

SB

72

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FILE

SB 72

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

SENATE FINANCE
COMMITTEE
Amendment Number: #1
Bill Number: SB 72
Sponsor: Taylor Date: 4/23/03
Logged In By: Mindy

AMENDMENT

Sponsored by:
Sen. Taylor

OFFERED IN THE SENATE
TO: CS Senate Bill 72 (L&C)

AS 42.05.381 is amended by adding a new subsection to read:

(k) A telephone utility's proposed depreciation rates shall be allowed under this subsection if the underlying service lives are not shorter than the service lives permitted by the United States Internal Revenue Service to determine the appropriate level of depreciation expense for federal income tax computations. The commission may not require a utility to file a depreciation study unless the utility proposes to use depreciation rates based on service lives that are shorter than the service lives permitted by the Internal Revenue Service.

(l) A telephone utility providing facilities, systems, or services to other telephone utilities pursuant to any state or federal law or regulation shall be allowed to recover costs it expects to incur to provide the facilities, systems, or services, and shall be allowed a reasonable profit. The best evidence of the costs a utility expects to incur shall be its most current costs, adjusted for inflation. Capital and depreciation costs shall rise to reflect increased business risk in competitive service areas and shall be consistent with subsection (k) of this section. If a telephone utility cancels the use of another carrier's facilities, systems, or services, at any time prior to the time when the costs for those facilities, systems or services are fully amortized, the utility canceling the usage shall, within 90 days, reimburse the other carriers for the balance of the capital expenditures incurred by the other carrier as a result of cancellation of the use of facilities, systems or services.

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.
RCA REAUTHORIZATION
April 2, 2003

ARECA's positions regarding reauthorization of the RCA are as follows:

1. Executive Director and Public Advocacy Section.

ARECA supports the creation of an Executive Director or Chief of Staff for the RCA; and ARECA does not oppose transferring the duties of the Public Advocacy Section (PAS) to the Department of Law. ARECA believes these actions can be accomplished administratively without statutory amendment.

2. Alternative rate making procedures for municipal and cooperative electric utilities.

AS 42.05 should be amended to allow alternative rate making procedures for regulated municipal and cooperative electric utilities. This can be accomplished through the addition of one new section to AS 42.05. A draft of that proposed new section (AS 42.05.425) is attached.

Summary of alternative procedures:

- Upon approval of the municipal or cooperative governing body, automatic implementation of retail electric rate decreases and minor retail rate increases (less than or equal to the change in the consumer price index).
- For other proposed electric rate changes when there are other adverse parties in the case, allows the case to be decided by neutral administrative law judges (ALJs) who are experts in electric rate case regulation. The cost of the ALJs are paid directly by the parties, not from the RCA's budget.
- In all other respects (quality of service, billing disputes, disconnection, etc.), these utilities would remain subject to full RCA regulation.

Benefits of alternative procedures:

- Will allow prompt and efficient self-regulation of rate reductions and minor rate increases by responsive governing authorities of municipal and cooperative electric utilities.
- ALJ process will allow more efficient and expert rate case decision-making when multiple adverse parties exist.
- Both procedures will significantly reduce the RCA's caseload by delegating minor and adversarial cases other forums.
- Will allow the RCA to focus its time and resources on other, important cases and duties.

3. Three-year extension of RCA.

If ARECA's recommendations are accepted, ARECA supports a three-year extension of the RCA.

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_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE _____
_____: ____/____/03
_____:

A BILL

FOR AN ACT ENTITLED

"An Act establishing alternative rate making procedures for cooperative and municipal electric utilities regulated by the Regulatory Commission of Alaska; extending the termination date of the commission to June 30, 2006; and providing for an effective date."

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

* Sec. 1. AS 42.05 is amended by adding a new section to Article 4 to read:

Sec. 42.05.425. Alternative rate making procedures for municipal electric utilities and electric cooperatives. (a) An electric utility subject to economic regulation under this chapter that (1) is owned and operated by a municipality or city within the state, or (2) is an electric cooperative organized under AS 10.25, may elect to change its electric base rates under the provisions of this section.

