

H B

l R

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HLC	4/4/85	1:25 pm
	3/13/85	1:25 pm
	1/23/85	3 pm
	1/28/85	3 pm

HB 12 File Contents

March 13, 1985 Meeting

HB 12--C & RA Committee

- i) Bill Summary -- Legislative Reporting Service
- 2) Position Paper -- Rep. Mike Davis
- 3) Fiscal Note -- DCRA
- 4) Fiscal Notes plus Fiscal Analysis -- APUC
- 5) Alaska Statutes 42.05.221-281 & 691-712
- 6) Legislative Analysis -- House Research Agency
- 7) Memorandum -- Rep. Davis to Rep. Goll, C & RA
- 8) Public Response:
  - a. City of Fairbanks (opposed) & Response by Rep. Davis
  - b. Alaska Municipal League (opposed)
  - c. POM from Don Thrapp (pro)
  - d. Written testimony -- Gary Newman (pro)
  - e. City of Seward (opposed) and Rep. Gruenberg's response
  - f. Response of Rep. Davis to City of Seward

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CSHB 12 -- C & RA Committee

- 9) CSHB 12 Bill Summary -- Legislative Reporting Service
- 10) CSHB 12 (C&RA)
- 11) Sectional Analysis CSHB 12 -- Rep. Davis
- 12) Revised FN -- CSHB 12 -- APUC
- 13) Committee Report for CSHB 122- C&RA
- 14) Additional proposed amendments -- Marrou and Furnace Feb. 12,85
- 15) Committee Minutes C & RA -- January 23 and 28, 1985
- 16) Comparison of Electrical Rates for Regulated and Unregulated Utilities -- House Research Agency at request of John Sund

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April 4 Meeting

- 17) Proposed CS HB 12 (L & C), by Rep. Davis -- April 4, 1985
- 18) Letter from Alaska Municipal League to Rep. Navarre -- April 4
- 19) Letter from City of Wrangell City Manager to Comm. -- March 14
- 20) Letter from City Attorney of Fairbanks to Rep. Ringstad -- March 14

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April 22, 1985 Monday Meeting

- 21) House L & C Committee Minutes -- March 13 and April 4, 1985

HB 12 File Contents

March 13, 1985 Meeting

HB 12--C & RA Committee

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- 4) Fiscal Notes plus Fiscal Analysis -- APUC
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CSHB 12(L & C) SECTIONAL ANALYSIS

\* Section 1 (line 9 page 1) amends AS 29.23.100 Limitation of Home Rule Powers to include AS 29.23.340 Utility Boards as amended below.

\* Section 2 (line 11 page 1) amends AS 29.23.340(b) Utility Boards so that residents of any area served by the utility board may vote on the election of members of the board. This applies only to a utility, that has chosen, under AS 29.23.340(a), to provide by ordinance for a managing board. It does not require municipally owned utilities, currently managed by a city council or municipal assembly, to form a board.

\* Section 3 (line 22 page 1) amends AS 29.23.340 Utility Boards by adding a new subsections (e) and (f). Subsection (e) (line 23 page 1) simply makes eligible to serve on the board, any resident of the area served by a municipally owned utility that serves customers outside its boundaries. Again, this applies only to utilities choosing to have a board and applies to residents whether appointed or elected, whichever method the council or assembly chooses.

Subsection (f) (line 26 page 1) does not require appointment or election of local utility board members by district, but if a municipality chooses to appoint or elect by district, then each district then they must to so by the "one person, one vote" principle to ensure equal representation.

\* Section 4 (line 4 page 2) amends AS 42.05.711(b) Exemptions, by including the proposed AS 42.05.713 to the provisions that an exempt utility must follow.

\* Section 5 (line 11 page 2) amends AS.42.05 to include a new Section 42.05.713 Petition and Election for Regulation of Municipally Owned Utilities. This section is patterned after existing AS 42.05 712 Deregulation Ballot which sets out how a deregulation ballot would be held. The essential features are:

- \* 15% of the customers may petition for an election to decide whether or not the utility should be regulated by APUC.
- \* an election can only be held every two years.
- \* regulation by APUC sunsets after three years.

Original sponsor: Davis

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 12 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipally owned public utility  
7 regulation and managing board representation."

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

9 \* Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

10 (48) AS 29.23.340.

11 \* Sec. 2. AS 29.23.340(b) is amended to read:

12 (b) As determined by ordinance, members of the board are ap-  
13 pointed by the municipal executive and confirmed by the assembly or  
14 council or are elected at the regular election held annually on the  
15 first Tuesday of October, unless a different election date or interval  
16 of years is provided by ordinance. A resident of any area served by  
17 the utility may vote on the election of members of the board. The  
18 term of a utility board member is two years and until a successor is  
19 selected and has qualified. However, the assembly or council may by  
20 ordinance provide for a different term not to exceed four years and  
21 not altering the current term of an elected incumbent.

22 \* Sec. 3. AS 29.23.340 is amended by adding new subsections to read:

23 (e) If the utility provides services outside the municipality, a  
24 resident of any area served by the utility is eligible to serve as a  
25 member of the board.

26 (f) Nothing in (b) or (e) of this section requires an assembly  
27 or council of a municipality operating a public utility to provide by  
28 ordinance for the election or appointment of members of a managing  
29 board by district. However, if an ordinance requires members of a

1 managing board to be elected or appointed by district, each district  
2 shall have as nearly as practicable an equal number of residents  
3 served by the utility and equal representation on the managing board.

4 \* Sec. 4. AS 42.05.711(b) is amended to read:

5 (b) Public utilities owned and operated by a political subdivi-  
6 sion of the state and none of whose utilities is in competition with  
7 any other utility, are exempt from the provisions of this chapter,  
8 other than the provisions of AS 42.05.221 - 42.05.281, unless the  
9 owner and operator elects to be subject to all provisions of this  
10 chapter, or if regulation is required under AS 42.05.713.

11 \* Sec. 5. AS 42.05 is amended by adding a new section to read:

12 Sec. 42.05.713. PETITION AND ELECTION FOR REGULATION OF MUNIC-  
13 IPALLY OWNED UTILITIES. (a) A municipally owned and operated utility  
14 that provides services outside the boundary of the municipality is  
15 subject to regulation under this chapter if 15 percent of the  
16 customers of the utility petition the commission for regulation and if  
17 the customers of the utility approve regulation by a majority vote in  
18 an election under this section. A vote for regulation of a utility by  
19 the commission does not apply to other utilities owned and operated by  
20 the same municipality.

21 (b) Upon receipt of a valid petition for regulation under (a) of  
22 this section, the commission shall notify the utility of the petition  
23 for regulation. The utility board, assembly, or council shall call an  
24 election after notification from the commission and send to each  
25 customer of the utility with the customer's regular bill for service a  
26 notice of election at least 60 days before the date of election.

27 (c) The notice of election under (b) of this section must con-  
28 tain impartial language informing the customer of the utility that an  
29 election on the question of regulation by the Alaska Public Utilities

1 Commission will be held within 60 days and that a ballot to partici-  
2 pate in that election will be mailed or delivered to each customer of  
3 the utility. The notice of election shall also state that a customer  
4 of the utility is entitled to vote in the election without regard to  
5 whether the customer's account with the utility is current and that  
6 the ballot must be postmarked or returned to the commission within 30  
7 days after it was mailed or otherwise delivered to the customer. The  
8 notice shall also announce the schedule for one or more public meet-  
9 ings that shall provide an opportunity for the customers to discuss  
10 this election. The public meeting or meetings shall be held not more  
11 than 30 days before the ballots are mailed or distributed to those  
12 eligible to vote.

13 (d) The utility board, assembly, or council shall mail or de-  
14 liver a ballot with a return postage paid envelope addressed to the  
15 commission to each customer of the utility with the customer's bill  
16 for service. The ballot shall contain only the following language:

17 "Shall . . . . . (name of utility) be subject to  
18 regulation by the Alaska Public Utilities Commission?  
19 [ ] YES [ ] NO"

20 (e) The commission shall certify the results of an election  
21 under this section within 60 days after the ballots are mailed or  
22 delivered to the customers.

23 (f) The utility shall make available during the 60 days immedi-  
24 ately preceding an election under this section a list of customers of  
25 the utility at cost to any customer of the utility who requests one.  
26 The list shall be in the same form that is available to the utility.

27 (g) An election under this section may be held only once every  
28 two years.

29 (h) The regulation of a utility approved in an election under


1 this section terminates three years after the date the results of the  
2 election are certified under (e) of this section. Nothing in this  
3 subsection prevents a subsequent petition and election for regulation  
4 of the utility under this section following termination of regulation  
5 of the utility.  
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# Alaska MUNICIPAL League

TELEPHONES  
(907) 586-1325  
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

TO: Mike Navarre, Chair  
Members of House Labor and Commerce Committee

FROM: Scott A. Burgess   
Executive Director

DATE: April 4, 1985

SUBJECT: HB 12 - Municipally-owned Public Utility Regulations

The League opposes any legislation which would limit or repeal any of the current exemptions of municipally-owned public utilities from regulation by the Alaska Public Utilities Commission (APUC). Therefore, the League opposes HB 12. Repealing the current exemptions of public utilities from regulation by the APUC [AS 42.05.711(b)], even by the petition provision in CSHB 12 (C&RA), is not necessary and would not be in the best interest of the public, the municipalities or the level of service they provide. I hope the following points will summarize why the legislation is not needed and why the League is opposed to it.

#### APUC Regulation

1. Municipal utilities are exempt from rate regulation by APUC. Municipal utilities are still regulated by APUC in that they must receive a Certificate of Public Convenience by which APUC determines the municipality is best able to provide the best service in an area outside of its municipal limits.
2. The testimony to date has addressed service and customer representation, not rates.
3. The local city council or assembly is more accessible and more responsive to customers than APUC.
4. APUC regulation will increase costs/rates and may not improve service.
5. Under AS 29.48.060 a borough assembly may also act to regulate, fix, establish and change rates for the area outside cities.
6. Dual regulation by the municipality and APUC would be costly and confusing.

Testimony from Fairbanks

1. The City of Fairbanks has a public utility board (PUD), two of the members of which live in the area served outside the city limits.
2. The PUD and the City Council have been responsive to customer complaints.
3. The City has responded to problems by:
  - a. hiring a new utility general manager,
  - b. hiring a new telephone manager,
  - c. spending \$10+ million in system improvements,
  - d. developing a five year utility plan,
  - e. selling bonds for additional improvements.
4. Fairbanks and other municipalities operate more than one utility.
5. A petition election would be costly.

Regulation by Petition

1. The CSHB 12 (C&RA) would allow 25% of the customers, or a minority, to automatically bring about regulation by APUC. No election would be required.
2. Such an election would be expensive.
3. It is not clear if the 25% is of all customers or of just those outside the city; presumably of all customers. . . .
4. The CS is not clear if the regulation would apply to one or all utilities operated by the municipality.

Again, the League is opposed to HB 12 or CSHB 12 (C&RA) and further regulation of municipally-owned public utilities by the APUC, directly or by petition.

Original sponsor: Davis

1 IN THE HOUSE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 12 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipally owned public utility  
7 regulation and managing board representation."

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

9 \* Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

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11 \* Sec. 2. AS 29.23.340(b) is amended to read:

12 (b) As determined by ordinance, members of the board are appoint  
13 ed by the municipal executive and confirmed by the assembly or council  
14 or are elected at the regular election held annually on the first  
15 Tuesday of October, unless a different election date or interval of  
16 years is provided by ordinance. A resident of any area served by the  
17 utility may vote on the election of members of the board. The term of  
18 a utility board member is two years and until a successor is selected  
19 and has qualified. However, the assembly or council may by ordinance  
20 provide for a different term not to exceed four years and not altering  
21 the current term of an elected incumbent.

22 \* Sec. 3. AS 29.23.340 is amended by adding a new subsection to read:

23 (e) If the utility provides services outside the municipality, a  
24 resident of any area served by the utility is eligible to serve as a  
25 member of the board. The membership of the board must reflect the  
26 composition of the user group to the extent possible, with at least  
27 one member of the board from outside the municipality.

28 \* Sec. 4. AS 42.05.711(b) is amended to read:

29 (b) Public utilities owned and operated by a political

1 subdivision of the state and none of whose utilities is in competition  
2 with any other utility, are exempt from the provisions of this chap-  
3 ter, other than the provisions of AS 42.05.221 - 42.05.281, unless the  
4 owner and operator elects to be subject to all provisions of this  
5 chapter. However, if the public utility provides services outside the  
6 boundaries of the municipality, the utility is subject to regulation  
7 if 25 percent of the customers of the utility petition the commission  
8 for regulation.  
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Official Business

# Alaska State Legislature House

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

TO: Representative Mike Navarre  
Chairman, House Labor & Commerce Committee

FROM: Representative Andre Marrou *Andre Marrou*  
Representative Max Gruenberg *Max Gruenberg*  
Representative Peter Goll *Peter Goll*

DATE: February 26, 1985

RE: CSHB 12 (C&RA)

During the rush to pass this bill out of the Community & Regional Affairs Committee, we were not able to accommodate some concerns of Representative Marrou. Since then, the three of us have been working to resolve those concerns, which we have done in the form of the attached amendment.

We would like the Labor & Commerce Committee to consider this amendment when the bill is heard. If you would like Representative Gruenberg to testify on the amendment, please contact his secretary, Kathy Ellis.

