss of \$73,569 for 1975 and was in technical default because our actual debt service coverage was below the required 1.4.

On July 1, 1976, ML&P sold 10 million in revenue bonds. This allowed us to repay the 5.1 million in short term notes, finance the current years distribution system improvements and issue a few more contracts on the waste heat project. By this time escalation had begun to seriously impact on the waste heat project and cost estimates had to be revised upwards. It was also necessary to pay for the distribution material which had to be ordered for the 1977 construction season so there were not sufficient funds available to complete the waste heat plant. The permanent rate increases granted on October 26, 1976, provided sufficient coverage so that on February 22, 1977 an additional 9 million in bonds could be sold. This does provide sufficient funds to cover the now escalated cost of this project.

Direct Cost To Consumers Due To Delay.

The waste heat generating plant will significantly reduce the amount of fuel which must be consumed to generate electric energy. Originally the first phase of this project was scheduled to be on line in mid 1976. Without financing delays this date could have been achieved. It now appears that mid 1978 is the earliest on line date possible, thus it has been delayed two years. The initial phase of the project will save 1,500,000 MCF of gas each year, without the plant this additional gas must be burnt to supply existing load. Thus the two year delay means 3,000,000 MCF of gas will be consumed which could have been saved by the waste heat plant.

Additionally, the second phase of the plant which will increase the gas saving potential up to 3,000,000 MCF per year will be consequentially delayed at least one year. This latter factor will result in another 1,500,000 MCF saving being lost. Thus, the total gas wasted will be four and one-half billion cubic feet. It is interesting to note that this is 97% of the total amount of gas used to heat Anchorage homes during 1974. ML&P rate payers will currently pay for this gas in their rates and at our present cost of gas, this will amount to \$2,992,950. Thus the immediate cost of the delays engendered by the APUC will have an immediate cost impact to Anchorage consumers of approximately three million dollars. One can only speculate what the additional cost to all gas consumers will be in the mid 1980's when the four and one-half billion cubic feet of lost reserves must be replaced at the then current price.

Long Term Cost To Consumers Due To Delay.

Originally the waste heat recovery plant was estimated to cost 7.5 million dollars plus engineering. To date costs have exceeded estimates by 6% over all, but the overrun trend is rapidly accelerating. On the first three bids actual costs were 5% below estimate, on

the next eight cost exceeded estimates by 33% and on the last two items bid costs exceeded estimates by 48%. Additionally, the delays have increased capitalized interest, and engineering costs have increased several hundred thousand dollars. Overall cost increases due to delays will be in the order of three million dollars.

The second phase of the project has escalated even more. The first gas turbine and waste heat boiler cost approximately 5.5 million installed, the second units are now estimated at 10 million installed. While the original schedule would have allowed for some delay in installing the second phase of this project, there is no question but that at least two million additional cost has been engendered by APUC related delays. Thus, considering financing costs, our consumers will pay approximately 9 million dollars more over the life of this plant for cost escalation.

Future Costs From Regulation.

It is becoming increasingly clear that future power sources must be from hydro or coal. Economic studies we have made show that areas which rely on coal as their principal energy source have retail rates approximately twice as high as areas which rely principally on hydro. Hydro plants are generally at least twice as expensive as coal burning plants on a first cost basis. Even coal burning plants cost four to five times the cost of simple cycle gas turbine plants. Therefore, it is clear that future investments for power generation will be five to ten times higher than the current cost of gas turbines. Under rate of return regulation currently in vogue at the APUC, it will be impossible for any major Alaskan utility to fund the required projects because even minimal bond coverage on the debt would imply an excessive return on equity. Unless this regulatory stumbling block can be removed, Alaskans will be condemned to every increasing energy costs because regulatory constraints will preclude the selection of the lowest life cycle cost alternatives. This will also place us in opposition to national energy conservation programs. One bill currently before Congress proposes a penalty to increase the cost of natural gas used for power generation to \$3.00 per MCF.

Immediate Consumer Savings Due To Regulatory Delay.

To offset the increased fuel and long term costs, our consumers must bear, it is only proper to consider the immediate savings they realized from regulatory delay. Had the APUC not been involved, rates would have been set to provide the required debt service coverage. For 1978 this would have been the required coverage on existing debt plus the additional 6 million bonds not sold in late 1974. For 1976 the required amount would be for the then existing debt plus that required for an additional 10 million early in the year. For 1977, the funds required would have been less due to the savings made by timely construction. Thus, no additional rate increases in 1977 would have been required to meet the original construction schedule.

To have maintained a minimum coverage of 1.6 times debt service and sold bonds as previously noted would have required an additional revenue of \$1,217,573 in 1975 and \$572,917 in 1976. This would correspond to a 14.6% increase in 1975 and 4.8% in 1976 above that actually received. In 1977 current rates would suffice. Thus, the total amount saved the rate payers was \$1,790,490.

CONCLUSIONS

To summarize the overall cost impact of the delays imposed by the APUC, we have the following:

Increased natural gas consumption 4,500,000 MCF at \$0.6651 =	\$2,992,950
Increased debt service to cover escalations \$5,000,000 principal and 3,950,000 interest* =	8,950,000
Cost to replace 4.5 BCF gas reserves in 1985 at ?/MCF =	_____
Immediate savings to consumers due to delayed rate increases =	1,795,490
Net Cost to Consumers =	\$10,147,460

Or in terms of cost benefit ratio;

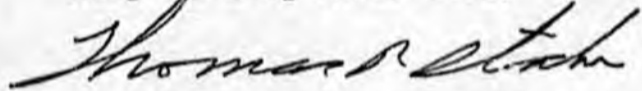
$$\frac{\text{Cost to consumers} - \$11,942,950}{\text{Benefit to Consumers } \$1,795,490} = 6.65$$

Thus for every dollar of immediate savings ML&P customers received due to delayed rate increases, they will pay an additional \$6.65 in the future.

If we take into account the future cost of replacing the natural gas reserves consumed because of the delays imposed on the waste heat generation project, and use the frequently quoted \$5.00/MCF price estimate for 1985, Anchorage consumers will pay up to \$19.18 for each \$1.00 of immediate savings they received.

When one also takes into account the limitations on future energy production alternatives regulation may impose, it becomes clear that Alaskan consumers should not be required to bear such excessive costs.

Respectfully submitted,



Thomas R. Stahr, Manager
Municipal Light & Power
Municipality of Anchorage

* Based on weighted cost of total ML&P debt.

ANCHORAGE WATER UTILITY

Rate Case Expenses
to October 31, 1976

CH2M HILL		\$ 69,000
Touche Ross & Company		98,653
Enterprise Activities, Admin.		
1975 - estimate	\$ 2,500	
1976 - actual	<u>15,092</u>	17,592
Municipal Controller		2,680
Municipal Attorney		21,800
Water Utility in-house expense		
1975 - estimate	5,000	
1976 - actual		
Payroll	3,447	
Supplies	95	
Advertising	384	
Transcripts	<u>1,924</u>	<u>10,850</u>
TOTAL		\$ <u>220,575</u>

JBP
12/10/76

MUNICIPAL LIGHT AND POWER

Rate Case Expenses
to October 31, 1976

CHEM Hill		\$ 51,565
Andrew Zarisky		15,960
Peat, Marwick, Mitchell & Company		1,985
Hughes, Thorsness, Gantz, Powell & Brudin		156
Kempple & Huffman		26,490
Associated Utility Services, Inc.		12,996
Arthur Young & Company		3,790
Enterprise Activities, Administration		
1975 - estimate	\$ 5,000	
1976 - actual to October 31, 1976	<u>21,876</u>	26,876
Municipal Controller		1,500
Municipal Attorney		7,000
ML&P In-house expense		<u>10,000</u>
Total		\$ <u>158,318</u>

JRF
12/10/76

ANCHORAGE TELEPHONE UTILITY

Rate Case Expenses
to October 31, 1976

Ernst & Ernst

1973-1974 Test Year	\$ 121,040	
Interim Rate Filing,	54,530	
1975 Test Year	<u>134,840</u>	\$ 310,410

Associated Utility Services, Inc.

