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HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
CSSB 206 (SA)

Interchange Telecommunications Services

Received May 5, 1990
by Sen. Frank, Sturgulewski, Fischer

Heard May 6, 1990

Passed Out of Committee May 6, 1990
4 Do Pass

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HOUSE COMMITTEE REPORT

(7)

Date Referred: May 5, 1990

FURTHER REFERRALS:

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

CSSB 206(SA)

CS SB NO. 206 (SA)

INTEREXCHANGE TELECOMMUNICATIONS SERVICES

"An Act relating to intrastate long distance telephone competition; permitting deregulation of a class of utilities or a utility service by the Alaska Public Utilities Commission; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have attached amendment(s) [] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____ [] fiscal note(s) _____
[] zero fiscal note _____ *sen* [X] zero fiscal note(s) *5/3/90. APUC/DC*
[] zero with analysis _____ [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

W. Donley Donley
W. Hanley
E. Finkelstein
D. Boucher

| | Do Not Pass | No Rec | Amend |
|-------|----------------|--------|-------|
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |

D. Boucher
Chairman's Signature

Original sponsor(s): SEN. FRANK, Sturgulewski, Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 206 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to intrastate long distance tele-
7 phone competition; permitting deregulation of a class
8 of utilities or a utility service by the Alaska
9 Public Utilities Commission; and providing for an
10 effective date."

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

12 * Section 1. INTENT. (a) This Act is substantially similar to both
13 initiatives that have been filed with the lieutenant governor concerning
14 competition in long distance telephone service in the state, thereby re-
15 quiring removal of the initiatives from the general election ballot under
16 art. XI, sec. 4, of the Constitution of the State of Alaska. The legisla-
17 ture intends this Act to be a comprehensive treatment of the issue of
18 competition in intrastate long distance telephone service and to provide
19 for competition in a responsible and timely manner.

20 (b) The legislature does not intend the enactment of AS 42.05.850,
21 enacted by sec. 2 of this Act, to affect pending litigation regarding the
22 applicability of AS 44.62.310 - 44.62.312 to an association of exchange
23 carriers required by the commission.

24 * Sec. 2. AS 42.05 is amended by adding new sections to read:

25 ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE
26 TELEPHONE SERVICE.

27 Sec. 42.05.800. FINDINGS. The legislature finds that

28 (1) modern, affordable, efficient, and universally avail-
29 able local and long distance telephone service is essential to the

*All cols - access charge pool -
GCI want to cut forced meetings.
privately owned col. want Reliquish + user
right.*

1 people of the state;

2 (2) facilities based, long distance telephone service
3 should be provided competitively whenever possible;

4 (3) technological advances, reduced costs, and increased
5 consumer choices for long distance telephone service, resulting from
6 the adoption of an appropriate competitive market structure, will
7 enhance the state's economic development;

8 (4) the benefits of competition in long distance telephone
9 service should be shared by consumers throughout the state;

10 (5) the commission should oversee competition in long
11 distance telephone service to ensure that the competition is fair to
12 consumers and competitors;

13 (6) the commission should provide for competition in a
14 timely manner and should adopt regulations that eliminate inappropri-
15 ate impediments to entry for long distance carriers fit, willing, and
16 able to provide service.

17 Sec. 42.05.810. COMPETITION. (a) By February 14, 1991, the
18 commission shall adopt regulations that authorize and establish con-
19 ditions governing competition in long distance telephone service.

20 (b) Beginning February 15, 1991, the commission shall accept
21 applications to provide competitive long distance telephone service
22 and shall approve or reject applications within 90 days after the
23 filing of a complete application. The commission shall approve an
24 application upon a finding that the applicant is fit, willing, and
25 able. The authority granted to a fit, willing, and able applicant
26 shall include the authority to provide intrastate long distance tele-
27 phone service using any facilities that the applicant owned and oper-
28 ated on May 1, 1990, to provide interstate long distance message
29 telephone service to the public.

1 (c) Except as provided in (b) of this section, the commission
2 may prohibit installation of facilities for origination or termination
3 of long distance service in a given location only if it determines
4 that installation of the facilities in that location is not in the
5 public interest.

6 Sec. 42.05.820. NO MUNICIPAL REGULATION. A long distance tele-
7 phone company that is exempted in whole or in part from complying with
8 all or a portion of this chapter may not be regulated by a municipal-
9 ity under AS 29.35.060 and 29.35.070.

10 Sec. 42.05.830. EXCHANGE ACCESS CHARGES. In providing for
11 competition under AS 42.05.800 - 42.05.995, the commission shall
12 establish a system of access charges to be paid by long distance
13 carriers to compensate local exchange carriers for the cost of origi-
14 nating and terminating long distance services.

15 Sec. 42.05.840. UNIVERSAL SERVICE FUND. The commission may
16 establish a universal service fund or other mechanism to be used to
17 ensure the provision of long distance telephone service at reasonable
18 rates throughout the state and to otherwise preserve universal ser-
19 vice.

