

ALASKA LEGISLATIVE COUNCIL  
1600 HJ CONFIRMATION HEARING - SUSAN KNOWLES (A.P.U.C.)

COMMISSION TARIFF ACTION MEETING

No. 338

AGENDA September 25, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
156-120	ANCHORAGE TELEPHONE UTILITY	10/9	Deletion of 1K Memory Card LA34 & Addition of 4K Memory Card LA34 Staff Recommendation: Approval	Approved Unanimously
17-121	ANCHORAGE MUNICIPAL LIGHT & POWER	10/26	Gas Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
182-2	ALASKA POWER & TELEPHONE (Hydaburg)	10/28	Fuel Cost Rate Adjustment Staff Recommendation: *	Approved Unanimously
183-2	ALASKA POWER & TELEPHONE (Skagway)	10/28	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
U-81-54	PELICAN UTILITY COMPANY	10/14	Compliance w/Order Staff Recommendation: Approval	Approved Unanimously
U-80-89	MCGRATH LIGHT & POWER	11/5	Compliance w/Order Staff Recommendation: Approval	Approved Unanimously

\* Not available

COMMISSION TARIFF ACTION MEETING

AGENDA September 25, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
U-81-48	GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.	10/19	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
TA204-98	ALASCOM, INC.	10/30	Compliance w/Letter Order  Staff Recommendation: Approval	Approved Unanimously
U-80-25	CENTRAL ALASKA UTILITIES, INC.	N/A	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation:	

\* Not available

COMMISSION TARIFF ACTION

Guess  
Weatherly  
Knowles  
Hall  
Snowden

AGENDA October 9, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
38-53	YAKUTAT POWER, INC.	10/14	Interim and Permanent Rate Increases  Staff Recommendation: Grant Interim & Suspend Permanent	Interim Granted & Permanent Suspended w/Comm. Hall dissenting re: rate of return
2-122	ANCHORAGE WATER UTILITY	10/16	Interim and Permanent Rate Increases  Staff Recommendation: Grant Interim & Suspend Permanent	Interim Granted & Permanent Suspended Unanimously
24-126	ANCHORAGE SEWER UTILITY	11/2	Amendment to Sewer Service Agreement w/ State of Alaska, Department of Transportation and Public Facilities  Staff Recommendation: Approval	Approved Unanimously
25-18	MATANUSKA ELECTRIC ASSOCIATION, INC. (Unalakleet)	11/11	Fuel Cost Rate Adjustment and Power Production Assistance  Staff Recommendation: Approval	Approved Unanimously
32-17	KOTZEBUE ELECTRIC ASSOCIATION, INC.	11/11	Fuel Cost Rate Adjustment and Power Production Assistance  Staff Recommendation: Approval of a Different Surcharge	Approved Unanimously
6D-160	CORDOVA ELECTRIC COOPERATIVE, INC.	11/11	Power Production Assistance  Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA October 9, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
2D-22	NAKNEK ELECTRIC ASSOCIATION, INC. (Naknek)	11/18	Power Production Assistance  Staff Recommendation: Approval	Approved Unanimously
J-81-14	HOMER ELECTRIC ASSOCIATION, INC.	9/3	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation:	
/			Staff Recommendation: * Not available	

COMMISSION TARIFF ACTION MEETING

Commissicners: Guess  
Weatherly  
Knowles

No. 342

AGENDA October 23, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
28-169	ALASKA VILLAGE ELECTRIC COOPERATIVE, INC.	17/27	Power Cost Assistance  Staff Recommendation: Approval of PCA lower than requested	Approved Unanimously
49-3	GENERAL TELEPHONE COMPANY OF ALASKA	11/13	Revised Rules Governing Establishment and Furnishing of Service  Staff Recommendation: Approval in part/Suspension in part	Suspended Unanimously
53-14	HAINES LIGHT & POWER	10/23	Contract between HL&P and Small Power Producer  Staff Recommendation: Approval.	Approved Unanimously
			Staff Recommendation:	
99-19	MATANUSKA TELEPHONE ASSOCIATION, INC.	11/5	Individual Tariff for Radio Communications, Inc.  Staff Recommendation: Approval	HOLD
100-19	MATANUSKA TELEPHONE ASSOCIATION, INC.	11/30	New Billing Form  Staff Recommendation: Approval	HOLD

\* Not available

AGENDA October 23, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
38-121	ANCHORAGE MUNICIPAL LIGHT & POWER	11/25	Gas Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
6-96	BETTLES LIGHT & POWER	11/20	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
112-1	ALASKA ELECTRIC LIGHT & POWER	11/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
184-2	ALASKA POWER & TELE- PHONE (Skagway)	11/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
27-169	ALASKA VILLAGE ELEC- TRIC COOPERATIVE, INC.	11/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
U-79-4	NORFOLK UTILITIES, INC.	10/23	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
			* Not available	

AGENDA October 23, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
U-80-4 U-81-36	ANCHORAGE SEWER UTILITY	11/18	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-81-42	NORTHWAY POWER & LIGHT	11/27	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-81-15	GLACIER STATE TELE- PHONE COMPANY	11/6	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-81-27	GLACIER STATE TELE- PHONE COMPANY	11/6	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-73-28	MATANUSKA TELEPHONE ASSOCIATION, INC.	11/16	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-80-26	YAKUTAT POWER, INC.	11/30	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously

\* Not available

COMMISSION TARIFF ACTION MEETING

Commissioners: Weatherly  
Knowles  
Hall  
Snowden

No. 345

AGENDA November 13, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
14-240	Tlingit-Haida Regional Electric Cooperative, Inc.	12/8	Power Cost Assistance Staff Recommendation: Approval	Approved Unanimously
48-3	General Telephone Company of Alaska	11/16	Non-Recurring Charge Increase Staff Recommendation: Approval of a lower increase than requested	Approved Unanimously
8-11	Copper Valley Telephone Cooperative, Inc.	11/13	Unbundled Tariff Staff Recommendation: Suspend	Suspended Unanimously
80-16	Kodiak Electric Association, Inc. (Port Lions)	11/13	Interim & Permanent Rate Increase Staff Recommendation: Suspend Permanent; Approve Across-the-Board Interim	Suspended Permanent and Granted Interim Unanimously
24-32	Homer Electric Association, Inc.	11/19	Special Contract with City of Seldovia Staff Recommendation: Approval	Approved Unanimously
100-19	Matanuska Telephone Association, Inc.	11/23	New Billing Form Staff Recommendation: Approval	Approved Unanimously

AGENDA November 13, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
185-2	Alaska Power & Telephone (Tok)	12/7	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
38-63	Fort Yukon Utilities	12/7	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
15-240	Tlingit-Haida Regional Electric Cooperative, Inc.	12/21	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
16-24	Pelican Utility Company (Pelican)	11/30	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
20-230	Pelican Utility Company (Sand Point)	11/30	Fuel Cost Rate Adjustment Staff Recommendation: Approve reduced surcharge; require refund.	Suspended Permanent and Approved Interim Unanimously
21-230	Pelican Utility Company (Sand Point)	12/3	Fuel Cost Rate Adjustment Staff Recommendation: Approve reduced surcharge; require refund	Suspended Permanent and Approved Interim Unanimously
			* Not available	

AGENDA November 13, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
U-81-12	Pelican Utility Company (Sand Point)	11/16	New Tariff  Staff Recommendation: Incorporate New Tariff into U-81-12; Approve Adoption Notice	Approved Adoption Notice Unanimously
-81-54	Pelican Utility Company (Sand Point)	12/3	Compliance with Order  Staff Recommendation: Approval	Approved Unanimously
U-80-100	Anchorage Municipal Light & Power	11/6	Compliance with Order  Staff Recommendation: Approval	Approved Unanimously
53-14	Haines Light & Power	12/16	Compliance with Letter Order  Staff Recommendation: Approval	Approved Unanimously
U-79-41	Matanuska Telephone Association, Inc.	10/5	Compliance With Order  Staff Recommendation: Approval	HOLD
	Kodiak Sanitation, Inc.	12/3	Adoption Notice  Staff Recommendation: Approval	Approved Unanimously
			* Not available	

AGENDA November 13, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
U-81-75	Eagle River Refuse, Inc.	12/16	Compliance with Order Staff Recommendation: Approval	Approved Unanimously
U-81-52	Chugach Electric Association, Inc.	12/21	Compliance with Order Staff Recommendation: Approval	Approved Unanimously
TA 28-169	Alaska Village Electric Cooperative, Inc.	12/23	Compliance with Letter Order Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation:	
			* Not available	

COMMISSION TARIFF ACTION MEETING

Commissioners: Guess  
Hall  
Snow 'en

No. 349

AGENDA November 23, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
3-274	M & D ENTERPRISES	1/4	Power Cost Assistance (Inclusion of this item on the agenda is on a tentative basis) Staff Recommendation: *	NOT AVAILABLE
39-121	ANCHORAGE MUNICIPAL LIGHT & POWER	12/28	Gas Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously
20-230 21-230	PELICAN UTILITY CO. (Sand Point)	11/30 12/3	Fuel Cost Rate Adjustments at Sand Point Staff Recommendation: Further reduce surcharges; grant interim approval to surcharges; direct refund	Staff recommendations Approved Unanimously
23-230	PELICAN UTILITY CO. (Sand Point)	12/28	Fuel Cost Rate Adjustment at Sand Point Staff Recommendation: Reduce Surcharge; grant interim approval to reduce surcharge; direct refund.	Staff recommendations Approved Unanimously
			Staff Recommendation:	
113-1	ALASKA ELECTRIC LIGHT & POWER	12/23	Fuel Cost Rate Adjustment Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA November 23, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
187-2	ALASKA POWER & TELEPHONE (Tok)	12/28	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
188-2	ALASKA POWER & TELEPHONE (Skagway)	12/28	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
2-274	M & D ENTERPRISES	12/28	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
3D-22	NAKNEK ELECTRIC ASSOC., INC.	12/30	Power Production Assistance  Staff Recommendation: Approval	Approved Unanimously
U-78-10	ARCTIC SLOPE TELEPHONE ASSOC. COOP.	10/9	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
U-81-57	UNITED UTILITIES, INC.	12.28	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
			Staff Recommendation:	
		1/13	Staff Recommendation:	
33-17	KOTZEBUE ELECTRIC ASSOC., INC.	1/13	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously
18-96	BETTLES LIGHT & POWER	12/21	Power Cost Assistance  Staff Recommendation: Correction of Previously approved PCA	Correction Approved Unanimously
58-45	NUSHAGAK ELECTRIC COOP., INC.	1/15	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously
45-43	BETHEL UTILITIES CORP., INC.	1/18	Power Cost Assistance  Staff Recommendation: Approval as Adjusted  * Not available	Approved Unanimously

AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
2	TAKOTNA VILLAGE COMMUNITY ASSOC.	12/31	Power Cost Assistance  Staff Recommendation: Rejection	HELD
	CITY OF RUBY	1/4	Power Cost Assistance  Staff Recommendation: Approval as adjusted on interim basis, Subject to audit	Approved Amount Unanimously
54-14	HAINES LIGHT & POWER	1/8	Power Cost Assistance  Staff Recommendation: Approval as adjusted	Approved Unanimously
2	NAPAKIAK CORPORATION	1/10	Power Cost Assistance  Staff Recommendation: Approval as adjusted on interim basis, Subject to audit.	Approved Amount Unanimously
7D-160	CORDOVA ELECTRIC COOP., INC.	1/10	Power Cost Assistance  Staff Recommendation: Approval on an interim basis, Subject to audit.	Approved Amount Unanimously
35-10	COPPER VALLEY ELECTRIC ASSOC. INC	1/13	Power Cost Assistance  Staff Recommendation: Approval as adjusted	Approved Unanimously

\* Not available

AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
17-44	MCGRATH LIGHT & POWER	1/13	Power Cost Assistance  Approval as adjusted on an interim basis, Staff Recommendation: Subject to Commission acceptance of the	HELD  stipulation.
LD-72	MANLEY UTILITY CO.	1/15	Power Cost Assistance  Approval as adjusted on an interim basis, Staff Recommendation: Subject to audit.	Approved Amount Unanimously
1D	HUGHES POWER & ELECTRIC	1/18	Power Cost Assistance  Staff Recommendation: Rejection	Letter explaining re- quirements approved unanimously
3L-150	NOME JOINT UTILITIES SYSTEM	1/13	Power Cost Assistance  Staff Recommendation: Approval as adjusted	Approved Amount Unanimously
26-18	MATANUSKA ELECTRIC ASSOC., INC. (Unalakleet)	1/14	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously
8-16	KODIAK ELECTRIC ASSOC., INC. (Kodiak	1/15	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously

AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
82-16	KODIAK ELECTRIC ASSOC., INC. (Port Lions)	1/15	Power Cost Assistance  Approval as adjusted on an interim basis, Staff Recommendation: Subject to audit.	Approved Unanimously
			Staff Recommendation:	
1-278	ALASCOM, INC. (St. Paul)	1/27	Rule for taxes imposed on utility for direct charge to subscribers  Staff Recommendation: Approval	Approved Unanimously
163-15	JUNEAU & DOUGLAS TELEPHONE COMPANY	12/18	Rates for the SL-1 for the State of Alaska  Staff Recommendation: Interim approval and suspension	Interim Approval and Suspension Unanimously
157-120	ANCHORAGE TELEPHONE UTILITY	12/21	Rates for Infotron Statistical Multiplex Equipment  Staff Recommendation: Approval	Approved Unanimously
155-2	ALASKA POWER & TELEPHONE	1/4	Delinquent Account Carrying Charge  Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
13-31	NATIONAL UTILITIES, INC.	1/4	Delinquent Account Carrying Charge  Staff Recommendation: Approval	Approved Unanimously
121	ANCHORAGE MUNICIPAL LIGHT & POWER	1/25	Gas Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
16-44	MCGRATH LIGHT & POWER	12/21	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
11-5	ANIAK LIGHT & POWER	1/4	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
19-96	BETTLES LIGHT & POWER	1/20	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously

## AGENDA December 18, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
17-24	PELICAN UTILITY CO. (Pelican)	1/20	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
-10	COPPER VALLEY ELEC- TRIC ASSOC., INC. (Valdez)	1/21	Fuel Cost Rate Adjustment & Power Production Assistance  Staff Recommendation: Approval	Approved Unanimously
46-43	BETHEL UTILITIES CORP., INC.	1/25	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
U-80-79	ILIAMNA-NEWHALEN ELECTRIC COOP., INC.		New Tariff  Staff Recommendation: Approval	HELD
U-79-41	MATANUSKA TELEPHONE ASSOC., INC.	10/4	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
U-79-79	BETHEL UTILITIES CORP., INC.	12/30	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously

\* Not available

COMMISSION TARIFF ACTION MEETING

No. 357

AGENDA December 13, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
U-81-78	ANCHORAGE WATER UTILITY	1/8	Compliance w/order Staff Recommendation: Approval	Approved Unanimously
) TA99-19	MATANUSKA TELEPHONE ASSOC., INC.	1/17	Compliance w/order Staff Recommendation: Approval	Approved Unanimously
TA24-126	ANCHORAGE SEWER UTILITY	1/10	Compliance w/order Staff Recommendation: Approval	HELD
)			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation: * Not available	

