

1 IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

2 SENATE BILL NO. 180

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
7 Service 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 AS 42.05 is repealed and re-enacted to read: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 5. ALASKA PUBLIC SERVICE COMMISSION ACT

12 ARTICLE 1. ESTABLISHMENT OF PUBLIC SERVICE COMMISSION

13 Sec. 42.05.005. CREATION AND COMPOSITION. There is
14 created the Public Service Commission consisting of five
15 members appointed by the governor and confirmed by the
16 legislature in joint session.

17 Sec. 42.05.025. TERM OF OFFICE. The term of office of
18 each member is five years or until his successor is appointed
19 and qualifies. The term of the members shall begin on Febru-
20 ary 1 and is subject to all provisions of AS 39.05.060, pro-
21 vided however no member shall be removed from office except
22 for malfeasance or misfeasance in the performance of his
23 official duties or unless he is so incapacitated as to sub-
24 stantially prevent him from performing his duties.

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

29 (b) Each member shall be a citizen of the United

1 States and a resident of the State of Alaska.

2 Sec. 42.05.045. CHAIRMAN OF THE COMMISSION. The com-
3 mission shall elect one of its members as chairman.

4 Sec. 42.05.055. RESTRICTIONS ON MEMBERS AND EMPLOYEES.
5 No member of the commission nor an employee of the commis-
6 sion shall have any official relation or connection with,
7 or hold stock or securities, or have a pecuniary interest in
8 any public utility within the state. Membership in a co-
9 operative association is not a "pecuniary interest" within
10 the meaning of this section. No member or employee shall
11 act in any matter in which his relationship or affiliation
12 with any organization, company or otherwise creates a con-
13 flict of interest or unfair advantage between the member or
14 employee and those subject to regulation by the commission.

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

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

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

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

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

1 his necessary travel expense, and \$2,500 a year.

2 Sec. 42.05.095. EXECUTIVE DIRECTOR. After February 15,
3 1967, the commission shall employ an executive director of
4 the commission who shall be charged with the performance and
5 supervision of all administrative functions of the commis-
6 sion. Before February 15, 1967, the commissioner of commerce
7 shall employ the executive director. The executive director
8 shall be in the partially exempt service under AS 39.25.

9 Sec. 42.05.105. LEGAL COUNSEL AND HEARING OFFICERS.
10 The commission may employ legal counsel and hearing officers
11 from time to time as needed and at such times as the Depart-
12 ment of Law is representing the public interest or any other
13 party before the commission. The Department of Law shall
14 furnish legal counsel on a continuing basis. The attorney
15 general shall at the request of the commission represent the
16 commission in suits in which it is a party, and may represent
17 the public interest in any proceeding before the commission.

18 Sec. 42.05.115. EMPLOYMENT OF PERSONNEL. Officers, em-
19 ployees and agents of the commission, other than the executive
20 director, legal counsel and hearing officers are appointed to
21 their positions in accordance with AS 39.25.020(2) and they
22 shall be in the classified service under AS 39.25.

23 Sec. 42.05.125. DELEGATION OF FUNCTIONS. The commis-
24 sion may delegate the performance of any function under this
25 chapter to any of its officers, employees, agents or admin-
26 istrative units, except as to the promulgation of rules and
27 regulations, and the determination of controversies.

28 Sec. 42.05.135. GENERAL POWERS OF COMMISSION. The
29 commission is empowered to perform acts, conduct investiga-

1 tions, issue, amend, and rescind orders, and to make, amend,
2 and rescind general or special rules, regulations, and pro-
3 cedure under this chapter and the Alaska Administrative Pro-
4 cedure Act (AS 44.62) which the commission considers necessary
5 to carry out the provisions of this chapter.

6 Sec. 42.05.145. ANNUAL REPORT. The commission shall
7 publish an annual report reviewing its work and submit it to
8 the legislature by February 15 of each year. In addition the
9 report shall contain information and data which bears a signi-
10 ficant relationship to the development and regulation of
11 public utilities, carriers and others under the jurisdiction
12 of the commission.

