ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6386 SENATE LABOR & COMMERCE

790

HEAT LOSS ANALYSIS, INC.
4128 WRIGHT STREET
ANCHORAGE, ALASKA 99508
(907) 563-0773

Melissa Faust
c/o Senator Arliss Sturgulewski
3111 C Street
Anchorage, Alaska 99503
19 December 1983

Dear Melissa:

Here is a rundown on my recent experience and concern with the State Procurement Code.

In October of this year I was asked to provide a verbal quote to the University of Alaska Anchorage for infrared electrical inspections (three days). I provided a quote of $2700.

The University also requested quotations from two other firms in the lower 48 (my company is the only firm providing this service in Alaska). One of the firms presented a price exceeding mine. The other presented a price of about $2000 including all expenses. Of course, they were awarded the project.

In a conversation with the University purchasing officer I discovered that the winning bidder had given a below market rate because they wanted to take a paid trip to Alaska. They even offered to provide the service for additional days (beyond the three in the request) for the price of the hotel room.

The winning firm was certainly within its rights to offer its service in this manner (in fact I may start hunting for work in Hawaii - I'll do it for cost). Also, the University followed procedures as outlined in the procurement code. However, the winning bidder did not possess - nor is it required to possess - an Alaska business license.

I feel that there is a loophole in the State Procurement Code that allows respondents to informal (telephone) bid procedures of projects under $5000 to participate without possession of an Alaska business license. I feel that all respondents to any work authorized by State funds should possess this license except in situations where the service or product is not available in the State.

I would be willing to work with your drafters on the particular areas of the code that could be changed to close this loophole. Please don't hesitate to call if you have any questions.

Sincerely yours,

Geoff

Geoff Feiler
President

(1) making certain that the offeror has a clear understanding of the scope of the work and the requirements involved in providing the required services;

(2) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

(3) agreeing upon compensation that is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.

(b) The offeror selected for award shall submit and certify cost and pricing data.

(c) Upon failure to negotiate a contract with the most qualified offeror, the procurement officer shall enter into negotiations with the next most qualified offeror.

(d) If the procurement officer is unable to negotiate a contract with any of the offerors initially selected as the most highly qualified offerors, additional offerors may be selected in preferential order based on their respective qualifications.

(e) Written notice of the intent to award must comply with 2 AAC 12.310 and must be sent to each offeror. Notice of intent to award must be made available to the public.

(f) After award of the contract, a memorandum setting out the principal elements of the negotiation shall be prepared by the procurement officer. The memorandum shall be included in the procurement file and be available to the public upon request. (Eff. 1/1/88, Register 104)

Authority: AS 36.30.040
AS 36.30.270

ARTICLE 6. SMALL PURCHASES

Section

400. Authority to make small purchases

2 AAC 12.400. AUTHORITY TO MAKE SMALL PURCHASES. (a) For purchases of supplies, services, or construction estimated to cost less than $500, or procurements of replacement parts estimated not to exceed $1,500 for aircraft, automotive, marine, construction, or industrial equipment, or point-to-point air travel on scheduled airlines estimated to cost no more than $5,000, or professional services estimated to cost no more than $5,000, or concession contracts estimated to have gross receipts of less than $5,000, purchasing agencies shall use procedures providing adequate and reasonable competition and for making records to facilitate auditing of the purchasing agency.

(b) For procurement of supplies, services, or construction estimated to cost between $500 and $5,000, the following procedures shall be followed:

(1) At least three firms or persons shall be contacted for quotations, either written or oral. If quotations are solicited orally, the procurement officer shall record who made the solicitation, the specifications or items solicited, the date the solicitation took place, the name of firms or persons contacted, if a firm, the name of the person in the firm contacted, and the response of each firm or person. This record shall be made a part of the procurement file. For written quotations, the procurement officer shall include a list of persons contacted, a summary of the responses, and copies of all bids received, as part of the procurement file.

(2) The procurement officer may use the appropriate contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list must be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons not on the list, as long as at least three firms or persons are contacted.

(3) The award shall be made to the lowest responsive and responsible bidder, taking into account applicable Alaskan bidder and Alaskan products preferences, and shall be made in accordance with the specifications and award criteria in the solicitation.

(c) For procurement of professional services estimated to cost between $5,000 and $25,000 or concession services estimated to bring in gross receipts between $5,000 and $25,000 annually, the following procedures shall be followed:

(1) At least three firms or persons must be solicited for proposals, either written or orally. If oral solicitation is used, oral proposals shall be followed up with written proposals that are made a part of the procurement file. In addition, the procurement officer shall record who made the solicitation, the specifications of the services solicited, the date the solicitation took place, the name of the firms or persons contacted, if a firm, the name of the person in the firm contacted, and the response of each firm or person. This record and a justification for the award shall be included in the procurement file. For written proposals, the procurement officer shall include a list of firms or persons contacted, a copy of the solicitation used, a summary of the responses, copies of all proposals received, and a justification for the award, as part of the procurement file.

(2) The procurement officer may use the appropriate contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list shall be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons not on the list.

(3) The award shall be made to the most qualified responsive and responsible offeror, taking into account applicable Alaska bidder and product preferences, and shall be made in accordance with the specifications and award criteria in the solicitation. (Eff. 1/1/88, Register 104)

Authority: AS 36.30.040
AS 36.30.320

ARTICLE 7. SOLE SOURCE PROCUREMENT

Section

410. Conditions for use of sole source procurement
420. Record of sole source procurement

2 AAC 12.410. CONDITIONS FOR USE OF SOLE SOURCE PROCUREMENT. (a) A request by a purchasing agency that a procurement be restricted to one potential contractor must be accompanied by a written explanation as to why no other source is suitable or acceptable to meet the need. An agency may advertise an intent to make a sole source award for the purpose of determining if other sources are available or interested in a particular procurement. Award of a sole source procurement may not be made without prior written approval of the chief procurement officer or the commissioner of transportation and public facilities, as appropriate under AS 36.30.300(a).

(b) The written determination, required under AS 36.30.300(a), that there is only one source for the required procurement must specify the duration of its effectiveness.

(c) A procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms of a sole source procurement.

(d) The following are examples of circumstances in which sole source procurement might be appropriate:

(1) if the compatibility of equipment, accessories, or replacement parts is the main consideration;

6-0347E
Bannister
1/19/89

Original sponsors: Sturgulewski and Pearce

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 99 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act requiring certain state contractors to have business licenses."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 36.30.320(a) is amended to read:

(a) A procurement for supplies, services, or construction that does not exceed an aggregate dollar amount of $5,000 may be made in accordance with regulations adopted by the commissioner for small procurements. Except in the following cases, an agency may not enter into a contract for the supplies, services, or construction unless the prospective contractor has a valid Alaska business license:

(1) the prospective contractor is not required by AS 43.70 to have an Alaska business license to perform the contract;

(2) the contract is for a travel-related expense and is made by an agency employee while traveling outside the state on state business;

(3) the contract is by a state office located in a foreign country, another state, or Washington, D.C.;

(4) the contract is with a pharmaceutical company that is located outside the state; or

(5) the contract is a mail order to a company outside the state.

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

MEMORANDUM

To: Senator Eliason

From: Senator Coghill

Re: Bill hearing

Date: January 19, 1989

I would like to request you to schedule a hearing in the Senate Labor and Commerce Committee on Senate Bill 109 as soon as possible.

With the introduction of SB 109, I am proposing to make a special appropriation to the Alaska Power Authority of $7,029,306 out of the Railbelt Energy Fund for payment as a grant to Golden Valley Electric Association to extend electrical service along areas of the Parks Highway.

I have been advocating the need to provide electrification along the Parks Highway for many years. For some unknown reason, we have not been able to get enough support from the Administration to fund this project in the Capital Budget.

I believe we should use the Railbelt Energy Fund for energy projects only. My proposal fits the main intent of the fund.

If you have any questions, please feel free to contact my office.

GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707-1249, Phone 907-452-1151

October 18, 1988

Senator Coghill
Attn: Shelly
P.O. Box 55028
North Pole, AK 99705

Re: Cost Estimate for Little Goldstream to Ester Powerline Extension.

Dear Shelly,

Enclosed is the cost estimate for the above extension. This estimate was completed last year and was calculated in two segments: Ester to Skinny Dicks Roadhouse with 14.1 miles of Little
mainline and 13.8 miles of mainline from Nenana to Skinny Goldstream
Dicks Roadhouse for a total of 27.9 miles. The 4.1 miles of taps is for local service to the residents along the extension. Therefore the total cost of the line extension would be as follows:

27.9 miles of mainline	$2,295,905.05
4.1 miles of taps for local service	$ 337,391.26
Total cost of the extension	$2,633,296.31

If you have any questions, or if I can be of further assistance please call me at 452-1151, Ext. 206.

Best regards,

David Johnson
New Service Coordinator

Enclosures

cc: Mike Kelly

GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707-1249, Phone 907-452-115

February 9, 1989

Senator Jack Coghill
Attn: Shelly Growden

Shelly,

Attached is a copy of the cost estimates for various line extensions that were prepaid by our Engineering Department for the October 5th meeting that was held at the McKinley Village Community Center.

If you need any additional information, please call me at 452-1151, Ext. 206.

Sincerely,

David Johnson
New Service Coordinator

GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1[illegible], Fairbanks, Alaska 99707-1249, Phone 907-452-115

October 4, 1988

Estimated Costs in 1989 Dollars

To Service the following Sites

<u>Cantwell to McKinley Village</u>

Total cost of the powerline extension	$2,215,325.00
Miles of line including taps	23 miles
Number of customers	____

<u>Mercers Corner on the Parks Hwy to Ferry/Rock Creek Sub.</u>

Total cost of the powerline extension	$ 946,335.00
*Miles of line including taps	11.5 miles
Number of customers	____

*Does not include electrical services to any sites on the east side of the Nenana River

<u>Kobe to Ferry/Rock Creek Sub.</u>

Total cost of the powerline extension	$1,234,350.00
*Miles of line including taps	15 miles

*Does not include electrical services to any sites on the east side of the Nenana River

<u>Cantwell to Summit</u>

Total cost of the poweline extension	$ 773,912.00
Miles of powerline	8 miles
Number of customers	____

standby generation requirements, flexibility of buying from lowest cost generation source, the increased competition due to greater access to alternative generation methods and facilitation of general economic development requirements. THEREFORE, THE COUNCIL RECOMMENDS THAT THESE PUBLIC POLICY ISSUES BE CONSIDERED AS AN IMPORTANT PART OF THE DECISION MAKING PROCESS IN ADDITION TO THE TRADITIONAL BENEFIT/COST ANALYSIS.