COMMISSION TARIFF ACTION MEETING

Commissioners: Guess  
Weatherly  
Knowles  
Snowden

No. 358

AGENDA December 24, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
206-98	ALASCOM, INC.	12/24	New Rate Development Factors  Staff Recommendation: Suspension	HELD
	NAPASKIAK		Power Cost Assistance  Staff Recommendation: Approval on an interim basis pending audit	Approved on an Interim Basis Unanimously
2	TAKOTNA VILLAGE COMMUNITY ASSOC.	12/31	Power Cost Assistance  Staff Recommendation: Approval on an interim basis pending audit	Approved on an Interim Basis Unanimously
4D-22	NAKNEK ELECTRIC ASSOCIATION, INC.	1/10	Power Cost Assistance  Staff Recommendation: Approval as adjusted on an interim basis, pending audit	Approved on an Interim Basis Unanimously
39-63	FORT YUKON UTILITIES	1/11	Interim and Permanent Rate Increase  Staff Recommendation: Grant Interim & Suspend Permanent	Approved Interim & Suspended Permanent Unanimously
40-63	FORT YUKON UTILITIES	1/13	Power Cost Assistance  Staff Recommendation: Approval as adjusted on interim basis, pending audit	Approved on an Interim Basis Unanimously

\* Not available

COMMISSION TARIFF ACTION MEETING

Commissioners: Guess  
Weatherly  
Knowles  
Snowden

No. 359

AGENDA December 24, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
30-4	ALASKA GAS & SERVICE	12/28	Interim Rate Increase  Staff Recommendation: Grant Interim	Approved Interim  w/Comm. Weatherly Dis-senting
U-80-75	INTERIOR TELEPHONE COMPANY	1/27	Compliance w/order  Staff Recommendation: Approval	Approved  Unanimously
U-81-32	MATANUSKA ELECTRIC ASSOCIATION, INC.	1/25	Compliance w/order  Staff Recommendation: Approval	Approved  Unanimously
U-81-87	KODIAK ELECTRIC ASSOCIATION, INC.	1/27	Compliance w/order  Staff Recommendation: Approval	Approved  Unanimously
			Staff Recommendation:	
			Staff Recommendation:	

Not available

COMMISSION TARIFF ACTION MEETING

Commissioners: Guess  
Weatherly  
Knowles  
Hall  
Snowden

No. 360

AGENDA January 8, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
39-53	YAKUTAT POWER, INC.	2/3	Power Cost Assistance  Staff Recommendation: Approval of a Reduced PCA	Approved Unanimously
41	VALLEY WATER COMPANY	1/20	Interim and Permanent Rate Increase  Staff Recommendation: Grant Interim & Suspend Permanent	Approved Interim and Suspended Permanent Unanimously
27-18	MATANUSKA ELECTRIC ASSOCIATION, INC.	2/1	Wholesale Power Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
24-230	PELICAN UTILITY COMPANY (Sand Point)	waived	Fuel Cost Rate Adjustment  Staff Recommendation: Approval on an Interim Basis	Approved Unanimously
25-230	PELICAN UTILITY COMPANY (Sand Point)	2/3	Fuel Cost Rate Adjustment  Staff Recommendation: Approval on an Interim Basis	Approved Unanimously
189-2	ALASKA POWER & TELE- PHONE (Kagway)	1/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA January 8, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
190-2	ALASKA POWER & TELEPHONE (Tok)	1/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
191-2	ALASKA POWER & TELEPHONE (Craig)	1/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
192-2	ALASKA POWER & TELEPHONE (Hydaburg)	1/27	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
114-1	ALASKA ELECTRIC LIGHT & POWER	2/3	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
5-227	ARCTIC UTILITIES, INC.	2/1	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
U-80-24	TELEPHONE UTILITIES OF ALASKA, INC. (Ft. Wainwright)	1/29	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously

AGENDA January 8, 1981

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
24-126	ANCHORAGE SEWER UTILITY	1/10	ASU letters (response to letter order) re military accounts Note: this item held over from 12/18/81 TA meeting  Staff Recommendation: Clarifying letter order be issued	Approved Unanimously
4d-3	GENERAL TELEPHONE COMPANY OF ALASKA	1/25	Compliance w/letter order  Staff Recommendation: Approval	Approved Unanimously
U-31-99	BETTLES LIGHT & POWER	2/3	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation: * Not available	

Commiss  
COMMISSION TARIFF ACTION MEETING

No. 363

AGENDA January 25, 1982

11011  
 Snowden

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
10-92	Tanana Power Co.	2/19	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously
1D-106	City of Unalaska	2/8	Power Cost Assistance  Staff Recommendation: Approval of higher PCA than requested	Approved Unanimously
4D-22	Naknek Electric Association, Inc. (Naknek)	1/10	Power Cost Assistance  Staff Recommendation: Correction of PCA amount	Correction Approved Unanimously
31-4	Alaska Gas and Service	2/16	Purchased Gas Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
9-92	Tanana Power Company	1/29	Rules and Regulations Changes: Billing and Collection, Line Extensions, Service Connections. Staff Recommendation: Approval in part and interim approval in part	Suspended and Allowed to go into effect on an Interim Basis  w/ Comm. Weatherly Dissenting
18-44	McGrath Light & Power	2/19	Billing Form Changes Staff Recommendation: Approval	HELD

AGENDA January 25, 1982

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
41-121	Anchorage Municipal Light & Power	2/25	Gas Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
115-1	Alaska Electric Light & Power	3/1	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
U-81-101	Alaska Gas & Service	2/29	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
"-81-81	Yakutat Power, Inc.	2/26	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously
45-43	Bethel Utilities Corporation, Inc.	2/22	Compliance w/letter order  Staff Recommendation: Approval	Approved Unanimously
U-81-14	Homer Electric Association, Inc.	2/17	Compliance w/order  Staff Recommendation: Approval	Approved Unanimously

\* Not available

AGENDA January 25, 1982

TA No.      UTILITY NAME      45/day      SUBJECT MATTER AND STAFF RECOMMENDATION      ACTION TAKEN

54-14	Haines Light & Power	3/1	Compliance w/letter order  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation:	
			Staff Recommendation: * Not available	

COMMISSION TARIFF ACTION MEETING

Commissioners: Guess  
Weatherly  
Knowles  
Hall  
Snowden

No. 366

AGENDA February 11, 1982

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
46-88	NORTHERN POWER & ENGINEERING CORP.	3/1	Power Cost Assistance  Staff Recommendation: Approval	Approved Unanimously
208-98	ALASCOM, INC.	3/22	Deletion of Eagle Village from list of locations where Private Direct Toll Access Line Service is provided  Staff Recommendation: Approval	Approved Unanimously
24-b	CHUGACH ELECTRIC ASSOCIATION, INC.	2/16	Underground Line Extension Differential  Staff Recommendation: Approval	Approved Unanimously
117-1	ALASKA ELECTRIC LIGHT & POWER CO.	3/15	Deletion of 3% Franchise Tax for customers in the City of Juneau  Staff Recommendation: Approval	Approved Unanimously
116-1	ALASKA ELECTRIC LIGHT & POWER CO.	3/17	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
93-2	ALASKA POWER & TELEPHONE (Skagway)	3/4	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously

\* Not available

## AGENDA February 11, 1982

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
194-2	ALASKA POWER & TELEPHONE (Tok)	3/8	Fuel Cost Rate Adjustment  Staff Recommendation: Approval	Approved Unanimously
18-24	PELLICAN UTILITY CO. (Pelican)	3/19	Fuel Cost Rate Adjustment  Approval of a Reduced Surcharge: Refund on Staff Recommendation: next properly calculated surcharge	Approved Unanimously
U-81-18	TANANA POWER CO.	2/19	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
U-82-3	FORT YUKON UTILITIES	2/26	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
U-81-89	PELLICAN UTILITY CO. (Sand Point)	3/17	Compliance w/Order  Staff Recommendation: Approval	Approved Unanimously
			Staff Recommendation: * Not available	

COMMISSION TARIFF ACTION MEETING

Weatherly  
Knowles  
Hall  
Snowden

No. 368

AGENDA February 26, 1982

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
27-230	Pelican Utility Company (Sand Point)	3/19	Power Cost Assistance  Staff Recommendation: Approved of higher PCA than requested.	Approval Unanimously
154-49	Glacier State Telephone Company	3/3	Interim Rate Increase  Staff Recommendation: Grant Interim	HELD
			Staff Recommendation:	
207-98	Alascom, Inc.	3/8	Transportable Earth Stations  Staff Recommendation: Suspension if TA206-98 is suspended; otherwise, approval	Interim Approval & Suspension Unanimously
81-19	Matanuska Telephone Association, Inc.	Waived	Rates for Remote Display Unit for Golden Valley Electric Association, Inc., Healy Power Plant Mitel SX-20  Staff Recommendation: Approval	Approval Unanimously
42-121	Anchorage Municipal Light & Power	3/26	Gas Cost Rate Adjustment  Staff Recommendation: Approval; open docket to investigate methodology  * Not available	Approval and open Docket Unanimously

AGENDA February 26, 1982

TA No.	UTILITY NAME	45/day	SUBJECT MATTER AND STAFF RECOMMENDATION	ACTION TAKEN
47-43	Bethel Utilities Corporation, Inc.	3/24	Fuel Cost Rate Adjustment and Power Cost Assistance Adjustment  Staff Recommendation: Approval	Approval Unanimously
40-53	Yakutat Power, Inc.	4/1	Fuel Cost Rate Adjustment and Power Cost Assistance Adjustment  Staff Recommendation: Approval	Approval Unanimously
26-230	Pelican Utility Company (Sand Point)	3/8	Fuel Cost Rate Adjustment  Staff Recommendation: Suspension & Interim Approval	Approval Unanimously
U-82-2	Valley Water Company	3, 24	Compliance with Order  Staff Recommendation: Approval	Approval Unanimously
U-81-54	Pelican Utility Company (Sand Point)	3/26	Compliance with Order  Staff Recommendation: Approval	Approval Unanimously
U-81-29	Anchorage Telephone Utility	N/A	Supplemental Filing  Staff Recommendation: Approval	Approval Unanimously

\* Not available

ALASKA PUBLIC UTILITIES COMMIS-  
SION and the Municipality of Anchorage, d/b/a Municipal Light and Power Department, Appellants,

v.

CHUGACH ELECTRIC ASSOCIATION,  
INC., Appellee.

CHUGACH ELECTRIC ASSOCIATION,  
INC., Cross-Appellant,

v.

ALASKA PUBLIC UTILITIES COMMIS-  
SION and the Municipality of Anchorage, d/b/a Municipal Light and Power Department, Cross-Appellees.

Nos. 2969, 2993.

Supreme Court of Alaska.

May 26, 1978.

Electric utility corporation appealed from order of the Public Service Commission which assigned fixed service areas to corporation and to city light and power department within area served by both. The Superior Court, Third Judicial District, Eben H. Lewis, J., held that there was insufficient evidence to support conclusions in Commission's order and remanded matter to Commission for reconsideration, and city light and power department appealed and utility corporation cross-appealed. The Supreme Court, Burke, J., held that: (1) in light of statute providing that all certificates of convenience and necessity issued before July 1, 1970 would be subject to modification, general saving statute did not preserve any right which electric utility corporation might have had, prior to order of Commission, to continue providing electric service, and failure of Commission to find existence of such right did not deny utility corporation due process; (2) portion of order establishing fixed service areas for utility corporation and city light and power department within area served by both had a reasonable basis, and (3) portion of order providing for retirement and transfer of facilities from utility corporation to city

light and power department in those areas where the two utilities were operating duplicate and parallel facilities lacked a reasonable basis and would be remanded to Commission for further evidence.

Remanded.

1. Statutes  $\Rightarrow$  277

General saving statute will save rights and remedies except where subsequent repealing act indicates that it was not intention of legislature that particular remedies and rights in question should be saved. AS 01.10.100.

2. Constitutional Law  $\Rightarrow$  296(1)  
Electricity  $\Rightarrow$  4

In light of statute providing that all certificates of convenience and necessity issued before July 1, 1970 would be subject to modification in areas of conflict with public utilities that had not previously been required to have a certificate, general saving statute did not preserve any right to continue providing service which electric utility corporation, which was operating in same area as city light and power department and which had been issued certificate of convenience and necessity to do so in 1963, may have had prior to Public Service Commission order assigning fixed service areas to corporation and to city department; thus, corporation was not denied due process by failure of Commission to find existence of such right. AS 01.10.100, 42.05.221; AS 42.05.193, 42.05.194, 42.05.196, Laws 1963, c. 95.

3. Administrative Law and Procedure  $\Rightarrow$  790

In cases where decision involves administrative expertise as to either complex subject matter or fundamental policy formulations, deference should be given to administrative determination if it has reasonable basis in law and fact; such deference is given because agency is in better position to make such a determination than court because of agency's specialized knowledge in a field. AS 44.62.570.

185

785

y's fees

## 4. Electricity ⇐4

On appeal from order of Public Service Commission assigning fixed areas to electric utility corporation and to city light and power department within area served by both pursuant to statutes empowering Commission to take appropriate action to eliminate competition and duplication of facilities in areas where two or more public utilities are competing to furnish identical services, appropriate standard of review, in light of complex financial and engineering determinations involved and considerable expertise required, was reasonable basis test. AS 42.05.221(d), 44.62.570.

## 5. Electricity ⇐4

Since Supreme Court, on appeal from order of Public Service Commission assigning fixed service areas to electric utility corporation and to city light and power department within area served by both, was to review case independently of determination made by superior court, which had acted as intermediate court of appeal, Supreme Court would not need to decide whether lower court erroneously relied upon alleged misrepresentation of electric utility corporation regarding statement made by public service commissioner. AS 42.05.221(d), 44.62.570.

## 6. Electricity ⇐4

On appeal before Supreme Court from order of Public Service Commission assigning fixed areas to electric utility corporation and to city light and power department within area served by both, affidavit by president of engineering company, which had been submitted by electric utility corporation to Commission as part of its petition for reconsideration, was properly before Supreme Court not as evidence, but as part of corporation's argument that Commission order did not have reasonable basis. AS 42.05.221(d).

## 7. Electricity ⇐4

Portion of order of Public Service Commission establishing fixed service areas for electric utility corporation and city light and power department within area previously served by both, pursuant to statute

empowering Commission to take appropriate action to eliminate competition and duplication of facilities in areas where two or more public utilities are competing to furnish identical services, allocated service areas in such a way as to resolve competing interests of corporation and light and power department and public they served, and had reasonable basis. AS 42.05.221(d).

## 8. Electricity ⇐4

Portion of order of Public Service Commission, entered pursuant to statute empowering Commission to take appropriate action to eliminate competition and duplication of facilities in areas where two or more public utilities are competing to furnish identical services, providing for retirement and transfer of facilities from electric utility corporation to city light and power department in those areas where those two utilities were operating duplicate and parallel facilities, lacked a reasonable basis and would require remand to Commission for further evidence regarding retirement and transfer of such facilities. AS 42.05.221(d).

