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ALASKA
PUBLIC
UTILITIES
COMM.

ARECA Position on APUC Sunset Review

February 15, 1985

Introduction

The Alaska Public Utilities Commission serves a necessary function in determining which utility is best able to serve a particular area and in determining the appropriate rates for service by utilities which are not controlled by their consumers.

An electric cooperative is a self-regulating entity owned and controlled by the consumers it serves. The consumers elect the board of directors who hire the manager and control the utility. Whenever the board or management strays from the best interests of the consumers, the consumers "rise up and throw the rascals out" in good democratic tradition.

Electric cooperatives can, by a vote of their members, opt completely out from under APUC regulation. Three cooperatives have done so. For the cooperatives remaining under APUC jurisdiction, the commission should focus primarily on rates and resolving consumer complaints. In recent years, what we have experienced instead is a constant expansion of the role of the APUC so that it now goes beyond the appropriate scope of regulation. It is now directly involved in management decisions which should more appropriately be left to the consumer-owners and the boards of directors they elect.

As the APUC undergoes Sunset Review, we do not suggest that it should be

terminated, but we do offer a number of constructive suggestions for improvement. Our goal is to be able provide our consumer-owners with the kind of service they want at the lowest possible cost consistent with good business practices.

I. What We Want

A. Changes needed to get non-government financing.

Most of Alaska's electric cooperatives receive their basic funding from loans made or guaranteed by the Rural Electrification Administration, an agency within the U.S. Department of Agriculture. The REA is targeted for termination by 1990 by the Reagan Administration. The agency probably will survive, but the funding we get from that source will almost certainly be sharply reduced. It is essential that we take all reasonable steps now to make the electric cooperatives more acceptable credit recipients from commercial lending sources.

1. Protect cooperative financial requirements imposed by their mortgages like municipal financial requirements contained in their bond covenants. This will require an amendment to AS42.05.431 to treat cooperative mortgage obligations the same as municipal bond obligations.
2. Prevent APUC from changing wholesale power agreements after they are in effect.

Wholesale power supply contracts are the security upon which

bankers lend money for the construction of generating facilities. If the APUC can later change the terms of such contracts, the bankers either will not lend money or will require higher interest rates.

The contract under which Chugach Electric Assn. supplied power to Homer Electric Assn. and Matanuska Electric Assn. is the instance in which the APUC claimed jurisdiction in this area.

3. Prevent APUC from making permanent rates approved by commission later subject to refund.

Our bankers, like the utilities themselves, must be assured of stability and reliability in our revenues. The commission should have the authority to reconsider existing rates on their own motion, but any changes they may order should be prospective, not retroactive.

A currently pending docket on Alaska Village Electric Cooperative is the first instance in which our members have been subjected to a possible refund of existing rates previously approved by the commission.

B. Narrow the scope of APUC authority.

We feel the APUC is now assuming the role of a super board of directors which substitutes its business decisions and policy preferences for those of the real boards of directors elected by the consumers. The commission should be required to refocus its activities toward regulation rather than management.

1. Reservation of management rights to governing bodies of utilities for subjects not specifically granted to APUC.

Language to achieve this objective is now being drafted, and it is modelled after "reservation of management rights" clauses routinely used in labor contracts.

2. Trim some specific grants of authority.

In the ARECA legislative conference set for March 4-5, these individual items will be evaluated to determine which ones are most troublesome. The resulting list is expected to include amendments to AS42.05.291 (standards of service and facilities) and AS42.05.511 (management practices).

C. Simplify ratemaking process.

A number of possibilities exist for the simplification of the ratemaking and hearing process, and the commission needs to be told, in session law or in a letter of intent accompanying the legislation which extends their existence, to conduct a hearing in which they receive and consider all such suggestions and report to the legislature on the actions taken on each suggestion and the reasons for such action.

1. Authorize TIER indexing of rates upon application by a cooperative utility.

A great opportunity exists for both the commission and the

cooperative utilities to save time and aggravation by using a system in which the commission approves rates based on a target TIER (times interest earned ratio) and an acceptable range above and below that target which are appropriate for that particular cooperative.

Periodic reports would be required, and whenever the actual TIER rises above or falls below the approved range, the utility would automatically adjust its billing by an amount sufficient to produce the target TIER. This adjustment procedure would work in much the same way as the existing procedure for fuel cost adjustments.

After several years of unsuccessful effort in trying to persuade the commission to establish in Alaska this procedure which is already in use in various forms in several other states, we now ask the legislature to require by statute that such a procedure be established.

D. Speed up regulatory process

When AS 12.05.421 was originally enacted, the bill at one point provided that the commission could suspend the operation of a proposed tariff for "an initial period of six months" and, if necessary an "additional period of three months" while the commission considers the application. The legislature determined that six months was adequate time for consideration and eliminated the additional period of three months, but did not remove the word "initial" from the phrase authorizing a six month suspension. Through the years, the APUC has come to interpret this section to permit successive suspensions of six months each.

In December 1984, the ARECA staff reviewed all open docket and found more than 30 which were opened between 1971 and 1980. Approximately 100 dockets are still open which were filed between 1981 and 1983. In reviewing approximately 50 closed docket files, not one of those dockets examined had been concluded within the statutory six month period.

Regulatory lag is a serious problem for the utilities, and we urge the legislature to resolve this problem by the following actions:

1. Authorize the APUC to suspend action for only one period of six months. This can be achieved by removing the word "initial" from AS42.05.421(2)(1).
2. Enforce this statutory limitation by requiring the commissioners to forfeit their pay when dockets are not completed on time.

A similar provision now applies to judges in the Alaska Court System.

II. What We Don't Want

A. Allocations of new or unreasonable APUC costs to the utilities.

SB 64 would permit the APUC to allocate costs for its own staff and attorneys assigned to it to the utilities. This would give the commission virtually unlimited access to money paid by our consumers to finance their operation. It would permit the commission to continue its move toward management of the utilities outside the

restraints imposed by the normal budgeting process controlled by the legislature.

The present provisions of AS42.05.221(e) permit the commission to employ consultants and hand the bill to the utilities. In recent years, the commission's use of and taste in consultants has become more expensive. We urge the legislature to consider restricting this authorization in some way to make sure that consultants are employed only when there is good reason to do so, and that the charges by those consultants are reasonable.