1975 Test Year		9,872
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Kempler & Huffman

Interim Rate Filing & 1975 Test Year		27,374
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Enterprise Activities, Administration		19,030
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Municipal Controller		500
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Municipal Attorney		12,000
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Telephone Utility in-house expense:


John Rison	19,000	
Accounting Section	34,000	
Commercial & Marketing	5,700	
Central Office Engineering	6,250	
Plant Operations	5,000	
Manager	8,900	
Trip Expense	<u>1,300</u>	<u>80,150</u>

Total		\$ <u>459,336</u>
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JRF
12/10/76

Municipality of Anchorage

MEMORANDUM

DATE: April 1, 1977
TO: Richard W. Garnett III, Municipal Attorney
FROM: Philip J. Cucurull, Administrative Officer 
SUBJECT: Survey of Legal Costs for Regulatory Matters
October 1976 through March 1977


The following costs for legal services in APUC related matters can be fairly well documented:

Amount expended for legal services - 6 months : \$ 78,233

Amount expended for legal services Order 19
appeal in Supreme Court - 6 months : \$ 12,222

Cost of legal services and technical advice ATU
rate case over 3 year period : \$490,037

PJC:ljc


EXHIBIT "E"

3 which the utility has labeled an estimate. Legal expenses
4 should not be included in the costs borne by the ratepayers,
5 when the amounts have not been adequately supported to
6 establish that they are reasonable charges.

7 [There have been three court actions in this Doc-
8 ket. In the first case the Superior Court found that the
9 Commission had acted unreasonably in excluding interfund
10 expenses from the interim rate increase granted to ATU.
11 Second, the Commission sought and received a court-ordered
12 temporary restraining order (TRO) and subsequent injunction
13 to prevent ATU from implementing its proposed rate design
14 without Commission approval. The third litigation action
15 was ATU's appeal of Order No. 6 to the Superior Court, which
16 is still pending. Legal fees for these court cases were
17 \$2,375.25; \$3,503.50; and \$643.50 respectively.

18 The ratepayers of a utility should not bear the
19 expense of frivolous and unnecessary court litigation. The
20 legal fees associated with the TRO and injunction actions
21 are patently unacceptable to the Commission. Allowance of
22 this expense would tacitly condone the utility's attempted
23 circumvention of the authority of the Commission. Similarly,
24 the Commission must be circumspect in permitting legal
25 expenses for appeals of its decisions. The cost of unsub-
26 stantiated, retaliative litigation should not be ratified by
27 the Commission. In this instance the Court has not rendered
28 a decision on which to base a determination of the reason-
29 ableness of the appeal. Additionally, the utility has
30 testified that adoption of the MLSP payout formula would be
31 probable grounds for recommending dismissal of the suit. It
32 is apparent to the Commission that the legal expense of this

REG. OF MUNICIPALS

Table 1 - NUMBER OF ELECTRIC, GAS AND TELEPHONE UTILITIES

STATE	Number of utilities operating in the State						Number of utilities subject to Commission reg ^{1/}					
	Electric			Gas		Telephona ^{1/}	Electric			Gas		Telephona ^{1/}
	Private	Public	Cooperative	Private	Public		Private	Public	Cooperative	Private	Public	
FPC FCC							218 ^{2/}			120 ^{3/}		
ALABAMA	1	0	0	3	105	38	1	0	0	3	0	
ALASKA	21	6	11	4	1	15	12	2	11	4	1	
ARIZONA	7	10	10	14	3	12	7	0	10	14	0	
ARKANSAS	7	5 ^{4/}	19	6	16	37	7	0	19	6	16 ^{16/}	
CALIFORNIA	9	30	4	16	3	30	9	0	4	15	0	
COLORADO	4	31	31	11	10	48	4	11	31	11	4	
CONNECTICUT	4	6	0	7	1	3	4	0	0	7	0	
DELAWARE 6/	2	9	1	4	0	1	2	1	1	4	0	
DISTRICT OF COLUMBIA	1	0	0	1	0	1	1	0	0	1	0	
FLORIDA	5	34	17	17	63	20	5	0	0	17	63 ^{7/}	
GEORGIA	2	50	39	4	89	42	2	0	0	4	28 ^{8/}	
HAWAII	5	0	0	1	0	1	5	0	0	1	0	
IDAHO	5	5	19	2	0	21	5	0	0	2	0	
ILLINOIS	13	43	33	19	79	82 ^{9/}	13	0	33	19	0	
INDIANA	9	75	45	33	70	82	6	75	43	33	20	
IOWA	7	145	71	11	40	182	7	0 ^{13/}	71 ^{17/}	11	40 ^{13/}	
KANSAS	7	139	84	20	64	63	7	20	38	20	20	
KENTUCKY	9	0	29	52	0	30	9	0	29	52	0	
LOUISIANA 6/	5	9 ^{1/}	16 ^{9/}	51	9 ^{1/}	26	5	16 ^{9/}	9 ^{1/}	60	9 ^{1/}	
MAINE	13	6	3	2	0	22	13	6	3	2	0	
MARYLAND	10 ^{17/}	7	4	10	1	2	13	6	4	12	1	
MASSACHUSETTS	15	40	0	26	4	9	15	40	0	26	4	
MICHIGAN	13	42	14	11	0	57	13	0	15	11	0	
MINNESOTA	9 ^{1/}	9 ^{1/}	9 ^{1/}	9 ^{1/}	9 ^{1/}	140	0	0	0	0	0	
MISSISSIPPI	2 ^{1/}	20 ^{1/}	29 ^{1/}	8 ^{1/}	49 ^{1/}	24	2	14	27	8	19	
MISSOURI	12	9 ^{1/}	9 ^{1/}	18	9 ^{1/}	9 ^{1/}	12	0	0	18	0	
MONTANA	6	0	5 ^{1/}	9	2	17	9 ^{1/}	0 ^{1/}	9 ^{1/}	9 ^{1/}	0 ^{1/}	
NEBRASKA	9 ^{1/}	9 ^{1/}	5 ^{1/}	9 ^{1/}	9 ^{1/}	9 ^{1/}	0	0	0	0	0 ^{1/}	
NEVADA	13	1	3	5	0	16	13	0	3	5	0	
NEW HAMPSHIRE	5	6	1	5	0	14	5	4 ^{10/}	1	5	0	
NEW JERSEY	6	9	1	5	0	8	6	0	1	5	0	
NEW MEXICO	5	6	22	14	10	17	7	0	22	14	0	
NEW YORK	17	36	6	35	2	72	17	12	6	29	2	
NORTH CAROLINA 6/	13	73	38	8	9	31	13	0	38	8	0	
NORTH DAKOTA	3	10	21	4	4	201	3	0	0 ^{11/}	4	0	
OHIO	8	9 ^{1/}	9 ^{1/}	37	6	53	8	0	0	37	0	
OKLAHOMA 6/	4	0	0	36	0	70	4	0	0	36	0	
OREGON	4	4	17	3	0	47	4	4	17	3	0	
PENNSYLVANIA	18	2	0	69	9 ^{1/}	80	18	2	0	69	0	
PUERTO RICO	0	1	0	10	0	2	0	0	0	10	0	
RHODE ISLAND	4	1	0	6	0	1	4	1	0	6	0	
SOUTH CAROLINA	6	22	21	5	15	32	6	0	0	5	15	
SOUTH DAKOTA	9 ^{1/}	9 ^{1/}	9 ^{1/}	9 ^{1/}	9 ^{1/}	225	0	0	0	0	0	
TENNESSEE	3	9 ^{1/}	9 ^{1/}	7	9 ^{1/}	19	3	0	0	7	0	
TEXAS	9 ^{1/}	9 ^{1/}	9 ^{1/}	110	63	9 ^{1/}	0	0	0	110	63	
UTAH	2	0	13	5	0	17	2	0	13	5	0	
VERMONT	11	15	3	5	0	9	11	15	3	5	0	
VIRGINIA	6	18	15	17	3	27	6	0	15	17	0	
VIRGIN ISLANDS	0	1	0	0	0	1	0	1	0	0	0	
WASHINGTON	4	46	17	7	3	42	4	0	0	7	3 ^{11/}	
WEST VIRGINIA	23	1	3	45	0	16	23	1	3	45	0	
WISCONSIN	19	86	30	17	1	123	19	86	0	17	1	
WYOMING	8	8	24	14	0	15	8	8	24	14	0	
JAMAICA	0	1	0	0	0	1	0	1	0	0	0	

