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Alaska State Legislature

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MIKE SZYMANSKI
FRED ZHAROFF



P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989

Senate Community and Regional Affairs Committee

March 10, 1988

TO: Senate Community and Regional Affairs Committee Members

FROM: Senate C&RA Staff *MZ*

RE: SSSB 357 - "An Act exempting certain utilities with no more than 100 subscribers from regulation by the Alaska Public Utilities Commission or a municipality and providing that the most extensive exemption from regulation applies when more than one exemption is applicable to a utility."

This bill has a long title and short body. There are only two items to explain that the title does not address. First, the bill applies only to gas utilities and second, the bill allows the utility subscribers to petition the APUC for regulation if they desire.

The bill has a zero fiscal note. In this packet is a memo from Senator Faiks, a position paper from the APUC, the relevant statutes, a letter from the North Slope Borough, and a letter from Norgasco, the company that would be affected.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SS SR357
PUBLISH DATE: 3/01/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Exempting utilities with no more than 700 subscribers from regulation
Sponsor: Faiks
Requestor: _____

Agency Affected: Commerce & Economic Development
BRU: APUC
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

If enacted, this bill appears only to impact one specific gas distribution service area application currently pending and it is not anticipated to generate any long term workload reduction.

Prepared by: T.S. Moninski, II Executive Director Phone: 276-6222
Division: Alaska Public Utilities Commission Date: 2/23/88

Approved by Commissioner: Kathy Marshall for J. Anthony Smith Date: 2/25/88
Agency: Commerce & Economic Development

Distribution (by preparer):

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



Alaska State Legislature

SENATE

Office of the President

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 3, 1988

TO: Senator Arliss Sturgulewski, Chairman
Community and Regional Affairs Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: SSSB 357 "An Act exempting certain utilities with no more than 100 subscribers from regulation by the Alaska Public Utilities Commission or a municipality and providing that the most extensive exemption from regulation applies when more than one exemption is applicable to a utility."

As you know, most utilities operating in the State of Alaska are subject to regulation by the Alaska Public Utilities Commission (APUC). However, AS 42.05.711 provides for various types and sizes of utilities to be exempted from regulation.

SSSB 357 extends this exemption to certain gas distribution utilities. It provides that a gas distribution utility that has no more than 100 subscribers, all of whom are commercial subscribers, is exempted from regulation by the APUC. However, a majority of the subscribers may petition the APUC for regulation if they so desire.

The purpose of this legislation is to facilitate the construction of a gas distribution system in Deadhorse. The construction of a gas distribution utility in that town has substantial public benefit. Over 40 construction workers will be required to build the system, and six to eight to operate it once it is completed. The state will receive in excess of \$20,000,000 from royalties alone over the life of the project. Pollution from the many diesel generators which currently supply power in Deadhorse will be reduced.

A problem with requiring APUC regulation of this project is financing. The project would only serve 40 to 50 customers, all of whom are in an economically distressed industry. Banks view this as a high risk project, which requires the system builders to seek venture capital. These investors do not consider the potential return on a utility regulated by the APUC to outweigh the downside risk of project failure.

In this case, as in the other situations where APUC regulation does not occur except by petition of the utility customers, the public benefits of regulation are outweighed by the benefits which would result only if regulation is waived.

Please contact my office if you have any questions or comments.

Alaska Public Utilities Commission

Comments on SS for SB357

February 22, 1988

Under SS for SB357, gas distribution utilities serving fewer than 100 commercial customers would be exempt from certification and economic regulation by the Commission unless the subscribers elected to be regulated. The Commission is not aware of any compelling reasons for exempting a special class of gas distribution utilities from regulation while fully regulating all other gas distribution utilities. The Commission also believes that commercial customers in groups of less than 100 are entitled to the same level of public protection as residential customers and as commercial customers in groups of more than 100. In addition, there are some unique safety considerations associated with natural gas service, which would not be monitored under the proposed exemption scheme. (See 3 AAC 52.010 - .080.)