B. Additional parties to regulatory dockets involving cooperative utilities.

SB118 and HB162 would create a new Office of Public Utility Consumer Representation in the Department of Law. This office would be authorized to be a party to all utility regulatory dockets for the purpose of representing only the residential consumers. This office would not be based on a democratic representation of consumers, but would simply be a new layer of bureaucracy.

The more parties there are to a docket, the longer it takes and the more expensive it becomes. We urge that these bills not be enacted, or if they are, that they be amended to exclude participation by this office in dockets involving consumer owned utilities.

ALASKA PUBLIC UTILITIES COMMISSION SUNSET REVIEW WORKPAPER:

In the free-for-all days before statehood, accountability was a word missing from the vocabularies of many Alaskan utilities. Consumers had a voice only in those utilities owned by municipalities or organized as cooperatives. For all others, consumers had no recourse from management decisions on rates and services nor could they effectively protest the quality of service provided.

The Public Service Commission was created by Chapter 199, SLA 1959 to regulate the various public utilities to achieve the same basic objectives that competition normally exerts in private, unregulated industry. This body operated as a quasi-judicial agency with certain administrative duties and decision-making powers similar to that of a court.

During 1970, numerous sections of the original Public Service Commission Act were repealed and the Legislature enacted what is now known as the Alaska Public Utilities Commission Act (AS 42.05). This new law extensively revamped the old one and extended the jurisdiction of the Commission to political subdivisions (with certain exceptions) and to the State's long-line communications carrier, in addition to substantially increasing the Commission's regulatory powers and duties.

Under present State "sunset review" laws, every board and commission within the State government must undergo review every five years to determine whether or not that agency is providing services necessary to the people of Alaska. During the current legislative session, the Alaska Public Utilities Commission (APUC) will be subject to this type of review, and legislators will be able to refocus the Commission, if they deem it necessary.

Alaska's electrical cooperatives do not want the APUC abolished, but they do have major concerns about the scope of the Commission's authority, regulatory lag and several other financial matters.

What follows is a discussion of these concerns.

Scope of Authority

The APUC serves as a regulatory body for about half of the public utilities operating in Alaska. In recent years, the APUC has broadened the scope of its oversight and regulatory practices, and is becoming increasingly involved in the details of day-to-day management.

The authors of the APUC enabling legislation granted the Commission extraordinary powers, ones that far exceed other regulatory agencies in Alaska, and then mandated that these powers be "liberally construed," (AS 42.05.141).

No such broad grants of power were given to the Alaska Oil and Gas Conservation Commission, which oversees 75 percent of the state's wealth, or to the now defunct Alaska Transportation Commission, which was created in 1966 for reasons similar to the establishment of the APUC -- to protect the public's right to basic services in a monopoly situation.

In fact, the Oil and Gas Commission's authority is severely limited to regulation for the sake of conservation and safety (AS 31.05.030).

The Transportation Commission's range of authority was considered so onerous that Alaskans voted to dissolve the Commission last year. Yet the Transportation Commission's powers (42.10.070) pale when compared with those given the APUC.

In addition to its general powers, the APUC's enabling legislation contains two sections that vastly expand the Commission's authority and allow it to become a super board of directors involved with day-to-day management decisions.

The APUC has used the authority granted in the standards of service (42.05.291) and management practices (42.05.511) sections to "displace the utility board's policy making authority and make serious inroads on utility management's day to day functions," according to Charles Walls, General Manager, Glacier Highway Electric Association (GHEA).

Service and Safety Standards

The APUC says the proposed regulations, U-82-63, Service and Safety Standards of Regulated Electric Utilities, establish "minimum threshold requirements for service and safety which must be provided as a matter of course by prudent utility management." Alaska's electric utilities claim the proposed regulations duplicate recognized national standards, they duplicate existing State laws and, in the words of GHEA, "put the APUC into virtually every policy or management decision of a utility."

The timing of the proposed regulations is interesting. When the APUC underwent sunset review in 1980, the State Division of Legislative Audit conducted a performance review to "see if the Commission has been operating in an efficient and effective manner." That report concluded that "the ability of the Commission to effectively regulate utilities has been hampered by omissions and inconsistencies in the Statutes and regulations" and recommended that the Commission "prescribe industry performance standards to allow the Commission to effectively monitor and enforce the quality of service being provided by the utilities."

Two years later the Commission opened a docket and circulated an initial set of regulations that totaled 10 pages. These proposals were modified on May 17, 1983, and reduced to seven and a half pages, covering fairly routine matters such as industry standards. Public hearings were held that June.

Eighteen months later, the APUC reissued its proposed regulations, which by this time had grown to 49 pages.

If the APUC puts the proposed service regulations into effect, it will be allowed to exercise unprecedented control over the detailed operations and procedures of all of Alaska's utilities without regard for the special problems and needs of these utilities and their consumers. The regulations impose detailed reporting requirements which are of no benefit and are costly both to the utilities and to the APUC.

The regulations set forth policy decisions which will contradict existing approved tariffs and will override policy decisions made by the utilities regarding their own operations. These policy decisions will carry substantial costs to the utilities which have not been considered by the APUC. These regulations continue the APUC's attempts to manage utility affairs on a detailed level without assuming responsibility for results.

Deregulation Really Means Regulation

The 1980 Sunset audit recommended that small utilities be allowed to withdraw from Commission authority if their members desire, and the 1980 Alaska Legislature amended AS 42.05.711 to broaden the exemption section.

Several successful deregulation elections were held subsequent to that amendment, including ones in Glacier Highway, Cordova and Naknek.

"GHEA opted out of APUC economic regulation because it is costly to support the additional layer of 'management,'" Walls, GHEA's manager, wrote in a memo dated Jan. 28, 1985, to his Board of Directors. Yet, the APUC plans to extend the service and safety standards to GHEA, Cordova and Naknek, indeed to "every certificated utility" presumably to include municipalities not now regulated by the APUC.

GHEA has formally protested the APUC action, "particularly so, in this eleventh hour of the proceeding which has continued for more than five years. The Glacier Highway Electric Association is unaware of any reason or cause that the Commission might have to peremptorily subject the Association to what has to be a precedent shattering assertion of jurisdiction by a public utilities commission. The regulations proposed by the Commission advance Commission jurisdiction considerably farther than the traditional notions of Commission jurisdiction and regulatory authority..."

