SCOMM

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M U N I C I P A L I T Y O F A N C H O R A G E

Rick Mystrom • Mayor

Municipal Light & Power

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April 27, 1999

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

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) <u>As part of any general proceeding or proceedings to investigate electric industry restructuring,</u> 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 "<u>electric service supplier</u>" be uniformly utilized throughout the proposed legislation and that the following amendment be added:

> "<u>(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.</u>

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 tha[n] 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 sustem 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,

Meera Kohler

Meera Kohler
General Manager

HB-81

Page 1, following line 6 after the word regulation, add the words:

"for those utilities subject to economic regulation by APUC"

Page 3, following line 9: Insert a new bill section to read:

(f) Nothing in this section would result in a utility becoming subject to economic regulation by APUC.

HB81

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

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Recd. 430PM 4/27

April 27, 1999

Representative Bill Hudson. Chairman
House Special Committee on Industry Restructuring
MS 3100 State Capitol
Juneau, Alaska 99801-1182

Subject: Testimony for April 28, 1999, Committee Hearing

Dear Representative Hudson

The purpose of my letter is to offer written testimony on several of the bills before the Restructuring Committee I respectfully request that my testimony be entered into the record.

HB 81-Consumer's Bill of Rights

On April 21 I testified in opposition to HB 81 for two reasons First, the CH2M Hill study is presently in draft form with an expected completion date of June 30, 1999. The question of how rural Alaska and how public power in Alaska will be dealt with is very much unsettled The fact that these two critical policy issues have not yet been addressed leads me to conclude that HB 81 is premature at this time The second reason CVEA opposes HB 81 is related to the first. Assuming the policy makers decide competition is right for rural Alaska we believe, as a locally regulated utility, we are much more capable of regulating our economic affairs than is the APUC.

When testifying before the Committee on April 21 I was requested to communicate to you my specific concerns. Having already said we have the cart before the horse, my specific concern is that this legislation affects every electric utility requiring a Certificate of Public Convenience and Necessity and as such should be modified in some fashion If the intent of this legislation is to give the APUC direction to implement a pilot program in the Rail Belt then I think it should say so. CVEA believes this could be effectively addressed by incorporating a definition that clearly defines a competitive electric service market This legislation could be further improved by excluding those utilities that qualify for exemption from APUC regulation under AS 42.05.711. With this latter change, CVEA could certainly support this bill. As I stated on April 21, CVEA salutes Representative Rokeberg's effort to ensure consumer rights are protected in a deregulated environment as both necessary and appropriate

During my testimony on April 21, I was requested to provide information on how, under local regulation, CVEA handles member disputes. I have attached for your review, that section of our Tariff that deals with member complaints.

In addition, I was requested to provide information regarding consumer protections in place at CVEA. When CVEA chose local regulation, we adopted our APUC approved Tariff for use in a locally regulated environment. This 150-page document outlines the rules, regulations, service policies, and rate schedules that CVEA operates under in providing electric service to our consumers. To illustrate the nature of the protections in place, I have also attached a copy of Section 1.4, Tariff Revisions.

HB 174 Personal Service Contracts

CVEA opposes HB 174 for the following reasons:

- The majority of electric cooperatives employ CEOs, lawyers, lobbyists, or other consultants using personal service contracts, many of which extend beyond one year in duration.
- Cooperative directors are bound by duties of loyalty and care to govern their cooperatives under principals of sound business and financial practices.
- Cooperative directors discharge their duties in accordance with Bylaws and policies that limit how the affairs of their cooperative are to be conducted.
- The electric utility industry is transitioning toward a competitive utility environment where the ability to attract and retain key, professional employees will be critical to the future success of the industry. It would appear this bill flies in the face of how co-ops will be forced to do business in the new competitive environment.
- Regulated electric co-ops and their compensation programs are already subject to review by the Alaska Public Utilities Commission, AS 42.05.511
- Public disclosure of the terms of personal service agreements with executives, or other retained personnel of electric cooperatives represents an invasion of privacy of cooperative personnel. In addition, disclosure of this kind is an unrealistic premise which will effectively prevent a cooperative from being able to attract qualified, competent, and professional personnel to co-op industry positions. Furthermore, such a practice will be expensive, time consuming, destructive, and will not result in prudent employment decisions by boards who are charged with the responsibility to govern the affairs of their members with sound and prudent business judgement.
- Statutory changes to require member approval of professional service agreements is unnecessary and will unduly restrict the co-op's ability to compete in the changing electric utility environment.

HB 169 Expansion and Political Activities

CVEA opposes HB 169 for the following reasons:

- The Alaska Public Utilities Commission has broad powers to investigate inappropriate activities by regulated electric utilities.
- Regulated utilities are required to follow specific guidelines as to what costs may be included in their revenue requirement.
- HB169 requires that co-ops, whose members have chosen exemption from economic regulation by the APUC, must now be subject to unnecessary regulation by the Commission.
- Co-op directors and the members who elect them are capable of regulating their economic affairs including the type of costs the co-op recovers in its revenue requirement.
- This bill is counter-productive to the direction the Alaska Legislature is going with respect to competition. HB169 is contrary to the intent of the legislature in moving to a competitive environment in that it requires an announcement to the world of a cooperative's intent of its strategic initiatives, thus rendering its desire to such competition moot.
- Finally, as a practical matter, in the face of industry change and a move toward competition, the notion of restricting political and expansion activities is totally inconsistent. In reality, this bill has the potential to harm customers, precisely in the areas where competition could do the most good, i.e., mergers and consolidations.
- An additional concern of the bill is why are cooperatives and not municipal utilities also, similarly restricted? Municipal utilities represent one-third of the public power entities in the state of Alaska, and accordingly, the fact they are not addressed by HB169 is questionable. Furthermore, why are electric utilities seemingly singled out? If the recent activities by two south-central utilities necessitate this legislation, it would be appropriate to deal with that issue via established regulation rather than passing encompassing legislation which is harmful to other non-offending Alaska cooperatives.

HCR 10-Sale of the Four Dam Pool

CVEA strongly supports passage of HCR 10

Thank you for the opportunity to provide testimony on the foregoing issues of concern to CVEA. I will be available for questions from the Committee on April 28, 1999

Sincerely,

Robert A Wilkinson

Robert A Wilkinson
Chief Executive Officer

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Approved Revision to Tariff Section 6.22, Consumer Complaints

6.22 Customer Complaints

(a) Complaint Process

(1) Any customer who feels that the Association has violated its tariff or has otherwise not accorded him fair and equitable treatment may submit the matter for review under the following procedures.

