

HOUSE BILL NO. 248

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KOTT

Introduced: 5/19/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to consumer choice for electric energy in Alaska; and providing
2 for an effective date."

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

4 * **Section 1. FINDINGS.** (a) The legislature finds that

5 (1) electric energy should be provided competitively wherever possible;

6 (2) technological advances, reduced costs, and increased consumer choice for
7 electric energy resulting from the adoption of an appropriate competitive market structure will
8 enhance the state's economic ability to compete for jobs in the national and international
9 marketplace;

10 (3) competition in the generation of electric energy will ensure that electric
11 markets are operating efficiently and that Alaska-based businesses benefit from market prices;

12 (4) contracts for the sale of electric energy wholesale that are in place need
13 to be phased-out to allow for the implementation of competition in the electric energy market
14 in the state; independent energy producers in a competitive market should be encouraged; the

1 ability to sell energy in the wholesale market is important to economic development in Alaska;
 2 co-generation facilities must be free to sell energy and not be restricted to avoided cost
 3 methodology; and

4 (5) all classes of consumers should realize the benefits of consumer choice in
 5 electric energy.

6 (b) In providing for competition in the electric energy market, the Alaska Public
 7 Utilities Commission should

8 (1) address municipal and cooperative debt expense as part of its review of
 9 retail competition;

10 (2) oversee consumer choice in electric energy to ensure that the competition
 11 among electric providers is fair to consumers and electric providers; and

12 (3) provide for consumer choice in a timely manner by adopting regulations
 13 allowing consumers to choose among competitive electric providers.

14 (c) Because of the unique nature of the non-interconnected rural utilities in Alaska,
 15 restructuring discussions and policy options focused on the Railbelt utilities are not appropriate
 16 for non-interconnected utilities and communities.

17 * **Sec. 2.** AS 42.05.141(a) is amended to read:

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

21 (1) regulate

22 (A) every public utility engaged or proposing to engage in a
 23 utility business inside the state, except to the extent exempted by
 24 AS 42.05.711; **and**

25 **(B) power aggregators and power marketers as provided in**
 26 **AS 42.05.905 - 42.05.930;**

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

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

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

3 (5) require a public utility to file reports and other information and
4 data;

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

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

13 * **Sec. 3.** AS 42.05.221(d) is amended to read:

14 (d) **Except as provided in AS 42.05.905 - 42.05.930, in** [IN] an area where
15 the commission determines that two or more public utilities are competing to furnish
16 identical utility service and that this competition is not in the public interest, the
17 commission shall take appropriate action to eliminate the competition and any
18 undesirable duplication of facilities. This appropriate action may include, but is not
19 limited to, ordering the competing utilities to enter into a contract that, among other
20 things, would [:]

21 (1) delineate the service area boundaries of each in those areas of
22 competition;

23 (2) eliminate existing duplication and paralleling to the fullest
24 reasonable extent;

25 (3) preclude future duplication and paralleling;

26 (4) provide for the exchange of customers and facilities for the
27 purposes of providing better public service and of eliminating duplication and
28 paralleling; and

29 (5) provide such other mutually equitable arrangements as would be in
30 the public interest.

31 * **Sec. 4.** AS 42.05 is amended by adding new sections to read:

1 **Article 10A. Competitive Electrical Service.**

2 **Sec. 42.05.905. Pilot programs.** (a) Before the opening of a retail electricity
3 pilot program, and no later than July 1, 2000, the commission shall adopt regulations
4 that

5 (1) calculate and allocate component costs for Railbelt utilities in a
6 rational and uniform manner (unbundling and cost allocation);

7 (2) rationalize access to and governance of the transmission system to
8 create a nondiscriminatory open access network while ensuring reliability; and

9 (3) rationalize oversight of generation siting and construction to
10 minimize stranded cost exposure and to further enhance the expansion of a wholesale
11 competitive market with new merchant generators.

12 (b) By January 1, 2001, the commission shall adopt regulations to allow
13 consumers in an urban area to choose their electric provider.

14 (c) By January 1, 2002, the commission may adopt regulations to allow
15 consumers outside of an urban area to choose their electric provider.

16 (d) In carrying out this section, the commission shall adopt regulations to
17 ensure that

18 (1) the reliability, quality, safety, and integrity of the electric system
19 continues in place;

20 (2) all classes of consumers benefit from choice;

21 (3) consumer protections are sufficient;

22 (4) there is fair competition among electric providers;

23 (5) electric providers that are public utilities maintain their generation
24 operations and assets separately from other operations and assets;

25 (6) electric providers affiliated with public utilities that generate electric
26 energy may not exercise unfair market power or gain an unfair market advantage as
27 the result of that affiliation;

28 (7) generation, transmission, and distribution services and costs are
29 unbundled in those service areas opened to competitive electric providers;

30 (8) equal access to unbundled transmission and distribution lines at just
31 and reasonable rates is available so electric providers may participate in a competitive

1 electric energy marketplace;

2 (9) if competition exists within a service area, the commission may not
3 regulate the rates for service within the area of competition;

4 (10) carrier of last resort obligations are fulfilled; and

5 (11) costs stranded as the result of consumer choice are recovered.

6 **Sec. 42.05.910. Recoverable stranded cost.** The commission may not
7 recognize the loss of revenue under wholesale power contracts in existence on or after
8 the effective date of this section between generation and transmission and distribution
9 cooperative electric utilities as a recoverable stranded cost.

10 **Sec. 42.05.915. Regulation of power aggregators and power marketers.** (a)
11 A power aggregator or power marketer that is not a public utility is subject to
12 regulation by the commission only as provided in this section. A power aggregator
13 or power marketer that furnishes, by generation, transmission, or distribution, electric
14 energy to the public for compensation continues to be subject to regulation by the
15 commission as a public utility under this chapter.

16 (b) The commission may adopt regulations concerning power aggregators and
17 power marketers it considers to be in the public interest. The regulations must require

18 (1) registration with the commission;

19 (2) bonding; and

20 (3) a price cap for retail electric energy equal to the rates charged by
21 the carrier of last resort for a similar electric load.

22 **Sec. 42.05.920. Application of AS 42.05.905 - 42.05.930 to areas.** Except
23 as provided in AS 42.05.905(c), AS 42.05.905 - 42.05.930 apply only to an urban area.

24 **Sec. 42.05.930. Definitions for AS 42.05.905 - 42.05.930.** In AS 42.05.905 -
25 42.05.930,

26 (1) "carrier of last resort" means the public utility certified to provide
27 electric distribution in the consumer's service area;

28 (2) "consumer choice" means the choice of a wholesale or retail
29 consumer to choose among competitive electric providers;

30 (3) "electric provider" means any public utility, power aggregator,
31 power marketer, or similar entity that sells electric energy;

1 (4) "power aggregator" means an entity that purchases and takes title
2 to electric energy for resale;

3 (5) "power marketer" means an entity that acts as an agent or
4 intermediary in the purchase of electric energy but does not take title to the electric
5 energy;

6 (6) "recoverable stranded cost" means a cost that a public utility subject
7 to economic regulation by the commission would be allowed recover as either a
8 transition surcharge or other recoverable rate category;

9 (7) "urban area" means those electric service areas located in a
10 municipality that are served by interconnected electric utilities.

11 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).