

Offered: 4/15/70  
Referred: Rules

Original sponsor: Fink

SCS  
CS

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2

SENATE CS FOR HOUSE BILL NO. 202

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the regulation of public utilities;

7

defining the composition, powers and duties of the

8

Alaska Public Utilities Commission; and providing for

9

an effective date."

10

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

11

\* Section 1. AS 42.05.010 is amended to read:

12

Sec. 42.05.010. ALASKA PUBLIC UTILITIES [SERVICE] COMMISSION

13

CREATED. There is created within the Department of Commerce the Alaska

14

Public Utilities [SERVICE] Commission.

15

\* Sec. 2. AS 42.05.020 is amended to read:

16

Sec. 42.05.020. COMPOSITION OF ALASKA PUBLIC UTILITIES [SERVICE]

17

COMMISSION. (a) The Alaska Public Utilities [SERVICE] Commission con-

18

sists of three members, appointed by the governor and confirmed by the

19

legislature in joint session assembled.

20

(b) The governor shall designate one member of the commission as

21

chairman of the commission. This member shall serve as chairman for a

22

term of four years, but may be appointed for successive terms.

23

\* Sec. 3. AS 42.05.030 is amended to read:

24

Sec. 42.05.030. TERM OF OFFICE; VACANCY. (a) The term of office

25

of each member is six years [, OR UNTIL HIS SUCCESSOR IS APPOINTED AND

26

QUALIFIES]. The [HOWEVER, THE] governor shall designate who [WHICH],

27

among his initial appointees, shall serve, respectively for terms of

28

two years, four years and six years. A commissioner, upon the expira-

29

tion of his term, shall continue to hold office until his successor is

1 appointed and qualified.

2 (b) A vacancy arising in the office of commissioner shall be  
3 filled by appointment by the governor and confirmed by the legislature  
4 in joint session and an appointee selected to fill a vacancy shall hold  
5 office for the balance of the full term for which his predecessor on  
6 the commission was appointed.

7 (c) A vacancy in the commission does not impair the authority  
8 of a quorum of commissioners to exercise all the powers and perform  
9 all the duties of the commission.

10 \* Sec. 4. AS 42.05 is amended by adding a new section to read:

11 Sec. 42.05.035. REMOVAL OF COMMISSIONERS. The governor may remove  
12 a commissioner from office by and with the consent of a majority of the  
13 legislature.

14 \* Sec. 5. AS 42.05.060 - 42.05.650 are repealed.

15 \* Sec. 6. AS 42.05 is amended by adding new sections to read:

16 Sec. 42.05.071. QUORUM. Two members of the commission shall  
17 constitute a quorum for the transaction of business, for the performance  
18 of a duty, or for the exercise of a power of the commission.

19 Sec. 42.05.081. OATH OF OFFICE. Each commissioner and the  
20 executive director of the commission, before entering upon the duties  
21 of his office shall take and subscribe to the oath prescribed for  
22 principal officers of the state.

23 Sec. 42.05.091. COMPENSATION OF MEMBERS OF COMMISSION. (a)  
24 Members of the commission are entitled to the per diem established by  
25 law for other boards and commissions and shall be paid for their  
26 necessary travel expense.

27 (b) The annual salary for each member of the commission is \$12,000  
28 to be paid in equal monthly payments.

29 Sec. 42.05.101. PRINCIPAL OFFICE; SEAL. (a) The commission

1 shall establish a principal office and branch offices necessary to  
2 discharge its business efficiently. For the convenience of the public  
3 or of parties to a proceeding the commission may hold meetings, hearings  
4 or other proceedings at other locations.

5 (b) The commission shall have an official seal.

6 Sec. 42.05.111. LEGAL COUNSEL. (a) The attorney general is  
7 legal counsel for the commission. He shall advise the commission in  
8 legal matters arising in the discharge of its duties and represent the  
9 commission in suits to which it is a party. If, in the opinion of the  
10 commission, the public interest is not adequately represented by counsel  
11 in a proceeding, the attorney general, upon request of the commission,  
12 shall represent the public interest.

13 (b) The commission may employ temporary legal counsel from time  
14 to time in proceedings before the commission in which the attorney  
15 general is representing the public interest or a party before the  
16 commission.

17 Sec. 42.05.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
18 commission may employ an executive director who shall have had at  
19 least five years of experience in an administrative capacity and who is  
20 experienced in public utility management or regulation. The executive  
21 director may be one of the commission members. The commission may  
22 employ engineers, hearing officers, experts, clerks, accountants, and  
23 other agents and assistants it considers necessary. The executive,  
24 director, if not a member of the commission, and all other employees  
25 and agents of the commission, other than legal counsel, are in the  
26 classified service under AS 39.25. The combined salary of an executive  
27 director who is a member of the commission may not exceed that of a  
28 superior court judge.

29 (b) In addition to its staff of regular employees, the commission

1 may contract for and engage the services of consultants and experts  
2 the commission considers necessary.

3 Sec. 42.05.131. RESTRICTIONS ON MEMBERS AND EMPLOYEES. No member  
4 of the commission or an employee of the commission may have an official  
5 connection with, or hold stock or securities in, or have a pecuniary  
6 interest in a public utility within the state. Membership in a coopera-  
7 tive association is not a "pecuniary interest" within the meaning of  
8 this section; however, no member or employee of the commission may  
9 be an officer, board member or employee of a cooperative association.  
10 No member or employee may act upon a matter in which his relationship  
11 with any person creates a conflict of interest.

12 ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

13 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION.  
14 The Alaska Public Utilities Commission may

15 (1) regulate every public utility engaged or proposing to  
16 engage in such a business within the state, except to the extent  
17 exempted by sec. 711 of this chapter and the powers of the commission  
18 shall be liberally construed to accomplish its stated purposes;

19 (2) investigate, upon complaint or upon its own motion,  
20 the rates, classifications, rules, regulations, practices, services  
21 and facilities of a public utility and hold hearings thereon;

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

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

27 (5) require a public utility to file reports and other  
28 information and data.

29 Sec. 42.05.151. ADMINISTRATIVE AUTHORITY OF COMMISSION; REGULATION

1 AND HEARING PROCEDURES. (a) The commission may adopt regulations,  
2 not inconsistent with the law, necessary or proper to exercise its  
3 powers and to perform its duties under this chapter.

4 (b) The commission shall adopt regulations governing practice  
5 and procedure, consistent with due process of law, including the  
6 conduct of formal and informal investigations, pre-hearing conferences,  
7 hearings and proceedings, and the handling of procedural motions by a  
8 single commissioner. Technical rules of evidence need not apply to  
9 investigations, pre-hearing conferences, hearings and proceedings  
10 before the commission. The commission shall provide for representation  
11 by out-of-state attorneys substantially in accordance with Civil Rule  
12 81.

