

**HOUSE BILL NO. 346**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE MOSES**

**Introduced: 5/10/95**

**Referred: Labor and Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to regulation of telecommunications utilities."**

**2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**3 \* Section 1. SHORT TITLE.** This Act may be known as the "Telecommunications  
**4 Regulatory Reform Act of 1995."**

**5 \* Sec. 2. FINDINGS.** The legislature finds that

**6 (1) modern, affordable, efficient, and universally available telecommunications**  
**7 service is essential to the people of the state;**

**8 (2) more efficient delivery of educational, health care, public safety, and other**  
**9 public services will be enhanced by allowing telecommunications utilities regulatory flexibility**  
**10 in service offerings;**

**11 (3) technological innovation, new services, reduced costs, and increased**  
**12 consumer choice for telecommunications service, resulting from the lifting of outdated**  
**13 regulations to allow telecommunications utilities to engage in fair competition, will enhance**  
**14 the state's economic growth, create jobs, and increase productivity;**

**15 (4) the Alaska Public Utilities Commission should oversee competition to**

1 ensure that the competition is fair and that the benefits of competition are realized.

2 \* **Sec. 3.** AS 42.05.123(c) is amended to read:

3 (c) It is the responsibility of the communications carrier section in its  
4 participation in rate or tariff adjudication proceedings to advocate and provide support  
5 for **just and reasonable rates** [THE LOWEST PRACTICABLE RATE] under the  
6 circumstances.

7 \* **Sec. 4.** AS 42.05.191 is amended to read:

8 Sec. 42.05.191. **FORMAT OF ORDERS.** Every formal order of the  
9 commission shall be based upon the facts of record. Every order entered pursuant to  
10 a hearing must state the commission's findings, the basis of its findings and  
11 conclusions, **and** [TOGETHER WITH] its decision. **In the case of a formal order**  
12 **concerning a telecommunications utility, the commission's order must also include**  
13 **conclusions of law.** These orders shall be entered of record and a copy of them shall  
14 be served on all parties of record in the proceeding.

15 \* **Sec. 5.** AS 42.05.201 is amended to read:

16 Sec. 42.05.201. **PUBLICATION OF REPORTS, ORDERS, DECISIONS, AND**  
17 **REGULATIONS.** All reports, orders, decisions, and regulations of the commission  
18 shall be in writing. The commission shall apprise all affected utilities and interested  
19 parties of these reports, orders, decisions, and regulations as they are issued and  
20 adopted, and, when appropriate to do so, shall publish them in a manner that will  
21 reasonably inform the public or the affected consumers of any public utility service.  
22 **In publishing orders concerning telecommunications utility cost and marketing**  
23 **information, the commission shall comply with AS 42.05.671(c).** The commission  
24 may set charges for costs of printing or reproducing and furnishing copies of its  
25 reports, orders, decisions, and regulations. The publication requirement, as it pertains  
26 to regulations, does not supersede the requirements of **AS 44.62** ( [THE]  
27 Administrative Procedure Act [(AS 44.62)].

28 \* **Sec. 6.** AS 42.05.301 is amended by adding a new subsection to read:

29 (b) It is not an unreasonable preference under this section for a  
30 telecommunications utility to offer a new service on a trial basis to selected customers.

31 \* **Sec. 7.** AS 42.05.306 is amended by adding a new subsection to read:

1 (b) A telecommunications utility may offer a discounted service or reduced  
2 rate for telecommunications services provided to schools, universities, libraries, health  
3 care facilities, museums, public broadcast stations, public safety facilities, and other  
4 public institutional communications users. The commission may not require a  
5 telecommunications utility to offer a discounted service or reduced rate or to incur  
6 uncompensated costs or administrative burdens for services provided under this section.

7 \* **Sec. 8.** AS 42.05.311(a) is amended to read:

8 (a) A public utility having sewers, conduits, utilidors, poles, pole lines, pipes,  
9 pipelines, mains, or other distribution or transmission facilities shall, for a reasonable  
10 compensation, permit another public utility to use them when the public convenience  
11 and necessity require this use and the use will not result in substantial injury to the  
12 owner, or in substantial detriment to the service to the customers of the owners.

13 **However, a telecommunications utility is not required to permit another utility to**  
14 **use its facilities under this subsection if the use will result in injury to the owner**  
15 **or detriment to the service to the customers of the owners.** The cost of  
16 modifications or additions necessary to a joint use shall be at the expense of the public  
17 utility requesting the use of the facilities.

18 \* **Sec. 9.** AS 42.05.311(b) is amended to read:

19 (b) A telecommunications utility shall permit connection to be made and  
20 service to be furnished between a system operated by it and the system or toll facilities  
21 operated by another public utility or with the communications facility or system of a  
22 nonutility, or between its toll facilities and the toll facilities of another public utility,  
23 when public convenience and necessity require the connection and the connection will  
24 not result in substantial injury to the owner or other users of the facilities of either  
25 public utility or in substantial detriment to the service of either public utility.

