

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8400 SENATE LABOR & COMMERCE

LEGISLATION TO PROVIDE FOR THE ESTABLISHING OF NEGOTIATED RULEMAKING PROCEDURES FOR THE ALASKA PUBLIC UTILITIES COMMISSION

SEC. 1. Legislative findings.

The legislature makes the following findings:

- (1) The Commission regulations or rules have increased substantially since the enactment of the Alaska Public Utilities Commission Act.
- (2) The Commission currently uses rulemaking procedures that may discourage the affected parties from meeting and communicating with each other and may cause parties with different interests to assume conflicting and antagonistic positions and to engage in expensive and time-consuming litigation.
- (3) Adversarial rule making deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.
- (4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.
- (5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected parties will resist enforcement or challenge such rules in court.

SEC 2. AS 42.05. Determination of need for negotiated rulemaking committee.

(a) Determination of need by the Commission. The Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed rule if the chairman determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the chairman shall consider whether--

- (1) there is a need for a rule;
- (2) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who can adequately represent the interests that will be significantly affected by the rule and who are willing to negotiate in good faith to reach a consensus on the proposed rule;

(3) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time and will not unreasonably delay the issuance of the final rule; and

(4) the Commission, to the maximum extent possible consistent with the statutory obligations of the Commission, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the Commission for notice and comment.

SEC. 3. AS 42.05. Publication of notice: applications for membership on committees.

(a) Publication of notice. If the Commission establishes a negotiated rulemaking committee, the Commission shall publish a notice which shall include--

(1) an announcement that the Commission intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule;

(2) a description of the subject and scope of the rule to be developed and the issues to be considered;

(3) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the Commission of a proposed rule for notice and comment; and

(4) an explanation of how a person may apply for membership on the committee.

The Commission shall provide for a period of at least thirty (30) calendar days for the submission of applications under this section.

SEC. 4. AS 42.05. Establishment of committee.

(a) If after considering comments and applications submitted, the Commission determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule, the Commission shall establish a negotiated rulemaking committee.

(b) Membership. The agency shall limit membership on a negotiated rulemaking committee to seven (7) members, unless the chairman determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one person representing the Commission.

(c) Administrative support. The Commission shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

SEC. 5. AS 42.05.____ Committee activities.

- (a) Duties of committee. Each negotiated rulemaking committee established by the Commission shall consider the matter before the committee and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee determines is relevant to the proposed rule.
- (b) Representatives of Commission on committee. The person or persons representing the Commission on a negotiated rulemaking committee shall participate in the deliberations and activities of the committee with the same rights and responsibilities as other members of the committee and shall be authorized to fully represent the Commission in the discussions and negotiations of the committee.
- (c) Selecting facilitator. The committee may select by consensus a person to serve as facilitator. A person designated to represent the Commission in substantive issues may not serve as facilitator or otherwise chair the committee.
- (d) Report of committee. If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the Commission a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, the committee may transmit to the Commission a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate.
- (e) Expenses of committee members. Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee.

LAW OFFICES OF
KEMPEL, HUFFMAN AND GINDER
A PROFESSIONAL CORPORATION

ROGER R. KEMPEL
RICHARD R. HUFFMAN
PETER C. GINDER
DONALD C. ELLIS

ANDREW J. FIERRO
GEORGE S. HARRINGTON JR.
BOBBY DEAN SMITH
JAY D. DURYCH

July 23, 1993

ANCHORAGE OFFICE
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2094
19071 277-1604
TELECOPIER 19071 275-2493

CORDOVA OFFICE
520 2ND STREET
P O BOX 1829
CORDOVA ALASKA 99574
19071 424-7410
TELECOPIER 19071 424-7454

David Hutchens
Executive Director
Alaska Rural Electric
Cooperative Association, Inc.
703 W. Tudor Road, Suite 200
Anchorage, AK 99503

Re: APUC Powers "Liberally Construed"

Dear Dave:

You have asked whether the "liberally construed" language found in AS 42.05.141(a)(1) has any operative effect: that is, whether the Alaska Supreme Court cites or relies upon this statutory language in reaching decisions involving the APUC.

The answer is that both the APUC and the Alaska Supreme Court find it necessary to cite this statutory section in order to create APUC jurisdiction in matters not expressly conferred by the legislature.

The two most recent supreme court cases citing this statutory section of which I am aware occurred just last year. In February 1992, the Alaska Supreme Court issued its opinion in the case of *Far North Sanitation v. APUC*, 825 P.2d 867 (February 7, 1992). In that decision, the court dealt with the question of the APUC's power to order interim refundable rates. The court quoted the APUC's argument that the legislature granted the APUC broad powers to accomplish its purposes and, further, provided that these powers should be liberally interpreted [citing AS 42.05.141(a)(1)] but went on to state that, on the question of whether the APUC has authority to declare a rate interim and refundable after hearing, there is conflicting case law. The court concluded, however, that the APUC had such implied authority, again citing AS 42.05.141(a)(1) and stating:

Alaska's statute mandates that the powers of the APUC be liberally construed.

Far North Sanitation v. APUC at p. 873.

Two months later the court issued its opinion in *Colville Environmental Services, Inc. v. North Slope Borough*, 831 P.2d 341 (April 24, 1992), this time addressing the power of the APUC to attach conditions to a certificate of public convenience and necessity which conflicted with another state statute (AS 29.35.050). In concluding that the Commission had such power, the court again relied upon the liberally construed statutory language in reaching this result.

David Hutchens
July 23, 1993
Page 2

In reaching its decision in *Colville*, the Alaska Supreme Court cited its earlier 1991 decision in *Homer Electric Association v. City of Kenai*, 816 P.2d 182, again discussing the effect of AS 42.05.141(a) and concluding in part that that section stands for the proposition that the Commission's "powers to adjudicate are plenary, as broad as the specific provisions of the act permit." *HEA v. City of Kenai* at p. 186.

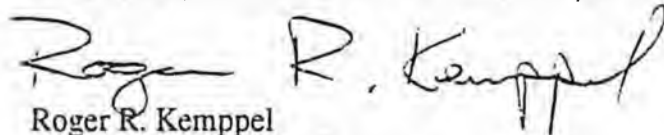
I have not attempted to completely research all of the instances in which the APUC or the courts have relied upon AS 42.05.141 to expand the APUC's specific legislative powers, but I believe that the above cases illustrate that the courts have utilized this section on more than one occasion and have done so quite recently.

You should also note that the cases cited above have been decided both for and against the utility. That is to say that the existence of AS 42.05.141(a)(1) has not always worked to the detriment of the utility, but I do think it is fair to say that it has always worked to expand the APUC's jurisdiction and power beyond that otherwise explicitly granted to it by the legislature.

If you have any further questions or wish me to compile a more exhaustive list of court citations, please feel free to contact me.

Sincerely yours,

KEMPPPEL, HUFFMAN AND GINDER, P.C.



Roger R. Kemppe
General Counsel for ARECA

RRK:lka



Electric Service for 300,000 Alaskans

Alaska

Rural

Electric

Cooperative

Association, Inc.

703 W. Tudor Rd., #200
Anchorage, AK 99503
(907) 561-6103
FAX (907) 561-5547

August 2, 1993

Sen. Tim Kelly
716 W. 4th Ave., Suite 400
Anchorage, AK 99501-2133

Dear Sen. Kelly:

I am pleased to know that you plan to schedule consideration of APUC Sunset Review for early September. Our association has three priority issues we would like for your committee to consider in this review. One of these issues is also raised by the Audit Report.

APUC Powers Liberally Construed

For many years, the APUC has tended to expand the authority it exercises, and the courts have permitted this expansion to take place. The reason for this is the provision in AS 42.05.141(a)(1) that directs that "the powers of the commission shall be liberally construed . . ." This can work either to the advantage or disadvantage of the regulated utility, but in either case, we do not think it is appropriate. We have long believed that a more appropriate directive would be that "the powers of the commission shall be those specifically conferred by the legislature or necessarily implied from those specific grants of authority."

We have long believed that this power to define the role of the commission should rest with the legislature rather than the commission itself, but this issue now takes on much more critical importance. Now that the commission is funded primarily by a variable tax it imposes on the utilities called the "regulatory cost charge," the commission potentially has the resources to fund whatever level of regulation it wishes to develop. No agency of state government should have that kind of power.

Enclosed is a letter from Roger Kempel, our attorney, which details a few recent examples in which the commission and the courts relied on the "liberally construed" language to expand their authority.

We ask that this section be amended so that the legislature reclaims its appropriate authority over the commission.

Negotiated Rulemaking

Negotiated rulemaking is authorized at the federal level, and it is being used there with increasing frequency. Without any special authorization, the Alaska Department of Environmental Conservation has also used this technique quite effectively. We think this approach to rulemaking has considerable merit at the APUC as well. The problem in implementing that approach at the commission without legislative directive is that it would violate existing rules of procedure at the commission which presume adversarial proceedings.

The federal energy legislation of 1992 contained a requirement that state regulatory bodies consider implementing "integrated resource planning." Negotiated rulemaking could be particularly useful in complying with that requirement.

Regulatory Cost Charge

This association objects to the whole idea of this special tax on utilities. We think that operations of the APUC should be paid for from unrestricted general revenue funds. However, if one assumes that the RCC will stay in place in some form, our concern is the same as that of the auditor: There has to be some way to make the allocations of cost under the RCC more equitable.

The audit report recommends that a timekeeping system be established which would be used to allocate responsibility for the RCC the next year. The commission objects to this recommendation because they think this timekeeping would increase their costs significantly. Because the industry is paying the commission's bills, we also have to be sensitive to their costs. So although we are in complete agreement with the audit report in how it defines the problem, we are ambivalent about the cure it recommends.

We recommend a more direct approach to solving the problem. Our proposal is to reconsider the amendment submitted by then Rep. Bert Sharp in the House Finance Committee when the RCC as it exists today was being drafted. The Sharp proposal was to adjust the gross electric revenues by deleting the cost of power before the RCC is calculated. The rationale for doing this is that the distribution function of an electric utility, without the cost of the electricity itself added in, is comparable to the service provided by a local telephone exchange. By deleting the cost of power from the calculation, a great deal more fairness between telephone and electric would be introduced into the system.

As the RCC calculation exists now, electric paid 39% of the total in FY 93, and that will increase to 43% of the total for FY 94. By contrast, the audit report estimates that telephone companies account for 45% of the workload while under the FY 94 plan they will be paying only 21% of the RCC. If the Sharp amendment were in place, the share of RCC for electric would drop to approximately 28% while the share for telephone would increase to approximately 27%.

I look forward to discussing these and other proposals which may be under consideration when your committee meets on APUC sunset review.

Sincerely,

A handwritten signature in cursive script, appearing to read "D Hutchens".

David Hutchens

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160

September 21, 1993

Senator Tim Kelly
716 West 4th Avenue, Suite 400
Anchorage, Alaska 99501-2133

Dear Senator Kelly:

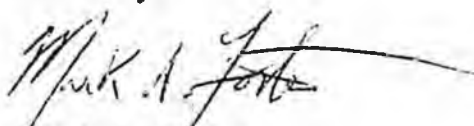
As an individual commissioner, I am responding to the letter ARECA wrote you on August 2, 1993, concerning the APUC Sunset Review with the enclosed report.

The report recommends:

- a cooperative effort of ARECA and APUC to devise a mutually agreeable "negotiated rulemaking" process;
- retention of existing statutory language governing APUC powers and duties;
- a review of the regulatory cost charge from the point of view of all utilities, to ensure equity and fairness among all utility sectors.

Please give me a call if you have any questions.

Sincerely,



Mark A. Foster
Commissioner

Enclosure

cc: Senate Labor and Commerce
Chairman Schröer

APUC

Alaska Public
Utilities Commission

Review prepared by
Commissioner Foster
September 21, 1993

**A Review of
ARECA Proposals
concerning
APUC Sunset Review**

- † **Powers & Duties of APUC**
- † **Rulemaking Process**
- † **Regulatory Cost Charge Options**

REVIEW SUMMARY

This review will examine the ARECA proposals contained in the September 2, 1993, letter to Senator Kelly concerning the APUCs sunset review.

The report will cover the following areas:

- I. APUC Powers & Duties*
 - A. Introduction
 - B. Relevant Cases
 - C. ARECA Proposal
 - D. Summary

- II. Negotiated Rulemaking*
 - A. ARECA Proposal
 - B. Is legislation necessary?
 - C. National Energy Policy Act of 1992

- III. Regulatory Cost Charge
 - A. Legislative Auditor Proposal
 - B. Commission Position
 - C. ARECA Proposal
 - D. Fair and Equitable Solution

*Legal research provided by Virginia Rusch, Attorney General's Office.

APUC POWERS & DUTIES

Introduction:

The general powers and duties of the Commission are prescribed in AS 42.05.141. The initial clause states:

The Alaska Public Utilities Commission may (1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes. [emphasis added] (AS 42.05.141(a)(1))

Relevant Cases:

A computer search of published Alaska Supreme Court decisions shows the "liberally construed" clause is mentioned in eight cases.

Six cases are appeals from decisions of the commission. Two cases came from court cases where a utility argued that various issues were under the commission's jurisdiction.

Of the eight cases, the court determined that the commission had **authority** in four of the cases to do the following:

- grant a utility certificate to perform daily refuse collection. (Colville Environmental Services, Inc. v. North Slope Borough, 831 P.2d 341, 346)(1992)
- make a utility's rates interim and refundable after a hearing. (Far North Sanitation, Inc. v. Alaska Public Utilities Commission, 825 P.2d 867, 869, 872)(1992)

APUC POWERS & DUTIES

Relevant Cases (continued):

- adjudicate the reasonableness of conditions for a utility's use of a right-of-way, including who has to bear the cost of relocating utility facilities when caused by a municipality's own improvement project. (Homer Electric Association v. City of Kenai, 816 P.2d 182, 185-187)(1991)
- allocate, under AS 42.06.610, the costs of temporary counsel hired to represent the commission in pipeline rate proceedings. (Amerada Hess Pipeline Corp. v. Alaska Public Utilities Commission, 711 P.2d 1170, 1182)(1986)

The court found the commission **did not have authority:**

- over classified advertisements in yellow pages. (Municipality of Anchorage v. Locker, 723 P.2d 1261, 1264)(1986)
- to decide whether a borough could regulate its rights-of-way, including construction. (Greater Anchorage Area Borough v. City of Anchorage, 504 P.2d 1027, 1033)(1972)
- to allocate, under AS 42.05.651(a), costs of the assistant attorney generals assigned to the commission. (Homer Electric Association v. Alaska Public Utilities Commission, 756 P.2d 874, 879)(1988)
- to deny a rate increase necessary to meet municipal bond covenants. (Alaska Public Utilities Commission v. Municipality of Anchorage, 555 P.2d 262, 265)(1976)

APUC POWERS & DUTIES

Relevant Cases (continued):

Among the cases in which the court relied upon the "liberally construed" language to conclude the commission has authority, **two are cases where a utility was the prevailing party.**

Overall, the court has followed the interpretation set out in City of Kenai, where the court said:

This provision [AS 42.05.141(a)(1)] presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed."