13 Sec. 42.05.155. PUBLICATION OF COMMISSION DOCUMENTS.
14 The commission shall provide for the publication of its re-
15 ports, orders, decisions, rules and regulations. Publication
16 shall be in a manner and form best adapted to public informa-
17 tion and use.

18 Sec. 42.05.165. PAYMENT OF UTILITY TAX BY PUBLIC UTILI-
19 TIES. Every public utility shall pay to the commission a
20 utility tax equal to .50 per cent of its gross operating
21 revenues derived from its intrastate operations in the preced-
22 ing calendar year, commencing with the calendar year 1966, but
23 not including revenues derived from the sale of commodities.
24 However the commission shall determine the utility tax and
25 shall permit a reasonable time for its payment. The utility
26 tax shall be deposited in the general fund.

27 ARTICLE 2. JURISDICTION AND GENERAL

28 AUTHORITY OF THE COMMISSION

29 Sec. 42.05.175. JURISDICTION. The jurisdiction of the

1 commission extends to all public utilities in the state, as
2 defined in sec. 595 of this chapter.

3 Sec. 42.05.185. INFORMAL INVESTIGATION. (a) The com-
4 mission may, upon giving five days written notice to a public
5 utility, enter its premises during business hours, and inspect
6 its books, accounts, papers, records and memoranda, and test
7 its equipment. The commission may delegate in writing to any
8 of its employees its authority to conduct an informal investi-
9 gation under this section.

10 (b) The commission may by order or subpoena served on a
11 public utility in the same manner as a summons in the superior
12 court, or served by certified mail, require a public utility
13 to produce original or verified copies of its books, accounts,
14 papers, or records on any matter investigated under this
15 section.

16 Sec. 42.05.195. FORMAL INVESTIGATION. The commission
17 may institute a formal investigation by issuing an order of
18 investigation. The order of investigation shall state the
19 reasons for the formal investigation, designate information
20 required to be produced by the public utility and the time
21 and place of its production.

22 Sec. 42.05.205. HEARINGS. (a) Hearings shall be
23 initiated by the commission upon issuance and service of an
24 order of hearing upon a public utility.

25 (b) Hearings shall be conducted pursuant to AS 44.62.-
26 410 - 44.62.480 of the Alaska Administrative Procedure Act.

27 Sec. 42.05.215. REPORTS. The commission shall make
28 reports in writing on all proceedings under this chapter in
29 which hearings are held. Each report shall state the commis-

1 sion's findings, and the basis for the findings, and conclu-
2 sions together with its decision and order. The recommended
3 decision of a hearing officer may be adopted as the report of
4 the commission. All reports shall be entered of record and
5 copies shall be furnished to all the parties to the proceed-
6 ing.

7 Sec. 42.05.225. FINAL ORDERS OF THE COMMISSION. No
8 final order of the commission compelling affirmative action,
9 denying a right or privilege, or granting a right or privilege
10 over protest of an interested party may be entered by the com-
11 mission without giving opportunity to be heard, including, if
12 requested by the public utility or any interested party, a
13 public hearing.

14 ARTICLE 3. CERTIFICATE OF PUBLIC
15 CONVENIENCE AND NECESSITY

16 Sec. 42.05.245. CERTIFICATES OF CONVENIENCE AND NECES-
17 SITY. No public utility shall operate after January 1, 1966,
18 without first having obtained from the commission under this
19 chapter a certificate declaring that public convenience and
20 necessity require or will require the operation and delineat-
21 ing the area where service is to be provided. All certifi-
22 cates of convenience and necessity now issued to a utility
23 shall remain in effect but they are subject to modification
24 where there are areas of conflict with utilities that have
25 not previously been required to have a certificate.

26 Sec. 42.05.255. APPLICATION. Application for a certifi-
27 cate shall be in writing, verified, and in such form and con-
28 tain such information as the commission shall by regulation
29 require.

1 Sec. 42.05.265. ISSUANCE. The commission shall issue a
2 certificate authorizing the whole or any part of the service
3 covered by the application, if it finds that the applicant is
4 fit, willing and able to provide the services of a public
5 utility, and that such services are required by the public
6 convenience and necessity or it may issue a certificate condi-
7 tioned upon the applicant serving an area not included in the
8 application; otherwise such application shall be denied.

