

HB

81

Kodiak Electric Association, Inc.

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Box 787
KODIAK, ALASKA 99615

To UNS
Committee
for their
files!
A

April 27, 1999

The Honorable Alan Austerman
Alaska State Legislature
State Capitol, Room 434
Juneau, AK 99801-1182

Re: HB 81, HB 174, and IIB 169

Dear Representative Austerman:

You have asked for comments on IIB 81 and its potential effect on Kodiak Electric Association, Inc. I would also like to provide comments on IIB 174 and IIB 169 for your reference.

HB 81. This bill proposes a new section in AS 42.05 (the Alaska Public Utilities Commission Act) which would be entitled "Electric Consumer Protections," but is in fact legislation setting up the outline of a restructured competitive electric utility industry. Several sections in this legislation are already incorporated within the existing AS 42.05. For instance, Section (c), requiring deferred payment plans for electric customers unable to pay their bills, is already fully dealt with by the APUC in its regulation 3 AAC 52.445. The remainder of this legislation is premature in that it deals with issues raised by a restructured electric utility industry in a competitive environment before the legislature has fully studied the problems associated with such a restructuring. This is not to say that some type of legislation such as this may not be an integral part of such a restructuring, but only that it is premature at this time.

HB 174. This bill would amend the Electric and Telephone Non-Profit Cooperative Act to restrict the right of electric cooperatives only to enter into personal services contracts of a term of greater than one year. This legislation could have a devastating effect upon non-profit electric cooperatives such as KEA. Electric cooperatives employ CFOs, lawyers, engineers, and other consultants using personal services contracts, many of which extend beyond one year in duration. It is especially critical, in an era when the electric utility industry may be transitioning toward a more competitive environment, that electric cooperatives, such as KEA, have the ability to attract and retain key professional employees. This proposed legislation would make it very difficult for boards of directors to make employment offers to qualified candidates. It is ironic that this legislation is being proposed only for electric cooperatives where the board of directors is elected by the members/consumers to conduct the business and affairs of the cooperative. If the cooperative's

Representative Alan Austerman
April 27, 1999
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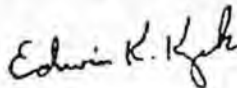
members are unhappy with the board of directors' decisions, they are, of course, free to elect new board members. Once elected, however, the board should be free to carry out its fiduciary duty to act in the best interest of the cooperative, and the cooperative's membership should not be involved in day-to-day decision making.

HB 169. This bill again attempts to regulate only electric cooperatives and specifically does not deal with other types of utilities such as investor-owned and municipally owned utilities which might be in competition with cooperatives. This would have the impact of putting electric cooperatives such as KEA at a competitive disadvantage in a restructured electric industry environment. In fact, this bill goes even further and attempts to "re-regulate" electric cooperatives whose members have chosen to become exempt from regulation by the APUC through a process earlier enacted by the legislature of the State of Alaska. If this bill is enacted, electric cooperatives whose members have voted to remove the electric cooperative from APUC regulation will again become subject to the APUC's review of the cooperative's rates. For electric cooperatives such as KEA which continue to be regulated by the APUC, this legislation is unnecessary because the APUC already has in place regulations dealing with lobbying and promotional expenses. If passed, this legislation would put KEA at a severe disadvantage in a competitive environment. Experience in the telephone industry has shown that privately owned utilities are perfectly willing to spend tremendous amounts of money in lobbying the legislature for legislation which they feel is to their competitive advantage, amounts of money which cooperatives in all likelihood will never be able to match. It is important, however, that cooperatives such as KEA be allowed to get their and their members' story before the legislature early in any move to restructure the electric utility industry toward a more competitive environment.

I would be happy to meet with you at your convenience to discuss this or any other legislation in more depth. If you have any questions or would like more specific examples of how the above proposed legislation would affect KEA, please feel free to give me a call.

Sincerely yours,

KODIAK ELECTRIC ASSOCIATION, INC.



Edwin K. Kozak, P.E.
General Manager

EKK:lka

cc: Board of Directors
Kodiak Electric Association, Inc.

