

Introduced: 1/28/69  
Referred: Commerce and  
Finance

1 IN THE SENATE

BY JOSEPHSON, RADER, AND BEGICH

2 SENATE BILL NO. 54

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Service Com-  
7 mission, defining its powers and duties; and  
8 providing for an effective date."

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

10 \* Section 1. AS 42.05.010 - 42.05.650 are repealed.

11 \* Sec. 2. AS 42.05 is amended by adding new sections to read:

12 CHAPTER 5. ALASKA PUBLIC SERVICE COMMISSION ACT.

13 ARTICLE 1. ESTABLISHMENT OF PUBLIC SERVICE COMMISSION.

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

17 Sec. 42.05.015. TERM OF OFFICE. The term of office of each member  
18 is five years or until his successor is appointed and qualifies. The  
19 term of the members shall begin on February 1, with the initial appoint-  
20 ments being for one, two, three, four and five years, respectively, as  
21 designated by the governor.

22 Sec. 42.05.025. QUALIFICATION OF MEMBERS. (a) The members of  
23 the commission shall be appointed with regard to their fitness to exer-  
24 cise the powers and duties of the commission, based on their qualifica-  
25 tions and experience.

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

28 Sec. 42.05.035. CHAIRMAN OF THE COMMISSION. The commission shall  
29 elect one of its members as chairman.

1           Sec. 42.05.045. RESTRICTIONS ON MEMBERS AND EMPLOYEES. No  
2 member of the commission nor an employee of the commission may have  
3 an official connection with or hold stock or securities in, or have  
4 a pecuniary interest in a public utility within the state. Membership  
5 in a cooperative association is not a "pecuniary interest" within the  
6 meaning of this section: however, no member or employee of the commis-  
7 sion may be an officer of a cooperative association. No member or  
8 employee may act upon a matter in which his relationship with any  
9 person creates a conflict of interests or an unfair advantage over  
10 anyone subject to regulation by the commission.

11           Sec. 42.05.055. OATH OF OFFICE. Each member of the commission  
12 shall take the oath of office prescribed for principal officers of the  
13 state.

14           Sec. 42.05.065. QUORUM, PRINCIPAL OFFICE, SEAL. (a) Three of  
15 the members of the commission shall constitute a quorum for the trans-  
16 action of business.

17           (b) The commission shall establish a principal office. When the  
18 convenience of the public or of the parties may be promoted, or delay  
19 or expense may be prevented, the commission may hold hearings or other  
20 proceedings at any other place.

21           (c) The commission shall have an official seal which shall be  
22 held in the custody of the executive director.

23           Sec. 42.05.075. COMPENSATION OF MEMBERS. Each member of the  
24 commission is entitled to the per diem payment established by law for  
25 other boards and commissions and shall be paid for his necessary travel  
26 expense, and \$6.000 a year.

27           Sec. 42.05.085. EXECUTIVE DIRECTOR. The commission shall  
28 employ an executive director of the commission who shall be  
29 charged with the performance and supervision of all

1 administrative functions of the commission. The executive director  
2 shall be in the partially exempt service under AS 39.25.

3 Sec. 42.05.095. LEGAL COUNSEL AND HEARING OFFICERS. The com-  
4 mission may employ legal counsel and hearing officers from time to time  
5 as needed and when the Department of Law is representing the public  
6 interest or any other party before the commission. The Department of  
7 Law shall furnish legal counsel on a continuing basis. The attorney  
8 general shall at the request of the commission represent the commission  
9 in suits in which it is a party, and may represent the public interest in  
10 any proceeding before the commission.

11 Sec. 42.05.105. EMPLOYMENT OF PERSONNEL. Officers, employees and  
12 agents of the commission, other than the executive director, legal  
13 counsel and hearing officers, are appointed to their positions in  
14 accordance with AS 39.25.020(2), and they are in the classified service  
15 under AS 39.25.

16 Sec. 42.05.115. DELEGATION OF FUNCTIONS. The commission may  
17 delegate the performance of any function under this chapter to any of  
18 its officers, employees, agents or administrative units, except as to  
19 the promulgation of regulations and the determination of controversies.

20 Sec. 42.05.125. GENERAL POWERS OF COMMISSION. The commission is  
21 empowered to perform acts, conduct investigations, issue, amend, and  
22 rescind orders, and to make, amend, and rescind general or special  
23 regulations and procedure under this chapter and the Alaska Administra-  
24 tive Procedure Act (AS 44.62) which the commission considers necessary  
25 to carry out the provisions of this chapter.

