

S S S B

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SENATE COMMITTEE REPORT

FURTHER:

3/12/87

DATE TURNED INTO OFFICE 4/21/87

Mr. President:

FINANCE Committee considered SS SB 22

exempting certain telephone and electric utilities and certain transactions from regulation by the Alaska Public Utilities Commission; efd.

and recommended:

replace with CS FOR SS SB 22 (Fin) )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Paul R. Sharoff  
Paul Hinkle  
Jay Jensen  
Rich Ueh  
Walter Hurdley  
Ed R.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

John R. [Signature] DO PASS  
Chairman signature and recommendation

Committee Backup Attached

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**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: SSSB 22  
Publish Date: 3-12-87

Revision Date: March 10, 1987

Title: Act exempting certain telephone utilities and certain transactions from APUC regulations

Agency Affected: Commerce & Econ. Dev.  
Alaska Public Utilities Commission

Sponsor: \_\_\_\_\_

Components: Operations

Requestor: \_\_\_\_\_

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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>

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

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

**POSITIONS:**

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

**ANALYSIS :**

Passage of this version of SB 22 will return the Alaska Public Utilities Commission to the level of activity which it had prior to the passage of the legislation last year concerning AS 42.05.431(b). Therefore, there will be no increased costs associated with this legislation.

Prepared by: T.S. Moninski II, Executive Director  
Division: Alaska Public Utilities Commission

Phone: 276-6222  
Date: March 11, 1987

Approved by Commissioner: V. Anthony Smith, Commissioner  
Agency: Department of Commerce and Economic Development

Date: March 11, 1987

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary



# Alaska State Legislature

## Senate

SENATOR RICK UEHLING

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

Official Business

Senate Finance  
Committee

To: Senator Don Bennett  
Senator John Binkley  
Co-Chairmen, Senate Finance Committee

From: Senator Rick Uehling

Subject: SB 22, "An Act exempting certain telephone and electric utilities and certain transactions from regulation by the Alaska Public Utilities Commission."

Date: April 20, 1987

I have asked staff to provide the following analysis to the Draft Committee Substitute for SB 22 (Finance).

Title - The Title is changed to reflect the Draft Committee Substitute Amendments.

Section 1 - There is no change to the Sponsor Substitute.

Section 2 - There is no change to the Sponsor Substitute.

Section 3 - A new Section 3 is added in accordance with the amendment adopted by the Senate Finance Committee at its last meeting:

All costs incurred by a utility in connection with a contract with the Alaska Power Authority would be considered prudent and allowable in a utility's rate base. This would specifically include power costs (wholesale power agreements), wheeling charges (transmission costs), and overhead costs (for example, legal fees).

The following sections have been renumbered.

Section 4 - (Former Section 3) In accordance with the Labor and Commerce Committee amendment, telephone and electric utilities that have fewer than 500 subscribers are exempt from APUC regulation. The Sponsor Substitute exempted utilities with fewer than 250 subscribers.

Section 5 - (Former Section 4) There is no change to the Sponsor Substitute.

Section 6 - (Former Section 5) There is no change to the Sponsor Substitute

Section 7 - A new Section 7 is added at the request of Senator Zharoff. In calculating power cost equalization, the APUC can not consider costs of kilowatt-hour sales associated with a United State Department of Defense Facility.

Section 8 - (Former Section 6) There is no change from the Sponsor Substitute.

Section 9 - (Former Section 7) There is no change from the Sponsor Substitute.

Original sponsor: Coghill

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 22 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act exempting certain telephone and electric  
7 utilities and certain transactions from regulation by  
8 the Alaska Public Utilities Commission; restricting  
9 the authority of the Alaska Public Utilities Commis-  
10 sion in considering certain costs in connection with  
11 rates charged by a utility and with calculating power  
12 cost equalization; and providing for an effective  
13 date."

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

15 \* Section 1. AS 42.05.431(b) is amended to read:

16 (b) Except as provided in (c) of this section, a [A] wholesale  
17 power agreement between public utilities is subject to advance ap-  
18 proval of the commission. After a wholesale power agreement is in  
19 effect, the commission may not invalidate any purchase or sale obliga-  
20 tion under the agreement. However, if the commission finds that rates  
21 set in accordance with the agreement are not just and reasonable, the  
22 commission may order the parties to negotiate an amendment to the  
23 agreement and if the parties fail to agree, to use the dispute resolu-  
24 tion procedures contained in the contract.

25 \* Sec. 2. AS 42:05.431 is amended by adding a new subsection to read:

26 (c) A wholesale agreement for the sale of power between the  
27 Alaska Power Authority and a public utility is not subject to review  
28 or approval by the commission.

29 \* Sec. 3. AS 42.05.511 is amended by adding a new subsection to read:

1 (d) All costs incurred by a utility in connection with a con-  
2 tract with the Alaska Power Authority, including power costs, wheeling  
3 charges for facilities owned or leased by the state, and overhead  
4 costs associated with the contract, are considered prudent and are  
5 allowed in the rates charged by the utility.

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

7 (e) Notwithstanding any other provisions of this chapter, an  
8 [ANY] electric or telephone utility that does not gross \$50,000 an-  
9 nually or that has fewer than 500 subscribers is exempt from regu-  
10 lation under this chapter unless 25 percent of the subscribers peti-  
11 tion the commission for regulation. The commission may not combine  
12 the revenue or subscribers of different utilities owned by the same  
13 company when determining whether a utility is exempt under this sub-  
14 section.

15 \* Sec. 5. AS 42.05.711 is amended by adding a new subsection to read:

16 (m) The Alaska Power Authority is not a public utility under  
17 this chapter.

18 \* Sec. 6. AS 44.83.090(b) is amended to read:

19 (b) The authority is not subject to the jurisdiction of the  
20 Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-  
21 83.010 - 44.83.425] grants the authority any jurisdiction over the  
22 services or rates of any public utility or diminishes or otherwise  
23 alters the jurisdiction of the Alaska Public Utilities Commission with  
24 respect to any public utility, including any right the commission may  
25 have to review and approve or disapprove contracts for the purchase of  
26 electricity by a public utility other than a wholesale power agreement  
27 for the purchase of power from the authority.

28 \* Sec. 7. AS 44.83.162 is amended by adding a new subsection to read:

29 (p) In calculating power cost equalization, the commission may

1 not consider costs <sup>or</sup> ~~of~~ kilowatt-hour sales associated with a United  
2 States Department of Defense facility.

3 \* Sec. 8. Sections 1, 2, 5, and ~~6~~,<sup>7</sup> of this Act are retroactive to  
4 June 7, 1986.

5 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).  
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**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version : SB 22

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

Revision Date: 1/29/87

Agency Affected: Commerce & Econ. Dev.

Title: Exemption of a telephone or electric utility from regulation by the APUC

BRU: APUC

Sponsor: Coghill

Components: 5303030100, Admin.

Requestor: Becky Bear, DCED

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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>

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

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

**POSITIONS:**

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

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

This legislation affects only 13 of the total 307 utilities. It will not result in any reduction in personnel because of its relatively low percentage of Commission workload. The potentially minor reduction in workload will be more than offset by increasingly constrained processing schedules and the almost 25% reduction in staff resources absorbed over the last three fiscal years.

Prepared by: T.S. Moninski, II, Executive Director Phone: 276-6222

Division: Alaska Public Utilities Commission Date: 2/11/87

Approved by Commissioner: *Anthony Smith* Date: 2/11/87

Agency: Department of Commerce and Economic Development

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary
- 5352W21187b

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

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<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
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Division: Alaska Public Utilities Commission Date: 2/11/87

Approved by Commissioner: J. Anthony Smith Date: 2/11/87

Agency: Department of Commerce and Economic Development

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56 22

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

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

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Components: 5303030100, Admin.

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

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PERSONAL SERVICES						
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SUPPLIES						
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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>

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

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

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
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**ANALYSIS :** (Attach a separate page if necessary)

This legislation affects only 13 of the total 307 utilities. It will not result in any reduction in personnel because of its relatively low percentage of Commission workload. The potentially minor reduction in workload will be more than offset by increasingly constrained processing schedules and the almost 25% reduction in staff resources absorbed over the last three fiscal years.

Prepared by: T.S. Moninski, II, Executive Director Phone: 276-6222

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Approved by Commissioner: J. Anthony Smith Date: 2/11/87

Agency: Department of Commerce and Economic Development

**Distribution (by preparer):**

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary  
5352W21187b

SFC

AMENDMENT #1

4/16/87

ADOPTED

By Senator Rick Uehling

Amendment to SSSB 22

Sec. 6 of AS 42.05.511 is amended by adding a new subsection to read:

d) For the purpose of AS 42.05.511, costs incurred by a utility in performing a contract with the Alaska Power Authority shall be considered prudent and shall be allowably included in the rates charged by such utility.

By Senator Rick Uehling

CSSB 22 - Analysis

The attached proposed amendment to CSSB 22 would provide utilities entering into power sales agreements with the Alaska Power Authority a guarantee that the cost of power will be allowable in the utility's rate base.

In a memorandum to Senate Finance Committee Co-Chairmen Senator Don Bennett and Senator John Binkley, dated April 2, 1987, Alaska Public Utilities Commission Executive Director Ted Moninski stated "the Commission believes that this issue needs further consideration and clarification to determine whether the Commission can, in fact, disallow contract costs in rates after the contracts are in place, or whether all APA-related costs must be included in rates without any Commission review or adjustments."