The Council finds that electricity has become a necessity and a prerequisite to improving the quality of life for the rural residents. While the Council recognizes that extending the electrical service to all rural residents is neither practical, nor desired by some of them, it finds that extension of such services along state routes and interties, on a priority basis, would be highly desirable. Accordingly, the Council believes that the Legislature and the Administration should adopt policies and appropriations designed to achieve that goal, thereby enhancing the economic development potential of the rural residents while concurrently improving their quality of life.

3. Recommend alternative financing plans for assisting the private sector and public utilities to meet the future energy needs of the Railbelt area.

The Council has in this report made specific recommendations covering methods of financing for Bradley Lake and the Interties. The Council recognizes that State revenues have severely declined and that no new generation, in addition to the Bradley Lake and

Railbelt Energy Council Report

CANTWELL TO McKINLEY VILLAGE AND McKINLEY PARK TO CARLO CREEK

3-PHASE OVERHEAD POWERLINE ESTIMATES

(TOTAL AVERAGE COST/MILE IS $96,739)

Cantwell to Carlo Creek

13.1 Miles of Mainline	$1,267,280.90
1.0 Miles of Taps for Local Service	96,739.00
	$1,364,019.90

Carlo Creek to McKinley Village

8.5 Miles of Mainline	$ 822,281.50
0.3 Miles of Taps of Local Service	29,021.70
	$ 851,303.20

McKinley Village to Mt. McKinley 3ø Line

5.8 Miles of Mainline	$ 561,086.20
0.8 Miles of Underground	193,478.00
	$ 754,564.20

It is assumed from discussions with the National Park Service that the Park route will require considerable time to acquire permission to construct involving satisfying all public hearings, environmental criteria and NPS internal requirements.

Total estimated Cost Cantwell-McKinley Village excluding transformers and services	$2,215,323.10
Total estimated Cost McKinley Park to Carlo Creek excluding transformers and services	$1,605,867.40

NOTE:

Jim Wright of Cantwell intends to ask Senator Coghill to assist in funding a line from Cantwell 8 miles south to the Summit Airport. Total estimated cost excluding transformers and services $ 773,912.00

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

Name	Milepost	Business/Residence
Ronald C. Dane	229	Residence
Karine Dane	229	Residence
Gordon Gregory & Family	229.3	Residence
H. Terry & family	229.1	(Denali wilderness) Business and Residence
Peter Ohman	230	Resident
Roger Fuiten	229.5	Resident
Jerryne M. Cole	227½	Residence/Business
Wallace A. Cole	227½	Residence/Business
Wm J. Duncan	227.2	Residence/Business
[illegible]	227½	Res[illegible]
Lois Alice & family	228.5	Resident/business
Jane Bryant	229.3	Residence
Glenn Boyd	229.3	Residence
Karen & Michael Jordan	228.1	Residence
Tom Adams	228	Residence/Bus.
Linda Mellman	230	Resident

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

Everett C. Dreamer Box 25; Cantwell, Ak. 997--

Loran & Marion Lanham Box 69, Healy, Ak 99743 (Mile 23)

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

Property [illegible] Parks Highway

Elaine M. Pollock Box 117 Healy, ak.

Gerald L. Pollock II Box 117 Healy, Ak

Amanda M. Pollock 205 WICK UAF, FAIRBANKS, AK 99701

Gerald L. Pollock Box 117 Healy Ak, 99743

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

[illegible] pres. Popo Agie Builders & Woodworking Box 71 McKinley Park Ak 99755

[illegible] Box 457, McKINLEY PARK, AK 99755 Mile 228-9

John Dalle-Molle Box 65 McKinley Park AK 99755 Mile 229.2

Jeff King Box 480 Denali, AK 99755 Res/Buss. (m. 2[illegible])

Mary A Cralle Box 66 Denali AK. 99755 Res/Bus mile 231

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

GRIZZLY BEAR CABINS & CAMPGROUND MILE 231.1 PARKS Hyway. Jack R. Reisland

A PETITION

We the undersigned businesses and homeowners hereby request Golden Valley Electric Association to design, install and operate a power distribution system along the Parks Highway, bounded on the north by the Chalet resort and on the south by Carlo Creek.

Otto A. Stoepler III

Denise M. Stoepler III

Eric Stoepler III

Tucker Stoepler III

RECEIVED JAN 3 0 1987

Ronald and Karine Dane
P.O. Box 108
Cantwell, Alaska 99729
January 26, 1987

Senator Rick Halford
Juneau, Alaska

also sent to Coghill

Dear Senator Halford:

Re. Electrification of the McKinley Park Community located on the George Parks Highway. From the general area of Mile Post 224 - 231:

Members of the community have since the beginning of the Intertie (1980) been approaching their legislators to appropriate funds for the installation of commercial electricity for this area. Response was always encouraging but results not forthcoming. We hope that now that the State has $280,000,000 at their disposal through the Railbelt Energy Fund, that you, our elected leaders, will see it fit to close this energy gap once and for all.

We have a great need for commercial electricity in this area for the following reasons:

1. McKinley Park (Denali National Park) is synonyomous with the Alaska Tourist Industry, a major base of Alaska's economy. The 400,000 tourists who come to the park every summer need services. Services need the reliability, expedience and affordability of commercial electricity.

2. The McKinley Community Volunteer Fire Department assumes responsibility for the safety of the visitors to the park as well as protection for its year-round residents. To do this, members must run their own generators in order to keep the batteries for their pagers charged. A high price for volunteering their services, wouldn't you say ?

3. The Village View state lottery opened up 47 parcels of land for residential use. Many of the winners have already begun to build. Add their diesel and gasoline generating units to already existing generators, and we are facing a potential noise and air pollution problems.

4. There are members of the community who are employed at Denali National Park, at the Usibelli Coal Mine, at the Healy and Cantwell schools, at Cantwell Department of Transportation, and last but not least, at the G.V.E.A.power plant at Healy (!). We are gainfully employed, productive Alaskans who are paying more than our share for the privilege of employment as any of you who have ever had to generate electricity on a daily basis in order to ensure transportation can readily attest to. We need electricity to keep our water and sewer lines from freezing and our food supply from thawing. We don't need the added expense of time, energy and money this all entails.

5. It might be good and well to upgrade portions of the Intertie with the future in mind. However, the immediate results of this will be to provide those who already have ample and reasonable electricity with more and cheaper electricity. Isn't it time to complete the energizing of the Railbelt ?

Please consider our needs when you begin to prioritize portions of the Railbelt Energy Fund this session. We have waited long and patiently.

Respectfully Yours,

Ron E Kaminskaus

DENALI CABINS
Box 427 Mi 231 Parks Hwy
Denali National Park, AK 99755

FEB 28 1986

2/23/86

Dear Jack:

I've been Outside doing some promoting and have been unable to follow the issues as they affect our area. Hopefully, all is going well for all of us. I do want to thank you being there and looking out for our interests and the state's. When the two can be the same, we all benefit. I'm sure at times you would just as soon be somewhere else, but public service probably falls under that great statement " No pain, No Gain".

I would like to find out the latest on our efforts for power in our community. As revenues drop, the true meaning of politics and relationships will probably charge its way to the surface. Being experienced, this will probably have little effect on your efforts, at least we hope so. In your Nov 27 letter, you did mention that your office will be appropriating money for the Alaska Power Authority for electrification along the highway. I would like to know if that appropriation has been submitted. In reference to the veto possibility, how do you feel about what the govenor might do?

Certainly our business is tourism related, and hopefully that is a bright spot in the state. I'm sure that would strengthen our argument if he is made aware of our needs. Is this the time to contact him directly, or do you feel the situation is moving in a positive direction?

My last question concerns the Alaska Power Authority and how it functions. If they receive an appropriation for a certain project, must those funds be used for that project? Perhaps, that seems a strange question, but I do know that a lot of shifting takes place within some of these agencies.

Well Jack, that's about it for now. Again we thank you for your efforts, and if there is anything that we can do, please let me know.

Best Regards,

Gary

Gary W. Kroll
Owner/General Manager

Denali Crow's Nest
P.O. Box 700
Denali National Park
Alaska 99755

December 12, 1986

Senator Jack Coghill
Nenana, Alaska

Dear Jack,

Thanks for your phone call regarding electrification of the Crow's Nest. I very much appreciate your efforts on our behalf and it's gratifying to know that the bureaucracy can be budged with pressure in the right spots. Having power on the hillside will certainly facilitate our future expansion, and with tourism being one of the few bright spots in the economy I think that will be of benefit to the industry and state as a whole.

Good luck in your efforts in Juneau this year. I'm looking forward to seeing you the next time you are up this way.

Sincerely,

Mike

Mike Crofoot

P.O. Box 67
McKinley/Denali Park, Alaska 99755
February 1, 1985

FEB 5 1985

Senator Jack Coghill
Pouch V
Juneau, Alaska 99811

Dear Senator Coghill:

It was good to talk with you on the phone concerning rural electrification for the McKinley/Denali Park Community.

We request your assistance in making it possible for Golden Valley Electric Association, Inc. to operate a power distribution system along the Parks Highway. The McKinley/Denali Park Community is divided into two locations along the highway. The northern pocket of the community is just north of the park entrance in the area of the McKinley Chalet resort. The southern area of the community is that area from Gary Crabb's McKinley Village on south toward Cantwell. This part of the community is generally clustered in the northern seven miles of the twenty mile stretch of road from McKinley Village to Cantwell.

The logistics of electrification of these two community areas does not seem very complicated. The northern part of the community around the McKinley Chalets is already being served partially by GVEA as the Chalets have GVEA power. It simply remains a matter of money for GVEA to branch out generally and connect up the other interested consumers there. It does not seem logical to try to continue a power line on south through the national park toward McKinley Village since there will not be development along that part of the road. It does seem appropriate to bring power lines north from Cantwell, along the road right of way, to McKinley Village. The new Cantwell power substation has the design capacity (according to unofficial GVEA and APA discussions) to supply this added service area. Mr. Dave Johnson, New Service Co-ordinator for GVEA, estimates that it would cost about $1,000,000 for single phase or $1,800,000 for three phase to extend power from Cantwell to McKinley Village. No one in the community is using three phase electricity now. There might be some interest in it, but, frankly, we feel inadequate in this technical aspect of such a service project. One would suspect that once GVEA and/or APA spent much time considering the matter that they would have a reasoned answer though. The above figures are much higher than noted in the phone conversations. But, in rechecking with Mr. Johnson of GVEA, he found his earlier figure of $450,000 in serious error.

GVEA seems willing enough to service interested customers in both sections of the community, but these are rural areas and it is just not economical for GVEA to provide the services without aid beyond the resources of their association. It is our understanding that there are (or could be) funds available to utilities, such as GVEA, through a State rural electrification revolving loan fund. I have attached copies of two bills on this matter that died in the last session of the legislature. GVEA people indicated that these bills, and perhaps previous ones. as well, were not written with favorable enough provisions to make them a practical source of funding for projects such as outlined above. Perhaps even if the bills were written more to the liking of the utilities that GVEA still would not consider it economical to provide the power services we desire without direct grants from the State of Alaska.