9 ARTICLE 4. COMMISSION REGULATION OF
10 RATES AND SERVICE

11 Sec. 42.05.295. ESTABLISHMENT OF REASONABLE RATES. All
12 rates and charges made, demanded, or received by any public
13 utility for the sale of any service in the state, and all
14 rules and regulations affecting or pertaining to such rates
15 or charges shall be just and reasonable.

16 Sec. 42.05.305. PREFERENCE AND DISCRIMINATION PROHIBITED.
17 No public utility shall with respect to any transmission or
18 sale subject to the jurisdiction of the commission

19 (1) make or grant any unreasonable preference or
20 advantage to any person or subject any person to any un-
21 reasonable prejudice or disadvantage, or

22 (2) maintain any unreasonable difference in
23 rates, charges, service, facilities, or in any other respect,
24 either as between localities or as between classes of
25 service, except that municipally owned utilities may add
26 charges to persons situated within the municipal boundaries
27 which charges shall be separately stated for billing or
28 invoice purposes.

29 Sec. 42.05.315. COMPLIANCE WITH RATE SCHEDULES. No

1 public utility shall charge, demand, collect or receive a
2 greater or lesser compensation for services furnished by it
3 within the state, or for service in connection therewith,
4 than is specified in its effective published schedule, nor
5 shall the utility collect or receive tolls or charges not
6 specified in its schedule. A public utility may charge
7 consumers an amount not exceeding the cost for extraordinary
8 service provided, including the repair of damages to its
9 facilities.

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 services, the
14 classifications, practices, and regulations directly affect-
15 ing the rates and charges, and all contracts which affect
16 the rates, charges, classifications, and services. Each
17 public utility shall keep its schedules open to inspection
18 in a form and at times and places convenient to the public.

19 Sec. 42.05.335. CHANGES IN RATES. Unless the commis-
20 sion otherwise orders, no change shall be made by any public
21 utility in any rate, charge, classification, or service, or
22 in any rules, regulations, or contract relating thereto, ex-
23 cept after 30 days notice to the commission and to the
24 public. Such notice shall be given by filing with the com-
25 mission and keeping open for public inspection new schedules
26 stating plainly the change or changes to be made in the
27 schedule or schedules then in force and the time when the
28 change or changes will go into effect. The commission may
29 prescribe additional means of giving notice. The commission,

1 for good cause shown, may allow changes to take effect with-
2 out requiring 30 days notice by issuing an order specifying
3 the changes to be made, the time they shall take effect and
4 the manner in which they shall be filed and published.

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

1 increase, specifying by whom and in whose behalf such amounts
2 are paid. Upon completion of the hearing and decision the
3 commission may by order require the public utility to refund
4 with interest, not exceeding 6 per cent a year, to the
5 persons in whose behalf such amounts were paid, that portion
6 of the increased rates or charges which by its decision was
7 found not to be justified. At any hearing involving a rate
8 or charge sought to be increased the burden of proof to
9 show that the increased rate or charge is just and reasonable
10 shall be upon the public utility. The commission shall give
11 to the hearing and decision of such questions preference over
12 other questions pending before it and decide them as speedily
13 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
19 subject to the jurisdiction of the commission, or that any
20 rule, regulation, practice, or contract affecting such rate,
21 charge, or classification is unjust, unreasonable, unduly
22 discriminatory or preferential, the commission shall deter-
23 mine the just and reasonable rate, charge, classification,
24 rule, regulation, practice, or contract to be thereafter
25 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 shall
2 determine the proper, adequate, or sufficient practice or
3 service to be furnished and shall fix the same by its order,
4 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 hearing,
8 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 sewers, tracks,
13 conduits, subways, utilidors, poles, pole lines, pipes, pipe
14 lines, mains or other distribution or transmission media
15 shall for a reasonable compensation permit the use thereof
16 by any other public utility whenever public convenience and
17 necessity require this use and the use will not result in
18 substantial injury to the owner, or in substantial detriment
19 to the service to the customers or consumers of the owner.
20 The cost of modifications or additions necessary to a joint
21 use shall be at the expense of the public utility requesting
22 the use of the media. This section does not authorize a
23 public utility to contract or share the use of the media of
24 another public utility offering the same service when the
25 purpose of the joint use is to violate the service area of
26 the utility owning the media.

