

1596 HJ CONFIRMATION HEARING - SUSAN KNOWLES (A.P.U.C)

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CONFIRMATION

HEARING

SUSAN KNOWLES

(AIPUC)

# MEMORANDUM

# State of Alaska

TO: Susan M. Knowles, Commissioner  
Alaska Public Utilities  
Commission  
Anchorage

DATE: April 7, 1982

FILE NO:

TELEPHONE NO:

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Questions Raised  
During Confirmation  
Hearing Concerning  
Conflict of Interest

By: Elisabeth H. Ross *EHK*  
Assistant Attorney General  
Anchorage - AGO

At your request, I am providing this legal analysis for the record in your confirmation hearing in response to the legal memoranda provided to the Judiciary Committee.

## Summary

During Susan Knowles' confirmation hearing conducted on April 1, 1982, counsel for the House Judiciary Committee questioned her participation in cases involving the utilities owned by the Municipality of Anchorage, Chugach Electric Association (CEA) and Alascom, and in regulations proceedings involving all regulated public utilities due to an alleged conflict of interest stemming from her position as Commissioner on the Alaska Public Utilities Commission and her husband's position as Mayor of Anchorage.

Based on a critical analysis of the legal memoranda presented to the Committee, the Attorney General's Opinions cited in the Cook memo, as well as an analysis of other Attorney General's Opinions and the common law, Commissioner Knowles does not have a real conflict of interest in participating in municipal utility cases. Her personal decision to abstain from participating in these cases to prevent any appearance of impropriety is reasonable and consistent with these authorities. Given the manner in which the commission deliberates and renders its decisions, her chosen conduct during the decision-making process is entirely appropriate. Further, there is absolutely no real or apparent conflict of interest in her participation in cases involving CEA or Alascom, or in any regulations hearing affecting the municipal utilities.

Introduction

The stated purpose of the March 30, 1982 legal memo addressed to the Committee from William Cook, Legal Counsel, House Judiciary Committee, is to present the questions involving conflict of interest clearly and concisely and to investigate the application of the Attorney General's office Opinions on the subject. (p. 1) The memo does present four questions and analyze certain Opinions concerning conflict of interest. It also concludes that Commissioner Knowles does have a conflict of interest involving not only the Anchorage municipal utilities but also CEA and Alascom; that this conflict may have existed prior to her husband taking office; that she cannot even be in the same room where the other Commissioners are discussing the Anchorage municipal utilities; and that she cannot discuss or vote on any matter involving the municipal utilities, CEA or Alascom. It implies her participation in regulations hearings pertaining to all regulated utilities, including the Anchorage municipal utilities, is inappropriate.

Because the memo (1) misconstrues cited Opinions, (2) overlooks an Opinion that answers the pivotal conflict of interest question, (3) confuses conflict of interest and incompatibility of office common law principles, and (4) misstates facts, the conclusions reached are erroneous. This memo will address each of the four questions raised, analyze the answers provided, and explain why no real conflict of interest exists in these situations.

Question 1: No Real Conflict of Interest  
Exists Related to Municipal Utility Cases

In the first question presented, the March 30 memo asks whether a conflict of interest exists where an APUC Commissioner is married to the mayor of a city which owns municipal utilities. Interpreting Opinions rendered in 1976, 1966 and 1980, the memo appears to conclude<sup>1/</sup> that a real conflict of interest is present. Because the memo ignores the reasoning in the Opinions, overlooks a more recent Opinion which answers the question, and totally confuses two principles of common law, it presents a conclusion which is erroneous.

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<sup>1/</sup> Because the conclusion is reached in the fourth full paragraph of page 3, and the relevant sentence does not have a verb or object, it is difficult to understand the conclusion.

In 1975 when Commissioner Knowles was first appointed to the APUC, she asked for an Attorney General's Opinion on whether there existed a conflict of interest between her husband, an assemblyman, and herself, a Commissioner. The Opinion she received interpreted the provision of the Alaska Public Utilities Commission Act (AS 42.05.131(a)) which governed conflict of interest:

No member of the commission or an employee of the commission may have an official connection with, or hold stock or securities in, or have a pecuniary interest in a public utility within the state. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section; however, no member or employee of the commission may be an officer, board member or employee of a cooperative association. No member or employee may act upon a matter in which his relationship with any person creates a conflict of interest. [Emphasis added.]

The Opinion concluded that her marital association did not itself constitute a conflict of interest:

The term "relationship" is not defined within the Act. However, when read in the context of the section and the Act, it would appear that the term "relationship" encompasses a business and not a marital association. Even if the term is intended to include a marital association, that association alone does not constitute a prima facie conflict of interest. One must show that the relationship itself puts the member or employee of the APUC in such a position as to create a conflict of interest.

The Opinion told her that she had the right to excuse herself from consideration of any cases where she believed a conflict of interest existed:

Therefore, if a member of the APUC feels that in a given instance, there exists a conflict of interest that would prevent her from faithfully discharging her duties as a member, she may exclude herself from APUC consideration of the matter.

In 1980, when her husband was considering running for mayor, or for the state legislature, Commissioner Knowles again asked for an Attorney General's Opinion on whether this would be a conflict of interest. The response, personally authored by Avrum M. Gross, then Attorney General, attached here as Attachment I, concludes again that the law did not presume a conflict of interest in this situation:

The law does not presume the existence of a conflict of interest when spouses occupy different public offices which may from time to time become involved with each other. Hence, no conflict of interest necessarily results from your holding office on the Alaska Public Utilities Commission and your husband's being a member of the legislature or the mayor of Anchorage.

Because no one should be expected to sit in judgment on the members of one's own family, he advised her to disqualify herself on matters affecting the Municipality.

These two Opinions should dispose of the question. However, Mr. Cook's memo attempts to distinguish and discredit the 1976 Opinion and does not mention the 1980 Gross Opinion. Cook's memo states Knowles' husband was an assemblyman at the time, and not the mayor. It implies this change in facts could produce a different conclusion. The memo notes that the card file in Juneau indexing the 1976 Opinion states the answer is wrong. Finally, the Cook memo apparently arrives at a different conclusion based on a 1966 Attorney General's Opinion.

The 1980 opinion authored by the Attorney General himself affirms the 1976 Opinion and states there would be no presumed conflict of interest if Mr. Knowles were mayor. Thus, the 1976 Opinion cannot be distinguished on its facts, and the specific advice cannot be considered wrong. The note on the file card, which no one knows who authored, or what it means and which is not present on the corresponding file card in Anchorage is ambiguous at best. See Attachment II showing unannotated file card.

The Cook memo incorrectly relies on a 1966 Opinion to demonstrate a marital conflict of interest for Commissioner Knowles because the interests involved are entirely different in the two cases. The 1976 Opinion refers to a statute which prevented an Alaska State Housing Authority employee from buying a home sold by the Authority. The Opinion extended the restriction to the spouse who was said to have "at least an indirect interest" in her husband's

transactions. Of course, where there is a personal pecuniary interest involved, the husband and wife have a joint interest. If the restriction were not extended, the prohibition in the statute could easily be circumvented.

Also, certainly less than adequate legal reasoning supports the legal comparison of the two cases. First, it is reverse revisionist history to discredit one Opinion with an Opinion written ten years earlier. Second, the 1966 Opinion is cited to interpret the word "relationship". That term does not even appear in the statutory provision under consideration in that case. Third, no weighty principle of statutory construction exists that one statute can be clarified by interpreting a second entirely different statute which does not have similar language.

The Cook memo's analysis of the 1980 Roger Pegues Opinion (pp. 4-6) confuses two common law principles: conflict of interest and incompatibility of offices. Two questions were presented in that 1980 Opinion: (1) whether members of the State Board of Education may also be members of local school boards; and (2) whether a conflict exists where a member of the State Board is the spouse of the lobbyist for the state association of school administrators. In answer to the first question, the Opinion stated the board member could not hold both positions. Since the state board supervised the local boards, the member's impartiality could improperly be influenced by dual membership. In answer to the second question, the Opinion concluded that the existence of the spousal relationship does not, in most instances, disqualify one from offices. Only if the spouse's activities were so inextricably and continuously interconnected that the appearance of a conflict would be inescapable should the board member be disqualified.

It is elementary that where there is an "incompatibility of office or position",<sup>2/</sup> public duties cannot be discharged impartially. For this to be an impermissible situation under the law, however, one individual, not two, must wear two hats. In other words, it would be impermissible for Susan Knowles to be Commissioner and Mayor at the same time. A husband and a wife are not a single entity for the purpose of the common

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<sup>2/</sup> Incompatibility of office or position involves a conflict of duties between two offices or positions and requires the involvement of two governmental offices or positions. Coyne v. State ex rel Thomas, 595 P.2d 970 (Wyo. 1979).

law doctrine of incompatibility of office and position. Coyne, supra, p. 974. In the Coyne case, patrons of a county school district challenged the right of a spouse of a teacher to act as a member of the school's board of trustees. The Wyoming Supreme Court did not believe that the trustee would be prevented from exercising impartial and independent judgment on a matter in which his wife, a teacher, was involved.

Thus, in correctly analyzing these Opinions and the question the Cook memo presents, the doctrines of conflict of interest and incompatibility of offices must be viewed separately. Generally, when used to suggest disqualification of a public official from performing her sworn duty, the term "conflict of interest" refers to a clash between the public interest and the private pecuniary interest of the individual concerned. Gardner v. Nashville Housing Authority, 514 F.2d 38, 41 (6th Cir. 1975), U.S. cert. den. in 6 S.Ct. 274, 423 U.S. 928, 46 L.Ed.2d 255. Since Susan Knowles has no personal pecuniary interest at stake in cases involving the municipal utilities, she has no real conflict of interest as suggested under the Alaska Public Utilities Commission Act, or as defined at common law. Further, even though her spouse holds a position in the municipal utilities which she in her role as Commissioner oversees, in a regulatory sense, she herself does not have incompatible duties or divided loyalties under the common law.

Question 2: Abstention From  
Participation in Decisions Involving  
Municipal Utilities Is Appropriate Conduct

In the second question, the March 30 Cook memo asks if a conflict of interest exists, how should the conflict be handled? The memo states that Commissioner Knowles should not only abstain from voting on any matter concerning the Anchorage municipal utilities, but also must absent herself entirely from discussions concerning these utilities, so that all comments among Commissioners are made out of her presence. (p. 7) Not only are these restrictions absurd, and presumptuous to present for committee consideration, but they go legions beyond the advice of the two Opinions Commissioner Knowles has already received.

The 1976 Opinion acknowledges that even though her marital association does not constitute a conflict of interest, per se, Commissioner Knowles "may exclude herself from APUC consideration of the matter" if she perceives a conflict of interest that would prevent her from faithfully discharging her duties. Similarly, the 1980 Opinion recommends she "disqualify [her]self on any matter directly affecting the

Municipality." Both Opinions state the decision is a personal one to her. The language in the 1976 Opinion suggests she not participate in discussions on the Anchorage municipal utility matters. The language in the 1980 Opinion suggests even less restricted conduct -- she must disqualify herself from the decision, but she is not necessarily prohibited from the discussion.

As stated in her letter to Chairman Carolyn Guess, dated January 4, 1982, Commissioner Knowles has abstained from participating in municipal utility cases by her own choice. Given the manner in which the APUC deliberates and renders its decisions, this conduct is entirely appropriate. As the House Judiciary Committee has been previously informed by the memo of Chairman Guess to the Executive Director of the Commission, dated March 8, 1982, (Attachment III), the Commissioners follow a set decision-making procedure. All five Commissioners make decisions on tariff filings in a public tariff action meeting. Three Commissioners sit on formal proceedings and conduct private decision conferences. The Commissioners on the hearing panel circulate draft orders between themselves. No decision is rendered by the Commission unless it is approved by a majority.

Because Commissioner Knowles is not a member of a hearing panel on any municipality case, she does not participate in decision conferences and does not read or comment on the draft order. Since these are the only instances where substantive comments concerning decisions are aired, it is unnecessary to place any further restriction on discussions in her presence. In tariff action meetings, Commissioner Knowles does not participate in any discussions pertaining to the Municipality's tariff filings. For her to be forced to leave the room during a public meeting is an extreme suggestion.

Question 3: Participation In Cases  
Involving Municipal Utilities Prior  
to Husband Taking Office Is Not  
Tainted by Conflict of Interest Problem

In the third question, the Cook memo asks whether Commissioner Knowles should have absented herself from any discussions concerning the municipal utilities during the seven-month period Mr. Knowles was a candidate for mayor. While the memo admits there is absolutely no authority for such a proposition, it does not clear the slate on this issue. The memo states that no conflict in the "accepted sense" could have arisen in the "strictest sense" of that term. Could there be a conflict under a less strict meaning?

As stated above, the only legitimate conflict of interest in Commissioner Knowles' circumstance based on the Opinions, statute and common law, is an appearance of impropriety in sitting on cases involving utilities owned by the city in which her husband is mayor. If he is not mayor, how can she have any perceived conflict of interest? She has no pecuniary interest, no alleged divided loyalty. Any hint of improper conduct during this period should be withdrawn.

Question 4: Participation in  
Cases Involving CEA, Alascom and  
in Regulations Hearings Does  
Not Create Conflict of Interest

In the fourth question, the March 30 Cook memo asks whether Commissioner Knowles should absent herself in other cases such as matters involving other utilities in competition with the municipal utilities (CEA). The list is expanded in the April 1 memo to include Alascom, and all regulations hearings. Based on a gross misunderstanding of facts, the memo erroneously concludes that her participation should be restricted in these cases.

CEA

The Cook memo attempts to summarize facts regarding the competition between CEA and Municipal Light and Power (ML&P). The memo fails to reference an Attorney General's Opinion which interprets "competition" between two utilities. Under this Opinion, ML&P and CEA have not competed since 1973, and therefore no attenuated conflict of interest can be created by Commissioner Knowles' participation in CEA proceedings.

CEA and ML&P did freely compete within the old city area of Anchorage in the 1950's and 1960's. When ML&P filed an application for a Certificate of Public Convenience and Necessity pursuant to a change in statute effective January 1, 1971, the Commission determined CEA and ML&P were offering identical services in the same areas. After extensive proceedings on September 27, 1973, the Commission issued Order No. 19 in Docket U-71-16 in which it assigned firm, fixed service areas to each of the utilities.