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

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May 4, 1999

Representative Bill Hudson, Chairman
House Special Committee on Industry Restructuring
State Capitol
Juneau, Alaska 99801-1182

Recd
5/5/99

SUBJECT: Committee Substitute for House Bill 81

Dear Representative Hudson:

First, I want to thank you and the other committee members for your receptiveness to my input on HB 81. I am very appreciative of your diligence in attempting to protect the public interest, and I am certainly aware of the complexity of electric utility restructuring. This knowledge leads me to conclude just how difficult an issue this is in rural Alaska and, to a large degree, accounts for my caution when approaching restructuring. I believe I have some idea how much damage could be effected in the rural utility service areas by opening up those areas to competition while rural utilities are still in the process of attempting to build infrastructure and deliver electricity to some customers for the first time.

At your invitation, I have reviewed the bill and the committee substitute again. I have marked up the committee substitute in a manner that I hope reflects my concerns. The following brief discussion further summarizes my concerns:

1. This bill creates new categories of suppliers called electric service providers, aggregators, distributors, and suppliers. Those terms are not defined in this bill nor are they defined in the Alaska Public Utilities Commission Act. I believe it would be appropriate to define these terms somewhere in the proposed legislation.

2. These new categories of suppliers appear to be subject to a different type of restriction called licensing. The meaning of licensing is undefined and would appear to be implicitly something less than being required to provide a Certificate of Public Convenience and Necessity as are public utilities. I believe that if the intent is to permit some form of electric supplier to provide electricity within a service area, that supplier should be subject to the same certification requirements as any other utility, and further, there should be a determination of public need prior to granting such a certificate. At the risk of belaboring the point, anyone selling

Committee Substitute for House Bill 81

May 4, 1999

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electricity should be subject to all of the requirements of the APUC Act (AS 42.05) that apply to electric utilities.

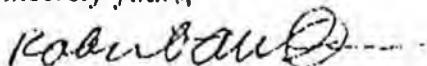
3. The terms "technically feasible" and "reasonable costs" are sufficiently vague to create the potential for future disagreement. Regulated electric utilities are required to file tariffs outlining their service rules and policies with the Commission. These tariffs necessarily include standards as well as line extension policies regarding the provision of electric service. Following the comments in paragraph 2 above, it would stand to reason all electric service providers should be required to have these same tariffs on file with the Commission. Making all electric service providers subject to the requirements of AS 42.05 would accomplish this.

4. Every effort should be made to shore up the exemption of rural utility service areas from the invasion of new providers. I cannot over emphasize the impact on a small, rural utility if an outside entity comes in and provides service only to its larger load customers. In CVEA's recent experience with Alaska Power Systems' efforts to serve our largest customer, Petro Star Valdez Refinery, the results would have been devastating. Our study showed the loss of this customer would have necessitated a 13.8% increase to remaining customers. This practice, which has been referred to as cream skimming or cherry picking, is the beginning of the end for the remaining customers and can only result in higher rates for those remaining customers. Consequently, I propose that you insert a limitation on the size of service area in which a competitive electric service market could exist or, alternatively, firmly protect those cooperatively owned utilities who have gained exemption from APUC regulation under AS 42.05.711. I am sure there are other approaches. I do not presume to speak for other utilities, but in my view, only the larger urban service areas could withstand the impact of losing large loads and suitably engaging in a competitive marketing process in a restructured environment.

I am aware that a very substantial study has been undertaken by CH2M Hill in behalf of the APUC and the Legislature on the whole issue of restructuring. I genuinely believe that is the only proper approach to addressing the numerous and complex issues of restructuring. To my knowledge, state after state within the contiguous United States have undertaken the issue of restructuring only after comprehensive study. I am concerned that this bill and others like it may introduce the subject of restructuring in a piecemeal fashion before adequate study has been undertaken.

In closing, I want to thank you again for your close attention to this thorny and complex issue. Should the committee choose to move the bill forward this session I could certainly support it with proposed changes. I would be more than pleased to respond to questions you may have if you feel it appropriate.

Sincerely yours,



Robert A. Wilkinson
Chief Executive Officer

CS FOR HOUSE BILL NO. 81(URS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring the Alaska Public Utilities Commission to adopt regulations to
2 provide standards of operation and consumer protection in a competitive electric
3 service market; and providing for an effective date."