The proposed amendment satisfies the Commission's request for clarification ensures the APA-utility contract protections provided under section five of this bill are not frustrated by the APUC during a utility's subsequent rate determination proceedings.

AMENDMENT #1

Proposed amendment to SSSB 22 offered by Senator Zharoff

Amend AS 44.83.162 by adding a new subsection to read:

- (p) In calculating power cost equalization, the commission may not consider costs or kilowatt-hour sales associated with a United States Department of Defense facility.

**DRAFT**

By Senator Rick Uehling

Draft Amendment to CSSB 22

Add new Section 6, AS 42.05.511 is amended by adding a new subsection (d) to read:

All costs incurred by a utility in connection with a contract with the Alaska Power Authority, including but not limited to power costs, wheeling charges for state owned facilities, and overhead costs associated with such a contract, shall be considered prudent and shall be allowed in the rates charged by such utility.

Renumber Sections 6 & 7.

1 IN THE SENATE

BY COGHILL

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 22  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act exempting certain telephone and electric  
7 utilities and certain transactions from regulation by  
8 the Alaska Public Utilities Commission; and providing  
9 for an effective date."

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

11 \* Section 1. AS 42.05.431(b) is amended to read:

12 (b) Except as provided in (c) of this section, a [A] wholesale  
13 power agreement between public utilities is subject to advance ap-  
14 proval of the commission. After a wholesale power agreement is in  
15 effect, the commission may not invalidate any purchase or sale obliga-  
16 tion under the agreement. However, if the commission finds that rates  
17 set in accordance with the agreement are not just and reasonable, the  
18 commission may order the parties to negotiate an amendment to the  
19 agreement and if the parties fail to agree, to use the dispute resolu-  
20 tion procedures contained in the contract.

21 \* Sec. 2. AS 42.05.431 is amended by adding a new subsection to read:

22 (c) A wholesale agreement for the sale of power between the  
23 Alaska Power Authority and a public utility is not subject to review  
24 or approval by the commission.

25 \* Sec. 3. AS 42.05.711(e) is amended to read:

26 (e) Notwithstanding any other provisions of this chapter, an  
27 [ANY] electric or telephone utility that does not gross \$50,000 an-  
28 nually or that has fewer than 250 subscribers is exempt from regu-  
29 lation under this chapter unless 25 percent of the subscribers

1 petition the commission for regulation. The commission may not  
2 combine the revenue or subscribers of different utilities owned by the  
3 same company when determining whether a utility is exempt under this  
4 subsection.

5 \* Sec. 4. AS 42.05.711 is amended by adding a new subsection to read:

6 (m) The Alaska Power Authority is not a public utility under  
7 this chapter.

8 \* Sec. 5. AS 44.83.090(b) is amended to read:

9 (b) The authority is not subject to the jurisdiction of the  
10 Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-  
11 83.010 - 44.83.425] grants the authority any jurisdiction over the  
12 services or rates of any public utility or diminishes or otherwise  
13 alters the jurisdiction of the Alaska Public Utilities Commission with  
14 respect to any public utility, including any right the commission may  
15 have to review and approve or disapprove contracts for the purchase of  
16 electricity by a public utility other than a wholesale power agreement  
17 for the purchase of power from the authority.

18 \* Sec. 6. Sections 1, 2, 4, and 5 of this Act are retroactive to  
19 June 7, 1986.

20 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 1/19/87  
Referred: Labor and Commerce,  
Judiciary and Finance

5-0101A

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 22

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act exempting certain telephone and electric

7

utilities from regulation by the Alaska Public Utili-

8

ties Commission."

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

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

11

(e) Notwithstanding any other provisions of this chapter, an

12

[ANY] electric or telephone utility that does not gross \$50,000

13

annually or that has fewer than 250 subscribers is exempt from regu-

14

lation under this chapter unless 25 percent of the subscribers peti-

15

tion the commission for regulation. The commission may not combine

16

the revenue or subscribers of different utilities owned by the same

17

company when determining whether a utility is exempt under this sub-

18

section.

\*\*\*\*\*  
 \*  
 \* DELIVER TO: LIOCLCM \*  
 \* \*  
 \* \*  
 \* ORIGINAL \*  
 \* SENT: 04/07/87 TIME: 15:21 \*  
 \* SUBJECT: ANCHORAGE FINAL STATS \*  
 \* PRINT DATE: 04/07/87 TIME: 15:21 \*  
 \* \*  
 \*\*\*\*\*

\*\*\* FINAL TELECONFERENCE STATISTICS \*\*\*

DATE: 4-7-87-----  
 SITE: ANCHORAGE-----  
 SPONSOR: SENATE FINANCE-----  
 SUBJECT: SB 22 EXEMPT TELE. AND ELEC. UTILITIES FROM AFUC-----  
 LOCAL MODERATOR: JEANNE-----

\*\*\*\*\*

TESTIFIED:

NAME\REPRESENTING	ADDRESS	PHONE #
V DON PETER\G-Z CORP.	FT. YUKON	662-2325
JANET VEO\SELF	6133 E. 12TH	338-2974
ROBERT R. BLODGETT\TELLER POWER CO. INC.,	TELLER	642-3333
TED MONINSKI\AFUC	420 L ST.	276-6222

\*\*\*\*\*

OBSERVED:

NAME\REPRESENTING	ADDRESS	PHONE #
MICHAEL TAVELLA	420 L ST.	276-6222
VIRGINIA RUSCH\ASST. ATTORNEY GENERAL	420 L ST.	276-3550
CAROLYN E. JONES\ASST. A.G.	1031 W. 4TH	276-3555
MIKE HUBBARD\AFA	701 E. TUDOR	561-7877
GIB BOSWORTH	1600 A ST. #310	276-7512
JERRY REICHLIN	880 N ST. #203	277-5955
SUE WHITE\AFA	701 E. TUDOR	561-7877
MARK MODEROW	880 N ST. #203	277-5955

\*\*\*\*\*

TESTIFIED: \_\_\_4\_\_\_ START TIME: 9:00 A.M.  
 OBSERVED: \_\_\_8\_\_\_ END TIME: 10:40 A.M.  
 TOTAL: \_\_\_12\_\_\_

\*\*\*\*\*  
 \*  
 \* DELIVER TO: LIOCLCM \*  
 \*  
 \* ORIGINAL \*  
 \* SENT: 04/07/87 TIME: 15:27 \*  
 \* SUBJECT: SEN. FINANCE 4/7-SB 22 \*  
 \* PRINT DATE: 04/07/87 TIME: 15:28 \*  
 \*  
 \*\*\*\*\*

4/7/87

SEN. FINANCE

SB 22: APUC

JNU

LYNN

FINAL STATS

NAME/REPRESENTING	ADDRESS	PHONE #	T	0
1. BOB LERESCHE	APA			
2. DAVE TEAL	PRES., AMSTAR NAT. GAS			
3. TOM STARR	G.M. OF ANC. MUNI. LIGHT & POWER			
4. DAVE HUTCHINS	AK. CO-OP ASSOC.			
5. MIKE KELLY	G.M. GVEA - FBX			
6. SEN. FINANCE COMMITTEE (EXCEPT SEN. FISCHER)				

TESTIFIED 11  
 UNABLE  
 OBSERVED 23  
 TOTAL 34

START/END TIME 0903-1040

\*\*\*\*\*  
\*  
\* DELIVER TO: LIOCLCM \*  
\* \*  
\* \*  
\* ORIGINAL \*  
\* SENT: 04/07/87 TIME: 15:29 \*  
\* FROM: LTCCSOL \*  
\* SUBJECT: FINAL STATS 4/7/87 \*  
\* PRINT DATE: 04/07/87 TIME: 15:29 \*  
\* \*  
\*\*\*\*\*

\* \* \* FINAL STATS \* \* \*

DATE: 4/7/87\_\_  
SITE: SOLDOTNA\_\_  
SPONSOR: S. FINANCE\_\_\_\_\_  
SUBJECT: EXEMPT TELEPHONE ELECTRIC UTILITIES  
MODERATOR: SHANNA\_\_\_\_\_

TO TESTIFY: 0

TO OBSERVE:

1. JOAN BENNETT SCHRADER (CLUW) BOX 1264 KENAI 283-4359

Senator John B. (Jack) Coghill  
Alaska State Legislature

Pouch V  
Juneau, Alaska 99811  
(907) 465-4921

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



April 6, 1987

MEMORANDUM

To: Senator Uehling  
Senate Finance Subcommittee

From: Senator Coghill

Re: CSSB 22

After reviewing the APUC memorandum of April 2, 1987, to Senators Bennett and Binkley, and the APUC letter of March 31, to Representative Brown, the following comments are in order.

First and foremost, section 1,2 and 4 through 6 of SSSB 22 only restore the jurisdictional balance that existed for years between APA and APUC until passage of HB 314 during the 1986 legislative session. The pertinent portion of that bill resulted from a last minute amendment that was not subject to any public hearings and resulted in exactly opposite of what the utilities and ARECA had in mind. I believe that APA, ARECA and some of the utilities have testified to that effect.

Secondly, the APUC's implied contention that somehow they are the only agency qualified to protect the public interest is self-serving at best and appears to be somewhat arrogant. No one can seriously argue that APA does not receive sufficient oversight, if anything there should be less. It is difficult to see how another bureaucratic layer of oversight by APUC can be justified in these times of decreasing state revenues and budgets.