13 (c) The commission, each commissioner or an employee authorized  
14 by the commission may administer oaths, certify to all official acts,  
15 and issue subpoenas, subpoenas duces tecum and other process to compel  
16 the attendance of witnesses and the production of testimony, records,  
17 papers, accounts and documents in an inquiry, investigation, hearing,  
18 or proceeding before the commission in any part of the state. Each  
19 commissioner is authorized to issue orders on procedural motions. The  
20 commission may petition a court of this state to enforce its subpoenas,  
21 subpoenas duces tecum or other process.

22 Sec. 42.05.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

23 (a) The administrative adjudication procedures of the Administrative  
24 Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of  
25 the commission except that final administrative determinations by the  
26 commission are subject to judicial review under that Act as provided  
27 in sec. 551(a) of this chapter.

28 (b) The Administrative Procedure Act shall apply to regulations  
29 adopted by the commission.

1           Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the  
2 commission has power to hold may be held by or before one or more  
3 commissioners designated for the purpose by the commission. The testi-  
4 mony and evidence in a formal hearing may be taken by the commissioner  
5 or commissioners to whom such hearing has been assigned. A commissioner  
6 who has not read or heard the entire record, including the argument, may  
7 not participate in making a decision of the commission. In determining  
8 the place of a hearing the commission shall give preference to holding  
9 the hearing at a place most convenient for those interested in the  
10 subject of the hearing.

11           Sec. 42.05.181. FINAL ORDERS OF THE COMMISSION. No final order  
12 of the commission compelling affirmative action, denying a right or  
13 privilege, or granting a right or privilege over protest of the public  
14 utility or any party of record may be entered without giving the  
15 interested party reasonable notice and an opportunity to be heard.

16           Sec. 42.05.191. FORMAT OF ORDERS. Every formal order of the  
17 commission shall be based upon the facts of record. Every order entered  
18 pursuant to a hearing shall state the commission's findings, the basis  
19 of its findings and conclusions, together with its decision. These  
20 orders shall be entered of record and a copy thereof shall be served  
21 on all parties of record in the proceeding.

22           Sec. 42.05.201. PUBLICATION OF REPORTS, ORDERS, DECISIONS AND  
23 REGULATIONS. All reports, orders, decisions and regulations of the  
24 commission shall be in writing. The commission shall apprise all af-  
25 fected utilities and interested parties of these reports, orders,  
26 decisions, and regulations as they are issued and adopted, and, when  
27 appropriate to do so, shall publish them in a manner that will reasonably  
28 inform the public or the affected consumers of any public utility  
29 service. The commission may set charges for costs of printing or

1 reproducing and furnishing copies of its reports, orders, decisions  
2 and regulations. The publication requirement, as it pertains to  
3 regulations, does not supersede the requirements of the Administrative  
4 Procedure Act (AS 44.62).

5 Sec. 42.05.211. ANNUAL REPORT. The commission shall publish an  
6 annual report reviewing its work and submit it to the legislature by  
7 February 15 of each year. The report shall contain information and  
8 data which bear a significant relationship to the development and regu-  
9 lation of public utility services in the state and include an outline  
10 of the commission's program for the development and regulation of public  
11 utility services in the forthcoming year.

12 ARTICLE 3. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

13 Sec. 42.05.221. CERTIFICATES REQUIRED. (a) No public utility  
14 may operate and receive compensation for providing a commodity or  
15 service after January 1, 1971 without first having obtained from the  
16 commission under this chapter a certificate declaring that public  
17 convenience and necessity require or will require the service. Where  
18 a public utility provides more than one type of utility service, a  
19 separate certificate of convenience and necessity shall be required  
20 for each type. A certificate shall describe the nature and extent  
21 of the authority granted therein, including as appropriate for the  
22 services involved, a description of the authorized area or areas and  
23 scope of operations of the public utility.

24 (b) All certificates of convenience and necessity issued to a  
25 public utility before the effective date of this Act shall remain in  
26 effect but they are subject to modification where there are areas of  
27 conflict with public utilities that have not previously been required  
28 to have a certificate or where there is a substantial change in  
29 circumstances.

1 (c) A certificate shall be issued to a public utility not re-  
2 quired to have one before the effective date of this Act, and which  
3 is required to have one after that date, if it appears to the commis-  
4 sion that the utility was actually operating in good faith on that  
5 date. Such a certificate is subject to modification where there are  
6 areas of conflict with other public utilities or where there has been  
7 a substantial change in circumstances.

8 (d) In an area where the commission determines that two or more  
9 public utilities are competing to furnish identical utility service  
10 and that such competition is not in the public interest, the commission  
11 shall take appropriate action to eliminate such competition and any  
12 undesirable duplication of facilities. Such appropriate action may  
13 include, but is not limited to, ordering the competing utilities to  
14 enter into a contract which, among other things would:

15 (1) delineate the service area boundaries of each in those  
16 areas of competition;

17 (2) eliminate existing duplication and paralleling to the  
18 fullest reasonable extent;

19 (3) preclude future duplication and paralleling;

20 (4) provide for the exchange of customers and facilities  
21 for the purposes of providing better public service and of eliminating  
22 duplication and paralleling; and

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

25 (e) The commission may employ professional consultants to assist  
26 it in administering the provisions of this section and may apportion  
27 the expenses relating thereto among the competing utilities involved.

28 Sec. 42.05.231. APPLICATION. Application for a certificate shall  
29 be in writing and shall be in the form and contain the information

1 required by the commission by regulation.

2 Sec. 42.05.241. CONDITIONS OF ISSUANCE. No certificate may be  
3 issued unless the commission finds that the applicant is fit, willing  
4 and able to provide the utility services applied for and that the  
5 services are required for the convenience and necessity of the public.  
6 The commission may issue a certificate granting an application in  
7 whole or in part and attach to the grant of it the terms and conditions  
8 it considers necessary to protect and promote the public interest  
9 including the condition that the applicant may or shall serve an area  
10 or provide a necessary service not contemplated by the applicant.  
11 The commission may, for good cause, deny an application with or  
12 without prejudice.

13 Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGHES. Public  
14 utilities have the right to a permit to use public streets, alleys  
15 and other public ways of a city or borough, whether home rule or  
16 otherwise, upon payment of a reasonable permit fee and on reasonable  
17 terms and conditions and with reasonable exceptions the city or borough  
18 requires. A dispute as to whether fees, terms, conditions or exceptions  
19 are reasonable shall be decided by the commission. The commission  
20 may require a utility to add the amount of any permit fee paid as a  
21 pro rata surcharge to its bills for service rendered at locations  
22 within the boundaries of any city or borough which requires payment  
23 of a permit fee.

