

Introduced: 5/28/80
Referred: Commerce

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE BILL NO. 1037

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Public
7 Utilities Commission and amending the statutes relating
8 to its responsibilities; and providing for an effective
9 date."

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

11 * Section 1. AS 29.48.060 is amended to read:

12 Sec. 29.48.060. PUBLIC UTILITIES RATES. The assembly acting for
13 the area outside cities and the council acting for the area within a
14 city may regulate, fix, establish and change, as it considers proper,
15 the rates and charges imposed for utilities services given to the muni-
16 cipality or its inhabitants by a municipally owned utility [PUBLIC
17 SERVICE ASSOCIATION, CORPORATION, OR INDIVIDUAL NOT REGULATED] under
18 AS 42.05 and may regulate and provide what is a reasonable deposit for
19 meters and security for service to be given, provided that interest is
20 [BE] paid on the deposit. All rates, charges and regulations shall be
21 reasonable and shall permit a fair and reasonable return on invested
22 capital.

23 * Sec. 2. AS 42.05.121(a) is amended to read:

24 (a) The commission may employ an executive director who shall have
25 had at least five years of experience in public utility management or
26 regulation, law, accounting, or an allied field. The executive director
27 is responsible for directing the administrative functions of the commis-
28 sion and carrying out the policies as set by the commission. [THE
29 EXECUTIVE DIRECTOR MAY BE ONE OF THE COMMISSION MEMBERS.] The commis-

1 sion may employ engineers, hearing officers, experts, clerks, account-
2 ants, and other agents and assistants it considers necessary. The
3 executive director [, IF NOT A MEMBER OF THE COMMISSION,] and his deputy
4 are in the partially exempt service under AS 39.25.120. All other
5 employees and agents of the commission, other than legal counsel, are in
6 the classified service under AS 39.25.100. [THE COMBINED SALARY OF AN
7 EXECUTIVE DIRECTOR WHO IS A MEMBER OF THE COMMISSION MAY NOT EXCEED THAT
8 OF A SUPERIOR COURT JUDGE.]

9 * Sec. 3. AS 42.05.131 is amended by adding a new subsection to read:

10 (b) A member or employee of the commission may not, for two years
11 after leaving his position as a member or employee of the commission,
12 act as agent or on behalf of a public utility in any matter before the
13 commission. A member or executive director of the commission, may not,
14 for two years after leaving his position as member or executive director
15 of the commission, seek or take employment in a public utility regulated
16 by the commission. A violation of this subsection is a class A mis-
17 demeanor.

18 * Sec. 4. AS 42.05.321 is amended by adding a new subsection to read:

19 (b) This section and AS 42.05.311 apply to all utilities whether
20 or not they are exempt from other regulation under AS 42.05.711 or
21 42.05.713.

22 * Sec. 5. AS 42.05.391(a) is amended to read:

23 (a) A [NO] public utility may not, as to rates, grant an unreason-
24 able preference or advantage to any of its customers or subject a cus-
25 tomers to an unreasonable prejudice or disadvantage. A [NO] public
26 utility may not, establish or maintain an unreasonable difference as to
27 rates, either as between localities or between classes of service.
28 A municipally owned utility may offer uniform or identical rates for a
29 public utility service to customers located in different areas within

1 its certificated service area who receive the same class of service.

2 * Sec. 6. AS 42.05.421(a) is amended to read:

3 (a) When a tariff filing is made containing a new or revised rate,
4 classification, rule, regulation, practice, or condition of service the
5 commission may, either upon written complaint or upon its own motion,
6 after reasonable notice, conduct a hearing to determine the reasonable-
7 ness and propriety of the filing. Pending such a hearing the commission
8 may, by order stating the reasons for its action, suspend the operation
9 of the tariff filing for

10 (1) an initial period not longer than six months beyond the
11 time when it would otherwise go into effect if the annual gross revenues
12 of the utility making the filing are more than \$3,000,000; and

13 (2) not longer than 150 days if the annual gross revenues of
14 the utility making the filing are \$3,000,000 or less.

15 * Sec. 7. AS 42.05.711(b) is amended to read:

16 (b) Public utilities owned and operated by a political subdivision
17 of the state and none of whose utilities [, EXCEPTING THE FURNISHING OF
18 COLLECTION AND DISPOSAL SERVICE OF GARBAGE, REFUSE, TRASH OR OTHER WASTE
19 MATERIAL,] is in competition with any other utility, are exempt from the
20 provisions of this chapter, other than the provisions of AS 42.05.221 -
21 42.05.281, unless the owner and operator elects to be subject to all
22 provisions of this chapter [NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
23 CHAPTER, MUNICIPALITIES PROVIDING COLLECTION AND DISPOSAL SERVICE OF
24 GARBAGE, REFUSE, TRASH OR OTHER WASTE MATERIAL WITHIN THEIR CORPORATE
25 BOUNDARIES ARE NOT SUBJECT TO REGULATION BY THE ALASKA PUBLIC UTILITIES
26 COMMISSION UNLESS THE MUNICIPALITY ELECTS TO BE SUBJECT TO THE PRO-
27 VISIONS OF THIS CHAPTER.]

28 * Sec. 8. AS 42.05.711(e) is amended to read:

29 (e) Notwithstanding any other provisions of this chapter, any

1 electric or telephone utility that does not gross \$50,000 [\$25,000]
2 annually is exempt from regulation under this chapter [HEREUNDER] unless
3 25 percent of the subscribers petition the commission for regulation.

4 * Sec. 9. AS 42.05.711 is amended by adding new subsections to read:

5 (f) Notwithstanding any other provisions of this chapter, an
6 electric or telephone utility that does not gross \$400,000 annually may
7 elect to be exempt from the provisions of this chapter other than
8 AS 42.05.221 - 42.05.281 under the procedure described in AS 42.05.712.