(2) The complaint will be heard by higher authority only if the following steps have been completed.

(i) If an Association employee is unable to resolve a customer complaint, they shall immediately refer the complaint to the appropriate Department Head, who shall make every reasonable effort to settle the matter within ten working days.

(ii) If the Department Head is unable to resolve the complaint in a timely manner, the customer will be provided with a copy of this policy and asked to put the complaint in writing in a letter addressed to the Association's Chief Executive Officer.

(iii) If the CEO is unable to resolve the complaint within ten working days, the customer may request a formal hearing before the Board of Adjustment.

(b) Hearing Authority and Process

A Board of Adjustment shall be selected for each district of the Association from its respective members. The Board of Adjustment shall consist of five members, any three of which constitutes a quorum, who are not members of the Board of Directors or employees of the Association, or close relatives of same.

The Board of Adjustment shall be selected at random from interested members who have submitted their names for consideration in advance of and/or at the annual meeting. The selection of members will be done at the annual meeting. Board of Adjustment members will be asked to serve voluntarily for a term of two years, without compensation.

The Board of Adjustment shall meet within 30-days of request for a formal hearing from a customer.

The Board of Adjustment shall determine the facts of the complaint, receive testimony from the CEO or his designated representative, and the customer and/or the customer's representative.

(1) The decision shall consist of three parts:
(i) the facts of the complaint,
(ii) the applicable section of the tariff; and
(iii) the ruling on the complaint.

The Board of Adjustment will prepare a written decision within 10 working days after the date of the formal hearing. The customer and the Association will be provided copies of the decision.

(c) Appeal Process

In the event that either the CEO or the customer are not satisfied with the decision of the Board of Adjustment, each may request the matter be placed on the agenda of the next meeting of the Association's Board of Directors, where the customer and the CEO may appear in person to appeal the determination of the Board of Adjustment. Before the meeting, each Director shall be furnished with a copy of the Board of Adjustment's report on the complaint.

The decision of the Board of Directors shall be final.

Approved Revision to Tariff Section 1.4, Revision

1.4 Revision

The Association shall maintain a currently effective tariff, a copy of which shall be available to all members for review at the Association offices. The tariff shall contain the rates, fees, and service policies for providing electric service to the Association's members.

The Association will, upon request from the Board of Directors and/or the Association's Management, provide for the development of recommended changes in the Association's rates, fees, and service policies for providing electric service to its members.

The Board of Directors, in reaching its decision on any changes to the tariff, shall base that decision on the following standards:

(1) The evidentiary record developed through member comment or public hearings.

(2) Any mortgage covenants between the Association and the Rural Utilities Service (RUS), and/or any other financial institution with which the Association has entered into a mortgage or other financing instrument.

(3) The Association's Equity Management Plan.

(4) Fair and nondiscriminatory treatment of all Association members and customer classes.

(5) Rates shall be set to ensure the financial viability of the Association.

(6) A statement by the Association's General Counsel that the proposed change complies with the Association's Articles of Incorporation, Bylaws, and other applicable laws.

(7) The Board of Directors' decision approving or denying changes in rates, fees, charges, schedules, rules, and regulations contained in the Association's tariff shall be final.

(a) Changes to Existing Service Policies

(1) Management shall support any such recommended changes with factual historical operating and accounting data.

(2) Notice to the members will be given at least sixty (60) days prior to the proposed effective date of any changes in service policies.

(3) The proposed change and an explanation of the reason for that change shall be published in the Association's newsletter or included with the Association's billing statement, and/or noticed in a newspaper with general circulation in the service area.

(4) Member comments regarding the proposed change will be heard at a regularly scheduled board meeting at least 30 days prior to the proposed effective date of the change.

The board meeting will provide members an opportunity to make statements or ask the Board of Directors or Management questions about the proposed changes. Members will be allowed to testify telephonically when possible.

(5) Following member comments, the Board may approve the proposed change for implementation within 30 days or, alternatively, may request additional information or further review of the proposed change.

(b) Changes to Existing Rates or Fees

(1) Management shall support any such recommended changes with factual historical operating and accounting data.

(2) Proposed changes shall be supported by historical operating revenues and expenses, together with any known and measurable adjustments to revenues and expenses anticipated for the period during which the rates will be in effect.

(3) Notice to the members will be given at least sixty (60) days prior to the proposed effective date of any changes in rates or fees exclusive of the quarterly fuel and purchase power true up.

(4) The proposed change and an explanation of the reason for that change shall be published in the Association's newsletter or included with the Association's billing statement, and/or noticed in a newspaper with general circulation in the service area.

(5) One or more public hearings will be held in each affected district prior to the proposed effective date of any change. The initial public hearing will be held at least 30 days prior to the proposed effective date of the change.

(6) The purpose of the public hearing is to hear member comments and questions pertaining to the proposed change.

(7) The order of presentation at the public hearing shall be as follows:

(i) A presentation by the Association's Management outlining the reasons for the proposed rate or fee change.

(ii) An opportunity for members to make statements or ask the Board of Directors or Management questions about the proposed changes. Members will be allowed to testify telephonically when possible.

(iii) An opportunity for Board members to ask either Management or any member testifying questions.

(iv) An opportunity for Ma gement to respond to any questions and/or statements made by the mer bers or Board of Directors.

(v) Prior to approving a change, the Board of Directors shall consider the presentation by Management, consultants, auditors, and the testimony, questions, and statements of members and shall issue its decision within thirty (30) days of the close of the public hearings or any continuance of the hearings.

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Cramer/
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

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

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

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

Sec. 42.05.226. Electric consumer protections. (a) The commission shall establish by regulation

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

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

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

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

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

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

(6) meet its advertised terms and conditions;

(7) refrain from imposing unreasonable terms and conditions as a precondition to providing service to a consumer in a competitive electric service market.

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

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

(e) The commission shall, by regulation, provide that an electric service consumer in a competitive electric service market may receive only one periodic billing for the provision of electric service to a location. The bill must set out information in a clear and concise manner so that the consumer is informed about the components of the bill, including charges associated with generation, transmission, distribution, stranded cost allocation, universal service, and customer service. An electric service provider that handles the billing for a customer shall permit other electric service providers that supply, aggregate, or distribute electric power to the customer to include information in the bill at nondiscriminatory rates.

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

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

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

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

1-LS0181\G
Cramer/
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

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

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

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

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

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(7) refrain from imposing unreasonable terms and conditions as a precondition to providing service to a consumer in a competitive electric service market.

