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Latest PROPOSED SUBSTITUTE FOR SENATE BILL NO. 133

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

Section 1. AS 42.05.711 is amended by adding a new subsection to read:

Nonprofit electric cooperatives organized under AS 10.25 shall, upon affirmative resolution of their respective boards of directors, be exempt from the provisions of Article 5 of this Chapter in regard to any rates or rate schedules which have been adopted by representatives of the consumers serving as the board of directors of that cooperative.

Sorely needed restraints

*Are PUC appointments 6 years?
\$ 2,000,000 PUC*

W.C. Rhoades -

BILL ANALYSIS

ASSIGNMENT DATE 2/23/79

UNASSIGNED _____

DEPARTMENT Commerce	SPONSOR (PRINCIPAL) Colletta, Kerttula and Bradley	BILL NO. SB 133
DEPARTMENT POSITION		
DIVISION DIRECTOR Carolyn S. Guess Alaska Public Utilities Commission	DATE	COMMISSIONER <i>Carolyn S. Guess</i> DATE <i>2/23/79</i>
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED <input type="checkbox"/> POSITION APPROVED <input type="checkbox"/> POSITION DISAPPROVED		
BY: _____ DATE: _____		
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL
(3) PROGRAM EFFECTS OF BILL		
(4) FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		
(6) COMMENTS:		

APUC COMMENTS ON SB 133

Senate Bill No. 133 would exempt from economic regulation the following non-profit cooperative corporations:

Alaska Village Electric Cooperative, Inc. (AVEC)
Chugach Electric Association
Copper Valley Electric Association
Glacier Highway Electric Association
Golden Valley Electric Association
Homer Electric Association
Kodiak Electric Association
Kotzebue Electric Associaton
Matanuska Electric Association
Naknek Electric Association
Nushagak Electric Cooperative
OTZ Telephone Cooperative, Inc.

Bristol Bay Telephone Cooperative
Copper Valley Telephone Cooperative, Inc.
Matanuska Telephone Association
Nushagak Telephone Cooperative, Inc.

The number of customers served by the above named electric cooperatives is approximately 72,000 and the telephone cooperative consumers who would be affected by this bill are approximately 20,000. Under the existing statute the Commission provides public protection to these 92,000 consumers in the determination of reasonable and fair rates

and the resolution of consumer complaints regarding billing practices, rates and charges, quality and availability of service. In addition the Commission has provided a streamlined procedure for approval of rate increases necessitated by an increase in the cost of fuel, guaranteeing to the consumer that documented increases in fuel costs have been received by the Commission.

An analysis of the action taken by the Commission during the past two years in regard to cooperative utilities indicates minimum discrepancies between the revenue requirement requested by a utility and granted by the Commission. In the area of rate design, however, the Commission has responded to innovated requests by both electric and telephone cooperatives. The Staff has and is currently performing analysis of and recommendations for the following specific rate design requests:

- (1) A reserve capacity charge for residential, commercial and large power consumers of Matanuska Electric Association
- (2) The elimination of electric heat promotional rates;
- (3) Changes in the traditional electric declining block rate structures;
- (4) Elimination of numerous rate schedules for various types of electric consumers;
- (5) The "unbundling" of telephone rates of Matanuska Telephone Association;
- (6) Seasonal electric rates.

In addition, the Commission was directed and funded by the 1977 State Legislature to provide a cost-of-service and management audit of AVEC in order to avert an economic crisis created by the refusal of the REAA schools to sign purchase power contracts with AVEC because the schools believed the rate structure to be discriminatory.