(b) The commission shall, within ten days after the filing of a utility's rate change request, approve on a permanent basis a tariff revision that reduces an electric base rate for retail service without increasing any other electric base rate if the proposed tariff revision is authorized by resolution of the utility's governing body (municipal assembly, city council, or a cooperative's board of directors).

(c) The commission shall, within ten days after the filing of a utility's rate change request, approve on a permanent basis a tariff revision that increases any electric base rate for retail service if

1 (1) the proposed tariff revision is authorized by resolution of the utility's governing body
2 (municipal assembly, city council, or a cooperative's board of directors); and

3 (2) the percentage increase to each electric base rate is less than or equal to the annual
4 percentage change in the Consumer Price Index for Urban Consumers in Anchorage (CPI-U, Anchorage)
5 for the most recent calendar year, as reported by the U.S. Department of Labor, Bureau of Labor Statistics
6 (or other comparable consumer price index adopted by the commission by regulation, if the CPI-U,
7 Anchorage, is not available).

8 (d) For a tariff revision that increases any electric base rate for retail service by a percentage
9 greater than the annual percentage change in the CPI-U, Anchorage, for the most recent calendar year, and
10 for a tariff revision that changes any electric base rate for wholesale service, the filing utility may, at its
11 option, have the tariff revision adjudicated under the alternative procedures set forth in (f) if there is an
12 intervenor with material adverse interests in the case.

13 (e) Prior to initiation of the alternative procedures set forth in (f),

14 (1) the filing utility shall submit its rate change request to the commission in accordance
15 with this chapter and the commission's regulations, including all required supporting information;

16 (2) the filing utility shall file with the commission written notification of its election to
17 have its rate change request adjudicated under the procedures in (f) of this section;

18 (3) any person desiring to intervene as a party regarding the rate change request shall,
19 within ten days after the filing utility files the notification required in (2) of this subsection, petition to
20 intervene; and

21 (4) not later than twenty days after a petition to intervene is filed, the commission shall
22 accept answers to the petition, and issue an order granting or denying the petition to intervene and
23 determining whether the filing utility's rate change request is eligible for adjudication under the procedures
24 set forth in (f).

1 (f) Upon a commission finding that the filing utility's rate change request is eligible for
2 adjudication under this subsection, the rate change request shall be processed and adjudicated by a neutral
3 and qualified administrative law judge or, if agreed upon by all parties, by a panel of an odd number of
4 administrative law judges, under the following rules:

5 (1) To qualify to serve as an administrative law judge under this subsection, an
6 administrative law judge shall be a member in good standing of a state bar association within the United
7 States, have at least five years of experience litigating or adjudicating rate cases of regulated electric
8 utilities, and comply with the restrictions applicable to members of the commission under AS 42.04.060.

9 (2) Within ten days after issuance of the commission order referenced in (e)(4), all parties
10 shall meet to attempt to unanimously agree on a qualified administrative law judge. If unanimous
11 agreement cannot be reached within that period of time, the parties shall select an administrative law judge
12 from a list of ten qualified administrative law judges supplied to the parties by the American Arbitration
13 Association through a striking of names process. The administrative law judge shall be selected within five
14 working days after receipt of the American Arbitration Association list. The parties shall alternate in
15 striking names from the list until one administrative law judge remains, who shall be the administrative law
16 judge under this subsection. The filing utility shall be the first to strike a name from the list. The order of
17 striking for the other parties shall be determined by unanimous agreement among those parties or, if
18 unanimous agreement cannot be reached, through drawing by lot. If a panel of administrative law judges is
19 used, the selection process in this paragraph shall be used for the selection of each panel member.

20 (3) All reasonable and necessary costs and expenses of the administrative law judge or
21 panel and all administrative expenses of the adjudication process shall be borne equally by all parties who
22 are either a certificated utility or an agency of the state.

23 (4) Not later than three days after selection of an administrative law judge or panel, the
24 parties shall submit a joint filing notifying the commission of the selection. Not later than three days after
25 the joint filing, the commission shall serve a copy of all prior orders and pleadings in the case on the

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1 administrative law judge or panel and on all parties of record. The commission shall be placed on the
2 service list for all subsequent pleadings and orders filed and issued in the proceeding.