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

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

(e) The commission shall, by regulation, provide that an electric service consumer in a competitive electric service market may receive only one periodic billing for the provision of electric service to a location. The bill must set out information in a clear and concise manner so that the consumer is informed about the components of the bill, including charges associated with generation, transmission, distribution, stranded cost allocation, universal service, and customer service. An electric service provider that handles the billing for a customer shall permit other electric service providers that supply, aggregate, or distribute electric power to the customer to include information in the bill at nondiscriminatory rates.

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

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

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

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

Preliminary Assessment of HB 81 fiscal impact on the Commission

HB 81 requires the Commission to adopt regulations to protect consumers in a competitive electric service environment. Staff believes that the regulations the bill will require the Commission to adopt will be significantly different from the current electric regulations. For example, the bill, if passed as proposed would require regulations to prevent disconnection of service if a hardship is proven. The current regulations give an extension of time to certain customers (elderly, handicapped, seriously ill, and in households where someone is on life support). However, the current regulations allow disconnections after 15-30 days.

Staff believes the impact on the Commission will be similar to what the Commission experienced with competition in telecommunications markets. Staff believes it will affect the Commission's workload agency wide, including but not limited to certification/licensing filings, tariff filings and consumer complaints. For example, with local telephone competition, telecommunications applications increased 52% in FY98 over FY97, from 32 telephone certifications in FY97 to 66 in FY98. Tariff filings in the telecommunications area increased by 41% in FY98 over FY97, from 192 telephone filings in FY97 to 323 in FY98. Consumer complaints regarding telephone issues increased by 25% over the same period, from 336 in FY97 to 449 in FY98. Telephone complaints in the first eight months of FY99 have already reached 515, 13% more than the previous 12 months with four months remaining. Certification filings and tariff filings have increased 4% and 7% respectively for the first eight months of FY99.

The rulemaking and implementation aspects will definitely affect the Commission's Consumer Protection Section, Engineering Section, Tariff Section, and Records Section. It will also impact the Commission's Legal Staff, Hearing Officer and Receptionist. Again, Staff anticipates that the impact on the agency will be similar to the impact the agency experienced with the adoption and implementation of the competitive local telephone service regulations. Staff anticipates the following resources to adopt and implement regulations specified in the bill.

Consumer Protection - Staff anticipates the need for a full time Consumer Protection & Information Officer (CPIO) I. The added position would be needed beginning the first year of implementation of the regulations and thereafter. Staff anticipates that CP would experience a similar increase as CP experienced with the implementation of regulations governing local telephone competition. However, the staffing level may vary depending on the extent of the competition. For example, local telephone competition has thus far been limited to Anchorage. Staff's projection is based on electric competition in Anchorage. The bill does not appear to limit the market size. Also, based on Staff's experience with the local telephone competition, Consumer Protection

Section (CPS) should take a proactive approach to electric competition. For example, one component of the bill requires that the suppliers provide consumer education. CPS should be actively involved in the education/information dissemination process ahead of the actual implementation of the regulations.

Engineering - The licensing requirement will require a regulatory proceeding to establish the applicable rules and application procedure. The proceeding will establish the minimum requirements necessary to meet the licensing criteria. Staff anticipates a Utility Engineering Analyst (UEA) II would devote full time to act as docket manager establishing minimum safety standards and service criteria in more than one regulatory proceeding for two years. Once the regulations are in place and the barriers to entry and exit are reduced, the UEA II would review licensing applications for completeness and to do annual reviews to assure the licensees are still providing service beginning with the third year and thereafter.

Tariffs - Staff anticipates that the impact of the adoption of regulations for a competitive electric market will require a half-time Admin. Clerk II. The increased filings anticipated will require the half-time position over four years.

Hearing Examiner - Staff anticipates that a Hearing Examiner (HE) will be required to decide informal complaints that elevate to formal complaints. The bill requires that the Commission adopt procedures to ensure that complaints are decided in a prompt, effective and low-cost resolution process. The current procedures for formal complaint handling are not prompt. Staff anticipates one half-time HE beginning with year one of implementation, continuing thereafter.

Records and Filings - Staff anticipates that Records and Filing (R&F) will need one half-time Admin. Clerk II (Clerk II) to process filings associated with a competitive electric market. The Clerk II will devote half-time to process filings, routing, docket entries, dockets set up, orders, notices, public requests for copies, and mailings.

Human Resources

Consumer Protection	- CPIO I	$44,400
Engineering	- UEA II	64,579
Hearing Officer	- ½ Hearing Examiner	42,900
Records & Filing	- ½ Admin. Clerk II	15,795
Tariffs	- ½ Admin. Clerk II	15,795
Total		**$183,469**

Section I. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.226. Electric consumer protections. (a) The commission shall establish by regulation

1. with consumer protection standards to protect consumers in a competitive electric service market; **[rulemaking - CP, Finance, Engineering]**
2. licensing requirements for electric service providers operating in a competitive electric service market; **[rulemaking - Engineering]**
3. for **prompt,** effective, and low-cost resolution of consumer complaints against electric suppliers, aggregators, and distributors operating in a competitive electric service market; **[rulemaking - CP, Hearing Officer]**
4. minimum safety standards and service criteria for electric service providers in a competitive electric service market; **[rulemaking - Engineering]**
5. penalties for electric service providers operating in a competitive electric service market who fail to comply with the requirements of the chapter; **[rulemaking - Hearing Officer]**

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

(1) provide consumers with free or reasonably priced information and 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; **[rulemaking - CP]**

(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; **[rulemaking - Engineering]**

(3) provide electric service choices and pricing options to all consumers without discrimination; **[rulemaking - CP, Finance]**

(4) maintain information and records, including records concerning individual electric use patterns, about the electric service provider's consumers as confidential records; however, an electric service provider may report information to the commission so long as the information does not identify directly or indirectly an individual consumer; **[rulemaking - CP, Engineering, Tariffs]**

(5) meet the minimum safety standards and service criteria established by the commission; **[rulemaking - Engineering]**

(6) meet its advertised terms and conditions; **[rulemaking - CP, Tariffs]**

(7) refrain from imposing unreasonable terms and conditions as a precondition to providing service to a consumer in a competitive electric service market.**[rulemaking - CP, Engineering, Tariffs]**

