EX PARTE OR LATE FILED

EX PARTE OR LATE FILED

ORIGINAL

RECEIVED

MAY 17 2000

FCC MAIL ROOM

American Public Power Association

2301 M Street, N.W.
Washington, D.C. 20037-1484
202/467-2900
202/467-2910

May 5, 2000

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
Eighth Floor
Washington, DC 20554

Re: Notice of *Ex Parte* Communications in Petition for Preemption of Section 392.410(7) of the Revised Statutes of Missouri; *Docket No 98-122*

Dear Secretary Salas:

On May 2, 2000, Ron Lunt and Richard Geltman of the American Public Power Association (APPA) participated in an *ex parte* meeting with a number of Federal Communications Commission's staff from various bureaus. A list of the FCC staff attendees is attached. During the meeting we discussed the deployment of broadband services to rural areas. We specifically discussed the telecommunications capabilities of municipally owned electric utilities and the role they could play in broadband deployment. In passing, we also briefly discussed actual and potential state barriers to entry that might prevent these municipal electric systems and municipalities from providing broadband services. The pending petition referenced above was touched upon.

Also attached is a copy of a set of materials that was shared with each of the FCC attendees.

In accordance with the Commission's rules governing *ex parte* presentations, I am providing two (2) copies of this letter and attachments. Thank you for your consideration.

Sincerely,

Richard B. Geltman

Richard B. Geltman
General Counsel

Attachments

cc: Attached Service List

No. of Copies rec'd 0+2
List ABCDE

recycled paper

CERTIFICATE OF SERVICE

I, Richard B. Gilpin, hereby certify that on this 5th day of May, 2000, I caused copies of the foregoing letter to be served on the parties on the attached Service List by first-class U.S. Mail.

By U.S. Mail:

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, Eighth Floor
Washington, D.C. 20554

Honorable William E. Kennard, Chairman
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Honorable Susan Ness, Commissioner
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Honorable Harold W. Furchtgott-Roth,
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Honorable Michael K. Powell, Commissioner
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Honorable Gloria Tristani, Commissioner
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Thomas Powers
Legal Advisor to Commissioner Kennard
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

ITS, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Bill Bailey
Legal Advisor to
Commissioner Furchtgott-Roth-F.C.C.
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Kyle Dixon
Legal Advisor to Commissioner Powell
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

David Goodfriend
Legal Advisor to Commissioner Ness
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Sarah Whitesell
Legal Advisor to Commissioner Tristani
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Christopher J. Wright, General Counsel
James Carr
Suzanne Tetrault
Aliza Katz
Office of the General Counsel
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Ms. Kathryn Brown, Chief of Staff
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Janice M. Myles
Federal Communications Commission
Common Carrier Bureau, Room 544
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Kecia Boney
R. Dale Dixon, Jr.
Lisa Smith
Jodie Kelly
MCI Telecommunications Corporation
1801 Pennsylvania Avenue
Washington, D.C. 20006

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Association
4121 Wilson Boulevard
Arlington, Virginia 22203-1801

Michael K. Kellogg
Geoffrey M. Klineberg
Paul G. Lane
Durward D. Dupre
Michael J. Zpevak
Kellogg, Huber, Hansen,
Todd & Evans, P.L.L.C.
1301 K Street, N.W.
Suite 1000 West
Washington, D.C. 20005

Jeffrey L. Sheldon
UTC, The Telecommunications Association
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

Gail L. Polivy
John F. Rapoza
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

Jeremiah W. (Jay) Nixon
Ronald Molteni
Office of the Attorney General
Supreme Court Building
P.O. Box 899
207 W. High Street
Jefferson City, MO 65102

Carol Mattey
Margaret Egler
Claudia Pabo
Policy Division
Common Carrier Bureau
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

James Baller
Sean A. Stokes
Lana L. Meller
The Baller Herbst Law Group, P.C.
1820 Jefferson Place, N.W.
Suite 200
Washington, D.C. 20036

FCC ATTENDEES AT BROADBAND MEETING

NAME	BUREAU
Doug Sicker	OET
Robert Cannon	OPP
John W. Berresford	CCB
Whitey Thayer	CCB
Douglas Webbink	IB
Cathy Hsu	IB
Steve Selwyn	IB
Berry Wilson	MMB
Emily Hoffnar	CCB
Rebecca Dorch	OET
Ellen Blackler	CCB
Joe Levin	WTB
Joe Heaps	IB
Ellen Burton	CCB
To Quyen Troung	CSB
Greg Guice	CCB
Ron Lunt	APPA
Richard B. Geltman	APPA
Shanti Gupta	OET
Scott Bergmann	CCB