Jeffrey B. Lowenfels, Asst. Atty. Gen., Anchorage, Avrum M. Gross, Atty. Gen., Juneau, for appellant and cross-appellee, Alaska Public Utilities Commission.

Peter C. Ginder, Asst. Municipal Atty., Karen D. Nagel, Associate Counsel, Richard W. Garnett, III, Municipal Atty., Anchorage, for appellant and cross-appellee, Municipality of Anchorage.

William J. Moran, Anchorage, for appellee and cross-appellant.

Before BOOCHEVER, Chief Justice, and CONNOR and BURKE, Justices.

## OPINION

BURKE, Justice.

This appeal and cross-appeal require us to review a determination of the Alaska Public Utilities Commission (hereinafter referred to as the Commission) regarding the delineation of service area boundaries of the Municipal Light and Power Department

of the Municipality of Anchorage after referred to as Chugach Electric Company and referred to as Chugach.

The present case arose seven years ago when the Commission before the State of Alaska created the Municipality of Anchorage pursuant to AS 42.05.221(d) and granted authority to the Municipality throughout a service area and immediately thereafter the Municipality of Anchorage was operating an electric generation, transmission and distribution facilities for electric power generation was not required by AS 42.05.221(d) in 1971.

After reviewing the Commission's determination, the Commission determined that the facilities were being operated by Chugach, which had a certificate of public utility granted to it by the Commission provides that when two utilities are competing to furnish electric service and that this is in the public interest, the

1. AS 42.05.221 provides that a certificate of public utility may operate and provide a certificate of public utility on or after January 1, 1971 with the certificate declared and necessary to provide electric service. Where a certificate of public utility is granted in it, the services involved are authorized areas of the public utility.

(c) A certificate of public utility which was granted before July 1, 1971 may be renewed after the expiration of the certificate if the certificate is still in good standing and there are areas of public utility or where there is a change in circum-

ALASKA PUBLIC UTILITIES v. CHUGACH ELEC. ASS'N Alaska 689

Cite as, Alaska, 590 P.2d 657

of the Municipality of Anchorage (hereinafter referred to as ML&P) and the Chugach Electric Association (hereinafter referred to as Chugach).

The present controversy began nearly seven years ago when ML&P filed an application before the Commission for a certificate of public convenience and necessity pursuant to AS 42.05.221.<sup>1</sup> ML&P requested authority to furnish electric service throughout a service area situated within and immediately adjacent to the then City of Anchorage. At the time of filing, ML&P was operating an extensive network of electric generation, transmission, and distribution facilities for which Commission certification was not required prior to January 1, 1971.

After reviewing ML&P's application, the Commission determined that identical services were being offered in many instances by Chugach, which was operating under a certificate of public convenience and necessity granted to it in 1963. AS 42.05.221(d)<sup>2</sup> provides that where the Commission determines that two or more public utilities are competing to furnish identical utility service and that this competition is not in the public interest, the Commission is to take

appropriate action to eliminate the competition and any undesirable duplication of facilities. Pursuant to this section, the Commission issued Order No. 1 on March 11, 1971, seeking the advice and assistance of ML&P and Chugach in implementing a plan to eliminate such competition and duplication.

In response to Order No. 1, ML&P and Chugach filed briefs outlining their respective views as to how the Commission should proceed. Both parties submitted proposed orders to establish a negotiating committee that would allow the utilities to reach agreement on a voluntary basis. On August 31, 1971, the Commission by Order No. 9 established the requested negotiating committee, composed of members from each of the utilities and one Commission staff member who was to serve as a coordinating chairman. The Commission also established interim service areas during this period.

After several months of negotiations the parties' efforts to reach agreement proved unsuccessful. The Commission then ordered each party to submit, among other things, proposed solutions to the service area dispute. Upon reviewing the proposed

1. AS 42.05.221 provides in relevant part:

*Certificates required.* (a) No public utility may operate and receive compensation for providing a commodity or service after January 1, 1971 without first having obtained from the commission under this chapter a certificate declaring that public convenience and necessity require or will require the service. Where a public utility provides more than one type of utility service, a separate certificate of convenience and necessity is required for each type. A certificate shall describe the nature and extent of the authority granted in it, including, as appropriate for the services involved, a description of the authorized area and scope of operations of the public utility.

(c) A certificate shall be issued to a public utility which was not required to have one before July 1, 1970, and which is required to have one after that date, if it appears to the commission that the utility was actually operating in good faith on that date. Such a certificate is subject to modification where there are areas of conflict with other public utilities or where there has been a substantial change in circumstances.

2. AS 42.05.221(d) states:

If an area where the commission determines that two or more public utilities are competing to furnish identical utility service and that this competition is not in the public interest, the commission shall take appropriate action to eliminate the competition and any undesirable duplication of facilities. This appropriate action may include, but is not limited to, ordering the competing utilities to enter into a contract which, among other things would:

- (1) delineate the service area boundaries of each in those areas of competition;
- (2) eliminate existing duplication and paralleling to the fullest reasonable extent;
- (3) preclude future duplication and paralleling;
- (4) provide for the exchange of customers and facilities for the purposes of providing better public service and of eliminating duplication and paralleling; and
- (5) provide such other mutually equitable arrangements as would be in the public interest.

recommendations by each utility, the Commission concluded that neither plan provided an equitable solution to the problem.

On September 19, 1972, public hearings were commenced to afford both ML&P and Chugach the opportunity to augment their written filings and to cross-examine the other party on its proposal. Extensive testimony was taken, following which the parties submitted additional briefs. On September 27, 1973, the Commission issued Order No. 19 which, among other things, assigned firm, fixed service areas to each of the utilities. It is this Order, as amended by Order No. 20, which led to these appeals.

Pursuant to 3 AAC 48.090(e),<sup>3</sup> Chugach, on December 3, 1973, petitioned the Commission for reconsideration of Order No. 19 and for the re-opening of the proceedings to receive additional evidence. No action was taken on the petition for 30 days and thus it was automatically denied under 3 AAC 48.090(e).

On February 1, 1974, Chugach gave notice of its appeal to the superior court from Order No. 19, as amended by Order No. 20. On April 30, 1976, oral argument was heard before the superior court. At the close of the proceedings the trial court held that there was insufficient evidence to support the Commission's conclusions in Order No. 19 and remanded the matter to the Commission for reconsideration. This appeal and cross-appeal followed. We will discuss the issues raised in Chugach's cross-appeal first.

#### CROSS-APPEAL

The service area granted to ML&P by the Commission in Order No. 19 included sever-

#### 3. 3 AAC 48.090(e) provides:

Within 15 days after an order of the commission is served, a party may file a petition for reconsideration of the order that is served setting forth specifically the grounds upon which the petitioner believes the order is unreasonable, erroneous, unlawful or otherwise defective. The petitioner may also submit a proposed order designed to cure the alleged defects of the commission's order. A party opposing a petition for reconsideration shall have 10 days in which to respond. The commission's power to order reconsideration expires 30 days after the date that the order

al areas which had been granted to Chugach in its 1963 certificate of public convenience and necessity. These areas were within the corporate limits of the former City of Anchorage where the two utilities were operating duplicate or parallel electrical facilities. In its cross-appeal, Chugach claims that its right to provide service within its certificated area is a vested property interest which was improperly taken without due process of law when the Commission granted to ML&P the right to offer service within portions of Chugach's certificated service area. In order to adequately set out Chugach's claim and resolve this question, it is first necessary for us to outline briefly the statutory history of pertinent portions of what is now entitled the Alaska Public Utility Commission Act (hereinafter referred to as the Act).

Utility regulation on a statewide basis in Alaska first became a reality upon passage, by the first state legislature, of Chapter 199, SLA 1959. This act established the Alaska Public Service Commission. However, its application to electric, telegraphic and telephonic utilities was held in abeyance pending submission of a report to the legislature by the newly formed Commission.

In 1963, AS 42.05 *et seq.* was amended in several respects by Chapter 95, SLA 1963. AS 42.05.193 required for the first time that certificates be obtained. That section stated:

*Certificates of Convenience and Necessity.* No public utility shall operate after January 1, 1964, without first having

designated in the petition for reconsideration is served on the petitioner. If the commission takes no action on a petition for reconsideration within the time allowed for ordering reconsideration, the petition is automatically denied. The commission may order reconsideration of all or part of the record in a proceeding and any additional evidence and argument it may permit either in writing or orally. The mere filing of a petition for reconsideration does not excuse the petitioning party from compliance with a decision or order of the commission.

obtained from provisions declaring the necessity requirement and device is to be AS 42.05.194 "other rights" ing:

*Certificate.* A Certificate appears to the utility was faith on the lines of public utility necessary to purchase as of

It was under that Chugach

In requiring certificates in order also added to AS 42.05.196, upon reliance:

*Power of certificate.* The power after notice to intertificate to ready service when the ties service and will no fraction of cases, the hearing requested or same in w

In addition to exclude regulation utility which trial service convenience

4. See notes  
5. AS 42.05.194. Modified certificate own motion opportunity

ALASKA PUBLIC UTILITIES v. CHUGACH ELEC. ASS'N Alaska 691

Cite as, Alaska, 590 P.2d 637

obtained from the commission under the provisions of this chapter a certificate declaring that public convenience and necessity require or will require the operation and delimiting the area where service is to be provided.

AS 42.05.194, however, granted "grandfather rights" to those utilities then operating:

*Certificates Granted to Existing Utilities.* A Certificate shall be granted if it appears to the commission that the public utility was actually operating in good faith on October 15, 1962, within the confines of the requested area, or that the public utility was installing the facilities necessary to furnish service under a franchise as of that date.

It was under this section of the 1963 Act that Chugach obtained its certificate.

In requiring public utilities to obtain certificates in order to operate, the legislature also added the following provision, AS 42.05.196, upon which Chugach places great reliance:

*Power of Commission to Grant Certificate.* The commission shall have the power after hearing, upon reasonable notice to interested parties, to grant a certificate to provide service in an area already served by a certificate holder only when the existing public utility or utilities serving the area are not providing, and will not provide service to the satisfaction of the commission. In all other cases, the commission with or without hearing may issue a certificate as requested or for good cause shown deny the same in whole or part.

In addition, AS 42.05.610(2) was amended to exclude municipally-owned utilities from regulation under the Act. It was this provision which allowed ML&P to furnish electrical services without a certificate of public convenience and necessity at that time.

4. See notes 1 and 2 *supra* for relevant parts.

5. AS 42.05.271 states in pertinent part.

*Modification, suspension or revocation of certificates.* Upon complaint or upon its own motion the commission, after notice and opportunity for hearing and for good cause

The statutes regulating public utilities were again amended in 1970, pursuant to Ch. 113, SLA 1970. Several extensive changes are relevant to this appeal. The definition of "public utility" or "utility" was amended to include municipally-owned utilities. AS 42.05.701(2). As a result of this, municipally-owned utilities, including ML&P, were required to obtain certificates of convenience and necessity in order to operate. In addition, AS 42.05.194, AS 42.05.195 and AS 42.05.196, quoted above, were repealed.

In place of those repealed sections, AS 42.05.221 was enacted.<sup>4</sup> This statute requires public utilities to obtain certificates of convenience and necessity as a condition of operation. Subsection (c) gave "grandfather rights" to existing utilities newly subject to regulation. Subsection (b), which is significant in the instant case, provides:

All certificates of convenience and necessity issued to a public utility before July 1, 1970 remain in effect but they are subject to modification where there are areas of conflict with public utilities that have not previously been required to have a certificate or where there is a substantial change in circumstances.

This subsection was supplemented by AS 42.05.271, which provides for the modification, suspension or revocation of certificates for several listed reasons, including the requirements of public convenience and necessity.<sup>5</sup>

Within the context of this statutory history, Chugach's claim on cross-appeal can now be more fully understood. At the time Chugach was certificated, AS 42.05.196, quoted above, provided that a competing utility could be certificated in the same area as a certificate holder only if the certificate holder did not and would not furnish service in that area to the satisfaction

shown, may amend, modify, suspend, or revoke a certificate, in whole or in part. Good cause for amendment, modification, suspension or revocation of a certificate includes

(1) the requirements of public convenience and necessity;

185

207

of the Commission. Chugach contends that its right to provide electrical service within its certificated area became a vested right at the time of its certification, subject to divestment only if its service in that area was unsatisfactory to the Commission under AS 42.05.196. Because this right vested prior to the repeal of AS 42.05.196 in 1970, Chugach argues it is still entitled to the application of that section of the statute under Alaska's general saving statute, AS 01.10.100.<sup>6</sup> Thus, Chugach maintains, the Commission denied Chugach its right to due process with regard to its vested property interest when it granted ML&P the right to serve portions of Chugach's certificated area without first finding that Chugach had not and would not perform satisfactorily in that area.

In order to sustain Chugach's claim, we must first find that Chugach's 1963 certificate gave it a vested right to provide service in its certificated area barring a finding by the Commission that its services were unsatisfactory. Then we must find that this right was preserved under the Alaska saving statute despite the repeal of these sections in the former Act upon which this right depends. We conclude that the saving statute does not preserve any accrued right which Chugach may have had and thus it is unnecessary for us to determine whether in fact Chugach did have such a right.

AS 01.10.100(a) provides in relevant part: The repeal or amendment of any law does not release or extinguish any . . . right accruing or accrued under such law, unless the repealing or amending act so provides expressly. The law shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right . . .

6. AS 01.10.100 provides in relevant part: *Effect of repeal or amendments.* (a) The repeal or amendment of any law does not release or extinguish any penalty, forfeiture, or liability incurred or right accruing or accrued under such law, unless the repealing or amending act . . . provides expressly. The

We note that the term "right" has been construed to mean a vested right and that vested property rights are protected from state action under the Fourteenth Amendment of the United States Constitution and Art I, section 7, of the Alaska Constitution. *Bidwell v. Scheele*, 355 P.2d 584, 586 (Alaska 1960).

[1, 2] The law regarding general saving statutes was succinctly stated by the court in *Territory of Alaska v. American Can Company*, 137 F.Supp. 181, 16 Alaska 71, 76 (1956),<sup>7</sup> as follows:

It is a fundamental rule of statutory construction that a general saving clause or statute preserves rights and liabilities which have accrued under the act repealed and that they operate to make applicable in designated situations the law as it existed before the repeal, *unless such application is negatived by the express terms or clear implication of a particular repealing act*, or where not otherwise provided by the repealing act. (emphasis in original).

The saving statute in effect at that time was somewhat different from the present one but the court's statement accurately reflects the general rule. As stated in Sutherland, *Statutory Construction* (4th ed. C.D. Sands 1973), a general saving statute will save rights and remedies "except where a subsequent repealing act indicates that it was not the legislative intention that particular rights and remedies should be saved." *Id.* at § 47.13. See *Summit Bench, Inc. v. Glander*, 153 Ohio St. 147, 91 N.E.2d 10, 11-12 (1950); *State v. Chicago Great Western Ry. Co.*, 222 Minn. 504, 25 N.W.2d 294, 297-98 (1946).

