

HOUSE BILL NO. 531

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 2/28/96

Referred: Labor and Commerce, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to telecommunications."**

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 1996."

5 * **Sec. 2.** PURPOSE. (a) The legislature declares that it remains the policy of the state
6 to maintain universal availability of basic telecommunications service at affordable rates. To
7 the extent that it is in the public interest and consistent with maintaining universal service, it
8 is further the policy of this state to

9 (1) encourage competition in the telecommunications industry; and

10 (2) promote access by the public to advances in telecommunications
11 technology.

12 (b) It is the purpose of this Act to

13 (1) address issues reserved to the states in the federal Telecommunications Act
14 of 1996;

15 (2) provide a regulatory framework that will allow, where appropriate, an

1 orderly transition from a regulated telecommunications industry to a competitive market
2 environment; and

3 (3) clarify that the Alaska Public Utilities Commission has the authority to
4 implement alternative forms of regulation for providers of regulated telecommunications
5 services.

6 * **Sec. 3.** FINDINGS. The legislature finds that

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

9 (2) unreasonable barriers to enter any telecommunications market must be
10 removed;

11 (3) the Alaska Public Utilities Commission should facilitate and encourage the
12 development of efficient intrastate and interstate long distance competition;

13 (4) the commission should ensure that basic telecommunications services are
14 available to all persons at just, reasonable, and affordable rates, and that competition in the
15 provision of local exchange service does not jeopardize that goal;

16 (5) more efficient delivery of educational, health care, public safety, and other
17 public services will be enhanced by allowing telecommunications utilities regulatory flexibility
18 in service offerings;

19 (6) technological innovation, new services, reduced costs, and increased
20 consumer choice for telecommunications service, resulting from the lifting of outdated
21 regulations to allow telecommunications utilities to engage in fair competition, will enhance
22 the state's economic growth, create jobs, and increase productivity;

23 (7) the commission should oversee competition to ensure that the competition
24 is fair and that the benefits of competition are realized.

25 * **Sec. 4.** AS 42.05.123(c) is amended to read:

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

30 * **Sec. 5.** AS 42.05.191 is amended to read:

31 Sec. 42.05.191. **FORMAT OF ORDERS.** Every formal order of the

1 commission shall be based upon the facts of record. Every order entered pursuant to
2 a hearing must state the commission's findings, the basis of its findings and
3 conclusions, and [TOGETHER WITH] its decision. **In the case of a formal order**
4 **concerning a telecommunications utility, the commission's order must also include**
5 **conclusions of law.** These orders shall be entered of record and a copy of them shall
6 be served on all parties of record in the proceeding.

7 * **Sec. 6.** AS 42.05.201 is amended to read:

8 Sec. 42.05.201. PUBLICATION OF REPORTS, ORDERS, DECISIONS, AND
9 REGULATIONS. All reports, orders, decisions, and regulations of the commission
10 shall be in writing. The commission shall apprise all affected utilities and interested
11 parties of these reports, orders, decisions, and regulations as they are issued and
12 adopted, and, when appropriate to do so, shall publish them in a manner that will
13 reasonably inform the public or the affected consumers of any public utility service.

14 **In publishing orders concerning telecommunications utility cost and marketing**
15 **information, the commission shall comply with AS 42.05.671(e).** The commission
16 may set charges for costs of printing or reproducing and furnishing copies of its
17 reports, orders, decisions, and regulations. The publication requirement, as it pertains
18 to regulations, does not supersede the requirements of **AS 44.62** ([THE]
19 Administrative Procedure Act [(AS 44.62)].

20 * **Sec. 7.** AS 42.05.221 is amended by adding a new subsection to read:

21 (g) Notwithstanding AS 42.05.411, the commission shall accept or reject an
22 application from a local telephone company to amend its certificate to extend its
23 service area to provide local telephone service to unserved areas within 45 days after
24 the telephone utility files a completed application with the commission. The
25 commission shall approve the application if it finds that the applicant is fit, willing,
26 and able. If the commission fails to act within the 45 days, the application is
27 considered to be granted.

