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Alaska State Legislature

UTILITIES RESTRUCTURING COMMITTEE

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DRAFT

March 22, 2000

The Honorable Ted Stevens (Frank Murkowski)
United States Senate
522 Hart Building
Washington, D.C. 20510

Dear Senator Stevens,

The House Special Committee on Utilities Restructuring supports the provisions in S. 422 (Murkowski) that would enable the State of Alaska to assume Federal Energy Regulatory Commission (FERC) licensing responsibilities for 5-megawatt or smaller hydroelectric projects in our state. We understand that the bill, which was passed by the Senate last year, is scheduled for a hearing March 30, 2000, before the Energy and Power Subcommittee of the House Commerce Committee.

As the Alaska legislature's committee charged with issues directly related to electric power development and structure in Alaska, we are encouraging communities and the utilities that serve them to develop renewable resources, especially where those resources will displace high-cost diesel generation on which so many of our rural areas are dependent. In committee testimony as well as individual conversations, we have learned that the FERC licensing process is so expensive and time-consuming that some small hydro projects are greatly delayed or simply not pursued.

S.422 will enable the State to develop an equivalent licensing program, with no diminishment in environmental requirements or oversight, but at less cost and less delay. Jurisdiction would not transfer until the State program is approved by the various federal departments and agencies that are involved in federal hydro licensing through FERC.

Given great distances between our small, remote communities, their dependence on oil-fired generation, the fact that our rural utilities are not interconnected to each other, (much less to the interstate system), and the availability of low-impact hydro resources, the Alaska provisions of S. 422 will be of immense value. There is no question that much-needed economic development in rural Alaska will be enhanced by this legislation.

Your continued support and effort toward passage this year of S. 422 will be greatly appreciated.

Sincerely,

Rep. Bill Hudson, Chair

Rep. John Cowdery, Vice-Chair

Rep. Brian Porter
Speaker of the House

Rep. Joe Green
Majority Leader

Rep. Pete Kott

Rep. Ethan Berkowitz
Minority Leader

Rep. Norman Rokeberg

Rep. John Davies



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AGENDA

Wednesday, March 22, 2000

Capitol 120

8 a.m.

1. Draft Letter in support of S.422
2. HB 248 ...relating to consumer choice for electric energy in Alaska, by Rep. Pete Kott

Public testimony limited to 3 minutes per witness.

3. HB 169 ...relating to including the costs of expansion activities and political activities in rates of electric cooperatives, by Rep. Joe Green

Public testimony limited to 3 minutes per witness.

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Cramer

2/1/00

CS FOR HOUSE BILL NO. 248()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIRST LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVE KOTT****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to consumer choice for electric energy in Alaska; and providing
2 for an effective date."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 **FINDINGS.** (a) The legislature finds that

7 (1) electric energy should be provided competitively wherever possible;

8 (2) technological advances, reduced costs, and increased consumer choice for
9 electric energy resulting from the adoption of an appropriate competitive market structure will
10 enhance the state's economic ability to compete for jobs in the national and international
11 marketplace;

12 (3) competition in the generation of electric energy will ensure that electric
13 markets are operating efficiently and that Alaska-based businesses benefit from market prices;

14 (4) retail customers should be given the right to choose their electric power

1 supplier so that competitive pressure is placed on both wholesale power suppliers and
2 wholesale purchasers, including resellers, to revise or terminate existing long-term power
3 supply contracts as needed to competitively meet retail customer needs; independent energy
4 producers in a competitive market should be encouraged; the ability to sell energy in the
5 wholesale market is important to economic development in Alaska; co-generation facilities
6 must continue to be free to sell energy and not be restricted to avoided cost methodology; and

7 (5) all classes of consumers should realize the benefits of consumer choice in
8 electric energy.

9 (b) In providing for competition in the electric energy market, the Regulatory
10 Commission of Alaska shall

11 (1) provide for retail consumer choice in urban areas no later than
12 September 1, 2001, by adopting regulations allowing consumers to choose among competitive
13 electric providers; and

14 (2) oversee consumer choice in electric energy to ensure that the competition
15 among electric providers is fair to consumers and electric providers.

16 (c) Because of the unique nature of the non-interconnected rural utilities in Alaska,
17 restructuring discussions and policy options focused on the Railbelt utilities are not appropriate
18 for non-interconnected utilities and communities.