3 (5) Not later than 30 days after service by the commission of all prior orders and
4 pleadings, the administrative law judge or panel shall issue an order establishing a complete procedural
5 schedule for adjudication of the base rate change request. The administrative law judge or panel is subject
6 to the applicable timelines set forth in AS 42.05.175 and AS 42.05.421, however, when establishing a
7 procedural schedule and adjudicating the rate request, the administrative law judge or panel shall take
8 reasonable steps to ensure issuance of a final order in substantially less time than the maximum allowed
9 under those timelines.

10 (6) In adjudicating the base rate change request, the administrative law judge or panel
11 shall have all of the procedural and substantive powers and duties that apply to the commission and
12 commission members under law, including this chapter, the commission's regulations, and commission
13 precedent, provided, however, that the scope of the administrative law judge's or panel's jurisdiction,
14 powers, and duties is expressly limited to that which is necessary to adjudicate the electric base rate request
15 presented pursuant to this subsection.

16 (7) A party may petition the administrative law judge or panel for reconsideration of an
17 order issued by the administrative law judge or panel.

18 (8) Notwithstanding AS 42.04.080 and AS 42.05.171, the decisions and orders of the
19 administrative law judge or panel under this section are not subject to review by the commission. All final
20 orders of the administrative law judge or panel under this section are subject to judicial review as final
21 administrative orders in accordance with AS 44.62.560—44.62.570. If an appeal is not taken from a final
22 order of the administrative law judge or panel, the administrative law judge or panel may apply to the
23 superior court for enforcement of its orders. The court shall enforce the order by injunction or other
24 process.

1 (9) If an appeal is not taken from a final order of the administrative law judge or panel,
2 the commission shall approve the tariff sheets implementing the rate changes approved and ordered by the
3 administrative law judge or panel.

4 (g) The commission shall adopt regulations as necessary to implement the requirements,
5 procedures, and legislative intent of this section.

6 * Sec. 2. AS 44.66.010(a)(4) is amended to read:

7 (4) Regulatory Commission of Alaska (AS 42.04.010) – June 30, 2006 [2003].

8 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section read:

9 APPLICATION OF ALTERNATIVE RATE MAKING PROCEDURES. The rate making
10 provisions set forth in AS 42.05.425, added by sec. 1 of this Act, apply to all applicable electric base rate
11 change requests filed with the Regulatory Commission of Alaska on or after July 1, 2003.

12 * Sec. 4. Except as provided in sec. 3, this Act takes effect immediately under AS 01.10.070(c).

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

Resolution 03-32

A Resolution Regarding the Sunset Review of the Regulatory Commission of Alaska and Recommended Changes

This Resolution cancels and supercedes Resolution 03-17. ARECA resolves as follows:

I. If the other provisions of this resolution are enacted, ARECA supports extension of the Regulatory Commission of Alaska (RCA) for a period of three (3) years.

II. ARECA supports the creation of an Executive Director or Chief of Staff for the RCA; and ARECA supports transferring the duties of the Public Advocacy Section (PAS) to the Department of Law.

III. ARECA supports the establishment of an Administrative Law Judge (ALJ) option, as described below, for the processing of rate change requests by a cooperative, municipal-owned, or city-owned public utility that is subject to economic regulation by the RCA.

A. Retail service rate changes less than or equal to the annual change in CPI. For a utility's proposed base rate change for retail services that, in total, is less than or equal to the annual change in the applicable consumer price index (CPI) (or other reasonable and known inflation benchmark), the utility's governing body (for a cooperative, its board of directors, and for a municipal- or city-owned utility, its municipal assembly or city council) shall be authorized to approve the proposed, or lower, rate change and forward notice of that approval to the RCA, and the RCA shall approve the tariff sheets implementing that change in rates.

B. Retail service rate changes that are greater than the annual change in CPI. For a utility's proposed base rate change for retail services that is, in total, greater than the annual change in the applicable CPI (or other reasonable and known inflation benchmark), the filing utility may select one of the following two options for the processing and approval of its proposed rate change:

1. Traditional RCA option. Under this option, the rate change request shall be heard and processed under the traditional procedures set forth in AS 42.05 *et seq.*
2. ALJ Option. Under this option, the rate change request shall be heard and processed by an ALJ under the following procedures:
 - a. All ALJ and hearing administrative costs shall be borne equally by all parties;
 - b. All procedures shall be conducted by an ALJ selected by the original parties through a "striking of names" process;
 - c. All orders shall be issued by the ALJ;
 - d. Judicial review shall be by the Superior Court (under the procedures and standards applicable to judicial review of RCA orders); and
 - e. Upon issuance of a final, non-appealable order, the RCA shall approve the tariff sheets implementing the ordered change in rates.

