

LDIR#156

PUBLIC UTILITY

STUDY

1958-1959

ALASKA LEGISLATIVE COUNCIL

Please return to

Alaska Legislative Council
Box 2199
Juneau, Alaska

on or before December 1, 1958

Summary of Taxes imposed of Electric Companies.

Purpose.

- I. Benefit Theory of Taxation: Some states levy taxes based upon the amount of expense the regulation and control of the utility costs the state. New Hampshire does this by merely pro-rating the expense among the companies in the industry.

- II. Registration Tax: A few ~~states~~ states impose a small tax upon the electric companies merely as a token amount to accompany annual reports which must be submitted to the states;

- III. Revenue Tax: The great majority of states impose taxes upon electric companies for the purpose of raising revenue. Since nearly everyone uses electricity ~~and~~ and the burden of the tax can be shifted from the electric company to the consumer it is considered one of the more effective means of distributing the cost of government.

Types of Taxes Imposed

- I. Gross Receipts Tax: A gross receipts tax varying from so many mills per dollar to 6% is levied upon electric companies by most of the states. Some states ~~label it a franchise tax with gross receipts as a base.~~ label it a franchise tax with gross receipts as a base.

ALASKA LEGISLATIVE COUNCIL

Box 2199

Juneau, Alaska

Dear Sir:

The Alaska Legislative Council is presently doing research on several sections of the Alaska Compiled Laws in order to recommend certain revisions to the first state legislature.

The provision currently existing in our laws relative to rural electric cooperatives appear to be inadequate, particularly with reference to tax exemptions. Accordingly, this office is seeking information from other states which might be used in devising a more modern rural electric cooperative act.

The Commerce Clearing House, Inc. indicates your State has enacted such a statute. If you could forward us two copies of this Act, along with any tax provisions pertaining to electric cooperatives, it would be greatly appreciated. Any additional information you can give us on the subject will be helpful.

Sincerely,

HENRY J. CAMAROT
Executive Director

By:

C. E. Weidman
Research Assistant

CEW/mw

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Sincerely,

HENRY J. CAMAROT
Executive Director

By:

C. E. Weidman
Research Assistant

CEW/mw



PUBLIC SERVICE COMMISSION OF WISCONSIN

STATE OFFICE BUILDING
MADISON 2, WISCONSIN

GEORGE P. STEINMETZ,
CHAIRMAN
NICHOLAS J. LESSELYOUNG,
COMMISSIONER
ARTHUR L. PADRUTT,
COMMISSIONER
EDWARD T. KAVENY, SECRETARY

July 18, 1958

FILE NO.

Mr. C. E. Weidman
Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Mr. Weidman:

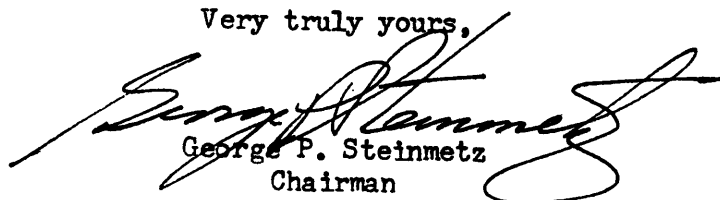
In response to your letter dated July 9 regarding rural electric cooperatives, I am sending you, under separate cover, copies of certain provisions of the Wisconsin Statutes which you may find interesting.

This Commission has but limited jurisdiction over electric cooperatives as our statutes exempt them from the definition of a public utility and, accordingly, except in a few specified instances, we have no jurisdiction over the cooperatives. However, I am sending you copies of the statutes governing the general jurisdiction of this Commission in which you may be interested.

I am also sending a copy of Chapter 76 of the Wisconsin Statutes, which includes the provisions relating to the taxation of rural electric cooperatives.

There is transmitted also a copy of Chapter 185 of the Wisconsin Statutes, which relates generally to the organization and corporate provisions relating to cooperatives.