ARECA Proposal:

ARECA suggests the elimination of the phrase "liberally construed" is needed to avoid a situation where:

- the power to define the role of the commission rests with the commission and not the legislature;
- the commission has the potential to fund whatever level of regulation it wishes to develop.

Both of these reasons are flawed in that they fail to acknowledge the role of the legislature in the process.

APUC POWERS & DUTIES

ARECA Proposal (continued):

The flaw with ARECA's first concern is that the commission's jurisdiction is clearly limited by the Alaska Supreme Court to specific jurisdictional areas of its stated purposes. The stated purposes are the statutes passed by the Legislature. **Thus, commission and the reviewing courts define its role within the specific grant of authority provided by the legislature.**

Recent Example: Healy Coal Project. The commission declined to consider "environmental externalities" because there was not a clear grant of authority from the legislature to do so.

The flaw with ARECA's second concern is that it presumes that the Legislature does not review and approve the Commission's budget every year. This is clearly incorrect. A change in funding source from general fund to program receipts does not diminish the Legislature's power to control expenditures. The budget must still be submitted, reviewed, and approved every year.

A reasonable argument can be made that the change in funding sources will increase the level of oversight of the expenditures by those paying the bill. **If the State of Alaska imposed an income tax, one might expect the scrutiny over expenditures to increase, not decrease.**

Summary:

In summary, as a matter of law and practice, the commission operates within the "stated purposes" set out by the Legislature. Within those purposes the commission is given flexibility to accomplish the goals of the Legislature. There is no compelling reason to change the current statute. It works to protect ratepayers.

NEGOTIATED RULEMAKING

ARECA Proposal:

The ARECA proposal is derived from 5 U.S.C.A. §§ 561-570, the federal "Negotiated Rulemaking Act of 1990." ARECA's proposal is similar to the federal act, but differs in being specific to the APUC whereas the federal act is applicable to all the federal government's administrative agencies.

In Alaska Statutes, the term "negotiated rulemaking" does not appear anywhere. The subject was recently debated in the Administrative Law Section of the Alaska Bar Association.

The "regulations attorney" in the Attorney General's Office, Deborah Behr, has indicated that ADEC and the Medicaid Rate Commission have had some experience in this area. She indicated that the negotiating group had to be treated like a state agency (notice of public meetings, etc.) at every step and that the process was cumbersome and slow.

Constitutional concerns arise if the negotiators (including private parties) actually have the final say about the form of the regulation or whether it would be adopted. The constitutional issue is that an agency's policy setting authority cannot be delegated by the agency. Nor can the legislature give policymaking power to a group which has not been appointed and confirmed by the legislature in accordance with the constitution or applicable statute.

ARECA's proposal also contemplates significant changes from the current governing statutes of the APUC. Under existing statutes, the Commission requires a quorum for official actions. Under the proposal, the Chairman could act unilaterally to require the commission to establish a negotiated rulemaking committee. This would be the first explicit legislative grant of authority to the Chairman in Alaska Statutes.

NEGOTIATED RULEMAKING

Is legislation necessary?

Contrary to the ARECA assertion, negotiated rulemaking would **not** violate existing rules of procedure at the commission. In rulemaking, the commission is bound by the Alaska Administrative Procedures Act just like other agencies. To the extent that any state agency has the authority to use various negotiated rulemaking approaches, the commission has that same authority.

No legislation is required to undertake any of a variety of negotiated rulemaking procedures. All that is required is for a proposal to be brought forward that is consistent with the Alaska Administrative Procedures Act.

National Energy Policy Act of 1992:

ARECA suggests that negotiated rulemaking could be particularly useful in complying with the National Energy Policy Act of 1992. The Act requires the commission to consider implementing integrated resource planning.

I agree.

The use of a negotiated rulemaking process makes sense where:

- the stakeholders can be identified;
- the stakeholders can provide knowledgeable representatives who can commit the time necessary to do the work;
- the issues are complex and decision makers would be aided by a consensus on the facts to the extent possible.

NEGOTIATED RULEMAKING

National Energy Policy Act of 1992 (continued):

A number of utilities have already begun to consider integrated resource planning in one form or another. Some of those have used a form of "negotiated rulemaking" to develop their plan.

Golden Valley Electric Association (GVEA) has demonstrated considerable success in this area. GVEA brought together a broad group of knowledgeable representatives to address integrated resource planning for itself. The results included a demand side management plan that is slated to deliver a noticeable savings to the utility and its ratepayers. Mike Kelly, General Manager of GVEA, is to be commended for his efforts in this area.

Alaska Electric Light & Power has also been active in reviewing and implementing demand side management programs

Other utilities have started to consider various aspects of integrated resource planning. The programs are generally in the early stages of technical development and public involvement.

The National Energy Policy Act mandate to state public utility commissions to review integrated resource planning presents an opportunity for the utilities, the commission, and their constituents to work together and reduce the long-term cost of energy.

In the spirit of cooperation it may be more productive for the utilities and the commission to work together and see if they can devise a mutually agreeable "negotiated rulemaking" process before seeking statutory changes.

REGULATORY COST CHARGE

Legislative Sunset Audit Proposal:

The legislative auditor recommended that the commission adopt a system that would allow direct tracking of commission time and expense on an industry by industry basis. Such a system would require the commission to keep detailed time and expense records to enable an accurate allocation between utilities.

Commission Position:

The commission expressed some concern that the additional level of detail may not be worth the extra administrative overhead.

A typical annual residence in an urban area in Alaska might pay somewhere between \$2500 - \$3500 a year for electricity, gas, telephone, sewer, water, and garbage service. At this year's regulatory cost charge rate of 0.4%, **a typical customer would pay an annual regulatory cost charge of somewhere between \$10 - \$14.** Relatively small shuffles in the regulatory cost charge between utility sectors do not seem to be cost effective.

ARECA Proposal:

ARECA seeks an exemption for the cost of power. What this means precisely is difficult to determine since the regulatory cost charge is assessed on revenues which are related to the price. Price does not equal cost. There are profits, operating ratios¹, and rate design considerations which make the ARECA approach problematic.

¹Operating Ratios is used to include items like Times Interest Earned Ratio (TIER), Debt Service Coverage (DSC), or Margins for Interest (MFI).

REGULATORY COST CHARGE

ARECA Proposal (continued):

The rationale offered for the exemption is imaginative -- the distribution system of an electric system is like a distribution system of a telephone utility and therefore, the cost of power should be exempt. Unfortunately, if the "cost of power" exemption is granted on these grounds, the analogy can be wired in reverse -- the telephone utilities can ask for an exemption for the costs associated with their switching function since their distribution system is like an electric system and the cost of power for electric utilities was exempted. Switching is a substantial cost center for telephone utilities.

Ultimately the attempt by one utility sector to exempt itself is a zero sum game. Any exemptions these utilities receive will result in higher rates to everyone else. This results in very little change to those who are paying the bill -- the ratepayers. The ratepayers who typically have both telephone and electric utility service.

Fair and Equitable Solution:

If the legislature feels there is a significant problem in equity between utility sectors, it could be solved by looking at it from the point of view of all utility sectors.

The legislature could request that the commission work with **all utility sectors and pipeline carriers** to develop a mutually agreeable proposal and submit enabling legislation in January to the committees of jurisdiction.

COMMISSION OF REGULATION COST CHARGE (RCC)
 WITH PROPOSED ELECTRIC EXCLUSION (3/5/93 WORKDRAFT)
 COST OF POWER = FUEL + PURCHASED POWER
 JULY 1, 1993 - JUNE 30, 1994

LNB UTILITY GROSS REVENUES

SECTOR	1992 Revenue (Actual)	Percent RCC (1.21)	Estimated RCC
1 Electric	\$226,276,158	0.538%	\$1,216,670
2 Gas	114,199,505	0.538%	\$614,042
3 Refuse	20,656,122	0.538%	\$111,066
4 Wastewater	20,594,329	0.538%	\$110,734
5 Local Exchange Telephone	78,835,789	0.538%	\$423,894
6 Interexchange Telephone	92,130,745	0.538%	\$495,380
7 Cable	502,500	0.538%	\$2,702
8 Water	24,097,453	0.538%	\$129,570
9 Pipeline	111,838,906	0.538%	\$601,350
10 TOTAL	<u>\$689,131,507</u>		<u>\$3,705,410</u>

FORMULA FOR COMPUTING RCC: $RCC = (B - E + X) / GR$

11 B = APUC Budget	\$3,624,200
12 E = Estimated Actual Cost Charges (\$100,000) + First 13 Quarter Estimated Collections	(100,000)
14 X = Allowance for Uncollectibles = 5% x APUC Budget	181,210
15 TOTAL TO BE RECOVERED	<u>\$3,705,410</u>

16 GR = Utility Gross Receipts	0.5377% NEW RCC RATE
17 Full Year (1.10) \$689,131,507	0.538% New (Rounded)
18	0.455% Old RCC Rate
	0.083% Difference
19 FY94 Estimated Revenue Base	<u>689,131,507</u> 18.2% % Change

20 RCC Percent (1.15 / 1.19)	<u>0.537693%</u>
21 RCC PERCENT ROUNDED	<u>0.538%</u>

COMPUTATION PER ELECTRIC kWh

	\$1,643,270	RCC Electric Share for FY 94
	1,216,670	Revised RCC Electric Share
	\$426,600	Difference
22 1992 Electric Gross Retail Revenue (1.1)	\$226,276,158	192,416 Less Legislative Audit Computation of Electric Overpayment (Sunset Audit, page 8)
23		
24 TIMES: RCC (1.21)	0.538%	\$234,184 Difference
25 Amount Derived from Electric (1.23 x 1.24)	<u>\$226,276,158</u>	
26 1992 Electric Retail kWh	3,644,576,595	
27		
28 Rate per kWh (1.25 / 1.27)		

002/003

AK PUB UTIL COMM

907 276 0160

03/11/94 16:33

h:\home\ad\sechds

SECTION HEADS

Chief Utility Engineer	PCN 08-6003	Mike Tavella
Common Carrier Specialist	PCN 08-6035	Lori Kenyon
Common Carrier Specialist	PCN 08-6059	Phil Treuer
Common Carrier Specialist	PCN 08-6028	Bill Marshall
Consumer Protection & Information Officer III	PCN 08-6023	Mike Neiswonger
Utility Financial Analyst IV	PCN 08-6005	Joe Franco
Utility Tariff Analyst III	PCN 08-6041	Judy White

telecommunications

range 22

of
needed 4 quarters out
first year, no collecting
2/ quarters in 3 quarters
April 1st - June 30th
annex July
31st

Utilities Affected by Changing Gross Revenues
\$100k → 200k throughout
AS 42.05.711

Gas None

Refuse

Interior Services - Ralph E. Bartlett d.b.a. \$204,772 gross
revenues serves Chena Hot Springs. 50 92

Cable None

Water None - 711(g) gives option to vote to deregulate if gross
revenues are below the limit, currently set at \$100,000. No
regulated water utilities have current gross revenues between
\$100,000 and \$200,000 (please see attachment).

Alaska Public Utilities Commission

Water Utilities Gross Operating Revenues

(1992 Calendar Year)

Utility	Net Plant ²	Revenues ¹			Users
		Gross Revenues	Net Income		
(Gross Operating Revenue Greater Than \$1,000,000)					
Anchorage Water and Wastewater Utility, Municipality of Anchorage d/b/a	\$92,391,452	\$25,329,357	\$ 309,395	42,000	
Barrow Utilities and Electric Cooperative, Inc.	105,202	4,717,951	633,247	734	
College Utilities Corporation ³	4,250,048	1,596,677	260,647	44,381	
Subtotal	\$96,746,702	\$31,643,985	\$1,203,289	44,381	
(Gross Operating Revenue Less Than \$500,000)					
Alpat Water Utility Company	\$ 78,119	\$ 26,008	\$ 15,931	80	
Chugiak Utilities	57,397	58,650	12,049	199	
Dawn Development Corporation	44,743	50,348	(6,618)	158	
Eagle Utilities, Inc.	7,561	37,741	(155)	88	
Eklutna Utilities, Inc.	468,517	290,676	(50,073)	664	
Kwik Log Water System, Myron Allen Newton d/b/a		Information not provided.			
Matanuska Utility Company, Inc.	54,174	10,491	6,113	19	
McGahan Utilities, Inc.	12,089	28,735	(3,526)	90	
McKinley Utilities, Inc. ⁴	0	10,507	(3,990)	37	
N.L.T. Water Co., Inc.	57,313	7,055	(1,462)	33	
Norfolk Utilities, Inc.	537,657	358,774	73,788	2,940	
PUI Acquisition Corporation	8,548	8,039	2,629	145	
Potter Creek Water Company	109,346	28,567	(4,269)	68	
Sandlake Services, R.J. & Clara Rhodes d/b/a	18,247	28,963	9,273	137	
Snowshoe Water Company, B&J Ventures d/b/a	27,950	14,072	(798)	28	
South Central Utilities, Inc.	49,642	24,340	1,479	60	
Spenard Heights Water System, Wayne Cates d/b/a	26	17,032	(2,356)	28	
Swiss Castle Estates Water Works, Ronald P. Alleva d/b/a	28,851	9,199	(6,460)	20	
Trillium Corporation	6,894	5,208	(6,484)	63	
Valley Water Company, Inc. ⁵	302,918	186,779	(7,469)	161	
Subtotal	\$ 1,869,992	\$ 1,201,184	\$ 27,602	5,018	
TOTAL	\$98,616,694	\$32,845,169	\$1,230,891	49,399	

1. Revenue classes per 3 AAC 48.277.

2. Net of contributions-in-aid-of-construction which consist of assessments or grants from customers or other sources which are used to fund plant construction costs.

3. Information presented for year ending 11/30/92.

4. Information presented for year ending 4/30/93.

5. Information presented for year ending 3/31/93.

B:RCCCOMP?