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

29 Sec. 42.05.243. LOCAL EXCHANGE SERVICES. (a) The commission shall
30 designate a telecommunications carrier that is certificated to provide local exchange
31 service on the effective date of this section as an eligible telecommunications carrier.

1 The designation as an eligible carrier applies only to the area or areas that the local
2 exchange carrier has been certificated to serve on the effective date of this section.

3 (b) A telecommunications provider that is not designated as an eligible carrier
4 for an area under (a) of this section and that desires to be designated as an eligible
5 carrier under this section for the study area of a rural telephone company shall petition
6 the commission for designation as an additional eligible carrier for the study area. The
7 commission shall hold a hearing to determine whether the telecommunications utility's
8 petition is in the public interest. In determining whether the petition is in the public
9 interest, the commission shall

10 (1) consider whether granting the petitioner's proposal would cause an
11 increase in the cost of universal service or have an unfavorable effect on the
12 availability and affordability of telecommunications services;

13 (2) determine whether the existing rural telephone company is
14 providing universal service; and

15 (3) determine whether the petitioner's proposed services will adversely
16 affect the ability of an existing rural telephone company to construct and operate
17 telecommunications facilities.

18 (c) If the commission determines under (b) of this section that a
19 telecommunications utility's petition for designation as an additional
20 telecommunications carrier is in the public interest, the commission shall set a date on
21 which the designation becomes effective. In establishing the date, the commission
22 shall

23 (1) address the rural telephone company's reliance on universal service
24 funding to provide service to the study area; and

25 (2) provide the rural telephone company with the ability to recover
26 investments that the rural telephone company may have made in reliance on universal
27 service funding through accelerated cost recovery or other mechanisms.

28 Sec. 42.05.244. INTERCONNECTION; EXEMPTIONS, SUSPENSION, AND
29 MODIFICATIONS. (a) A rural telephone company certificated by the commission
30 to provide local exchange service on the effective date of this Act is exempt from the
31 interconnection obligations of 47 U.S.C. 251 to the extent that the company notifies

1 the commission as required by regulation that it intends to be exempt. However, the
2 commission may terminate the exemption if the rural telephone company receives a
3 bona fide request for telecommunications services or network elements. The
4 commission shall conduct a termination proceeding under (b) of this section and 47
5 U.S.C. 251(f)(1).

6 (b) In considering whether to terminate an exemption, the commission shall
7 determine whether the request

8 (1) is bona fide;

9 (2) would not impose an undue economic burden;

10 (3) is technically feasible;

11 (4) is consistent with the universal service principles and requirements
12 of 47 U.S.C. 254; in making a determination required by this paragraph, the
13 commission shall consider whether the interconnection requested would raise the cost
14 of universal service or have an adverse effect on the availability, quality, or
15 affordability of telecommunications services;

16 (5) would not cause a significant adverse effect on users of
17 telecommunications services generally; and

18 (6) is in the public interest.

19 (c) In a proceeding under (b) of this section, the burden of persuasion as to
20 (b)(1) - (4) of this section is on the party seeking interconnection. The burden of
21 persuasion as to (b)(5) and (6) of this section is on the rural telephone company to the
22 extent that the company desires to introduce evidence on these matters; however, the
23 company is not obligated to do so, and no adverse inference may be drawn from an
24 election not to offer evidence.

25 (d) A local exchange carrier certificated by the commission and meeting the
26 criteria of 47 U.S.C. 251(f)(2) may petition the commission for suspension or
27 modification of the application of the requirements of 47 U.S.C. 251(b) and (c) in
28 accordance with 47 U.S.C. 251(b)(2).

