

HB 274

STATE OF ALASKA
FISCAL NOTE

Revision Date March, 1983

I. REQUEST

Bill/Resolution No.: HB 274
 Title: Regulation of public utilities
 Sponsor: Bettisworth
 Requestor: Labor and Commerce

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
 Program Category Affected: Protection
 BRU, Program of Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200						
300 MATERIAL						
400 SERVICES						
500						
600 STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Carolyn Guess, Chairman Phone: 273-2107
 Division: Alaska Public Utilities Commission Date: 3/22/83
 Approved by Commissioner: Richard A. Lyon Date: 3/22/83
 Department: Commerce and Economic Development

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 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

HB 274: FISCAL NOTE ANALYSIS:

In the event that HB 274 is not enacted, \$122,500 will be required in FY '84 to regulate the currently exempted cable television utilities.

STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
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JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

March 23, 1983

To: Representative Walt Furnace, Chairman
and all House Labor & Commerce Members

From: Jefferson B. Barry
Professional Aide

Re: Staff Analysis HB 274

BACKGROUND. In the late 1970's the FCC (Federal Communication Commission) started deregulating major portions of the communications industry. There existed the impending break-up of the Bell System, proposed Federal legislation changing the ground rules and policy in communications, and the advent of new technology making commercial cable television and other communication enterprises feasible on a large scale. In addition, a number of lawsuits were filed (nationally) which requested the Courts to clarify the regulatory powers of the State, Municipalities, cities, etc.; and, define the rights of the various regulated businesses. Final determination in a number of these cases is still pending.

Even though a uniform national policy had not been developed, one thing was clear. It was the intent of the Federal government to deregulate. In 1980, on an experimental basis, the State deregulated cable television. The deregulation was not all inclusive, but it was an attempt to conform to the deregulation policy. All indications are that the deregulation in Alaska has worked satisfactory.

EFFECT. HB 274 would make the economic regulation of cable television public utilities exempt from the Alaska Public Utilities Commission and local municipalities. To insure protection of the consumer, there is a provision that if 25 per cent of the subscribers feel their treatment is not satisfactory, they may petition, and will be granted, for regulation by APUC.

If the legislation, or similar legislation, is not passed the APUC will be required to hold hearings and establish rates for all of the cable television companies in the State. The current exemption expires on July 1, 1983 and it takes an affirmative action by the Legislature to continue the deregulation. This legislation would continue the deregulation.

Dear Governor Sheffield:

We are pleased to transmit for your consideration the attached legislation that would make permanent and clarify the present statutory exemption of cable television (CATV) public utilities from economic regulation by the Alaska Public Utilities Commission.

The existing statutory exemption of CATV systems was enacted by the Legislature in 1980 and extends only through June 30, 1980³; it was intended to be a three-year experimental deregulation program. As originally enacted, Ch. 136, SLA 1980, added subsection (1) to AS 42.05.711, but later was revised by the Revisor of Statutes as Sec. 13 of that chapter which reads:

Cable television systems are exempt from the provisions of AS 42.05, other than the provisions of AS 42.05.221 - 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date, and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission.

The proposed legislation would permanently deregulate CATV services with respect to rates and charges for those services, the quality of that service, management practices and customer complaints, but would retain the Commission's authority with respect to the issuance of a certificate of public convenience and necessity to ~~grant a certificate of public convenience and necessity to~~ a CATV public utility (AS 42.05.221-42.05.281) ^{under} which the Commission determines if an applicant CATV company is fit, willing, and able to furnish CATV service and whether the public convenience and necessity requires that CATV service be provided to the proposed service area. (Under existing AS 42.05.321(b), CATV utilities also ^{are} still are subject to Commission jurisdiction with respect to joint use and inter-connection of utility facilities.)

The proposed bill also would delete the language from the existing CATV exemption which includes within the exemption those CATV systems operating in small Alaska communities if these communities are located on a "state road or marine highway". The effect of this provision has been to include within the ambit of the exemption every CATV system operating in the State except that in Barrow. Often it has been difficult to determine what constitutes a "state road," and many hours of Staff and Commission time have been consumed in making that determination. Instead the Commission proposes to simplify the exemption by substituting for that language, a provision which parallels the existing exception to economic deregulation contained in AS 42.05.711(e) (small electric and telephone utilities) and 42.05.711(i) (small garbage and refuse collection and disposal public utilities); namely, that if 25 percent or more of the subscribers to CATV service petition the Commission, CATV service in a given community would once again be subject to economic regulation. ¹¹ The Commission believes that this exception to deregulation responds ^d to the concern of the CATV subscriber who wonders to whom the subscriber complains if he/she is dissatisfied with the service received and if resort to the CATV management does not produce a resolution of the complaint. Moreover, it furnishes a "safety valve" for CATV subscribers and a protection of them against ^a totally unsupervised monopoly which recent case law development in the application of anti-trust law to local governments suggests is a concern of the courts (e.g., the City of Boulder case) and is consistent with legislatively-established policy with respect to economically deregulated public utilities. Additionally, the Commission believes that this exception to permanent economic deregulation is protective of the public interest in that it recognizes that in the smaller communities in Alaska, CATV well may be the only entertainment option and also may function as an important communications medium for the community, whereas in the larger, urban areas there are ~~indeed~~ other entertainment/communications alternatives. As a practical matter, the 25 percent petition "trigger" would require substantial