20 Sec. 42.05.850. EXCHANGE CARRIER ASSOCIATION. The commission
21 may require the local exchange carriers to form an association to
22 assist in administering the system of access charges and may require
23 the association to file tariffs and to engage in pooling of exchange
24 access costs and revenue if necessary to achieve the purposes of
25 AS 42.05.800 - 42.05.995.

26 Sec. 42.05.860. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS
27 SERVICES PROHIBITED. A telephone company may not prohibit or restrict
28 the resale of telecommunications service. If an interexchange tele-
29 communications service is resold, the reseller shall receive credit in

ECT

1 an appropriate amount for an applicable exchange access charge if the
2 credit is necessary to prevent double payment of the access charges.

3 Sec. 42.05.995. DEFINITIONS. In AS 42.05.800 - 42.05.995,

4 (1) "local exchange carrier" means any carrier certificated
5 to provide local telephone services;

6 (2) "long distance carrier" or "long distance telephone
7 company" means any carrier certificated to provide long distance tele-
8 phone services;

9 (3) "long distance telephone service" or "long distance
10 service" means intrastate, interexchange telephone service.

11 * Sec. 3. AS 29.35.070(a) is amended to read:

12 (a) The assembly acting for the area outside all cities in the
13 borough and the council acting for the area in a city may regulate,
14 fix, establish, and change the rates and charges imposed for a utility
15 service provided to the municipality or its inhabitants by a utility
16 that is not subject to regulation under AS 42.05 unless that utility
17 is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is
18 exempted under regulations adopted under AS 42.05.810 from complying
19 with all or part of AS 42.05.010 - 42.05.721.

20 * Sec. 4. AS 29.35.070(a) is repealed and reenacted to read:

21 (a) The assembly acting for the area outside all cities in the
22 borough and the council acting for the area in a city may regulate,
23 fix, establish, and change the rates and charges imposed for a utility
24 service provided to the municipality or its inhabitants by a utility
25 that is not subject to regulation under AS 42.05 unless that utility
26 is exempted from regulation under AS 42.05.711(a) or (d) - (k).

27 * Sec. 5. AS 42.05.711(d) is repealed and reenacted to read:

28 (d) The commission may exempt a utility, a class of utilities,
29 or a utility service from all or a portion of this chapter if the

1 commission finds that the exemption is in the public interest.

2 * Sec. 6. AS 45.50.572(d) is amended to read:

3 (d) AS 45.50.562 - 45.50.596 apply to long distance telecommu-
4 nications services provided by public utilities. AS 45.50.562 -
5 45.50.596 do not apply to other services provided by public utilities
6 that [WHICH] have been issued a certificate of public convenience and
7 necessity under AS 42.05.

8 * Sec. 7. AS 45.50.572(d) is repealed and reenacted to read:

9 (d) AS 45.50.562 - 45.50.596 do not apply to public utilities
10 that have been issued a certificate of public convenience and neces-
11 sity under AS 42.05.

12 * Sec. 8. AS 42.05.800, 42.05.810, 42.05.820, 42.05.830, 42.05.840,
13 42.05.850, 42.05.860, and 42.05.995 are repealed.

14 * Sec. 9. LEGISLATIVE INTENT FOR SECTIONS 10 - 12. The legislature
15 intends that if, by administrative or judicial order, this Act is deter-
16 mined on or before September 4, 1990, to be substantially similar to only
17 one of the initiatives, 89-ALAS or 89-TELE, or to neither of those initia-
18 tives, the provisions in this Act providing for competition in the pro-
19 vision of long distance telephone service shall be repealed, so that both
20 initiatives shall appear on the ballot for the voters to consider.

21 * Sec. 10. NOTIFICATION. The lieutenant governor shall notify the
22 revisor of statutes immediately after September 4, 1990, of the determina-
23 tions taken concerning the initiatives, and of the existence and status of
24 litigation concerning the placement of the initiatives on the ballot.

25 * Sec. 11. Sections 1 - 3, 5, 6, 9, and 10 of this Act take effect
26 immediately under AS 01.10.070(c).

27 * Sec. 12. Sections 4, 7, and 8 of this Act take effect November 4,
28 1990, only if on September 4, 1990, there is a judicial or administrative
29 determination in force under art. XI, sec. 4 of the Constitution of the

1 State of Alaska that this Act is substantially similar to (1) one, but not
2 to both, of the initiatives on file with the lieutenant governor relating
3 to competition in long distance telephone service, Initiative 89-ALAS and
4 Initiative 89-TELE, or (2) neither of those initiatives. For purposes of
5 this section, a "determination in force" includes either an administrative
6 decision that is not subject to judicial appeal, a final judicial resolu-
7 tion, or an interim judicial order under which the lieutenant governor is
8 directed to print the general election ballots in accordance with a ruling
9 that this Act is substantially similar to only one of the initiatives or to
10 neither of the initiatives.

ECI
EC A → post subcom.
OF COMMISSION
RD
Against
COURT RUL
AS7 Amendm.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An act relating to intrastate telecommunications competition
 Sponsor: Steve Frank
 Requestor: Senate State Affairs Comm.