19 * Sec. 2. AS 42.05.141(a) is amended to read:

20 (a) The Regulatory Commission of Alaska may do all things necessary or
21 proper to carry out the purposes and exercise the powers expressly granted or
22 reasonably implied in this chapter, including

23 (1) regulate

24 (A) every public utility engaged or proposing to engage in a
25 utility business inside the state, except to the extent exempted by
26 AS 42.05.711; and

27 (B) power aggregators and power marketers as provided in
28 AS 42.05.905 - 42.05.930;

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

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

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

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

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

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

* Sec. 3. AS 42.05.221(d) is amended to read:

(d) Except as provided in AS 42.05.905 - 42.05.930, in [IN] an area where the commission determines that two or more public utilities are competing to furnish identical utility service and that this competition is not in the public interest, the commission shall take appropriate action to eliminate the competition and any undesirable duplication of facilities. This appropriate action may include, but is not limited to, ordering the competing utilities to enter into a contract that, among other things, would [:]

(1) delineate the service area boundaries of each in those areas of competition;

(2) eliminate existing duplication and paralleling to the fullest reasonable extent;

(3) preclude future duplication and paralleling;

(4) provide for the exchange of customers and facilities for the purposes of providing better public service and of eliminating duplication and paralleling; and

(5) provide such other mutually equitable arrangements as would be in

the public interest.

* Sec. 4. AS 42.05 is amended by adding new sections to read:

Article 10A. Competitive Electrical Service.

effs
late
Sec. 42.05.905. Retail choice. (a) No later than September 1, 2001, retail customers in urban areas shall be permitted to purchase electric power service from an electric public utility power aggregator or power marketer of the customer's choice.

(b) No later than July 1, 2001, the commission shall adopt regulations that

(1) provide for the calculation and allocation of component costs for Railbelt utilities in a rational and uniform manner (unbundling and cost allocation);

(2) encourage rationalization of access to the transmission system to create a nondiscriminatory open access network while ensuring reliability;

(3) eliminate the oversight of generation siting and construction to further enhance the expansion of a wholesale competitive market with new merchant generators; and

(4) allow consumers in an urban area to choose their electric provider.

(c) By January 1, 2002, the commission may adopt regulations to allow consumers outside of an urban area to choose their electric provider.

(d) In carrying out this section, the commission shall adopt regulations to ensure that

(1) the reliability, quality, safety, and integrity of the electric system continues in place;

(2) all classes of consumers have an opportunity to benefit from choice;

(3) consumer protections are sufficient;

(4) electric providers that are public utilities account for their generation operations and assets separately from other operations and assets;

(5) to the extent that a public utility is vertically integrated, the utility functionally separates its electricity supply, retail transmission and distribution, and regulated and unregulated retail energy services operations in the state;

(6) public utilities are required to

(A) prevent undue discrimination in favor of their own power supply, other services, divisions, or affiliated interests, if any;

1 (B) prevent any other forms of self-dealing that could result in
2 noncompetitive electricity prices to customers; and

3 (C) grant customers and their electricity suppliers access to the
4 public utility's retail transmission and distribution systems on a
5 nondiscriminatory basis at rates, terms, and conditions of service comparable
6 to the use of the retail transmission and distribution system by the public utility
7 and the public utility's affiliates;

8 (7) generation, transmission, and distribution services and costs are
9 unbundled in those service areas opened to competitive electric providers;

10 (8) equal access to unbundled transmission and distribution lines at just
11 and reasonable rates is available so electric providers may participate in a competitive
12 electric energy marketplace;

13 (9) if competition exists within a service area, the commission may not
14 regulate the rates for service within the area of competition;

15 (10) carrier of last resort obligations are fulfilled; and

16 (11) costs stranded as the result of consumer choice are recovered.

17 (e) The commission may not order a public utility to divest itself of any
18 generation assets or prohibit a public utility from divesting itself voluntarily of any
19 generation assets.

20 **Sec. 42.05.910. Recoverable stranded cost.** The commission may not
21 recognize the loss of revenue under wholesale power contracts in existence on or after
22 the effective date of this section between generation and transmission and distribution
23 cooperative electric utilities as a recoverable stranded cost. The commission may not
24 require a public utility to terminate, void, or modify an existing power sales agreement
25 that has been previously approved by the commission or by the former Alaska Public
26 Utilities Commission. The commission may not recognize as stranded investments any
27 assets acquired in anticipation of retail wheeling or retail electric customer choice and
28 may not recognize as a stranded investment an asset acquired after 1995.