COMPUTATION OF REGULATORY COST CHARGE (RCC)
JULY 1, 1993 - JUNE 30, 1994

LINE UTILITY GROSS REVENUES

SECTOR	1992 Revenue (Actual)	1992 Revenue 9 Months(.784)	Percent RCC (1.21)	Estimated RCC
1 Electric	\$173,285,799	\$135,856,066	0.586%	\$796,627
2 Gas	114,199,505	\$89,532,412	0.586%	\$24,996
3 Refuse	20,656,122	\$16,194,400	0.586%	94,960
4 Wastewater	20,594,329	\$16,145,954	0.586%	94,676
5 Local Exchange Telephone	78,835,789	\$61,807,259	0.586%	362,423
6 Interexchange Telephone	92,130,745	\$72,230,504	0.586%	423,542
7 Cable	502,500	\$393,960	0.586%	2,310
8 Water	24,097,453	\$18,892,403	0.586%	110,780
9 Pipeline	111,838,906	\$87,681,702	0.586%	514,144
10 TOTAL	<u>\$636,141,148</u>	<u>\$498,734,660</u>		<u>\$2,924,458</u>

FORMULA FOR COMPUTING RCC: $RCC = (B - E + X)/GR$

11 B = APUC Budget	\$3,624,200
12 E = Estimated Actual Cost Charges (\$100,000) + First Quarter Estimated Collections (\$1,000,178)	(100,000) (780,952)
14 X = Allowance for Uncollectibles = 5% x APUC Budget	181,210
15 TOTAL TO BE RECOVERED	<u>\$2,924,458</u>
16 GR = Utility Gross Receipts	
17 Full Year (l. 10)	\$636,141,148
18 FY 1994 (9 months)	<u>78.4%</u>
19 FY94 Estimated Revenue Base	<u>498,734,660</u>
20 RCC Percent (1.15 / 1.19)	<u>0.586376%</u>
21 RCC PERCENT ROUNDED	<u>0.586%</u>

COMPUTATION PER ELECTRIC kWh

22 1992 Electric Gross Retail Revenue (l.1)	\$173,285,799
23 1992 Prorated at 78.4	\$135,856,066
24 TIMES: RCC (1.21)	<u>0.586%</u>
25 Amount Derived from Electric (1.23 x 1.24)	<u>796,627</u>
26 1992 Electric Retail kWh	3,644,576,595
27 1992 Prorated at 78.4%	<u>2,857,348,050</u>
28 Rate per kWh (1.25 / 1.27)	<u>\$0.000279</u>

R. Johnson
RCC DEPR

ELECTRIC UTILITIES

Utility	Total APUC Reporte	Exclusions	Pursuant To U-93-46 RCC Gross Revenue	Fuel Cost APUC AR Page 321 Lines 62/75	Adjusted Net Revenue Excludes Cost/Power	1992 Depreciation Expense	Adjusted Net Revenue Excludes Cost/Power & Depr.
AEG&T	36,936,890	36,936,890	0				
AEL&P	20,687,445	208,759	20,478,686	6,964,788	13,513,898	2,558,528	10,955,370
Arctic	4,989,775	109,116	4,880,659	2,102,626	2,778,033	* 735,030	2,043,003
AVEC	15,495,214	55,714	15,439,500	4,355,766	11,083,734	2,444,403	8,639,331
Bethel	6,195,207	167,641	6,027,566	3,182,833	2,844,733	304,298	2,540,435
Chugach	117,641,030	41,945,250	75,695,780	18,159,498	57,536,282	16,455,180	41,081,102
CVEA	8,737,519	9,385	8,728,134	3,658,659	5,069,475	747,881	4,321,594
GVEA	47,130,410	2,124,754	45,005,656	13,703,159	31,302,497	5,677,446	25,625,051
HEA	36,319,209	1,070,461	35,248,748	17,590,517	17,658,231	3,558,277	14,099,954
Kodiak	16,220,190	48,187	16,172,003	7,659,677	8,512,326	* 2,435,511	6,076,815
MEA	40,463,624	1,059,486	39,404,138	19,469,330	19,934,808	3,442,273	16,492,535
ML&P	67,533,105	1,061,135	66,471,970	22,745,706	43,726,264	11,874,391	31,851,873
AP&T	5,013,760	478,406	4,535,354	1,574,088	2,961,266	* 683,026	2,278,240
Barrow(Dereg93)		0	0		0		
Kotzebuc	3,225,820	15,958	3,209,862	1,167,900	2,041,962	* 483,407	1,558,555
Aniak	796,926	698	796,228	218,452	577,776	119,912	457,864
G&K	1,109,132	0	1,109,132	290,600	818,532	167,036	651,496
Gwitchyaa 4/92	629,705	2,138	627,567	238,597	388,970	94,512	294,458
HL&P	1,490,177	4,008	1,486,169	545,748	940,421	223,818	716,603
McCrath	973,171	65,558	907,613	545,748	361,865	136,687	225,178
Sand Point	1,053,533	0	1,053,533	288,000	765,533	158,663	606,870
Tanana	576,183	18,721	557,462	195,078	362,384	83,954	278,430
Unalakleet	825,975	18,889	807,087	140,802	666,285	121,548	544,737
Bettles	424,839	1,534	423,305	77,141	346,164	63,750	282,414
Far North	152,422	773	151,649	26,948	124,701	22,838	101,862
Gustavus	458,937	622	458,315	108,855	349,460	69,022	280,438
Manley	199,069		199,069	23,263	175,806	29,980	145,826
ML&EC	471,429	11,188	460,241	144,462	315,779	69,313	246,466
Napakiak	253,220	14,963	238,257	132,213	106,044	35,882	70,162
Northway	373,967		373,967	120,743	253,224	56,320	196,904
PUI	465,371		465,371	50,182	415,189	70,085	345,104
Teller	447,465		447,465	102,949	344,516	67,388	277,128
	437,290,719	85,430,223	351,860,486	125,584,328	226,276,158	52,990,358	173,285,799

* 15 061

* Chugach \$41,945,250 exclusion includes cost of power for wholesale and economy energy
 \$18,159,498 exclusion attempts to add back that portion of orig exclusion associated with cost of power previously excluded.

Electric Utilities

(1991 Calendar Year)

Utility	Revenues ¹			Users
	Net Plant	Total Revenues	Net Income	
(Gross Operating Revenue \$5,000,000 or Greater)				
Alaska Electric Generation & Transmission Cooperative, Inc.	\$ 15,132,391	\$ 36,107,128	\$ 520,344	1
Alaska Electric Light and Power Company	39,698,352	20,393,975	2,359,645	12,580
Alaska Village Electric Cooperative, Inc.	27,702,360	14,422,892	2,055,036	5,317
Arctic Utilities, Inc. ²	7,408,846	5,438,438	165,654	65
Bethel Utilities Corporation, Inc.	2,940,363	5,837,208	253,258	1,796
Chugach Electric Association, Inc.	405,044,506	113,063,777	6,528,017	61,069
Copper Valley Electric Association, Inc.	13,823,094	8,772,239	761,652	2,747
Golden Valley Electric Association, Inc.	129,119,361	44,786,188	4,921,758	26,569
Homer Electric Association, Inc.	85,626,945	33,936,610	2,124,098	18,173
Kodiak Electric Association, Inc.	42,079,649	16,037,039	1,685,511	15,154
Matanuska Electric Association, Inc.	97,965,827	39,421,396	4,718,151	29,008
Municipal Light & Power Department, Municipality of Anchorage d/b/a	141,035,282	69,064,766	2,545,094	29,144
Subtotal	\$1,007,576,976	\$407,281,656	\$28,638,218	191,623
(Gross Operating Revenue Greater Than \$1,500,000 but Less Than \$5,000,000)				
Alaska Power & Telephone Company	\$ 6,735,677	\$4,521,539	\$1,104,194	1,957
Barrow Utilities and Electric Cooperative, Inc.	4,599,233	1,989,787	153,281	1,357
Kotzebue Electric Association, Inc.	7,029,760	3,051,630	131,097	1,002
Subtotal	\$18,364,670	\$9,562,956	\$1,388,572	4,316
(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,500,000)				
Aniak Light and Power Company, Inc.	\$ 859,291	\$ 794,818	\$ 65,560	186
G & K, Inc.	2,003,537	1,185,853	69,083	77
Gwitchyaa Zhee Utility Company ³	555,237	629,705	63,223	329
Haines Light and Power Co, Inc.	1,882,384	1,408,805	67,375	848
McGrath Light & Power Company ⁴	1,149,378	980,749	149,809	222
Sand Point Electric, Inc.	1,120,558	1,080,533	55,349	464
Tanana Power Company, Inc.	899,312	542,833	32,518	175
Unalakleet Valley Electric Cooperative, Inc., Matanuska Electric Assoc., Inc. d/b/a	1,055,161	825,050	160,336	299
Subtotal	\$9,524,858	\$7,448,356	\$663,253	2,600

¹ Revenue classes per 3 AAC 48.277.³ Information presented for year ending 4/30/92.² Information presented for year ending 9/30/91.⁴ Information presented for year ending 9/30/91.

Electric Utilities (Continued)

Utility	Revenues ¹			Users
	Net Plant	Total Revenues	Net Income	
(Gross Operating Revenue Less Than \$500,000)				
Bettles Light & Power, Inc.	\$ 255,340	\$ 422,033	\$ 23,551	46
Far North Utilities	273,946	161,566	(15,066)	38
Gustavus Electric, Inc.	490,309	458,937	41,946	222
Manley Utility Company, Inc.	383,809	163,609	(30,527)	79
Middle Kuskokwim Electric Cooperative, Inc.	1,533,699	411,642	8,586	169
Napakiak Ircinaq Power Company	67,481	226,524	(35,757)	106
Northway Power & Light, Inc.	431,545	369,825	(14,328)	116
PUI Acquisition Corporation	496,692	476,240	154,502	124
Teller Power Company, Inc.	299,739	413,578	(16,043)	95
Subtotal	\$ 4,232,560	\$ 3,103,954	\$ 116,864	999
TOTALS	\$ 1,039,699,064	\$427,396,922	\$30,806,907	197,107

¹ Revenue losses per 3 AAC 48.277.

Gas Utilities

(1991 Calendar Year)

Utility	Revenues ¹			Users
	Net Plant	Total Revenues	Net Income	
(Gross Operating Revenue \$5,000,000 or Greater)				
ENSTAR Natural Gas Company ²	\$165,749,073	\$129,617,257	\$9,868,446	83,674
Subtotal	\$165,749,073	\$129,617,257	\$9,868,446	83,674
(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,000,000)				
Barrow Utilities and Electric Cooperative, Inc.	\$ ³	\$ 812,910	\$ 90,474	972
Norgasco, Inc.	2,381,410	1,772,572	317,151	36
Subtotal	\$ 2,381,410	\$ 2,585,484	\$ 407,625	1,008
Total	\$168,130,483	\$132,202,741	\$10,276,071	84,682

Sample Monthly Residential Gas Rates

(As of June 30, 1992)

Community	Minimum Bill	Average Bill	Average Monthly Consumption ⁴ (MCF)	Utility Serving Community
Anchorage	\$ 4.50	\$55.61	15.7	ENSTAR Natural Gas Company
Barrow	12.27	39.93	17.9	Barrow Utilities and Electric Cooperative, Inc.
Eagle River	4.50	55.61	15.7	ENSTAR Natural Gas Company
Kenai	4.50	55.61	15.7	ENSTAR Natural Gas Company
Palmer	4.50	55.61	15.7	ENSTAR Natural Gas Company
Soldotna	4.50	55.61	15.7	ENSTAR Natural Gas Company
Wasilla	4.50	55.61	15.7	ENSTAR Natural Gas Company

¹ Revenue classes per 3 AAC 48.277.

² Combined for ENSTAR Natural Gas Company and Alaska Pipeline Company.

³ Gas plant not separated from electric, sewer, water, or general plant.

⁴ Average monthly consumption is calculated company-wide

Refuse Utilities

(1991 Calendar Year)

Utility	Revenues ¹			Users
	Net Plant	Gross Revenues	Net Income	
(Gross Operating Revenue \$200,000 or Greater)				
Anchorage Refuse, Inc.	\$3,093,549	\$11,436,962	\$ 533,530	25,700
Andersen, Incorporated ²	79,903	278,026	2,627	941
Channel Sanitation Corporation	499,064	3,081,189	(237,511)	5,262
Drake's Sanitation, Inc. ³	29,483	456,027	(40,974)	187
Eagle River Refuse, Inc.	96,000	1,131,076	46,479	4,077
Far North Sanitation Service, Inc.	883,173	1,044,336	114,067	670
Interior Services, Ralph E. Bartlett d/b/a	484,923	564,862	58,547	206
Peninsula Sanitation Company, Inc.	51,371	1,231,736	203,362	2,247
Tongass Sanitation, Wallace A. & Diana L. Crowe d/b/a	161,191	697,557	75,544	728
Wasilla Refuse, Inc. ⁴	160,592	610,868	8,558	867
Williwaw Services, Inc. ⁴	218,470	489,924	2,025	115
TOTAL	\$5,757,719	\$21,022,563	\$ 766,254	41,000

¹ Revenue Class per 3 AAC 48.277.

² Information presented for year ending 11/30/91.

³ Information presented for year ending 4/30/92.

⁴ Information presented for year ending 3/31/92.

Telecommunications Utilities
(Interexchange & Local Exchange Carriers)
 (1991 Calendar Year)

Utility	Net Plant	Revenues ¹		Main Access Lines
		Gross Revenues	Net Income	
Gross Operating Revenue \$5,000,000 or Greater)				
Alascom, Inc.	\$389,266,807	\$344,212,115	\$ 5,028,215	N/A
Anchorage Telephone Utility, Municipality of Anchorage d/b/a	190,755,816	84,884,602	5,192,433	134,831
GTE Alaska, Incorporated	13,362,737	9,364,978	2,011,904	14,808
Interior Telephone Company	12,352,184	6,213,625	216,179	3,752
Matanuska Telephone Association, Inc.	81,116,559	35,761,990	4,280,751	31,326
Telephone Utilities of Alaska, Inc.	20,967,634	13,885,396	1,782,221	22,404
Telephone Utilities of the Northland, Inc.	79,745,875	49,739,760	6,622,934	43,450
United Utilities, Inc.	17,077,641	9,653,401	697,453	3,444
Subtotal	\$804,645,253	\$553,715,867	\$25,832,090	254,015
(Gross Operating Revenue Greater Than \$1,000,000 but Less Than \$5,000,000)				
Arctic Slope Telephone Association Cooperative, Inc.	\$ 3,488,504	\$ 3,425,631	\$ 416,805	1,795
Bristol Bay Telephone Cooperative, Inc.	2,404,223	1,841,143	(113,312)	1,230
Bush-Tell, Inc.	2,873,912	1,205,352	113,928	664
Copper Valley Telephone Cooperataive, Inc.	11,238,813	3,818,023	1,024,531	4,000
Mukluk Telephone Company, Inc.	2,568,937	1,532,478	75,786	763
National Utilities, Inc.	3,027,723	2,328,354	579,589	2,221
Nushagak Telephone cooperative, Inc.	3,315,506	1,679,981	249,703	1,609
OTZ Telephone Cooperative, Inc.	3,923,235	2,198,207	1,045,872	1,971
Subtotal	\$ 32,840,853	\$ 18,029,169	\$ 3,392,902	14,253

¹Revenue classes per 3 AAC 48.277.

(Continued)

**Telecommunications Utilities
(Interexchange & Local Exchange Carriers) (Continued)**

Utility	Net Plant	Revenues ¹		Main Access Lines
		Gross Revenues	Net Income	
(Gross Operating Revenue Less Than \$1,000,000)				
Battles Telephone Company, Inc.	\$ 99,036	\$ 153,022	\$ (2,390)	70
North Country Telephone Company	163,194	103,479	16,172	110
Summit Telephone Company, The Summit Telephone and Telegraph Company of Alaska, d/b/a	222,809	169,751	57,628	65
Yukon Telephone Company, Inc.	848,601	813,948	61,246	378
Subtotal	\$ 1,333,640	\$ 1,240,200	\$ 132,656	623
TOTAL	\$838,819,746	\$572,985,236	\$29,357,648	268,891

¹ Revenue classes per 3 AAC 48.277.