The position of the Consumer Protection and Information Section of the Commission may be of interest in that it specifically provides assistance to the consumers of all utilities, when a customer, after first contacting the utility, has been unable to resolve a problem or complaint. The attached table provides information regarding the number of complaints received by the Commission in 1978 and a breakdown of those customer complaints of cooperative electric and telephone utilities. When asked to provide input in regard to SB 133, the Consumer Protection and Information Section provided the following opinion:

"This Section does not perceive any difference between REA cooperatives or any other public utility even though their Boards of Directors are elected by consumer members of the Association. The consumer complaints reaching the Staff are identical to those of the investor-owned utilities. It is evident that the customers of REA cooperatives experience the same problems in the resolution of their complaints as do the customers of privately-owned utilities. Further, it is apparent to this Section that customers of the cooperatives do not perceive a difference between utilities regardless of

the ownership structure. The question as we perceive it is not one of who "owns" the cooperative but who "controls" the cooperative.

There are a number of issues that the Legislature may wish to consider in making a determination of whether this bill is in the public interest. They include:

1) The Public Utilities Regulatory Policies Act of 1978, a part of the National Energy Act requires that at least one electric cooperative, Chugach Electric Association, if not regulated by a State Commission, submit to FERC regulation for the purpose of considering standards to carry out the Federal purposes conservation of energy supplied by utilities efficient use of utility resources; equitable rates. Those ratemaking standards that either a federal or state regulating agency must address for an electric utility selling more than 500 million kwh annually, include;

- cost of service
- declining block rate
- time of day rates
- seasonal rates
- interruptable rates
- load management techniques

Five additional regulatory policy standards must also be addressed, including:

- master metering
- automatic adjustment clauses
- information to consumers
- procedures for termination of electric service
- advertising.

2) The recent and rapid developments in telecommunications indicate possible confrontations between CATV and local exchange telephone utilities which could, in the absence of regulation, result in wasteful duplication.

3) Funding

The Commission has no knowledge at this time of whether the passage of this Legislation would jeopardize REA funding to any of the telephone and electric cooperatives in the State. During the year 1978, the former field representative of REA indicated that one-quarter of the annual monies available to cooperatives in the U.S. was allocated to utilities within the State of Alaska.

As some of the legislators are aware, the Tlingit Haida Regional Electric Authority (THREA) which, although not effected by this bill, has been exempt from regulation since its inception. However, to receive additional REA loan monies, in order to avoid bankruptcy, REA required THREA to submit to regulation by the Alaska Public Utilities Commission.

The Commission is available to answer any questions of the Legislature in its determination of whether the public interest would be served by the economic deregulation of electric and telephone cooperatives within the State of Alaska.

CONSUMER COMPLAINTS RECEIVED BY APUC-1978

	<u>All Regulated Utilities</u>	<u>Coop-Electric and Telephone Utilities</u>
Billing practices	274	107
Rates and Charges	262	108
Quality of Service	464	93
Line extensions or service availability	<u>268</u>	<u>160</u>
Total	1,268	468

Table II All REA Cooperative electric and telephone utilities

	<u>Electric</u>	<u>Telephone</u>	<u>Total</u>
Billing practices	88	19	107
Rates and Charges	86	22	108
Quality of Service	53	40	93
Line extension or service availability	<u>96</u>	<u>64</u>	<u>160</u>
Total	323	145	468

SENATE BILL 133

Testimony by David Hutchins, Executive Director
Alaska Rural Electric Cooperative Association

SENATE COMMERCE COMMITTEE
March 8, 1979

The purpose of SB 133 is to scale down APUC regulation of non-profit electric cooperatives to the same level of regulation now provided by law for municipally owned utilities.

The current responsibility of the APUC to provide very intensive regulation is more than can be adequately performed by the commission with the resources that have been provided. The Legislature needs to make a very basic policy decision:

- (1) The responsibilities of the APUC must be reduced or,
- (2) Very substantial increases in funding and staff salaries must be made in order for the APUC to attract and retain the expertise needed to make intensive regulation work.

In his resignation statement as Administrator of the APUC in January, Mr. Ronald Lindes stated that "he believes the agency's control of utility businesses is excessive." Certainly, in so far as electric cooperatives are concerned, we believe Mr. Lindes is correct. We believe that the reduction of regulation contemplated by SB 133 is the clear choice in resolving the current problems rather than investing large new sums of money in the present level of regulations.