Agency Affected: Commerce & Economic Dev.
 BRU: Alaska Public Utilities Commission

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|----------|----------|----------|----------|----------|----------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|----------------|----------|----------|----------|----------|----------|----------|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------|----------|----------|----------|----------|----------|----------|

| | | | | | | |
|----------------|----------|----------|----------|----------|----------|----------|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------|----------|----------|----------|----------|----------|----------|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|----------|----------|----------|----------|----------|----------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Although enactment of CS for SB206 will generate an incremental workload increase, it is the Commission's intent to reorder its programs and priorities to accommodate these new demands within existing staff limitations.

Prepared by: Peter Sokolov, Chairman
 Division: Alaska Public Utilities Commission

Phone: (907) 276-6223
 Date: 5/3/90

Approved by Commissioner: Larry Marculieff
 Agency: Department of Commerce & Economic Development

Date: _____

Distribution (by preparer):

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

Item 3

May 2, 1990



**General
Communication
Incorporated**

The Honorable Pat Pourchot
Alaska State Legislature
Capitol, Room 504
P. O. Box V
Juneau, Alaska 99811

Dear Senator Pourchot:

On behalf of GCI, I want to thank you for your tremendous efforts regarding CS 206 (attached). GCI supports CS 206 as introduced on May 2, 1990, subject to the following representations being made by both GCI and Alascom:

(1) GCI will not seek, nor support, any amendments or direct or indirect changes to the May 2, 1990 version of CS 206. We will withdraw our support of CS 206 if such amendments or changes are made, and ask you and others to do the same. Furthermore, we will withdraw our support of CS 206 if any attempt is made to amend the APUC's regulatory authority through other bills this year.

(2) GCI supports the finding that CS 206 is substantially similar to 89-TELE and 89-ALAS. In this regard, we will not challenge in court, or elsewhere, a determination that CS 206 is substantially similar to both initiatives. Conversely, if a determination is made that CS 206 is not substantially similar to either initiative or to both initiatives, we will challenge that determination in court and argue that CS 206 is substantially similar to both initiatives. Furthermore, if any third party challenges the substantial similarity of CS 206 to either or both initiative, we agree to intervene in the lawsuit to support the position that CS 206 is substantially similar to both initiatives.

(3) We will not challenge the legality, including the constitutionality, of CS 206. If any third party challenges the legality of CS 206, we agree to intervene in the lawsuit and support the position that CS 206 is legal.

(4) We agree to meet with members of the State Senate and House to communicate the representations contained in this letter at your earliest convenience.

Again, thank you for your outstanding and crucial role in developing CS 206. We look forward to working with you in the future on overseeing its effective implementation.

Sincerely,

Ron Duncan
President

Item 4

John E. McGill
Executive Vice President
& General Manager



May 2, 1990

Senator Pat Pourchot
Chairman, Senate State
Affairs Committee
Room 504
State Capitol Building
Juneau, Alaska 99811

Re: The Intrastate Long-Distance Telephone Competition Bill (CS 206)

Dear Senator Pourchot:

This letter supersedes the similar letter I sent to you earlier today. GCI has asked for additional comfort from Alascom, and I am happy to give it.

As I said earlier, I have reviewed the telephone competition bill carefully, including the change to section 810(b) proposed this morning.¹ Alascom wants to compete and believes that this bill will permit competition. Alascom supports the bill and makes the following commitments to you and the legislature:

1. Alascom will not, directly or through a third party, attempt to amend the bill. If amendments are made, Alascom will withdraw its support for the bill. Alascom will also withdraw its support if the APUC's regulatory

¹Section 810(b) contains a provision keyed to facilities owned by long-distance telephone companies on May 1, 1990. Alascom does not know every place in the state where, on May 1, 1990, companies other than Alascom owned and operated facilities to provide interstate long-distance message telephone service. Alascom believes that GCI on May 1, 1990, owned and operated such facilities in Anchorage, Fairbanks, Juneau, Ketchikan, the Kenai-Soldotna area, the Mat-Su area, and Eagle River. GCI may have owned and operated facilities in other places. If necessary, the APUC can determine what other facilities were owned and operated on May 1, 1990, by companies other than Alascom

Senator Pat Pourchot
May 2, 1990
Page Two

authority is changed this year by other bills which affect the purpose, spirit, or intent of this bill.²

2. Alascom will not challenge the legality, including the constitutionality of the bill. If anyone challenges the legality of the bill, Alascom will intervene in the lawsuit and support the legality of the bill.
3. Alascom agrees with and will support the legislative finding that the bill is substantially similar to the initiatives 89-TELE and 89-ALAS. Alascom will not challenge this finding in court or elsewhere and will contest any finding that the bill is not substantially similar to both initiatives.

Senator, I sincerely thank you for your interest and concern. Your efforts have been invaluable, and we deeply appreciate your support.

Sincerely,



John E. McGill
Executive Vice President and
General Manager

whm

²Bills have been introduced which change the APUC's authority but which either do not affect or are consistent with this bill.