24 Sec. 42.05.261. DISCONTINUANCE, SUSPENSION OR ABANDONMENT OF  
25 CERTIFICATED SERVICE. (a) Except as otherwise provided in this  
26 section, no public utility may discontinue or abandon a service for  
27 which a certificate has been issued by the commission unless upon the  
28 application of the public utility and if, after notice and opportunity  
29 for hearing, the commission finds that the continued service is not

1 required by public convenience and necessity. Any interested person  
2 may file with the commission a protest or memorandum of opposition to  
3 or in support of discontinuance or abandonment. The commission may  
4 authorize temporary suspension of a service or of part of a service.

5 (b) Upon complaint or upon its own motion, the commission may  
6 reinvestigate a previously authorized discontinuance, abandonment or  
7 suspension of a service of an operating public utility. If, after  
8 providing notice and an opportunity for a hearing, the commission finds  
9 that the public convenience and necessity require the service to be  
10 resumed, it may order the public utility to again provide the service.

11 Sec. 42.05.271. MODIFICATION, SUSPENSION OR REVOCATION OF CERTI-  
12 FICATES. Upon complaint or upon its own motion the commission, after  
13 notice and opportunity for hearing and for good cause shown, may  
14 amend, modify, suspend, or revoke a certificate, in whole or in part.  
15 Good cause for amendment, modification, suspension or revocation of a  
16 certificate includes

- 17 (1) the requirements of public convenience and necessity;  
18 (2) misrepresentation of a material fact in obtaining the  
19 certificate;  
20 (3) unauthorized discontinuance or abandonment of all or  
21 part of a public utility's service;  
22 (4) wilful failure to comply with the provisions of this  
23 chapter or the rules, regulations or orders of the commission; or  
24 (5) wilful failure to comply with a term, condition, or  
25 limitation of the certificate.

26 Sec. 42.05.281. TRANSFER OF CERTIFICATE. A certificate may not  
27 be sold or leased, rented, transferred or inherited without the prior  
28 approval of the commission.

29 ARTICLE 4. SERVICES AND FACILITIES.

1           Sec. 42.05.291. STANDARDS OF SERVICE AND FACILITIES. (a) Each  
2 public utility shall furnish and maintain adequate, efficient and safe  
3 service and facilities. This service shall be reasonably continuous  
4 and without unreasonable interruption or delay.

5           (b) Subject to the provisions of this chapter and the regulations  
6 or orders of the commission, a public utility may establish reasonable  
7 rules and regulations governing the conditions under which it shall  
8 render service.

9           (c) The commission may, upon its own motion or upon complaint  
10 after providing reasonable notice and opportunity for hearing, prescribe  
11 as to service and facilities, including the crossing of facilities,  
12 just and reasonable standards, classifications, regulations, and  
13 practices to be furnished, imposed, observed, and followed by public  
14 utilities; prescribe adequate and reasonable standards for the measure-  
15 ment of quantity, quality, pressure, initial voltage, or other condi-  
16 tions pertaining to the supply of the service of public utilities;  
17 prescribe reasonable regulations for the examination and testing of the  
18 service, and for the measurement of it; prescribe or approve reasonable  
19 regulations, specifications, and standards to secure the accuracy of  
20 meters and appliances for measurement; and provide for the examination  
21 and testing of appliances used for the measurement of a service of a  
22 public utility. In doing so, the commission shall conform to the  
23 standard practices of the industry.

24           (d) When the commission, upon its own motion or upon complaint,  
25 after providing reasonable notice and opportunity for hearing, finds  
26 that the service or facilities of a public utility are unreasonable,  
27 unsafe, inadequate, insufficient, or unreasonably discriminatory, or  
28 otherwise in violation of this chapter, the commission shall prescribe,  
29 by regulation or order, the reasonable, safe, adequate, sufficient

1 service or facilities to be observed, furnished, enforced, or employed,  
2 including all repairs, changes, alterations, extensions, substitutions,  
3 or improvements in facilities that are reasonably necessary and proper  
4 for the safety, accommodation, and convenience of the public.

5 Sec. 42.05.301. DISCRIMINATION IN SERVICE. No public utility  
6 may, as to service, make or grant an unreasonable preference or  
7 advantage to any person or subject any person to an unreasonable pre-  
8 judice or disadvantage. No public utility may establish or maintain  
9 or provide an unreasonable difference as to service, either as between  
10 localities or as between classes of service, but nothing in this  
11 section prohibits the establishment of reasonable classifications of  
12 service or requires unreasonable investment in facilities.

13 Sec. 42.05.311. JOINT USE AND INTERCONNECTION OF FACILITIES. (a)  
14 A public utility having sewers, conduits, utilidors, poles, pole lines,  
15 pipes, pipelines, mains or other distribution or transmission facilities  
16 shall, for a reasonable compensation, permit another public utility to  
17 use them when the public convenience and necessity require this use and  
18 the use will not result in substantial injury to the owner, or in  
19 substantial detriment to the service to the customers of the owner.  
20 The cost of modifications or additions necessary to a joint use shall  
21 be at the expense of the public utility requesting the use of the  
22 facilities.

23 (b) A telecommunications utility shall permit connection to be  
24 made and service to be furnished between a system operated by it and  
25 the system or toll facilities operated by another public utility or  
26 with the communications facility or system of a non-utility, or between  
27 its toll facilities and the toll facilities of another public utility,  
28 when public convenience and necessity require the connection and the  
29 connection will not result in substantial injury to the owner or other

1 users of the facilities of either public utility or in substantial  
2 detriment to the service of either public utility.

3 (c) The tariff of a public utility shall include rules setting  
4 out the terms and conditions under which it will construct, or permit  
5 its customers or subscribers to construct, and install lines, cables,  
6 radio links, or pipes from its existing facilities to the premises of  
7 applicants for service.

8 Sec. 42.05.321. FAILURE TO AGREE UPON JOINT USE OR INTERCONNECTION  
9 In case of failure to agree upon the joint use or interconnection of  
10 facilities or the conditions or compensation for joint use or inter-  
11 connections, the public utility, including any municipality, or an  
12 interested person may apply to the commission for an order requiring  
13 the interconnection. If, after investigation and opportunity for  
14 hearing, the commission finds that public convenience and necessity  
15 require the joint use or connection, and that the use or connection  
16 will not result in substantial injury to the owner utility or its  
17 customers, or in substantial detriment to the services furnished by the  
18 owner utility, or in the creation of safety hazards, it shall

- 19 (1) order that the use be permitted;  
20 (2) prescribe reasonable conditions and compensation for  
21 the joint use;  
22 (3) order the interconnection to be made;  
23 (4) determine the time and manner of the interconnection;  
24 (5) determine the apportionment of costs and responsibility  
25 for operation and maintenance of the interconnection.