We believe that the public interest would be well served by de-regulating the electric cooperatives because:

- (1) THE MEMBER OWNED NON-PROFIT COOPERATIVE IS INHERENTLY SELF-REGULATING.

The affairs and business practices of the cooperative are directly controlled by a member - consumer Board of Directors which is elected by and reports to the membership at least annually.

- (2) A BOARD OF DIRECTORS COMPRISED OF CONSUMERS IS A BETTER REGULATOR THAN A GOVERNMENT AGENCY.

When the applications to the APUC for rate changes are examined, it is found that in nearly every case the rate increases requested have been less than the facts justified based on rates of return allowed by the APUC.

- (3) ANY RATES WHICH MIGHT BE CHARGED BY A COOPERATIVE IN EXCESS OF THOSE ALLOWED BY THE APUC WOULD SIMPLY INCREASE THE CONSUMER'S EQUITY IN THE COOPERATIVE.

No profits are paid to any outside investors. All assets are used for the benefit of the consumers, and each consumer's equity is returned to him when he ceases to be a member.

- (4) REGULATION BY THE APUC SUBSTANTIALLY INCREASES THE COSTS OF THE COOPERATIVE WHICH MUST BE PAID BY THE CONSUMERS.

The attached sheet provides examples of recent costs of regulation incurred by Alaska's electric cooperatives.



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

801 W. Fireweed, Suite 101, Anchorage, Ak. 99503

Sample Costs of APUC Regulation

<u>Cooperative</u>	<u>Direct Cost</u> <u>'75 - '78</u>	<u>Remarks</u>
Golden Valley	\$ 116,591	\$8.75 per Consumer "Regulatory Lag" cost estimated at \$2.5 million
Matanuska	\$ 68,563	\$7.20 per Consumer
Copper Valley	\$ 31,275	\$14.40 per Consumer
Nushagak	\$ 4,700	\$9.40 per Consumer
Glacier Highway	\$ 11,472	\$15.40 per Consumer

David Hutchens
March 1, 1979

SENATE BILL 133

Testimony of David Hutchens, Executive Director
Alaska Rural Electric Cooperative Association

Senate Commerce Committee
March 13, 1979

The bulk of the testimony given by Commissioner Carolyn Guess of the APUC on March 8 dealt with the need perceived by the Commission to retain jurisdiction over telephone service and to retain authority to provide consumer protection and information services for the consumers served by the electric cooperatives.

In response to these comments from Commissioner Guess, a proposed substitute for SB 133 has been drafted. This proposal restricts its application only to non-profit electric cooperatives. Also, the exemption for these electric cooperatives would apply only to rates. The APUC would still retain all other jurisdiction including certification of territories to be served (Article 3), standards of service and facilities (Article 4), accounts, records, and reports (Article 6), financial and management regulation (Article 7), penalties and enforcement (Article 8), and miscellaneous provisions (Article 9).

The only exemption which this proposal would grant the electric cooperatives is an exemption from the APUC ratemaking process. Commissioner Guess testified that there have been "minimum discrepancies between the revenue requirement requested by a utility and granted by the Commission." But despite the fact that we have eventually been granted the rates which the APUC concedes have been reasonable, it is this rate making process which provides a financial burden on the electric cooperatives.

If the proposed substitute is adopted, the only issue remaining among those raised by the Commissioner is the question of rate design. As a member of the APUC, the Commissioner would like to retain full control over exactly how the rates should be structured. We believe that this is a matter which should properly be left to the discretion of the elected representatives of the consumers. We know that our consumers are intelligent people who are quite capable of running their own cooperatives.

I would close by reiterating the point I made on March 8. The APUC is not now able to attract and retain the expertise required to make the current scheme of intensive regulation work. The Legislature needs to decide either to provide the additional funds the APUC needs to do the job it now has, or reduce the job required of the APUC. We believe that the rate regulation of non-profit electric cooperatives is one area in which the public interest would be well served by reducing the responsibility of the APUC, and I urge the adoption of the proposed substitute for SB 133.