C. Any wholesale service rate changes. For a utility's proposed base rate change for any wholesale services, the filing utility may select one of the two options listed above in B.1. and B.2. for the processing and approval of its proposed rate change.

IV. Implementation and effective date. ARECA intends to propose all proposed statutory amendments deemed necessary to implement the changes set forth above. All of the changes set forth in I. through II. shall be effective July 1, 2003. The changes set forth in III. shall be effective for rate change requests filed on or after the effective date of the enabling legislation.

PASSED AND APPROVED this ____ day of March, 2003.

Dwight Nissen, President

Attest: _____

Alaska Department of Community and Economic Development

Regulatory Commission of Alaska

701 West Eighth Avenue, Suite 300, Anchorage, AK 99501-3469

Telephone: (907) 276-6222 • Fax: (907) 276-0160 • Text Telephone: (907) 276-4533

Website: www.state.ak.us/rca/

TO: Senate Finance Committee

FROM: Dave Harbour, Chairman

SUBJECT: Page of SB 72

DATE: April 23, 2003

We believe it serves the interests of the Legislature, the Administration, regulated industries, and the public, to pass SB 72, without amendment, reauthorizing the critical, continuing work of the Commission. The focus of this legislation should be on whether or not to continue the existence of this regulatory body and if so, for how long. I respectfully offer the following:

Our Report Card:

Utility regulation is complex. Like all other State legislatures throughout the U.S., your predecessors have recognized the need to have an independent, fair, regulatory agency of specialists enforcing the general policies you have enacted through law. Alaska has had a commission since 1960¹, and must have a commission to carry out Federal statutory and regulatory duties delegated to the states, at the very minimum. Beyond that, the commission balances valid utility and pipeline needs with consumer interests in a deliberative public process subject to judicial review.

The Legislature can be confident that in spite of inevitable special interest complaining, the Commission's report card is close to a 4.0.

- Docket caseload has been reduced from over 500 at the agency's reformation in 1999, to 376 at the end of last year, to approximately 200 today. Deadlines were statutorily mandated last year and are consistently being met.
- Since the Legislature reformed the Commission in 1999, we have issued over 2,000 substantive orders. Of these, only 16 have been challenged in the courts.
- Our Commissioners represent a variety of legislatively sanctioned professional backgrounds, and are accountable through the political process. We have no incentive other than to make fair decisions, which are subject to judicial review. I am impressed with our exceptional employees.
- We can only do what you tell us to do; we are guided by our statutes and our due process mandates. To the extent that the Legislature accommodates aggressive lobbying changes, our independent, objective, *ex-parte*-protected forum could be diluted.

¹ The Alaska Public Service Commission was created in 1959. First Commissioners took office in 1960. The APSC's first decision was issued in 1964. In 1970, the Legislature created the Alaska Public Utilities Commission. The Regulatory Commission of Alaska was created by the Legislature in 1999.



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Under Alaska's Sunset laws, agencies are periodically reviewed to ensure that their functions continue to be valid. Our 2001 and 2002 Legislative Audit report cards reinforce that the RCA is doing a good job, and we have accepted the auditors' suggestions for improvement. The sunset provision should not be used as a convenient vehicle for special interest legislation.

In 1999, Senator Drue Pearce encouraged fellow legislators to resist the urge to continually make adjustments to the RCA, to allow the restructured commission to coalesce. With Governor Murkowski's recent changes, that is still good advice.

Cooperative Alternatives:

We are confident a majority of the Legislature would not want reauthorization to be held hostage to last-minute changes to regulatory statutes. The Commission would like the opportunity to work with regulated industries to develop sound legislation.