29 * **Sec. 9.** AS 42.05.301 is amended by adding a new subsection to read:

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

1 * **Sec. 10.** AS 42.05.306 is amended by adding a new subsection to read:

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

9 * **Sec. 11.** AS 42.05.361(a) is amended to read:

10 (a) **Except as provided under AS 42.05.416(a), under** [UNDER] regulations
11 the commission shall adopt, every public utility shall file with the commission, within
12 the time and in the form the commission designates, its complete tariff showing all
13 rates, including joint rates, tolls, rentals, and charges collected and all classifications,
14 rules, regulations, and terms and conditions under which it furnishes its services and
15 facilities to the general public, or to a regulated or municipally owned utility for resale
16 to the public, together with a copy of every special contract with customers **that**
17 [WHICH] in any way affects or relates to the serving utility's rates, tolls, charges,
18 rentals, classifications, services, or facilities. **However, a telecommunications utility**
19 **is not required to file a copy of a special contract concerning a**
20 **telecommunications service subject to competition unless specifically requested to**
21 **do so by the commission.** The public utility shall clearly print, or type, its complete
22 tariff and keep an up-to-date copy of it on file at its principal business office and at
23 a designated place in each community served. The tariffs shall be made available to,
24 and subject to inspection by, the general public on demand.

25 * **Sec. 12.** AS 42.05.381(a) is amended to read:

26 (a) All rates demanded or received by a public utility, or by any two or more
27 public utilities jointly, for a service furnished or to be furnished shall be just and
28 reasonable; however, a rate may not include an allowance for costs of political
29 contributions, or public relations except for reasonable amounts spent for

30 (1) energy conservation efforts;

31 (2) public information designed to promote more efficient use of the

1 utility's facilities or services or to protect the physical plant of the utility;

2 (3) informing shareholders and members of a cooperative of meetings
3 of the utility and encouraging attendance; [OR]

4 (4) emergency situations to the extent and under the circumstances
5 authorized by the commission for good cause shown;

6 (5) regulatory advocacy before the commission or the Federal
7 Communications Commission on regulatory issues affecting the state's local
8 telephone companies in the case of telecommunications utilities only; or

9 (6) marketing expenses incurred to inform customers of new service
10 offerings in the case of telecommunications utilities only.

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

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

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

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

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

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

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

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

1 less than 45 days' notice to the commission or 30 days' notice to the public under
2 conditions the commission prescribes.

3 * **Sec. 15.** AS 42.05 is amended by adding new sections to read:

4 Sec. 42.05.416. TELECOMMUNICATIONS SERVICES SUBJECT TO
5 COMPETITION. (a) A telecommunications utility whose services are subject to
6 competition may not establish or put into effect an initial rate, charge, rule, regulation,
7 condition of service, or practice until the utility has given 30 days' notice to the
8 commission and 15 days' notice to the public. The commission may, for good cause
9 shown, allow charges to take effect after fewer than 30 days' notice to the commission
10 or 15 days' notice to the public.

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

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

17 (d) A new special contract concerning telecommunications services subject to
18 competition may not take effect until after the commission determines that the
19 telecommunications services that are the subject of the contract are subject to
20 competition.

21 Sec. 42.05.417. CROSS SUBSIDIES PROHIBITED. (a) To avoid cross
22 subsidization of competitive services by noncompetitive telecommunications services,
23 prices or rates charged for a competitive telecommunications service shall cover the
24 incremental cost for the provision of the service. In a proceeding held under this
25 section, the utility providing the service bears the burden of proving that the price
26 charged for a competitive telecommunications service covers its cost.

27 (b) Even if a telecommunications utility is exempt from some or all of the
28 sections in this chapter, the commission may review financial information of the
29 telecommunications utility relating to the provision of a telecommunications service
30 for the purpose of enforcing this section. Information provided to the commission
31 under this section is confidential and is not a public record under AS 09.25.

1 Sec. 42.05.418. REGULATION OF NONCOMPETITIVE SERVICES. (a)
2 Even if a telecommunications utility is exempt from some or all of the sections of this
3 chapter, the commission may regulate a telecommunications service that the
4 commission has not determined to be competitive.