SENATE BILL 133

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SUBSTITUTE FOR SB 133

Amend AS 42.05.711 by adding a new subsection to read:

Non-profit electric cooperatives shall be exempt from the provisions of Article 5 of this chapter in regard to any rates or rate schedules which have been adopted by representatives of the consumers serving as the board of directors of that cooperative and which have been approved by the Rural Electrification Administration or its successor.



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David Hutchens
March 1, 1979



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David Hutchens
March 1, 1979

February 14, 1979

Ms. Karen Bernstein
Information Officer
Department of Commerce
and Economic Development
Pouch D
Juneau, Alaska 99811

Dear Ms. Bernstein:

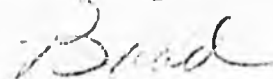
Enclosed is SENATE BILL 133 relating to public utilities.

I would appreciate your comments/position papers on this SENATE BILL to include a fiscal note, if appropriate. If you decide that a fiscal note is not required, please make such a statement in your reply. If your Department recommends specific changes, in addition to general comments, I would prefer that they be keyed to page and line numbers.

If you know of other departments or agencies that have an interest in this legislation, please let me know so that I may get the benefits of comments from all knowledgeable and interested parties.

In consideration of a productive and expeditious session, we request that your comments/position be returned to the Senate Commerce Committee within 10 days.

Sincerely,



Brad Bradley
State Senator
Chairman
Senate Commerce Committee

WEB/bm

Encl

TESTIMONY

NAME: RONALD LINDER
LIVING RETIRED CITIZEN OF ANCHORAGE, ALASKA, ALASKA
PAST EXECUTIVE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION

Speaking as a private citizen with close personal knowledge
of public utility regulation in Alaska

^{strongly}
I support Senate Bill #133 as a first step in the direction
of sorely needed restraint on the regulatory powers of the
Alaska Public Utilities Commission. The present degree
of ^{utility regulation} regulation is excessive. This proposed bill affords a
modest degree of deregulation in an area where safeguards
to protect the public interest are more than adequate.

Cooperatives organized under Alaska statute are member owned,
non profit entities. The management of these cooperatives
is carefully supervised by boards of directors that are elected
by members of the cooperatives. There are certainly few
social endeavors that are more democratic illustrative of
our system of democracy in action than cooperatives
organized and managed for the benefit of the people.
A well run cooperative will prosper and offer a vitally
necessary service to its members. Certainly the public
interest is well served by cooperatives. Not everyone in
a cooperative will be completely satisfied but ~~on~~ on balance
it is truly democracy in action.

The regulators, through their spokesperson Commissioner Gross, have spoken in ^{general} opposition to ~~any~~ the relaxation of regulation.

The commissioners have taken the approach that ^{only} they know best what is in the "public interest" of the consumer. This attitude of paternalism is running counter to the ~~national~~ state and national feeling that government is too deeply involved in our personal and local affairs. While we in Alaska decry the overbearing paternalism of the federal government in ~~dictating~~ dictating what is best for Alaskans, we have been applying the same paternalism on a state government basis over local governments and cooperatives through the APUC. The right to succeed comes with it the right to fail. I trust more in the ^{probability that} ~~right of~~ cooperatives to succeed in their own affairs than I do ⁱⁿ ~~the~~ commission with less interest ⁱⁿ ~~in~~ success or failure. Who knows best what is in the public interest? Is it the public or bureaucratic government?

The legislature has the power to regulate commerce in Alaska. ~~You have delegated this power~~ In the area of utilities and other businesses you have delegated this authority to the Alaska Public Utilities Commission. ~~It~~ Your

guidance to the Commission is in the form of AS 42.05
~~which~~ of which ~~the~~ Senate Bill # 133 is an amendment.