AMENDMENT

Offered in the HOUSE

TO: CSHB 12 (C&RA)

Page 1, line 22:

Delete "a new subsection" and insert "new subsections" in its place.

Page 1, after line 25, insert:

"(f) Nothing in (b) or (e) of this section requires an assembly or council of a municipality operating a public utility to provide by ordinance for the election or appointment of members of a managing board by district. However, if a municipality, by ordinance, requires members of a managing board to be elected or appointed by district, apportionment shall be consistent with the equal representation standards of the Constitution of the United States."

Comment: This amendment makes it clear that municipalities will not be required to appoint or elect utility board members by district, but may appoint or elect members at large. If they do choose to elect or appoint by district, they must do so under "one person one vote" principles of the federal constitution. The language is similar to AS 29.23.021(a), concerning the apportionment of municipal assemblies, copy attached.

*Mr. Linnberg*  
*Ande M*  
*Mr. Peter J. ...*

ent corporation" means  
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velopment plan" has the  
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4.600 may be cited as the  
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**Sec. 29.23.010. General power.** The legislative power of a borough is vested in the assembly. (§ 2 ch 118 SLA 1972)

**Opinions of attorney general.** — Under a former, similar provision the establishment of a department and of standards and procedures to be used in the exercise of an areawide power was a task for the borough assembly, in which was vested the general legislative power. 1962 Op. Att'y Gen., No. 9.

Under a former, similar provision the borough assembly might set up a board of health as an advisory board and be substantially guided by such a board of health in its exercise of the public health power, as long as the borough assembly was the body finally expressing the public health power. 1962 Op. Att'y Gen., No. 9.

To have permitted the borough chairman to serve on the borough assembly would have constituted a clear violation of a former similar provision, and would have violated the common law prohibition against holding incompatible offices. 1963 Op. Att'y Gen., No. 27.

Under a former, similar provision a person elected to the positions of borough assemblyman and borough school board could properly exercise the powers, privileges and duties of both offices concurrently. 1963 Op. Att'y Gen., No. 27.

### NOTES TO DECISIONS

**Lack of a valid legislative body would not prevent the valid incorporation of a municipality.** — This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body. *Jefferson v. State*,

Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

*Sec. 29.23.020. Composition, apportionment, and reapportionment. [Repealed, § 24 ch 83 SLA 1979.]*

**Sec. 29.23.021. Assembly composition and apportionment.** (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough. (§ 1 ch 83 SLA 1979; am §§ 3, 4 ch 128 SLA 1980)



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

January 23, 1985

MEMORANDUM

TO: Representative Mike Davis  
FROM: Gretchen E. Keiser, Legislative Analyst  
RE: Local Utility Services Outside Municipal Boundaries  
Research Request 85-113

Tom Moyer of your staff requested that we provide information about municipally owned utilities which provide various services (electric, telephone, water/sewer and refuse) within the state. We were asked to determine whether providing these services to customers who live outside municipal boundaries is a prevalent practice. Also, we were asked to investigate the basis for the municipal utilities' exemption from regulation by the Alaska Public Utility Commission, as granted in the Alaska Public Utilities Commission Act.

Table 1 summarizes the information obtained from nine municipal utilities regarding the public services they provide. According to the most recent Alaska Public Utilities Commission report (August 1984), these municipal utilities are all exempt from regulation by the APUC, as indicated in AS 42.05.711.<sup>1</sup> Of the nine utilities investigated, Fairbanks, Ketchikan, Petersburg and Seward provided some services (telephone or electric) to customers outside the municipal boundaries. However, the majority of the customers appear to be within the city limits.

Both Fairbanks and Ketchikan have public utility advisory boards which assist the city councils in their deliberations regarding the utilities' rates and services. According to Don LaMarca of the Fairbanks Municipal Utility Services, the Public Utility Board includes two non-city residents on its seven-member board appointed by the mayor. The board has the authority to approve expenditures under \$250,000. Larger budget items must be approved by the Fairbanks City Council. On the other hand, the members of the Ketchikan Public Utility Board are all city residents, and that board provides only advisory comments to the Ketchikan City Council. Although they lack formal representation, utility customers served by the municipalities of Ketchikan, Petersburg and Seward have access to the city councils through the public hearing process.

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<sup>1</sup>These are the major exempt municipal utilities providing electric and telephone services in the state. In addition, these represent a cross-section of exempt municipalities providing water and sewer services.

TABLE 1

SERVICES PROVIDED BY SOME MUNICIPALLY OWNED UTILITIES IN ALASKA<sup>1</sup>

MUNICIPAL UTILITY	LOCAL SERVICES PROVIDED BY MUNICIPALITY				UTILITIES PROVIDED OUTSIDE MUNICIPAL BOUNDARIES	% CUSTOMERS OUTSIDE CITY
	Electric	Telephone	Water/Sewer	Refuse		
Fairbanks Municipal Utilities Service	yes	yes	yes	no	telephone	approx 30 %
City of Fairbanks Public Works Dept.	no	no	no	yes	none	0
Ketchikan Public Utilities	yes	yes	yes	no	electric, telephone	NA
Nome Public Utilities	yes	no	yes	no	none	0
City of Palmer	no	no	yes	yes	none	0
City of Petersburg	yes	no	yes	no	electric	2 %
Seward Public Utility	yes	no	yes	no	electric	24 %
Sitka, City and Borough Public Utilities	yes	no	yes	no	none	0
City of Wrangell Utilities	yes	no	yes	yes	none	0

<sup>1</sup>These municipal utilities are exempt from regulation by the Alaska Public Utilities Commission, as indicated in AS 42.05.711.

NA = Not Available.

Prepared by House Research Agency January 1985.

Representative Davis  
January 23, 1985  
Page Three

As indicated in Table 1, water and sewer services were not provided outside the city limits in the eight utilities which provide these services. Furthermore, refuse collection is not a common municipal function; most communities appear to have private refuse companies.

You also requested information regarding the basis for the exemption from Alaska Public Utilities Commission (APUC) regulation provided to municipal utilities. According to Mr. Ray Wipperman of the APUC, public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility [AS 42.05.711(b)] were exempted from APUC regulation in 1970. The so-called "Ketchikan Amendment" arose because municipalities did not want the State's commission involved in the business of their local utilities. According to Mr. Wipperman, Senator Ziegler might be able to provide you with additional history on the municipal exemption.

We hope this information is useful. Let us know if we can be of further assistance.

GK

A M E N D M E N T # 1

Offered in the HOUSE

By Davis

TO: CSHB 12 (C&RA)

Page 2, line 3, following "chapter", delete all material and insert:

"or if regulation is required under AS 42.05.713"

Page 2, lines 4 through 6, delete all material and insert:

"\* Sec. 5. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.713. PETITION AND ELECTION FOR REGULATION OF MUNICIPALLY OWNED UTILITIES. (a) A municipally owned and operated utility that provides services outside the boundary of the municipality is subject to regulation under this chapter, except for the provisions of AS 42.05.221 - 42.05.281, if ~~10~~<sup>15</sup> percent of the customers of the utility petition the commission for regulation and if the customers of the utility approve regulation by a majority vote in an election under this section.

(b) Upon receipt of a valid petition for regulation under (a) of this section, the commission shall notify the utility of the petition for regulation. The utility board, assembly, or council shall call an election after notification from the commission and send to each customer of the utility with the customer's regular bill for service a notice of election at least 60 days before the date of election.

(c) The notice of election under (b) of this section must contain impartial language informing the customer of the utility that a

election on the question of regulation by the Alaska Public Utilities Commission will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each customer of the utility with the regular bill for service. The notice of election shall also state that a customer of the utility is entitled to vote in the election without regard to whether the customer's account with the utility is current and that the ballot must be postmarked or returned to the commission within 30 days after it was mailed or otherwise delivered to the customer. The notice shall also announce the schedule for one or more public meetings that shall provide an opportunity for the customers to discuss this election. The public meeting or meetings shall be held not more than 30 days before the ballots are mailed or distributed to those eligible to vote.

(d) The utility board, assembly, or council shall mail or deliver a ballot with a return postage paid envelope addressed to the commission to each customer of the utility with the customer's bill for service. The ballot shall contain only the following language:

"Shall . . . . . (name of utility) be subject to regulation by the Alaska Public Utilities Commission?

[ ] YES [ ] NO"

(e) The commission shall certify the results of an election under this section within 60 days after the ballots are mailed or delivered to the customers.

(f) The utility shall make available during the 60 days immediately preceding an election under this section a list of customers of the utility at cost to any customer of the utility who requests one.

The list shall be in the same form that is available to the utility.

(g) An election under this section may be held only once every two years.

(h) The regulation of a utility approved in an election under this section terminates three years after the date the results of the election are certified under (e) of this section. Nothing in this subsection prevents a subsequent petition and election for regulation of the utility under this section following termination of regulation of the utility."

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

January 18, 1985

BILL SHEFFIELD, GOVERNOR

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

225 CORDOVA STREET - BLDG  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 264-2294

## POSITION PAPER

RE: HB 12

SPONSOR: Representative Mike Davis

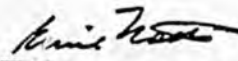
### Program Effects of Bill

This bill would limit the current exemption from APUC regulation of utilities of political subdivisions of the State to operations within municipal limits. It would not affect departmental programs.

### Comments

The department does not oppose this bill. Municipalities may operate a public utility outside municipal limits pursuant to AS 29.48.040. Municipalities currently enjoy exemption from most APUC regulation, in part because it is felt that resident users are protected by their ability to participate in the political process of governing the municipality. This protection obviously does not exist for utility users outside of municipal limits who are unable to vote in municipal elections. The proposed amendment could serve to provide some protection for these users' interests. However, administration of a utility in such a divided manner would be extremely difficult.

It should be noted that the exemption granted in AS 42.05.711(b) as it exists applies not just to a municipality, but to "a political subdivision of the state." The proposed amendment would have specific application to a regional electrical authority established in AS 18.57 which is statutorily defined as a political subdivision of the state (AS 18.57.020(a)). The proposed amendment in the bill could have a great potential impact on such an authority. This impact could be avoided by replacing "municipality" in the proposed bill with the language "political subdivision of the state." At the present time there is only one such regional electrical authority, which has, in any case, chosen to submit itself to APUC authority.

  
\_\_\_\_\_  
Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 12  
 Title: An Act relating to the exempt-  
 ion of municipally owned utilities from certain provisions of the Alaska Public  
 Utilities Act  
 Sponsor: Davis  
 Requestor: House C&RA Committee  
 Date of Request: 1-14-85

**FISCAL DETAIL**

Agency Affected: DCRA  
 Program Category Affected: none  
 BRU, Program or Subprogram(s) Affected:  
 None

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-			

<b>CAPITAL</b>	-0-	-0-	-0-			
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**


GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

This bill would have no fiscal impact on the Department.

Prepared By: James Plasman   
 Division: Municipal & Regional Assistance

Phone: 465-4707

Date: 1-18-85

Approved by Commissioner:   
 Agency: \_\_\_\_\_

Date: 1/18/85

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 1/25/85

**REQUEST**

Bill/Resolution No.: HR 12  
 Title: Exemption of municipally owned util. from certain provisions of APU  
 Sponsor: Davis  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Alaska Public Util. Commission  
 Program Category Affected: Consumer Protection  
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	119.5	119.5	119.5	119.5	119.5
200 TRAVEL	0	3.0	3.0	3.0	3.0	3.0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	.8	.9	1.0	1.0	1.0
500 EQUIPMENT	0	-----	-----	-----	-----	-----
600 LAND & STRUCTURES	0	6.0	6.0	6.0	6.0	6.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>129.3</b>	<b>129.4</b>	<b>129.5</b>	<b>129.5</b>	<b>129.5</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	129.3	129.4	129.5	129.5	129.5
FEDERAL FUNDS	0					
OTHER	0					
<b>TOTAL</b>	<b>0</b>	<b>129.3</b>	<b>129.4</b>	<b>129.5</b>	<b>129.5</b>	<b>129.5</b>

**POSITIONS:**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: John B. Farleigh, Executive Director Phone: 276-6222 ext. 111  
 Division: Alaska Public Utilities Commission Date: 1/24/85  
 Approved by Commissioner: Carolyn Guess Date: 1/25/85  
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

465-2504 to receive this information immediately.

DEPARTMENT Commerce & Economic Development	DIVISION Alaska Public Utilities Commission	BILL NUMBER HB 12	SPONSOR Davis
DEPARTMENT POSITION			
PREPARED BY Carolyn S. Guess Chairman	DATE 1/22/85	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUPS AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND INFORMATION

ANALYSIS OF BILL:

The proposed legislation, by modifying the existing exemption statute for municipally owned utilities (AS 42.05.711(b)), in effect creates a potential for new Alaska Public Utilities Commission jurisdiction. This new jurisdiction would be particularly complex in that a municipal utility, with rates and services otherwise exempt from the regulatory process, would have to separate its operations and accounts for services outside its municipal boundaries. As a practical matter, it would be impossible to economically regulate such a utility without access to operating data from an exempt municipal utility for the purpose of allocating revenues and expenses between customers residing inside and outside of the municipal boundaries. Such partial regulation would be an administrative nightmare!

Although the potential impact of this bill is not clear at this time, the Alaska Public Utilities Commission is aware that some services provided by the Fairbanks Municipal Utility System would fall into this category. The attached fiscal note was developed as a minimum-cost response to the proposed legislation and could require amendment if the impact is appreciably greater than now estimated.

