

Introduced: 2/17/65  
Referred: Commerce,  
Judiciary and Finance

1 IN THE HOUSE

RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 138

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Public Ser-  
7 vice Commission, defining its powers and  
8 duties; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 42.05 is repealed and re-enacted to read:

11 CHAPTER 05. ALASKA PUBLIC SERVICE COMMISSION ACT

12 ARTICLE 1. ESTABLISHMENT OF PUBLIC SERVICE COMMISSION

13 Sec. 42.05.005. PUBLIC SERVICE COMMISSION CREATED.

14 There is created within the Department of Commerce the Public  
15 Service Commission.

16 Sec. 42.05.015. COMPOSITION OF PUBLIC SERVICE COMMIS-  
17 SION. The Public Service Commission consists of five members  
18 appointed by the governor and confirmed by the legislature  
19 in joint session.

20 Sec. 42.05.025. TERM OF OFFICE. The term of office of  
21 each member is six years or until his successor is appointed  
22 and qualifies. However, the governor shall designate the  
23 initial term of office of a member of the commission who does  
24 not succeed a member. Each member holds office at the  
25 pleasure of the governor notwithstanding the member's term.

26 Sec. 42.05.035. QUALIFICATIONS OF MEMBERS. (a) The  
27 members of the commission shall be appointed with due regard  
28 to their fitness to exercise the powers and duties of the  
29 commission.

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1 (b) Each member shall be a citizen of the United  
2 States and a resident of the State of Alaska.

3 Sec. 42.05.045. CHAIRMAN OF THE COMMISSION. The  
4 governor shall designate one member of the commission to  
5 serve as chairman.

6 Sec. 42.05.055. RESTRICTIONS ON MEMBERS AND EMPLOYEES.  
7 No member of the commission nor an employee of the commission  
8 shall have any official relation or connection with, or hold  
9 stock or securities, or have a pecuniary interest in any pub-  
10 lic utility within the state. Membership in a cooperative  
11 association is not a "pecuniary interest" within the meaning  
12 of this section.

13 Sec. 42.05.065. OATH OF OFFICE. Each member of the  
14 commission shall take and subscribe to the oath of office  
15 prescribed for principal officers of the state.

16 Sec. 42.05.075. QUORUM, PRINCIPAL OFFICE, SEAL. (a)  
17 Three of the members of the commission shall constitute a  
18 quorum for the transaction of business.

19 (b) The commission shall establish a principal office.  
20 Whenever the convenience of the public or of the parties may  
21 be promoted, or delay or expense may be prevented, the com-  
22 mission may hold hearings or other proceedings at any other  
23 place.

24 (c) The commission shall have an official seal which  
25 shall be preserved in the custody of the executive director.

26 Sec. 42.05.085. COMPENSATION OF MEMBERS. Each member  
27 of the commission is entitled to the per diem established  
28 by law for other boards and commissions and shall be paid  
29 for his necessary travel expense.

1           Sec. 42.05.095. EXECUTIVE DIRECTOR. The commission  
2 is under the general administrative supervision of the com-  
3 missioner of commerce. The commissioner shall employ, fix  
4 the salary of, and exercise general administrative super-  
5 vision over an executive director of the commission who  
6 shall be charged with the performance and supervision of all  
7 administrative functions of the commission.

8           Sec. 42.05.105. LEGAL COUNSEL. The attorney general  
9 is legal counsel for the commission. He shall advise the  
10 commission in legal matters arising in the discharge of its  
11 duties, represent the commission in suits in which it is a  
12 party and upon request of the commission represent the  
13 public interest in any proceeding before the commission.

14           Sec. 42.05.115. EMPLOYMENT OF PERSONNEL. The commis-  
15 sion may, pursuant to AS 39.25, employ, fix the compensation,  
16 and define the duties of its officers, employees and agents.

17           Sec. 42.05.125. DELEGATION OF FUNCTIONS. The commis-  
18 sion may delegate the performance of any function under this  
19 chapter to any of its officers, employees, agents or admini-  
20 strative units.

21           Sec. 42.05.135. GENERAL POWERS OF COMMISSION. The  
22 commission is empowered to perform acts, conduct investiga-  
23 tions, issue, amend, and rescind orders, and to make, amend,  
24 and rescind general or special rules, regulations, and pro-  
25 cedure, pursuant to this chapter and the Alaska Administra-  
26 tive Procedure Act AS 44.62 which the commission deems  
27 necessary to carry out the provisions of this chapter.