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

5 * **Section 1.** AS 42.05 is amended by adding a new section to read:

6 **Sec. 42.05.226. Electric consumer protections.** (a) As part of any general
7 proceeding to investigate electric industry restructuring, the commission shall establish
8 by regulation, for those utilities subject to economic regulation by the commission,

9 (1) consumer protection standards to protect consumers in a competitive
10 electric service market;

11 (2) licensing requirements for electric service providers operating in a
12 competitive electric service market;

13 (3) procedures for the prompt, effective, and low-cost resolution of
14 consumer complaints against electric service providers operating in a competitive

1 electric service market;

2 (4) minimum safety standards and service criteria for electric service
3 providers operating in a competitive electric service market; and

4 (5) penalties for electric service providers operating in a competitive
5 electric service market who fail to comply with the requirements of this chapter.

6 (b) The consumer protection standards adopted under (a) of this section must
7 require electric service providers operating in a competitive electric service market to

8 (1) provide consumers with free basic information and free or
9 reasonably priced educational materials to enable consumers to compare the price,
10 quality, supplier service record, and terms of service offered by the electric service
11 provider with the offerings of other providers in the market; the commission shall
12 establish by regulation the information that must be provided without charge; that
13 information must include

14 (A) the name of the provider and information about how to
15 communicate with the provider, including emergency contact numbers;

16 (B) the type of service plans available and the cost of each type
17 of service plan;

18 (C) the procedure to change electric service providers;

19 (D) the area in which a provider sells its product;

20 (E) basic information on the provider itself, including the
21 number of years it has been in business and the number of customers it serves;

22 (2) offer electric service to any consumer in the area served by the
23 electric service provider so long as providing the service is technically feasible at a
24 reasonable cost to the provider;

25 (3) provide the same electric service choices and pricing options to all
26 consumers;

27 (4) maintain information and records, including records concerning
28 individual electric use patterns, about the electric service provider's consumers as
29 confidential records; if the electric service provider has both a regulated component
30 and an unregulated component, the provider shall keep the records of customers of one
31 component confidential from the provider's other component; however,

1 (A) an electric service provider may report information to the
2 commission so long as the information does not identify directly or indirectly
3 an individual consumer;

4 (B) information may be released to an alternate electric service
5 provider at the written request of the customer; for purposes of this
6 subparagraph, an alternate electric service provider includes a regulated or
7 unregulated component of an electric service provider that is otherwise not
8 entitled to have access to the information;

9 (5) meet the minimum safety standards and service criteria established
10 by the commission;

11 (6) meet its advertised terms and conditions;

12 (7) refrain from imposing unreasonable terms and conditions, including
13 service connect or disconnect fees, as a precondition to providing service that meets
14 generally accepted industry standards to a consumer in a competitive electric service
15 market.

16 (c) The commission shall adopt regulations to require electric service providers
17 operating in a competitive electric service market to continue to provide electric
18 service to residential consumers who demonstrate that economic hardship has
19 prevented payment in full of a delinquent bill. The regulations may require the
20 consumer to agree to a reasonable deferred payment plan and to comply with the plan.

21 (d) The commission shall adopt regulations to require a supplier or an
22 aggregator operating in a competitive electric service market to meet minimum
23 standards for certification as a condition of market entry. The commission shall, by
24 regulation, adopt the standards for certification; these standards must explicitly provide
25 for reliable and safe electrical power.

26 (e) The commission shall, by regulation, provide that an electric service
27 consumer in a competitive electric service market may receive only one periodic
28 billing for the provision of electric service to a location. The bill must set out
29 information in a clear and concise manner so that the consumer is informed about the
30 components of the bill, including charges associated with generation, transmission,
31 distribution, stranded cost allocation, universal service, and customer service. An

1 electric service provider that handles the billing for a customer shall permit other
2 electric service providers that supply, aggregate, or distribute electric power to the
3 customer to include information in the bill at nondiscriminatory rates.

4 (f) The commission shall, by regulation, require that, in a competitive electric
5 service market, a customer's electric service provider may only be changed with the
6 written authorization of the customer.

7 (g) The commission shall, by regulation, require reports from electric service
8 providers who are participating in a competitive electric service market and establish
9 the contents of the reports.