.....  
This legislation identifies a legitimate concern of those utility customers to whom no one is accountable. The APUC has no regulatory jurisdiction and, therefore, cannot respond to these customers' concerns; the elected officials who makes rate and service decisions affecting these consumers are not responsible to them through the elective process. We understand in some instances as much as 50% of the customer base of a municipal utility can be in this "no-man's" land. The Commission is willing to work with those affected to explore possible solutions other than bifurcated regulation of some municipal utilities.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

**STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 12  
 Title: Exemption of municipally owned utilities from APUC Act  
 Sponsor: Davis  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Alaska Public Util. Commis  
 Program Category Affected: Consumer Protectio  
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	119492	119492	119492	119492	119492	119492
200 TRAVEL	2500	2650	2809	2978	3156	3346
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	800	848	899	953	1010	1071
500 EQUIPMENT	4050	---	---	---	---	---
600 LAND & STRUCTURES	6000	6000	6000	6000	6000	6000
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>132842</b>	<b>128990</b>	<b>129200</b>	<b>129422</b>	<b>129658</b>	<b>129908</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	132842	128990	129200	129422	129658	129908
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>132842</b>	<b>128990</b>	<b>129200</b>	<b>129422</b>	<b>129658</b>	<b>129908</b>

**POSITIONS:**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: John B. Farleigh, Executive Director. Phone: 276-6222 ext. 111  
 Division: Alaska Public Utilities Commission Date: 1-22-85  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

Please call Catherine Wallen at 465-2504 to receive this information immediately.

**BILL ANALYSIS**

DEPARTMENT Commerce & Economic Development	DIVISION Alaska Public Utilities Commission	BILL NUMBER HB 12	SPONSOR Davis
DEPARTMENT POSITION			
PREPARED BY Carolyn S. Guess Chairman	DATE 1/22/85	COMMISSIONER'S SIGNATURE	DATE

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

ANALYSIS OF BILL:

The proposed legislation, by modifying the existing exemption statute for municipally owned utilities (AS 42.05.711(b), in effect creates a potential for new Alaska Public Utilities Commission jurisdiction. This new jurisdiction would be particularly complex in that a municipal utility, with rates and services otherwise exempt from the regulatory process, would have to separate its operations and accounts for services outside its municipal boundaries. As a practical matter, it would be impossible to economically regulate such a utility without access to operating data from an exempt municipal utility for the purpose of allocating revenues and expenses between customers residing inside and outside of the municipal boundaries. Such partial regulation would be an administrative nightmare!

Although the potential impact of this bill is not clear at this time, the Alaska Public Utilities Commission is aware that some services provided by the Fairbanks Municipal Utility System would fall into this category. The attached fiscal note was developed as a minimum-cost response to the proposed legislation and could require amendment if the impact is appreciably greater than now estimated.

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This legislation identifies a legitimate concern of those utility customers to whom no one is accountable. The APUC has no regulatory jurisdiction and, therefore, cannot respond to these customers' concerns; the elected officials who makes rate and service decisions affecting these consumers are not responsible to them through the elective process. We understand in some instances as much as 50% of the customer base of a municipal utility can be in this "no-man's" land. The Commission is willing to work with those affected to explore possible solutions other than bifurcated regulation of some municipal utilities.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

Revision Date: 1/25/85

REQUEST

Bill/Resolution No.: HR 12  
 Title: Exemption of municipally owned util. from certain provisions of APU

Sponsor: Davis  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Alaska Public Util. Commission  
 Program Category Affected: \_\_\_\_\_  
Consumer Protection  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	119.5	119.5	119.5	119.5	119.5
200 TRAVEL	0	3.0	3.0	3.0	3.0	3.0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	.8	.9	1.0	1.0	1.0
500 EQUIPMENT	0	----	----	----	----	----
600 LAND & STRUCTURES	0	6.0	6.0	6.0	6.0	6.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>129.3</b>	<b>129.4</b>	<b>129.5</b>	<b>129.5</b>	<b>129.5</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	129.3	129.4	129.5	129.5	129.5
FEDERAL FUNDS	0					
OTHER	0					
<b>TOTAL</b>	<b>0</b>	<b>129.3</b>	<b>129.4</b>	<b>129.5</b>	<b>129.5</b>	<b>129.5</b>

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

*2/15/85 For Committee to see OIRA recommended replacing HB 12 with O.S. HB 12 (OIRA) with zero fiscal note.*

Prepared By: John B. Farleigh, Executive Director

Phone: 276-6222 ext. 111

Division: Alaska Public Utilities Commission

Date: 1/24/85

Approved by Commissioner: Carolyn Guess

Date: 1/25/85

Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

**REQUEST**

Bill/Resolution No.: CSHB 12(C&RA)  
Title: Relating to municipally owned utility regulation & board representation  
Sponsor: House C&RA  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Economic Development  
Program Category Affected: Protection  
BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: Carolyn Guess, Chairman Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 2/13/85  
 Approved by Commissioner: *Carolyn Guess* for *Carolyn Guess, Chairman* Date: 2/13/85  
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



# Alaska State Legislature

Representative Mike Davis

Pouch V  
Juneau, Alaska 99811  
(907) 465-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708

## MEMORANDUM

TO: Representative Peter Goll, Chairman  
House Community & Regional Affairs Committee

FROM: Rep. Mike Davis

RE: HB 12

DATE: January 17, 1985

House Bill 12 would partially repeal the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act.

Under the current law a municipally owned utility that serves customers outside of its municipal limits, in effect, disenfranchises those customers from their decision making process. As an example in Fairbanks, approximately half of the Fairbanks Municipal Utility System's (FMUS) telephone subscribers are from outside the city. FMUS is regulated by the City Council (the Public Utilities Board is advisory only). Subscribers outside the city exercise no control over the City Council thus have no say in rate structuring, expansion plans, how funds are allocated from one utility service to another etc.

Allowing APUC to regulate such a utility would give such subscribers a legitimate means to participate in deciding matters that the Commission regulates such as described above.

This exemption would apply only to a municipality owning a utility that serves consumers beyond the municipal borders and only to its activities in the area beyond its borders.

*Office of the City Attorney*



HERBERT P. KUSS  
CITY ATTORNEY

WM. RONALD SMITH  
DEPUTY CITY ATTORNEY

PATRICK B. COLE  
DEPUTY CITY ATTORNEY

JAMES M. MULLEN  
ASSISTANT CITY ATTORNEY

410 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
907-452-1881

February 28, 1985

Honorable Mike Navarre  
Pouch V  
Juneau AK 99811

RE: House Bill 12

Dear Representative Navarre:

The City of Fairbanks has learned that a committee substitute for House Bill 12 is presently in the House labor and commerce committee (copy attached). The City opposes House Bill 12 and does not believe any legislation is necessary.

There is already legislation on the books granting authority to the borough to regulate MUS telephone rates and to set requirements for deposits (AS 29.48.060, copy attached). I have not heard any criticism of the rates or security deposits set by the City's telephone utility. In fact, our rates are very low and our security requirements minimal. Regulation of rates by APUC will not effectuate what citizens complain about, lack of extension of service to new areas and upgrading of party line service to private lines.

The City has a new telephone manager, Ernie Cuzzecrero. In the short time he's been here he's impressed the community with his dynamic enthusiasm and ability to upgrade the system for all our customers.

As far as I know APUC has never required a utility to raise its rates in order to extend service. There will be very substantial costs to the City if APUC is given the authority to regulate the city telephone utility. The City is working very hard to provide quality service to all its customers at the lowest possible cost. Adding this regulatory burden will not assist us in doing so.

There are significant problems with the change to 42.05.711(b) contained in Committee Substitute HB 12 offered February 15, 1985.

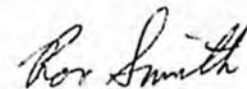
1. The City of Fairbanks owns and operates five different utilities. The bill needs to clarify that this change will only apply to the utility operating outside the municipality and not the other utilities owned by the City.

2. This change in effect provides for rule by minority. A petition by 25% of the telephone customers can control what the majority actually gets, which may not be what they desire.

3. The clear intent of the change is that 25% of the customers refers to customers both inside and outside the municipality. However, to avoid disputes, this needs to be made very specific.

4. There are problems with any changes or decisions to be made solely by petition. All other state and city provisions relating to referendums, initiatives and recalls are begun by petitions but decided by an election. Petitions generally present only one side of the issue. Many times customers may be dissatisfied and sign a petition for change without understanding the possible ramifications of the change or the other side of the issue. It is strongly recommended that if a petition by 25% of the customers is submitted to APUC, either APUC or the municipality shall be required to conduct an election within 60 to 90 days with the majority deciding. Even if a certain percentage less than a majority can approve the change, at least both sides of an issue may be presented to customers. Attached is my proposal for changed language in the bill to avoid these problems if the basic concept is thought necessary.

Sincerely,



Wm. Ronald Smith  
Deputy City Attorney

WRS/bjw

cc: W.C. Droz, City Manager  
Virgil Gillespie, MUS General Manager

Enc: CS for HB 12  
AS 29.48.060  
Proposed change to CS for HB 12

CHANGE TO AS 42.05.711(b)  
AS STATED IN CS FOR HB 12  
OFFERED FEBRUARY 15, 1985

However, if the public utility provides services outside the boundaries of the municipality, the utility is subject to regulation if 25% of the customers of the utility petition the commission for regulation.

SHOULD BE AMENDED TO READ:

However, if a public utility provides services outside the boundaries of the municipality, the utility is subject to regulation if 25% of the customers of the utility, both inside and outside the municipality, petition the commission for regulation and an election is held at which a majority of customers vote in favor of regulation. Customer for purpose of this section is the person or entity in whose name the utility service is listed with the utility. If a municipality owns and operates more than one utility, only the utility whose customers have petitioned and voted in favor of regulation is subject to regulation by the Alaska Public Utilities Commission other than the provisions of AS 42.05.221 - 42.05.281. The municipality affected shall conduct the election within 60 days in the manner prescribed by its election code except the eligible voters shall be the customers of the utility affected.

## NOTES TO DECISIONS

Power to provide for utilities authorizes binding grant of franchise. — Power granted to a municipality to provide for water supply and lights under a former, similar provision undoubtedly carried with it the power to grant a franchise to an electric light company for a limited period of time to use the municipal streets for poles and wires and the transmission of electricity, and the franchise, if accepted, became binding upon both the city and the company, not to be revoked or repealed, unless the power to repeal had been clearly and unmistakably reserved. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

Meaning of "franchise". — While the grant of a right to use a public wharf, being a privilege conferred by public authority, might be a "franchise" within the broad and general meaning of that word, it was not a "franchise" within the meaning of a former, similar provision. As there used, the word was limited to include only privileges granted to a private person to construct and maintain public services. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

This section draws a distinction between franchises and permits to use. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938), decided under former, similar law.

Permits need not be given by separate ordinances. — A former, similar

provision required only that permission to use might be given under, i.e., in accordance with, "rules and regulations" established by ordinance, not that each separate permit had to be the subject of an ordinance. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But franchises must be approved by electorate. — Both in the case of the grant of a franchise to construct and maintain public utilities and in the case of a sale, lease, exchange or similar disposal of public property, approval of the electorate was necessary to validate the transaction under a former, similar provision. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

A certificate of public convenience and necessity did not grant a monopoly, in relation to a city's electrical utility system, to furnish electrical energy throughout the service areas which had been allotted. *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

A certificated utility is not insulated from competition by municipally owned and operated utilities under the Alaska Public Service Commission Act (AS 42.05). *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

Applied in *E. C. Cable Co. v. City of Juneau*, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq.

64 C.J.S., Municipal Corporations, § 1726.

Motive of council passing ordinance as

to franchise as affecting validity thereof, 32 ALR 1525.

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

Municipality's liability in damages for refusal to grant franchise, 37 ALR2d 694.

**Sec. 29.48.060. Public utilities rates.** The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a municipally owned utility not regulated under AS 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest is paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (§ 2 ch 118 SLA 1972; am § 1 ch 136 SLA 1980)

HB 12 File Contents

HB 12--C & RA Committee

- 1) Bill Summary -- Legislative Reporting Service
- 2) Position Paper -- Rep. Mike Davis
- 3) Fiscal Note -- DCRA
- 4) Fiscal Notes plus Fiscal Analysis -- APUC
- 5) Alaska Statutes 42.05.221-281 & 691-712
- 6) Legislative Analysis -- House Research Agency
- 7) Memorandum -- Rep. Davis to Rep. Goll, C & RA
- 8) Public Response:
  - a. City of Fairbanks (opposed) & Response by Rep. Davis
  - b. Alaska Municipal League (opposed)
  - c. POM from Don Thrapp (pro)
  - d. Written testimony -- Gary Newman (pro)
  - e. City of Seward (opposed) and Rep. Gruenberg's response
  - f. Response of Rep. Davis to City of Seward

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CSHB 12 -- C & RA Committee

- 9) CSHB 12 Bill Summary -- Legislative Reporting Service
- 10) CSHB 12 (C&RA)
- 11) Sectional Analysis CSHB 12 -- Rep. Davis
- 12) Revised FN -- CSHB 12 -- APUC
- 13) Committee Report for CSHB 122- C&RA
- 14) Additional proposed amendments -- Marrou and Furnace Feb. 12, 85
- 15) Committee Minutes C & RA -- January 23 and 28, 1985
- 16) Comparison of Electrical Rates for Regulated and Unregulated Utilities -- House Research Agency at request of John Sund

SENATE BILLS RECEIVED IN THE HOUSE

Judicial  
Vacancy            SENATE BILL NO. 124, (see pages 215;226;272). Received in the House February 13 and referred to Judiciary.

