

Offered: 4/15/70
Referred: Rules

Original sponsor: Fink

1 IN THE HOUSE BY THE COMMERCE COMMITTEE
2 SENATE CS FOR 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. Members
24 of the commission are in the exempt service and shall receive an
25 annual salary of \$26,500 to be paid in equal monthly installments.

26 Sec. 42.05.101. PRINCIPAL OFFICE; SEAL. (a) The commission
27 shall establish a principal office and branch offices necessary to
28 discharge its business efficiently. For the convenience of the public
29 or of parties to a proceeding the commission may hold meetings, hear-

1 ings or other proceedings at other locations.

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

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

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

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

26 (b) In addition to its staff of regular employees, the commission
27 may contract for and engage the services of consultants and experts
28 the commission considers necessary.

29 Sec. 42.05.131. RESTRICTIONS ON MEMBERS AND EMPLOYEES. No member

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

9 ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

10 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION.

11 The Alaska Public Utilities Commission may

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

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

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

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

24 (5) require a public utility to file reports and other
25 information and data.

26 Sec. 42.05.151. ADMINISTRATIVE AUTHORITY OF COMMISSION; REGULATIONS
27 AND HEARING PROCEDURES. (a) The commission may adopt regulations,
28 not inconsistent with the law, necessary or proper to exercise its
29 powers and to perform its duties under this chapter.

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

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

19 Sec. 42.05.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

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

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

27 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the
28 commission has power to hold may be held by or before two or more
29 commissioners designated for the purpose by the commission. The testi-

1 mony and evidence in a formal hearing may be taken by the commissioners
2 to whom such hearing has been assigned. A commissioner who has not
3 heard the testimony, including the argument, may not participate in
4 making a decision of the commission. In determining the place of a
5 hearing the commission shall give preference to holding the hearing
6 at a place most convenient for those interested in the subject of
7 the hearing.

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

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

19 Sec. 42.05.201. PUBLICATION OF REPORTS, ORDERS, DECISIONS AND
20 REGULATIONS. All reports, orders, decisions and regulations of the
21 commission shall be in writing. The commission shall apprise all af-
22 fected utilities and interested parties of these reports, orders,
23 decisions, and regulations as they are issued and adopted, and, when
24 appropriate to do so, shall publish them in a manner that will reasonably
25 inform the public or the affected consumers of any public utility
26 service. The commission may set charges for costs of printing or
27 reproducing and furnishing copies of its reports, orders, decisions
28 and regulations. The publication requirement, as it pertains to
29 regulations, does not supersede the requirements of the Administrative

1 Procedure Act (AS 44.62).

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

9 ARTICLE 3. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

10 Sec. 42.05.211. CERTIFICATES REQUIRED. (a) No public utility
11 may operate and receive compensation for providing a commodity or
12 service after January 1, 1971 without first having obtained from the
13 commission under this chapter a certificate declaring that public
14 convenience and necessity require or will require the service. Where
15 a public utility provides more than one type of utility service, a
16 separate certificate of convenience and necessity shall be required
17 for each type. A certificate shall describe the nature and extent
18 of the authority granted therein, including as appropriate for the
19 services involved, a description of the authorized area or areas and
20 scope of operations of the public utility.

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

27 (c) A certificate shall be issued to a public utility not re-
28 quired to have one before the effective date of this Act, and which
29 is required to have one after that date, if it appears to the commis-

1 sion that the utility was actually operating in good faith on that
2 date. Such a certificate is subject to modification where there are
3 areas of conflict with other public utilities or where there has been
4 a substantial change in circumstances.

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

12 (1) delineate the service area boundaries of each in those
13 areas of competition;

14 (2) eliminate existing duplication and paralleling to the
15 fullest reasonable extent;

16 (3) preclude future duplication and paralleling;

17 (4) provide for the exchange of customers and facilities
18 for the purposes of providing better public service and of eliminating
19 duplication and paralleling; and

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

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

25 Sec. 42.05.231. APPLICATION. Application for a certificate shall
26 be in writing and shall be in the form and contain the information
27 required by the commission by regulation.

28 Sec. 42.05.241. CONDITIONS OF ISSUANCE. No certificate may be
29 issued unless the commission finds that the applicant is fit, willing

1 and able to provide the utility services applied for and that the
2 services are required for the convenience and necessity of the public.
3 The commission may issue a certificate granting an application in
4 whole or in part and attach to the grant of it the terms and conditions
5 it considers necessary to protect and promote the public interest
6 including the condition that the applicant may or shall serve an area
7 or provide a necessary service not contemplated by the applicant.
8 The commission may, for good cause, deny an application with or
9 without prejudice.

