

Offered: 5/2/90  
Referred: Rules

6-0689E

Original sponsor(s): SEN. FRANK, Sturgulewski, Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 206 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to intrastate long distance tele-  
7 phone competition; permitting deregulation of a class  
8 of utilities or a utility service by the Alaska  
9 Public Utilities Commission; and providing for an  
10 effective date."

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

12 \* Section 1. INTENT. (a) This Act is substantially similar to both  
13 initiatives that have been filed with the lieutenant governor concerning  
14 competition in long distance telephone service in the state, thereby re-  
15 quiring removal of the initiatives from the general election ballot under  
16 art. XI, sec. 4, of the Constitution of the State of Alaska. The legisla-  
17 ture intends this Act to be a comprehensive treatment of the issue of  
18 competition in intrastate long distance telephone service and to provide  
19 for competition in a responsible and timely manner.

20 (b) The legislature does not intend the enactment of AS 42.05.850,  
21 enacted by sec. 2 of this Act, to affect pending litigation regarding the  
22 applicability of AS 44.62.310 - 44.62.312 to an association of exchange  
23 carriers required by the commission.

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

25 ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE  
26 TELEPHONE SERVICE.

27 Sec. 42.05.800. FINDINGS. The legislature finds that

28 (1) modern, affordable, efficient, and universally avail-  
29 able local and long distance telephone service is essential to the

1 people of the state;

2 (2) facilities based, long distance telephone service  
3 should be provided competitively wherever possible;

4 (3) technological advances, reduced costs, and increased  
5 consumer choices for long distance telephone service, resulting from  
6 the adoption of an appropriate competitive market structure, will  
7 enhance the state's economic development;

8 (4) the benefits of competition in long distance telephone  
9 service should be shared by consumers throughout the state;

10 (5) the commission should oversee competition in long  
11 distance telephone service to ensure that the competition is fair to  
12 consumers and competitors;

13 (6) the commission should provide for competition in a  
14 timely manner and should adopt regulations that eliminate inappropri-  
15 ate impediments to entry for long distance carriers fit, willing, and  
16 able to provide service.

17 Sec. 42.05.810. COMPETITION. (a) By February 14, 1991, the  
18 commission shall adopt regulations that authorize and establish con-  
19 ditions governing competition in long distance telephone service.

20 (b) Beginning February 15, 1991, the commission shall accept  
21 applications to provide competitive long distance telephone service  
22 and shall approve or reject applications within 90 days after the  
23 filing of a complete application. The commission shall approve an  
24 application upon a finding that the applicant is fit, willing, and  
25 able. The authority granted to a fit, willing, and able applicant  
26 shall include the authority to provide intrastate long distance tele-  
27 phone service using any facilities that the applicant owned and oper-  
28 ated on May 1, 1990, to provide interstate long distance message  
29 telephone service to the public.

1           (c) Except as provided in (b) of this section, the commission  
2 may prohibit installation of facilities for origination or termination  
3 of long distance service in a given location only if it determines  
4 that installation of the facilities in that location is not in the  
5 public interest.

6           Sec. 42.05.820. NO MUNICIPAL REGULATION. A long distance tele-  
7 phone company that is exempted in whole or in part from complying with  
8 all or a portion of this chapter may not be regulated by a municipal-  
9 ity under AS 29.35.060 and 29.35.070.

10           Sec. 42.05.830. EXCHANGE ACCESS CHARGES. In providing for  
11 competition under AS 42.05.800 - 42.05.995, the commission shall  
12 establish a system of access charges to be paid by long distance  
13 carriers to compensate local exchange carriers for the cost of orig-  
14 inating and terminating long distance services.

15           Sec. 42.05.840. UNIVERSAL SERVICE FUND. The commission may  
16 establish a universal service fund or other mechanism to be used to  
17 ensure the provision of long distance telephone service at reasonable  
18 rates throughout the state and to otherwise preserve universal ser-  
19 vice.

20           Sec. 42.05.850. EXCHANGE CARRIER ASSOCIATION. The commission  
21 may require the local exchange carriers to form an association to  
22 assist in administering the system of access charges and may require  
23 the association to file tariffs and to engage in pooling of exchange  
24 access costs and revenue if necessary to achieve the purposes of  
25 AS 42.05.800 - 42.05.995.

26           Sec. 42.05.860. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS  
27 SERVICES PROHIBITED. A telephone company may not prohibit or restrict  
28 the resale of telecommunications service. If an interexchange tele-  
29 communications service is resold, the reseller shall receive credit in

1 an appropriate amount for an applicable exchange access charge if the  
2 credit is necessary to prevent double payment of the access charges.

