

Introduced: 4/24/80  
Referred: Commerce

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 SENATE BILL NO. 577 am

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 AS 29.48.030(a)(17) is repealed and re-enacted to read:

12 (17) collection and disposal of garbage, refuse, trash, waste  
13 material, solid waste and other related services subject to AS 29.48.-  
14 033;

15 \* Sec. 2. AS 29.48.033(b) is amended to read:

16 (b) The council or governing body of any political subdivision may  
17 not prohibit a person holding a franchise granted under AS 29.48.050  
18 [VALID CERTIFICATE FROM THE ALASKA PUBLIC UTILITIES COMMISSION] from  
19 continuing to collect and dispose of garbage, refuse, trash, waste  
20 material, or other related services in any area in the political sub-  
21 division [IF THE CERTIFICATE AUTHORIZES THE COLLECTION AND DISPOSAL OF  
22 GARBAGE, REFUSE, TRASH OR OTHER WASTE MATERIAL AND PROVIDING OF OTHER  
23 SERVICES IN THE AREA, AND THE CERTIFICATE WAS ORIGINALLY ISSUED BEFORE  
24 THE POLITICAL SUBDIVISION PROVIDED LIKE OR SIMILAR SERVICES]. A poli-  
25 tical subdivision may not provide for a garbage, refuse, trash or other  
26 waste material collection and disposal service in any area to the extent  
27 it lies within an area granted to a garbage, refuse, trash or other  
28 waste material carrier under AS 29.48.050 [BY A CERTIFICATE ISSUED BY  
29 THE COMMISSION TO THE CARRIER] until it has purchased the franchise

1 [CERTIFICATE], equipment and facilities of the carrier or that portion  
2 of the franchise [CERTIFICATE] which would be affected at fair market  
3 value and may exercise the right of eminent domain to determine fair  
4 market value.

5 \* Sec. 3. AS 29.48.035(a)(16) is repealed and re-enacted to read:

6 (16) collection and disposal of garbage, refuse, trash, waste  
7 material, solid-waste and other related services;

8 \* Sec. 4. AS 29.48.037 is amended by adding a new subsection to read:

9 (c) A municipality may regulate a utility subject to regulations  
10 under AS 29.48.050 and 29.48.060 even if part of the area served by the  
11 utility lies outside the boundaries of the municipality.

12 \* Sec. 5. AS 29.48.050 is amended by adding a new subsection to read:

13 (d) Notwithstanding (b) of this section, an exclusive franchise  
14 shall be issued to a refuse utility engaged in garbage, refuse, trash or  
15 other waste material collection and disposal if the refuse utility holds  
16 a valid certificate from the Alaska Public Utilities Commission autho-  
17 rizing the utility to collect and dispose of garbage, refuse, trash or  
18 other waste material and the certificate was issued before the effective  
19 date of this Act. The franchise service area of the refuse utility  
20 shall be the same as provided in the Alaska Public Utilities Commission  
21 certificate. The initial rates, tariffs and regulations of the refuse  
22 utility under the franchise shall be the rates, tariffs and regulations  
23 approved by the Alaska Public Utilities Commission on or before the  
24 effective date of this Act. A franchise granted under this subsection  
25 shall be for not less than 10 years. The franchise granted under this  
26 subsection may not be revoked without good cause.

27 \* Sec. 6. AS 29.48.060 is amended to read:

28 Sec. 29.48.060. PUBLIC UTILITIES RATES. (a) The assembly acting  
29 for the area outside cities and the council acting for the area within a

1 city may regulate, fix, establish and change, as it considers proper,  
2 the rates and charges imposed for utilities services given to the muni-  
3 cipality or its inhabitants by a public service association, corpora-  
4 tion, or individual not regulated under AS 42.05 or exempt under  
5 AS 42.05.711(e) - (h) and may regulate and provide what is a reasonable  
6 deposit for meters and security for service to be given, provided that  
7 interest is [BE] paid on the deposit. All rates, charges and regula-  
8 tions shall be reasonable and shall permit a fair and reasonable return  
9 on invested capital. The rates and charges for a refuse utility may  
10 be set by using operating ratios.

11 (b) Unless the assembly or council gives notice of a hearing  
12 under AS 29.48.070 to begin in 45 days after application for a change  
13 in rates or charges, a refuse utility may, for services rendered after  
14 45 days of filing its application for a change in rates or charges,  
15 charge the proposed new rates or charges on an interim basis subject to  
16 refund of the interim rates or charges in excess of the rates or charges  
17 set by ordinance under AS 29.48.090. For the purposes of a possible re-  
18 fund, the refuse utility shall maintain accurate records of the interim  
19 rates and the charges paid by each customer.

20 \* Sec. 7. AS 29.48.090 is amended by adding new subsections to read:

21 (b) A final order of the assembly or council is subject to judi-  
22 cial review in accordance with AS 44.62.560 - 44.62.570.