Setting of  
Venue            SENATE BILL NO. 125, (see pages 215;226;273). Received in the House February 13 and referred to Judiciary.

Automobile  
Racing Assns.    SENATE BILL NO. 126, (see pages 215;273 ). Received in the House February 15 and referred to State Affairs, Judiciary.

Missing  
Children  
(pictures of)      SENATE CONCURRENT RESOLUTION NO. 5, (see pages 267; 273). Received in the House February 15 and referred to Judiciary.

COMMITTEE REPORTS (House)

Municipally  
Owned Utilities  
(exempt from  
APUC Act)        HOUSE BILL NO. 12, (see page 19). Reported back to the House February 15 by Community & Regional Affairs recommending it be replaced with a substitute and as follows: Goll (Chair), Wallis, Koponen and Gruenberg recommend it do pass. Furnace and Phillips had no recommendation. Marrou recommends do not pass. To Labor & Commerce.

The C&RA substitute contains none of the original language. Adds AS 29.23.340 (Municipal Officers and Employees. Utility Boards) to list of limitations of home rule powers, and adds language to AS 29.23.340 stating a resident of any area served by a utility may vote on the election of members of the board. Adds another section stating that if a utility provides services outside a municipality, a resident of any area served is eligible to serve as a member of the board.

Under current law public utilities that are owned and operated by a municipality that are not in competition with other utilities, are exempt from the provisions of the Alaska Public Utilities Act, unless the owner and operator elect to be subject to those provisions. Under the substitute bill if a public utility provides service outside the boundaries of the municipality, it is subject to regulation if 25 percent of the customers petition the commission for regulation.

Car Theft/  
Joyriding  
(heavier  
penalties)        HOUSE BILL NO. 17, (see page 40). Reported back to the House February 13 by Judiciary recommending it be replaced with a substitute and that it do pass. Concurring: M. M. Miller (Chair), Gruenberg, Taylor, Pettyjohn and Phillips. Sund had no recommendation. To Rules.

Under the new Judiciary version of the bill, a person who is convicted of current or former car theft/joyriding laws (criminal mischief in the 3rd degree), first, second or third degree and lesser theft charges, or for a similar municipal offense would be guilty of a class C felony if a propelled vehicle were stolen a second time within a seven year period.

Medicaid  
Services  
(mandatory &  
optional)        HOUSE BILL NO. 98, (see page 131). Reported back to the House February 15 by HESS recommending it do pass. Concurring: Koponen and Gruenberg (Co-Chairs), Pettyjohn, Hanley, Taylor and Hurley. To Finance.

# ... Rural/Local Gov ...

## Redefining "Rural" For Loans

An attempt to redefine "rural" for the purposes of housing loans is behind the introduction of HB-175 by Marrou and SB-65 by Kerttula. HB-175 will base rural solely on population -- those living in communities of 4,500 or less will be considered "rural" and will therefore include communities like Homer and Soldotna. SB-65, in addition to using population, requires that a rural community cannot be connected to Anchorage by road or rail, thereby excluding Homer and Soldotna.

## Rural "Job" Bills

Both HB-154 by Thompson and SB-31 by Zharoff are intended to provide residents of rural communities greater access to state jobs. Both bills focus on setting up mechanisms for getting rural job seekers on registers as well as sending the word of state job openings out to rural areas. The main drawback to the bill is the fiscal side -- implementation of such a program could be very expensive. SB-31 had a first hearing in Senate Labor and Commerce; HB-154 was pulled out of committee by its sponsor prior to its first hearing before House Community and Regional Affairs for revision.

## Rural Air Service

The deregulation of the airline industry resulted in the cessation of most air service to the bush. The Essential Air Service Act was passed by Congress as a means of gradually, rather than abruptly cutting off this service. It provides federal subsidies to carriers servicing bush communities and was intended to do so through 1988. However, funding for the continuation of the program has not been included in next year's federal budget. HJR-16 by Cato, requests the Department of Transportation to adhere to the scheduled continuation of the Act through the 1988 expiration date. HJR-16 will be heard the 19th in Transportation.

## Local Project "Cost Sharing"

Local governments may have to pay for at least 10% of construction costs for capital projects, in addition to paying for their operation and maintenance, should HB-41 by Larson pass. Intended as a means to reestablish local responsibility in the state appropriation process, a number of concerns surfaced at the bill's first hearing before House Finance.

One of the major questions which needs to be answered is how the local share of "at least 10%" will be determined. Also of concern is how smaller communities without a strong tax base will be able to raise the proposed local match.

The bill is currently in a special subcommittee of House Finance, chaired by Larson, who is expected to issue a substitute by the end of the month.

## Municipal Utilities

Some areas of the state, outside the jurisdiction of a municipality, are served by municipally owned public utilities. HB-12, by Davis, will enable those who reside in such service areas to have more clout about the regulation of the utilities.

Two main aspects comprise the CS which passed out of House Community and Regional Affairs last week. The first pertains to those municipalities having advisory boards to work with them on utilities, including rates and service. These boards may be appointed or elected. The CS will enable residents of service areas outside of the municipality to vote for the members of the advisory board in those instances where an election is held. The second point provides these residents with greater recourse concerning their utilities. When 25% or more subscribers are unhappy with their service, they will be able to petition the Alaska Public Utilities Commission (APUC) for regulation. CSHR-12 has been referred to House Labor and Commerce.

Alaska



TELEPHONES  
(907) 586-1325  
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

To: House Community and Regional Affairs Committee

From: Scott A. Burgess, Executive Director

Date: January 23, 1985

Subject: HB 12 - Municipal Utilities Exemption from APUC

On behalf of the Alaska Municipal League, I am opposed to HB 12. Repealing the current exemptions of public utilities from regulation by the APUC (AS 42.05.711(b)), would not be in the best interests of the public, the municipalities, the utilities or the level of service they provide.

My understanding of the bill is that it would repeal the current exemption for the utility service area outside the municipal limits. In the service area outside the municipal limits, the APUC would also regulate in addition to the council/assembly. The APUC regulation would be primarily one of rates, not service. Currently, the APUC does review and regulate service areas, determining who can provide the best service in a given area. Therefore, to require them to regulate municipal utilities would only add expense and bureaucracy, not improve service.

In the interests of brevity, I have outlined some points that clarify the League's opposition to the bill, and why I do not believe the legislation would have the desired effect of improving utility service by franchising customers receiving municipal utility service outside of municipal boundaries:

1. The City Council is a local regulator, and convenient, sympathetic and responsive to the local customer with complaints. Where the service area is in a borough, the borough assembly is also available. Boroughs also may seek utility authority.

2. The major public utilities providing utility service beyond the city limits are Fairbanks and Ketchikan. Both have utility boards with representation from the public outside the cities.

3. The APUC currently regulates service areas of municipal utilities. The additional regulation called for in HB 12 would only apply to rate setting. The utility manager in Seward estimated a cost of \$50,000 to \$100,000 to prepare a rate case before the APUC. The result would not be improved service but, in fact, higher costs to the rate payer from the added bureaucracy.

4. Without the presence of the public utility, no service may be provided to the public outside the municipal boundary.

5. The bill addresses a problem unique to the Fairbanks Municipal Utility Service and, specifically, the telephone utility. Much of the problem has been as a result of State subdivisions providing residential lots in proximity to urban areas without providing utilities or the funds to the public utility to provide the services expected by the eventual homeowner.

6. Municipalities that provide some utility service outside the municipalities boundaries, and that I was able to contact, oppose the bill on the basis that it will add confusion and cost with no improvement in service. More importantly, the city council and their utility boards are more accessible and responsive than the APUC in Anchorage. The municipalities that I contacted are: Fairbanks, Ketchikan, Seward, and Kenai.

"The League supports the current statutory exemptions which allow municipal utilities to operate in the best interests of the consumer public without regulation by the APUC." ( 1985 Policy Statement, PART VI, A.2., page 10)

"The League endorses the return to municipalities of the authority to regulate all utilities, other than co-op utilities and utilities that have opted out of the Alaska Public Utilities Commission (APUC) regulation, within their jurisdiction to the extent not regulated or specifically exempted from municipal regulation under state law." (1985 Policy Statement, PART VIII, A. 6., page 13)

Again, the League opposes HB 12. Thank you for the opportunity to comment.

\*\*\*\*\*  
\*  
\* DELIVER TO: JPOM \*  
\*  
\* ORIGINAL \*  
\* SENT: 01/22/85 TIME: 16:13 \*  
\* FROM: LIOSOL \*  
\* SUBJECT: TELEPHONE ZONING \*  
\* PRINT DATE: 01/22/85 TIME: 16:14 \*  
\*  
\*\*\*\*\*

\*\*P.O.M.\*\*

TO: ALL SENATORS AND ALL REPRESENTATIVES

FROM: DON T. TRAPP  
BOX 449  
KASILOF, AK 99810  
262-1433

MESSAGE: PLEASE GET ALASKA PUBLIC UTILITY COMMISSION OFF THEIR  
TAILS AND ZONE OUR TELEPHONE SERVICE AREAS SO RURAL RESIDENTS CAN  
OFFORD PRIVATE LINES. APPLICATION HAS BEEN BEFORE THEM FOR OVER  
TWO YEARS. ACTION PLEASE!

E.O.M.

TELECOPY COVER SHEET  
FAIRBANKS INFORMATION OFFICE

TO: Inu Info FOR: Rep. GOLL  
+ Rep. Davis PHONE: \_\_\_\_\_

FROM: GARY Newman - FAIRBANKS PHONE: \_\_\_\_\_

ADDITIONAL INSTRUCTIONS: This is testimony for a  
meeting this afternoon on HB 12.

DATE/TIME SENT: 9:00 AM SENT BY: Ann  
1/28/85

PLEASE ACK. RECEIPT:  HOLD FOR PICK-UP: \_\_\_\_\_

NUMBER OF PAGES 2 (NOT COUNTING COVER SHEET)

Gary C. Newman  
1083 Esro Road  
Fairbanks, Alaska 99701

Phone 488-2001

January 25, 1985

Rep. Peter Goll, Chairman  
House Committee on Community  
and Regional Affairs  
Pouch V  
Juneau, Alaska 99811

Dear Rep. Goll,

Please accept this written testimony on HB 12, as I was not able to finish my testimony during the teleconference last week and I will be in Chalkyitsik during the next teleconference on Monday.

I would like to explain that I am a journeyman telephone installer who worked for FMUS for nine years. I am presently a member of the Fairbanks North Star Borough Planning Commission and previously served on the Platting Board, so I have absorbed some knowledge about the development that has taken place over the years in the Fairbanks area.

I do support the intent of this bill. There has been a real problem in insuring that FMUS Telephone:

- 1) sets rates appropriately to meet their construction and expansion needs,
- 2) when collecting revenues, insuring that those revenues do go into meeting their construction and expansion needs.
- 3) meets their construction and expansion needs in the areas that they are franchised to serve.

Rates are and have been artificially low. While Fairbanks has been a fast growing for the past several years, there was a several year period prior to that where there was plenty of opportunity to catch up on inside and outside plant construction. Extra revenues received by the telephone utility have traditionally been used to subsidize the other utilities over the years. Major construction and expansion projects have been limited to occasional bond issues and legislative appropriations. From a recent study funded by the city, it would take \$160,000,000 to bring the telephone utility up to standard.

While most of the brunt of the poor shape of the utility has fallen on outlying areas where there is a lack of facilities with which to provide service, all areas have been equally hard hit by overloaded switches.

The question in my mind regarding this bill is whether APUC regulation would improve the utility. The additional burden of regulation will be costly to the utility in rate filings before the commission. However, I think that the APUC would more readily see and insist that the utility meets its obligations under its franchise to operate.

There is definitely an issue as to whether subscribers or potential subscribers within the FMUS service are who live outside the City of Fairbanks have any legal recourse before a political body which sets the rates, the Fairbanks City Council. It was a step in the right direction to re-establish the Public Utilities Board with some members as representatives of those living outside the City of Fairbanks. Yet the P.U.B. is essentially an advisory board to the City Council. The City Council must retain the right and obligation to encumber city funds. The last time the P.U.B. strongly insisted that the City upgrade its facilities, the City Council abolished the P.U.B.

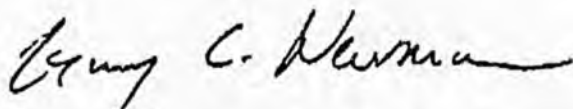
I think that the simplest description of the problem has been that the FMUS telephone utility has been guided by political decisions and not utility management decisions. The present mayor, just recently reelected, has pledged that he will veto an rate increase in defiance of the recent study that shows how bad things really are. I can recognize that FMUS Telephone has just about reached the end of the line with special appropriations in the state's capital budget. Yet the subscribers and those who would subscribe to telephone service in areas outside the city boundaries that FMUS should be serving were not amongst those who elected the mayor of the City of Fairbanks.

There are a couple other options that might affect the need for this legislation, but that seem unlikely in the near future: that of selling the utility or that of unifying the city and the borough.

