

SENATE BILL NO. 47

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY SENATOR KELLY

Introduced: 1/25/95

Referred: L&C, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the extent to which the Alaska Public Utilities Commission
2 may exercise its powers when regulating utilities; establishing a regulatory cost
3 charge on public utilities and pipeline carriers; relating to the allocation of costs
4 in hearings before the Alaska Public Utilities Commission; relating to the method
5 by which utilities are exempted from and made subject to regulation by the
6 Alaska Public Utilities Commission; relating to the monetary threshold for
7 regulation of certain kinds of utilities by the Alaska Public Utilities Commission;
8 extending the Alaska Public Utilities Commission; relating to staggered terms for
9 members of the Alaska Public Utilities Commission; and providing for an effective
10 date."

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

12 * **Section 1.** AS 42.05.141(a) is amended to read:

1 (a) The Alaska Public Utilities Commission may **do all things necessary or**
2 **proper to carry out the purposes and exercise the powers expressly granted or**
3 **reasonably implied in this chapter, including**

4 (1) regulate every public utility engaged or proposing to engage in a
5 **utility** [SUCH A] business inside the state, except to the extent exempted by
6 AS 42.05.711 [, AND THE POWERS OF THE COMMISSION SHALL BE
7 LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

8 (2) investigate, upon complaint or upon its own motion, the rates,
9 classifications, rules, regulations, practices, services, and facilities of a public utility
10 and hold hearings on them;

11 (3) make or require just, fair, and reasonable rates, classifications,
12 regulations, practices, services, and facilities for a public utility;

13 (4) prescribe the system of accounts and regulate the service and safety
14 of operations of a public utility;

15 (5) require a public utility to file reports and other information and
16 data;

17 (6) appear personally or by counsel and represent the interests and
18 welfare of the state in all matters and proceedings involving a public utility pending
19 before an officer, department, board, commission, or court of the state or of another
20 state or the United States and to intervene in, protest, resist, or advocate the granting,
21 denial, or modification of any petition, application, complaint, or other proceeding;

22 (7) examine witnesses and offer evidence in any proceeding affecting
23 the state and initiate or participate in judicial proceedings to the extent necessary to
24 protect and promote the interests of the state.

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

26 Sec. 42.05.254. PUBLIC UTILITY REGULATORY COST CHARGE. (a)
27 A regulated public utility operating in the state shall pay to the commission an annual
28 regulatory cost charge in an amount not to exceed .8 percent of gross revenue derived
29 from operations in the state, as modified under (c) of this section if appropriate. An
30 exempt utility shall pay the actual cost of services provided to it by the commission.

31 (b) The commission shall by regulation establish a method to determine

1 annually the amount of the regulatory cost charge for a public utility. If the amount
2 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
3 exceeds the authorized budget of the commission, the commission shall, by order,
4 reduce the percentages set out in (a) of this section so that the total amount of the fees
5 collected approximately equals the authorized budget of the commission for the fiscal
6 year.

7 (c) In determining the amount of the regulatory cost charge imposed under (a)
8 of this section,

9 (1) a utility selling utility services at wholesale shall modify its gross
10 revenue by deducting payments it receives for wholesale sales;

11 (2) a local exchange telephone utility shall modify its gross revenue by
12 deducting payments received from other carriers for settlements or access charges;

13 (3) an electric utility shall reduce its gross revenue by subtracting the
14 cost of power; in this paragraph, "cost of power" means the costs of generation and
15 purchased power reported to the commission.

16 (d) The commission shall calculate the total regulatory cost charges to be
17 levied against all regulated electric utilities under this section. The commission shall
18 allocate the total amount among the regulated electric utilities by using an equal charge
19 per kilowatt hour sold at retail.

20 (e) The commission shall administer the charge imposed under this section.
21 The Department of Revenue shall collect and enforce the charge imposed under this
22 section. The Department of Administration shall identify the amount of the operating
23 budget of the commission that lapses into the general fund each year. The legislature
24 may appropriate an amount equal to the lapsed amount to the commission for its
25 operating costs for the next fiscal year. If the legislature does so, the commission shall
26 reduce the total regulatory cost charged collected for that fiscal year by a comparable
27 amount.