Very truly yours,


George P. Steinmetz
Chairman

ADDRESS ALL OFFICIAL COMMUNICATIONS TO THE COMMISSION

COMMISSIONERS
THOMAS E. DELAHANTY
CHAIRMAN
FREDERICK N. ALLEN
RICHARD J. MCMAHON
ROY M. SOMERS
CLERK



Public Utilities Commission

State of Maine

Augusta

July 15, 1958

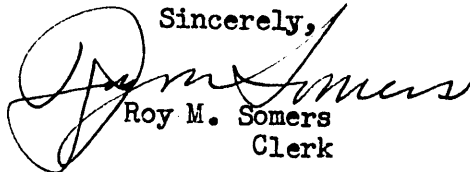
Mr. C. E. Weidman
Research Assistant
Alaksa Legislative Council
Juneau, Alaska

Dear Mr. Weidman:

As per your request of July 9th for information concerning rural electric cooperatives and reference to the taxation thereof we are pleased to inclose to you pamphlets containing the provisions of Chapter 51 of the Revised Statutes of Maine "Rural Electrification Cooperatives" and Chapter 16, R. S. Maine "Taxation of Telephone and Telegraph Companies".

We trust this information will be of value to you in lining up certain revisions to your first state legislature and want you to feel free to call upon us for any further assistance in matters under our jurisdiction.

Sincerely,


Roy M. Somers
Clerk

RMS:s.
(Incls.)

FILE COPY

GEORGE R. REILLY
FIRST DISTRICT, SAN FRANCISCO
JAMES H. QUINN
SECOND DISTRICT, OAKLAND
PAUL R. LEAKE
THIRD DISTRICT, WOODLAND
ROBERT E. McDAVID
FOURTH DISTRICT, LOS ANGELES
ROBERT C. KIRKWOOD, CONTROLLER
SACRAMENTO



GEORGE R. REILLY
CHAIRMAN
JAMES H. QUINN
VICE-CHAIRMAN
DIXWELL L. PIERCE
SECRETARY

OFFICE OF
STATE BOARD OF EQUALIZATION
STATE OF CALIFORNIA
1020 N STREET
SACRAMENTO

MAIL ADDRESS: P. O. Box 1799
SACRAMENTO 8, CALIFORNIA

July 29, 1958

Alaska Legislative Council
Box 2199
Juneau, Alaska

Gentlemen:

Att: Mr. C. E. Weidman,
Research Assistant

A copy of your letter of July 9, requesting information on laws regarding rural electric cooperatives, has been forwarded to this Board by the Public Utilities Commission.

This Board administers, or has a part in administering, taxes imposed upon sales, the distribution of gasoline, the use of diesel fuel, transportation, railroad cars, alcoholic beverages, insurance, income, corporate franchises and property. Although there are provisions in some of these laws which give special treatment to cooperatives in general or to the transmission of electricity in general, there is none relating to rural electric cooperatives in particular.

You state that Commerce Clearing House, Inc., indicates that California has enacted a statute with regard to rural electric cooperatives. If you could give us the citation of the statute we may be able to assist you in obtaining copies of it.

Very truly yours,

T. P. Putnam,
Associate Tax Counsel

TPP RW



LAW OFFICES
WISDOM, SULLIVAN & GOLDEN
ELEVENTH FLOOR, REGISTER AND TRIBUNE BUILDING
DES MOINES 9, IOWA

EARL F. WISDOM (1922-1951)
WILLIAM H. WISDOM
WILLIAM W. SULLIVAN
ROY A. GOLDEN
JOHN W. TOW

TELEPHONE
ATLANTIC 8-1026

July 31, 1958

Mr. C. E. Weidman
Alaska Research Council
Box 2199
Juneau, Alaska

Dear Mr. Weidman:

The Iowa Commerce Commission has requested that this office furnish the information requested in your letter of July 9, 1958. In this connection, I might explain that this firm represents the Iowa Rural Electric Cooperative Association, and a number of its members in this state.

All electric cooperatives in Iowa are organized under the provisions of Chapter 499, Code of Iowa (a copy of which is enclosed), a general cooperative statute. The Iowa Institute of Cooperatives is presently considering certain proposals for amendments to this statute for submission to the legislature. A copy of these items are also enclosed for your information.

