

SENATE BILL NO. 303

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 3/31/00

Referred: 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.** The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 FINDINGS. (a) The legislature finds that

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

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

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

14 (4) retail customers should be given the right to choose their electric power

1 supplier so that competitive pressure is placed on both wholesale power suppliers and
 2 wholesale purchasers, including resellers, to revise or terminate existing long-term power
 3 supply contracts as needed to competitively meet retail customer needs; independent energy
 4 producers in a competitive market should be encouraged; the ability to sell energy in the
 5 wholesale market is important to economic development in Alaska; co-generation facilities
 6 must continue to be free to sell energy and not be restricted to avoided cost methodology; and
 7 (5) all classes of consumers should realize the benefits of consumer choice in
 8 electric energy.

9 (b) In providing for competition in the electric energy market, the Regulatory
 10 Commission of Alaska shall

11 (1) provide for retail consumer choice in urban areas no later than
 12 September 1, 2001, by adopting regulations allowing consumers to choose among competitive
 13 electric providers; and

14 (2) oversee consumer choice in electric energy to ensure that the competition
 15 among electric providers is fair to consumers and electric providers.

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

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

20 (a) The Regulatory Commission of Alaska may do all things necessary or
 21 proper to carry out the purposes and exercise the powers expressly granted or
 22 reasonably implied in this chapter, including

23 (1) regulate

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

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

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

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

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

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

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

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

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

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

23 (1) delineate the service area boundaries of each in those areas of
24 competition;

25 (2) eliminate existing duplication and paralleling to the fullest
26 reasonable extent;

27 (3) preclude future duplication and paralleling;

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

31 (5) provide such other mutually equitable arrangements as would be in

1 the public interest.

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

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

4 **Sec. 42.05.905. Retail choice.** (a) No later than September 1, 2001, retail
5 customers in urban areas shall be permitted to purchase electric power service from
6 an electric public utility power aggregator or power marketer of the customer's choice.

7 (b) No later than July 1, 2001, the commission shall adopt regulations that

8 (1) provide for the calculation and allocation of component costs for
9 utilities serving customers in an urban area in a rational and uniform manner
10 (unbundling and cost allocation);

11 (2) encourage rationalization of access to the transmission system to
12 create a nondiscriminatory open access network while ensuring reliability;

13 (3) eliminate the oversight of generation siting and construction to
14 further enhance the expansion of a wholesale competitive market with new merchant
15 generators; and

16 (4) allow consumers in an urban area to choose their electric provider.

17 (c) The commission may not adopt regulations or take action to allow
18 consumers outside of an urban area to choose their electric provider.

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

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

23 (2) all classes of consumers have an opportunity to benefit from choice;

24 (3) consumer protections are sufficient;

25 (4) electric providers that are public utilities account for their
26 generation operations and assets separately from other operations and assets;

27 (5) to the extent that a public utility is vertically integrated, the utility
28 functionally separates its electricity supply, retail transmission and distribution, and
29 regulated and unregulated retail energy services operations in the state;

30 (6) public utilities are required to

31 (A) prevent undue discrimination in favor of their own power

1 supply, other services, divisions, or affiliated interests, if any;

2 (B) prevent any other forms of self-dealing that could result in
3 noncompetitive electricity prices to customers; and

4 (C) grant customers and their electricity suppliers access to the
5 public utility's retail transmission and distribution systems on a
6 nondiscriminatory basis at rates, terms, and conditions of service comparable
7 to the use of the retail transmission and distribution system by the public utility
8 and the public utility's affiliates;

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

11 (8) equal access to unbundled transmission and distribution lines at just
12 and reasonable rates is available so electric providers may participate in a competitive
13 electric energy marketplace;

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

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

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

18 (e) The commission may not order a public utility to divest itself of any
19 generation assets or prohibit a public utility from divesting itself voluntarily of any
20 generation assets.

21 **Sec. 42.05.910. Recoverable stranded cost.** (a) The commission may
22 authorize a nonbypassable stranded investment charge to be paid to a public utility that
23 demonstrates that it has investments that are stranded as a result of competition
24 resulting from AS 42.05.905 - 42.05.930 and that cannot be mitigated through a sale
25 or other reasonable measures.

26 (b) The commission may not

27 (1) recognize the loss of revenue under wholesale power contracts in
28 existence on or after the effective date of this section between generation and
29 transmission and distribution cooperative electric utilities as a recoverable stranded
30 cost;

31 (2) require a public utility to terminate, void, or modify an existing

1 power sales agreement that has been previously approved by the commission or by the
2 former Alaska Public Utilities Commission;

3 (3) recognize as stranded investments any assets acquired in
4 anticipation of retail wheeling or retail electric customer choice.

5 **Sec. 42.05.915. Regulation of power aggregators and power marketers.** (a)

6 A power aggregator or power marketer that is not a public utility is subject to
7 regulation by the commission only as provided in this section.

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

10 (1) registration with the commission;

11 (2) bonding sufficient to protect the power aggregator's or power
12 marketer's customers in the event of default of the power aggregator or power
13 marketer; and

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

16 **Sec. 42.05.920. Application of AS 42.05.905 - 42.05.930 to areas.**

17 AS 42.05.905 - 42.05.930 apply only to an urban area.

18 **Sec. 42.05.930. Definitions for AS 42.05.905 - 42.05.930.** In AS 42.05.905 -

19 42.05.930,

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

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

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

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

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

31 (6) "recoverable stranded cost" means a cost that a public utility subject

1 to economic regulation by the commission would be allowed recover as either a
2 transition surcharge or other recoverable rate category;

3 (7) "urban area" means an area served by interconnected electric
4 utilities that provide service to a total of more than 100,000 customers.

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