Check appropriate box:

Original signed form

Conformed copy

Form Approved
OMB No. 1902-0021
(Expires 12/30/92)



FERC Form No. 1: ANNUAL REPORT OF MAJOR ELECTRIC UTILITIES, LICENSEES AND OTHERS

This report is mandatory under the Federal Power Act, Sections 3.4(a), 304 and 309, and 18 CFR 141.1. Failure to report may result in criminal fines, civil penalties and other sanctions as provided by law. The Federal Energy Regulatory Commission does not consider this report to be of a confidential nature.

Exact Legal Name of Respondent (Company)

Golden Valley Electric Association, Inc.

Year of Report

Dec. 31, 1991

Name of Respondent		This Report Is:	Date of Report	Year of Report
Golden Valley Electric Assn. Inc.		(1) X An Original (2) A Resubmission	(Mo, Da, Yr) MAR 31 1992	Dec. 31, 1991
ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)				
Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)	
103	3. DISTRIBUTION EXPENSES (Continued)			
104	(581) Load Dispatching			
105	(582) Station Expenses	\$298	\$1,188	
106	(583) Overhead Line Expenses	98,713	120,954	
107	(584) Underground Line Expenses	6,366	6,378	
108	(585) Street Lighting and Signal System Expenses			
109	(586) Meter Expenses	161,456	160,517	
110	(587) Customer Installations Expenses	63,189	56,175	
111	(588) Miscellaneous Expenses	34,010	24,419	
112	(589) Rents	970	3,660	
113	TOTAL Operation (Enter Total of lines 102 thru 112)	\$471,911	\$456,973	
114	Maintenance			
115	(590) Maintenance Supervision and Engineering			
116	(591) Maintenance of Structures			
117	(592) Maintenance of Station Equipment	196,136	186,528	
118	(593) Maintenance of Overhead Lines	1,390,599	1,194,291	
119	(594) Maintenance of Underground Lines	56,514	64,582	
120	(595) Maintenance of Line Transformers	209,417	127,349	
121	(596) Maintenance of Street Lighting and Signal Systems			
122	(597) Maintenance of Meters	16,126	10,492	
123	(598) Maintenance of Miscellaneous Distribution Plant	2,263	1,414	
124	TOTAL Maintenance (Enter Total of lines 115 thru 123)	\$1,871,055	\$1,584,636	
125	TOTAL Distribution Expenses (Enter Total of lines 113 and 124)	\$2,342,966	\$2,041,609	
126	4. CUSTOMER ACCOUNTS EXPENSES			
127	Operation			
128	(901) Supervision	42,789	38,046	
129	(902) Meter Reading Expenses	392,106	385,247	
130	(903) Customer Records and Collection Expenses	1,159,632	1,103,305	
131	(904) Uncollectible Accounts	87,171	127,197	
132	(905) Miscellaneous Customer Accounts Expenses			
133	TOTAL Customer Accounts Expenses (Enter Total of lines 128 thru 132)	\$1,681,698	\$1,653,795	
134	5. CUSTOMER SERVICE AND INFORMATIONAL EXPENSES			
135	Operation			
136	(907) Supervision	46,147	39,928	
137	(908) Customer Assistance Expenses	128,200	114,702	
138	(909) Informational and Instructional Expenses	142,331	135,225	
139	(910) Miscellaneous Customer Service and Informational Expenses	8,618	2,163	
140	TOTAL Cust. Service and Informational Expenses (Enter Total of lines 136 thru 139)	\$325,296	\$292,018	
141	6. SALES EXPENSES			
142	Operation			
143	(911) Supervision			
144	(912) Demonstrating and Selling Expenses		64	
145	(913) Advertising Expenses			
146	(918) Miscellaneous Sales Expenses			
147	TOTAL Sales Expenses (Enter Total of lines 143 thru 146)		\$64	
148	7. ADMINISTRATIVE AND GENERAL EXPENSES			
150	Operation			
151	(920) Administrative and General Salaries	605,366	546,361	
152	(921) Office Supplies and Expenses	251,101	232,727	
153	(Less) (922) Administrative Expenses Transferred-Credit	(2,245,743)	(1,973,780)	

Name of Respondent		This Report Is:	Date of Report	Year of Report
Golden Valley Electric Assn, Inc.		(1) X An Original (2) A Resubmission	(Mo, Da, Yr) MAR 3 : 1992	Dec. 31, 1991
ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)				
Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)	
50	C. Hydraulic Power Generation (Continued)			
51	Maintenance			
52	(541) Maintenance Supervision and Engineering			
53	(542) Maintenance of Structures			
54	(543) Maintenance of Reservoirs, Dams, and Waterways			
55	(544) Maintenance of Electric Plant			
56	(545) Maintenance of Miscellaneous Hydraulic Plant			
57	TOTAL Maintenance (Enter Total of lines 52 thru 56)			
58	TOTAL Power Production Expenses-Hydraulic Power (Enter Total of lines 49 and 57)			
59	D. Other Power Generation			
60	Operation			
61	(546) Operation Supervision and Engineering	591,785	601,517	
62	(547) Fuel	4,399,997	3,988,506	
63	(548) Generation Expenses	365,298	423,797	
64	(549) Miscellaneous Other Power Generation Expenses	15,554	19,394	
65	(550) Rents	293	1,021	
66	TOTAL Operation (Enter total of lines 61 thru 65)	\$5,372,927	\$5,034,235	
67	Maintenance			
68	(551) Maintenance Supervision and Engineering	30,677	16,489	
69	(552) Maintenance of Structures	39,538	192,318	
70	(553) Maintenance of Generating and Electric Plant	808,160	665,150	
71	(554) Maintenance of Miscellaneous Other Power Generation Plant	108,469	98,415	
72	TOTAL Maintenance (Enter Total of lines 68 thru 71)	\$986,842	\$972,372	
73	TOTAL Power Production Expenses-Other Power (Enter Total of lines 66 and 72)	\$6,359,769	\$6,006,607	
74	E. Other Power Supply Expenses			
75	(555) Purchased Power	8,005,081	8,899,472	
76	(556) System Control and Load Dispatching			
77	(557) Other Expenses			
78	TOTAL Other Power Supply Expenses (Enter Total of lines 75 thru 77)	\$8,005,081	\$8,899,472	
79	TOTAL Power Production Expenses (Enter Total of lines 20, 40, 58, 73, and 78)	\$21,288,868	\$21,279,368	
80	2. TRANSMISSION EXPENSES			
81	Operation			
82	(560) Operation Supervision and Engineering	97,919	91,506	
83	(561) Load Dispatching	324,244	294,971	
84	(562) Station Expenses	142,033	141,908	
85	(563) Overhead Line Expenses	663		
86	(564) Underground Line Expenses			
87	(565) Transmission of Electricity by Others			
88	(568) Miscellaneous Transmission Expenses			
89	(587) Rents	45	773	
90	TOTAL Operation (Enter Total of lines 82 thru 89)	\$564,904	\$529,156	
91	Maintenance			
92	(568) Maintenance Supervision and Engineering	18,810	11,712	
93	(569) Maintenance of Structures			
94	(570) Maintenance of Station Equipment	245,860	244,429	
95	(571) Maintenance of Overhead Lines	223,641	243,793	
96	(572) Maintenance of Underground Lines	250		
97	(573) Maintenance of Miscellaneous Transmission Plant			
98	TOTAL Maintenance (Enter Total of lines 92 thru 97)	\$488,561	\$499,934	
99	TOTAL Transmission Expenses (Enter Total of lines 90 and 98)	\$1,053,465	\$1,029,090	
100	3. DISTRIBUTION EXPENSES			
101	Operation			
102	(580) Operation Supervision and Engineering	106,909	83,682	

Name of Respondent Golden Valley Electric Assn, Inc.		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) MAR 31 1992	Year of Report Dec. 31, 1991
ELECTRIC OPERATION AND MAINTENANCE EXPENSES				
If the amount for previous year is not derived from previously reported figures, explain in footnotes.				
Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)	
1	1. POWER PRODUCTION EXPENSES			
2	A. Steam Power Generation			
3	Operation			
4	(500) Operation Supervision and Engineering	\$774,100		\$766,355
5	(501) Fuel	3,542,635		3,600,598
6	(502) Steam Expenses	521,012		518,827
7	(503) Steam from Other Sources			
8	(Less) (504) Steam Transferred-Cr.	(85,602)		(80,322)
9	(505) Electric Expenses	508,291		480,866
10	(506) Miscellaneous Steam Power Expenses	164,935		212,832
11	(507) Rents	263		263
12	TOTAL Operation (Enter Total of Lines 4 thru 11)	\$5,425,634		\$5,499,417
13	Maintenance			
14	(510) Maintenance Supervision and Engineering	47,895		51,368
15	(511) Maintenance of Structures	168,851		64,157
16	(512) Maintenance of Boiler Plant	707,855		568,793
17	(513) Maintenance of Electric Plant	458,519		136,367
18	(514) Maintenance of Miscellaneous Steam Plant	115,264		53,187
19	TOTAL Maintenance (Enter Total of lines 14 thru 18)	\$1,498,384		\$873,872
20	TOTAL Power Production Expenses-Steam Power (Enter Total of lines 12 and 19)	\$6,924,018		\$6,373,289
21	B. Nuclear Power Generation			
22	Operation			
23	(517) Operation Supervision and Engineering			
24	(518) Fuel			
25	(519) Coolants and Water			
26	(520) Steam Expenses			
27	(521) Steam from Other Sources			
28	(Less) (522) Steam Transferred-Cr.			
29	(523) Electric Expenses			
30	(524) Miscellaneous Nuclear Power Expenses			
31	(525) Rents			
32	TOTAL Operation (Enter Total of lines 23 thru 31)			
33	Maintenance			
34	(528) Maintenance Supervision and Engineering			
35	(529) Maintenance of Structures			
36	(530) Maintenance of Reactor Plant Equipment			
37	(531) Maintenance of Electric Plant			
38	(532) Maintenance of Miscellaneous Nuclear Plant			
39	TOTAL Maintenance (Enter Total of lines 34 thru 38)			
40	TOTAL Power Production Expenses-Nuclear Power (Enter Total of lines 32 and 39)			
41	C. Hydraulic Power Generation			
42	Operation			
43	(535) Operation Supervision and Engineering			
44	(536) Water for Power			
45	(537) Hydraulic Expenses			
46	(538) Electric Expenses			
47	(539) Miscellaneous Hydraulic Power Generation Expenses			
48	(540) Rents			
49	TOTAL Operation (Enter Total of lines 43 thru 48)			

Name of Respondent Golden Valley Electric Assn, Inc.		This Report Is: (1) X An Original (2) A Resubmission	Date of Report (Mo, Da, Yr) MAR 31 1992	Year of Report Dec. 31, 1991
ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)				
Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)	
153	7. ADMINISTRATIVE AND GENERAL EXPENSES (Continued)			
154	(923) Outside Services Employed	\$269,021	\$344,574	
155	(924) Property Insurance	133,459	134,937	
156	(925) Injuries and Damages	765,685	735,915	
157	(926) Employee Pensions and Benefits	2,185,498	1,789,735	
158	(927) Franchise Requirements			
159	(928) Regulatory Commission Expenses	187,221	81,840	
160	(929) Duplicate Charges-Cr.			
161	(930.1) General Advertising Expenses (Directors' Expenses)	83,292	81,242	
162	(930.2) Miscellaneous General Expenses	314,729	209,514	
163	(931) Rents			
164	TOTAL Operation (Enter Total of lines 150 thru 163)	\$2,549,719	\$2,183,065	
165	Maintenance			
166	(935) Maintenance of General Plant	258,319	267,566	
167	TOTAL Administrative and General Expenses (Enter Total of lines 164 & 166)	\$2,808,038	\$2,450,631	
168	TOTAL Electric Operation and Maintenance Expenses (Enter Total of lines 79, 99, 125, 133, 140, 147, and 167)	\$29,500,331	\$28,746,575	

NUMBER OF ELECTRIC DEPARTMENT EMPLOYEES	
<p>1. The data on number of employees should be reported for the payroll period ending nearest to October 31, or any payroll period ending 60 days before or after October 31.</p> <p>2. If the respondent's payroll for the reporting period includes any special construction personnel, include such employees on line 3, and show the number of such special</p>	<p>construction employees in a footnote.</p> <p>3. The number of employees assignable to the electric department from joint functions of combination utilities may be determined by estimate, on the basis of employee equivalents. Show the estimated number of equivalent employees attributed to the electric department from joint functions.</p>
1. Payroll Period Ended (Date)	October 26, 1991
2. Total Regular Full-Time Employees	162
3. Total Part-Time and Temporary Employees	30
4. Total Employees	192

SB 213: A.P.U.C Extension & Relating to the Regulatory Cost Charge & Regulation of Utilities

Provisions Inserted by the Labor & Commerce Committee

Section 3: Adjusts the allocation of the Regulatory Cost Charge for electric utilities by subtracting the cost of power from their gross revenues.

The auditor recommended the APUC periodically adjust the RCC allocation among utility types to reflect workload on an industry by industry basis utilizing a timekeeping system. However, the commission argued such a change would be complicated and require more staff. ARECA proposed this "rough cut" justice as a simplified and more economical way to achieve the auditor's recommendation.

Sections 2 & 13: Increases the regulatory cost charge ceiling for public utilities and pipeline carriers from .61 percent to .8 percent.

This change was necessitated when cost of power was subtracted from electric utilities gross revenues before application of the RCC. The RCC would need to be increased roughly 30 percent to maintain the same amount of revenue for the commissions operating costs. (Remember, the RCC is a direct pass through on our utility bills, and is itemized as the RCC).

Sections 4 & 14: Requires the Dept. of Administration to earmark regulatory cost charges over-collected for appropriation by the Legislature for the commission's next fiscal year.

Currently, by the time 4th quarter RCC charges arrive in July, the new fiscal year has started. If the APUC has overcollected, and they won't know until the 4th quarter receipts arrive, the money lapses into the general fund. This section would allow those overcollected funds to be appropriated back to the APUC thus reducing the next year's RCC.

Sections 7 & 11 & 12: Provides that subscribers of small utilities or utilities otherwise exempt from regulation can petition for an election to place the utility under regulation under the same procedures the subscribers of a regulated utility can petition for an election to remove the utility from regulation.

This provision was recommended by the auditor and supported by the commission. Under current statute, 10 percent of the first 5,000 subscribers of a regulated utility and 3 percent of the remaining subscribers may petition for an election to remove a utility within certain revenue parameters from regulation. However, for subscribers to petition for an election to place an unregulated utility under regulation they must gather the signatures of 25% of the subscribers. The auditor recommended the procedures for subscribers to opt-in or opt-out of economic regulation should be easier. These sections provide that opt-in and opt-out procedures are identical.

