

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Don Schröer, Chairman  
Susan M. Knowles  
Daniel Patrick O'Tierney  
Mark A. Foster  
James E. Carter, Sr.

In the Matter of the Joint Appli- )  
cation by FRANK E. and ARLA L. )  
SHULL d/b/a HAINES SANITATION and )  
by HAINES SANITATION, INC., To )  
Transfer Certificate of Public )  
Convenience and Necessity No. 203 )  
From FRANK E. and ARLA L. SHULL )  
d/b/a HAINES SANITATION to HAINES )  
SANITATION, INC. )

U-91-24

ORDER NO. 4

ORDER GRANTING CONDITIONAL EXEMPTION FROM  
ECONOMIC REGULATION AND CLOSING DOCKET

BY THE COMMISSION:

Introduction

By Order U-91-24(1), issued September 13, 1991, the Commission approved the transfer of Certificate of Public Convenience and Necessity (Certificate) No. 203 from HAINES SANITATION (HS) to HAINES SANITATION, INC. (HSI), and required certain filings. By Order U-91-24(3), issued August 21, 1992, the Commission found HSI to be subject to economic regulation and required HSI to file its complete tariff.

On September 29, 1992, HSI filed a letter enclosing a breakout of its revenue sources and a copy of its current rates, including some service rules. According to the letter, the City

1 of Haines (City), pursuant to a charter, determines the rates  
2 charged by HSI; HSI was concerned that regulation by the City and  
3 the Commission would be burdensome and prohibitively expensive.  
4 Although not styled as such, HSI subsequently notified Staff that  
5 the letter was in fact a request for exemption from economic  
6 regulation under AS 42.05.711(d).

7 On January 13, 1993, the City filed a letter with the  
8 Commission stating that it has an agreement with HSI for the  
9 provision of solid waste collection. The City stated that it had  
10 sold the landfill to the utility and has had oversight of its  
11 rates for many years. Finally, the City recommended granting HSI  
12 a waiver from regulation or, in the alternative, being apprised  
13 of any rate increases allowed by the Commission.

14 On February 5, 1993, the Commission Staff (Staff)  
15 submitted its analysis and recommendation (Report) regarding HSI's  
16 request. That Report is attached to this Order as an Appendix.

17 Staff's Report sets out in detail the history of the  
18 proceeding and Staff's findings and recommendations regarding  
19 HSI's request for exemption from economic regulation. Among other  
20 things, Staff concluded that HSI's request for exemption from  
21 economic regulation under AS 42.05.711(d) should be approved,  
22 subject to certain conditions. Those conditions are that no  
23 significant justified customer complaints regarding the utility  
24 are filed with the Commission and that the exemption be revoked  
25 if the City ceases oversight of HSI's rates.  
26



1 that the requirements of AS 42.05.221 -- 42.05.281 are applicable  
2 to all matters involving the utility's certificate.

3 The Commission also concurs with Staff that the tariff  
4 filing required by Order U-91-24(3) should be vacated. This  
5 tariff requirement will be reinstated if HSI's conditional  
6 exemption from economic regulation is revoked for any reason.  
7 There are no other outstanding substantive or procedural issues  
8 to be disposed of in this proceeding, and there are no allocable  
9 costs. Therefore, Docket U-91-24 should be closed.

10  
11 ORDER

12 THE COMMISSION FURTHER ORDERS:

13 1. As more fully discussed herein, Haines Sanitation,  
14 Inc., is exempted from economic regulation by the Commission,  
15 subject to the following conditions:

16 (a) the Commission does not receive justified  
17 customer complaints regarding the rates and charges of  
18 Haines Sanitation, Inc., the quality of service fur-  
19 nished by or through the utility's facilities, or the  
20 management practices employed by the utility;

21 (b) the exemption is revoked if the City of  
22 Haines ceases its oversight of the rates of Haines  
23 Sanitation, Inc.;

24 (c) Haines Sanitation, Inc., must charge the same  
25 rates to customers both inside and outside the city  
26 limits of Haines; and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

(d) by April 30, 1993, Haines Sanitation, Inc., must file a copy, executed in its own name, of its contract with the City of Haines.

2. Haines Sanitation, Inc., is put on notice that the exemption granted by this Order may also be revoked or discontinued by the Commission as a matter of public policy.

3. The tariff filing requirement delineated in Ordering Paragraph No. 2 of U-91-24(3) is vacated.

4. Docket U-91-24 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 24th day of March, 1993.

BY DIRECTION OF THE COMMISSION  
(Commissioners Susan M. Knowles and  
Daniel Patrick O'Tierney, not participating.)



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



### BACKGROUND

In U-91-24(1), issued September 13, 1991, the Commission approved the transfer of Certificate of Public Convenience and Necessity (Certificate) No. 203 from Haines Sanitation (HS) to Haines Sanitation, Inc. (HSI), and required certain filings. In U-91-24(3), issued August 21, 1992, the Commission found HSI to be subject to economic regulation and required HSI to file its complete tariff.