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1/ Telephone industry sources usually publish fewer number of companies. Differences may be farmer-owned rural lines which are completely telephone companies.
 2/ Approximately.
 3/ 170 interstate gas pipeline companies and about 6,600 independent gas producers. Nine companies have obtained export and/or on a long term basis but operate intrastate.
 4/ Of the 1772 telephone companies, approximately 85 are subject to the full jurisdiction of FCC, the remainder, approximately subject only to partial jurisdiction.
 5/ Unknown.
 6/ 1967 data, no response to 1971 survey.
 7/ Public gas companies regulated only as to safety practices.
 8/ When municipally owned gas systems operate outside county in which municipality is located, Commission has jurisdiction over service and safety.
 9/ Not available.
 10/ Outside municipal limits.
 11/ Have jurisdiction over two municipals operating outside of the 5-mile limit. (Footnote deleted from New Mexico).
 12/ Certification and safety only.
 13/ Service Regulation only, not rates.
 14/ 26 Coops Rate and Service Regulated, 45 Service Regulated only.
 15/ 17 Companies Rate and Service Regulated, 165 Companies are Service Regulated only.
 16/ Pipeline Safety only.
 17/ Eight retail; two non-retail.

Municipality of Anchorage

MEMORANDUM

DATE: 25 January 77
TO: Mayor
FROM: Director - Enterprise Activities
SUBJECT: On-Going Items to be Followed

APUC

U-76-7	ATU Rate Restructuring	case to be prepared
U-76-20	ASU Rate Restructuring	hearing held 10 January 77 awaiting order
U-76-11	ML&P Rate Restructuring	hearing set for 25 April 77
U-76-65	ATU Revenue Requirements and Rate Restructuring	hearing set for 7 February 77
U-76-25	Interfunds	reply to Order # 2 due 31 January 77
U-76-81	Pole Contact Rentals	hearing set for 29 March 77
U-76-80	Revenue Bond Regulations	hearing held December, 1976, awaiting order
U-76-93	Foster and Collins vs. ATU	hearing held 15 December 76 awaiting order
U-76-76	Terminal Equipment (ATS)	generic hearing
U-73-15	ATU - Ft. Richardson	hearing date to be set
U-76-1	ML&P/CEA Contested Customers	hearing open anytime
U-75-95	ML&P/AGAS Rate Restructuring	hearing date to be announced
U-77-	Generic hearing on relations with Interconnect Companies	scheduled for mid-June
U-77-	AWU Line Extension Policy	comments due by 18 February 77
U-75-75	ACI Formal Complaint against ATU (point of connection)	
U-75-13	Adequacy of Toll Service between Anchorage and Juneau	
U-75-33	Private Line for FAA - RCAA/ATU	

On-Going Items to be Followed
25 January 77

page 2

SUPREME & SUPERIOR COURTS

Supreme Court	Case # 76-2322	Appeal of AFIC to Judge Carlson's order on ATU's (et al) Interfund decision
Superior Court	Order # 19	ML&P/CEA dated 27 September 73 pending Supreme Court Appeal (delineates service areas, elimination of duplication)
	Case # 76-2934	ATU's Appeal to the APUC Revenue Requirements Order in Docket U-76-6
	Case # 74-7893	Standard Oil vs. ATU (excess mileage charges)
	Case # 76-5496	Thomas, Hurst, Mills et al vs. ATU (class action - discrimination)

RCAA/ATU

1971 Separation Study	final adjustment to agreement
1975 Separation Study	final adjustment to agreement
1976 Traffic Study	in process
1976 Separation Study	to be completed by ATU about 1 July 77
Private Line Separations Agreement	may be affected by APUC's Docket U-76-

call Mr. Sterling Gallagher to the stand.

(Oath administered)

MR. GALLAGHER: I do.

THE CLERK: Please be seated. Clip the microphone to your lapel.

JOHN STERLING GALLAGHER

called as a witness on behalf of the plaintiff, testified as follows on:

DIRECT EXAMINATION

THE CLERK: For the record, please state your full name?

A John Sterling Gallagher.

THE CLERK: Sterling?

A Sterling. S-t-e-r-l-i-n-g. G-a-l-l-a-g-h-e-r.

THE CLERK: Your address?

A Rural Route 4, Box 4691, Juneau, Alaska.

THE CLERK: Occupation?

A Commissioner of revenue, state of Alaska; secretary to the state bond committee; vice-chairman of the Alaska municipal bond bank.

THE CLERK: Thank you.

BY MR. KEMPEL:

Q Mr. Gallagher, maybe you could state for us briefly some of your past experience in the bond market and present experience in the bond market?

A I'll first start off with my education. I got a BS

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1 tice. It -- it would -- it would be -- you could sell the
2 bonds on the market I'm saying, but you would force out
3 other activities that are socially acceptable.

4 Q What approach, going back to order number 7, what approach
5 is it your understanding that the Public Utilities Commis-
6 sion is using in setting the rates for a municipally owned
7 utility?

8 A Could you rephrase the question? I'm not sure that their
9 present one.....

10 Q What approach in setting the rates of a municipal owned
11 utility does the Public Utilities Commission propose to
12 use?

13 A They are proposing a reasonable rate of return basis based
14 on a stock ownership basis instead of a coverage test which
15 is normally associated with municipal utilities.

16 Q Are you aware of utility projects which are financed 100
17 percent with debt?

18 A Yes.

19 Q Can you give me an example of one of those?

20 A I am taking part in the writing of the new authority for
21 the State government, that's called a power authority. One
22 of the things we intended to finance was the Devils Canyon
23 Dam and we do not plan to put in 3 to 400 million dollars
24 in order to finance it. We in fact intended to finance it
25 all with revenue bonds and having sufficient coverage to

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attract investors to that. There will occur equity in that over a period of time, but not at the outset.

