

ALASKA LEGISLATURE COMMITTEE FILED 1977-1978 00/2

9301 HOUSE LABOR & COMMERCE

03/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
15:22:49 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU  
TCN:70403 SCHEDULED FOR:03/07/97 15:15 TO 17:15 FOR:ALL  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION:ANCHORAGE  
HB 161 PETE KINNEEN COMMER RECYCLINGTESTIFY

LOCATION:FAIRBANKS  
HB 161 MR. LARRY KELLY ✓ TESTIFY

LOCATION:KETCHIKAN  
HB 161 MR. GLEN THOMPSON ✓ TONGASS SANI. TESTIFY

LOCATION:MATSU  
HB 161 MR BOB DOYLE ① *Miss. E.J. School* TESTIFY

03/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
15:55:08 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC  
TCN:70403 SCHEDULED FOR:03/07/97 15:15 TO 17:15 FOR:ANC  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION:ANCHORAGE  
HB 161 PETE KINNEEN COMMER RECYCLINGTESTIFY

HB 161 *new name* JOEL GRUENWALT / MAY ANS ? ANCH WASTE UTIL TESTIFY





# STATE OF ALASKA

APR 24 1997

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

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April 22, 1997

Transmitted by Fax to 907-465-2040

Honorable Norman Rokeberg  
Chairman  
House Labor & Commerce Committee  
Room 24, Capitol Building  
Juneau, Alaska 99801

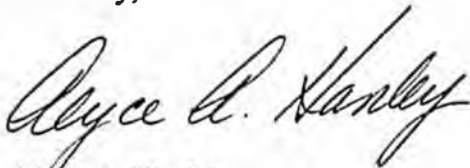
RE: APUC Final Order on Anchorage Refuse Market, U-94-102, U-95-11 & U-95-12

Dear Chairman Rokeberg:

Enclosed is the final Commission order authorizing commercial refuse competition in the Anchorage market. I believe that this order will bring about a significant improvement in the structure of the Anchorage refuse market by allowing commercial providers of refuse collection and disposal service to compete for customers by offering lower prices and better quality of service. The Commission will continue to oversee the market consistent with current statutes.

There have been two changes to the preliminary version which was sent to you ten days ago. The language concerning the Regulatory Cost Charge was deleted because it was in error. Also, the paragraph confirming that the order is final and appealable to the Courts was added.

Sincerely,



Alyce A. Hanley  
Commissioner

cmb

Enclosure: Commission Order

cc: (w/o enclosure) Commercial Refuse, Inc.  
Anchorage Refuse, Inc.  
Peninsula Sanitation Company, Inc.

Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
Anchorage, Alaska 99501  
(907) 276-6222; TTY (907) 276-4533

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STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Sam Cotten, Chairman  
Alyce A. Hanley  
Dwight D. Ornquist  
Tim Cook  
James M. Posey

In the Matter of the Application )  
by COMMERCIAL REFUSE, INC., for a ) U-94-102  
Certificate of Public Convenience )  
and Necessity To Operate as a ) ORDER NO. 12  
Refuse Public Utility in the Area )  
of Anchorage, Alaska )

In the Matter of the Application ) U-95-11  
by ANCHORAGE REFUSE, INC., To ) ORDER NO. 12  
Amend Its Certificate of Public )  
Convenience and Necessity No. 217 )  
To Extend Its Refuse Public )  
Utility Service Area )

In the Matter of the Application ) U-95-12  
by PENINSULA SANITATION, INC., To ) ORDER NO. 12  
Amend Its Certificate of Public )  
Convenience and Necessity No. 209 )  
To Extend Its Refuse Public )  
Utility Service Area )

ORDER ALLOWING LIMITED COMPETITIVE PROVISION  
OF REFUSE COLLECTION IN THE ANCHORAGE AREA;  
GRANTING APPLICATIONS OF COMMERCIAL REFUSE, INC.  
AND PENINSULA SANITATION, INC.; DENYING APPLICATION  
OF ANCHORAGE REFUSE, INC.; AND REQUIRING FILINGS

BY THE COMMISSION:

Introduction

On October 20, 1994, COMMERCIAL REFUSE, INC. (CRI),  
filed an application for a certificate of public convenience and  
necessity (certificate) to operate as a refuse public utility in

1 the Anchorage area. In its application, CRI stated that it is  
2 seeking to serve commercial refuse collection customers in  
3 competition with the Municipality of Anchorage, Department of  
4 Solid Waste Services d/b/a Refuse Collections Utility (MOA);  
5 ANCHORAGE REFUSE, INC., and EAGLE RIVER REFUSE, INC. (for ease in  
6 reference, hereinafter "ARI/ERRI"); and PENINSULA SANITATION, INC.  
7 (PSI).

8 By Order U-94-102(1)/U-95-11(1)/U-95-12(1), dated  
9 September 28, 1995, the Commission, among other things, opened  
10 dockets to address the applications filed by CRI, ARI/ERRI, and  
11 PSI. By that Order, the Commission also determined that the  
12 primary issues in this proceeding appear to be whether monopoly  
13 or competitive provision of refuse service is better suited to  
14 deliver adequate and reasonably priced refuse service in a  
15 socially responsible manner in the Anchorage area and also the  
16 fitness, willingness, and ability of the applicants to provide the  
17 services for which they have applied.

18 By Order U-94-102(5)/U-95-11(5)/U-95-12(5), dated  
19 January 5, 1996, the Commission, among other things, established  
20 a hearing and filing schedule in this proceeding. The hearing was  
21 scheduled to convene on April 1, 1996.

22 The Public Hearing convened, as scheduled, on April 1,  
23 1996, with CRI, ARI/ERRI, PSI, and the MOA entering appearances  
24 at the hearing. CRI presented the testimony of Jim A. Arnesen,  
25 President of CRI. On the second day of the hearing, April 2,  
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1 1996, the parties requested that the hearing be temporarily  
2 delayed to give the parties the opportunity to discuss resolution  
3 of any or all disputed issues. When the hearing reconvened, the  
4 parties orally presented a draft stipulation to the Commission and  
5 requested that they be given until April 5, 1996, to formalize and  
6 organize the stipulation for filing.

7 By Order U-94-102(10)/U-95-11(10)/U-95-12(10), dated  
8 May 1, 1996, the Commission, among other things, denied a motion  
9 to rule on the settlement and rescheduled the public hearing for  
10 May 13, 1996. By Order U-94-102(11)/U-95-11(11)/U-95-12(11),  
11 dated May 17, 1996, the Commission granted the motion to file  
12 reply filed by ARI/ERRI and rescheduled the public hearing for  
13 May 28, 1996.

14 The public hearing reconvened, as scheduled, on May 28,  
15 1996. CRI concluded presentation of the testimony of Jim Arnesen  
16 and presented the testimony of Sandra Barone, Economist with  
17 Dickenson & Barone. ARI/ERRI presented the testimony of Bobby L.  
18 Cox, Jr., Vice President, Chief Financial Officer for ARI; Jeffrey  
19 Morris, Ph.D. - Economics, President of Sound Resource Management  
20 Group, Inc.; Thomas E. Turner, Vice President of Marketing and  
21 Business Development for ARI; and Loren V. Uhlenkott, Principal,  
22 Honcher & Uhlenkott, Inc. PSI presented the testimony of Sky  
23 Carver, President of PSI. MOA presented the testimony of Joel  
24 Grunwaldt, Director of Solid Waste Services for MOA.

1           At the time of the hearing, the Commission determined,  
2 based on the applications and the comments filed, the issues that  
3 must be addressed in this case include the financial impact of  
4 competition, the impact competition would have on service  
5 including the rates to be charged to existing and future custom-  
6 ers, and the impact competition would have on penetration of the  
7 refuse collection and disposal market in the Anchorage area.

8  
9 **CRI's Application**

10           Arnesen testified that he has eleven years of experience  
11 working in the refuse market; two years as the sole proprietor of  
12 Commercial Refuse (CR) and nine years as a heavy duty mechanic for  
13 ARI.

14           Arnesen, acting as the sole proprietor of CR, commenced  
15 providing unregulated commercial roll-off refuse collection and  
16 disposal service in June 1994. Alaska Sanitation (AS) and  
17 Diversified Refuse (DR) were also formed in 1994. CR currently  
18 has two roll-off trucks that are used to handle large refuse  
19 containers. In addition, CR has a service truck, two dumpsters,  
20 seven roll-off containers; and miscellaneous office and shop  
21 equipment, supplies, and parts. CR and AS are located at the same  
22 address, use the same telefacsimile number, and operate the same  
23 equipment. CR and AS have a lease agreement for the jointly-used  
24 facilities and equipment. In 1995, CR incurred \$12,000 in annual  
25 rent expense. During the same period, CR received approximately  
26 \$650 from AS for the lease of two trucks, containers, and building

1 space. CR and AS have a lease that governs the use of equipment  
2 and real estate. In addition, the principals of CR and AS will  
3 subcontract with each other for the provision of driver services,  
4 if necessary. Arnesen has also provided some container repair and  
5 maintenance for AS.

6 CR has received financial support from the principals  
7 of AS and DR. The principal in AS provided CR with a \$30,000  
8 unsecured loan. That loan is currently outstanding and the  
9 payment deadline has been extended. The principal in DR provided  
10 CR with a \$35,000 unsecured loan. That loan is also outstanding  
11 and the payment deadline has been extended.

12 Arnesen testified that if CRI's application to provide  
13 refuse collection and disposal service is granted, the three  
14 entities (CR, AS, and DR) would merge into one corporation. The  
15 trucks and equipment currently held by CR would be contributed to  
16 CRI.

17 During January 1995, CR provided service to Eagle  
18 Hardware, Costco (DeBarr), Costco (Dimond), six Safeway stores,  
19 and Dimond Center. CR operated at a net loss of \$7,937.46 in  
20 1995. During the same period, Arnese drew a salary of \$26,225  
21 from CR.

22 During 1995, AS provided commercial service to Nanook,  
23 Inc., Regal Alaskan Hotel, Commercial Body and Paint, Boyds  
24 Demolition, Eagle River Drywall, Anchorage Rent-A-Car, Jason  
25 Enterprises, IMCA Inc., Coastal Tire, Birds Etc., the Federal  
26

1 Aviation Administration, JCCI, and Checker Cab. AS did not  
2 provide service to all customers throughout the year and had a  
3 maximum of five customers in any given month. The principal of  
4 AS withdrew a salary of \$21,813 in 1995.

5 Arnesen testified to the issue of competition in the  
6 Anchorage market and addressed the impact of competition on  
7 recycling in Anchorage. Arnesen stated that in Order U-94-17(2),<sup>1</sup>  
8 dated December 14, 1994, the Commission defined "customer" as  
9 service location not entity. That Order also stated that, "true  
10 competition requires a level playing field; and where one entity  
11 is fully regulated and certificated and another is not, a level  
12 playing field cannot exist. For true competition to exist, all  
13 entities should be governed by the same rules."

14 Arnesen stated that his pricing structure is directly  
15 related to frequency and volume of service and is based on  
16 expenses of providing service. As a result, his prices are 18-37  
17 percent below the tariffed rates of ARI. Arnesen believed a  
18 decrease in those percentages occurred possibly due to competition  
19 by CR since 1994.

20 Arnesen believed that if there is a cross-subsidy from  
21 ARI's commercial service to its residential service, competition  
22 may change how residential refuse rates are structured and  
23 residential rates may increase as a result of deregulating  
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25  
26 <sup>1</sup>That proceeding is entitled: *In the Matter of the Request  
by Jim A. Arnesen for a Declaratory Ruling Regarding the  
Definition of Customer.*

1 commercial sectors. Arnesen believed it is in the public interest  
2 to have the "cost-causer" be the "cost-payer".

3 Arnesen testified that the cost of hauling recyclables  
4 has decreased since CR entered the market. Prior to CR entering  
5 the market, Anchorage Recycling Center's (ARC) haul rate for  
6 recyclables was \$125. ARC's rate is currently \$80-90 per haul.

7 Barone testified that it is in the public interest to  
8 allow competition in the collection of refuse from commercial  
9 establishments in Anchorage. Barone stated that, in her expert  
10 opinion as an economist, the refuse industry, in general, and in  
11 Anchorage specifically, is not a natural monopoly. Barone stated  
12 a natural monopoly exists when one firm is able to satisfy all of  
13 the demand in a given market at a total cost that is lower than  
14 if two or more firms satisfied all the demand in the same market.

15 Barone agreed with the Staff White Paper dated June 22,  
16 1983, which concluded that refuse is not a natural monopoly.  
17 Barone stated while there are economies of scale in the refuse  
18 industry, just as in every industry, these are not large enough  
19 to prohibit the existence of more than one firm in the industry.

20 Barone also testified regarding the other markets in  
21 Alaska in which the Commission has determined that competition is  
22 in the public interest. Barone asserted that one of the reasons  
23 the Commission allowed competition in Fairbanks was because the  
24 monopoly provider, Far North Sanitation Service, Inc. (Far North),  
25 had a history of tariff violations and the Commission used  
26

1 competition to cure Far North's tariff problems. Barone asserted  
2 that the Commission allowed competition in Juneau to increase  
3 market penetration, provide a greater diversity of service, and  
4 break up the vertical monopoly. Barone asserted that in the North  
5 Slope Borough, the new entrant provided service that the borough  
6 wasn't providing. Barone asserted that in the Matanuska Susitna  
7 Borough, the Commission allowed residential competition because  
8 the residential penetration rate was low.

9 Barone believed that the Commission's denial of CRI's  
10 application would condone "cream skimming." She stated that it  
11 would encourage CRI to continue unregulated operations and that  
12 other companies could do the same. Barone further stated that if  
13 CRI was not fit to provide service, the Commission would deny its  
14 application on that basis. Barone believed that other companies  
15 are watching this proceeding and, if CRI is granted a certificate,  
16 other companies would be more likely to request a certificate  
17 rather than continue unregulated operations by serving only nine  
18 customers.

19 In the Fairbanks market, Barone believed that Star  
20 Sanitation, Inc. (Star), encouraged Far North's customers to  
21 switch refuse collection services because of quality of service  
22 issues and because Far North wasn't charging its tariffed rate.  
23 Barone believed that Star provided its customers with a combina-  
24 tion of better service and lower rates to encourage customers to  
25 switch. She opined that the customers were receiving more utility  
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1 services and more satisfaction from their service with Star than  
2 they were with Far North.

