

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

May 13, 2019

1:17 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Chuck Kopp
Representative Steve Thompson
Representative Adam Wool
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

Representative Louise Stutes

COMMITTEE CALENDAR

SENATE BILL NO. 83

"An Act relating to the Regulatory Commission of Alaska; relating to the public utility regulatory cost charge; relating to the regulation of telecommunications; relating to exemptions, charges, and rates applicable to telecommunications utilities; relating to regulation of telephone services; and relating to alternate operator services."

- MOVED HCS SB 83 (L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 83

SHORT TITLE: TELECOMMUNICATIONS REGULATION/EXEMPTIONS

SPONSOR(s): SENATOR(s) BIRCH

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|----------|-----|--|
| 03/11/19 | (S) | READ THE FIRST TIME - REFERRALS |
| 03/11/19 | (S) | L&C |
| 03/26/19 | (S) | L&C AT 1:30 PM BELTZ 105 (TSBldg) |
| 03/26/19 | (S) | Heard & Held |
| 03/26/19 | (S) | MINUTE(L&C) |
| 04/02/19 | (S) | L&C AT 1:30 PM BELTZ 105 (TSBldg) |
| 04/02/19 | (S) | Moved SB 83 Out of Committee |
| 04/02/19 | (S) | MINUTE(L&C) |
| 04/03/19 | (S) | L&C RPT 4DP |
| 04/03/19 | (S) | DP: REINBOLD, GRAY-JACKSON, COSTELLO, BIRCH |

04/15/19 (S) TRANSMITTED TO (H)
04/15/19 (S) VERSION: SB 83
04/16/19 (H) READ THE FIRST TIME - REFERRALS
04/16/19 (H) L&C, FIN
04/17/19 (H) JUD REPLACES FIN REFERRAL
05/01/19 (H) L&C AT 3:15 PM BARNES 124
05/01/19 (H) Heard & Held
05/01/19 (H) MINUTE(L&C)
05/08/19 (H) L&C AT 3:15 PM BARNES 124
05/08/19 (H) Heard & Held
05/08/19 (H) MINUTE(L&C)
05/11/19 (H) L&C AT 11:00 AM BARNES 124
05/11/19 (H) Heard & Held
05/11/19 (H) MINUTE(L&C)
05/12/19 (H) L&C AT 4:00 PM BARNES 124
05/12/19 (H) -- Continued from Sat. 5/11/19 --
05/13/19 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

SENATOR CHRIS BIRCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 83 as prime sponsor.

CHRISTINE O'CONNOR, Executive Director
Alaska Telecom Association
Juneau, Alaska

POSITION STATEMENT: Gave a presentation and answered questions during the hearing on SB 83.

KIM SKIPPER, Staff
Senator Chris Birch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented on the differences between SB 83 and HCS SB 83(L&C).

ROBERT M. PICKETT, Commissioner
Regulatory Commission of Alaska
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 83.

REPRESENTATIVE JONATHAN KREISS-TOMKINS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on SB 83 on behalf of constituents.

ACTION NARRATIVE

[1:17:26 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:17 p.m. Representatives Shaw, Wool, Thompson, Eastman, and Claman were present at the call to order. Representative Kopp arrived as the meeting was in progress.

SB 83-TELECOMMUNICATIONS REGULATION/EXEMPTIONS

[1:18:45 PM](#)

CHAIR CLAMAN announced that the only order of business would be SENATE BILL NO. 83, "An Act relating to the Regulatory Commission of Alaska; relating to the public utility regulatory cost charge; relating to the regulation of telecommunications; relating to exemptions, charges, and rates applicable to telecommunications utilities; relating to regulation of telephone services; and relating to alternate operator services."

[Before the committee was the Committee Substitute (CS) for HB 83(L&C), version 31-LS0563\U.]