26 Sec. 42.05.135. ANNUAL REPORT. The commission shall publish an  
27 annual report reviewing its work and submit it to the legislature by  
28 February 15 of each year. In addition, the report shall contain infor-  
29 mation and data which bears a significant relationship to the develop-

1 ment and regulation of public utilities, carriers and others under the  
2 jurisdiction of the commission.

3 Sec. 42.05.145. PUBLICATION OF COMMISSION DOCUMENTS. The com-  
4 mission shall provide for the publication of its reports, orders,  
5 decisions and regulations. Publication shall be in a manner and form  
6 best adapted to public information and use.

7 ARTICLE 2. JURISDICTION AND GENERAL

8 AUTHORITY OF THE COMMISSION.

9 Sec. 42.05.165. JURISDICTION. The jurisdiction of the commission  
10 extends to all public utilities in the state, as defined in sec. 615 of  
11 this chapter.

12 Sec. 42.05.175. INFORMAL INVESTIGATION. (a) The commission may,  
13 upon giving five days written notice to a public utility, enter  
14 its premises during business hours, and inspect its books, accounts,  
15 papers, records and memoranda, and test its equipment. The commission  
16 may delegate in writing to any of its employees its authority to  
17 conduct an informal investigation under this section.

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

23 Sec. 42.05.185. FORMAL INVESTIGATION. The commission may insti-  
24 tute a formal investigation by issuing an order of investigation. The  
25 order of investigation shall state the reasons for the formal investi-  
26 gation, designate information required to be produced by the public  
27 utility and the time and place of its production.

28 Sec. 42.05.195. HEARINGS. (a) Hearings shall be initiated by  
29 the commission upon issuance and service of an order of hearing upon

1 a public utility.

2 (b) Hearings shall be conducted under AS 44.62.410 - 44.62.480  
3 of the Alaska Administrative Procedure Act.

4 Sec. 42.05.205. REPORTS. The commission shall make reports in  
5 writing on all proceedings under this chapter in which hearings are  
6 held. Each report shall state the commission's findings, the basis for  
7 the findings, and conclusions together with its decision and order.  
8 The recommended decision of a hearing officer may be adopted as the  
9 report of the commission. All reports shall be entered of record and  
10 copies shall be furnished to all the parties to the proceeding.

11 Sec. 42.05.215. 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 an inter-  
14 ested party may be entered by the commission without giving opportunity  
15 to be heard, including, if requested by the public utility or any  
16 interested party, a public oral hearing.

17 ARTICLE 3. CERTIFICATE OF PUBLIC  
18 CONVENIENCE AND NECESSITY

19 Sec. 42.05.235. CERTIFICATES OF CONVENIENCE AND NECESSITY. No  
20 public utility may operate after January 1, 1970 without first obtaining  
21 from the commission under this chapter a certificate declaring that  
22 public convenience and necessity require or will require the operation  
23 and delineating the area where service is to be provided. All certifi-  
24 cates of convenience and necessity now issued to a utility shall remain  
25 in effect but they are subject to modification where there are areas of  
26 conflict with utilities that have not previously been required to have  
27 a certificate.

28 Sec. 42.05.245. APPLICATION. Application for a certificate shall  
29 be in writing, verified, and in the form and containing the information

1 the commission by regulation requires.

2 Sec. 42.05.255. ISSUANCE. The commission shall issue a certifi-  
3 cate authorizing the whole or any part of the service covered by the  
4 application, if it finds that the applicant is fit, willing and able  
5 to provide the services of a public utility, and that the services are  
6 required by the public convenience and necessity, or it may issue a  
7 certificate conditioned upon the applicant serving an area not in-  
8 cluded in the application; otherwise the application shall be denied.

9 ARTICLE 4. COMMISSION REGULATION OF  
10 RATES AND SERVICE.

11 Sec. 42.05.275. ESTABLISHMENT OF REASONABLE RATES. All rates and  
12 charges made or received by a public utility for the sale of any service  
13 in the state, and all regulations affecting or pertaining to the rates  
14 or charges, shall be just and reasonable.