I would suggest that this bill be modified to read that the exemption from APUC regulation be removed for any municipal utility if more than 10% of their customers reside outside the municipal boundaries. The task of delineating which items affect non-city subscribers would be too complex. I think the utility subscribers would be better served if a regulatory body with expertise in that utility was able to take a stronger hand than an advisory body.

Thank you for your attention to my concerns. Please share this letter with the other members of your committee.

Best regards,



cc: Rep. Mike Davis

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968  
914 CLAY COURT  
ANCHORAGE, ALASKA 99501  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

February 12, 1985

Mayor Donald W. Cripps  
City of Seward  
P.O. Box 167  
Seward, AK 99664

Re: House Bill 12

Dear Mayor Cripps:

Thank you very much for your letter on House Bill 12. I agree with you that the APUC should not be involved in municipally owned utilities. Several members of the House Community and Regional Affairs Committee, including myself, are attempting to work on the bill to provide an alternative solution. I will make sure that your letter is placed in the committee file on the bill.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.

MFG/ke

cc: Bob Berry, C&RA Committee staff

# CITY OF SEWARD

P.O. BOX 167  
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3341
- Telecopier (907) 224-3248

February 5, 1985

The Honorable Max Gruenberg, Jr.  
House of Representatives  
Pouch v  
Mail Stop 3100  
Juneau, AK 99811

SUBJECT: HOUSE BILL NO. 12, 14th LEGISLATIVE

Dear Representative Gruenberg:

I am very concerned about the impact on the rate payer of the Seward Electric Utility if House Bill 12 were passed as currently drafted. The additional cost required to meet the administrative needs of Alaska Public Utilities Commission would have to be directly passed to the consumer, but would not result in any improvement in service.

The Seward Electric Utility consists of approximately 1800 customer accounts, of which 1400 are within the city limits. Those outside are mainly located in subdivisions adjacent to the city limits, with a few spread along the Seward Highway between miles 12 and 24. The KWH rate is standard throughout this service area, even though the cost of service outside the city far exceeds that within the city limits. The monthly customer charges vary to reflect a slightly higher cost of service outside the city, residential fees being \$20.08 vs \$22.28, and commercial \$36.25 vs \$45.49. Service and response to emergencies is the same, except for travel time delay.

The Seward City Council performs the function of a utility board or commission. All tariffs and similar actions are considered in open assembly and are subject to public hearing as is other city business. The Council has never refused to permit testimony from a person outside city limits on a matter affecting the Utility.

House Bill No. 12  
14th Legislative  
Page 2

Placing a small utility, such as Seward Electric, under the APUC will subject them to unreasonable and costly administration that will increase the cost of service to the rate payer, while experiencing no improvements to service. The utility generally follows the APUC operating rules published for utilities, however, they are not subject to requirement for APUC tariff hearings and other costly, time consuming administrative reviews. The cost alone of preparing for a tariff revision and subsequent hearings would add 10 to 15% to the operating budget. A utility with 1800 customers cannot absorb such unnecessary overhead without directly impacting the cost of service to the customer. This additional burden would be even more unreasonable if one accepts statements by other utilities concerning the cost of responding to demands of the APUC, or the benefits gained from implementing their procedures.

Seward's position is that placing the Seward Utility under the APUC would not be beneficial by either rate regulation or improved services. Rates would increase and/or service would deteriorate in response to the increased administrative burdens. Furthermore, because the Seward City Council has close communications with rate payers within and without the City limits and is very responsive to their needs, there is no need for another overview agency. This bill should be defeated, or at least amended to allow small municipal owned utilities having the majority of their customers within city limits to continue to be exempt from APUC control.

Respectfully yours,

THE CITY OF SEWARD



DONALD W. CRIPPS  
MAYOR

EPD:DWC:mr

REMARKS:

Professionals in action since 1975

128 Seward Street  
Juneau, Alaska 99801

Business Phone - (907) 586-1715  
Telecopy Phone - (907) 586-4821

Introduced: 1/16/85  
Referred: Community & Regional Affairs,  
and Labor & Commerce

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 12

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the exemption of municipally  
owned utilities from certain provisions of the Alaska  
Public Utilities Act."

7

8

9

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

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

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(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt within the boundary of the municipality owning the utility from the provisions of this chapter other than the provisions of AS 42.05.221 - 42.05.281, unless the owner and operator elect to be subject to all provisions of this chapter.

to do it. However, a similar bill was introduced last year and the League staff got conflicting support and resistance for the bill from several municipalities. Shouldn't the State contract with the local police? Municipalities should clarify their position. It has been referred to State Affairs, HESS and Judiciary.

SB 90 DCED Power to Administer Contracts: Introduced by the Rules Committee by request of the Governor, the bill would authorize the Department of Commerce and Economic Development to administer grants to community and regional governments, non-profit organizations or in unorganized boroughs. Referred to L&C and Finance.

COMMITTEE ACTION

HB 12 Municipal Utility Exemption: The bill was heard for the first time Wednesday, January 23 by the House C&RA Committee. The hearing was teleconferenced to Fairbanks and Anchorage. The hearing will be continued Monday, January 28 at 3:00 p.m. Rep. Davis, the sponsor, admitted that there may be other ways to give municipal utility customers outside city limits a voice in regulation other than APUC regulation - 25% petition, legislative action prohibiting discrimination and elected public utility board membership representing customers outside the city limits. Other than the sponsor, two people in Fairbanks spoke in favor of the legislation. Two people spoke in opposition stating that further regulation by APUC would be confusing and costly and would not result in better service. Both mentioned the accessibility and responsiveness of the City Councils and Public Utility Boards in Fairbanks and Ketchikan to customer complaints. The Committee appears sympathetic; please voice your opposition individually.

COMMITTEE MEETINGS/HEARINGS

House Community & Regional Affairs

3:00 p.m.

Behrends 209

HB 12 Municipal Utility APUC Exemption ----- Monday, January 28 (continued from 1/23/85)

HB 11 Municipal Taxation of Agricultural Land ----- Wednesday, January 30

HB 39 Preservation of Agricultural Land ----- Friday, February 1

House Labor & Commerce

8:30 a.m.

Capitol 124

HB 62 Prevailing Wages/Overtime; Public Construction ----- Friday, January 25

House Resources

8:30 a.m.

Capitol 118

HB 33 Agricultural Rights to Land ----- Monday, January 28

HB 33 Agricultural Rights to Land ----- Wednesday, January 30

Senate State Affairs

8:30 a.m.

Capitol 205  
Butrovich

SB 34 Campaign Financing ----- Thursday, January 31

Senate Labor & Commerce

3:30 p.m.

Capitol 211  
Beltz

SB 31 Hiring in Rural Areas ----- Wednesday, January 30



# Alaska State Legislature

Representative Mike Davis

Room V  
Juneau, Alaska 99811  
(907) 465-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708

March 1, 1985

Mayor Donald W. Cripps  
City of Seward  
P.O. Box 167  
Seward, AK 99664

Dear Mayor Cripps:

Thank you for your letter regarding House Bill 12. I understand your concern that Seward's utility not be saddled with unreasonable burdens.

I would like to explain the provisions of the attached bill that you have addressed.

Section 2 of the bill amends subsection (b) of AS 29.23.340 Utility Board. Subsection (a) of this section allows municipalities to provide for a managing board. Subsection (b) allows the municipality to determine by ordinance whether the board would be appointed or elected. The proposed change to subsection (b) says, in effect, that if a municipality chooses to have a managing board, and if it is elected, then non-residents may vote in the election.

This proposed amendment would not apply to Seward precisely because the City Council acts as the managing board.

Section 3 of the bill amends AS 29.23.340 with a new subsection (e) that allows a non-resident customer to serve on a managing board, whether elected or appointed, if a municipality chooses to have a board other than the council or assembly.

Again, this proposed section would not apply to the Seward utility because Seward chooses not to have a separate managing board.

Section 4 of the bill amends AS 42.05.711(b) to allow 25% of the customers of a municipally owned utility that serves customers outside of its boundaries, to petition the APUC for regulation.

This 25% figure is consistent with other provisions in the existing law. I feel that obtaining the signature of 25% of the customers would reflect far wider dissatisfaction. It is not the intent of this bill to place utilities under the regulation of APUC. If the Seward City Council has close communications with its customers, there would be no reason for them to exercise this provision. The intent is to give customers the option of APUC regulation if they feel it is a preferable alternative to municipal regulation.

I appreciate the suggestion that a majority of the customers should be able to vote. I'm considering an amendment that would, by petition of a percentage of customers, require a majority vote for regulation by APUC. I'd be glad to send you a copy when it is drafted.

I appreciate your comments. I hope I have answered some of your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Representative Mike Davis



# Alaska State Legislature

Representative Mike Davis

Pouch V  
Juneau, Alaska 99811  
(907) 465-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708

March 6, 1985

Wm. Ronald Smith  
Deputy City Attorney  
City of Fairbanks  
410 Cushman Street  
Fairbanks, AK 99701

Dear Mr. Smith:

Thank you for your letter and suggested amendments to HB 12. I'd like to address the concerns you have raised.

The intent of the bill is to attempt to correct a fundamental disparity between customers living inside the the city and those outside the city. Those outside the city do not have the same ability to be heard and participate in the management of the utility.

Rate setting, as you indicated, is not the motivating factor for most complaints against MUS. To my knowledge, no borough has exercised the existing legislation (AS 29.48.060) nor do I believe FNSB desires to do so.

I appreciate your comments about the need to clarify that regulation by petition will only apply to the particular utility operating outside the city. This is my intent and APUC believes it is feasible to regulate in this manner.

I also intend to offer an amendment that would establish a petition process much like the deregulation provision AS 42.05.712. I would be glad to send you a copy of the amendment when it is drafted for your comment.

The bill will be heard by teleconference March 13 in the Labor & Commerce Committee.

I look forward to the meeting with Mr. Cuzzecrero on March 16. The reports in the paper have been encouraging.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Davis".

Representative Mike Davis

INTRODUCTION OF BILLS (House)(cont'd)

State Employees HOUSE BILL NO. 10, by Reps. M. M. Miller & Duncan. Would  
(tax-deferred wage reduc.) allow state employees to contribute specified amounts into a tax-deferred account. The bill would take effect upon receipt of a favorable ruling by the Internal Revenue Service approving the changes to the Alaska Supplemental Annuity Plan converting it to a qualified plan that permits additional tax-deferred voluntary wage reductions. The bill adds the new language to AS 39.30.150 (Insurance & Supplemental Employee Benefits, Supplemental Employee Benefits on Withdrawal from Social Security, Contributions). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 14 and referred to State Affairs, then Finance.

Agricultural Land HOUSE BILL NO. 11, by Rep. Davis. Requires that land that is determined to be agricultural and sold by the state at auction shall be assessed on the basis of full and true value for agricultural purposes and may not be assessed as if subdivided or used for some other nonagricultural purpose. The bill adds the new language to AS 29.53 (Municipal Assessment & Taxation). Defines "agricultural purpose" to include farming, ranching, grazing, and storage or control of agricultural crops or livestock. Act is retroactive to January 1, 1985. Provides Act takes effect immediately.

Introduced January 14 and referred to Community & Regional Affairs, Resources, then Finance.

Municipally Owned Utilities HOUSE BILL NO. 12, by Rep. Davis. Seeks to exempt from the provisions of the Alaska Public Utilities Act (AS 42.05) (exempt from APUC Act) a public utility that is owned and operated by a municipality if the utility is not in competition with another utility. The utility would be exempt within the boundaries of the municipality that owns it. The exemption does not apply to certificates of public convenience and necessity (AS 42.05.221 - 42.05.281). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 14 and referred to Community & Regional Affairs, then to Labor & Commerce

U of A Anchorage HOUSE BILL NO. 13, by Rep. Martin. Would name the campus (naming campus) of the University of Alaska in Anchorage "Alaska State University". Does not provide for an effective date (takes effect 90 days after Governor signs bill).

Introduced January 14 and referred to Health, Education & Social Services, then Finance.

AK Territorial Guard HOUSE BILL NO. 14, by Rep. Fuller. Classifies a person (death benefit) who served in the Alaska Territorial Guard as a "veteran", thereby making that person eligible for a death benefit under AS 26.10.080 (Veterans. Death Gratuity). Note: The death gratuity is paid by the Dept. of Military and Veterans' Affairs, and amounts to \$750 to be paid the surviving spouse or personal representative of the vet. The veteran must have been buried on or after 5/13/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 12(C&RA)  
 Title: Relating to municipally owned utility regulation & board representation  
 Sponsor: House C&RA  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Economic Development  
 Program Category Affected: Protection  
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
----------------	---	---	---	---	---	---

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carolyn Guess, Chairman Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 2/13/85  
 Approved by Commissioner: *Carolyn Guess* for Carolyn Guess, Chairman Date: 2/13/85  
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

COMMITTEE REPORT

2/15

HOUSE

(7)

1/14/85

FURTHER: Labor and Commerce

Date: \_\_\_\_\_

The Committee on Community and Regional Affairs has had HB 12

"An Act relating to the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 12 (CRA)  same title  
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent"  ~~New Fiscal Note~~
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

WALLIS F. K. Wallis

ROSEN John F. Rosen

ROSENBERG Harold Rosenberg

GOLL Peter Goll

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WARRIOR Andre M. Do Not Pass.

FURNACE Walt Furnace No Rec.

PELLER Roll E. Peller No Rec.