American Public Power Association

2301 M Street, N.W.
Washington, D.C. 20037-1484
202/467-2900
202/467-2910

MATERIALS DISTRIBUTED

recycled paper

American Public Power Association

2301 M Street, N.W.
Washington, D.C. 20037-1484
202/467-2900
202/467-2910

- **Thanks**
  - ***Thanks to John Berresford for this opportunity***
- **Introduction**
  - ***Ronald Lunt, Director, Telecommunication Services, 202-467-2990***
  - ***Dick Geltman, General Counsel, 202-467-2934***
- **History of Ron's work experience**
  - ***American Public Power Association (APPA)***
  - ***Colorado River Commission***
    - Uses of Communication System for Core Electric business
      - **SCADA – Electric system control and monitoring system**
      - **System Protection (<8 cycles, 135 milliseconds)**
      - **Telephony connection to ILEC**
      - **Protective Relay Interrogation and Access**
    - How is this accomplished
      - **Fiber Optic loops**
        - SONET (Synchronous Optical Network) OC-1 (transmits over 51 Mbps)
        - Multiple loops
      - **Microwave hops**
        - Alternative control center/Main office (6 Gig)
        - Wholesale power provider (18 Gig)

recycled paper

- ***City of Dover***
  - SCADA (communicated via Fiber Optic, 900 MHz radio system, landline)
    - **Control Water**
    - **Control Wastewater**
    - **Electric System**
  - System Protection
- ***Several Utilities in South Dakota***

❖ APPA and its members

- ***APPA is the service organization for the nations 2,000 community- and state owned electric utilities***
- ***Located in all states except Hawaii, plus we serve members in Puerto Rico, U.S. Virgin Islands, America Samoa, Guam and Mariana Islands.***
- ***These utilities provide electric power needs of over 40 million Americans, or 1 in 7 electric users***
- ***More 1200 public power systems serve 3,000 or fewer customers***
- ***The largest PP cities are Los Angeles, Phoenix, San Antonio, Sacramento, Memphis, Seattle, Jacksonville, Austin, Nashville, Omaha, to name a few***
- ***Over 300 members have celebrated their centennial anniversary with another 225 scheduled to do so by 2005***
- ***APPA was created in 1940 and provides the following services***
  - Advance public policy interests of its members
  - Provides representation before Congress, federal agencies and the courts
  - Educational programs in technical, management, and policy areas

- Collection, analysis, and dissemination of information
- Publications (daily, weekly, and bi-monthly) plus other educational publications
- DEED – Provides funding for research and development
- Recognition and awards for excellence in management, safety, and operations
- Hometown Connections, subsidiary that provides a portfolio of competitively priced products/services
- Over 70 staff members

❖ Locally Owned Utilities Provide Local Control

- ***Public Powers first and only purpose is to provide excellent, efficient service to its citizens***
- ***The utility is non-profit; however, it usually pays some type of "in-lieu-of-taxes" fee to City***
- ***Low Rates – According to U.S. Department of Energy statistics for 1998:***
  - Residential customers of Investor owned utilities paid 23% more than PP utility customers
  - Commercial customers of Investor owned utilities paid 12% more than PP utility customers
  - Industrial customers paid about the same at either utility (average customer at an Investor owned utilities paid 4.6 cents per kWh while a PP industrial customer paid 4.5 cents per kWh)
- ***Public power utilities are community institutions with community-wide goals***
- ***Coordinate services with other community services***
  - Billing
  - Customer service

- Infrastructure construction
- Operation centers

➢ ***Commitment to energy efficiency, safety, and cooperate "good citizenship"***

➢ ***Citizens have the opportunity to participate in service, financial, and operating decisions***

➢ ***Used as a yard-stick by which other utilities are measured***

❖ Member telecommunication projects

➢ ***Should we provide telecom services***

- Iowa's average approval rate is 92%
- Glasgow, KY provides service because it improves the quality of life
- Mr. Miller presented a paper that proves competition drives down the price and improves the service

➢ ***Case Studies***

- Vineland, NJ developed a Metropolitan network in a joint effort between the school district and the utility
  - **Deliver Internet, Intranet, video, voice to the city and schools**
- Washington PUD Association and Bonneville Power Administration team up to provide a state network
  - **Provide enhanced utility operations**
  - **Provide high-speed access to 16 initial PUD's**
  - **Exploring partnership opportunities for CATV and Telephony**
  - **GTE and Washington Independent Telephone Association files suit to block PUD's entrance into these services**
- Ashland, Or provides a broadband network

- **Launched its first ISP last fall, they are looking for other ISP providers to use the system (charge a $15 monthly access fee to any ISP provider)**
- **Provide CATV services**
- **ISP network can be 10 Mbps or 100 Mbps**
- **TCI fights entrance**

▪ Numerous other case studies included

➢ ***Richmond, Indiana received a grant from the state economic development fund for the development of a high speed network for a new industrial park***

➢ ***Easton, Maryland is expanding an older CATV network and installing three rings of 96 strand Fiber Optic cable to provide high speed internet service (currently offer dial-up ISP service and 500 Kbps one-direction internet service)***

➢ ***Anaheim, California has a third-party leasing 60 fibers to provide advanced services***

➢ ***Brookings, South Dakota is currently the ILEC for the City and has recently begun providing regional PCS service***

➢ ***Newnan, Georgia has more CATV customers than electric customers***

➢ ***Municipal Electric Authority of Georgia operates a regional network connecting numerous cities in Georgia. This allows them access to the Internet POP on a broadband platform***

➢ ***Burbank, California is about to launch a 1 Gbps broadband service***

➢ ***The City of LaGrange, Georgia provides free Internet access to customers***

➢ ***Many members have investigated the feasibility of providing an advanced service and have determined that it was not feasible***

❖ **What do our members need**

RON

American Public Power Association

2301 M Street, N.W.
Washington, D.C. 20037-1484
202/467-2900
202/467-2910

April 11, 2000

The Honorable Conrad Burns
Chairman
Subcommittee on Communications
227 Hart Senate Office Building
Washington, DC 20510
Attn: Kevin Krufky, Research Assistant

Dear Chairman Burns:

Thank you for providing the opportunity for the American Public Power Association to submit comments to the Subcommittee in conjunction with its hearing on the provision of internet services to rural America. Following this cover letter is a copy of APPA's statement for the record.