It is the hope of many of us in this community (there are about ninety permanent residence in the McKinley/Denali Park Community - not including the National Park Service staff that live at Park Headquarters) that you will be able to be the catalyst this project needs. Enclosed is a copy of the petition from community members interested in this project. There are more, but one copy of the petition with about fourteen signatures was lost. Rather than start all over again, we felt it best to forward to you what we do have in hand at this time. We are unaware of any community members that are hostile to the project, although the good folks at the Alaska Power Authority assured us that those people will come out of the woodwork further down the line. As with any public or community matter, there are bound to be individuals against this proposal but we feel confident that the vast majority, by a strong margin, are behind it.

It should also be noted that the Department of Natural Resources will be having a couple of land disposals in the community this year. The main residential area disposal is slated to have 48 sites, located just east of McKinley Village along both sides of the old highway. The other disposal site, Montana Creek, east of the Nenana River at approximately Mile 236-Parks Highway, is more remote and likely beyond bounds of this electrification project.

Thank you in advance for your assistance in this matter.

Respectfully,

Ronald C. Dane

Ronald C. Dane
Community Member

W A Cole

Wallace A. Cole
Community Member

cc: Mr. Larry D. Crawford, Executive Director
Alaska Power Authority

Mr. Dave Johnson, New Service Co-ordinator
Golden Valley Electric Association, Inc.

Businesses in the McKinley Park area needing electricity - their present status and planned development

1. Carlo Creek Lodge
   Lodge, four cabins, outbuildings
   Plan to increase cabins in the future, and put in a campground in 1989.

2. The Perch Restaurant
   Restaurant to be operational 1989.
   4 rental cabins built. Plan to build a washroom and shower house, and hook cabins up to electricity within 2 years. Owners will live there year-round when commercial power available.

3. McKinley Wilderness Lodge
   Restaurant, 3 duplex cabin units, 5 cabins, residence building, outbuildings.

4. Osprey Expeditions
   Office and shop, residence

5. Denali Cabins - south
   41 units, gas station, grocery store. Leases space to Denali Gift Shop.

6. Matanuska Telephone Assoc.
   Generates electricity to provide telephone service in area.

7. McKinley Community Center and Firehall
   Houses fire truck needing 24-hour heat, and provides space for year-round community functions and classes for both adults and children.

8. Popo Agie
   Contracting business

9. Don Peterson
   One building done.
   12 more cabins to be build summer 1989, to be used to house Elderhostel groups.

10. McKinley Village - ARA
    50 rooms, restaurant, coffee shop, gas station, convention room, 24 units for staff housing, outbuildings, residence Leases space to ERA Helicopters Flightseeing.
    Plans to add 100 rooms in 3-4 years.

11. Denali Cabins North
    Leases 8 cabins and showerhouse to Denali Raft.
    Considering building a 24-unit hotel in next few years if commercial power is available.

12. Grizzly Bear Campground
    15 cabins, grocery store, liquor store, campground, residence. outbuildings. 2 shower houses they cannot use without commercial power. Owners would reside here year-round with commercial power.

APA

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

Official Business

July 15, 1988

Mr. Robert E. LeResche
Executive Director
Alaska Power Authority
P.O. Box 190869
Anchorage, AK 99519-0869

Dear Bob:

Thank you for your letter dated July 8, 1988 requesting my suggestions for energy related projects in my district for consideration in the Alaska Power Authority's FY90 capital budget request.

As you know, I have been working on providing electrification along the Parks Highway for many years. Businesses near the vicinity of Mt. McKinley, the State's number one tourist attraction, are without commercial power. I beleive your number one priority for energy projects in FY90 should be the electrification of the Parks Highway from Cantwell to Carlo Creek; Carlo Creek to McKinley Village and McKinley Village to Mt. McKinley. I have enclosed an estimate sheet for the above project which was compiled by Golden Valley Electric Assocaition.

Bob, I believe providing commercial power along the Parks Highway will enhance our tourism industry and promote development. It is imperative for the State to try and generate new revenue, such as tourism dollars, and reduce our dependency on fluctuating oil revenues. I would truly appreciate the inclusion of the above project in your FY90 capital request.

Let us know if you have any questions.

Sincerely,

Jack

Senator Jack Coghill

JBC/slg

SB
112

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/3/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FINANCE

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2/8/89

1/13/89

Mr. President:

L&C Committee considered SB 112

exempting farming from the business license requirement

and recommended:

[ ] replace with CS ______ [] same title [] new title

[ ] attached amendment(s) and

[ ] ______ letter of intent adopted

[✓] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to ______

FISCAL NOTE(S) attached [✓] zero [ ] fiscal impact
[ ] appropriation no FN attached [ ] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

No Rec

Chairman signature and recommendation

[ ] Committee backup attached

Alaska State Legislature
Senate

Official Business

P.O. BOX V
State Capitol
Juneau, Alaska 99811

POSITION STATEMENT OF SENATOR JAY KERTTULA ON SB112
(FARMING EXEMPTION FROM BUSINESS LICENSE REQUIREMENT)
FEBRUARY 8, 1989

The Alaska Business License Act (AS 43.70 et seq) imposes taxes on Alaskan businesses as a condition of doing business. The purpose of the act is not to regulate but to generate revenue to the State.

In most cases the tax imposed is nominal ($25/year); at times, however, it has been a significant percentage of net business income (for example, the 7% banking and savings and loan tax, repealed in 1984).

Historically, farming and some other types of businesses have been exempted from business license taxation. Recent legal analysis suggests that the practice of exempting farm operations is not consistent with the existing statutory scheme. SB112 will correct the statute to make it consistent with traditional practice.

It should be noted in support of the proposed bill that although the financial consequences of imposing a mandatory business tax on Alaska farmers would not be significant at the current rate of taxation, it is philosophically inconsistent with the trend of Alaska legislation to favor producers of local products whenever it is constitutionally and financially permissible to do so. Most other states specifically exempt farming operations from business licensing/taxation requirements-- typical examples being the states of Washington, Missourri, Minnesota, and New Jersey. One of the most obvious justifications for such an exemption is that it is not to a state's economic advantage to tax local produce twice-- once at production level and again at wholesale and retail outlets-- when imported produce is taxed only at the wholesale/retail end. Without an exemption, there is actually a disincentive created by a business license tax that operates in favor of producers in other states and against local farmers.

It should be noted also that most local farmers (about 450-- more than half) voluntarily pay the business license tax because for a very nominal price, it affords them easy access to wholesale businesses which typically require a business license as a condition of purchasing. This trend will undoubtedly continue as long as the tax is nominal.

Nonetheless, in order to continue current practice and minimize the risk of placing local producers at a competitive disadvantage because of a mandatory taxation sceme from which agricultural producers in other states are normally exempt, SB 112 should be passed.

Alaska State Legislature

Senate

Official Business

P.O. BOX V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM: Senator Jay Kerttula Jay Kerttula/pt

SUBJECT: Senate Bill 112, relating to exempting farming from the business license requirement.

DATE: January 18, 1989

I would like to request that SB 112, relating to exempting farming from the business license requirement, be scheduled for a Senate Labor and Commerce Hearing at your earliest convenience.

Thank you for your consideration of this request.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 112
PUBLISH DATE: 1/13/89

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act exempting farming from the business license requirement.
Sponsor: Senator Kerttula
Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	C	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jennifer Strickler, Administrative Officer
Phone: 465-2144
Division: Occupational Licensing
Date: January 20, 1989

Approved by Commissioner: Larry Merculieff
Date: 1/21/89
Agency: Commerce and Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

page 1 of 1

Fiscal Note

Department of Commerce & Economic Development / POSITION PAPER

SB 112: An Act exempting farming from the business license requirement.

The bill proposes to exempt farming from the Alaska business license requirement. Although licensing requirements have not been enforced on farmers who commercially sold their products, current regulations do not exempt commercial farmers/farms from having to hold a business license. Many of the regulations are no longer applicable since they referenced a tax liability which has been long since removed; 15 AAC 70.080 entitled "Farmers," which succinctly states, "Farmers not liable under the Alaska Business License Act" clearly references a tax liability exemption, and not an exemption for the need to hold a business license. Farmers have been incorrectly exempted from the business licensing requirement for some years.

The department feels that the requirement for farmers to obtain business licenses is, above all else, an equity issue. Any person engaging in a business in the state is first required to have a business license. Some 51,000 businesses are licensed in the state; farmers who sell their products, goods and services commercially should also be licensed.

In the absence of a statutory amendment as proposed in the bill, the department intends to require the farming community to meet the business licensing requirment.

for

Larry Merculieff, Commissioner
Department of Commerce and
Economic Development

Date: 1/27/89

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012389B

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120

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 120
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: Act continuing the existence of APUC
Sponsor: Senate Labor & Commerce
Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Econ. Development
BRU: APUC
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0

REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation referenced above continues the APUC as it is currently configured for an additional four years. As such the bill has no direct incremental or decremental effect on the Agency's operating budget.

Prepared by: T.S. Moninski II, Executive Director
Phone: 276-6222
Division: Alaska Public Utilities Commission
Date:

Approved by Commissioner: [signature] for
Date: 2/24/89
Agency: Commerce & Economic Development

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

page ___ of ___

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON SB 120

February 21, 1989

The Commission supports SB 120.

Proposed by ARECA
February 2, 1989

AS 42.05.720(3) Definitions, "Public" is amended to read:

(3) "public" or "general public" means

(A) any group of 10 or more customers that purchase the service or commodity furnished by a public utility as defined in (4) of this section and that is located or purchases the product or service outside the certified service area of a public utility; [AND]

(B) any person, association or corporation that purchases a utility service or product and that is located or purchases the product or service within the certificated service area of a public utility; and

[(B)] (C) any utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products which are re-sold to an individual or [A] group included in (A) or (B) of this paragraph or which are used to produce the service or commodity sold to the public by the utility;

Comment: This amendment adds a third way to qualify as "public" under AS 42.05. The "Public" would be (1) ten or more customers outside a certificated service area, (2) one customer within the certificated service area of a utility, and (3) a utility buying a product or service for resale. This amendment was drafted in this way to continue to permit utility type sales, without regulation, to fewer than 10 customers outside of an area certificated to a utility while treating any such sale within a certificated territory as a utility transaction. This amendment would give the commission the authority to protect the financial health of Alaska's utilities from being undermined by other entities who can "cherry pick" the best customers with no responsibility to serve the less desirable customers.