(c) The commission **shall** adopt regulations to require electric service providers operating in a competitive electric service market to continue to provide electric service to residential consumers who demonstrate that economic hardship has prevented payment in full of a delinquent bill. The regulations may require the consumer to agree to a reasonable deferred payment plan and to comply with the plan. **[rulemaking - CP, Tariffs]**

(d) The commission **shall** adopt regulations to require a supplier or an aggregator operating in a competitive electric service market to meet minimum standards for certification as a condition of market entry. The commission **shall,** by regulation, **adopt** the standards for certification. **[rulemaking - Engineering, CP]**

(e) The commission **shall,** by regulation, provide that an electric service consumer in a competitive market may receive only one periodic billing for the provision of electric service to a location. The billing **must** set out information in a clear and concise manner so that the consumer is informed about the components of the billing, including charges associated with generation and with transmission and distribution. **[rulemaking - CP, Engineering, Finance, Tariffs]**

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 81

Revision Date/Time (Note if correction)		Dept. Affected	Commerce
Title	Consumer protection in a competitive electric market	BRU	
		Component	Ak Public Utilities Commission
Sponsor	Reps. Rokeberg, Dyson		
Requester		Component Serial No.	364

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	183.5	183.5	183.5	183.5	0.0	0.0
Travel	2.3	2.3	2.3	2.3	0.0	0.0
Contractual	17.1	17.1	17.1	17.1	0.0	0.0
Supplies	4.0	4.0	4.0	4.0	0.0	0.0
Equipment	0.9	0.9	0.9	0.9	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**207.7**	**207.7**	**207.7**	**207.7**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	**207.7**	**207.7**	**207.7**	**207.7**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)	207.7	207.7	207.7	207.7	0.0	0.0
TOTAL	**207.7**	**207.7**	**207.7**	**207.7**	**0.0**	**0.0**

Estimate of any current year (FY99) cost: ______

POSITIONS

Full-time	3.5	3.5	3.5	3.5	0.0	0.0
Part-time						
Temporary						

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

Please see attached narrative.

Prepared by	Robert A. Lohr	Phone	276-6222
Division	APUC	Date/Time	4/20/99 4:27 PM
Approved by Commissioner	[signature]	Date	4/20/99
Agency			

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Mary Ann Pease
Aurora Power Resources, Inc.

April 21, 1999

I would like to take this opportunity to voice my support for HB81-"An Act relating to the provision of electric service in the state; and providing for an effective date."
HB 81 provides a precise and useful summary to address the transitional issues associated with consumer protection as we move forward to a competitive, "customer-Choice" state for electric industry restructuring.

The adoption of retail electric competition will require Alaska to rethink a broad range of issues concerning the provision of basic electric utility service to all customers. HB81 is intended to help state decision-makers respond to one significant part of the overall agenda, referred to as consumer protection issues and concerns. Basically, these issues will redefine the consumer's relationship with his or her energy supplier and redefine the rights and remedies of consumers to obtain and maintain electric service. Consumer protection issues are critical as Alaska moves from monopoly regulation of electric utilities to a competitive market for generation services. Most participants in the restructuring debate agree that the general public will not consider the prospect of theoretically lower prices in the future as a sufficient tradeoff if the new market also means an increase in customer confusion, complaints, and inability to understand and participate in the new market structure. These problems and issues can be addressed and remedied in such a fashion as to expedite and encourage a smooth transition to a competitive electric environment in the Railbelt. In short, consumer protection issues are crucial to the public's acceptance of the new market structure. HB81 is appropriately aimed at Alaska since we have not yet adopted electric restructuring legislation.

While many key decisions that will impact the creation of a competitive market are not the subject of HB81, there are two initiatives that may go far to help stimulate customer interest in these changes and help consumers learn about the move to electric competition. The first initiative looks at how consumers are educated about the move to electric competition. The second initiative focuses on giving consumers the tools to enter the competitive market and make an informed choice.

Most residential and small business consumers routinely pay their monthly electric bill without much attention to their regulated rates or their load profiles. Indeed, recent research reveals that most consumers do not know their annual energy usage or the price paid per kWh on their utility bill. The purpose of a comprehensive public education program would be aimed at maximizing public participation in the implementation of retail competition, minimizing customer confusion about the changes being undertaken in the electric industry, and equipping all customers with the means to participate effectively in a competitive electric market.

Consumer research has confirmed that the public wants comparative price information. Focus groups and surveys in New Hampshire and Massachusetts of customers who participated in pilot electric competition programs documented confusion with the lack of standardized pricing statements and a call for state regulation to provide standard price disclosures. "As a result of this experience, the utility commissions in New England have worked together to develop a model uniform Electricity Disclosure Label and a more detailed Terms of Service document for the sale of electricity to residential and small commercial customers to be used by suppliers marketing in the New England region," issues that our APUC will undoubtedly have to contend with as well.

The move to retail electric competition will probably require the APUC to redefine the role of the local utility. For many years the local electric utility has had a monopoly on the generation, distribution and transmission of electricity. Now policymakers must decide what portion of this vertically-integrated industry must remain subject to monopoly regulation and what portion should be open to competition. The distribution function will remain a monopoly in all states that have adopted electric restructuring legislation to date. This means that the local poles and wires used to deliver electricity will not be duplicated. In some states, the distribution function will continue to include billing, metering and customer service functions, but in other states these attributes will also be opened to competition.

Obligation to Serve

The duty of the distribution utility will change from an obligation to serve to a duty to provide access to the electric grid on a nondiscriminatory basis. Under this approach, the distribution utility will continue to provide line extensions and assure connection to the local distribution system.

- Default Service

  Every state that has considered the implications of a move to retail competition in the sale of electricity has determined that a Default Service option (also referred to as the "Standard Offer" or "Basic Service") must be provided to a customer who does not choose a competitive supplier for generation services. In other words, customers will be assured a continuous source of electricity even if they do not choose a new supplier. There is a sound argument that this "Utility of Last Resort" could be competitively bid rather than remain the responsibility of the current distribution provider.

Most states have required the distribution utility to provide generation services to Default Service customers. This approach, often accompanied by rate caps or rate reductions for all customers, raises concerns about market power in a newly created competitive market. Other states have responded to this concern by mandating that the distribution utility obtain generation for this service by a competitive bid.