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SENATOR CHRIS BIRCH, Alaska State Legislature, introduced SB 83 as prime sponsor. He explained that SB 83 seeks to encourage investment and innovation in the telecommunication industry by updating the telecommunication statutes related to landlines and long-distance services. He said rapid changes in technology and in Federal Communications Commission (FCC) regulations have rendered portions of the existing statutes obsolete and/or inefficient. He said consumers prefer broadband and mobile services, so the demand for landline services is decreasing. He explained that SB 83 would place service providers on a more level playing field and would encourage deployment of advanced technologies and more efficient network design. He added that SB 83 would create new protections for rural areas and would require rural landline and long-distance rates, terms, and conditions be treated the same as in larger communities. He said the bill would also require all telecommunications utilities to assess the regulatory cost charge (RCC) and submit

it to the Regulatory Commission of Alaska (RCA). Currently, he said, the RCC is not being paid by utilities that are municipally owned or are cooperatives, which he clarified is about half the utilities in Alaska.

SENATOR BIRCH said SB 83 would also add utilities analyst masters employed by RCA to the list of exempt services under AS 39.25.110. He said the bill would give the chair of RCA the ability to hire up to five utilities analyst masters.

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CHRISTINE O'CONNOR, Executive Director, Alaska Telecom Association, said SB 83 is an important bill that would streamline regulations for both RCA and the industry. She emphasized that SB 83 relates only to landline service and long-distance service accessed through landlines.

MS. O'CONNOR began a PowerPoint presentation [hard copy included in the committee packet]. She addressed slide 2, which listed 28 telecommunications providers. She said SB 83 has unanimous support within the industry. She said the Alaska Telecom Association's (ATA) members are the broadband, wireless, and landline providers of Alaska.

MS. O'CONNOR addressed slide 3. She said the reason for SB 83 is that many of Alaska's telecommunications statutes are nearly 50 years old and not in line with changes in technology. She explained that the federal Telecommunications Act of 1996 transformed the telecommunications industry by beginning a process of deregulation and inserting competition into the market. She noted that landline and long-distance use has dramatically reduced since 1996. She compared ATA members' \$64 million long-distance revenues from 2006 to \$13 million revenues in 2018. She remarked that landline service is still very important and noted that SB 83 would not remove protections. She noted that 48 percent of Alaska households have a landline. She remarked that current regulations and statutes are driving industry inefficiencies.

MS. O'CONNOR addressed slide 4, which featured a map of the United States. She said 41 other states have reduced regulation. She noted that SB 83 is not a deregulation bill. She said it instead strips away wasteful provisions that use scarce industry and RCA resources.

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MS. O'CONNOR addressed slide 5. She said, "Mechanically, the bill is structured to exempt from AS 42.05. However, critical sections are retained."

MS. O'CONNOR addressed slide 6. She described "rate regulation" as a traditional monopoly function that RCA performs for "old school" cost-based utilities, such as electricity, where there is no competition and a heightened need for regulatory oversight. "Telecommunications," she said, "is not that way anymore." She stated that 99 percent of Alaskans have options of where to purchase telecommunications. She explained that these Alaskans are not limited solely to traditional landline service. She noted that SB 83 has important protections for landline rates. She said landline rates are annually capped by federal rules. She added that companies must certify that they have not gone above the federal cap for the landline rate.

MS. O'CONNOR stated that SB 83 would create AS 42.05.381(1) which would require every company to provide a uniform rate, service, and terms across its entire service area. She explained that this is how the industry operates today and that it is more efficient and less confusing for consumers. She said putting that language in statute would protect rural customers.

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MS. O'CONNOR stated that SB 83 would also authorize RCA to designate eligible telecommunications carriers (ETC). She noted that the FCC has already delegated this role to RCA, but SB 83 would make it explicit by putting it in statute. She said the reason this is important is because ETC designation allows a company to participate in federal Universal Service Fund (USF) programs, which are very important to service in Alaska.

MS. O'CONNOR said SB 83 would eliminate carrier of last resort (COLR) designations. She explained that COLR regulations were adopted when RCA "created an explicit funding stream to support them." She clarified that these went into effect in 2010. However, she said, the obligations to continue to serve a designated area unless given permission to leave were already contained in the Certificate of Public Convenience and Necessity granted to each company by RCA. She said the COLR regulations are duplicative to the duties laid out under a company's certificate. She noted that a company's certificate allows it to operate in the state. She said SB 83 would strip out the COLR regulations and retain the stronger certificate statutes.