28 (f) The commission shall allow a public utility to recover all payments made
29 to the commission under this section. The commission may not require a public utility
30 to file a rate case in order to be eligible to recover the regulatory cost charge.

31 (g) The commission may adopt regulations under AS 44.62 (Administrative

1 Procedure Act) necessary to administer this section, including requirements and
2 procedures for reporting information and making quarterly payments. The Department
3 of Revenue may adopt regulations under AS 44.62 (Administrative Procedure Act) for
4 investigating the accuracy of filed information, and for collecting required payments.

5 (h) In this section,

6 (1) "exempt utility" means a public utility that is certificated by the
7 commission under AS 42.05.221 - 42.05.281 but, in accordance with AS 42.05.711,
8 is exempt from other regulatory requirements of this chapter;

9 (2) "gross revenue" means the total operating revenue from intrastate
10 services, as shown in a utility's annual report required by the commission by
11 regulation;

12 (3) "regulated utility" means a public utility that is certificated by the
13 commission under AS 42.05.221 - 42.05.281 and that is subject to the other regulatory
14 requirements of this chapter;

15 (4) "wholesale sales" means sales to another utility for resale under
16 circumstances that make revenue from the resale subject to the regulatory cost charge
17 imposed under this section.

18 * **Sec. 3.** AS 42.05.651(a) is amended to read:

19 (a) **During** [AFTER COMPLETION OF] a hearing or investigation held under
20 this chapter, the commission **may** [SHALL] allocate the costs of the hearing or
21 investigation among the parties, including the commission, as is just under the
22 circumstances. In allocating costs, the commission **shall consider the regulatory cost**
23 **charge paid by a utility under AS 42.05.254 and** may consider the results, ability
24 to pay, evidence of good faith, other relevant factors, and mitigating circumstances.
25 Notwithstanding an intervening party's ability to pay, if the commission determines
26 that an intervening party has conducted its intervention in a frivolous manner, the
27 commission shall allocate all costs associated with the intervention to that party. The
28 costs allocated may include the costs of any time devoted to the investigation or
29 hearing by hired consultants, whether or not the consultants appear as witnesses or
30 participants. The costs allocated may also include any out-of-pocket expenses incurred
31 by the commission in the particular proceeding. The commission shall provide an

1 opportunity for any person objecting to an allocation to be heard before the allocation
2 becomes final.

3 * **Sec. 4.** AS 42.05.711(e) is amended to read:

4 (e) Notwithstanding any other provisions of this chapter, any electric or
5 telephone utility that does not gross \$50,000 annually is exempt from regulation under
6 this chapter unless [25 PERCENT OF] the subscribers petition the commission for
7 regulation **under AS 42.05.712(h).**

8 * **Sec. 5.** AS 42.05.711(f) is amended to read:

9 (f) Notwithstanding any other provisions of this chapter, an electric or
10 telephone utility that does not gross **\$500,000** [\$325,000] annually may elect to be
11 exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 under
12 the procedure described in AS 42.05.712.

13 * **Sec. 6.** AS 42.05.711(g) is amended to read:

14 (g) A utility, other than a telephone or electric utility, that does not gross
15 **\$150,000** [\$100,000] annually may elect to be exempt from the provisions of this
16 chapter other than AS 42.05.221 - 42.05.281 under the procedure described in
17 AS 42.05.712.

18 * **Sec. 7.** AS 42.05.711(i) is amended to read:

19 (i) A utility **that** [WHICH] furnishes collection and disposal service of
20 garbage, refuse, trash, or other waste material and has annual gross revenues of
21 **\$300,000** [\$200,000] or less is exempt from the provisions of this chapter, other than
22 the certification provisions of AS 42.05.221 - 42.05.281, unless [25 PERCENT OF]
23 the subscribers [OR SUBSCRIBERS REPRESENTING 25 PERCENT OF THE
24 GROSS REVENUE OF THE UTILITY] petition the commission for regulation **under**
25 **AS 42.05.712(h). Notwithstanding AS 42.05.712(b) and (g), if subscribers**
26 **representing 25 percent of the gross revenue of the utility petition the commission**
27 **for regulation, the utility is subject to the provisions of this chapter.**