10 (h) In this section,

11 (1) "competitive electric service market" means a market or program
12 in which retail electricity customers are offered a choice of electric service provider,
13 whether on a permanent or limited basis or under a pilot program;

14 (2) "electric service provider" means a person or entity, including a
15 utility, a broker, a marketer, a wholesaler, or an aggregator, seeking to provide or
16 providing electric service to the public, or a portion of the public, whether or not for
17 compensation.

18 (i) This section may not be applied to result in a utility that is not otherwise
19 subject to economic regulation by the commission becoming subject to economic
20 regulation by the commission.

21 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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4/26/99

CS FOR HOUSE BILL NO. 81()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson

A BILL

FOR AN ACT ENTITLED

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2 provide standards of operation and consumer protection in a competitive electric
3 service market; and providing for an effective date."

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7 establish by regulation

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9 electric service market;

10 (2) licensing requirements for electric service providers operating in a
11 competitive electric service market;

12 (3) procedures for the prompt, effective, and low-cost resolution of
13 consumer complaints against electric suppliers, aggregators, and distributors operating
14 in a competitive electric service market;

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(4) minimum safety standards and service criteria for electric service providers operating in a competitive electric service market; and

(5) penalties for electric service providers operating in a competitive electric service market who fail to comply with the requirements of this chapter.

(b) The consumer protection standards adopted under (a) of this section must require electric service providers operating in a competitive electric service market to

(1) provide consumers with free basic information and free or reasonably priced educational materials to enable consumers to compare the price, quality, supplier service record, and terms of service offered by the electric service provider with the offerings of other providers in the market; the commission shall establish by regulation the information that must be provided without charge; that information must include

(A) the name of the provider and information about how to communicate with the provider, including emergency contact numbers;

(B) the type of service plans available and the cost of each type of service plan;

(C) the procedure to change service providers;

(D) the area in which a provider sells its product;

(E) basic information on the provider itself, including the number of years it has been in business and the number of customers it serves;

(2) offer electric service to any consumer in the area served by the electric service provider so long as providing the service is technically feasible at a reasonable cost to the provider;

(3) provide the same electric service choices and pricing options to all consumers;

(4) maintain information and records, including records concerning individual electric use patterns, about the electric service provider's consumers as confidential records; if the electric service provider has both a regulated component and an unregulated component, the provider shall keep the records of customers of one component confidential from the provider's other component; however,

(A) an electric service provider may report information to the

1 commission so long as the information does not identify directly or indirectly
2 an individual consumer;

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4 at the written request of the customer; for purposes of this subparagraph, an
5 alternate service provider includes a regulated or unregulated component of an
6 electric service provider that is otherwise not entitled to have access to the
7 information;

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9 by the commission;

10 (6) meet its advertised terms and conditions;

11 (7) refrain from imposing unreasonable terms and conditions as a
12 precondition to providing service to a consumer in a competitive electric service
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1 customer to include information in the bill at nondiscriminatory rates.

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4 written authorization of the customer.

5 (g) The commission shall, by regulation, require reports from electric service
6 providers who are participating in a competitive electric service market and establish
7 the contents of the reports.

8 (h) In this section, "competitive electric service market" means a market or
9 program in which retail electricity customers are offered a choice of electric service
10 provider, whether on a permanent or limited basis or under a pilot program.

11 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



Municipal Light & Power

April 27, 1999

Chairman Bill Hudson
Vice-Chairman John Cowdery
Members of the House Committee on Utility Restructuring

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Re: Testimony of Municipal Light & Power on HB 81- Consumer Bill of Rights

Honorable Representatives:

Municipal Light and Power supports the intent and purpose of HB No. 81 and believes that consumer protection is a matter of central and critical importance in any effort to restructure electric service markets. As the current draft of the CH2M Hill "Study of Electric Utility Restructuring in Alaska" notes, misdirected restructuring efforts can impact consumers adversely in terms of the availability, cost, and reliability of electric power.

The concept of equitable sharing is not the focal point of a competitive market. Those with the most information and the greatest ability to interpret and react to that information tend to win... Since the most likely time for generation shortages would be on the coldest days in the winter or the hottest days in the summer, low income residential customers who heat or cool with electricity could face a dilemma.[Study at 7.7]

The proposed bill begins the process of insuring that as restructuring moves forward, consumers' interests are not left behind, to the inequities of the marketplace.