15 Sec. 42.05.285. PREFERENCE AND DISCRIMINATION PROHIBITED. No  
16 public utility may, with respect to a transmission or sale subject to  
17 the jurisdiction of the commission,

18 (1) make an unreasonable preference or advantage to any  
19 person or subject any person to an unreasonable prejudice or dis-  
20 advantage, or

21 (2) maintain an unreasonable difference in rates, charges,  
22 service, facilities, or in any other respect, either as between local  
23 ties or as between classes of service, except that municipally owned  
24 utilities may add charges to persons situated within the municipal  
25 boundaries which charges shall be separately stated along with a  
26 statement that the total is above that found by the commission to  
27 be reasonable, for billing or invoice purposes.

28 Sec. 42.05.295. COMPLIANCE WITH RATE SCHEDULES.

29 No public utility

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

8 Sec. 42.05.305. FILING OF SCHEDULES. Under regulations pre-  
9 scribed by the commission, each public utility shall file schedules  
10 with the commission. Schedules shall show all rates and charges for  
11 any sale of services, the classifications, practices, and regulations  
12 directly affecting the rates and charges, and all contracts which affect  
13 the rates, charges, classifications, and services. Each public utility  
14 shall keep its schedules open to inspection in a form and at times  
15 and places convenient to the public.

16 Sec. 42.05.315. CHANGES IN RATES. Unless the commission other-  
17 wise orders, no change may be made by a public utility in any rate,  
18 charge, classification, or service, or in any related regulation, or  
19 contract, except after 30 days notice to the commission and to the  
20 public. This notice shall be given by filing with the commission and  
21 keeping open for public inspection new schedules stating plainly the  
22 change to be made in the schedule then in force and the time when the  
23 change will go into effect. The commission may prescribe additional  
24 means of giving notice. The commission, for good cause shown, may  
25 allow changes to take effect without requiring 30 days notice by  
26 issuing an order specifying the changes to be made, the time they shall  
27 take effect and the manner in which they shall be filed and published.

28 Sec. 42.05.325. SUSPENSION BY COMMISSION OF NEW RATE SCHEDULES.  
29 When a new schedule is filed, the commission may, either upon complaint

1 or upon its own initiative without complaint, at once, or if it so  
2 orders, upon reasonable notice, enter upon an investigation and  
3 hearing on the lawfulness of the rate, charge, classification or  
4 service. Pending the investigation, hearing and decision, the commis-  
5 sion may suspend the operation of a new schedule and defer use of its  
6 rates, charges, classifications, or services by filing in the commis-  
7 sion records a written statement of its reasons for the suspension to-  
8 gether with the suspended schedule and by delivering a copy of the  
9 statement to the public utility. A new schedule may not be suspended  
10 for more than five months beyond the time it would otherwise go into  
11 effect. After a full hearing, completed either before or after the  
12 rate, charge, classification or service goes into effect, the commis-  
13 sion may issue an order granting, denying or modifying the new schedule  
14 in whole or in part. If the proceeding has not been concluded and an  
15 order issued at the expiration of five months, the proposed change of  
16 rate, charge, classifications, or service goes into effect at the end  
17 of the period. In the case of a proposed increased rate or charge,  
18 the commission may by order require the interested public utility or  
19 public utilities to keep accurate account in detail of all amounts  
20 received by reason of the increase, specifying by whom and in whose  
21 behalf the amounts are paid. Upon completion of the hearing and de-  
22 cision, the commission may by order require the public utility to re-  
23 fund with interest, not exceeding six per cent a year, to the persons  
24 in whose behalf the amounts were paid, that portion of the increased  
25 rates or charges which by its decision was found not to be justified.  
26 At a hearing involving a rate or charge sought to be increased the  
27 burden of proof to show that the increased rate or charge is just and  
28 reasonable is upon the public utility. The commission shall give to the  
29 hearing and decision of these questions preference over other questions

1 pending before it and decide them as speedily as possible.

2 Sec. 42.05.335. POWER OF COMMISSION TO FIX RATES. When the  
3 commission, after an investigation and hearing upon its own motion or  
4 upon complaint, finds that a rate, charge or classification observed  
5 or charged by a public utility for the sale of a service subject to the  
6 jurisdiction of the commission, or that a regulation, practice, or con-  
7 tract affecting that rate, charge or classification is unjust, unreason-  
8 able, unjustly discriminatory or preferential, the commission shall  
9 determine the just and reasonable rate, charge, classification, regula-  
10 tion, practice, or contract to be in force, and shall establish it by  
11 order. A municipality may covenant with bondholders with regard to  
12 rates of a municipally owned utility and the covenant is valid and en-  
13 forceable, any order of the commission under this section and any other  
14 provision of secs. 275 - 405 of this chapter notwithstanding, and the  
15 covenant is considered to be a contract with the holders, from time to  
16 time, of the bonds.