The Legislature should also be aware that SS for SB357 directly affects a proceeding currently pending before the Commission. One company (Norgasco, Inc.) has filed an application to provide gas distribution service to commercial customers in the Prudhoe Bay/Deadhorse area and has requested that it be exempt from economic regulation. Three other companies (Arctic Utilities, Inc.; D.J. Moore Corp.; and North Slope Gas Cooperative, Inc.) have indicated that they intend to file applications to provide the same service in the same area. The initial applicant and potential competing applicants are currently in the process of completing or filing their certification documents, so the Commission can proceed to decide the case.

In addition, the Commission has received a letter (copy attached) from the North Slope Borough, one of the prospective customers of the proposed gas distribution utility, stating that:

There is a legitimate public interest concerning the rates, quality of service, management practices, and customer complaints associated with the operation of a natural gas utility in Deadhorse. For this reason the Borough feels that Norgasco, Incorporated should be subject to all appropriate regulations governing the certification and operation of a natural gas utility.

Thus, if this legislation is passed, the established Commission procedure of evaluating competitive applications to determine which company is the most fit and able to serve an area would be interrupted. Instead, any or all of the potential gas distribution utilities would be free to enter the market under terms, conditions, and rates that would not be subject to regulatory oversight unless the subscribers petitioned for a regulation election. The Commission does not believe that this approach is in the public interest; specifically, it cannot assure that the best company is necessarily the one which serves the area; it allows for potentially uneconomic duplication of facilities by two or more providers; and it gives commercial customers a second-class level of protection from monopoly or oligopoly pricing practices.

If, however, this bill is endorsed by the Legislature as good public policy, the Commission suggests that the reference to "subscriber petitions" be modified for clarification and for conformance with other exemptions in AS 42.05.711. Thus, the exemption would state "unless 25 percent of the subscribers petition the commission for regulation under the procedure described in AS 42.05.712."

**CHAPTER 52.
OPERATION OF PUBLIC UTILITIES**

procedures to enhance the public safety. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141 AS 42.05.691
AS 42.05.151 AS 42.05.711
AS 42.05.541

Article

1. Gas Utilities
(3 AAC 52.010-3 AAC 52.080)
2. Allocation of Facilities and Services
Between Competing Electric Utilities
(3 AAC 52.110-3 AAC 52.150)
3. Telephone Utilities
(3 AAC 52.200-3 AAC 52.340)
4. Electric Utilities
(3 AAC 52.400-3 AAC 52.500)

**3 AAC 52.020. COMPLIANCE WITH
MINIMUM FEDERAL SAFETY STANDARDS
FOR GAS LINES.** Each utility shall construct

**ARTICLE 1.
GAS UTILITIES**

Section

10. Application
20. Compliance with Minimum Federal
Safety Standards for Gas Lines
30. Records, reports and inspection for
compliance
40. Pipeline locating service
50. (Repealed)
60. Record of nonscheduled interruptions
70. Accidents or incidents
80. Definitions

3 AAC 52.010. APPLICATION. (a) 3 AAC 52.010 - 3 AAC 52.080 of this chapter apply to all utilities either now or hereafter subject to the regulatory jurisdiction of the Alaska Public Utilities Commission.

(b) Upon acceptable showing by a utility, the commission may waive, as to that utility, the provisions of any regulation in 3 AAC 52.010 - 3 AAC 52.080 or any provision of the Minimum Federal Safety Standards for Gas Lines with approval of the Secretary of Transportation.

(c) No utility may deviate from the regulations in 3 AAC 52.010 - 3 AAC 52.080 or the standards cited in (b) of this section without the commission's prior written approval.

(d) If nonjurisdictional entities at their discretion elect to conform to 3 AAC 52.010 - 3 AAC 52.080, the commission will cooperate with them in maintaining records and developing

and maintain gas transmission and distribution facilities in accordance with the Minimum Federal Safety Standards for Gas Lines, as defined in 3 AAC 52.080(c). (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.291

3 AAC 52.030. RECORDS, REPORTS, AND INSPECTION FOR COMPLIANCE. (a) Each utility shall establish and maintain records, make reports and provide information required by the commission to enable it to determine whether the utility has acted or is acting in compliance with the Natural Gas Pipeline Safety Act of 1968 and the standards adopted in 3 AAC 52.020. The records, reports and information shall be kept in accordance with AS 42.05.491.