Alascom, Inc. / 210 East Bluff Road / P.O. Box 196607 / Anchorage, Alaska 99519-6607 / Tel 907 / 264-7796

John E. McGill
Executive Vice President
& General Manager

ALASCOM

March 10, 1989

The Honorable Dick Eliason
Alaska State Senate
P. O. Box V (M.S. 3100)
Juneau, AK 99811

Dear Senator Eliason:

Re: State of Alaska Telecommunications Intent Language Report

Please file these comments with the March 1, 1989 State of Alaska Telecommunications Intent Language Report. Due to the State's inability to meet its initial January 9 deadline, we did not receive a copy of the complete Preliminary Report until February 6, the day we began a complex rate design hearing before the Alaska Public Utilities Commission. Because of this we were unable to meet the Commissioner of Administration's February 17 deadline for comments.

We hope you take the time to read our comments carefully. As the State's long distance carrier of last resort, and the only one certificated to carry intrastate telecommunications, we are in a unique position to analyze this document. We are concerned that there are major problems, not only with what was included in the Report, but also with what was not included.

If you have specific questions with any issues we have raised, please call.

Sincerely,

Alascom, Inc. / 210 East Bluff Road / P.O. Box 196607 / Anchorage, Alaska 99519-6607 / Tel 907 / 264-7796

John E. McGill
Executive Vice President
& General Manager

ALASCOM

March 10, 1989

Commissioner John Andrews
Department of Administration
P.O. Box C
Juneau, AK 99811

Dear Commissioner Andrews:

Thank you for the opportunity to respond to your Telecommunications Intent Language - Preliminary Report, 2/1/89 Draft. It is unfortunate, but the delays you encountered in preparing the report caused it to be received in my office on February 6, the day we began a two-week hearing before the APUC on Alascom's intrastate rate design. We were, thus, unable to meet your comment deadline. We do, however, have serious concerns about the report.

We hope you review our comments carefully. They are meant to be constructive criticism and we stand ready to work with you and the rest of our industry in providing the best communications services available to the State of Alaska.

Sincerely,

March 7, 1989

ALASCOM, INC. RESPONSE TO
TELECOMMUNICATIONS INTENT LANGUAGE - Preliminary Report
February 1, 1989 DRAFT

For clarity we will divide our comments into three sections: the responsiveness of the report to the intent language; philosophical and legal considerations; and specific concerns and objections.

Responsiveness To The Intent Language

After reviewing the State's Report it is our opinion that the State failed to meet the intent of the Legislature as expressed in the Division of Telecommunication's FY89 budget. Alascom, along with many other members of Alaska's telecommunications community, has tried hard over this past year to work with the State on telecommunications issues. Many of our concerns are the same as the Legislature's, and we still see no answers.

The Report alludes to a Legislative Audit that is currently addressing the impacts on telephone companies and ratepayers, how the network's costs are and/or should be accounted for, and what the basis for voice traffic charges should be. That information should have been the meat of this Report -- and it appears irresponsible to try to issue this Report without it. It is also interesting that the Legislature had to call for an audit such as this. It would seem that if the Department of Administration felt unable to resolve these questions themselves, they would have called for an Internal Audit review.

These are basic issues. The voice traffic charges issue, in particular, raises a grave concern on our part, as the centerpiece of the State's defense of the development of their own network has been that the State-owned network saves the citizens of this state substantial money ($1 million per year). Our assertion is that this has not been proven, and, based on years of experience in the telecommunications business in Alaska, we do not think the State is saving money.

Alascom is a taxpayer in this state. We are a major employer. We have been a good corporate citizen in this state for many years. We have been in the telecommunications business in this state for many years. Our goal is not to have the State budget increased, as the authors of the Report falsely maintain. We feel that the bypass the State is involved in meets their own definition of "uneconomic bypass" in footnote 6. We truly expect that the State could <u>save</u> money by using the public network.

Philosophical And Legal Considerations

The Report is further flawed by a basic misconception related to procurement of telecommunications services: it assumes the Division of Telecommunications has full authority to purchase telecommunications systems and facilities and to operate these State-owned systems and facilities even when the telecommunications services required could successfully be provided by private enterprise or certified or franchised utilities. This misconception ignores the intent language of Executive Order 50 and the statutory mandate of AS 44.21.310(a)(6) against government ownership and in favor of private ownership and control of telecommunications facilities in Alaska.

The Department of Administration derives its powers related to telecommunications services from Executive Order 50, which was codified as AS 44.21.305 - AS 44.21.330. The language could not be more clear:

> I find that in the interest of minimizing the size and influence of government, <u>private ownership and control of telecommunications facilities should be facilitated and enhanced</u>,... (emphasis added). (Executive Order 50)
>
> and
>
> Sec. 44.21.310. <u>Telecommunications powers and duties</u>. (a) In accordance with the state information systems plan adopted by the Telecommunications Information Council and with the departmental information systems plan, the department <u>shall</u>...
>
> (6) <u>whenever feasible, procure services from private enterprise or certified and franchised utilities</u> and contract for the construction, management, operation, and maintenance of telecommunications systems, and develop a procurement policy consistent with AS 36.30 (State Procurement Code);... (emphasis added).

AS 44.21.310 is divided into two parts: Section (a) contains mandatory powers and duties of the Department identified by the verb "shall", and Section (b) contains permissive ones identified by the verb "may". Under standard legal interpretation, the private enterprise provision (together with the accompanying feasibility language) is clearly mandatory on the Department. The Department does <u>not</u> have the power to selectively follow or not follow the mandatory requirements set out in Section (a).

Confusion regarding the mandatory nature of the provision requiring procurement from "private enterprise or certified or franchised utilities" arises from two serious inadequacies in the Report. First, the Report does not address in any way this "private enterprise" requirement; second, the words "whenever feasible" which modify this private enterprise procurement mandate are disassociated from the procurement mandate and instead are discussed as if they modify the second portion of subsection 310(a)(6), namely, the portion following the semicolon further down in the subsection.

Black's Law Dictionary, the definitive dictionary for attorneys, defines "feasible" as follows:

> "Feasible -- capable of being done or executed or affected."
>
> Also means: "Capable of being successfully done or accomplished."

According to the most liberal statement of this definition, then, given the mandatory language of the private enterprise provision, the Department MUST procure telecommunications services from private enterprise or certified and franchised utilities whenever such services are capable of being successfully provided by private enterprise or certified or franchised utilities.

The Department has misconstrued and misapplied the feasibility phrase so it falsely appears the Department is on point when it proceeds with a lengthy discussion of how "the feasibility of various procurement and operation methods will be determined." Even though the Report seems to tie all this together in a way which seems to be consistent, this discussion is totally off point as to how feasibility relates to the procurement of telecommunications services.

It may well be appropriate for the Department to weigh "the relative costs and benefits of different methods and sources of service and equipment" and even to evaluate their feasibility in efforts to carry out the requirements of the second portion of AS 44.21.310 (a) (6) -- the portion following the semicolon. Acknowledging this, however, in no way reduces the Department's obligation to abide by the private enterprise mandate in the first portion of 310(a)(6).

It is a pretense that the feasibility phrase can be separated from the private enterprise mandate and can be redefined or "determined" in terms of a "laundry list" of variables related in a variety of ways to various public policies and practical concerns which have nothing whatsoever to do with the feasibility of procurement of telecommunications services from private enterprise, and that the variables which are determined to be "feasible" will then "determine" whether private enterprise procurement is "feasible." (See the list of "variables" set out in the end of page 4 of the Report.) Superficially, the discussion may sound credible; however, on closer inspection what is really being said is that the cost/benefit analysis of these "variables" will give the Department the flexibility they need to go ahead and expand their government-owned enterprise whenever and wherever they please.

Some of the factors in the "laundry list" might be appropriate concerns in the configuration of the network, but portraying this "laundry list" of "variables" as determinative of the feasibility requirement which is to be applied to private enterprise procurement is an untenable misrepresentation.

This Report reflects a complete reversal of the established public policy as set out in State statutes. This Report, taken as a whole, reflects a bias against the statutory requirements that the State, whenever feasible, is to procure telecommunications services from private enterprise or certified and franchised utilities. This bias permeates the entire document, affecting the premises on which the entire Report is based.

Not only should the Department of Administration live up to the statutory mandates already on the books related to procurement of telecommunications services from private enterprise and certified and franchised utilities, but there should be a "burden of proof" laid on the Department to show that a particular procurement was not "feasible" (i.e., was not capable of being successfully done or accomplished by private enterprise) before they are authorized to build or expand the State-owned system and to provide State services on State-owned facilities. This "burden of proof" should be clearly spelled out in any final Three-Year Plan.

<u>Specific Concerns And Objections:</u>

<u>Voice Traffic Charges ("Toll Charges")</u>

When State agencies use the State-owned network, it is our understanding that they are charged a "user fee" which is paid back to the Division of Telecommunications through a Reimbursable Services Agreement (RSA). (These appear in the budget as Interagency Receipts.) To no avail we have tried for a year to have the Division tell us how they determined what rates they should charge to agencies.

Annually the Division of Telecommunications gets upwards of $4 million in General Fund monies from the State. Expansion of the system is often accomplished through one-time capital grants from the State. These apparently are accounted for separately and do not enter the "rate base" on which "toll charges" are determined.

Meanwhile, what the State calls "Billed Charge" is compared to "Equiv. Alascom MTS Charge" (Table 1, pg. 23). That is apples and oranges. Alascom's rates, as those of any regulated telephone company, are based on the cost of providing the service, including capital, operating, and maintenance costs. To more closely approach an apple-to-apple comparison, the $4 million GF appropriation needs to be divided by the number of message minutes and added to the bill; any capital expenditures (or RSA's from other agencies for system expansion) need to be (in a prorated fashion) added to the bill.

If this were done, we do not feel the "cost savings" to the State would be real, even on paper.

The Division claims that they do not need to account for their expenditures and revenues in the same manner as do regulated utilities. While this may technically be true, the Division has made no effort, even in a general way, to compare their costs vs. their revenues. There is a compelling argument that since the Division is providing telecommunications services not only for their own agencies, but also for private travel agencies and electric utilities, they ought to be certificated by the APUC.

The State claims they save $1 million annually by using their own system. If this is true, where are those cost savings reflected? The Division of Telecommunications budget from 1987 shows the following revenues in thousands:

	Total	General Fund	Interagency Receipts
FY1987	5,229.8	4,312.4	917.4
FY1988	5,374.7	4,457.3	917.4
FY1989	5,615.9	4,045.9	1,570.0
FY1990*	5,689.2	4,119.2	1,570.0

(From the Governor's Division of Budget Review)

* Governor's budget request

No appreciable savings is reflected. Have agency budgets been reduced? Generally, lowering rates stimulates traffic. Is the State using the network more, therefore negating any savings?

If saving the State money were truly the goal, the Division should indicate where the savings come out of the budget.

Network Management

The Report hints that the State achieves greater flexibility and access to new communications technology by buying its own network. In reality their use of new technology is limited by the need for compatibility of the State's existing facilities with new succeeding technology. The incompatibility of data systems historically has been a problem in communications and has been a prime reason for leasing as opposed to owning.