29 **Sec. 42.05.915. Regulation of power aggregators and power marketers.** (a)
30 A power aggregator or power marketer that is not a public utility is subject to
31 regulation by the commission only as provided in this section.

(b) The commission may adopt regulations concerning power aggregators and power marketers it considers to be in the public interest. The regulations must require

(1) registration with the commission;

(2) bonding sufficient to protect the power aggregator's or power marketer's customers in the event of default of the power aggregator or power marketer; and

(3) a price cap for retail electric energy equal to the rates charged by the carrier of last resort for a similar electric load.

Sec. 42.05.920. Application of AS 42.05.905 - 42.05.930 to areas. Except as provided in AS 42.05.905(c), AS 42.05.905 - 42.05.930 apply only to an urban area.

Sec. 42.05.930. Definitions for AS 42.05.905 - 42.05.930. In AS 42.05.905 - 42.05.930,

(1) "carrier of last resort" means the public utility certified to provide electric distribution in the consumer's service area;

(2) "consumer choice" means the choice of a wholesale or retail consumer to choose among competitive electric providers;

(3) "electric provider" means any public utility, power aggregator, power marketer, or similar entity that sells electric energy;

(4) "power aggregator" means an entity that purchases and takes title to electric energy for resale;

(5) "power marketer" means an entity that acts as an agent or intermediary in the purchase of electric energy but does not take title to the electric energy;

(6) "recoverable stranded cost" means a cost that a public utility subject to economic regulation by the commission would be allowed recover as either a transition surcharge or other recoverable rate category;

(7) "urban area" means those electric service areas located in a municipality that are served by interconnected electric utilities.

* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

Sponsor Statement HB 248

Electric competition has been the subject of two major studies jointly funded by the legislature with the Alaska Public Utilities Commission. Both Black and Veatch and CH2M Hill have submitted final reports to the Legislature. The House has formed the Special Committee on Utility Restructuring to deal with utility restructuring. It is the sponsors desire to bring the issue forward to the next logical step and hold hearings on electric competition in the form of HB 248.

The sponsor has no preconceived ideas on what form electric competition should take, if any. The concept does deserve an airing out by the Legislature. The sponsor worked with two companies that have advocated electric competition in the railbelt, Aurora Power and Chugiak Electric. HB 248 is a result of that collaboration.

This is a complex subject and the electric industry can best describe the bill. That there is little consensus within the industry on electric competition only makes the Legislature's task more difficult.

Testimony on 248 will help the members in understanding some of the following public policy issues:

- Wholesale competition
- Retail Competition
- Stranded costs
- Electric wheeling
- Carrier of last resort
- Independent power producers
- Co-generation
- Role of power marketers & power aggregators
- Relationship between lower cost and reliability
- Potential new technologies

Sectional Analysis
HB 248
"D" Version

Section 1. Findings section

Section 2.

Line 27 adds regulatory oversight by the Regulatory Commission of Alaska of power aggregators and power marketers.

Section 3.

Line 16 technical change necessary for Section 4.

Section 4.

Adds a new section that allows for retail electrical competition

Page 4 lines 4-6. Provides for an effective date, and allows for consumer choice in selecting their electric service provider.

Page 4 lines 7-15. Describes the role of the Regulatory Commission of Alaska in the new competitive market.

Page 4 lines 16 & 17. Would allow for rural competition by January 1, 2002, if the commission allowed.

Page 4 lines 18 through Page 5 line 16. Further refines the issues that the RCA will be required to address.

Page 5 lines 20-28. Provides for recoverable Stranded Costs. This is a complex issue, and is at the core of a level playing field for the competitors.

Page 5 lines 29 through page 6 Line 8. Specific language regarding the regulation of power aggregators and power marketers.

Page 6 lines 9 & 10. Restricts competition to urban areas, unless allowed by the commission.

Page 6 lines 11- 28. Definitions section.

Section 5. Effective date of the act.

March 22, 2000

Honorable Bill Hudson, Chairman
Special Committee on Utility Restructuring
Alaska House of Representatives

Re: HB 248

Honorable Committee Members:

Thank you for the opportunity to address this committee on the very vital subject of the future of the electric utility industry in Alaska.

Since 1997, Chugach Electric Association has been engaged in a strenuous effort to leap-frog the logical processes leading toward restructuring of the electric industry by advocating the immediate imposition of full retail competition in the Anchorage area.