(b) Each utility shall file with the commission a plan for inspection and maintenance of each pipeline facility owned or operated by the utility, and any changes in the plan. If the commission finds that the plan is inadequate to achieve safe operation, the commission shall, after notice and opportunity for a hearing, require the plan to be revised. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141
AS 42.05.461
AS 42.05.501

3 AAC 52.040. PIPELINE LOCATING SERVICE. Each utility shall offer "line locating" service to any individual or utility requiring such service. The utility shall make a reasonable effort to assure that the availability of this service is made known throughout its area of operation. If a charge is made for this service, it shall be based on the cost to the utility of the personnel required to operate the equipment and shall not afford the utility any allowance for the utilization of equipment. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.291

3 AAC 52.050. DISTRIBUTION PIPELINE MAINTENANCE. Repealed 1/13/73.

3 AAC 52.060. RECORD OF NON-SCHEDULED INTERRUPTIONS. Each gas utility shall keep a record of each nonscheduled interruption to service, showing the location, date, time, duration and cause of each interruption. This record shall be retained by the utility

for three years and may be inspected by any person after meeting the requirement of AS 42.05.440. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141

3 AAC 52.070. ACCIDENTS OR INCIDENTS.

(a) Each utility shall cooperate with the commission to promote a reduction in hazard within the industry and to the public.

(b) Each utility shall report each accident immediately by the most expeditious means available, preferably by telephone or in person, to the commission at the commission's office in Anchorage, Alaska, or to a person designated by the commission. The notification shall include the location and time of the accident, a brief description of what occurred, and names of the individual(s) in charge of the repair operation and the individual(s) to be contacted by the commission for additional information.

(c) A written report of each accident shall be filed with the commission within 20 days after each accident. The report shall be made on the commission's "Gas Distribution Pipeline Accident or Incident Report" form or the United States Department of Transportation's Form DOT-F-7100.2 for transmission and gathering systems. If the accident investigation is not completed within the 20-day period, the utility shall file an additional written report with the commission upon the completion of the investigation and a written report of the progress of the investigation every 90 days until the investigation is complete. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141
AS 42.05.291

3 AAC 52.080. DEFINITIONS. Unless the context indicates otherwise, in 3 AAC 52.010 - 3 AAC 52.070

(1) "accident" means an accident or incident occurring in the state involving escape of gas from gas gathering, transmission or distribution facilities resulting in personal injury requiring hospitalization, fatality, or property damage exceeding \$1,000;

(2) "commission" means the Alaska Public Utilities Commission;

(3) "Minimum Federal Safety Standards for Gas Lines" or "standards" means the Minimum Federal Safety Standards for Transportation of Natural Gas and other gas by pipeline, 49 C.F.R. Part 192, revised as of January 1, 1972. A copy of these standards may be obtained from or reviewed at the commission office located in Anchorage, Alaska; and

(4) "utility" means a public utility that owns, operates, manages or controls a plant or system of facilities used for the transmission or distribution of natural or manufactured gas or other inflammable gas, to the extent such system plant or facilities are included in the term "public utility" as defined by AS 42.05.701. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141
AS 42.05.291
AS 42.05.701

ARTICLE 2. ALLOCATION OF FACILITIES AND SERVICES BETWEEN COMPETING ELECTRIC UTILITIES

Section

- 110. Purpose
- 120. Authority to construct facilities or serve customers
- 130. Hearing
- 140. Appeals
- 150. Definitions

3 AAC 52.110. PURPOSE. The purpose of 3 AAC 52.110 - 3 AAC 52.150 is to prevent duplication of electric facilities and services in those geographical areas of the state in which two or more electric utilities compete. (Eff. 8/11/76, Reg. 59; am 6/29/84, Reg. 90)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.221

3 AAC 52.120. AUTHORITY TO CONSTRUCT FACILITIES OR SERVE CUSTOMERS. (a) No electric utility operating in direct competition with one or more electric utilities within the same geographical area may construct or install electric facilities or provide a service connection for a customer located within a disputed service area without the approval of the commission.