Taxation of real estate owned by electric cooperatives is under the provisions of Chapter 437, Code of Iowa (a copy of which is enclosed). This statute was interpreted in the case of Greene County Rural Electric Cooperative v. State Tax Commission, 234 Iowa 362, 12 N.W. 2d 886 (1944) as excepting rural electric cooperatives from taxation on their electric transmission lines (under section 1), and permanently enjoined the tax commission from attempting to assess such lines. The electric generating and other facilities of the electric cooperatives are assessed by the State Tax Commission in the same manner as all other electric corporations by informal understanding based on the technical and difficult problem for a local assessor to attempt to evaluate electric generating properties. A recent study by this office indicates that the consumer-member of a rural electric cooperative in this state pays 2.3 mills per kilowatt hour in his electric bill for the real estate taxes paid on the building, generating stations, etc., whereas consumers in a local privately owned utility pay only 1.8 mills per kilowatt hour in their bills for the real estate taxes paid by the private utility. This, of course, is the result of the cooperative utility serving an average of 2 consumers per mile of line as compared to an overall average of about 15 consumers per mile for the private utility. Since the cooperatives have no income of their own, they are of course not subject to income tax. All other taxes are the same as any other corporation.

PROPOSED CHANGES IN IOWA COOPERATIVE LAW
(Chapter 499)

1. Provide for exceptions to the "oldest first" requirement (Sec. 499.33) in paying deferred patronage refunds by providing that in case of death of a member of a local association or the liquidation of a member association of a federation, the directors shall pay the member's claim against the revolving fund without regard to the "oldest first" rule, but that when a member of a local or of a federation becomes ineligible for reasons other than death, provide that the directors may pay the member's claim without regard to the "oldest first" rule. (Note: It was not made clear within what time such claims shall be paid in either case. This might be left to the discretion of the directors.)
2. Amend Sec. 499.30 to raise the limit to which the surplus can be accumulated from 50% to 75%.
3. Amend Sec. 499.30 to permit distributions of net savings to members and non-members alike. (A proviso that in such cases the non-member business shall be limited to 30% rather than the present 50% of the business done, might be desirable. This point was not discussed.)
4. Amend Sec. 499.30 to permit a cash distribution of not to exceed 25% of each year's patronage refund allocations to patrons on their current year's patronage. (This undoubtedly also involves making an exception to the "oldest first" rule. It may be desirable to prescribe the procedure by which cooperatives with existing commitments under their present revolving fund could legally make this, and the other changes, which make exceptions to the "oldest first" rule.) This provides funds for members to pay the income tax on the patronage allocated to them.
5. (First Choice) Repeal Sec. 499.59. The effect of such repeal would be to replace specified agricultural cooperatives under the exemption existing in sub-section 10 of Ch. 502.4 and 502.5. The cooperatives there specified, however, appear to be only cooperatives which market or process farm products. If farm supply purchasing cooperatives are thereby excluded from the exemption, they should be included by a clarifying amendment to Ch. 502.4.
6. (Second Choice) Should the first choice above fail of passage, or should it be deemed politically or otherwise inexpedient to try to get Sec. 499.59 repealed, then:

Amend Sec. 499.59 by striking "twenty-five" in the first paragraph thereof and substituting in lieu thereof "one hundred and fifty". The second paragraph of this section is to be retained.
- 6a. Substitute "net savings" or "net proceeds" for "earnings" wherever the latter appears in the law. (L.V.T. Note: Why not say "retained margins" or "excess margins".)
- 6B. Substitute "patronage payments" or "patronage allocations" for "Patronage dividends" wherever the latter term appears in the law, and define patronage payments or allocations as adjustments of members' transactions to a cost basis (as distinguished from distributions of earnings) in consistency with the cooperative purpose to serve members at cost.

RICHARD H. LARSON, CHAIRMAN
WAYNE R. MALINSON, VICE CHAIRMAN
JOSEPH J. BROWN, COMMISSIONER



ADDRESS ALL CORRESPONDENCE
TO THE COMMISSION.

REFER REPLY TO

FILE NO. _____

WADE A. HALL
ACTING SECRETARY

NEBRASKA
State Railway Commission

CAPITOL BUILDING
LINCOLN 9, NEBRASKA
PHONE 7-5211

July 16, 1958

Alaska Legislative Council
Box 2199
Juneau, Alaska

Attention: Mr. C. E. Weidman
Research Assistant

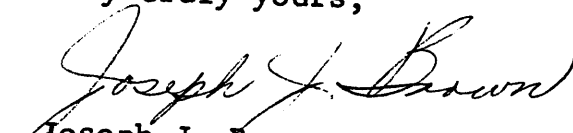
Gentlemen:

Thank you for your letter of July 9, 1958, requesting a copy of the Nebraska statutes pertaining to publicly-owned electric facilities. You will find enclosed a copy of the Nebraska statutes which it is hoped will be of some benefit to you.