Section 5 of Ch. 113, SLA 1970, specifically repealed AS 42.05.193, AS 42.05.194 and AS 42.05.196, the sections on which Chugach's claimed property right depends. In

law shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture, or liability.

7. 147 F.2d 493, 17 Alaska 289 (8th Cir. 1947), *rev'd on other grounds* 355 U.S. 224, 79 S.Ct. 274, 31 E.2d 297 (1950).

their pl  
05.221.<sup>8</sup>  
above, s

All cer  
sity is  
1, 197  
subjec  
areas  
have n  
a certi  
tial ch  
added)

It is cle  
this subs  
to a situ  
where a  
gach) is  
a utility  
quired t  
furnish  
has decre  
viously e  
where su  
ment th  
guished  
had to ce  
was doir  
place the  
the existe  
ly-owned  
cient gro  
ly grante  
do, that  
erty righ  
mandate  
here is e  
the legis  
any righ

8. See no

9. In its  
view an  
that its  
necessity  
entitled  
purchas  
not argu  
to it in  
not cons  
v. State,  
is v. Sta  
1970).

10. AS 4-

their place the legislature enacted AS 42-05.221.<sup>8</sup> Subsection (b), which was noted above, states as follows:

All certificates of convenience and necessity issued to a public utility before July 1, 1970 remain in effect but they are subject to modification where there are areas of conflict with public utilities that have not previously been required to have a certificate or where there is a substantial change in circumstances. (emphasis added).

It is clear that the emphasized portion of this subsection specifically addresses itself to a situation such as the present one, i. e., where a previously certificated utility (Chugach) is providing service in an area where a utility which has not previously been required to be certificated (ML&P) is also furnishing electric service. The legislature has decreed that the certificate of the previously certificated utility may be modified where such a conflict exists. By this statement the legislature clearly has extinguished whatever right Chugach may have had to continue providing service unless it was doing so unsatisfactorily and in its place the legislature has determined that the existence of a conflict with a municipally-owned utility in itself provides a sufficient ground for modification of a previously granted certificate. Assuming, *arguendo*, that Chugach did have the vested property right it has claimed, the legislature's mandate in the very situation presented here is clear. In enacting AS 42.05.221(b) the legislature indicated its intention that any right afforded certificated utilities un-

8. See notes 1 and 2 for relevant parts.

9. In its statement of issues presented for review and in its conclusion, Chugach suggests that its certificate of public convenience and necessity is a franchise or contract which is entitled to constitutional protection against impairment. However, because Chugach does not argue this issue beyond a passing reference to it in the argument portion of its brief, we do not consider the issue on review. See *Kristich v. State*, 550 P.2d 796, 804 (Alaska 1976); *Lewis v. State*, 469 P.2d 689, 691-92 n. 2 (Alaska 1970).

10. AS 44.62.570 provides in part:

der the old AS 42.05.196 was not saved. We hold, therefore, that the saving statute, AS 01.10.100, does not preserve any right Chugach may have had to continue providing electrical service unless it was not providing or would not provide service to the satisfaction of the Commission. Chugach, therefore, has not been denied due process by the Commission's failure to make such a finding.<sup>9</sup>

#### APPEAL

Appellants ML&P and the Commission's first argument on appeal is that the superior court used an incorrect standard of review in reaching its decision to remand the case to the Commission. The Commission argues that the lower court improperly substituted its judgment for that of the Commission while ML&P contends that the lower court improperly applied the substantial evidence test. Both parties maintain that the proper standard of review is the reasonable basis test.

At the outset we note that it is unclear from a reading of the superior court's oral decision which standard of review it applied. This lack of clarity is not significant, however, for we approach the issues here independently of the superior court which was acting as an intermediate court of appeal. *Jager v. State*, 537 P.2d 1100, 1106 (Alaska 1975); *State v. Marathon Oil Company*, 528 P.2d 293, 298 (Alaska 1974).

[3,4] This court has enunciated several standards of review of agency action under AS 44.62.570,<sup>10</sup> the section of the Alaska

*Scope of review.* (a) An appeal shall be heard by the superior court sitting without a jury.

(b) Inquiry in an appeal extends to the following questions: (1) whether the agency has proceeded without, or in excess of jurisdiction, (2) whether there was fair hearing; and (3) whether there was prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) The court may exercise its independent judgment on the evidence. If it is claimed that the findings are not supported by the

Administrative Procedure Act governing scope of review. We do not find it necessary to discuss each of the various standards at this time, however, for it is clear that the appropriate standard of review in the instant case is the reasonable basis test.<sup>11</sup> In *Kelly v. Zamarello*, 486 P.2d 906, 916-17 (Alaska 1971), we set forth this test as follows: In cases where a decision involves administrative expertise as to either complex subject matter or fundamental policy formulations, deference should be given to an administrative determination if it has a reasonable basis in law and fact.<sup>12</sup> Such deference is given because the agency is in a better position to make such a determination than a court because of the agency's specialized knowledge in a field. In the instant case, it is readily apparent that the delineation of electrical service areas involves complex financial and engineering determinations and requires considerable expertise in these areas. In addition, fundamental policy formulations are involved in the Commission's task of eliminating undesirable competition and duplication of facilities under AS 42.05.221(d). It is difficult, in fact, to conceive of a situation where the reasonable basis test is more appropriate. Therefore, we limit our review in this case to deciding whether the Commission's action in Order No. 19, as amended, has a reasonable basis in law and fact.

evidence, abuse of discretion is established if the court determines that the findings are not supported by (1) the weight of the evidence, or (2) substantial evidence in the light of the whole record.

(d) The court may augment the agency record in whole or in part, or hold a hearing de novo. If the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing, the court may (1) enter judgment as provided in (e) of this section and remand the case to be reconsidered in the light of that evidence; or (2) admit the evidence at the appellate hearing without remanding the case.

(e) The court shall enter judgment setting aside, modifying, remanding, or affirming the order or decision, without limiting or controlling in any way the discretion legally vested in the agency.

[5] Before we can make this determination, however, it is necessary for us to deal with several other issues raised by appellants. Both ML&P and the Commission argue on appeal that the trial court erred in relying on Chugach's alleged misrepresentation regarding a "Statement of Position" by Mr. Hendershot, one of the commissioners involved in Order No. 19. This statement explained why no action was taken on Chugach's petition for reconsideration and set forth certain problems Mr. Hendershot saw in Order No. 19. Since, as noted above, we review this case independently of the superior court, we need not decide whether the lower court erroneously relied on the alleged misrepresentation.

[6] Appellants also argue that the superior court erred in considering an affidavit by T. Foley Treadway, president of the Georgia-based Southern Engineering Company, which Chugach had submitted to the Commission as part of its petition for reconsideration. Again, we need not decide whether the lower court erred in this regard; however, it is necessary for us to determine if and to what extent this court may consider the affidavit.

ML&P and the Commission argue this point somewhat differently, but the gist of their arguments<sup>13</sup> is that it is improper for

11. For a summary of the different standards of review, see *Jager v. State*, 537 P.2d 1100, 1107 (Alaska 1975).

12. See generally *Jager v. State*, *supra*; *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 99 (Alaska 1974); *Swindel v. Kelly*, 499 P.2d 261 (Alaska 1972); *Pan American Petroleum Corp. v. Shell Oil Co.*, 455 P.2d 12 (Alaska 1969).

13. ML&P also argues that once the Commission failed to give the relief sought in Chugach's petition for reconsideration, the record closed and review is limited to examination of the testimony and exhibits presented at the hearings on Order No. 19. This contention is without merit. AS 44.62.563(c) which determines the contents of the record on judicial review of administrative decisions states:

The complete record includes (1) the pleadings, (2) all notices and orders issued by the

the review way affidavit evidence v to the Cor No. 19 but time. Ap should not previously cumstance dence to i considerati

In refut Chugach n not intend davit as e going to p matter of No. 19. Cl had the s noted in it petition fo an affidavit found no r from the r in the for merely ma vancing. persuasive Treadway court on re of Chugac as amende sis.

[7] We whether to sonable ba makes two appeal: F areas for for the ret from Chug two utilitie ities. We the order that the ty be related.

agency, ing offi script c the ext written in the c

ALASKA PUBLIC UTILITIES v. CHUGACH ELEC. ASS'N Alaska 695

Cite as, Alaska, 560 P.2d 697

the reviewing court to consider the Treadway affidavit because the affidavit presents evidence which could have been presented to the Commission before it entered Order No. 19 but which was not presented at that time. Appellants contend that Chugach should not be allowed to introduce new, previously available evidence under this circumstance by simply attaching such evidence to its administrative petition for reconsideration.

In refuting this argument by appellants, Chugach maintains that it did not and does not intend to introduce the Treadway affidavit as evidence, but rather as argument going to prove the unreasonableness as a matter of law of the Commission's Order No. 19. Chugach points out in its brief that had the shortcomings of the order been noted in its memorandum in support of its petition for reconsideration rather than in an affidavit, the appellants would have found no reason to move for its elimination from the record. Submitting the argument in the form that it did, Chugach contends, merely made it more penetrating and convincing. We find Chugach's contention persuasive and therefore hold that the Treadway affidavit is properly before this court on review not as evidence, but as part of Chugach's argument that Order No. 19, as amended, did not have a reasonable basis.

[7] We now turn to the question of whether the Commission's order has a reasonable basis. Order No. 19, as amended, makes two determinations relevant to this appeal: First, it delineates fixed service areas for each utility; second, it provides for the retirement and transfer of facilities from Chugach to ML&P in areas where the two utilities have duplicate or parallel facilities. We will address these components of the order separately, although we realize that the two facets of the order in fact may be related.

agency, (3) the proposed decision by a hearing officer, (4) the final decision, (5) a transcript of all testimony and proceedings, (6) the exhibits admitted or rejected, (7) the written evidence, and (8) all other documents in the case.

Initially, we find it helpful to set out that aspect of the service area delineation which is the major source of contention in this case. Stated briefly, the dispute centers on the Commission's grant to ML&P of virtually all areas within the limits of the former City of Anchorage in which the two utilities were providing duplicate and parallel service. It is not the fact that fixed service areas were established by the order that is in question; rather, it is the Commission's decision regarding the service areas actually assigned which must be reviewed for reasonableness.

After a lengthy recitation of the events leading up to the issuance of its order, including a summary of the proposals submitted by ML&P and Chugach and the testimony presented at the September 1972 hearings, the Commission in Order No. 19 assigned fixed service areas to each of the utilities. Essentially, the Commission awarded ML&P two non-contiguous sub-areas. In one of the sub-areas, ML&P was already the sole supplier of electrical services except for infrequent minor border area penetrations by Chugach. In the other, there was either no present supplier, ML&P was the sole supplier, or Chugach and ML&P were operating duplicate or parallel facilities. Chugach was awarded most of the remaining portions of its certificated service area.

Following its assignment of service areas the Commission provided the following basis for its decision:

In establishing the above service area boundaries between CEA and ML&P, extensive consideration was given to the requirements that ML&P be afforded the necessary opportunity for horizontal growth and that the existing revenue base of CEA be preserved.

. . . . .

Classification 8, "all other documents in the case," clearly acts to make Chugach's petition, with its attached affidavits, part of the record on review.

185

282

termina-  
to deal  
appel-  
mission  
erred in  
esentat-  
ion" by  
sioners  
ement  
n Chu-  
and set  
ot saw  
ve, we  
e supe-  
er the  
he al-  
  
supe-  
idavit  
f the  
Com-  
o the  
recon-  
ecide  
is re-  
us to  
court  
  
this  
st of  
r for  
  
ds of  
1107  
  
Mobil  
518  
Selly,  
rican  
d 12  
  
mis-  
Chu-  
cord  
n of  
the  
n is  
ter-  
cial  
  
ad-  
the

The Commission recognized in assigning ML&P almost all areas within the city in which duplication exists, that without compensating factors the gradual phase out of facilities and customers by CEA would progressively reduce that utility's revenues. Such effect, however, should be offset adequately by CEA's exclusive authorization to serve the rapidly expanding business and residential communities immediately outside ML&P's service boundaries.

In our view, that portion of the Commission's order establishing service areas for Chugach and ML&P had a reasonable basis. Acting pursuant to the mandate of AS 42-05.221(d), the Commission allocated service areas in such a way as to resolve the competing interests of both Chugach and ML&P and the public they serve. Therefore, we affirm that portion of Order No. 19.

[8] As noted above, Order No. 19 also provided for the retirement and transfer of facilities from Chugach to ML&P in those areas where the two utilities were operating duplicate and parallel facilities. The Commission did not order the immediate transfer of Chugach's facilities because it felt that to do so could result in increased rates and would jeopardize Chugach's financial integrity. Instead, the Commission provided that Chugach would be allowed to retain and operate its existing facilities within ML&P's newly-awarded service areas for the "normal life" of these facilities. As these facilities were "retired", ML&P would then be permitted to construct and operate the replacement facilities. In addition, it was provided that Chugach could perform routine and emergency maintenance on its old facilities so long as the maintenance did not constitute an attempt to extend the life of the facility beyond its

14. ML&P contends that Chugach may not challenge the retirement and transfer provisions of Order No. 19 because the Commission specifically limited the scope of the hearings to delimitation of service areas, reserving the transfer issue to a later time. It is contended that Chugach concurred in such a postponement and that therefore Chugach is estopped from

normal life. Finally, the Commission established procedures whereby either utility, when circumstances so dictated, could construct or install additional facilities within the authorized service area of the other utility.

Our examination of the record in this case, particularly of the Treadway affidavit submitted by Chugach in support of its petition for reconsideration, persuades us that these portions of Order No. 19 lack a reasonable basis and that a remand to the Commission is required for further evidence regarding the retirement and transfer of Chugach's facilities to ML&P.<sup>14</sup> In his affidavit, Treadway discusses at great length the inadequacy of the transfer of facilities scheme set out in Order No. 19. At the outset, for example, he points out that it is unclear from the order exactly what the Commission means by retirement of facilities. Theoretically, retirement could occur when the facilities are fully depreciated on Chugach's books or when they physically have no remaining useful life. Furthermore, the term "facilities" could mean either an entire distribution line, circuit or section of a system, or it could mean simply units or components of a system.

More significantly, Treadway asserts that in reality, electrical service facilities are never retired, either actually or on the books. This is because it is necessary to maintain these facilities in good working condition so that they may continue to provide adequate service. Separate components of a distribution system may be retired at a given point due to damage or wear, but they must be replaced for the system to continue in operation. Thus, Treadway points out, not only is an electrical facility never fully retired, but, despite the Commission's order that no replacement or maintenance of a facility be done with

now requesting that the proceeding be reopened for further evidence on this issue. We find it immaterial whether or not the retirement and transfer issues were in fact postponed until a later time since the Commission chose to deal with this problem in Order No. 19.

the intent  
replaceme  
ily extend

The Tr  
other criti  
fer provis  
not feel a  
we are pe  
the Commi  
sions of C  
mand this  
directions  
Commission  
evidence a  
necessary  
transfer o

REMAN

RABING  
not partici

ANOCO

W. C. C  
TRAC

Su

Indem  
ment that i  
from indem  
employee.  
cial Distric  
ides, J., der  
denitice p  
preme Cour  
(1) enforcea  
fication for  
es was not

AMOCO PRODUCTION CO. v. W. C. CHURCH WELDING Alaska 697

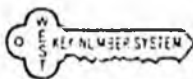
Cite as, Alaska, 560 P.2d 697

the intent to extend its useful life, such replacement or maintenance must necessarily extend the life of the property.