MS. O'CONNOR explained that SB 83 would also clean up the RCC, which she explained funds RCA through a small charge on all utility bills. She noted that there is an exception for telecommunications cooperatives due to the age of Alaska's telecommunications statutes. She said that because cooperatives are not allowed to assess the fee, the customers of all other telephone companies are paying for "the full weight of activity" at RCA. She said SB 83 would make it so all telecommunications utilities must participate in funding RCA oversight.

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MS. O'CONNOR addressed slide 7. She restated that local landline rates are limited by federal rules. She also restated that SB 83 would create AS 42.05.381(1) requiring rates, terms, and conditions of service to be the same across defined service areas. She said the federal Lifeline program supports low-income subscribers, allowing them to get a landline or wireless service, usually for a cost under \$5.

MS. O'CONNOR addressed slide 8. She said the reason she and the prime sponsor want to eliminate rate regulation is because it creates an uneven playing field and wastes resources. She noted that cooperatives do not have to file tariff filings and are not obligated to report their rates to RCA. She said private companies do not have a path to be relieved of those filing obligations. She stated that it is misleading to say that rate regulation exists because private companies can usually change their rates at-will without RCA approval, though they still must make a filing. She described the "paper-shuffle" process between a private company and RCA. She noted that RCA has called it "work without value" and "a blizzard of paper." She said SB 83 would eliminate that. She noted that approximately 10 percent of Alaska's population is served in an area where the company must file a more traditional tariff filing telling RCA what the rate will be. She said the level of detail required in these filings can take over 2 years to achieve. She stated that SB 83 would eliminate that as well. She said the protection of requiring uniform rates across those areas offers reassurance that there will not be negative impacts in those areas.

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MS. O'CONNOR addressed slide 9. She relayed an anecdote from a telecommunications industry senior manager about the inefficiencies of composing multiple tariff filings. Ms.

O'Connor noted that the tariffs are laden with jargon and are at times incomprehensible. She restated the intention to eliminate the mandate to maintain the filings with RCA. She said eliminating them would also allow RCA to focus on other more important matters.

MS. O'CONNOR addressed slide 10. She explained that the ability to designate an ETC is one of the important protections and powers of RCA. She noted that there are significant funds that flow into Alaska from USF. She said it is critical funding to allow Alaska to have modern telecommunications networks. She explained that a company may not participate in USF programs without an ETC designation from RCA. She stated that SB 83 would make it explicit that RCA will continue to be the body that authorizes initial designations and that it will continue to report to the FCC that USF funds are being properly used.

MS. O'CONNOR addressed slide 11. She explained that COLR regulations were implemented in 2010. Before 2010, she explained, RCA evaluated service in areas using its authority under the Certificate of Public Convenience and Necessity. She said RCA decisions on such matters are based on its own evaluation of whether service is in the public interest. She stated that none of this would change under SB 83 and RCA would continue to have that authority.

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MS. O'CONNOR addressed slide 12. She said SB 83 would fix the outdated RCC. She noted that ATA members unanimously support the provision to do so.

MS. O'CONNOR addressed slide 13. She said consumer protections would remain under SB 83, as RCA would retain authorities under the Certificate of Public Convenience and Necessity and as the certifier of federal funds. She restated that SB 83 would enshrine uniform rates in statute. She said additional protections are provided by RCA's Regulatory Affairs and Public Advocacy (RAPA) group, the Attorney General's Consumer Protection Unit, and the FCC Consumer Complaint Center. She described the Consumer Complaint Center as "distant, but active" and explained that the FCC must respond within 10 days to a consumer complaint.

MS. O'CONNOR addressed slide 14. She listed benefits of SB 83 to consumers, including the new mandate that rates in remote areas match rates in larger areas. She said SB 83 would allow

the industry to be nimbler and respond quickly to consumer preferences. She mentioned that the bill would allow companies to focus additional resources on consumer services and that it would fix the RCC.