(b) The commission will grant approval to provide a service connection for a customer located within a disputed area if

(1) the utility requesting approval receives the concurrence of the competing utility and submits to the commission a signed "Waiver of Objection" on a form provided by the commission; or

(2) a determination is made by the commission, after hearing, that one or the other of the utilities is the appropriate one to provide the service. (Eff. 8/11/76, Reg. 59)

Authority: AS 42.05.151(a)
AS 42.05.221(d)

3 AAC 52.130. HEARING. (a) If an applicant utility is unable to obtain concurrence from a competing utility, the commission will appoint a member of its staff as an examiner to conduct a hearing.

(b) The staff examiner shall

(1) notice the hearing for a time convenient to all interested parties;

(2) hear all relevant evidence;

(3) record the testimony presented;

(4) within 24 hours after the close of the hearing, issue a decision as to which utility is the most appropriate one to serve the customers;

(5) stay the decision if, within 24 hours after the decision is announced, a party appeals the decision.

(c) The criteria to be weighed by the staff examiner in making a decision include

(1) the cost to the utility to provide the service connection;

(2) the cost to be assessed to the customer by the applicant utility;

(3) the proximity of the service connection point to each of the competing utilities' electric distribution facilities; and

NORTH SLOPE BOROUGH

Service Area #10
Pouch 340044
Prudhoe Bay, AK 90734
Telephone: (907) 659-2645

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December 16, 1987

T.S. Moninski II, Executive Director
ALASKA PUBLIC UTILITIES COMMISSION
420 L Street, Suite 100
Anchorage, Alaska 99501-1987

SUBJECT: NOTICE OF UTILITIES APPLICATION BY NORGASCO, INC.

Dear Mr. Moninski:

The North Slope Borough's Service Area Ten is encouraged to see Norgasco, Inc. continue their development of a natural gas utility for Deadhorse. All businesses operating in Deadhorse and especially our solid waste disposal, sewage treatment and water treatment operations could benefit significantly if a dependable source of competitively priced natural gas were made available to us over the long term. We appreciate the opportunity to provide comments on the Norgasco, Incorporated application for exemption from APUC regulations regarding rates, quality of service, management practices, and customer complaints.

Since the North Slope Borough's Solid Waste Facility is a public owned operation, the Borough has an obligation to its residents to operate their Deadhorse solid waste facility in a cost effective manner which includes purchasing of natural gas from a utility which is required to follow the regulatory laws established to protect the public. There is a legitimate public interest concerning the rates, quality of service, management practices, and customer complaints associated with the operation of a natural gas utility in Deadhorse. For this reason the Borough feels that Norgasco, Incorporated should be subject to all appropriate regulations governing the certification and operation of a natural gas utility.

Our Service Area Ten Plant Engineer calculates that the prices of the natural gas quoted in the Notice will provide Service Area Ten with a 20% to 25% savings over the present fuel costs for our incinerator and boilers. Since the Application suggests the rates would not be controlled by the APUC, the NSB may have little control over future rate increases. A 10% rate increase each year for two years would eliminate any cost benefit of natural gas assuming a stable price for heating oil.

December 16, 1987

Page 2

The quantity and quality of the gas provided to us can have some significant effects on our operation. If the distribution system is under designed or if the quality of gas varies significantly we may experience problems of inadequate delivery. Normal operation of our incinerator requires us to be able to immediately add heat in a specified quantity when needed. Failure to do so could result in Service Area Ten violating the Air Quality Regulations established by the State of Alaska, Department of Environmental Conservation resulting in a fine being assessed on Service Area Ten. If Norgasco was exempt from regulation by the APUC, SA #10 would have little recourse if Norgasco's service did not meet our requirements.