They will tell you today that it is an easy process and the time is now – that two years and more have been frittered away studying and that Anchorage rate-payers are foregoing millions of dollars in savings for each year of delay.

HB248, as introduced on the last day of the first session of this legislature, contemplated moving in the direction of eventual retail competition by first instituting wholesale competition; by next ordering an unbundling of rates and cost allocation; by then considering a retail competition pilot program and, finally, retail competition.

Since this bill was introduced, further forays have been made into restructuring in the Lower-48 and valuable lessons have been learned about the complexities and dangers of deregulation. One of the critical problems that has been identified is that of the physical limitations of the transmission system. In recent months, attention has begun to focus on very significant reliability problems that have emerged. This in an interconnected system hundreds of times the size and capacity of Alaska's.

Another issue that has engendered animated debate in the Lower-48 is the discussion of mitigation of market power. During these debates, the fundamental discussion focuses on whether a 20,000 MW or 30,000 MW or 50,000 MW market is large enough to limit market power to acceptable levels. These debates never even consider the possibility of a 700 MW competitive market. It is also noteworthy that CH2M Hill, the consultant that delivered last year's report on restructuring in Alaska found the issue of market power to be of significant concern.

Congress has been grappling with a myriad of restructuring bills for the last few years. It is clear that no comprehensive electricity restructuring bill will be enacted at the federal level this year.

The sponsor's substitute HB248 presented today is a thinly disguised effort by Chugach Electric Association to advance their agenda of launching retail competition in Anchorage while they are still able to leverage their market power to full advantage.

Additionally, the new language disallowing stranded cost recovery for assets acquired after 1995 very clearly targets the \$125 million gas field that ML&P purchased in 1996.

ML&P has already, before this Committee and in numerous other forums, strongly supported a considered, structured approach to competition in our electric industry. We believe that this legislature and the Regulatory Commission have given this important issue the critical scrutiny that it merits. Not a minute of the time spent has been wasted and a lot more remains to be done. The drama of deregulation as it is playing out in the Lower-48 is revealing lessons that we don't need to learn again through potentially disastrous first-hand experience.

I urge this Committee to not succumb to the pressure of a few selfish or misguided voices that seek to profit at the expense of thousands of silent consumers.

Thank you,

Meera Kohler
General Manager

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT

REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
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March 23, 2000

The Honorable Bill Hudson, Chair
House Electric Utility Restructuring Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: ²⁴⁸HB 284

Dear Representative Hudson:

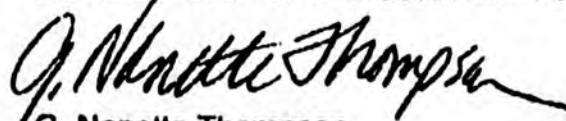
²⁴⁸
This is in response to your request for information from the Regulatory Commission of Alaska (RCA) regarding HB 284. The RCA does not support passage of this legislation this year. We urge your committee to consider this bill next session.

In order to provide the legislature with a well-informed recommendation about how a competitive market could be structured to benefit consumers, the RCA needs to know what the current costs are for the affected utilities. We do not have enough information yet. Most of the major electric utilities have not been before the Commission for a review of their rate structure for many years. The RCA has scheduled rate cases for all of the Railbelt utilities (with the exception of Copper Valley Electric Association, which is not economically regulated) before the end of 2000. While processing these rate cases, the RCA will gather the detailed information about the industry and its cost structure necessary to provide an informed opinion on this subject. We can give you better advice about the potential impact of making the electric markets competitive on customers and rates after we have finished these cases.

If you have further questions or need additional information, please contact me at (907) 276-6222.

Sincerely,

REGULATORY COMMISSION OF ALASKA


G. Nanette Thompson
Chair

INTRODUCTION

My name is Gene Bjornstad. I am General Manager of Chugach Electric Association, Inc.

Chugach is a member owned cooperative and I am pleased to speak on behalf of our member-owners in favor of HB 248 because it advances in a cautious and safe way the idea of allowing customers to choose from whom they purchase their electricity.

But before I get into the specifics of the bill, I would like to make a few general comments.

WHAT THE CUSTOMERS WANT

First, when I say that I am pleased to speak on behalf of our members, I do not say that lightly. We know what our members want and I can tell you with a high degree of confidence that we do speak on behalf of our members when we say that they want to have a choice of suppliers.

And, we know that the polling we have done of our members (and of ML&P's members across town in Anchorage, I might add!) is consistent with what we have been reading of other polls taken in other parts of the country.