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 ade-
11 quate telephone service between the public utilities.

12 (c) If any prospective consumers or patrons are situ-
13 ated within a reasonable distance of the distribution facili-
14 ties of a public utility which generates, transmits, delivers,
15 or furnishes electric energy and power and the prospective
16 consumer 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 to
19 be made and service to be furnished to that person. The
20 utility may deny the connection if it would result in sub-
21 stantial detriment to other consumers of the utility, or if
22 safety hazards would be created thereby. This section shall
23 not be interpreted to require a utility to assume maintenance
24 or other responsibility for facilities 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 media or the conditions or compensation for joint use or
29 interconnections, the public utility or an interested person

1 may apply to the commission. If, after investigation, the
2 commission finds that public convenience and necessity
3 requires the joint use or physical connection, and that the
4 use or physical connection does not result in substantial
5 injury to the owner or users of the media, nor in substantial
6 detriment to the services furnished by the owner or users
7 thereof, nor in the creation of safety hazards, it shall

8 (1) order that the use be permitted;

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

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

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

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

15 Sec. 42.05.405. STANDARD UNITS AND EXPENSES PER UNIT.
16 For each kind of public utility, the commission shall pre-
17 scribe suitable and convenient standard commercial units of
18 product or service. These units are lawful units for pur-
19 poses of this chapter. Each public utility shall furnish
20 the commission with such accounts, reports and information
21 based upon the prescribed units as the commission requires.

22 Sec. 42.05.415. STANDARDS FOR MEASUREMENT. The commis-
23 sion shall fix by regulation adequate and serviceable stand-
24 ards for the measurement of quality, pressure, voltage or
25 other conditions, including, but not limited to, quantity
26 and quality of service pertaining to the supply of the
27 product or service furnished by a public utility and shall
28 prescribe reasonable regulations for examinations and test-
29 ing of the product or service and for the measurement of it.

1 In doing so, the commission shall conform to the standard
2 practices of the industry or activity regulated.

3 Sec. 42.05.425. TESTING OF METER STANDARDS. The com-
4 mission shall provide by regulation for the periodic testing
5 and certification of meter standards by laboratories accept-
6 able to the commission. The commission shall also provide
7 regulations for the taking of appeals to the commission from
8 the findings of a utility which tests its own meters or
9 appliances for measurement.

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

17 ARTICLE 5. VALUATION AND ACCOUNTING PROCEDURES

18 Sec. 42.05.455. VALUATION OF PUBLIC UTILITY PROPERTIES.
19 The commission may, when necessary for rate-making purposes,
20 investigate and ascertain the actual legitimate costs of the
21 property used or useful of every public utility, the depreci-
22 ation therein, and when found necessary for rate-making
23 purposes, other facts which bear on the determination of
24 such cost or depreciation, and the fair value in fact of
25 such property. No consideration shall be given to good will,
26 going value, or natural resources. Every public utility,
27 upon request, shall file with the commission an inventory of
28 all or any part of its property and a statement of the
29 original cost thereof, and shall keep the commission informed

1 regarding the cost of all additions, improvements, extensions,
2 and new construction.

3 Sec. 42.05.465. SYSTEMS OF ACCOUNTS AND REPORTS. (a)
4 Every public utility, including municipally-owned utilities
5 which are otherwise exempt from this chapter, shall use and
6 follow generally recognized systems of public utility account-
7 ing. If a public utility does not adopt generally recognized
8 systems of public utility accounting, the commission shall
9 prescribe the accounting system which the utility shall
10 adopt. However, the commission may waive this requirement
11 if the public utility does a gross annual business of less
12 than \$100,000. Each public utility, including municipally-
13 owned utilities which are otherwise exempt from this chapter,
14 shall submit reports which the commission requires on forms
15 furnished by the commission.

16 (b) Every public utility engaged, directly or indirect-
17 ly, in any other business or a subsidiary business shall
18 keep separate accounts relating to that business. Except as
19 the commission provides, no property, expense or revenue
20 utilized in or derived from that business shall be considered
21 in establishing the rates and charges of the utility for its
22 public services.