Thirdly, if the APUC is mandated to perform certain functions by PURPA (Public Utilities Regulatory Act), and there comes a case which they are unable to resolve locally, then by all means they should seek the appropriate remedy in the courts or in front of FERC (Federal Energy Regulatory Commission). Is APUC contending that because of AS 42.05.431(b), a potential complainant would not file a federal court case if they were to rule against him?

Fourthly, one of the main reasons for exempting APA wholesale power agreements from the APUC jurisdiction in the first place was to allow APA to sell revenue bonds on the basis of those contracts which were deemed final by the bond buyers. The bonds buyers would have quite a different perspective if they knew that APUC could at their whim, even retroactively, review and disallow or modify those wholesale power contracts.

Finally, it seems somewhat ironic that PURPA is being used to try and scuttle the Bradley Lake hydroelectric project, a renewable resource, when in fact the original intent of that Act appears to have been to encourage the use of renewable resources in lieu of non-renewable ones such as coal, oil and gas.

In summary, during the 1986 legislative session it was clear that most of the utilities and legislators felt that APUC had assumed or presumed too much power and that HB 314 was in part passed to decrease that power. In my opinion APUC has not made a compelling case for changing the jurisdictional balance that existed between them and APA prior to 1986 and therefore that balance should be restored as proposed in SSSB 22.

Senator John B. (Jack) Coghill  
Alaska State Legislature

Pouch V  
Juneau, Alaska 99811  
(907) 465-4921

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



March 23, 1987

MEMORANDUM

To: Senator Uehling,  
Senate Finance Subcommittee

From: Senator Jack Coghill

Re: SSSB 22, "An Act relating to the exemption of certain telephone  
and electric utilities and certain transactions from  
APUC regulations"

The purpose of this bill is two-fold, but each part relates to the powers of the Alaska Public Utilities Commission.

I will address each purpose separately. First, my original concept was to exempt small electric and telephone companies, those having less than 250 subscribers, from regulation by the APUC.

Many small electric and telephone companies have contacted me in the last two years to vent their frustrations concerning the cost of regulation. These utilities have to go through much the same process that the big companies do. These costs have been passed along to the consumer. Many others can not even afford to begin the process, so they are saddled with uneconomical rate structures.

I believe that if the APUC can not come up with a reasonable process to assist these small owners, then they should be exempted. I believe that consumers are more apt to petition the APUC for regulation if rates become outrageous, than petition to ask for deregulation.

The Senate Committee on Labor and Commerce amended this section increase the number of subscribers to 500 and limited the subscribers to retail consumers only. I have no objection to the amendment.

Secondly, within the last month, a serious problem has developed between the APUC and the Alaska Power Authority. Secs. 1, 2, 4, 5, and 6 address this problem.

Up until last year and the passage of HB 314, the APUC "sunset" legislation, a wholesale power purchase contract between the APA and a

regulated utility was not within the jurisdiction of the APUC. Under AS 42.05.431(b) the Commission now has the authority to approve power purchase contracts. Included in your packet is an attorney general's opinion on the issue.

This legislation removes the APUC's jurisdiction over these wholesale agreements for the sale of power between the APA and a public utility.

Leaving this situation unchanged will seriously affect the Bradley Lake hydroelectric project and future large projects. It also could allow the APUC to retroactively call for review of any old APA wholesale power agreements, for example the four dam pool.

I believe the consequences of not taking this matter in hand will have a drastic effect on the future of our energy projects.

I urge you to support this bill.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: SSSB22

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

REQUEST: \_\_\_\_\_

Revision Date: April 2, 1987

Title: An Act exempting certain telephone and electric utilities and certain transactions from regulation by the APUC

Agency Affected: Alaska Public Utilities Commission, Commerce & Economic Development

BRU: APUC

Sponsor: \_\_\_\_\_

Requestor: \_\_\_\_\_

Components: Operations

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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)

(See Attachment I)

Prepared by: T.S. Moninski, II Executive Director

Division: Alaska Public Utilities Commission

Phone: 276-6222

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

Approved by Commissioner: [Signature]

Agency: Commerce & Economic Development

Date: 4/3/87

Distribution (by preparer):

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

**RECEIVED**

APR 03 1987

page \_\_\_\_\_ of \_\_\_\_\_

LEGISLATIVE FINANCE

PREFACE:

This fiscal note replaces all previous fiscal notes for Senate Bill 22 and Sponsor Substitute for Senate Bill 22. Specifically as it relates to Section 3 of the Bill, the Commission notes that while there may be some minimal workload reduction associated with deregulating certain electric and telephone utilities, the APUC has lost 13 of its 53 authorized positions during the last three fiscal years and the relatively small reduction in caseload will be used to assist in the Commission's attempt to cope with the reduction in force.

Sections 1,2,4,5 6 and 7:

Passage of these sections will have no workload impact upon the Commission and, therefore, no fiscal impact.

Section 3. AS 42.05.711(e) and Amendment to Line No. 28 (as shown on page 576 of the legislative journal).

The number of utilities affected by this section were 13 before the amendment to line 28. The amendment raised that number by 4 to a new total of 17. This is a very insignificant number of utilities (17 of 307) and there will be a very minor decrease in workload if this section is passed.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: SSSB22

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

Revision Date: April 2, 1987

Commerce & Economic Development,

Title: An Act exempting certain telephone and electric utilities and certain transactions from regulation by the APUC

Agency Affected: Alaska Public Utilities Commission

BRU: APUC

Sponsor: \_\_\_\_\_

Components: Operations

Requestor: \_\_\_\_\_

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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)

(See Attachment I)

Prepared by: T.S. Moninski, II Executive Director

Phone: 276-6222

Division: Alaska Public Utilities Commission

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

Approved by Commissioner: [Signature]

Date: 4/3/87

Agency: Commerce & Economic Development

Distribution (by preparer):

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

**RECEIVED**

APR 03 1987

page \_\_\_\_\_ of \_\_\_\_\_

PREFACE:

This fiscal note replaces all previous fiscal notes for Senate Bill 22 and Sponsor Substitute for Senate Bill 22. Specifically as it relates to Section 3 of the Bill, the Commission notes that while there may be some minimal workload reduction associated with deregulating certain electric and telephone utilities, the APUC has lost 13 of its 53 authorized positions during the last three fiscal years and the relatively small reduction in caseload will be used to assist in the Commission's attempt to cope with the reduction in force.

Sections 1,2,4,5 6 and 7:

Passage of these sections will have no workload impact upon the Commission and, therefore, no fiscal impact.

Section 3. AS 42.05.711(e) and Amendment to Line No. 28 (as shown on page 576 of the legislative journal).

The number of utilities affected by this section were 13 before the amendment to line 28. The amendment raised that number by 4 to a new total of 17. This is a very insignificant number of utilities (17 of 307) and there will be a very minor decrease in workload if this section is passed.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:**

Revision Date: April 2, 1987  
 Title: An Act exempting certain telephone and electric utilities and certain transactions from regulation by the APUC  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Bill Version: SSSB22

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

Agency Affected: Alaska Public Utilities Commission  
 Commerce & Economic Development,

BRU: APUC

Components: Operations

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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)**

(See Attachment I)

Prepared by: T.S. Moninski, II Executive Director

Division: Alaska Public Utilities Commission

Phone: 276-6222

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

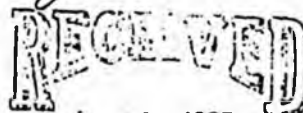
Approved by Commissioner: [Signature]

Agency: Commerce & Economic Development

Date: 4/3/87

**Distribution (by preparer):**

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



APR 03 1987

page \_\_\_\_\_ of \_\_\_\_\_

PREFACE:

This fiscal note replaces all previous fiscal notes for Senate Bill 22 and Sponsor Substitute for Senate Bill 22. Specifically as it relates to Section 3 of the Bill, the Commission notes that while there may be some minimal workload reduction associated with deregulating certain electric and telephone utilities, the APUC has lost 13 of its 53 authorized positions during the last three fiscal years and the relatively small reduction in caseload will be used to assist in the Commission's attempt to cope with the reduction in force.

Sections 1,2,4,5 6 and 7:

Passage of these sections will have no workload impact upon the Commission and, therefore, no fiscal impact.

Section 3. AS 42.05.711(e) and Amendment to Line No. 28 (as shown on page 576 of the legislative journal).

The number of utilities affected by this section were 13 before the amendment to line 28. The amendment raised that number by 4 to a new total of 17. This is a very insignificant number of utilities (17 of 307) and there will be a very minor decrease in workload if this section is passed.

APR 3 1987

ALASKA POWER AUTHORITY

Position Paper

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 22

The Alaska Power Authority supports enactment of SSSB 22. Specifically, Sections 1, 2, 4 and 5 of the bill, provide for amendments which would exempt wholesale power agreements between the Alaska Power Authority and a public utility from review or approval by the Alaska Public Utilities Commission (APUC). Enactment of this legislation is essential to the program of revenue bond financing of the Bradley Lake Hydroelectric Project.

The need for enactment of SSSB 22 is due to a 1986 amendment to APUC legislation. The amendment gives the APUC authority to review in advance and approve wholesale power agreements between public utilities. Once the agreements are in effect, the APUC may also order the parties to the agreement to renegotiate the agreement if the APUC determines that the retail power rates are not just. Where the parties are unable to agree to an amendment, the APUC may order the parties to proceed under the agreement's dispute resolution procedures.

