

CS FOR HOUSE BILL NO. 539(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/27/94

Referred: Rules

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act extending and relating to the Alaska Public Utilities Commission; and
 2 relating to regulation of public utilities and to regulatory cost charges; and
 3 providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 36.30.850(b) is amended by adding a new paragraph to read:

6 (33) contracts for professional services or testimony related to
 7 proceedings before the Alaska Public Utilities Commission, including the commission's
 8 procurement of temporary legal counsel under AS 42.05.111(b).

9 * **Sec. 2.** AS 42.05.141(a) is amended to read:

10 (a) The Alaska Public Utilities Commission may do all things necessary or
 11 proper to carry out the purposes and exercise the powers expressly granted or
 12 reasonably implied in this chapter, including

13 (1) regulate every public utility engaged or proposing to engage in a
 14 utility [SUCH A] business inside the state, except to the extent exempted by

1 AS 42.05.711 [, AND THE POWERS OF THE COMMISSION SHALL BE
2 LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

3 (2) investigate, upon complaint or upon its own motion, the rates,
4 classifications, rules, regulations, practices, services, and facilities of a public utility
5 and hold hearings on them;

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

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

10 (5) require a public utility to file reports and other information and
11 data;

12 (6) appear personally or by counsel and represent the interests and
13 welfare of the state in all matters and proceedings involving a public utility pending
14 before an officer, department, board, commission, or court of the state or of another
15 state or the United States and to intervene in, protest, resist, or advocate the granting,
16 denial, or modification of any petition, application, complaint, or other proceeding;

17 (7) examine witnesses and offer evidence in any proceeding affecting
18 the state and initiate or participate in judicial proceedings to the extent necessary to
19 protect and promote the interests of the state.

20 * Sec. 3. AS 42.05.253(a) is amended to read:

21 (a) A regulated public utility operating in the state shall pay to the commission
22 an annual regulatory cost charge in an amount not to exceed .8 [.61] percent of gross
23 revenue derived from operations in the state, as modified under (c) of this section if
24 appropriate. An exempt utility shall pay the actual cost of services provided to it by
25 the commission.

26 * Sec. 4. AS 42.05.253(c) is amended to read:

27 (c) In determining the amount of the regulatory cost charge imposed under (a)
28 of this section,

29 (1) a utility selling utility services at wholesale shall modify its gross
30 revenue by deducting payments it receives for wholesale sales;

31 (2) a local exchange telephone utility shall modify its gross revenue by

1 deducting payments received from other carriers for settlements or access charges;

2 (3) an electric utility shall reduce its gross revenue by subtracting
3 the cost of power; in this paragraph, "cost of power" means the costs of
4 generation and purchased power reported to the commission;

5 (4) a cable television utility shall include in gross revenue only
6 revenue attributable to services that the commission has authority to regulate
7 under this chapter.

8 * Sec. 5. AS 42.05.253(e) is amended to read:

9 (e) The commission shall administer the charge imposed under this section.
10 The Department of Revenue shall collect and enforce the charge imposed under this
11 section. The Department of Administration shall identify the amount of the
12 operating budget of the commission that lapses into the general fund each year.
13 The legislature may appropriate an amount equal to the lapsed amount to the
14 commission for its operating costs for the next fiscal year. If the legislature does
15 so, the commission shall reduce the total regulatory cost charge collected for that
16 fiscal year by a comparable amount.

17 * Sec. 6. AS 42.05.431(a) is amended to read:

18 (a) When the commission, after an investigation and hearing, finds that a rate
19 demanded, observed, charged, or collected by a public utility for a service subject to
20 the jurisdiction of the commission, or that a classification, rule, regulation, practice,
21 or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or
22 preferential, the commission shall determine a just and reasonable rate, classification,
23 rule, regulation, practice, or contract to be observed or allowed and shall establish it
24 by order. [A MUNICIPALITY MAY COVENANT WITH BOND PURCHASERS
25 REGARDING RATES OF A MUNICIPALLY OWNED UTILITY, AND THE
26 COVENANT IS VALID AND ENFORCEABLE AND IS CONSIDERED TO BE A
27 CONTRACT WITH THE HOLDERS FROM TIME TO TIME OF THE BONDS.
28 THE FINANCIAL COVENANTS CONTAINED IN MORTGAGES AND OTHER
29 DEBT INSTRUMENTS OF COOPERATIVE UTILITIES ORGANIZED UNDER
30 AS 10.25 ARE ALSO VALID AND ENFORCEABLE, AND RATES SET BY THE
31 COMMISSION MUST BE ADEQUATE TO MEET THOSE COVENANTS.

1 **HOWEVER, A COOPERATIVE UTILITY THAT IS NEGOTIATING TO ENTER A**
2 **MORTGAGE OR OTHER DEBT INSTRUMENT THAT PROVIDES FOR A**
3 **TIMES-INTEREST-EARNED RATIO (TIER) GREATER THAN THE RATIO THE**
4 **COMMISSION MOST RECENTLY APPROVED FOR THAT COOPERATIVE**
5 **SHALL SUBMIT THE MORTGAGE OR DEBT INSTRUMENT TO THE**
6 **COMMISSION BEFORE THE INSTRUMENT TAKES EFFECT. THE**
7 **COMMISSION MAY DISAPPROVE THE INSTRUMENT WITHIN 60 DAYS**
8 **AFTER ITS SUBMISSION. IF THE COMMISSION HAS NOT ACTED WITHIN**
9 **60 DAYS, THE INSTRUMENT IS CONSIDERED TO BE APPROVED.]**

10 * **Sec. 7. AS 42.05.431(f) is amended to read:**

11 **(f) In the establishment of rates of a utility furnishing solid waste material**
12 **collection and disposal service, the commission shall permit recovery of**

13 **(1) reasonable, net capital and operating costs relating to solid waste**
14 **recovery and recycling services after considering the utility's recovery of revenue**
15 **associated with the service; and**

16 **(2) a reasonable rate of return based on consideration of equity in**
17 **recycling equipment.**

18 * **Sec. 8. AS 42.05.431 is amended by adding new subsections to read:**

19 **(i) A municipality may covenant with bond purchasers regarding rates of a**
20 **municipally owned utility, and the covenant is valid and enforceable and is considered**
21 **to be a contract with the holders from time to time of the bonds. Rates set by the**
22 **commission must be adequate to meet those covenants. However, the commission is**
23 **not required to set rates for services regulated by the commission to recover the**
24 **allocated costs and coverage requirements of services that are not regulated by the**
25 **commission. Bonds or other debt issued to finance unregulated, competitive ventures**
26 **by a municipally owned utility may not be incurred in a manner that would permit a**
27 **creditor, on default, to have recourse to the assets of the basic regulated utility**
28 **business.**

29 **(j) The financial covenants contained in mortgages and other debt instruments**
30 **of cooperative utilities organized under AS 10.25 are also valid and enforceable, and**
31 **rates set by the commission must be adequate to meet those covenants. However, a**

1 cooperative utility that is negotiating to enter a mortgage or other debt instrument that
2 provides for a times-interest-earned ratio (TIER) greater than the ratio the commission
3 most recently approved for that cooperative shall submit the mortgage or debt
4 instrument to the commission before the instrument takes effect. The commission may
5 disapprove the instrument within 60 days after its submission. If the commission has
6 not acted within 60 days, the instrument is considered to be approved.

7 * Sec. 9. AS 42.05.711(e) is amended to read:

8 (e) Notwithstanding any other provisions of this chapter, any electric or
9 telephone utility that does not gross \$50,000 annually is exempt from regulation under
10 this chapter unless [25 PERCENT OF] the subscribers petition the commission for
11 regulation under AS 42.05.712(h).

12 * Sec. 10. AS 42.05.711(f) is amended to read:

13 (f) Notwithstanding any other provisions of this chapter, an electric or
14 telephone utility that does not gross \$500,000 [\$325,000] annually may elect to be
15 exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 under
16 the procedure described in AS 42.05.712.