A distribution utility will remain responsible for most aspects of power quality because of its retained ownership of the distribution system, that is, the poles and wires that deliver electricity to each customer's home and place of business. Therefore, a distribution utility will remain responsible for service reliability (outages, their frequency and duration), installation of service (service drops, as well as line extensions in previously unserved areas), disconnection of service, complaint resolution concerning distribution services, change-orders for customer-supplier relationships and billing and collection for at least distribution charges and perhaps for suppliers as well. Electric restructuring legislation in several states has reaffirmed the duty of distribution utilities to maintain service quality and reliability in the transition to a new industry structure and has linked that obligation to the use of Performance-Based Ratemaking (PBR) in setting rates for distribution services.

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

P.O. BOX 45, GLENNALLEN, ALASKA 99588
(907) 822-3211 FAX 822-5586 VALDEZ (907) 835-4301 FAX 835-4328

April 20, 1999

E-mail. wilkinson@cvea.org

Representative Bill Hudson, Chairman
House Special Committee on Industry Restructuring
MS 3100 State Capitol
Juneau, Alaska 99801-1182

SUBJECT: Testimony on House Bill 81

Dear Chairman Hudson:

The purpose of my letter is to provide written testimony on House Bill 81 I understand the Utility Restructuring Committee will hear this bill on April 21, 1999. I respectfully request my testimony be read into the record and that it be provided to other committee members. Glennallen will be teleconferenced as a site for this hearing, and I will be available to answer questions from the committee should they so desire.

Copper Valley Electric Association opposes HB 81 for two primary reasons.

The first reason CVEA opposes HB 81 has to do with the Legislature's consideration of changing public policy toward the electric utility industry. Alaska cooperatives have done business under the regulated monopoly structure in this state for over 50 years. Now established electric utilities are faced with doing business in a new competitive environment with many more questions than answers. I am sure policy makers would agree the subject of electric utility industry restructuring, is, at present, very unsettled. Should some form of restructuring go forward in Alaska, it is clear appropriate consumer protections will be required.

However, what is not clear at this point is how rural Alaska will be addressed. Moreover, from reading the CH2M Hill draft report, I note page 1 5 (a map of the Railbelt and Copper Valley Electric service areas) that leads me to wonder just where our 3,300 customers fit into the equation. While we are on the state highway system, we are isolated electrically in that we are not interconnected to the Railbelt transmission grid.

Copper Valley has had considerable recent experience with the threat of competition from independent power producers. These experiences are the subject of two open dockets at the

Public Utilities Commission. Although this information was provided to the consultant, I was dismayed to find that these issues were not addressed in the 300-page report. Frankly, in my judgment, the draft study does not even scratch the surface of how rural utilities could be impacted by restructuring.

In addition to the foregoing concerns, it is unclear how the Legislature plans to address public power utilities in general. This is a public power state. As I understand the past deliberations of this committee, that fact was to be addressed and factored into the policy decisions by the Legislature as they contemplated this important issue.

The fact that these major public policy considerations have not been thoroughly reviewed, not to mention resolved in any meaningful way, leads me to the conclusion that the regulatory requirements set out in HB 81 are premature at best, at least for rural utilities.

The second reason CVEA is opposed to HB 81 is because we are locally regulated as opposed to APUC regulated in regard to our economic affairs. As part of preparing to do business in the emerging competitive electric utility industry, last year CVEA took advantage of the opportunity that is available to Alaska's electric and telephone cooperatives organized under AS 10.25 to choose exemption from the requirements of AS 42.05. Specifically, AS 42.05.711(h) allows cooperatives to exempt themselves from the requirements of this chapter, save Article 3 which addresses Certificates of Public Convenience and Necessity. Gaining this exemption requires utilities to conduct an election to pose the following question to the membership: "Should CVEA be exempt from regulation by the APUC?"

Last fall 36% of CVEA's membership voted on the preceding question, and the question was answered in the affirmative by 67% of the members who voted. During our campaign for deregulation, we represented to our members the importance of doing business in the new competitive environment. The members expressed concerns about how CVEA would deal with complaints, rate changes, Tariff changes, and, in general, that there would not be an appellate body to the APUC. CVEA responded by adopting our APUC approved Tariff as the rules and regulations we would follow under local regulation and by implementing a procedure whereby the members are assured of a public process to deal with rate and Tariff changes.

It is important for you to understand that the CVEA Board's decision to undertake this election effort was twofold. First, we saw the changing electric utility environment, and second, we viewed the APUC as incapable of dealing with the impending change. With all due respect to the Commission and their Staff, it was CVEA's opinion that we could react more timely and proactively to the changing environment without the benefit of economic regulation by the APUC.

HB 81 amends Article 3 of AS 42.05, which I noted earlier is still applicable to all public utilities requiring a Certificate of Public Convenience and Necessity whether or not they are economically regulated by the APUC. As such, this bill places new regulation back upon CVEA, which under 42.05.711(h) we were able to avoid.

Pending further study by the committee on the restructuring issue, which we understand is ongoing, it would be premature to act on HB 81. CVEA respectfully requests that no action be taken on this bill at this time.

Thank you for the opportunity to place my testimony on the record.

Sincerely,

Robert A. Wilkinson

Robert A. Wilkinson
Chief Executive Officer

\\gkennsorv\support\word\raw\hb81 testimony doc

 Utilities Restructuring Committee
HB 81

Subject: RE: Consumer Bill
Date: Tue, 20 Apr 1999 10:20:57 -0600
From: "Rabago, Karl/COR" <KRabago@CH2M.com>
To: Janet Seitz <Janet_Seitz@legis.state.ak.us>
CC: Tom Feiler <feiler@eic-co.com>, Paul Morrison <Paul_Morrison@commerce.state.ak.us>, Deanna Gamble <dgamble@CH2M.com>, Floyd Damron <FDamron@CH2M.com>

Janet,

Attached are my brief comments. In case of transfer problems, I have included them in the body of this message as well.

Thanks for this opportunity, and please let me know if I can provide further help.

karl

Comments on House Bill No. 81 - Electric Consumers Bill of Rights
State of Alaska - Twenty-First Legislature
Representatives Rokeberg & Dyson

TO:	Janet Seitz, Legislative Assistant to Rep. Rokeberg
FROM:	Karl R. Rábago, CH2M HILL
	tel: 303.713.2208 eMail: krabago@ch2m.com
DATE:	April 20, 1999

Thank you for the opportunity to review HB 81, the Electric Consumers Bill of Rights legislation introduced by Representatives Rokeberg and Dyson. I applaud the sponsors for recognizing the importance of ensuring that consumer protections are a matter of first priority in the process of the introduction of competition in the Alaska electric utility industry. The bill is both comprehensive and balanced, and addresses the key issues associated with consumer protections. I offer only a few additional, specific comments:

1. The bill obligates the Alaska Public Utilities Commission (APUC) to develop the rules and detailed implementation mechanisms necessary to accomplish the intent of the Legislature. This is a sound approach. The APUC currently enjoys broad authority to require reports from electric utilities. I suggest that you also consider adding language that specifically authorizes the APUC to require reports of all competitive electricity market participants. Further, there may be value to adding a requirement for periodic reporting by the APUC to the Alaska Legislature on the performance of competitive service providers in meeting the obligations of the bill. The Legislature might also consider asking the APUC to generate legislative recommendations as part of this report when sufficient experience (e.g., after 1 year) has been gained.