Public power systems, many of which serve small communities of 5,000 people or less, are actively engaged in providing a broad range of telecommunications services to their citizens. Representative examples are provided in our statement. However, many more municipal utilities desire to overcome the digital divide, but are thwarted by state statutory barriers to entry.

Our statement suggests Congress should amend Section 253(a) of the Telecommunications Act of 1996 to declare in still clearer terms that the FCC must preempt state legislation that prevents municipalities and municipal utilities from offering telecommunications services. Further, Congress should review the definition of "telecommunications services" in the Act to ensure that Section 253(a) will cover all advanced communications services. And finally, Congress should recognize the important role municipal governments can and do play in deploying advanced telecommunications services and encourage them to do more.

Sincerely,

Alan H. Richardson by RSG

Alan H. Richardson
Executive Director

Enclosure (1)

recycled paper

American Public Power Association

2301 M Street, N.W.
Washington, D.C. 20037-1484
202/467-2900
202/467-2910

Statement
of the
American Public Power Association

submitted to

COMMUNICATIONS SUBCOMMITTEE
OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE
AND TRANSPORTATION
on the
DEPLOYMENT OF HIGH SPEED INTERNET TECHNOLOGIES
IN RURAL AREAS

April 11, 2000

The American Public Power Association (APPA) is the national service organization representing the interests of the nation's nearly 2000 publicly owned, locally controlled, electric utilities, providing electric service to nearly 40 million Americans. But electric service is not the only utility service APPA members provide. Over 267 municipal electric utilities are now providing, establishing or planning for the provision of internet, high-speed data service, broad-band resale, dark fiber leasing or cable television.

About 75 percent of public power utilities in the U.S. are located in cities with less than 10,000 residents. Many of these municipal electric utilities developed largely due to the failure of private utilities to provide electrical service in many rural areas because they were viewed as unprofitable. In these cases, communities formed municipal electric utilities to do for themselves what they viewed to be of vital importance to their quality of life and future economic prosperity. For more than a century, public power utilities have played a vital role in furnishing essential real competition in the electric power industry.

A century later, public power utilities are meeting the demands of their constituent owners and communities by providing telecommunications infrastructure and telecommunications services where there are none and facilitating competition where it is inadequate. Set out in Attachment A are representative examples of some public power utility communications activities. These communities and others don't want to be on the wrong side of the digital divide; they are taking matters into their own hands.

recycled paper

THE PROBLEM

Yet, these local governmental efforts to provide telecommunications services within their own communities are being thwarted in some states, and with renewed efforts in others, by incumbent cable television and local telephone interests. These incumbent interests are utilizing their vast resources and long-standing relationships with state legislatures to inhibit the development of competition at the state level. In an effort to achieve in the states what they could not obtain at the federal level, they have successfully pushed legislation in eight states to create barriers to entry for municipal utilities that want to make available communications infrastructure and services. A summary of the state legislative barriers to municipalities and municipal utilities providing communications services and infrastructure is set out in Attachment B. This unfortunate trend of restrictive state legislation is expected to grow unless Congress makes it clearer that such state laws are out of step with the intent and language of the Telecommunications Act of 1996. The Act was meant to ensure competition from any and all entities that were willing to participate in the marketplace.

Unfortunately, the FCC, in *The Matter of the Public Utility Commission of Texas,* FCC 97-346, petition for review denied, City of Abilene v. FCC, 164 F. 3d 49 (D.C. Cir. 1999), concluded that Section 253(a) of the Telecommunications Act of 1996 was not clear enough to require preemption of the Texas statute denying municipal provision of telecom services, despite the broad language of Section 253(a). That provision reads:

> No state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (Emphasis added)

Yet despite the inclusive language and legislative history, the FCC and the D.C. Circuit Court of Appeals concluded that "Congress in using the word 'entity' in §253(a) had not expressed itself with sufficient clarity to warrant federal interference with a state's regulation of its political subdivisions."

In enacting Section 253(a), Congress was well aware of the vital role that public power utilities could play in bringing competition to telecommunications markets, and took steps to include explicit language in the Act's Conference Committee agreement

that reaffirmed the drafters' intention that all utilities be free from state barriers to entry. The Conference Committee agreement specifically noted the Conferees' clear understanding that "electric, gas, water or steam utilities 'might' choose to provide telecommunications service", and they confirmed their understanding and intent that "explicit prohibitions on entry by a utility into telecommunications are preempted under this section [§253(a)]." In essence, Congress was deregulating to broaden the opportunities so every entity could compete.

Several recent Congressional letters to the FCC from members of Congress have reaffirmed that Section 253(a) was intended to ensure that municipal utilities were not to be prohibited by states from providing telecommunications services and infrastructure. They are set forth in Attachment C.