The three-year long range plan (for the industry, three years would be a short range plan) includes increased provisions for network management. As the complexity of the State's network increases, as certain components age and the need increases to integrate with newer technologies requiring interface devices, the unit cost of providing telecommunications services increases. The network management and control center will cost money -- not only the capital costs identified here, but also operational costs. Where will those costs be budgeted? If, as happened in the State television intent language review a year ago, the Division claims they can do it with existing personnel, then perhaps they currently have excess personnel.

The Report indicates that the Division of Telecommunications is a large user of its own system. A major portion of that use probably is due to system administration and would not be necessary if the network did not exist. All.use of this type should not be counted when "savings" are calculated -- they are really costs of the system and not usage.

The list of projects given in section 3 proposes several state-purchased items that could be provided by Alascom or local exchange companies. These are: items 3 and 7, a network management and control center; item 4, the replacement of the Juneau switch; and item 13, the rebuild of the Anchorage International Airport communications system. Some of the items listed separately in the State's proposal could be included in most packages provided by telecommunications vendors at no or little additional cost, if equipment were not being provided piecemeal by the State. These items include: item 6, telephone desk set training; and items 8 and 9, central state directory preparation.

Many of the projects listed above provide facilities and services that are based on analog facilities or on the present per-channel trunk signaling arrangements. In the near future, both Alascom and the local exchange carriers will be converting facilities to digital at an increasing pace and adding common channel interoffice signaling (CCIS) statewide. This signaling network will enable a wide variety of new features and services to be quoted to the State that cannot be accommodated by their existing or proposed facilities.

In all, the State's capital plan for the next three years approaches $6.5 million. How does this correlate to savings to the State over what they would pay by using certificated carriers? Although the State may not like to admit it, there are costs of providing telecommunications services. If they used the public commercial network, many of their costs and need for General Fund monies would go away.

Public Policy Vs. Cost/Benefit To State

It is not just the "critics" who conclude that public policy needs to be addressed in the provision of telecommunications services or the "supporters" who focus on cost/benefit analysis. Since 1981 it has been the law in Alaska that whenever feasible the State should procure services from private enterprise and that State telecommunications decisions be based on an analysis of their impact on the users, the industry, and the public. The State has never developed any cost/benefit analytical instrument of which we are aware. They certainly have included no example with this Report. The State seems to be unaware of what the true costs of their system are, and that knowledge is a necessary prerequisite to any cost/benefit analysis.

Project Evaluation

We would like to see the methodology the State intends to use. It would have been helpful to include a sample Network Project Evaluation Form with this Report. We would like to know how they plan to assess a project's impact on Alaska ratepayers, since they were unable to do so for this Report. We certainly hope that any assessment of cost to the State includes capital costs (regardless of who pays them), operation, maintenance, and replacement costs (such as the recent RFP for two earth station spares) and all associated labor costs (including the cost of employee benefits such as medical and retirement).

The industry hopes the State continues its long range planning activities as part of its network review. These plans should be made available to the industry, as well as the Legislature.

Impact On Telecommunications Industry And Ratepayers

The Report seems to deny any effect on the ratepayers of Alaska by the State's bypassing the public network. We think that had the authors analyzed all the available information, they would have reached a different conclusion.

The opportunity cost of the traffic carried on the State network is the unrealized retail revenues Alascom and the local exchange companies would have received had the traffic been carried on the public network. To the extent this traffic remains part of a private system and bypasses the public network, significant contributions to the costs of providing interexchange services within the State of Alaska are lost. Because a major portion of the cost of the public network is insensitive to demand (i.e., relatively fixed), lost revenues must be recovered from those customers remaining on the public network. Simply stated, this loss has direct implications in the form of higher long distance rates and, quite possibly, higher local exchange rates for all Alaskans.

Conclusion

We feel there are significant problems with the Report. It appears questionable that a good faith attempt was made to put together a report that addressed the Legislature's concerns. The State assumes that it ought to be in the telecommunications business. We do not, and we feel that the Alaska Statutes support our position. We feel that the State has made errors in its limited cost/benefit analysis. There are significant General Fund monies expended every year for the State to provide telecommunications services. These costs need to be addressed and compared to what costs the State would incur if private industry provided the same level of service. We urge the Legislature to hold the Division of Telecommunications accountable for the operation and expansion of their network in accordance with law. Tough questions need to be asked -- and the answers carefully analyzed.

CITY OF FAIRBANKS
Office of City Manager
( ) CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-452-1881

April 17, 1989

The Honorable Dick Eliason
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Eliason:

The City of Fairbanks Public Utilities Board met Tuesday, April 11, 1989, and unanimously requested that a copy of the enclosed letter be sent to you. This letter accurately reflects the grave concerns that the Board has regarding the State Network and the potential costs that might be shifted to the local Alaska ratepayers.

The Public Utilities Board feels that the Alaska telecommunications industry has set an outstanding example in providing state of the art telephone service to every resident in our vast state. This was accomplished by the municipal and private investment of hundreds of millions of dollars and years of work and planning. The Fairbanks Public Utilities Board questions the duplication of the existing network with State public funds when municipal and school funds must be cut.

We welcome your assistance and concern on this issue.

Sincerely,

Brian C Phillips

Brian C. Phillips
City Manager

BCP:JM:pah

Enclosure

xc: Honorable Mayor Nordale
City Council Members

March 28, 1989

Telephone Utilities of Alaska, Inc.
Telephone Utilities of the Northland, Inc.
[illegible]

Senator Dick Eliason
Alaska State Legislature
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Eliason:

I would like to apologize for not being able to attend the Alaska Telephone Association's legislative reception on March 14. I was out of state due to a family emergency.

The attached list summarizes positions and concerns relative to State bypass of the public telecommunication network. It is a complex issue which is critical to Telephone Utilities of the Northland and Telephone Utilities of Alaska, the Alaska telecommunication industry, and our customers.

The State Division of Telecommunication's insistence on circumventing Executive Order No. 50 and AS 44.21.305 - AS 44.21.330 has resulted in the State becoming one of the largest telecommunication entities in Alaska. It has more employees than all but five of the 22 local exchange companies in the State. By it's Intent Language and three-year plan, it intends to continue growing despite statutory conflict, network duplication (which results in citizens paying twice: once as taxpayers and again as ratepayers). This growth will cause increased State payroll, increased State expense, the unavoidable increase of local and intrastate rates (caused by State bypass of the existing and future network), and the undeniable fact that the private Alaska telecommunications industry has the expertise and resources to provide any present and future State of Alaska telecommunication need.

As part of its justification, the Division insists that its <u>charges</u> to State network users (vs. the <u>cost</u> of using the private network) indicates a savings to the State. The Division does not account for the cost of building, operating, and maintaining the network in developing its charges, or in its assertion that it can provide cheaper services. If the State is going to compete with private enterprise, there must be an apple-to-apple comparison based upon the total cost of the State's network.

More importantly, we believe that much of the Division's past activities have been in conflict with legislative intent and law. We believe the Intent Report does not meet the legislature's intent, and brushes aside valid, critical concerns. We do not feel the report should be accepted until public hearings and other necessary legislative activities result in a complete analysis of our concerns and proposed resolutions.

Thank you for your consideration. Enclosed is a briefing paper for your convenience. Please do not hesitate to contact me if I can provide any additional information.

Sincerely,

TELEPHONE UTILITIES OF ALASKA
TELEPHONE UTILITIES OF THE NORTHLAND

Bernie Murray

Bernadette Murray
Vice President

Attachment

BM/af

Briefing Paper
Telephone Utilities of Alaska, Inc. (TUA)
Telephone Utilities of the Northland, Inc. (TUNI)

Executive Order No. 50:

* *"I find that in the interest of minimizing the size and influence of government, private ownership and control of telecommunications facilities should be facilitated and enhanced, ..." (emphasis added). (Executive Order No. 50)*

and

* *Sec. 44.21.310. "Telecommunications powers and duties. (a) In accordance with the state information systems plan adopted by the Telecommunications Information Council and with the departmental information systems plan, the department shall..."*

* *"(6) whenever feasible, procure services from private enterprise or certified and franchised utilities and contract for telecommunications systems, and develop a procurement policy consistent with AS 36.30 (State Procurement Code): ..." (emphasis added).*

Despite Executive Order No. 50, the State system has grown dramatically:

* *It employs more personnel than all but five of the largest local exchange companies (LECs) in the state.*
* *The next fiscal year budget request is $5,689,200.*
* *The State system operates like a private telephone company in all of its practices, except it does not follow the Uniform System of Accounts.*
* *Telephone companies assert the legislature never intended to construct and duplicate a private network and compete with the telephone company industry.*

The State has not proven its "savings" or "lower costs":

* *In developing rates and bookkeeping, telephone companies are required to follow Uniform System of Accounts (USOA). USOA tracks investment, depreciation, operating and maintenance costs, overheads, etc., to develop true cost of operation. The State must be required to maintain like "books" to prove its true cost of operation.*

The State's separate network will result in higher rates to private system customers:

* *Citizens will pay for Alaska communications network twice: Once for the private network and again for the State's network. The State opting off the private network results in higher rates for remaining customers (local and intrastate rates).*
* *State of Alaska represents a high percentage of use - one of the largest customers in the State.*

Division of Telecommunications is a large system user of its own system.

* *Because the Division of Telecommunication has the network they must administer it. To administer the network, they must have a network large enough to accommodate the traffic they generate while managing the network.*

There is no technology the private telecommunications industry cannot provide.

* *There are hidden costs to the State in providing its own network. It must continually update hardware/software. Technically competent employees must be hired and trained.*
* *Division of Telecommunications' three-year plan indicates $3.5 million for new private branch exchanges (PBX). Private industry provided a much less expensive proposal which eliminates any need for technical State employees, floorspace, State operation and management of State-owned PBX.*
* *DOT's three-year plan shows a $150,000 expenditure for a network management center necessary to manage network (not necessary if didn't own network).*
* *Other costs totaling $140,000 for directory printing, information center, and training are costs associated with network operation that would not be otherwise incurred.*

Pending receipt of the legislative audit, acceptance of the intent language is premature.

* *It is hoped the legislative audit will determine what cost benefits, if any, are derived from State ownership of the network.*
* *TUA/TUNI believes government should follow Executive Order No. 50; facilitating and enhancing private ownership and control of telecommunications facilities.*

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

February 14, 1989

Audit Control Number

08-1354-89-R

Commissioner, Department of Commerce and Economic Development	Larry Merculieff
Deputy Commissioner, Department of Commerce and Economic Development	Jeffrey W. Bush

Members of the
Alaska Public Utilities Commission

Chairperson	Susan M. Knowles
Member	Carolyn S. Guess
Member	Peter Sokolov
Member	Louis E. Agi
Member	Kathleen L. Whiteaker

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

February 21, 1989

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 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

February 14, 1989

Audit Control Number

08-1354-89-R

The objectives of this audit were to examine the activities of the Alaska Public Utilities Commission to determine if there is a demonstrated public need for its continued existence and if the commission has been operating in an efficient and effective manner.

