

CS FOR SENATE BILL NO. 213(FIN) am(efd fld)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/29/94
Offered: 4/19/94

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the Alaska Public Utilities Commission; relating to regulation
 2 of public utilities and to regulatory cost charges."

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

4 * Section 1. AS 42.05.141(a) is amended to read:

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

8 (1) regulate every public utility engaged or proposing to engage in a
 9 utility [SUCH A] business inside the state, except to the extent exempted by
 10 AS 42.05.711 [, AND THE POWERS OF THE COMMISSION SHALL BE
 11 LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

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

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

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

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

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

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

15 * Sec. 2. AS 42.05.253(a) is amended to read:

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

21 * Sec. 3. AS 42.05.253(c) is amended to read:

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

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

26 (2) a local exchange telephone utility shall modify its gross revenue by
27 deducting payments received from other carriers for settlements or access charges;

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

31 * Sec. 4. AS 42.05.253(e) is amended to read:

1 (e) The commission shall administer the charge imposed under this section.
2 The Department of Revenue shall collect and enforce the charge imposed under this
3 section. The Department of Administration shall identify the amount of the
4 operating budget of the commission that lapses into the general fund each year.
5 The legislature may appropriate an amount equal to the lapsed amount to the
6 commission for its operating costs for the next fiscal year. If the legislature does
7 so, the commission shall reduce the total regulatory cost charge collected for that
8 fiscal year by a comparable amount.

9 * Sec. 5. AS 42.05.431(a) is amended to read:

10 (a) When the commission, after an investigation and hearing, finds that a rate
11 demanded, observed, charged, or collected by a public utility for a service subject to
12 the jurisdiction of the commission, or that a classification, rule, regulation, practice,
13 or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or
14 preferential, the commission shall determine a just and reasonable rate, classification,
15 rule, regulation, practice, or contract to be observed or allowed and shall establish it
16 by order. [A MUNICIPALITY MAY COVENANT WITH BOND PURCHASERS
17 REGARDING RATES OF A MUNICIPALLY OWNED UTILITY, AND THE
18 COVENANT IS VALID AND ENFORCEABLE AND IS CONSIDERED TO BE A
19 CONTRACT WITH THE HOLDERS FROM TIME TO TIME OF THE BONDS.
20 THE FINANCIAL COVENANTS CONTAINED IN MORTGAGES AND OTHER
21 DEBT INSTRUMENTS OF COOPERATIVE UTILITIES ORGANIZED UNDER
22 AS 10.25 ARE ALSO VALID AND ENFORCEABLE, AND RATES SET BY THE
23 COMMISSION MUST BE ADEQUATE TO MEET THOSE COVENANTS.
24 HOWEVER, A COOPERATIVE UTILITY THAT IS NEGOTIATING TO ENTER A
25 MORTGAGE OR OTHER DEBT INSTRUMENT THAT PROVIDES FOR A
26 TIMES-INTEREST-EARNED RATIO (TIER) GREATER THAN THE RATIO THE
27 COMMISSION MOST RECENTLY APPROVED FOR THAT COOPERATIVE
28 SHALL SUBMIT THE MORTGAGE OR DEBT INSTRUMENT TO THE
29 COMMISSION BEFORE THE INSTRUMENT TAKES EFFECT. THE
30 COMMISSION MAY DISAPPROVE THE INSTRUMENT WITHIN 60 DAYS
31 AFTER ITS SUBMISSION. IF THE COMMISSION HAS NOT ACTED WITHIN

1 **60 DAYS, THE INSTRUMENT IS CONSIDERED TO BE APPROVED.]**

2 * Sec. 6. AS 42.05.431 is amended by adding new subsections to read:

3 (i) A municipality may covenant with bond purchasers regarding rates of a
4 municipally owned utility, and the covenant is valid and enforceable and is considered
5 to be a contract with the holders from time to time of the bonds. For telephone
6 utilities, rates set by the commission must be adequate to meet those covenants.
7 However, the commission is not required to set rates for telephone services regulated
8 by the commission to recover the allocated costs and coverage requirements of services
9 that are not regulated by the commission. Bonds or other debt issued to finance
10 unregulated, competitive ventures by a municipally owned telephone utility may not
11 be incurred in a manner that would permit a creditor, on default, to have recourse to
12 the assets of the basic regulated telephone utility business.