IMPORTANCE OF MUNICIPAL UTILITY ROLE

Why is it important to ensure that municipalities and their utilities are permitted to offer communications services and infrastructures? Municipal government participation in providing advanced communications services can effectively advance the goals of universal services, deployment of advanced services and competition in rural and distressed urban areas.

First, many municipal electric utilities already have the infrastructure and experience to deploy advanced communications services and infrastructure. To maintain their core business of providing electric power in the 21st century, municipally owned electric utilities have constructed, or will construct, highly sophisticated broadband telecommunications facilities. In many instances, existing facilities can readily support the provision of voice, video, data and other advanced communications services to the customer base already being provided electricity and to an expanded set of customers, either by the public power utilities themselves or by other entities. Public power utilities also have more than a century of experience in bringing high quality service and competition to the communities they serve. They have skilled work forces that are accustomed to dealing with complex technologies. They have access to poles, conduits, ducts, rights of way and direct connections to their customers. They know how to help

customers and provide prompt and efficient customer support. They also have a long and rich tradition of universal service and community involvement. As low cost, not-for-profit providers, public power utilities are positioned to offer advanced telecommunications capabilities even where the costs of providing service outweigh the profit potential.

Second, municipal utilities already have significant telecommunications experience in supporting their electricity business. They employ telecommunications networks, which consist of fiber optic systems, point-to-point microwave facilities, point-to-multi-point multiple address systems, and two-way land mobile radio systems. Their uses include: protective relaying; system control and data acquisition; the interconnection of substations, pumping stations and generating plants; interconnection of personnel by use of mobile radio base stations and back haul service restoration dispatch; and automated plant security and alarm systems. These utilities are also implementing advanced information and communications technology strategies to revamp both the supply side and demand side of their operations.

Third, municipal utilities employ telecommunications strategies that best meet the market needs of their communities. The simplest option – and the one most frequently used – is to lease dark fiber or bulk telecommunications capacity to new or competing private telephone companies, cable operatives, internet providers, or other telecommunications carriers. The second option is to enter into creative partnerships with telecommunications providers, customers or other entities, including schools, universities, hospitals or libraries. And the third option is for the municipal utilities to become full-fledged providers of advanced telecommunications services to the public.

And fourth, municipal utilities want to overcome the digital divide and meet the needs of their own rural or urban distressed ccommunities when private, profit-maximizing firms will not provide advanced telecommunications to all Americans. Unlike private, incumbent communications providers, municipal governments have a central mandate for universal service.

PRIVATE COMMUNICATIONS PROVIDERS GIVE LOW PRIORITY TO UNDERSERVED AREAS

Last year in comments to the FCC in response to its inquiry on implementation of Section 706 of the Telecommunications Act of 1996, a number of representatives of private industry indicated why it was unlikely they would be providing advanced telecommunications services to rural areas any time soon. The Association of Local Telecommunications Service argued that the FCC "must recognize that any advanced telecommunications technology or service is likely to appeal and be marketed first to businesses and, after being proven in that market, introduced to residential consumers. GTE maintained that "it is to be expected" that service providers "are deploying advances telecommunications capability solely or predominantly in urban areas. It can be expensive to invest in the infrastructure needed to provide such service. Accordingly, it is rational to build the infrastructures first in areas where demand is likely to be greatest and unit losses are likely to decline most quickly. Once economies of scale and scope are captured, infrastructure can be extended to less densely populated locations." Similarly, SBC Communications stated, "Even where advanced telecommunications capability is available, that would technically and operationally be deployed, the expected demand and associated costs may make the deployment uneconomical, particularly in rural areas." And the National Telecommunications Cooperative Association (NTCA) put it in even starker terms. NTCA noted that, in its opinion, in rural communities, "there will always be areas where cost of providing services outweighs the profit potential."

MUNICIPAL UTILITIES AS PROVIDERS

Simply put, municipalities and their utilities should be enabled to provide, not prevented from providing, advanced telecommunication services. Even where the private sector determines the investment costs are too high and the returns are too low, municipal governments may be able and willing to act. Even if in rural and distressed urban areas such services are available, the cost to consumers may be high, or the service may be limited or of poor quality. In those cases, municipal utilities can and do provide competition to incumbent telecommunications carriers, serving as a threat of or actual competition to the incumbents, or as a yardstick against which to measure their performance.

RECOMMENDATIONS FOR CONGRESSIONAL ACTION

What should Congress do?

First, Congress should indicate in even clearer terms that it intends for the FCC to preempt any and all state laws that create barriers to municipalities and municipal utilities providing any kind of telecommunication services. Accordingly, Congress should amend Section 253(a) of the Telecommunications Act of 1996 with express language.

Second, Congress should review the definition of "telecommunication services" to ensure that Section 253(a) covers state statutory barriers to voice, video, data, and other advanced telecommunications services, whether provided in analogue, digitized, or packetized formats.

And third, the Congress should recognize the important role municipalities and municipal utilities can and do play in the deployment of advanced telecommunications services and infrastructure in rural and urban distressed areas and find ways to encourage further municipal involvement.

APPA appreciates the opportunity to provide you with these comments.