2. The bill is triggered by the opening of any "competitive electric service market." The sponsor's statement clearly implies that a competitive electric service market includes a retail pilot program. However, on the face of the bill, this is not completely clear. I suggest that if the sponsors intend that the bill's provisions become operative by the initiation of a retail pilot program, some explicit language to that effect should be included. This could be accomplished by the addition of a definition, such as:

"A competitive electric service market means a market or program in which retail electricity customers are provided a choice of electricity provider, whether on a permanent, limited, or pilot basis."

3. New Section 42.05.226.(b)(1) (page 2, line 6) requires the provision of "free or reasonably priced" information and educational materials regarding a range of issues. While it is possible that a customer may request unusual information that is difficult and expensive to produce, I recommend that the bill adopt a policy preference or requirement that certain basic information be free of charge. There is a risk that if basic information carries even a modest charge, it will create a significant barrier to customer participation in choice-driven markets. Of course, the cost of providing such information would be reflected in the cost of service. The APUC can be expected to strike the appropriate balance between the costs of providing information and the value to customers.

4. New Section 42.05.226.(b)(4) (page 2, line 15) ensures that electric service provider information remains confidential, except as required by the APUC (and then without direct identification of customer identity). Privacy protection relating to customer information is often overlooked in restructuring legislation, so this is valuable and important concept. However, there are two additional concerns. First, in some cases a customer may wish that private information be released to an alternative service provider in order to allow that provider to provide better service. The legislature may want to consider allowing such waiver by the customer. Second, an additional competitive concern is the sharing of private information between regulated and competitive arms of a single electric service provider. Competitive affiliates of incumbent providers with an ongoing regulated obligation to provide distribution services, for example, may have an unfair competitive advantage over new non-affiliated market entrants if they can freely share individual customer information not available to those new market entrants. The Legislature may want to consider adding a provision that makes it clear that the obligation of maintaining confidentiality also applies between regulated and competitive parts of a single entity.

5. New Section 42.05.226.(e) (page 3, line 4) provides for a single bill for electricity services. This measure will have the effect of reducing customer confusion. Experience in other states, however, suggests that billing systems are a source of some contention and potential unfair market behavior. For example, the opportunity to ensure that a company logo and other information is on ever envelope the customer receives may create a bias in favor of incumbent regulated distribution companies if they are allocated the right to provide billing services. One key concern, therefore, is that alternative service providers must be ensured fair and non-discriminatory access to billing procedures, an opportunity to include customer information in bills at non-discriminatory rates, and even the opportunity to take over the entire billing function.

Again, thank you for the opportunity to review and comment upon HB 81, the Electric Consumers Bill of Rights. Please do not hesitate to contact me for further information.

-----Original Message-----
From: Janet Seitz [mailto:Janet_Seitz@legis.state.ak.us]
Sent: Tuesday, April 20, 1999 8:56 AM
To: Rabago, Karl/COR
Subject: Re: Consumer Bill

You can e-mail the suggestions to me. The bill is up for hearing tomorrow

in
the Utility Restructuring Committee.

Thanks.

Janet

"Rabago, Karl/COR" wrote:

> *Janet,*
>
> *I have reviewed the bill as Rep. Rokeberg had requested. I have a few*
ideas
> *& suggestions.*
>
> *How would you suggest we proceed?*
>
> *karl*
>
> ***
> *The views expressed here are not necessarily those of my employer.*
> ***
> *Karl R. Rabago*
> *303.713.2208*
> *Fax: 303.741.0902*
> *krabago@ch2m.com*
> ***
> *"The central event of the twentieth century is the overthrow of matter."*
> *George Gilder*

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TONY KNOWLES, GOVERNOR

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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 30, 1997

4:05 p.m
MAY 0 1 1997

The Honorable Norman Rokeberg
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

The Honorable Jerry Sanders
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: APUC Authority

Dear Representatives Rokeberg and Sanders:

At the House Labor and Commerce Committee hearing on HB 235 on April 16, 1997, you asked Robert A. Lohr, Executive Director of the APUC for a report on the Commission's authority to issue an electric utility a certificate to compete with an existing utility, and to impose conditions that protect the public from "cream-skimming." Because these questions involve a review of legal authorities, the Attorney General's Office, as legal counsel for the Commission, was asked to prepare this response.

<u>The APUC Has Authority Under Current Law to Issue Certificates Allowing Competition in Electric Utility Ser</u>

A. Sta ɹ Certification Authority

The Alaska :gislature has required a public utility to obtain a certificate of public convenience and necessity from the Alaska Public Utilities Commission before operating or receiving compensation for providing the utility commodity or service. AS 42.05.221(a).[1] Through this statute, the

---

[1] SECTION 42.05.221. CERTIFICATES REQUIRED. (a) A public utility may not operate and receive compensation for providing a commodity or service without first having obtained from the commission under this chapter <u>a certificate declaring that public convenience and necessity require or will</u>

legislature placed control over entry into the utility business in the Commission's hands. Nothing in this statute suggests that the certificates granted by the Commission are exclusive, or that the Commission's authority to grant a certificate is restricted or limited if the applicant would compete with an existing utility.

AS 42.05.241 establishes procedural and substantive guidelines for the Commission in exercising its authority to grant certificates. This statute provides:

> A certificate may not be issued unless the commission finds that the applicant is fit, willing and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public .... (emphasis added)

In compliance with this statute, the Commission must examine the question of whether the public needs the additional service when it considers granting a competing certificate. The Commission cannot grant the competing certificate unless, after examining the question, it finds that the public convenience and necessity do require the competing service.