5 (b) The commission shall review and approve an application if it finds, after
6 notice and hearing, that granting the application

7 (1) will not degrade the quality or availability of efficient
8 telecommunications services;

9 (2) will produce fair, just, and reasonable rates for telecommunications
10 services; and

11 (3) will result in the improvement of the telephone infrastructure in the
12 state.

13 (c) The commission shall issue a final order approving, modifying, or rejecting
14 an application made under this section within 60 days after its filing with the
15 commission. If the commission does not issue a final order within the 60-day period,
16 the application is considered to be approved as filed.

17 (d) If, during the commission's consideration of an application for regulation
18 under this section, the commission materially alters the plan as filed in the application,
19 the local exchange telecommunications utility that applied for regulation may notify
20 the commission in writing that it elects not to be rate or price regulated as approved
21 by the order. This notification may be filed at any time so long as it is filed before
22 the date 60 days after the final commission order is issued. If the utility notifies the
23 commission of an election to forego regulation under the application, the utility's rates
24 are then subject to regulation to the extent that they were subject to regulation before
25 the filing of the application.

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

27 (a) **Except as provided in AS 42.05.426, when** [WHEN] a tariff filing is
28 made containing a new or revised rate, classification, rule, regulation, practice, or
29 condition of service the commission may, either upon written complaint or upon its
30 own motion, after reasonable notice, conduct a hearing to determine the reasonableness
31 and propriety of the filing. Pending the hearing, the commission may, by order stating

1 the reasons for its action, suspend the operation of the tariff filing. For a tariff filing
2 that does not change the utility's revenue requirement or rate design, the suspension
3 may last for a period not longer than six months beyond the effective date established
4 in the tariff filing unless the commission extends the period for good cause. **In the**
5 **case of a tariff filing of a telecommunications utility, whether or not the filing**
6 **changes the utility's revenue requirement or rate design, the commission may not**
7 **extend the period of suspension.** For a tariff filing that changes the utility's revenue
8 requirement or rate design, the suspension may last, unless the commission extends the
9 period for good cause, for a period not longer than

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

14 (2) 150 days before an interim rate equal to the requested new rate goes
15 into effect and not longer than one year before a permanent rate goes into effect if the
16 annual gross revenues of the utility making the filing are \$3,000,000 or less.

17 * **Sec. 17.** AS 42.05 is amended by adding a new section to read:

18 Sec. 42.05.426. NEW OR COMPETITIVE TELECOMMUNICATIONS
19 SERVICES. (a) A telecommunications utility may ask the commission to determine
20 that a telecommunications service is a service subject to competition. The commission
21 shall make a determination and accept or reject a request that a service be treated as
22 subject to competition within 30 days after receipt of a filing making the request. If
23 the commission does not act within the 30 days, the request is considered to be
24 granted.

25 (b) If the commission finds that a service is subject to competition under (a)
26 of this section, the commission shall modify the regulatory requirements that apply to
27 the providers of comparable public telecommunications services in that market to
28 achieve parity of regulatory standards and requirements for all providers of
29 telecommunications services in the competitive market.

30 (c) Commission order changes to new telecommunications services or to
31 telecommunications services that are subject to competition may only take effect

1 prospectively.

2 (d) A telecommunications utility may file a request to offer a service that is
3 subject to competition as a deregulated service that is no longer subject to the
4 commission's jurisdiction. The commission shall adopt regulations governing the
5 filing requirements for a reclassification of a service from regulated to deregulated to
6 ensure that the costs and revenue are accounted for appropriately. The commission
7 shall review reclassification filings within 60 days after receipt of the filing and issue
8 findings that either accept or reject the filing. If the commission fails to act within the
9 60 days, the filing takes effect. A determination that a utility may offer a deregulated
10 service does not affect the utility's status as a regulated utility or an exempt utility
11 under AS 42.05.254.