State Barriers to Telecommunications Activities By Public Power Utilities

(As of November 8, 1999)

1. Arkansas prohibits municipal entities from providing local exchange services. (*Ark. Code § 23-17-409*)

2. Florida imposes various taxes to increase the prices of telecommunications services (as distinguished from other services) sold by public entities. (*Florida Statutes §§ 125.421. 166.047, 196.012, 199.183 and 212.08*)

3. Missouri bars municipalities and municipal electric utilities from selling or leasing telecommunications services or telecommunications facilities, except services for internal uses; services for educational, emergency and health care uses; and "Internet-type" services. (*Revised Statutes of Missouri § 392.410(7)*)

4. Minnesota requires municipalities to obtain a super-majority of 65% of the voters before providing telecommunications services. (*Minn. Stat. Ann. § 237.19*)

5. Nevada prohibits municipalities larger than 25,000 from providing "telecommunications services," as defined by federal law. (*Nevada Statutes § 268.086*)

6. Tennessee bans municipal provision of paging and security service and allows provision of cable, two-way video, video programming, Internet and other "like" services only upon satisfying various anti-competitive public disclosure, hearing and voting requirements that a private provider would not have to meet. (*Tennessee Code Ann. § 7-52-601 et seq.*)

7. Texas bars municipalities and municipal electric utilities from offering telecommunications services to the public either directly or indirectly through a private telecommunications provider. (*Texas Utilities Code, § 54.201 et seq.*)

8. Virginia prohibits all localities except the Town of Abingdon (the home of a prominent member of Congress) from offering telecommunications services or facilities, but allows localities to sell the telecommunications infrastructure that they had in place on September 1, 1998, and also allows localities to sell or lease "dark fiber" subject to several onerous conditions. (*Virginia Code § 15.2-1500*)

Public Power Costs Less

Residential customers of investor-owned electric utilities paid average rates that were 23 percent above those paid by customers of publicly owned utilities during 1998, while residential customers of cooperative systems paid average rates that were 6 percent above those paid by customers of publicly owned systems. Public power customers paid an average of 7.1 cents per kilowatt-hour for residential electric service, compared to 8.7 cents per kilowatt-hour paid by residential customers of investor-owned utilities, and 7.5 cents per kilowatt-hour paid by residential customers of cooperative systems.

Across the country, publicly owned electric utilities continue to lead the way in providing residential, commercial and industrial customers with low-cost energy for homes, businesses, large industry and the public. The table below compares the national average residential, commercial and industrial revenue per kilowatt-hour paid by customers of publicly owned, investor-owned and cooperative electric utilities in 1998.

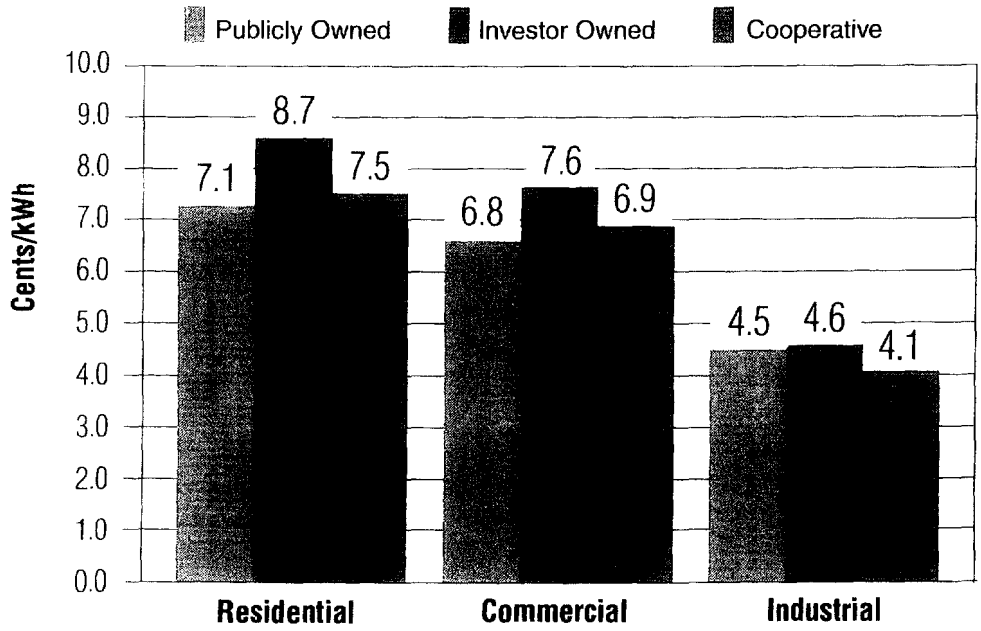
Commercial customers of investor-owned utilities paid 12 percent more for electricity than public power customers in 1998. Public power commercial customers paid an average of 6.8 cents per kWh, compared to 7.6 cents per kWh paid by commercial customers of investor-owned utilities, and 6.9 cents per kWh paid by commercial customers of cooperative systems.

There were only small differences in average rates paid by industrial customers of publicly owned and investor-owned electric utilities in 1998: industrial customers of publicly owned utilities paid 4.5 cents per kWh, while industrial customers of investor-owned utilities paid 4.6 cents per kWh. Industrial customers of cooperative systems paid an average rate of 4.1 cents per kWh.