17 Sec. 42.05.345. SERVICE (a) If the commission, upon investiga-  
18 tion and after providing an opportunity for hearing, finds that a  
19 practice or service of a public utility is inadequate, insufficient,  
20 unjust, unreasonable, unsafe, preferential or unjustly discriminatory,  
21 the commission shall determine the proper or sufficient practice or  
22 service to be furnished and shall establish it by its order or regulation.

23 (b) The commission may examine the management of a public utility,  
24 including staffing patterns and wage and salary scales. The commission  
25 after providing an opportunity for hearing, may order the correction of  
26 abuses found which adversely affect the cost or quality of the product  
27 or service of the public utility.

28 Sec. 42.05.355. JOINT USE AND INTERCONNECTION OF FACILITIES. (a)  
29 Every public utility having sewers, tracks, conduits, subways, utilidor,

1 poles, pole lines, pipes, pipe lines, mains or other distribution or  
2 transmission media shall for a reasonable compensation permit the use  
3 of them by any other public utility when public convenience and neces-  
4 sity require this use and the use will not result in substantial injury  
5 to the owner or in substantial detriment to the service to the customer  
6 or consumers of the owner. The cost of modifications or additions  
7 necessary to a joint use shall be at the expense of the public utility  
8 requesting the use of the media. This section does not authorize a  
9 public utility to contract or share the use of the media of another  
10 public utility offering the same service when the purpose of the joint  
11 use is to violate the service area of the utility owning the media.

12 (b) Every public utility for the transmission of telephone  
13 messages shall permit physical connection to be made and telephone  
14 service to be furnished between a telephone system operated by it and  
15 the telephone system or toll line operated by another public utility,  
16 or between its toll line and the toll line of another public utility,  
17 whenever public convenience and necessity require the physical con-  
18 nection and the physical connection will not result in substantial in-  
19 jury to the owner or other users of the facilities of either public  
20 utility or in substantial detriment to the service of either public  
21 utility. The term "physical connection" means the trunk lines or  
22 complete wire circuits and connections required to furnish reasonably  
23 adequate telephone service between the public utilities.

24 (c) If any prospective consumer or patron is situated within a  
25 reasonable distance of the distribution facilities of a public utility  
26 which generates, transmits, delivers, or furnishes electric energy and  
27 power and the prospective consumer constructs and installs the  
28 necessary facilities in compliance with plans and specifications  
29 furnished by the utility, the utility shall permit the physical

1 connection to be made and service to be furnished to that person. The  
2 utility may deny the connection if it would result in substantial  
3 detriment to other consumers of the utility, or if safety hazards  
4 would be created by the connection. This section does not require a  
5 utility to assume maintenance or other responsibility for facilities  
6 which it does not own.

7 Sec. 42.05.365. APPLICATION TO COMMISSION IN CASE OF FAILURE  
8 TO AGREE UPON JOINT USE OR INTERCONNECTION. In case of failure to  
9 agree upon the joint use or interconnection of media or the conditions  
10 or compensation for joint use or interconnections, the public utility  
11 or an interested person may apply to the commission, If, after in-  
12 vestigation, the commission finds that public convenience and necessity  
13 require the joint use or physical connection, and that the use or  
14 physical connection does not result in substantial injury to the owner  
15 or users of the media, nor in substantial detriment to the services  
16 furnished by the owner or users thereof, nor in the creation of safety  
17 hazards, it shall

- 18 (1) order that the use be permitted;
- 19 (2) prescribe reasonable conditions and compensation for the  
20 use;
- 21 (3) order that the physical connection be made;
- 22 (4) determine the time and manner of connection;
- 23 (5) determine the party who shall pay the expense of making  
24 and maintaining the connection.

25 Sec. 42.05.375. STANDARD UNITS AND EXPENSES PER UNIT. For each  
26 kind of public utility, the commission shall prescribe suitable and  
27 convenient standard commercial units of product or service. These units  
28 are lawful units for purposes of this chapter. Each public utility  
29 shall furnish the commission with accounts, reports and information

1 based upon the prescribed units which the commission requires.