Sections 8 & 9 & 10: Gives more consumers the option to deregulate by by raising the "cut-off" amount of gross revenues a utility receives under which the consumers may elect for deregulation.

Currently, electric and telephone utilities that do not gross \$325,000 annually may elect to be exempt from regulation. Section 8 increases that amount to \$500,000. For other utilities the cut-off was raised from \$100,000 to \$150,000, except for garbage collection utilities the amount was raised from \$200,000 to \$300,000.

These provision were recommended by the auditor and supported by the commission. They increase the consumers options to deregulate.

Section 15: Extends the sunset date of the APUC to June 30, 1998.

Section 16: Repeals the sunset provisions for the regulatory cost charge.

This provision was proposed by the auditor and supported by the APUC. Both assert the Commission's sunset review is adequate to address any issues that arise with the Regulatory Cost Charge.

Section 17: Staggers the terms of the members of the commission.

Currently, the terms of the consumer seat and the engineering seat expire at the same time. This provision would stagger the terms, though it would not affect the terms of any of the current commissioners.

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 5/7/93

2/3/94

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/15/94

L&C Committee considered SB 213

"An Act extending the Alaska Public Utilities Commission and the regulatory cost charge."

and recommends:

replace with _____ CS SB 213 (L&C)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
CS458 DCED	2/7/94	<input checked="" type="checkbox"/>	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS: _____
Steve King

Bob Meyer

OTHER RECOMMENDATIONS:

Judith E. Salo

Tim Kelly - Do Pass
Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 213

Revision Date: 2/4/93
 Title: Extending the Alaska Public Utilities Commission and the regulatory cost charge
 Sponsor: Senator Kelly
 Requestor: Senate Labor & Commerce

Department Affected: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: _____
 COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 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.)

Changes in CS SB 213 (4C)
 have no fiscal impact. This
 fiscal note is appropriate.
3/15/94 [Signature]
 date Comptroller Aide (initial)

Prepared by: Bob Lohr, Executive Director
 Division: Alaska Public Utilities Commission

Phone: 276-6222
 Date: _____

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 2-7-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 213 (L&C)

Revision Date:	Dept. Affected: <u>Revenue</u>
Title: <u>APUC Extension and Regulatory Cost Charge</u>	BRU: <u>Revenue Operations</u>
	Component: <u>Income and Excise Audit</u>
Sponsor: <u>(S) L&C</u>	
Requestor: <u>(S) JUD</u>	COMPONENT SERIAL NO. <u>113</u>

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE: General	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)
 (See Attached)

Prepared by:	Larry E. Meyers <i>Larry E. Meyers</i>	Phone: <u>465-2320</u>
Division:	Director	Date: <u>March 28, 1994</u>
Approved by Commissioner:	Darrel J. Rexwinkel <i>Darrel J. Rexwinkel</i>	Date: <u>March 28, 1994</u>
Agency:	Department of Revenue	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Bill Analysis

Sections 1 and 10 of this bill increase the maximum rate of regulatory cost charges (RCC) paid by regulated public utilities and pipeline carriers to the Alaska Public Utilities Commission (APUC) from .61% to .8% of gross revenue derived from operations in the state. The RCC is typically passed on to utility customers on their utility bills.

Section 2 of this bill allows electric utilities subject to RCC to reduce gross revenues by subtracting the cost of power for calculating RCCs paid to APUC.

Sections 3 and 11 authorize the legislature to appropriate the balance of APUC's operating budget which lapses to the general fund to APUC for its operating costs for the next fiscal year. These sections provide that "The Department of Revenue shall identify the amount of the operating budget of the commission that lapses into the general fund each year." The sentence should substitute the Department of Administration for the Department of Revenue.

Sections 4 through 9 deal with provisions which increase gross revenue amounts which exempt utilities from regulation and requirements to pay RCCs to APUC.

Section 12 extends the termination date for APUC to June 30, 1998 and section 14 authorizes staggered terms for APUC commissioners.

Section 13 repeals the sunset date of the RCC program which, under chapter 2, FSSLA 1992, was to sunset December 31, 1994.

Operating Costs

Department of Revenue is currently charged with collecting and accounting for RCCs paid quarterly by approximately 100 public utilities and pipeline carriers. The Department does not envision that the rate increase will have an impact on its operating budget.

Revenue

According to APUC officials, increased revenue derived from rate increases authorized under this bill will be offset against reductions in revenues attributable to exemption amount increases and the provision which allows electric utilities to reduce gross revenues by cost of power for calculating RCCs. As a result, this bill is not expected to generate additional revenue.

Alaska Telephone Association

4341 B Street, Suite 304
Anchorage, AK 99503
(907)563-4000
FAX (907)582-3776

Thomas R. Minnich
President

James Rowe
Executive Director

April 21, 1994

POSITION

The Alaska Telephone Association (ATA) opposes the amendment to SB 213 supported by GCI and adopted by the Senate Finance Committee.

The proposed change to AS 42.05.431(a) places constraints on a utility to provide service by limiting its opportunities to incur debt for capital investment.

Federal legislative efforts to implement the "Information superhighway" are founded on the premise of competition as the mechanism to deliver expanded service. The proposed amendment flies in the face of competition and passage could impede most telecommunications companies regulated by the Commission as they attempt to enter a competitive market.

This Association finds it curious that GCI, which in the past has been a staunch proponent of competition, would at a time when the national trend is toward that end, reverse its tradition and seek to limit the options available to the telephone customer.

ATA is comprised of all of the local exchange carriers in the State. The member companies of ATA are Anchorage Telephone Utility; Arctic Slope Telephone Association Cooperative; Bettles Telephone Company; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; Fairbanks Municipal Utilities System; GTE Alaska Inc.; Ketchikan Public Utilities; Matanuska Telephone Association; National Utilities, Inc.; North Country Telephone Company; Nushagak Telephone Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; Summit Telephone Company, Inc.; TelAlaska, Inc.; PTI Communications; United Utilities, Inc.; and Yukon Telephone Company, Inc.



James Rowe

KENT DAWSON COMPANY, INC.

P.O. Box 20790
Juneau, Alaska 99802
Phone: (907) 463-2533
FAX: (907) 463-3922

April 29, 1994

Oppose Amendment # _____

Cable television is currently APUC regulated on an exception basis--only if 25% of subscribers appeal the APUC for regulation.

The system works. Juneau subscribers recently appealed the APUC for regulation and Juneau is now regulated.

Across-the-board regulation would simply add an unnecessary regulatory cost to subscribers of well run cable systems. Why not continue the system as it has worked for years?

Furthermore: the FCC is now the primary regulator of cable television. Federal law now leaves only regulation of "basic cable" or the first tier to local regulators such as the APUC.

Offices: The Assembly Building
Suite 303
211 Fourth Street

MUNICIPALITY OF ANCHORAGE
1994 LEGISLATIVE PROGRAM

LEGISLATIVE ISSUES

TITLE: Alaska Statute Change Concerning Public Utilities

The Municipality of Anchorage and Municipal Light and Power recommend the following changes at Section 42.05.381(b) of the Alaska Statute as follows:

(b) In establishing the revenue requirements of a municipally owned and operated utility the Municipality is entitled to include a reasonable (rate of return) profit.

and, at Section 42.05.521 of the Alaska Statute as follows:

Section 42.05.521. Impaired capital. When the Commission finds that the capital of a public utility corporation is impaired, or might become impaired, it may, after investigation and hearing, issue an order directing the public utility to cease paying dividends on its common stock until the impairment has been removed. Nothing in this section shall prohibit a public utility from the distribution up to one third of its profit earned in a given year in accordance with Section 42.05.531. (Section 6, Chapter 113 SLA 1970)

JUSTIFICATION:

Section 42.05.381(b) Change from Rate of Return to Profit.

In every rate case ML&P has had before the Alaska Public Utilities Commission (APUC) since 1980, ML&P has indicated the inadequacy of the rates that were being granted. ML&P's concern was the fact that the rates that were granted did not provide a reasonable opportunity for a positive bottom line. In the past rate cases, APUC staff advocate a zero bottom line. ML&P focused on the adequacy of rates regardless of the methodology used to insure that this utility had bottom line earnings. In this respect, the rate of return methodology is a theoretical calculation that does not necessarily insure profit.

(more)

Alaska Statute Change Concerning Public Utilities
Continued

Changing the statute from rate of return to profit insures that the test for reasonableness includes cost recovery through rates that have been set which includes a profit to the utility.

Section 42.05.521 addition is included to insure that the owners of a utility, in this case the Municipality, can receive a return even if capital is impaired.

Contact: Ronald J. Kuczek
Assistant to General Manager
Phone: 263-5424

"Liberally Construed"

HB 213 would extend the Alaska Public Utilities Commission and the Regulatory Cost Charge that funds it until 1998. An amendment may be proposed to delete the phrase "liberally construed from the Commission's enabling statute. The Commission opposes this amendment.

The current language of Section 42.05.141 of Alaska Statutes, entitled "GENERAL POWERS AND DUTIES OF THE COMMISSION", states in part:

(a) The Alaska Public Utilities Commission may
(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;(emphasis added)

1. Does not expand the powers of the APUC.

In HEA vs. City of Kenai the Supreme Court said:

In sum, we have construed AS 42.05.141(a)(1) to mean that the actual areas in which the APUC may exercise its adjudicatory authority are quite narrow. Within those narrow areas, however, the APUC's powers to adjudicate are plenary, as broad as the specific provisions of the act permit....

This provision presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed." (emphasis added)

2. Benefits utilities.

Routinely the Commission allows interim rates to go into effect without requiring the utility to escrow funds or post a bond under AS 42.05.421(c). It does this by making rates interim refundable, which again benefits the utility. The authority for this is "liberally construed."

"Liberally Construed"

Page 2

The courts have not used the term "liberally construed" very often (only 8 times). Where they have, it has been to the benefit of utilities in half of the cases.

The Commission itself has only discussed the issue of "liberally construed" nine times in 25 years. In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility under statute, despite "liberally construed".

3. Benefits customers.

Often the Commission has granted "temporary operating authority" to a utility while its application for a certificate is pending. Both the customers and the utility benefit, but the authority for temporary certificates is not explicit. It comes from "liberally construed".

Many utilities face increased competition as the result of changes in technology and federal law. The Commission needs the flexibility that "liberally construed" provides to allow existing utilities to compete on an equal footing.

4. Frees up Legislators from Regulating Utilities

Regulatory statutes are generally drafted broadly. Legislators cannot foresee every problem that will arise in administering a statute and the liberally construed language gives regulators the flexibility to resolve these problems. The legislature sets the goals and the policies, leaving the implementation of the program to the commission. The budget process and the sunset review process provide plenty of room for legislative oversight.

Justice Frankfurter recognized that administrative agencies were created to perform a task which neither courts nor legislatures could accomplish—to regulate the practices of industries in a rapidly changing world. The same considerations that led to the creation of the public utilities commission led the legislature to authorize their implied powers to be liberally construed.

Deletion of this phrase would lead to strict construction of implied powers. This means that legislation would be required

"Liberally Construed"

Page 3

whenever a court finds a gap in an agency's power. This forces the legislature back into the regulatory role that they sought to escape by creating the commission in the first place. Removing "liberally construed" from the Commission's powers and duties section would have impacts well beyond statutory construction in the courts.

Opening Remarks

Because of the on going upheaval in the field of telecommunications it may well be critical for the people of Alaska to reorganize the Alaska Public Utilities Commission at this time. The Commission must become able to respond to change within this industry on a more timely and efficient basis. The innovation provided by personal communication systems, PCS, will bring with it an ever increasing pressure for competition at the local loop level. Recent court decisions with regards to cross ownership of cable television systems and telephone companies could well produce situations where telephone and cable companies will be competing by providing both services.

A Federal-State Joint Board is at this time addressing changes to the Universal Service Fund. This is a mechanism which provides support to Local Exchange Companies, (LECs) to help keep monthly reoccurring rates for service affordable. The USF fund provides 30 million dollars a year to Alaskan LECs. The loss of or even a reduction in these funds would certainly put upward pressure on local rates, which would then force LECs into local rate cases. One Alaskan LEC serving 3400 customers completed a local rate case in 1993, which took 13 months and cost the company roughly 150,000 dollars. That is a cost of 44.00 dollars per customer which must be paid for through rates. Also in this case, 81% of this LEC's residential customers waited 13 months for a 28% decrease in their monthly reoccurring rate.

The Federal Communications Commissions' Common Carrier Bureau believes that many of the elements of the Interstate Access Charge system are obsolete and is planning to make changes. Access charges are a system put in place by regulation to calculate what long distance companies, (AT&T, Alascom, GCI) have to pay LECs for the use of their facilities. The Alaskan Intrastate Access Charge system created by the APUC must be revamped. This process has developed into an annual rate case for every LEC in the State which is completely onerous. It spans six months annually, requires three to four months of intensive work by the Utility, costs millions of dollars annually and produces nothing but higher regulatory costs. While the Commission did ask for suggestions on how to streamline the process in this years filing, as yet, no docket has been opened for that purpose.

While I have only mentioned a few of the myriad of problems and changes facing Regulators, the LECs and their customers in the near future, I hope that it has illustrated the point that we must effectively change how the APUC operates so that it will be better able to cope with rapid change and to assure that regulatory cost does not become a major component of the cost of providing service. Also it should be remembered that the telephone Industry is only one of the many utilities for which the APUC is charged with oversight responsibility.

Jack H Rhyner
September 28, 1993

Opening Remarks

Because of the on going upheaval in the field of telecommunications it may well be critical for the people of Alaska to reorganize the Alaska Public Utilities Commission at this time. The Commission must become able to respond to change within this industry on a more timely and efficient basis. The innovation provided by personal communication systems, PCS, will bring with it an ever increasing pressure for competition at the local loop level. Recent court decisions with regards to cross ownership of cable television systems and telephone companies could well produce situations where telephone and cable companies will be competing by providing both services.

A Federal-State Joint Board is at this time addressing changes to the Universal Service Fund. This is a mechanism which provides support to Local Exchange Companies, (LECs) to help keep monthly reoccurring rates for service affordable. The USF fund provides 30 million dollars a year to Alaskan LECs. The loss of or even a reduction in these funds would certainly put upward pressure on local rates, which would then force LECs into local rate cases. One Alaskan LEC serving 3400 customers completed a local rate case in 1993, which took 13 months and cost the company roughly 150,000 dollars. That is a cost of 44.00 dollars per customer which must be paid for through rates. Also in this case, 81% of this LEC's residential customers waited 13 months for a 28% decrease in their monthly reoccurring rate.