We here at the Nebraska State Railway Commission sincerely hope that the people of Alaska will vote to come into the union as the 49th state. You may rest assured that the people of Nebraska will do everything we can to help Alaska on its way, but you will have to indicate how and in what manner this can be accomplished.

With all good wishes, I am

Very truly yours,


Joseph J. Brown
Commissioner

JJB:bj
encl.

STATE OF OHIO
PUBLIC UTILITIES COMMISSION
COLUMBUS

COMMISSIONERS
EVERETT H. KRUEGER, JR.
CHAIRMAN
RALPH A. WINTER
EDWARD J. KENEALY



W. E. HERRON
SECRETARY

July 16, 1958

C. E. Weidman
Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Sir:

This will acknowledge receipt of your letter of July 9, 1958 with regard to your inquiry as to the jurisdiction of this Commission over rural electric co-operatives.

Please be advised that Section 4905.02 of the Revised Code specifically exempts from the regulation of this Commission those public utilities, including electric companies, which operate "not for profit" or which are municipally operated. Thus, generally speaking, this Commission has no regulatory jurisdiction over electric co-operatives.

I believe the recent enactment of the Ohio General Assembly to which you refer, and which you say is cited in the Commerce Clearing House Service, is Section 4905.261 of the Revised Code, relating to the duplication of electric facilities. Such enactment does confer upon this Commission a very limited jurisdiction over electric co-operatives in that it authorizes this Commission to prevent unnecessary duplication of electric facilities.

This Section provides that, when an electric company proposes to furnish service to a consumer who is already receiving electric service from another such utility, the electric company presently rendering the service may file a Complaint with this Commission. After public hearing, and if the Commission determines the existing service to be reasonably adequate to the needs of the consumer, the Commission is required to issue an Order preventing such proposed duplication of electric facilities. The latter portion of the Section provides that, for the purposes of this Section only, "public utility" shall include rural electric co-operatives.

Although your inquiry relates specifically to electric co-ops, it may be of some interest to you to learn that this Commission has also, by a recent legislative enactment, been

COMMISSIONERS
C. L. ROY DOHERTY
CHRIS A. MERKLE
FRED LINDEKUEHL



COUNSEL
HERMAN L. BODE
SECRETARY
E. F. NORMAN
ADDRESS ALL COMMUNICATIONS
TO THE SECRETARY

PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA
PIERRE

July 15, 1958

Mr. C. E. Weidman
Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Sir:

Replying to your letter of July 9th, addressed to Commissioner Merkle, we have to advise that South Dakota is one of the very few states of the Union that has not provided for regulatory authority over Electric and Gas Utilities. Therefore, we do not have a compilation of our laws relating to rural electric cooperatives, as we do for the utilities over which we do have jurisdiction.

We have, however, secured a copy of our "Electric Cooperative Act" enacted in 1947 and also a copy of SDC Supp. 57.19B relating to the taxation of cooperatives. I believe these cover the matter in which you are interested, and we are sending them to you herewith.

We might add that this 2% gross receipts tax is now considered inadequate in comparison with the tax burden carried by other taxing units in the state and some revision is likely in the near future.

Very truly,

E. F. NORMAN
Secretary

EHQ:n
Enclosures (2)

WALTER W. HUDSON
CHAIRMAN

RICHARD J. LUMAN
MEMBER

WM. "SCOTTY" JACK
MEMBER

DWIGHT W. DAHLMAN
SECRETARY

E. A. MCKAY
DIRECTOR, AD VALOREM
TAX DEPARTMENT

The State of Wyoming
Board of Equalization
and
Public Service Commission
Cheyenne

July 11, 1958

J. C. CHURCH
RATE EXPERT

NORMAN V. JOHNSON
DIRECTOR, TRANSPORTATION
DEPARTMENT

ROY L. HENDERSHOT
ACTING DIRECTOR, UTILITIES
DEPARTMENT

E. S. MACCLEAN
DIRECTOR, DEPARTMENT
OF REVENUE

Alaska Legislative Council
Box 2199
Juneau, Alaska

Attention: C. E. Weidman, Research Assistant

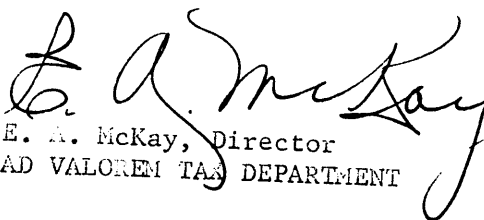
Dear Sir:

Your letter of July 9th addressed to Mr. Hudson has been referred to this department for reply.