28           Sec. 42.05.145. ANNUAL REPORT. The commission shall  
29 publish an annual report reviewing its work performed under

1 this chapter. In addition the report shall contain informa-  
2 tion and data which bears a significant relationship to the  
3 development and regulation of public utilities, carriers and  
4 others under the jurisdiction of the commission.

5 Sec. 42.05.155. PUBLICATIONS OF COMMISSION DOCUMENTS.  
6 The commission shall provide for the publication of its re-  
7 ports, orders, decisions, rules and regulations. Publication  
8 shall be in a manner and form best adapted to public in-  
9 formation and use. Commission publications of reports,  
10 orders, decisions, rules and regulations are competent evi-  
11 dence and are admissible in all courts of the State of  
12 Alaska.

13 Sec. 42.05.165. PAYMENT OF UTILITY TAX BY PUBLIC  
14 UTILITIES. Every public utility is exempted from the Alaska  
15 Business License Act, AS 42.70, but shall pay to the commis-  
16 sion a utility tax equal to 1 per cent of its gross operating  
17 revenues derived from its intrastate operations in the pre-  
18 ceding calendar year. The commission shall determine the  
19 utility tax and shall permit a reasonable time for its pay-  
20 ment. The utility tax shall be deposited in the general  
21 fund.

22 ARTICLE 2. JURISDICTION AND GENERAL  
23 AUTHORITY OF THE COMMISSION

24 Sec. 42.05.175. JURISDICTION. The jurisdiction of the  
25 commission extends to all public utilities in the state.

26 Sec. 42.05.185. INFORMAL INVESTIGATION. (a) The  
27 commission may, upon giving five days written notice to a  
28 public utility, enter its premises during business hours,  
29 and inspect its books, accounts, papers, records and

1 memoranda, and test its equipment. The commission may  
2 delegate in writing to any person its authority to conduct  
3 an informal investigation under this section.

4 (b) The commission may by order or subpoena served on  
5 a public utility in the same manner as a summons in the  
6 superior court require a public utility to produce original  
7 or verified copies of its books, accounts, papers, or  
8 records on any matter investigated under this section.

9 Sec. 42.05.195. FORMAL INVESTIGATION. The commission  
10 may institute a formal investigation by issuing an order of  
11 investigation. The order of investigation shall state the  
12 reasons for the formal investigation, designate information  
13 required to be produced by the public utility and the time  
14 and place of its production.

15 Sec. 42.05.205. HEARINGS. (a) Hearings shall be  
16 initiated

17 (1) by the commission upon issuance and service  
18 of an order of hearing upon a public utility, or

19 (2) by service of a complaint or protest by an  
20 interested party on the commission and the public utility  
21 involved.

22 (b) Hearings shall be conducted pursuant to AS  
23 44.62.410 - 480 of the Alaska Administrative Procedure Act.

24 Sec. 42.05.215. REPORTS. The commission shall make  
25 reports in writing on all proceedings under this chapter in  
26 which hearings are held. Each report shall state the com-  
27 mission's findings and conclusions together with its deci-  
28 sion and order. The recommended decision of a hearing  
29 officer may be adopted as the report of the commission. All

1 reports shall be entered of record and copies shall be fur-  
2 nished to all the parties to the proceeding.

3 Sec. 42.05.225. FINAL ORDERS OF THE COMMISSION. No  
4 final order of the commission compelling affirmative action,  
5 denying a right or privilege, or granting a right or privi-  
6 lege over protest of an interested party may be entered by  
7 the commission without giving opportunity to be heard, in-  
8 cluding, if requested by the public utility or the inter-  
9 ested party, a public hearing.

10 Sec. 42.05.235. EXPENSES OF INVESTIGATION AND HEARING.  
11 At the conclusion of any public hearing held under this  
12 chapter the commission shall determine the costs of the  
13 hearing and shall, by order, apportion the costs among the  
14 parties, including the commission, as it considers just. In  
15 assessing costs, the commission shall consider ability to  
16 pay, evidence of good faith, other relevant factors and  
17 mitigating circumstances. The commission shall permit a  
18 reasonable time for the payment of costs. The costs shall  
19 be paid to the commission and deposited in the general fund.