The Federal Communications Commissions' Common Carrier Bureau believes that many of the elements of the Interstate Access Charge system are obsolete and is planning to make changes. Access charges are a system put in place by regulation to calculate what long distance companies, (AT&T, Alascom, GCI) have to pay LECs for the use of their facilities. The Alaskan Intrastate Access Charge system created by the APUC must be revamped. This process has developed into an annual rate case for every LEC in the State which is completely onerous. It spans six months annually, requires three to four months of intensive work by the Utility, costs millions of dollars annually and produces nothing but higher regulatory costs. While the Commission did ask for suggestions on how to streamline the process in this years filing, as yet, no docket has been opened for that purpose.

While I have only mentioned a few of the myriad of problems and changes facing Regulators, the LECs and their customers in the near future, I hope that it has illustrated the point that we must effectively change how the APUC operates so that it will be better able to cope with rapid change and to assure that regulatory cost does not become a major component of the cost of providing service. Also it should be remembered that the telephone Industry is only one of the many utilities for which the APUC is charged with oversight responsibility.

Jack H Rhyner
September 28, 1993

Opening Remarks

Because of the on going upheaval in the field of telecommunications it may well be critical for the people of Alaska to reorganize the Alaska Public Utilities Commission at this time. The Commission must become able to respond to change within this industry on a more timely and efficient basis. The innovation provided by personal communication systems, PCS, will bring with it an ever increasing pressure for competition at the local loop level. Recent court decisions with regards to cross ownership of cable television systems and telephone companies could well produce situations where telephone and cable companies will be competing by providing both services.

A Federal-State Joint Board is at this time addressing changes to the Universal Service Fund. This is a mechanism which provides support to Local Exchange Companies, (LECs) to help keep monthly reoccurring rates for service affordable. The USF fund provides 30 million dollars a year to Alaskan LECs. The loss of or even a reduction in these funds would certainly put upward pressure on local rates, which would then force LECs into local rate cases. One Alaskan LEC serving 3400 customers completed a local rate case in 1993, which took 13 months and cost the company roughly 150,000 dollars. That is a cost of 44.00 dollars per customer which must be paid for through rates. Also in this case, 81% of this LEC's residential customers waited 13 months for a 28% decrease in their monthly reoccurring rate.

The Federal Communications Commissions' Common Carrier Bureau believes that many of the elements of the Interstate Access Charge system are obsolete and is planning to make changes. Access charges are a system put in place by regulation to calculate what long distance companies, (AT&T, Alascom, GCI) have to pay LECs for the use of their facilities. The Alaskan Intrastate Access Charge system created by the APUC must be revamped. This process has developed into an annual rate case for every LEC in the State which is completely onerous. It spans six months annually, requires three to four months of intensive work by the Utility, costs millions of dollars annually and produces nothing but higher regulatory costs. While the Commission did ask for suggestions on how to streamline the process in this years filing, as yet, no docket has been opened for that purpose.

While I have only mentioned a few of the myriad of problems and changes facing Regulators, the LECs and their customers in the near future, I hope that it has illustrated the point that we must effectively change how the APUC operates so that it will be better able to cope with rapid change and to assure that regulatory cost does not become a major component of the cost of providing service. Also it should be remembered that the telephone Industry is only one of the many utilities for which the APUC is charged with oversight responsibility.

Jack H Rhyner
September 28, 1993

Opening Remarks

Because of the on going upheaval in the field of telecommunications it may well be critical for the people of Alaska to reorganize the Alaska Public Utilities Commission at this time. The Commission must become able to respond to change within this industry on a more timely and efficient basis. The innovation provided by personal communication systems, PCS, will bring with it an ever increasing pressure for competition at the local loop level. Recent court decisions with regards to cross ownership of cable television systems and telephone companies could well produce situations where telephone and cable companies will be competing by providing both services.

A Federal-State Joint Board is at this time addressing changes to the Universal Service Fund. This is a mechanism which provides support to Local Exchange Companies, (LECs) to help keep monthly reoccurring rates for service affordable. The USF fund provides 30 million dollars a year to Alaskan LECs. The loss of or even a reduction in these funds would certainly put upward pressure on local rates, which would then force LECs into local rate cases. One Alaskan LEC serving 3400 customers completed a local rate case in 1993, which took 13 months and cost the company roughly 150,000 dollars. That is a cost of 44.00 dollars per customer which must be paid for through rates. Also in this case, 81% of this LEC's residential customers waited 13 months for a 28% decrease in their monthly reoccurring rate.

The Federal Communications Commissions' Commor Carrier Bureau believes that many of the elements of the Interstate Access Charge system are obsolete and is planning to make changes. Access charges are a system put in place by regulation to calculate what long distance companies, (AT&T, Alascom, GCI) have to pay LECs for the use of their facilities. The Alaskan Intrastate Access Charge system created by the APUC must be revamped. This process has developed into an annual rate case for every LEC in the State which is completely onerous. It spans six months annually, requires three to four months of intensive work by the Utility, costs millions of dollars annually and produces nothing but higher regulatory costs. While the Commission did ask for suggestions on how to streamline the process in this years filing, as yet, no docket has been opened for that purpose.

While I have only mentioned a few of the myriad of problems and changes facing Regulators, the LECs and their customers in the near future, I hope that it has illustrated the point that we must effectively change how the APUC operates so that it will be better able to cope with rapid change and to assure that regulatory cost does not become a major component of the cost of providing service. Also it should be remembered that the telephone Industry is only one of the many utilities for which the APUC is charged with oversight responsibility.

Jack H Rhyner
September 28, 1993

Response to Commissioner Mark Foster

by ARECA

9-28-93

I. "Liberally Construed"

The commissioner's legal brief identifies several instances in which "liberally construed" was cited in a court decision, and there have been several other instances. One good example is Homer Electric Association V. APUC. In that case, the court permitted the APUC to treat dues paid to an association which supports the association's lobbying as if they were the same as campaign contributions. Aside from court decisions, there have been a great many instances not resulting in court cases in which the commission has cited the section containing "liberally construed" as the authority for its action.

The decision of the commission in the Healy Clean Coal Project not to consider "environmental externalities" is cited as an example of the limit on the use of "liberally construed." In that case it was argued that "liberally construed" authorized the commission to consider "environmental externalities." The commission, as it was constituted at that time, did reject this argument, but it did so only by a 3 to 2 decision. The court appeal of that decision by the commission is based almost wholly on "liberally construed." At another time with a different set of commissioners, the commission might well accept that argument and expand its powers far beyond anything granted or implied by statute. In this case, the court decision could well produce the same result. "Environmental externalities" are a good example of exactly why "liberally construed" needs to be changed.

Commissioner Foster also makes the argument that the budget process provides adequate legislative oversight for the exercise of APUC powers. The commission's budget does have to be approved by the legislature. However, after many years of watching the legislative process, it is obvious that the finance committees provide a much lower level of scrutiny for activities funded by program receipts than those funded from the state's general fund.

We are not concerned that the current commission is likely to make an outrageous expansion of its powers. Neither would we contend that expanded powers for the commission necessarily work to the disadvantage of the utilities. However, we do strongly believe that **when expansions of authority for the commission are sought by any interested party, it should be the legislature, not the commission and the courts, that make that decision.**

II. Negotiated Rulemaking

A group impaneled under this proposal could not adopt regulations. There would be no unconstitutional delegation of authority. The role of such a panel would be to draft the originally proposed regulation which would still have to go through the regular notice, hearing and adoption process. What we hope would be achieved would be elimination of the recurring problem of having the original regulatory language drafted by a commissioner who then has pride of authorship and is reluctant actually to listen to different ideas.

The proposal to have the Chairman assign a regulatory issue to a panel was intended to be similar to the assignment of an issue to a commissioner for study. However, if that procedure is offensive to the commission, it can easily be changed to provide for action by the whole commission.

Commissioner Foster states that this procedure would not violate the commission's procedures. Perhaps the current commission makes that interpretation, but earlier commissions made the opposite interpretation. In any event, the commission has not used anything similar to this procedure since 1980. A clear statutory authorization would be useful in describing the process, and it certainly could not hurt anything. Even with this statutory authorization, it would still be up to the commission, or its Chairman, to determine whether or not to use it in any given situation.

III. Regulatory Cost Charge

The ARECA proposal to equalize responsibility for RCC is not at all complicated. Each regulated electric utility is presently required to submit an annual report to the commission which contains a line called "cost of power." The proposal simply is to subtract that amount from retail electric revenues before calculating the RCC.

The auditor has estimated that electric account for 34% of the commission's work load. Electric account for 39% of the RCC for FY 93, and this is expected to increase to 43% for FY 94. Under the ARECA proposal, the electric share of RCC would have been approximately 28% for FY 93 and would be approximately 30% for FY 94.

We agree completely with the auditor that responsibility for the RCC needs to be reallocated to reflect the work load more closely. The commission objected to the sensible solution proposed by the auditor, so we were simply trying to suggest a simpler way to achieve a more equitable system. We think this proposal is a good one. But if the commission, rather than just Commissioner Foster, objects to this, perhaps we should simply support the auditor's recommendation.

Chairman Schröer's Remarks to the
Senate Labor & Commerce Committee Hearing
Juneau, Alaska, Tuesday, February 8, 1994 1:30 p.m.

Sunset Hearing Testimony

Introduction

I welcome the opportunity to speak to you as you mark up Sunset Legislation for our agency. The Commission supports SB 213 and has recommended several amendments to it.

I. General Commission Overview

The APUC is responsible for regulating Alaska's public utilities and pipeline carriers. Our mission statement says:

The Alaska Public Utilities Commission protects and promotes the public interest by certificating and economically regulating only qualified public utilities and pipeline carriers. It oversees the availability, affordability and quality of the utility services which are essential to Alaska's economic development.

It does this by making timely decisions that balance the competing interests of various parties.

The APUC issues certificates of public convenience & necessity to utility service providers and pipeline carriers who are fit, willing and able to provide service. We approve the rates, terms and conditions of service to the public. The Commission also does the rate-setting for the power cost equalization program, which helps out to cover a portion of the bill for high-cost electrical service to almost 69,000 customers.

The Commission consists of five members, each appointed by the Governor for a six-year term. We have a budget of \$3.6 million and a staff of 36. I am proud of the work of the Alaska Public

Utilities Commission.

II. Legislative Recommendations

A. Regulatory Cost Charge

The regulatory cost charge should be made permanent, rather than simply extending the repeal date by four years. I believe that this funding source is with us to stay. If problems occur in the future, the Commission sunset review is adequate to address them. If the Commission were zeroed out of the budget, the authority and the agency responsible to impose an RCC would both disappear.

Utilities have expressed concern about the possibility of overcollection of RCC beyond the amount of the Commission's. Currently the statute directs the Commission to change the rate as required to avoid overcollection. The problem is one of timing: by the time the fiscal year's results are known it is too late to adjust the rate. If the fourth quarter payment is split and only that amount required to balance the budget is applied to the fiscal year, the balance would apply to the subsequent fiscal year. The Commission would be required to reduce the RCC rate to take this balance into account.

The Commission has proposed language to ensure that overcollection of RCC and lapsing into the general fund does not happen. Section 32 of the Operating Budget will ensure that no RCC funds collected this fiscal year lapse into the general fund. I recommend similar permanent language in AS 42.05.253 and 42.06.285.

B. Power Cost Equalization

Traditionally the Commission has been responsible for setting the electric rates for PCE-eligible utilities. SB 106, the intertie bill, transferred the power cost equalization responsibilities formerly handled by the Alaska Energy Authority to the Dept. of Community & Regional Affairs. However, through a drafting error some references to the "Commission" were inadvertently changed to "department" (DCRA). The bill as passed transferred the PCE calculations to DCRA, but this was not the legislative intent. A revisor's bill has been prepared to correct this error. Meanwhile, the Commission will continue to carry out its assigned responsibilities under this program.

C. Cable Television Regulation

The Commission has received authority from the Federal Communications Commission to regulate the basic tier of cable utilities currently regulated by the Commission under state law. This would apply only the BC Cable Company in Juneau at this time. The City & Borough of Juneau has expressed interest in regulating cable companies, but state law does not allow this at this time. A change in statutes would be needed to allow local governments to regulate Cable TV.

D. Pipeline Legislative Recommendations

This is described in the annual report. In the interest of time I will not restate it.

E. Commission procurement of expert witnesses

The Commission recommends adding an exemption to the Procurement Act, 36.30.850 to allow it to hire its expert witnesses for cases in a timely manner.

The Commission has been unable to procure the professional services of expert witnesses in a timely fashion. The deadlines established in proceedings do not permit the procurement process to operate to produce a successful bidder in time for the contractor to properly prepare the case. Other parties to the proceedings utilizing private sector procurement procedures are able to hire their expert witnesses on a timely basis, the Commission is not. This either delays the processing of cases, or forces the Commission's witness to rush the preparation of a case, thus affecting the accuracy and credibility of the work, as well as costing the state more for overtime.

Next I would like to respond to each of the legislative changes suggested by the ARECA.

(1) **Liberally Construed:** The phrase "liberally construed" appears only once in AS 42.05. It is found in section 141, our powers & duties section:

SECTION 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The Alaska Public Utilities Commission

may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;...

In HEA vs. City of Kenai the Supreme Court said:

In sum, we have construed AS 42.05.141(a)(1) to mean that the actual areas in which the APUC may exercise its adjudicatory authority are quite narrow. Within those narrow areas, however, the APUC's powers to adjudicate are plenary, as broad as the specific provisions of the act permit....

This provision presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed."

The Alaska Supreme Court has dealt with this provision eight times. In four of those cases the Court found the Commission lacked authority. (over Yellow page ads, borough regulation of rights-of-way, attorney cost allocation, and to refuse a rate increase required by bond covenant).

In another (Colville) Environmental Services vs North Slope Borough the Court concluded that the Commission's action "fell squarely within the adjudicatory authority granted the Commission by AS 42.05.271."

In these cases half the time utilities have used the "liberally

construed" as part of their own legal arguments and the courts have ruled in their favor about half the time.

The way I read it, this language does not confer upon the APUC any jurisdiction outside of its powers listed in the statute. If the APUC were a country, would do nothing to expand our borders. Instead, it operates only within the statutory powers granted. I do not support deletion of this provision.

The Commission has only discussed the issue of "liberally construed" nine times in all the orders we issued during our first 25 years on the job! In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility requested under statute, despite "liberally construed".

(2) **The second issue is Negotiated rulemaking.** I think this is an interesting idea from the federal government that bears close examination. However, under the Constitution it cannot mean delegation of the rulemaking powers of the Commission to another body. The negotiating group must be treated as a state agency for purposes of the open meetings and public records acts. The process of developing regulations is terribly slow already, and I would not like to see it slowed further.

it seems that this technique would work best with highly controversial issues. Many of the Commission's recent regulations resulted from legislative mandates. This is true of simplified ratemaking, TRS (telephone service to the deaf community), Intrastate phone service, and the regulatory cost issue. It is not clear to me how these regulatory proceedings have benefitted from negotiated rulemaking. If this becomes an issue much more research will be necessary.