Q Do you consider that an unreasonable rate of return for that project for it to receive rates sufficient to cover debt service and -- your testimony is that that project initially will have no equity, it will be 100 percent debt financed. If you sell revenue bonds at 1.4 times coverage will that be an unreasonable rate of return to that project?

A No.

Q Why not?

A Because that is the amount necessary to attract investors to do the project.

Q Could you tell us one of the traditional aspects to a reasonable rate of return, or your understanding of it.

A Well, there is really 2 basis. There is the municipal utility and there's the stock owned company. One requires a -- the elementary difference is one doesn't have the ability to go on the market and raise equity capital, and the other one does. That's why one has a reasonable rate of return with -- where you pay out dividends, the other one is not requiring paying out of dividends. In fact its equity can be built up over a period of years.

Q So I take it that you see no conflict between 42 05 381 which says that the municipality is entitled to include a reasonable rate of return and 42 05 431 which says the

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municipality may covenant with bond purchasers regarding the rates of municipal owned utilities?

A I don't see any difference, no.

Q Will the -- you testified as to the effect upon the market for the Municipality of Anchorage revenue bonds, will that effect on that market have any effect upon the State bonds?

A Yes. I've so stated that in the past. There is a chain reaction -- because of the close connection between our subsidiaries and the State itself, there is a reflection.

Q So you see the harm resulting from this order as being State wide in nature?

A Yes, I do. We also have other municipal utilities that it affects.

Q Thank you, Mr. Gallagher. I have no further questions.

JOHN STERLING GALLAGHER

testified as follows on:

CROSS EXAMINATION

BY MR. LOWENFELS:

Q Mr. Gallagher, isn't it true that the commission is absolutely correct when it says that it has the authority to establish rates irrespective of municipal bond revenue bond coverage, provided that said bond coverage is prospective?

A I'm not sure that it does. I believe the statute here -- as I -- a municipality may covenant with bond purchasers regarding rates of a municipally owned utility and the

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proper condition, it has no right to impose a tax for revenue purposes except such as it is expressly authorized to levy and collect by the legislative power creating it. *Town of Seward v. Seward Water & Power Co.*, 5 Alaska 52 (1914).

Am. Jur., ALR and C.J.S. references.—37 Am. Jur., Municipal Corporations, § 46 et seq.

Sec. 29.48.060. Public utilities rates. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (§ 2 ch 118 SLA 1972)

This section was intended to refer, not only to franchises thereafter to be granted, but to franchises then in existence. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924); *Town of Cordeva v. Alaska Pub. Util.*, 9 Alaska 196 (1937).

City may not contract away power to fix rates of utilities.—A city may not contract away its power to fix, and from time to time change, the rates to be charged by private organizations engaged in furnishing public services. Such action is prohibited by this section and by AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080). *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But may contract as to rates for its own services.—This section and AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080) have no effect upon the power of a city to fix contractually the rates to be charged a user of a municipally owned public utility. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Rates may not be irrevocably fixed.—There is not necessarily included in the power of a municipality to pro-

vide lights for a city, the power to enter into a binding contract whereby the rates to be charged by a public utility corporation shall be irrevocably fixed. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864, (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

64 C.J.S. Municipal Corporations § 1726.

vide lights for a city, the power to enter into a binding contract whereby the rates to be charged by a public utility corporation shall be irrevocably fixed. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864, (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

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

But rates fixed too low are confiscation of property.—Where the rates prescribed are not sufficient to meet operating expenses, there is not merely an incidental diminution in the value of plaintiff's property, such as would be unavoidable upon any exertion of the police power to fix rates which diminished income, but a confiscation in the constitutional sense, and the enforcement of the ordinance should be enjoined, without prejudice, however, to the right of the city to take such further proceedings as it may deem necessary in connection with the amendment of its ordinance.

Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

Meaning of "invested capital".—"Invested capital," as used in this section, means the initial investment, regardless of subsequent changes in ownership, plus capital additions and minus accrued depreciation. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

The term "invested capital" should not be construed to mean fair value, nor is the utility entitled to the benefit of any appreciation in value, nor should the term be construed to mean that which is paid for a utility by the last purchaser.

Sec. 29.48.070. Hearing for regulation of utilities rates. If the assembly or council considers it advisable to regulate, change, or fix the rates to be charged by a public service corporation, association or individual not regulated under AS 42.05, it shall order a hearing to be held before the governing body at a time and place specified. Notice of the hearing shall be given by at least one publication in a newspaper of general circulation distributed within the municipality or, if no newspaper of general circulation is distributed within the municipality, notice shall be given by posting a notice in three public places within the city or borough area outside cities receiving the utilities services and by serving written notice upon the corporations, associations and individuals whose rates are to be regulated, fixed, or changed in the same manner that summonses are served. The notices shall be published or posted and served at least 15 days before the hearing. (§ 2 ch 118 SLA 1972)

Am. Jur. and ALR references.—13 Am. Jur., Public Officers, §§ 86, 201 et seq. Regulation of municipal utility rates, 76 ALR 852; 127 ALR 94.

Sec. 29.48.080. Right to participate and compel testimony. At a hearing held under § 70 of this chapter, all public service corporations, associations, or individuals affected by or interested in the matters to be heard may be present and may be represented by counsel. The municipality and all interested parties may produce witnesses and examine them and introduce evidence to prove or disprove the facts in issue or matters to be established or inquired into at the hearing. All parties may compel the attendance of witnesses, and subpoenas requiring attendance shall be issued by the municipal clerk under his hand and the seal of the municipality. Subpoenas duces tecum requiring the production of books and papers shall be issued in like manner upon request. If a person fails to obey a subpoena, the party at whose request the subpoena

issued may petition the superior court for an order compelling the attendance of the disobedient witness or the production of the books or papers referred to in a subpoena duces tecum. The superior court shall order the witness to appear and testify or compel the production of the books or papers. A violation of the order of the court is a contempt of court. If a witness appears and refuses to testify concerning a matter material to the facts inquired about at the hearing and to establish or determine which the hearing was had, an application may be made to the superior court to compel the witness to testify and answer questions put to him concerning the matters inquired about, and the court shall make an order compelling the witness to testify. Violation of the order is contempt of court. (§ 2 ch 118 SLA 1972)

There is no provision requiring the common council to adduce testimony. *Graff v. Town of Seward*, 20 F.2d 816 (9th Cir. 1927).

Sec. 29.48.090. Further proceedings. A hearing under § 70 of this chapter shall begin at the time stated in the notice but may be continued from time to time. At least a quorum of the assembly or council shall be present at the hearing. At the conclusion of the hearing the parties interested may make such arguments before the assembly or council, either in person or by attorney, as they consider proper, touching the matters at issue, and thereafter the assembly or council shall proceed to regulate and fix the rates by ordinance. The date upon which the rates fixed or regulated take effect shall be stated in the ordinance and shall be at least 10 days after passage and approval of the ordinance. (§ 2 ch 118 SLA 1972)

Courts may review rate orders. — There is no statutory provision for appeals from rate orders, but it appears to be settled that, where a constitutional right is involved, the court may determine the issue upon its own record and the evidence adduced before it, even though it had not been presented to the regulatory body. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

And the courts are not bound by the findings of the city. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

Rules governing review by court. — In its consideration of the mass of evidence produced in appeals from rate orders, the court is aided by well-settled rules governing litigation

of this kind, namely: (1) That the orders of a regulatory body are presumptively valid, reasonable and correct; (2) that the burden of proof on the issue of confiscation is on the one raising it, and that nothing less than clear and convincing proof will justify judicial interference; (3) that the court cannot substitute its judgment for that of the authority whose action is under review upon a question as to which there is room for a difference of intelligent opinion. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

There is a strong presumption in favor of the rates found by the council. *Graff v. Town of Seward*, 20 F.2d 816 (9th Cir. 1927).