12 (e) For a new service or a competitive service subject to competition, a just
13 and reasonable rate is a rate at or above the incremental cost of providing the service.
14 If the commission, after investigation and hearing, finds that a rate is below the
15 incremental cost of providing the service, it shall

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

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

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

23 * **Sec. 18.** AS 42.05.441(a) is amended to read:

24 (a) **In the case of a public utility other than a telecommunications utility,**
25 **and in the case of a telecommunications utility when the traditional form of**
26 **regulation is in effect, the** [THE] commission may, after providing reasonable notice
27 and opportunity to be heard, ascertain and set the fair value of the whole or any part
28 of the property of a public utility, insofar as it is material to the exercise of the
29 jurisdiction of the commission. The commission may make revaluations from time to
30 time and ascertain the fair value of all new construction, extensions, and additions to
31 the property of a public utility. **If, under this subsection,** a public utility furnishes

1 more than one classification of utility service, the utility shall allocate the investment
2 and expenses associated with the property used and useful in furnishing service among
3 the utility services and it may not solely consider the utility's total investment and
4 expenses in fixing rates for a particular service.

5 * **Sec. 19.** AS 42.05.441 is amended by adding new subsections to read:

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

9 (e) Property of a telecommunications utility is presumed to be "used and
10 useful" if its acquisition and installation arise out of

11 (1) reasonable technological or engineering designs that benefit
12 consumers, or are reasonably anticipated to benefit consumers in the future;

13 (2) implementation of prevailing national or industry engineering
14 standards;

15 (3) reasonable planning for future needs; or

16 (4) modernization of the public utility's network.

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

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

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

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

28 * **Sec. 22.** AS 42.05.800 is amended to read:

29 Sec. 42.05.800. FINDINGS. The legislature finds that

30 (1) modern, affordable, efficient, and universally available local and
31 long distance telephone service is essential to the people of the state;

1 (2) [FACILITIES BASED,] long distance telephone service should be
2 provided competitively wherever possible;

3 (3) technological advances, reduced costs, and increased consumer
4 choices for long distance telephone service, resulting from the adoption of an
5 appropriate competitive market structure, will enhance the state's economic
6 development;

7 (4) the benefits of competition in long distance telephone service should
8 be shared by consumers throughout the state;

9 (5) the commission should oversee competition in long distance
10 telephone service to ensure that the competition is fair to consumers and competitors;

11 (6) the commission should provide for competition in a timely manner
12 and should adopt regulations that eliminate inappropriate impediments to entry for
13 [LONG DISTANCE] carriers fit, willing, and able to provide service.

14 * **Sec. 23.** AS 42.05 is amended by adding a new section to read:

15 Sec. 42.05.805. DUTIES OF INTEREXCHANGE CARRIERS. (a) An
16 interexchange carrier shall interconnect directly or indirectly with the facilities and
17 equipment of other telecommunications carriers.

18 (b) An interexchange facility based carrier that has more than 25 percent of
19 the state message toll traffic as determined by the commission shall offer for resale
20 any intrastate telecommunications service that the carrier provides at retail to
21 subscribers who are not telecommunications carriers. The commission shall determine
22 the wholesale rate at which the intrastate telecommunications services shall be offered
23 by excluding from the retail rate charged to subscribers for the telecommunications
24 service requested the portion of the retail rate attributable to marketing, billing,
25 collection, and other costs that will not have to be paid by the interexchange carrier
26 in making a wholesale sale. An interexchange facility based carrier may not prohibit
27 or impose unreasonable or discriminatory conditions or limitations on the resale of
28 telecommunications services under this subsection.

29 (c) A telecommunications carrier that has more than 25 percent of the state
30 message toll traffic as determined by the commission may request an interexchange
31 facility based carrier to provide the requesting telecommunications carrier with

1 nondiscriminatory access to network elements so that the requesting carrier may
2 provide telecommunications service. The facility based carrier shall provide the access
3 on an unbundled basis at any technically feasible point at rates, terms, and conditions
4 that are just, reasonable, and nondiscriminatory and in a manner that allows the
5 requesting carrier to combine the elements in order to provide the telecommunications
6 services.