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

21 Sec. 42.05.261. DISCONTINUANCE, SUSPENSION OR ABANDONMENT OF
22 CERTIFICATED SERVICE. (a) Except as otherwise provided in this
23 section, no public utility may discontinue or abandon a service for
24 which a certificate has been issued by the commission unless upon the
25 application of the public utility and if, after notice and opportunity
26 for hearing, the commission finds that the continued service is not
27 required by public convenience and necessity. Any interested person
28 may file with the commission a protest or memorandum of opposition to
29 or in support of discontinuance or abandonment. The commission may

1 authorize temporary suspension of a service or of part of a service.

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

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

14 (1) the requirements of public convenience and necessity;

15 (2) misrepresentation of a material fact in obtaining the
16 certificate;

17 (3) unauthorized discontinuance or abandonment of all or
18 part of a public utility's service;

19 (4) wilful failure to comply with the provisions of this
20 chapter or the rules, regulations or orders of the commission; or

21 (5) wilful failure to comply with a term, condition, or
22 limitation of the certificate.

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

26 ARTICLE 4. SERVICES AND FACILITIES.

27 Sec. 42.05.291. STANDARDS OF SERVICE AND FACILITIES. (a) Each
28 public utility shall furnish and maintain adequate, efficient and safe
29 service and facilities. This service shall be reasonably continuous

1 and without unreasonable interruption or delay.

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

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

21 (d) When the commission, upon its own motion or upon complaint,
22 after providing reasonable notice and opportunity for hearing, finds
23 that the service or facilities of a public utility are unreasonable,
24 unsafe, inadequate, insufficient, or unreasonably discriminatory, or
25 otherwise in violation of this chapter, the commission shall prescribe,
26 by regulation or order, the reasonable, safe, adequate, sufficient
27 service or facilities to be observed, furnished, enforced, or employed,
28 including all repairs, changes, alterations, extensions, substitutions,
29 or improvements in facilities that are reasonably necessary and proper

1 for the safety, accommodation, and convenience of the public.

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

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

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

29 (c) The tariff of a public utility shall include rules setting

1 out the terms and conditions under which it will construct, or permit
2 its customers or subscribers to construct, and install lines, cables,
3 radio links, or pipes from its existing facilities to the premises of
4 applicants for service.

5 Sec. 42.05.321. FAILURE TO AGREE UPON JOINT USE OR INTERCONNECTION.

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

16 (1) order that the use be permitted;

17 (2) prescribe reasonable conditions and compensation for
18 the joint use;

19 (3) order the interconnection to be made;

20 (4) determine the time and manner of the interconnection;

21 (5) determine the apportionment of costs and responsibility
22 for operation and maintenance of the interconnection.

23 Sec. 42.05.331. STANDARDS FOR MEASUREMENT. The commission shall
24 establish by regulation adequate, fair and realistic standards for the
25 measurement of quality, pressure, voltage or other conditions of
26 utility services and shall prescribe reasonable regulations for
27 examination and testing of the service and the accuracy of the
28 devices used to measure it.

29 Sec. 42.05.341. TESTING OF METER STANDARDS. (a) The commis-

1 sion shall provide by regulation for the periodic testing and certifi-
2 cation of meter standards by laboratories acceptable to the commission.
3 The commission shall also provide by regulation for the taking of
4 appeals to the commission from the findings of a utility which
5 tests its own meters or appliances for measurement.

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

21 ARTICLE 5. RATES AND
22 RATE SCHEDULES.

23 Sec. 42.05.361. TARIFFS, CONTRACTS, FILING AND PUBLIC INSPECTION.
24 (a) Under such regulations as the commission shall prescribe, every
25 public utility shall file with the commission, within such time and in
26 such form as the commission shall designate, its complete tariff showing
27 all rates, including joint rates, tolls, rentals, and charges collected
28 and all classifications, rules, regulations, and terms and conditions
29 under which it furnishes its services and facilities to the general

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

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

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

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

27 Sec. 42.05.381. RATES TO BE JUST AND REASONABLE. (a) All rates
28 demanded or received by a public utility, or by any two or more public
29 utilities jointly, for a service furnished or to be furnished shall

1 be just and reasonable.

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

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

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

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

1 tion or compensation paid by a competitor, regulated or nonregulated,
2 of the public utility to secure the installation or adoption of the
3 use of the competitor's service.

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

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

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

25 Sec. 42.05.411. NEW OR REVISED TARIFFS. (a) No public utility
26 may establish or place in effect any new or revised rates, charges,
27 rules, regulations, conditions of service or practices except after 30
28 days' notice to the commission and to the public. Notice shall be given
29 by filing with the commission and keeping open for public inspection

1 the revised tariff provisions which shall plainly indicate the changes
2 to be made in the schedules then in force and the time when the changes
3 will go into effect. The commission may prescribe additional means
4 of giving notice. The commission, for good cause shown, may allow
5 changes to take effect on less than 30 days' notice under conditions
6 the commission prescribes.