3 Sec. 42.05.995. DEFINITIONS. In AS 42.05.800 - 42.05.995,

4 (1) "local exchange carrier" means any carrier certificated  
5 to provide local telephone services;

6 (2) "long distance carrier" or "long distance telephone  
7 company" means any carrier certificated to provide long distance tele-  
8 phone services;

9 (3) "long distance telephone service" or "long distance  
10 service" means intrastate, interexchange telephone service.

11 \* Sec. 3. AS 29.35.070(a) is amended to read:

12 (a) The assembly acting for the area outside all cities in the  
13 borough and the council acting for the area in a city may regulate,  
14 fix, establish, and change the rates and charges imposed for a utility  
15 service provided to the municipality or its inhabitants by a utility  
16 that is not subject to regulation under AS 42.05 unless that utility  
17 is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is  
18 exempted under regulations adopted under AS 42.05.810 from complying  
19 with all or part of AS 42.05.010 - 42.05.721.

20 \* Sec. 4. AS 29.35.070(a) is repealed and reenacted to read:

21 (a) The assembly acting for the area outside all cities in the  
22 borough and the council acting for the area in a city may regulate,  
23 fix, establish, and change the rates and charges imposed for a utility  
24 service provided to the municipality or its inhabitants by a utility  
25 that is not subject to regulation under AS 42.05 unless that utility  
26 is exempted from regulation under AS 42.05.711(a) or (d) - (k).

27 \* Sec. 5. AS 42.05.711(d) is repealed and reenacted to read:

28 (d) The commission may exempt a utility, a class of utilities,  
29 or a utility service from all or a portion of this chapter if the

1 commission finds that the exemption is in the public interest.

2 \* Sec. 6. AS 45.50.572(d) is amended to read:

3 (d) AS 45.50.562 - 45.50.596 apply to long distance telecommu-  
4 nications services provided by public utilities. AS 45.50.562 -  
5 45.50.596 do not apply to other services provided by public utilities  
6 that [WHICH] have been issued a certificate of public convenience and  
7 necessity under AS 42.05.

8 \* Sec. 7. AS 45.50.572(d) is repealed and reenacted to read:

9 (d) AS 45.50.562 - 45.50.596 do not apply to public utilities  
10 that have been issued a certificate of public convenience and neces-  
11 sity under AS 42.05.

12 \* Sec. 8. AS 42.05.800, 42.05.810, 42.05.820, 42.05.830, 42.05.840,  
13 42.05.850, 42.05.860, and 42.05.995 are repealed.

14 \* Sec. 9. LEGISLATIVE INTENT FOR SECTIONS 10 - 12. The legislature  
15 intends that if, by administrative or judicial order, this Act is deter-  
16 mined on or before September 4, 1990, to be substantially similar to only  
17 one of the initiatives, 89-ALAS or 89-TELE, or to neither of those initia-  
18 tives, the provisions in this Act providing for competition in the pro-  
19 vision of long distance telephone service shall be repealed, so that both  
20 initiatives shall appear on the ballot for the voters to consider.

21 \* Sec. 10. NOTIFICATION. The lieutenant governor shall notify the  
22 revisor of statutes immediately after September 4, 1990, of the determina-  
23 tions taken concerning the initiatives, and of the existence and status of  
24 litigation concerning the placement of the initiatives on the ballot.

25 \* Sec. 11. Sections 1 - 3, 5, 6, 9, and 10 of this Act take effect  
26 immediately under AS 01.10.070(c).

27 \* Sec. 12. Sections 4, 7, and 8 of this Act take effect November 4,  
28 1990, only if on September 4, 1990, there is a judicial or administrative  
29 determination in force under art. XI, sec. 4 of the Constitution of the

1 State of Alaska that this Act is substantially similar to (1) one, but not  
2 to both, of the initiatives on file with the lieutenant governor relating  
3 to competition in long distance telephone service, Initiative 89-ALAS and  
4 Initiative 89-TELE, or (2) neither of those initiatives. For purposes of  
5 this section, a "determination in force" includes either an administrative  
6 decision that is not subject to judicial appeal, a final judicial resolu-  
7 tion, or an interim judicial order under which the lieutenant governor is  
8 directed to print the general election ballots in accordance with a ruling  
9 that this Act is substantially similar to only one of the initiatives or to  
10 neither of the initiatives.