The Treadway affidavit contains many other criticisms of the retirement and transfer provisions of Order No. 19 which we do not feel are necessary to recite here since we are persuaded that it is necessary for the Commission to reconsider these provisions of Order No. 19. Therefore we remand this case to the superior court with directions that the case be remanded to the Commission so that it may take further evidence and such other action as it deems necessary regarding the retirement and transfer of Chugach's facilities to ML&P.

REMANDED.

RABINOWITZ and MATTHEWS, JJ.,  
not participating.



AMOCO PRODUCTION COMPANY,  
Petitioner,

v.

W. C. CHURCH WELDING & CON-  
TRACTING, INC., Respondent.

No. 3897.

Supreme Court of Alaska.

June 23, 1978.

Indemnitee moved for summary judgment that it was entitled to indemnification from indemnitor for injuries to indemnitor's employee. The Superior Court, Third Judicial District, Anchorage, Peter J. Kalamarides, J., denied summary judgment, and indemnitee petitioned for review. The Supreme Court granted review and held that: (1) enforceability of agreement for indemnification for injuries to indemnitor's employees was not dependent on whether indemni-

tor or indemnitee had been in control of work which caused employee's injury, and (2) where indemnification agreement was thus enforceable and there was no factual issue as to whether injury to indemnitor's employee came within terms of agreement, indemnitee was entitled to indemnity.

Reversed.

1. Indemnity  $\Rightarrow$  8(4)

Enforceability of agreement for indemnity for injuries to indemnitor's employees was not dependent on whether indemnitor or indemnitee had been in control of work which caused employee's injury.

2. Indemnity  $\Rightarrow$  3

Where indemnitee could have secured liability insurance protecting against claim by indemnitor's employees, there was no reason, in absence of some showing of unscrupulousness or unequal bargaining power, why indemnitee could not secure same protection from indemnitor by means of indemnification agreement.

3. Appeal and Error  $\Rightarrow$  80(6)

Where issue involved was one of a controlling question of law on which there was substantial ground for difference of opinion and where an immediate and present review of the order might materially advance the ultimate termination of litigation, Supreme Court granted petition for review of trial court's denial of motion by indemnitee for summary judgment against indemnitor based on indemnification agreement.

4. Indemnity  $\Rightarrow$  8(4)

Where indemnification agreement was enforceable even though indemnitee was in charge of indemnitor's employee and there was no factual issue involved as to whether injury to indemnitor's employee came under terms of agreement, indemnitee was entitled to indemnity for any claim for injury sustained by indemnitor's employee while he was working on indemnitee's offshore drilling rig.

Sanford M. Gibbs, Hagans, Smith, Brown, Erwin & Gibbs, Anchorage, for petitioner.

581

582

1817  
C. J. F. A. F.

It is convenient in the course of our discussion of this case to review the reasons advanced by Mr. Madison and his associates for their conclusion, supplementing them, so far as may be, by additional considerations which lead this court to concur therein.

First. Mr. Madison insisted that article 2 by vesting the executive power in the President was intended to grant to him the power of appointment and removal of executive officers except as thereafter expressly provided in that article. He pointed out that one of the chief [116] purposes of the Convention was to separate the legislative from the executive functions. He said:

"If there is a principle in our Constitution, indeed in any free Constitution more sacred than another, it is that which separates the legislative, executive and judicial powers. If there is any point in which the separation of the legislative and executive powers ought to be maintained with great caution, it is that which relates to officers and offices." 1 Annals of Congress, 581.

Their union under the Confederation had not worked well, as the members of the convention knew. Montesquieu's view that the maintenance of independence as between the legislative, the executive and the judicial branches was a security for the people had their full approval. Madison in the Convention, 2 Farrand, Records of the Federal Convention, 56. Kendall v. United States, 12 Pet. 524, 610, 9 L. ed. 1181, 1215. Accordingly, the Constitution was so framed as to vest in the Congress all legislative powers therein granted, to vest in the President the executive power, and to vest in one Supreme Court and such inferior courts as Congress might establish, the judicial power. From this division on principle, the reasonable construction of the Constitution must be that the branches should be kept separate in all cases in which they were not expressly blended, and the Constitution should be expounded to blend them no more than it affirmatively requires. Madison, 1 Annals of Congress, 497. This rule of construction has been confirmed by this court in Meriwether v. Garrett, 102 U. S. 472, 515, 26 L. ed. 197, 205; Kilbourn v. Thompson, 103 U. S. 168, 190, 26 L. ed. 377, 386; Mugler v. Kansas, 123 U. S. 623, 662, 31 L. ed. 205, 210, 8 Sup. Ct. Rep. 273.

The debates in the Constitutional Convention indicated an intention to create a strong executive, and after a controversial discussion the executive power of

the government was vested in one person and many of his important functions were specified so as to avoid the [117] humiliating weakness of the Congress during the Revolution and under the Articles of Confederation. 1 Farrand, 66-97.

Mr. Madison and his associates in the discussion in the House dwelt at length upon the necessity there was for construing article 2 to give the President the sole power of removal in his responsibility for the conduct of the executive branch, and enforced this by emphasizing his duty expressly declared in the third section of the Article to "take care that the laws be faithfully executed." Madison, 1 Annals of Congress, 496, 497.

The vesting of the executive power in the President was essentially a grant of the power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them by the assistance of subordinates. This view has since been repeatedly affirmed by this court. Wilcox v. Jackson, 13 Pet. 498, 513, 10 L. ed. 264, 271; United States v. Eliason, 16 Pet. 291, 302, 10 L. ed. 968, 972; Williams v. United States, 1 How. 290, 297, 11 L. ed. 135, 138; Ro Neagle, 135 U. S. 1, 63, 34 L. ed. 55, 71, 10 Sup. Ct. Rep. 658; Russell Motor Car Co. v. United States, 261 U. S. 514, 523, 67 L. ed. 778, 784, 43 Sup. Ct. Rep. 428. As he is charged specifically to take care that they be faithfully executed, the reasonable implication, even in the absence of express words, was that as part of his executive power he should select those who were to act for him under his direction in the execution of the laws. The further implication must be, in the absence of any express limitation respecting removals, that as his selection of administrative officers is essential to the execution of the laws by him, so must be his power of removing those for whom he can not continue to be responsible. Fisher Ames, 1 Annals of Congress, 474. It was urged that the natural meaning of the term "executive power" granted the President included the appointment and removal of executive subordinates. If such appointments and removals were not an exercise of the executive power, what were they? They certainly [118] were not the exercise of legislative or judicial power in government as usually understood.

It is quite true that in state and colonial governments at the time of the Constitutional Convention, power to make appointments and removals had sometimes

been lodged in the executive branch of the government, but such a vesting part of the executive power in another branch of the government, the British system, the executive, had the power of appointment and removal of officers was natural. The framers of our Constitution used the words "executive power" both in Ex parte Merryman, 110, 69 L. ed. 52, 53, 35 Sup. Ct. Rep. 35, 36, and in the case of the United States v. P. 180, Fed. 276, 282, 283, with appointments, is not incompatible with the form of government. The requirement of article 2 that the President consent to the removals, was to be at the time of the executive power. The enumeration of the functions of the Executive were limitations of the executive power, beyond the words of article 2, 462, 463, 464. It was given in general terms, regarded as appropriate, and the limit was placed on by the Executive power; that none was the same construction of Alexander Hamilton's [110] Second. Madison and his associates did the power to the President of article 2, power of removal, recognition of the President in the second section of the Constitution, and that the power of executive officers was in appointment. It is opponents of the two exceptions, the principle the power was given with it the Roger Sherman, 1 401. This principle is national and statutory 11 L. ed.

ment was vested in one person of his important functions, and so as to avoid the [117] weakness of the Congress Revolution and under the Confederation. 1 Farrand

son and his associates in the House dwelt at length on the necessity there was for constraining to give the President the sole removal in his responsibility for the executive branch, and is by emphasizing his duty declared in the third section of the Constitution to "take care that the laws be executed." Madison, 1 Annals of Congress, 496, 497.

granting of the executive power, it was essentially a grant of power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them through the aid of subordinates. This principle has been repeatedly affirmed.

See Wilcox v. Jackson, 13 Pet. 20 L. ed. 264, 271; United States v. Hanson, 16 Pet. 291, 302; 10 L. ed. 972; Williams v. United States, 290, 297, 11 L. ed. 135; 10 Sup. Ct. Rep. 658; Russell v. United States, 261 U. S. 1, 778, 784, 43 Sup. Ct. 101, 102.

As he is charged specifically with the duty of executing the laws, that they be faithfully executed, and as he is charged with the execution of the laws, even in the absence of express words, was that the President's executive power he should exercise through those who were to act for him.

The further implication must be that in the absence of any express limitation on removals, that as his selection of administrative officers is essential to the execution of the laws by him, the power of removing those officers should not continue to be responsible for the execution of the laws.

It was urged that the meaning of the term "executive power" included the President's power of appointment and removal of executive officers. If such appointments were not an exercise of the executive power, who were they? They were not the exercise of the executive power, but the exercise of the judicial power, as generally understood.

It is true that in state and colonial constitutions at the time of the Constitutional Convention, power to make appointments and removals had sometimes

been lodged in the legislatures or in the courts, but such a disposition of it was really vesting part of the executive power in another branch of the government. In the British system, the Crown which was the executive, had the power of appointment and removal of executive officers, and it was natural, therefore, for those who framed our Constitution to regard the words "executive power" as including both. *Ex parte Grossman*, 267 U. S. 87, 110, 69 L. ed. 527, 531, 38 A.L.R. 131, 45 Sup. Ct. Rep. 332. Unlike the power of conquest of the British Crown, considered and rejected as a precedent for us in *Fleming v. Page*, 9 How. 603, 618, 13 L. ed. 276, 282, the association of removal with appointment of executive officers is not incompatible with our republican form of government.

The requirement of the second section of article 2 that the Senate should advise and consent to the Presidential appointments, was to be strictly construed. The words of § 2, following the general grant of executive power under § 1 were either an enumeration and emphasis of specific functions of the Executive, not all inclusive, or were limitations upon the general grant of the executive power, and as such, being limitations, should not be enlarged beyond the words used. Madison, 1 Annals, 462, 463, 464. The executive power was given in general terms, strengthened by specific terms where emphasis was regarded as appropriate, and was limited by direct expressions where limitation was needed, and the fact that no express limit was placed on the power of removal by the Executive was convincing indication that none was intended. This is the same construction of article 2 as that of Alexander Hamilton, quoted *infra*.

[119] Second. The view of Mr. Madison and his associates was that not only did the grant of executive power to the President in the first section of article 2 carry with it the power of removal, but the express recognition of the power of appointment in the second section enforced this view on the well approved principle of constitutional and statutory construction that the power of removal of executive officers was incident to the power of appointment. It was agreed by the opponents of the bill, with only one or two exceptions, that as a constitutional principle the power of appointment carried with it the power of removal. Roger Sherman, 1 Annals of Congress, 491. This principle as a rule of constitutional and statutory construction, then

generally conceded, has been recognized ever since. *Ex parte Hennen*, 13 Pet. 230, 259, 10 L. ed. 138, 152; *Reagan v. United States*, 182 U. S. 419, 45 L. ed. 1162, 21 Sup. Ct. Rep. 842; *Shurtleff v. United States*, 189 U. S. 311, 315, 47 L. ed. 823, 831, 23 Sup. Ct. Rep. 535. The reason for the principle is that those in charge of and responsible for administering functions of government who select their executive subordinates need in meeting their responsibility to have the power to remove those whom they appoint.

Under § 2 of article 2, however, the power of appointment by the Executive is restricted in its exercise by the provision that the Senate, a part of the legislative branch of the government, may check the action of the Executive by rejecting the officers he selects. Does this make the Senate part of the removing power? And this, after the whole discussion in the House is read attentively, is the real point which was considered and decided in the negative by the vote already given.

The history of the clause by which the Senate was given a check upon the President's power of appointment makes it clear that it was not prompted by any desire to limit removals. As already pointed out, the important purpose of those who brought about the restriction was to lodge in the Senate, where the small states had equal [120] representation with the larger states, power to prevent the President from making too many appointments from the larger states. Roger Sherman and Oliver Ellsworth, delegates from Connecticut, reported to its governor: "The equal representation of the States in the Senate and the voice of that branch in the appointment to offices will secure the rights of the lesser as well as of the greater states." 3 Farrand, 99. The formidable opposition to the Senate's veto on the President's power of appointment indicated that in construing its effect, it should not be extended beyond its express application to the matter of appointments. This was made apparent by the remarks of Abraham Baldwin, of Georgia, in the debate in the First Congress. He had been a member of the Constitutional Convention. In opposing the construction which would extend the Senate's power to check appointments to removals from office, he said:

"I am well authorized to say that the mingling of the powers of the President and Senate was strongly opposed in the Convention which had the honor to sub-

mit to the consideration of the United States and the different states the present system for the government of the Union. Some gentlemen opposed it to the last, and finally it was the principal ground on which they refused to give it their signature and assent. One gentleman called it a monstrous and unnatural connexion and did not hesitate to affirm it would bring on convulsions in the government. This objection was not confined to the walls of the Convention; it has been subject of newspaper declamation and perhaps justly so. Ought we not, therefore, to be careful not to extend this unchaste connexion any further?" 1 Annals of Congress, 557.

Madison said:

"Perhaps there was no argument urged with more success or more plausibly grounded against the Constitution under which we are now deliberating than that founded [121] on the mingling of the executive and legislative branches of the government in one body. It has been objected that the Senate have too much of the executive power even, by having control over the President in the appointment to office. Now shall we extend this connexion between the legislative and executive departments which will strengthen the objection and diminish the responsibility we have in the head of the Executive?" 1 Annals of Congress, 380.

It was pointed out in this great debate that the power of removal, though equally essential to the executive power is different in its nature from that of appointment. Madison, 1 Annals of Congress, 497 et seq.; Clymer, 1 Annals, 489; Sedgwick, 1 Annals, 522; Ames, 1 Annals, 541, 542; Hartley, 1 Annals, 481. A veto by the Senate—a part of the legislative branch of the government—upon removals is a much greater limitation upon the executive branch and a much more serious blending of the legislative with the executive than a rejection of a proposed appointment. It is not to be implied. The rejection of a nominee of the President for a particular office does not greatly embarrass him in the conscientious discharge of his high duties in the selection of those who are to aid him, because the President usually has an ample field from which to select for office, according to his preference, competent and capable men. The Senate has full power to reject newly proposed appointees whenever the President shall remove the incumbents. Such a check enables the Senate to prevent the filling of offices with bad or incompetent

168

men or with those against whom there is tenable objection.