The 1986 amendment was part of a complex, lengthy and controversial package of amendments within the "sunset" reauthorization bill for the Alaska Public Utilities Commission. The effect of the amendment on the Alaska Power Authority, its wholesale power agreements, and the Bradley Lake agreement in particular, was never addressed to the 1986 Legislature. Consequently, we are now presented with a statutory conflict. The Power Authority is exempt by statute from the APUC's jurisdiction. On the other hand, the APUC has jurisdiction over wholesale power agreements to which the Power Authority is a party.

Without an amendment to correct this anomaly, general civil construction cannot commence this season. Bond financing will be jeopardized for at least two reasons. The lengthy hearing process and any subsequent litigation arising out of the APUC's orders would delay construction of Bradley and ultimately jeopardized timely bond financing of the project. Moreover, if the APUC can order negotiation of power sales contracts in effect, bondholders will not be able to rely on the power sales contracts and the rates which are the basis for the contracts.

The Alaska Power Authority Board of Directors met on February 27, 1987, and unanimously adopted attached Resolution 1987-05, which supports legislation to be introduced during the 1987 Legislative session, for the purposes of clarification that the Alaska Power Authority and its wholesale power agreements would be specifically excluded from the jurisdiction of APUC.

Additional background information outlining the need for enactment of SSSB 22 is provided in the attached memorandum (dated March 9, 1987) from the Alaska Power Authority bond counsel of Wohlforth, Flint, and Gruening.

RESOLUTION 87-05

WHEREAS the Alaska Power Authority is an instrumentality of the State of Alaska and created by the legislature, in the interests of promoting the general welfare and public purposes of all the people of the state, to reduce consumer power costs and otherwise to encourage the long-term economic growth of the state, including the development of its natural resources, through the establishment of power projects;

WHEREAS the Alaska Power Authority is not subject to the jurisdiction of the Alaska Public Utilities Commission;

WHEREAS the Alaska Power Authority is authorized by statute to borrow money and issue bonds the principal and interest on which are payable from the income and receipts or other money derived from projects financed with the proceeds of the bonds and from revenue-producing contracts including a contract providing for the security of the bonds made by the authority with any person;

WHEREAS the Alaska Power Authority is currently concluding negotiations with the Railbelt utilities for the sale of project capacity and power from the Bradley Lake hydroelectric project;

WHEREAS a portion of the project's construction costs will be financed with the proceeds of a \$175,000,000 bond issuance by the Alaska Power Authority;

WHEREAS execution of the Bradley Lake agreement by June, 1987 is necessary in order that civil construction of the project may commence during this construction season;

WHEREAS, during the 1986 legislative session, the Legislature enacted AS 42.05.431(b) as part of a complex, lengthy and controversial package of amendments within the "sunset" reauthorization bill for the Alaska Public Utilities Commission;

WHEREAS AS 42.05.431(b) provides that a wholesale power agreement between public utilities is subject to advance approval of the commission and the Alaska Public Utilities Commission has ordered Anchorage Municipal Light and Power to submit the Bradley Lake power sales agreement to the commission for advance approval;

WHEREAS AS 42.05.431(b) permits the Alaska Public Utilities Commission to issue a comparable order to other Railbelt utilities who will be purchasers under the Bradley Lake wholesale power agreement;

WHEREAS AS 42.05.431(b) further provides that, once a wholesale power agreement is in effect and the commission determines that the rates set in accordance with the agreement

are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement, or to use the dispute resolution procedures contained in the agreement;

WHEREAS there now exists an anomaly between AS 44.83.090(b) which provides that the Alaska Public Utilities Commission does not have jurisdiction over the Alaska Power Authority and AS 42.05.720(4)(A) which seemingly gives the commission the authority to order the Alaska Power Authority to renegotiate its wholesale power agreements and to proceed under the contract's dispute resolution procedures;

WHEREAS the effect of AS 42.05.720(4)(A) on the Alaska Power Authority and its wholesale power agreements was never addressed to the 1986 Legislature;

WHEREAS AS 42.05.720(4)(A) creates a statutory conflict with the legislation authorizing the authority to finance the establishment of power projects through the issuance of bonds and with the legislation exempting the authority from the jurisdiction of the Alaska Public Utilities Commission;

WHEREAS prolonged hearings before the Alaska Public Utilities Commission and litigation subsequent to the hearings would jeopardize timely bond financing of the project, and

WHEREAS bondholders would be unable to rely on the rates agreed upon in a power sales agreement where there is a prospect of the Alaska Public Utilities Commission ordering a change in an agreement already in effect;

IT IS HEREBY RESOLVED that the Alaska Power Authority will ask the 1987 Alaska Legislature to enact legislation clarifying that wholesale power agreements for the sale of project capacity or power from a public works project of the state are not subject to review or approval by the Alaska Public Utilities Commission.

IT IS FURTHER RESOLVED that the Alaska Power Authority will ask for statutory language as provided in Option \_\_\_\_ and considered today at this meeting.

The resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: Joe Halloran, Milison, Schaeffer, Hofman, Mathis, Nunn

NAYS: Ø

ABSENT: Ø

And the resolution was declared adopted on this the 27<sup>th</sup> day of February, 1987.

ALASKA POWER AUTHORITY

BY: Lee R. Nunn, Chairman

BY: Robert D. Heath, Secretary

Option 1 would restore the original meaning to AS 44.83.090(b), i.e., that the authority requires the flexibility of being able to negotiate power sales agreements that can be used as security for bond financing of power projects:

\*Section 1. AS 42.05.720(4) is amended to read:

(4) "public utility" or "utility" includes every corporation (whether public, cooperative, or otherwise, but does not include the Alaska Power Authority), company, individual, or association of individuals, their lessors, trustees, or receivers appointed by a court, that owns, operates, manages or controls any plant, pipeline or system for

(A) furnishing, by generation, transmission or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the Alaska public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the Alaska public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash or other waste material;

\*Section 2. AS 42.05.431(b) is amended to read:

(b) A wholesome power agreement between the public utilities is subject to advance approval of the commission. After a wholesale power agreement is in effect, the commission may not invalidate any purchase or sale obligation under the agreement. However, if the commission finds that rates set in accordance with the agreement are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement and if the parties fail to agree, to use the dispute resolution procedures contained in the contract. Notwithstanding the foregoing, a wholesale agreement for the sale of power between the Alaska Power Authority and a public utility is not subject to review or approval by the Alaska Public Utilities Commission.

\*Section 3. This Act takes effect June 7, 1986

Option 2 recognizes the immediate need for an agreement to sell power generated by the Bradley Lake hydroelectric project because general project construction (scheduled for 1987) is tied to the execution of final long term wholesale power agreements. Moreover, prolonged hearings before the Alaska Public Utilities Commission and subsequent litigation of the commission's orders would jeopardize the sale of bonds for the project. The Authority could still seek language similar to option 1 during the 1988 legislative session:

\*Section 1. AS 44.83.090(b) is amended to read:

(b) The authority is not subject to the jurisdiction of the Alaska Public Utilities Commission. Nothing in AS 44.83.010 -- 44.83.425 grants the authority any jurisdiction over the services or rates of any public utility or diminishes or otherwise alters the jurisdiction of the Alaska Public Utilities Commission with respect to any public utility, including any right the commission may have to review and approve or disapprove contracts for the purchase or electricity by a public utility. Notwithstanding the foregoing or the provisions of AS 42.05.431(b), a wholesale agreement for the sale of the capacity of, or power generated by the Bradley Lake hydroelectric project is not subject to review or approval by the Alaska Public Utilities Commission.

\*Section 2. This Act takes effect June 7, 1986.

Recommend: Option 1.

**WOHLFORTH, FLINT & GRUENING**

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

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ANCHORAGE, ALASKA 99501

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JULIUS J. BRECHT  
CHARLES G. EVANS  
ROBERT B. FLINT  
CLARK S. GRUENING  
ROBERT M. JOHNSON  
ROBERT S. SPITZFADEN  
KENNETH E. VASSAR  
ERIC Z. WOHLFORTH

JANICE COLEMAN GRAHAM  
STEPHEN E. GREER  
THOMAS F. KLINKNER  
ROGER A. LUBOVICH  
BRADLEY E. MEYER  
DANIEL PATRICK O'TIERNEY  
PATRICK RUMLEY  
JAMES R. SZENDER

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OF COUNSEL  
ROGER G. CONNOR  
RICHARD W. GARNETT, III

MEMORANDUM

TO: Mr. Robert E. LaResche  
Executive Director  
Alaska Power Authority

FROM: Wohlforth, Flint & Gruening *GGW*

RE: Sponsor Substitute for Senate Bill No. 22

DATE: March 9, 1987

Enactment of the above Bill, which would exempt wholesale power agreements between the Alaska Power Authority and a public utility from review or approval by the Alaska Public Utilities Commission, is essential to the program of revenue bond financing of the Bradley Lake Hydroelectric Project.

The \$267,500,000 of Variable Rate Demand Bonds issued in October, 1985, are presently outstanding to provide short-term financing for the Bradley Lake Hydroelectric Project. These Variable Rate Demand Bonds, which are secured by Letters of Credit from three large Japanese banks, initially are due in 1991 and are subject to two one-year extensions. In order for successful long-term take-out financing to be marketed so as to retire the Variable Rate Demand Bonds, power sales agreements with the utilities to be served must be entered to secure the long-term debt.