26 **However, a telecommunications utility is not required to permit another utility to**  
27 **make a connection or furnish service under this subsection if the connection or**  
28 **provision of services will result in injury to the owner or other users of the**  
29 **facilities or in detriment to the service provided. For telecommunications utilities,**  
30 **the modifications or additions necessary to joint use shall be made at the expense**  
31 **of the entity requesting the use of the facilities.**

1 \* **Sec. 10.** AS 42.05.321(a) is amended to read:

2 (a) In case of failure to agree upon the joint use or interconnection of facilities  
3 or the conditions or compensation for joint use or interconnections, the public utility,  
4 including any municipality, or an interested person may apply to the commission for  
5 an order requiring the interconnection. **Except as provided in (c) of this section, if**  
6 **[IF]** after investigation and opportunity for hearing, the commission finds that public  
7 convenience and necessity require the joint use or connection, and that the use or  
8 connection will not result in substantial injury to the owner utility or its customers, or  
9 in substantial detriment to the services furnished by the owner utility, or in the creation  
10 of safety hazards, it shall

- 11 (1) order that the use be permitted;
- 12 (2) prescribe reasonable conditions and compensation for the joint use;
- 13 (3) order the interconnection to be made;
- 14 (4) determine the time and manner of the interconnection;
- 15 (5) determine the apportionment of costs and responsibility for  
16 operation and maintenance of the interconnection.

17 \* **Sec. 11.** AS 42.05.321 is amended by adding a new subsection to read:

18 (c) In the case of a telecommunications utility, the commission may require  
19 the utility to permit the joint use or connection that is in the public interest under (a)  
20 of this section only if the commission finds that the use or connection will not result  
21 in injury to the owner utility or its customers, or in detriment to the services furnished  
22 by the owner utility, or in the creation of safety hazards.

23 \* **Sec. 12.** AS 42.05.361(a) is amended to read:

24 (a) Under regulations the commission shall adopt, every public utility shall file  
25 with the commission, within the time and in the form the commission designates, its  
26 complete tariff showing all rates, including joint rates, tolls, rentals, and charges  
27 collected and all classifications, rules, regulations, and terms and conditions under  
28 which it furnishes its services and facilities to the general public, or to a regulated or  
29 municipally owned utility for resale to the public, together with a copy of every special  
30 contract with customers **that** **[WHICH]** in any way affects or relates to the serving  
31 utility's rates, tolls, charges, rentals, classifications, services, or facilities. **However,**

1 **a telecommunications utility is not required to file a copy of a special contract**  
2 **concerning a telecommunications service subject to competition unless specifically**  
3 **requested to do so by the commission.** The public utility shall clearly print, or type,  
4 its complete tariff and keep an up-to-date copy of it on file at its principal business  
5 office and at a designated place in each community served. The tariffs shall be made  
6 available to, and subject to inspection by, the general public on demand.

7 \* **Sec. 13.** AS 42.05.391 is amended by adding a new subsection to read:

8 (e) It is not an unreasonable preference or advantage for a telecommunications  
9 utility to

10 (1) offer a service subject to competition at or above the incremental  
11 cost of providing the service;

12 (2) offer a new service at or above the incremental cost of providing  
13 the service;

14 (3) waive the nonrecurring charges for a nonessential or competitive  
15 service as part of a promotional offering;

16 (4) offer a new service on a trial basis to selected customers.

17 \* **Sec. 14.** AS 42.05.411(a) is amended to read:

18 (a) **Except as provided in AS 42.05.416, a** [A] public utility may not establish  
19 or place in effect any new or revised rates, charges, rules, regulations, conditions of  
20 service, or practices except after 45 days' notice to the commission and 30 days' notice  
21 to the public. Notice shall be given to the commission by filing with the commission  
22 and keeping open for public inspection the revised tariff provisions **that** [WHICH]  
23 shall plainly indicate the changes to be made in the schedules then in force and the  
24 time when the changes will go into effect. The commission shall prescribe means by  
25 regulation whereby notice is given to the public before or no later than 15 days after  
26 the filing that is reasonably adequate to notify customers affected by the filing. The  
27 commission, for good cause shown, may allow changes to take effect on less than 45  
28 days' notice to the commission or 30 days' notice to the public under conditions the  
29 commission prescribes.

30 \* **Sec. 15.** AS 42.05 is amended by adding a new section to read:

31 Sec. 42.05.416. TELECOMMUNICATIONS SERVICES SUBJECT TO

1 COMPETITION. (a) A telecommunications utility whose services are subject to  
2 competition may not establish or put into effect an initial rate, charge, rule, regulation,  
3 condition of service, or practice until the utility has given 30 days' notice to the  
4 commission and 15 days' notice to the public. The commission may, for good cause  
5 shown, allow charges to take effect after fewer than 30 days' notice to the commission  
6 or 15 days' notice to the public.

7 (b) The rates charged for a tariffed telecommunications service that is subject  
8 to competition may be changed if the utility gives at least 10 days' notice to the  
9 commission.

10 (c) A telecommunications utility shall, within 10 days after the effective date  
11 of a special contract concerning telecommunications services subject to competition,  
12 file a notice with the commission describing the special contract.