- RCA needs to be given the time to fully integrate the important changes to the agency that are already underway. Governor Murkowski appointed two new commissioners and issued Executive Order 111. In wake of Commissioner Abbott's June 1 retirement, the Governor will be making another appointment. We need your support to continue our work and focus on our substantial caseload and the administrative achievements recommended in Legislative audits.
- Your RCA commissioners embrace evolutionary change in our statutes, regulations and administration signaled by changes in the marketplace and technology. This summer the Commission will invite industries and associations to offer suggestions for improvement. We then plan to offer a draft of such improvements for public review prior to submitting them to the Administration and Legislature next Fall...so that citizens and competitors can view them in full light.

Special Interest Legislation:

The Legislature created the RICA to do the specialized work of utility and pipeline regulation that the Legislature itself does not have the time or expertise to do. We regulate through an extensive public process using a staff of expert analysts. My colleagues and I are mindful of the important role of the RCA in ensuring the stable, responsive utility and pipeline infrastructure necessary for economic development in Alaska. The parties before us are often at odds: competing utilities, wholesale and retail customers, carriers and shippers and individual ratepayers.



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All these different entities don't always get what they want. We know the Legislature would not wish to begin changing regulatory statutes yearly to give each lobbying utility or pipeline what it failed to get from the Commission's careful weighing of the issues. Yet that is what some lobbyists are seeking this year.

Deceptively simple proposed amendments quietly circulating in this Capital can conceal a wide array of policy impacts, producing consumer and competition shockwaves throughout Alaska. We stand ready to assist you in identifying such dangers.

Special interest amendments should be considered on their merits in other legislation, preferably next year after the Commission leadership undertakes necessary administrative and policy changes. Most of the requested changes flow from special interests seeking to guarantee financial benefit from the Legislature in lieu of a desired regulatory outcome. Some statutory changes lobbyists are requesting might have a little merit but should be considered administratively. Some may justify further legislative and Commission analysis. Some other changes requested are completely without merit and contrary to the public interest.

If you alter the Commission's authority along the lines some influential lobbyists have suggested, even with the best of intentions you could begin a new process of making myriad, complex regulatory decisions via the legislative process. The Commission's quasi-judicial process is designed to protect all parties' rights. Changes sought here by a half dozen powerful special interests may benefit them, but in some cases, at the expense of their competitors, some of the 300 other utilities, and/or thousands of consumers.

Telecommunications interests alone have circulated a dozen amendment proposals. Telecommunications is probably the most competitive area of business in Alaska--and experiencing the most rapid technological changes. Some proposals may be contrary to Federal statutes or regulations and others have not seen the light of day before being circulated in these halls.

As to pipeline regulatory reform suggestions from the oil lobby, at your request I can provide insight that should halt the heavy political momentum those efforts have engendered in Juneau.

Adding self-interest legislation to our Commission's statutes in the last weeks of this Legislative Session without complete Commission analysis will detract from our substantive work with regulated industries and may create, in a politicized atmosphere, defects that could be easily prevented using the process I described above.

Conclusion:

We believe it is in your interest and the public interest to support the Governor's request to extend the Commission. We recommend you support our desire to work cooperatively with the regulated utilities and pipelines this summer to develop solid recommendations for you. Nothing prevents the Legislature from considering thoughtful legislative changes outside a sunset year. The State's continuing oversight will also be assured via the Alaska Court System, legislative audits, appointments, confirmations and public meetings such as this one. If the Legislature still aims to enact some of these amendments this year--hopefully, in separate legislation--we will be available to assist your staff in avoiding pitfalls.

TESTIMONY OF KRISTI CATLIN
SENATE FINANCE COMMITTEE
SENATE BILL 72
APRIL 23, 2003

Good morning, Senator Bunde and members of the committee. For the record, my name is Kristi Catlin, Director of Government Affairs for AT&T Alascom, with its main business address at 210 E. Bluff Drive, Anchorage, Alaska, 99501.

Thank you for the opportunity to testify at this hearing. As you know, AT&T Alascom, and before that, Alascom, has a long history of providing telecommunications services to the state of Alaska. In fact, it has the longest history of any interexchange carrier in the state today. It is from those very roots, and having witnessed the broad changes in technology and market shift over the years, that we would like to offer our perspective and respectfully make some requests for the legislature to consider.