Revenue bond financing of power generating facilities throughout the rest of the country is typically secured by power sales agreements, such as those which are in course of negotiation with the utilities to be served by Bradley Lake. The public body which is the authorizing entity and the participant utilities must be free to enter into the wholesale

WOHLFORTH, FLINT & GRUENING

Mr. Robert E. LaResche  
March 9, 1987  
Page 2.

power agreements unfettered by regulatory powers of a public utilities commission. Power sales agreements pledged to secure long term debt, once entered into, cannot be disturbed while the debt is outstanding. The provisions of AS 42.05.-C31(b), which provide for initial approval and continuing Commission jurisdiction, would seriously impede and perhaps make impossible conventional revenue bond financing secured by power sales agreements of the Bradley Lake Project. Enactment of Sponsor Substitute for Senate Bill No. 22, eliminating these provisions, is therefore essential to financing of the project pursuant to power sales agreements with the utilities.

ZEW:jg

Enclosure: Sponsor Substitute for  
Senate Bill No. 22.

## MEMORANDUM

TO: Sen. Don Bennett  
Sen. John Binkley  
Co-Chairmen  
Senate Finance Committee

Date: April 2, 1987

Through: Becky Bear  
Information Officer  
DC & ED

From: Ted Moninski  
Executive Director  
Alaska Public Utilities Commission

Subject: Impact Analysis - SSSB22

Attached is the APUC's impact statement for the above referenced bill. Also attached is a copy of the Commission's reply to a letter from Rep. Kay Brown which addresses some of the same substantive issues evaluated in the impact statement. The Commission had previously submitted separate fiscal notes for the original bill and the sponsor substitute. To avoid confusion, I have merged these two notes and have included the new, combined fiscal note with this impact statement.

It is my understanding that the Senate Finance Committee will consider SSSB22 during a Committee hearing now scheduled for Tuesday, April 7, 1987, at 9:00 a.m. This hearing will, I am advised, be teleconferenced through the Legislative Teleconference Network. I would appreciate your distributing this memorandum and its attachments to the other members of the Finance Committee at your earliest convenience.

In light of the fact that a formal case touching upon many of the same issues to be considered in SSSB22 is now pending before the Commission, no Commissioner will provide testimony on Sections 1, 2, 4, 5 and 6 of the Bill. Prior testimony on Section 3 has been given and further comment on Section 3 is included with this impact statement.

The Commission has asked that I be present to provide any necessary testimony or clarification for the attached materials. I will, therefore, be available for comment at the Anchorage LIO at the date and time referenced above. Please inform me of any schedule changes or any other information you may require prior to the Committee meeting.

Impacts of Sections 1,2,4,5,6 of SSSB22

The following is an evaluation of the probable impacts of adopting or not adopting the policies contained in the above referenced sections of SSSB22. The Commission's comments are directed at its own regulatory responsibilities and are not intended to reflect a comprehensive consideration of all issues.

If Passed:

Wholesale power sales transactions between regulated utilities and the APA are exempt from Commission oversight. The public interest responsibility for evaluating these transactions would reside solely with the APA and the various review mechanisms used to evaluate specific project proposals. Regardless of its other merits/demerits, this approach would lack the broader overview of power supply decisions which could be provided by the Commission.

Also, this Bill does not purport to alter the Commission's authority to judge the prudence of a utility's purchased power costs at the time of a specific rate case, under AS 42.05.511(a).<sup>1</sup> However, even if the Commission continues to have the authority to make case-specific adjustments, ratepayers and utility owners of cooperative and municipal utilities are one and the same, making any after-the-fact disallowance of APA-related costs for these entities relatively meaningless.

The proposed jurisdictional changes would effectively remove from Commission review a substantial percentage of a utility's costs which, as stated above, might be directly passed through to the ratepayers by operation of law. For retail utilities under the four-dam pool arrangement, for example, there are instances of APA-supplied power costs which account for as much as 50 percent or more of a utility's rates for service. Even under first-cut and conservative projections for Bradley Lake-supplied power, the range of impact, assuming sign-up of the full complement of railbelt utilities, appears to be between 8 percent and 20 percent of a utility's rates.

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<sup>1</sup>The Commission believes that this issue needs further consideration and clarification to determine whether the Commission can, in fact, disallow APA contract costs in rates after the contracts are in place, or whether all APA-related costs must be included in rates without any Commission review or adjustment.

To the extent that the purpose of this bill is to eliminate all Commission oversight for contractual transactions involving an APA project, that objective may not be achieved. Under the federal Public Utilities Regulatory Policies Act (PURPA), a utility is required to purchase power from a "Qualifying Facility" (QF). By Congressional delegation, the Commission is responsible for enforcing that obligation. Because of this, even if the authority over APA-utility contracts is removed by legislative action in Alaska, the Commission may still be required to act under federal law to prohibit purchases by regulated utilities where such purchases would threaten to subvert the intent of the federal statutes. QF's could also seek a remedy in the federal courts or before the Federal Energy Regulatory Commission to ensure that their rights are protected. Thus, the jurisdictional limits on the Commission established by this bill do not guarantee that there will be no impediments to APA contracting or financing.

If Not Passed:

The Commission would have to approve all future wholesale power contracts between regulated utilities and the APA.

The contract review process would entail a public notice period of thirty days, preliminary Staff investigation of the contract and Commission action based on any public comment and the initial Staff analysis. The Commission may approve, reject or suspend the contract, stating its findings and conclusions for taking action. Assuming the request for approval contains sufficient information, the Commission could take action within 45 days of the date of filing. In the event a party objects to Commission approval of the contract, procedures to effect an adjudicatory proceeding would ensue.

COMMISSION POSITION STATEMENT RE: SECTION 3 OF SSSB22

Under Section 3 of the bill (the original SB22 as amended), which would deregulate certain electric and telephone utilities, the Commission continues to believe that as a matter of public policy, the statutory procedure already in place is superior to automatic deregulation. AS 42.05.711(f) gives consumers a choice of what level of regulatory protection best serves their individual circumstances through an election. Consumers of five utilities affected by this bill have held deregulation elections. Of the five, the consumers of two utilities, Tanana Power and Iliamna-Newhalen Electric Cooperative, Inc., have voted to retain regulation. If Section 3 is adopted, it is not clear what continuing effect the previous vote to continue APUC jurisdiction would have in light of the "blanket" deregulation provided for in this proposal. However, if adoption of this section results in their deregulation, it will be in direct conflict with a democratic vote of the affected consumers.

**PREFACE:**

This fiscal note replaces all previous fiscal notes for Senate Bill 22 and Sponsor Substitute for Senate Bill 22. Specifically as it relates to Section 3 of the Bill, the Commission notes that while there may be some minimal workload reduction associated with deregulating certain electric and telephone utilities, the APUC has lost 13 of its 53 authorized positions during the last three fiscal years and the relatively small reduction in caseload will be used to assist in the Commission's attempt to cope with the reduction in force.

**Sections 1, 2, 4, 5 6 and 7:**

Passage of these sections will have no workload impact upon the Commission and, therefore, no fiscal impact.

**Section 3. AS 42.05.711(e) and Amendment to Line No. 28 (as shown on page 576 of the legislative journal).**

The number of utilities affected by this section were 13 before the amendment to line 28. The amendment raised that number by 4 to a new total of 17. This is a very insignificant number of utilities (17 of 307) and there will be a very minor decrease in workload if this section is passed.

Revision Date: April 2, 1987  
 Title: An Act exempting certain telephone and electric utilities and certain transactions from regulation by the APUC  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Publish Date: \_\_\_\_\_  
 Agency Affected: Commerce & Economic Development, Alaska Public Utilities Commission  
 BRU: APUC  
 Components: Operations

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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)

(See Attachment I)

Prepared by: T.S. Moninski, II Executive Director

Division: Alaska Public Utilities Commission

Phone: 276-6222

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

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

Agency: Commerce & Economic Development

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

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Senate Secretary

# MEMORANDUM

State of Alaska

TO: Marvin R. Weatherly, Chairman  
Alaska Public Utilities Commission  
420 "L" Street #100  
Anchorage, Alaska 99501

DATE: February 18, 1987


FILE NO: 663-87-0365

TELEPHONE NO: (907)465-3600

THRU:

SUBJECT: Power purchase contract between Alaska Power Authority and Municipal Light & Power

FROM: Grace Berg Schaible  
Attorney General

By:   
Richard D. Monkman  
Assistant Attorney General

You have asked for our opinion on whether a power purchase contract between the Alaska Power Authority (Authority) and Municipal Light & Power (ML&P) is subject to approval by the Alaska Public Utilities Commission (Commission) under AS 42.05.431(b). In brief, our review indicates that the analysis in the Commission's Order No. 3 in Case U-86-96 is correct, and that ~~this contract is subject to review by the Commission under AS 42.05.431(b).~~

First, it appears undisputed that the Authority is a "public utility" as that term is defined in AS 42.05.720(4)(A). The Authority is a public corporation empowered to operate and maintain power projects and "to enter into contracts with any person . . . for the purchase, sale, exchange, transmission, or use of power from a project[.]" AS 44.83.020; AS 44.83.080(5), (11). This fits squarely within the definition of a public utility: a corporation (including a public corporation) "that owns, operates, manages or controls any plant, pipeline or system for . . . furnishing, by generation, transmission or distribution, electrical service to the public for compensation[.]" AS 42.05.720(4)(A). 1/

The Authority is an unregulated public utility, exempt from the Commission's jurisdiction by operation of

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1/ The "public" is defined in AS 42.05.720(3)(B) as including "any utility" which resells power to a group of 10 or more consumers, a definition which would include Anchorage's Municipal Light & Power.

