



ALASKA STATE LEGISLATURE

House Judiciary Committee

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MEMORANDUM

TO: House Judiciary Committee Members

FROM: Rep. Matt Claman, Chairman
House Judiciary Committee

DATE: May 13, 2019

RE: Senate Bill 83 Summary

Main provisions in SB 83:

- 1. The RCA may not designate a local exchange carrier or long-distance telephone company as the Carrier of Last Resort (COLR is a designation given to telecom companies that means a company must provide service in an area, even if it's not economically profitable, because its unethical and potentially dangerous to leave people without phone connection).**

This provision will likely not have a discernable impact on either consumers or companies. The telecom companies want to get rid of COLR because, at present, COLR is regulated by the RCA which could go in at any time and change the terms for COLRs. Getting rid of COLR will create less uncertainty for telecom companies. The COLR designation is a relatively new designation that only came into existence about 10 years ago. The telecom industry functioned in this capacity before the designation existed and will likely continue to function in this capacity without it in the future. COLR was implemented when there was specific funding tied to it through the Alaska Universal Service Fund (AUSF). This funding is no longer tied to a COLR designation. The following are existing measures that help ensure access to service: (a) the certificate a telecom company receives from the RCA remains in statute and regulation and comes with an obligation to serve the company's assigned service area; (b) the Eligible Telecom Carrier (ETC) designation that exists at the federal level makes requirements of carriers similar to those of COLR; and (c) the increasing prevalence and reliance on wireless carriers.

- (a) A telecom company must get a certificate from the RCA before they can start providing service. The designated certificate they receive comes with an assigned service area (based on the area the telecom company has requested to cover). Once the telecom company has been certificated, they are obligated to serve the area. A provider must ask for permission from the RCA to leave/stop serving a given area that they currently serve. The RCA must find that it is in public interest for the company to leave the area in order to approve it, which rarely happens. In Healy Lake, a company tried to leave because they were only providing service to two people, and they were denied by the RCA because some people in*

Fairbanks said they were also going to move back. In addition, the feds (FCC) must also approve the change before a company can stop serving all or part of their assigned service area. While there are some reasonable limits on a telecom company's obligation to serve (someone who moves to the top of a mountain), in general, they must serve everyone in their assigned service area.

- (b) Virtually every company with a COLR designation is also designated as an ETC at the federal level. This federal designation gives the company access to funding through both the Federal Universal Service Fund and the AUSF and requires that telecom companies serve those in their designated service area. More subsidies are available through FUSF than AUSF.*
- (c) Wireless providers are increasingly prevalent. If landlines were to disappear tomorrow, many communities would still have access to a connection through wireless providers (approximately 1% of Alaskans do not have wireless voice coverage).*

2. The RCA may designate companies as ETCs if they meet the requirements in federal code (47 USC 214(e)). This federal code allows for federal subsidies under the Federal Universal Service Fund which is a significantly larger pot of money than the AUSF.

The RCA having the explicit ability to designate a company as the ETC will not impact consumers or companies, and will not change the way the RCA currently functions. At present, the RCA designates which telecom carriers are ETCs/eligible for federal funding (at present, all telecom companies in the state have this designation). This provision makes the RCA's authority to do this explicit. While the RCA loses the ability to designate companies as COLRs for specific service areas, they will now have the explicit ability to designate these same companies as ETCs. The ETC designation works a lot like a COLR designation in that it comes with an obligation to serve. Unlike a COLR designation which is no longer tied to any subsidies, an ETC designation comes with access to federal subsidies to support the company in its effort to provide service to everyone, even where some areas are not economically profitable.

3. The regulatory cost charge (RCC) is applied to all certificated telecommunications providers (at present, telecoms that are cooperatives are exempt). A certificated utility, now including all telecom providers, will pay the RCA an annual regulatory cost charge calculated by the RCA to cover the RCA's costs of regulation.

The RCC provision is the only provision that will impact phone bills for consumers. It will likely change phone bills by a matter of a few cents, depending on whether their current carrier is a cooperative or not. At present, telecom companies that are cooperatives do not have to pay the RCC even though the RCA provides services to them/does some oversight work on their behalf. Other utilities and telecom companies that are not cooperatives are currently required to pay the RCC. What this means is that, at present, the non-cooperative telecom companies (and by extension their customers) are shouldering the burden for all telecom companies since the RCC is charged to utilities to cover the cost of RCA oversight. The RCC charged to companies is ultimately paid by the customers in the form of a few cents added to their phone bills. This bill makes RCC apply to all telecom companies (cooperatives and non-cooperatives alike) by requiring all companies to pay the RCC. Customers who receive service from non-cooperative telecom companies would see a few cents taken off their phone bills, and those who receive service from a cooperative would see their rates go up by a few cents.

4. Rates, terms, and conditions of service must be uniform across a study area for residential local telephone service provided by incumbent local exchange carriers. Rates, terms, and conditions of service must be uniform across a company's entire service area for residential local telephone service provided by competitive local exchange carriers (GCI). Long distance company rates must be proportional to the geographic distance between callers.

This provision is intended to protect rural areas from having unreasonably high rates and was a concession by the telecom companies in order to get the RCA to agree to support the concepts in the bill. Uniform rates, terms, and conditions are already common practice for telecom companies.