We believe that both telecom service providers and policy-makers have a two-fold obligation to the constituents of this state. Those are: ensuring that basic telecom services remain affordable to everyone in the state; and providing a regulatory environment that fosters continued investment in the state telecom infrastructure, thereby ensuring that advanced services will reach to all parts of the state.

In the early days, Alascom was the only long distance carrier in Alaska, and as such, the regulated monopoly. Regulations were put in place to ensure that Alascom did not misuse its monopoly power in pricing its services to consumers. In addition, in 1991, when intrastate long distance competition was initiated, additional regulations were developed to ensure that Alascom did not misuse its monopoly power to subvert competition. At the same time, new entrants to the long distance market were granted broad and significant freedoms. And even though the market was highly competitive in 1995 when AT&T bought Alascom, for the most part, it bought a company regulated as though it were a monopoly. As we all know, the regulations governing utilities with a legal monopoly work in two directions: they protect the consumer from unreasonable prices on one side of the equation, and they ensure a reasonable return for the regulated entity on the other side. Without a reasonable return, companies do not invest and services, therefore, do not advance.

Many of the regulations which restrict AT&T Alascom today are vestiges of that monopolistic environment I spoke of previously. However, in this highly competitive marketplace, they do not serve as an incentive for investment – they only serve to add cost and thereby provide a disincentive for investment. As far as protection of the consumer on prices, we have almost 20 years of empirical evidence in the long distance market in the U.S. to show that competition serves the consumer well. In 1984, when AT&T was first broken up, the average discounted corporate minute was around \$.45. Today, the average discounted corporate minute is under \$.045. That's a whole order of magnitude swing. And yet, during that same time period, the long distance industry went from approximately \$9 -10B to about \$90-110B. It was deregulation of the industry and the management of competition that spurred investment. And in 1995, when AT&T fell below 60% market share in the lower 48, the FCC ceased regulating AT&T as the "dominant carrier" and deemed the market for long distance as "competitive".

And yet, here in Alaska, where AT&T Alascom now has 42% of the long distance business (and shrinking), and our largest competitor, GCI, has 46-48% of the long distance business (and growing), AT&T Alascom is still considered the dominant carrier, despite a four-year attempt to get relief from this regulation at the RCA. This regulation

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adds substantially to our cost structure for tracking, journalization, and reporting. It also adds regulatory process that our competitors don't have that keeps us from being competitive in the marketplace. The whole situation really begs a definition for "dominance". Additionally, with the increased costs and inability to compete effectively because of outdated regulations, our ability to attract capital and invest in the network is severely "hamstrung".

I believe that over the next 12-18 months, this state must wrestle with some difficult issues of telecom regulation. At stake is the very survival of an infrastructure that's struggling to keep up with the rest of the country. In a true free market, there is less regulation, not more. And competition, not regulation, becomes the force to shape the market.

I would ask you to carefully and thoughtfully consider the market dynamics at work here, and the definitions of broader market issues such as "dominance" and "competition". I would also ask you to carefully consider your role in mandating an environment that has less regulation, not more, in order to create and maintain incentives to invest in the modern telecommunications infrastructure that all Alaskans desire.

As you consider Senate Bill 72 reauthorizing the RCA, please know that AT&T Alascom could support legislation which would extend the RCA for another 2-4 years, however, as we stated last year - only if the RCA is truly committed to bringing about regulatory reform. Status quo is not an option, if you intend to have a healthy, competitive telecom market and infrastructure in Alaska. We have drafted appropriate language to assist the legislature in defining "dominance," and are submitting it for your consideration.

Thank you, once again for this opportunity to present our testimony. I would be happy to answer any questions you might have.

Proposed Amendments to AS 42.05

* Sec. _____. AS 42.05.810 is amended by adding a new subsection to read:

(d) No long distance carrier shall be regulated by the commission as a dominant carrier in the long distance market if its statewide market share, as measured in intrastate minutes of use, is less than 60 percent, except that the incumbent long distance carrier shall remain the carrier of last resort until the commission orders otherwise.

provided by Kristi Cottin, AT&T 4/23/03

VALLEY REFUSE, INC.
PO BOX 879109
WASILLA, ALASKA 99687
(907) 892-6606

April 18, 2003

Senate Finance Committee

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Ben Stevens
Senator Lyman Hoffman
Senator Donald Olson
Senator Robin Taylor

Senators:

Please support SB 72 and/or HB 111, bills extending the Regulatory Commission of Alaska, with **NO deregulation amendments**. SB 72 is scheduled to be heard on Wednesday, April 23.