13 (d) A new special contract concerning telecommunications services subject to  
14 competition may not take effect until after the commission determines that the  
15 telecommunications services that are the subject of the contract are subject to  
16 competition.

17 \* **Sec. 16.** AS 42.05.421(a) is amended to read:

18 (a) **Except as provided in AS 42.05.426, when** [WHEN] a tariff filing is  
19 made containing a new or revised rate, classification, rule, regulation, practice, or  
20 condition of service the commission may, either upon written complaint or upon its  
21 own motion, after reasonable notice, conduct a hearing to determine the reasonableness  
22 and propriety of the filing. Pending the hearing, the commission may, by order stating  
23 the reasons for its action, suspend the operation of the tariff filing. For a tariff filing  
24 that does not change the utility's revenue requirement or rate design, the suspension  
25 may last for a period not longer than six months beyond the effective date established  
26 in the tariff filing unless the commission extends the period for good cause. **In the**  
27 **case of a tariff filing of a telecommunications utility, whether or not the filing**  
28 **changes the utility's revenue requirement or rate design, the commission may not**  
29 **extend the period of suspension.** For a tariff filing that changes the utility's revenue  
30 requirement or rate design, the suspension may last, unless the commission extends the  
31 period for good cause, for a period not longer than

1 (1) six months before an interim rate equal to the requested rate goes  
2 into effect and not longer than 12 months before a permanent rate goes into effect if  
3 the annual gross revenues of the utility making the filing are more than \$3,000,000;  
4 and

5 (2) 150 days before an interim rate equal to the requested new rate goes  
6 into effect and not longer than one year before a permanent rate goes into effect if the  
7 annual gross revenues of the utility making the filing are \$3,000,000 or less.

8 \* **Sec. 17.** AS 42.05 is amended by adding new sections to read:

9 Sec. 42.05.426. NEW OR COMPETITIVE TELECOMMUNICATIONS  
10 SERVICES. (a) A telecommunications utility may ask the commission to determine  
11 that a telecommunications service is a service subject to competition. The commission  
12 shall make a determination and accept or reject a request that a service be treated as  
13 subject to competition within 30 days after receipt of a filing making the request. If  
14 the commission does not act within the 30 days, the request is considered to be  
15 granted.

16 (b) Commission order changes to new telecommunications services or to  
17 telecommunications services that are subject to competition may only take effect  
18 prospectively.

19 (c) The commission shall make findings concerning whether a new service  
20 offering or a service offering subject to competition is just and reasonable within six  
21 months after receipt of the request. If the commission does not act within the six  
22 months, the terms and conditions are considered to be just and reasonable.

23 (d) A telecommunications utility may file a request to offer a service that is  
24 subject to competition as a deregulated service that is no longer subject to the  
25 commission's jurisdiction. The commission shall adopt regulations governing the filing  
26 requirements for a reclassification of a service from regulated to deregulated to ensure  
27 that the costs and revenue are accounted for appropriately. The commission shall  
28 review reclassification filings within 60 days after receipt of the filing and issue  
29 findings that either accept or reject the filing. If the commission fails to act within the  
30 60 days, the filing takes effect. A determination that a utility may offer a deregulated  
31 service does not affect the utility's status as a regulated utility or an exempt utility

1 under AS 42.05.254.

2 \* **Sec. 18.** AS 42.05 is amended by adding a new section to read:

3 Sec. 42.05.436. NEW OR COMPETITION TELECOMMUNICATIONS  
4 SERVICES. (a) For a new service or a competitive service subject to competition,  
5 a just and reasonable rate is a rate at or above the incremental cost of providing the  
6 service. If the commission, after investigation and hearing, finds that a rate is below  
7 the incremental cost of providing the service, it shall

8 (1) determine the incremental cost of providing the service and  
9 establish it by order; and

10 (2) require the utility to show cause why it should not be subject to  
11 AS 42.05.571 and 42.05.581 for each day that a customer received a service at a rate  
12 below the incremental cost.

13 (b) If the commission fails to make its rate findings within six months after  
14 the filing date, the rate is considered to be just and reasonable.

15 \* **Sec. 19.** AS 42.05.441 is amended by adding a new subsection to read:

16 (d) The commission shall presume, subject to rebuttal, that, if property has  
17 been included in rates for a telecommunications utility, it continues to be allowable for  
18 rate making purposes.

19 \* **Sec. 20.** AS 42.05.471 is amended by adding a new subsection to read:

20 (c) The commission shall presume, subject to rebuttal, that the depreciation  
21 rates and methodologies accepted by the Federal Communications Commission  
22 establish a reasonable range of depreciation rates and methodologies for  
23 telecommunications utilities.

24 \* **Sec. 21.** AS 42.05.671 is amended by adding a new subsection to read:

25 (e) Cost and marketing information associated with new telecommunications  
26 services or telecommunications services subject to competition is confidential and not  
27 open to the public for inspection. The commission shall remove confidential  
28 information from its publicly issued orders. The commission shall adopt regulations  
29 to implement this subsection.

30 \* **Sec. 22.** AS 42.05.990 is amended by adding a new paragraph to read:

31 (9) "service subject to competition" means a service where a customer

**1** may purchase a substitute service from another entity.