3 Barone disagreed with ARI's conclusions that competition  
4 did not succeed in Alaska. Barone stated that in Fairbanks the  
5 result of competition was that the new refuse company, Star,  
6 bought out the previous monopoly service provider, Far North, and  
7 Fairbanks returned to having one refuse collection provider.  
8 Barone believed the public interest was served by this because  
9 Star was able to provide refuse removal service at a lower price  
10 than Far North.

11 Barone asserted that complete deregulation of the refuse  
12 industry in Anchorage should be the Commission's long-term goal,  
13 but immediate deregulation would be a mistake. Barone stated  
14 complete deregulation would not instantly create a competitive  
15 market and all the benefits of that market. Barone asserted that  
16 upon deregulation, ARI/ERRI would be a dominant firm in the market  
17 and, as such, would be able to use discriminatory pricing to  
18 maintain its dominant status. Barone testified that ARI/ERRI  
19 would be able to offer extremely low prices to potential CRI  
20 customers and raise prices in the residential and dumpster markets  
21 where competition doesn't exist. Barone stated that although  
22 ARI/ERRI can't change its tariffed rate, it can change the prices  
23 of its unregulated services.

24 Barone recommended that the Commission should have an  
25 initial period of full regulation and then later determine if  
26

1 regulation was still necessary. In the alternative, Barone  
2 suggested that the Commission could require refuse collection  
3 providers to post the prices for service, which would ensure that  
4 the providers are providing services to customers in the same  
5 class at the same price. Barone stated that if the market is  
6 deregulated, a larger company can target only the customers that  
7 the smaller companies are seeking to serve and offer those  
8 customers service at reduced rates while leaving the rates to the  
9 remainder of their customers high. Barone asserted that for  
10 competition to succeed, there would have to be a few companies of  
11 comparable size or there would have to be a much less significant  
12 barrier to entry.

13 Barone recommended that the Commission follow past  
14 precedent when allowing competition in the refuse industry in  
15 Anchorage by:

16 (1) Following the example of Re Claude C. Bailey  
17 dba Valley Refuse, 7 APUC 97 (1985) where it concluded  
18 that under competition, refuse utilities do not "need  
19 to establish anything more than a threshold level of  
20 fitness, willingness, and ability in order to procure  
21 a certificate of public convenience and necessity" to  
22 encourage additional firms to enter the market.

23 (2) Maintain economic regulation for an initial  
24 test period by adopting a policy such as that in Re  
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26

1           Star Sanitation Services, Inc., 12 APUC 483, 485 (1992)

2           to keep competition on a "level playing field."

3  
4           **ARI's Application**

5                       Cox testified to three pivotal issues in this proceed-  
6 ing: (1) whether monopoly or competitive provision of refuse  
7 service is better suited to deliver adequate and reasonably priced  
8 service in a socially responsible manner in the Anchorage area;  
9 (2) whether refuse collection public utility service in the  
10 Anchorage area should be deregulated; and (3) whether ARI and ERRI  
11 are fit, willing and able to provide the service proposed in their  
12 application.

13                      According to ARI's 1995 annual report, the Vice  
14 President of Operations withdrew a salary of \$90,000; the  
15 President and Chief Executive Officer withdrew a salary of  
16 \$150,000; and the Vice President of Marketing withdrew a salary  
17 of approximately \$96,000. ARI's operations are economically  
18 regulated by the Commission.

19                      Cox noted that if competition is allowed in the  
20 Anchorage market, refuse collection providers will compete  
21 regarding the quality of the service, the price for the service,  
22 and the ability to deliver the service in a timely and efficient  
23 manner. Cox stated that in order to respond to a competitive  
24 market a refuse collection provider must focus on maximizing the  
25 efficiency of the operation by using as much automation as  
26 possible; developing a system that supports record keeping and

1 reporting requirements to allow for constant management of the  
2 operation to develop a system that satisfies a customer's demand,  
3 meets the customer's needs, and satisfies those needs quickly and  
4 efficiently.

5 Cox concluded that competitive refuse collection is not  
6 in the public interest. Cox stated that ARI/ERRI believed the  
7 experience in other parts of the State, such as Fairbanks and  
8 Juneau, as well as the Pacific Northwest, demonstrated that  
9 competitive refuse collection is not in the public interest.

10 Cox stated ARI/ERRI is currently operating in a  
11 competitive market with self-haulers. Cox recommended that the  
12 Commission determine either that a regulated market is in the  
13 public interest and enforce the terms and conditions of regulation  
14 or have open and free competition for all refuse service provid-  
15 ers. According to Cox, CR and PSI are already competing with  
16 ARI/ERRI and that competition is permissible for unregulated  
17 services such as container rental. Cox argued that the market  
18 should either be regulated in a manner that supports the provision  
19 of monopoly service or the market should be deregulated. Cox  
20 stated that ARI/ERRI would be at a serious competitive disadvan-  
21 tage if it were rate regulated and its competitors were deregu-  
22 lated because ARI/ERRI must comply with its approved tariffs.  
23 According to Cox, CR has offered commercial refuse service at  
24 rates less than ARI/ERRI's tariffed rate and below the cost of  
25 service. Cox argued that continuing to regulate ARI/ERRI while  
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1 deregulating competitors would allow competitors to cream skim at  
2 will. ARI/ERRI strongly prefers a regulatory environment where  
3 all competitors are regulated identically to an environment where  
4 it is fully regulated but its competitors are not.

5 Cox stated the link between a residential (multi-family  
6 dwelling) account and a commercial account is dumpster service.  
7 He stated front-end trucks that pick up dumpsters can service a  
8 commercial account and a residential account the same day.

9 Cox testified that large volume customers will benefit  
10 in the short run from competition, but other customers such as  
11 residential and small businesses will not. Cox opined that  
12 competition can lead to lower prices for some customers and it can  
13 lead to higher prices for some. Cox stated there are customers  
14 that nobody will want to serve; however, under the current system  
15 of regulation there is a requirement to provide service to  
16 whomever requests it. Cox acknowledged that under a free and open  
17 competition scenario those customers may become self-haulers.

18 Cox believed opening up commercial refuse collection and  
19 disposal to competition will likely injure recycling. He stated  
20 the Commission may want the Legislature to provide direction as  
21 to the future relationship between competition, refuse collection  
22 and recycling.

23 Morris believed Anchorage is best served by, at the  
24 most, two refuse haulers. However, he believed CRI's proposal to  
25 compete for commercial refuse collection will allow CRI to "cream  
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1 skim." Morris testified that permitting two or more active  
2 refuse collectors to collect and dispose of commercial refuse in  
3 the Anchorage area is not wise public policy, is not in the public  
4 interest, and will ensure that recycling will stop developing in  
5 the manner intended by the Alaska Legislature and this Commission.  
6 Morris stated that in areas of the country he is familiar with,  
7 unmanaged competition has not proven to lower rates, improve  
8 service, or facilitate recycling. Additionally, Morris stated  
9 each hauler is competing for customers so they cannot afford to  
10 charge a rate that covers the cost of recycling.

11 Morris testified natural monopolies tend to be very  
12 geographic specific. A natural monopoly involves businesses that  
13 can serve only clients in a specific area. Morris agreed with  
14 Cox's statement that deregulation, before fully effective  
15 competition is in place, could jeopardize competition and that it  
16 would take four or five similarly sized firms in an industry to  
17 have competition.

18 Morris stated that most central cities, suburban cities  
19 and rural areas in the Pacific Northwest have found it necessary  
20 to introduce some form of regulatory control to promote the growth  
21 of the recycling industry. This is true whether the refuse  
22 collection system is a monopoly or competitive. Morris testified  
23 that recycling does not pay for itself in the long run and other  
24 means of paying for the unrecovered portion of recycling costs  
25 must be found. Morris believed if more than one hauler was  
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1 competing for customers in ARI's service area, recycling services  
2 would probably not be offered in order to keep their refuse rates  
3 as low as possible.

4 Morris believed a perpetual exclusive certification with  
5 state regulation is the best market structure for refuse collec-  
6 tion in a city the size of Anchorage. Morris stated emphasis  
7 should be on trying to increase diversification, increase  
8 recycling, and not worry about the market structure because a cost  
9 effective system for refuse provision is already in existence.

10 Morris opined if the Commission allows competition in  
11 the collection and disposal of commercial refuse in the Anchorage  
12 area, ARC will be forced to abandon the collection and sale of  
13 recyclables so that ARI/ERRI will be cost competitive with the  
14 other providers. Additionally, Morris stated the recyclable  
15 materials that ARC would no longer collect would have to be  
16 collected and disposed of by ARI/ERRI or the other competitors as  
17 part of normal refuse collection service. This would cause all  
18 ratepayers' bills to be higher.

19 Uhlenkott testified to, among other things, the  
20 potential effects of competition in the commercial market in the  
21 Anchorage area and why the Commission should not allow it; the  
22 damage continued rate regulation would cause in a competitive  
23 environment; the history of competition in the refuse industry in  
24 Alaska which demonstrates competition has not been effective and  
25 has not benefitted the consumer; and the negative effect that  
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1 Commission recognizes that over time competition may result in  
2 higher costs for residential and other services. However, the  
3 Commission believes that some movement of those rates towards  
4 costs may be acceptable, thus causing the cost-causer to be the  
5 cost-payer.

6 The Commission has further determined that refuse  
7 service in the Anchorage area should be rate regulated depending  
8 on the service provided. Specifically, the Commission has  
9 determined that commercial customers using roll-on/roll-off  
10 containers and dumpsters over two cubic yards in size and designed  
11 to be mechanically emptied should not be regulated. The Commis-  
12 sion has determined that residential service (that service  
13 typically provided to customers using standard containers up to  
14 32 gallons in size) should remain regulated.

15 The Commission has determined that roll-on/roll-off  
16 service and dumpster service will not be economically regulated  
17 by the Commission. However, the Commission will not permit  
18 discrimination in prices or service to customers within the same  
19 customer class. AS 42.05.301. All customers receiving service  
20 within a customer class must be billed the same rates and charges  
21 for service. No customer shall receive an unreasonable prefer-  
22 ence or advantage or be subject to an unreasonable prejudice or  
23 disadvantage in the provision of refuse collection and disposal  
24 service.

25  
26

1 competition in the refuse industry would have on recycling efforts  
2 in Anchorage.

3 Uhlenkott testified that a number of significant changes  
4 would occur for the existing carriers, customers, and residents  
5 of Anchorage if the Commission approved competition in the  
6 Anchorage area. Uhlenkott stated the current customer and revenue  
7 levels of the certificated carriers will decrease. Uhlenkott  
8 stated even though some operating expenses will decrease, many of  
9 the operating expenses are fixed in nature and would not decline  
10 substantially. Likewise, Uhlenkott stated the investment level  
11 of the existing certificated utilities would not decrease  
12 substantially. Uhlenkott believed the end result would be that  
13 the fixed expenses and investment levels would have to be spread  
14 over a smaller customer base resulting in a higher revenue  
15 requirement per customer than would result if no competition  
16 existed.

17 Uhlenkott believed that in a competitive environment,  
18 each competitor would be forced to operate with rates which would  
19 produce revenues substantially lower than their revenue require-  
20 ments for a period of time to maintain and protect their respec-  
21 tive market shares. Uhlenkott stated that competition in the  
22 Lower 48 in several places has been disastrous. He stated  
23 Portland, Oregon had over 100 carriers with no control and that  
24 there was garbage out at the curb five days a week. This caused  
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Alaska Public Utilities Commission  
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Discussion

The first issue for Commission consideration is whether monopoly or competitive provision of refuse service is better calculated to deliver adequate and reasonably priced service in a socially responsible manner in the Anchorage area. In the past when the Commission has been confronted with this issue,<sup>2</sup> the Commission considered several factors, including, but not limited to, the following: (1) whether provision of the service is a natural monopoly; and (2) whether monopoly or competitive provision of service is in the public interest.

With respect to whether monopoly or competitive provision of service is in the public interest, the Commission will consider the following issues: (1) the impact on the prices for refuse collection and disposal service; (2) the impact on the quality of service provided; (3) the impact on other classes of service; and (4) the impact on market penetration.

The Commission has determined that the market under consideration is not a natural monopoly and that a competitive market structure can better serve the public interest than can a monopoly structure. The Commission finds that competition would lower costs and improve the quality of service. The Commission believes that the service penetration rate in the Anchorage area is adequate and is not an issue at this time. Finally, the

---

<sup>2</sup>In *Re Claude C. Bailey d/b/a Valley Refuse*, 7 APUC 97 (1985).

1 health and safety issues that do not occur in monopolistic type  
2 environments.

3 Uhlenkott researched the history of competition in  
4 Alaska and found that, even though competition was allowed in  
5 several areas of the state, the public did not benefit and better  
6 services were not provided. Uhlenkott stated the best example of  
7 the failure of competition occurred in the Fairbanks area.  
8 Uhlenkott stated the public did not receive any benefits in the  
9 form of lower rates as a result of competition; the regulatory  
10 costs of both utilities increased substantially, and the financial  
11 position of both competing carriers was seriously damaged.

12 Uhlenkott agreed with Morris's opinion that deregulation  
13 of commercial refuse service in Anchorage would have a negative  
14 impact on recycling. Uhlenkott believed commercial refuse  
15 competition would not promote cost-effective solid waste recovery  
16 and recycling services as required by AS 42.05.431(g).

17 Uhlenkott concluded that if the Commission allows  
18 commercial refuse competition, the best regulatory scheme would  
19 be total rate deregulation of all carriers to prevent unfair  
20 competitive practices and cream-skimming and to create a level  
21 playing field for all competitive services, such as dumpster  
22 services and roll-off services, but not residential services.  
23 Uhlenkott opined that rate deregulation in a competitive environ-  
24 ment would enhance opportunities for customers to gain an  
25  
26

1 advantage through reduced rates that would be lost under any other  
2 rate regulation scheme the Commission imposes.

3           Turner described the economics of recycling and how the  
4 integrity of the refuse collection and disposal system in ARI's  
5 and ERRI's service areas are based on the interdependence between  
6 recycling and refuse collection and disposal. Turner also  
7 described ARI's recycling operations and concluded that commercial  
8 refuse competition will not promote recycling.

9  
10 **PSI's Application**

11           Carver testified that in 1985 he purchased 100 percent  
12 of PSI stock. In 1989 PSI received the sole solid waste contract  
13 for the Exxon Valdez Oil Spill clean up. In 1990 PSI introduced  
14 the first 90 gallon wheeler trash carts to Alaska. PSI employs  
15 30 full-time and part-time employees and maintains a fleet of 40  
16 trucks and other equipment, including front-load, rear-load, roll-  
17 off and semi-trucks, loaders, sweepers, cranes, forklifts, dozers,  
18 and graders. PSI owns and maintains two shops and has an  
19 equipment yard for storage and parking in the Girdwood area.