The power to prevent the removal of an officer who has served under the President is different from the authority to consent to or reject his appointment. When a nomination is made, it may be presumed that the Senate is, or may become, as well advised as to the fitness of the nominee [122] as the President, but in the nature of things the defects in ability or intelligence or loyalty in the administration of the laws of one who has served as an officer under the President, are facts as to which the President, or his trusted subordinates, must be better informed than the Senate, and the power to remove him may, therefore, be regarded as confined for very sound and practical reasons, to the governmental authority which has administrative control. The power of removal is incident to the power of appointment, not to the power of advising and consenting to appointment, and when the grant of the executive power is enforced by the express mandate to take care that the laws be faithfully executed, it emphasizes the necessity for including within the executive power as conferred the exclusive power of removal.

Oliver Ellsworth was a member of the Senate of the First Congress, and was active in securing the imposition of the Senate restriction upon appointments by the President. He was the author of the Judiciary Act in that Congress, and subsequently Chief Justice of the United States. His view as to the meaning of this article of the Constitution, upon the point as to whether the advice of the Senate was necessary to removal, like that of Madison, formed and expressed almost in the very atmosphere of the Convention, was entitled to great weight. What he said in the discussion in the Senate was reported by Senator William Patterson, 2 Bancroft, History of the Constitution of the United States, 192, as follows:

"The three distinct powers, legislative, judicial and executive should be placed in different hands. 'He shall take care that the laws be faithfully executed' are sweeping words. The officers should be attentive to the President to whom the Senate is not a council. To turn a man out of office is an exercise neither of legislative nor of judicial power; it is like a tree growing upon land that has been granted. The advice of the Senate does not make the appointment. The President appoints. There [123] are certain restrictions in certain cases, but the re-

272 U. S.

striction is as to the removal."

In the discussion in the year was expressed the national rule of construction in the passage of the bill country to tyranny through the exercise of the power of the President. Underly the fundamental misapprehension of the President's attitude in power is one of opposition while the Congress is in the government, and objections may be noted; had, before this court properly contested in the discussion (1 A 461), by Mr. Hartley (Mr. Lawrence (1 Annals, Mr. Scott (1 Annals, is a representative of the members of the House are, and it may on some subjects that ed, by all the people representative of them all bers of either body whose constituencies countrywide; and as t ed for four years, w the people to exercise ar under the Const seem to be no reason instrument in such a hamper that power b of it, expressed or fe Another argumen First Congress again er of removal in the its necessity in the p of the executive pov harassment in this r ed by the President's of officers, disloyal the Senate could act said: "Gentlemen ask, suspending an office vent misconduct? inconsistency in th declare that Cong to construe the C of the President removal; yet the a construction in of suspension bei Surely gentlemen d President has the granted expressly they do, they hav in their researches than I have been. allow a power of 1: L. ed.

restriction is as to the appointment and not as to the removal."

In the discussion in the First Congress fear was expressed that such a constitutional rule of construction as was involved in the passage of the bill would expose the country to tyranny through the abuse of the exercise of the power of removal by the President. Underlying such fears was the fundamental misconception that the President's attitude in his exercise of power is one of opposition to the people, while the Congress is their only defender in the government, and such a misconception may be noted in the discussions had before this court. This view was properly contested by Mr. Madison in the discussion (1 Annals of Congress, 461), by Mr. Hartley (1 Annals, 481), by Mr. Lawrence (1 Annals, 495), and by Mr. Scott (1 Annals, 533). The President is a representative of the people just as the members of the Senate and of the House are, and it may be at some times on some subjects that the President elected by all the people is rather more representative of them all than are the members of either body of the legislature whose constituencies are local and not countrywide; and as the President is elected for four years, with the mandate of the people to exercise his executive power under the Constitution, there would seem to be no reason for construing that instrument in such a way as to limit and hamper that power beyond the limitations of it, expressed or fairly implied.

Another argument advanced in the First Congress against implying the power of removal in the President alone from its necessity in the proper administration of the executive power was that all embarrassment in this respect could be avoided by the President's power of suspension of officers, disloyal or incompetent, until the Senate could act. To this Mr. Benson said:

"Gentlemen ask, will not the power of suspending an officer be sufficient to prevent misconduct? Here is some [124] inconsistency in their arguments. They declare that Congress have no right to construe the Constitution in favor of the President, with respect to removal; yet they propose to give a construction in favor of the power of suspension being exercised by him. Surely gentlemen do not pretend that the President has the power of suspension granted expressly by the Constitution; if they do, they have been more successful in their researches into that instrument than I have been. If they are willing to allow a power of suspending, it must be

because they construe some part of the Constitution in favor of such a grant. The construction in this case must be equally unwarrantable. But admitting it proper to grant this power, what then? When an officer is suspended, does the place become vacant? May the President proceed to fill it up? Or must the public business be likewise suspended? When we say an officer is suspended, it implies that the place is not vacant; but the parties may be heard, and, after the officer is freed from the objections that have been taken to his conduct, he may proceed to execute the duties attached to him. What would be the consequence of this? If the Senate, upon its meeting, were to acquit the officer, and replace him in his station, the President would then have a man forced on him whom he considered as unfaithful; and could not, consistent with his duty, and a proper regard to the general welfare, go so far as to entrust him with full communications relative to the business of his department. Without a confidence in the Executive Department, its operations would be subject to perpetual discord, and the administration of the government become impracticable." 1 Annals of Congress, 506.

Mr. Vining said:

"The Departments of Foreign Affairs and War are peculiarly within the powers of the President, and he must be responsible for them; but take away his controlling power, and upon what principle do you require his responsibility?"

[125] "The gentlemen say the President may suspend. They were asked if the Constitution gave him this power any more than the other? Do they contend the one to be a more inherent power than the other? If they do not, why shall it be objected to us that we are making a legislative construction of the Constitution, when they are contending for the same thing?" 1 Annals of Congress, 512.

In the case before us, the same suggestion has been made for the same purpose, and we think it is well answered in the foregoing. The implication of removal by the President alone is no more a strained construction of the Constitution than that of suspension by him alone and the broader power is much more needed and more strongly to be implied.

Third. Another argument urged against the constitutional power of the President alone to remove executive officers appointed by him with the consent of the Senate is that in the absence of an express power of removal granted to the President, power to make provision for removal of

157

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

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-80-4  
TA20-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER ) ORDER NO. 10  
UTILITY for a Permanent General )  
Sewer Rate Increase in the )  
Anchorage, Eagle River, and )  
Girdwood-Alyeska Sewer Service )  
Areas )

In the Matter of the Filing of )  
a Tariff Revision, Designated as ) U-81-36  
TA23-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER ) ORDER NO. 1  
UTILITY for Consolidation of )  
Service Areas and Permanent )  
Reduction of Rates )

ORDER SUSPENDING SERVICE AREA CONSOLIDATION  
AND APPROVING PERMANENT RATE REDUCTIONS

On May 1, 1981, the MUNICIPALITY OF ANCHORAGE  
d/b/a ANCHORAGE SEWER UTILITY (ASU) filed a tariff revision,  
designated of TA23-126, requesting the immediate permanent  
reduction of rates for sewer service in the Eagle River  
Sewer Service Area (ERSSA) and the Girdwood-Alyeska Sewer  
Service Area (GASSA). ASU requested that customers in the  
ERSSA and GASSA be integrated into the appropriate rate  
schedule of the Anchorage Bowl Service Service Area (ABSSA);  
that all ERSSA and GASSA rate schedules except for those  
based on metered water consumption be deleted; that definitions  
and other tariff references for Service Area 40 (ABSSA) and  
Service Area 50 (ERSSA) be deleted; and that a definition be

U-80-4(10), U-81-36(1) (6-15-81)  
Page 1

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

LXIII  
Item 9

1 added for the Anchorage Sewer Service Area (ASSA) as "that  
2 area established by Anchorage, Alaska, Ordinance 81-23...."

3 The Commission Staff (Staff) has reviewed the  
4 filing and has determined that it meets the requirements of  
5 3 AAC 48.200 through 3 AAC 48.420.

6 The filing was noticed on May 7, 1981, with a  
7 closing date of June 8, 1981, for the submission of state-  
8 ments in support of, or in opposition to, the proposed  
9 tariff revision. As of June 8, 1981, five statements have  
10 been received by the Commission, four of which were also  
11 filed with ASU as required under 3 AAC 48.090(b)(2).

12 Of the four properly filed statements, two from  
13 ABSSA ratepayers (opposed) the tariff revision in its entirety;  
14 one from a GASSA ratepayer supported the tariff revision in  
15 its entirety; and one from an ABSSA ratepayer included a  
16 statement of non-objection to the decrease in ERSSA and  
17 GASSA rates, and a statement of vehement objection to the  
18 creation of a consolidated service area and dissolution of  
19 separate service areas.

20 On June 9, 1981, the Commission received a memorandum,  
21 a copy of which is attached hereto as Appendix A, from the  
22 Staff setting forth a review and analysis of ASU's request.

23 Discussion

24 In support of its request for consolidation of  
25 sewer service areas, ASU cites the 1980 amendment (Sec. 5,  
26 Ch. 136, SLA 1980) to AS 42.05.391(a) which provides that:

27 a municipally owned utility may offer  
28 uniform or identical rates for a public  
29 utility service to customers located in  
30 different areas within its certificated  
service area who receive the same class  
of service. Any uniform or identical

31 U-80-4(10), U-81-36(1)  
32 Page 2

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

1 rate shall, upon complaint, be subject to  
2 review by the commission and may be set  
aside if shown to be unreasonable.

3 In Appendix A, Staff discusses the consolidation  
4 issue in relation to the amended AS 42.05.391(a). The  
5 Commission concurs in part with Staff's comments, but takes  
6 exception to Staff's recommendation to summarily deny the  
7 proposed consolidation.

8 The utility originally requested the Commission to  
9 authorize a consolidation of its service areas on December 12,  
10 1979. In Docket U-80-4, the Commission had established a  
11 procedure to determine this issue. The Commission would  
12 analyze each of the three revenue requirements separately,  
13 and then based on this information, decide whether consoli-  
14 dation would be in the public interest. In Docket U-80-4(7),  
15 the Commission stated its intention to hold hearings in  
16 Girdwood, Eagle River and Anchorage to take testimony on  
17 ASU's request to consolidate the rates of the three service  
18 areas. Any ruling on consolidation at this time would be  
19 premature and would conflict with the schedule the Commission  
20 has established in U-80-4.

21 In the current proceeding, the Commission finds  
22 itself in the position of being asked to rule on the consolidation  
23 issue without having all the facts. Specifically, without a  
24 Girdwood revenue requirement, the utility is unable to  
25 present a consolidated revenue requirement, separate service  
26 area rates, and consolidated service area rates, in a manner  
27 which would enable the public and this Commission to determine  
28 if undue discrimination from cross-subsidization of service  
29 areas would exist under the proposed consolidated rates.

31 U-80-4(10), U-81-36(1)  
32 Page 3

1            Since granting continuous extensions of time for  
2 the filing of a proformaed normalized revenue requirement  
3 for GASSA, as ordered in U-80-4(9), the Commission was  
4 informed on March 20, 1981, by ASU's attorney that because  
5 of the Assembly's Ordinance No. 81-23, ASU believed it  
6 "inappropriate..., unduly expensive... and serving no parti-  
7 cular purpose" for it to comply with the Commission's order  
8 requiring a GASSA revenue requirement. Even if these allegations  
9 of the utility are true, the appropriate procedure available  
10 to the utility, a motion or petition to change a Commission  
11 Order, is absent. In addition, at least one other party, in  
12 U-80-4, is of a contrary mind.

13            It may be that the approach to a revenue requirement  
14 for GASSA, in the traditional sense, needs to be modified  
15 due to the change in circumstances since the utility filed  
16 its initial request on December 12, 1979, to consolidate its  
17 service area. The Commission notes that the utility's  
18 request to consolidate its service area predates the amendment  
19 to AS 42.05.391(a), and the change in statute may not apply.  
20 It is not evident to the Commission, however, that no additional  
21 information is necessary or required. To the contrary,  
22 Commission decisions must be based in findings of fact, and  
23 the facts regarding the revenues and expenses associated  
24 with GASSA are lacking.

25            Therefore, the Commisison will direct the Staff to  
26 submit a timetable and a listing of required information  
27 regarding GASSA within 30 days. The Commission encourages  
28 the utility to coordinate its efforts with Staff in order to  
29 expeditiously move forward in this proceeding.

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

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

1 Pending the outcome of the proceedings on the  
2 Girdwood revenue requirement, the Commission will suspend  
3 the service area consolidation portion of TA23-126. The  
4 Commission also believes that TA23-126 should be combined  
5 with Docket U-80-4 for purposes of Commission consideration.

6 ASU has also requested rate reductions for Eagle  
7 River and Girdwood rates in TA23-126. In order to maintain  
8 current levels of revenue, ASU proposes to offset these rate  
9 reductions with municipal assistance revenues furnished by  
10 the State of Alaska by legislative appropriation. The  
11 Commission believes that Staff's analysis set forth in  
12 Appendix A, pages 4 and 5, adequately reflects the Commission's  
13 concerns and position in this regard and will accept Staff's  
14 recommendations to grant the utility's request to reduce  
15 rates in ERSSA and GASSA. In addition, the Commission  
16 believes Staff's inquiry regarding the ABSSA is reasonable.

17 On June 11, 1981, John Spencer, Executive Manager  
18 of the Anchorage Municipal Utilities, filed a letter with  
19 the Commission reiterating his concern about the results of  
20 the tariff action meeting at which the decisions embodied in  
21 this Order were made, as reported in the local newspapers.  
22 Spencer enclosed copies of documents filed in U-80-4, the  
23 permanent rate request of ASU in the ABSSA, ERSSA and GASSA.

24 The Commission appreciates the concern of the  
25 utility regarding Commission procedure which provides a  
26 mechanism for decision making in tariff action meetings,  
27 open to the public, prior to the issuance of a formal order  
28 setting forth the Commission's action and the rationale  
29 therefor. The Commission notes, however, that, in the  
30 instant proceeding, the Staff's analysis, a major consideration

31 U-80-4(10), U-81-36(1)  
32 Page 5

1 in the Commission's decision, was made available to the  
2 utility representatives present at the tariff action meeting  
3 immediately after the Commission's action was taken.

4 Reference to a Petition for Reconsideration is  
5 made by Spencer in his June 11, 1981, communication to the  
6 Commission. This is certainly a proper procedure to be  
7 invoked when a party, as a result of a Commission order,  
8 believes there is relevant information which could result in  
9 a change in the Commission's action. The utility should  
10 note, however, that there is opposition to the utility's  
11 consolidation request both in Docket U-80-4 and in response  
12 to TA23-126. AS 42.05.391(a) as amended by Sec. 5, Chapter  
13 SLA 1980, mandates review by the Commission if complaints  
14 are received regarding uniform rates offered to customers of  
15 a utility located in different areas.

16 THE COMMISSION FURTHER FINDS AND CONCLUDES:

17 1. ASU is a public utility as defined in AS 42.05.701  
18 and is subject to the regulatory jurisdiction of this Commission.