MS. O'CONNOR addressed slide 15. She summarized her presentation and emphasized that the updates proposed in SB 83 would apply only to landline-accessed services.

[1:36:08 PM](#)

REPRESENTATIVE EASTMAN asked what proportion of wireless providers in Alaska belong to ATA.

MS. O'CONNOR said all the wireless providers are members.

REPRESENTATIVE EASTMAN referenced slide 12, which dealt with proposed changes to the RCC. He asked what the impact of those changes would be for cooperatives.

MS. O'CONNOR said the changes would spread the RCC across a broader base. She mentioned that it would add a few cents to every bill. She said the overall impact has not been quantified. She explained how the RCC is calculated through regulations. She added that the cooperatives support this provision of SB 83.

REPRESENTATIVE EASTMAN asked if the "cooperative members" mentioned on slide 12 are members of ATA.

MS. O'CONNOR answered correct.

REPRESENTATIVE EASTMAN asked if ATA has discussed with the cooperatives how they intend to deal with the increased costs. He asked whether the costs will be absorbed internally or if they are passed on to the consumers.

MS. O'CONNOR said it is written into statute that the RCC is a charge assessed to the consumer.

[1:38:31 PM](#)

KIM SKIPPER, Staff, Senator Chris Birch, Alaska State Legislature, summarized the changes made to SB 83 in the House Labor and Commerce Standing Committee. She explained that HCS SB 83(L&C) [Version U] has a different title from the original bill, the phrase "relating to exempt employees" having been

added to conform to changes made to the bill. She said section 2 would now amend AS 39.25.110, the State Personnel Act, to add "utilities analyst masters" to the list of Exempt Service personnel. She noted that section 3 has also been changed to amend AS 42.05.141 to provide authority to the RCA chair to employ up to five utilities analyst masters. She mentioned that the rest of the bill has been renumbered to conform to those changes.

[1:39:50 PM](#)

REPRESENTATIVE EASTMAN asked if the five employees referenced in the bill are existing employees whose positions will be changed or if the positions themselves would be new.

MS. SKIPPER said she thinks they would be new positions. She explained that RCA is currently suffering from a lack of skilled professionals. She added that it is her understanding that the addition of those positions is cost-neutral.

CHAIR CLAMAN clarified that the intention of the language is that the changes be cost-neutral and said it may require a "reshuffle." He said there is general recognition that RCA has difficulty retaining the technical experts it trains because they get hired by industry employers. He said the goal is to require RCA to reshuffle its budget in order to raise salaries for people who possess valuable expertise.

MS. O'CONNOR said she has observed that RCA has difficulties recruiting and retaining talent. She explained that this is not just a telecommunications problem. She remarked that ATA appreciates and supports RCA possessing greater technical expertise.

[1:42:08 PM](#)

CHAIR CLAMAN relayed Representative Eastman's question to Commissioner Robert M. Pickett of RCA.

ROBERT M. PICKETT, Commissioner, Regulatory Commission of Alaska, said RCA is pleased to have the ability to be more flexible with totally exempt positions. He echoed previous statements about the difficulty RCA faces in retaining talent. He said the process through which the five new positions would be allocated is not yet set though mentioned that it could entail both the retention of existing employees and the recruitment of outside talent.

1:43:40 PM

REPRESENTATIVE EASTMAN asked if the salaries for the five positions would be set by RCA.

COMMISSIONER PICKETT said the salaries would have to be pegged to the actual market rate. He noted that the amendment containing this provision was adopted only a few days prior, so RCA has not had time to look at job descriptions. He said RCA would do that "in consultation" and assess "the benchmarks of other state classified positions," though noted that thus far RCA has not found "real good comparisons."

REPRESENTATIVE EASTMAN asked what the timeline would be for hiring/converting employees once SB 83 becomes law.