20           Carver agreed with CRI's witnesses that competition  
21 would be in the public interest. Carver asserted competition  
22 would lower the overall rates and provide customers with choices  
23 they do not currently have. Carver also asserted that competition  
24 is compatible with recycling.

25           Carver believed it would be preferable to have the  
26 Commission rate regulate competition in the beginning to give

1 competitors time to establish operations and allow growth of the  
2 company. Carver stated he applied for roll-off and dumpster  
3 service; however, he is mainly interested in the dumpster market.  
4

5 **MOA's Position**

6 Grunwaldt testified that the MOA provides refuse  
7 collection services to the residents and business entities within  
8 the City Service Area. He stated under Alaska Statutes and  
9 Anchorage Municipal Code, the Municipality is authorized to and  
10 clearly and deliberately has sought to be the sole provider of  
11 garbage and solid waste collection/disposal services within the  
12 City Service Area. Grunwaldt asserted it is MOA's desire to  
13 protect its customers and all property right it has in its  
14 existing certificate issued by the Commission. Grunwaldt believed  
15 no public interest would be served by issuing competing certifi-  
16 cates within the geographic boundaries of the City Service Area.

17 Grunwaldt believed unrestricted competition between  
18 several private carriers would have some advantages. However, he  
19 stated that over a period of time the costs would ultimately  
20 increase because the fixed costs would need to be allocated to a  
21 different customer base. Grunwaldt stated if the customer base  
22 is lost, those fixed costs would have to be transferred to another  
23 area.  
24  
25  
26

1 To ensure that all customers are treated equally and  
2 have notice of the rates to be charged for specific services, all  
3 competing refuse utilities must file tariffs with the Commission.  
4 The tariffs will be filed for informational purposes; to provide  
5 notice to the public and to allow the Commission to determine that  
6 service is being provided in a safe, reasonable, and nondiscrimi-  
7 natory manner. Refuse utilities will be permitted to alter the  
8 rates and charges in the filed tariffs upon thirty days notice to  
9 consumers.

10 Refuse utilities must provide service to any customer  
11 requesting service within the service area authorized by the  
12 certificate issued by the Commission. Refuse utilities may not  
13 provide service without a certificate. AS 42.05.221.

14 According to AS 42.05.241, in order to receive a  
15 certificate, an applicant must demonstrate that he or she is fit,  
16 willing, and able to provide the proposed service and that the  
17 public convenience and necessity requires the proposed service.  
18 The Commission has determined that competition is in the public  
19 interest in the Anchorage area, therefore, future applicants do  
20 not need to demonstrate that this element of AS 42.05.241 is  
21 present.

22 The Commission further recognizes that in a competitive  
23 environment, customers will have more than one refuse public  
24 utility provider available for service therefore, the standards  
25 for demonstrating fitness, willingness, and ability will be  
26

1 reduced. Diminution of the standard for fitness, willingness, and  
2 ability should not be construed as the elimination of the standard  
3 in its entirety. In order to promote the provision of safe and  
4 reliable service, applicants must meet a minimum standard.

5 The Commission recognizes its responsibility to promote  
6 recycling. AS 42.05.431. However, the Commission has determined  
7 it will not address the issue of recycling at this time.

8 The Commission has determined that competition is in the  
9 public interest in the Anchorage area, therefore, the Commission  
10 will consider the three applications to provide competing service.  
11 First, the Commission will consider the application of CRI. The  
12 Commission has determined that CRI is fit, willing, and able to  
13 provide commercial service and the application is granted.  
14 Arnesen has eleven years of experience working in the refuse  
15 market; he has been providing unregulated commercial roll-off  
16 refuse collection and disposal service for approximately three  
17 years; and he currently has two roll-off trucks, a service truck,  
18 two dumpsters, seven roll-off containers, and miscellaneous office  
19 and shop equipment, supplies and parts. The Commission finds the  
20 vehicles and equipment Arnesen is using are sufficient to provide  
21 the service he proposes and that he possesses the requisite skills  
22 to manage the proposed business. The Commission notes that even  
23 though it has opened the entire commercial market for competition,  
24 CRI has only applied for roll-off service. Therefore, CRI will  
25  
26

1 be required to amend its tariff to include dumpster service before  
2 it can provide service to dumpster customers.

3           Second, the Commission has determined that PSI is fit,  
4 willing, and able to provide commercial service and the applica-  
5 tion is granted. The Commission finds the management expertise,  
6 capitalization, and equipment of PSI are clearly sufficient to  
7 enter the business in the Anchorage area as a competing carrier.

8           Third, the Commission will consider the application of  
9 ARI. The application of ARI/ERRI is essentially for the area  
10 currently certificated to the MOA. As such, an additional  
11 analysis is required. The Commission has determined that the  
12 public convenience and necessity does not require competition  
13 within the MOA service territory. According to AS 29.35.050, a  
14 municipality has the authority to provide for comprehensive  
15 municipal regulation of refuse collection service. This statute  
16 must be construed in conjunction with AS 42.05.641 by which the  
17 Commission's jurisdiction and authority is extended to public  
18 utilities operating within a municipality. The Commission has  
19 determined that if additional certificates of public convenience  
20 and necessity are issued within the service area of the MOA, the  
21 MOA may be required to purchase those certificates for fair market  
22 value in order to maintain exclusive service. The Commission has  
23 determined that is an impractical result that could encourage the  
24 arbitrage of certificates.

1           Moreover, the MOA holds a certificate issued by the  
2 Commission and is currently providing service in a safe, adequate  
3 and socially responsible manner. Under the current system, the  
4 MOA provides all residential service and allows other entities to  
5 provide certain commercial service. Specifically, the MOA does  
6 not have commercial roll-on/roll-off equipment and allows other  
7 entities to provide this service within its certificated area.  
8 The Commission believes even though competition is in the public  
9 interest, this system appears to be functioning well. There is  
10 no evidence in the record of price discrimination, lack of market  
11 penetration, or other indices that would promote the introduction  
12 of competition. Thus, the MOA service area is not subject to  
13 commercial competition at this time.

14           Given the Commission's determination regarding competi-  
15 tion within the service area of the MOA, the Commission must deny  
16 the application of ARI. Denial of the application is not based  
17 on the fitness, willingness, or ability of ARI/ERRI to provide the  
18 proposed service.

19           This Order constitutes the final decision of the  
20 Commission. This decision is appealable within 30 days of the  
21 date of this Order in accordance with AS 22.10.020(d) and the  
22 Alaska Rules of Court, Rules of Appellate Procedure, Rule  
23 602(a)(2). In addition to the appellate rights afforded by the  
24 aforementioned statute, a party may file a petition for  
25 reconsideration in accordance 3 AAC 48.105. In the event such a  
26

1 petition is filed, the time period for filing an appeal is then  
2 calculated in accordance with *Alaska Rules of Court, Rules of*  
3 *Appellate Procedure, Rule 602(a)(2)*.

4  
5 ORDER

6 THE COMMISSION FURTHER ORDERS:

7 1. Subject to such conditions as the Commission may  
8 prescribe in the future, any applicant fit, willing, and able to  
9 provide commercial refuse collection and disposal service within  
10 the Anchorage area, may receive a certificate of public convenience and necessity to provide such service without individually  
11 establishing that either the public convenience and necessity, the  
12 public interest, exigent circumstances or other good cause support  
13 the issuance of such certification, as more fully described in the  
14 body of this Order.

15  
16 2. The application by Commercial Refuse, Inc., to  
17 provide commercial refuse collection and disposal service within  
18 the Anchorage area, is granted, as more fully described in the  
19 body of this Order.

20 3. The application by Peninsula Sanitation, Inc., to  
21 provide commercial refuse collection and disposal service within  
22 the Anchorage area, is granted, as more fully described in the  
23 body of this Order.

24 4. The application by Anchorage Refuse, Inc. and Eagle  
25 River Refuse, Inc., to provide commercial refuse collection and  
26 disposal service within the service area of the Municipality of

1 Anchorage Solid Waste Services Division, is denied, as more fully  
2 described in the body of this Order.

3 5. By 4 p.m., May 19, 1997, Commercial Refuse, Inc.,  
4 and Peninsula Sanitation, Inc., shall file tariff sheets governing  
5 the provision of commercial refuse collection and disposal service  
6 within the Anchorage area.

7 6. Anchorage Refuse, Inc., and Eagle River Refuse,  
8 Inc., may amend their tariff sheets governing the provision of  
9 commercial refuse collection and disposal service within the  
10 Anchorage area at their discretion.

11  
12 DATED AND EFFECTIVE at Anchorage, Alaska, this 17th day of April,  
1997.

13 BY DIRECTION OF THE COMMISSION  
14 (Commissioners Tim Cook and  
15 James M. Posey, not participating.)



23  
24  
25  
26

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94 MAY -2 PM 3:14

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Don Schröer, Chairman  
Daniel Patrick O'Tierne  
James E. Carter, Sr.  
Alyce A. Hanley  
Dwight D. Ormquist

In the Matter of the Investigation )  
Regarding the Continued Economic )  
Regulation of Refuse Public Utility )  
Utilities in the Area of Fairbanks, )  
Alaska )

U-94-19

STAFF REPORT

Background

By Order U-92-12(3), dated December 9, 1992, the Commission granted the application of Star Sanitation Services Inc. (Star), for a certificate of public convenience and necessity (certificate) to operate as a refuse public utility. In that Order the Commission stated that the rates of Star and Far North Sanitation Service, Inc. (Far North), should be regulated for a period of least twelve months, but observed that rate regulation may not be necessary in the future because of competition between Star and Far North. The Commission further stated that, depending on developments in the market, the Commission anticipates that such regulation may not be necessary in the future, but that it is appropriate for an initial period of time.

**EXHIBIT MPM-1**

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Exhibit LVU-1

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1 By Order U-92-12(5), dated June 25, 1993, the  
2 Commission reminded Star of the requirement to file its annual  
3 report by February 9, 1994, and required the Commission Staff  
4 (Staff) to file a review, analysis, and recommendation (report  
5 regarding the necessity of continued rate regulation of Star.

6 Subsequently, by Order U-93-31(3), dated November 9  
7 1993, the Commission approved, subject to conditions, Star's  
8 application to amend its Certificate No. 443 to expand its  
9 service area to provide commercial refuse service in and around  
10 the Fairbanks area. The Commission's approval was facilitated  
11 by a joint motion of Star and Far North to withdraw Far North's  
12 petition to intervene and to grant the amendment subject to the  
13 condition that, among other things, Star's rates should  
14 continue to be fully regulated until December 31, 1995.

15 At its December 23, 1993, Tariff Action Meeting, the  
16 Commission restated that the necessity for continued economic  
17 regulation of refuse service in the Fairbanks area<sup>1</sup> should be  
18 investigated given the apparent degree of competition which has  
19 developed since Star's certification. By Order U-94-19(1)/U-  
20 93-31(4)/U-92-12(6), dated February 15, 1994, the Commission  
21 transferred the remaining issues in Docket U-92-12 to a new  
22 docket of investigation, Docket U-94-19, expanded the scope of  
23 review to include consideration of the necessity for continued  
24

25 <sup>1</sup> This area includes the City of Fairbanks proper and those portions  
26 of the Fairbanks North Star Borough served by Star, Far North,  
Interior Services.

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1 rate regulation of Far North, and required Staff to address the  
2 effect of any such economic deregulation on the provision of  
3 residential refuse service by the City of Fairbanks.

4 Discussion

5 Staff believes the following factors should be  
6 considered in determining the appropriateness of continued rate  
7 regulation in Fairbanks: the past regulatory history of the  
8 area, which includes a competitive period involving Far North  
9 the current financial status of Ralph D. Bartlett d/b/a  
10 Interior Services (Interior); the current financial status of  
11 Star and Far North; and the impact of deregulation on  
12 residential customers outside the city limits, but within the  
13 Borough boundary.

14 History of Refuse Regulation in Fairbanks:

15 In 1980, the Legislature repealed certain  
16 exclusionary language in the Alaska Public Utilities Act (AS  
17 42.05) that had the effect of exempting garbage and refuse  
18 collection and disposal operations within certain city limits  
19 from the certification process. Thus, utilities providing  
20 service within municipal boundaries were required to apply to  
21 the Commission for a certificate. At the time the statute  
22 changed, there were several refuse carriers in and around the  
23 City of Fairbanks: Far North, Interior, the City of Fairbanks  
24 and Chris Escalante and Marc Golat d/b/a Marche Sanitation  
25 (Marche).  
26

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1 By Order U-79-27(12)/U-80-18(6)/U-80-65(4)/U-80-  
 2 72(3), dated February 13, 1981, the Commission, among other  
 3 things, approved Far North's application to furnish commercial  
 4 service within the corporate limits of the City of Fairbanks  
 5 and to extend its service area to provide residential and  
 6 commercial service to customers outside the corporate limits  
 7 of the City of Fairbanks; approved the portion of Marche's  
 8 application requesting authority to provide commercial refuse  
 9 service within the corporate limits of the City of Fairbanks;  
 10 and approved the application by the City of Fairbanks to  
 11 provide residential service within the corporate limits of the  
 12 City of Fairbanks. The following chart provides a graphic  
 13 representation of the scope of service provided by the refuse  
 14 carriers following the issuance of that Order.

Refuse Carriers in Fairbanks--1981

	Commercial Service	Residential Service
Within City Limits	Far North, Marche	City of Fairbanks
Outside City Limits*	Far North, Interior**	Far North, Interior**

\*Mutually exclusive service areas.

\*\*Not a party to U-79-27 et al.

22 Besides accepting a stipulation between the parties,  
 23 Order U-79-27(12) et al. also exempted Far North from economic  
 24 regulation with respect to its operations within the Fairbanks  
 25 city limits. (Far North's commercial competitor, Marche, was  
 26 already exempt from economic regulation because its annual

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1 revenues were less than \$200,000.) The stipulation further  
 2 provided that regulatory oversight of rates and quality of  
 3 service within city limits would be provided by the City of  
 4 Fairbanks.