CEA appealed this Order to the Superior Court, and ML&P cross-appealed. On final review, the Supreme Court upheld the portion of the Order which established service areas, stating the Commission had properly allocated service areas to resolve the utilities' competing interests. APUC v. CEA, 580 P.2d 687, 696 (Alaska 1978). The court remanded other portions of the decision, directing the Commission to take further evidence solely on the retirement, sale and transfer of facilities.

After the parties failed to agree voluntarily on these matters, the Commission hired an engineering consultant to assist in resolution of these issues. Currently a procedure is in place to resolve any disputes concerning installation or construction of facilities across service area boundaries.

Under these facts, ML&P and CEA have not been in competition since 1973. The Cook memo fails to reference an Attorney General's Opinion which interprets competition between two utilities. According to this opinion rendered by B. Richard Edwards, dated January 22, 1973, two utilities are considered to be in competition under AS 42.05.711(b) if they are in actual competition:

. . . the legislature intended the use of the word competition to mean actual competition. A mere dispute before the Alaska Public Utilities Commission does not constitute competition. AS 42.05.221, indicates that competition exists where two or more public utilities are furnishing identical utility service in a designated area and where these two utilities have authority for duplication and paralleling of facilities.

Because their discrete service area boundaries were defined in 1973, and this decision was upheld, these utilities have not been "in competition" since that time. Since CEA is not "in competition" with ML&P, no attenuated conflict of interest can arise if Commissioner Knowles participates in cases involving CEA. Notwithstanding the competition issue, Commissioner Knowles would still not have a conflict of interest in participating in cases relating to CEA's internal affairs, such as its revenue requirement, or management practices. Also, as a matter of note, Commissioner Knowles has never participated in Docket U-71-16, because ML&P was a party.

#### Alascom

The April 1 Cook memo claims ATU is in "partnership" with Alascom because it receives one half of its total revenues from toll settlements with Alascom. To the extent it receives these toll revenues which subsidize local rates, ATU does not have to request higher local rates, the Cook memo continues. Thus,

the memo concludes, Commissioner Knowles would have a conflict of interest when sitting on an Alascom rate case, "since she would participate in deciding how the tolls would be distributed to the local companies." (p. 3)

The memo totally misstates the relationship between ATU and Alascom, and the procedure used to distribute toll settlements. Every year, ATU presents to Alascom a jurisdictional cost separations study. Through this study, ATU demonstrates to Alascom the revenue Alascom must pay to compensate it for the use of its local exchange facilities. Under 3 AAC 48.430, utilities must use the methodology established in the 1971 Separations Manual (Part 67 of the Federal Communications Commission regulations) to separate costs between interstate and intrastate jurisdictions.

As explained here, there is little discretion which enters into the separations and settlements process. The utilities negotiate between themselves. Only if there is a dispute is the matter brought to the Commission for resolution.

In an Alascom rate proceeding then, the Commission does not decide how tolls are distributed to local companies. Therefore, Commissioner Knowles cannot have even an attenuated conflict of interest in participating in Alascom rate decisions.

If ATU has a dispute with Alascom, and files a toll complaint with the Commission, Commissioner Knowles would not even participate in the case, based on the standard of abstention she has established for herself, because ATU would be a party.

#### Regulations Proceedings

Finally, the Cook memo implies that Commissioner Knowles has a conflict of interest in participating in hearings on regulations which affect all regulated utilities, because these regulations would be applicable to the Anchorage municipal utilities.

It should be noted that the Commission regulates 228 utilities and 14 pipeline carriers. The five municipal utilities constitute an infinitesimal portion of these entities. It is inconceivable that Commissioner Knowles could act in some way to benefit these five at the expense of the rest.

In addition, speaking to this point, and in general, it should be re-emphasized that no decision is rendered by the Commission unless it is approved by a majority. Commissioner Knowles would be powerless by herself to cause any decision to be issued which benefitted the municipal utilities.

3 Attachments

Official Business



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# House of Representatives

## Committee on Judiciary

P.O. Box 3552  
Anchorage, AK 99510  
(907) 274-1432  
(907) 274-1441  
POUCH V  
JUNEAU, ALASKA 99811

MEMORANDUM

TO: Representative Ramona L. Barnes  
Chairman, House Judiciary Committee

FROM: William D. Cook, Legal Counsel *WDC*  
House Judiciary Committee

DATE: March 30, 1982

RE: Judiciary Committee Hearings on  
Appointment of Susan M. Knowles as  
Commissioner with the Alaska Public Utilities  
Commission -- Attorney General's opinions.

The Governor has appointed Susan M. Knowles for a second six-year term as a Commissioner with the Alaska Public Utilities Commission. Pursuant to the Constitution and AS 42.05.020, the appointment of Mrs. Knowles and other Commissioners must be confirmed by the Legislature in Joint Session assembled. As you know, that appointment, with the other two, has been directed to the House Judiciary Committee for hearings, which will begin on April 1.

As to Commissioner Knowles, questions of "conflict of interest" have arisen, and this memorandum attempts to state the several questions clearly and concisely, as well as investigate the application of opinions of the Alaska Attorney General's Office on this subject.

I.

THE QUESTIONS PRESENTED

1. Does a conflict of interest exist in the situation where a A.P.U.C. Commissioner is married to the Chief Executive officer (Mayor) of a city which owns and operates, electrical, telephone, water and sewage utilities which are within the scope of regulation of the A.P.U.C.?

2. If any such conflict of interest exists, is it sufficient to avoid the actual conflict for the Commissioner to abstain from voting on matters directly concerning the utilities owned and operated by the particular city, or must the Commissioner be totally absent from the hearings during the A.P.U.C.'s consideration of matters involving those utilities?
3. If any such conflict of interest does exist by the spouse serving as a Commissioner of the A.P.U.C. in matters involving the City utilities after the Mayor has been either elected or has taken office, was there also a conflict of interest during the period of the election, (after the filing for the office and prior to the final election)?
4. If any such conflict of interest does exist after the Mayor is elected or takes office, as to the particular utilities owned and operated by the City, does a conflict of interest also exist for the Commissioner/spouse participating in hearings and voting on matters involving other separately owned utilities which are either in competition with the City owned utilities or have during that period of time a matter disputed with the City utilities before the A.P.U.C.?

## II.

### OPINIONS OF THE ATTORNEY GENERAL

On February 20, 1976, Assistant Attorney General, Julious Brecht wrote a letter to Commissioner Knowles, responding to her letter of September 19, 1975. Her inquiry was to whether or not there existed a conflict of interest between her husband as elected member of the Municipal Government of Anchorage [Assemblyman] and herself as a Commissioner on the Alaska Public Utilities Commission. In the opinion, Mr. Brecht quoted from AS 42.05.131 as follows:

"No member of the the Commission or an employee of the Commission may have an official connection with, or hold stock or securities in, or have a pecuniary interest in a public utility within the state. [emphasis added] ... No member or employee may act upon a matter in which his relationship with any person creates a conflict of interest." [emphasis in opinion by Mr. Brecht].

After citing that provision, the opinion notes that "relationship" is not defined in the act but that "...it would appear that the term "relationship" encompasses a

business and not a marital association. Even if the term is intended to include a marital association, that association alone does not constitute a prima facie conflict of interest. One must show that the relationship itself puts the member or employee of the A.P.U.C. in such a position as to create a conflict of interest."

The opinion concludes with the suggestion that if an A.P.U.C. Commissioner felt a conflict of interest was present "...that would prevent her from faithfully discharging her duties as a member..." she may exclude herself from consideration of the matter by the A.P.U.C.

This 1976 opinion should be considered in the light of the fact that Commissioner Knowles' husband at the time was an assemblyman with the Municipality of Anchorage, but was not a Mayor, the person who is the final and Chief Executive officer over the utilities of the Municipality of Anchorage. The opinion seems to hinge upon the Assistant Attorney General's interpretation of "relationship" as a business one, and not a "marital association."

That interpretation of "relationship" might be in conflict with an attorney general's opinion ten years prior. On August 5, 1966, Assistant Attorney General Dickerson Regan wrote to the Alaska State Housing Authority regarding the possible conflict of interest of the purchase of a new Nunaka Valley home by husband of an A.S.H.A. employee. AS 18.55.080 was cited, and restricted the purchase of those homes by members or employees of the authority. After discussing the application of AS 18.55.080 to both housing and public building projects, the opinion included with

It is our further opinion that a wife may be considered to have at least an indirect interest in her husband's transactions, and that the restriction applies to the spouse of an employee as well as to the employee.

As to the 1976 opinion for Commissioner Knowles, perhaps any conflict of interest resulting or having a "pecuniary interest in a public utility when its within the state" due to result from the fact that her husband is Chief Executive officer over those utilities. Of course different statutes were under construction in the two opinions, but the principal of the construction should remain the same.

Lastly, as to the 1976 opinion for Commissioner Knowles, the file card on this opinion, in the Attorney General's office, indicates the following

CONFLICT OF INTEREST

February 29, 1976  
Brecht

A.P.U.C. member cannot act on any matter where his relationships create conflict of interest.

AS 42.05.031

The precise answer in this memo is probably wrong [emphasis added].

It is not known what is meant by the indication that the "precise answer" in the memo was wrong.

One other opinion of the Attorney General's office relates to conflicts where spouses are members of governmental bodies with conflicting interest.

On April 10, 1980, Assistant Attorney General Roger W. Pegues wrote to Vicki A. Clayman, Special Assistant to the Governor in a memorandum which is file No. J-66-568-80. The question in that case is whether there was a conflict of interest where a member of the State Board of Education is married to a lobbyist for the State Association of School Administrators. The opinion notes that

"The rule is that, as a matter of law, dual memberships on the State and Local Boards creates an impermissible conflict of interest but spousal relationships must be treated on a case-by-case basis."

The opinion further points out that the State Board of Education occupies a supervising position with respect to local boards and it would be improper for a members impartiality to be influenced by dual membership. The opinion quotes extensively from 3 McQuillin, Municipal Corporations, Sec. 12.67 at 295-297 (1973) (citations omitted):

Public policy demands that an office holder discharge his duties with undivided loyalty. The doctrine of incompatibility is intended to assure performance of that quality. This applicability does not turn upon the integrity of the person concerned or his individual capacity to achieve impartiality, for inquiries of that kind would be too subtle to be rewarding. The doctrine applies inexorably if the offices come within it, no matter how worthy the officers purpose or extraordinary his talent.

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[i]ncompatibility...is not simply a physical impossibility to discharge the duties of the two offices at the same time, it is an inconsistency in the functions of the two offices, as where...a contrariety and antagonism would result in an attempt by one person to discharge faithfully and impartially the duties of both. The two offices are said to be incompatible when the holder cannot in every instance discharge the duties of each. Incompatibility arises, therefore, in the nature of the duties of the offices...where the nature and duties of the two offices are such as to render it improper from consideration of public policy for one person to retain both. The true test is whether the two offices are incompatible in their nature, in their rights, duties, or obligations connected with or flowing from them.

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Neither is it pertinent to say that the conflict in duties may never arise, it is enough that they may, in a regular operation of the statutory plan. Nor is it in answer to say that if a conflict should arise, the incumbent may omit to perform one of the incompatible rows. The doctrine was designed to avoid the necessity for that choice. [Emphasis added]

The opinion by Assistant Attorney General Pegues went on to cite the rule from Anderson v. City of Parsons, 496 P2d. 1333, 1336 (Kansas, 1972):

[A] Public officer owes an undivided duty to the public he serves and is not permitted to place himself in a position that will subject him to conflicting duties...A member of the state Board of Education places himself in just such a position if he is also an officer of a local district. His duty to the former is to the state at large; his duty to the latter is to his district. It makes no difference that the person involved is capable of conscientiously wearing both hats. The public is entitled not only to the actuality of undivided loyalty but also its appearance. People v. Rose, 524 P2d. 363 (California, 1974); 67 C.J.S. Officers, Section Mark 27, (1978); cf, Begich v. Jefferson, 441 P2d. 27 (Alaska, 1968).

The opinion goes on to note that a different question is presented where the spouse of a lobbyist may serve on the

State Board, as there "...is no holding of an incompatible office" in that instance. The existence of the spousal relationship does not, in most instances disqualify one from offices, and

A judges spouse may be an attorney; but the judge cannot in ordinary circumstances set on a case in which the spouse was an attorney of record. In the situation described, it seems that the spouses' activities are not so inextricably and continuously interconnected that the appearance of a conflict would be inescapable. If this is so, then the Board member is not necessarily disqualified.

Under the legal principles enunciated above, the public is entitled not only to the actuality of the members undivided loyalty but also its appearance. Accordingly, the Board member must be particularly sensitive to any appearance of impropriety and should not hesitate to abstain from participating in matters where there might be a conflict of interest. [emphasis added].

If conflict of interest would exist where Susan M. Knowles sat as a Commissioner with the A.P.U.C. in cases where the utilities of the Municipality of Anchorage are in question, and her husband is Mayor of the Municipality of Anchorage, how should that conflict of interest be handled to avoid both the appearance and the actuality of the conflict?

A 1963 Opinion by Assistant Attorney General Avrum Gross to A. H. Romick, Commissioner of the Department of Commerce touches on the question of "conflict by participation in decisions." There the apparent conflict was of a member of the Alaska State Development Corporation Board participating in decisions involving a loan application from a bank with which the Board member was connected. The pertinent statute, AS 44.59.050, required Board members to abstain from "decisions pertaining to a loan contract in which they had a personal interest." The actual question was whether this required the Board member to only abstain from the actual vote or from all discussions pertaining to it.

Assistant Attorney General Gross noted that

In acting on an application, the Board member must consider many things.

He further noted that subjective judgments are involved and it may be that no formal vote is taken by the Alaska State Development Corporation Board, but

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The presence in those discussions of a Board member who admittedly has a personal interest in seeing the loan granted, would be a clear violation of both the terms and the spirit of AS 44.59.050, pertaining to conflict of interest and might well invalidate the loan if made under this section.

Thus it appears that the application of these principles to the instant case would probably require that Commissioner Knowles not only abstain from voting on any matter directly concerning utilities owned by the Municipality of Anchorage, but that she absent herself entirely from discussions concerning these utilities, so that all comments between Commissioners concerning those utilities were out of her presence.

### III.

#### FURTHER QUESTIONS

The further questions are whether she should have so absented herself from any such discussions during the seven month period during which her husband was a candidate for mayor of Anchorage, and whether she should so absent herself from any A.P.U.C. matters concerning other utilities which are in competition or actual conflict before the A.P.U.C. with the Municipality of Anchorage Utilities.