(3) **Lower RCC rates for Electric Utilities:**

The Commission responded to the Legislative Audit On March 1, 1993 Recommendation No. 1, in the Sunset Audit stated; Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

The Commission agrees that the program should be made permanent by deleting the automatic repeal date for the Regulatory Cost Charge Program (RCC). Last year the Legislature switched the funding source for the Commission from general funds to this regulatory assessment. The Commission expended significant resources in developing regulations and procedures to make the program work and to make compliance by affected

entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement at this time.

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. This was true both for the utilities and carriers, their customers, as well for the efficient administration of the program. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept

simple and workable. The auditors' recommendation for further refinement of the RCC would require the statutory cap of .61% of adjusted gross revenues (AS 42.05.253(a)) to be substantially increased. Based on their estimates by utility type for purposes of discussion, the current authorized budget for the Commission would require increasing the cap to .85% for certain utility groups, at a minimum.

From the perspective of most utility customers facing a regulatory cost charge bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

III. A.P.U.C.'s Response to the Recommendations of the Legislative Auditor

The Alaska Public Utilities Commission concurs with the legislative auditor's finding that the Commission is meeting its public purpose and supports extension of the sunset date at least four years.

A. Regulatory Cost Charge

The Commission opposes required readjustment of the RCC on an industry by industry basis. Keep it small. Keep it simple. And keep it uniform. The administrative expense of making this change would far exceed any value of individualization of rates.

As I stated in our response to the Legislative Audit recommendation:

From the perspective of most utility customers facing an RCC bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

B .Easier Access for Utility Consumers to Opt In or Out of Regulations

I support increasing the cutoff from \$325,000 to either \$500,000 or \$1,000,000 for economically regulated electric utilities to be eligible to vote for deregulation. This 1 million dollar ceiling would mean that nine more electric utilities would be able to hold deregulation elections. Also one additional local telephone companies would qualify under this standard.

C. Timekeeping System

The Commission agrees that this recommendation is worthwhile to pursue. If accomplished for internal management purposes, the system could be designed relatively economically. However, if the system is required to serve as the basis for billings, such as those recommended in the auditors' first recommendation, it would be considerably more costly. In either case a fiscal note would be required to carry out this recommendation.

D. Commissioner's Access to Adequate Staff Support

I am proposing to beef up the staff support available to

Commissioners on regulatory policy issues. When Commission Staff is named as a party to a proceeding, the judicial ex parte rule prevent Commissioners from seeking their advice or research, except as formally presented in the case on the record. Specifically we are proposing to upgrade one position and create one new slot to serve as Commissioners' Policy Analysts. Details of this proposal will appear in the Commission's FY 95 budget request.

E. Stagger Commissioner's Terms

The Commission supported this one, but a statutory change would be needed to correct this time. Two Commissioners terms expired last year and the terms of the new appointees are scheduled to expire on the same day in 1999.

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 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.

We recommend that AS 44.66.010(a)(4) be amended to extend the life of APUC to June 30, 2003. APUC has consistently demonstrated public need; we believe it is in the public's best interest to extend the life of this commission for ten years. However, we recognize that performance issues periodically arise. The Division of Legislative Audit can address these interim issues, if any, through a special audit at the request of the Legislative Budget and Audit Committee.

FINDINGS AND RECOMMENDATIONS

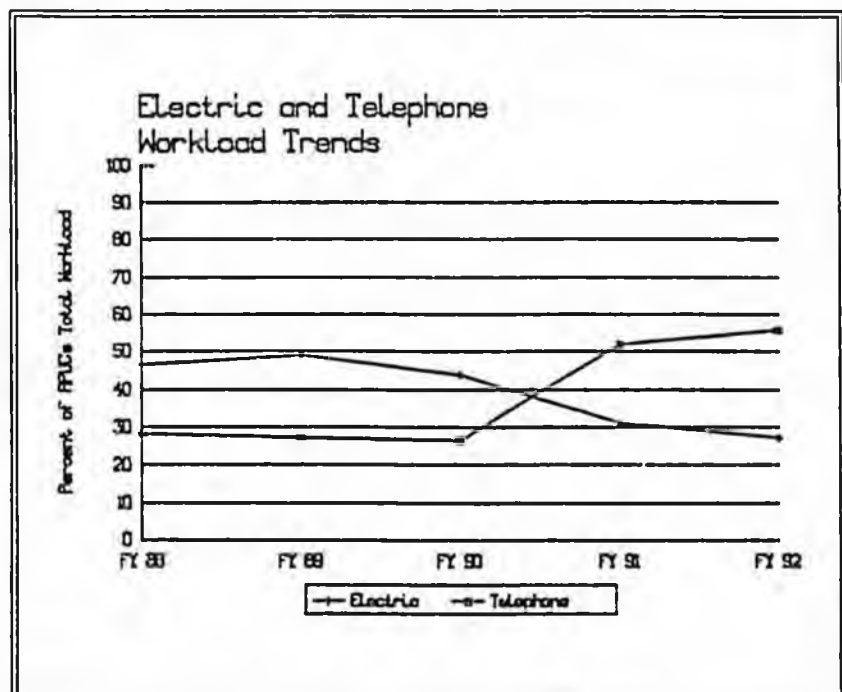
Recommendation No. 1

Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

In our 1989 sunset audit report we recommended a program receipts budget for APUC, not because it was an alternative funding source but because of the potential benefits that this mechanism could provide. A user fee design can establish a basic fairness in that only those who benefit from the regulatory process bear its cost; it can also encourage consumers to recognize and eliminate unwarranted regulation through deregulation elections. However, these benefits will only be realized to the extent that the RCC program reasonably links the cost-causers with the cost-payers.

For FY 93, the legislature authorized a new RCC program which passes APUC's costs on to the consumers of regulated utilities. This program allocates costs based upon gross revenues. A single charge factor is used across-the-board for all utilities and all industries. Although we believe that a direct workload-based allocation program is preferable, as outlined in our 1989 report, we also continue to believe that a gross revenue based system could realize these benefits if the rates reflect the workload. However, the single RCC factor used in the current plan sacrifices some of program's potential benefit, in that the cost-payers are not necessarily the cost-causers.

We analyzed APUC's workload to evaluate the alignment of cost-causer to cost-payer. In the absence of verifiable data such as utility or industry codings on payroll time sheets, we were forced to approximate the workload by using rough estimates, which were provided on an unofficial basis by commission staff. They provided estimates of the average relative effort required to perform the ongoing APUC functions such as tariff filings, formal proceedings, certification proceedings, and formal and informal complaints. While we acknowledge that the weighting in these analyses is imperfect, we believe it provides an adequate indication of the



commission's workload. We found that the electric and telephone industries, on a combined basis, have represented approximately 79 percent of APUC's workload. The graph of these two industries illustrates the significance, variation, and trend that complicates setting of an RCC rate. The following table compares the commission's estimated FY 93 RCC receipts with the amount calculated based upon the workload over the past three years.

Industry	Flat Rate Allocation		Workload Allocation		Over (Under) Allocation	
	Estimated Gross Revenues	RCC Percent	Estimated FY 93 RCC	Percent of Workload		
Electric	\$260,673,485	.577%	\$1,504,086	34%	\$1,311,670	\$192,416
Telephone	153,306,332	.577%	884,577	45%	1,736,033	(851,456)
Pipeline	99,532,100	.577%	574,300	4%	154,314	419,986
Gas	99,152,056	.577%	572,107	3%	115,736	456,371
Water	22,955,320	.577%	132,452	4%	154,314	(21,862)
Sewer	17,129,576	.577%	98,838	2%	77,157	21,681
Refuse	15,856,758	.577%	91,493	4%	154,314	(62,821)
Cable	0	.577%	0	3%	115,736	(115,736)
Other	0	.577%	0	1%	38,579	(38,579)
Total	\$668,605,627		\$3,857,853	100%	\$3,857,853	\$ 0

This table demonstrates that, based upon the workload over the past three years, the flat across-the-board rate significantly undercharges telephone and overcharges electric, pipeline, and gas utilities. Of course, the over or under allocation amount by industry varies depending on how many years of workload are considered. The use of an across-the-board rate incorrectly assumes that an industry's gross revenues are closely correlated to the workload that it creates. Given the significance of the electric and telephone workload, variation, and trend, we do not believe that the allocation methodology should assume that all workload cycles reverse themselves and that all industries create the same amount of workload in the long run. Therefore, we recommend that the legislature amend AS 42.05.253 to require APUC to periodically adjust the RCC factors to reflect workload on an industry by industry basis.

Notwithstanding the above, we support the current RCC program; we believe that it provides a measure of equity and responsiveness to unwarranted regulation that was lacking prior to the program. Our recommendation is intended to further the equity and regulatory responsiveness objective of this program.

The RCC program was established as a trial program utilizing an automatic repeal of December 31, 1994. As we consider this program to be effective, we recommend that this repeal provision be deleted.

Recommendation No. 2

Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or opt out of economic regulation.

In the 1989 sunset audit report, we recommended the deregulation of several industries as well as the smaller utilities in each industry. We continue to believe that not all industries need to be regulated and that the cost of regulation may exceed its benefits, particularly for the smaller utilities. With the recent adoption of a user fee approach under the RCC program, the impetus exists to make state government more responsive; what is lacking is a reasonable mechanism to allow consumers to select whether or not they want their utility to be regulated.

Alaska Statute 42.05.711 exempts electric and telephone utilities with revenues less than \$50,000 and refuse utilities with revenues under \$200,000. However, customers can obtain economic regulation by petitioning APUC. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. We recommend that the petition and election requirements be modeled after the deregulation election procedures in AS 42.05.712. These procedures call for an election if the petition is signed by 10% of the first 5,000 subscribers and 3% of the subscribers in excess of 5,000. These elections may only be held once every two years for a given utility.

Alaska Statute 42.05.711 also allows deregulation elections to be held for electric and telephone utilities with revenues of less than \$325,000 and other utilities with revenues under \$100,000. We believe that more consumers should be given the option to deregulate by substantially raising the cut-off amount.

In combination, these two changes would allow APUC and the user fee approach of the new RCC program to be more responsive to the regulatory needs of the utility consumer. The regulatory cost/benefit decision should be made by the consumer.

Recommendation No. 3

APUC should establish a timekeeping system.

We initially recommended, in 1979, that the commission implement the time system they had purchased. As part of a 1978 management audit of APUC, Arthur Young & Co. developed a time management system to assist the commission in prioritizing, planning, scheduling, and

monitoring the workflow. In response to our recommendation, the commission concurred that a time management system is a useful administrative tool. They indicated that the time system would be implemented.

In our 1989 sunset audit report we recommended that APUC establish a timekeeping system as an integral part of a direct-allocation RCC program. As the legislature selected an RCC program that was not time based, APUC was not required to implement this recommendation. However, as costs to establish and operate a time system are minimal and the benefits are substantial, we continue to recommend it.

The costs of a timekeeping system are minimal.

- The commission should determine what management reports are needed. While we acknowledge that the 1978 time management system is likely outdated, we recommend that the commission review it to assist them in developing this needs definition.
- Purchase and install "canned" software. There is very inexpensive software on the market that should meet the commission's needs. APUC already has a programmer on staff that could handle the installation.
- The ongoing cost to record time would be insignificant. An employee would need only a few minutes a day to electronically enter their time.
- The time system would also require a small amount of computer and personnel time to accumulate the data and generate periodic management reports.

The benefits of a timekeeping system are substantial.

- A time system would give APUC management a greater ability to prioritize, plan, schedule, and monitor their workload. We believe this information would be invaluable to the commission.
- The legislature is often involved in regulatory matters. Using these management reports, APUC would be better able to estimate the full effect of any regulatory changes.
- There is a potential for increased staff efficiency as a result of time sheet accountability.
- Time sheets would provide a defensible basis for the RCC allocation discussed in Recommendation No. 1. However, regardless of the action taken on Recommendation No. 1, the benefits of implementing a timekeeping system far outweigh the costs.

The nature of the commission's business is very different from most state agencies; they deal with a relatively small number of companies and work on discrete projects. APUC's workload is similar to that in the Attorney General's Office and the Department of Transportation and Public Facilities' maintenance and construction divisions, all of which maintain project time systems.

Recommendation No. 4

APUC should consider how to best ensure commission member access to adequate staff support and advice.

The commission members are inundated with technical information and complex issues. These issues must be thoroughly explored and the commission's decisions must be fully documented. The legislature recognized this difficult task and appropriately established full-time commission members with six-year terms. Nevertheless, there remains a substantial need for staff support and professional advice.

We are concerned that in the instances when commission staff are named as a party in an adjudicatory proceeding, the commission members do not have full access to support staff, professional staff, or legal counsel. The judicial model requires adversarial parties to present the case. APUC staff is frequently designated as a party to a case to provide this necessary balance. The assistant attorney generals advise APUC staff and effectively become a party to the case. Under this judicial model, ex parte communication rules prevent the commission members from directly obtaining assistance or advice from their staff or attorneys; this can only be accomplished if the utility is also present. This may often be impractical.

We believe that the commission would benefit from greater access to their staff and attorneys. The commission should consider how to best ensure full access. We offer the following alternatives:

- A group could be assigned, on a rotational basis, to each case. These individuals would be the party to the case; all others would be available to the commission members.
- Several staff could be assigned, on a rotational basis, directly to the commission. The criteria for selection may vary. The team could include all the professional disciplines, it could target the disciplines currently needed, or it could be a team of executive assistants. The remaining staff would be the party of record.

Although the above approaches have certain drawbacks, we believe that some separation would be achieved thus diminishing the ex parte communication problem. We believe this will enhance the commission's overall efficiency and effectiveness.

Recommendation No. 5

The APUC member's terms of office should be staggered.

The Alaska Public Utilities Commission has five members who are appointed by the governor and confirmed by the legislature in joint session to serve six-year terms. On October 31, 1993 two commission seats become available. Because the potential for

disruption of commission activity would be high with two new members coming in at the same time, we recommend the terms be staggered.

Currently, the terms are scheduled to end as follows:

Consumer seat (1)	October 31, 1993
Engineering seat	October 31, 1993
Legal seat	October 31, 1994
Consumer seat (2)	October 31, 1996
Finance seat	October 31, 1998

We propose this staggering be implemented by modifying the upcoming term of the engineering seat. We propose the following language be added to a temporary or special act:

The term of the Alaska Public Utilities Commission Engineering seat, which is scheduled to begin on November 1, 1993, shall end on October 31, 1995. This adjustment to the normal six-year term, as established under AS 42.05.030(a), is necessary to appropriately stagger commission membership.