Marvin R. Weatherly, Chairman  
Power Purchase Contract Between Alaska Power  
Authority and Municipal Light & Power  
Our File: 663-87-0365

February 18, 1987  
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AS 44.83.090(b). The exemption was apparently intended to enhance the ability of the Authority to obtain bond financing for its projects. See 1984 Memorandum to Larry Crawford (July 31; C. Jones, AAG) ("APUC jurisdiction over APA power sales agreements"), attached, and legislative history cited therein.

However, while the Authority is exempt from Commission jurisdiction by AS 44.83.090(b), ML&P is not. ML&P is a regulated public utility and is subject to the Commission's jurisdiction. The exemption provided to the Authority by AS 44.83.090(b) specifically states that:

Nothing in AS 44.83.101 -- 44.83.425 [the Alaska Power Authority statutes]. . . diminishes or otherwise alters the jurisdiction of the Alaska Public Utilities Commission with respect to any public utility, including any right the commission may have to review and approve or disapprove contracts for the purchase of electricity by a public utility.

AS 44.83.090(b) (emphasis supplied).

The question posed, therefore, is whether the Commission has "any right . . . to review and approve or disapprove contracts for the purchase of electricity" by ML&P, including the contract at issue.

Our 1984 memorandum concluded that the Commission did not have authority at that time to review, approve, or disapprove electric power purchase contracts by a public utility. 1984 Memorandum, supra (attached). <sup>2/</sup> Since the Commission did not have "any right . . . to approve or disapprove contracts for the purchase of electricity" by a public utility, electric power purchase contracts between regulated public utilities and the Authority were not subject to the Commission's review.

However, as you note, the legislature has since passed AS 42.05.431(b), sec. 5, ch. 104, SLA 1986. This section states

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<sup>2/</sup> "[W]e can find no authority in AS 42.05 which would permit the Commission to review these wholesale purchase agreements from the point of view of the utility as a purchaser" (emphasis in original).

Marvin R. Weatherly, Chairman  
Power Purchase Contract Between Alaska Power  
Authority and Municipal Light & Power  
Our File: 663-87-0365

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that a "wholesale power agreement between public utilities is subject to advance approval" of the Commission. The new statute gives the Commission the "right" to review electric power purchase contracts by regulated public utilities which was lacking at the time of our 1984 opinion.

The primary guide in statutory interpretation is "the language used, construed in light of the purpose of the enactment." Commercial Fisheries Entry Commission v. Apokedak, 680 P.2d 486, 489-90 (Alaska 1984). The proposed power purchase contract is "for the purchase of electricity by a public utility." AS 44.83.090(b). It is a contract between "public utilities," and all such contracts are "subject to advance approval of the commission." AS 42.05.431(b). The plain words of these statutes indicate that the proposed agreement would be subject to review and prior approval by the Commission.

The "purpose of the enactment" in this instance does not conflict with the plain language. The 1986 enactment of AS 42.05.431(b) was in House Bill 314, which began as a short "sunset" re-authorization bill for the Commission. HB 314 grew into a complex, lengthy, and controversial package of amendments to the Commission statute, see, e.g., 1986 House J. 3181-90, 3197-209, but was drastically shortened again before final passage. Compare HB 314 with CSHB 314(Fin) and SCS HB 314(Fin). AS 42.05.431(b) surfaced without comment in the House Finance Committee version of the bill, and remained unchanged in all material respects from the date of its introduction until final passage.

The only comment we have found on the purpose of this section is in a letter from Attorney General Brown to Governor Sheffield, reviewing HB 314 after it was passed by the legislature. The letter states, "The commission's authority to approve wholesale power agreements would be made explicit" by AS 42.05.431(b). Letter, June 4, 1986, A.G. File No. 883-86-0135. This is in accord with our conclusion that the plain meaning of the statute gives the Commission authority to review the contract at issue.

We note also that the powers of the Commission are to be "liberally construed." AS 42.05.141. Review of a ten-year electric power purchase contract by a regulated public utility appears to be within the authority of the Commission under AS 42.05.431(b). Therefore, we conclude that the Commission does have the authority to review this contract.

Marvin R. Weatherly, Chairman  
Power Purchase Contract Between Alaska Power  
Authority and Municipal Light & Power  
Our File: 663-87-0365

February 18, 1987  
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We are informed by the Authority that Commission review of its contract with ML&P will adversely affect the Authority's ability to obtain bond financing for the Bradley Lake hydroelectric dam project in a timely manner. We suggest that the Commission promptly contact the Authority and discuss possible legislative action which would resolve the situation in the best interests of the public.

RDM:nb

attachment

cc: Alaska Power Authority

# SENATE AMENDMENT

BY: Senate Labor & Commerce Committee

TO: Sponsor Substitute SENATE BILL NO. 22

TO: \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

On line 28 of page 1, delete "250",  
insert "500 retail"

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.  
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2-26-87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

FURTHER: FINANCE

DATE TURNED INTO OFFICE 3/12/87

Mr. President:

LABOR & COMMERCE Committee considered SSSB 22

exempting certain telephone and electric utilities and certain transactions from regulation by the Alaska Public Utilities Commission; efd.

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- do pass *majority*
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- letter of intent adopted and attached
- \*\* Committee  attached or  adopted fiscal note(s)
- zero  fiscal impact

MEMBERS SIGNING DO PASS  
*Tom Kelly*  
*DePars*  
*Rich Bell*  
*Jahrenkamp*

OTHER RECOMMENDATIONS  
*Mike Symandri*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Tom Kelly - DePars*  
Chairman signature and recommendation

Committee Backup Attached

## ELECTRIC AND TELEPHONE UTILITIES IMPACTED BY SB 22

## I. 250 OF FEWER SUBSCRIBERS

Name of Electric Utility	Number of Users
Andreanof Electric Corporation	37
Aniak Light & Power Company, Inc.	170
Arctic Utilities, Inc.	25
Battles Light & Power, Inc.	50
Egegik Light and Power Homer Lee Leonard d/b/a	65
I-N-N Electric Cooperative, Inc.	226
Levelock Electric Cooperative, Inc.	57
Manley Utility Company, Inc.	70
McGrath Light & Power Company <sup>1</sup>	220
Northway Power & Light, Inc.	91
Pelican Utility Company <sup>2</sup>	76
Tanana Power Company, Inc.	178
Teller Power Company <sup>1</sup>	73

13

Name of Telephone Utility	Number of Main Access Lines
Whittier Telephone Company	178

1

## II. 251 TO 750 SUBSCRIBERS

Name of Electric Utility	Number of Users
Gwitchyaa Zhee Utility Company	296
Haines Light & Power Company, Inc.	740
Yakutat Power, Inc.	298

Name of Telephone Utility	Number of Main Access Lines
Bristol Bay Telephona Cooperative, Inc.	730
Bush-Tell, Incorporated	347
Yukon Telephone Company	333

Information derived from the Alaska Public Utilities Commission's 1985 Annual Report.

<sup>1</sup> Based on 1984 information

<sup>2</sup> Based on 1983 information

**ELECTRIC UTILITIES**  
 (1985 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue greater than \$5,000,000)</u>				
Alaska Electric Light & Power Company	\$ 26,526,452	\$ 10,551,050	\$ 158,097	10,710
Alaska Village Electric Cooperative, Inc. (1)	23,854,478	11,548,022	563,856	4,672
Chugach Electric Association, Inc.	360,541,250	97,051,827	14,533,318	38,713
Copper Valley Electric Association, Inc.	14,310,043	7,229,017	865,775	2,323
Golden Valley Electric Association, Inc.	122,259,215	42,647,009	3,373,060	25,059
Homer Electric Association, Inc.	70,947,394	28,477,467	2,655,173	16,165
Kodiak Electric Association, Inc.	26,568,384	12,106,789	2,804,601	4,024
Matanuska Electric Association, Inc.	99,197,479	38,021,882	4,316,796	26,678
Municipal Light & Power Department Municipality of Anchorage d/b/a	144,442,370	56,579,459	1,011,063	30,558
Subtotal	\$898,657,065	\$310,213,102	\$30,881,739	178,902
<u>(Gross Operating Revenue greater than \$1,500,000 but less than \$5,000,000)</u>				
Alaska Power & Telephone Company	\$ 2,902,490	\$ 3,047,178	\$ 352,082	1,529
Arctic Utilities, Inc. (2)	2,732,249	4,183,866	533,897	25
Barrow Utilities and Electric Cooperative, Inc.	1,105,062	2,200,768	928,716	1,231
Bethel Utilities Corporation, Inc.	2,781,816	4,240,333	128,504	1,631
Kotzebue Electric Association, Inc.	3,383,891	2,982,994	312,398	946
Nushagak Electric Cooperative, Inc.	4,844,043	2,252,667	104,124	1,082
Tlingit-Haida Regional Electrical Authority	5,501,162	2,864,210	249,277	911
Subtotal	\$23,250,713	\$21,773,625	\$2,690,998	7,353

(1) Communities being furnished electric utility service by Alaska Village Electric Cooperative, Inc.