26 Sec. 42.05.331. STANDARDS FOR MEASUREMENT. The commission shall  
27 establish by regulation adequate, fair and realistic standards for the  
28 measurement of quality, pressure, voltage or other conditions of  
29 utility services and shall prescribe reasonable regulations for

1 examination and testing of the service and the accuracy of the  
2 devices used to measure it.

3 Sec. 42.05.341. TESTING OF METER STANDARDS. (a) The commis-  
4 sion shall provide by regulation for the periodic testing and certifi-  
5 cation of meter standards by laboratories acceptable to the commission.  
6 The commission shall also provide by regulation for the taking of  
7 appeals to the commission from the findings of a utility which  
8 tests its own meters or appliances for measurement.

9 Sec. 42.05.351. TESTING OF APPLIANCES. The commission shall  
10 provide for the examination and testing of appliances used for  
11 the measuring of a service of a public utility and may purchase  
12 equipment, apparatus, and standards required for this purpose. The  
13 commissioner of commerce may assign the examination and testing func-  
14 tion to the division of weights and measures. Upon the payment  
15 of a reasonable fee established by the commission, a consumer may  
16 have the appliance, which is used by him, tested. The commission  
17 shall establish by regulation allowable tolerances with respect  
18 to the functioning or operation of the appliance. If the measuring  
19 appliance does not perform within these tolerances, the utility con-  
20 cerned shall pay the costs of the test by reimbursing the person  
21 requesting the test for the fee paid by him. This reimbursement  
22 shall be made no later than at the time of the next regular billing  
23 following the test.

24 ARTICLE 5. RATES AND  
25 RATE SCHEDULES.

26 Sec. 42.05.361. TARIFFS, CONTRACTS, FILING AND PUBLIC INSPECTION.  
27 (a) Under such regulations as the commission shall prescribe, every  
28 public utility shall file with the commission, within such time and in  
29 such form as the commission shall designate, its complete tariff showing all

1 rates, including joint rates, tolls, rentals, and charges collected  
2 and all classifications, rules, regulations, and terms and conditions  
3 under which it furnishes its services and facilities to the general  
4 public, or to a regulated or municipally owned utility for resale to the  
5 public, together with a copy of every special contract with customers  
6 which in any way affects or relates to the serving utility's rates,  
7 tolls, charges, rentals, classifications, services or facilities. The  
8 public utility shall clearly print, or type, its complete tariff and  
9 keep an up-to-date copy of it on file at its principal business office  
10 and at a designated place in each community served. The tariffs shall  
11 be made available to, and subject to inspection by, the general public  
12 on demand.

13 (b) The tariffs of a public utility which are also subject to  
14 the jurisdiction of a federal regulatory body shall correspond, so  
15 far as practicable, to the form of those prescribed by the federal  
16 regulatory body.

17 (c) The commission may reject the filing of all or part of a  
18 tariff which does not comply with the form or filing regulations of  
19 the commission or which is not consistent with this chapter or the  
20 regulations of the commission. A tariff or provision so rejected is  
21 void.

22 Sec. 42.05.371. ADHERENCE TO TARIFFS. The terms and conditions  
23 under which every public utility offers its services and facilities to  
24 the public shall be governed strictly by the provisions of its currently  
25 effective tariffs. No legally filed and effective tariff rate, charge,  
26 toll, rental, rule, regulation or condition of service shall be changed  
27 except in the manner provided in this chapter. If more than one tariff  
28 rate or charge can reasonably be applied for billing purposes the one  
29 most advantageous to the customer shall be used.

1           Sec. 42.05.381. RATES TO BE JUST AND REASONABLE. (a) All rates  
2 demanded or received by a public utility, or by any two or more public  
3 utilities jointly, for a service furnished or to be furnished shall  
4 be just and reasonable.

5           (b) In establishing the revenue requirements of a municipally  
6 owned and operated utility the municipality is entitled to include a  
7 reasonable rate of return.

8           Sec. 42.05.391. DISCRIMINATION IN RATES. (a) No public utility  
9 may, as to rates, grant an unreasonable preference or advantage to any  
10 of its customers or subject a customer to an unreasonable prejudice or  
11 disadvantage. No public utility may establish or maintain an unreason-  
12 able difference as to rates, either as between localities or between  
13 classes of service.

14           (b) A rate charged by a municipality for a public utility service  
15 furnished beyond its corporate limits is not considered unjustly dis-  
16 criminatory solely because a different rate is charged for a similar  
17 service within its corporate limits.

18           (c) No public utility shall directly or indirectly refund, rebate  
19 or remit in any manner, or by any device, any portion of the rates  
20 and charges or charge, demand or receive a greater or lesser compensa-  
21 tion for its services than is specified in its effective tariff. No  
22 public utility shall extend to any customer any form of contract, agree-  
23 ment, inducement, privilege or facility, or apply any rule, regulation  
24 or condition of service except such as are extended or applied to all  
25 customers under like circumstances. No public utility may offer or pay  
26 any compensation or consideration or furnish any equipment to secure  
27 the installation or adoption of the use of utility service unless it  
28 conforms to a tariff approved by the commission, and the compensation,  
29 consideration or equipment is offered to all persons in the same

1 classification using or applying for the public utility service; in  
2 determining the reasonableness of such a tariff filed by a public utility,  
3 the commission shall consider, among other things, evidence of considera-  
4 tion or compensation paid by a competitor, regulated or nonregulated,  
5 of the public utility to secure the installation or adoption of the  
6 use of the competitor's service.

7 (d) Nothing in this section shall prevent a public utility from  
8 charging reduced rates to customers transferred to it from a competing  
9 utility provided the reduction is an integral part of a contract,  
10 arrangement or plan to eliminate the overlapping of service areas or  
11 to minimize duplication of facilities and competition between public  
12 utilities.

13 Sec. 42.05.401. APPORTIONMENT OF JOINT RATES. (a) Where public  
14 utilities share in a joint rate the apportionment of receipts shall be  
15 just and reasonable. The method of apportionment shall be approved by  
16 the commission and the commission may, if it deems it to be in the  
17 public interest, establish the portion to which each public utility  
18 shall be entitled.

19 (b) If the commission does not have professional staff to investi-  
20 gate, evaluate and testify regarding any proceeding under (b) of this  
21 section it may employ qualified professional consultants for this  
22 purpose at the direct expense of the parties to the dispute and divide  
23 the cost among the parties in the proportion of their respective  
24 operating revenues prior to commencement of the proceeding. The cost  
25 allocation to each party shall be determined prior to employment of  
26 the consultants and after giving the parties reasonable notice and  
27 opportunity to be heard.