Sec. 29.48.100. Application. (a) In the case of conflict between the provisions of §§ 50—70 of this chapter and the provisions of

AS 42.05 as to the regulation of rates of a utility, the provisions of AS 42.05 shall prevail.

(b) Sections 50—100 of this chapter apply to home rule and general law municipalities. (§ 2 ch 118 SLA 1972)

Article 3. Municipal Enactments.

Section	Section
130. Acts required to be by ordinance	190. Budget and capital program
140. Form of ordinances	200. Penalties
150. Ordinance procedure	210. Expenditure of borough revenues
160. Emergency ordinances	220. Post audit
170. Codes of regulations	
180. Codification	

Sec. 29.48.130. Acts required to be by ordinance. (a) In addition to other actions which this title requires to be by ordinance, the assembly or council of a municipality shall use ordinances to

- (1) establish, alter or abolish municipal departments; —
- (2) fix the compensation of members of the assembly or council;
- (3) provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
- (4) provide for the levying of taxes;
- (5) make appropriations and supplemental appropriations or transfer appropriations;
- (6) grant, renew, or extend a franchise;
- (7) regulate the rate charged by a public utility;
- (8) adopt, modify or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map;
- (9) approve the transfer of a power to a borough from a city;
- (10) designate the borough seat.

(b) This section grants no authority but requires the assembly or council to use ordinances in exercising certain of its powers. (§ 2 ch 118 SLA 1972)

Revisor's note (1972).—In ch. 118, SLA 1972, AS 29.48.130(a)(3) read in part "... other penalty for establishing rules . . ." To make sense and to conform to former AS 07.20.080-(b)(3) and earlier versions of the Municipal Code revision, this typographical error has been corrected to read "... other penalty, or establish . . ."

Taxes must be levied by ordinance.—The borough assembly may levy taxes only by means of an ordinance enacted under the terms of

this section. 1963 Op. Att'y Gen., No. 25.

Borough department illegally established.—Where a proposed incorporation petition provided that public health services should be administered not by the borough assembly but by a board of health which was to be appointed by the borough assembly, but otherwise to operate autonomously in making rules and regulations with the force of law, such rules and regulations would be illegal ordinances since they would be pro-

Title 29
Municipal Government

EXHIBIT "J" - page 2 of 2

Title 33
Prohibitor, Pickets,
and Protesters

Title 30
Navigation and Shipping

February 7, 1977

Municipal Assembly
Municipality of Anchorage
P.O. Box 6-550
Anchorage, Alaska 99502

Subject: Letter of Transmittal
Interim Utility Commission's Final Report

Dear Assembly Members:

Transmitted herewith for your review and consideration is the final report of the Interim Utilities Commission. You will note as part of this transmittal I have submitted an individual letter to the Assembly from each Commission member, including one containing my own comments. This report is the end product of a great deal of work and compromise of all Commission members. I hope that you, as members of the Assembly, will take the time to review and give it due consideration.

It is our understanding that the individuals who drafted the Municipal Charter, and those who voted for the adoption of the Charter, did so with the clear feeling that efforts would be made to develop a program wherein the enterprise activities of the Municipality could be operated in an optimum manner. The Interim Utility Commission, as a body, believes that they have formulated just such a plan. We recognize that a great deal of detail will be required to activate our recommendations, however, we feel that there is sufficient information in our report to clearly define the outcome of the reorganization we suggest.

I wish to express the appreciation of our Commission to the Assembly members for their assistance and indulgence during the development of this report. With the submittal of this report to the Assembly, this Commission is herewith dissolved.

Very truly yours,

INTERIM UTILITIES COMMISSION

James R. Hendershot
Chairman

JHR:dea

enclosure

EXHIBIT "K"

TELEGRAM
P.O. Alaska Communications, Inc.

RECEIVED
JUN 10 1968
ANCHORAGE

06038 JUNEAU ALASKA 115 12-10 1233P PST

PMS MAYOR GEORGE SULLIVAN MUNICIPALITY OF ANCHORAGE

POUCH 6-650 264-4431 EXT 431

0916

ANCH

THE FOLLOWING TELEGRAM HAS BEEN SENT TO THE APUC.
THE ALASKA MUNICIPAL LEAGUE WANTS TO REITERATE
THEIR OPPOSITION TO ANY FURTHER INFRINGEMENT BY
THE APUC INTO THE OPERATION OF MUNICIPALLY OWNED
UTILITIES. THE LEAGUES POLICY STATEMENT IS AS FOLLOWS:
DESPITE THE DEMONSTRATED ABILITY OF MUNICIPALITIES
TO OPERATE THEIR OWN UTILITIES IN THE BEST
INTEREST OF THE CONSUMER PUBLIC, EFFORTS ARE CONSTANTLY
BEING MADE TO SUBJECT MUNICIPALITY OWNED AND OPERATED
UTILITIES TO REGULATION BY THE ALASKA PUBLIC UTI
ITIES
COMMISSION. THIS IS A COSTLY AND UNECESSARY INFRINGEMENT
ON LOCAL GOVERNMENT POWERS AND THE LEAGUE OPPOSES ANY
LEGISLATION WHICH WOULD INFLICT THIS UNDO REGULATION
BY THE STATE ON MUNICIPALITY OWNED AND OPERATED UTILITIES.
DON M. BERRY EXECUTIVE DIRECTOR ALASKA MUNICIPAL LEAGUE

cc - *Jack Harris*
Pete Hinder

lll



*cc to Gindoo
Hansen
RECEIVED
5:00 PM they get
DEC 10 1978 today*

TRAINING OFFICE

RECEIVED

DEC 10 1978

MUNICIPAL ATTORNEY

23005 NL PETERSBURG ALASKA 95 12-09 1130A PST
PMS GEORGE SULLIVAN, MAYOR
CITY OF ANCHORAGE 0774
524 WEST 4 AVENUE
ANCHORAGE AK "

COPY OF WIRE SENT TO:

T LOWEL JENSEN, EXECUTIVE DIRECTOR
ALASKA PUBLIC UTILITIES COMMISSION
338 DENALI STREET, MACKAY BUILDING, ANCHORAGE AK

DEAR MR JENSEN

YOUR PROPOSAL TO AMEND REGULATIONS GIVING YOU THE
POWER TO APPROVE SALES OF REVENUE BONDS TO THE APUC IS
AN INFRINGEMENT ON THE POWERS OF A HOME RULE CITY OR
BOROUGH. I STRONGLY OBJECT TO THE ADOPTION OF THESE
REGULATIONS AND WILL DO ALL IN MY POWER AS A MEMBER
OF THE ALASKA STATE LEGISLATURE TO PREVENT YOU FROM DOING
SO. YOURS TRULY,

E J HAUGEN, REPRESENTATIVE, DISTRICT 2, BOX 1049
PETERSBURG ALASKA 99833

cx

The Anchorage Times

Business-Financial

Prospects Appear Slim For Utilities Exemption

Times Juneau Bureau

JUNEAU — Mayor George Sullivan's bill to exempt Anchorage's non-competitive municipal utilities from regulation by the Alaska Public Utilities Commission isn't likely to pass the legislature this year because it was introduced too late in the session, Anchorage state senators say.