23 ARTICLE 6. SECURITIES AND DISTRIBUTION OF
24 SURPLUS PROFITS.

25 Sec. 42.05.505. STATEMENT OF ISSUANCE OF SECURITIES.
26 Any public utility, except a municipally or consumer owned
27 utility, before issuing securities shall file with the com-
28 mission a statement setting out:

29 (1) the amount and character of the proposed

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securities;

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

(3) the terms on which securities are to be issued, including a detailed description and a detailed statement of the value of any property or services that are to be received in full or partial payment therefor, and of any property or services already received by the public utility, the cost of which is to be paid by the public utility with securities; and

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

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

Sec. 42.05.535. DISTRIBUTION OF SURPLUS, PROFITS AND OPERATING MARGINS. The surplus, profits and operating margins of public utilities shall be distributed in accordance with the bylaws or ordinances controlling the utility. The commission may adopt regulations governing the distribution of surplus, profits, and operating margins by public utilities. The commission may upon investigation and hearing issue orders governing the distribution of surplus, profits or operating margins of a public utility or may amend or rescind its orders.

ARTICLE 7. ENFORCEMENT, JUDICIAL

1 REVIEW AND PENALTIES

2 Sec. 42.05.545. EFFECT OF RULES, REGULATIONS AND
3 ORDERS. Rules, regulations and orders adopted and issued by
4 the commission in accordance with this chapter and the Admin-
5 istrative Procedure Act (AS 44.62) have the effect of law.

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

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

17 Sec. 42.05.565. PENALTIES. Whoever knowingly violates
18 any valid written rule, regulation or order of the commission
19 shall be fined not more than \$500 by the superior court for
20 each day such violation continues.

21 Sec. 42.05.575. JOINDER OF ACTIONS. Pursuant to ap-
22 plicable court rules, appeals from orders of the commission,
23 applications for enforcement of commission orders and actions
24 for recovery of a penalty may be joined, provided, however,
25 that the court may in the interests of justice separate the
26 actions.

27 ARTICLE 8. GENERAL PROVISIONS

28 Sec. 42.05.585. EMINENT DOMAIN. A public utility may
29 exercise the power of eminent domain for public uses

1 authorized by law. This section does not authorize the use
2 of a declaration of taking by any public utility which does
3 not have that power under another law.

4 Sec. 42.05.587. REGULATION BY MUNICIPALITY. If there
5 is a conflict between a rule, regulation, order or ordinance
6 of a municipality and a rule, regulation or order of the
7 commission, the latter shall prevail.

8 Sec. 42.05.590. DISCRIMINATION BY EXEMPT UTILITIES.
9 On a complaint from a consumer of a municipally owned
10 utility, otherwise exempt from regulation under this chapter,
11 alleging discrimination prohibited by sec. 305 of this
12 chapter, the commission may conduct a formal or informal
13 investigation and hearing and enter such order as it con-
14 siders just and reasonable and the order may be enforced
15 in the same manner as any other order of the commission
16 under this chapter.

17 Sec. 42.05.593. VIOLATION OF CHAPTER. Home rule
18 cities and boroughs, as well as other municipalities, may
19 not violate the provisions of this chapter.

20 Sec. 42.05.595. DEFINITIONS. In this chapter

21 (1) "commission" means the Public Service Com-
22 mission;

23 (2) "public utility" or "utility" includes every
24 corporation, whether municipal, public, cooperative or
25 otherwise, company, individual, or association of individuals
26 their lessees, trustees, or receivers appointed by a court,
27 that owns, operates, manages or controls any plant or system
28 for the generation, transmission, or distribution of electric
29 energy and power, for the furnishing of telephone or tele-

1 graph communications, for the transmission or distribution of
2 heat, natural or manufactured gas, or water, for the furnish-
3 ing of sewer services, and the plant and facilities used for
4 any of the foregoing purposes; but this chapter does not
5 apply to

6 (A) municipally owned utilities (except with
7 their consent to all provisions of this chapter) if no
8 other utility regulated under this chapter provides a
9 like utility service to consumers situated within an
10 integrated economic area; or

11 (B) water services provided by the owners
12 of improved or unimproved land solely for themselves
13 or the tenants or occupants or to community water
14 system agreements among not more than 100 parties; or

15 (C) a person who furnishes water or oil or
16 other petroleum products by tank, wagon, or similar
17 conveyance; or

18 (D) a person, as defined in AS 01.10.060(7),
19 who generates, transmits or distributes the products or
20 services of a public utility solely for his own use,
21 or for the use of his employees and their dependents; or

22 (E) the furnishing of television broadcasts,
23 including closed circuit television.