Examples:

1) a March 9, 2000 PRNewswire report indicating that a nation-wide survey performed by Public Opinion Strategies for the Electric Consumers' Alliance shows that 77 percent of American consumers support competition in the electric utility industry.

2) a poll taken in early November 1999, commissioned by Edison Electric Institute, which is a large trade association with primarily investor-owned electric companies as members, found that 68 percent of the nation's consumers favor having the option to choose their power supplier.

CUSTOMER CHOICE IS THE RIGHT POLICY CHOICE

For the last 3 years, Chugach has been in the enjoyable position of championing the customers' rights to choose. Of course we are confident that it is only a matter of time before the tide – even in Alaska – will turn in favor of letting customers choose. We know it is right because we have learned through deregulation of other industries that increased competition confers significant benefits on consumers.

We also believe that regulation has not generally been able to deliver efficiency and innovation into the industries they regulate. Intuitively, I think we all know that having to please consumers who are free to choose is a challenge that produces better value over the long run.

INACTION IS THE WRONG ACTION

This is why inaction is the wrong action. Each year that passes without customer choice, is a year that the customers are denied the opportunity to benefit from exercising their right to choose. It's a year in which innovation and efficiency are not compelled by the pressures of meeting the customers' expectations. When you allow customers to choose their supplier, choices will develop. When consumers can take their business elsewhere, electric power providers will respond with better service offering, greater efficiency and innovation. As we have said before - and we think the other utilities will reluctantly agree - the mere threat of competition has begun to change the industry here in Alaska. There is already a noticeable change in attitude toward customer service and satisfaction. Our discussions with customers support this.

It is hard to underestimate the importance of the point that inaction is costly. Just because it is difficult to quantify those costs, it would be very wrong to assume there is no cost associated with inaction. For example, it would have been very difficult to quantify the value of competition to customers in the long distance telephone industry before deregulation. Even after deregulation of long distance, it would be difficult to be precise. But I think we all could agree that the innovation of new and valued services are a direct result of competition.

Of course, our situation is a lack of retail competition in the electric industry and it would be difficult to quantify how much value customers will receive when they are allowed to choose their own supplier rather than having the government make that choice for them. But we know the potential is there and every year that passes without the legislature taking a policy stand in favor of customer choice is a year of benefits lost.

My point is: Inaction is a choice too. And it has consequences. If we have learned anything in the last century of economic experimentation, it is that competition and freer markets are generally better for customers than no competition. Delay denies customers these benefits.

We know that regulation will be required to assist with the transition to competition. This is why Chugach has always supported a thoughtful cautious approach. We support the idea of a price cap at least for a few years to allow for a smooth transition. We support consumer protections. This is one of the reasons we support HB 248 because it begins customer choice cautiously with plenty of oversight by the Regulatory Commission.

THE TIME IS RIGHT FOR CUSTOMER CHOICE

Why is now the right time? Let me list some of the reasons:

- We have been studying this for several years now and no one has come up with any terrifying problems though many have tried. We all know that more and more studies just delay a decision. And, that is why those opposed to competition and deregulation continue to advocate more studies and modeling.
- Chugach has been busy at work addressing many of the worries people have raised in this discussion and I will get to some of those issues in a minute.
- The transition can be accomplished in a very cautious, safe and incremental way – as indeed HB 248 does.

HB 248

Let me speak for a few minutes about what action HB 248 proposes.

In a nutshell, it would require that the RCA develop necessary regulations to set up for customer choice by July 1, 2001 so that Customer choice would start in the Railbelt by September 1, 2001

Here are some of the highlights.

- **The bill contains substantial consumer protections similar to those in HB 81 supported by representatives Dyson and Rokeberg - and I might add supported initially by ARECA.**
- **The bill addresses stranded investments. But note well – Anchorage Municipal Light & Power, a major player in this issue has announced that as a result of its purchase of the 1/3 interest in the Beluga River gas field, it has no stranded investment concerns.**

As long as we're on the topic, because Matanuska Electric Association does not own generation, it is not exposed to significant stranded investments. Homer Electric has effectively dealt with its only generation resource and therefore also has no stranded investment.