In that spirit, ML&P notes the following considerations and recommendations in connection with HB 81. These observations are intended to enhance the scope or effectiveness of the proposed legislation, in furtherance of the public interest concerns motivating its sponsorship.

1. Though critical components in the restructuring equation, the provisions of HB 81 do not (and do not purport to) address all elements which the Commission must address to successfully investigate electric restructuring. This fact is made clear by the CH2M Hill Study, which outlines the broad array of matters

- including those in HB 81 - which require examination. Accordingly, ML&P recommends that proposed Sec. 42.05.226(a) be amended to read:

***Sec. 42.05.226. Electric consumer protections.** (a) As part of any general proceeding or proceedings to investigate electric industry restructuring, the Commission shall establish by regulation [etc.]

2. At least one would-be electric service provider has already asserted that it is not subject to the jurisdictional powers of the Commission concerning utility service provisioning. The proposed legislation, HB 81, uses various terms at various points, e.g., "electric service providers" [(a)(2)], "electric suppliers, aggregators, and distributors" [(a)(3)], and "supplier or an aggregator" [(d)]. To ensure full protection for consumers, ML&P recommends that the phrase "electric service supplier" be uniformly utilized throughout the proposed legislation and that the following amendment be adopted:

*(f) For purposes of this section, "electric service provider" shall mean any person or entity, including but not limited to a utility, a broker, a marketer, a wholesaler, or an aggregator, seeking to provide or providing electric service to the public or any portion thereof, whether for compensation or otherwise.

3. The experience in telecommunications restructuring, as well as in those few jurisdictions which have undertaken electric restructuring, clearly demonstrates that more consumer data is not the same thing as more consumer information. As CH2M Hill notes,

Equipping all customers with the education and technological capacity to fully participate in markets characterized by changing hourly electricity costs could easily overwhelm any savings likely to result from the introduction of competition into the industry. [Study at 7.7]

While not disagreeing with the direction of the draft provisions, ML&P believes that any legislative intent accompanying HB 81 should make clear that the goal of the legislation here is clarity, not volume, of information, and that the costs of such information are recoverable from the rates charged to consumers.

4. ML&P has received CH2M Hill's written comments on HB 81, addressing five numbered items. ML&P believes that items 4 and 5 in those comments deal more with competition and competitive structures than with consumer protection, and are neither properly nor effectively addressed here by minor amendments to HB 81.

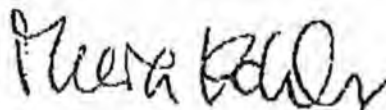
Competition produces benefits where it promotes reduced costs of service. In seeking to inject issues concerning "customer proprietary network information" (as the 1996 Telecommunications Act describes it) and access to billing and other "back office" support systems, CH2M Hill's comments open very broad topics with implications far beyond consumer protection. ML&P believes CH2M Hill's Study fully supports this view when it asserts:

But the path from the traditional electric power business to the more competitive industry of the future is strewn with issues and obstacles, some of which may resist resolution and movement more stubbornly than is commonly assumed today. The issues may include disagreements over the rules and procedures that should govern access to transmission and distribution facilities; the division of regulatory authority between federal, state, and local government agencies; protection of all customer classes; new demands for more stringent environmental protection; and a number of questions related to cost allocation, cost recovery, and system reliability. How these issues are resolved will control the pace and scope of change in the industry and, in turn, will answer the overarching question of increasing concern: "What are the potential risks, benefits, and impacts of electric utility industry restructuring on all Alaskan consumers and the economy of the State as a whole?" [Study at 1.1-1.2; emphasis added].

As can be seen, consumer protection is an important piece, but only one piece, of the total puzzle. The other parts, requiring 15 pages of summarized "Recommendations" in the Study, also require thoughtful attention, in the manner proposed by the Study. ML&P supports the CH2M Hill Study's concept of methodical investigation and implementation of the issues. That approach, here, suggests that competitive issues be reserved for separate commission and legislative actions, and not be lightly and superficially injected into an otherwise sound piece of legislation on a different subject.

ML&P appreciates the opportunity to provide these comments and recommendations and stands ready to further support the work of the Special Committee and the sponsors of HB 81.

Respectfully submitted,



Maera Kohler
General Manager