Cordova Electric Association's Board of Directors is equally upset. On Jan. 28, 1985, the board passed a resolution "insisting" that the APUC "abide" by its decertification election and "exempt" the cooperative from the proposed standards.

"The Board of Directors intends to operate a safe and secure utility meeting all State regulations, the National Electrical Safety Code, the Rural Electrification Administration requirements, etc.," the board wrote in its resolution. "Commission inclusion of deregulated utilities under this docket will increase the costs of regulation to our members by duplicating regulations already issued by other agencies."

Management Practice

The APUC's three-part management practices authority is broadly written, allowing the Commission to "investigate the management

of a public utility, including but not limited to staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with affiliated interest, for the purpose of determining inefficient or unreasonable practices which adversely affect the cost or quality of service of the public utility. Where unreasonable practices are found to exist, the Commission may...take appropriate action.. and may order the public utility to take the corrective action the Commission may require to achieve effective development and regulation of public utility services."

Alaska's electric utilities do not deny the need for this section, but do question its scope. Should the APUC become so intimately involved in the day-to-day operation of a utility that it concerns itself with such questions as who should sit next to whom in Alaska Village Electric Cooperative's office or the organizing of a college recruitment program in the case of Chugach Electric Association, as the APUC already has?

The APUC, Alaska's utilities believe, should restrict its powers to the broader questions of public health, safety, consumer protection and fiscal responsibility.

Take the Chugach management audit as a case in point.

The APUC ordered the management audit of Chugach in 1982, following two years of financial losses. The audit was conducted by Theodore Barry & Associates (TB&A) and has cost Chugach \$293,218 to date. The audit followed on the heels of similar audit ordered on Golden Valley Electric Association (GVEA).

TB&A finished its audit in August 1982, producing a massive document that contains 156 recommended changes, of which Chugach has instituted about 120. These recommendations range in importance from major items aimed at putting the cooperative on

firm financial footing to trivial issues, like repainting the association's vehicles, reducing the lunch breaks for consumer service representatives and revising the employee benefit statement.

Three years have passed since the audit was ordered, yet the docket remains active. Chugach has filed audit status reports on a quarterly and annual basis and the Commission presently is seeking an audit compliance officer to review the entire proceeding. That officer will be given the additional task of reviewing the power studies conducted by Chugach, a job the APUC estimates will cost \$15,000. Chugach believes the pricetag will be closer to \$400,000.

Power Planning

During the past several months, the APUC has entered the field of power planning, citing its service and management authority. Power planning is an enormously complex area, one most Alaska utilities believe is beyond the technical expertise of the present APUC staff. The proposed service and safety standards require all utilities to file voluminous amounts of data with the Commission before building new generation units, and establish strict deadlines for the filing of that data. The Commission itself, however, is under no deadline to act. In fact, in the case of wholesale power contracts, the proposed rules state that failure of the Commission to act does not constitute approval.

In Order U-82-47(11), the Commission stated its intention to "investigate the adequacy of the electricity resource planning in South Central Alaska," and on Feb. 5, 1985, ordered the four electric utilities in Southcentral Alaska, along with the City of Seward (Seward), to provide the Commission with detailed information on each utilities' plans. Neither Seward, nor Anchorage Municipal Light & Power (ML&P) were parties in this docket, nor are they isolated examples of the APUC opening

dockets and issuing orders that affect utilities who are not parties to the case.

Cost to Utilities

As the APUC has expanded its role and delved more deeply into areas normally left to management, it has dramatically increased its use of consultants, passing the cost on to the utilities. During the past three years, for example, Chugach has spent \$1.7 million responding to Commission oversight and regulation requests, while GVEA has spent \$300,000, not counting staff time. The recently completed Generation and Transmission docket (U-82-47) cost Chugach \$172,677, plus thousands of hours in staff time -- 773 hours in the Planning and Rates department alone. ML&P has spent \$140,000 on the boundary dispute settlement alone.

The hiring of consultants is an off-budget item, one that allows the Commission to get around Legislative oversight of its expenses. And now, with Senate Bill 64, the Commission is proposing to allocate the costs of every proceeding, including staff expenses, to the utilities involved, on a month-by-month basis so that APUC does not have to "front the costs." Having to front the costs severely limits the Commission in the amount of costs they assign to utilities.

Senate Bill 64 has raised the dander of many utilities, especially the Alaska Village Electric Cooperative, Inc. (AVEC), which sent a strongly worded protest to Juneau:

"AVEC is already suffering substantial increased expenses as a result of unusual and to some degree discriminatory actions by the Alaska Public Utilities Commission. We feel it is extremely dangerous to give them an open ended tool to hire unlimited staff including consultants at expenses of up to \$250,000, as they have previously, and apparently any type of the most expensive legal counsel, then turn around and charge the village utility

consumers for these expenses...This gives the PUC a survival tool for virtually unlimited staff, unlimited consultants and unlimited attorneys clearly outside the State budgeting process. This is dangerous and should be immediately and totally rejected."

Speed of Regulatory Process

Regulatory lag can be a serious, and costly, problem for utilities. Last December the Alaska Rural Electric Cooperative Association staff reviewed all open dockets and found more than 30 which were opened between 1971 and 1980, including U-71-16, at age 14 the Commission's oldest case. U-71-16 concerns the territorial dispute between Chugach and ML&P, a dispute that was resolved last year. Approximately 100 dockets filed between 1982 and 1983 remain open.

Over the past few years, the APUC has consistently exceeded the time allowed by law for making final decisions on cases that come before it.

When AS 42.05.421 was passed, establishing the APUC, it originally provided that the Commission take up to "an initial period of six months" to decide cases, and it was given the authority to extend an additional three months if necessary.

The Legislature determined that six months was adequate time for consideration and eliminated the additional three-month period, but did not remove the word "initial" from the phrase authorizing the six-month period. Through the years, the APUC has come to interpret this section to permit successive extension periods of six months each.

Other State agencies operate under extremely tight regulations. The Legislature charged the Oil and Gas Commission, for example, to hold its hearings "without undue delay after the filing of the

petition" and then mandated that it issue its orders "within 30 days after the hearing."

Alaska's judges can have their pay forfeited if they fail to rule on their cases in a timely manner.