7 (d) An interexchange carrier that has more than 25 percent of the state
8 message toll traffic as determined by the commission shall provide

9 (1) at wholesale rates message toll and other information that resellers
10 may need to rate and process customer billings;

11 (2) access to right-of-way;

12 (3) reasonable public notice of changes that may affect the availability,
13 quality, or pricing of these services;

14 (4) for actual collocation of equipment necessary for interconnection
15 or access to unbundled network elements at the premises of the interexchange carrier;
16 however, the interexchange carrier may provide for virtual collocation if the
17 interexchange carrier demonstrates to the commission that actual collocation is not
18 practical for technical reasons or because of space limitations; the interexchange carrier
19 shall provide the collocation at rates, terms, and conditions that are just, reasonable,
20 and nondiscriminatory;

21 (5) nondiscriminatory access to operator services at wholesale rates;

22 (6) interconnection at any technically feasible point within the
23 interexchange carrier's network;

24 (7) interconnection and other services that are at least equal in quality
25 to those services provided by the interexchange carrier to itself or to a subsidiary,
26 affiliate, or other party to which the carrier provides interconnection.

27 * **Sec. 24.** AS 42.05.810 is amended by adding new subsections to read:

28 (d) For intrastate telecommunications services, a telecommunications utility
29 may designate the first point of switching where the utility elects to provide equal
30 access through a centralized equal access arrangement.

31 (e) A local exchange carrier may also apply to provide competitive long

1 distance service on the same basis as other applicants under this section.

2 (f) In this section, "centralized equal access arrangement" means an
3 arrangement in which communications traffic is routed to a centralized equal access
4 switch, thereby fostering competition among interexchange carriers.

5 * **Sec. 25.** AS 42.05.840 is amended to read:

6 Sec. 42.05.840. MECHANISMS TO PRESERVE AND ADVANCE
7 UNIVERSAL SERVICE [FUND]. The commission may establish a universal service
8 fund [OR OTHER MECHANISM TO BE USED] to ensure the provision of **basic**
9 **local and** long distance telephone service at reasonable rates throughout the state
10 [AND TO OTHERWISE PRESERVE UNIVERSAL SERVICE].

11 * **Sec. 26.** AS 42.05.840 is amended by adding a new subsection to read:

12 (b) In this section, "basic telephone service" means local and long distance
13 telephone service of a quality consistent with commission regulations and standards.

14 * **Sec. 27.** AS 42.05.990 is amended by adding new paragraphs to read:

15 (9) "network element" means a facility or equipment used in the
16 provision of a telecommunications service; the term includes features, functions, and
17 capabilities that are provided by means of the facility or equipment, including
18 subscriber numbers, databases, signaling systems, and information sufficient for billing
19 and collection or used in the transmission, routing, or other provision of a
20 telecommunications service;

21 (10) "nontraditional regulation" means price caps, incentive regulation,
22 or other regulation that is not based on traditional regulation;

23 (11) "rural telephone company" means a local exchange carrier
24 operating entity to the extent that the entity

25 (A) provides common carrier service to any local exchange
26 carrier study area that does not include either

27 (i) an incorporated place of 10,000 inhabitants or more,
28 or any part of the incorporated place, based on the most recently
29 available population statistics of the Bureau of Census; or

30 (ii) any territory, incorporated or unincorporated,
31 included in an urbanized area;

1 (B) provides telephone exchange service, including exchange
2 access, to fewer than 50,000 access lines;

3 (C) provides telephone exchange service to any local exchange
4 carrier study area with fewer than 100,000 access lines; or

5 (D) has less than 15 percent of its access lines in communities
6 of more than 50,000;

7 (12) "service subject to competition" means a utility service for which
8 another entity has made available, or has the capacity to make available, a substitute
9 service to customers or a service that customers may supply for themselves;

10 (13) "traditional regulation" means rate base, rate of return regulation.

11 * **Sec. 28.** NONPREEMPTION. The amendments to AS 42.05 made by this Act are not
12 intended to preempt, abrogate, or otherwise affect any right, liability, or obligation arising
13 from a state or federal law regarding unfair business practices or anticompetitive activity.