None of the Attorney General's opinions or cases reviewed deal with the matter of election period participation by a commissioner. It appears that Tony Knowles filed for the office of Mayor of Anchorage on March 27, 1981. Since he was not yet in office, it seems clear that no conflict in the accepted sense could have arisen in the strictest sense of that term.

As you know, the A.P.U.C. has provided the committee with copies of Commission orders and approved letters to utilities over the past year. I have listed the ones dealing with the Municipality of Anchorage as Attachment "A", and you can see that, according to the material supplied, Commissioner Knowles did not participate in the decisions on Municipality of Anchorage since January 1 (in fact, we received no material A.P.U.C. sent) Otherwise, the headings do generally indicate that the matter was "before" all commissioners, including her, so I assume she was

present at the meeting. She does appear to have participated at meetings concerning the Municipality of Anchorage prior to January 1, including the seven-month election campaign period.

The forms provided by the A.P.U.C. also indicate that Commissioner Knowles has generally declined to participate in hearings where competitors of the Municipality of Anchorage were in question.\* A separate list has been prepared for Chugach Electric Association orders, attachment "B", and it shows that she has "signed off" on three orders and one letter to C.E.A. since February 3, 1982. (her "O.K." on the February 5, 1982 order number 9 in action U-81-52 does show a "by D.E.S." by her name -?).

It would appear that it is inappropriate for Commissioner Knowles (to be present) discuss the matter with other commissioners, or vote on any A.P.U.C. matter concerning Municipality of Anchorage or any of its competitors, especially Chugach Electric Association, with whom the Anchorage Municipal Light and Power has had a boundary dispute before the A.P.U.C. for several years. Apparently she does not consider it inappropriate to participate in those hearings on competitors.

It is an open question whether Commissioner Knowles should have declined to participate in A.P.U.C. hearings on the Municipality of Anchorage during the campaign period. Apparently she did not consider that either an actual conflict of interest or the appearance of a conflict of interest existed.

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The Alaska Public Utilities Commission also forwarded to the committee, copies of each Commission Tariff Action Meeting log sheet from January 9, 1981 through February 26, 1982. Not all "actions taken" columns indicate a vote by commissioners. Of the 438 actions where a vote is indicated, 427 were unanimous, 10 had dissents, and only one shows a commissioner - Knowles - "not participating."

MUNICIPALITY OF ANCHORAGE

1	4-3-81	Letter to A.T.U.
2	5-26-81 (A.T.U.)	U-80-42 U-81-19
3	5-27-81	Letter to Ted Burns, RE: M. of A. garbage & refuse Public Utility.
4	5-11-81 (A.T.U.) (voted "No")	U-81-29 #1 - Order suspending tariff revision and granting interim rates.
5	6-1-81 (A.T.U.)	U-81-33 #1
6	6-16-81 (water utility)	U-80-97 #2
7	6-19-81 (M. L. & P.)	TA 34-121 - letter
8	6-19-81 (A.T.U.)	Letter to Mr. Pistorius
9	6- -81 (Sewer Utility)	U-81-36 #1 U-80-4 #10
10	6- -81 (A.T.U.) ("N P" but on list of commissioners)	U-80-42 #3
11	6- -81 (M.L. & P.) ("N P" but name on list of commissioners)	U-80-100 #5 order extending suspension period
12	7- -81 (A.T.U.) ("N P" but on list of commissioners)	U-80-42 #3
13	7-21-81 (M.L.P.)	U-78-85 #6
14	9- -81 (M.L. & P.) ("N P" but on list of commissioners)	U-80-100 #6
15	10-8-81 (A.T.U.)	U-81-19 #2 order extending suspension period

16	10-27-81 (Water Utility)	U-76-66 #9 U-81-78 #1
17	10-30-81	Letter to John W. Coyne, Assistant Municipal Attorney, RE: application for certificate of convenience and necessity to operate a public utility.
18	12- -81 (A.T.U.)	U-81-33 #2
19	12- -81 (A.T.U. & Matanuska Telephone Association) ("N P" but on list of commissioners)	U-80-80 #2 U-80-90 #2
20	12-14-81 (Sewer Utility) ("N P" on order, but Knowles on list)	U-80-4 U-81-36
21	1- -82 (A.T.U.) ("N P" but on list)	U-81-46 #2 tariff revision

CHUGACH ELECTRIC ASSOCIATION DECISION

1	6-4-81	Letter to General Manager Schultz RE: Tariffs
2	7-6-81	U-78-40 #2
3	8-11-81	U-81-52 #1 U-80-92 #2 U-81-20 #2 U-81-53 #1
4	9-1-81	Letter to General Manager Schultz RE: August 9, 1981 outage.
5	9-11-81	U-81-52 #2 U-81-20 #3
6	9-14-81	U-81-20 #3 U-81-52 #2
7	9-25-81	U-81-52 #3
8	9-29-81	U-81-20 #4 U-81-52 #4
9	10-16-81	U-77-68 #8
10	10- -81 ("NP" but on list of commissioners)	U-81-20 #5 U-81-52 #5
11	12-28-81	U-81-52 #7
12	2-3-82	U-81-52 #8 -- TA 22-8
13	2-5-82 ("by D.E.S. "?)	U-81-52 #9 -- staying above
14	2-11-82	U-81-52 #10 -- TA-22-8
15	2-11-82	Letter, RE: salary info.

# Susan M. Knowles

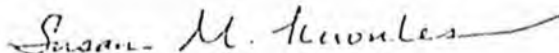
January 4, 1982

Chairman Carolyn S. Guess  
Alaska Public Utilities Commission  
1100 MacKay Building  
338 Denali Street  
Anchorage, Alaska 99501

Dear Chairman Guess:

As you are aware, my husband was elected to the position of Mayor of the Municipality of Anchorage on October 27, 1981, and was formally sworn into office on January 2, 1982. This letter is written to formally advise you of my intention to abstain from participating in decisions on filings by the utilities owned by the Municipality of Anchorage which come before the Alaska Public Utilities Commission. This policy has been in effect at least since my husband's election and will continue as long as we remain in our respective positions.

Sincerely yours,



Susan M. Knowles  
Commissioner

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL  
JUNEAU, ALASKA 99811

March 6, 1980

Ms. Susan M. Knowles  
1319 'G' Street  
Anchorage, Alaska 99501

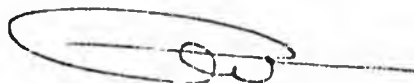
Dear Ms. Knowles:

The law does not presume the existence of a conflict of interest when spouses occupy different public offices which may from time to time become involved with each other. Hence, no conflict of interest necessarily results from your holding office on the Alaska Public Utilities Commission and your husband's being a member of the legislature or the mayor of Anchorage.

Conflicts of interest could, of course, arise in specific situations. To the extent that Anchorage utilities are subject to APUC regulation, and to the extent Anchorage is also a major customer of utilities which are so regulated, the mayor of Anchorage may have business before the commission. Members of the legislature frequently become deeply involved in matters pertaining to the administrative regulation of business and industry. Ex parte communications could cause serious problems. The burden would be on the two of you to avoid actual conflicts of interest and the appearance of impropriety.

While marital status alone does not raise a conflict of interest, obviously no one can be expected to sit in judgment on the members of one's own family. Accordingly, should your husband become mayor of Anchorage, you should probably disqualify yourself on any matters directly affecting the municipality. If he was elected to the legislature, he would have to avoid communications on matters before the commission in which he has an interest as a legislator.

Sincerely yours,



Avrum M. Gross  
Attorney General

Attachment I

AMG:pjg:RWP

AS 42.05.131

M

February 20, 1976  
Brecht

APUC member cannot act on any matter  
where his relationships create conflict  
of interest.

CONFLICT OF INTEREST  
PUBLIC UTILITIES COMMISSION, ALASKA

Attachment II

occasions of delay. It ought not to be forgotten that under the existing Confederation two members *may*, and usually *do*, represent a State; whence it happens that Congress, who now are solely invested with *all the powers* of the Union, rarely consists of a greater number of persons than would compose the intended Senate. If we add to this that as the members vote by States, and that where there is only a single member present from a State his vote is lost, it will justify a supposition that the active voices in the Senate, where the members are to vote individually, would rarely fall short in number of the active voices in the existing Congress. When, in addition to these considerations, we take into view the co-operation of the President, we shall not hesitate to infer that the people of America would have greater security against an improper use of the power of making treaties, under the new Constitution, than they now enjoy under the Confederation. And when we proceed still one step further and look forward to the probable augmentation of the Senate, by the erection of new States, we shall not only perceive ample ground of confidence in the sufficiency of the numbers to whose agency that power will be intrusted, but we shall probably be led to conclude that a body more numerous than the Senate would be likely to become, would be very little fit for the proper discharge of the trust.

PUBLIUS

## No. 76: Hamilton

THE President is "to *nominate*, and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for in the Constitution. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, or in the courts of law, or in the heads of departments. The President shall have power to fill up *all vacancies* which may happen *during the recess of the Senate* by granting commissions which shall *expire* at the end of their next session."

It has been observed in a former paper "that the true test of a good government is its aptitude and tendency to produce a good administration." If the justness of this observation be admitted the mode of appointing the officers of the United States contained in the foregoing clauses must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union; and it will not need proof that on this point must essentially depend the character of its administration.

It will be agreed on all hands that the power of appointment, in ordinary cases can be properly modified only in one of three ways. It ought either to be vested in a single man, or in a *select* assembly of a moderate number, or in a single man with the concurrence of such an assembly. The exercise of it by the people at large will be readily admitted to be impracticable; as waiving every other consideration, it would leave them little time to do anything else. When, therefore, mention is made in the subsequent reasonings of an assembly or body of men, what is said must be understood to relate to a select body or assembly, of the description already given. The people collectively, from their number and from their dispersed situation, cannot be regulated in their movements by that systematic spirit of cabal and intrigue which will be urged as the chief objections to reposing the power in question in a body of men.

Those who have themselves reflected upon the subject, or who have attended to the observations made in other parts of these papers in relation to the appointment of the President will, I presume, agree to the position that there would always be great probability of having the place supplied by a man of abilities, at least respectable. Premising this, I proceed to lay it down as a rule that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices than a body of men of equal or perhaps even of superior discernment.

The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to

investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have fewer personal attachments to gratify than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. There is nothing so apt to agitate the passions of mankind as personal considerations, whether they relate to ourselves or to others, who are to be the objects of our choice or preference. Hence, in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly. The choice which may at any time happen to be made under such circumstances will of course be the result either of a victory gained by one party over the other, or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: "Give us the man we wish for this office, and you shall have the one you wish for that." This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations.

The truth of the principles here advanced seems to have been felt by the most intelligent of those who have found fault with the provision made, in this respect, by the convention. They contend that the President ought solely to have been authorized to make the appointments under the federal government. But it is easy to show that every advantage to be expected from such an arrangement would, in substance, be derived from the power of nomination which is proposed to be conferred upon him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided. In the act of nomination, his judgment alone would be exercised; and as it would be his

sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing. The same motives which would influence a proper discharge of his duty in one case would exist in the other. And as no man could be appointed but on his previous nomination, every man who might be appointed would be, in fact, his choice.

But his nomination may be overruled: this it certainly may, yet it can only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed; because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected and might have the appearance of a reflection upon the judgment of the Chief Magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended that a man who had himself the sole disposition of offices would be governed much more by his private inclinations and interests than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the

legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism or an unbecoming pursuit of popularity to the observation of a body whose opinion would have great weight in forming that of the public could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

To this reasoning it has been objected that the President, by the influence of the power of nomination, may secure the complaisance of the Senate to his views. The supposition of universal venality in human nature is little less an error in political reasoning than the supposition of universal rectitude. The institution of delegated power implies that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence. And experience justifies the theory. It has been found to exist in the most corrupt periods of the most corrupt governments. The venality of the British House of Commons has been long a topic of accusation against that body in the country to which they belong, as well as in this; and it cannot be doubted that the charge is, to a considerable extent, well founded. But it is as little to be doubted that there is always a large proportion of the body which consist of independent and public-spirited men who have an influential weight in the councils of the nation. Hence it is (the present reign not excepted) that the sense of that body is often seen to control the inclinations of the monarch, both with regard to men and to measures. Though it might therefore be allowable to suppose that the executive might occasionally influence some individuals in the Senate, yet the supposition that he could in general purchase the integrity of the whole body would be forced and improbable. A man disposed to view human nature as it is, without either flattering its virtues or exaggerating its vices, will see sufficient

ground of confidence in the probity of the Senate to rest satisfied, not only that it will be impracticable to the executive to corrupt or seduce a majority of its members, but that the necessity of its co-operation in the business of appointments will be a considerable and salutary restraint upon the conduct of that magistrate. Nor is the integrity of the Senate the only reliance. The Constitution has provided some important guards against the danger of executive influence upon the legislative body. It declares that "No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office."

PUBLIUS

### No. 77: Hamilton

IT HAS been mentioned as one of the advantages to be expected from the co-operation of the Senate, in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to displace as well as to appoint. A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the government as might be expected if he were the sole disposer of offices. Where a man in any station had given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that a discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body which, from the greater permanency of its own composition, will in all probability be less subject to inconsistency than any other member of the government.

# MEMORANDUM

State of Alaska

TO Jack B. Farleigh  
Executive Director

DATE: March 8, 1982

FILE NO:

TELEPHONE NO:

FROM Carolyn S. Guess *CSG*  
Chairman

SUBJECT: Commissioner decision-making  
procedures

In response to your inquiry regarding the Commissioners' decision-making procedures, to the best of my knowledge and memory, for the past six years it has been as follows:

### Tariff Action Meetings

The basis for Commissioner decision-making is the utility's request and Staff's written recommendations, amplified, when necessary, in response to Commissioner questions. The votes in Tariff Action meetings are recorded and public record.

### Commission Orders

In regard to decisions on substantive and procedural matters which result in a Commission Order, the Commissioners' role is similar to that of judges. Our procedure is similar to that of the Alaska Supreme Court. After the hearing panel's initial decision conference on the issues involved in the proceeding, a proposed Order is drafted by the Commissioner docket-manager and circulated, for discussion purposes, to those serving on the panel. Based on the comments received, a final Order is then drafted for concurrence with or dissent by the panel members. A Commissioner who does not agree with the majority decision can indicate his/her dissent and provide a statement, including the reasons for his/her decision, if desired. In addition, a Commissioner who agrees with the result of an Order but disagrees with the rationale supporting the decision may write a separate statement indicating his/her views. Unless otherwise noted, a Commission Order is a consensus decision of the hearing panel. In the event all five Commissioners do not participate in a decision, it is so noted.