28 Sec. 42.05.411. NEW OR REVISED TARIFFS. (a) No public utility  
29 may establish or place in effect any new or revised rates, charges,

1 rules, regulations, conditions of service or practices except after 30  
2 days' notice to the commission and to the public. Notice shall be given  
3 by filing with the commission and keeping open for public inspection  
4 the revised tariff provisions which shall plainly indicate the changes  
5 to be made in the schedules then in force and the time when the changes  
6 will go into effect. The commission may prescribe additional means  
7 of giving notice. The commission, for good cause shown, may allow  
8 changes to take effect on less than 30 days' notice under conditions  
9 the commission prescribes.

10 (b) New and revised tariffs shall be filed in the manner provided  
11 in sec. 361(a) of this chapter.

12 (c) Upon the filing of a new or revised tariff, the commission,  
13 upon complaint or upon its own motion, without notice, may initiate an  
14 investigation of the reasonableness and lawfulness of the change.

15 Sec. 42.05.421. SUSPENSION OF TARIFF FILING. (a) When a tariff  
16 filing is made containing a new or revised rate, classification, rule,  
17 regulation, practice, or condition of service the commission may,  
18 either upon written complaint or upon its own motion, after reasonable  
19 notice, conduct a hearing to determine the reasonableness and propriety  
20 of the filing. Pending such hearing the commission may, by order  
21 stating the reasons for its action, suspend the operation of the tariff  
22 filing for an initial period not longer than six months beyond the  
23 time when it would otherwise go into effect.

24 (b) An order suspending a tariff filing may be vacated if, after  
25 investigation, the commission finds that it is in all respects proper.  
26 Otherwise the commission shall hold a hearing on the suspended filing  
27 and issue its order, prior to the end of the suspension period, granting,  
28 denying or modifying the suspended tariff in whole or in part.

29 (c) In the case of a proposed increased rate, the commission may

1 by order require the interested public utility or utilities to place  
2 in escrow in a financial institution approved by the commission and  
3 keep accurate account of all amounts received by reason of the increase,  
4 specifying by whom and in whose behalf the amounts are paid. Upon  
5 completion of the hearing and decision the commission may by order  
6 require the public utility to refund to the persons in whose behalf  
7 the amounts were paid, that portion of the increased rates which was  
8 found to be unreasonable or unlawful. No funds shall be released from  
9 escrow without the commission's prior written consent and the escrow  
10 agent shall be so instructed by the utility, in writing, with a copy  
11 to the commission. The utility may, at its expense, substitute a bond  
12 in lieu of the escrow requirement.

13 (d) One who initiates a change in existing tariffs shall bear  
14 the burden to prove the reasonableness of the change.

15 Sec. 42.05.431. POWER OF COMMISSION TO FIX RATES. When the  
16 commission, after an investigation and hearing, finds that a rate  
17 demanded, observed, charged or collected by a public utility for a  
18 service, subject to the jurisdiction of the commission, or that a  
19 classification, rule, regulation, practice, or contract affecting the  
20 rate, is unjust, unreasonable, unduly discriminatory or preferential,  
21 the commission shall determine a just and reasonable rate, classifica-  
22 tion, rule, regulation, practice, or contract to be observed or allowed  
23 and shall establish it by order. A municipality may covenant with  
24 bond purchasers regarding rates of a municipally owned utility, and  
25 the covenant is valid and enforceable and is considered to be a con-  
26 tract with the holders from time to time of the bonds.

27 Sec. 42.05.441. VALUATION OF PROPERTY OF A PUBLIC UTILITY. (a)  
28 The commission may, after providing reasonable notice and opportunity  
29 to be heard, ascertain and set the fair value of the whole or any

1 part of the property of a public utility, insofar as it is material to  
2 the exercise of the jurisdiction of the commission. The commission may  
3 make revaluations from time to time and ascertain the fair value of all  
4 new construction, extensions, and additions to the property of a public  
5 utility. If a public utility furnishes more than one classification  
6 of utility service the utility shall allocate the investment and  
7 expenses associated with the property used and useful in furnishing  
8 service among the utility services and it may not solely consider the  
9 utility's total investment and expenses in fixing rates for a particu-  
10 lar service.

11 (b) In determining the value for rate making purposes of public  
12 utility property used and useful in rendering service to the public, the  
13 commission shall be guided by acquisition cost or, if lower, the  
14 original cost of the property to the person first devoting it to public  
15 service, less accrued depreciation, plus materials and supplies and a  
16 reasonable allowance for cash working capital when required.

17 ARTICLE 6. ACCOUNTS, RECORDS AND REPORTS.

18 Sec. 42.05.451. SYSTEM OF ACCOUNTS AND REPORTS. (a) The com-  
19 mission may classify the public utilities under its jurisdiction and  
20 prescribe a uniform system of accounts for each class and the manner  
21 in which such accounts and supporting records shall be kept.

22 (b) Each public utility shall maintain its accounts on a calendar  
23 year basis unless specifically authorized by the commission to maintain  
24 its accounts on a fiscal year basis. Within 90 days after the close  
25 of its authorized annual accounting period, or additional time granted  
26 upon a showing of good cause, each public utility shall file with the  
27 commission a verified annual report of its operations during the  
28 period reported, on forms prescribed by the commission.

29 Sec. 42.05.461. CONTINUING PROPERTY RECORDS. The commission may

1 require a public utility to establish, provide, and maintain as a part  
2 of its system of accounts, continuing property records segregated by  
3 the year of placement in service, including a list or inventory of all  
4 the units of tangible property used or useful in the public service,  
5 showing the current location of the property units by definite refer-  
6 ence to the specific land parcels upon which the units are located or  
7 stored. The commission may require a public utility to keep accounts  
8 and records in such a manner as to show, currently, the original cost  
9 of the property when first devoted to the public service, and the  
10 related reserve for depreciation. Each public utility with annual  
11 revenues exceeding \$100,000 shall keep continuing property records.

12 Sec. 42.05.471. DEPRECIATION RATES, INITIAL LOSSES AND ACCOUNTS.

13 (a) To provide for the loss in service value of its property, not  
14 restored by current maintenance, every utility shall charge adequate,  
15 but not excessive, depreciation expense for each major class of  
16 utility property used and useful in serving the public. From time to  
17 time the commission shall determine the proper and adequate rates of  
18 depreciation for each major class of property of a public utility.  
19 The commission shall accept rates of depreciation and depreciation  
20 accounts prescribed and maintained under regulations of a federal  
21 agency or the terms of a bond ordinance. The commission shall deter-  
22 mine and allow depreciation expense in fixing the rates, tolls and  
23 charges to be paid for the services of a public utility.

24 (b) The commission is not bound in rate proceedings to accept,  
25 as just and reasonable for rate-making purposes, estimates of annual  
26 or accrued depreciation established under the provisions of this  
27 section, or to allow annual or accrued depreciation on utility property  
28 directly or indirectly contributed by customers or others.