Operating Budget

Operating Budget

	FY92	FY93	Percent Change
APPROPRIATIONS			
71000 Personal Services	\$2,430,300	\$2,455,400	1.0%
72000 Travel	51,400	57,800	12.5%
73000 Contractual	1,114,800	1,163,500	4.4%
74000 Commodities	27,600	43,700	58.3%
75000 Equipment	2,900	20,400	603.4%
TOTALS	<u>\$3,627,000</u>	<u>\$3,740,800</u>	<u>3.1%</u>
EXPENDITURES			
71000 Personal Services	\$2,431,602	\$2,366,884	-2.7%
72000 Travel	40,383	47,777	18.3%
73000 Contractual	1,021,645	913,309	-10.6%
74000 Commodities	79,583	94,049	18.2%
75000 Equipment	52,556	71,327	35.7%
TOTALS	<u>\$3,625,769</u>	<u>\$3,493,348</u>	<u>-3.7%</u>
REVENUE RECEIPTS ¹			
General Fund:	\$207,943		
General Fund			
Program Receipts:		\$3,897,553 ²	
TOTAL RECOVERED	<u>\$207,943</u>	<u>\$3,897,553</u>	

¹ The Commission received revenues under various provisions of its statutes including application fees (AS 42.05.661/(AS 42.06.607), copying and postage charges (AS 42.05.201) and cost allocations in proceedings (AS 42.05.651/AS 42.06.610).

² The Commission funding was charged to General fund Program Receipts in FY93 (3 AAC 47) under the Regulatory Cost Charge program.

MUNICIPALITY OF ANCHORAGE
1994 LEGISLATIVE PROGRAM

LEGISLATIVE ISSUES

TITLE: Alaska Statute Change Concerning Public Utilities

The Municipality of Anchorage and Municipal Light and Power recommend the following changes at Section 42.05.381(b) of the Alaska Statute as follows:

(b) In establishing the revenue requirements of a municipally owned and operated utility the Municipality is entitled to include a reasonable (rate of return) profit.

and, at Section 42.05.521 of the Alaska Statute as follows:

Section 42.05.521. Impaired capital. When the Commission finds that the capital of a public utility corporation is impaired, or might become impaired, it may, after investigation and hearing, issue an order directing the public utility to cease paying dividends on its common stock until the impairment has been removed. Nothing in this section shall prohibit a public utility from the distribution up to one third of its profit earned in a given year in accordance with Section 42.05.531. (Section 6, Chapter 113 SLA 1970)

JUSTIFICATION:

Section 42.05.381(b) Change from Rate of Return to Profit.

In every rate case ML&P has had before the Alaska Public Utilities Commission (APUC) since 1980, ML&P has indicated the inadequacy of the rates that were being granted. ML&P's concern was the fact that the rates that were granted did not provide a reasonable opportunity for a positive bottom line. In the past rate cases, APUC staff advocate a zero bottom line. ML&P focused on the adequacy of rates regardless of the methodology used to insure that this utility had bottom line earnings. In this respect, the rate of return methodology is a theoretical calculation that does not necessarily insure profit.

(more)

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: SB 213
Sponsor: _____ Date: 4/16/94
Logged In By: Bm

Alaska Statute Change Concerning Public Utilities
Continued

Changing the statute from rate of return to profit insures that the test for reasonableness includes cost recovery through rates that have been set which includes a profit to the utility.

Section 42.05.521 addition is included to insure that the owners of a utility, in this case the Municipality, can receive a return even if capital is impaired.

Contact: Ronald J. Kuczek
Assistant to General Manager
Phone: 263-5424

THE ALASKA PUBLIC UTILITIES COMMISSION:

A NEW STRUCTURE

In the course of sunset review of the Alaska Public Utilities Commission (APUC), two facts are clear: There is a continuing need for the existence of the Commission and there is need to change the method in which it operates. This white paper will discuss the APUC'S mission and its organizational structure.

Mission:

There is a need to focus on the mission statement of the APUC as laid out in statute. There are two basic functions to be served by the APUC. One is to protect the public interest; the other to assure the continued viability of the utilities.

In the case of the former, the APUC should have the mandate of assuring that utility rates are just, fair and reasonable. In the process of carrying out this mandate, they must determine appropriate rates of return, either on an industry or an individual company basis. To do so, they must make a determination of the costs of providing service, establish what is used and useful in rate base and be assured that management practices are prudent.

The latter function is equally important. If utilities are not financially viable, then service will be eroded and even, if carried to the absurd, become unavailable. It is in the public interest to protect the viability of utilities.

As the APUC carries out these two functions, it must be mindful of appropriate economies. They must, in other words, accomplish these two mandates by use of the most efficient and economical means possible to assure that the cost of regulation is not a major contributor to the cost of service. It is in neither the public interest nor that of the utilities to require a utility to expend, for instance, \$40,000 in a proceeding which results in lowering the utility's allowable costs by \$6,000. Such results continue to occur in the operations of today's APUC.

Structure:

There is a need to address the structure of the APUC using the Federal Communications Commission (FCC) as a model.

Restructuring the APUC in this manner will provide for a more efficient operation and eliminate certain inequities which now exist.

The current structure of the Commission has staff moving back and forth in two roles. On the one hand, they are often party to dockets, representing the public interest. On the other hand, they serve in an advisory capacity to the Commission. To put the situation into context, the Commission serves as a quasi judicial body. Allowing the staff to move back and forth as both party to and advisors to the Commission in the same docket is much the same as allowing either the plaintiff or defendant in a legal proceeding to advise the judge on his final decision, rather than just presenting evidence for the record.

Utilizing the FCC model, that portion of the staff designated as representative of the public interest would be established separate from the Commission itself. This "Staff" would serve under the direction of the commission's executive director and would be party to dockets as appropriate. Their participation in dockets would be as an autonomous party and they would be subject to the same rules regarding ex parte contact with the Commission as are other parties to dockets.

The commissioners, on the other hand, should have personal staff, as well as their own counsel, to assist them in research, writing orders and, in general, filling an advisory role.

As commissioners serve in the role of judges, they should not launch investigations or open dockets on their own motion. They should not issue notices of inquiry or engage in writing regulations. These functions should be the sole purview of "Staff".

The designated seats concept should be eliminated. The designated seats (accountant, legal and engineering) originated in the early days of statehood when the Commission was a part time body with no staff. In those days, it was necessary to have an engineer, a lawyer and an accountant on the Commission because they had no staff with such expertise. The two consumer seats were added in the mid seventies in the mistaken belief that the three assigned seats were charged with representing their special interests. The fact is that the commissioners must be neutral judges and should not be representing any special interest group. Under the structure outlined above, "Staff" would represent the public interest. To further emphasize the separation of "Staff" and Commission, it must be clearly understood that the executive director will be in charge of "Staff".

Doing away with the assigned seats on the Commission will also require language to make it clear that candidates for the Commission must be professional with some knowledge of utilities. No more than one commissioner from any one vocation should be allowed.

Included here are examples of organizational structures in the District of Columbia, Hawaii, Oklahoma and Nevada as presented in the NARUC Annual Report on Utility and Carrier Regulations (12/31/89). These Commissions were chosen as they present the best examples of the organizational structure proposed here. Interestingly, the only state which did not include a clear organization chart in the report was Alaska.

Current Operating Authority:

As a final note, one other amendment to current statute is proposed. AS 42.05.141(1) should be amended to eliminate the language "...the powers of the commission shall be liberally construed to accomplish its stated purpose." This language has become one of the most obvious barriers in relating to the commission. The commissioners and staff have used this language to offer differing interpretations of regulations and statute on a case by case basis.

The phrase has also allowed the Commission to state that it does not set precedent. Both utilities management and the general public are placed in a precarious situation when they are unable to rely on past decisions of the Commission to determine proper conduct in relation to any particular issue because the Commission feels free to develop differing interpretations to similar conditions on a case by case basis. As a quasi judicial body, the Commission must be held accountable to its own decisions and interpretations.

DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION

Office - 450 5th Street, NW, Washington, DC 20001, Area Code (202) 626-5100

Commissioners appointed by the Mayor and confirmed by the Council for four-year staggered terms.

Jurisdiction: Electric (private); gas (private); telephone; radio common carriers; telegraph; enforcement of blue sky laws; securities.

COMMISSIONERS

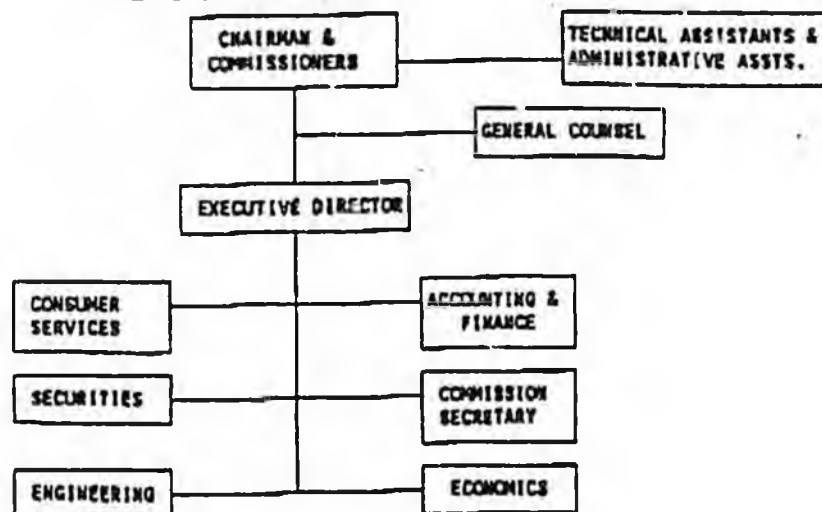
Patricia M. Worthy, Chairperson, 626-5110: Democrat; born May 28, 1944, in Fort Benning, Georgia; Brooklyn College (BA), Howard University (JD); private law practice, Deputy Assistant Secretary for US Department of Housing and Urban Development (1977-80), Adjunct Professor at Howard University Law School, Chair of Washington Metropolitan Area Transit Commission; assumed Commissionership August 1, 1980, current term ends June 30, 1991.

Wesley H. Long, Commissioner, 626-5125: Democrat; born May 6, 1932, in Boston, Massachusetts; University of Michigan (BA in Math, MA and PhD in Economics); Economics Professor at Bowdoin College (1963-66) and at Pennsylvania State University (1966-71), US Department of Commerce (1971-80) with final position as Deputy Director of Office of Industrial Economics; assumed Commissionership March 30, 1980, current term ends June 30, 1990.

Belva Newsome, Commissioner, 626-5114: Democrat; born August 7, 1952 in Wilmington, North Carolina; Duke University (BA Political Science/Black Studies), Georgetown University Law Center (JD, LL.M.); private law practice, Chairperson of DC Rental Housing Commission (1985-89); assumed Commissionership December 15, 1989, current term ends June 30, 1992.

Name of Division	Number of Personnel	Name of Division Head
Office of the Chairman	5	Patricia M. Worthy
Office of the Commissioner	3	Ruth Hankins-Nesbitt
Office of the Commissioner	3	Wesley H. Long
Office of the General Counsel	18	Howard C. Davenport
Office of the Executive Director	9	James E. Kerr
Office of the Commission Secretary	8	Mary B. Jordan
Office of Consumer Services	5	Vivian A. Jordan-Webb
Office of Economics	6	Dr. Phylcia Fautleroy
Office of Engineering and Pipeline Safety	5	Richard D. Muriaux
Office of Accounting & Finance	11	Norman Reiser
Office of Securities	6	James Whitescarver, Jr.
TOTAL	79	

ORGANIZATION CHART

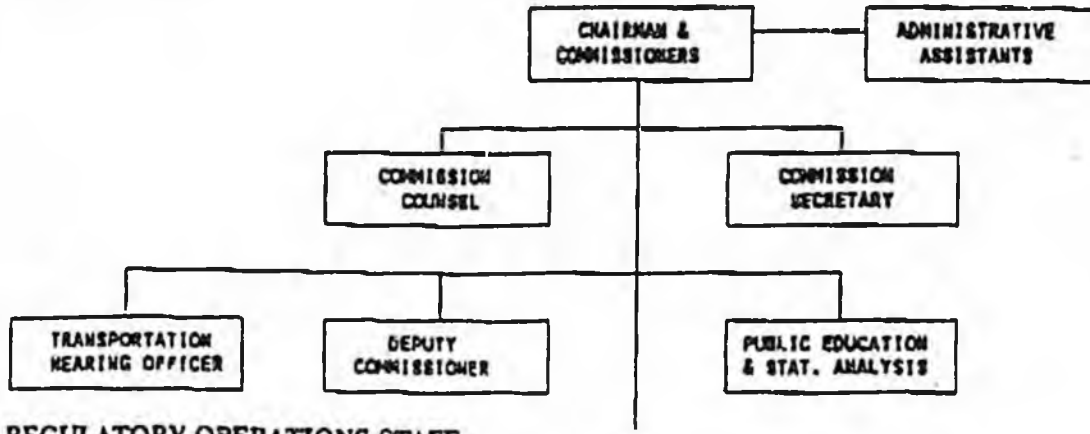


NEVADA PUBLIC SERVICE COMMISSION
(Continued)

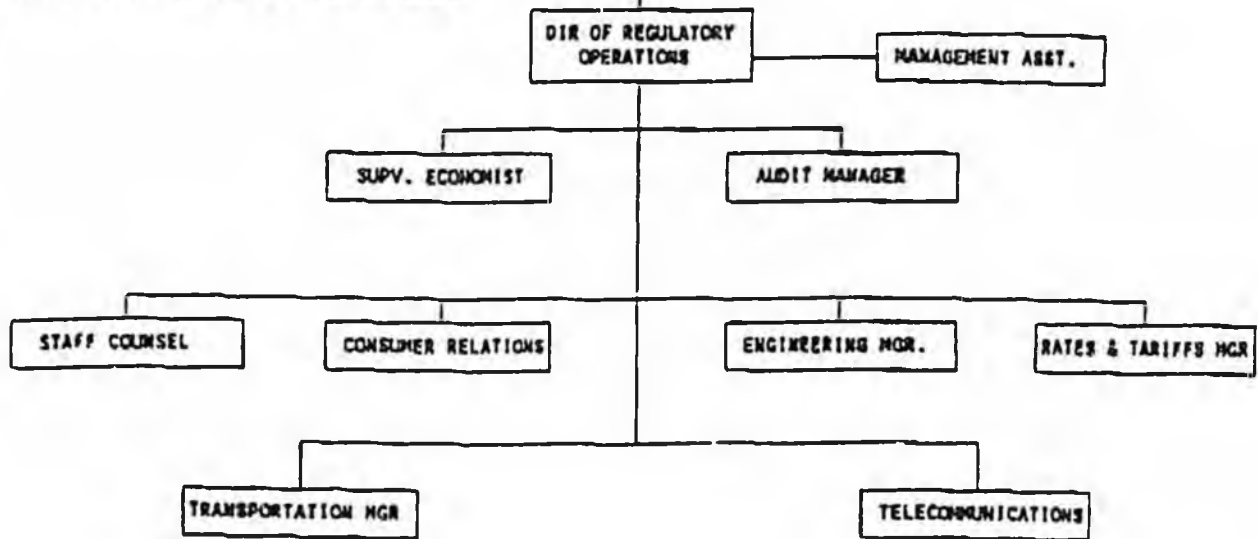
ORGANIZATION CHART

Effective December 31, 1989

POLICY STAFF



REGULATORY OPERATIONS STAFF



HAWAII PUBLIC UTILITIES COMMISSION
(Continued)

ORGANIZATION CHART