Alakanuk	Hooper Bay	New Stuyahok	Scammon Bay
Ambler	Huslia	Noatak	Selawik
Andreafsky	Kaltag	Noorvik	Shageluk
Aivik	Kasigluk	Nulato	Shaktoolik
Chevak	Klena	Nunapitчук	Shishmaref
Eek	Kivalina	Old Harbor	Shungnak
Elim	Koyuk	Pilot Station	Stebbins
Emmonak	Lower Kalskag	Pitkas Point	Togiak
Gambell	Marshall	Quinhagak	Toksook Bay
Goodnews Bay	Mekoryuk	St. Marys	Tununak
Grayling	Minto	St. Michael	Upper Kalakag
Holy Cross	Mountain Village	Savoonga	Wales

(2) Information Presented for Year Ended 6/30/85.

UTILITY UTILITIES (CONT.)  
1985 Calendar Year

Utility	Net Plant	Revenues		Users
		Gross Revenues	Income	
<u>(Gross Operating Revenue greater than \$500,000 but less than \$1,500,000)</u>				
Aniak Light and Power Company, Inc.	\$ 314,789	\$ 618,573	\$ 83,597	170
G & K, Inc.		(Not Reported)		
Gwitchya Zhaa Utility Company <sup>(3)</sup>	555,659	671,536	(26,331)	296
Haines Light & Power Company, Inc.	1,177,642	1,307,297	91,302	740
I-N-N Electric Cooperative, Inc.	1,535,948	636,877	28,609	226
McGrath Light & Power Company		(Not Reported)		
Sand Point Electric Company, Inc. <sup>(4)</sup>		(Not Reported)		
Tanana Power Company, Inc.	791,207	601,920	20,676	178
Yakutat Power, Inc.	651,880	744,488	34,336	298
Subtotal	<u>\$ 4,987,172</u>	<u>\$ 4,610,681</u>	<u>\$ 285,588</u>	<u>1,908</u>
<u>(Gross Operating Revenue less than \$500,000)</u>				
Andreanof Electric Corporation <sup>(2)</sup>	\$ 154,533	\$ 98,832	\$ 15,395	37
Bettles Light & Power, Inc.	305,347	443,071	24,903	30
Egegik Light and Power Homer Lee Leonard d/b/a	244,407	167,855	67,769	69
Levelock Electric Cooperative, Inc. <sup>(3)</sup>	64,082	155,592	17,865	57
Manley Utility Company, Inc. <sup>(5)</sup>	187,974	50,976	(15,710)	70
Manokotak Power Company, Inc.		(Not Reported)		
Napaklak Irclinnq Power Company	124,300	183,175	(4,675)	Not reported
Northway Power & Light, Inc.	194,639	328,534	26,724	91
Pelican Utility Company		(Not Reported)		
Teller Power Company Helen M. and Robert R. Bladgett d/b/a		(Not Reported)		
Subtotal	<u>\$ 1,211,200</u>	<u>\$ 1,272,443</u>	<u>\$ 109,406</u>	<u>313</u>
TOTALS	<u>\$928,106,153</u>	<u>\$337,869,851</u>	<u>\$33,967,531</u>	<u>188,476</u>

(2) Information Presented for Year Ended 6/30/85.

(3) Information Presented for nine-month period 7/1/84 - 4/30/85.

(4) Certificate No. 233 was transferred from Pelican Utility Company to Sand Point Electric Company, Inc., in 1986.

(5) United Companies, Inc., acquired controlling interest of Manley Utility Company, Inc., in 1985.

**TELECOMMUNICATION UTILITIES**  
(Long Lines and Local Exchange Carriers)  
(1985 Calendar Year)

Utility	Net Plant	Total Revenues	Net Income	Main Access Lines
<u>(Gross Operating Revenue greater than \$4,000,000)</u>				
Alascom, Inc.	\$394,863,699	\$290,913,750	\$40,896,931	N/A
Anchorage Telephone Utility Municipality of Anchorage d/b/a	194,981,783	101,332,244	19,722,151	115,524
General Telephone Company of Alaska	11,507,574	7,409,694	892,607	9,867
Glacier State Telephone <sup>(1)</sup> Company	81,032,595	38,183,932	6,815,238	26,212
Juneau and Douglas Telephone <sup>(2)</sup> Company	24,151,156	16,518,149	2,328,639	14,878
Matanuska Telephone Association, Inc.	84,761,609	24,846,697	2,289,692	-Not Reported-
Sitka Telephone Company <sup>(1)</sup>	17,098,806	7,678,049	394,816	6,550
United Utilities, Inc.	<u>10,907,615</u>	<u>5,150,501</u>	<u>484,279</u>	<u>3,160</u>
Subtotal	<u>\$819,384,837</u>	<u>\$492,035,016</u>	<u>\$75,824,353</u>	<u>176,191</u>
<u>(Gross Operating Revenue greater than \$1,000,000 but less than \$4,000,000)</u>				
Arctic Slope Telephone Association Cooperative, Inc.	\$ 4,301,006	\$ 4,390,249	\$ 829,683	1,215
Bristol Bay Telephone Cooperative, Inc.	3,312,409	1,417,223	(277,110)	750
Copper Valley Telephone Cooperative, Inc.	9,366,962	3,398,175	585,213	2,641
Interior Telephone Company	7,842,077	4,230,172	245,836	-Not Reported-
National Utilities, Inc.	1,271,048	1,305,041	279,438	1,081
Nushagak Telephone Cooperative, Inc.	3,078,305	1,606,325	223,807	1,120
OTZ Telephone Cooperative, Inc.	3,806,236	1,698,591	35,403	1,409
Telephone Utilities of <sup>(2)</sup> Alaska, Inc.	<u>2,620,592</u>	<u>1,638,047</u>	<u>206,915</u>	<u>1,450</u>
Subtotal	<u>\$35,598,635</u>	<u>\$19,683,823</u>	<u>\$2,129,185</u>	<u>9,646</u>

(1) In 1986, these utilities were consolidated into Telephone Utilities of the Northland, Inc.

(2) In 1986, Juneau and Douglas Telephone Company was consolidated with Telephone Utilities of Alaska, Inc.

## TELECOMMUNICATIONS UTILITIES (CONT.)

1985 and 1986 Exchange Cost Data  
1985 Calendar Year

Utility	Net Plant	Total Revenues	Net Income	Main Access Lines
<u>(Gross Operating Revenue less than \$1,000,000)</u>				
Bush-Tell, Incorporated	\$ 1,911,480	\$ 653,813	\$ 14,081	347
Mukluk Telephone Company, Inc.	2,861,082	952,095	44,782	-Not Reported-
Whittier Telephone Company <sup>(3)</sup>	---	---	---	---
Yukon Telephone Company	<u>806,655</u>	<u>804,554</u>	<u>(151,792)</u>	<u>555<sup>(4)</sup></u>
Subtotal	<u>\$ 5,579,197</u>	<u>\$ 2,220,842</u>	<u>\$ (92,929)</u>	<u>680</u>
TOTAL	<u>\$860,562,669</u>	<u>\$913,939,681</u>	<u>\$75,860,609</u>	<u>186,517</u>

(3) Whittier Telephone Company was purchased by Yukon Telephone Company in 1985.

(4) Number of main telephones.

## ***Alaska Power Authority***

### Addendum to Alaska Power Authority Position Paper SSSB 22

#### If SB 22 is enacted:

- ° Allows Bradley contracts to be signed and executed in a timely basis for construction to meet utilities' schedules of need.
- ° Provides certainty to wholesale power rate based on terms and provisions fixed in contract and not subject to future adjustment.
- ° Prevents duplication of review by State agencies. Public interest already served by Alaska Power Authority involvement.
- ° Lowers costs to consumers through lower interest rates on long-term debt.
- ° Lowers APUC review costs.
- ° Eliminates possibility of conflicting interpretations of contractual terms by two state agencies both assisted by the Dept. of Law

#### If not enacted:

- ° The provision for adjusting rates in the future lowers the rating of the long-term debt to less than investment grade (A-rated to "junk" bond.)\*
- ° Unable to have former contracts until APUC re-reviews all power supply option studies already performed by OMB, legislature, utilities and their respective boards, and Alaska Power Authority and its Board (including four commissioners).
- ° No basis for future decisions.
- ° Delaying Bradley Lake by one year could increase construction costs by approximately \$10 million (less any additional arbitrage earnings.)

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\* Interest rate could increase 1.5 to 2.0 percent. Based on \$175 million in debt and 8.0 percent and 9.75 percent interest rate for with and without exemption, respectively, debt service would increase by approximately \$2.7 million per year - \$81 million over life of bonds.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION**  
**FISCAL NOTE (in thousands)**

Revision Date: 4/6/87

**REQUEST**

Bill/Resolution No.: SSSB 22  
 Title: An act exempting certain telephone and electric utilities and certain transactions from regulation by the APUC.  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Alaska Power Authority  
 BRU: APA/DCED  
 Components: M & O (Program Receipts)

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	through FY 2021
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS	0	0	0	0	(2,700)	(2,700)	(75,600)
<b>TOTAL OPERATING</b>	0	0	0	0	(2,700)	(2,700)	(75,600)
<b>CAPITAL</b>							
<b>REVENUE</b>							

**FUNDING : (Thousands of Dollars)**

GENERAL FUND							
FEDERAL FUNDS							
OTHER	0	0	0	0	(2,700)	(2,700)	(75,600)
<b>TOTAL</b>	0	0	0	0	(2,700)	(2,700)	(75,600)

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

See attached.