29 Sec. 42.05.481. SUBSIDIARY BUSINESS ACCOUNTS. A public utility

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

7 Sec. 42.05.491. RECORDS AND ACCOUNTS TO BE KEPT IN STATE. A  
8 public utility shall keep the books, accounts, papers and records  
9 required by the commission, in an office within this state, and may not  
10 remove them from the state, except upon the terms and conditions that  
11 may be prescribed by the commission. The provisions of this section  
12 do not apply to a public utility whose accounts are kept at its  
13 principal place of business outside the state, in the manner prescribed  
14 by a federal regulatory body; however, such a public utility shall at  
15 its option, either furnish to the commission, within a reasonable time  
16 fixed by the commission, certified copies of its books, accounts,  
17 papers and records relating to the business done by the public utility  
18 within this state, or agree to pay the actual expenses incurred by  
19 the commission in sending personnel to examine the utility's books and  
20 records at the place where they are kept.

21 Sec. 42.05.501. INSPECTION OF BOOKS AND RECORDS BY COMMISSION.  
22 The commission shall at all reasonable times have access to, and may  
23 designate any of its employees, agents or consultants to inspect and  
24 examine, the accounts, records, books, maps, inventories, appraisals,  
25 valuations, or other reports and documents, kept by public utilities  
26 or their affiliated interests, or prepared or kept for them by others,  
27 which relate to any contract or transaction between them. The commis-  
28 sion may require a public utility or its affiliated interest  
29 to file with the commission, copies of any or all of these accounts,

1 records, books, maps, inventories, appraisals, valuations, or other  
2 reports and documents.

3 ARTICLE 7. FINANCIAL AND MANAGEMENT REGULATION.

4 Sec. 42.05.511. UNREASONABLE MANAGEMENT PRACTICES. (a) The  
5 commission may investigate the management of a public utility, includ-  
6 ing but not limited to staffing patterns, wage and salary scales and  
7 agreements, investment policies and practices, purchasing and payment  
8 arrangements with affiliated interests for the purpose of determining  
9 inefficient or unreasonable practices which adversely affect the cost  
10 or quality of service of the public utility.

11 (b) Where unreasonable practices are found to exist, the commis-  
12 sion may, after providing reasonable notice and opportunity for hearing,  
13 take appropriate action to protect the public from such inefficient  
14 or unreasonable practices and may order the public utility to take the  
15 corrective action the commission may require to achieve effective  
16 development and regulation of public utility services.

17 (c) In a rate proceeding the utility involved shall have the  
18 burden of proving that any written or unwritten contract or arrange-  
19 ment it may have with any of its affiliated interests for the furnish-  
20 ing of any services or for the purchase, sale, lease or exchange of  
21 any property is necessary and consistent with the public interest and  
22 that the payment made therefor, or consideration given, is reasonably  
23 based, in part, upon the submission of satisfactory proof as to the  
24 cost to the affiliated interest of furnishing the service or property  
25 and, in part, upon the estimated cost the utility would have incurred  
26 if it furnished the service or property with its own personnel and  
27 capital.

28 Sec. 42.05.521. IMPAIRED CAPITAL. When the commission finds  
29 that the capital of a public utility corporation is impaired, or might

1 become impaired, it may, after investigation and hearing, issue an  
2 order directing the public utility to cease paying dividends on its  
3 common stock until the impairment has been removed.

4 Sec. 42.05.531. DISTRIBUTION OF SURPLUS AND PROFITS. The  
5 surplus and profits of public utilities shall be distributed in  
6 accordance with the bylaws or ordinances controlling the utility.

7 ARTICLE 8. JUDICIAL REVIEW, PENALTIES AND ENFORCEMENT.

8 Sec. 42.05.541. EFFECT OF REGULATIONS. Regulations adopted and  
9 issued by the commission in accordance with this chapter have the  
10 effect of law.

11 Sec. 42.05.551. REVIEW AND ENFORCEMENT. (a) All final orders  
12 of the commission are subject to judicial review in accordance with  
13 AS 44.62.560 - 44.62.570 of the Administrative Procedure Act.

14 (b) Where an appeal is not taken from a final order of the  
15 commission, the commission may apply to the superior court for enforce-  
16 ment of this chapter, the regulations adopted under it and the orders  
17 of the commission. The court shall enforce the order by injunction or  
18 other process.

19 Sec. 42.05.561. INJUNCTIVE AND MONETARY SANCTIONS. (a) Any  
20 person who violates any provision of sec. 291 of this chapter insofar  
21 as it governs the safety of pipeline facilities and the transportation  
22 of gas or of any regulation issued under sec. 291 of this chapter shall  
23 be subject to a civil penalty of not to exceed \$1,000 for each violation  
24 for each day that the violation persists. However, the maximum civil  
25 penalty shall not exceed \$200,000 for any related series of violations.

26 (b) Any civil penalty may be compromised by the commission. In  
27 determining the amount of the penalty, or the amount agreed upon in  
28 compromise, the appropriateness of the penalty to the size of the  
29 business of the person charged, the gravity of the violation, and the

1 good faith of the person charged in attempting to achieve compliance,  
2 after notification of a violation, shall be considered. The amount  
3 of the penalty, when finally determined, or the amount agreed upon in  
4 compromise, may be deducted from any sums owing by the state to the  
5 person charged or may be recovered in a civil action in the state  
6 courts.

7 (c) Any person may be enjoined by the superior court from commit-  
8 ting any violation mentioned in this section.

9 Sec. 42.05.571. CIVIL PENALTIES. (a) In addition to all  
10 other penalties and remedies provided by law, a public utility  
11 and every person, and their lessees or receivers appointed by a  
12 court in any way subject to the provisions of this chapter,  
13 together with their officers, managers, agents or employees that  
14 either violate or procure, aid or abet in the violation of any pro-  
15 vision of this chapter, or of any order, rule, regulation or written  
16 requirement of the commission shall be subject to a maximum penalty  
17 of \$100 for each violation. Each act of omission as well as each act  
18 of commission shall be considered a violation subject to the penalty.

19 (b) No penalty shall be assessed unless the commission shall  
20 first issue an order to show cause why the penalty shall not be levied.  
21 The order shall describe each violation with reasonable particularity  
22 and designate the maximum penalty which may be assessed for each viola-  
23 tion. The order shall be served on the alleged violator named in the  
24 order. The order shall state a time and place for the hearing.

25 (c) After a hearing the commission shall enter its findings of  
26 fact and final order which shall state when the penalties, if any,  
27 are payable.

28 Sec. 42.05.581. EACH VIOLATION A SEPARATE OFFENSE. Each viola-  
29 tion of a provision of this chapter or of an order, decision, regulation

1 or written requirement of the commission is a separate and distinct  
2 offense, and in case of a continuing violation each day's continuance  
3 is a separate and distinct offense.