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

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

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

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

26 (c) In the case of a proposed increased rate, the commission may
27 by order require the interested public utility or utilities to place
28 in escrow in a financial institution approved by the commission and
29 keep accurate account of all amounts received by reason of the increase,

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

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

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

24 Sec. 42.05.441. VALUATION OF PROPERTY OF A PUBLIC UTILITY. (a)
25 The commission may, after providing reasonable notice and opportunity
26 to be heard, ascertain and set the fair value of the whole or any
27 part of the property of a public utility, insofar as it is material to
28 the exercise of the jurisdiction of the commission. The commission may
29 make revaluations from time to time and ascertain the fair value of all

1 new construction, extensions, and additions to the property of a public
2 utility. If a public utility furnishes more than one classification
3 of utility service the utility shall allocate the investment and
4 expenses associated with the property used and useful in furnishing
5 service among the utility services and it may not solely consider the
6 utility's total investment and expenses in fixing rates for a particu-
7 lar service.

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

14 ARTICLE 6. ACCOUNTS, RECORDS AND REPORTS.

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

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

26 Sec. 42.05.461. CONTINUING PROPERTY RECORDS. The commission may
27 require a public utility to establish, provide, and maintain as a part
28 of its system of accounts, continuing property records segregated by
29 the year of placement in service, including a list or inventory of all

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

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

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

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

26 Sec. 42.05.481. SUBSIDIARY BUSINESS ACCOUNTS. A public utility
27 engaged, directly or indirectly, in another business, including another
28 utility business, or a subsidiary business shall keep separate accounts
29 relating to that business. Except as the commission provides, no

1 property, expense or revenue used in or derived from that business may
2 be considered in establishing the rates and charges of the utility for
3 its public services.

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

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

29 ARTICLE 7. FINANCIAL AND MANAGEMENT REGULATION.

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

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

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

25 Sec. 42.05.521. IMPAIRED CAPITAL. When the commission finds
26 that the capital of a public utility corporation is impaired, or might
27 become impaired, it may, after investigation and hearing, issue an
28 order directing the public utility to cease paying dividends on its
29 common stock until the impairment has been removed.

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

4 ARTICLE 8. JUDICIAL REVIEW, PENALTIES AND ENFORCEMENT.

5 Sec. 42.05.541. EFFECT OF REGULATIONS. Regulations adopted and
6 issued by the commission in accordance with this chapter have the
7 effect of law.

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

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

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

23 (b) Any civil penalty may be compromised by the commission. In
24 determining the amount of the penalty, or the amount agreed upon in
25 compromise, the appropriateness of the penalty to the size of the
26 business of the person charged, the gravity of the violation, and the
27 good faith of the person charged in attempting to achieve compliance,
28 after notification of a violation, shall be considered. The amount
29 of the penalty, when finally determined, or the amount agreed upon in

1 compromise, may be deducted from any sums owing by the state to the
2 person charged or may be recovered in a civil action in the state
3 courts.

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

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

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

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

25 Sec. 42.05.581. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
26 tion of a provision of this chapter or of an order, decision, regulation
27 or written requirement of the commission is a separate and distinct
28 offense, and in case of a continuing violation each day's continuance
29 is a separate and distinct offense.

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

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

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

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

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

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

20 ARTICLE 9. GENERAL PROVISIONS.

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

24 Sec. 42.05.641. REGULATION BY MUNICIPALITY. The commis-
25 sion's jurisdiction and authority extend to public utilities operat-
26 ing within a city or borough, whether home rule or otherwise.
27 In the event of a conflict between a certificate, order, decision or
28 regulation of the commission and a charter, permit, franchise, ordi-
29 nance, rule or regulation of such a local governmental entity, the

1 certificate, order, decision or regulation of the commission shall
2 prevail.

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

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

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

1 would adversely affect the interest of that person and is not required
2 in the interest of the public.

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

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

15 Sec. 42.05.701. DEFINITIONS. In this chapter

16 (1) "commission" means the Alaska Public Utilities Commis-
17 sion;

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

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

25 (B) furnishing telecommunications service to the
26 public for compensation;

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

29 (D) furnishing by transmission or distribution of

1 natural or manufactured gas to the Alaska public for compensation;

2 (E) furnishing for distribution or by distribution
3 petroleum or petroleum products to the Alaska public for compensation;

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

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

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

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

15 (B) any utility purchasing the product or service or
16 paying for the transmission of electric energy, natural or manu-
17 factured gas, or petroleum products which are re-sold to a group
18 included in (A) of this subsection or which are used to produce
19 the service or commodity sold to the public by the utility.