~~C~~ In requesting your support for the proposed legislation and its presentation for consideration at the 1983 legislative session, the Commission believes that the absence of subscriber problems or concerns arising from the economic deregulation of CATV service in Alaska over the past two and one-half years, as well as the many ~~alternatives that now are competing in the market place for most Alaskans, are ample evidence that economic regulation by the Commission is indeed unnecessary. Additionally, continuing the present exempt status of CATV services, subject to the exception proposed above, will allow the Commission to devote its time and resources to those necessary utility services in which economic regulation is essential to protect the public interest.~~ ^{entertainment/communications}

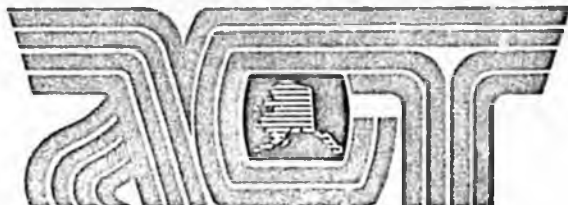
If we can assist your office in responding to any questions concerning this proposed legislation, please contact me at your convenience.

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

Carolyn S. Guess, Chairman

Enclosure.



TESTIMONY OF CLARK KING
BEFORE THE HOUSE LABOR AND COMMERCE COMMITTEE
REGARDING HOUSE BILL 274.

Mr. Chairman, members of the Committee, my name is Clark King and I am Executive Director of the Alaska Cable Television Association. And I thank you for this opportunity to come before you today to testify on House Bill 274.

House Bill 274 provides the cable operators of the State of Alaska to proceed with economic deregulation that was afforded cable systems in Alaska by Chapter 136 SLA 1980.

I would like to provide the committee with some background regarding the bill. In 1979, legislative Audit provided a report on the Alaska Public Utilities Commission. At that time the Legislative Auditor suggested that cable television be excluded from regulation by the Alaska Public Utilities Commission. The sunset legislation on the Public Utilities Commission (SB 577) included only a partial deregulation of the cable utility in the state. The Public Utilities Commission is still responsible for certification of any operator doing business in the state. It

is still the arbitrator of any conflicts between a utility and the cable operator wishing to attach its lines to poles. And still has control over who is issued a certificate of public convenience and need. The 1980 Legislature did confer upon the cable operators of the state, the ability to establish and set their own rates and tariffs. In most cases the rate charged for cable service has not exceeded the inflation rate and, in fact, has resulted in expanded service.

A case in point would be the Juneau cable operation, BC Cable, who, at the time the act was passed, had a cable rate of \$39.00 reduced to \$36.00 per subscriber. In the same time period, BC Cable has offered additional channels to the public through the use of mid-band converters.

House Bill 274 extends the deregulation of the cable industry for an indefinite period of time. There is also a proviso in the bill that if 25% of the subscribers of a cable system are dissatisfied, they may petition the Public Utilities Commission for re-regulation. This proviso appears in AS 42.05, the Public Utilities Commission, on a number of occasions.

I might note at this time that cable is not just an entertainment medium that most people conceive it to be. The State of Alaska, Department of Revenue, subscribes to the Reuters News Service for

financial information. This gives the department instantaneous update on all major stock exchanges and commodity exchanges in handling the State's vast portfolio. After two years of operation the then deputy commissioner of Revenue stated that the instantaneous availability of information actually increased the State's revenues from their investment portfolio.

Another feature of cable is the ability to be used as fire detection and security alarm systems. Currently, a proposal is being drafted by the Bethel cable operator for a fire prevention network. It is interesting to note that Bethel has the highest per capita death rate due to fires in the United States. It is hoped that this system will drastically reduce that circumstance.

Cable is also used in communities to distribute the State's Learn Alaska Program to both homes and schools. It is also interesting to note that in those communities that are served by cable operators, most public buildings, including schools, libraries, etc., are all wired for cable, thus making it available to all members of the community. Several communities in the state are experimenting with a public access channel. Most notably would be Nome, where the citizens produce their own programming. The cable operator in Nome provides technical assistance and the free channel time, but has nothing to do with the content of the programming. This programming ranges from cultural shows to coverage of the local assembly meetings.

With the completion of the cable system in the Anchorage bowl, the Kenai-Soldotna area, and Mat- su, over 90% of the homes in the State of Alaska will have cable service available to them.

With expanded programming and advanced technical services, Alaska will have greater access to one of the truly growing telecommunications services.

Again, on behalf of the Alaska Cable Television Association, I would like to stress our support for House Bill 274 and urge the committee to take favorable action.