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Peter Goll  
CHAIRMAN

# Alaska State Legislature

## COMMITTEES:

Committee on Community and Regional Affairs  
Committee on Transportation  
Special Committee on Oil and Gas  
Special Committee on Fisheries  
Finance Sub-committee on Fish and Game



## District 5

Kenai	Sterling
Soldotna	Ancho: Point
Homer	Point Graham
Seldovia	English Bay
Kachemak	Nikolaevsk
Kasilof	Halibut Cove
Nimilchik	Clam Gulch

Representative Andre Marrou

February 13, 1985

The Honorable Mike Navarre  
Chairman  
House Committee on Labor and Commerce  
Capitol  
Juneau, Alaska 99811

Re: CSHB12 (CRA)

Dear Rep. Navarre:


Following are comments submitted for consideration by Representative Andre Marrou and Representative Walt Furnace regarding CSHB12 (CRA).

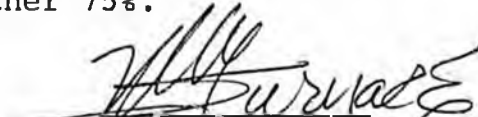
The undersigned feel that the committee substitute emphasizes overall regulation, plus control of extraterritorial users by those inside the municipality.

What we proposed, and still propose, are two changes to the CS as follows:

Addition of one sentence to Sec. 3.AS 29.23.340(e) to read: "The membership of the board must reflect the composition of the user group to the extent feasible." We feel that this would protect a minority of extraterritorial users from being controlled by those inside the municipality. If, say, 40% of the users lived outside the municipality, they would be provided 2 members on a 5-member board.

Change in the last sentence of the CS, under Sec.4.AS 42.05.711(b): substitute "A majority" for "25 percent". This would ensure that most of the users desire regulation by Alaska Public Utilities Commission, and that 25% of the users would not control the other 75%.

  
Andre Marrou  
Representative

  
Walt Furnace  
Representative



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y. State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 12, 1985

MEMORANDUM

TO: Representative John Sund

FROM: Jonathan Sherwood, Legislative Analyst

RE: Electrical Rates under Regulated and Unregulated Utilities  
in Alaska  
Research Request 85-123

John Hartle of your staff requested that we compare electric utilities regulated by the Alaska Public Utilities Commission (APUC) with unregulated utilities. We were asked to provide information on the cost of power to consumers and the cost of power to utilities. Although we have been unable to locate any comprehensive source of information as to the plant-by-plant power production costs to utilities, we have located information which allows us to compare the total power production costs for many utilities in the state.

Table 1 shows the 1983 average retail price of electricity per kilowatt-hour (kwh), average production cost per kwh, and the difference between the two for thirty-six utilities within the state. These data are taken from a report which the Advisory Committee on Statewide Power Production Costs prepared for the Alaska Power Authority. The average retail price is calculated by dividing the utility's operating revenues by energy sales. The average production cost (referred to as the busbar rate in the advisory committee report) is the production and transmission costs of the utility divided by the amount of energy generated by the utility.

As Table 1 shows, the unregulated utilities for which the advisory committee obtained data had neither the highest or lowest retail rates and production costs. Retail rates ranged from 5.5 cents per kwh in Anchorage to 49.1 cents in Bettles. Production costs range from 2.7 cents per kwh in Barrow to 30.2 cents in Galena. All of these utilities are regulated by the APUC. The differences between the retail price and the production cost of electricity range from -1.2 cents in Sitka, an unregulated utility, to 23.6 cents in Bettles, a regulated utility.

Attachment A is the table from the advisory committee report from which Table 1 was derived. The committee also produced estimates of power

Representative Sund  
February 12, 1985  
Page Two

costs for several utilities for which data were available; these estimates are included in the committee's table. I have excluded them from Table 1 because they were developed as part of an effort to estimate the effect of a postage stamp rate on electric rates, not to compare regulated and unregulated utilities.

Attachment B lists the electric utilities which were certified by the Alaska Public Utilities Commission as of 1983. Regulated utilities are noted with an asterisk (\*).

Attachment C contains the Alaska statutes which define the APUC's authority to regulate utilities. Generally, municipally owned utilities and utilities that fall below certain revenue minimums are exempted from APUC regulation.

Attachment D is a table showing average residential, commercial, and total electric rates for utilities in Alaska. This table is reproduced from the Alaska Power Administration's Alaska Electric Power Statistics 1960-1983.

\*            \*            \*

I regret that we are unable to provide you with more detailed information on power production cost; however, there does not appear to be a comprehensive compilation of this data available at this time. If you have any questions, or if we can be of further assistance, please do not hesitate to contact us.

JS

Attachments

Table 1  
Electric Rates and Production Costs For Selected Utilities  
1983

Utility	Production Cost (cents/kwh)	Retail Rate (cents/kwh)	Difference (Rate-Cost)
<u>Regulated</u>			
Alaska Electric (AEL&P)	3.5	5.9	2.4
Alaska Power (AP&T)	12.4	16.1	3.7
Alaska Villages (AVEC)	29.6	44.8	15.2
Anchorage (AML&P)	3.6	5.5	1.9
Aniak (APC)	28.3	33.9	5.6
Barrow (BU&EC)	2.7	9.0	6.3
Bethel (BUC)	15.7	18.1	2.4
Bettles (BL&P)	25.5	49.1	23.6
Chugach Electric (CEA)*	3.0	6.5	3.5
Cold Bay (NP&E)	16.4	19.3	2.9
Copper Valley (CVEA)	8.3	13.3	5.0
Ft. Yukon (FYU)	24.5	34.3	9.8
Galena (M&DE)	30.2	38.1	7.9
Golden Valley (GVEA)	6.4	10.0	3.6
Haines (HL&P)	13.7	16.4	2.7
Kodiak (KdEA)	12.1	16.4	4.3
Kotzebue (KtEA)	18.0	23.4	5.4
McGrath (MGL&P)	24.5	32.0	7.5
Northway (NP&L)	18.9	26.5	7.6
Pelican (PUC)	8.3	10.6	2.3
Sandpoint (PUC)	15.5	17.3	1.8
Tanana (T.PC)	24.6	31.8	7.2
Tlingit-Haida (THREA)	25.3	38.4	13.1
Yakutat (YPI)	13.3	18.1	4.8
<u>Unregulated</u>			
Cordova (CEC)	14.6	20.4	5.8
Fairbanks (FMU)	6.6	7.5	.9
Glacier Highway (GHEA)	5.2	11.1	5.9
Ketchikan (KPU)	5.9	9.0	3.1
Metlakatla (MP&L)	5.6	8.2	2.6

Table 1 (continued)  
Electric Rates and Production Costs For Selected Utilities  
1983

Utility	Production Cost (cents/kwh)	Retail Rate (cents/kwh)	Difference (Rate-Cost)
Naknek (NEA)	14.7	22.8	8.1
Nome (NTUB)	17.7	20.4	2.7
Petersburg (PMP&L)	10.4	13.3	2.9
Sitka (SED) <sup>†</sup>	8.0	6.8	-1.2
Wrangell (WML&P)	10.5	14.6	4.1

\* Homer Electric Association, Matanuska Electric Association and the City of Seward are combined with Chugach Electric. Seward is an unregulated utility.

† According to John McCracken, Finance Director for the City and Borough of Sitka, the utility did show a paper loss of approximately \$69,000 in 1983; however, this does not account for the large negative difference between the retail rate and the production cost. This difference is the result of not counting substantial income from interest on cash reserves and on overlapping financing, while apportioning the interest expense of this financing to production costs.

Source: Alaska Power Authority, Advisory Committee Report on Statewide Power Production Costs, December 15, 1984.

Table prepared by the House Research Agency, February 1985.

1982  
 GRAND ELECTRIC UTILITIES  
 1982 FINANCIAL OPERATING STATISTICS  
 (CENTS/KWH)

UTILITY NAME REST OF STATE	OPERATING REVENUES/WH SALES					PRODUCTION & TRANSMISSION COSTS/WH GENERATION						
	OPERATING REVENUES	ENERGY SALES	RETAIL RATE	VARIANCE		PROD/TRANS COSTS	ENERGY GENERATION	PLANT RATE	VARIANCE		RETAIL RATE	REVISED RET. RATE
	(MM)	(MM)	(CENTS/WH)	(MM)	(PERCENT)	(MM)	(MM)	(CENTS/WH)	(MM)	(PERCENT)	(PERCENT)	(CENTS/WH)
ALABAMA POWER CO (12)	11,401.3	24,563	44.8	18,974	81.6	6,174.5	28,345	27.6	16,954	83.8	63.2	16.5
AMERICAN ELECTRIC (12)	455.3	1,343	33.7	1,343	-75.7	276.1	1,458	28.3	1,326	82.3	-71.6	7.6
AT&T (12)	23.1	188	21.4	188	-61.5	17.9	178	14.7	112	66.3	-51.2	18.4
BAY AREA (12)	1,462.7	18,715	9.0	11,371	-8.3	618.4	22,822	2.7	527	65.2	31.3	11.8
BAY STATE (12)	4,142.1	22,663	18.1	12,257	54.5	3,744.1	23,168	15.7	12,471	-69.8	59.7	7.2
BEAVER VALLEY (12)	446.9	821	43.1	1,331	83.2	272.7	1,154	25.5	1,211	-84.3	-57.7	24.7
CHESAPEAKE (12)	682.7	3,197	21.4	1,429	-61.5	527.6	3,545	14.7	171	-66.3	-51.2	18.4
CHRYSLER (12)	38.5	76	42.8	131	-88.7	27.8	124	27.8	124	-83.1	64.3	15.3
CHRYSLER (12)	4,494.5	16,620	21.4	12,261	6.1	3,446.2	17,284	17.7	12,111	74.5	-57.8	18.4
CHRYSLER (12)	2,181.1	19,133	21.4	11,241	-61.5	1,685.9	11,287	3	11,171	-66.4	-51.3	18.4
CHRYSLER (12)	30.5	182	21.4	124	-61.5	27.8	244	3	124	66.3	-51.2	18.4
CHRYSLER (12)	67.6	158	42.8	155	-88.7	52.3	175	3	143	-83.2	-64.3	15.3
CHRYSLER (12)	636.5	1,851	34.3	1,484	-76.4	522.5	2,127	24.5	1,416	77.5	-65.3	11.9
CHRYSLER (12)	526.3	1,383	38.1	1,121	-78.3	464.6	1,537	38.2	1,387	-83.4	-73.6	18.4
CHRYSLER (12)	61.6	144	42.8	158	-88.7	47.6	162	29.8	142	-83.1	-64.3	15.3
CHRYSLER (12)	522.4	1,314	42.8	1,544	49.7	434.7	1,418	29.8	1,561	83.1	-64.3	15.3
CHRYSLER (12)	67.3	324	21.4	143	-61.5	53.6	348	14.7	136	-66.3	-51.2	18.4
CHRYSLER (12)	179.3	419	42.8	1,145	-88.7	138.6	466	29.7	1,151	-83.1	-64.2	15.3
CHRYSLER (12)	2,784.8	11,877	21.4	11,844	-64.8	2,466.6	13,668	18.8	11,789	77.7	61.9	8.4
CHRYSLER (12)	154.1	362	42.8	1,124	-88.7	119.1	444	29.8	1,191	83.1	-64.3	15.3
CHRYSLER (12)	77.8	182	42.8	1,621	-88.7	59.5	244	29.8	158	-83.1	64.3	15.3
CHRYSLER (12)	77.8	182	42.8	1,621	-88.7	59.5	244	29.8	158	-83.1	64.3	15.3
CHRYSLER (12)	62.7	273	21.4	137	-61.5	48.5	325	14.9	132	66.3	-51.3	18.4
CHRYSLER (12)	771.6	2,413	32.8	1,573	-74.2	786.6	2,481	24.5	1,521	77.5	72.0	3.7
CHRYSLER (12)	2,714.3	11,923	22.8	11,731	63.8	2,855.7	13,763	14.7	11,351	-65.7	47.9	11.4
CHRYSLER (12)	185.7	475	21.4	1,651	-61.5	81.9	558	14.7	154	66.3	51.2	18.4
CHRYSLER (12)	32.7	153	21.4	128	-61.5	25.3	178	14.7	171	66.3	51.2	18.4
CHRYSLER (12)	3,618.6	17,734	28.4	12,156	-57.6	3,423.8	17,287	17.7	12,455	71.7	-67.8	6.6
CHRYSLER (12)	318.8	1,169	26.2	1,214	-68.9	244.2	1,270	18.9	1,171	-73.5	-57.7	11.2
CHRYSLER (12)	534.2	2,753	17.3	1,181	-57.2	484.4	3,457	16.4	1,471	-67.1	65.4	6.7
CHRYSLER (12)	3,195.8	7,465	42.8	12,577	88.7	2,467.3	8,274	29.8	12,853	-83.1	64.3	15.3
CHRYSLER (12)	23.1	54	42.8	119	-88.7	17.9	68	29.8	115	-83.1	-64.3	15.3
CHRYSLER (12)	672.7	5,158	17.3	1,467	-52.3	853.9	5,584	15.5	1,571	67.6	-64.6	6.1
CHRYSLER (12)	544.5	1,585	31.4	1,374	-74.1	469.1	1,789	24.6	1,371	77.6	73.7	8.2
CHRYSLER (12)	231.1	544	42.8	1,187	-88.7	178.6	624	29.8	1,149	-83.1	64.3	15.3
CHRYSLER (12)	881.1	2,798	31.6	1,651	-73.9	461.4	3,188	14.9	1,561	-66.3	-34.7	28.6
TOTAL REST OF STATE	44,816.8	171,431	25.7	129,871	-67.9	35,845.8	188,229	18.6	125,557	-73.8	-58.1	18.8
IDA STATE	298,328.6	3,528,345	8.2	0	0.0	17,744.7	3,838,711	5.8	0	0.0	0.0	8.2
RETAIL TRANSMISSION CREDIT (1981)				52,976					51,135			

111 IEA, MEA, AND SES COMBINED WITH DORFCH  
 121 ESTIMATED

NOTES

<u>Column</u>	<u>Explanation</u>
1	Retail Operating Revenues - does not include wholesale power sales by Chugach.
2	Retail energy sales.
3	(Column 1/Column 2) x 100.
4	$\left( \frac{\text{Statewide Average Retail Rate} - \text{Column 3}}{100} \right) \times \text{Column 2}.$
5	$1 - \left( \frac{\text{Statewide Average Retail Rate}}{\text{Column 3}} \right).$
6	Includes operating costs and depreciation incurred in production and transmission accounts and allocations of interest and taxes to production and transmission. Also includes allocation of administration and general expenses and depreciation, interest, and taxes incurred by General Plant. A & G and General Plant expenses are allocated based on the ratio of the expenses in the remaining categories.
7	Energy Production before distribution losses.
8	(Column 6/Column 7) x 100.
9	$\left( \frac{\text{Statewide Average Rate} - \text{Column 8}}{100} \right) \times \text{Column 7}.$
10	$1 - \left( \frac{\text{Statewide Average Rate}}{\text{Column 8}} \right).$
11	(Column 9/Column 1) x 100.
12	(1 + (Column 11/100)) x Column 3.