- **The bill establishes that power marketers or aggregators, while not subject to full regulation as public utilities, are subject to basic consumer protection regulation by the RCA.**
- **Provides authority for the RCA to prevent undue discrimination by vertically integrated utilities in favor of their own retailers.**
- **Gets the RCA out of the business of deciding when and where to site new generation resources.**
- **Caps retail rates offered by aggregators and marketers at the level set by the RCA for carriers of last resort, which are the utilities.**

- Reaffirms authority of the RCA to establish open access tariffs for transmission facilities.

LISTENERS' TIPS

I want to say one last thing in anticipation of the testimony that will follow. You now know a lot more about retail customer choice than you did three years ago. So you are much better equipped to listen critically.

The last time I spoke with you I suggested that you listen for the famous smokescreen word "complex". That's still a good idea because it and words like it are your cue. It's your smoke alarm. You know someone is likely to be blowing some smoke your way soon. "Complex" translates to "let's delay and study it some more."

In addition to that, I suggest that you listen in particular for loose references to the lower 48 problems. Let's not make this more complicated than it needs to be. Practically we are talking about the Railbelt, and the Railbelt system is not particularly complicated.

So my suggestion is that you insist on an explanation of specifically how the concern actually relates to our situation. Insist on hearing exactly how it is likely to happen here in the Railbelt of Alaska.

CONCLUSION

Over the last three years the legislature has had an opportunity to learn what the concerns are about letting customers choose their electric power suppliers. We've been doing our homework. We've made the opening of our transmission system official by our FERC Open Access Tariff. We have opened up to competition a significant portion of sales to Fairbanks by agreement with Anchorage, ML&P and Golden Valley Electric Association. These sales benefit GVEA and ML&P customers.

HB 248 addresses concerns that have been raised by providing for:

- Consumer protections;
- Price cap for residential rates;
- Protection against misuse of ownership and control of essential facilities like transmission lines;
- Protection against stranded investments;
- Level playing field as between public utilities and power marketers;
- Enhanced wholesale competition.

Because HB 248 provides essential protections while establishing a cautious and incremental approach to the transition to customer choice, it merits your close attention and support.

HB 248 is a good vehicle for transition to customer choice.
It is **safe, simple** and it should be implemented now.

SUPPLEMENTAL MATERIALS

Specific concerns raised in the CH2MHill study.

1	Number of Suppliers	What is the minimum number of sellers to ensure a liquid supply market and effectively mitigate price fixing and market collusion?
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We think that if full deregulation of wholesale and large power supply is accomplished that over time, the number of suppliers will increase. It will not happen very fast but it will happen.

If you are worried that competition might decrease the number of suppliers, then a **sunset provision** in the legislation will address this. If there are fewer suppliers and you want to pull the plug on competition after a few years, you can do it.

It is important to keep in mind that what Chugach has been advocating is retail competition. This is because there has been competition for wholesale sales for a long time. Although the RCA does in fact review wholesale power contracts, it has not in the past refused approval of them. This has fostered some competition at the wholesale level.

But if you want to have more robust competition with more power producers participating, you need to move forward with **retail competition**.

2	Number of Buyers	What is the minimum number of buyers to ensure demand responsiveness (demand elasticity and diversity)?
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This is not really a problem. There are over 80,000 meters in the Chugach and ML&P service territories now. That ought to be enough. If the concern is whether there are enough wholesale buyers, that is precisely our point. If you allow all customers to choose suppliers, then it pumps up the competition for the larger sales.

3	System Reliability	How do you structure and manage the transmission system to ensure system reliability and stability?
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This is a red herring. Our transmission system is already structured and managed to ensure system reliability and stability. We do not propose any change to that system although we developed an open access tariff along with fully allocated rates for the use of all transmission in the railbelt. In short, there is no reason to believe that anything will change in the transmission system to compromise reliability.

4	Non-discriminatory Access	How do you structure and manage the transmission and distribution system to ensure non-discriminatory access to all facilities?
5	Transmission Governance	How do you structure and manage the transmission system to balance reliability and nondiscriminatory access?

Our transmission system already provides access to any one who wants it. This can and should continue. In addition, to demonstrate our commitment to open access, we have filed an open access tariff with FERC to cover those areas where FERC could assert jurisdiction and to provide a template for open access contracts and tariffs to be approved by the RCA.

FERC has developed transmission tariffs to ensure non-discriminatory access to all facilities that could be used for transmission and easily adapted to fit distribution. There is no need to reinvent the wheel.