Valley Refuse (VRI) is a small, Alaskan-owned garbage utility that has operated in the Mat-Su Borough for over nine years. Valley Refuse competes with Waste Management, Inc. (WMI) a Houston, Texas, based refuse hauler. Waste Management, Inc. is the largest refuse hauler in the United States.

WMI is attempting to deregulate garbage hauling in the State of Alaska. Please support small, Alaskan businesses by defeating this deregulation effort.

- The Regulatory Commission of Alaska (RCA) oversees utilities in the State of Alaska.
- Garbage companies are, by state statute, regulated utilities.
- Regulated utilities are, by state statute, **exempt** from state anti-trust laws.
- The RCA ensures that utility rates charged to the public are fair and equitable and that fair trade practices are followed by utilities operating in competitive markets.

WMI has **attempted to deregulate** refuse hauling repeatedly since they bought the majority of Alaska's refuse utilities four years ago. To date, their efforts have failed.

- Garbage deregulation legislation was defeated in the 1999 legislative session. WMI's representatives admitted, on record, that HB 178, "Deregulation of Garbage Utilities", was "our bill" and "Waste Management had a heavy hand in drafting" HB 178. (Excerpt from House Labor & Commerce Committee meeting minutes dated 4/15/99).
- WMI then filed a petition with the Regulatory Commission of Alaska in August 1999 to deregulate refuse hauling in only the Mat-Su Borough, where VRI is their primary competitor (RCA Docket U-99-99).
- The Regulatory Commission declined to deregulate refuse hauling in the Mat-Su, stating in U-99-99 Order 8, February 6, 2001, "We decline to deregulate either residential or

commercial refuse service. Wasilla Refuse (Waste Management) is much larger and could easily outlast VRI (Valley Refuse) in a rate war. Wasilla Refuse (Waste Management) has the ability to withstand losses for a considerable length of time using its deeper asset base or buoyed by its container operation." (emphasis added U-99-99(8), pg. 8 of 12). The RCA also stated, "We will take steps to ensure that container-related cross-subsidies are not undermining the fragile competitive market in the Mat-Su Borough" (emphasis added U-99-99(8) pg. 7 of 12).

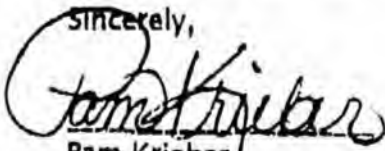
Since their deregulation attempts failed, Waste Management has tried to negatively impact Valley Refuse through various filings with the Regulatory Commission.

- In May 2002, Waste Management, Inc. filed a Revenue Requirement study (RCA Dockets U-00-30 and U-02-47). The document filed had so many "errors" that WMI was forced to redo it. The "errors", had they not been identified, would have resulted in Waste Management's Mat-Su Borough rates being set at predatory, below cost levels.
- In TA10-628, August 2002, WMI filed a tariff revision for an alleged "new" service: residential roll-cart service. This was approved by the RCA; however, Commissioners Will Abbott and Patricia DeMarco filed a dissenting statement, dated August 23, 2002, opposing this tariff revision. They stated, "We believe WMA's filing is a thinly disguised modification of an existing residential pickup service," and "The rates in the Mat-Su Borough where there is active competition are reduced by about 40 percent while Anchorage and Fairbanks have very little change. This appears to be discriminatory, if not predatory pricing." (See RCA file TA10-628, Dissenting Statement of Commissioners Will Abbott and Patricia M. DeMarco)
- WMI appealed recent RCA orders disallowing Waste Management's Involvement in Valley Refuse, Inc.'s Cost of Service Study (RCA Docket U-01-155, Orders 2 & 3). In her response "RCA's Opposition to Motion to Supplement the Record" in Case No. 3AN-02-12714 C.I., Virginia Rusch, Assistant Attorney General, states, "Neither the commission nor this court is required to be blind to the potential that Waste Management may also be able to fatally cripple Valley Refuse by litigating it to death. When an appeal begins with multiple motions over what the appeal can be about before the standard rounds of appeal briefing even begin, this court should seriously ponder whether an 800 pound gorilla is using the court to crush its competitor." (see Case No. 3AN-02-12714 C.I. Waste Management of Alaska, Inc., Appellant, vs. Regulatory Commission of Alaska, Appellee)