Attached are copies of Orders which have been authored by Commissioner Knowles, Commissioner Snowden and myself. It should be noted that Commissioner Snowden joined the APUC in October 1981; therefore, her repertoire of authored Orders is more limited than Susan's and mine, which spans a six-year time frame. These Orders address substantive issues that have been before the Commission during the past six years and provide a broad range of subject matter that has required Commission action.

Enclosures

Attachment III

-1 18  
66  
13  
-2 353

-1 Orders (c. <sup>38 of</sup> 350) SU-10

- 0 2/- U-79-40: ATUL: n/p
- 0 2/- U-78-85: ML&P: n/p
- 0 2/- U-81-11: Alacom/ATUL: n/p
- 0 3/- U-80-52: ATUL: n/p
- 0 2/- U-80-97: ALUL: n/p
- 0 3/- U-76-93: ATUL: n/p
- 0 3/- U-80-57: ATUL: n/p
- 0 3/- U-80-100: ML&P: n/p
- 0 3/- U-78-85: ML&P: n/p
- 0 3/- U-80-100: ML&P: n/p
- 0 4/- U-81-19 (1): ATUL: suspend for investigation -  
line ext policy
- 0 4/- U-81-11: Alacom/ATUL: n/p
- 0 4/- U-78-65: ATUL: n/p
- 0 4/- U-78-66: ATUL: n/p
- 0 4/- U-80-52: ATUL: n/p
- 0 5/- U-81-29: ATUL: suspend + grant interim rates  
for straight line feature telephones

- 0 5/- 21-80-100: MLD P. n/p
- 0 5/- 21-80-8: ATU: errata notice
- 0 6/- 21-81-33(1): ATU: suspend for investigation costs; schedule hearing
- 0 6/- 21-81-36/21-80-4: ASLL: n/p
- 0 6/- 21-81-36/21-80-4: ASLL: n/p
- 0 6/- 21-80-97: CIVIL: close dkt
- 0 6/- 21-80-42: ATU: n/p
- 0 7/- 21-80-42: ATU: n/p
- 0 7/- 21-80-100: MLD P: n/p
- 0 7/- 21-78-85(6): MLD P: close dkt
- 2-1 \* -sk. dissent  
7/- 21-81-46 (1): ATU: suspend & require submission of permanent RR + rate unbundling
- 3-0 9/- 21-80-100 (6): MLD P: n/p
- 5-0 10/27 21-76-66(9) & 21-81-78(1): ATU: close dkt & allocate costs; suspend + grant interim rate increase
- 3-0 10/- 21-80-4(11)/21-81-36(2): ASLL: n/p
- 0-0 10/8 21-81-19(2): ATU: extend suspension period.
- 5-0 11/2 21-81-27(1): Gas dkt: more investigations & schedule hearing

0 12/- 11-81-33(2) : ATU : n/p

0 12/- 11-80-8(2)/11-80-90(2) : ATU : n/p

12/ 11-80-4/11-81-36 : ASU : n/p

0 1/- 11-81-48(2) : ALU : n/p

0 1/- 11-80-8(3)/11-80-90(3) : ATU : n/p

0 1/- 11-81-46(2) : ATU : n/p

BEOC 11 of (c. 1-0)

4/2 ATU: return validated tariff sheet

place in notice unit to require to justify  
\$5 credit in next general rate case

0 5/26 ATU: approve CABTEL joint review of  
return validated tariff sheet

0 5/26 3P: review of CPCTP recommendations

0 6/3 11:2 P: review return validated tariff sheet (PCAC)  
express concern re waste in tariff

0 6/11 ATU: return validated tariff sheet

direct to review and review of filings to be  
sure all tariffed

0 6/14 ATU: return validated tariff sheet

direct to correct tariff sheet

0 7/2 ASUC: n/p

0 10/12 ASUC: n/p

0 1/4 Refuse: notify re application deficiencies

0 1/23 MI: n/p

0 1/30 ASUC: n/p

SUSAN M. KNOWLES

1319 G Street  
Anchorage, Alaska 99501  
(907) 279-6336

EDUCATION:

University of Alaska  
Anchorage, Alaska  
MBA, Finance, 1979

Vassar College  
Poughkeepsie, New York  
AB, Political Science, 1968

EMPLOYMENT:

October, 1975 to Present:

Commissioner

State of Alaska  
Alaska Public Utilities Commission  
Anchorage, Alaska

June, 1973 to September, 1975:

Property Investment Finance Manager

David E. Alm and Joe L. Hayes  
Borough-City Development, Inc  
Campbell Lake Development Co.  
Campbell Lake Inc.  
Anchorage, Alaska

November, 1970 to September, 1975:

Secretary-Treasurer

Grizzly Burger, Inc.  
Anchorage, Alaska

December, 1968 to November, 1970:

Administrative Assistant

Community Enterprise Development Corporation  
Anchorage, Alaska

PROFESSIONAL ASSOCIATIONS:

Gas Research Institute

Advisory Council (1978 to present)

National Association of Regulatory Utility Commissioners

Committee on Gas (1976 to present)

Western Conference of Public Service Commissions

Executive Committee (1980 to present)

President (1979 - 1980)

Vice President (1978 - 1979)

Secretary-Treasurer (1977 - 1978)

PROFESSIONAL SEMINARS:

Electric Utility Rate Design Study

Electric Power Research Institute (May, 1980)

Division of Toll Revenues Course

General Telephone & Electronics (December, 1978)

Seminar on Telephone Cost Allocation Procedures

Ernst & Ernst (July, 1978)

Public Utility Seminar on Corporate Finance

Kidder, Peabody & Co., Incorporated (June, 1978)

Seminar for Retail Rate Consultants

U. S. Department of Agriculture,

Rural Electrification Administration (May, 1977)

Administrative Law Procedure

Graduate Evidence

National College of the Judiciary (March, 1977)

The Annual Regulatory Studies Program

National Association of Regulatory

Utility Commissioners (August, 1976)

PERSONAL:

Date of Birth: December 4, 1946

Place of Birth: New York, New York

Marital Status: Married; one daughter

# MEMORANDUM

# State of Alaska

TO: Susan M. Knowles  
Commissioner

DATE: April 6, 1982

FILE NO:

*Jeanne McPherrin*  
FROM: Jeanne McPherrin  
Associate Attorney

TELEPHONE NO: Commission Tariff Action and  
Order Procedures and Your  
SUBJECT: Participation in Proceedings  
Pre- and Post-Mayoral Election

As the editor of the majority of Commission orders and as an employee of some longevity with the Commission, I offer the following as explanation to William D. Cook, Legal Counsel, House Judiciary Committee, with reference to his obvious misconceptions or misunderstanding of Commission procedures.

Prior to addressing your participation in any of the proceedings listed by Mr. Cook in his attachment to a memorandum dated March 30, 1982, I feel it necessary to respond to Mr. Cook's assumptions of Commissioner participation in a proceeding before this Commission. On pages 7-8 of his memorandum to Representative Barnes, Mr. Cook states, "...[T]he headings do generally indicate that the matter was 'before' all commissioners, including her [Commissioner Knowles], so I assume she was present at the meeting. She does appear to have participated at meetings concerning the Municipality of Anchorage prior to January 1,..." (Emphasis supplied). As you testified before the House Judiciary Committee on April 1, this "assumption" is totally erroneous. As explained in greater detail below, the phrase "Before Commissioners" followed by the names of Commissioners is a listing of the number and names of the Commissioners at the time of that order's issuance. A Commissioner's involvement or participation in a proceeding is indicated, as shown on the draft orders provided to Mr. Cook, by a Commissioner's writing: yes, OK, no, dissenting, not participating (or its abbreviation NP), or a line through the blank opposite a name, in the spaces provided in the "Commission Action" stamp placed on each draft order. When the order is typed in final, the majority's decision is indicated by the phrase "BY DIRECTION OF THE COMMISSION" located at the end of the order. Those Commissioners who do not participate, dissent, concur, etc., are indicated beneath that phrase.

For example, I refer Mr. Cook to Order No. 9 in Docket No. U-78-35, dated September 7, 1979, which indicates the Commission members to be: Commissioners Gordon J. Zerbetz, Chairman, Morvin R. Weatherly, Carolyn S. Guess, Susan M. Knowles, and Stuart C. Hall. Subsequent to Chairman Zerbetz' departure and the appointment of Commissioner Guess as Chairman, the heading was modified to read: Before Commissioners: Carolyn S. Guess, Chairman, Marvin R. Weatherly, Susan M. Knowles, and Stuart C. Hall. See Order No. 6, Docket No. U-80-100, dated September 1, 1981. Following the assumption of office by Diana E. Snowdon as a Commissioner on September 28, 1981, the listing was again modified by adding her name under that of Commissioner Hall. See Order No. 2, Docket No. U-81-82, dated February 16, 1982. I understand that U-78-35(9) and U-81-82(2) have already been supplied to Mr. Cook. A copy of U-80-100(6) is attached to this memorandum.

According to my recollection, this procedure, which was established in 1975, was instituted to respond to concerns regarding the quorum of Commissioners participating in a proceeding and to indicate to the public the voting record of Commissioners. The heading enumerates the appointed Commissioners; Commissioner participation and voting is listed at the end of the decision. To elucidate, with five Commissioners empanelled and participating, a majority vote of three is needed; a majority vote of three is also needed if four Commissioners participate; and a quorum vote of two is needed if three Commissioners participate. An inquiry to the Executive Director of the Commission verifying these procedures would have eliminated any inference in the March 30 memo of impropriety on your part.

Turning to your participation in the proceedings involving the utility systems of the Municipality of Anchorage both subsequent to Mayor Knowles' filing for office in March, 1981, and his election to office on October 27, 1981, I have attached the complete, finalized copies of each letter and order to which Mr. Cook refers. (I would point out that the date of a letter or order does not necessarily correspond to the dates on which the Commissioners sign a draft. These dates can vary widely due to circulation of the draft among the Commissioners for signature, final typing, corrections as necessary, etc., before a final product is sent out.) In

view of Mr. Cook's statement on page 7 of his March 30 memorandum that, "Since he [Tony Knowles] was not yet in office, it seems clear that no conflict in the accepted sense could have arisen in the strictest sense of that term," I am puzzled by his then listing orders and letters which were issued during that period of time. Nonetheless, as stated, I have attached copies of all items he questions.

Pre-election--Items 1-16

As clearly indicated, "Commissioner Susan M. Knowles" did not participate in Items 9, 10, 11, 12, and 14 (Docket Nos. U-80-4(10), et al., U-80-42(3), U-80-100(5), U-80-42(3-E) (corrective notice of U-80-42(3)), or U-80-100(6), respectively).

Items 1, 2, 3, 6, 7, 8 and 13 are procedural only; i.e., letters transmitting tariff sheets and requesting additional information, closing dockets, etc., N.B. Item 3 is one of eight form letters sent to municipally owned refuse utilities throughout the State.

Since the orders issued under Items 4, 5, 15 and 16 instituted investigations, granted interim rate increases during those periods of investigation and prior to final determination by the Commission, and granted extensions for investigative purposes, these orders are also procedural in nature; i.e., none of these orders were determinative or dispositive of the issues under investigation.

Of the orders listed above, only three are decisions determinative of issues under consideration; and they are: U-80-4(10), et. al., U-80-42(3), and U-80-100(6), Items 9, 10 and 14. As noted, you did not participate in these decisions.

Post-election--Items 17-21

As indicated on the orders attached, "Commissioner Susan M. Knowles" did not participate in U-80-8/90(2), U-80-4(11) et al., or U-81-46(2), Items 19, 20 and 21, respectively, nor in U-81-33(2), Item No. 18, although Mr. Cook does not so indicate on his list by that item.

Item 17 was procedural only and responded to questions raised by Mr. Coyne with response to our letter of June 16 (Item 3 listed and explained in greater detail above).

With response to questions arising from our tariff action forms and the statement thereon of "Approved Unanimously," I have attached copies of the actual sign-off sheets which

Commissioner Knowles  
April 6, 1982  
Page 4

indicate, as you testified to the House Judiciary Committee, that you did not participate in any of the tariff filings under question. I would also point out that the phrase "Approved Unanimously" means that a majority of those participating approved the Commission Staff's recommendation on a particular filing.

I hope the foregoing information alleviates concerns regarding your participation in the areas questioned by Mr. Cook. Please let me know if I can be of further assistance.

Enclosures

TARIFF ACTION MEMORANDUM

10/27/81  
(Date)

File No.: TA26 - 121

Date Filed \_\_\_/\_\_\_/\_\_\_

Name of Utility Municipal Light & Power

Tariff Recommendation:

- 1. Publication of notice should be waived..... \_\_\_\_\_
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_..... \_\_\_\_\_
- 3. Filing should be allowed to become effective on 10/1/81 which is less than the 45-day statutory notice period..... X
- 4. Filing should be rejected and returned to the utility..... \_\_\_\_\_
- 5. Operation of the filing should be suspended..... \_\_\_\_\_
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended..... \_\_\_\_\_

Reason(s) for the above-indicated recommendation:

Order No. 6 in Docket U-80-100 did not specifically address two tariff changes requested by ML&P— Modified wording of Rule 6.6 and an increase in charges on Sheet No. 100 for Reconnection During Regular Business Hours from \$12.00 to \$15.00. Staff's testimony does not question these items. I believe them to be reasonable and recommend approval.

After investigation and review I have determined that the tariff sheets attached hereto received September 29, 1981, supplemented by those corrected sheets received October 20, 1981, are in compliance with Order No. 6 in Docket U-80-100.

Staff Docket Manager Clayton E. Fox

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

Commission decision re this recommendation:

	<u>I Concur</u>	<u>I Do Not Concur</u>
Guess	_____	_____
Weatherly	<u>MRW</u>	_____
Knowles	<u>n/a</u>	_____
Hall	<u>J. Hall</u>	_____
Snowden	<u>AS</u>	_____

Special instructions to Staff: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TARIFF ACTION MEMORANDUM

(Date)

File No.: TA 39-121

Date Filed 11 / 12 / 81

Name of Utility MUNICIPAL LIGHT AND POWER

Tariff Recommendation:

- 1. Publication of notice should be waived . . . . . X
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_ . . . . .
- 3. Filing should be allowed to become effective on 11 / 1 / 81 which is less than the 45-day Statutory notice period. . . . . X
- 4. Filing should be rejected and returned to the utility. . . . .
- 5. Operation of the filing should be suspended. . . . .
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended . . . . .

Reason (s) for the above-indicated recommendation:	PRIOR SURCHARGE	PROPOSED SURCHARGE	INCREASE (DECREASE)
Surcharge Requested	.1948¢/KWH	.1907¢/KWH	(.0041¢/KWH)
Filing Date	10/12/81	11/12/81	
Effective Date -	10/1/81	11/1/81	
Cost of Fuel	\$1.0155/MCF	\$1.0155/MCF	-0-
Efficiency <sup>1</sup>	63.7016KWH/MCF	64.3703KWH/MCF	.6687KWH/MCF
100 KWH/Month Bill - Dollar Impact	\$.19	\$.19	-0-
- Percentage Impact	2%	2%	-0-
500 KWH/Month Bill - Dollar Impact	\$.97	\$.95	(. \$02)
- Percentage Impact	3.63%	3.55%	(.08%)
Total Monthly Revenue Impact	\$39,094	\$88,072	(\$1,022)

<sup>1</sup> Yearly generation (including waste heat) per MCF	OK	NO
Information Complete	X	
Computations Accurate	X	

COMMENTS: The surcharge is declining because of increased gas generation efficiency (KWH/MCF), increased system efficiency (KWH sold/KWH available), and increased relative use of purchased power.

Signed: Judith M. White Title: Utility Tariff Analyst

Commission decision re this recommendation:

I Concur I Do Not Concur

Guess 107  
 Weatherly \_\_\_\_\_  
 Knowles \_\_\_\_\_  
 Hall [Signature]  
 Snowden [Signature]

Special Instructions to Staff: \_\_\_\_\_

TARIFF ACTION MEMORANDUM

12/8/81  
(Date)

File No.: TA157 - 120

Date Filed 11 / 5 / 81

Name of Utility ANCHORAGE TELEPHONE UTILITY

Tariff Recommendation:

- 1. Publication of notice should be waived.....
- 2. Filing should become effective at end of 45-day statutory notice period on 12 / 21 / 81..... X
- 3. Filing should be allowed to become effective on \_\_\_ / \_\_\_ / \_\_\_.....
- 4. Filing should be rejected and returned to the utility.....
- 5. Operation of the filing should be suspended.....
- 6. Part of filing should be accepted effective \_\_\_ / \_\_\_ / \_\_\_ and part should be suspended.....

Reason(s) for the above-indicated recommendation:

On November 5, 1981, Anchorage Telephone Utility (ATU) filed a tariff revision (TA157-120) which is a proposal to add rates and charges for Infotron Statistical Multiplex Equipment to the Private Line Service schedule of ATU's tariff. This equipment is designed to transmit data from 4 to 32 channels to a distant point. This is accomplished by compressing the channels with variable data rates up to 9600 bauds (definition attached) per second, onto a single line, transmitting them synchronously or asynchronously, and then expanding them back to appropriate channel ports at the distant point.

The Engineering Section has evaluated the location life (4 years) and labor times and believes they are within the range of reasonableness.

Signed: Doreen A. Johnson (OVER) Title: UTILITY TARIFF ANALYST

Commission decision re this recommendation:

	<u>I Concur</u>	<u>I Do Not Concur</u>
Guss	<u>WJG</u>	
Weatherly	<u>WJG</u>	
Knowles		
Hall		
Snowden	<u>WJG</u>	
Special instructions to Staff:		

TARIFF ACTION MEMORANDUM

12/14/81  
(Date)

File No.: TA40 - 121

Date Filed 12 / 10 / 81

Name of Utility Municipal Light & Power (ML&P)

Tariff Recommendation:

- 1. Publication of notice should be waived . . . . . X
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_ . . . . .
- 3. Filing should be allowed to become effective for service on 12 / 1 / 81 which is less than the 45-day Statutory notice period. . . . . X
- 4. Filing should be rejected and returned to the utility. . . . .
- 5. Operation of the filing should be suspended. . . . .
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended . . . . .

Reason (s) for the above-indicated recommendation:	PRIOR SURCHARGE	PROPOSED SURCHARGE	INCREASE (DECREASE)
Surcharge Requested	.190¢/KWH	.1846¢/KWH	(.0061¢/MCF)
Filing Date	11/12/81	12/10/81	
Effective Date -	11/1/81	12/1/81	
Cost of Fuel	\$1.0155/MCF	\$1.0155/MCF	-0-
Efficiency	64.3703KWH/MCF	65.4799KWH/MCF	1.1096KWH/MCF
100 KWH/Month Bill - Dollar Impact	\$.19	\$.18	(\$.01)
- Percentage Impact	2%	1.89%	(.11%)
500 KWH/Month Bill - Dollar Impact	\$.95	\$.92	(\$.03)
- Percentage Impact	3.55%	3.44%	(.11%)
Total Monthly Revenue Impact	\$88,072	\$85,463	(\$2,609)
1-yearly generation (including waste heat) per MCF			
	OK	NC	
Information Complete	X		
Computations Accurate	X		

COMMENTS:

Signed: Judith M. White Title: Utility Tariff Analyst

Commission decision re this recommendation:

I Concur

I Do Not Concur

Guess \_\_\_\_\_  
 Weatherly \_\_\_\_\_  
 Knowles \_\_\_\_\_  
 Hall \_\_\_\_\_  
 Snowden \_\_\_\_\_

Special Instructions to Staff: \_\_\_\_\_

TARIFF ACTION MEMORANDUM

11/24/81  
(Date)

File No.: TA 22 - 122

Date Filed 9 / 02 / 81

Name of Utility ANCHORAGE WATER UTILITY

Tariff Recommendation:

- 1. Publication of notice should be waived..... \_\_\_\_\_
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_..... \_\_\_\_\_
- 3. Filing should be allowed to become effective on 10/15/81 ..... XX
- 4. Filing should be rejected and returned to the utility..... \_\_\_\_\_
- 5. Operation of the filing should be suspended..... \_\_\_\_\_
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended..... \_\_\_\_\_

Reason(s) for the above-indicated recommendation:

After investigation and review I have determined that the tariff sheets attached hereto are in compliance with Order No. 1 in Docket U-81-78.

- Except:
- 1) TA # on sheets is 23-122, Should be 22-122
  - 2) Sheet 50, "connectin" should be "connection"
  - 3) Sheet 47, 10.10. Private Fire hydrant Maint. fee -110. should be deleted

Staff Docket Manager *John M. Benson*

Resolution of exceptions:

- 1) & 2) Received verbal permission from AWU (D. Helmick) to make these changed to the tariff sheets.
- 3) Verbally requested AWU to resubmit a corrected Sheet #47 by Monday, November 30, 1981.

Signed: \_\_\_\_\_ Title: Utility Financial Analyst

Commission decision re this recommendation:

	<u>I Concur</u>	<u>I Do Not Concur</u>
Guess	<u><i>WJG</i></u>	_____
Weatherly	<u><i>M. RW</i></u>	_____
Knowles	_____	_____
Hall	<u>—</u>	_____
Snowden	<u>—</u>	_____

Special instructions to Staff: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TARIFF ACTION MEMORANDUM

12/15/81  
(Date)

File No.: TA 24 - 126

Date Filed 9 / 18 / 81

Name of Utility ANCHORAGE SEWER UTILITY

Tariff Recommendation:

- 1. Publication of notice should be waived.....
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_.....
- 3. Filing should be allowed to become effective on \_\_\_/\_\_\_/\_\_\_ which is less than the 45-day statutory notice period.....
- 4. Filing should be rejected and returned to the utility.....
- 5. Operation of the filing should be suspended.....
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended.....
- 7. Read below . . . . . X

Reason(s) for the above-indicated recommendation:

On September 18, 1981, Anchorage Sewer Utility (ASU) filed TA24-126, an amendment to the Sewer Service Agreement between ASU and the Department of Transportation and Public Facilities (DOTPF) to increase the rates charged DOTPF 13.42% to comply with Order No. 6 in Docket U-80-4. In reviewing the amendment the Commission expressed its concern about the ASU agreements with Fort Richardson and Elmendorf (Military). The Commission's letter order of October 27, 1981, required ASU to submit a written report on the status of the military contracts to include a schedule detailing any dollar amounts presently overdue from the military, if applicable.

On November 27, 1981, ASU's attorney, Pete Argetsinger, filed a letter in response to the Commission's letter order. Staff has reviewed the letter and believes ASU misunderstood the Commission's intentions with respect to the overdue amounts.

(OVER)

Signed: *Leona Jackson* Title: Utility Tariff Analyst

Commission decision re this recommendation:

	<u>I Concur</u>	<u>I Do Not Concur</u>
Guess	<u><i>ESG</i></u>	
Weatherly	<u><i>MW</i></u>	
Knowles	<u>_____</u>	
Hall	<u><i>ES</i></u>	
Snowden	<u><i>ES</i></u>	

Special instructions to Staff: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

TARIFF ACTION MEMORANDUM

1/15/82  
(Date)

File No.: W 41 - 121

Date Filed 1 / 12 / 82

Name of Utility MUNICIPAL LIGHT & POWER (ML&P)

Tariff Recommendation:

- 1. Publication of notice should be waived . . . . . X
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_ . . . . . \_\_\_\_\_
- 3. Filing should be allowed to become effective on 1 / 1 / 82 which is less than the 45-day Statutory notice period. . . . . X
- 4. Filing should be rejected and returned to the utility. . . . . \_\_\_\_\_
- 5. Operation of the filing should be suspended. . . . . \_\_\_\_\_
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended . . . . . \_\_\_\_\_

Reason (s) for the above-indicated recommendation	PRIOR SURCHARGE	PROPOSED SURCHARGE	INCREASE (DECREASE)
Surcharge Requested	.1846¢/KWH	.0017¢/KWH	(.1829¢/KWH)
Filing Date	12/10/81	1/12/82	
Effective Date -	12/1/81	1/1/82	
Cost of Fuel	\$1.0155/MCF	\$.8844/MCF	(\$.1311/MCF)
Efficiency	65.4799KWH/MCF	69.5528KWH/MCF	4.0729KWH/MCF
100 KWH/Month Bill - Dollar Impact	\$.18	\$.0017	(\$.1783)
- Percentage Impact	1.89%	.02%	(1.87%)
500 KWH/Month Bill - Dollar Impact	\$.92	\$.0085	(\$.9115)
- Percentage Impact	3.44%	.03%	(3.41%)
Total Monthly Revenue Impact	\$85,463	\$792	(\$84,671)

	OK	NO
Information Complete	X	
Computations Accurate	X	

COMMENTS:

The effective date on tariff sheet 101 should be changed to "1982."

Signed: Rosemary Rosen Jmw Title: Utility Tariff Analyst

Commission decision re this recommendation:

I Concur

I Do Not Concur

Cress CSG  
 Weatherly MKW  
 Knowles \_\_\_\_\_  
 Hall JH  
 Johnson \_\_\_\_\_

Special Instructions to Staff: \_\_\_\_\_

TARIFF ACTION MEMORANDUM

2/2/82  
(Date)

File No.: U- 81- 29  
          U- 81-46

Date Filed 6 /10 /81

Name of Utility Anchorage Telephone Utility

Tariff Recommendation:

- 1. Publication of notice should be waived..... \_\_\_\_\_
- 2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_..... \_\_\_\_\_
- 3. Filing should be allowed to become effective on 11/ 18/81 ' ..... X
- 4. Filing should be rejected and returned to the utility..... \_\_\_\_\_
- 5. Operation of the filing should be suspended..... \_\_\_\_\_
- 6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended..... \_\_\_\_\_

Reason(s) for the above-indicated recommendation:

Staff recommends the tariff sheets filed on June 10, 1981, as Supplement A, TA135-120, by Anchorage Telephone Utility (ATU) be approved due to expiration of the suspension period in U-81-29.

As originally filed, TA135-120 was a request to add rates for straight line feature phones for three PBX systems. Comtec, Inc., an interconnect, protested the filing. In Order No. 1, U-81-29, the Commission allowed the rates to go into effect on an interim basis and suspended the filing for further investigation for an initial six-month period not to extend beyond November 11, 1981.

(over)

Signed: Judith M. White

Title: Utility Tariff Analyst

Commission decision re this recommendation:

	<u>I Concur</u>	<u>I Do Not Concur</u>
Guess	<u>49</u>	
Weatherly	<u>MDW</u>	
Knowles	<u>W/P</u>	
Hall	<u>SH</u>	
Snowden	<u>AS</u>	

Special instructions to Staff: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

staff record  
16, 1982.

TARIFF ACTION MEMORANDUM

2/24/82  
(date)

File No.: TA42 - 121

Date Filed 2 / 10 / 82

Name of Utility Municipal Light and Power

Tariff Recommendation:

1. Publication of notice should be waived . . . . . X
2. Filing should become effective at end of 45-day statutory notice period on \_\_\_/\_\_\_/\_\_\_ . . . . .
3. Filing should be allowed to become effective on 2 / 1 / 82 which is less than the 45-day Statutory notice period, and a docket of investigation should be opened. X
4. Filing should be rejected and returned to the utility. . . . .
5. Operation of the filing should be suspended. . . . .
6. Part of filing should be accepted effective \_\_\_/\_\_\_/\_\_\_ and part should be suspended . . . . .

Reason (s) for the above-indicated recommendation:	PRIOR SURCHARGE	PROPOSED SURCHARGE	INCREASE (DECREASE)
Surcharge Requested	.0017¢/KWH	.0016¢/KWH	(.0001¢/KWH)
Filing Date	1/12/82	2/10/82	
Effective Date -	1/1/82	2/1/82	
Cost of Fuel	\$.8844/MCF	\$.8844/MCF	
Efficiency *	69.5528	70.1191	.5663
100 KWH/Month Bill - Dollar Impact	\$.0017	\$.0016	(\$.0001)
- Percentage Impact	.02%	.02%	
500 KWH/Month Bill - Dollar Impact	\$.0085	\$.0080	(\$.0005)
- Percentage Impact	.03%	.03%	
Total Monthly Revenue Impact	\$792	\$759	(\$33)

\* Annual KWH generated (including waste heat) per MCF OK NO

Information Complete	X	
Computations Accurate	X	

COMMENTS: See attached memo

Signed: Judith M. White Title: Utility Tariff Analyst

Commission decision re this recommendation:

I Concur

I Do Not Concur

Guess WJ  
 Weatherly MJW  
 Knowles WJ  
 Hall Stz  
 Snowden ASB

Special Instructions to Staff: \_\_\_\_\_

April 6, 1981

In reply refer to: Tariffs  
TA132-120

A.C. Pistorius, General Manager  
Anchorage Telephone Utility  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Enclosed is a validated copy of the tariff sheet filed on February 6, 1981, by Anchorage Telephone Utility. This filing, designated as TA132-120, has an effective date of March 27, 1981.