In accordance with your request we are enclosing two copies of our 1957 statute which provides a measure of relief for Rural Electrification Cooperatives in that electric utilities having a low gross revenue per mile of line received a low assessed valuation.

Yours very truly,

STATE BOARD OF EQUALIZATION


E. A. McKay, Director
AD VALOREM TAX DEPARTMENT

EAM/mm

Enc.



STATE OF MONTANA

BOARD OF EQUALIZATION
STATE CAPITOL BUILDING
HELENA, MONTANA

July 15, 1958

Alaska Legislative Council
Box 2199
Juneau, Alaska

Attention: Mr. C. E. Weidman
Research Assistant

Gentlemen:

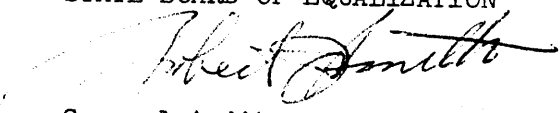
Your letter of July 9 addressed to the Railroad and Public Service Commission has been handed to this department for reply.

Electric cooperatives in Montana are assessed the same as other utilities by this department. Under our classified property tax act, the taxable value is figured at seven per cent of the assessed value.

In lieu of state income and electric energy excise taxes, the electric co-ops pay the Secretary of State of Montana a tax in the amount of \$10.00 for each one hundred customers or fractions thereof. If the Revised Codes of Montana, 1947, are available in your library, you will find the rural electric cooperatives in Volume 2, Chapter 14, and the taxes in Volume 5, Chapter 84.

Yours very truly,

STATE BOARD OF EQUALIZATION


General Auditor

RJS:mm

July 16, 1958

Tax Commission
General Administration Building
Olympia, Washington

Gentlemen:

It appears the enclosed letter should have been more properly addressed to your Commission for consideration and the desired information.

Very truly yours,

WESLEY L. BARCLIFT
Executive Secretary

TNHpb

cc: C. E. Weidman, Research Assistant
Alaska Legislative Council
Box 2199 - Juneau, Alaska



ELMER OLSON
SECRETARY

PUBLIC
SERVICE
COMMISSION

DIAL CA3-8000 EX. 179

STATE OF NORTH DAKOTA
B I S M A R C K

July 14, 1958

Mr. C. E. Weidman, Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Mr. Weidman:

In reply to your inquiry relative to rural electric cooperatives, I am sorry we do not have at this time, an up to date publication of this particular law. The code reference is Chapter 10-13, 1957 Supplement to North Dakota Revised Code of 1943.

However, since you appear to be particularly concerned with reference to tax exemptions, I have secured for you 2 copies of this law from the State Tax Commissioner's office and enclose the same herewith.

Trusting this will be of some value to you, I am

Sincerely yours

Martin Vaaler
Commissioner

EO/mr
Enc.

State of North Carolina

Utilities Commission

July 16, 1958

Mr. C. E. Weidman, Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Mr. Weidman:

This is in reply to your letter of July 9th inquiring about the law of this State applicable to electric co-operatives. I regret that we do not have any printed copies of this law to send you.

I do not regard the North Carolina statutes setting up the electric co-operatives as being models which should be followed in Alaska. Our co-operatives are entirely separate and apart from this Commission and we have no jurisdiction whatever over them or the rates which they charge. There has been considerable conflict as to who shall serve contiguous territory which has resulted, in the case of telephone co-operatives, in many people not have any service whatsoever. They reside adjacent to private telephone companies, but in the territory which has been pre-empted by the co-operatives. They refuse to take the co-operatives' service and the co-operatives refuse to allow them to receive service from private companies. There has not been so much trouble with electric co-operatives.

It is our suggestion that you consider the statutes of the State of Virginia which give to the Corporation Commission of Virginia full authority over the allotment of territory which the co-operative shall serve and the rates which it shall charge. The Virginia Commission has had very little difficulty in solving all disputes between co-operatives and private utilities. If you have not done so, I suggest that you write to Honorable Lester Hooker of the Virginia Commission, requesting that he furnish you with the Virginia statutes in point and I feel certain that he will give you his opinion as to how their statutory requirements have satisfied the needs of the people of his state.