Publicly owned utilities' average rate advantage for residential and commercial customers is not quite as great as in previous years. The primary reason is the addition of a very large, new public power system, Long Island Power Authority (LIPA), which displaced a private power company and began operations in mid-1998. LIPA's one million customers represent 6 percent of all public power customers, so LIPA's rates have a statistically noticeable affect on public power's average revenue per kilowatt-hour. Importantly, LIPA's customers have benefited from their switch from Long Island Lighting Company (LILCO) to public power. LIPA was able to reduce the average rate charged to its residential customers by 16 percent and the average rate charged to its commercial customers by 8 percent, as compared to LILCO's average 1998 rates. (Neither LIPA nor LILCO have distinguished between commercial and industrial customers.)

The 1998 data presented here are based on information reported to the Department of Energy, Energy Information Administration (EIA) on Form EIA-861, "Annual Electric Utility Report." Data were reported by 2,009 publicly owned electric utilities, 239 investor-owned utilities and 912 cooperative systems operating in the 50 states and District of Columbia. The following pages provide revenue per kilowatt-hour summaries by state.

Retail Electric Rates

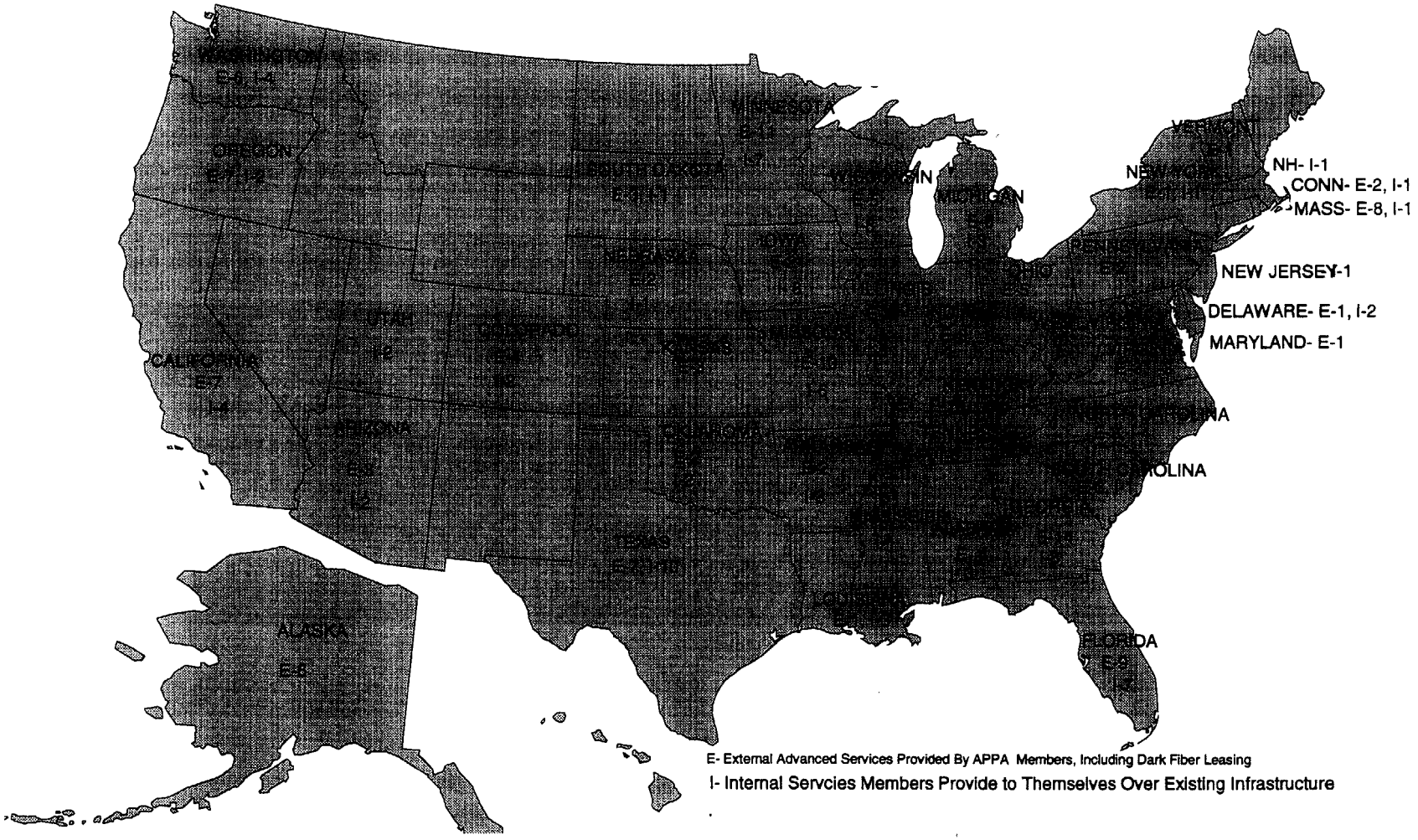


UTILITY RATE COMPARISON BY STATE - 1998

(cents per kilowatt-hour)