19 2. It is in the public interest to suspend ASU's  
20 request to consolidate its service areas in the tariff  
21 revision designated as TA23-126 pending the additional  
22 information required in Docket U-80-4, ASU's permanent rate  
23 increase request.

24 3. The issues relating to Docket U-81-36 should  
25 be combined with Docket U-80-4 for purposes of Commission  
26 consideration.

27 4. Staff should submit a listing of required  
28 information and a proposed timetable for the resolution of  
29 the GASSA revenue requirement issue within 30 days from the  
30 date of this Order.

31 U-80-4(10), U-81-36(1)  
32 Page 6



1                   4. The Municipality of Anchorage d/b/a Anchorage  
2 Sewer Utility is granted permanent rate reductions of 54.22 per-  
3 cent for the Eagle River Sewer Service Area and 68.05 percent  
4 for the Girdwood-Alyeska Sewer Service Area. The decrease  
5 is applicable on an across-the-board basis to currently  
6 tariffed rates for recurring charges for sewer service upon  
7 bills rendered on or after June 15, 1981.

8                   5. For ratemaking purposes, the actual capital  
9 structure of the Municipality of Anchorage d/b/a Anchorage  
10 Sewer Utility shall exclude any losses resulting from rate  
11 reductions in the Eagle River Sewer Service Area and the  
12 Girdwood-Alyeska Sewer Service Area.

13                   6. Within 30 days from the date of this Order,  
14 the Municipality of Anchorage d/b/a Anchorage Sewer Utility  
15 shall file with this Commission information to show cause  
16 why rate reductions have not been proposed for the Anchorage  
17 Bowl Sewer Service Area. Such information will include an  
18 analysis by the Municipality of Anchorage d/b/a Anchorage  
19 Sewer Utility why the rate reductions as currently approved  
20 do not constitute undue discrimination under AS 42.05.391(a).

21                   7. The Municipality of Anchorage d/b/a Anchorage  
22 Sewer Utility shall add a definition for the Girdwood-Alyeska  
23 Sewer Service Area to its tariff.

24                   8. Within 30 days from the date of this Order,  
25 the Municipality of Anchorage d/b/a Anchorage Sewer Utility  
26 shall file any tariff sheets necessitated by this Order.

27 DATED AND EFFECTIVE at Anchorage, Alaska, this 15th day of  
28 June, 1981.

29                   BY DIRECTION OF THE COMMISSION  
30 (Commissioner Susan M. Knowles not participating)

31  
32  
(S E A L)  
U-80-4(10), U-81-36(1)  
Page 8

STATE  
of ALASKA

MEMORANDUM JIM

Appendix A

DATE: June 9, 1981

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

TELEPHONE NO.:

FILE NO.:

THRU: Kathleen W. Hesser *KWH*  
Chief of Finance and Accounts *MT*

SUBJECT:

FROM: Marianne L. Turner, Utility Financial  
Analyst III

TA23-126 - Anchorage  
Sewer Utility, Rate  
Reduction and Consolida-  
tion

On May 1, 1981, Anchorage Sewer Utility (ASU) filed a tariff revision (TA23-126), which is a proposal to reduce rates for sewer service in the Eagle River Sewer Service Area (ERSSA) and the Girdwood-Alyeska Sewer Service Area (GASSA) to the rates currently being charged in the Anchorage Bowl Sewer Service Area (ABSSA) for all customers other than for 12 metered commercial customers in the ERSSA and GASSA. In addition, ASU proposes to delete the definitions of Sewer Service Area 40 (ABSSA) and 50 (ERSSA) and add a definition of Anchorage Sewer Service Area (ASSA) as "that area established by Anchorage, Alaska, Ordinance 81-23..." ASU has requested that the filings take effect on a permanent basis no later than the end of the statutory notice period which expires June 15, 1981.

The filing was made in compliance with Sections 3 AAC 48.200 - 3 AAC 48.420 of the Alaska Administrative code. The filing was noticed to the public on May 7, 1981. Four responses have been received, one supporting the tariff revision (Alyeska Resort), two opposing the revision (Anchorage residential ratepayers), and the response of David Rose who opposes the proposed changes in sewer service area definitions.

Summary Of Staff Recommendations

1. Commission deny ASU's request to delete the definition of the ABSSA and the ERSSA.
2. Commission order ASU to add a definition for the GASSA.
3. Commission deny ASU's request to partially delete rate schedules for ERSSA and GASSA.
4. Commission approve rate reduction across-the-board to all rate schedules 2.5 through 2.11 as follows:

<u>Service Area</u>	<u>Percent Reduction</u>	<u>Rate Schedules</u>
ERSSA	54.22%	2.5 - 2.7
GASSA	68.05%	2.8 - 2.11

5. Commission order that ABSSA rate schedules 2.1, 2.2, 2.3 and 2.4 remain titled Sewer Service Area #40.
6. Commission order ASU to show cause within 30 days why ABSSA rates should not be decreased under AS 42.05.391(a).

### History

On December 12, 1979, ASU filed TA20-126 requesting permanent rate relief for all sewer service areas, rate redesign, and consolidation of sewer service area rates into a single rate schedule. Although the Commission granted permanent rate increases for Anchorage and Eagle River (U-80-4(6), July 22, 1980), action on the consolidation and rate design phases was indefinitely suspended pending the refileing and resolution of a normalized GASSA test year.

In a letter from ASU dated March 20, 1981, the Commission was notified that the Municipality of Anchorage had approved ordinance AO No. 81-23 on March 3, 1981. The ordinance consolidated the three separate sewer service areas into a new service area entitled the Anchorage Sewer Service Area (ASSA) (Exhibit 1 attached). As a result of that action, ASU indicated that it would not continue its plan to develop a first normalized operating test year for Girdwood, that the utility would file for reduction in Eagle River and Girdwood rates on May 1, 1981, and that ASU would file a 1980 consolidated revenue requirement study by September 1, 1981.

### Commission Staff (Staff) analysis of TA23-126 and Staff Recommendations

#### 1. Consolidation issue:

In analyzing ASU's tariff revision Staff has considered the following sections of the Alaska Statutes:

Sec. 42.05.391. Discrimination in rates. (a) A public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned

utility may offer uniform or identical rates for a public utility service to customers located in different areas within its certificated service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable. (am § 5 ch 136 SLA 1980)

Section 42.05.701. (3) "service" means (unless the context indicates otherwise) every commodity, product, use, facility, convenience or other form of service which is offered for and provided by a public utility for the convenience and necessity of the public;

In Docket U-80-4, the consolidation issue was indefinitely suspended pending the outcome of preparing and auditing a normalized GASSA test year revenue requirement. That revenue requirement was considered to be necessary by the Commission in order to determine the impact of consolidated rates on the ABSSA ratepayer in conjunction with Alaska Statutes on Discrimination in rate; (AS 42.05.391(a) first sentence).

AS 42.05.291(a) was amended in 1980 by the addition of sentences 3 and 4. Sentence 3 allows a municipality to provide uniform rates in different areas for the same class of service, and is the authority cited by ASU as a basis for consolidated rates.

Referring to the definition of service provided under AS 42.05.701(3), Staff notes that service includes facilities. The ASSA has three separate facilities providing different qualities of effluent. The Anchorage bowl area is currently provided with primary treatment, the Eagle River Area with secondary treatment, and Girdwood/Alyeska with tertiary treatment. Staff questions whether 3 different methods of sewage treatment can equate to one class of service as described in the statutes.

Sentence 4 of AS 42.05.391(a) provides the Commission with the power to set aside uniform rates if found unreasonable. Commission review is initiated by complaint, and the burden of proof rests with the complainant and the Commission. The current filing does not provide ratepayers with the information necessary to determine whether or not a complaint should be initiated. Both the filing and the public notice address rate reductions, and indicate that a consolidated revenue requirement filing will be made in the future. The ABSSA ratepayer cannot determine the impact of consolidation on his rates under these circumstances.

Based on the facts that 1) the consolidation issue is being reviewed in other proceedings 2) that TA23-126 does not adequately set forth to the ratepayers the potential impact of consolidation and 3) that there are important questions to be answered before the Commission can rule on consolidation, Staff will not utilize consolidation arguments in its approach to the requested rate reductions.

For purposes of these proceedings, Staff recommends that the Commission deny ASU's request to delete the definitions of the ABSSA and ERSSA, and that ASU be ordered to add a definition for GASSA. Staff further recommends that the three separate service area rate schedules remain in the tariff.

2. Requested decrease in rates, rate restructuring:

ASU has requested rate reductions of \$130,439 (54.22 Percent) for ERSSA, and \$84,266 (68.05 Percent) for GASSA (MLT-1 and MLT-2). In each service area, ASU has requested grandfathering of metered customers (no rate reduction). ASU has also requested that for customers other than metered customers, the rates be restructured to coincide with the ABSSA rate schedules.

Staff believes that ASU has the right to lower rates if it so chooses, subject to the conditions discussed below.

A. Losses sustained be excluded from actual debt/equity structure:

In Docket U-80-4, Order No. 7, ordering paragraph 2, the Commission ordered that the accumulated revenue shortfall created by the Stipulated rate increase for Eagle River to the extent that it is attributable to rates which do not recoup the Stipulated revenue requirement be excluded from the actual debt/equity structure of ASU. Both ERSSA and GASSA sustained net operating losses in 1980 (MLT-4). In accordance with prior Commission ruling's, any losses arising out of rate reductions in the ERSSA and the GASSA not offset by revenues from other sources (i.e., Municipal Assistance Revenues) should be excluded from the actual debt/equity structures of ASU for future rate proceedings.

B. Rate Reductions for ERSSA and GASSA shall not give undue preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. Rate Reductions should be applied across-the-board to current approved tariffed rates.

ASU has requested rate restructuring for the ERSSA and GASSA, by proposing adoption of ABSSA rate schedules. No support has been provided for the rate restructuring, and results in reductions in rates varying from 51.05 percent to 81.94 percent in the ERSSA (MLT-1), and reductions in rates

varying from 31.07 percent to 78.87 percent in the GASSA (MLT-2). In addition ASU has requested that 12 metered customers (7 in ERSSA, 5 in GASSA) remain on current tariffed rates. Staff believes that exclusion of certain customers from a service area rate reduction is discriminatory under AS 42.05.391(a), and therefore recommends that the rate reduction be applied to each service area's currently approved tariffed rates across-the-board as follows; for ERSSA A 54.22 percent reduction in rates, and for GASSA a 68.05 percent reduction in rates.

C. ASU should show cause within 30 days why preferential treatment through rate reductions has been requested for ERSSA and GASSA ratepayers, and why ABSSA ratepayers have not been included in proposed rate reductions.

Ratepayers of ERSSA and GASSA are not currently providing any return to ASU (see MLT-4).<sup>1</sup> The rate reduction in ERSSA and GASSA may result in increased losses in these service area. However, ABSSA ratepayers are currently providing a return to the utility. Staff believes that ASU has subjected the Anchorage Bowl rate payers to an unreasonable prejudice or disadvantage by requiring them to provide the only profits to the utility and excluding them from rate reductions. In establishing rate schedules a utility may design its rate schedules so that the return from one class of customer will be higher or lower than the return from another class of customer, but the difference must not be so great as to create undue or unreasonable discrimination. Re Delmarva Power and Light Co. of Maryland, 71 PUR 3d 195, 202, (Md. 1967). In this case, the difference in profit and loss between ABSSA, ERSSA and GASSA are so dramatic that this would result in unreasonable rate discrimination. AS 42.05.391(a).

---

<sup>1</sup> As of December 31, 1980 as adjusted by Staff for the Commission approved methodology for accounting for amortization of contributions in aid of construction, the net income (losses) for ABSSA, ERSSA and GASSA are \$571,741 (\$61,706) and (\$930,358) respectively. Assembly appropriations for the sewer utility of municipal assistance revenues are \$3,390,230 for fiscal year 1981; an increase of \$890,230 over ad valorem taxes allocated to ASU in 1980. (MLT-3) ASU states in its tariff filing that the increased revenues allocated by the Assembly are being used to offset GASSA & ERSSA rate reductions by \$130,439, GASSA rate reductions by \$84,266, with the remaining balance of \$675,525 to be utilized at the discretion of the utility.

Requested by: Assemblyman Chieci  
Prepared by: Anchorage Water & Sewer Utilities  
For Reading: February 10, 1981

APPROVED  
Date: 3-3-81

ANCHORAGE, ALASKA  
AO NO. 81- 23

AN ORDINANCE CONSOLIDATING THE SEWERAGE SERVICE FUNCTION OF THE ANCHORAGE BOWL SEWER SERVICE AREA, THE EAGLE RIVER SEWER SERVICE AREA AND THE GIRDWOOD-ALYESKA SEWER SERVICE AREA

WHEREAS, the Anchorage Assembly finds that in the Anchorage Bowl Sewer Service Area, the Eagle River Sewer Service Area and the Girdwood-Alyeska Sewer Service Area, the Municipality of Anchorage provides the same level of sewerage service; and

WHEREAS, Section 9.01(a) of the Anchorage Municipal Charter provides that the Assembly, by ordinance, may consolidate service areas in which the Municipality provides services at the same level in each of the areas;

NOW, THEREFORE, the Anchorage Assembly ordains:

Section 1. The Anchorage Bowl Sewer Service Area, the Eagle River Sewer Service Area and the Girdwood-Alyeska Sewer Service Area are consolidated into one service area, called the Anchorage Sewer Service Area.

Section 2. Title 27, Service Areas, of the Anchorage Municipal Code is amended by adding a new section to read:

27.30.230 Anchorage Sewer Service Area (ASSA). There is established, pursuant to Section 9.01 of the Anchorage Municipal Charter, a service area within the Municipality of Anchorage to be the "Anchorage Sewer Service Area" (ASSA) of the Municipality of

Anchorage as outlined on the maps following. The Anchorage Sewer Service Area shall consist of the areas formerly known as the Anchorage Bowl Sewer Service Area (formerly known as Service Area Number Twenty-three, also formerly known as Sewer Service Area Number Forty), the Eagle River Sewer Service Area (formerly known as Service Area Number Fifty, also formerly known as Sewer Service Area Number Fifty - Eagle River) and the Girdwood-Alyeska Sewer Service Area (formerly known as Service Area Number Sixty, also formerly known as Sewer Service Area Number Sixty - Girdwood-Alyeska). Sewerage services shall be provided in the Anchorage Sewer Service Area.

Section 3. Sections 27.30.140, .150 and .160 of the Anchorage Municipal Code are repealed.

Section 4. This ordinance shall become effective

---

Passed and approved by the Anchorage Assembly, this 3rd day of MARCH, 1981.