Sincerely,

Stanley Winborne
Stanley Winborne
Chairman

COMMISSIONERS
PETER E. MITCHELL, President
RAY E. UNTEREINER
MATTHEW J. DOOLEY
C. LYN FOX
THEODORE H. JENNINGS



Public Utilities Commission

STATE OF CALIFORNIA

July 18, 1958

ADDRESS ALL COMMUNICATIONS
TO THE COMMISSION

FILE NO.

CALIFORNIA STATE BUILDING
SAN FRANCISCO 2, CALIF.

Mr. Henry J. Camarot
Executive Director
Alaska Legislative Council
Box 2199
Juneau, Alaska

Attention: Mr. C. E. Weidman
Research Assistant

Dear Mr. Camarot:

This is to acknowledge your communication directed to Peter E. Mitchell, President. This is to advise that on July 1, 1958, C. Lyn Fox, Commissioner, was unanimously elected president of this Commission upon the resignation of Peter E. Mitchell from that office. Your communication has been referred to the undersigned for reply.


We are enclosing for your information two copies each of Decision No. 37389 and Decision No. 45111 of this Commission on the subject of rural electric cooperatives which, we believe, will be of assistance to you. There is no statute administered by this Commission that deals with R.E.A. cooperatives, as public utilities within the meaning of the Public Utilities Act.

Concerning your request for tax provisions pertaining to such cooperatives we are referring your communication to the State Board of Equalization in Sacramento for reply.

Yours very truly,

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

By


R. J. Pajalich
Secretary

Encl. (4)

cc: Mr. Broley E. Travis
Chief of Division
Room 160, 1020 N Street
Sacramento, California

State of Kansas



GEORGE DOCKING Governor
MARION BEATTY Chairman
HARRY G. WILES Commissioner
RICHARD C. BYRD Commissioner
RAYMOND B. HARVEY Secretary
CLYDE E. MILLIGAN Counsel

State Corporation Commission

TOPEKA, KANSAS

July 17, 1958

Mr. C. E. Weidman
Research Assistant
Alaska Legislative Council
Box 2199
Juneau, Alaska

Dear Mr. Weidman:

In answer to your letter requesting a copy of our laws relative to rural electric cooperatives I am enclosing herein a copy of the law presently in effect which was taken from our Session Laws. As I do not have any extra copies, I trust that you can make any additional copies that you might need.

In your letter you requested information regarding any tax provisions that Kansas might have pertaining to electric cooperatives and as that matter would be handled by our Revenue and Tax Department I am referring your letter to that department along with a copy of my letter so that they might advise you of their tax provisions.