23 (c) A refuse utility may elect to proceed under (b) of this sec-  
24 tion or to apply to the Alaska Public Utilities Commission for review of  
25 a final order of the assembly or council establishing rates or charges,  
26 if the refuse utility

27 (1) offers service in a municipality which provides for a  
28 garbage, refuse, trash or other waste material collection and disposal  
29 service in the municipality; or

1 (2) received 20 percent or more of its revenues in the pre-  
2 ceding calendar year from the franchising municipality.

3 (d) Aggrieved customers of a refuse utility may proceed under (b)  
4 of this section or may elect to apply to the Alaska Public Utilities  
5 Commission for review of a final order of the assembly or council estab-  
6 lishing rates or charges if

7 (1) there is a local ordinance or other regulation requiring  
8 the customers to use the refuse utility; and

9 (2) a petition requesting the review is filed with the Alaska  
10 Public Utilities Commission and the petition is signed by 25 percent of  
11 the customers served by the utility or by customers accounting for 25  
12 percent of the non-municipal revenues generated by the utility, which-  
13 ever is less.

14 (e) The Alaska Public Utilities Commission shall review appeals  
15 made under this section using the same criteria and procedure as pro-  
16 vided in the Alaska Public Utilities Commission Act (AS 42.05) for  
17 regulated utilities. Judicial review of a final order issued by the  
18 commission shall be in accordance with AS 44.62.560 - 44.62.570.

19 \* Sec. 8. AS 42.05.121(a) is amended to read:

20 (a) The commission may employ an executive director who shall have  
21 had at least five years of experience in public utility management or  
22 regulation, law, accounting, or an allied field. The executive director  
23 is responsible for directing the administrative functions of the commis-  
24 sion and carrying out the policies as set by the commission. [THE  
25 EXECUTIVE DIRECTOR MAY BE ONE OF THE COMMISSION MEMBERS.] The commis-  
26 sion may employ engineers, hearing officers, experts, clerks, account-  
27 ants, and other agents and assistants it considers necessary. The  
28 executive director [, IF NOT A MEMBER OF THE COMMISSION,] and his deputy  
29 are in the partially exempt service under AS 39.25.120. All other

1 employees and agents of the commission, other than legal counsel, are in  
2 the classified service under AS 39.25.100. [THE COMBINED SALARY OF AN  
3 EXECUTIVE DIRECTOR WHO IS A MEMBER OF THE COMMISSION MAY NOT EXCEED THAT  
4 OF A SUPERIOR COURT JUDGE.]

5 \* Sec. 9. AS 42.05.141 is amended by adding a new paragraph to read:

6 (8) investigate, approve and review, upon application under  
7 AS 29.48.090(c), the rates, classifications, rules, regulations, prac-  
8 tices, services, and facilities of a refuse utility.

9 \* Sec. 10. AS 42.05.711(b) is amended to read:

10 (b) Public utilities owned and operated by a political subdivision  
11 of the state and none of whose utilities [, EXCEPTING THE FURNISHING OF  
12 COLLECTION AND DISPOSAL SERVICE OF GARBAGE, REFUSE, TRASH OR OTHER WASTE  
13 MATERIAL,] is in competition with any other utility, are exempt from the  
14 provisions of this chapter, other than the provisions of AS 42.05.221 -  
15 42.05.281, unless the owner and operator elects to be subject to all  
16 provisions of this chapter [NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS  
17 CHAPTER, MUNICIPALITIES PROVIDING COLLECTION AND DISPOSAL SERVICE OF  
18 GARBAGE, REFUSE, TRASH OR OTHER WASTE MATERIAL WITHIN THEIR CORPORATE  
19 BOUNDARIES ARE NOT SUBJECT TO REGULATION BY THE ALASKA PUBLIC UTILITIES  
20 COMMISSION UNLESS THE MUNICIPALITY ELECTS TO BE SUBJECT TO THE PRO-  
21 VISIONS OF THIS CHAPTER.]

22 \* Sec. 11. AS 42.05.711(e) is amended to read:

23 (e) Notwithstanding any other provisions of this chapter, any  
24 electric or telephone utility that does not gross \$250,000 [\$25,000]  
25 annually may elect to be exempt from the provisions of this chapter  
26 other than AS 42.05.221 - 42.05.281 under the procedure described in  
27 AS 42.05.712 [IS EXEMPT FROM REGULATION HEREUNDER UNLESS 25 PERCENT OF  
28 THE SUBSCRIBERS PETITION THE COMMISSION FOR REGULATION].

29 \* Sec. 12. AS 42.05.711 is amended by adding new subsections to read:

1 (f) A utility, other than a telephone or electric utility, that  
2 does not gross \$100,000 annually may elect to be exempt from the pro-  
3 visions of this chapter other than AS 42.05.221 - 42.05.281 under the  
4 procedure described in AS 42.05.712.

5 (g) A cooperative organized under AS 10.25 may elect to be exempt  
6 from the provisions of this chapter, other than AS 42.05.221 - 42.05.281,  
7 under the procedure described in AS 42.05.712.

8 (h) Cable television systems are exempt from the provisions of  
9 this chapter, other than the provisions of AS 42.05.221 - 42.05.281,  
10 until July 1, 1983. This exemption does not apply in cities or  
11 villages which have a population of less than 3,500 people and which  
12 are not located on a state road or marine highway.