20 ARTICLE 3. CERTIFICATES OF PUBLIC  
21 CONVENIENCE AND NECESSITY.

22 Sec. 42.05.245. CERTIFICATES OF CONVENIENCE AND  
23 NECESSITY. No public utility shall operate after January 1,  
24 1966, without first having obtained from the commission under  
25 this chapter a certificate declaring that public convenience  
26 and necessity require or will require the operation and  
27 delineating the area where service is to be provided.

28 Sec. 42.05.255. APPLICATION. Application for a certi-  
29 ficate shall be in writing, verified, and in such form and

1 contain such information as the commission shall by regula-  
2 tion require.

3 Sec. 42.05.265. ISSUANCE. The commission shall issue  
4 a certificate authorizing the whole or any part of the ser-  
5 vice covered by the application, if it finds that the appli-  
6 cant is fit, willing and able to provide the services of a  
7 public utility, and that such services are required by the  
8 public convenience and necessity; otherwise such application  
9 shall be denied.

10 ARTICLE 4. COMMISSION REGULATION OF  
11 RATES AND SERVICE

12 Sec. 42.05.295. ESTABLISHMENTS OF REASONABLE RATES.  
13 All rates and charges made, demanded, or received by any  
14 public utility for the sale of any commodity or service in  
15 the state, and all rules and regulations affecting or per-  
16 taining to such rates or charges shall be just and reason-  
17 able, and any such rate, charge, rule or regulation that is  
18 not just and reasonable is hereby declared to be unlawful.

19 Sec. 42.05.305. PREFERENCE AND DISCRIMINATION PRO-  
20 HIBITED. No public utility shall with respect to any trans-  
21 mission or sale subject to the jurisdiction of the commis-  
22 sion

23 (1) make or grant any undue preference or advan-  
24 tage to any person or subject any person to any undue  
25 prejudice or disadvantage, or

26 (2) maintain any unreasonable difference in rates,  
27 charges, service, facilities, or in any other respect, either  
28 as between localities or as between classes of service.

29 Sec. 42.05.315. COMPLIANCE WITH RATE SCHEDULES. No

1 public utility shall charge, demand, collect or receive a  
2 greater or less compensation for a commodity or services  
3 furnished by it within the state, or for service in connec-  
4 tion therewith, than is specified in its effective printed  
5 schedule, or to collect or receive tolls or charges not  
6 specified in its schedule. A public utility may charge  
7 consumers an amount not exceeding the actual cost for extra-  
8 ordinary service provided, including the repair of damages  
9 to its facilities caused by the consumer.

10 Sec. 42.05.325. FILING OF SCHEDULES. Under rules and  
11 regulations prescribed by the commission, each public utility  
12 shall file schedules with the commission. Schedules shall  
13 show all rates and charges for any sale of commodities or  
14 services, the classifications, practices, and regulations  
15 affecting the rates and charges, and all contracts which  
16 affect or relate in any manner to the rates, charges, classi-  
17 fications, commodities, and services. Each public utility  
18 shall keep its schedules open to inspection in a form and at  
19 times and places convenient to the public.

20 Sec. 42.05.335. CHANGES IN RATES. Unless the commis-  
21 sion otherwise orders, no change shall be made by any public  
22 utility in any rate, charge, classification, commodity, or  
23 service, or in any rules, regulations, or contract relating  
24 thereto, except after thirty days notice to the commission  
25 and to the public. Such notice shall be given by filing  
26 with the commission and keeping open for public inspection  
27 new schedules stating plainly the change or changes to be  
28 made in the schedule or schedules then in force and the time  
29 when the change or changes will go into effect. The

1 commission, for good cause shown, may allow changes to take  
2 effect without requiring thirty days' notice by issuing an  
3 order specifying the changes to be made, the time they shall  
4 take effect and the manner in which they shall be filed and  
5 published.