State	Residential Public	Residential Private	Residential Co-op	Commercial Public	Commercial Private	Commercial Co-op	Industrial Public	Industrial Private	Industrial Co-op
Alabama	6.1	7.2	7.1	6.2	6.5	7.4	4.6	4.0	4.1
Alaska	11.6	12.1	11.4	9.0	14.8	9.4	10.2	7.3	6.8
Arizona	7.9	9.2	9.7	6.8	8.4	8.6	4.3	5.8	4.2
Arkansas	6.6	8.0	7.0	6.3	5.7	6.5	4.4	4.4	3.3
California	9.5	10.9	9.2	9.3	9.8	9.6	7.4	6.3	6.2
Colorado	6.4	7.6	7.9	5.5	5.5	6.6	4.2	4.3	4.5
Connecticut	9.6	12.1	-	8.6	10.1	-	6.4	7.9	-
Delaware	9.1	9.2	8.9	8.6	6.8	8.0	5.7	4.4	6.2
Florida	7.6	7.9	7.8	6.5	6.3	7.2	4.9	4.7	5.8
Georgia	7.2	7.6	7.9	7.0	6.9	7.4	4.0	4.3	4.0
Hawaii	-	13.8	-	-	12.3	-	-	9.4	-
Idaho	4.4	5.2	6.1	4.5	4.3	5.4	3.5	2.7	3.3
Illinois	6.8	10	10	6.2	7.9	8.2	5.5	5.1	5.0
Indiana	6.0	7.2	6.9	5.5	6.2	5.7	4.3	3.9	4.5
Iowa	6.4	8.8	8.2	5.8	6.9	6.4	4.5	3.9	3.7
Kansas	7.5	7.3	9.8	6.4	6.0	8.5	4.4	4.4	4.8
Kentucky	5.6	5.3	6.1	5.7	5.0	6.4	4.0	2.9	3.1
Louisiana	6.7	7.1	7.1	6.4	6.6	6.9	5.7	4.1	5.4
Maine	7.2	13.1	13.9	6.8	10.4	12.5	5.7	6.7	6.0
Maryland	6.3	8.5	8.5	6.0	6.8	7.4	5.5	4.1	6.1
Massachusetts	9.4	10.8	-	10.1	9.3	-	8.6	8.1	-
Michigan	6.9	8.7	9.1	7.0	7.9	8.1	5.4	5.0	6.4
Minnesota	6.4	7.8	7.0	6.1	6.5	5.9	4.7	4.4	4.4
Mississippi	6.3	7.5	6.8	6.4	6.5	7.1	5.0	4.4	4.9
Missouri	6.3	7.3	6.9	5.4	6.1	6.1	4.8	4.6	3.3
Montana	5.4	6.5	6.7	4.9	5.9	5.9	6.7	4.1	2.7
Nebraska	6.5	-	6.8	5.4	-	8.0	3.5	-	7.7
Nevada	4.8	7.1	6.3	5.2	6.6	5.9	1.3	5.0	3.8
New Hampshire	10	13.6	17.1	10.4	11.4	15.6	8.6	9.4	9.6
New Jersey	8.8	11.4	10.8	9.4	10.1	11.6	7.2	7.9	8.4
New Mexico	8.1	8.6	10	7.7	7.9	7.3	4.2	4.5	4.4
New York	11.2	14.1	8.5	10.6	11.8	8.0	2.0	5.8	5.5
North Carolina	9.0	7.6	8.6	7.7	6.0	7.2	5.5	4.5	4.5
North Dakota	4.6	6.3	6.8	4.4	6.1	6.6	4.3	4.3	4.3
Ohio	7.2	9.0	7.1	7.0	7.7	6.8	4.8	4.3	4.0
Oklahoma	6.9	6.4	7.1	6.5	5.4	6.8	4.0	3.6	4.1
Oregon	4.7	6.1	5.9	4.2	5.1	4.9	2.9	3.7	4.0
Pennsylvania	8.2	9.9	10.1	8.0	8.3	8.9	5.9	5.6	8.2
Rhode Island	10.7	10.9	-	10.7	9.3	-	9.9	7.6	-
South Carolina	7.0	7.6	7.6	6.2	6.1	6.9	3.2	3.8	3.8
South Dakota	4.9	7.7	7.6	5.2	6.8	6.7	4.0	4.6	4.1
Tennessee	6.3	5.0	6.4	6.2	5.0	6.8	4.7	3.6	4.6
Texas	7.0	7.8	7.4	6.4	6.6	6.9	4.7	3.8	4.6
Utah	6.8	6.9	6.7	6.0	5.6	6.3	4.3	3.4	5.5
Vermont	9.7	11.8	12.5	10.2	10.1	12.5	9.3	6.8	9.1
Virginia	6.0	7.5	8.2	5.7	5.5	7.9	4.0	3.7	4.5
Washington	4.4	5.8	5.2	3.8	5.9	4.5	2.7	4.3	3.8
Washington, DC	-	8.0	-	-	7.4	-	-	4.4	-
West Virginia	6.7	6.3	8.8	6.6	5.5	9.0	5.5	3.8	-
Wisconsin	5.7	7.3	7.6	5.7	5.9	6.4	4.0	3.8	4.0
Wyoming	6.5	6.1	6.6	5.5	5.1	5.5	5.2	3.3	3.9

Map includes APPA members that are providing advanced communication for internal/external uses



Advanced Communication is defined as: CATV, ISP, High Speed Data, Broadband Resell, Dark Fiber Leasing, Telephony, Wireless (Cell Phones/Pagers), SCADA, Municipal Data Network, Etc.