Problem with Financing

Most of Alaska's electric cooperatives receive their basic funding from loans made or guaranteed by the REA, an agency within the U.S. Department of Agriculture, and one targeted for termination by 1990 by the Reagan Administration. The agency probably will survive, but the funding cooperatives get from that source will almost certainly be sharply reduced. Steps must be taken to make the electric cooperatives more acceptable credit recipients from commercial lending sources. If a banker is going to make loans to any business, especially in the large amounts needed by electric utilities for generation and distribution expansion, the banker must be certain that the business has stable and reliable revenues.

Lenders routinely require utilities to earn revenues at an agreed upon level above the minimum amount needed to make their debt payments. This gives the lender assurance that if the utility has a bad year, the utility can still make the debt payments on schedule. Alaska law now requires the APUC to honor those earnings requirements imposed by bankers on municipal utilities. No such protection now exists for loan requirements for cooperative utilities, and in at least one case, the APUC has ordered rates for a cooperative which made it impossible for the utility to comply with its mortgage requirements. Cooperatives must be given the same protection as the municipal systems if they are to borrow from commercial sources.

Built-in Controls

An electric cooperative utility is a self-regulating entity, owned and controlled by the consumers it serves. The consumers elect the board of directors who, in turn, hire a manager to administer the day-to-day activities of the cooperative.

The board establishes guidelines, policies and financial controls under which the manager must operate. Whenever a board member or manager strays from the best interest of the utility and its consumers, the membership has the power to "rise up and throw the rascals out" in good democratic tradition. In short, electric cooperatives have their own inherent check and balance system and their regulation by the APUC should be basic.

The State of Wisconsin, for example, recognizes this democratic tradition. Wisconsin law established a Public Utility Commission with powers almost as broad as those found in Alaska. The Badger State, however, has purposely exempted co-ops from the Commission's jurisdiction, allowing the co-ops to regulate themselves.

What We Want

Alaska's electrical cooperatives are not advocating that they be exempted from APUC control. They do, however, agree on the following list of suggestions for improvement:

1. Changes needed to obtain non-government financing
 - a. Amend AS 42.05.431 to treat cooperative mortgage obligations the same as municipal bond obligations.
 - b. Prevent APUC from changing wholesale power agreements after they are in effect.
 - c. Prevent APUC from making permanent rates approved by the Commission later subject to refund.

2. Narrow the scope of APUC authority

- a. Reservation of management rights to governing bodies of utilities for subjects not specifically granted to APUC.
- b. Trim some specific grants of authority, i.e. AS 42.05.291 (standards of service and facilities) and AS 42.05.511 (management practices).
- c. Simplify ratemaking process by authorizing TIER indexing of rates upon application by a cooperative utility.

3. Speed up the regulatory process

- a. Authorize the APUC to suspend action for only one period of six months
- b. Require the Commission to rule promptly on matters before them.
- c. Enforce this statutory limitation by requiring the commissioners to forfeit their pay when dockets are not completed on time.

Dave

APUC SUNSET REVIEW

The APUC is more and more assuming management prerogatives in utilities as if the consumers are not capable of running their own Cooperative. The Cooperative elects a Board of Directors to direct the Cooperative affairs. It seems the APUC is assuming the role of a superboard of Directors and usurping the power of those directors who were elected by the members of the Cooperative. They do not recognize that an electric cooperative is a self-regulating entity and is controlled by the consumers it serves. The consumers elect the board of directors who hire the manager. Whenever the board or management strays from the best interests of the consumers, the consumers' "Rise up" and elect new Directors.

As far as cooperatives go, we need a statute limiting the authority that the APUC has over us. To think that the bureaucrats on the APUC Commission and Staff can substitute their judgment in managerial situations is ludicrous.

The APUC recently intervened in negotiations between utilities when they were working on wholesale power agreements. It is outside their brief, is not their business and can jeopardize the mortgage operator of REA-financed utilities. The same holds true for municipal bond obligations.

If the APUC can later change the terms of such contracts, the bankers either will not lend money or will require higher interest rates to cover their increased risks.

This is an area where the APUC has no business interfering. Statutes should preclude their activity in this area.

MEMORANDUM

March 1, 1985

TO: Dave Hutchens
FROM: Ken Johnson
RE: APUC Sunset Review Research

The following info was compiled in preparation for the upcoming "sunset review" hearings scheduled by the legislature for the Alaska Public Utilities Commission.

OPEN DOCKETS

According to a computer printout dated 2/4/85, the APUC had 254 open dockets in commission files. The utility breakdown of those open dockets is:

Telephone Utilities	92
Electric Utilities	78
Water/Sewer Utilities	51
Cable TV Utilities	11
Gas Utilities	6
Other	17

Of the 78 electric utility dockets, 31 involve ARECA members.

AGE OF DOCKETS

The oldest open docket in the files is the Chugach/ML&P boundary dispute, opened in 1971. A total of 35 dockets, opened prior to 1980, remain open today. Listed below is the number of dockets according to the year they were opened.

71-1	73-2	74-1	75-2	76-11
77-3	78-6	79-9	80-15	81-35
82-24	83-66	84-63	85-16	

RATE CASES

As I read through the orders in the rate-case dockets I researched, I found a very consistent pattern of action taken by the APUC on rate cases. The commission generally gives public notice that a utility is filing a rate case within seven days after the utility has filed. The public is given

thirty days after notice to file comments on the utility rate request. In almost every case, the commission issues an order granting the utility an interim rate within six weeks of filing. The effective date for the interim rate is about 30 days after filing. The commission seems to make a practice of contacting the utility by telephone to advise it of the commission's decision, with the order coming out 10-14 days later.

Four of our member utilities have rate cases pending before the APUC that have been open for 1-4 years (CEA 4 yrs, GVEA 3-1/2 yrs, KEA 2-1/2 yrs, INEA 1 yr.). Excluding these four utilities, the average length of time a rate-case for one of our members is before the APUC, based on the most recent rate case dockets, is 15.39 months.

NON-RATE CASES

The commission's handling of non-rate case dockets has patterns similar to those involving utility rates. The commission, in almost every case, took some action on the docket within thirty days after it had been filed. If public hearings were necessary, they are normally scheduled about 90 days from the date the docket was noticed to the public. Using the most recent non-rate dockets, it took the commission an average of 14.8 months to close non-rate cases involving ARECA members.