The bill, which Sullivan has said is his most important piece of legislation, was introduced last week and is headed for a hearing March 31 in the Senate Community and Regional Affairs Committee.

"It's very doubtful it will go anywhere this year," said committee member Sen. Bill Sumner, R-Anchorage. "It's not on any priority list I've seen."

The bill is aimed at reducing the cost of settling rate cases by giving the municipal assembly the state utility commission's authority to set utility rates for Anchorage.

Since mid-1975 the city's water, electric and telephone utilities have spent \$824,000 bringing rate cases before the commission, according to Sullivan. That expense is passed on to consumers and taxpayers.

"We're the only city in the state regulated by them and its costing ratepayers thousands of dollars," Sullivan has said.

Even if the bill had been introduced earlier, it would face the critical reception it is expected to receive from legislators. The state lawmakers are wondering why Anchorage should go unregulated.

"The basic problem is that municipal taxpayers and ratepayers don't have any confidence that unregulated utilities will deliver their services at a fair price," Sen. Pat Rodey, D-Anchorage said. "People can't understand why rates keep going up. And frankly, I can't either."

Rodey doubts that the Anchorage Municipal Assembly — which would regulate its own utilities under the Sullivan plan — would be any more responsive or fair to the consumer than the commission is, he said.

He also said the figure Sullivan cited as the cost of bringing a case before the commission is inflated, including expenses for consultants and office time spent preparing the case.

"A lot of us feel the costs of rate cases are too high but nobody is for turning Anchorage loose without

some sort of internal checks and balances," Sumner said. Approval of the bill will depend on the assembly convincing the legislature it has adequate regulatory checks built in to its system, he said.

Legislators recognize that while the bill is of prime concern to Sullivan, the Anchorage Municipal Assembly is split on the issue. Legislators say they are looking for some proposal by the assembly establishing an alternate mechanism for setting rates and they want some assurance the assembly can do the job.

March 18, 1977

SB 259

Mr. Dave Rose, Chairman
Anchorage Municipal Assembly
4326 East 5th Avenue
Anchorage, Alaska 99504

Dear Mr. Rose:

At the regular meeting of the Water Utility Advisory Commission on Monday, March 14, the Water Utility Advisory Commission went on record opposing any move to remove the Water Utility and other non-competitive utilities from the jurisdiction of the Alaska Public Utilities Commission until such time as a firm plan for properly handling the utilities' financial and regulatory matters has been formulated and approved.

Sincerely,

N. A. Kaelber

Norman Kaelber
Chairman
Water Utility Advisory Commission

/sr

cc: Anchorage Municipal Assembly Members
Mayor George Sullivan

Ed - for your information.

supports legislation relieving noncompeting utilities owned by the Municipality of Anchorage from regulation by the Alaska Public Utilities Commission with respect to all matters other than service area certification.

Passed and approved by the Anchorage Assembly, this ____ day of _____, 1977.

Chairman

ATTEST:

Municipal Clerk

Requested by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Department of Law
For Reading: February 22, 1977 RWA

ANCHORAGE, ALASKA
AR NO. 77-7

A RESOLUTION RELATING TO EXEMPTION OF ANCHORAGE MUNICIPAL UTILITIES
FROM STATE REGULATION.

WHEREAS, electric, telephone, water and sewer utilities owned by the Municipality of Anchorage are now subject to regulation of all phases of their activities by the Alaska Public Utilities Commission; and

WHEREAS, no other municipally-owned utilities in the State of Alaska are subject to such regulation; and

WHEREAS, only the electric utility is engaged in competition with a private utility, and this competition will be eliminated by final certification of service areas; and

WHEREAS, policy reasons which may have existed for regulation of utilities owned by the City of Anchorage have disappeared with unification of the former City and Borough; and

WHEREAS, compliance with expensive, complex, and often inconsistent and unnecessary requirements of the Alaska Public Utilities Commission imposes a substantial and unwarranted burden on the Anchorage municipal ratepayer; and

WHEREAS, the Anchorage Assembly, as elected representative of all citizens in the Municipality of Anchorage, including all municipal utility ratepayers, is fully competent to provide for regulation of its utilities in the same manner as other municipalities;

NOW, THEREFORE, be it resolved that the Assembly of Anchorage

B. Resolution No. AR 77-7, a resolution relating to Exemption of Anchorage Municipal Utilities from State Regulation.

Mr. Besser moved, seconded to adopt AR 77-7.
by Mr. Brannon

Mayor Sullivan stated that they have hashed it over and there are feelings pro and con. He said there was an article in the Alaska Industry magazine mentioning how few people turnout at public hearings. We continually talk about home rule, he said, and he thinks this is one of the things that relates to home rule. Most home rule cities are not regulated in other states, he noted, and the finance people indicate this, and he thinks this may cause higher rates for Anchorage. He said that he would like to sit down with the Assembly and to work this out, if this is passed. He said there might be an effective date of July 1st or September 1st.

Chairman Rose handed the gavel to Vice-Chairman Brannon.

Mr. Rose said that he has a letter from Pete Argetsinger, Assistant Municipal Attorney, which goes into depth as to a scheme and pattern for this. He talks of Title 29 and what he himself is proposing is an ordinance that spells out how they will still self-regulate. Mr. Rose asked for a more orderly approach than what the Mayor has recommended. He would like to do two things, he said; one, do not vote it down; two, table it with specific recommendations that the Administration bring back an ordinance and bring it back on the table after the ordinance is introduced.

Mayor Sullivan asked if they would be willing to consider it as an emergency ordinance, and Mr. Rose replied he had no problem with that.

Mrs. Sturgulewski said that she felt nationally there have been developed some suspicion of monopolies and that is why these regulatory commissions are necessary. To request deregulation at this time, she said, is like letting the fox loose with the chickens, while Farmer John is on vacation. She mentioned the Charter Commission and its difficulty in getting information on finance from the utilities, and she felt they had better take a good look at this. She felt that there was a great deal of expertise involved and until they get the whole financial picture straightened out, they should move very slowly.

Mrs. Selkregg said that she supported Arliss' statement and that she would like to vote against it and study the issue for a longer period. She felt there should be a better informed public before making such a decision.

Mr. Walsh moved, but
it died for lack of
a second,

to postpone action
for a period of one
month.

Mr. Rose moved, seconded
by Mr. Besser

to postpone AR 77-7,
pending action by the
Administration to draw
an ordinance for intro-
duction and hearing,
which would basically
impose those checks
and balances contained
in Title 29, applying
to a home rule charter,
with specific times and
dates for hearings.

Mr. Rose said that then on the night of adoption, this resolution could come back before the Assembly.

Mr. Chiel said he would like to abstain from voting because they are under conflict because of the PUC.

UTILITIES
AR 77-7
Exemption of
Anch. Mun.
Utilities from
State Regulation

ABSTAIN: Chiei.

Mr. Rose moved, seconded to table AR 77-7.
by Mr. Besser

Mrs. Selkregg requested PIO to prepare information for the public as to what the PUC does as an educational process.

Mr. Rose asked if the Administration would assent, they would like to try to rough out an ordinance and flesh it out and make it available to the Assembly.