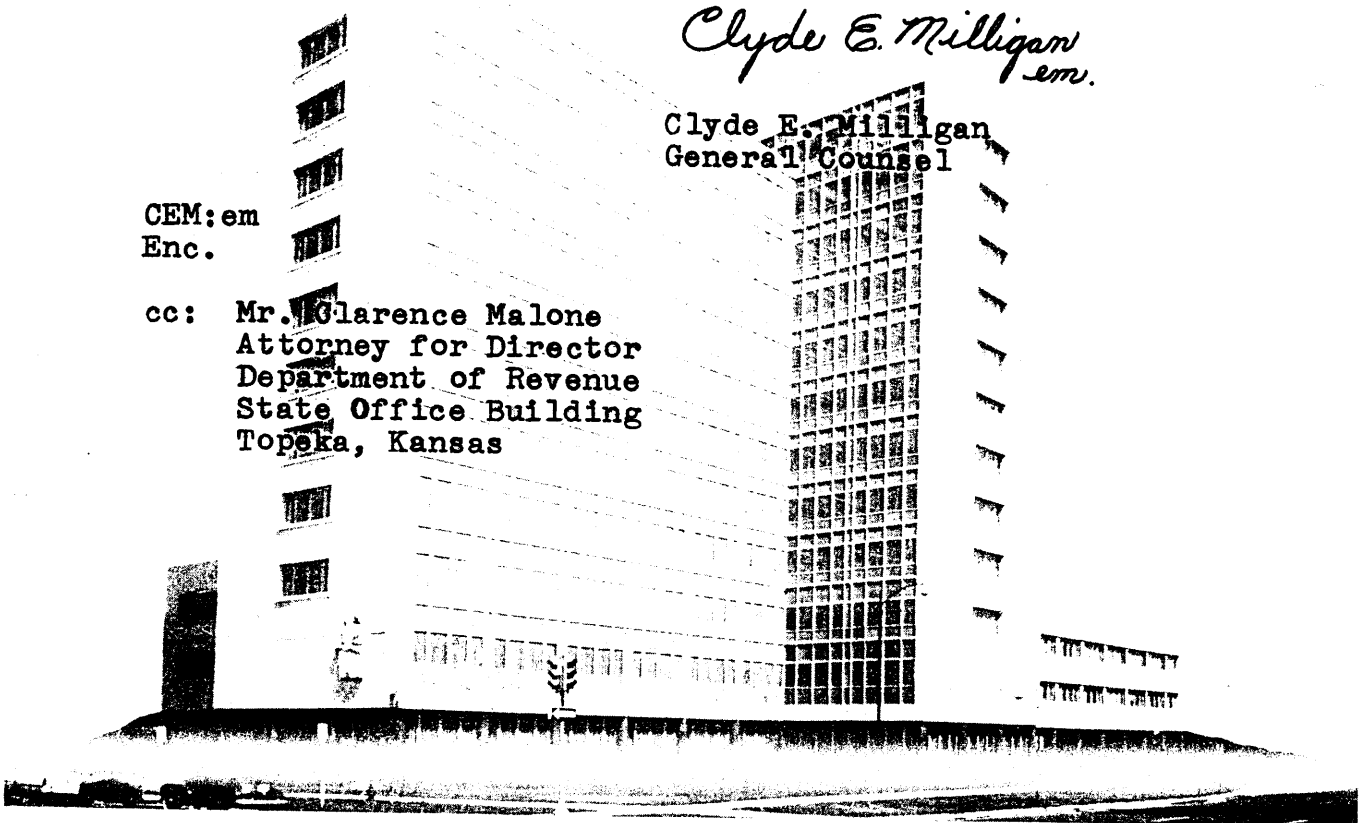
Very truly yours,

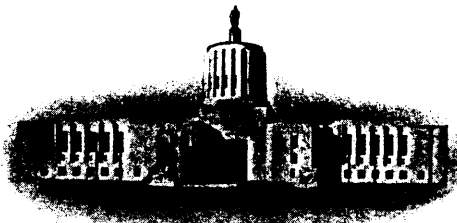
Clyde E. Milligan
em.

Clyde E. Milligan
General Counsel

CEM:em
Enc.

cc: Mr. Clarence Malone
Attorney for Director
Department of Revenue
State Office Building
Topeka, Kansas





STATE OF OREGON
PUBLIC UTILITY COMMISSIONER

SALEM

August 6, 1958

RECEIVED
AUG 7 1958

ALASKA LEGISLATIVE COUNCIL
JUNEAU, ALASKA

IN REPLY PLEASE REFER
TO FILE NO.

AIRMAIL

Henry J. Camarot
Executive Director
Alaska Legislative Council
Box 2199
Juneau, Alaska

Attn: Mr. C. D. Weidman

Dear Sir:

Your letter of July 9, addressed to the former Public Utility Commissioner of Oregon, Mr. Charles H. Heltzel, has been referred to me for reply.

Oregon has no law which relates specifically to the organization and corporate powers of rural electric cooperatives. These organizations are established and operated under the provisions of Oregon law generally applicable to non-profit corporations (ORS Ch. 62). I might add that ORS Ch. 62 could hardly be considered a "model" of anything; in fact, there is underway in the State Bar some effort to clean up this statute.

Oregon does have statutory provisions which impose upon REA coops a 2 percent gross earnings tax which is "in lieu of all other taxes on the transmission and distribution lines." In accordance with your request I am enclosing 2 copies of the pertinent statutory provisions, ORS 308-805--308.820, inclusive. The provisions of ORS 308.510, 308.520 and 308.525 to which the enclosure refers constitute part of the body of statute law relating to the assessment of designated utilities and companies by the State Tax Commission (an arrangement, applicable to utilities, which is in the nature of an exception to our usual system of having assessment made by a county assessor).