13 (i) A refuse utility subject to municipal regulation under AS 29.-  
14 48.050 and 29.48.060 is exempt from the provisions of this chapter.  
15 This exemption does not apply to a refuse utility which provides service  
16 in only the unorganized borough.

17 \* Sec. 13. AS 42.05 is amended by adding a new section to read:

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

21 (b) The board of directors of the utility or cooperative may  
22 initiate a poll of its subscribers under this section and shall initiate  
23 a poll of its subscribers upon receipt of a petition signed by 10 percent  
24 or more of the subscribers. A poll may not be taken under this section  
25 more often than once every two years.

26 (c) The ballot for taking the poll, along with impartial instruc-  
27 tions explaining the election available under AS 42.05.711(f) and this  
28 section, shall be sent postpaid to all the subscribers of the utility or  
29 cooperative. Impartial language explaining the alternatives of regu-

1 lation and deregulation of the utility or cooperative shall appear on  
2 the ballot as prescribed in (e) of this section. The ballot shall  
3 provide sufficient space for each subscriber to register his preference  
4 for or against deregulation. Only ballots returned to the utility or  
5 cooperative within 30 days after they are mailed to the subscribers may  
6 be counted.

7 (d) The votes of the majority of those voting are required for a  
8 utility or cooperative to elect exemption under this section; however,  
9 for the poll to have the effect of exempting the utility or cooperative  
10 from regulation, at least 51 percent of those eligible to vote must  
11 participate in the poll.

12 (e) Except for necessary instructions, each ballot may contain  
13 only the language in (1) or (2) of this subsection describing the alter-  
14 natives of regulation and deregulation.

15 (1) utilities eligible to elect an exemption under AS 42.05.-  
16 711(f) shall use the following language:

17 "Shall this utility be exempt from economic regulation by the Alaska  
18 Public Utilities Commission (APUC)?

19 DEREGULATION

20 Regulation is time-consuming and expensive and this time  
21 and money could better be used in other ways to benefit  
22 the consumers. The rates requested by this utility his-  
23 torically have been justified to the APUC. Within the  
24 requirements of our bylaws and the guidelines established  
25 by our lenders the utility itself will determine the appro-  
26 priate rates and charges for service without the need for  
27 prior approval from the APUC.

28 REGULATION

29 Regulation by the APUC is an effort by the state to assure

1 that rates charged by this utility are just and reasonable.  
2 This means that rates should be high enough to keep the  
3 utility financially sound, but not charge the consumer more  
4 than is necessary. It also means that the APUC establishes  
5 a rate design to share the responsibility for our revenue  
6 requirements among the several classes of consumers.

7 BALLOT

8 Shall this utility be exempt from economic regulation by the Alaska  
9 Public Utilities Commission (APUC)?

10  YES  NO"

11 (2) cooperatives eligible to elect an exemption under  
12 AS 42.05.711(g) shall use the following language:

13 "Shall this cooperative be removed from economic regulation by the  
14 Alaska Public Utilities Commission (APUC)?

15 DEREGULATION

16 Regulation is time-consuming and expensive and this time  
17 and money could better be used in other ways to benefit the  
18 consumers. The board of directors is composed of consumers  
19 elected by their neighbors, and the rates requested by the  
20 board of this cooperative historically have been justified  
21 to the APUC. Within the requirements of our bylaws and the  
22 guidelines established by our lenders, such as the Rural  
23 Electrification Administration, the board will determine  
24 the policies of this cooperative.

25 REGULATION

26 Regulation by the APUC is an effort by the state to assure  
27 that rates charged by this cooperative are just and reason-  
28 able. This means that rates should be high enough to keep  
29 the utility financially sound, but not charge the consumer

1 more than is necessary. It also means that the rate design  
2 to share the responsibility for our revenue requirements  
3 among the several classes of consumers is established by  
4 the APUC instead of the board.

5 BALLLOT

6 Shall this cooperative be removed from economic regulation by the  
7 Alaska Public Utilities Commission (APUC)?

8 [ ] YES [ ] NO"

9 (f) A utility or cooperative which is already exempt from regu-  
10 lation under this section may elect to terminate its exemption in the  
11 same manner.

12 \* Sec 14. AS 44.66.010(a)(4) is amended to read:

13 (4) Alaska Public Utilities Commission (AS 42.05.010) --  
14 June 30, 1985 [1980];

15 \* Sec. 15. The effects of the exemption of cable television systems from  
16 rate regulation by the Alaska Public Utilities Commission provided in AS 42.  
17 05.711(h) added by sec. 12 of this Act shall be reviewed by the legislature  
18 before July 1, 1983. If the legislature fails to extend the exemption before  
19 July 1, 1983, AS 42.05.711(h) is repealed on that date and cable television  
20 systems lose their statutory exempt status on that date and become subject to  
21 regulation by the Alaska Public Utilities Commission.

22 \* Sec. 16. AS 42.05.221(f) is repealed.

23 \* Sec. 17. This Act takes effect July 1, 1980.  
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