In consideration of the manner in which the amount of the credit for returning telephone sets was derived, the Commission directs ATU to monitor the appropriateness of the \$5.00 credit amount and be prepared, at the time of consideration of a rate relief request, to provide the Commission with evidence as to why the credit should be continued or, as appropriate, modified.

BY DIRECTION OF THE COMMISSION.

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

John B. Farleigh  
Executive Director

JFF  
Enclosure

*JFF*

*Item 1*

S. O. I. 1071-CTI			
P f rred	OK or	n t	atn
	1.0		
	OK MPA 4/3/81		
			4/3/81
	SM	SM	4-3-81
			4/6/81

STAFF ACTION		
ACTION	INITIALS	DATE
Created by		
Reviewed by		
Checked by	JAA	4/27/81
Approved by	JAA	

April 2, 1981

In reply refer to: Tariffs  
TA132-120

A.C. Pistorius, General Manager  
Anchorage Telephone Utility  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Enclosed is a validated copy of the tariff sheet filed on February 6, 1981, by Anchorage Telephone Utility. This filing, designated as TA132-120, has an effective date of March 27, 1981.

In consideration of the manner in which the amount of the credit for returning telephone sets was derived, the Commission directs ATU to monitor the appropriateness of the \$5.00 credit amount and be prepared, at the time of a general rate examination, to provide the Commission with evidence as to why the credit should be continued or, as appropriate, modified.

BY DIRECTION OF THE COMMISSION.

Very truly yours,  
ALASKA PUBLIC UTILITIES COMMISSION

John B. Farleigh  
Executive Director

JBF/ga  
Enclosure

*Do not  
make any  
changes  
to this  
letter  
without  
approval  
of the  
Commission*

*4/23/81*

REGISTRATION ACT		
Filed	UK or LC	at
OK MPW 4/3/81		
4/3/81		
4-2-81		
4/6/81		

STAFF ACTION		
ACTION	INITIALS	DATE
Entered by		
Trans by		
Checked	GA	4/2/81
Approved	JAF	

April 2, 1981

In reply refer to: Tariffs  
TA132-120

A.C. Pistorius, General Manager  
Anchorage Telephone Utility  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Enclosed is a validated copy of the tariff sheet filed on February 6, 1981, by Anchorage Telephone Utility. This filing, designated as TA132-120, has an effective date of March 27, 1981.

In consideration of the manner in which the amount of the credit for returning telephone sets was derived, the Commission directs ATU to monitor the appropriateness of the \$5.00 credit amount and be prepared, at the time of a general rate examination, to provide the Commission with evidence as to why the credit should be continued or, as appropriate, modified.

BY DIRECTION OF THE COMMISSION.

Very truly yours,  
ALASKA PUBLIC UTILITIES COMMISSION

John B. Farleigh  
Executive Director

JBF/ga  
Enclosure

*Do you  
want to  
file this  
with the  
commission?*

*At 10:00 AM 4/2/81*

*4/2/81  
4/23/81*

May 26, 1981

In reply refer to: Tariffs  
TA138-120  
U-80-42  
U-81-19

A.C. Pistorius, General Manager  
Anchorage Telephone Utility  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

The Commission has approved the proposal of Anchorage Telephone Utility (ATU) to cancel its adopted tariff of the Greater Anchorage Borough Telecommunications Company, Inc. (GAB-TEL), and to apply its present Anchorage area tariff to the areas served under the GAB-TEL tariff. This filing has an effective date of May 26, 1981.

A list of the validated tariff sheets being returned at this time is attached. As the Staff has discussed with ATU, the following procedural matters are still required to complete the application of the Anchorage area tariff to the GAB-TEL area.

1. The maps and service area descriptions need certain corrections; additionally, the numbering of some of the map sheets should be corrected.
2. Sheet 51.01 is not being returned since there is presently no reason for the sheet.
3. Sheet 55.01 should reserve only 55.01.<sup>v</sup>
4. A revised sheet 52, showing the addition of the GAB-TEL areas to the presently approved sheet, should be submitted.
5. Sheet 65 is not being returned since this section contains the proposed ESIS tariff section.

6. ATU should supplement the dockets concerning items four and five to make the appropriate revisions to add the GAB-TEL areas.

The Commission will allow ATU 30 days from the date of this letter to submit the needed corrections.

In its review of the filing, the Commission has considered the problem of designating changes to tariff sheets which already contain material which has not yet been approved. The Commission believes the "S" designation, specifying reissued material, should be used to denote as yet unapproved material which is not the subject of the instant filing. As ATU did, the "N" designation should continue to be used to specify the new material added in the instant filing. This procedure should make clearer what changes are under consideration at any particular time.

As a part of its consideration of this filing, the Commission observed that the feasibility study on the provision of extended area service (EAS) to the former GAB-TEL area still has not been filed with the Commission. This report was originally anticipated in July, 1980. The Commission understands that ATU is presently analyzing traffic data and expects to complete the study shortly. Therefore, the Commission directs that the EAS feasibility study be filed with the Commission no later than August 1, 1981.

BY DIRECTION OF THE COMMISSION

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

*John B. Farleigh*  
John B. Farleigh  
Executive Director

Referred to	OK or	
Approved	OK MPA 5/26/81	
by	OL	SIL 5-26-81
date	5-26-81	

STAFF ACTION		
ACTION	INITIALS	DATE
Drafted by		
Typed by		
Checked by	CMW	5/26/81
Approved by	MPA	5/26/81
"	"	"
"	"	"

May 26, 1981

*OK MPA 5-26-81  
 but EAS study  
 deadline should be July 1st*

In reply refer to: Tariffs  
 TA138-120  
 U-80-42  
 U-81-19

*45 days end 5/26/81.*

A.C. Pistorius, General Manager  
 Anchorage Telephone Utility  
 600 East 38th Avenue  
 Anchorage, Alaska 99503

Dear Mr. Pistorius:

The Commission has approved the proposal of Anchorage Telephone Utility (ATU) to cancel its adopted tariff of the Greater Anchorage Borough Telecommunications Company, Inc. (GAB-TEL), and to apply its present Anchorage area tariff to the areas served under the GAB-TEL tariff. This filing has an effective date of May 26, 1981.

*should be  
 noted*

As a part of its consideration of this filing, the Commission observed that the feasibility study on the provision of extended area service (EAS) to the former GAB-TEL area still has not been filed with the Commission. This report was originally anticipated in July, 1980. The Commission understands that ATU is presently analyzing traffic data and expects to complete the study shortly. Therefore, the Commission directs that the EAS feasibility study be filed with the Commission no later than August 1, 1981.

A list of the validated tariff sheets being returned at this time is attached. As the Staff has discussed with ATU, the following procedural matters are still required to complete the application of the Anchorage area tariff to the GAB-TEL area.

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman  
Marvin R. Weatherly  
Susan M. Knowles  
Stuart C. Hall

In the Matter of the Filing of )  
Tariff Revisions, Designated as ) U-81-29  
TAL35-120 and TAL36-120, by )  
The MUNICIPALITY OF ANCHORAGE d/b/a ) ORDER NO. 1  
ANCHORAGE TELEPHONE UTILITY )  
for Rates for Straight Line )  
Feature Telephones )  
\_\_\_\_\_ )

ORDER SUSPENDING TARIFF REVISION AND  
GRANTING INTERIM RATES

On March 25, 1981, The MUNICIPALITY OF ANCHORAGE d/b/a ANCHORAGE TELEPHONE UTILITY (ATU) filed two tariff revisions (TAL35-120 and TAL36-120) to add a nonrecurring charge of \$17.55 and a monthly rate of \$2.35 for straight line feature telephones (wall and desk models) to the rate schedules for three PBX systems: the Rolm CBX (Class H), Rolm SCBX (Class I), and SL-1 (Class J).

The filings were noticed to the public on April 2, 1981, with a closing date of May 4, 1981, for the submission of statements in support of, or in opposition to, the proposed tariff revisions. On May 4, 1981, the Commission received a protest of the filings from Comtec, Inc.

(Comtec), a company engaged in selling, installing, and maintaining telephone equipment, including PBX equipment.

Comtec stated that it appears that the straight line feature telephone is a standard push button telephone that can be used in any residential home or with several other PBX systems in ATU's tariff. Comtec's protest included three specific charges, summarized below.

ALASKA PUBLIC UTILITIES COMMISSION  
1100 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

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Stewart

ALASKA PUBLIC UTILITIES COMMISSION  
1100 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

1           1. Through two presently tariffed provisions (a  
2     \$3.75 monthly rate under "Station Charges--all PBX Systems"  
3     on sheet 98; a \$1.35 monthly rate for each station under  
4     "Touch Dialing-Switchboard Systems" on sheet 119), all  
5     classes of PBX systems presently pay \$5.10 a month for this  
6     type telephone. "It appears that either Classes H, I and J  
7     must pay the \$5.10 for a station apparatus like all other  
8     classes of PBX service or that the \$5.10 a month rate paid  
9     by all other customers of PBX service...be reduced to the  
10    \$2.35 charge."

11           2. The proposed \$2.35 rate is less than the  
12    residential rate. Comtec stated, "A touch tone residential  
13    station apparatus costs \$3.50 per month."

14           3. "Comtec opposes the proposed tariff filing  
15    because the 'straight line feature phone' is not defined."

16           In its examination of these filings the Commission  
17    has found the ATU tariff difficult to understand. It is  
18    unclear whether certain rates in the specific PBX schedules  
19    are in place of, or in addition to, the rates in other more  
20    general schedules.

21           The Commission observes that some of the rates  
22    discussed by Comtec have been in effect at least since ATU  
23    filed its previous tariff with the Commission in 1970. At  
24    least some of those rates apparently also include some  
25    service in addition to the purely instrument rental portion  
26    of the rate. While the Commission has made no final judg-  
27    ments regarding the validity of Comtec's charges, it does  
28    appear that Comtec has attempted to make a reasonable inter-  
29    pretation of the ATU tariff, certain portions of which are  
30    unclear.

31           U-81-29 (1)  
32           Page 2 of 5

1           The Commission has also learned that the "feature  
2 phone" is apparently also presently tariffed for one PBX  
3 (Class L) and one key system (System 3). The rates for the  
4 "feature phones" in those schedules are different from each  
5 other and also vary from the rates proposed in this filing.  
6 Thus, it appears that ATU is charging different sets of  
7 rates for essentially the same telephone set depending on  
8 what PBX or key system the telephone is associated with.  
9 Initial analysis indicates that the different rates are due  
10 to differences in equipment prices and rate development  
11 factors at the times the telephone sets were tariffed.

12           ATU's filing appears to be technically complete  
13 and to contain standard rate development information.  
14 Moreover, the addition of the equipment to the new PBX  
15 schedules will enable ATU to respond to consumer needs.  
16 Therefore, the Commission believes it would be in the public  
17 interest to allow the filings to go into effect. However,  
18 Comtec has raised legitimate questions regarding the  
19 internal consistency and clarity of ATU's tariff.  
20 Therefore, the Commission believes it would also be in the  
21 public interest to allow the proposed rates to go into  
22 effect on an interim basis and to suspend the filings for  
23 further investigation. Staff did not recommend the proposed  
24 rates be refundable because the utility is in total  
25 compliance with the Commission's previous directives in that  
26 it has used the latest equipment price list and the most  
27 recently approved rate development factors. Therefore,  
28 Staff does not believe that the cost to the utility to  
29 maintain records for refundable purposes is warranted. It  
30 appears that the issue before the Commission is how should

ALASKA PUBLIC UTILITIES COMMISSION  
1100 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

1 the variance of rates for essentially the same price of  
2 equipment be accommodated when the reason for the rate  
3 disparity is the use of the most current equipment price and  
4 rate development factors.

5 In the interest of an efficient handling of this  
6 matter, the Commission believes it would be appropriate to  
7 require ATU to provide an early explanation of, and justifi-  
8 cation for, the appropriate method to be used in  
9 synchronizing the rates on tariff sheets 48 (Extension  
10 Station Service) and 98 (Station Charges--All PBX Systems)  
11 and those for specific equipment, in particular PBX and key  
12 system schedules. ATU should also include a description of  
13 any variations in the service or equipment offered in the  
14 "feature telephones" tariffed for the various PBX and key  
15 system schedules. The utility was notified of the  
16 Commission's decision in this matter by telephone on May 11,  
17 1981, and that the written order would be forthcoming.

18 THE COMMISSION FURTHER FINDS AND CONCLUDES:

19 1. ATU is a public utility as defined in  
20 AS 42.05.701 and is subject to the regulatory jurisdiction  
21 of this Commission.

22 2. ATU's filings designated as TA135-120 and  
23 TA136-120 should be allowed to go into effect on an interim  
24 basis and should also be suspended for further  
25 investigation.

26 3. ATU should be required to file expeditiously a  
27 report containing the information described in the body of  
28 this Order.



Susan M. Knowles separate statement:

I fully concur with this Order with the exception of its waiver of a refund requirement on the interim rates charged pending the conclusion of the investigation of the proposed tariff revisions. The standard refund condition should be maintained in this case given the policy issues on rate development worksheet pricing and tariff organization which were raised by Staff in its preliminary analysis. Thus, further investigation could determine that the utility has complied with a costing procedure which is deficient or otherwise flawed in its results and that the proposed rates require modification. In addition, no showing has been made that a refund prescription will impose an unreasonable expense on the utility at the customer levels projected in its tariff advice letters.

Susan M. Knowles  
Commissioner Susan M. Knowles

*Pending*

JAY S. HAMMOND, Governor

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1100 MacKay Building  
338 Denali Street  
Anchorage, Alaska 99501

Phone (907) 276-6222

June 16, 1981

Ted Burns, Esq.  
Municipal Attorney  
Municipality of Anchorage  
632 West 6th Avenue  
Anchorage, Alaska 99501

COPY

Dear Mr. Burns:

Re: Certification of Garbage and Refuse Public Utilities

The enactment of Ch. 136, SLA 1980 (FCCS SB 577) repealed the language of AS 42.05.221(f) and portions of AS 42.05.711(b) which exempted garbage and refuse collection and disposal public utilities operating within municipal boundaries (as they existed on January 1, 1973) from having to obtain a certificate of public convenience and necessity for the service area within these boundaries.