The audit was conducted in accordance with generally accepted governmental performance auditing standards. Audit scope and methodology are discussed in the Report Objectives, Scope, and Methodology section of this report. Audit results may be found in the Report Conclusions, Findings and Recommendations, and in the Analysis of Public Need sections of this report.

Randy S. Welker

Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	Page
Report Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	5
Findings and Recommendations	7
Analysis of Public Need	19
Appendix:	
Summary of Appropriations and Expenditures	23
Agency Response:	
Alaska Public Utilities Commission	25

REPORT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have examined the activities of the Alaska Public Utilities Commission (hereinafter referred to as APUC or the commission) to determine if there is a demonstrated public need for its continued existence and if the commission has operated in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether APUC should be reestablished. The law now specifies that the commission will terminate June 30, 1989 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.

Discussion of the objectives, scope, and methodology of our review follows.

Objectives

APUC was created to regulate public utilities so that citizens could enjoy adequate service at the lowest reasonable rates. The primary objective of this audit, therefore, was to determine whether the public need for the commission continues to exist.

The secondary objective was to review the commission's major functions, namely certification of utilities, tariff actions, investigations, and complaint follow-up for effectiveness in meeting the public need. The tertiary objective was to evaluate these functions in particular, and the APUC's operations in general, for economy and efficiency of operation.

Our analysis of public need, findings and recommendations, and our conclusions have been summarized in the appropriate sections of this report.

ORGANIZATION AND FUNCTION

Public utility regulation in Alaska has evolved substantially since the creation of the Public Services Commission (PSC) in 1959. That three-member body had jurisdiction over electric power, heat, water, gas, oil or other petroleum products (except by pipeline), telephone or telegraph communications, and community sewer services. In 1960 PSC gained responsibility for transportation utilities which it regulated until the creation of the Alaska Transportation Commission in 1966.

PSC was replaced by a three-member Alaska Public Utilities Commission in 1970. Regulated industries then included electrical, telecommunications, water, steam, sewer, gas, and petroleum when no competition existed. A 1973 amendment added garbage, refuse, trash or other waste to the list. Amendments passed in 1980 provided exemptions from economic regulation for cable television services and other utilities with low annual gross revenues as well as establishing a provision allowing economic deregulation by consumer vote for certain utility groups. With abolition of the Alaska Pipeline Commission in 1981, jurisdiction over pipelines passed to APUC.

In addition to jurisdictional changes, composition of APUC also changed. Alaska Statute 42.05.040 originally required one member to be a law school graduate, one to be a university graduate with a major in engineering, and one to be a university graduate with a major in finance, accounting, or business administration. Two additional positions were added to the commission in 1975 for which no special qualifications were established. All members are appointed by the Governor and confirmed by the Legislature for six-year terms.

Under AS 42.05 and AS 42.06, APUC is charged with the responsibility to ensure the furnishing of adequate service to all public utility patrons, without discrimination, and at the lowest reasonable rates consistent with the interests of both the public and the utility. Statutory provisions direct the commission, after determining an applicant is fit, willing, and able to provide utility service, to issue that applicant a Certificate of Public Convenience and Necessity. After issuance of this certificate the commission then regulates the rates, classifications, rules, regulations, practices, services, and facilities of a public utility, unless it is exempted or deregulated. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

TABLE OF CONTENTS

	Page
Report Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	5
Findings and Recommendations	7
Analysis of Public Need	19
Appendix:	
Summary of Appropriations and Expenditures	23
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Our analysis of public need, findings and recommendations, and our conclusions have been summarized in the appropriate sections of this report.

Scope and Methodology

The primary emphasis of our audit was on the factors outlined in the Analysis of Public Need section of this report. Alaska Statute 44.66.050 requires that these factors be considered in the determination of the commission's continued existence. To address these areas, we analyzed the need for regulation of the various industries, reviewed pertinent academic literature, considered the regulatory status and trends nationwide, interviewed commissioners and staff, reviewed APUC's statutes and regulations, contacted the State Ombudsman and the Equal Employment Opportunity offices, analyzed consumer complaints against utilities filed with the commission, and reviewed decisions made by the commission.

The effectiveness and efficiency of the commission was addressed through the above procedures and also by contacting and requesting assistance from all certificated utilities and by reviewing individual files.

Our review of decisions, complaints, tariff actions, hearings, investigations, and certifications was performed primarily on a sample of FY 88 items. These were selected on a judgmental basis to allow us to focus on certain activities and industries.

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The staff of APUC is divided into six major functions: administration, engineering, communications carriers, consumer protection, finance, and tariffs. In total, APUC employs 40 people with an operating budget for FY 89 of $3,884,100. A brief description of the services provided by those functions follows:

Administration. An executive director, hired by the commission, is responsible for directing all staff functions and acts as a liaison between staff and commissioners and between the commission and legislature. He is responsible for records and document management, fiscal and personnel administration, and budget preparation and is assisted in these duties by an administrative assistant, document processing personnel, and other clerical support staff.

Engineering. This section is responsible for the investigation of utility procedures and practices affecting quality of service, review of legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. Their evaluations are presented in proceedings before the commission.

Communications Carriers. This section was established by 1976 legislation to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the State involving the use of wire, cables, radio and space satellites.

Consumer Protection and Information. Major responsibilities for this section include investigation and resolution of consumer complaints, public relations, and information dissemination.

Finance. Activities carried out by this section include the examination, analysis, and evaluation of financial statements submitted for rate cases, audits of financial records of utilities, examination of financial information comprising historical operating year and pro forma adjustments, and the presentation of these analyses at proceedings before the commission.

Tariff. This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, as well as meeting all public notice requirements on tariff filings and maintenance of current master tariffs for all utilities.

REPORT CONCLUSIONS

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 to assist them in evaluating the potential impact of any policy changes.

Report Conclusions

In our opinion, the Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated by APUC. 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.

Although this economic justification is valid for the majority of utilities regulated by APUC, we evaluated their jurisdiction for potential areas of deregulation for several major reasons: (1) to comply with the intent of sunset legislation which attributed public disenchantment with state government to a proliferation of that government; (2) in recognition of the fact that the cost of regulation may exceed its benefits; (3) the increased demands being placed on commission resources; and (4) the State's ability to provide those resources.

Our analyses revealed several industries where regulation could be eliminated with minimum negative public impact. Our initial criteria was whether the service was essential for modern living to the average Alaskan and, if so, whether the industry operated as a natural monopoly. Although it is uncertain whether rates under deregulation would be higher or lower, deregulation should provide benefits such as competitive alternatives to existing services and more innovative services and rate designs. Additionally, services may be provided in areas not previously served as a result of eliminating the barrier to entry into the marketplace that has been erected by certification and the cost of regulation. While refuse collection services may be considered essential by many, this industry is not a natural monopoly and should not be regulated (See Recommendation No. 1A). Radio communication carriers do not provide an essential service and also should not be regulated (See Recommendation No. 1B). Cable television may be considered essential by many and may also be a natural monopoly in the small and medium size towns. However, the statutes have created state sanctioned monopolies without the companion public protection against unreasonable and discriminatory rates and services. Further, federal law prohibits full economic regulation. The State should cease cable certification (See Recommendation No. 1C).

We are also convinced that small utilities should be exempted from economic regulation on the basis that the cost of regulation likely exceeds its benefits to consumers. We further recommend that the consumers of these exempted utilities be allowed a reasonable opportunity to elect economic regulation (See Recommendation No. 1D).

We recommend that the utilities owned by the Municipality of Anchorage be exempted from economic regulation. This exemption and the companion opportunity to elect economic regulation should be available to Anchorage as it is to all other municipal governments in the State (See Recommendation No. 1E).

We believe that the commission's costs should be fully allocated to consumers, but only to those consumers of utilities who continue to be regulated. We consider this regulatory funding approach to be most equitable to all the State's citizens. It should also encourage the elimination of any unwarranted economic regulation when combined with consumer regulatory elections (See Recommendation No. 2).

We recommend that APUC develop a topical reference system for commission orders and court decisions (See Recommendation No. 3).

A review of commissioner appointments showed that appointment terms expire on the same date for the two consumer members. As this situation could cause a significant disruption of commission activity, we recommend that the statute be changed to require the staggering of these appointments (See Recommendation No. 4).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Alaska Statute 42.05 should be amended to eliminate certain unnecessary regulatory functions of APUC.

Public convenience and necessity require certain services to be provided. Such services have traditionally included electric, telephone, gas, water, and sewer. The nature of these businesses do not lend themselves to competition; they are capital intensive and have permanent physical connections to their customers. The economies of scale of these industries are such that one company may be able to serve an entire market at a lower cost than could two or more companies; therefore, competition could not decrease prices to consumers in the long run and would only result in wasted capital resources through duplicate facilities. Note that this "natural monopoly" relates not only to the relationship between fixed and variable costs but also to the characteristics of the market. As these services are considered essential and as the long-run cost is lowest if only one company is allowed to serve, a monopoly is awarded in the form of a Certificate of Public Convenience and Necessity to a company that is determined to be fit, willing, and able.

As these services are essential, the demand for them is relatively inelastic in terms of service price or available funds. A monopoly coupled with inelastic demand can result in excessively high prices as well as price and service discrimination between consumers. Uncontrolled economic power has been considered economically, politically, and socially unacceptable in a democratic society. The alternatives are to nationalize the utilities or to regulate their services as a substitute for effective competition, with regulation being the preferred method. Regulated public utilities are required to make specified service levels available at approved rates to all consumers in their designated service areas.

In addition to the concerns over economic power, the public interest may also serve to extend regulation into situations where competition would have significant undesirable side effects on the quality of life in the area. For example, competition could create a black forest of utility poles or the continual digging to bury cables or pipe.

However, it may not be appropriate to economically regulate all certificated utility companies. For example, the cost of regulation may outweigh its potential benefits or the consumer's control over service and rates that already theoretically exits in that the company is a member-owned cooperative or it is owned by a political subdivision.

Further, overriding all the above considerations, the public interest being addressed must represent a substantial portion of the State's population; unique situations should be addressed at the local level.

While we acknowledge that not everyone will subscribe to this theory of regulation, we believe it to be fundamentally sound. Utilizing these principles, we analyzed APUC's jurisdiction and determined that governmental control in the following areas was unwarranted.

A. Alaska Statute 42.05 should be amended to cease certification and regulation of companies furnishing collection and disposal service of garbage, refuse, trash, or other waste material.

Whether an individual considers refuse collection to be an essential service for modern living depends primarily on where they reside in the State. However, even essential services should generally not be regulated unless they are natural monopolies. For example, we do not believe that essentials such as food and clothing should be regulated.