Bernard J. Maish  
CHAIRMAN

ATTEST:

Russell G. Smith  
MUNICIPAL CLERK

← TA 23-126 ASU PROVIDED INFORMATION →

FORMER ERSSA

Type	Number Customer Accounts/Units	ERSSA Rate Schedule	ERSSA Monthly Rate	Old Monthly Revenue	ABSSA Rate Schedule	ABSSA Monthly Rate	New Monthly Revenue	Decrease In Monthly Revenue	% DECREASE CALCULATED BY STAFF	PROPOSED RATES PER UNIT	PROPOSED REVENUE PER UNIT		
SF	604/604	2.5	\$ 17.90	\$10,811.60	2.1	\$ 7.50	\$4,530.00	\$6,281.60	58.10 %	\$ 8.20	\$ 4952.80		
Duplex	18/36	2.5	35.80	644.40	2.1	15.00	270.00	374.40	52.10	16.40	295.20		
Tri-plex	1/3	2.5	53.70	53.70	2.1	21.00	21.00	32.70	60.29	24.60	24.60		
4-plex	3/12	2.5	71.60	214.80	2.1	28.00	84.00	130.80	60.87	32.23	98.40		
5-plex	1/5	2.5	104.05	104.05	2.1	40.55	40.55	63.50	60.89	41.00	41.00		
6-plex	12/72	2.5	107.40	1,288.80	2.1	42.00	504.00	784.80	60.29	49.20	590.40		
8-plex	2/16	2.5	143.20	286.40	2.1	56.00	112.00	174.40	60.29	65.60	131.20		
9-plex	1/9	2.5	161.10	161.10	2.1	63.00	63.00	98.10	60.89	73.80	73.80		
10-plex	3/30	2.5	179.00	537.00	2.1	70.00	210.00	327.00	60.81	82.00	246.00		
11-plex	2/22	2.5	156.90	393.80	2.1	77.00	154.00	239.80	60.81	90.20	180.40		
16-plex	1/16	2.5	286.40	286.40	2.1	112.00	112.00	174.40	60.89	131.20	131.20		
Trailer Court	2/72	2.5	14.30	1,029.60	2.1	7.00	504.00	525.60	51.05	6.55	471.60		
Subtotal				\$15,811.65					\$6,604.55	\$9,207.10	58.23	7236.60	5422.20
Commercial	3/3	2.6	- 2/	\$ 361.30	2.2 & 2.4	-	\$ 164.80	\$ 196.50	54.21		165.40		
Commercial	6/6	2.6	-	320.60	2.2	-	57.90	262.70	81.94		146.77		
Commercial	9/9	2.6	-	800.33	2.4	-	153.65	646.68	80.80		366.29		
Commercial	1/1	2.5	-	371.80	2.1	-	182.00	189.80	51.05		170.21		
Commercial	1/1	2.6	-	657.80	2.1	-	322.00	335.80	51.05		301.14		
Commercial	1/1	2.5 & 2.6	-	41.90	2.1 & 2.2	-	10.50	31.35	74.82		19.18		
Subtotal				\$ 2,553.73					\$ 890.90	\$1,662.83	65.11		
Total				\$18,365.38					\$7,495.45	\$10,869.93	59.19 %		
Total Monthly Decrease in Revenue				\$18,365.38					\$ 7,495.45	\$10,869.93	59.19 %		
7 INTEREST RECEIVABLE				1681.21	NOT CHANGED				1,681.21	-		769.65	
				\$20046.59					\$ 9,176.66	\$10,269.93	54.22 %	9175.34	
TOTAL PER ANNUM				\$ 240,559					\$ 110,120	\$130,439			

RATES ROUNDED TO NEAREST DOLLAR.

DIFFERENCE DUE TO ROUNDING OF FIGURES

MULTI-1

← TA 23-126 ASU PROVIDED INFORMATION →

FORMER GASSA

Type	Number Customer Accounts/Units	GASSA Rate Schedule	GASSA Monthly Rate	Old Monthly Revenue	ABSSA Rate Schedule	ABSSA Monthly Rate	New Monthly Revenue	Decrease in Monthly Revenue	O/O DECREASE CALCULATED BY STATE	PROPOSED ACROSS THE BOARD REDUCTION	
										LIST	REVENUE
SF Duplex	205/205	2.8.2	\$ 35.50	\$7,277.50	2.1	\$ 7.50	\$1,537.50	\$5,740.00	78.87 %	11.35	\$2226.75
2 S.F.'s on 1 lot	2/4	2.8.2	47.40	94.80	2.1	15.00	30.00	64.80	68.35	15.20	30.40
10-plex	4/8	2.8.2	67.30	269.20	2.1	15.00	60.00	209.20	77.71	21.50	86.00
43-plex	1/10	2.8.2	222.20	222.20	2.1	70.00	70.00	152.20	68.50	71.20	71.20
	1/43	2.8.2	943.25	943.25	2.1	301.00	301.00	642.25	68.09	302.20	302.20
Subtotal 213/270				\$8,806.95			\$1,998.50	\$6,808.45	77.31		2816.55
Commercial 4/4		2.9.2	- 2/ \$ 36.00	36.00	2.2	- \$ 22.10	\$ 13.90	\$ 13.90	38.61		11.50
Commercial 1/1		2.8.2	- 38.65	38.65	2.1	- 7.50	31.15	31.15	80.60		12.35
Commercial 1/1		2.8.2 & 2.9.2	- 49.50	49.50	2.1 & 2.4	- 32.45	17.45	17.45	34.97		15.95
Commercial 2/2		2.8.2 & 2.9.2	- 75.50	75.50	2.1 & 2.2	- 21.10	54.40	54.40	72.05		24.10
Commercial 2/2		2.9.2	- 311.70	311.70	2.2 & 2.4	- 214.85	96.85	96.85	31.07		100.00
Subtotal 10/10				\$ 511.75			\$ 298.00	\$ 213.75	41.76		
Total 223/280				\$9,318.70			\$2,296.50	\$7,022.20	75.36 %		
Total Monthly Decrease in Revenue				\$ 9,318.70			\$ 2,296.50	\$7,022.20	75.36 %		
5 INCREASED ACCOUNTS				999.64			999.64	-			319.40
				\$10,218.34			\$3,296.14	\$7,022.20	68.05 %		\$3,299.85
TOTAL PER ANNUM				\$123,820			\$39,554	\$84,266			\$39,598

68.00% DECREASE  
 11.35 TO 15.20  
 21.50 TO 71.20  
 302.20 TO 302.20

2/ Commercial accounts accumulated by rate schedule.

M-1-2


ANCHORAGE SEWER UTILITY  
 FINANCIAL INFORMATION  
 YEAR ENDED DECEMBER 31, 1980

(CONSOLIDATED) ABSSA ERSEA CASSA

OPERATING INCOME (LOSS) BEFORE DEPRECIATION	\$ 1755927	\$ 2076215	\$ (29279)	\$ (290909)
DEPRECIATION ON NON- CONTRIBUTED PLANT	(1500743)	(1338435)	(11283)	(151125)
NET OPERATING INCOME (LOSS)	255284	737780	40662	(42034)
INTEREST INCOME	2752847	2587490	163154	2203
INTEREST EXPENSE & AMORTIZATION OF DEBT EXPENSE	(3423281)	(2753556)	(124198)	(490527)
NET INCOME (LOSS)	\$ (420350)	\$ 571714	\$ (61706)	\$ (930358)

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-80-4  
TA20-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for a Permanent General )  
Sewer Rate Increase in the )  
Anchorage, Eagle River, and )  
Girdwood-Alyeska Sewer Service )  
Areas )

In the Matter of the Filing of )  
a Tariff Revision, Designated as ) U-81-36  
TA23-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for Consolidation of )  
Service Areas and Permanent )  
Reduction of Rates )

CERTIFICATION OF MAILING

Sally Kay McDaid Certifies as follows:

That I am Clerk Typist III in the offices of the Alaska Public Utilities Commission, 1100 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501.

That on the 16th day of June, 1981, I mailed true and accurate copies with postage thereon to the parties indicated on the attached service list of

ORDER NO. 10

ORDER NO. 1

ORDER SUSPENDING SERVICE AREA CONSOLIDATION  
AND APPROVING PERMANENT RATE REDUCTIONS

in the above entitled cause.

DATED at Anchorage, Alaska, this 16th day of June, 1981.

Sally Kay McDaid

ANCHORAGE SEWER UTILITY  
SOURCE OF MUNICIPAL ASSISTANCE FUNDS  
JUNE 30, 1981

	1	2	3	4
	CONSOLIDATED ABSSA REVENUES (2)	ESSEA	GASSA	
		MLT-1	MLT-2	
REVENUES - RES + comm	\$ 121,079.7	\$ 524,643.4	\$ 240,557	\$ 123,204
ADDITIONAL REVENUES FROM MUNICIPAL ASSISTANCE FUNDS (3)	84,073.0	73,000.0	134,000.0	26,230.0
RATIO OF INCREASED MUNICIPAL ASSISTANCE REVENUES TO RES. + comm. REVENUES	14.33%	12.49%	55.76%	21.19%
ORIGINALLY BUDGETED AD VALOREM TAXES 1980 (1)		250,000.0		
INCREASE IN MILL RATE OVER 1980		.11	.50	.50
% INCREASE IN MILL RATE		28.20%	100%	100%

- (1) 1980 AD VALOREM TAXES CALCULATED AT .39 MILL RATE TIMES ASSESSED VALUATION OF ANCHORAGE BOWL ONLY
- (2) INCREASE NOT APPLICABLE FOR 1.67% RATE INCREASE EFFECTIVE 7-22-80. USED 1980 AUDITED MUNICIPAL FINANCIAL STATEMENTS.
- (3) ALLOCATION TO SERVICE AREAS IS ASU + MUNICIPAL ASSEMBLY PROVIDED ALLOCATION - BASED ON .50 MILL RATE TIMES THE ASSESSED VALUATION OF EACH SERVICE AREA.

SERVICE LIST

U-80-4  
U-81-36

Peter Argetsinger  
Counsel for the Anchorage  
Sewer Utility  
Wohlforth & Flint  
900 West 5th Avenue, Suite #505  
Anchorage, Alaska 99501

John L. Harshman  
General Manager  
Anchorage Water and  
Sewer Utilities  
3000 Arctic Boulevard  
Anchorage, AK 99503

Elizabeth H. Ross, Esquire  
Counsel for the Alaska Public  
Utilities Commission Staff  
1100 MacKay Building  
338 Denali Street  
Anchorage, Alaska 99501

COURTESY LIST

Mr. John D. McGraw  
Manager, Tariffs and Regulatory  
Affairs  
Alascom, Inc.  
Pouch 6607  
Anchorage, Alaska 99502

Lucian M. Abernathy, Jr.  
Box 448  
Girdwood, Alaska 99587

Ben Marsh & Associates  
Denali Towers North  
Suite #1600  
2550 Denali Street  
Anchorage, Alaska 99503

Randy Phillips  
Box 142  
Eagle River, Alaska 99577

Mr. Stephen J. Crispen  
21st Combat Support Group/JA  
Elmendorf AFB, Alaska 99506

Irene Dupont  
518 East 9th Avenue  
Anchorage, Alaska 99501

Larry Honchen  
Honchen, Uhlenkott & Martinsen  
1016 West 6th Avenue, Suite #415  
Anchorage, Alaska 99501

Norman F. Kaelber, Chairman  
Advisory Commission  
Anchorage Sewer and Water  
Utility  
3000 Arctic Blvd.  
Anchorage, Alaska 99503

Ms. Ginny Irving  
P. O. Box 207  
Girdwood, Alaska 99587

Karen Baker  
3742 W. 42nd Avenue  
Anchorage, Alaska 99503

Mr. George A. McCoy  
P. O. Box 318  
Girdwood, Alaska 99587

Ms. Barbara J. Bowers  
P. O. Box 224  
Girdwood, Alaska 99587

Ms. Susan Barnett  
P. O. Box 132  
Girdwood, Alaska 99587

Mr. Gene L. Tenny  
S.R.A Box 2508  
Anchorage, Alaska 99507

Ms. Jacky Graham  
P. O. Box 272  
Girdwood, Alaska 99587

Mr. Chris von Imhof, Chairman  
Girdwood Board of Supervisors  
P. O. Box 249  
Girdwood, Alaska 99587

Bill Lange, Chairman  
Girdwood Open Forum  
P. O. Box 142  
Girdwood, Alaska 99587

Mr. Jim E. Hackett  
P. O. Box 595  
Girdwood, Alaska 99587

John Trautner  
Girdwood Open Forum  
P. O. Box 722  
Girdwood, Alaska 99587

Ms. Nancy L. Simmerman  
Alyeska Village Box 548  
Girdwood, Alaska 99587

Tim Bennett  
P.O. Box 574  
Girdwood, Alaska 99587

Mr. Tim R. Crawford  
c/o Alaska Cleaners, Inc.  
610 W. Fireweed Lane  
Anchorage, Alaska 99503

Mr. James R. Hendershot  
3909 Iowa  
Anchorage, Alaska 99503

U-80-4  
U-81-36  
CCURTESY LIST

(CONTINUED)

Mr. David A. Rose  
4326 East Fifth Avenue  
Anchorage, Alaska 99504

BB

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

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-80-4  
TA20-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for a Permanent General )  
Sewer Rate Increase in the )  
Anchorage, Eagle River, and )  
Girdwood-Alyeska Sewer Service )  
Areas )

In the Matter of the Filing of )  
a Tariff Revision, Designated as ) U-81-36  
TA23-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for Consolidation of )  
Service Areas and Permanent )  
Reduction of Rates )

ERRATA NOTICE

ORDER NOS. 10 and 1

ORDER SUSPENDING SERVICE AREA CONSOLIDATION  
AND APPROVING PERMANENT RATE REDUCTIONS  
(Issued June 15, 1981)

- Page 2, line 13: Delete parentheses around word "opposed".
- Page 3, line 22: Change "iself" to "itself".
- Page 4, line 6: Change "inappropriate" to "inappropriate".
- Page 4, line 22: Change "in" to "on".
- Page 5, line 28 : Change "tha" to "the".

DATED AND EFFECTIVE at Anchorage, Alaska, this 16th day of June, 1981.

BY DIRECTION OF THE COMMISSION  
(Commissioner Susan M. Knowles, not participating)

( S E A L )

U-80-4 (10E), U-81-36(1E)  
Page 1

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



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-80-4  
TA20-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for a Permanent General )  
Sewer Rate Increase in the )  
Anchorage, Eagle River, and )  
Girdwood-Alyeska Sewer Service )  
Areas )

In the Matter of the Filing of )  
a Tariff Revision, Designated as ) U-81-36  
TA23-126, by the MUNICIPALITY OF )  
ANCHORAGE d/b/a ANCHORAGE SEWER )  
UTILITY for Consolidation of )  
Service Areas and Permanent )  
Reduction of Rates )

CERTIFICATION OF MAILING

Sally Kay McDaid Certifies as follows:

That I am Clerk Typist III in the offices of the Alaska Public Utilities Commission, 1100 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501.

That on the 16th day of June, 1981, I mailed true and accurate copies with postage thereon to the parties indicated on the attached service list of

ORDER NO. 10

ORDER NO. 1

ORDER SUSPENDING SERVICE AREA CONSOLIDATION  
AND APPROVING PERMANENT RATE REDUCTIONS

AND  
ERRATA NOTICE

in the above entitled cause.

DATED at Anchorage, Alaska, this 16th day of June, 1981.

Sally Kay McDaid