17 * Sec. 11. AS 42.05.711(g) is amended to read:

18 (g) A utility, other than a telephone or electric utility, that does not gross
19 \$150,000 [\$100,000] annually may elect to be exempt from the provisions of this
20 chapter other than AS 42.05.221 - 42.05.281 under the procedure described in
21 AS 42.05.712.

22 * Sec. 12. AS 42.05.711(i) is amended to read:

23 (i) A utility that [WHICH] furnishes collection and disposal service of
24 garbage, refuse, trash, or other waste material and has annual gross revenues of
25 \$300,000 [\$200,000] or less is exempt from the provisions of this chapter, other than
26 the certification provisions of AS 42.05.221 - 42.05.281, unless [25 PERCENT OF]
27 the subscribers [OR SUBSCRIBERS REPRESENTING 25 PERCENT OF THE
28 GROSS REVENUE OF THE UTILITY] petition the commission for regulation under
29 AS 42.05.712(h). Notwithstanding AS 42.05.712(b) and (g), if subscribers
30 representing 25 percent of the gross revenue of the utility petition the commission
31 for regulation, the utility is subject to the provisions of this chapter.

1 * **Sec. 13.** AS 42.05.711(k) is amended to read:

2 (k) A utility that [WHICH] furnishes cable television service is exempt from
3 the provisions of this chapter other than AS 42.05.221 - 42.05.281 [,] unless [25
4 PERCENT OF] the subscribers petition the commission for regulation under
5 AS 42.05.712(h).

6 * **Sec. 14.** AS 42.05.712(h) is amended to read:

7 (h) A utility or cooperative that is already exempt from regulation under this
8 section or that is exempt from regulation under AS 42.05.711(e), (f), or (k) may
9 elect to terminate its exemption in the same manner.

10 * **Sec. 15.** AS 42.06.285(a) is amended to read:

11 (a) A pipeline carrier operating in the state shall pay to the commission an
12 annual regulatory cost charge in an amount not to exceed 8 [.61] percent of gross
13 revenue derived from operations in the state. A regulatory cost charge may not be
14 assessed on pipeline carrier operations unless the operations are within the jurisdiction
15 of the commission.

16 * **Sec. 16.** AS 42.06.285(c) is amended to read:

17 (c) The commission shall administer the charge imposed under this section.
18 The Department of Revenue shall collect and enforce the charge imposed under this
19 section. The Department of Administration shall identify the amount of the
20 operating budget of the commission that lapses into the general fund each year.
21 The legislature may appropriate an amount equal to the lapsed amount to the
22 commission for its operating costs for the next fiscal year. If the legislature does
23 so, the commission shall reduce the total regulatory cost charge collected for that
24 fiscal year by a comparable amount.

25 * **Sec. 17.** AS 44.66.010(a)(4) is amended to read:

26 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30,
27 1998 [1994];

28 * **Sec. 18.** REPEAL OF SUNSET OF REGULATORY COST CHARGES. Sections 22,
29 26, 36, and 38, ch. 2, FSSLA 1992, are repealed.

30 * **Sec. 19.** APUC STAGGERED TERMS. Notwithstanding AS 42.05.030(a), after the
31 expiration in 1999 of the term of the member of the Alaska Public Utilities Commission with

1 a major or experience in engineering, the vacancy shall next be filled for a term of four years
2 in order to adjust the staggering of the terms of the members of the commission so that no
3 more than one commission member's term expires each year.

4 * Sec. 20. APPLICATION TO ONGOING PROCEEDINGS. The amendment to
5 AS 42.05.141(a), made by sec. 2 of this Act, applies to proceedings begun on or after the
6 effective date of sec. 2 of this Act.

7 * Sec. 21. Section 2 of this Act takes effect July 1, 1995.

8 * Sec. 22. Except as provided in sec. 21, this Act takes effect July 1, 1994.