Refuse collection, as with most enterprises, has certain economies of scale that affect its operations. However, these economies of scale are not such that one company can obviously provide the area-wide services for a significantly lower total cost than could several competitors. Relative to traditionally-regulated industries, refuse collection requires less capital, and thus they have a higher percentage of variable costs and less significant economies of scale. Further, the competition within service areas in several locations defeats the natural monopoly premise in the larger markets. We believe that a natural monopoly could occur in this industry in only the very small markets and that these do not warrant regulation due to the cost to benefit relationship.

Therefore, refuse collection should not be regulated unless there are overwhelming negative side effects present under competition in this industry. We acknowledge the possible negative effects of increased truck traffic, refuse pickup scheduled throughout the week in individual neighborhoods, and consistency problems as companies adjust to the economic realities of competition. However, these problems did not overwhelm the residents of the Mat-Su Borough as a result of the residential competition which began in 1985. Further, the Alaska Municipal League has adopted a resolution asking that refuse collection be deregulated.

In response to our previous sunset audit recommendations to deregulate this industry, APUC expressed concern over the health and sanitation problems that could occur if these companies were removed from their jurisdiction. These health and sanitation issues are presently under the jurisdiction of local communities and also the Department of Environmental Conservation.

There are presently forty-three certificated refuse companies; nine of these are economically regulated under AS 42.05.711, as they have annual gross revenues of greater than $200,000. Although APUC has no time sheet data upon which to estimate the cost to regulate these forty-three companies, the commission states in their FY 88 Annual Report that the time dedicated to refuse is excessive relative to agency resources and the resultant public benefit, and they recommend that this industry be deregulated.

B. <u>Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers</u>.

There are currently ten certificated radio common carriers in Alaska. Radio Common Carrier (RCC) services include radio paging, mobile radiotelephone, and improved mobile telephone public utility services.

The commission opened an investigative docket on the subject of deregulation of RCCs in 1981 which resulted in a 1982 decision to cease economic regulation of this industry. The commission cited as justification, among other things, that RCC service was not an essential service. As RCC service is not essential to the average Alaskan, we concur with the commission that it should not be economically regulated. We further contend that services that are not essential should not be certificated.

In that 1982 decision, APUC stated that the certification process should be continued to monitor the interconnection to the telecommunications network and to prevent cross-subsidization of non-monopoly RCC services by monopoly local exchange telephone services. However, both these concerns can be monitored through the continuing processes of certification and economic regulation of local exchange services.

Cellular phones are relatively new to Alaska, and APUC has not yet decided if or how they should be regulated. We understand these phones provide a higher sound quality at a higher cost than conventional radio phones and over a shorter range; as such, they may be even less of an essential service to the average Alaskan.

Alaska Statute 42.05.711(d) reads as follows: "The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter." [Emphasis added.] As the 1982 decision categorically deregulated an entire industry, not an individual utility, this order may be illegal. We are not recommending that this statute be amended to allow categorical deregulation, as this power should be retained by the Legislature. Rather, we are recommending that the statute be amended to specifically deregulate RCC services; this would incidentally resolve the question.

C. Alaska Statute 42.05 should be amended to cease certification of cable television.

We do not consider cable television an essential service, particularly in view of the large number of Alaskans who receive off-the-air network television or broadcasts from the Rural Alaska Television Network. The premise of "essential" is also defeated by a review of the cable television service in Anchorage in which large sections of the service area are not yet cabled 9 years after the certification was awarded. The 1988 service expansion added only 1 mile of cable for 83 homes and businesses. While we acknowledge that it takes years for a new utility to cover a service area, we submit that this standstill, even in consideration of the economic decline, indicates that this service has a higher elasticity of demand than would an "essential" service.

As it is not an essential service, it should not be regulated as a public utility. Although the statutes do not allow economic regulation, they do require certification of the companies. APUC has responded by issuing certifications for exclusive service areas. This has created state-sanctioned monopolies with legally protected service areas, yet the statutes do not provide the companion public protection against unreasonable and discriminatory rates and services. The statute should, therefore, be amended to remove the certification requirement.

However, there are many who believe that cable television is essential to modern living or that it is essential so that we may fully realize our First Amendment right of freedom of speech. If it is first decided that cable television is essential, then the natural monopoly issue must also be considered in the regulatory determination.

We believe that cable television may be a natural monopoly in the small and medium-sized towns. As such, these may be candidates for economic regulation. However, the cost of regulation may outweigh the benefits for these small markets. The economic regulation that is available is also limited to basic services, as the federal Cable Communications Policy Act of 1984 prohibits price regulation of the premium packages. In the largest cities, the competitive environment indicates that there is not a natural monopoly present for cable television, thus certification and economic regulation is inappropriate.

The federal Cable Act was designed to promote the expansion of cable television systems by promoting local franchising and limiting rate regulation. This law would not allow any rate regulation in Anchorage or Fairbanks but would allow basic service rates to be regulated in other areas such as Juneau or Homer. It does, however, appear to allow us control over the possible competitive side effect of duplicate cabling. By statute we could require the segregation of cable distribution companies and these could be fully regulated. The cable programming could then be opened to competition.

In summary, regardless as to whether or not cable television is viewed as essential, we recommended that the present certification requirement be deleted from the statute. To the extent that this service is deemed essential, municipal franchising or certification and regulation of distribution-only companies should be considered.

We also must point out a potential liability to the State under the Cable Act if this recommendation is implemented. The Cable Act outlines specific criteria which must be shown to deny a franchise and the proposed statute amendment would categorically retract the certificates (franchise) without this showing. However, the Attorney General's Office indicated to us that the State would prevail in court. We recommend that a formal opinion on this potential liability be obtained from the Attorney General before this statute is amended.

D. Alaska Statute 42.05 should be amended to exempt the smaller utilities from economic regulation.

Electric, telephone, gas, water, and sewer utilities have traditionally been considered essential services and are often natural monopolies. Nevertheless, we should refrain from economic regulation if its cost exceeds the benefits. However, this information is not available nor can it be reasonably generated. "Cost" would include incremental APUC and utility time and materials as well as the effect of project delays on long-term rates; this component of the equation could be studied and estimated. The "benefits" of regulation include a financially stable utility providing consistent service uniformly to customers who are assured of equitable rates and services now and in the future; this cannot be quantified.

Nevertheless, in consideration of the State's dwindling resources and the public's disenchantment with the proliferation of state government, we believe that it is appropriate for us to presume that the cost of regulation presently exceeds its benefits for many smaller utilities and that the gross revenue exemption levels provided in the statutes should be raised.

Alaska Statute 42.05.711 exempts electric and telephone utilities with gross revenues under $50,000 from certification and economic regulation. It also allows a utility's consumers to elect economic deregulation for cooperatives, electric or telephone utilities with less than $325,000 in annual gross revenues, and for any utility which does not gross $100,000 annually. We propose that an across-the-board gross revenue-based exemption from economic regulation be established. Three options are presented in the following table. It was prepared based upon APUC's FY 88 Annual Report and represents all utilities that are currently economically regulated with the exclusion of the industries we have recommended for categorical deregulation.

Number of affected utilities and customers, based upon gross revenues:

	Under $500,000		Under $750,000		Under $1,000,000	
Type	Util.	Customers	Util.	Customers	Util.	Customers
Electric	10	819	15	1,990	18	2,691
Telephone	-0-	-0-	1	343	2	863
Gas	-0-	-0-	-0-	-0-	1	908
Water	22	3,715	22	3,715	22	3,715
Sewer	2	15	3	382	3	382
Total	34	4,549	41	6,430	46	8,559
Percent	40.5%	.8%	48.8%	1.1%	54.8%	1.5%

The above percent calculations represent the reduction in the coverage of economic regulation under each revenue scenario; however, we caution the inference from the table that APUC's workload would decrease proportionate to the decrease in the number of utilities. While there certainly should be some relationship, the commission has no time sheet data available to correlate these factors.

In concert with an amendment to exempt these smaller utilities, the following areas should also be addressed:

1. The petition provision which allows customers to request economic regulation of exempted utilities should be amended. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is much too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. For example, the petition requirement could be set at the lesser of 5% or 500 customers.

2. This proposed gross revenue exemption statute should not take effect for 6 months to allow utility customers who wish to retain regulation to do so without interruption.

3. The results of past deregulation elections should be honored, thus not requiring a new vote on failed deregulation elections.

4. The customers who continue the benefits of APUC's economic regulatory oversight should be expected to pay for this service (See Recommendation No. 2).

E. <u>Alaska Statute 42.05 should be amended to cease mandatory economic regulation of certain utilities owned by political subdivisions</u>.

Alaska Statute 42.05.711(b) generally exempts utilities owned by political subdivisions from economic regulation, unless they so elect. However, it also provides that if any of a subdivision's utilities directly competes with any other certificated utility then all the subdivision's utilities shall be economically regulated. We presume the intent of this provision was to eliminate the wasting of resources from facility duplication resulting from the then ongoing electric service area dispute as well as preventing the cross-subsidization of rates which might accompany such a dispute. The only utilities falling under this provision, at present, are owned by the Municipality of Anchorage.

The Anchorage service area dispute has been resolved and the present day competition is in the form of economy energy sales of electricity and perhaps telephone communication systems. This type of competition does not encourage the massive facility duplication or the cross-subsidization of rates that a service area dispute might. Service area concerns can be adequately addressed through the certification process without economic regulation.

In conjunction with an amendment to delete this mandatory economic regulation, the following areas should also be addressed:

1. The utilities previously regulated by APUC due to competition should continue to be so regulated unless rejected by the governing body.

2. A governing body should be allowed to withdraw a previous election.

3. The consumers who, through their local government, have chosen to continue the benefits of APUC's economic regulatory oversight should be expected to pay for this service. Specifically, the Municipality of Anchorage Assembly should decide whether their utilities should be regulated locally or by APUC. If they choose to "hire" APUC to perform this regulatory function in their behalf, citizens from all across the State should not be forced to pay for that service with General Funds (See Recommendation No. 2).

<u>Recommendation No. 2</u>

<u>Alaska Statute 42.05 and Alaska Statute 42.06 should be amended to more fully allocate the costs of regulation.</u>

APUC is currently being funded primarily by General Funds with a program receipts supplement from partial direct allocations of cost. The statutes require the cost of investigations and hearings to be allocated among the parties, including the commission, as is just under the circumstances. The commission has traditionally not allocated costs to itself and has allocated only the hired consultant fees, attorney general services, and other incremental out-of-pocket costs. In a 1988 decision, the Alaska Supreme Court interpreted the present statutes on cost allocations to disallow attorney general services. The court also remanded the case back to the commission to determine what portion of the cost allocation they should absorb.