13 (j) The financial covenants contained in mortgages and other debt instruments
14 of cooperative utilities organized under AS 10.25 are also valid and enforceable, and
15 rates set by the commission must be adequate to meet those covenants. However, a
16 cooperative utility that is negotiating to enter a mortgage or other debt instrument that
17 provides for a times-interest-earned ratio (TIER) greater than the ratio the commission
18 most recently approved for that cooperative shall submit the mortgage or debt
19 instrument to the commission before the instrument takes effect. The commission may
20 disapprove the instrument within 60 days after its submission. If the commission has
21 not acted within 60 days, the instrument is considered to be approved.

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

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

27 * Sec. 8. AS 42.05.711(f) is amended to read:

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

1 * Sec. 9. AS 42.05.711(g) is amended to read:

2 (g) A utility, other than a telephone or electric utility, that does not gross
3 \$150,000 [\$100,000] annually may elect to be exempt from the provisions of this
4 chapter other than AS 42.05.221 - 42.05.281 under the procedure described in
5 AS 42.05.712.

6 * Sec. 10. AS 42.05.711(i) is amended to read:

7 (i) A utility that [WHICH] furnishes collection and disposal service of
8 garbage, refuse, trash, or other waste material and has annual gross revenues of
9 \$300,000 [\$200,000] or less is exempt from the provisions of this chapter, other than
10 the certification provisions of AS 42.05.221 - 42.05.281, unless [25 PERCENT OF]
11 the subscribers [OR SUBSCRIBERS REPRESENTING 25 PERCENT OF THE
12 GROSS REVENUE OF THE UTILITY] petition the commission for regulation under
13 AS 42.05.712(h). Notwithstanding AS 42.05.712(b) and (g), if subscribers
14 representing 25 percent of the gross revenue of the utility petition the commission
15 for regulation, the utility is subject to the provisions of this chapter.

16 * Sec. 11. AS 42.05.711(k) is amended to read:

17 (k) A utility that [WHICH] furnishes cable television service is exempt from
18 the provisions of this chapter other than AS 42.05.221 - 42.05.281 [,] unless [25
19 PERCENT OF] the subscribers petition the commission for regulation under the
20 procedure described in AS 42.05.712.

21 * Sec. 12. AS 42.05.712(h) is amended to read:

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

25 * Sec. 13. AS 42.06.285(a) is amended to read:

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

31 * Sec. 14. AS 42.06.285(c) is amended to read:

1 (c) The commission shall administer the charge imposed under this section.
2 The Department of Revenue shall collect and enforce the charge imposed under this
3 section. The Department of Administration shall identify the amount of the
4 operating budget of the commission that lapses into the general fund each year.
5 The legislature may appropriate an amount equal to the lapsed amount to the
6 commission for its operating costs for the next fiscal year. If the legislature does
7 so, the commission shall reduce the total regulatory cost charge collected for that
8 fiscal year by a comparable amount.

9 * Sec. 15. AS 44.66.010(a)(4) is amended to read:

10 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30,
11 1998 [1994];

12 * Sec. 16. REPEAL OF SUNSET OF REGULATORY COST CHARGES. Sections 22,
13 26, 36, and 38, ch. 2, FSSLA 1992, are repealed.

14 * Sec. 17. APUC STAGGERED TERMS. Notwithstanding AS 42.05.030(a), after the
15 expiration in 1999 of the term of the member of the Alaska Public Utilities Commission with
16 a major or experience in engineering, the vacancy shall next be filled for a term of four years
17 in order to adjust the staggering of the terms of the members of the commission so that no
18 more than one commission member's term expires each year.

19 * Sec. 18. APPLICATION TO ONGOING PROCEEDINGS. The amendment to
20 AS 42.05.141(a), made by sec. 1 of this Act, applies to proceedings begun on or after the
21 effective date of sec. 1 of this Act.