APPA 1999 Telecommunications Workshop

Strategies for Overcoming Barriers to Entry - Iowa's Story

Bob Haug, Executive Director
Iowa Association of Municipal Utilities

IAMU Members

- Member Utilities – **551** Cities
  - 137 Electric Utilities
  - 47 Gas Utilities
  - 551 Water Utilities (of 848)
  - 41 Telecomm (Authorized by election)
- Affiliates - *48*
- Associates - *184*

Our telecomm beginnings

- Municipal telecom began with small towns cable in 1970s –80s
- Other steps included:
  - Bids to complete ICN links in early '90s
  - Bids to purchase US West exchanges in '94
  - Head-to-head cable in mid-'90s
  - Expansion of HFC services from cable and data to telephone in late '90s

Telecomm beginnings (more)

- 41 telecom utilities established by election since 1994
- 20 in 1997; 8 in 1998; 3 so far in 1999:
  - New Hampton 5/4/99 – 84% *yes* vote
  - Pocahontas 5/11/99 – 95% *yes* vote
  - Milford 8/10/99 – 94% *yes* vote
- Average approval: 92% of vote

Current status – cable

- 6 systems competing head-to-head for cable service: Cedar Falls, Grundy Center, Harlan, Hawarden, Laurens, and Muscatine
- 11 other cable systems: Bellevue, Dayton, Coon Rapids, Hartley, Lenox, Manning, Manilla, Mapleton, Primghar, Sanborn, and Wall Lake

Current status – data

- At least 12 cities now provide or will soon provide data &/or Internet service; 2 of these over utility fiber backbone
- IAMU working on suite of options for members to connect themselves and customers to Internet and to utility data services

Current status - phone

- Hawarden is the only Iowa municipal telephone system in operation
- Alta 4/00, Coon Rapids 12/99, Laurens 11/99 near rollout (all HFC)
- Others in engineering or construction
- Orange City will deploy wireless phone and Direct TV with REC partner

What communities want

- Better service
  - Reliable, prompt, courteous treatment
  - Reasonable rates
  - Technology to support economic growth
  - Technology to support education
- Real competition (not unregulated monopoly)
- A measure of community control

Why it's important

- The market is not perfect; municipals provide competitive yardstick and they check market and regulatory failures
- Municipal utilities are models of local control; we need them because citizens demand them

Our right to compete

The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all in their separate and individual capacities. – Abraham Lincoln

Our right to compete

Where a community. . . is not satisfied with the service rendered or the rates charged by the private utility, it has the undeniable right as one of the functions of government to set up. . . its own governmentally owned and operated service. – F.D.R. 1932

What our opponents want

- Protection from community-owned, locally regulated, not-for-profit utilities
- Weak city franchise and right-of-way authority
- An end to regulation of their rates and service

What opponents claim

- Taxpayers/ratepayers face risks
  - Technology is changing too fast; it's too complicated for city utilities; municipal systems will fail; or we'll eat you alive!
  - Elderly will be hurt; service will decline
- Government shouldn't compete
  - Municipal socialism; government intrusion into news and entertainment
  - Competition from municipals is unfair

What they asked for

- In 1998 they sought legislation to prohibit municipal telephone service
- In the 1999 legislative session, they tried to block municipal competition through limits on financing and operations and through new taxes

A political compromise

- 1999 Iowa Legislature passed SF 392
- Compromise bill allows municipal telephone, but limits perceived cross subsidies and imposes new taxes

SF 392 – What we got

- Sets clear authority for muni telephone and any other telecom services
- Allows start-up capital from any city fund
- Allows bundling with other city services
- Allows closed meetings and records to protect competitive information of all city utilities
- Immediate effective date and retroactive application to preserve city elections

SF 392 – What we gave

- No ongoing general fund or utility subsidy of local exchange service
- No deals on other city services as incentive to buy local exchange service
- City subject to requirements it imposes on other local exchange providers
- Local exchange portion of system subject to property tax

SF 392 – What we gave

- Accounting requirements for:
  - Services from other departments at reasonable cost
  - Local exchange costs
- Exchange rates must be cost-based, but market-based prices for competitive services are allowed

SF 392 – Other

- State regulatory authority over municipal telephone was clarified
  - Ensures that we can force interconnection
  - Clarifies designation from CLEC to LEC
- Text of bill available at: http://www.legis.state.ia.us/GA/78GA/Legislation/index.html (type in *392* in SF box)

How we got this far

- Great pioneers (risk takers)
- Strong public power presence
- Excellent grass roots effort
- Flexible political position with help from private partners

Outlook for 2000

- No successful anti-municipal legislation likely next session
- Biggest risk of SF 392 may be in opening new avenues for litigation
- Danger from predatory pricing and lack of good anti-trust laws/enforcement

Iowa's political landscape

We can resume speed but we're watching for bumps ahead

Avoiding the pot holes

- Don't let opposition map course
  - Avoid level-playing-field fight
  - Get to know apples/oranges arguments
  - Celebrate differences
- Stay focused on community

Discussion

Thanks