Basic fairness prescribes that only the consumers who benefit from the regulatory services provided by APUC should pay the cost of this service. This is the "user fee" concept of funding. A funding method should also be designed to allow responsive adjustments to be made in the level of regulation as desired by consumers. With these criteria in mind, we have briefly commented on three predominate alternatives.

To the extent of its general funding, any approach fails to equitably match the regulatory cost to the consumers who benefit. General funding may be viewed as a payment by all citizens all across the State, while the benefit may accrue primarily to consumers in Anchorage. The utilities owned by the Municipality of Anchorage have contributed greatly to the commission's workload, yet a significant portion of the total cost of the proceedings is paid out of General Funds.

General funding is also less responsive to appropriate regulatory levels; in fact, it probably wastes some of the State's dwindling resources. Given that there is a regulatory cost/benefit break-even point and that certain consumers are given the opportunity to elect full economic regulation, general funding will likely be perceived as payment by "someone else" with the result that regulation will always be extended past this break-even point. Thus, government is providing an unnecessary service.

Funding of APUC through a gross receipts tax levied against the utilities and pipelines that is passed through to consumers could provide a reasonable matching of costs to beneficiaries. This assumes tax rates were established by utility size, by industry, and by level of regulation. However, there would always be inequities.

This tax approach would be responsive to regulatory needs only to the extent that the matching is accurate. However, taxation has traditionally focused on ability to bear rather than resource utilization and, thus, such a funding approach may not be responsive. For example, if a tax was designed which levied 100% of the commission's costs against the pipeline companies and none to the utilities, this approach would do nothing to reduce unnecessary regulation of the utilities.

Full and direct allocation of the commission's costs provides the most accurate and defensible matching among the three alternatives. As such, it would not only be an effective method in eliminating unwarranted government regulation but it could also make the regulatory process more efficient by encouraging adequate and appropriate filings.

To administer this full allocation program would require time sheets for commission staff and attorney general services, and the use of account codes to share docket proceeding costs among the parties and to allow recovery of general overhead. The administrative cost of this program should be less than with the tax approach but, of course, greater than with the General Fund design. These costs could potentially be offset by increased staff efficiency through time sheet accountability. We believe the benefits of a full-cost allocation program would far outweigh a slightly higher administrative cost.

Based upon the above, we recommend that the statutes be amended to establish a full-cost allocation funding approach for APUC. In conjunction with this shift toward program receipts funding, AS 42.05.651 and AS 42.06.610 should be amended, as follows:

1. These statutes should be amended to specify that all costs of the commission may be allocated.

2. Alaska Statute 42.05.651 should be changed to require interim allocation, rather than awaiting completion of a proceeding. The commission has estimated their unbilled utility allocations at $1.6 million with an average age of 3.0 years. We note that the related pipeline statute, at AS 42.06.610, already requires interim billings. However, APUC does not appear to be in compliance, with their estimated unbilled pipeline allocations at $2.1 million with an average of 4.7 years. Further, APUC should amend their regulation at 3 AAC 48.157 which provides for cost allocations after pipeline hearings rather than on the required interim basis.

3. These statutes presently require allocation to the parties of a proceeding <u>including</u> the commission; these should be modified to <u>exclude</u> the commission. However, the provisions allowing the commission to allocate among the parties as is reasonable and just should be retained, thus the commission may occasionally absorb some costs indirectly and have a need for minimal General Fund monies.

4. For economically regulated companies, on a case-by-case basis, the commission should be allowed to determine whether the costs being allocated are to be passed through to the consumers.

<u>Recommendation No. 3</u>

<u>APUC should develop a topical reference system for commission orders and court decisions</u>.

The commission is a quasi-judicial agency which issues decisions based upon finding of fact and conclusions of law.

These decisions are in the form of written orders that have the effect of law and are subject to judicial review.

The commission's orders are filed chronologically and also within the docket (case) files. Decisions from the courts on appeals of commission orders are filed with the related docket. However, no topical cross-reference system is maintained.

At present, the best catalog of prior actions is institutional memory. Obviously, such a memory-based system cannot provide true access to precedent when needed by commissioners, staff, utilities, consultants, and attorneys. A cross-reference system would allow analysis by staff and decisions by the commission to be made consistently from case to case and in accordance with relevant court decisions. It would also aid utilities and their consultants and attorneys to adequately prepare for filings and hearings.

The Legislature, in conjunction with their FY 89 appropriation to APUC, provided the following: "It is the intent of the Legislature that the commission use the additional permanent part-time position to develop a keyword index filing system for all future commission orders and that prior year orders be incorporated into the system as possible." However, the part-time position was not actually authorized and the system has not yet been designed.

Recommendation No. 4

Alaska Statute 42.05.030 should be amended to stagger the appointments of the two consumer members of the commission.

In 1975 the commission was expanded from three to five commissioners. Appointments were made to both the new positions for the standard six-year terms with both terminating on the same date. All other APUC commissioner terms have been appropriately staggered. Because the potential for disruption of commission activity would be high with two new commissioners coming on at the same time, we recommend the terms of the consumer members be staggered.

Currently, the terms are scheduled to end as follows:

Consumer seats (2):	November 1, 1993
Engineering seat:	October 31, 1990
Finance seat:	October 31, 1992
Legal seat:	October 31, 1994

The statute required the governor to stagger the initial appointments. However, as this was not done for the consumer members, we recommend the statute be amended to also require the necessary staggering of subsequent appointments.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of commission activities indicate both positive and negative factors as they relate to the public need factors defined in AS 44.66.050. These analyses were not intended to be all-inclusive, but address those areas we were able to cover within the scope of our review.

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

   The commission has conscientiously attempted to allow only qualified applicants to provide utility services and to regulate them in such a manner as to ensure adequate service at the lowest reasonable rates. In finding that no public interest would be served through regulation, APUC administratively exempted some utilities through the discretionary power granted at AS 42.05.711(d).

2. 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 Alaska Public Utilities Act (AS 42.05) and Pipeline Act (AS 42.06) provide broad discretionary power to the commission to carry out its mandated responsibilities. The jurisdiction provided under these statutes should be limited to require regulation only of industries where the greatest public interest may be served (See Recommendation No. 1).

   The budgeting approach and the statutes should be modified to fully allocate the commission's costs to consumers, but only to those consumers of utilities who continue to be regulated. We consider this regulatory funding approach to be most equitable to all the State's citizens. It should also encourage the elimination of any unwarranted economic regulation when combined with consumer regulatory elections (See Recommendation No. 2).

   The commission has not developed a topical reference system for commission orders and court decisions (See Recommendation No. 3). APUC has not been successful in obtaining additional personnel or funding for this task.

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

In their FY 88 Annual Report, APUC highlighted certain problems they perceive with the current statutes and also outlined options and recommended solutions.

APUC broached the question of who should pay the cost of regulation and also presented several options on a public policy level. However, they placed the emphasis on agency funding, rather than on equity to the State's citizens or on the potential elimination of unwarranted regulation (See Recommendation No. 2).

The commission recommended that the statutes be amended to allow interim billing of cost allocations for utilities, similar to that allowed for pipelines. We concur, however, we believe that these billings should be required, and we assert that they are in fact already required for pipeline cases (See Recommendation No. 2).

The commission recommended a statute change to allow them to increase certificate application fees to fully reflect the cost of processing these filings. We would concur if it were not for our recommendation which would effectively allocate these costs on a comprehensive basis (See Recommendation No. 2).

APUC also recommended that the exemption scheme at AS 42.05.711 be reviewed and revised. We agree and have outlined our suggestions at Recommendation No. 1. The commission specifically recommended the deregulation of refuse collection.

They requested clarification of AS 42.05.431 which establishes the power of the commission to fix rates. APUC is uncertain how the dispute resolution procedures under subsection (b) could be used to renegotiate wholesale power contract rates if the commission finds them to be unjust and unreasonable.

The commission suggested that, if the Legislature intended for utilities who are not economically regulated to pay interest on customer deposits, AS 42.05.711 should be amended to reflect this intent. They further recommended that unclaimed deposits not be escheated to the State. We disagree with this second recommendation, as it may provide a disincentive to locate the true owners of these funds.

4. <u>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.</u>

Formal proceedings are properly and timely noticed and are open to the public. The commission has held public hearings and formal proceedings within the service areas of the utilities before them to facilitate public attendance and participation. APUC also staffs a Consumer Protection and Information Section to resolve complaints and disseminate information.

5. <u>The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.</u>

All formal proceedings, including hearings on proposed regulations, are noticed and open to the public. Any interested person or party may intervene in a formal proceeding if that intervention will benefit, but not unduly delay the proceeding. The commission has also held informal workshops with attorneys and utility representatives in an attempt to be more responsive to the needs and concerns of those groups.

6. <u>The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, to the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.</u>

The commission has adopted regulations for informal and formal complaint procedures. Procedures include a requirement that the complaint be made first with the utility before being filed with the commission. If the complaint cannot be resolved informally, formal procedures, including an investigation, may be initiated. The Office of the Ombudsman also occasionally handles utility or APUC-related complaints. We found the complaint resolution process to be operating satisfactorily.

7. <u>The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.</u>

The commission, prior to granting a Certificate of Public Convenience and Necessity to a public utility, is required to determine that the applicant is fit, willing, and able to provide the service. APUC employs utility financial analysts and utility engineers to perform the necessary analyses to make this determination.

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

   We found no evidence of hiring practices or commission appointments that are contrary to state personnel practices. No complaints have been filed with the Human Rights Commission or the Division of Equal Employment Opportunity.

9. <u>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.</u>

   Please refer to the previous section, Findings and Recommendations.

APPENDIX

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
SUMMARY OF APPROPRIATIONS AND EXPENDITURES
For Fiscal Years 1988 and 1989
(UNAUDITED)

Category	1988 Authorized	1988 Expenses and Encumbrances	1989 Authorized
Personal Services	$2,113,600	$2,103,406	$2,113,600
Travel	28,660	27,423	57,100
Other Services	1,592,330	1,224,346	1,688,500
Supplies	21,000	20,800	22,000
Capital Outlay	3,910	3,910	2,900
Total	$3,759,500	$3,379,885	$3,884,100

Note: The information included in this summary was obtained from APUC records and the state accounting system. This information has not been audited by us and, accordingly, we express no opinion on it.

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STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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MAR - 9 1989

March 7, 1989

Mr. Randy Welker
Legislative Auditor
Division of Legislative Audit
State of Alaska
P. O. Box W
Juneau, Alaska 99811-3300

Re. Response to Preliminary Audit Report

Dear Mr. Welker:

The following is the response of the Commission to the preliminary audit report and recommendations submitted by the Division of Legislative Audit on February 14, 1989, as a result of its performance review of the Commission.

The Commission concurs with the fundamental conclusion of the report that the

> Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. (Page 5.)

The Commission does not agree with all of the statements of regulatory theory and philosophy in the preliminary audit report but has focused its comments on the actual recommendations.

08-H6LH