Attachment B

CERTIFICATED ELECTRIC UTILITIES

- \*Akutan, City of
  - Alaska Electric Light & Power Company
  - Alaska Power & Telephone Company
  - Alaska Village Electric Cooperative, Inc.
  - Andreanof Electric Corporation
  - Aniak Light and Power Company, Inc.
  - Arctic Utilities, Inc.
  - Barrow Utilities and Electric Cooperative, Inc.
  - Bethel Utilities Corporation, Inc.
  - Bettles Light & Power, Inc.
- \*Chitina, City of
- \*Chistochina Trading Post
- Chugach Electric Association, Inc.
- \*Circle Electric
  - Richard Hutchinson d/b/a
  - Copper Valley Electric Association, Inc.
- \*Cordova Electric Cooperative, Inc.
- \*Fairbanks Municipal Utilities System
- \*Glacier Highway Electric Association, Inc.
- Golden Valley Electric Association, Inc.
- Gwitchyaa Zhee Utility Company
- Haines Light & Power Company, Inc.
- Homer Electric Association, Inc.
- Iliamna-Newhalen Electric Cooperative, Inc.
- \*Ketchikan Public Utilities, City of
- \*King Cove, City of
  - Kodiak Electric Association, Inc.
- \*Kotlik, City of
  - Kotzebue Electric Association, Inc.
- \*Kwethlux Incorporated
  - M & D Enterprises
  - Daniel and Margaret Patrick d/b/a
- Manley Utility Company, Inc.
- Matanuska Electric Association, Inc.
- McGrath Light & Power Company
- Municipal Light & Power Department
  - Municipality of Anchorage d/b/a
- \*Naknek Electric Association, Inc.
- \*Nikolski Power and Light Company
  - Fred Landt d/b/a
- \*Nome, City of
  - Nome Light & Power Utilities d/b/a
- \*North Slope Power & Light Company
  - North Slope Borough d/b/a
- Northern Power and Engineering Corporation, Inc.
- Northway Power & Light, Inc.
- Nushagak Electric Cooperative, Inc.
- \*Paxson Lodge, Inc.
- Pelican Utility Company<sup>(1)</sup>
- \*Petersburg, City of
- \*Semloh Supply
  - Weldon S. Holmes d/b/a
- \*Seward, City of
- \*Sitka, City and Borough of
  - Tanana Power Company, Inc.
  - Teller Power Company
  - Helen M. and Robert R. Blodgett d/b/a
- \*Thorne Bay, City of
  - Tlingit-Haida Regional Electrical Authority
- \*Unalaska, City of
- \*Weisner Trading Company
- \*Wrangell, City of
  - Yakutat Power, Inc.

(\*)Not Regulated by Alaska Public Utilities Commission as to rates and services.

(1) Pelican Utility Company is the holder of two electric utility certificates, one for service in Pelican, the other for service in Sand Point.

# Alaska Statutes

## Title 42. Public Utilities and Carriers.

### Chapter.

- 05. Alaska Public Utilities Commission Act (§ 42.05.141)
- 06. Pipeline Act (§§ 42.06.160 — 42.06.200, 42.06.280, 42.06.340)
- 40. Alaska Railroad Corporation (§§ 42.40.010 — 42.40.990)

### Chapter 05. Alaska Public Utilities Commission Act.

#### Article

- 2. Powers and Duties of the Commission (§ 42.05.141)

#### Article 2. Powers and Duties of the Commission.

##### Section

- 141. General powers and duties of the commission

##### Sec. 42.05.141. General powers and duties of the commission.

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;

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

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

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

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

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

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

(b) The commission shall perform the duties assigned to it under AS 44.83.162.

(c) In the establishment of electric service rates under this chapter the commission shall promote the conservation of resources used in the generation of electric energy. (§ 6 ch 113 SLA 1970; am § 1 ch 33 SLA 1971; am § 43 ch 83 SLA 1980)

**Editor's notes.** — This section is set out above to correct a minor error in the main pamphlet

## Chapter 06. Pipeline Act.

### Article

1. Powers and Duties of Commission (§§ 42.06.160 — 42.06.200)
2. Certificate of Public Convenience and Necessity (§ 42.06.280)
3. Services and Facilities (§ 42.06.340)

### Article 1. Powers and Duties of Commission.

#### Section

160—200. (Repealed)

*Secs. 42.06.160 — 42.06.200. Administrative authority and procedures of commission; application of Administrative Procedure Act, hearings; orders. (Repealed, § 20 ch 110 SLA 1981.)*

**Editor's notes.** — This repeal line is set out above to implement an editorial change.

### Article 2. Certificate of Public Convenience and Necessity.

#### Section

280. Insurance and security

**Sec. 42.06.280. Insurance and security.** The commission may require any lessee to procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commission considers necessary if the commission finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline. (§ 1 ch 139 SLA 1972; am § 4 ch 6 FSSLA 1973; am § 110 ch 6 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective February 14, 1984, substituted "commission" for "commissioner" in two places near the middle of the section.

(d) In this section, "record" means a report, file, book, account, paper, or application, and the facts and information contained in it. (§ 6 ch 113 SLA 1970; am § 8 ch 110 SLA 1981)

**Effect of amendments.** — The 1981 amendment rewrote this section.

NOTES TO DECISIONS

**Narrow construction.** — The privilege reflected by this section should be construed narrowly so that it does not conflict with the constitutional requirements of due process. *City of Fairbanks v Alaska Pub. Utils. Comm'n & Wire Communications, Inc.*, Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

**Due process controls over section.** — The requirement of this section that infor-

mation not be withheld if "required in the interests of the public" will normally prevent a conflict with due process requirements. If a conflict nevertheless occurs, due process must control. *City of Fairbanks v Alaska Pub. Utils. Comm'n & Wire Communications, Inc.*, Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

**Sec. 42.05.681. Validity of certain certificates.** A certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may not be considered as terminated, or voided, for the sole reason that the utility did not or would not produce an annual gross income in excess of \$25,000. (§ 6 ch 113 SLA 1970)

**Sec. 42.05.691. Utility classes.** The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting and other regulatory requirements. (§ 6 ch 113 SLA 1970)

Article 10. General Provisions.

<p><b>Section</b> 711. Exemptions 712. Deregulation ballot</p>	<p><b>Section</b> 720. Definitions 721. Short title</p>
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*Sec. 42.05.701. [Renumbered as AS 42.05.720.]*

**Sec. 42.05.711. Exemptions.** (a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of this chapter, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

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

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

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 unless 25 percent of the subscribers petition the commission for regulation.

(h) A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a) or (d) — (k) is not subject to regulation by a municipality under AS 29.48.060 — 29.48.090. (§ 4 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am § 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982; am § 1 ch 30 SLA 1983)

**Cross references.** — For limitations on these exemptions, see AS 42.05.321(b) and AS 42.05.381(c).

**Effect of amendments.** — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material," following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (c), substituted

"under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding "a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

The 1983 amendment added subsections (k) and (l).

**Opinions of attorney general.** — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

NOTES TO DECISIONS

Municipally owned utilities in competition with other utilities subjected to full gamut of regulation pertaining to other utilities, with exception

relating to bond covenants. — See Alaska Pub. Utils. Comm'n v. Municipality of Anchorage, Sup. Ct. Op. No. 1326 (File No. 2940), 555 P.2d 262 (1976).

**Sec. 42.05.712. Deregulation ballot.** (a) A utility or cooperative which may elect to be exempt from the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

(b) The votes of a majority of those voting in an election in which a' least 15 percent of the eligible subscribers or members return ball are required for a utility or cooperative to elect exemption under this section.

(c) Each subscriber or member of the utility or cooperat receive notice of an election under this section with the su' member's regular bill for service at least 60 days before ' the election. The notice shall contain impartial langu' subscribers or members that an election on the op' or regulation by the Alaska Public Utilities Co' within 60 days and that a ballot to participat' mailed or delivered to each subscriber or cooperative with the regular bill for servi'

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ENERGY USE, BILLING, CHARGE - 1983

Place	Utility	Residential			Commercial/Industrial			Total		
		Average Annual			Average Annual			Average Annual		
		Use Kwh/Cust.	Bill \$/Cust.	Charge C/Kwh	Use Kwh/Cust.	Bill \$/Cust.	Charge C/Kwh	Use Kwh/Cust.	Bill \$/Cust.	Charge C/Kwh
<b>SOUTHEAST</b>										
AP&T Ttl. (incl. Tok)	AP&T	4939	740	14.9	25594	3428	13.3	11935	1656	13.8
5 Villages	THREA	4620	1688	36.5	23140	8674	37.4	8199	2971	36.2
Auke Bay	GHEA	11685	1316	11.2	36557	2980	8.1	14528	1538	10.5
Haines	HL&P	5651	1023	18.1	26317	4160	15.8	10837	1801	16.6
Juneau	AEL&P	11999	674	5.6	48161	3011	6.2	20384	1199	5.8
Ketchikan	KPU	8937	765	8.5	48461	4196	8.6	13687	1193	8.7
Metlaxatla	MP&L	15074	893	5.9	98545	10290	10.4	29061	2371	8.1
Petersburg	PMP&I	6301	693	10.9	50533	5171	10.2	13694	1455	10.6
Sitka	SED	9714	697	7.1	56157	4553	8.1	16351	1258	7.6
Wrangell	WML&P	5105	802	15.7	21483	2634	12.2	9717	1333	13.7
Yakutat	YPI	6730	1352	20.0	58391	9952	17.0	14774	2674	18.0
Regional Average		9684	791	8.2	44809	4068	9.1	16254	1372	8.4
<b>SOUTHCENTRAL</b>										
Anchorage	AML&P	8177	471	5.7	146570	7346	5.1	33026	1782	5.3
	CEA	10815	832	5.8	77811	4020	5.1	17238	966	5.6
	MEA	12510	1056	8.4	64183	4318	6.7	16550	1312	7.9
Cordova	CEC	5365	1211	22.5	33931	6619	19.5	12948	2636	20.3
Glennallen	CVEA	4784	878	18.4	56097	7718	13.7	18244	2674	14.6
Homer	HEA	11184	830	7.4	111232	6426	5.7	24935	1601	6.4
Kodiak	KdEA	6214	1034	16.6	53761	8217	15.2	16058	2529	15.7
Port Lions	KdEA	3444	1714	49.7	11600	5015	43.2	4908	2316	47.1
Seward	S&S	8033	651	8.6	43703	3154	7.2	16845	1285	7.6
Valdez	CVEA	7452	981	13.1	65014	7345	12.2	13070	2387	12.5
Regional Average		10490	732	7.0	93975	5638	6.0	20471	1330	6.5
<b>YUKON</b>										
Fairbanks	FMU	5917	469	7.9	62047	5119	8.2	20780	1732	8.3
	GVEA	3039	958	10.5	77522	7327	9.4	16330	1685	9.9
Regional Average		8378	855	10.2	72227	6572	9.1	17826	1696	9.5
<b>ARCTIC NORTHWEST</b>										
48 Villages	AVEC	2514	1228	48.8	12320	5421	44.0	5747	2564	44.6
7 Villages	NSBPL	9537	2027	21.2				9537	2027	21.2
Deadhorse	AUI				574000	152344	26.5	574000	152344	26.5
Kotzebue	KrEA	5053	1263	24.9	48512	11102	22.8	13597	3205	23.5
Unalakleet	UVEC	4024	1093	27.1	39561	10139	25.6	10290	2687	26.1
Regional Average		3958	1347	34.0	58256	15937	27.5	9986	3243	32.5
<b>SOUTHWEST</b>										
Aniak	APC	7642	2710	35.4				7642	2710	35.4
Dillingham	NEC	5509	1119	20.3	34819	6852	19.6	11596	2311	19.9
McGrath	MGL&P	3554	1166	32.8	29444	9647	29.3	10968	3330	30.3
Natnek	NEA	5632	1363	24.2	29000	7524	25.9	14010	3572	25.4
Unalaska	UE	6822	1945	29.3				6622	1945	29.3
Regional Average		5848	1535	26.2	31230	7445	23.8	10842	2674	24.7
ALASKA AVERAGE		9807	787	8.0	80708	5794	7.2	18988	1472	7.8