Vice-Chairman Brannon called for the vote to table, and it passed:

AYES: Walsh, Marsh, Selkregg, Besser, Rose, Baer.
NAYS: Brannon, Knowles, Sturgulewski.
ABSTAIN: Chiei.

C. Ordinance No. AO 77-59, an ordinance Adopting Title 26 of the Anchorage Code to be Entitled "Utilities".

1. Assembly Memorandum No. AM 142-77, regarding same.
2. Assembly Memorandum No. AM 142-77A, regarding same.

Chairman Rose again had the gavel and said that he would like to put this aside temporarily and take it up at the later meeting, if there was no objection; there was no objection.

D. Ordinance No. AO 77-23, an ordinance Adopting a Title 24 of the Anchorage Municipal Code to be entitled "Streets and Rights-of-Way".

1. Assembly Memorandum No. AM 59-77, regarding same.
2. Resolution No. AR 77-24, a resolution establishing a Schedule of Permit Fees as provided in Section 24.30.090 D of the Municipal Code of Ordinances.
 - a. Assembly Memorandum No. AM 59-77B, regarding same.

Mrs. Sturgulewski moved, to approve AO 77-23.
seconded by Mr. Brannon

Mrs. Sturgulewski suggested that the amendments included in AR 77-24 be approved, and Mr. Swing pointed out that AM 59-77B included all the amendments.

Mrs. Sturgulewski moved, to amend by approving
seconded by Mr. Walsh AM 59-77B, which contained all the amendments.

AYES: Chiei, Walsh, Marsh, Selkregg, Besser, Rose, Brannon, Knowles, Sturgulewski, Baer.
NAYS: None.

Chairman Rose then asked for the vote on AO 77-23 as amended, and it passed:

AYES: Chiei, Walsh, Marsh, Selkregg, Besser, Rose, Brannon, Knowles, Sturgulewski, Baer.
NAYS: None.

Mr. Walsh moved, to approve AR 77-24.
seconded by Mr. Besser

Chairman Rose asked if there were any problems with this, and Mr. Swing said that Mr. Bollinger would be able to respond.

Mr. Bollinger said that there will be no fee unless what is proposed endangers the right-of-way, then a fee of \$2.50 would be charged.

There was further discussion of planting of trees, retaining walls and rock gardens in this area, and Mr. Bollinger said that if someone was going to put a large boulder on top of a gas line, then there might be a problem, but other than that, he did not foresee any.

seconded by Mr. Smith, floor until after the public hearing on the next item. and it was passed without objection,

H. Resolution No. AR 77-7, a resolution relating to exemption of Anchorage Municipal Utilities from State Regulation.

UTILITIES
AR 77-7

The public hearing on Resolution No. AR 77-7 was opened.

RUTH MOEN stated that she would like the Assembly to not take action on removing non-competitive utilities from under APUC regulation. She does not believe, she said, that the cost to her from the utility would go down were they not regulated by APUC and she views APUC as a sort of guard against the fact that rates could be raised indiscriminately. She lives in an outlying area, she said, and receives no benefit from the profits of the utilities, only pays into them.

RICHARD HANGER stated that he is in business putting in private PBX systems in Anchorage. A legal monopoly is the best reason for regulation, he said. Any changes of tariffs or other provisions, he said, must meet basic rules to stand a test in court, no matter who regulates them. Mr. Hanger noted that the APUC has a budget of \$1.3 million and a staff of 31 people. A staff will be required by whoever does the regulating, he said, and he estimated a bare minimum of 3 if the Assembly regulates municipal utilities. He distributed to the Assembly an article on the APUC and a handout relative to typical charges from ATU to an Anchorage business firm.

LLOYD MORRIS of Communications Engineering stated that his firm holds a certificate of convenience and necessity from the APUC to provide radio-telephone service in Anchorage. He has a problem, he said, understanding how ATU is non-competitive, since it does have a certificate to provide the same service as his company, although, it does not at this time to do so. If ATU did provide this service for which it is certified, he said, it would definitely be competing with Communications Engineering, which would place ATU in the identical position of the electric utility competing with CAU. For this reason, Mr. Morris stated, he feels that ATU should be withdrawn from the resolution before the Assembly.

BOB JOHNSON stated that for the past three years he has been on the Water Commission, working with the Anchorage Water Utility. He recommended approval of the resolution before the Assembly. When AWU was placed under the APUC regulation, he recalled, it was placed there because their service extended beyond their jurisdiction and there were excesses practiced on the people outside of their jurisdiction but which received the services. This condition, he said, no longer exists. APUC regulation impacts their growth, he continued; it takes 9 to 18 months to get a case through the Commission because the Commission must weigh that case against all others in the state. But meanwhile, he said the utility cannot sell bonds because there is no revenue coming in to justify bonds. The Water Commission was satisfied, he said, with the work of the APUC. Mr. Johnson recommended that the Administration hire the expertise necessary and take it under Municipal control so that the utilities can move at the speed they need to move. He continued with recommendation that the Municipality establish these utilities as public corporations under one head and that the utilities pay taxes or contributions in lieu of taxes and operate in a business like manner and the Assembly would approve or disapprove any rates. He would envision the Assembly sitting as an appellate body, he continued, rather than a hearing body on rate cases.

PAT REDMOND, speaking as a consumer, stated at first glance she does not want her public utilities taken out from under APUC regulation. Some of the things she considered were the cost of Municipal regulation, the time and the politics. Most utilities are regulated, she said, and she would like for Anchorage's to be regulated, and by APUC.

owned by the former City, she said, go to the former City; and those who live outside need the protection of APUC. If a utility is not competing with others, she continued, that means it is a monopoly and that means it should be regulated. The Assembly should consider, she pointed out, that the APUC has a great deal of expertise; and should be a body that the Municipality works with, rather than against. Were this the case, she said, she doubted that the bills for rate cases would have been as high as they have been. Mrs. Frohne noted that Fairbanks is looking at asking to be regulated by APUC; and in closing she stated that deregulation from APUC and Municipal regulation indeed require a vote of the people under the provisions of the Charter.

JEFF LOWENFELS, a private citizen, noted that he was speaking as such, although in the past he has represented APUC, since he works in the Attorney General's Office. He stressed that he was speaking as a private citizen. Generally, he stated, the rule is that rate case expenses are passed to the subscribers. In the \$400,000 Municipal case, he said \$150,000 was disallowed by APUC and the rest will be passed on. Speaking to comments in favor of self regulation, Mr. Lowenfels stated that he would hate to think of the quality that would be sacrificed by removal from APUC jurisdiction. The Commission and its staff spend an incredible amount of time, he said, working on the cases that go before them; and he does not feel the Assembly has the time nor the guts to handle a hot rate case. He continued that he did not feel it would be fair to the rate-payers to have the issue of quality, and cost of service kicked around as a political football. In regard to the previous statement that there were no longer any problems of discriminatory rates, Mr. Lowenfels noted that ATU attempted to set up 5 rate zones- the further from the center of town one lived, the higher the rates they would pay.

IKE WALDROP, business manager for IBEW, stated that he favors the resolution, feeling that it could result in substantial savings to the utilities. The consumers would be protected and better served, he continued, because the Assembly is more responsive, being an elected body, elected by the rate-payers.

BERT AYER, representing HALO, stated that his organization is opposed to passage of this resolution. Members of the Hillside feel the need for a disinterested party, he said, which is not a party of the body politic, to regulate their telephone and electric utilities. They do not feel, he continued, that the time has come for Municipal regulations. They were also very upset, Mr. Ayers said, about the condition of the Anchorage Water Utility. They also feel, he said, that ATU would be in better condition if it did not support the general fund as much as it does.