Part of the problem may be our orientation to the lower 48 states where transmission access is a complicated problem. Here it is simple and the parties have a well-established practice of joint use. If someone wants access, they should ask. Our Open Access Transmission Tariff is assurance that access will be permitted on an open and non-discriminatory basis. If necessary we can bring disputes to the appropriate regulatory authority.

7	Price Discovery Mechanism	How do you establish an electronic auction mechanism to accept supply and demand bids to determine a market-clearing price for each of the 24 periods in the trading day?
8	Pricing Information	How do you provide a real time information to all market participants and interested parties about trading volumes and market clearing prices over the course of a trading day?
9	Settlements and Billing	What is the most cost-effective way to coordinate scheduling and arrange delivery of power, and to provide transactions settlement and billing services to buyers and sellers?

The interconnected system is too small to support this kind of a structure. Let's not make this more complicated than it really needs to be. We expect things to work like they have in the past for the short term. When someone has short-term power to sell, they call one of the likely buyers to see if they are interested. Or, if someone needs short term power, they call up someone with generation to see if they have any at the right price. For longer-term transactions, the parties will use contracts to buy and sell. That's it. This is one way that our small system makes it easier for us.

On these three questions, the consultants have a radically different view of how competition could work here. The system is too small to have the kind of electronic spot market the question implies. These kinds of mechanisms are not really appropriate for our system.

A good example of how it already works is the recent bidding process used by GVEA to solicit offers from Chugach and ML&P. Recently, the RCA approved of a settlement between ML&P, Chugach, and GVEA.

The effect of this settlement was to open up a significant portion of the GVEA market to competition. It may interest you to know that ML&P won the first supply bidding under that new arrangement.

10	Market Monitoring and Compliance	Who has the responsibility for monitoring the activities of market participants to detect practices or behaviors that indicate that the markets are being manipulated to the detriment of their fairness or efficiency?
11	Ease of Entry	Under what circumstances will current ownership of generating resources be maintained, or required to be sold to affiliate companies or new market entrants?

First, we should ask the question: Who needs these protections? Our view is that the only ones who arguably need protection are the small customers. We have proposed safeguards for small customers. Other areas of commerce do not need market regulatory structures so why impose one here? Remember, our job here should be to protect customers not existing market participants.

However, as an additional protection, Chugach has suggested in the past and would support again, a review of the initial experience in retail customer choice after a period of years by a blue ribbon committee. If, after review, the legislature decides that it is not going well, you will be free to make remedial adjustments as needed or even to eliminate competition and create exclusive monopolies protected by regulators.

12	Ease of Exit	How do you calculate and allocate stranded costs?
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I have already explained to you why we may not have the stranded investment problem that some people have been claiming. Mainly, ML&P has stated that it has no stranded investment problem by virtue of its purchase of the 1/3 interest in the Beluga River gas field. And MEA and HEA either do not have generation or have wisely taken steps to deal with the generation they have in a way that will not result in stranded investments if competition occurs. So realistically, that leaves GVEA as a possible source of stranded investment claims.

But assuming GVEA was to assert a right to stranded investment recovery, our fundamental premise is this: If you want someone else to pay for it, you must let them use what they pay for. In other words, if you want someone to pay for it, you have to at least give them an opportunity to do something with what you have made them buy.

Look at it from the customer side of the equation. A stranded investment payment is a forced purchase of capacity that the "stranded" utility insists is not useful to them as a result of competition. So our view is, if you are going to make someone pay for it, the one paying for it ought to be able to see if they can make use of it. After all, they've paid for it. Typically when you pay for something you should be able to use it.

A utility that asks to be paid for stranded investments must either sell generation assets outright or on a per kilowatt capacity basis. In the latter event, the entity paying the per kilowatt stranded investment charge should be permitted to accumulate capacity rights and, when a sufficient dispatchable block is accumulated, call for dispatch of that capacity on a non-discriminatory basis.

We feel strongly that we must consider the impact on customers and customers should not be asked to pay owners for capacity that they want to keep and get paid for but won't let anyone use.

Having said this, HB 248 does not get into this question but rather leaves it for the Commission to sort out. We would certainly have no objection to the legislature nipping this in the bud and stating a clear policy rule. The rule should be: if you want to be paid for it, you must either sell it outright or, if you decide not to sell it outright, you have to sell it in small increments and let someone else accumulate it and use it.

Other concerns raised by opponents.

Cherry picking/price cap

The starting point should be that we must look at this question from the perspective of protecting consumers – particularly small consumers.

As currently written, HB 248 has a cap that applies to power marketers and aggregators to prevent price gouging.

