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**Court Upholds RCA Decision Requiring
Substantial Refunds for AWWU Customers**

On June 25, 2007, Anchorage Superior Court Judge Volland ruled that the Regulatory Commission of Alaska (RCA) was correct when it ordered that Anchorage Water and Wastewater Utility (AWWU) cannot increase its rates to offset certain payments the utility must pay to the Municipality of Anchorage. The Attorney General's public advocate successfully argued before the RCA and the court that the new municipal assessments cannot be included in consumer rates. AWWU now remains obligated to refund the already implemented rate increases, unless it successfully appeals to the Alaska Supreme Court.

Municipal utilities, like AWWU, are required by ordinance to pay a Municipal Utilities Service Assessment (MUSA) instead of paying property taxes. In 2003, the Municipality of Anchorage changed the ordinance to require its utilities to also pay MUSA on contributed utility property, i.e. property a utility receives at no cost, such as by grant. This change in the law tripled the utility's outstanding MUSA obligation to the municipality.

In 2004, AWWU asked the RCA for an overall water rate increase of 22% and a sewer rate increase of 15%. The utility claimed that a large portion of these proposed rate increases, which amounted to about \$10 million, was necessary to pay the new MUSA assessments to the municipality. The Attorney General, acting in his capacity as the state's public advocate for regulatory affairs, argued to the Commission that AWWU cannot recoup the increased MUSA from its customers, where they do not receive any added service for their money. The RCA agreed though it allowed the increased rates on an interim but refundable basis since February 2005 while it was making its decision and during the utility's appeal to the Superior Court.

The Superior Court (in Case No. 3AN-05-11721CI) has now affirmed the RCA decision. AWWU must refund a portion of the rate increases, unless it appeals Judge Volland's decision to the Alaska Supreme Court. The current refund obligation is estimated to be in excess of \$14 million.

For additional information on this topic, please contact Chief Assistant Attorney General for Regulatory Affairs & Public Advocacy Daniel Patrick O'Tierney at (907) 269-5100.