The term "public convenience and necessity" cannot support an argument that competing certificates are prohibited. Interpreting this term, one court looked back to previous decisions and said:

> The court has stated that the "public convenience and necessity" standard allows the department to exercise wide discretion to take into account a broad range of factors in making the determination whether it has been met. Almeida Bus Lines, Inc. v. Department of Pub. Utils., 203 N.E. 2d 556 (1965). Holyoke St. Ry. v. Department of Pub. Utils., 198 N.E. 2d 413 (1964). Newton v. Department of Pub. Utils., 160 N.E.2d 108 (1959) (all of which discussed the propriety of using the value of competition as a basis for making a "public convenience and necessity" finding).

Zachs v. Department of Public Utilities, 547 N. E. 2d 28 at 32 (Mass. 1989). (State reporter citations omitted).

Therefore, although it requires the question to be addressed and a finding made, AS 42.05.241 gives the Commission the policy-making authority to grant a competing certificate, including

---

require the service. Where a public utility provides more than one type of utility service, a separate certificate of convenience and necessity is required for each type. A certificate must describe the nature and extent of the authority granted in it, including, as appropriate for the services involved, a description of the authorized area and scope of operations of the public utility.... (emphasis added) a competing electric utility certificate, if the Commission decides that the public will benefit from competing utility service.

B. Natural Monopoly Theory

It is true that in the past the Commission has not issued certificates authorizing competitive provision of electrical service. This long-standing policy is not based on lack of authority or on any legal restriction prohibiting the Commission from issuing a competive utility certificate. The non-competitive policy is based on an economic theory widely accepted in the past, but now subject to question (or already rejected) in policy debates all over the United States and in some foreign countries as well. The economic theory was that utilities, including electric utilities, are natural monopolies and should have exclusive service territories because competition would mean wasteful duplication of the capital investment in facilities required to provide the service.

As discussed above, the natural monopoly theory is not formalized in Alaska's statutory scheme, and therefore no statutory change is required before the Commission can consider whether the public convenience and necessity require any competing certificate to be issued. The Commission has authority to change its monopoly policy in granting certificates.

The natural monopoly theory is also not formalized in the legal concept of a certificate. In Alaska, a series of court decisions resulted from competition between electrical utilities in the 1960's and 1970's. These cases involved competition between REA cooperative electric utilities certificated by the Commission, and municipally owned utilities operating under statutory authority. Before 1970, the municipal utilities were not required to obtain certificates from the Commission.

In the first of these cases, the Alaska Supreme Court rejected the argument that a certificate granted by the Commission was an exclusive right to provide service in the specified service area. It is arguable that this ruling only addressed the situation of competition from an uncertificated utility operating under a municipality's statutory authority. Nevertheless, it is clear that the court rejected the argument that the natural monopoly theory must lead to the conclusion that a certificate is an exclusive right to serve a particular area. Homer Electric Association v. City of Kenai, 423 P.2d 285 at 288-289, n. 16. (1967). See also, Chugach Electric Association v. City of Anchorage, 426 P. 2d 1001, 1003 (1967).

In these decisions, the court recognized that the effect of holding that a utility certificate was not exclusive could be uneconomic duplication of facilities. The court urged the legislature to fix this problem. See Homer, 423 P. 2d at 290; Chugach, 426 P.2d at 1004-05. In response the legislature adopted

AS 42.05.221(d).[2] This provision, while making explicit the Commission's authority to eliminate undesirable duplication of facilities, is carefully drafted not to require the Commission to eliminate all competition. This statute directs the Commission to eliminate the competition only if the Commission finds 1) that there is competition, and 2) that the competition is not good for the public. Like AS 42.05.241, AS 42.05.221(d) clearly leaves the door open for a policy-making determination that competition between electrical utilities may be good for the public.

C. *Longstanding Interpretations*

Finally, the Commission has in the past interpreted its statutes to give it authority to issue competing certificates when it concluded that competition was in the public interest, and the legislature has apparently agreed. In interpreting a statute, the court will give some weight to a long-standing agency interpretation. Nat. Bank of Alaska v. State, Dept of Rev., 642 P.2d 811 at 815 (Alaska 1982). The APUC has granted competing certificates for refuse collection utilities: (Re Claude Bailey d/b/a Valley Refuse, et al, 7 APUC 97 (1985); Re Wasilla Refuse, Inc., 8 APUC 106 (1987); for radio common carriers, (RE Competition and Deregulation of Radio Common Carriers as Public Utilities, 5 APUC 86 (1982)); and for water utilities (Re Eagle Utilities, Inc., 7 APUC 548 (1986). For telecommunications utilities, statutory directives (state and federal) now require the Commission to grant competing certificates. In adopting a mandate for competition in long distance telephone service (AS 42.05.800-AS 42.05.890 , § 2 ch 93 SLA 1990), the Alaska legislature did not think that the underlying statutory scheme for certification needed amendment before the Commission had authority to grant competing certificates.

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[2] SECTION 42.05.221. CERTIFICATES REQUIRED. ...

(d) In an area where the commission determines that two or more public utilities <u>are competing</u> to furnish identical utility service <u>and that this competition is not in the public interest</u>, 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.

(emphasis added)

II. The Commission Has Some Authority to Prevent Cream-skimming.

When competition in utility service is permitted, it is predictable that competitors will seek to serve the most profitable customers. The competing utilities may be less willing to serve smaller users, typically residential and small commercial customers. The result may be that service deteriorates while costs rise for those customers. The practice of targeting service only to the most profitable customers is called "cream-skimming." Existing statutes, including AS 42.05.221(d),[3] AS 42.05.241[4], AS 42.05.271,[5] and the Commission's general powers, AS 42.05.141[6], give the Commission some authority to deal with

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[3] See page 4.

[4] SECTION 42.05.241. CONDITIONS OF ISSUANCE. A certificate may not be issued unless the commission finds that the applicant is fit, willing and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public. The commission may issue a certificate granting an application in whole or in part and attach to the grant of it the terms and conditions it considers necessary to protect and promote the public interest including the condition that the applicant may or shall serve an area or provide a necessary service not contemplated by the applicant. The commission may, for good cause, deny an application with or without prejudice. (emphasis added)

[5] SECTION 42.05.271. MODIFICATION, SUSPENSION OR REVOCATION OF CERTIFICATES. Upon complaint or upon its own motion the commission, after notice and opportunity for hearing and for good cause shown, may amend, modify, suspend, or revoke a certificate, in whole or in part. Good cause for amendment, modification, suspension or revocation of a certificate includes

(1) the requirements of public convenience and necessity;

(2) misrepresentation of a material fact in obtaining the certificate;

(3) unauthorized discontinuance or abandonment of all or part of a public utility's service;

(4) wilful failure to comply with the provisions of this chapter or the regulations or orders of the commission; or

(5) wilful failure to comply with a term, condition, or limitation of the certificate. (emphasis added)

[6] SECTION 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The Alaska Public Utilities Commission may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711;

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

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

cream-skimming problems. However, because of limitations within these statutes or their general nature, the Commission's authority may not reach all variations of cream-skimming problems that may arise.