DELAYS

In my research I found that the commission's staff regularly requests time extensions to complete docket work. I did not add up the number of extension requests I came across (now I wish I had), but staff was responsible for far more case delays than utilities were. That's not to credit utilities. In many cases, I found our co-ops were not a bit reluctant to ask for case delays. I would think there is a lot of room for improvement in this area for both the commission and the utilities.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION

November 16, 1984

Audit Control Number

08-1175-85-R

Commissioner, Department of
Commerce and Economic
Development

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Deputy Commissioners, Department
of Commerce and Economic
Development

Vince O'Reilly
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Alaska Public Utilities Commission

Chairman
Member
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THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

November 16, 1984

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska
Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION

November 16, 1984

Audit Control Number

08-1175-85-R



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REPORT

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), an examination of the Alaska Public Utilities Commission was conducted to determine if the Commission has been operating in an efficient and effective manner and if the Commission should be reestablished.

As required by legislative intent, this report should be considered during the legislative oversight function in determining if the Commission should be reestablished. AS 44.66.010(4) specifies that the Alaska Public Utilities Commission will terminate on June 30, 1985, and have one year from that date to conclude its affairs.

The policy and audit approach utilized by the Division of Legislative Audit for Performance Reports can best be described as "audit by exception."

This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

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ORGANIZATION AND FUNCTION

The Alaska Public Utilities Commission Act (AS 42.05), enacted in 1970, created a full-time administrative agency to regulate public utilities engaged or proposing to engage in a utility business within the State. The jurisdiction of the Alaska Public Utilities Commission (APUC) extends to telecommunications, electric, gas, steam, water, sewer, and garbage public utilities. Prior to the creation of APUC, utilities were regulated by the part-time three-member Alaska Public Service Commission created in 1959.

During the 1981 session, the Legislature amended the Alaska Pipeline Commission Act (AS 42.06) to transfer administrative responsibility for the Pipeline Act from the Alaska Pipeline Commission to the APUC. The jurisdiction of the APUC was thereby enlarged to cover pipeline carriers and pipelines.

Under AS 42.05 and AS 42.06, the APUC is charged with the responsibility to assure the furnishing of adequate service to all public utility consumers without discrimination and at the lowest reasonable rates consistent with the interests of both the public and the utility. The Commission has the authority to investigate, hold hearings, prescribe systems of accounts, require the filing of reports, and to take other lawful actions necessary to accomplish these purposes.

The APUC consists of five commissioners of which one member is to be a graduate of a school of law, one to be a university graduate with a major in engineering, one to be a university graduate with a major in finance, accounting, or business administration, and two members shall be consumers. The commissioners are appointed by the Governor and confirmed by the Legislature to six-year terms. In addition, APUC staff consists of an executive director, deputy director, utility engineers, utility financial analysts, para legals, consumer protection officers, and various support staff. In total, APUC employs 50 people with an operating budget during FY 84 of \$3,099,800.

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REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Commission practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusion

In our opinion, the Alaska Public Utilities Commission should continue to regulate public utilities and pipelines and pipeline carriers. We believe that the public interest is being served by requiring public utilities and pipeline carriers to be certificated by the Commission. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the Commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

In addition, we have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Commission's operations (see the Findings and Recommendations section of this report).

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Alaska Public Utilities Commission (APUC) should comply with all applicable statutes and procedures governing professional service contracting.

Our review of APUC's contracting procedures included an examination of professional service contracts awarded during FY's 82 through 84. During this period, 37 contracts and 43 amendments totalled \$2,052,209. A review of twenty contracts and related amendments revealed numerous violations of contracting procedures set out in the State Administrative Manual (SAM) and Title 36 of the Alaska Statutes. Violations are categorized and described below.

Contractor Solicitation

The SAM and AS 36.98 (effective July 22, 1982) require agencies to comply with certain contracting procedures. These procedures require a formal request for proposal on contracts exceeding a certain dollar value, solicitation of proposals by newspaper advertising, utilization of a review committee, and a point system to evaluate proposals. The dollar limitation was \$20,000 during FY 82 through May 31, 1983, and \$25,000 thereafter. Furthermore, if an agency believes that waiving these requirements would be in the State's best interest, it must justify the reasons in writing and request concurrence from the Department of Administration (DOA).

Six contracts for \$242,500 violated State contractor solicitation requirements. Of the six, two were not formally solicited, two were not properly evaluated, and one sole-source contract was not, in our opinion, adequately justified. One contract was not advertised and was not properly evaluated.

Period of Performance

SAM 8134 states, in part, that a contract is not effective until approved by DOA and that the State is not obligated for services provided prior to the effective date. Services were obtained outside the effective dates for two contracts for payments totalling \$15,472.

APUC personnel stated that periodically there is a need to "rush" contracts through the approval system; therefore, services may be obtained prior to DOA approval.

Contact Amendments

SAM 8114 and 8116 (effective May 1983) state that if a proposed amendment changes the terms of the existing contract as to scope, amount, or period of performance, a new Authority to Negotiate (ATN) must be transmitted for approval.

Ten contract amendments were in violation of the administrative requirement. Of the ten, nine were for period of performance extensions ranging from two months to one year and one increased the contract amount by \$55,550 (26%).

APUC personnel stated that DOA has given the Commission the latitude to extend periods of performance for up to six months without prior approval. We could not find any formal written directive of this policy and a member of the Contract Review Committee stated he was not aware of any delegation of authority by DOA to APUC.

In summarizing the impact of these violations, ten of the twenty contracts reviewed (50%) were not properly executed under one or more of the above-listed requirements. Those contracts totalled \$1,993,249. Violation of the statutes and procedures governing contracting could invite legal challenges to APUC's contract awards, which in turn could cause delays and increases in costs.

Recommendation No. 2

APUC should seek legislation to amend its statute for allocating hearing and investigation costs and should improve the accounting for program receipts.

AS 42.05.651 provides that, "After completion of a hearing or investigation held under this chapter, the commission shall allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances." APUC has been appropriated \$1,711,036 in program receipts during FY's 82 through 84 to execute this statute.

We reviewed APUC's manual system of allocating costs and recording revenues against program receipt expenditures during FY's 82 through 84 for the approximately 100 cases opened each year. We found inconsistencies in the treatment of recording and allocating expenditures and revenues during that period. More recently, however, it appears APUC is consistently allocating costs.