COMMISSIONER PICKETT said that is difficult to say right now. He noted that there are currently other major proceedings before RCA. He remarked that it is probably not realistic to commit to doing it in the next 6 to 9 months. He said the process would likely involve bringing employees on one at a time with an initial focus on areas of greatest need.

REPRESENTATIVE EASTMAN asked him to briefly describe the roles of the five prospective employees. He asked if they would be advisors for RCA.

COMMISSIONER PICKETT said they would be technical policy advisors to assist RCA's decision-making and rule-making processes. He noted that RCA does not receive general funds, so it would have to assess RCC funding to determine how to fit the positions into its budget. He noted that RCA has a statutory cap on how much it can charge with RCCs. He explained that RCA would likely focus initially on filling vacant positions. He characterized the process as "very involved."

1:47:15 PM

CHAIR CLAMAN opened public testimony on SB 83.

1:47:49 PM

REPRESENTATIVE JONATHAN KREISS-TOMKINS, Alaska State Legislature, testified on behalf of some of his constituents. He thanked Ms. O'Connor for providing information and answering questions. He said he is convinced that many aspects of SB 83

are positive. He expressed apprehension that SB 83 is moving quickly through the legislative process and relayed concerns about the impact of SB 83 on landline service. He said it is important to put on the record the difficulties faced by some rural communities regarding landline services. He highlighted three communities in his district - Edna Bay, Coffman Cove, and Thorne Bay - that have had difficulties sustaining landline service. He noted that those communities for the most part do not have wireless access, so landline service is their only means of telephone communication. He said this makes landline service a life safety issue and a commerce issue. He relayed the following from the city clerk in Edna Bay:

[The phone company] provides service to select households in our city via a limited group of hardline phones and a 900-megahertz wireless system that they installed around 2008. The new wireless system has not performed as well as the system it replaced and resulted in less availability of service restricted only to select households. The hardline system only reaches the first few households on the main road. New residents have come to me and informed that the phone company has declined them services, stating they are no longer offering any new service to residents of Edna Bay. However, after our city and residents have made repeated attempts to reach out for improved service availability and received no inclination that they will work to help us, this felt like we're left with a community running out of time. Without critical phone infrastructure being available to new and existing residents, it creates a safety issue reaching out to residents during natural disaster events like the tsunami warnings we just had and impedes the future viability of our town.

REPRESENTATIVE KREISS-TOMKINS said there are similar anecdotes from other communities he represents. He relayed his efforts to communicate with the phone companies and ATA. He said that he appreciates the responsiveness, but the situation has not changed. He expressed that he realizes SB 83 may not directly affect the ability of residents to obtain service but stressed that there is a basic level of communication that residents should have that is not presently being afforded. He clarified that the issue affects residents moving to communities and not existing residents having service discontinued, which he explained is a nuanced but important distinction. He said he feels compelled and obligated to put on the record that there is

a problem - particularly in rural communities - with landline service.

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CHAIR CLAMAN encouraged Representative Kreiss-Tomkins's constituents to e-mail written testimony to his office. He asked Representative Kreiss-Tomkins to forward any testimony he has received.

[1:52:17 PM](#)

CHAIR CLAMAN closed public testimony on SB 83.

[1:52:38 PM](#)

CHAIR CLAMAN expressed that it his intention to move the bill today. He noted that some committee members are presently in other meetings. He shared that he plans to recess the meeting to the call of the chair.

[1:53:23 PM](#)

The committee took a brief at-ease at 1:53 p.m.

[1:53:44 PM](#)

CHAIR CLAMAN said he was assured during the at-ease that additional committee members' votes would not be necessary to report SB 83 out of committee, so the meeting will not be recessed.

[1:54:05 PM](#)

REPRESENTATIVE SHAW moved to report version 31-LS0563\U of SB 83 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS SB 83(L&C) was reported out of committee.

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SENATOR BIRCH thanked the committee for hearing and moving the bill. In response to concerns about inadequate public engagement, he noted that the bill has been two years in the making and received four hearings in the previous committee.

[1:56:02 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:56 p.m.