4 Sec. 42.05.601. ACTIONS TO RECOVER PENALTIES; DISPOSITION.

5 (a) Actions to recover penalties under this chapter shall be  
6 brought by the attorney general in a court of competent jurisdiction.

7 (b) All penalties recovered under the provisions of this  
8 chapter shall be paid to the commission and deposited by it in the  
9 general fund of the state.

10 Sec. 42.05.611. PENALTIES CUMULATIVE. (a) All penalties  
11 imposed under this chapter are cumulative and an action for the  
12 recovery of a civil penalty is not a bar to any criminal prosecution;  
13 a criminal prosecution is not a bar to an action for the recovery  
14 of a civil penalty.

15 (b) Neither a criminal prosecution nor an action to recover a  
16 civil penalty is a bar to an enforcement proceeding to require compli-  
17 ance, or to any other remedy provided by this chapter.

18 Sec. 42.05.621. JOINDER OF ACTIONS. Under the applicable court  
19 rules, appeals from orders of the commission, applications for enforce-  
20 ment of commission orders and actions for recovery of a penalty may  
21 be joined. The court may in the interests of justice separate the  
22 actions.

23 ARTICLE 9. GENERAL PROVISIONS.

24 Sec. 42.05.631. EMINENT DOMAIN. A public utility may exercise  
25 the power of eminent domain for public utility uses. This section  
26 does not authorize the use of a declaration of taking.

27 Sec. 42.05.641. REGULATION BY MUNICIPALITY. The commis-  
28 sions's jurisdiction and authority extend to public utilities operat-  
29 ing within a city or borough, whether home rule or otherwise.

1 In the event of a conflict between a certificate, order, decision or  
2 regulation of the commission and a charter, permit, franchise, ordi-  
3 nance, rule or regulation of such a local governmental entity, the  
4 certificate, order, decision or regulation of the commission shall  
5 prevail.

6 Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEARING. After  
7 completion of a hearing or investigation held under this chapter, the  
8 commission shall allocate the costs of such hearing or investigation  
9 among the parties, including the commission, as is just under the circum-  
10 stances. In allocating costs, the commission may consider the results,  
11 ability to pay, evidence of good faith, other relevant factors and miti-  
12 gating circumstances. The costs allocated may include the costs of  
13 any time devoted to the investigation or hearing by hired consultants,  
14 whether or not such consultants appear as witnesses or participants.  
15 The costs allocated may also include any out-of-pocket expenses incurred  
16 by the commission in the particular proceeding. The commission shall  
17 provide an opportunity for any person objecting to an allocation to be  
18 heard before such allocation becomes final.

19 Sec. 42.05.661. APPLICATION FEES. With each application relating  
20 to a certificate the applicant shall pay the commission a fee of \$50,  
21 which shall be deposited in the general fund of the state.

22 Sec. 42.05.671. PUBLIC DISCLOSURE OF INFORMATION. Facts and in-  
23 formation in the possession of the commission are public, and reports,  
24 files, books, accounts and papers of every nature in its possession  
25 except records which by regulation are designated to be of a nonpublic  
26 or privileged nature are open to public inspection at reasonable times.  
27 However, a person may make written objections to the public disclosure  
28 of information contained in an application, report or document filed  
29 under the provisions of this chapter or of information obtained by the

1 commission under the provisions of this chapter, stating the grounds  
2 for the objection. When an objection is made, the commission shall  
3 order the information withheld from public disclosure if the information  
4 would adversely affect the interest of that person and is not required  
5 in the interest of the public.

6 Sec. 42.05.681. VALIDITY OF CERTAIN CERTIFICATES. No certificate  
7 issued before July 29, 1968, to a public utility for the generation,  
8 transmission, or distribution of electric energy and power, or for the  
9 furnishing of telecommunications may be considered as terminated, or  
10 voided, for the sole reason that such utility did not or would not  
11 produce an annual gross income in excess of \$25,000.

12 Sec. 42.05.691. UTILITY CLASSES. The commission may by regulation  
13 provide for the classification of public utilities based upon differ-  
14 ences in annual revenue, assets, nature of ownership and other appropri-  
15 ate distinctions and as between such classifications, by regulation,  
16 provide for different reporting, accounting and other regulatory  
17 requirements.

18 Sec. 42.05.701. DEFINITIONS. In this chapter

19 (1) "commission" means the Alaska Public Utilities Commis-  
20 sion;

21 (2) "public utility" or "utility" includes every corpora-  
22 tion (whether public, cooperative, or otherwise), company, individual,  
23 or association of individuals, their lessees, trustees, or receivers  
24 appointed by a court, that owns, operates, manages or controls any  
25 plant, pipeline or system for

26 (A) furnishing, by generation, transmission or dis-  
27 tribution, electrical service to the public for compensation;

28 (B) furnishing telecommunications service to the  
29 public for compensation;

1 (C) furnishing water, steam or sewer service to the  
2 public for compensation;

3 (D) furnishing by transmission or distribution, natural  
4 or manufactured gas, petroleum or petroleum products to the public  
5 for compensation;

6 (3) "service" means (unless the context indicates otherwise)  
7 every commodity, product, use, facility, convenience or other form of  
8 service which is offered for and provided by a public utility for the  
9 convenience and necessity of the public;

10 (4) "rate" includes each rate, toll, fare, rental, charge,  
11 or other form of compensation demanded, observed, charged or collected  
12 by a public utility for its services;

13 (5) "public" or "general public" means

14 (A) any group of 10 or more customers that purchase the  
15 service or commodity furnished by a public utility as defined  
16 in (2) of this section; and

17 (B) any utility purchasing the product or service or  
18 paying for the transmission of electric energy, natural or manu-  
19 factured gas, or petroleum products which are re-sold to a group  
20 included in (A) of this subsection or which are used to produce  
21 the service or commodity sold to the public by the utility; a  
22 pipeline subject to regulation under this subparagraph shall  
23 be regulated only to the extent necessary for the commission to  
24 establish the reasonable price to be charged a utility for gas,  
25 petroleum or petroleum products it sells or transmits.