Statutorily, APUC cannot allocate and bill utilities until the hearing or investigation has been completed. As a result, APUC is forced to account for unbilled receivables for extended periods of time, in some cases, several years.

This creates an unnecessary burden on the APUC accounting staff.

Amending AS 42.05.651 to allow interim allocation and billing of hearing and investigation costs should simplify the accounting demands and provide for a more timely collection of accounts receivable.

Furthermore, APUC is accounting for revenues in greater detail than is necessary. Presently, APUC accounts for revenues by specific contract and travel expenditure transaction.

This information is of limited usefulness and it would be less cumbersome and time consuming if costs and revenues were maintained by docket only.

We recommend that APUC seek legislation amending AS 42.05.651 to allow for the allocation and billing of docket related costs during the hearing and investigation process. APUC should also work with the Department of Administration to review APUC's need for costs and revenues to be maintained by docket for implementation of the new State Accounting System beginning in FY 86.

Recommendation No. 3

The APUC should develop a topical reference system for Commission orders and court decisions.

The APUC is a quasi-judicial agency which issues decisions based on findings of fact and conclusions of law. These decisions are in the form of written orders. All final orders of the Commission have the effect of law and are subject to judicial review.

The APUC files Commission orders in chronological order and maintains the docket (case) history by number with reference cards by utility name. Decisions from the courts on appeals of Commission orders are filed with the related docket. However, no topical cross-reference system is maintained.

Currently the only resource available for prior actions is the memories of individual Commissioners and staff members. This limits access to major decisions made and precedents set which is time consuming and unreliable. A cross-reference system would allow analysis by staff and decisions by Commissioners to be made consistently from case to case and in accordance with relevant court decisions. It would also allow the attorney for an applicant utility to review prior decisions in similar cases and to facilitate preparations for filings and hearings.

In order to maximize reliability and consistency, APUC should consider having the establishment and annual updating of the topical reference system performed by a professional service familiar with utility regulation.

Recommendation No. 4

APUC should review the requirements of AS 42.05.211 and AS 42.06.220 and determine if the annual report should be submitted in a revised format.

Presently, AS 42.05.211 and AS 42.06.220 require APUC to publish an annual report reviewing its work and submit it to the Legislature by February 15 of each year.

APUC's annual reports for the years 1980 through 1983 were not submitted to the Legislature by the due date as shown below.

<u>Report</u>	<u>Date Submitted</u>
1980	August 06, 1981
1981	April 15, 1982
1982	April 29, 1983
1983	August 15, 1984

APUC personnel stated that due to the nature of the information included on utilities, primarily from annual financial reports, meeting the statutory requirement has never been accomplished. Furthermore, APUC stated that to meet the deadline would mean a cutback in the amount of information provided and/or use of the prior-year utility data in the report.

A purpose of annual reports is to gain a knowledge of both Commission activity during the preceding year and forecasts for the upcoming year during the legislative budgeting process. In recognition of this need and in order to provide adequate and current data, APUC should revise the present calendar year report to a fiscal year report.

The 1983 report the Commission will submit to the 1985 Legislature contains calendar year (CY) 1983 APUC and utility information. The revised format would contain FY 1984 APUC and CY 1983 utility information. The report would be more meaningful and comparable to the budget documents. The availability of the utility financial information prior to the fiscal year end should ease the time pressure of preparation and enable timely submission to the Legislature by February 15 or sooner.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis indicates both positive and negative attainments of the APUC and how its activities relate to the public need factors defined by AS 44.66.050. This analysis is not intended to be all inclusive, but address those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission, or program has operated in the public interest.

Consumer interest gained through the control and regulation of public utilities and pipeline carriers to ensure that utilities and pipeline carriers are fit, willing, and able to provide services required for the convenience and necessity of the public has been adequately provided by the Commission. However, operational efficiency and effectiveness should be improved (see Recommendations 1 through 4).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The operation of the Alaska Public Utilities Commission has been enhanced by recent change in the statutes and adoption during 1984 of new regulations. However, changes should be made to allow allocation of costs during a hearing or investigation of public utilities to conform to the pipeline Act (see Recommendation No. 2).

III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.

Statutes have been amended allowing certain utilities to be exempt under AS 42.05 by the 1980 and 1983 legislative sessions. In addition, the Alaska Pipeline Commission was terminated during the 1981 session and those powers and duties were transferred to the Alaska Public Utilities Commission. APUC participated in the process of developing these changes.

- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

All formal proceedings are properly and timely noticed and open to the public. Staff of the APUC are located in Anchorage and are available to answer inquiries of the general public during all normal business hours.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

As noted in IV above, the Commission has provided an adequate forum for obtaining input from the public.

- VI. The efficiency with which public inquiries of complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

The Commission has adopted regulations for informal and formal complaint procedures. The Consumer Protection Section acts as a mediator between the parties on informal complaints and, if the complaint cannot be resolved informally, formal complaint procedures may be used including a formal investigation. APUC has received approximately 1300 informal complaints during each of the last three calendar years. Of these, one to four end up as formal complaints. The Office of the Ombudsman received approximately sixteen complaints since January of 1982 and all were satisfactorily resolved.

- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

The Commission, prior to granting a Certificate of Public Convenience and Necessity to a public utility or pipeline carrier, is required to determine that the applicant is fit, willing, and able to provide the services. APUC employs Utility Financial Analysts, Utility Engineers, and other professional staff which have adequately performed the necessary analyses to make this determination.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activity and the area of activity or interest.