9 (g) A utility, other than a telephone, electric, garbage, or cable
10 television utility, that does not gross \$100,000 annually may elect to
11 be exempt from the provisions of this chapter other than AS 42.05.221 -
12 42.05.281 under the procedure described in AS 42.05.712.

13 (h) A cooperative organized under AS 10.25 may elect to be exempt
14 from the provisions of this chapter, other than AS 42.05.221 - 42.05.281,
15 under the procedure described in AS 42.05.712.

16 (i) On June 30, 1981, a utility which furnishes collection and
17 disposal service of garbage, refuse, trash, or other waste material and
18 has gross revenues of \$400,000 or less is exempt from the provisions of
19 this chapter, other than the certification provisions of AS 42.05.221 -
20 42.05.281, unless 25 percent of the subscribers or subscribers represent-
21 ing 25 percent of the gross revenue of the utility petition the commis-
22 sion for regulation.

23 (j) After June 30, 1983, a refuse utility is exempt from the
24 provisions of this chapter.

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

26 Sec. 42.05.712. DEREGULATION BALLOT. (a) A utility or coopera-
27 tive which may elect to be exempt from the provisions of this chapter
28 shall poll its subscribers in the manner described in this section.

29 (b) The votes of a majority of those voting are required for a

1 utility or cooperative to elect exemption under (a) of this section.

2 (c) Each subscriber or member of the utility or cooperative shall
3 receive notice of an election under this section with his regular bill
4 for service at least 60 days before the date set for the election. The
5 notice shall contain impartial language informing the subscribers or
6 members that an election on the option of deregulation or regulation by
7 the Alaska Public Utilities Commission will be held within 60 days and
8 that a ballot to participate in that election will be mailed or
9 delivered to each subscriber or member of the utility or cooperative
10 with his regular bill for service. The notice shall also state that a
11 subscriber or member of the cooperative is entitled to vote in the
12 election without regard to whether his account with the utility or
13 cooperative is current and that the ballot must be postmarked or
14 returned to the utility or cooperative within 30 days after it was
15 mailed or otherwise delivered to the subscriber or member. The notice
16 shall also announce the schedule for one or more public meetings which
17 shall provide an opportunity for the subscribers or members to discuss
18 this election. The public meeting or meetings shall be held not more
19 than 30 days before the ballots are mailed or distributed to those
20 eligible to vote. A cooperative may satisfy this requirement by
21 including a discussion of this election on the agenda of an annual
22 meeting if the annual meeting is scheduled to be held not more than 30
23 days before the election.

24 (d) A ballot with return postage paid shall be mailed or delivered
25 to each subscriber or member of the utility or cooperative with his bill
26 for service and shall contain only the following language:

27 "Shall(name of utility or cooperative)
28 be exempt from regulation by the Alaska Public
29 Utilities Commission?

1 [] YES [] NO"

2 (e) During the 60 days immediately preceding an election under
3 this section a list of subscribers or members of the utility or cooper-
4 ative shall be made available at cost to any subscriber or member of the
5 utility or cooperative who requests one. The list shall be in the same
6 form that is available to the utility or cooperative.

7 (f) The board of directors of a utility or cooperative may call an
8 election under this section on its own initiative and shall call an
9 election upon receipt of a valid petition from its subscribers or
10 members. A petition shall be considered valid if it is signed by not
11 less than the number of subscribers or members equal to ten percent of
12 the first 5,000 subscribers or members and three percent of the sub-
13 scribers or members in excess of 5,000. An election under this section
14 may only be held once every two years.

15 (g) A utility or cooperative which is already exempt from regu-
16 lation under this section may elect to terminate its exemption in the
17 same manner.

18 * Sec. 11. AS 42.05 is amended by adding a new section to read:

19 Sec. 42.05.713. CABLE TELEVISION SYSTEMS. (a) Notwithstanding
20 other provisions of this chapter, a cable television system which (1) is
21 located in a service area in which cable television systems provide five
22 or more channels to a subscriber; (2) has a subscriber penetration ratio
23 of less than 70 percent and certifies that fact to the commission; and
24 (3) is located in a service area which has available two significantly
25 viewed commercial television stations or one significantly viewed com-
26 mercial television station and a public television station, shall be
27 exempt from the provisions of this chapter.

28 (b) Local television channels which are available without the use
29 of a community antenna system and are rebroadcast by cable television

1 systems may not be counted under (a)(1) of this section.

2 (c) In this section

3 (1) "cable television system" or "system" means a community
4 antenna television system which provides television service to paid
5 subscribers by means of cable;

6 (2) "earth station" means a structure or device used to
7 receive signals from a satellite;

8 (3) "public television station" means a station which offers
9 only programming designed to serve noncommercial educational, public or
10 instructional purposes, including service by translating systems
11 licensed by the Federal Communications Commission;

12 (4) "significantly viewed television station" means a station
13 which is viewed as described in 47 C.F.R. 76.5(k) and includes service
14 by translating systems licensed by the Federal Communications Commis-
15 sion;

16 (5) "subscriber penetration ratio" means the number of sub-
17 scribing residences divided by the total number of residences having
18 cable available.

19 * Sec 12. AS 44.66.010(a)(4) is amended to read:

20 (4) Alaska Public Utilities Commission (AS 42.05.010) --
21 June 30, 1984 [1980];

22 * Sec. 13. A cable television system which holds a certificate of public
23 convenience and necessity issued by the Alaska Public Utilities Commission
24 for its service area on or before the effective date of this Act must hold
25 that certificate for at least three years from the date of its issuance to be
26 eligible for the exemption under AS 42.05.713 enacted in sec. 11 of this Act.

27 * Sec. 14. This Act takes effect June 30, 1980.