The repeal of this language means that all municipal garbage and refuse utilities must possess a certificate of public convenience and necessity for the area served. AS 42.05.221(a), 42.05.701(2)(F), (5)(A). This is required even though, as a municipal utility, under the remaining language in 42.05.711(b) or under the new 42.05.711(j) (annual gross revenues of \$200,000 or less) they may not be subject to economic regulation by the Commission.

Notwithstanding the requirement mentioned above, a municipality may still be exempted from all or any portion of these statutes if, on a Commission finding, no legitimate public interest will be served by requiring compliance. AS 42.05.711(d).

Accordingly, we are enclosing with this letter the following documents:

1. Alaska Public Utilities Commission Act (AS 42.05);
2. Commission Rules of Practice and Procedure;
3. Two copies of the suggested form of application for a certificate of public convenience and necessity;
4. Suggested form of historical financial statements;

Ted Burns, Esq.

2

June 2, 1981

5. Suggested form of pro forma financial statements;
6. Sample of an approved tariff form.

The duplicate application form is furnished for your convenience to be used primarily as a working draft. The instructional footnotes are included to assist you in completing your application. Although the Commission's regulation in 3 AAC 48.090 specify an original and two copies of each pleading, the Commission has found that additional copies are needed to facilitate the processing of an application. The Commission requests that the final typed application be submitted in an original and seven conformed copies and should not include the instructional footnotes.

The form itself may be used as the application if you prefer to do so. In that event, any blanks not otherwise filled in should be marked "Not Applicable" or "None" as appropriate.

The Commission is of the opinion that it would not be unreasonable to allow a period of 60 days from the date of this notification in which to file the referenced application. If we can be of assistance in the matter, please do not hesitate to contact us.

BY DIRECTION OF THE COMMISSION

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

*T. S. M. M. M. II*  
for John B. Farleigh  
Executive Director

Enclosures

DATE	
ACTION	
INITIALS	JW
DATE	5-15-81
INITIALS	JB
DATE	5-15-81
INITIALS	JW
DATE	5-17-81
INITIALS	B
DATE	5-17-81
INITIALS	JBT

Entered

OK MRW 5/27/81  
 OK SU 5-27-81  
 OK SU 5-27-81

Note: This is a second routing of this draft - 1st draft has apparently been lost

May 15, 1981

Ted Burns, Esq.  
 Municipal Attorney  
 Municipality of Anchorage  
 632 West 6th Avenue  
 Anchorage, Alaska 99501

Dear Mr. Burns:

Re: Certification of Garbage and Refuse Public Utilities

The enactment of Ch. 136, SLA 1980 (FCCS SB 577) repealed the language of AS 42.05.221(f) and <sup>portions of</sup> AS 42.05.711(b) which exempted garbage and refuse collection and disposal public utilities operating within municipal boundaries (as they existed on January 1, 1973) from having to obtain a certificate of public convenience and necessity for the service area within these boundaries.

The repeal of this language means that all municipal garbage and refuse utilities must possess a certificate of public convenience and necessity for the area <sup>served</sup> ~~it serves~~ AS 42.05.221(a), 42.05.701(2)(F), (5)(A). This is required even though, as a municipal utility, under the remaining language in 42.05.711(b) or under the new 42.05.711(j) (annual gross revenues of \$200,000 or less) they may not be subject to economic regulation by the Commission.

Note: In stating the requirement mentioned above, a municipality may still be exempted from all or any portion of these provisions if on a commercial basis it regulates public utilities which are subject to economic regulation AS 42.05.711(d).

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman  
Marvin R. Weatherly  
Susan M. Knowles  
Stuart C. Hall

In the Matter of the Filing of a )  
Tariff Revision, Designated as ) U-81-33  
TA139-120, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE TELE- ) ORDER NO. 1  
PHONE UTILITY To Change the )  
Conditions and Rates for Coin )  
Telephone Service )  
\_\_\_\_\_ )

ORDER SUSPENDING OPERATION OF TARIFF REVISION,  
INSTITUTING INVESTIGATION, AND ESTABLISHING  
DATES FOR PUBLIC HEARING AND SUBMISSION  
OF PRE-FILED TESTIMONY

On April 17, 1981, the MUNICIPALITY OF ANCHORAGE  
d/b/a ANCHORAGE TELEPHONE UTILITY (ATU) filed a tariff  
revision, designated as TA139-120, which proposed changes to  
the conditions and rates for coin telephone service. The  
utility proposed to

- (1) increase the per message rate charges for public  
and semi-public coin telephone service from 10¢ to 20¢  
per call;
- (2) increase the minimum monthly revenue required as a  
basis for continuing service at each location;
- (3) increase installation charges for semi-public  
telephone enclosure/supports;
- (4) institute a monthly rate to recover semi-public  
coin telephone equipment costs; and
- (5) delete present monthly rates for semi-public  
telephone enclosure/support equipment costs.

U-81-33(1) (6/1/81)  
Page 1 of 6

ALASKA PUBLIC UTILITIES COMMISSION  
1100 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

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1           ATU currently compensates the premise holder of  
2 public telephone service for furnishing janitorial or other  
3 services required, such as power for lighting, at the rate  
4 of \$2 per month or 12 percent of the local revenue collected,  
5 whichever is greater. The utility is requesting that the  
6 compensation be changed to reflect a flat rate of \$9 per  
7 month per instrument; this represents the approximate average  
8 commission paid in previous years.

9           Other charges include a monthly subscriber rate  
10 for semi-public telephone service equal to 50 percent of the  
11 monthly zone rate for regular one-party business line service.  
12 In addition to the monthly rate, the subscriber would guarantee  
13 total revenue from the instrument equal to 2.5 times the  
14 regular one-party business line zone rate. The monthly  
15 rates which are currently effective for shelfettes, boothettes,  
16 and booths would be discontinued.

17           According to the utility, the annual revenue from  
18 the currently effective tariff, based on year end 1978  
19 records, was approximately \$361,500. Based on the same  
20 level of activity, the new rates and charges will produce  
21 revenue of approximately \$767,000 (revenue requirement), an  
22 estimated increase of \$405,500. The change in the subscriber  
23 rate for semi-public telephone service would affect approximately  
24 390 customers.

25           The filing was noticed to the public on April 24,  
26 1981, with a closing date of May 25, 1981, for filing a  
27 statement of views. Two statements were received during  
28 that period, one favoring and one opposing the increase in  
29 per message rate charges. On May 26, 1981, the Alaska  
30

1 Consumer Advocacy Program (ACAP) filed comments requesting  
2 the Commission to reject the proposed permanent tariff  
3 filing for failure to comply with the filing requirements of  
4 3 AAC 48.275 and for failure to meet the interim rate tests  
5 set forth in Alaska Public Utilities Commission v.  
6 Greater Anchorage Area Borough, 534 p. 2d 549, 554, 557-559  
7 (Alaska 1975). ACAP also requested the Commission to  
8 investigate various coin telephone practices of ATU and  
9 requested additional information filings from ATU, including  
10 an updated test year. Also included with ACAP's comments  
11 was the result of a consumer call-in survey which showed  
12 51 percent of its 116 respondents opposed to the proposed  
13 increase.

14 The Commission Staff (Staff) recommended to the  
15 Commission that the operation of TA139-120 be suspended to  
16 allow Staff investigation of the utility's proposals. Staff  
17 also expressed its intention to review the rate development  
18 information in view of the most currently available operations  
19 and separations data to determine as accurately as possible  
20 the current costs of coin telephone services. The Staff  
21 also expressed its belief that the extensive filing requirements  
22 of 3 AAC 48.275(a) were burdensome and unnecessary for  
23 satisfactory resolution of this case.

24 The Commission concurs with Staff and believes the  
25 operation of TA139-120 should be suspended for an initial  
26 six-month period to allow a full Staff investigation of the  
27 proposed tariff revisions. The Commission also believes the  
28 rate development review performed by Staff should be in  
29 light of the most currently available financial data so as  
30

31 U-81-33(1)  
32 Page 3 of 6

1 to determine as accurately as possible the costs of coin  
2 telephone service, which can then be considered in  
3 evaluating ATU's rate increase request.

4 The Commission is of the opinion that it would be  
5 in the public interest to schedule a formal hearing to  
6 consider the utility's request. The Commission also believes  
7 it would be conducive to a fair and expeditious disposition  
8 of the proceedings to require the parties to submit a list  
9 of witnesses in the order of their appearance and to pre-file  
10 written prepared, instead of oral direct, testimony for each  
11 witness so identified. 3 AAC 48.150(f). The parties will  
12 be specifically precluded from calling witnesses who have  
13 not submitted prepared written testimony. Exceptions may be  
14 granted by the Commission based on an offer of proof that a  
15 witness's testimony is necessary for a complete evidentiary  
16 record. Justification for the omission of the witness from  
17 the original witness list must be provided.

18 THE COMMISSION FURTHER FINDS AND CONCLUDES:  
19

20 1. ATU is a public utility as defined by AS  
21 42.05.701 and is subject to the jurisdiction of this  
22 Commission.

23 2. The operation of the tariff revision,  
24 designated as TA139-120, should be suspended for an initial  
25 six-month period, not to extend beyond December 1, 1981.

26 3. Staff should be made a party to this  
27 proceeding and should conduct an investigation to determine  
28 the accuracy and reasonableness of the utility's  
29

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31 U-81-33(1)  
32 Page 4 of 6

1 requested tariff revision, including a review of the  
2 supporting cost study and the revenue impact of the revision  
3 on new subscribers in light of the most current operations  
4 and separations data available.

5 4. A public hearing should be scheduled in Anchorage,  
6 Alaska, to consider the proposed tariff revisions to conditions  
7 and rates for coin telephone service requested by ATU.

8 5. ATU and Staff should be required to pre-file  
9 testimony in accordance with 3 AAC 48.150(f). The parties  
10 should also file a list of witnesses in their order of  
11 appearance.

12  
13 ORDER

14 THE COMMISSION FURTHER ORDERS:

15 1. The operation of the tariff revision,  
16 designated as TA139-120, filed by the Municipality of  
17 Anchorage d/b/a Anchorage Telephone Utility, is suspended  
18 for an initial six-month period, not to extend beyond  
19 December 1, 1981.

20 2. The Commission Staff is designated as a party  
21 to this proceeding and directed to conduct an investigation  
22 into the reasonableness and propriety of TA139-120 as  
23 outlined in the body of this Order.

24 3. A public hearing to consider the proposed  
25 tariff revisions to conditions and rates for coin telephone  
26 service requested by the Municipality of Anchorage d/b/a  
27 Anchorage Telephone Utility is scheduled to convene at  
28 9:00 a.m., August 11, 1981, in the Commission's hearing room,  
29 1100 MacKay Building, 338 Denali Street, Anchorage, Alaska.

30  
31 U-81-33(1)  
32 Page 5 of 6

1                   4. The Municipality of Anchorage d/b/a Anchorage  
2 Telephone Utility shall file by 4:00 p.m., July 10, 1981, a  
3 list of witnesses, in the order of their appearance, and  
4 written prepared testimony for each witness.

5                   5. Commission Staff shall file by 4:00 p.m.,  
6 July 24, 1981, a list of witnesses, in the order of their  
7 appearance, and written prepared testimony for each witness.

8 DATED AND EFFECTIVE at Anchorage, Alaska, this 1st day of  
9 June, 1981.

10                   BY DIRECTION OF THE COMMISSION  
11                   (Commissioner Marvin R. Weatherly, not participating)

12

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14 (S E A L)

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U-81-33(1)  
Page 6 of 6

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ALASKA PUBLIC UTILITIES COMMISSION  
1100 Mackay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222



STATE OF ALASKA  
ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

JAY S. HAMMOND, Governor

1100 MacKay Building  
338 Denali Street  
Anchorage, Alaska 99501

Phone (907) 276-6222

June 22, 1981

In reply refer to: Tariffs  
TA34-121

Thomas R. Stahr, General Manager  
Municipal Light & Power  
1200 East First Avenue  
Anchorage, Alaska 99501

Dear Mr. Stahr:

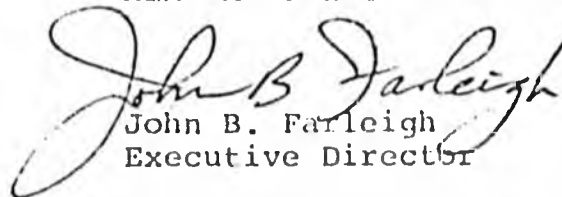
Enclosed are validated copies of tariff sheets filed on June 10, 1981, by Municipal Light and Power (ML&P). This filing, designated as TA34-121, has an effective date of June 1, 1981.

Although the Commission has approved this filing, it is concerned about the continuing lack of generation by the waste heat unit. ML&P is directed to include in its next gas cost rate adjustment filing an explanation of the lack of reported steam generation and ML&P's plans for use of the waste heat unit.

BY DIRECTION OF THE COMMISSION

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

  
John B. Farleigh  
Executive Director

STAFF	
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Dist.	JMW 6/19/81
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45 days end  
 7/24; utility  
 must have advance  
 approval to bill 7/1/81

June 19, 1981

In reply refer to: Tariffs  
 TA34-121

Thomas R. Stahr, General Manager  
 Municipal Light & Power Department  
 Municipality of Anchorage d/b/a  
 1200 East First Avenue  
 Anchorage, Alaska 99501

Dear Mr. Stahr:

Enclosed are validated copies of tariff sheets filed on June 10, 1981, by Municipal Light and Power (ML&P). This filing, designated as TA34-121, has an effective date of June 1, 1981.

Although the Commission has approved this filing, it is concerned about the continuing lack of generation by the waste heat unit. ML&P is directed to include in its next gas cost rate adjustment filing an explanation of the lack of reported steam generation and ML&P's plans for use of the waste heat unit.

BY DIRECTION OF THE COMMISSION

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

John B. Farleigh  
 Executive Director

08-H6LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**  
ALASKA PUBLIC UTILITIES COMMISSION

1100 MACKAY BUILDING  
338 DENALI STREET  
ANCHORAGE, ALASKA 99501

June 24, 1981

In reply refer to: Tariffs  
TA146-120

A. C. Pistorius, General Manager  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Enclosed is a validated copy of the tariff sheet filed on May 18, 1981, by Anchorage Telephone Utility (ATU). This filing, designated as TA146-120, has an effective date of July 2, 1981.