6 Sec. 42.05.345. SUSPENSION BY COMMISSION OF NEW RATE  
7 SCHEDULES. Whenever a new schedule is filed, the commission  
8 may, either upon complaint or upon its own initiative with-  
9 out complaint, at once, or if it so orders, upon reasonable  
10 notice, enter upon an investigation and hearing on the law-  
11 fulness of such rate, charge, classification or service.  
12 Pending the investigation, hearing and decision, the commis-  
13 sion may suspend the operation of a new schedule and defer  
14 use of its rates, charges, classifications, or services, by  
15 filing a statement in writing of its reasons for the suspen-  
16 sion together with the suspended schedule and by delivering  
17 a copy of the statement to the public utility. A new  
18 schedule shall not be suspended for more than five months  
19 beyond the time it would otherwise go into effect. After  
20 full hearings, either completed before or after the rate,  
21 charge, classification or service goes into effect, the  
22 commission may issue orders granting, denying or modifying  
23 in whole or in part the new schedule. If the proceeding  
24 has not been concluded and an order issued at the expira-  
25 tion of five months, the proposed change of rate, charge,  
26 classifications, or service shall go into effect at the end  
27 of such period. In the case of a proposed increased rate  
28 or charge, the commission may by order require the inter-  
29 ested public utility or public utilities to keep accurate

1 account in detail of all amounts received by reason of such  
2 increase, specifying by whom and in whose behalf such amounts  
3 are paid. Upon completion of the hearing and decision the  
4 commission may by order require the public utility to refund  
5 with interest, to the persons in whose behalf such amounts  
6 were paid, that portion of the increased rates or charges  
7 which by its decision was found not to be justified. At  
8 any hearing involving a rate or charge sought to be in-  
9 creased the burden of proof to show that the increased rate  
10 or charge is just and reasonable shall be upon the public  
11 utility. The commission shall give to the hearing and deci-  
12 sion of such questions preference over other questions pend-  
13 ing before it and decide them as speedily as possible.

14 Sec. 42.05.355. POWER OF COMMISSION TO FIX RATES.

15 Whenever the commission, after an investigation and hearing  
16 upon its own motion or upon complaint, finds that any rate,  
17 charge or classification, demanded, observed, charged or  
18 collected by any public utility for any sale of a service or  
19 commodity subject to the jurisdiction of the commission, or  
20 that any rule, regulation, practice, or contract affecting  
21 such rate, charge, or classification is unjust, unreasonable,  
22 unduly discriminatory or preferential, the commission shall  
23 determine the just and reasonable rate, charge, classifica-  
24 tion, rule, regulation, practice, or contract to be there-  
25 after observed and in force, and shall fix the same by order.

26 Sec. 42.05.365. SERVICE. (a) Wherever the commission  
27 upon investigation and after opportunity for hearing, shall  
28 find that any practice or service of any public utility is  
29 inadequate, insufficient, unjust, unreasonable, unsafe,

1 preferential or unjustly discriminatory, the commission  
2 shall determine the proper, adequate, or sufficient practice  
3 or service to be furnished and shall fix the same by its  
4 order, rule or regulation.

5 (b) The commission may examine the management of a  
6 public utility, including staffing patterns and wage and  
7 salary scales. The commission, after opportunity for hear-  
8 ing, may order the correction of abuses found which adversely  
9 affect the cost or quality of the product or service of the  
10 public utility.

11 Sec. 42.05.375. JOINT USE AND INTERCONNECTION OF  
12 FACILITIES. (a) Every public utility having tracks, con-  
13 duits, subways, poles or other equipment shall for a reason-  
14 able compensation permit the use of this equipment by any  
15 other public utility whenever public convenience and neces-  
16 sity require this use and the use will not result in  
17 substantial injury to the owner of the equipment, or in  
18 substantial detriment to the service to the customers or  
19 consumers of the owner. The cost of modifications or addi-  
20 tions necessary to a joint use shall be at the expense of  
21 the public utility requesting the use of the facilities.  
22 This section does not authorize a public utility to contract  
23 or share the use of the facilities of another public utility  
24 offering the same service when the purpose of the joint use  
25 is to violate the service area of the utility owning the  
26 facilities.

27 (b) Every public utility for the convenience of tele-  
28 phone messages shall permit physical connection to be made  
29 and telephone service to be furnished between a telephone

1 system operated by it and the telephone system or toll line  
2 operated by another public utility, or between its toll line  
3 and the toll line of another public utility, whenever public  
4 convenience and necessity require the physical connection  
5 and the physical connection will not result in substantial  
6 injury to the owner or other users of the facilities of  
7 either public utility or in substantial detriment to the  
8 service of either public utility. The term "physical con-  
9 nection" means such trunk lines or complete wire circuits  
10 and connections as are required to furnish reasonably  
11 adequate telephone service between the public utilities.