Prepared by: Robert E. LeResche *RL* Phone: 465-3575  
 Division: Alaska Power Authority Date: April 6, 1987

Approved by Commissioner: J. Anthony Smith Date: \_\_\_\_\_  
 Agency: Department of Commerce

**Distribution (by Agency preparing fiscal note):**

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

### Analysis of Fiscal Note

- (1) The provision in the existing legislation for adjusting wholesale power rates subject to the APUC determination, lowers the rating of the long-term debt to less than investment grade (A-rated to "junk" bond). The debt service cost saving presented in this fiscal note has been computed for the Bradley Lake project only for a total of \$81,000,000; other projects may be affected by the existing law.
- (2) Debt service savings will affect the wholesale power purchasers of Bradley Lake power, and benefit the customers of these utilities.
- (3) Power Authority avoided costs for presenting and defending power sales agreements during the course of the APUC review are not being estimated at this time (staff, legal counsel, etc.)



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707-1249, Phone 907-452-1151

March 25, 1987

MAR 30 1987

Senator Rick Uehling  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

RE: Sponsor Substitute for Senate Bill No. 22

Dear Senator Uehling:

Golden Valley Electric Association supports SSSB 22. Passage of this bill will greatly assist the Alaska Power Authority and utilities in their efforts to get Bradley and the interties built.

We request your support of this bill.

Best regards,

Michael P. Kelly  
General Manager

cc: D. Hutchens, ARECA

*Chugach* ELECTRIC ASSOCIATION, INC.

5601 MINNESOTA DRIVE • P.O. BOX 196300 • ANCHORAGE, ALASKA 99519-6300 • PHONE 907-563-7494

TELEX: CHUGACH AHG  
(090) 25 265

TELECOPIER:  
907-564-0632

*AKECA*

MAR 27 1987

March 25, 1987

Honorable Rick Uehling  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Uehling:

This is to reiterate the strong support of Chugach Electric Association for the sponsor substitute for S.B. 22, including importantly Section 5 which exempts wholesale power agreements between utilities and the Alaska Power Authority (APA) from jurisdiction of the Alaska Public Utilities Commission (APUC).

Other utilities and the APA also endorse this legislation, which cleared the Senate Labor and Commerce Committee on March 12 and which I understand will soon come before the Senate Finance Committee.

An important reason for this legislation is that it will alleviate serious concerns that have recently evolved over the adverse financial consequences of APUC involvement in wholesale power agreements between the APA and utilities. The concerns stem in large part from the unintended application of a wholesale contract approval provision (AS 42.05.431(b)) in the APUC statute as revised by the 1986 Legislature. Although last year's revisions were intended to streamline the operations of the APUC, that agency appears to be broadening its scope by liberally construing AS 42.05.431(b) to include wholesale power agreements involving APA.

The potential of APUC delay, revision or rejection of such agreements will cause great uncertainty on the part of power project bond holders or other lenders, and in fact could reduce the number of entities willing to finance power projects in Alaska. This is almost certain to translate into project delays and higher financing costs, which ultimately will be passed on to consumers. Because the APUC already has asserted such

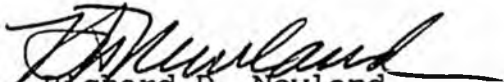
March 25, 1987

jurisdiction with respect to one of the likely utility-purchasers of power from the Bradley Lake Hydroelectric Project, the need for statutory clarification is now.

Chugach urges speedy passage of the sponsor substitute for S.B. 22. Feel free to share our letter with your Finance Committee colleagues. We are prepared to provide you, your committee or others with additional information if necessary. We appreciate any assistance you can give on this important issue.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.

  
Richard D. Newland  
General Manager

Ltrs:32587

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222

March 31, 1987

Representative Kay Brown  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811Re: APUC authority over APA Power Sales; Proposed Qualifying  
Facilities in Alaska

Dear Representative Brown:

In a recent inquiry you asked for: 1) additional information concerning Qualifying Facilities under PURPA which have been proposed for the Railbelt, and 2) comment on the legal status of Qualifying Facilities under federal law.

The Commission is aware of four private sector power projects proposed in the Railbelt. AEM Corp. proposes a 25 MW project located at the Healy coal mine and fired by "waste coal." Power from the AEM proposed facility would be sold to Golden Valley Electric Association, Inc., in the Fairbanks area. SGI International, Inc., proposes a 50 MW project, also fired by waste coal, with the output to be sold to Anchorage Municipal Light and Power. Mat-Su Energy Corporation proposes a 20 MW facility fired by peat from the Mat-Su Valley, with the output to be sold to Matanuska Electric Association, Inc. Valley Energy Corporation proposes a 15 MW facility fired by wood chips from forests in the Mat-Su Valley, with the output sold to MEA.

The developers of all four of these projects have filed complaints with the Commission against the utility to which they seek to sell power. Each complaint seeks to have the Commission determine the "avoided cost" which, under federal law (PURPA), the utility must pay for power generated by Qualifying Facilities.<sup>1</sup> The complaints, and particularly the SGI complaint, also seek to prohibit the utilities from making other power purchases, such as from the Bradley Lake Hydroelectric Project, which would eliminate the need for power from the private project. In the SGI case, ML&P disputes whether the SGI project is actually a Qualifying Facility under PURPA.

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<sup>1</sup>AEM's proposal has been before the Commission since November 1, 1984, much longer than the other three proposals.

PURPA requires a public utility to purchase electric power and energy from Qualifying Facilities at the utility's "avoided cost." Avoided cost means, in essence, the costs which the utility will avoid by purchasing power from the Qualifying Facility rather than generating the power itself or purchasing the power elsewhere.

PURPA also requires the Commission to enforce the obligation of regulated utilities to purchase power from Qualifying Facilities at avoided cost. Thus, whether or not state statutes exempt APA power project sales from Commission jurisdiction, federal law still requires the Commission to enforce the obligation of utilities to purchase power from Qualifying Facilities. In its case, SGI contended that it has a priority over other potential sellers of power to ML&P and that, based on PURPA, the Commission should prohibit ML&P from purchasing any other power, particularly from the APA's Bradley Lake Hydroelectric Project. Although properly before this Commission, the PURPA argument has not yet been addressed because the issue was resolved based on State law. It is highly probable that SGI will be able to continue to advance its position before the APUC based on the federal statutes even if SSSB22 is enacted. Federal law would require the Commission to decide the issue based on the rights granted by PURPA.

One final point needs clarification. The reason that SGI wishes to prevent ML&P from purchasing power from Bradley Lake concerns, in part, the "avoided cost" determination. A cost is an "avoided cost" only if it can actually be avoided by a utility. Thus, for example, a utility cannot avoid the cost of generating facilities which have already been installed; then, if the utility needs no further generating facilities, there is no avoided capacity cost of an additional generating plant (there might still be an avoided cost for the fuel the plant would burn). Similarly, after ML&P has signed a contract which requires it to pay for power from Bradley Lake, that cost is no longer an avoided cost.

In this sense it is not entirely correct that SGI feels it "can't compete" with a subsidized project such as Bradley Lake. SGI may be willing to sell its electricity for the same price as the APA would sell electricity from Bradley Lake. However, once ML&P is already committed to purchase from Bradley Lake, ML&P may need no further capacity and the avoided cost would then be less than the price of power from Bradley Lake.

I have also attached a copy of our impact statement concerning SSSB22, which addresses some of the same issues which you have raised.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



T.S. Moninski II  
Executive Director

call when SB 22 is scheduled

Juan Arce  
283-4359

SB-22

there are  
communities that  
want to testify

March 10, 1987

Dear Senator Binkley

MAR 17 1987

I am writing to endorse with one small exception Senate Bill #20 which is currently in committee & believe.

My wife and I manage a small electric utility here at Lake Minchumine. We have no employees. My salary averages about 600<sup>00</sup> per month. We have 5 customers. Because we must receive our fuel exclusively by air we have to invest a great deal of our resources in fuel. We have for the past 4 years improved greatly the safety and reliability of our system and though we are in continual upgrade we are proud of what has been accomplished. We are fortunate to have an Electrical Engineer in the family and so have done things right and saved some too.

We support Senate Bill #20. But would suggest it be amended with one word inserted on line 13 between the word "from" and "regulation". The word to be inserted there is "economic".

We simply cannot afford to go through this burdensome process with the Alaska Public Utilities Commission and are surely aren't the only ones (utilities who feel this way) - The APUC has grown into some kind of self-perpetuate bureaucracy but the end result

becomes the utility customer supports them rather than the other way around.

It can see the importance with big outfits like Chugach or Golden Valley - But small moon & Pop outfits just can't take this kind of pressure.

For instance if the APUC calls a hearing in Anchorage, as company rep. it must go. A round trip ticket to Anch is \$400<sup>cost</sup>. Then it must pay for food & lodging and hire someone to watch the generators while it's gone. We cannot afford legal council. We can barely afford insurance, federal tax, state tax and accounting services.

We have improved the system without one cent of State Aid and are proud of it. Our customers have been very supportive.

Please consider this bill carefully -

Thank you -

Sincerely,

Walter E. Marksted  
President, Fake Minchumina Power Co.  
Fake Minchumina, AK. 99757