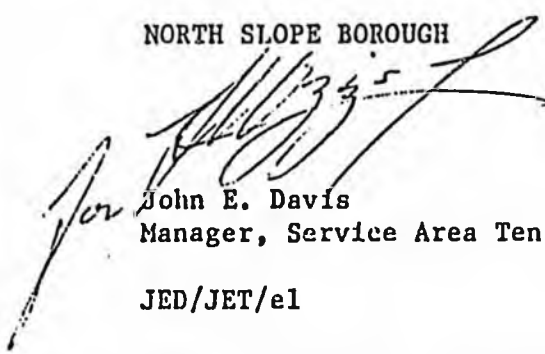
Norgasco is requesting that the APUC keep confidential for five years technical documents and other pertinent information about their design, construction and maintenance of their project. Such a request could affect SA #10's planning efforts for future energy usages and costs.

Documents relating to the gas contract with ARCO and tariffs should be made public so that the stability of the utility and its pricing structure can be evaluated. These items can directly affect our decision to become a consumer.

The North Slope Borough requests that we be kept informed on the progress of this application and the Norgasco, Incorporated project. We feel a natural gas utility will greatly enhance the Deadhorse area and all the businesses operating there.

Sincerely,

NORTH SLOPE BOROUGH


John E. Davis
Manager, Service Area Ten

JED/JET/el

cc: Norgasco, Incorporated
Dennis Roper, Coord., Ind. Dev.
Files



NORGASCO, INC.

8740 Hartzell Rd. Anchorage, Alaska 99507 (907)344-6742

February 24, 1988

Senator Arliss Sturgulewski
P. O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski,

I would like to express my strong support of SSSB 357. Under the current statutes the APUC has jurisdiction over all utilities with ten or more customers. This legislation will exclude only natural gas utilities serving less than 100 commercial customers from their jurisdiction.

The APUC is a fine organization for larger utilities and obviously the legislature had this in mind when they exempted those utilities with less than ten customers. We believe in the check and balance system of government and industry, and SSSB 357 allows for the re-regulation of a utility under this category by a simple petition (AS 42.05.712) of the customers. This will prevent the utility from taking unfair advantage of its' customers.

As you can tell, the bill was drafted so that it would not concern any of the Bush areas, only Deadhorse.

The problem boils down to project financing. This is not a bankable project because there are only 40-50 customers, they are all in the same business, and they are all suffering financially, so the banks see the project as high risk. This leaves us looking for venture capital. After the venture capitalist has reviewed the project they all come to the same conclusion, if the project fails they lose everything and if the project succeeds, you have the APUC there to limit your return on investment. Needless to say they don't spend much time seriously reviewing the project after they understand how the APUC works.

We hear a lot of talk about less government, creating jobs, finding new sources of revenue for the State, cutting down on air pollution, and stimulating the economy, this legislation accomplishes all of these by creating construction and permanent jobs, State royalties collected on the gas sold, reduced NOx emissions from the numerous diesel generators, and will substantially reduce the overhead of the Companies operating at Deadhorse.

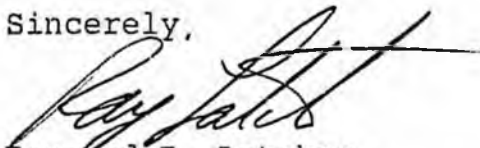
The State will receive in excess of \$20,000,000.00 from royalties alone over the life of the project. It will take over 40 construction workers to build the system and will employ 6-8 people full time once it is in operation. The State will also receive severance taxes from the producer and added corporate income taxes from ARCO Alaska and Norgasco.

The Department of Natural Resources, in issuing our land use permit, has reserved the for the State the right to use the pipeline to transport the States royalty gas to the State facilities that we intend to serve. This will also allow the State to market their gas to customers in Deadhorse, in this case Norgasco will act as a common carrier. But first the pipeline has to be built.

Recently I learned that you had requested a referral of the bill to your Committee. I am a novice at politics in Juneau, however, I understand there is a time limit on the session and we've got a long way to go with this bill and a short time to get there. With this in mind we ask that you waive referral so the bill may be voted on in the Senate and sent to the House.

Myself and several other Board Members of The Alliance are planning a trip to Juneau on March 21, 1988. I look forward to visiting with you then. If you have any questions please feel free to call.

Sincerely,



Raymond R. Latchem
Vice President, Operations