12 (c) If any prospective consumers or patrons are situ-  
13 ated within one mile of the distribution facilities of a  
14 public utility which generates, transmits, delivers, or fur-  
15 nishes electric energy and power and the prospective con-  
16 sumer constructs and installs the necessary facilities in  
17 compliance with plans and specifications furnished by the  
18 utility, the utility shall permit the physical connection  
19 to be made and service to be furnished to that person. The  
20 utility may prohibit the connection if it would result in  
21 substantial detriment to other consumers of the utility.  
22 This section shall not be interpreted to require a utility  
23 to assume maintenance or other responsibility for facilities  
24 which it does not own.

25 Sec. 42.05.385. APPLICATION TO COMMISSION IN CASE OF  
26 FAILURE TO AGREE UPON JOINT USE OR INTERCONNECTION. In case  
27 of failure to agree upon the joint use or interconnection of  
28 facilities or the conditions or compensation for joint use  
29 or interconnections, the public utility or an interested

1 person may apply to the commission. If, after investiga-  
2 tion, the commission finds that public convenience and  
3 necessity require the joint use or physical connection, and  
4 that the use or physical connection does not result in sub-  
5 stantial injury to the owner or users of the equipment or  
6 the facilities, nor in substantial detriment to the services  
7 furnished by the owner or users of the equipment or facili-  
8 ties, it shall

9 (1) order that the use be permitted;

10 (2) prescribe reasonable conditions and compensa-  
11 tion for the use;

12 (3) order that the physical connection be made;

13 (4) determine the time and manner of connection;

14 (5) determine the party who shall pay the expense  
15 of making and maintaining the connection.

16 Sec. 42.05.395. EFFECT OF COMMISSION ORDER FOR JOINT  
17 USE OR INTERCONNECTION. The use ordered by the commission  
18 shall be permitted and the physical connection made under  
19 terms, conditions, and compensation prescribed by the com-  
20 mission. The terms and conditions and compensation upon  
21 which the physical connection is made are subject to court  
22 review upon the complaint of one of the parties to the joint  
23 use or interconnection.

24 Sec. 42.05.405. STANDARD UNITS AND EXPENSES PER UNIT.  
25 For each kind of public utility, the commission shall pre-  
26 scribe suitable and convenient standard commercial units of  
27 product or service. These units are lawful units for pur-  
28 poses of this chapter. Each public utility shall furnish  
29 the commission with such accounts, reports and information

1 based upon the prescribed units as the commission requires.

2 Sec. 42.05.415. STANDARDS FOR MEASUREMENT. The commis-  
3 sion shall fix by regulation adequate and serviceable stand-  
4 ards for the measurement of quality, pressure, voltage or  
5 other conditions, including, but not limited to, quantity  
6 and quality of service pertaining to the supply of the  
7 product or service furnished by a public utility and shall  
8 prescribe reasonable regulations for examinations and test-  
9 ing of the product or service and for the measurement of it.  
10 In doing so, the commission shall conform to the standard  
11 practices of the industry or activity regulated.

12 Sec. 42.05.425. TESTING OF METER STANDARDS. The com-  
13 mission shall provide by regulation for the annual testing  
14 and certification of meter standards by laboratories accept-  
15 able to the commission. The commission shall also provide  
16 regulations for the taking of appeals to the commission from  
17 the findings of a utility which tests its own meters or  
18 appliances for measurement.

19 Sec. 42.05.435. TESTING OF APPLIANCES. The commission  
20 shall provide for the examination and testing of appliances  
21 used for the measuring of a product or service of a public  
22 utility and may purchase equipment, apparatus, and standards  
23 required for this purpose. The commissioner of commerce may  
24 assign the examination and testing function to the division  
25 of weights and measures. A consumer or user may have the  
26 equipment or apparatus tested upon the payment of a reason-  
27 able fee established by the commission. The commission shall  
28 establish by regulation allowable tolerances with respect to  
29 the functioning or operation of the equipment or apparatus.

1 If the measuring equipment or apparatus of the utility per-  
2 forms within the tolerances, the person requesting the tests  
3 shall pay the costs of the tests; otherwise, the utility  
4 concerned shall pay the costs and the fee paid by the person  
5 requesting the test shall be refunded to him by the utility.

6 Sec. 42.05.445. CLASSES OF SERVICE. The commission  
7 shall provide for a comprehensive classification of services  
8 for each public utility. The classification shall take into  
9 account the quantity used, the time when used, the purpose  
10 for which used and other reasonable factors. Each public  
11 utility shall conform its schedules of rates, tolls and  
12 charges to the classification.