2 Sec. 42.05.385. STANDARDS FOR MEASUREMENT. The commission shall  
3 establish by regulation adequate and serviceable standards for the  
4 measurement of quality, pressure, voltage or other conditions, includ-  
5 ing, but not limited to, quantity and quality of service pertaining to  
6 the supply of the product or service furnished by a public utility and  
7 shall prescribe reasonable regulations for examinations and testing  
8 of the product or service and for the measurement of it. In doing so,  
9 the commission shall conform to the standard practices of the industry  
10 or activity regulated.

11 Sec. 42.05.395. TESTING OF METER STANDARDS. The commission shall  
12 provide by regulation for the periodic testing and certification of  
13 meter standards by laboratories acceptable to the commission. The  
14 commission shall also provide by regulation for the taking of appeals  
15 to the commission from the findings of a utility which tests its own  
16 meters or appliances for measurement.

17 Sec. 42.05.405. CLASSES OF SERVICE. The commission shall provide  
18 for a comprehensive classification of services for each public utility.  
19 The classification shall take into account the quantity used, the time  
20 when used, the purpose for which used and other reasonable factors.  
21 Each public utility shall conform its schedules of rates, tolls and  
22 charges to the classification.

23 ARTICLE 5. VALUATION AND ACCOUNTING PROCEDURES.

24 Sec. 42.05.425. VALUATION OF PUBLIC UTILITY PROPERTIES. The  
25 commission may, when necessary for rate-making purposes, investigate  
26 and ascertain the actual legitimate costs of the used or useful property  
27 of every public utility, the depreciation of the property, and, when found  
28 necessary for rate-making purposes, other facts which bear on the  
29 determination of the cost or depreciation, and the fair value in fact of

1 the property. No consideration may be given to good will, going value,  
2 or natural resources. Every public utility, upon request, shall file  
3 with the commission an inventory of all or any part of its property  
4 and a statement of the original cost of it, and shall keep the commis-  
5 sion informed regarding the cost of all additions, improvements,  
6 extensions, and new construction.

7 Sec. 42.05.435. SYSTEMS OF ACCOUNTS AND REPORTS. (a) Every  
8 public utility, including municipally owned utilities which are other-  
9 wise exempt from this chapter, shall use and follow generally recognized  
10 systems of public utility accounting, and shall furnish the commission  
11 with a copy of its annual audit report. If a public utility does not  
12 adopt generally recognized systems of public utility accounting, the  
13 commission shall prescribe the accounting system which the utility  
14 shall adopt. However, the commission may waive this requirement if the  
15 public utility does a gross annual business of less than \$100,000. Each  
16 public utility, except municipally owned utilities which are otherwise  
17 exempt from this chapter, shall submit reports which the commission  
18 requires on forms furnished by the commission.

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

25 ARTICLE 6. SECURITIES AND DISTRIBUTION OF SURPLUS PROFITS.

26 Sec. 42.05.455. STATEMENT OF ISSUANCE OF SECURITIES. A public  
27 utility, except a municipally or consumer owned utility, before issuing  
28 securities shall file with the commission a statement setting out:

- 29 (1) the amount and character of the proposed securities;

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

2 (3) the terms on which securities are to be issued, in-  
3 cluding a detailed description and a detailed statement of the value  
4 of property or services that are to be received in full or partial  
5 payment for them, and of property or services already received by the  
6 public utility, the cost of which is to be paid by the public utility  
7 with securities; and

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

11 Sec. 42.05.465. IMPAIRED CAPITAL. If the commission finds that  
12 the capital of a public utility is impaired, it may, after investiga-  
13 tion and hearing, issue an order directing the public utility to cease  
14 paying dividends on its common stock until the impairment has been  
15 removed.

16 Sec. 42.05.475. DISTRIBUTION OF SURPLUS, PROFITS AND OPERATING  
17 MARGINS. The surplus, profits and operating margins of public  
18 utilities shall be distributed in accordance with the bylaws or ordin-  
19 ances controlling the utility. The commission may adopt regulations  
20 governing the distribution of surplus, profits, and operating margins  
21 by public utilities. The commission may, upon investigation and hear-  
22 ing, issue orders governing the distribution of surplus, profits or  
23 operating margins of a public utility or may amend or rescind its  
24 orders.

25 Sec. 42.05.495. SHORT-TERM FINANCING. The provisions of secs.  
26 455 - 475 of this chapter do not apply to short-term financing of less  
27 than three years provided the short-term financing does not exceed 10  
28 per cent of the total debt of the utility.