5 Outside the Fairbanks city limits, the Commission  
 6 approved Far North's application to expand its existing  
 7 commercial and residential service area. The Commission deni  
 8 Marche's application to provide service essentially in the sa  
 9 area and stated:

10 ...it is entirely possible that by allowing  
 11 Far North alone, to operate as a garbage  
 12 and refuse collection and disposal public  
 13 utility, without competition, outside the  
 14 City of Fairbanks, Far North might raise  
 15 its rates outside the City to generate a  
 16 revenue "lever" and, permitting it to  
 17 depress the rates it charges inside the  
 18 City and thus drive Marche out of business.  
 19 The Commission trusts that will not occur  
 20 but places Far North on notice that Far  
 21 North's rates and service outside the City  
 22 will continue to be monitored to prevent  
 23 such an abuse of monopoly.... (Order U-79-  
 24 27(12) et al., p. 16.)

25 In addition to the certificated utilities in the  
 26 area, the Fairbanks North Star Borough (Borough) provided and  
 continues to provide dumpsters at convenient locations within  
 the Borough but outside the City limits, for use by Borough  
 residents. The Borough contracts with certificated carriers  
 the area to dispose of the refuse collected at these sites.

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1 In 1983, Far North<sup>2</sup> and Marche jointly filed an  
 2 application to transfer Marche's Certificate No. 275 to Far  
 3 North. In the course of Staff's evaluation of the application  
 4 Staff discovered that Far North was not using its Commission-  
 5 approved tariff for its service area outside the Fairbanks city  
 6 limits and that Far North was charging these customers higher  
 7 rates than authorized. Approval of the transfer application  
 8 removed the competitive environment and Far North's operations  
 9 within city limits were again subject to economic regulation by  
 10 the Commission.

11 Subsequently, the Commission opened Docket U-87-58 to  
 12 investigate the justness, reasonableness, and propriety of the  
 13 rates and charges collected by Far North. By Order U-87-  
 14 58(11), dated February 10, 1989, the Commission required Far  
 15 North to refund approximately \$455,885 to its customers. The  
 16 refund issue is discussed more fully in Attachment I.

17 As noted at the beginning of this Report, Star was  
 18 initially certificated to provide commercial service within  
 19 city limits, in competition with Far North. Subsequently, Star  
 20 applied for and received Commission approval to provide  
 21 commercial service outside the city limits, in competition with  
 22 Far North and Interior. The following chart represents the

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24 \_\_\_\_\_  
 25 <sup>3</sup>The application was initially filed by Marche and Bernard  
 26 Kopf but later amended to reflect that Far North, rather than  
 Kopf, would be purchasing the assets and equipment of Marche.  
 (Kopf is the chief operating officer and sole management authority  
 for Far North.)

1 scope of service provided by the refuse carriers in the area .  
2 this time:

3 Refuse Carriers in Fairbanks--1994

	Commercial Service	Residential Servi.
4 Within City Limits	Far North, Star	City of Fairbanks
5 Outside City Limits	Far North, Star, 6 Interior"	Far North, Interior

7  
8 \*Mutually exclusive service areas.  
9 \*\*Interior's service area does not overlap Far North's.

10 Although history is not necessarily an adequate predictor of  
11 future events, Far North's past actions raise concern about how  
12 the utility would act in a deregulated environment with respect  
13 to its residential customers, as more fully discussed below.

14 Interior's Current Financial Status:

15 In Docket U-93-31, Star applied to provide commercis  
16 service within Interior's certificated commercial and  
17 residential service area. Interior did not oppose Star's  
18 application and, thus, was not designated a party to the  
19 stipulated settlement or to this proceeding, Docket U-94-19.  
20 On March 7, 1994, Interior filed its required annual report to  
21 the Commission and a letter stating that its revenues  
22 (\$173,292) were now below the threshold for economic  
23 regulation. According to the letter, the decrease in revenue  
24 is due to the loss of a large contract with the Borough. Star  
25 is the entity which now holds this Borough contract.

26 ~~Obviously, competition with Star has had a significant impact on~~

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1 ~~Interior~~. According to Interior's 1993 Annual Report, during  
 2 1993 Interior had an average of 97 residential customers and  
 3 \$8,883 in operating revenues for this customer class.

4 Star and Far North's Current Financial Status/  
 5 Far North's Refund Obligations

6 Utility Financial Analyst Parker J. Nation, Jr., has  
 7 reviewed Star and Far North's annual reports and prepared a  
 8 recommendation, which is attached to this Report as Attachment  
 9 I. As noted in that recommendation, Star and Far North's 1993  
 10 annual reports indicate that both utilities have experienced  
 11 significant losses for the year and are in precarious financial  
 12 positions. It is possible that one or both utilities may not  
 13 survive the current competitive environment. Therefore, Staff  
 14 proposes that the Commission continue to regulate the rates and  
 15 services of Star and Far North. As discussed more fully in the  
 16 recommendation, Staff recommends that the Commission require  
 17 the carriers to file revenue requirement and cost of service  
 18 studies based on a test year ended December 31, 1993, and that  
 19 an investigation be instituted to explore whether the Fairbanks  
 20 refuse collection market is large enough to sustain competition  
 21 in the long term or whether alternatives are desirable.

22 In a related matter, as of December 31, 1993, Far  
 23 North still had a remaining refund obligation of \$91,190.08 to  
 24 customers who were overcharged from 1986 to 1988. Because of  
 25 the decline in Far North's operating revenues as a result of  
 26 competition and the impact of competition on the refund

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1 procedure', Staff has recommended that Far North complete its  
 2 refund obligation this year. (See Docket U-87-58, Staff  
 3 Report, filed May 2, 1994.)

4 Impact on Residential Customers Outside City Limits:

5 Based on 1993 Annual Reports, Interior and Far North  
 6 now serve a total of approximately 182 residential customers  
 7 (97 and 85 customers, respectively) outside the Fairbanks city  
 8 limits. As previously noted, these customers also have the  
 9 option of taking their refuse to a Borough dumpster for  
 10 disposal. However, there may be individuals who are unable or  
 11 unwilling to do so. The present situation is not a level  
 12 playing field since Star does not provide residential service  
 13 Moreover, based on Star's current financial status, at this  
 14 time the utility cannot incur the additional expenses necessary  
 15 to obtain the equipment and drivers necessary to serve  
 16 residential customers should the Commission order it to do so  
 17 Furthermore, some mechanism must exist to ensure that Far  
 18 North's residential rates are based on cost of service and no  
 19 artificially inflated to recoup losses in commercial revenue  
 20 from competition with Star.  
 21  
 22  
 23  
 24

25 Customers who switch from Far North to Star are entitled to  
 26 immediate payment of any remaining refund amounts. The remaining  
 Far North customers entitled to refunds are reimbursed according  
 to the schedule established before Star entered the market.

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1 Recommendations/Conclusion

2 Based on the regulatory history of refuse collection  
3 in the Fairbanks area; the current unstable financial status of  
4 the certificated refuse carriers in the area; and the impact of  
5 deregulation on residential customers outside the city limits  
6 but within the Borough boundary, Staff believes that continued  
7 regulation of Star and Far North is appropriate. The  
8 Commission should institute an investigation into the rates and  
9 services of Star and Far North, and require each utility to  
10 file a revenue requirements study and a cost of service study,  
11 using a test year ended December 31, 1993. The Commission  
12 should require Star and Far North to propose cost-based rates  
13 based on the cost of service studies filed. The Commission  
14 should require Star and Far North to propose alternative  
15 methods of addressing competition, including, but not limited  
16 to, full competition; competition in specific classes of  
17 service; segmenting the market by class of service; and  
18 geographic segmentation of the market.

19 Subsequently, if the Commission wishes to further  
20 explore the option of deregulation, the residential customers  
21 in the area should receive notice of the proceeding and a  
22 consumer input hearing held in Fairbanks to receive comments  
23 from the public.  
24  
25  
26

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M E M O R A N D U M

Date; May 2, 1994

To: Dawn Bishop-Kleweno  
Utility Engineering Analyst

From: *Parker J. Nelson, Jr.*  
Parker J. Nelson, Jr.  
Utility Financial Analyst

Subject: Docket U-94-19 - Continued Economic Regulation of Refuse Utilities in Fairbanks.

Recommendation

1. The Commission should continue to regulate the rates and services of Far North Sanitation Service, Inc. (Far North) and Star Sanitation Services, Inc. (Star).
2. The Commission should institute an investigation into the rates and services of both Far North and Star.
3. The Commission should require both Far North and Star to file a revenue requirements study, in accordance with 3 AAC 48.275(a), and a cost of service study, in accordance with 3 AAC 48.275(h). The studies should be required to have a test year ended December 31, 1993.
4. The Commission should require both Far North and Star to propose cost based rates, based on the cost of service studies filed.
5. The Commission should require both Far North and Star to propose methods of addressing competition, including, but not limited to: 1) full competition; 2) competition in specific

U-94-19 Staff Memorandum (5/2/94)  
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classes of service; 3) segmenting the market by class of service; and, 4) segmenting the market geographically.

#### Background

On February 15, 1994, the Commission issued Order No. 1 of Docket U-94-19 (U-94-19(1)), for the investigation regarding the continued economic regulation of refuse public utilities in the area of Fairbanks, Alaska. In the order, the Commission restated that the necessity for continued economic regulation of refuse service in the Fairbanks area should be investigated given the apparent degree of competition which has developed since certification of Star. In Docket U-92-12, the Commission was already considering the continued economic regulation of Star Sanitation Services, Inc. (Star). With Order U-94-19(1), the Commission expanded this review to include Far North. The Commission required a Staff Report to address the question of continued rate regulation of both Star and Far North. Order U-94-19(1) required the Staff report to be filed by March 9, 1994. Order U-94-19(2) extended that date to May 2, 1994, at the request of Far North.

#### Discussion

This memorandum focuses on the financial fitness and ability of both Star and Far North. Its focus is whether or not Star and Far North's financial position and results of operations

U-94-19 Staff Memorandum (5/2/94)  
Page 2 of 8

for 1993 demonstrate whether or not continued economic regulation by the Commission is warranted.

### Analysis

#### Far North

Far North's income statement is shown on page 14 of its APUC Annual Report (Attachment I, page 14). It shows a total net loss for the year ended December 31, 1993, of \$264,391. ~~However, when non-utility items, interest expense and other income is excluded, a net loss on utility operations of \$197,149 is shown. That represents a decrease in income from utility operations of \$207,143 from the year ended December 31, 1992.~~

Far North's loss from utility operations of \$197,149 occurred after the first full year of operation of competitor Star. ~~As shown on page 14 of Attachment I, Far North's revenues have decreased by \$559,463 from the year ended December 31, 1992.~~ This represents a decrease in revenues of 35.33 percent. Such a decrease shows clearly that Far North's customer base and revenues are not stable.

Far North's expenses, listed on page 14 and detailed on page 16 of Attachment I show that its operating expenses do not appear excessive. In fact, total utility operating expenses are shown to have decreased \$352,320 for the year ended December 31, 1993. This shows that the primary reason for the loss in utility operations is declining revenues associated with competition.

The effects on owners equity of Far North's 1993 net loss is shown on page 10 of Attachment I. Total capital (total owners equity) decreased \$256,372, going from \$654,517 at December 31, 1992 to \$398,245 at December 31, 1993. Owners equity decreased 39.16 percent in a one year period. This represents a serious erosion of Far North's equity position which resulted directly from declining revenues associated with competition.

*Star Sanitation Services, Inc.*

Star's income statement is shown on page 14 of its APUC Annual Report (Attachment II, page 14). It shows a total net loss for the year ended December 31, 1993, of \$99,915. However, when non-utility items, interest expense and other income is excluded, a net loss on utility operations of \$25,910 is shown. That represents a decrease in income from utility operations of \$20,721 from the year ended December 31, 1992. However, 1993 was Star's first full year of operation.

As shown on page 14 of Attachment II, Star's revenues have increased by \$767,211 from the year ended December 31, 1992. This increase in revenues is due primarily to a full year of operation as opposed to the year ended December 31, 1992. Such an increase shows clearly that Star's customer base and revenues are not stable.

Star's expenses, listed on page 14 and detailed on page

16 of Attachment I show that its operating expenses do not appear excessive. Star's largest expense listed is tipping fees at \$405,075. This expense is beyond Star's ability to control because it is a fee charged by the landfill operators set on a per ton basis. Tipping fees are passed directly through to customers. The primary reason for the loss in utility operations is insufficient revenues. ~~Revenues appear not to be sufficient due to the size of the customer base in the Fairbanks area and competition.~~

The effects on owners equity of Star's 1993 net loss is shown on page 10 of Attachment II. Total capital (total owners equity) decreased \$39,915, going from \$40,974 at December 31, 1992 to \$1,059 at December 31, 1993, a net decrease of 97.42 percent. ~~The decrease occurred despite the additional owners investment through the issuance of \$60,000 in additional stock. This represents a serious erosion of Star's equity position which appears directly associated with competition.~~

#### *Deregulation*

Review of Far North's and Star's APUC Annual Reports, discussed above, shows that both companies financial position deteriorated during 1993. Owners Equity for both companies decreased significantly due to operating losses sustained for the year ended December 31, 1993. ~~Far North's owners equity decreased 39.16 percent during 1993. Star's owners equity~~

decreased 97.42 percent, despite additional owner investments totaling \$60,000. Clearly such deterioration in financial position cannot be sustained in the long term. Therefore, Staff concludes that continued economic regulation is necessary.

Further, Staff concludes that the Commission should institute an investigation into the revenue requirements, costs of services and rates for both Star and Far North in the near future. If current rates remain where they are, it is apparent that both companies will sustain further erosion of their financial positions in the short term. It appears that the only way that both companies can eliminate operating losses in the short term is to cut expenses. Cutting expenses further in the short term may mean reducing maintenance on equipment. If the equipment is not maintained appropriately, equipment failures can occur in the long term. Equipment failures would be significantly more expensive than routine maintenance. Equipment failures can lead to rapid deterioration in service to customers. Significantly higher costs will be incurred in the long term for repair and replacement of equipment. Customers would ultimately bear the costs in one manner or another. The Commission should require a revenue requirements study, in accordance with 3 AAC 48.275(a), and a cost of service study, in accordance with 3 AAC 48.275(h), for both companies with a test year ended December 31, 1993. The Commission should require both companies to develop cost based rates, using the cost studies filed.

In addition to consideration of rates, the Commission should institute an investigation into the service areas and classes of service that Star and Far North should be certificated to perform. It appears that the refuse collection market in the Fairbanks area needs examination to determine how and if full competition can be sustained in the long term. From the results of operations for 1993 for Far North and Star, it is apparent that the current service arrangements cannot be sustained in the long term.