24 (3) "integrated economic area" means an area that
25 has met the standards for incorporation as a borough under
26 AS 07.10.030 or for mandatory incorporation as a borough
27 under Sec. 3. Ch. 52, SLA 1963;

28 (4) "municipality" means a home rule or general
29 law city or a home rule borough or a first or second class

1 borough.

2 Sec. 42.05.596. ORIGINAL JURISDICTION IN FIRST RESPON-
3 SIBLE UNIT OF GOVERNMENT. (a) Intent. It is the intent of
4 this Act to recognize the principle of home rule and to permit
5 and encourage the regulation of public utilities by the first
6 responsible unit of government which includes within its
7 geographical boundaries all of the system of each competing
8 public utility being regulated. Jurisdiction over such
9 utilities is hereby given to home rule and first class cities,
10 and to boroughs.

11 (b) Original jurisdiction.

12 (1) First class and home rule cities jurisdiction.
13 Whenever the complete system of a public utility as well as
14 the complete system of any competing utility shall be
15 located within the geographical boundaries of a home rule
16 or first class city, the city shall have exclusive jurisdic-
17 tion.

18 (2) Organized boroughs jurisdiction. Whenever
19 any utility system or its competitor shall cross the boundary
20 of a home rule or first class city so that a part of the
21 system is outside the jurisdiction of the city, then that
22 complete utility and its competitors both inside and outside
23 the city shall be regulated by the organized borough into
24 which the system extends, and the borough shall have exclu-
25 sive jurisdiction.

26 (3) Residual state jurisdiction. Whenever any
27 public utility system or its competitor shall cross a boundary
28 of an organized borough so that a portion of the system is
29 outside the jurisdiction of the borough then the complete

1 public utility and its competitor both inside and outside the
2 borough shall be regulated by the state and the state shall
3 have exclusive jurisdiction.

4 (c) Relinquishment of jurisdiction to state. Any
5 borough or city exercising jurisdiction over public utilities
6 within its boundaries may by ordinance relinquish all or part
7 of its regulatory jurisdiction to the state commission pro-
8 vided that if jurisdiction over one utility is relinquished,
9 jurisdiction over all competing utilities shall also be
10 relinquished.

11 (d) Governing body of city or borough to act as com-
12 mission. The governing body of the borough or city shall
13 act with the same powers, rights, and authority in its area
14 of jurisdiction as the state commission herein provided.

15 (e) Tax payments to governmental unit exercising juris-
16 diction. Tax payments provided by sec. 42.05.165 shall be
17 paid by the public utility regulated to the governmental
18 unit, city, borough, or state regulating it except that a
19 public utility owned and regulated by a city shall not be
20 required to pay a tax to itself. The governing body of a
21 city or borough may by ordinance decrease the tax rate or
22 exempt any utility it is regulating from taxes imposed by
23 sec. 42.05.165.

24 (f) Jurisdictional disputes. Jurisdictional disputes
25 involving a public utility or any city or borough shall be
26 decided by the state Public Service Commission. The term
27 "competing utilities" as used in this section shall be any
28 public utility of the same type with adjacent, contiguous or
29 overlapping service areas.

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* Sec. 2. The Legislative Council shall make a report to the first session of the fifth legislature covering such matters as its administrative functions and hearing procedures and what problems, if any, have arisen in these areas and make its recommendations regarding the legal relationship of the commission to the executive and alternative relationships authorized by Article III of the Constitution of the State of Alaska. The commission and the Department of Health and Welfare shall make a report to the first session of the fifth legislature regarding the exemption provided in AS 42.05.595(2)(B) of this Act.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