AS 42.05 is very broadly written legislation that grants
extensive powers to the commissioners to ~~act in~~
exercise the powers of the legislature. Commissioners are
nominated by the governor and confirmed by the legislature
for terms of 6 years. <sup>This means that the commissioners do not have to come back
to the legislature to review.</sup> The AS 42.05 is so broadly
written as to ~~give~~ ^{permit} central state control over more than
~~stage~~ ~~stage plays~~ dramatic performances and
outdoor rock concerts if the commissioners so decide.

Your commissioners have not been reluctant in using the
heavy powers of this legislation. It has been an activist
Commission badly in need of constraint, either self imposed or
imposed by the legislature. I suspect that this
will be an issue you will address next year as the
AFUC comes up for review under the Aloha Sunset
law with help from the legislature. Audit report of
the Commission ^{activities} which ~~should be~~ is presently in progress.

If deregulation of the cooperatives is not ~~in fact~~ pursued by the legislature, you are saying to your constituents that some state office ~~is better~~ knows better what is in ~~the public~~ their public interest than they do themselves. ^{If this is not true then} What is the power of their board of directors. Is it only the power to propose while the APUC has the power to dispose? Isn't the will of the people to improve service, expand facilities or plan for the future thwarted by this approach?

The commission has exercised hindsight. What is required is foresight and that's a more difficult task better left to those with ~~the~~ economic ~~and~~ and social interest at the local level. Those that deal with their cooperative on a daily basis are far better judges of what is in their best interest. They don't need a political commission in

Anchorage to tell them what is best. From

first hand knowledge I can tell you that the capability of the ^{accurately} to analyze financial proposals of utilities does not exist. It has not existed for years and it is not likely to exist for sometime in the future.

APUC
staff

In summary, I support the proposed legislation as the first and most obvious ^{immediate} step in rectifying regulatory ills that have plagued utilities and other businesses in

Alaska. A thorough review of ~~the~~ the legislature that grants regulatory powers to the IPUC is sorely needed!

The partial deregulation of cooperatives is a prudent very low risk step in the ~~partial~~ ^{both electric & telephone} reversal of the ominous movement towards ~~overregulation~~ governmental control over our daily lives.

Henry David Thoreau said in 1848 "That government ~~that~~ is best that governs best."

Governor Hammond was reelected ~~with~~ espousal, a similar philosophy. If you agree with this premise, then I urge you to return power to the people by ~~approving~~ voting, this proposed legislation out of committee today with your unanimous do pass recommendation.

I Thank you for your attention Q?

Introduced: 2/12/79
Referred: Commerce

1 IN THE SENATE BY COLLETTA, KERTTULA AND BRADLEY

2 SENATE BILL NO. 133

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public utilities."

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

8 * Section 1. AS 42.05.711(b) is amended to read:

9 (b) Public utilities owned and operated by a political subdivision
10 of the state or by a nonprofit cooperative corporation (AS 10.25) and
11 none of whose utilities, excepting the furnishing of collection and
12 disposal service of garbage, refuse, trash or other waste material, is
13 in competition with any other utility, are exempt from the provisions of
14 this chapter, other than the provisions of AS 42.05.221 - 42.05.281,
15 unless the owner and operator elects to be subject to all provisions of
16 this chapter. Notwithstanding any other provisions of this chapter,
17 municipalities providing collection and disposal service of garbage,
18 refuse, trash or other waste material within their corporate boundaries
19 are not subject to regulation by the Alaska Public Utilities Commission
20 unless the municipality elects to be subject to the provisions of this
21 chapter.

22 (f) → Amendment →

23
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26
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29

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11 *and operated by the state* none of whose utilities, excepting the furnishing of collection and
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Have Bill Check

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OK by Ken Rosenstein

BILL ANALYSIS

ASSIGNMENT DATE 2/23/79

UNASSIGNED _____

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the ownership structure. The question as we perceive it is not one of who "owns" the cooperative but who "controls" the cooperative.