The Commission should require both Far North and Star to propose alternative methods of competition. Some alternatives may include: 1) full competition; 2) competition in specific classes of service; 3) segmenting the market by class of service; 4) segmenting the market geographically; 4) other. The Commission should require that the proposed methods of competition be supported by appropriate reasoning and market analysis.

#### Conclusion

The Commission should continue to regulate the rates and services of both Far North and Star. It is apparent that competition, in its current form, cannot be sustained in the long term.

Staff Concludes that the Commission should institute an investigation into the services and rates of both Far North and

Star. It is apparent that current rates, due to price competition, cannot sustain both companies in the long term. Further, it should be investigated whether the Fairbanks refuse collection market is large enough to sustain competition, in its present form, in the long term. The Commission should require both Star and Far North to file a revenue requirements study and a cost of service study with a test year ended December 31, 1993.

Star and Far North should be required to propose cost based rates, supported by their respective cost of service studies. The investigation should include the services and classes of service that Star and Far North should be certificated to provide. Due to the market size, it is apparent that the current service arrangements cannot be sustained in the long term. Both Far North and Star should be required to propose alternative methods of competition. The proposals should be supported by appropriate reasoning and market analysis.

U-94-19 Staff Memorandum (5/2/94)  
Page 8 of 8

Commercial Recycling Center  
229 Whitney Rd.  
Anchorage, Alaska 99501  
279-3323  
April 14, 1997

APR 25 1997  
1:15pm

Dear Representative Rokeburg,

Re: HB 161

We are fully in support of passage of HB 161. Our reasons follow:

- A) Alaska Public Utilities Commission is repeatedly and compellingly on record as being in favor of deregulation.  
Enclosed is the complete results of a computer search of APUC by APUC regarding their historical position.  
On all seven occasions from the late 70's to the 90's that the legislature has inquired of APUC the position has been to deregulate. APUC clearly feels that local government and the Department of Environmental Conservation oversight are adequate protection of the public interest.
- B) Competition in a non-natural monopoly is beneficial to the public interest.  
The consumer gets more choice at higher quality and lower cost.
- C) Recycling Alaska has pathetic rates of recycling and is one of the last having state regulation of collection. We think there is a cause and effect relationship.  
Cost-plus monopolies have no incentive to recycle or offer other innovative consumer choices.  
In Anchorage we are preparing to come on-line with a \$40,000,000 waste to energy plant as part of the a Regional Recycling Center or recycling mall.  
The last holdup is access to the waste stream. We need high volume, low value mass already source segregated.  
This means curbside pickup on a voluntary basis. Poll after poll shows the public supports this if the price is comparable. Which it is.  
Recycling needs to pick up all the customers trash for one price. Some goes to the landfill, the majority goes to recycling and our already built waste to energy co-generation plant.  
The only chokehold is collection. The Anchorage cost-plus monopolists will not participate. APUC excludes us or other consumer choices.  
HB 161 will lead to Anchorage going from an embarrassing 7.5% recycling rate to an above average 50% recycling rate.  
All voluntary, successful recycling communities use a competitive innovative collection system.
- D) Benefits The Monopolists Representative James was correct in predicting that once the "monopoly pacifier" was gone the existing carriers have the natural advantage over competition.  
If they participate in recycling, their profit rises to the extent they avoid landfill tipping fees.

Many outside collection firms, unregulated, sort through all the trash. They magnetically separate metal for the scrap buyers. Waste to energy plants buy plastics, paper, etc. Compostable material is diverted from the tipping fees and they again profit.

Joe Cassin (1-800-685-8001) told the undersigned that his company would be just as interested or more interested in buying Anchorage Refuse AFTER passage of HB 161 at the same price.

Anchorage Refuse, or other un-natural monopolies will not suffer financial losses if they are willing to dismiss the round-the-clock servants and get to work serving their customers in a competitive fashion.

Their profits per dollar of income will rise as they become efficient.

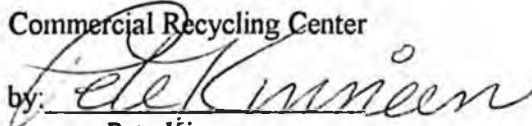
- E) Minority Opportunities Low tech, low capital requiring businesses, such as trash collection, are natural open doors for minority owned companies to enter the capitalist society mainstream. HB 161 will open that door.
- F) Jobs, Jobs, Jobs HB 161 adds jobs through value added concepts. Recycling adds jobs. Salvage of useable material and local manufacture and resale of products made from same equals quality jobs.  
Waste to energy creates numerous quality jobs.

For the sake of your constituents and Mother Nature please pass HB 161

Sincerely,

Commercial Recycling Center

by:



Pete Kinneen

Excerpt from 1979

Sunset Audit  
of APUC

Recommendation No. 3

AS 42.05 should be amended to allow the Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash and other waste material.

APUC  
Comment

Responsibility for certificating and regulating utilities furnishing collection and disposal service of garbage, refuse, trash and other waste material was added to the Alaska Public Utilities Commission Act by a 1973 amendment. Prior to that time those utilities fell under the jurisdiction of the Alaska Transportation Commission. There are currently 29 private refuse utilities certificated and regulated by the APUC and one municipal system certificated but not regulated.

Considering the Public Utilities Commission's heavy workload and limited resources, the public interest would be best served by allowing the Commission to cease certification and regulation of this industry. The economic justification for this action is twofold.

- (1) The refuse industry is not capital intensive as are the fixed utilities regulated by the APUC. The largest capital expense is in the vehicles and this expense is lessened since, as staff of the APUC has indicated, a majority of refuse utilities lease, rather than purchase, those vehicles. Sanitary landfills (dumps) are not allowed into the rate base, and therefore are not considered part of the capital investment of the utility.
- (2) Competition in this industry would not be as detrimental to the public's interest as competition among more capital intensive industries. Refuse collection and disposal is a transportation utility not a fixed utility. The economic theory and practice of transportation regulation originally was to restrict competition to encourage capital investment in a growing industry and provide a healthy utility to serve the public's needs not to eliminate competition entirely as is the theory in the fixed utility regulation by the APUC.

The results of a review of refuse collection and disposal service regulation in other states also support this recommendation. From our questionnaire to regulatory commissions in the other forty-nine states and the District of Columbia we learned the following:

Number of states responding:	32
Number of states not regulating refuse utilities:	29
Percentage of respondents not regulating:	91%

We were unable to determine in how many states this service is regulated at the local government level but are aware that it is in some states. AS 29.48.033 provides municipalities in Alaska the authority to regulate at the local level but this authority is superseded by the APUC.

Local governments in Alaska already exercise a great deal of control over the level and quality of service and rates charged by the private utilities through special contracts with those utilities. Therefore, the impact of deregulation would be felt primarily by those consumers residing outside municipal boundaries, a small percentage of the total number of consumers currently receiving these services.

BILL SHEFFIELD, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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

December 23, 1985

RECEIVED  
DEC 26 1985

Mr. Gerald L. Wilkerson  
Legislative Auditor  
Pouch W  
Juneau, Alaska 99811-3300

LEGISLATIVE  
AUDIT

Dear Mr. Wilkerson:

The following is the Commission's response to the Performance Review of the Alaska Public Utilities Commission by the Division of Legislative Audit.

As a result of this review the Commission had addressed some of the auditor's documented deficiencies through a review of its internal procedures and its intent to promulgate regulations. In the areas of substantive policy changes, i.e., the deregulation of part of one utility industry (generation and transmission electric cooperatives) and all of others (garbage, cable television and radio common carrier), the Commission believes it is important for the Sunset Review process to accommodate the views of utilities and consumers directly affected by the recommendations before legislative action is concluded.

RECOMMENDATION NO. 1

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

As previously noted in response to the 1979 Sunset Audit, the Commission conceptually agreed, and continues to agree, with deregulation of the refuse industry, as long as essential public health and sanitation aspects of this service are monitored by some governmental entity, municipal or otherwise, especially with regard to rural areas.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

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

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

February 22, 1989

Mr. Dane Larsen  
In-charge Auditor  
Division of Legislative Audit  
801 W. Fireweed Lane - Suite 106  
Anchorage, Alaska 99503

Re. Response to Interim Letter No. 1

Dear Mr. Larsen:

The following is the response of the Commission to your letter of February 8, 1989, containing initial recommendations as a result of the Sunset Audit of the Commission. The Commission does not agree with all of the statements of regulatory theory and philosophy in the Audit but has focused its comments on the actual recommendations.

Recommendation No. 1A

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

*input  
Response*  
The Commission supports this recommendation as it did the identical recommendation made in the 1979 and 1985 Sunset Audits. The auditor's statement that the public health and sanitation aspects of this service are monitored by local governments and the Department of Environmental Conservation addresses the Commission's previous reservation on deregulation.

Mr. Boedeker answered several questions from members concerning the pickup procedures in the Kenai area and their billing procedures.

Senator Eliason inquired if the ~~garbage~~ collectors were deregulated, could the local municipalities pick up the regulation process. Boedeker responded that there was authority to do that under Title 29 of the Alaska Statutes.

Number 345

Susan Knowles, Chairman, Public Utilities Commission, said the whole issue of whether the Commission should be in the business of regulating ~~garbage~~ has been on the table for a number of years. It has come to the attention of the legislature in at least three prior sunset audits involving the Commission in which the Division of Legislative Audit has recommended that they be out of the ~~garbage~~ business.

*Excerpt*  
*SB 298*  
*Hearing*  
*Sen LAC*  
*4/26/89*

Ms. Knowles added that the Commission has consistently supported this position.

Citing reasons for this, Ms. Knowles said the characteristics of the industry - the fact that it is not a natural monopoly that is capital intensive in the sense that most utility businesses are that they regulate; the Commission in recent years has been evaluating whether or not the monopoly model is appropriate in any event for the ~~garbage~~ utility business and has moved towards a competitive model; and they presently do not regulate landfills, incinerators, etc., and as a result, it is difficult for them to effectively evaluate and control some of the operating expenses of the utilities. She added that the existing statute does not have the Commission economically regulate any ~~garbage~~ utility that makes less than \$200,000 a year. As a result, only 9 of the 43 utilities that are certificated to be in this business are actually economically regulated by the Commission.

The Commission believes that the role that is currently played by local as well as the Department of Environmental Conservation is sufficient to look after the public's interest in this area. The Commission believes the regulation of ~~garbage~~ is adequately handled in other arenas and they would serve the public interest better if they focused on other more traditional typically monopoly forms of utility activities, Ms. Knowles concluded.

Number 440

Michael Gatti, attorney for the Mat-Su Borough, testified from Juneau. He said the basic issue is whether to allow the Mat-Su Borough to come in and provide essential public health, safety and welfare services for its citizens.

Mr. Gatti said the Public Utilities Commission has seen fit to deregulate refuse collection and disposal outside of what they have termed the typical core area for the hauler that is located in the Mat-Su Borough, and the rates for picking up at transfer sites within those locales have gone down substantially. However, they are still precluded from allowing other haulers to operate within the core area of the traditional hauler. What they have in the Mat-Su Borough is a two-tiered competitive scheme where they have deregulation outside the core area and regulation in the core area.

Gatti said one of the major points is what public policy is served by allowing no competition for refuse. He said he thinks there are people in the Mat-Su Borough that are willing to provide refuse services for a price lower than that being provided by traditional carriers.

Gatti said they believe that the free marketplace should allow competition in this area and they support the repeal of the regulation of the refuse collection and disposal in the State of Alaska.

Number 549

Senator Eliason asked Susan Knowles if there was a provision in law at the present time which allows a opt-out by petition or such. Ms. Knowles said she thought the provision he was referring to would allow all utilities, except electric and telephone utilities, who make less than \$100,000 a year, to have a deregulation election. In this case, all refuse utilities are already exempted from economic regulation under the law if they make less than \$200,000 a year, so, in effect, the law is already more liberal than the deregulation provision, she said.

Senator Eliason asked if the utilities have to file a rate schedule with the Commission. Ms. Knowles responded that if they are one of the 9 of 43 refuse utilities that are fully economically regulated by the Commission, then if they wish to change their rates, they have to file that

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 499<sup>1</sup>

February 26, 1990

The Commission reiterates its position in support of deregulation of the refuse industry and believes that local governments can adequately oversee this aspect of public health and sanitation.

Nonetheless, the Commission will offer the following notes on HB 499:

\*Section 1, amendment to AS 29.35.050(b) - It is not clear to the Commission why the words "GARBAGE, REFUSE, TRASH, OR OTHER" are deleted on line 14 but not the three other times they appear within the same subsection.

\*Section 2, amendment to AS 29.35.050 - The Commission believes that this section would have an impact on the existing market structure of the current industry. Undoubtedly the utilities and the local governments will argue about the merits of this proposed section. The Commission will be glad to provide an independent assessment of these arguments.

---

<sup>1</sup>Commissioner Daniel Patrick O'Tierney was out of State and did not participate in the public meeting in which the Commission discussed this legislation.

Alaska Public Utilities Commission  
Comments on HB 499  
February 26, 1990  
Page 2 of 2

\*Section 3, amendment to AS 42.05.711(d) - The Commission opposes this amendment because it limits the flexibility of the exemption and hence, the Commission. To the Commission's knowledge, no refuse utility has ever been exempted from AS 42.05.221 - 231. Further, the Commission questions, as a matter of policy, why such a requirement should be placed only on the refuse industry.

\*Section 4, amendment to AS 42.05.711 - To the extent that a regulated entity could contract with a municipal government, that portion of its business would be deregulated. Consequently, there would be a cost allocation issue between the regulated and nonregulated activities of the regulated entity, including the potential for cross-subsidization. There are further policy implications in allowing a municipality to service school districts. This would deprive some regulated entities of considerable revenues and thus impact the rates other customers pay.

# Recommended Legislative Changes

The Commission is governed by AS 42.05 and AS 42.06, which define its powers and duties, establish procedures for fulfilling its responsibilities, and impose certain requirements on utilities and pipeline carriers. These statutes constitute the regulatory policies of the Legislature, which ought to be reviewed and reassessed periodically. The purpose of this section of the Annual Report is to provide the Legislature with the recommendations for possible legislative changes of the Commission, based on its experience in administering AS 42.05 and AS 42.06.

## User Fees

The Commission recommends adoption of a user fee to cover the full cost of regulation. It would provide for a fee which would average less than 0.5 percent of the gross revenues of regulated utilities and pipeline carriers. This fee would be collected by the Commission for deposit into the general fund. The Legislature would continue to decide the appropriate level of funding through the normal operating budget appropriations process, subject to the Governor's line-item veto review.

