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# STATE OF ALASKA

## ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

JAY S. HAMMOND, Governor

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January 21, 1982

Senator Bob Mulcahy, Chairman  
Senate Labor & Commerce Committee  
Alaska State Legislature  
Pouch V - State Capitol  
Juneau, Alaska 99811

Re: SB 539 (Telephone Cooperatives)  
Attn: Michael Thill, Legislative Aide

Dear Senator Mulcahy:

Pursuant to your request, we are submitting our views on the above legislation.

SB 539 would re-write the definition of "telephone service" contained in the Electric & Telephone Cooperative Act (AS 10.25) by substituting for that definition, the virtually identical definition "telecommunications" that appears in the Alaska Public Utilities Commission Act (AS 42.05). Compare AS 10.25 640(4) with AS 42.05.701(8).

The Commission understands that this proposed legislation was introduced at the request of the Matanuska Telephone Association, Inc. (MTA). At that time, MTA had pending before the Commission applications for a certificate of public convenience and necessity to furnish cable television (CATV) service and for an amendment to its local telephone exchange certificate to furnish improved mobile telephone service (IMTS) and radio paging service in its certificated service area.

Counsel may have believed that, under the more restrictive definition of "telephone service" contained in AS 10.25.640(4) there was some legal infirmity in MTA's proposal to furnish CATV and IMTS/radio paging because these are "non-wire" services, and the AS 10.25.640(4) definition focuses on wire-line-type systems. To the best of the Commission's knowledge, however, no such argument ever was made before the Commission, or in appeals taken in court challenging the Commission's decisions with respect to MTA's applications.

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The legal challenges to the Commission's action granting MTA a certificate of public convenience and necessity to furnish CATV service (U-80-68)(1) and IMTS/radio paging service (U-79-69)(5) were withdrawn. A Stipulation signed by MTA (applicant and appellee) and McCaw Communications, Inc. (aggrieved party and appellant) and approved by the Commission on October 29, 1981 (U-79-69(9) and U-80-68(2)), resolved that legal dispute. A copy of all referenced documents are enclosed.

The precedent has been established by the Commission that a telephone cooperative, upon a finding of public convenience and necessity and fitness and ability of the applicant to furnish that public utility service, will be granted a certificate. Thus, the Commission believes that SB 539 is moot.

Unless there are other circumstances of which the Commission is unaware which prompt this legislation, there is no need to import the definition of "telecommunications" contained in AS 42.05 into AS 10.25.

Very truly yours,



Carolyn S. Guess  
Chairman

Enclosures 3

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Article 5. General Provisions.

Section	Section
610. Purpose	630. Construction of chapter
620. Chapter extended to existing cooperatives	640. Definitions
	650. Short title

Sec. 10.25.610. Purpose. Cooperative, nonprofit, membership corporations may be organized under this chapter for the purpose of supplying electric energy or telephone service and promoting and extending the use of these services. (§ 2 ch 93 SLA 1959)

Sec. 10.25.620. Chapter extended to existing cooperatives. This chapter applies to all nonprofit cooperatives organized under any other law of the state for the purpose of supplying electric energy and power, or telephone service, to its members, or for the purpose of promoting and extending the use of electric energy and power, or telephone service. These cooperatives are subject to this chapter as if originally organized under it. (§ 36 ch 93 SLA 1959)

Sec. 10.25.630. Construction of chapter. This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things. (§ 35 ch 93 SLA 1959)

Sec. 10.25.640. Definitions. As used in this chapter

- (1) "commissioner" means the commissioner of commerce;
- (2) "cooperative" means a corporation organized under this chapter or which becomes subject to this chapter in the manner provided in this chapter;
- (3) "person" means a natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision, or an agency of the state or political subdivision, or a body politic;
- (4) "telephone service" means communication service whereby voice communication through the use of electricity is the principal intended use, and includes all telephone lines, facilities or systems used in the rendition of this service. (§ 3 ch 93 SLA 1959; am § 10 ch 64 SLA 1959; am § 2 ch 1 SLA 1961)

Sec. 10.25.650. Short title. This chapter may be cited as the Electric and Telephone Cooperative Act. (§ 1 ch 93 SLA 1959)