26 (6) "affiliated interest" includes:

27 (A) a person owning or holding directly or indirectly  
28 five per cent or more of the voting securities of a public utility  
29 engaged in intrastate business in this state;

1 (B) a person, other than those specified in (A) of  
2 this paragraph, in a chain of successive ownership of five per  
3 cent or more of voting securities, the chain beginning with the  
4 holder of the voting securities of such public utility;

5 (C) a corporation five per cent or more of whose  
6 voting securities are owned by a person owning five per cent or  
7 more of the voting securities of the public utility or by a person  
8 in such a chain of successive ownership of five per cent or more  
9 of voting securities;

10 (D) a corporation five per cent or more of whose voting  
11 securities are owned or held by a public utility;

12 (E) a person with whom the public utility has a  
13 management or service contract;

14 (F) a person who is an officer or director of such a  
15 public utility or of a corporation in a chain of successive  
16 ownership of five per cent or more of voting securities;

17 (G) a corporation which has one or more officers or  
18 directors in common with a public utility;

19 (H) a person or corporation who or which the commission  
20 determines as a matter of fact, after investigation and hearing,  
21 actually is exercising such substantial influence over the  
22 policies and actions of a utility in conjunction with one or more  
23 other corporations or persons with whom they are related by  
24 ownership or blood, or by action in concert, that together they  
25 are affiliated with the utility within the meaning of this section  
26 even though none of them alone is so affiliated; or

27 (I) a person or corporation who or which the commission  
28 determines as a matter of fact after investigation and hearing  
29 actually is exercising substantial influence over the policies

1 and actions of a utility even though such influence is not based  
2 upon stockholdings, stockholders, officers or directors to the  
3 extent specified in this section;

4 (7) "tariff" means a rate, charge, toll, rule or regulation  
5 of a utility relating to services furnished by the utility to the  
6 general public for compensation and every map, page, adoption notice,  
7 instrument or other document filed with the commission setting out the  
8 terms and conditions under which utility services are offered to the  
9 public and instruments of concurrence and all other documents and data  
10 setting out the terms of a utility's business relations with another  
11 utility insofar as they affect the general public either directly or  
12 indirectly;

13 (8) "telecommunications" means the transmission and reception  
14 of messages, impressions, pictures and signals by means of electricity,  
15 electromagnetic waves and any other kind of energy, force variations  
16 or impulses whether conveyed by cable, wire, radiated through space,  
17 or transmitted through other media within a specified area or between  
18 designated points.

19 Sec. 42.05.711. EXEMPTIONS. The provisions of this chapter do  
20 not apply to a person who furnishes water, gas or petroleum or petroleum  
21 products by tank, wagon, or similar conveyance, unless the person is  
22 thereby supplying water, gas, petroleum or petroleum products to a  
23 public utility in which he has an "affiliated interest".

24 Sec. 42.05.721. SHORT TITLE. This chapter may be cited as the  
25 Alaska Public Utilities Commission Act.

26 \* Sec. 7. All litigations, hearings, investigations, and other proceed-  
27 ings whatsoever, pending under any law repealed by this Act, shall continue  
28 and remain in full force and effect, and may be continued and completed under  
29 the provisions of this Act. All certificates, orders, rules, regulations,

1 or tariffs, made, issued, or filed under any law repealed by this Act, and  
2 in full force and effect upon the effective date of this Act, shall remain  
3 in full force and effect for the term issued, or until revoked, vacated, or  
4 modified under the provisions of this Act. All existing contracts and obli-  
5 gations of the commission, entered into or created under any law repealed  
6 by this Act, and in force and effect upon the effective date of this Act,  
7 shall remain in full force and effect and shall continue to be performed  
8 by the commission. The existing rates, charges, tariffs, rules, regulations,  
9 service and service area of the municipally owned utility shall continue and  
10 remain in full force and effect unless otherwise ordered by the commission  
11 under the provisions of this Act.

12 \* Sec. 8. AS 07.12 is amended by adding a new section to read:

13 Sec. 07.12.030. LIMIT ON POWER TO GRANT FRANCHISES AND REGULATE  
14 UTILITIES. AS 29.10.141 - 29.10.153, relating to the granting of  
15 franchises and regulation of public utilities apply to home rule  
16 boroughs.

17 \* Sec. 9. AS 29.08 is amended by adding a new section to read:

18 Sec. 29.08.020. LIMIT ON POWER TO GRANT FRANCHISES AND REGULATE  
19 UTILITIES. AS 29.10.141 - 29.10.153, relating to the granting of  
20 franchises and regulation of public utilities apply to home rule cities.

21 \* Sec. 10. AS 29.10.141 is amended to read:

22 Sec. 29.10.141. FRANCHISES AND PERMITS. (a) The council may  
23 grant franchises, including exclusive franchise privileges, for the  
24 construction, operation and maintenance of [ELECTRIC LIGHT AND POWER  
25 PLANTS, WATER PLANTS,] bus transportation systems and public utilities  
26 not regulated under AS 42.05, and may [, TELEPHONE AND OTHER PUBLIC  
27 SERVICE, AND TO] permit the use of streets and other public places for  
28 a period of not to exceed 20 years, under [RULES AND] regulations  
29 prescribed by ordinance.

1 (b) No franchise is valid until it has been submitted to the  
2 electors of the municipality and at least 55 per cent of the votes cast  
3 are in favor of the franchise. At least 30 days' notice of a franchise  
4 referendum election shall be given in the same manner as is provided  
5 for notice of general city elections and the notice shall specify the  
6 purpose of the election. Every ordinance granting a public service  
7 franchise shall provide for its submission for ratification to the  
8 qualified voters of the city at either a general or special election,  
9 and the result of the election shall be canvassed publicly by the  
10 council and spread upon the records of the minutes and the result  
11 declared and certified in the same manner as in a general election.

12 (c) Public utilities regulated under AS 42.05 have the right to  
13 use the streets and other public places, upon payment of a reasonable  
14 permit fee and on reasonable terms and conditions and with reasonable  
15 exceptions the council requires. A dispute as to whether fees, terms,  
16 conditions or exceptions are reasonable shall be decided by the Alaska  
17 Public Utilities Commission.

18 \* Sec. 11. AS 29.10.144(a) is amended to read:

19 (a) The council may regulate, fix, establish and change, as it  
20 considers proper, the rates and charges imposed for utilities services  
21 given to the city or its inhabitants by a public service association,  
22 corporation or individual, not regulated under AS 42.05, and may regu-  
23 late and provide what is a reasonable deposit for meters and security  
24 for service to be given, and provide that interest be paid on the  
25 deposit. All rates, charges and regulations shall be reasonable  
26 and shall permit a fair and reasonable return on invested capital.

27 \* Sec. 12. AS 29.10.147 is amended to read:

28 Sec. 29.10.147. HEARING FOR REGULATION OF UTILITIES RATES.

29 [(A)] If the council considers it advisable to regulate, change or

1 fix the rates to be charged by any public service corporation, associ-  
2 ation or individual, not regulated under AS 42.05, it shall order a  
3 hearing to be held before the council at a time and place specified  
4 and notice of the hearing shall be given by at least one publication  
5 in a newspaper of general circulation in the city, if the paper is  
6 published in the city. If no newspaper is published in the city,  
7 notice shall be given by posting a notice in three public places in  
8 the city, and by serving written notice upon the corporations, associa-  
9 tions and individuals whose rates are to be regulated, fixed or  
10 changed in the same manner that summons are served. The notices shall  
11 be published or posted and served at least 15 days before the hearing.

12 \* Sec. 13. This Act takes effect on July 1, 1970.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29