The consumers/shippers who benefit from the presence of regulation should be the ones who pay. Under this arrangement they would be.

## Least Cost Planning

Integrated (least cost) planning is a technique used by many electric utilities. A utility using an integrated resource plan evaluates all projects for electricity production and savings available and selects the most cost-effective group of projects to produce adequate, reliable power to consumers. This information is fundamental to investment and rate decisions.

## Refuse Utility Deregulation

The Commission recommends deregulation of refuse utilities. Legislative performance audits of the Commission have consistently recommended the removal of state regulation from garbage utilities. This action could allow municipalities to decide whether or not to apply local regulation.

*Excerpt from FY91*

*APUC Annual Report*

## Legislative Recommendations

### Power Cost Equalization

The Power Cost Equalization Program was set up "for the purpose of equalizing power cost per kilowatt-hour statewide at a cost close or equal to the mean of the cost per kilowatt-hour (kWh) in Anchorage, Fairbanks and Juneau. . . ." AS 44.83.162(a).

In a January 1987, Special Report on the Power Cost Equalization Program, the Legislative Auditor stated on pp. 8-9:

There are several sections of AS 44.83.162 which the Commission has not enforced because of their vague or unenforceable nature. The first section needing clarification pertains to the window of allowable costs for which power cost equalization may be paid.

The intent of the statutes clearly indicates that the window of covered costs is to be adjusted annually with changing economic conditions, and the Commission should seek clarification of those conditions in order to comply with the statutory mandate.

Specifically, AS 44.83.162(d) (2) provides that:

During each following state fiscal year, the power costs for which power cost equalization may be paid to an electric utility shall be adjusted by the commission, considering the rate of change in fuel cost and power demand (emphasis added). . . .

To date this provision has not been implemented: the range of eligible costs remains at the originally established statutory level of 8.5 cents/kWh to 52.5 cents/kWh. The Commission issued a notice of inquiry and request for comments and later obtained an attorney general's opinion of this subsection. Neither resolved the interpretive impasse. The rate of change in fuel costs and power demand does not appear to be logically related to the required annual adjustment.

The Commission supports legislative clarification or deletion of these two factors.

### Refuse Deregulation

Refuse deregulation has been a longstanding recommendation of the Legislative auditor. The Commission concurs with deregulation of refuse services at the state level, subject to municipal monitoring and control.

*Excerpt from FY92  
ADUC Annual Report*

1 Page overview, Detail  
Attached

HITE CONSTRUCTION, INC., TIME LINE

- 8/15/95 Hite filed application for new certificate of public convenience and necessity to provide commercial refuse service in and around Fairbanks
- 8/23/95 Notice of the application was published (comment period ended 9/21/95)
- 11/22/95 Order No. 1 was issued granting intervention to Star Sanitation, Inc.
- 4/23/96 Order No. 2 was issued establishing hearing and filing schedule; designating Interior Services and a subset of Commission Staff as parties and appointing a hearing officer. (The hearing was scheduled for July 31, 1996.)
- 5/24/96 Hite filed a motion for a one week extension of time to file written direct testimony and a motion to supplement its motion for extension of time
- 5/30/96 Order No. 3 granted Hite's motion for extension of time and revising filing schedule
- 5/31/96 Hite filed prefiled testimony and list of witnesses
- 7/2/96 Staff filed witness list and prefiled testimony
- 7/2/96 Star filed list of witnesses and submitted prefiled testimony
- 7/16/96 Hite filed reply testimony
- 7/24/96 Star filed order of witnesses and statement of issues
- 7/24/96 Staff filed order of witnesses and statement of issues
- 7/24/96 Order No. 4 established location of hearing in Fairbanks
- 7/25/96 Hite filed order of witnesses and statement of issues
- 9/18/96 Commissioner Tim Cook filed affidavit
- 1/17/97 Commissioner Dwight D. Ornquist filed affidavit
- 3/21/97 Commissioner Sam Cotten filed affidavit
- 3/28/97 Order No. 5 required Hite to file additional information (due 4/22/97), required Staff to review the information filed by Hite and file a recommendation (due 5/2/97), gave Star the opportunity to respond to the additional information filed by Hite (due 5/2/97), and gave Hite and Star the opportunity to respond to Staff's recommendation (due 5/12/97)

In the Matter of the Application )  
 filed by HITE CONSTRUCTION, INC. ) U-95-71  
 for a new Certificate of Public )  
 Convenience and Necessity to )  
 Provide Commercial Garbage and )  
 Refuse Collection and Disposal )  
 Public Utility Service in and )  
 around Fairbanks )

8/15/95 Recd frm L. Hite, Hite Construction, Inc., Application  
 for new CPC&N

8/23/95 NOTICE OF UTILITY APPLICATION (Comment period ends  
 September 21, 1995); CERTIFICATION OF MAILING by S. Cornejo, APUC  
 Staff

8/23/95 NOTICE OF UTILITY APPLICATION (Comment period ends  
 September 21, 1995); CERTIFICATION OF MAILING to Paid Notice List  
 by C. Bivins, APUC Staff

8/28/95 Ltr frm P. Kelley, Kelley Insurance Associates, RE:  
 Comments supporting issuance of CPC&N

8/28/95 Ltr frm K. Schmidt, Bottom Line Marketing, RE: Comments  
 supporting issuance of CPC&N

8/30/95 Ltr frm Sam's Club, Fairbanks, RE: Comment in support  
 of granting a permit

8/30/95 Ltr frm Big Three Lincoln Alaska, Inc., Fairbanks, RE:  
 Comment in support of granting a permit

8/31/95 Ltr frm R. Gadbury, Craig Taylor Equipment Co.,  
 Fairbanks, RE: Comment in support of granting a permit

8/31/95 Ltr frm K. Dalne, Pacific North Equipment, Fairbanks,  
 RE: Comment in support of granting a permit

9/1/95 Ltr frm R. Evans, Moose Mountain, Inc., RE: Comments in  
 favor of proposed application

9/1/95 Ltr frm M. Sanders, Alaska Electric Rebuilders, RE:  
 Comments in favor of proposed application

9/13/95 Ltr frm V. Vermenlen, Mobat Tire Co, RE: Comments  
 supporting issuance of CPC&N

U-95-71

Page 1 of 5

9/15/95 NOTICE OF REVISED UTILITY APPLICATION (Comment period ends October 2, 1995); CERTIFICATION OF MAILING by S. Cornejo, APUC Staff

9/20/95 Ltr frm F.R. Stallings, North Star Golf Club, RE: Comments in favor of proposed application

9/21/95 STAR SANITATION'S PROTEST, COMMENTS IN OPPOSITION TO THE APPLICATION OF HITE CONSTRUCTION AND PETITION TO INTERVENE by L. Veerman, GUESS AND RUDD; CERTIFICATION by C. Whip, Guess & Rudd

9/21/95 Ltr frm B. R. Edwards, Law Offices of B. RICHARD EDWARDS, Atty for Drake Sanitation, Inc. RE: Application for a certificate of public convenience and necessity to provide refuse service in Fairbanks area

10/3/95 FAX recd frm P. McCoy, DOWNES, MACDONALD & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S REPLY TO OPPOSITION AND OPPOSITION TO PETITION TO INTERVENE OF STAR SANITATION by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by P. McCoy

10/10/95 Ltr frm M. Trickey, Fairbanks, RE: Comments supporting issuance of CPC&N

10/19/95 Ltr frm S. Cary, Mac Tools, Fairbanks, AK, RE: Comments in favor of proposed application

11/22/95 ORDER NO. 1 - ORDER GRANTING INTERVENTION (223-76)

4/23/96 ORDER NO. 2 - ORDER ESTABLISHING HEARING (229-99)  
AND FILING SCHEDULE; DESIGNATING INTERIOR  
SERVICES AND A SUBSET OF COMMISSION STAFF  
AS PARTIES AND APPOINTING A HEARING OFFICER

5/1/96 STAFF REPORT DESIGNATING STAFF ADVOCACY TEAM by B. Lohr, APUC Staff; CERTIFICATE OF MAILING by M. Gaut, APUC Staff

5/24/96 Recd FAX ltr frm G. Gordon, College Utilities Corp., RE: CPC&N for Hite Construction

U-95-71

Page 2 of 5

5/24/96 Recd FAX frm M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, HITE'S MOTION FOR EXTENSION OF TIME by M. MacDonald, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by B. Johnson

5/24/96 Recd FAX frm M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, SUPPLEMENT TO HITE'S MOTION FOR EXTENSION OF TIME by M. MacDonald, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by B. Johnson

5/28/96 Ltr recd frm P. Quist & W. Smith, Summit Logistics, Inc., RE: Support for competition in Fairbanks for refuse services

5/30/96 ORDER NO. 3 - ORDER GRANTING MOTION (230-135)  
FOR EXTENSION OF TIME AND REVISING  
FILING SCHEDULE

5/31/96 HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF LAUREN HITE; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF CHRIS SCHMIDT; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF HARVEY DRAKE; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC PREPARED TESTIMONY OF RALPH BARTLETT

5/31/96 FAX recd frm B. Johnson, DOWNES MACDONALD, & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S LIST OF WITNESSES by M. MacDonald; AFFIDAVIT OF SERVICE by B. Johnson, DOWNES, MACDONALD, & LEVENGOOD

7/1/96 Ltr frm D. Tesar, Goodyear Commercial Tire & Service Center, RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm C. Berrong, Alaska Airlines, Fairbanks, RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm W. F. Smith, Summit Logistics, Inc., RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm B. Beiswenger, Pioneer Rentals, Fairbanks, RE: Comments in support of apln

7/2/96 WITNESS LIST by Ron Zobel, Atty f/ APUC Staff; PREFILED TESTIMONY OF DAWN BISHOP-KLEWENO; NANCY J. MARTIN; CERTIFICATION OF MAILING by Connie M. Bamburg

7/2/96 STAR SANITATION'S LIST OF WITNESSES AND SUBMISSION OF PREFILED TESTIMONY by M. S. McLaughlin, GUESS & RUDD, Attys f/ Star; PREFILED TESTIMONY OF MICHAEL P. MEATH; JOHN NELSON; DENNIS B. WISE; & BERNARD KOPF

7/16/96 HITE CONSTRUCTION, INC.'S WRITTEN REPLY TESTIMONY by M. A. MacDonald, DOWNES, MacDONALD & LEVENGOOD; PREPARED REPLY TESTIMONY OF LOREN HITE; & AFFIDAVIT OF SERVICE by B. Johnson, DOWNES, MacDONALD & LEVENGOOD

7/23/96 FAX recd frm M. MacDonald, DOWNES, MACDONALD & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S ORDER OF WITNESSES AND STATEMENT OF ISSUES by M. MacDonald, Downes, MacDonald & Levengood, Atty f/ Hite; CERTIFICATE OF SERVICE by B. Johnson

7/24/96 STAR SANITATION'S ORDER OF WITNESSES; STAR SANITATION'S STATEMENT OF ISSUES by M. McLaughlin, GUESS & RUDD, Atty f/ Star Sanitation; CERTIFICATE OF EXPRESS MAILING by L. Roehlinh, Guess & Rudd

7/24/96 MOTION TO FILE WITNESS LIST AND STATEMENT OF ISSUES; COMMISSION STAFF FINAL WITNESS LIST AND STATEMENT OF ISSUES by R. Zobel, APUC Staff; CERTIFICATE OF SERVICE by J. McKee, Department of Law

7/24/96 ORDER NO. 4 - ORDER ESTABLISHING LOCATION OF HEARING (232-55)

7/25/96 HITE CONSTRUCTION, INC.'S ORDER OF WITNESSES AND STATEMENT OF ISSUES, by M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, Atty f/ Hite; CERTIFICATE OF MAILING by B. Johnson, Downes, MacDonald & Levengood

8/5/96 Recd frm R&R Court Reporters, Inv #127091, ENCL: 1 transcript, 5 tapes, 1 set notes, 1 disk, exhibits H-1 through H-9 and T1-T10 f/ APUC hearing in Fairbanks on 7/31/96

\*\*\*\*\*VOLUME II\*\*\*\*\*

9/18/96 AFFIDAVIT by T. Cook, APUC Commission

1/17/97 AFFIDAVIT by Commissioner D. Ornquist

3/21/97 AFFIDAVIT by Commissioner Sam Cotten

3/28/97 ORDER NO. 5 - ORDER REQUIRING FILING (241-134)

APRIL 9,, 1997, U-95-71  
LS

MAR 14 1997



DATE:

3/10/97

Please accept the enclosed original(s) of written testimony for the

House Labor Committee

for the

3/7/97

teleconference hearing that was scheduled on

HB 161

A copy of this testimony was transmitted to your committee via fax on

3/10/97

Thank you,

Mat-Su Legislative Information Office

VALLEY REFUSE, INC.  
PO BOX 879109  
WASILLA, ALASKA 99687  
(907) 892-6606

MAR 14 1997

March 10, 1997

House Labor & Commerce Committee

RE: HB 161 - "An Act relating to deregulation of public utilities furnishing collection and disposal service of waste material."

Dear Representatives;

I listened, with great interest, to the hearing which took place March 7 regarding the above mentioned bill. I am compelled to address several points which were not made clear in the hearing. I appreciate this opportunity to add written testimony for your consideration.

## **STATUS OF REFUSE HAULING IN THE MAT-SU VALLEY**

Residential refuse service in the Mat-Su Valley is open to competition. This means that the APUC approves and certifies all haulers and economically regulates refuse haulers with annual revenues greater than \$200,000. To receive certification, an entity must prove itself FIT, WILLING AND ABLE to do the job. There are currently four residential refuse haulers operating in the Mat-Su Valley. Those haulers are Valley Refuse, Wasilla Refuse, DNT Refuse and MacKenzie Refuse.

Competition has brought the benefits of lower rates and a greater variety in services to the consumer in the Mat-Su Valley. Valley Refuse has been in business since 1987; we are stronger and more viable now than ever before. We are economically regulated by the APUC, as is Wasilla Refuse. The Commission has retained full rate setting oversight of these two larger companies in the Mat-Su. The two smaller companies, DNT Refuse and MacKenzie Refuse, are below the \$200,000 gross annual revenue threshold and are not economically regulated.

Residential service is defined as service to single family dwelling units, duplexes and tri-plexes or a single business in a building. Commercial service is defined as service to four-plex and larger dwelling units or two or more businesses in a building. Commercial service is currently a monopoly held by Wasilla Refuse.