In its study of this filing, the Commission reviewed a number of previous filings affecting the Secretarial Answering Service Schedule and noted that the large TASCUM answering system, which was the subject of TA98-120, TA111-120, and TA115-120, is not presently tarified. The Commission urges ATU to review its offerings in the Secretarial Answering Service Schedule to assure that all offerings are properly tarified.

BY DIRECTION OF THE COMMISSION

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

  
John B. Farleigh  
Executive Director

Item 8

STAFF ACTIONS		
AC	INITIALS	DATE
Drafted by	JMW	6/19/81
Typed by	SKM	6/19/81
Checked by	JMW	6/19/81
Approved by	TJM	6/19/81

Referred: \_\_\_\_\_

NP

OC 6/19/81

ON SL 6-19-81

MP GMA 6/19/81

June 19, 1981

45 days  
and  
7/2/81

In reply refer to: Tariffs  
TA146-120

A. C. Pistorius, General Manager  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Enclosed is a validated copy of the tariff sheet filed on May 18, 1981, by Anchorage Telephone Utility (ATU). This filing, designated as TA146-120, has an effective date of July 2, 1981.

In its study of this filing, the Commission reviewed a number of previous filings affecting the Secretarial Answering Service Schedule and noted that the large TASCOM answering system, which was the subject of TAs 98-120, TA111-120, and TA115-120, is not presently tariffed. The Commission urges ATU to review its offerings in the Secretarial Answering Service <sup>Schedule</sup> to assure that all offerings are properly tariffed.

BY DIRECTION OF THE COMMISSION

Very truly yours,  
ALASKA PUBLIC UTILITIES COMMISSION

John B. Farleigh  
Executive Director

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Carolyn S. Guess, Chairman  
Marvin R. Weatherly  
Susan M. Knowles  
Stuart C. Hall

In the Matter of the Filing )  
of a Tariff Revision, Design- )  
ated as TA110-120, by the )  
MUNICIPALITY OF ANCHORAGE )  
d/b/a ANCHORAGE TELEPHONE )  
UTILITY for Rates and Con- )  
ditions for Exchange System )  
Used by Interexchange Ser- )  
vices )  
\_\_\_\_\_ )

U-80-42

ORDER NO. 3

ORDER GRANTING TARIFF REVISION

On April 4, 1980, the MUNICIPALITY OF ANCHORAGE  
d/b/a ANCHORAGE TELEPHONE UTILITY (ATU) filed TA110-120  
proposing rates and conditions for use of the utility's  
exchange system by interexchange services (ESIS).

The ESIS tariff offering provides unlimited local  
exchange service to users not located in the utility's  
service area. ESIS will apply to all services that have the  
capacity to utilize the local exchange system including, but  
not limited to, Foreign Exchange (FX), Common Control Switching  
Arrangements (CCSA), Off-Premise Extensions (OPX), Tie Lines  
(TL), and authorized MTS/WATS equivalent services provided  
by Other Common Carriers (OCC). ESIS will not apply to  
services, such as Message Telephone Service, that contribute,  
through the settlements process between the long lines  
carrier and the local exchange utility, to the financing of  
the cost of exchange facilities.

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00 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

Item 10  
Item 12  
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1 On May 8, 1980, ATU filed Supplement "A" to  
2 TA110-120 which deaveraged the originally filed ESIS monthly  
3 rate of \$160 per exchange system access connection into two  
4 categories to reflect different usage characteristics. The  
5 utility proposed the following monthly charges per exchange  
6 system access connection:

7 MTS/WATS Equivalent Services (OCC) \$350.00  
8 Other Services (FX, CCSA, OPX, TL) 90.00

9 The higher monthly rate for MTS/WATS equivalent  
10 services provided by OCC's reflect the higher usage per  
11 access connection projected by ATU. The access charges were  
12 developed based on the same cost allocation methodology used  
13 in ATU's annual cost separations studies approved under 3 AAC -  
14 48.430. The annual revenue to be realized for the provision  
15 of ESIS is anticipated to be \$417,000.

16 A notice of the utility tariff filing was issued  
17 April 16, 1980; a notice of amended utility tariff filing,  
18 reflecting the rates proposed in Supplement "A", was issued  
19 May 14, 1980. Statements objecting to TA110-120 were filed  
20 with the Commission by Atlantic Richfield Company (ARCO),  
21 Alyeska Pipeline Service Company (Alyeska), Exxon Company  
22 U.S.A. (Exxon), and the General Services Administration  
23 (GSA).

24 On May 19, 1980, the General Services Administration  
25 (GSA), representing the interests of the Executive Agencies  
26 of the United States in their capacity as customers of ATU,  
27 submitted comments on the proposed tariff.  
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1 GSA raises two specific issues. First is the  
2 question of tariff administration or application. GSA  
3 believes that there is the possibility of ambiguity in the  
4 application of the proposed ESIS tariff and ATU's current  
5 Alaska Telephone Switching System (ATSS) tariff. Second,  
6 GSA questions the jurisdiction of this Commission relative  
7 to the application of tariffs of an interstate interexchange  
8 nature. It cites a recent conflict between the New York  
9 Telephone Company and the Federal Communications Commission  
10 (FCC) and agrees with what they conclude to be the FCC  
11 position in the dispute.

12 On June 12, 1981, Alascom, Inc. (Alascom), the  
13 long lines carrier for Alaska, filed comments supporting the  
14 principle advanced in the ESIS filing but expressing specific  
15 concerns. They are:

- 16 1. The 3,000 minutes of use per line  
17 per month may be understated.
- 18 2. Exception is taken to the use of a  
19 composite CSR because it is not  
20 standard to the Cost Separations  
21 Manual.
- 22 3. TL and OPX services should not be  
23 included.
- 24 4. The use of 1977 data is questioned  
25 and use of the most current cost  
26 information advocated.

27 Due to the complexities of the ESIS filing, Order  
28 No. 1 suspended the permanent operation of TA110-120 and  
29 denied interim approval. The Commission Staff (Staff) was  
30 designated as a party to the proceeding.

31 Order No. 2 in the instant proceeding scheduled a  
32 public hearing to be convened at 9:00 a.m., on March 3,

1 1981, in the Commission's hearing room, 1100 MacKay Building,  
2 338 Denali Street, Anchorage, Alaska. The Order further  
3 extended the suspension period for a period ending 45 days  
4 after completion of the public hearing. Upon stipulation of  
5 the parties Commissioner Marvin R. Weatherly acted as the  
6 hearing officer with the provision that two Commissioners  
7 would read the record. The record was received by the  
8 Commission on April 30, 1981, and was read by Commissioners  
9 Carolyn S. Guess, Chairman, and Stuart C. Hall by May 15,  
10 1981. This date is designated as the completion of the  
11 public hearing. A certification that the record has been  
12 read by Commissioners Guess and Hall is filed in the Docket.

13 On January 22, 1981, Alyeska Pipeline Company  
14 petitioned the Commission to intervene in the instant  
15 proceeding. That petition noted that its representation  
16 included Amerada Hess Pipeline Company, ARCO Pipeline  
17 Company, BP Pipeline Company, MOBIL Alaska Pipeline Company,  
18 Phillips Alaska Pipeline Company, SOHIO Pipeline Company,  
19 and Union Alaska Pipeline Company.

20 The hearing was convened on March 3, 1981. Finding  
21 no opposition to the Petition for Intervention (Tr., p. 6)  
22 the Commission granted intervior status to Alyeska Pipeline  
23 Service Company (Alyeska), ARCO Alaska, Inc. (ARCO), and  
24 SOHIO Alaska Petroleum Company (SOHIO). Intervention was  
25 granted on a consolidated basis (Tr., p. 11), and for the  
26 purpose of this Order the parties granted intervention will  
27 be designated Intervenors.  
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ALASKA PUBLIC UTILITIES COMMISSION  
1100 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

1 Background - Telephone Industry  
2 Cost Separations Procedures

3 Telephone systems today are used interchangeably  
4 in providing local exchange,<sup>1</sup> intrastate and interstate  
5 message toll service.<sup>2</sup> Jurisdiction of intrastate communica-  
6 tions rests with the state regulatory commissions, while  
7 interstate authority resides with the FCC. The jurisdictional  
8 separation of the telephone plant may be defined as a series  
9 of methods and principles for dividing the investment,  
10 expenses, revenues, taxes, and reserves, and assigning them  
11 to their respective operations. It should be noted that  
12 while jurisdiction has been the driving force in developing  
13 these procedures, the same procedures have been used in  
14 separating intra-jurisdictional plant.

15 In the early years of telephone industry development,  
16 the local companies were not compensated for message toll  
17 service. The local exchange rates were based solely on all  
18 the costs associated with the use of local exchange service.  
19 Long distance carrier rates were based only on their costs  
20 of transmission between exchanges. This was known as the  
21 board-to-board method of setting rates. In 1930 (prior  
22 to the enactment of the Communications Act of 1934) for  
23 purposes of fixing just and reasonable rates for interstate  
24 and intrastate services, the U. S. Supreme Court held in a

25  
26 <sup>1</sup> Telephone Exchange Service means service within a telephone  
27 exchange or within a connected system of telephone exchanges  
28 within the exchange area operated to furnish to subscribers  
intercommunicating service of the character ordinarily  
furnished by a single exchange and which is covered by the  
exchange service charge.

29 <sup>2</sup> Toll Service means any call to a point outside the local  
30 service area, the income from which is credited to toll  
31 revenue, as distinguished from local and inter-zone calls  
32 whose income is credited to exchange revenue.

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00 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-6222

1 landmark decision<sup>3</sup> that the rate base and expenses must be  
2 allocated between interstate and intrastate uses. Even with  
3 this high ruling, it took more than a decade of negotiations  
4 and discussion before the FCC was prompted to implement the  
5 high Court's mandate.

6  
7 In 1945 the FCC initiated a formal investigation<sup>4</sup>  
8 review of jurisdictional separations procedures. This  
9 caused American Telephone & Telegraph Co. (ATT) to file  
10 interstate tariffs based on the station-to-station principle  
11 of costing and ratemaking. The station-to-station approach  
12 includes all plant from the originating to the terminating  
13 telephone station, including the intermediary loops and  
14 local switching facilities; i.e., all facilities necessary  
15 for the completion of a toll call. This was followed in 1950  
16 by similar tariffs being filed for intrastate toll service,  
17 also on a station-to-station basis. Throughout the 1940's  
18 to the present time, jurisdictional separations methodology  
19 has been under constant review and change - change that for  
20 the most part has allocated more costs to toll service.

21 The first Separations Manual which established  
22 specific allocation methodology was negotiated by the National  
23 Association of Regulatory Utility Commissioners (NARUC), the  
24 FCC and ATT in 1947. Its implementation by ATT, however,  
25 was delayed until 1952, some 22 years after the Smith decision.

26 Since 1947 the Separations Manual has changed due  
27 to social as well as economic pressures and has assumed such  
28 colorful and informal titles (based on location where agree-  
29 ment was reached) as Charleston (1952), Modified Phoenix

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31 <sup>3</sup> Smith v. Illinois Bell Telephone Co., 282 U.S. 133, 149-51  
(1930).

32 <sup>4</sup> FCC Docket 6328.

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300 MacKay Building - 338 Denali Street  
Anchorage, Alaska 99501  
Phone 276-5222

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(1956), and Denver (1956); the current Separations Manual, which is called "Ozark," was adopted in 1971.

The FCC in 1967<sup>5</sup> pointed to the inexact nature of the proposed separations process:

However, we recognize that allocation of costs is not simply "a matter for the slide rule. It involves judgement on a myriad of facts. It has no claim to an exact science." Colorado Interstate Gas Company v. Federal Power Commission [FPC], 324 U.S. 581, 589. Thus, although a jurisdictional separation must take into account of and measure the uses to which common property is put by several services, it clearly affects the reasonableness or equitableness of the results produced by such measurements.

This point was earlier addressed by Justice Brandeis in speaking for the court in Groesbeck v. Duluth<sup>6</sup>:

It is much easier to reject formulas presented as being misleading than to find one apparently adequate.

The court also noted in Colorado Interstate Gas v. FPC, supra:

Under this act the appropriateness of the formula employed by the Commission in a given case raises questions of fact not law.

The appropriateness of the Separations Manual to the State of Alaska was also addressed in the 1967 decision:

They do not include Alaska and Hawaii by virtue of their geographic location and the nature of the facilities required to serve them, cannot properly be governed by the separations procedures which are appropriate for the other States.

<sup>5</sup> FCC Dockets 15011 and 16258; 9 FCC 2d, 244

<sup>6</sup> Groesbeck v. Duluth, S.S. & A.R. Co., 250 U.S. 607, 614, 615, 63 L. Fed. 1167, 1172, PUR 1920A 177, 40 S. Ct. 38 (1919).

<sup>7</sup> FCC Dockets 15011 and 16258, supra.

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2 In a Recommended Report and Order of the FCC-NARUC  
3 Joint Board on Jurisdictional Separations<sup>8</sup> adopted October 27,  
4 1970, Alaska was again excluded from consideration in the  
5 separations process:

6 In accordance with the Commission's past  
7 decisions regarding jurisdictional  
8 separations, these procedures are not  
9 necessarily designed to apply to Alaska  
and Hawaii in view of the substantially  
different conditions existing in the  
case of these states.

10 The above language was adopted and noted in the  
11 Ozark Manual adopted by the FCC and approved for nationwide  
12 use in 1971.

13 By August, 1975, the FCC moved to remove this  
14 restriction. In a letter to the Alaska Public Utilities  
15 Commission then FCC Chairman Richard E. Wiley stated:

16 Accordingly, we approve the use of the  
17 February 1971 edition of the FCC-NARUC  
18 Separations Manual for jurisdictional  
separations of the operation of RCA  
Alascom in Alaska.

19 On July 18, 1975, the APUC, through regulation<sup>9</sup>,  
20 adopted the use of the February 1971 edition of the Separations  
21 Manual for intrastate separations.

22 The FCC in May, 1977, initiated Docket 21263 to  
23 deal with rate integration for the states of Alaska and  
24 Hawaii. The docket's prime focus is the formal adoption of  
25 a separations process for Alaska and Hawaii. A final Joint  
26 Board Order and Recommendation is in the process of being  
27

28  
29 <sup>8</sup> FCC DOCKET 18866, 26 FCC 2d.

30 <sup>9</sup> 3 AAC 48.430.  
31  
32