Most telecom companies in the state fall into the category of “incumbent local exchange carrier,” which means that they were the original company serving their designated area when only one telecom company was allowed to serve in any given area. These carriers would only be obligated to have uniform rates, terms, and conditions across individual study areas within their assigned service areas. A “study area” is a unit within a company’s assigned service area (the assigned service area is the entire area a company is obligated to serve when they receive their certificate from the RCA). For example, ACS has four study areas within their assigned service area. One of those study areas is “ACS of Anchorage” which includes Anchorage and nearby areas like Eagle River. For most incumbent local exchange carriers (ACS is one notable exception), their assigned service area consists of a single study area. GCI is the only carrier that falls into the “competitive local exchange carrier” category. These are carriers that came into an area that already had a service provider (the incumbent local exchange carrier) after passage of the 1996 Telecom Act which opened the industry to competition. GCI will be required to have uniform rates, terms, and conditions across their entire assigned service area, which in their case is the entire state. This provision won’t change much for GCI as it already has uniform rates, terms, and conditions across its assigned service area.

5. Telecom carriers are exempt from regulation under the Alaska Public Utilities Regulatory Act except for a list of specific provisions: AS 42.05.141 (e) and (f), 42.05.221 – 42.05.281, 42.05.296, 42.05.306, 42.05.381(l) – (n), 42.05.631, 42.05.641, 42.05.661, and 42.05.820 – 42.05.860.

Currently, cooperative telecom companies are not subject to regulation under any portion of this Act and non-cooperative companies are subject to the entire Act. Changing this will put all telecom companies on relatively equal footing and will likely not change much for customers. Deep regulation of telecom companies is a fairly antiquated idea since, with the rise of wireless, these companies operate in an increasingly competitive market. The telecom companies can’t treat customers poorly or they risk losing even more to wireless and/or other landline providers. The RCA will still be able to assess civil penalties associated with violating these specific regulations. Under this bill, non-cooperative telecoms will now be exempt from tariff filings under AS 42.05.361 and 42.05.381 (cooperative telecoms already are).

Currently, 90% of Alaskans live in areas where telecom companies don’t need permission from the RCA to change rates. In these areas, non-cooperative telecom companies are required to do informational tariff filings with the RCA whenever they want to change rates. Informational tariff filings translate to a lot of paperwork, yet these filings have no impact on the final outcome and cooperative telecom companies don’t have to do them at all. Eliminating tariff filings for all telecom companies puts them all on equal footing. The remaining 10% accounts for the most remote areas. In these areas, non-cooperative telecoms are subject to “old-fashioned” tariff filings that require RCA approval. The approval process takes roughly two years and is expensive. As a result, in these areas, non-cooperative telecoms no longer change rates. The last “old-fashioned” tariff filing occurred in 2008. With this change, the RCA will still have the authority to investigate telecom companies they think are misbehaving. Telecom companies must still make their terms and conditions public. Historically, telecom companies have not done anything egregious with rate changes and the RCA has not had to step in to police them for misbehaving in these areas. It’s generally in a company’s best interest to serve their customers because it is a competitive market.

The fact that telecom companies would now be exempt from AS 42.05.391 has raised some concerns because this statute prohibits rate discrimination (telecom companies cannot charge customers different rates). Today, however, the statute appears to be an antiquated concept due to the competitiveness of the current market. This statute originates from a time when monopolies were commonplace in the industry and the concern was that a

single service provider, without the need to compete for customers, would be able to drive up rates for specific people. Today, the telecom industry is very competitive and this provision appears unnecessary.

- 6. The RCA can require tariff filings from providers of telecommunications service to prison inmates (all other telecommunications carriers are exempt from this). The RCA has the authority to regulate rates, terms, and conditions for telecom services provided to inmates.**

Telecommunications in prisons is a very specific service. The companies that operate in prisons operate like monopolies and the result is high rates that inmates/their families have to pay. Subjecting these companies to RCA regulation will hopefully lower prices for phone calls in/out of prisons.

- 7. Local exchange carriers cannot be regulated by a municipality.**

This addition won't change the structure for consumers or companies. This provision is included in the bill to make it explicit that local exchange carriers cannot be regulated by municipalities. The concern was that municipalities might try to step in once the RCA was no longer regulating non-cooperative telecom companies in the same way. Before, the municipalities did not regulate these entities because they were under RCA regulation.

- 8. Repeals the following provisions:**

- Requirement that providers of alternate operator services be registered with and regulated by the RCA.**

Neither of these repeals will change things for consumers or companies since they repeal antiquated concepts. Alternate operator service was a cheaper way to make long-distance calls that functioned outside of regular service providers. You'd get a card and call the special number on the card. It would route you to an advertisement that you would listen to before placing the call. Alternate operator service is obsolete and regulatory oversight is no longer relevant.

- Requirement that the RCA adopt regulations by February 1991 to open-up the long-distance market to competition.**

The long-distance market has been open to competition since 1991. It is a fraction of its earlier size and continues to shrink as consumers migrate to alternative services. It is no longer necessary to require the Commission to open-up the long-distance market to competition.

- 9. This bill will have no effect on the Alaska Universal Service Fund (AUSF).**