WE STRONGLY BELIEVE IN FULL COMPETITION IN THE RESIDENTIAL AND COMMERCIAL ARENAS. By allowing competition in commercial refuse service, four-plex, six-plex and apartment owners, and business owners who share a building with another business can enjoy the competitive rates and choices in providers that residential customers now have. These business people are currently held hostage by the unfair monopoly system.

## **WHAT IS THE BEST WAY ADDRESS THESE CONCERNS?**

HB 161 proposes to remove the regulation of refuse hauling from the Alaska Public Utilities Commission. However, I am certain everyone agrees that some form of governmental oversight is necessary. Without oversight, a general free-for-all in refuse hauling would most certainly develop to the detriment of public health, safety and environmental responsibility.

House Labor & Commerce Committee  
March 10, 1997

Page 2

The question, therefore, becomes this. What agency can best provide this oversight and what degree of oversight is necessary?

The only revenue source available in the Mat-Su Valley is property taxes and personal property taxes paid by the residents. Speaking as a taxpayer, we residents currently have high taxes to fund necessary government functions such as schools and road repair/maintenance. There has been an increase in the number of children in need of education in the Mat-Su Valley and a budget deficit exists in school funding needed to keep up with the population growth.

For the Mat-Su Borough to undertake the job of licensing and regulating refuse removal, taxes would surely have to go up. I know of very few people who are willing to pay higher taxes for schools, let alone for the Borough to undertake a function **ALREADY DONE BY AN EXISTING AGENCY WHICH FUNDS ITSELF THROUGH THE REGULATORY CHARGE PAID BY UTILITIES**. The regulatory system is in place under the APUC; if there are problems with the APUC, let's fix those problems, **NOT** scrap the entire system at the expense of local taxpayers.

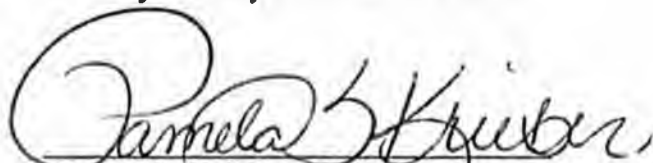
In response to the rhetorical question regarding the degree of oversight necessary, if the Commission were to retain the certification process and economic regulation (rate setting jurisdiction) on refuse utilities over the \$200,000 gross annual revenue threshold, **BUT** open all areas of the state to full competition, the involvement of the APUC would be reduced.

During the certification process, the APUC would still have the power to determine that a given market was supporting all the haulers it could bear and would have the power to deny additional certificates in the area. Retaining rate setting jurisdiction would prevent price gouging attempts by larger companies to drive smaller companies out of business and create de facto monopolies. Oversight by the APUC would assure a level playing field in all markets, and would assure that everyone plays fair.

In summary, I am convinced that the current system is the best one. If there are problems in response time of the Commission, which seemed to be the problem I heard discussed most frequently on Friday, March 7, then perhaps the Legislature should impose time limits for the Commission response.

Our company would stand to benefit the most from deregulation. It would enable us to operate competitively in the commercial arena as we would like. We are currently the largest and least expensive residential refuse hauler in the Valley. However, I am not convinced that deregulation, or regulation at a local level, is in the best interest of the people of the Mat-Su Borough or the State of Alaska.

Thank you for your kind attention.



Pamela S. Krieber, Valley Refuse, Inc.

**VALLEY REFUSE, INC.  
PO BOX 879109  
WASILLA, ALASKA 99687  
(907) 892-6606**

**MAR 10 1997**

March 10, 1997

House Labor & Commerce Committee

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House Labor & Commerce Committee  
March 10, 1997

Page 2

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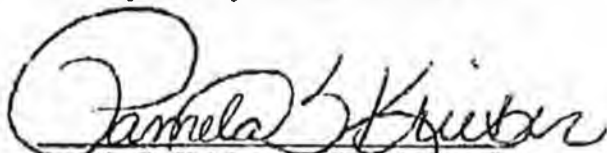
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Thank you for your kind attention.



Pamela S. Kriebler, Valley Refuse, Inc.

MAR 13 1997

**MATANUSKA-SUSITNA BOROUGH  
SCHOOL DISTRICT**

125 W. Evergreen, Palmer, AK 99645

Phone (907) 746-9248 Fax: 746-2686



March 10, 1997

Norman Rokeberg  
State Capitol  
Juneau, Alaska 99801-1182

Mr. Rokeberg:

During the teleconference on HB 161 on Friday, March 7th I was asked to provide a copy of the attached information to the Labor & Commerce Committee. This information includes a letter to the Alaska Public Utilities Commission from our attorney as well as a rate table reflecting costs of transportation of solid wastes. Please forward a copy of this information to the rest of your committee members.

Thank you for your time and interest in this bill. If you need further information, please contact me at (907) 746-9248.

Sincerely,

A handwritten signature in black ink, appearing to be 'B Doyle', written over a horizontal line.

Bob Doyle,  
Assistant Superintendent for Finance



LAW OFFICES OF  
**FAULKNER, BANFIELD, DOOGAN & HOLMES**  
A PROFESSIONAL CORPORATION

JUNEAU OFFICE  
302 GOLD STREET  
JUNEAU, ALASKA 99801  
(907) 586-2210

550 W. 7TH AVENUE  
SUITE 1000  
ANCHORAGE, ALASKA 99501-3510  
(907) 274-0666  
TELECOPIER: (907) 277-4657

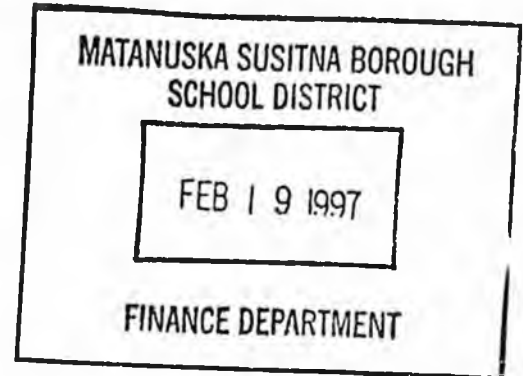
SEATTLE OFFICE  
FIRST INTERSTATE CENTER  
999 THIRD AVENUE, SUITE 2800  
SEATTLE, WASHINGTON 98104  
(206) 292-8008

PLEASE REPLY TO ANCHORAGE OFFICE

February 14, 1997

Alaska Public Utilities Commission  
1016 West Sixth Avenue  
Suite 400  
Anchorage, Alaska 99501

Re: Competitive Solid Waste Services  
Our File No. 449-11760



Members of the Commission:

I have been asked to write to you on behalf of the Matanuska-Susitna Borough School District ("the District") to request that you accept this letter as an informal complaint against Wasilla Refuse, Inc. and take appropriate action to resolve this complaint. Specifically, the District requests that the Commission rule that the District's facilities are single tenant non-residential structures for which competitive refuse collection services are available in accordance with the Commission's decision in In re Valley Refuse, et al., Order U-83-8(4)/U-83-43(4)/U-83-73(4)/U-83-82(1) (November 15, 1985).

When the District took steps to put its refuse collection requirements out to bid, Wasilla Refuse registered an objection to this action to the extent that the project would include its historic service area. The District has attempted without success to resolve this dispute with Wasilla Refuse. In order to secure a definitive decision of its status prior to the publication of a request for bids, the District brings this matter to the Commission for resolution.

#### Factual Background

The District is a political subdivision of the state, charged with the responsibility under Title 14 of the Alaska Statutes to provide a free public education to the school age children of the Matanuska-Susitna Borough. Currently, the student population is enrolled in approximately 25 schools throughout the Borough. In addition to schools, the District maintains offices, repair shops, and a warehouse. These facilities, and the land upon which they stand, are owned by the Matanuska-Susitna Borough. The District is the only tenant of these facilities.

Refuse is stored at District facilities in standard steel containers, which are for the most part owned by the District. Ten of these containers have a capacity of three cubic yards, and 22 of them are 33 cubic yard roll-off containers. They are taken to the central landfill from 22 to 52 times per year, depending on the level of refuse production of the facility. Currently, this service is provided primarily by Wasilla Refuse and to a lesser extent by Valley Refuse and the City of Palmer.

Payments made by the District for this service are greatly in excess of that which would be required for cost recovery plus a reasonable return on investment. For example, the Matanuska-Susitna Borough put its hauling requirements from its refuse transfer sites to the central landfill out to bid in 1994. In response to that RFP No. 94-121 (June 1994), Wasilla Refuse offered to haul the Borough's 40 cubic yard containers from Big Lake, Willow, and from Sunshine for trip prices of \$110.00, \$170.00, and \$240.00, respectively, for Fiscal Year 1995. It was not awarded the contract, as it was by far the high bidder. The lowest bids were \$75.00, \$105.00 and \$140.00. A copy of the Borough's Final Bid Analysis is attached.

This bid was for 5 years, with an inflation clause keyed to the Consumer Price Index. Using a 3% increase in the CPI for the last two years, it can be seen that the FY 96 prices would have been \$113.30, \$175.10, and \$247.20, had Wasilla Refuse been awarded the contract. In spite of being higher than all the other bid prices, these adjusted bid prices are significantly lower than the prices charged by Wasilla Refuse to the District to haul its 33 cubic yard containers from schools in the same communities to the central landfill. The FY 96 charges to the District were \$201.52, \$240.52, and \$324.52 per trip. The District is unaware of any good reason why it should be subsidizing the operations of Wasilla Refuse to this extent.

#### Attempts to Resolve Problem

In an attempt to reduce its refuse service costs, the District submitted its requirements in 1995 to the Borough for inclusion in Borough RFP No. 96-29. Wasilla Refuse contacted the District, the Borough Assembly, and the Borough Manager, objecting to this bid and threatening to pursue its legal remedies. The District's refuse service bid was withdrawn, and it researched its options.

On an occasion or two thereafter, Wasilla Refuse contacted the District with such cost saving suggestions as exchanging 6 yard for 3 yard containers, placing locks on the refuse containers, and purchasing trash compactor units for all the District's facilities. These

suggestions do not address the price differential which would presumably be available were competitive refuse service allowed to the District.

After completing research into its options, the District decided to put its refuse service requirements out to bid on its own. The undersigned, on behalf of the District contacted counsel for Wasilla Refuse on December 12, 1996, to ascertain the current position of Wasilla Refuse regarding such a bid. Mr. Kemppe indicated that he would discuss the matter with his client, but that he expected that Wasilla Refuse would continue to protest such a bid. Receiving no follow-up communication, the undersigned sent a letter to Mr. Kemppe on December 23, 1996. Again, there has been no response. Copies of correspondence related to this matter are attached.

#### Discussion

Apart from service within the City of Palmer, which has its own municipal refuse service and ordinance, Palmer Municipal Code, Chapter 8.20, competitive refuse service is available throughout the Matanuska-Susitna Borough, except within the historical service areas of Wasilla Refuse and of Alma Corporation. It is the District's understanding that Wasilla Refuse now controls the former Alma service area. Thus, Wasilla has a monopoly on refuse service in these historic service areas as to all individuals and entities, except for those in single family or duplex residential structures and those in single tenant non-residential structures. The District believes that it is within the exception to the monopoly power of Wasilla Refuse and, therefore, should be able to put its refuse service requirements out to bid throughout the Borough outside the City of Palmer.


As you are aware, the Commission held proceedings in 1985 which examined the question whether competition ought to be allowed among refuse public utilities within the Matanuska-Susitna Borough. The Commission decided that free competition would be allowed throughout the Borough, except for commercial accounts within the service areas of Wasilla Refuse and Alma Corporation as they existed at the time of the decision. In re Valley Refuse, et al., U-83-8, Order No. 4; U-83-43, Order No. 4; U-83-73, Order No. 4; U-83-82, Order No. 1, Order Allowing Limited Competitive Provision of Refuse Collection in Matanuska-Susitna Borough, pp. 56-57 (11/15/85) [hereafter "Order No. 4"]; In re Valley Refuse, et al., U-83-8, Order No. 8; U-83-43, Order No. 8; U-83-73, Order No. 7; U-83-82, Order No. 5, Order Granting Partial Reconsideration, p. 7 (4/7/86). Commercial service was defined to include all types of refuse service, except service provided to structures that were single family or duplex residential structures or to single tenant non-residential structures. Order No. 4, p. 52. These exceptions are loosely termed "residential" service, but the labels "commercial" and "residential" cannot be read literally. For example, the

"commercial" category contains accounts such as six-plex residential structures and the "residential" category includes the Alaska Railroad's maintenance facility. The determining factor is the type and use of the structure from which the solid waste is collected. Id.

In subsequent decisions construing Order No. 4, the Commission has ruled that motels are single tenant non-residential structures, allowing for competitive trash service. APUC Letter Order No. L9300308 (5/21/93). The Commission reasoned that, though the motels had many customers who stayed at the motels, the customers were guests, not tenants. In the same letter order, the Commission also ruled that the Alaska Railroad maintenance facility was a non-residential single tenant facility. This ruling reversed a previous decision on the same issue, which had been based upon the mistaken understanding that the ARR had no structure at its maintenance facility. Thus, it can be seen that clearly commercial and governmental enterprises can be deemed "residential" for purposes of allowing competitive refuse service under Order No. 4.

As each of the District's schools and other facilities hold only one tenant, these structures plainly qualify as single tenant non-residential structures for which competitive refuse service is available. Furthermore, while it is always improper for a ratepayer or a subclass of ratepayers to be charged rates which, without adequate economic justification, effectively subsidize other ratepayers, non-regulated customers, or the utility, itself, Jager v. State, 537 P.2d 1100, 1110 (Alaska 1975), it is especially troublesome in this case, as this burden is placed upon the education of the children of the Borough. The District requests that the Commission take administrative notice of the dire financial difficulties which it, like all school districts in this state, encounters in attempting to discharge the mission of providing an education to the children in the Borough. Within this context, the Commission should have no difficulty in deciding that it is right and proper that competitive refuse service be available to the District.

Very truly yours,

  
James E. Hutchins

JEH/crk

Enclosures

cc: Mr. Robert Doyle  
Ms. Evelyn Hume  
Roger R. Kemppe, Esq.