20 (6) "affiliated interest" includes:

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

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

28 (C) a corporation five per cent or more of whose
29 voting securities are owned by a person owning five per cent or

1 more of the voting securities of the public utility or by a person
2 in such a chain of successive ownership of five per cent or more
3 of voting securities;

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

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

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

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

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

21 (I) a person or corporation who or which the commission
22 determines as a matter of fact after investigation and hearing
23 actually is exercising substantial influence over the policies
24 and actions of a utility even though such influence is not based
25 upon stockholdings, stockholders, officers or directors to the
26 extent specified in this section;

27 (7) "tarrif" means a rate, charge, toll, rule or regulation
28 of a utility relating to services furnished by the utility to the
29 general public for compensation and every map, page, adoption notice,

1 instrument or other document filed with the commission setting out the
2 terms and conditions under which utility services are offered to the
3 public and instruments of concurrence and all other documents and data
4 setting out the terms of a utility's business relations with another
5 utility insofar as they affect the general public either directly or
6 indirectly;

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

13 Sec. 42.05.711. EXEMPTIONS. (a) The provisions of this chapter do
14 not apply to a person who furnishes water, gas or petroleum or petroleum
15 products by tank, wagon, or similar conveyance, unless the person is
16 thereby supplying water, gas, petroleum or petroleum products to a
17 public utility in which he has an "affiliated interest".

18 (b) Public utilities owned and operated by a political subdivision
19 of the state and none of whose utilities is in competition with any
20 other utility, are exempt from the provisions of this Chapter other
21 than the provisions of Article 3; unless such owner and operator
22 elects to be subject to all provisions hereof.

23 (c) The ownership in whole or part, of the corporate stock of
24 a public utility shall not make the owner a public utility.

25 (d) The commission, on a finding that no legitimate public
26 interest will be served, may exempt a utility from all or any portion
27 of this chapter.

28 (e) Notwithstanding any other provisions of this chapter, any
29 electric or telephone utility that does not gross \$25,000 annually

1 is exempt from regulation hereunder.

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

4 * Sec. 7. All litigations, hearings, investigations, and other proceed-
5 ings whatsoever, pending under any law repealed by this Act, shall continue
6 and remain in full force and effect, and may be continued and completed under
7 the provisions of this Act. All certificates, orders, rules, regulations,
8 or tariffs, made, issued, or filed under any law repealed by this Act, and
9 in full force and effect upon the effective date of this Act, shall remain
10 in full force and effect for the term issued, or until revoked, vacated, or
11 modified under the provisions of this Act. All existing contracts and obli-
12 gations of the commission, entered into or created under any law repealed
13 by this Act, and in force and effect upon the effective date of this Act,
14 shall remain in full force and effect and shall continue to be performed
15 by the commission. The existing rates, charges, tariffs, rules, regulations,
16 service and service area of the municipally owned utility shall continue and
17 remain in full force and effect unless otherwise ordered by the commission
18 under the provisions of this Act.

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

20 Sec. 07.12.030. LIMIT ON POWER TO GRANT FRANCHISES AND REGULATE
21 UTILITIES. AS 29.10.141 - 29.10.153, relating to the granting of
22 franchises and regulation of public utilities apply to home rule
23 boroughs.

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

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

28 * Sec. 10. AS 29.10.141 is amended to read:

29 Sec. 29.10.141. FRANCHISES AND PERMITS. (a) The council may

1 grant franchises, including exclusive franchise privileges, for the
2 construction, operation and maintenance of [ELECTRIC LIGHT AND POWER
3 PLANTS, WATER PLANTS,] bus transportation systems and public utilities
4 not regulated under AS 42.05, and may [, TELEPHONE AND OTHER PUBLIC
5 SERVICE, AND TO] permit them the use of streets and other public places
6 [FOR A PERIOD OF NOT TO EXCEED 20 YEARS,] under [RULES AND] regulations
7 prescribed by ordinance.

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

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

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

26 (a) The council may regulate, fix, establish and change, as it
27 considers proper, the rates and charges imposed for utilities services
28 given to the city or its inhabitants by a public service association,
29 corporation or individual, not regulated under AS 42.05, and may regu-

1 late and provide what is a reasonable deposit for meters and security
2 for service to be given, and provided that interest be paid on the
3 deposit. All rates, charges and regulations shall be reasonable
4 and shall permit a fair and reasonable return on invested capital.

5 * Sec. 12. AS 29.10.147 is amended to read:

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

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

19 * Sec. 13. AS 39.25.110 is amended by adding a new paragraph to read:

20 (13) commissioners of the Alaska Public Utilities
21 Commission.

22 * Sec. 14. This Act takes effect on July 1, 1970.
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