If the fear is that a utility faced with lost customers would feel the need to raise prices to its remaining customers, our view is that they would be free to request this of the RCA. It would be very stupid, but they could do it. It would be stupid because they would lose even more customers.

Once again, however, the key question is whether this might hurt customers and the answer is that it would not as they could simply switch to a lower cost supplier.

The utility losing business could presumably request some relief of the RCA by asserting that it has stranded investments. But in order to get this relief, we would expect that the Commission would require either that the utility sell its allegedly stranded capacity, or make capacity available to those who pay for it in the form of a stranded investment charge.

If the concern is that an inefficient utility might be driven out of business, the concern should be reviewed in light of the possible impact on consumers. Certainly one reasonable view is that inefficient suppliers who are unable to meet the needs of their customers should not remain in business. That's how it works for other businesses.

Why should the government be in the business of protecting inefficient suppliers?

Recognize that just because a power producer goes out of business does not mean that service will not be available. As long as people want to buy electricity, suppliers will be there. If a supplier can't do it efficiently, they will sell their assets to a company that can produce more efficiently. This is a good thing.

Finally, however, I do not hold with the doomsayers that say that one of the power generators will go out of business. We think they will become competitors – probably sooner and better than even they think. Look, for example, at the new market we've created for economy power sales to Fairbanks. ML&P won the first round. We hope to win the next, but one thing is certain, it has always been a close fight and one which benefits customers in Fairbanks and Southcentral Alaska.

Power pooling concerns

- A loose pool already exists which has capture the lions share of potential benefits.
- It is not at all clear that pooling is preferable to immediate competition in the Railbelt.
- The full costs of implementing a pool have not been evaluated (there may not be any benefits at all).
 - Costs of renegotiation of fuel contracts.
 - Costs of renegotiating wholesale purchase power contracts.
 - Costs of solving ML&P tax exempt bond problems.
- Who decides which customers pay more so others can pay less?

**TESTIMONY
Of
Norman L. Story, General Manager
Homer Electric Association, Inc.**

Submitted to the

**State of Alaska House of Representatives
Special Committee on Utility Restructuring**

March 22, 2000

Mr. Chairman, and Members of the Committee. I am Norman L. Story, General Manager for Homer Electric Association which serves 24,000-meter locations on the lower Kenai Peninsula in a service area of about 3,000 square miles, a density of about 10 customers per mile.

I appreciate the opportunity to speak before the House Special Committee on Utility Restructuring to discuss HB 248 and why neither version of this bill should be passed. A law that restructures the entire electric utility business in Alaska without first knowing that a change of this magnitude will be in the best interest of Alaskans is very high risk. If the alleged benefits cannot be confirmed with some certainty, HB248 should be set aside until the questions are answered.

Restructuring must yield real benefits. So far, no study conducted in Alaska, including the CH2MHILL, can confirm this outcome. But, retail competition does encourage "cherry picking" the largest consumers from an existing utility, shifting costs to the smaller remaining customers. This results in higher rates for the small consumer. HB248 does not solve this problem.

Deregulation may seriously impact the reliability of electric service in Alaska. Dramatic changes to an industry's infrastructure will also change the way in which the business operates. An erosion of utilities' financial resources results in rethinking how rates of return are re invested and may inhibit the

ability to finance long-term plant maintenance projects. HB248 does not address this problem.

Version 'D' of HB248 leaves in place the existing wholesale power agreements. Homer Electric has binding contractual obligations to purchase wholesale power from Chugach Electric until 2014. The big power suppliers holding long-term purchase power agreements will have an advantage over the smaller utilities if restructuring occurs. HB248 does not solve this problem.

Alaska Regulatory Commission Chairperson, Nanette Thompson, testified before this committee that more time would be needed to fully understand the issues of electric utility deregulation. She expressed that it would be at least a year before the Commission would be knowledgeable and informed sufficiently to make recommendations how to use the CHM21 bill report.

To conclude, the immensity of the industry not to mention the effect on every consumer in Alaska is a good reason to move slowly and deliberately. The RCA must be given the latitude and time to be thorough in their review of the issues. Today, HB248 is not in the best interest of the public.

I would like to thank the members of this Committee for its willingness to hear the issues on this very important subject.

MAR-21-00 TUE 15:52

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Reference: Testimony by Glenn English, CEO National Rural Cooperative Association, to the U.S. Senate Energy Resource Committee, 1998