**MATANUSKA-SUSITNA BOROUGH**  
**BID #94-121**  
**TRANSPORTATION OF SOLID WASTES**  
**1994-1999, PARKS HIGHWAY & BUTTE TRANSFER FACILITY**  
**FINAL BID ANALYSIS**

BIDDER			V. LIGHT GENERAL		HEAVY TRUCKING		KENECADE		WASILLA REFUSE		KOPFERUD	
Bid Form			X		X		X		X		X	
Submittal Page			X		X		X		X		X	
Receipt of Address			X		X		X		X		X	
Bid Bond			\$1,000 CC		BID BOND/POA		BID BOND/POA		\$1,000 CC		\$1,000 CC	
Non-Collusion Affidavit			X		X		X		X		X	
Copy of Alaska Business License			X		X		X		X		X	
ITEM	QUANTITY	PAY ITEM NAME	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1A	1445 Trips	Load, Haul and Dump from Big Lake	75.00	108,375.00	109.00	157,305.00	85.10	122,989.50	118.00	158,850.00	79.74	115,224.30
1B	350 Trips	Load, Haul and Dump from Willow Area	105.00	36,750.00	115.00	40,250.00	126.98	44,415.00	170.00	59,500.00	130.00	45,500.00
1C	110 Trips	Load, Haul and Dump from Benfield Area	140.00	15,400.00	220.00	24,200.00	113.60	12,496.00	240.00	26,400.00	175.00	19,250.00
1D	240 Trips	Load, Haul and Dump from Tullahoma Area	150.00	36,000.00	250.00	60,000.00	221.40	53,136.00	250.00	60,000.00	220.00	52,800.00
1E	75 Trips	Load, Haul and Dump from Petersburg Road Junction Area (Trapper Creek)	230.00	17,250.00	245.00	18,375.00	224.10	16,807.50	295.00	22,125.00	151.00	26,325.00
1F	12 Trips	Load, Haul and Dump from Igloo	500.00	6,000.00	625.00	7,500.00	453.60	5,443.20	525.00	6,300.00	408.00	4,900.00
1G	12 Trips	Load, Haul and Dump from Valdez Creek Area (Orations House)	600.00	7,200.00	725.00	8,700.00	642.60	7,711.20	800.00	9,600.00	708.00	8,400.00
1H	100 Trips	Load, Haul and Dump from 2000 120CY Trailers	235.00	23,500.00	202.00	20,200.00	182.50	18,250.00	165.00	16,500.00	170.00	17,000.00
1I	40 Hours	Transport empty 120 cy Trailers	50.00	2,000.00	45.00	1,800.00	63.00	2,520.00	40.00	1,600.00	59.50	2,380.00
1J	40 Hours	Transport empty 40 cy Trailers	50.00	2,000.00	45.00	1,800.00	65.00	2,600.00	30.00	1,200.00	57.50	2,300.00
1K	6 each	Refinish and paint 40 cy containers	300.00	1,800.00	350.00	2,100.00	3,400.00	20,400.00	400.00	2,400.00	400.00	2,400.00
1L	7 each	Refinish and paint 120 cy containers	700.00	4,900.00	850.00	5,950.00	4,800.00	33,600.00	1,100.00	7,700.00	400.00	2,800.00
1M	150 hours	Shop time for container repair	30.00	4,500.00	35.00	5,250.00	32.00	4,800.00	35.00	5,250.00	30.00	4,500.00
<b>TOTAL BID</b>			<b>\$262,175.00</b>		<b>\$354,300.00</b>		<b>\$330,876.00</b>		<b>\$372,015.00</b>		<b>\$380,957.30</b>	

BY: MAI-SU BOROUGH ; 2-5-97 12:35PM : MAT-SU BOR Purch Div

MAR 13 1997

# Hite Construction, Inc.

P.O. Box 80708  
Fairbanks, Ak. 99708

March 10, 1997

Rep. Rokeberg, Chairman  
House Committee on Labor and Commerce  
State Capital  
Juneau, AK 99801

Re: HB-161

Dear Rep. Rokeberg:

Having recently purchased Drake Sanitation, Inc. I am not in favor of deregulation of the APUC, as it relates to the hauling of refuse and other municipal solid waste. Regulation of the trash hauling industry was seen by the authors of our State Government as a necessary step in the process of providing the citizens of Alaska with a healthy, clean environment in which to raise children and conduct business.


In the rush to deregulate government the goal has always been to provide the consumer with a more streamlined source of government. In most cases this can be accomplished. However, when a regulated utility is directly related to the health of the general population, the goal of deregulation begins to blur in comparison to the benefits. The benefits of a deregulated trash hauling industry are questionable at best. However, the risk of disease and infestation are a certain downside.

At this point the deregulation of the trash haulers would devastate an entire industry. The APUC has mandated certain methods of conducting business, with associated costs. HB-161 provides no transition language to facilitate the orderly recouping of our investment prior to throwing it open to operators that are not encumbered with the debt structure mandated by APUC compliance. They will be able to "cherry pick" the cream accounts and destroy the ability to create low average rates with corresponding good service to all customers. The results will be poor service to the small consumers that don't fall within the parameters of "a profitable customer."

The recent complaints center on the APUC's inability to respond to industry in a timely manner. Why not monitor the APUC so that they perform their duties in a timely manner and be done with it. However, if deregulation is a must, timelines have been established that allow the orderly elimination of APUC's regulation of the trash haulers. Lets follow those timelines and create an equivalent method to regulate the trash haulers to the guaranteed satisfaction of the Department of Public Health, the Department of Environmental Conservation, and the Department of Transportation. This will guarantee that the safety of the citizens of Alaska will be included in the process.

One thing a good doctor should learn in medical school is that if the patient isn't sick, don't operate.

Sincerely,



Loren Hite  
President

Phone 907-474-4755•••Fax 907-479--5112  
hite@polamci.com

STATE OF ALASKA

HB 161

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

1016 WEST SIXTH AVENUE, SUITE 400 ANCHORAGE, ALASKA 99501-1963  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

FACSIMILE COVER SHEET

PROBLEM WITH TRANSMITTAL CALL: (907) 276-6222

NUMBER OF PAGES: 6

DATE: 4/11/97

TIME: 4<sup>50</sup> p.m.

TRANSMITTAL TELEPHONE NUMBER: \_\_\_\_\_

TO: Rep. Norm Rokeberg Att. Shirley Armstrong

FROM: Comm. Alyce Hanley

COMMENTS:

ORIGINAL TO FOLLOW

HB161

In the Matter of the Application )  
 filed by HITE CONSTRUCTION, INC. ) U-95-71  
 for a new Certificate of Public )  
 Convenience and Necessity to )  
 Provide Commercial Garbage and )  
 Refuse Collection and Disposal )  
 Public Utility Service in and )  
 around Fairbanks )

8/15/95 Recd frm L. Hite, Hite Construction, Inc., Application for new CPC&N

8/23/95 NOTICE OF UTILITY APPLICATION (Comment period ends September 21, 1995); CERTIFICATION OF MAILING by S. Cornejo, APUC Staff

8/23/95 NOTICE OF UTILITY APPLICATION (Comment period ends September 21, 1995); CERTIFICATION OF MAILING to Paid Notice List by C. Bivins, APUC Staff

8/28/95 Ltr frm P. Kelley, Kelley Insurance Associates, RE: Comments supporting issuance of CPC&N

8/28/95 Ltr frm K. Schmidt, Bottom Line Marketing, RE: Comments supporting issuance of CPC&N

8/30/95 Ltr frm Sam's Club, Fairbanks, RE: Comment in support of granting a permit

8/30/95 Ltr frm Big Three Lincoln Alaska, Inc., Fairbanks, RE: Comment in support of granting a permit

8/31/95 Ltr frm R. Gadbury, Craig Taylor Equipment Co., Fairbanks, RE: Comment in support of granting a permit

8/31/95 Ltr frm K. Dalne, Pacific North Equipment, Fairbanks, RE: Comment in support of granting a permit

9/1/95 Ltr frm R. Evans, Moose Mountain, Inc., RE: Comments in favor of proposed application

9/1/95 Ltr frm M. Sanders, Alaska Electric Rebuilders, RE: Comments in favor of proposed application

9/13/95 Ltr frm V. Vermenlen, Mobat Tire Co, RE: Comments supporting issuance of CPC&N

U-95-71

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04 11 91 10:01 2001 210 0100

9/15/95 NOTICE OF REVISED UTILITY APPLICATION (Comment period ends October 2, 1995); CERTIFICATION OF MAILING by S. Cornejo, APUC Staff

9/20/95 Ltr frm F.R. Stallings, North Star Golf Club, RE: Comments in favor of proposed application

9/21/95 STAR SANITATION'S PROTEST, COMMENTS IN OPPOSITION TO THE APPLICATION OF HITE CONSTRUCTION AND PETITION TO INTERVENE by L. Veerman, GUESS AND RUDD; CERTIFICATION by C. Whip, Guess & Rudd

9/21/95 Ltr frm B. R. Edwards, Law Offices of B. RICHARD EDWARDS, Atty for Drake Sanitation, Inc., RE: Application for a certificate of public convenience and necessity to provide refuse service in Fairbanks area

10/3/95 FAX recd frm P. McCoy, DOWNES, MACDONALD & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S REPLY TO OPPOSITION AND OPPOSITION TO PETITION TO INTERVENE OF STAR SANITATION by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by P. McCoy

10/10/95 Ltr frm M. Trickey, Fairbanks, RE: Comments supporting issuance of CPC&N

10/19/95 Ltr frm S. Cary, Mac Tools, Fairbanks, AK, RE: Comments in favor of proposed application

11/22/95 ORDER NO. 1 - ORDER GRANTING INTERVENTION (223-76)

4/23/96 ORDER NO. 2 - ORDER ESTABLISHING HEARING (229-99) AND FILING SCHEDULE; DESIGNATING INTERIOR SERVICES AND A SUBSET OF COMMISSION STAFF AS PARTIES AND APPOINTING A HEARING OFFICER

5/1/96 STAFF REPORT DESIGNATING STAFF ADVOCACY TEAM by B. Lohr, APUC Staff; CERTIFICATE OF MAILING by M. Gaut, APUC Staff

5/24/96 Recd FAX ltr frm G. Gordon, College Utilities Corp., RE: CPC&N for Hite Construction

U-95-71

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5/24/96 Recd FAX frm M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, HITE'S MOTION FOR EXTENSION OF TIME by M. MacDonald, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by B. Johnson

5/24/96 Recd FAX frm M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, SUPPLEMENT TO HITE'S MOTION FOR EXTENSION OF TIME by M. MacDonald, Atty f/ Hite Construction, Inc.; CERTIFICATE OF SERVICE by B. Johnson

5/28/96 Ltr recd frm P. Quist & W. Smith, Summit Logistics, Inc., RE: Support for competition in Fairbanks for refuse services

5/30/96 ORDER NO. 3 - ORDER GRANTING MOTION (230-135)  
FOR EXTENSION OF TIME AND REVISING  
FILING SCHEDULE

5/31/96 HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF LAUREN HITE; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF CHRIS SCHMIDT; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC. PREPARED TESTIMONY OF HARVEY DRAKE; HITE CONSTRUCTION INC.'S PREFILED DIRECT TESTIMONY by M. MacDonald, DOWNES, MACDONALD & LEVENGOOD; HITE CONSTRUCTION, INC PREPARED TESTIMONY OF RALPH BARTLETT

5/31/96 FAX recd frm B. Johnson, DOWNES MACDONALD, & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S LIST OF WITNESSES by M. MacDonald; AFFIDAVIT OF SERVICE by B. Johnson, DOWNES, MACDONALD, & LEVENGOOD

7/1/96 Ltr frm D. Tesar, Goodyear Commercial Tire & Service Center, RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm C. Berrong, Alaska Airlines, Fairbanks, RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm W. F. Smith, Summit Logistics, Inc., RE: Comments in support of apln

7/1/96 Recd by fax, ltr frm B. Beistline, Pioneer Rentals, Fairbanks, RE: Comments in support of apln

7/2/96 WITNESS LIST by Ron Zobel, Atty f/ APUC Staff; PREFILED TESTIMONY OF DAWN BISHOP-KLEWENO; NANCY J. MARTIN; CERTIFICATION OF MAILING by Connie M. Bamburg

7/2/96 STAR SANITATION'S LIST OF WITNESSES AND SUBMISSION OF PREFILED TESTIMONY by M. S. McLaughlin, GUESS & RUDD, Attys f/ Star; PREFILED TESTIMONY OF MICHAEL P. MEATH; JOHN NELSON; DENNIS B. WISE; & BERNARD KOPF

7/16/96 HITE CONSTRUCTION, INC.'S WRITTEN REPLY TESTIMONY by M. A. MacDonald, DOWNES, MacDONALD & LEVENGOOD; PREPARED REPLY TESTIMONY OF LOREN HITE; & AFFIDAVIT OF SERVICE by B. Johnson, DOWNES, MacDONALD & LEVENGOOD

7/23/96 FAX recd frm M. MacDonald, DOWNES, MACDONALD & LEVENGOOD, ENCL: HITE CONSTRUCTION, INC.'S ORDER OF WITNESSES AND STATEMENT OF ISSUES by M. MacDonald, Downes, MacDonald & Levengood, Atty f/ Hite; CERTIFICATE OF SERVICE by B. Johnson

7/24/96 STAR SANITATION'S ORDER OF WITNESSES; STAR SANITATION'S STATEMENT OF ISSUES by M. McLaughlin, GUESS & RUDD, Atty f/ Star Sanitation; CERTIFICATE OF EXPRESS MAILING by L. Roehlinh, Guess & Rudd

7/24/96 MOTION TO FILE WITNESS LIST AND STATEMENT OF ISSUES; COMMISSION STAFF FINAL WITNESS LIST AND STATEMENT OF ISSUES by R. Zobel, APUC Staff; CERTIFICATE OF SERVICE by J. McKee, Department of Law

7/24/96 ORDER NO. 4 - ORDER ESTABLISHING LOCATION OF HEARING (232-55)

7/25/96 HITE CONSTRUCTION, INC.'S ORDER OF WITNESSES AND STATEMENT OF ISSUES, by M. MacDonald, DOWNES, MACDONALD, & LEVENGOOD, Atty f/ Hite; CERTIFICATE OF MAILING by B. Johnson, Downes, MacDonald & Levengood

8/5/96 Recd frm R&R Court Reporters, Inv #127091, ENCL: 1 transcript, 5 tapes, 1 set notes, 1 disk, exhibits H-1 through H-9 and T1-T10 f/ APUC hearing in Fairbanks on 7/31/96

\*\*\*\*\*VOLUME II\*\*\*\*\*

9/18/96 AFFIDAVIT by T. Cook, APUC Commission

1/17/97 AFFIDAVIT by Commissioner D. Ornquist