There are a number of issues that the Legislature may wish to consider in making a determination of whether this bill is in the public interest. They include:

1) The Public Utilities Regulatory Policies Act of 1978, a part of the National Energy Act requires that at least one electric cooperative, Chugach Electric Association, if not regulated by a State Commission, submit to FERC regulation for the purpose of considering standards to carry out the Federal purposes conservation of energy supplied by utilities efficient use of utility resources; equitable rates. Those ratemaking standards that either a federal or state regulating agency must address for an electric utility selling more than 500 million kwh annually, include;

pulls less than

- cost of service
- declining block rate
- time of day rates
- seasonal rates
- interruptable rates
- load management techniques

Five additional regulatory policy standards must also be addressed, including:

- master metering
- automatic adjustment clauses
- information to consumers
- procedures for termination of electric service
- advertising.

2) The recent and rapid developments in telecommunications indicate possible confrontations between CATV and local exchange telephone utilities which could, in the absence of regulation, result in wasteful duplication.

3) Funding

The Commission has no knowledge at this time of whether the passage of this Legislation would jeopardize REA funding to any of the telephone and electric cooperatives in the State. During the year 1978, the former field representative of REA indicated that one-quarter of the annual monies available to cooperatives in the U.S. was allocated to utilities within the State of Alaska.

As some of the legislators are aware, the Tlingit Haida Regional Electric Authority (THREA) which, although not effected by this bill, has been exempt from regulation since its inception. However, to receive additional REA loan monies, in order to avoid bankruptcy, REA required THREA to submit to regulation by the Alaska Public Utilities Commission.

The Commission is available to answer any questions of the Legislature in its determination of whether the public interest would be served by the economic deregulation of electric and telephone cooperatives within the State of Alaska.

CONSUMER COMPLAINTS RECEIVED BY APUC-1978

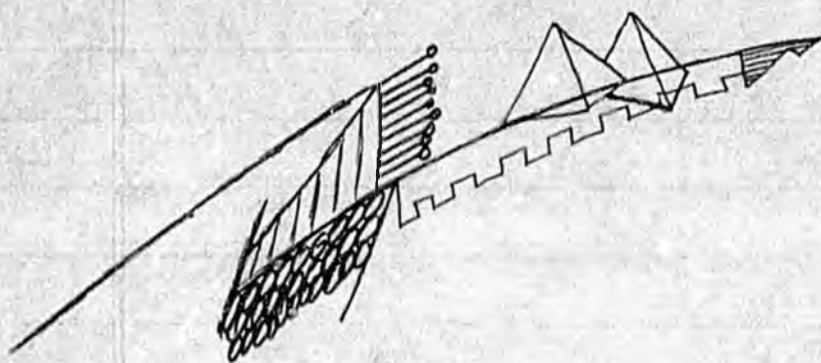
	<u>All Regulated Utilities</u>	<u>Coop-Electric and Telephone Utilities</u>
Billing practices	274	107
Rates and Charges	262	108
Quality of Service	464	93
Line extensions or service availability	<u>269</u>	<u>160</u>
Total	1,268	468

Table II All REA Cooperative electric and telephone utilities

	<u>Electric</u>	<u>Telephone</u>	<u>Total</u>
Billing practices	88	19	107
Rates and Charges	86	22	108
Quality of Service	53	40	93
Line extension or service availability	<u>96</u>	<u>64</u>	<u>160</u>
Total	323	145	468

SB-133 David Hutchens.

Past Director AK P.U.C.



SB-133

✓ Sharon Maklin
279-3923

Valid 3/12
AN

Got recording
out of Town
to 1/24/12

Chris, 3/11
I see Sharon
Macklin's name &
Phone # on this sheet.
Does she want to
testify on SB 133.

She is a lobbyist
for a telephone company.
Have her testify either
here or by teleconference in
Anchorage. See which side
she is on - Let me know / Paul