29 ARTICLE 7. ENFORCEMENT, JUDICIAL REVIEW AND PENALTIES.

1           Sec. 42.05.505. EFFECT OF REGULATIONS AND ORDERS. Regulations  
2 and orders adopted and issued by the commission in accordance with this  
3 chapter and the Administrative Procedure Act (AS 44.62) have the effect  
4 of law.

5           Sec. 42.05.515. REVIEW AND ENFORCEMENT. (a) All final orders  
6 of the commission are subject to judicial review in accordance with the  
7 Alaska Administrative Procedure Act (AS 44.62).

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

14           Sec. 42.05.525. PENALTIES. Whoever knowingly violates a valid  
15 written regulation or order of the commission is, upon conviction,  
16 punishable by the superior court by a fine of not more than \$500 each  
17 day the violation continues.

18           Sec. 42.05.535. JOINDER OF ACTIONS. Under applicable court  
19 rules, appeals from orders of the commission, applications for en-  
20 forcement of commission orders and actions for recovery of a penalty  
21 may be joined; however, the court may in the interests of justice  
22 separate the actions.

23                   ARTICLE 8. MISCELLANEOUS PROVISIONS.

24           Sec. 42.05.555. PAYMENT OF UTILITY TAX BY PUBLIC UTILITIES.  
25 Beginning January 1, 1970, an annual tax equal to one-half of one per  
26 cent of gross operating revenues from intrastate operations is levied  
27 on each public utility certificated under this chapter. The tax shall  
28 be paid to the commission and shall be deposited in the general fund.  
29 The commission shall determine the tax for each public utility and shall

1 permit a reasonable time for its payment. For purposes of this section  
2 gross operating revenues do not include revenues derived from the sale  
3 of commodities.

4 Sec. 42.05.565. EMINENT DOMAIN. A public utility may exercise  
5 the power of eminent domain for public uses authorized by law. This  
6 section does not authorize the use of a declaration of taking by a  
7 public utility which does not have that power under another law.

8 Sec. 42.05.575. REGULATION BY MUNICIPALITY. If there is a con-  
9 flict between a regulation, order or ordinance of a municipality and  
10 a regulation or order of the commission, the latter prevails.

11 ARTICLE 9. GENERAL PROVISIONS.

12 Sec. 42.05.605. CITIES AND BOROUGHES. No municipality may violate  
13 a provision of this chapter.

14 Sec. 42.05.615. DEFINITIONS. In this chapter

15 (1) "commission" means the Public Service Commission;

16 (2) "public utility" or "utility" includes every corporation,  
17 whether municipal, public, cooperative, or otherwise, company, in-  
18 dividual, or association of individuals, their lessees, trustees, or  
19 receivers appointed by a court, that owns, operates, manages, or  
20 controls any plant, pipeline, or system for

21 (A) the generation, transmission, or distribution of  
22 electric energy and power, or the furnishing of telephone or  
23 telegraph communications, any of which produce an annual gross  
24 income in excess of \$25,000:

25 (B) the distribution to the public, or to a public  
26 utility for resale to the public, for compensation of heat,  
27 natural or manufactured gas; or

28 (C) the furnishing to the public, or to a public utility  
29 for resale to the public, for compensation of water, or petroleum

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or petroleum products by pipeline, or community sewer services:

(3) "integrated economic area" means an area that has met the standards for incorporation as a borough under AS 07.10.030, or for mandatory incorporation as a borough under sec. 3, cn. 52, SLA 1963;

(4) "municipality" means a city or borough of any class, whether home rule or otherwise.

Sec. 42.05.625. APPLICATION OF CHAPTER. This chapter does not apply to

(1) a person who furnishes water or petroleum or petroleum products by tank, wagon or similar conveyance;

(2) a pipeline used only for repressurization;

(3) services rendered by the owners of improved or unimproved land solely for themselves or the tenants or occupants or to community water or sewer system agreements among not more than 150 parties;

(4) a person who generates, transmits or distributes the products or services of a public utility solely for his own use, or for the use of his subcontractors and employees and their dependents;

(5) the furnishing of television broadcasts, including closed-circuit television.

\* Sec. 3. AS 39.25.120 is amended by adding a new paragraph to read:

(7) the executive director of the Public Service Commission.

\* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.