13 ARTICLE 5. VALUATION AND ACCOUNTING PROCEDURES

14 Sec. 42.05.455. VALUATION OF PUBLIC UTILITY PROPERTIES.

15 The commission may investigate and ascertain the actual  
16 legitimate cost of the property used or useful of every  
17 public utility, the depreciation therein, and when found  
18 necessary for rate-making purposes, other facts which bear  
19 on the determination of such cost or depreciation, and the  
20 fair value of such property. No consideration shall be  
21 given to good will, going value, or natural resources.

22 Every public utility, upon request, shall file with the  
23 commission an inventory of all or any part of its property  
24 and a statement of the original cost thereof, and shall keep  
25 the commission informed regarding the cost of all additions,  
26 improvements, extensions, and new construction.

27 Sec. 42.05.465. SYSTEM OF ACCOUNTS. The commission  
28 may prescribe and every public utility shall use and follow  
29 a generally recognized system of public accounting. Every

1 public utility engaged, directly or indirectly, in any other  
2 business shall keep separate accounts relating to that  
3 business. Except as the commission may provide, no property,  
4 expense or revenue utilized in or derived from that business  
5 shall be considered in establishing the rates and charges of  
6 the public utility for its services.

7 Sec. 42.05.475. DEPRECIATION FUND. The commission  
8 shall prescribe regulations governing the use and investment  
9 of depreciation funds by public utilities. The commission  
10 may accept a method of use and investment of depreciation  
11 funds by public utilities prescribed and maintained under  
12 regulations of a federal agency or a bond ordinance.

13 ARTICLE 6. SECURITIES AND DISTRIBUTION OF SURPLUS AND PROFITS

14 Sec. 42.05.485. ISSUANCE OF SECURITIES. (a) No secu-  
15 rities shall be issued by any public utility until it shall  
16 first have obtained from the commission and recorded upon its  
17 books a certificate authorizing the issue. The commission  
18 shall not authorize the issuance of securities for any pur-  
19 poses which are not proper corporate purposes, or in an  
20 amount greater than is reasonably necessary for such corpo-  
21 rate purposes, taking into consideration the immediate  
22 requirements of the utility, its prospective requirements  
23 over a reasonable period in the future, and other relevant  
24 considerations.

25 (b) All securities issued in violation of any of the  
26 provisions of the chapter shall be void. However, securities  
27 issued by a utility, for which a certificate authorizing the  
28 issue should have been issued except that because of excus-  
29 able neglect or mistake it was not applied for, may be

1 validated by the commission upon application of the utility.  
2 The application shall be signed and verified by the presi-  
3 dent, shall provide the information required by sec. 505 of  
4 this chapter, and a concise statement of the reasons why  
5 the application was not made before the securities were  
6 issued. If the commission finds and determines that failure  
7 to make application was due to excusable neglect or mistake,  
8 was not occasioned by any design to evade compliance with  
9 the law, and the issue was otherwise in accordance with law,  
10 the commission shall issue to the corporation a validating  
11 certificate.

12 Sec. 42.05.495. CONSIDERATION FOR SECURITY ISSUANCE.

13 (a) No securities shall be issued by any public utility  
14 except for money, property or services actually received by  
15 it. The amount of money, and the value of the property or  
16 the services to be received shall be:

17 (1) in case of stock having a par value, not less  
18 than the par value thereof;

19 (2) in case of stock having no par value, not less  
20 than the amount specified in the commission's certificate of  
21 authority as the selling price of the stock;

22 (3) in case of evidences of indebtedness, such  
23 sum as the commission may determine to be a reasonable price,  
24 but in any event, not less than 75 per cent of their face  
25 value.

26 (b) The commission may in exceptional cases for good  
27 cause waive the provisions of this section.

28 Sec. 42.05.505. APPLICATION TO ISSUE SECURITIES. Any  
29 public utility desiring to issue securities shall file with

1 the commission an application setting forth:

2 (1) the amount and character of the proposed  
3 securities;

4 (2) the purposes for which they are to be issued;

5 (3) the terms on which securities are to be  
6 issued, including a detailed description and a detailed state-  
7 ment of the value of any property or services that are to be  
8 received in full or partial payment therefor, and of any  
9 property or services already received by the public utility,  
10 the cost of which is to be paid by the public utility with  
11 securities; and

12 (4) a statement of the assets and liabilities of  
13 the utility as of the most recent available date, together  
14 with such other financial information as the commission may  
15 require.