On September 29, 1992, HSI filed a letter enclosing a breakout of its revenue sources and a copy of its current rates, including some service rules. According to the letter, the City of Haines, pursuant to a charter, determines the rates charged by HSI; HSI was concerned that regulation by the City and the Commission would be burdensome and prohibitively expensive.

On January 13, 1993, the City of Haines filed a letter stating that it has an agreement with HSI for the provision of solid waste collection. The City further states that it had sold the landfill to the utility and has had oversight of HSI rates for many years. Finally, the City recommended granting HSI a waiver from regulation or, in the alternative, being apprised of any rate increases allowed by the Commission.

### DISCUSSION

Although not styled as such, HSI's letter should be considered a request for exemption from economic regulation by the Commission.

AS 42.05.711(d) provides:

"[t]he Commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this Chapter. . . ."

HSI was previously exempt from regulation because its revenues did not exceed \$200,000 (AS 42.05.711(i)); however, its revenues are now above that threshold (see U-91-24(3)).

Staff notes that the focus of economic regulation is to ensure that a utility's rates and charges, management practices, and quality of service are reasonable. According to a representative of the City of Haines, at the time the landfill was purchased from the City, HSI and the City entered into an agreement wherein HSI's rates are reviewed and approved or denied by the City on an

Recommendation  
February 8, 1993  
Page 3

annual basis. Staff notes that HSI's current residential rate is \$16.29 per month for 2 cans, one pickup per week. This monthly rate is comparable with other refuse utility rates as shown in the Commission's Fiscal Year 1992 Annual Report. Economic regulation by the Commission would lead to increased financial recordkeeping requirements which would likely adversely affect HSI's rates.

The Commission's 1990, 1991, and 1992 complaint files do not contain any complaints regarding HSI, and no concerns were raised by the public during the notice period of the transfer.

Since certification requirements changed for municipalities in 1980, many of the cities in Alaska have obtained a certificate of public convenience and necessity and contracted with non-certificated entities for the provision of refuse service. In those instances, the city is responsible for ensuring the provision of safe, adequate, and reliable service by its contractors at reasonable rates. Under AS 42.05.711(b), these cities are exempt from economic regulation by the Commission.

HSI has been certificated to provide refuse service outside the city limits since 1973 and within the city limits of Haines since 1980. During that time, it has not been subject to economic regulation by the Commission since its gross annual revenues were less than \$200,000. However, the rates under which it provides service have been established pursuant to an agreement with the City, which has reviewed the utility's financial statements to establish the reasonableness of the rates.

Since regulatory oversight of HSI's rates is provided by the City of Haines through a long-standing (and apparently mutually satisfactory) agreement with the utility, regulatory review by this Commission, which prevails over review by the City (AS 42.05.641<sup>1</sup>), would be duplicative and add unnecessary regulatory

---

<sup>1</sup>AS 42.05.641 provides that:

"[t]he commission's jurisdiction and authority extend to public utilities operating within a municipality.... In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail."



Recommendation  
February 8, 1993  
Page 4

expense to the utility's operations. Moreover, it appears that HSI's quality of service has been satisfactory. Accordingly, based on the above analysis, Staff believes that no legitimate public interest would be served at this time by requiring HSI to be economically regulated. Therefore, HSI should be granted an exemption from regulation under AS 42.05.711(d), subject to conditions.

Inasmuch as a major factor in Staff's recommendation is the City's oversight of HSI's rates, Staff believes that it is appropriate to condition the exemption on the City's continued oversight. If and when the City ceases oversight of HSI's rates, the exemption from economic regulation should be revoked.

Additionally, the Commission should reserve the right, upon complaint or its own motion, to resume economic regulation of HSI if a significant number of customer complaints about the quality of service or management practices are received by the Commission and subsequently found to be justified.

Finally, in approving this exemption, HSI should be put on notice that the Commission may, in its discretion, subsequently revoke or discontinue this or any other exemption granted pursuant to AS 42.05.711(d), as a matter of policy or for good cause shown.

In granting this conditional exemption from economic regulation, HSI should be put on notice that it is still obligated to meet the certification requirements of AS 42.05.221 - 42.05.281.

Staff notes that the rate schedules and limited service rules filed by HSI in conjunction with its exemption request would not meet the Commission's tariff requirements for economically regulated utilities under 3 AAC 48.200--.430, and contain rates for non-regulated portions of HSI's business. Staff recommends that the tariff filing required in Ordering Paragraph No. 2 of U-91-24(3) be vacated since that requirement is not appropriate for a utility not subject to economic regulation by the Commission.<sup>2</sup> As a final procedural matter, Docket U-91-24 should be closed.

---

<sup>2</sup>Staff notes that this filing requirement should be reinstated if and when HSI's conditional exemption from economic regulation is revoked for any reason.

Recommendation  
February 8, 1993  
Page 5

CONCLUSION

For the reasons discussed above, HSI should be granted a waiver from economic regulation under AS 42.05.711(d), subject to conditions. In conjunction with the waiver, the tariff filing requirement delineated in Ordering Paragraph No. 2 of U-92-24(3) should be vacated and Docket U-91-24 should be closed.