We found no evidence of hiring practices or Commission appointments that were contrary to the State personnel practices.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

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APPENDIXES

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APPENDIX A

DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
SUMMARY OF BUDGET ACT APPROPRIATIONS
For Fiscal Years 1983, 1984, and 1985

<u>Category</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Personal Services	\$2,103,500	\$2,228,700	\$2,438,100
Travel	93,100	80,200	100,000
Contractual Services	730,900	765,600	1,292,000
Commodities	16,500	16,500	22,000
Equipment	<u>5,000</u>	<u>8,800</u>	<u>6,700</u>
<u>Total Budget Act</u>	<u>\$2,949,000</u>	<u>\$3,099,800</u>	<u>\$3,858,800</u>
<u>Source of Funds</u>			
General Fund	\$2,849,000	\$2,999,800	\$2,873,800
Program Receipts	<u>100,000</u>	<u>100,000</u>	<u>985,000</u>
<u>Total Source of Funds</u>	<u>\$2,949,000</u>	<u>\$3,099,800</u>	<u>\$3,858,800</u>

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APPENDIX B

DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
FULL-TIME POSITION SUMMARY
November 16, 1984

<u>Position Title</u>	<u>Number of Positions</u>
<u>Executive</u>	
Commissioners	5
Executive Director	1
Deputy Director	1
Administrative Law Judge	1
Secretary I	1
Administrative Assistant	1
<u>Engineering Section</u>	
Utility Engineers	6
Drafting Technician	1
<u>Economics Section</u>	
Economist	1
<u>Common Carrier Section</u>	
Common Carrier Specialist	1
<u>Finance Section</u>	
Utility Financial Analysts	9
<u>Tariffs Section</u>	
Utility Tariff Analysts	3
<u>Consumer Protection Section</u>	
Consumer Protection Information Officers	2
<u>Research Section</u>	
Associate Attorney	1
Paralegals	2
<u>Administration and Support</u>	
Administrative Support Supervisor	1
Administrative Support Technicians	10
Correspondence Secretaries	2
<u>Total Positions</u>	<u>49</u>

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APPENDIX C

DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
NUMBER OF REGULATED UTILITIES
November 16, 1984

<u>Type</u>	<u>Number of Utilities</u>
Electric Utilities	35
Water Utilities	25
Telephone Utilities	21
Pipelines/ Pipeline Carriers	13
Garbage Utilities	9
Sewer Utilities	5
Natural Gas Utilities	<u>4</u>
<u>Total Utilities</u>	<u>112</u>

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APPENDIX D

DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
INFORMAL COMPLAINTS STATISTICS
For Calendar Years 1982, 1983, and 1984
(Note 1)

<u>By Category</u>	<u>1982</u>	<u>1983</u>	<u>1984</u> (Note 2)
Billing Practices	253	250	186
Rates and Charges	369	328	232
Quality of Service	331	374	201
Service Availability and Line Extensions	330	333	166
Deposit Practices	-0-	-0-	16
Management Practices	-0-	-0-	87
Safety	-0-	-0-	9
<u>Total by Category</u>	<u>1,283</u>	<u>1,285</u>	<u>897</u>
 <u>By Type of Utility</u>			
Cable TV	26	41	18
Electric	527	568	315
Refuse	38	15	11
Gas	51	48	44
Sewer	13	8	19
Telephone	500	500	399
Water	128	105	91
<u>Total by Type of Utility</u>	<u>1,283</u>	<u>1,285</u>	<u>897</u>

Note 1: The information presented was obtained from summaries prepared by the Alaska Public Utilities Commission.

Note 2: The Calendar Year 1984 statistics are as of August 31, 1984.

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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET
SUITE 100
ANCHORAGE, ALASKA 99501
(907) 276-6222

January 30, 1985

Mr. Gerald L. Wilkerson
Legislative Auditor
Pouch W
Juneau, Alaska 99811

R E C E I V E D
FEB 6 - 1985
**LEGISLATIVE
AUDIT**

Dear Mr. Wilkerson:

The following comments are the response of the Alaska Public Utilities Commission (APUC) to the results of the audit findings detailed in your letters of November 9 and 16, 1984.

Recommendation No. 1

The Alaska Public Utilities Commission (APUC) should comply with all applicable statutes and procedures governing professional service contracting.

Recommendation No. 1 prompted a detailed analysis of those contracts tested by the auditors and found to be in non-compliance with governing statutes and regulations. The attached appendix provides specific APUC response to the contracts scrutinized.

The audit noted twenty discrepancies in ten contracts. The APUC disagrees with eight contract discrepancy findings; a statutory interpretation is raised by two other alleged violations. The remaining discrepancies, when viewed under current guidelines, are valid findings and the APUC has taken remedial steps to ensure that they are not repeated. It should be noted that some of the transactions in the "valid" category were processed under prior and less literally interpreted guidelines and were arguably correct at the time they were initiated.

Recommendation No. 2

APUC should seek Legislation to amend its statute for allocating hearing and investigation costs and should improve the accounting for program receipts.

The APUC agrees that an amendment to AS 42.05.651 to allow for the allocation of costs during a hearing or investigation will collect receivables on a more current basis. The APUC does not agree that this amendment will improve the accounting procedures for program receipts.

APUC funding comes from two sources; the general operating budget and program receipts. On a case by case basis as required by statute and regulation (AS 42.05.651; AS 42.06.610; 3 AAC 48.-150(i)(m)), some operating budget funds are allocated to parties in a proceeding thereby creating receivables. Due to the APUC's general operating budget shortfall for the past two fiscal years it has been the policy of the APUC to allocate, wherever practicable, all allocable expenses (3 AAC 48.150(m)) to all parties except the APUC Staff. Prior to FY83 the APUC had allocated some expenses incurred from the operating budget to the APUC Staff.

All program receipt funds, generally used for complex and lengthy proceedings such as establishing intrastate rates for the Trans Alaska Pipeline System and Alascom, are allocated in their entirety to parties in a proceeding. These funds are a vital supplement to the personnel of the Commission, without which limited Commission resources would either be diverted from its normal ongoing workload or the issues raised by these more substantive proceedings could not be adequately addressed. Recognizing the importance of program receipt funds to the efficient functioning of the APUC, we are extremely cognizant of the importance of properly accounting for these funds. To this end, the APUC believes that there is no inconsistency or discrepancy in its accounting procedures used to determine what program receipt monies have been expended, allocated, collected, or remain a receivable.

The current program receipt accounting procedures entail a significant amount of detail because (1) the State accounting system requires expenditure and revenue accounting at the transaction level and (2) due process considerations require the APUC to give parties to whom costs have been allocated an opportunity to contest both the accuracy and reasonableness of the allocation decision. Without supporting detail, cost allocation decisions could be indefensible and overturned by a court of law, if appealed. Therefore, the Commission believes the detail of current accounting practices must continue.

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January 30, 1985
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The APUC intends to work with the DOA as it brings the new accounting system on line to assist in improving, where possible and practicable, existing accounting functions.