Attachment C

ALASKA UTILITY ABBREVIATIONS

AEC	Andreanof Electric Corporation (Atka)	Private	(SW)
AEU	Akutan Electric Utility (Dutch Harbor)	Municip.	(SW)
AEL&P	Alaska Electric Light & Power Company (Juneau)	Private	(SE)
AML&P	Anchorage Municipal Light & Power Department	Municip.	(SC)
APA-E	Alaska Power Administration-Eklutna (Anchorage)	Federal	(SC)
APA-S	Alaska Power Administration-Snettisham (Juneau)	Federal	(SE)
APC	Aniak Power Company	Private	(SW)
AP&T	Alaska Power & Telephone Company (Craig, Hydaburg, Skagway, Tok, Dot Lake) (1)	Private	(SE;Y)
AVEC	Alaska Village Electric Cooperative, Inc. (48 villages)	Coop.	(SC,Y;SW; A-NW)
AUI	Arctic Utilities, Inc. (Deadhorse)	Private	(A-NW)
BU&EC	Barrow Utilities & Electric Cooperative, Inc.	Coop.	(A-NW)
BUC	Bethel Utilities Corporation, Inc.	Private	(SW)
BL&P	Bettles Light & Power, Inc.	Private	(Y)
CE	Circle Electric	Private	(Y)
CEA	Chugach Electric Association, Inc. (Anchorage Area)	Coop.	(SC)
CEC	Cordova Electric Cooperative, Inc.	Coop.	(SC)
CHE	Chignik Electric	Municip.	(SW)
COM	City of Manokotak	Municip.	(SW)
CTP	Chistochina	Private	(SC)
	Cold Bay (see NP&E)		
CVEA	Copper Valley Electric Association, Inc. (Glennallen, Valdez)	Coop.	(SC)
EL&P	Egegik Light & Power (2)	Private	(SW)
FMU	Fairbanks Municipal Utilities System	Municip.	(Y)
FYU	Fort Yukon Utilities	Private	(Y)
GHEA	Glacier Highway Electric Association, Inc. (Juneau Area)	Coop.	(SE)
GVEA	Golden Valley Electric Association, Inc. (Fairbanks Area)	Coop.	(Y)
HEA	Homer Electric Association, Inc. (Kenai Peninsula)	Coop.	(SC)
HL&P	Haines Light & Power Co. Inc.	Private	(SE)
HuP&L	Hughes Power & Light (certif. application-1984)	Private	(Y)
I-NEC or INNEC	Iliamna Newhalen Nondalton Electric Coop., Inc.	Coop.	(SW)
KC	Kotlik City	Municip.	(Y)
KCC	King Cove City	Municip.	(SW)
KdEA	Kodiak Electric Association, Inc. (Kodiak, Pt. Lions)	Coop.	(SC)
KEU	Klukwan Electric Utility	Municip.	(SE)
KI	Kwethluk, Inc. (Kuiggluum Kallugvia)	Municip.	(SW)
KtEA	Kotzebue Electric Association, Inc.	Coop.	(A-NW)
KPU	Ketchikan Public Utilities	Municip.	(SE)

LBES	Larson Bay Electric System	Private	(SC)
	Manokotak (see COM)		
M&DE	M&D Enterprises (Galena)	Private	(Y)
MEA	Matanuska Electric Association, Inc. (Palmer-Talkeetna Area and Unalakleet) (3)	Coop.	(SC, A-NW)
MUC	Manley Utility Co., Inc. (Manley Hot Springs)	Private	(Y)
MP&L	Metlakatla Power & Light	Municip.	(SE)
MGL&P	McGrath Light & Power	Private	(SW)
MKEC	Middle Kuskokwim Electric Coop., Inc. (pending) (Chuathbaluk, Crooked Creek, Sleetmute, Stony River)	Coop.	(SW)
NaC or NIPC	Napaklak Corporation (SWGR Service from BUC) Napaklak Incinaq Power Company	Private	(SW)
NEA	Naknek Electric Association, Inc. (2)	Coop.	(SW)
NEC	Nushagak Electric Cooperative, Inc. (Dillingham)	Coop.	(SW)
NiP&L	Nikolski Power & Light Co. (Umnak Is.) (4)	Private	(SW)
NJUB	Nome Joint Utilities Board (was ML&P)	Municip.	(A-NW)
NP&E	Northern Power & Engineering Corp., Inc. (Cold Bay)	Private	(SW)
NP&L	Northway Power & Light, Inc.	Private	(Y)
NSBP&L	No. Slope Borough Power & Light System (Atkasook, Kaktovik, Wainwright, Point Hope, Point Lay, Nuiqsut, Anaktuvuk Pass)	Municip.	(A-NW)
PLI	Paxon Lodge, Inc.	Private	(SC)
PMP&L	Petersburg Municipal Power & Light	Municip.	(SE)
PUC	Pelican Utility Company (Pelican and Sand Point)	Private	(SE, SW)
SED	Sitka Electric Department	Municip.	(SE)
SES	Seward Electric System	Municip.	(SC)
SS	Semloh Supply (Lake Minchumina)	Private	(Y)
TB	Thorne Bay	Municip.	(SE)
TePC	Teller Power Company	Private	(A-NW)
T-HREA	Tlingit-Haida Regional Electrical Authority (Angoon, Hoonah, Kake, Kasaan, Klawock)	Coop.	(SE)
TPC	Tanana Power Company	Private	(Y)
TSU	Tenakee Springs	Private	(SE)
UE	Unalaska Electric (was COU)	Municip.	(SW)
UVEC	Unalakleet Valley Electric Cooperative (3)	Coop.	(A-NW)
WML&P	Wrangall Municipal Light & Power	Municip.	(SE)
WTC	Weisner Trading Co. (Rampart)	Private	(Y)
YPI	Yakutat Power, Inc.	Private	(SE)

- (1) Tok-Dot Lk. intertie operating and Dot Lk. powerplant decommissioned in 1983.
- (2) P&L separated from NEA in 1983.
- (3) UVEC is in process of taking over the Unalakleet electric function from MEA
- (4) Applied for municipal utility certificate in 1984.

# CITY OF SEWARD

P.O. BOX 167  
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

February 25, 1985

The Honorable Mike Navarre  
HOUSE OF REPRESENTATIVES  
Pouch V  
Juneau, AK 99811

SUBJECT: HOUSE BILL NO. 12, 14th LEGISLATIVE

Dear Representative Navarre:

Reference is made to House Bill 12 concerning Regulatory Exemption of Municipalities.

In my earlier letter I expressed concern that HB 12, as then drafted, would place an unreasonable burden upon small utilities such as Seward Electrical Utility. I now note that a revised version has cleared committee. This revision does not ease any of my concerns.

The key elements of the revised bill are the condition that all customers be able to vote for members of a public utility board and that 25% of the customers could petition the APUC for regulation.

Both revisions present unacceptable conditions for the Seward Utility. The elected Seward City Council acts as the utility board. Obviously, only those persons living within the City are permitted to vote in a City Council election. Complying with the revision would require a separate board and election conducted outside of the City. For Seward, with a small number of customers and only a small percentage outside of the City, this is an unreasonable requirement, especially when you realize those customers have easy access to the City Council and their testimony is considered in a matter related to utility operations. The cost of a special election would be charged to the utility, and eventually reflect in the cost of power to the rate payer.

House Bill 12  
14th Legislative  
February 25, 1985  
Page 2

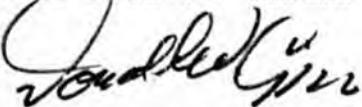
I am equally concerned about the 25% petition. As I understand the revision, if 25% of the customers petitioned the APUC for regulation, the decision to regulate would be made by APUC. I have no doubt if APUC has an opportunity they will elect to manage any utility. The committee may doubt that a 25% petition could ever pass, however, in a small town such as Seward, that is a small number of people. Thus, a minority of the rate payers could influence the regulation of a utility over the desire of a large majority.

A more acceptable condition would be that if a majority of the customers, including those outside of the City, voted in favor of APUC regulation then APUC would consider regulation. Such an election should be set up according to a municipality's code of ordinances.

To reiterate my position from my first letter - placing Seward Electrical Utility under APOC regulation will not benefit its customers by lower rates or improved services. Since Seward City Council has close communications with all customers, including those outside of the City limits, I see no need for the condition proposed in the revision. The bill should be defeated, or at least amended to exempt small municipal owned utilities having a majority of their customers within the City limits.

Respectfully yours,

THE CITY OF SEWARD



DONALD W. CRIPPS  
MAYOR

EPD:DWC:mr

# Office of the City Attorney



HERBERT P. KUSS  
CITY ATTORNEY

WM. RONALD SMITH  
DEPUTY CITY ATTORNEY

PATRICK B. COLE  
DEPUTY CITY ATTORNEY

JAMES M. MULLEN  
ASSISTANT CITY ATTORNEY

410 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
907-452-1881

MAR 19 1985

March 14, 1985

Honorable John Ringstad  
House of Representatives  
Pouch V  
Juneau AK 99811

RE: HB 12

Dear Representative Ringstad:

I appreciate your support of the city's position on HB 12. The city of Fairbanks is genuinely attempting to serve all our telephone customers, both inside and outside the city. It is my opinion that the city public utilities board and city council are far more accessible than the APUC is in Anchorage. Both city bodies listen and act on the concerns of their customers from outside the city. Both bodies conduct open meetings twice a month with a time reserved early on the agenda for citizens to express their complaints or concerns.

Not only is HB 12 not necessary, it entails considerable costs to the city. It is difficult to quantify what these costs would be, but from talking with the telephone manager and the MUS controller, it would be necessary to hire at least an additional telephone traffic engineer and a rates and tariff specialist with accounting expertise. At least initially and probably yearly it would be necessary for the city to contract with accounting firms to conduct cost of service studies to justify rates to the APUC. These costs at a minimum would be:

Traffic engineers	\$40,000
Rates and tariffs specialist	\$35,000
Cost of service study by outside consultant	\$30,000

The above are only salary costs and do not reflect clerical, office and overhead expenses. The actual cost could easily be double. These costs would be in addition to the very considerable portion of my time and that of the telephone manager, controller and other personnel who

March 14, 1985  
Page 2

would necessarily expend considerable time and resources to comply with the regulations of the APUC. The APUC staff is conscientious and works hard but has difficulty in keeping up with its numerous other tasks assigned by state law.

Representative Davis has been receptive to modifying HB 12 in order to make it less objectionable to the city. However, the city still maintains that it would not be to the benefit of MUS customers for the bill to pass. I appreciate your assistance in this matter.

Sincerely,



Wm. Ronald Smith  
Deputy City Attorney

WRS/bjw

cc: Virgil Gillespie, MUS General Manager  
Ernie Cuzzecrero, Telephone Manager



ADOPTED AUGUST 1972

# CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381

March 14, 1985

House Labor & Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: CS for House Bill No. 12 (C&RA)  
Municipally Owned Utility Regulation

Dear Committee Members:

House Bill No. 12 has been substantially changed by the committee substitute now before you.

The City of Wrangell strongly objects to the addition of a home rule limitation by AS 29.13.100 (48). We also strongly object to any provision which could bring our utilities under Alaska Public Utilities Commission regulations.

We support testimony given by the City of Fairbanks at your hearing held March 13, 1985. Contrary to popular belief, utilities in small communities do not subsidize general funds. In Wrangell, quite the opposite is true, and our taxpayers often fund, by contribution or loan, necessary improvements that would otherwise require substantial rate increases. Many people choose to reside outside municipal boundaries to avoid taxes to support local government. They should not, therefore, be provided an opportunity to make decisions for the governing body, for any reason. This action could later be a basis for non residents to request a decision making role in operation of municipally owned libraries, hospitals and other services provided them.

We urge a do not pass on this Bill.

Very truly yours,

Joyce Rasler  
City Manager

JR:fv

cc: Senator Robert Ziegler  
Representative Robin Taylor  
Representative John Sund  
Alaska Municipal League  
City of Fairbanks

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date: 1/16/86

**REQUEST**

Bill/Resolution No.: HB 12  
 Title: An Act relating to the exemption  
of municipally owned utilities from certain  
provisions of the Alaska Public Utilities Act.  
 Sponsor: \_\_\_\_\_  
 Requestor: HLC  
 Date of Request: 1/14/85

**FISCAL DETAIL**

Agency Affected: Dept. Community & Regional  
BRU: None Affairs  
 Components: None

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: James Plasman  
 Division: Municipal & Regional Assistance

Phone: 465-4707  
 Date: 1/16/86

Approved by Commissioner: [Signature]  
 Agency: Community & Regional Affairs

Date: 1/17/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

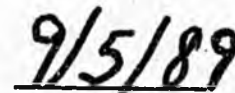


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date