As you can see from these examples, Waste Management has had, at best, an adversarial relationship with the Regulatory Commission. Of course, it would be in Waste Management's best interest to be exempt from RCA scrutiny. If this happens, the citizens of Alaska will suffer by paying higher rates for refuse service when all of WMI's competitors are out of business.

The Gollath Waste Management has tried, through many different ways and means, to take market share from the small, Alaskan-owned Valley Refuse. Deregulation language in the RCA Reauthorization bill is another means to their ultimate end. **Please, take a stand for small business. Do not allow Waste Management, Inc. to crush their few remaining competitors by deregulating refuse service.**

Sincerely,



Pam Kriebler
Valley Refuse, Inc.

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
1907) 465-3500
FAX 1907) 465-3532
WWW.GOV.STATE.AK.US

February 18, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
Staet Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would extend the life of the Regulatory Commission of Alaska (RCA) to avoid its termination on June 30, 2003. The bill also includes a provision for an immediate effective date.

It is important to pass this bill before the RCA's termination date. The RCA regulates utilities statewide and intrastate pipelines. The continued operation of the RCA is essential to ensure that Alaskan consumers have reliable and affordable utility services and to assure a stable business environment for utilities and pipelines.

Failure to extend the commission this session would significantly interfere with its work. Though the sunset Act provides for a "wind down" year, the commission would have to redirect its time and energy to plan for closing its operations. Failure to extend the RCA would leave the regulated utilities as well as consumers in a state of confusion and uncertainty.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

**SENATE COMMITTEE REPORT
First Committee of Reference**

DATE: 2/19/03

FURTHER: Finance

Date of 5-Day Notice: 2/20/03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/10/03

Labor and Commerce Committee considered SENATE BILL NO. 72

SB 72 EXTEND REGULATORY COMMISSION OF ALASKA

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 72 (LEC)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
CED	3/7/03	✓		2

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		Do PASS	Do NOT PASS	No REC	AMEND
Davis	<i>Betty Davis</i>	✓			
French	<i>Bill French</i>	✓			
Seekins	<i>Joseph Seekins</i>	✓			
G. Stevens	<i>G. Stevens</i>	✓			
Bunde	CHAIR: <i>Bunde</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 72-EXTEND REGULATORY COMMISSION OF ALASKA

NAME: Pct Davidson Subject/Bill No: _____
Co./Dept./Title: Leg Audit Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓ NAME: Marie Darlin Subject/Bill No: 72
✗ Co./Dept./Title: _____ Phone: _____
Address: AARP Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Rosalee T. Walker Subject/Bill No: 72
Co./Dept./Title: _____ Phone: _____
Address: OPAG/AARP Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓ NAME: Dana Tuidn II Subject/Bill No: 72-RCA
✗ Co./Dept./Title: Sr VP legal & Regulatory Affairs Phone: 907-265-5611
Address: 2550 Denali St Suite 1000 Zip: ANC 99515
Do you wish to testify? Yes No Respond To Questions

NAME: LAURE HARBOUR Subject/Bill No: SB72

Co./Dept./Title: RCIA Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions At Chairmans request

NAME: Eric Youn Subject/Bill No: SB72

Co./Dept./Title: ARECA Phone: 463-3636

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions if appropriate

NAME: Kristi Catlin Subject/Bill No: SB72

Co./Dept./Title: AT&T Mascom, Director Phone: 229-7048

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

Audit Report

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

November 26, 2002



Audit Control Number:

08-20021-03

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us>

BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Lyman Hoffman
Senator Randy Phillips
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair
Representative John Harris
Representative Reggie Joule
Representative Ken Lancaster
Representative Eldon Mulder
Representative Bill Williams (alternate)
Representative John Davies (alternate)

DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA
Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau Fax
(907) 561-1452, Anchorage Fax