Recommendation No. 3

The APUC should develop a topical reference system for APUC orders and court decisions.

The APUC agrees with this recommendation. A topical reference or key word "index" to APUC orders requires an expenditure of funds that has and continues to be a budget priority. Prior years' requests to acquire funding for a topical reference system have been unsuccessful. Favorable consideration by the Department of Commerce and Economic Development and the Capital Projects Quality Review Board of DOA may indicate that this recommendation could be implemented in FY86.

Recommendation No. 4

APUC should review the requirements of AS 42.05.211 and AS 42.-06.220 and determine if the annual report should be submitted in a revised format.

The APUC will submit its 1985 annual report in accordance with the suggestion incorporated in the body of this recommendation by the Legislative Budget and Audit. The legislature will then be able to decide whether conformance to the statutory timeframe for submission of the annual report is acceptable with less current audited public utilities and common carrier pipeline financial information. If year old audited financial data is satisfactory, the APUC intends to timely submit its annual report in accordance with the statutes; if more current utility financial information is required, the APUC assumes AS 42.05.211 and AS 46.06.220 will be changed accordingly.

In addition to the above response to specific recommendations of the audit division of LB&A, the APUC offers the following comments to legislators in their deliberations on the audit findings.

The first "Sunset" audit of the APUC performed in 1979 addressed substantive issues such as an appropriate APUC structure and examined the APUC's statutory responsibilities in light of its resources and the public interest; the findings of the 1984 audit are essentially administrative in nature. The APUC identified

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January 30, 1985
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several areas of concern, that it hoped would receive analysis by LB&A. Apparently this could not be accomplished within their time constraints. However, the Commission believes the following policy issues should and probably will be discussed by those interested in and affected by the Commission's responsibilities.

Should the APUC be a reactive or proactive regulatory agency?

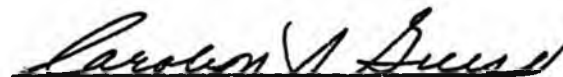
Are the resources of the APUC adequate to timely carry out current APUC responsibilities under AS 42.05 and AS 42.06?

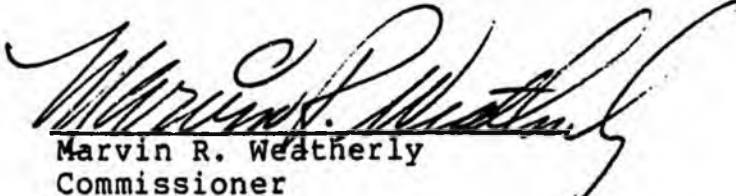
In light of current State budget constraints and increased APUC workload required by the economic conditions existing today, should funding mechanisms other than general fund appropriations to the APUC monies be adopted?

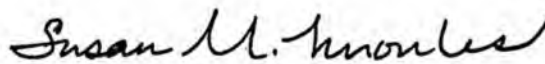
Thank you for the verbal briefing and for the opportunity to provide reaction to the LB&A findings. Should you require additional information or assistance from the APUC, please do not hesitate to contact the Chairman.

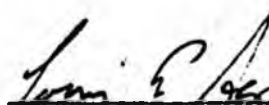
Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION


Carolyn S. Guess, Chairman


Marvin R. Weatherly
Commissioner


Susan M. Knowles
Commissioner


Louis E. Agio
Commissioner

Appendix A
Contract Procedures

This appendix responds to the specific contracts tested by the LB&A auditors in support of Audit Recommendation No. 1.

Contractor Solicitation

<u>Auditor's Finding</u>	<u>Commission Response</u>
Two contracts not formally solicited	Saxby (#2438) and Erwin (#2475) contracts were each initially estimated not to exceed \$20,000. Under guidelines in effect at the time, it was determined that formal solicitation was required only for contracts which <u>exceeded</u> \$20,000. Therefore, the formal process was not required.
One contract not advertised	Troupe, Kehoe, Whitaker & Kent (#2560) contract was cited. This discrepancy is verified.
Three contracts not properly evaluated by committee	Troupe, Kehoe (#2560) - Discrepancy verified. Akulaw (#2268) - Selection committee used. Committee memo found in contract file. Copy attached. Troupe, Kehoe (#4188) - Selection committee and point scoring used, but file documentation inadequate.
One sole source contract not adequately justified	Audit cites Katz contract (#2637). While under <u>current</u> guidelines the Department of Administration (DOA) requires more extensive justification than those in effect in 1982, the Katz ATN requested a sole source contract and provided Commission rationale which was adequate to meet DOA standards in effect at the time the request was processed. Written procedures are in effect which document requirements for formal solicitation, advertising and evaluation of APUC contracts.

Period of Performance

Auditor's Finding

Two contracts with work performed outside effective dates of the contract

Commission Response

Erwin (#2475) - Discrepancy verified.

Reed (#2239) - Discrepancy verified.

A policy to advise prospective contractors that performance may not begin until a contract has been approved by DOA is standard procedure (see copy of pre-bid conference transcript for Alascom RFP, attached).

Contract Amendments

Auditor's Finding

One contract with dollar limitation increase without an amending ATN

Nine contracts for "period of performance" extensions without an amending ATN^{1/}

Commission Response

Stanley (#1563) - Discrepancy verified.

Stanley (#1563) and Troupe Kehoe (#2560) - DOA did not require amended ATN's for time extensions under guidelines that were in effect when these requests were processed.

Erwin (#2475) and Bird (#2010) - Prior to FY 85, DOA did not require amended ATN's for contracts which had been designated as "ongoing" in the original ATN. Subsequent to FY85, a new ATN has been required on a Fiscal Year basis, and the Commission has complied with all current procedures.

^{1/} It should be noted that both an amended ATN and an amended contract document are reviewed by the DOA's Contract Review Committee (CRC). Even where amending ATN's were not submitted, the "period of performance" issue was given full CRC oversight when the amended contract was submitted for approval.

Akulaw (#2268), Katz (#2637) and
Budetti (#2260) were each extended
for six months or less without an
ATN. The tabbed page of DOA Finance
Review Procedures states that an
amended ATN is only required
"...when the period of performance
is extended by more than six
months;..." (See copy attached).
DOA has advised that those contracts
crossing fiscal year lines are also
controlled by the "six month" rule.