16 Sec. 42.05.515. CERTIFICATE OF AUTHORITY. (a) Upon  
17 the conclusion of its investigation, and hearing if neces-  
18 sary, should the commission find that the proposed issue  
19 complies with the provisions of this chapter and that the  
20 financial condition, plan of operation and proposed under-  
21 takings of the utility will afford reasonable protection to  
22 purchasers of the securities to be issued, it shall issue to  
23 the utility a certificate of authority stating:

24 (1) the amount of securities which may be issued  
25 and the character of the same;

26 (2) the purposes for which they are to be issued  
27 in such detail as the commission may deem necessary; and

28 (3) the terms on which they are to be sold or  
29 otherwise disposed of, including a description of and a

1 determination of the value of any property or services to  
2 be received in partial or full payment therefor.

3 (b) The utility shall not issue the securities on any  
4 other terms or for any other purposes than that stated in  
5 the certificate. The commission may attach to the issuance  
6 of any certificate under this chapter such terms, conditions,  
7 or requirements as in its judgment are reasonably necessary  
8 to protect the public interests.

9 Sec. 42.05.525. IMPAIRED CAPITAL. Whenever the com-  
10 mission finds that the capital of a public utility is  
11 impaired, it may after investigation and hearing, issue an  
12 order directing the public utility to cease paying dividends  
13 on its common stock until such impairment has been removed.

14 Sec. 42.05.535. DISTRIBUTION OF SURPLUS, PROFITS AND  
15 OPERATING MARGINS. The surplus, profits and operating mar-  
16 gins of public utilities shall be distributed in accordance  
17 with the bylaws or ordinances controlling the utility. The  
18 commission may adopt regulations governing the distribution  
19 of surplus, profits, and operating margins by public utili-  
20 ties. The commission may upon investigation and hearing  
21 issue orders governing the distribution of surplus, profits  
22 or operating margins of a public utility or may amend or  
23 rescind its orders.

24 ARTICLE 7. ENFORCEMENT, JUDICIAL  
25 REVIEW AND PENALTIES

26 Sec. 42.05.545. EFFECT OF RULES, REGULATIONS AND  
27 ORDERS. Rules, regulations and orders adopted and issued  
28 by the commission in accordance with this chapter and the  
29 Administrative Procedure Act (AS 44.62) have the effect of

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law.

Sec. 42.05.555. REVIEW AND ENFORCEMENT. (a) All final orders of the commission are subject to judicial review in accordance with the Alaska Administrative Procedure Act (AS 44.62).

(b) The commission may apply to the superior court for enforcement of this chapter, the rules and regulations adopted under it and the orders of the commission. If after a hearing the court determines that the statute, rules and regulations are valid and that the order was regularly made and duly issued, it shall enforce the order by injunction and other proper process.

Sec. 42.05.565. PENALTIES. Whoever violates any provision of this chapter, any rule and regulation adopted under it or any valid order of the commission shall pay a penalty of not more than \$500 for each day such violation continues.

Sec. 42.05.575. JOINDER OF ACTIONS. Appeals from orders of the commission, applications for enforcement of commission orders and actions for recovery of a penalty may be joined, provided, however, that the superior court may in the interests of justice separate the actions.

ARTICLE 8. GENERAL PROVISIONS

Sec. 42.05.585. EMINENT DOMAIN. A public utility may exercise the power of eminent domain for public uses authorized by law.

Sec. 42.05.595. DEFINITIONS. In this chapter  
(1) "commission" means the Public Service Commission.  
(2) "Public utility" or "utility" includes every



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corporation, whether municipal, public, cooperative or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages or controls any plant or system for the generation, transmission, or distribution of electric energy and power, for the furnishing of telephone or telegraph communications, for the transmission or distribution of heat, natural or manufactured gas, oil or other petroleum products, or water, or for the furnishing of community sewer services, and the plant and facilities used for any of the foregoing purposes; this chapter does not apply to a person who furnishes water or oil or other petroleum products by tank, wagon, or similar conveyance. This chapter does not apply to a public utility that does a gross annual business of less than \$100,000, provided, however, that no such utility shall intrude upon the service area of a public utility subject to this chapter.

\* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