28 * **Sec. 8.** AS 42.05.711(k) is amended to read:

29 (k) A utility **that** [WHICH] furnishes cable television service is exempt from
30 the provisions of this chapter other than AS 42.05.221 - 42.05.281 [,] unless [25
31 PERCENT OF] the subscribers petition the commission for regulation **under the**

1 **procedure described in AS 42.05.712.**

2 * **Sec. 9.** AS 42.05.712(h) is amended to read:

3 (h) A utility or cooperative that is already exempt from regulation under this
4 section **or that is exempt from regulation under AS 42.05.711(e), (i), or (k)** may
5 elect to terminate its exemption in the same manner.

6 * **Sec. 10.** AS 42.06 is amended by adding a new section to read:

7 Sec. 42.06.286. PIPELINE CARRIER REGULATORY COST CHARGE. (a)
8 A pipeline carrier operating in the state shall pay to the commission an annual
9 regulatory cost charge in an amount not to exceed .8 percent of gross revenue derived
10 from operations in the state. A regulatory cost charge may not be assessed on pipeline
11 carrier operations unless the operations are within the jurisdiction of the commission.

12 (b) The commission shall by regulation establish a method to determine
13 annually the amount of the regulatory cost charge. If the amount the commission
14 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
15 authorized budget of the commission, the commission shall, by order, reduce the
16 percentage set out in (a) of this section so that the total amount of the fees collected
17 approximately equals the authorized budget of the commission for the fiscal year.

18 (c) The commission shall administer the charge imposed under this section.
19 The Department of Revenue shall collect and enforce the charge imposed under this
20 section. The Department of Administration shall identify the amount of the operating
21 budget of the commission that lapses into the general fund each year. The legislature
22 may appropriate an amount equal to the lapsed amount to the commission for its
23 operating costs for the next fiscal year. If the legislature does so, the commission shall
24 reduce the total regulatory cost charged collected for that fiscal year by a comparable
25 amount.

26 (d) The commission may adopt regulations under AS 44.62 (Administrative
27 Procedure Act) necessary to administer this section, including requirements and
28 procedures for reporting information and making quarterly payments. The Department
29 of Revenue may adopt regulations under AS 44.62 (Administrative Procedure Act) for
30 investigating the accuracy of filed information, and for collecting required payments.

31 (e) In this section, "gross revenue" means the total intrastate operating revenue

1 as shown in a pipeline carrier's annual report required by the commission by
2 regulation.

3 * **Sec. 11.** AS 42.06.610(a) is amended to read:

4 (a) During a proceeding held under this chapter, the commission **may**
5 [SHALL] allocate the cost of the proceeding among the parties, including the
6 commission, as is just under the circumstances. **In allocating costs, the commission**
7 **shall consider the regulatory cost charge paid directly or indirectly under**
8 **AS 42.06.286.** The costs allocated may include the costs of any time devoted to
9 investigations or hearings by hired consultants, whether or not the consultants appear
10 as witnesses or participants. The commission shall provide an opportunity for any
11 person objecting to an allocation to be heard before the allocation becomes final.

12 * **Sec. 12.** AS 44.66.010(a)(4) is amended to read:

13 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30,
14 **1999** [1994];

15 * **Sec. 13.** APUC STAGGERED TERMS. Notwithstanding AS 42.05.030(a), after the
16 expiration in 1999 of the term of the member of the Alaska Public Utilities Commission with
17 a major or experience in engineering, the vacancy shall next be filled for a term of four years
18 in order to adjust the staggering of the terms of the members of the commission so that no
19 more than one commission member's term expires each year.

20 * **Sec. 14.** APPLICATION TO ONGOING PROCEEDINGS. The amendment to
21 AS 42.05.141(a), made by sec. 1 of this Act, applies to proceedings begun on or after the
22 effective date of sec. 1 of this Act.

23 * **Sec. 15.** Section 1 of this Act takes effect July 1, 1996.

24 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect immediately
25 under AS 01.10.070(c).