AL PISTORIUS of ATU stated that he felt sure the Assembly could do just as good a job as the APUC and probably with less money. Relative to complaints, Mr. Pistorius said he felt sure the utility was responsive at this time, no matter who was calling with the complaints. If people really looked at the cost of providing the service, in the more outlying areas, he said, the subsidy is really in reverse, with the urbanized area supporting or contributing to service in the outlying areas. Speaking to the telephone systems, Mr. Pistorius noted that last year Anchorage ranked 16th in the nation size-wise among private companies. Speaking to the municipal systems, Mr. Pistorius noted that Alaska has four municipal utility systems and the only other one in the United States is in Montana.

TOM STAHR of the electric utility stated that Seattle City Light is regulated by the municipal government. They provide excellent service, he said, and have the lowest rates in the nation. The State regulates utilities in an adjacent area, he continued, at a much higher cost. Mr. Stahr stated that he felt regulation should be done by the Assembly. Seattle, he noted, does have a rate department and it goes from that rate department to the city council.

veto message on Ordinance No. AO 77-32, noting, for the record, the Assembly's official receipt of the veto.

GLEN HEATHERLY came forward and asked why the residents of the area had not heard more about the Ridgeview Manor matter; and Mr. Walsh asked if this item could be taken up as a Special Order of Business next week.

There was no indication from the Assembly that they wished to discuss the matter further.

Mr. Rose noted that with the veto of Ordinance No. AO 77-32 next week's meeting would begin at 6 o'clock and would be under the old Assembly rules of procedure.

There being no further business to come before the Assembly, the meeting was adjourned at midnight.

Chairman

ATTEST:

Municipal Clerk

Date Approved: _____

To the files

Rick Garnett: SB 259 has been talked about as de-regulating the Anchorage Utilities but is much more limited than that.

This bill deals only with utilities in competition with other utilities.

It is not the goal of the Municipality of Anchorage to be under the APUC.

If the regulating of utilities is a beneficial and desirable thing, then why is it that other municipalities have not sought such regulation. What is seen here is a dramatic response to the suggestion of putting utilities under regulation.

We have pursuant to the formula in the Administrative Statutes, regulations of all the Anchorage Municipal utilities other than garbage at this period. By reason of the competition that exists with AEL&P and Chugach Electric, it is only as to those utilities that there is any allegation of competition. Only Anchorage is in that category. There are many municipalities in the state who do own all their own utilities and regulate them pursuant to Title 29 and are not subject to this type of regulation.

A brief history of the situation is that the AEL&P and Chugach Electric were in competition and a legal battle

ensued as to who had rights to service an area, basically a territorial type of argument. The Supreme Court invited the Legislature to do something about the situation. The APUC took over the function, and delineated the boundaries and therefore solved the problem.

Senator Orsini: The APUC delineated the boundaries but they don't regulate the municipal utilities in Fairbanks?

Rick Garnett: Yes. There is a need for some rationale for regulations, and a need to prevent the owner area from taking undo advantage of the non-owner area. Today there is not long an "in city" or "out city" conflict.

Not critical of APUC, and this is not a personality or political problem. Apart from the financial aspects, there are basic legal-governmental considerations. It is illogical to have a board supervising a decision of elected officials with regards to matters of direct interest only to constituents of those elected officials. It is a strange anomaly to assume that those elected officials are unwilling or incapable of protecting the utility or making decisions in that regard.

Senator Willis: Has the Anchorage Assembly finalized a recommendation?

Rick Garnett: They are acting tonight.

Senator Sumner: In regards to rate increases, the first increase requested was 15%, the second 29% and then 31%, please explain.

Rick Garnett: The old city let their utilities go for too long a time without needed rate increases. When they did make their increase, it was dramatic. When you talk about percentages of rate increases, it is deceptive because part of the problem has been dealing with rate matters analogous to private utilities. A municipal utility operates by selling revenue bonds.

Senator Orsini: To what do you attribute the difference in the rate increases between a municipal utility and the APUC utilities?

Rick Garnett: Much of it is the time delay. It takes up to 6 months through the APUC. Some feelings are that a municipal utility should not make a profit and should only be concerned with the consumer, but the consumer needs the utility to be in good shape.

The municipal utility probably has more resistance to the regulations because the elected officials feel that they have the right to make decisions instead of butting against another entity which feels they can make the decisions.

Donald Meyer: In 1975 it became evident that the municipal utility needed a different source of revenue because it wasn't meeting the requirements under the indenture in which the bonds had been issued.

Nuveen is in a position of the investor and has about millions of dollars of tax exempt bond funds outstanding. They are like mutual funds except we deal only with municipal bonds. As sponsor and seller of these bond funds, we have criteria that we look to in selecting municipal bonds to put into these portfolios and among these criteria is the rating. We don't buy bonds that are "under a cloud", like New York city bonds, for example. This could happen to Anchorage or Fairbanks if they must come under the APUC regulations.

Senator Orsini: If Anchorage or other municipalities were regulated, investors would be nervous and therefore the bondability would be passed off?

Belegratis: Yes. Because Alaska is a small place, it has gone a long way down the road in respect to acceptability. It has pulled the municipalities along with it.

It's not just a question of dollars and cents. It's access to the market. If an issuer cannot meet a bond covenant, the door in effect is shut to that issuer. The alternative is to sell subordinate bonds.

Margins of safety have been built into these bond issuances, both in terms of a test for the issuance of additional parity bonds and also in terms of maintaining rates sufficient to do business to produce a sufficient cash flow. These covenants are there for a reason. They are to safeguard the investor.

Nuveen will pick up bonds with rather stringent requirements. They look to the marketability of the bonds, the acceptability of Anchorage. The constant adversity between the issuer and APUC, the cost and doubt, will affect the marketability. We share the feelings already expressed that the municipal officials are required and must answer to their constituents, and if the assembly or city council didn't keep their constituents happy, they would be out of a job.

Senator Orsini: To your knowledge, are there other states that have a public utility commission that regulates the municipalities?

Belegratis: Very few. It is an exception rather than the rule.

The people that buy bonds are not necessarily people like you and me. We are at Nuveen, an "institutional house". We deal with Allstate Insurance, which annually buys millions of dollars of municipal bonds. Bankers and insurance companies who are sophisticated are smart and are being careful when buying bonds and watching things very carefully. We know they are critical and we as underwriters must be aware of what's going on with the APUC in Alaska

Senator Orsini: Is it a factor that the Commission does not require qualifications of it's members?

Belegratis: No, I don't think the market place has any care about that.

Senator Sumner: I am concerned. I would rather put the decisions into the hands of experienced people rather than the public. If the legislature felt a need for the APUC, it should therefore regulate the utility as it was set up to do. It is beyond me to believe that the APUC would not grant a rate increase symetric with the needs. If t that is the problem we might look deeper into that aspect of it.

Belegratis: Anchorage has a covenant, which is 1.4 times net revenues. This figure was developed in the past and is what the marketplace demands. The .4 is the margin of safety which the marketplace demands in order to buy this paper.

Holman: The best argument for de-regulation is the history of the regulations. One of the basic problems is that they have been totally unable to separate municipal financing from private financing, although they are totally different. Municipalities don't have any equity when starting out

The purpose of regulation is to present a guideline for higher returns to the investor. With the municipal system