The discussion below shows how these statutes provide Commission authority to protect the public against cream-skimming, and discusses the limitations.

AS 42.05.221(d). Where the Commission finds competition exists and is not in the public interest, this statute authorizes the Commission to take action to "eliminate the competition and any undesirable duplication of facilities." This statute seems to contemplate a remedy that would eliminate the competition, not a remedy that would seek to make competition serve the public interest. For example, if an appropriate cream-skimming remedy may be to order a competitor in a concentrated market to also serve a remote community, this statute does not seem to provide that authority.

AS 42.05.241. This statute gives the Commission broad authority to impose conditions needed to protect the public when it grants a certificate. The Commission can attach to the grant of a certificate the terms and conditions it considers necessary to protect the public interest. One common remedy against cream-skimming is specifically authorized in this statute–the Commission can require a certificate applicant to provide a service that the applicant does not seek to provide. The language also clearly authorizes other remedies the Commission may devise at the time a certificate is granted. However, if the need for a condition to prevent cream-skimming does not become apparent until after the certificate is granted, this statute may not help.

AS 42.05.271. This statute is quite broad, and, along with the Commission's general powers, AS 42.05.141, arguably provides authority to address cream-skimming by requiring a utility to provide service to neglected customers. However, in the past, Commission orders have been challenged on the basis that the Commission's statutory authority is not "explicit," resulting in costly litigation over the extent of the Commission's "implied" authority.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: Virginia A Rusch
Virginia A. Rusch
Assistant Attorney General

VAR:jem

H?-81

Amd #1

Page 1, following line 6 after the word regulation, add the words:

"for those utilities subject to economic regulation by APUC"

Amd #2

Page 3, following line 9: Insert a new bill section to read:

(?) Nothing in this section would result in a utility becoming subject to economic regulation by APUC.

To: Teri Creamer

From: Walt Wilcox

Re: HB 81

4/29

Teri please prepare a CS for HB 81 for URS including 6 amendments.

Thank you 6820

Walt

MUNICIPALITY OF ANCHORAGE

Rick Mystrom • Mayor

ML&P
Municipal Light & Power

GENERAL MANAGER
1200 East First Avenue
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April 27, 1999

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

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: Amend #3

> "**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 added: Amend #4

> "(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] and Memo

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. Amend #5

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 tha[n] 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 sustem 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, Amend # 6 →

Meera Kohler

Meera Kohler
General Manager

~~#~~ 6

42.05.226 - Pg 3 Version G

~~7~~

Line 11

after "conditions" insert ", including service connect and/or disconnect fees,"

~~# 7 Pg 3 Line 22~~

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 81

Revision Date/Time (Note if correction)		Dept. Affected	Commerce
Title	Consumer protection in a competitive electric market	BRU	
Sponsor	Reps. Rokeberg, Dyson	Component	Ak Public Utilities Commission
Requester		Component Serial No.	346

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	183.5	183.5	183.5	183.5	0.0	0.0
Travel	2.3	2.3	2.3	2.3	0.0	0.0
Contractual	17.1	17.1	17.1	17.1	0.0	0.0
Supplies	4.0	4.0	4.0	4.0	0.0	0.0
Equipment	0.9	0.9	0.9	0.9	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	207.7	207.7	207.7	207.7	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	207.7	207.7	207.7	207.7	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)	207.7	207.7	207.7	207.7	0.0	0.0
TOTAL	207.7	207.7	207.7	207.7	0.0	0.0

Estimate of any current year (FY99) cost:

POSITIONS

Full-time	3.5	3.5	3.5	3.5	0.0	0.0
Part-time						
Temporary						

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

Please see attached narrative.

Prepared by	Robert A. Lohr	Phone	276-6222
Division	APUC	Date/Time	
Approved by Commissioner	Smdy N D Sedwick	Date	5-4-99
Agency			

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Preliminary Assessment of HB 81: Fiscal impact on the Commission

HB 81 requires the Commission to adopt regulations to protect consumers in a competitive electric service environment. Staff believes that the regulations the bill will require the Commission to adopt will be significantly different from the current electric regulations. For example, the bill, if passed as proposed would require regulations to prevent disconnection of service if a hardship is proven. The current regulations give an extension of time to certain customers (elderly, handicapped, seriously ill, and in households where someone is on life support). However, the current regulations allow disconnections after 15-30 days.

Staff believes the impact on the Commission will be similar to what the Commission experienced with competition in telecommunications markets. Staff believes it will affect the Commission's workload agency wide, including but not limited to certification/licensing filings, tariff filings and consumer complaints. For example, with local telephone competition, telecommunications applications increased 52% in FY98 over FY97, from 32 telephone certifications in FY97 to 66 in FY98. Tariff filings in the telecommunications area increased by 41% in FY98 over FY97, from 192 telephone filings in FY97 to 323 in FY98. Consumer complaints regarding telephone issues increased by 25% over the same period, from 336 in FY97 to 449 in FY98. Telephone complaints in the first eight months of FY99 have already reached 515, 13% more than the previous 12 months with four months remaining. Certification filings and tariff filings have increased 4% and 7% respectively for the first eight months of FY99.

The rulemaking and implementation aspects will definitely affect the Commission's Consumer Protection Section, Engineering Section, Tariff Section, and Records Section. It will also impact the Commission's Legal Staff, Hearing Officer and Receptionist. Again, Staff anticipates that the impact on the agency will be similar to the impact the agency experienced with the adoption and implementation of the competitive local telephone service regulations. Staff anticipates the following resources to adopt and implement regulations specified in the bill.

Consumer Protection - Staff anticipates the need for a full time Consumer Protection & Information Officer (CPIO) I. The added position would be needed beginning the first year of implementation of the regulations and thereafter. Staff anticipates that CP would experience a similar increase as CP experienced with the implementation of regulations governing local telephone competition. However, the staffing level may vary depending on the extent of the competition. For example, local telephone competition has thus far been limited to Anchorage. Staff's projection is based on electric competition in Anchorage. The bill does not appear to limit the market size. Also, based on Staff's experience with the local telephone competition, Consumer Protection Section (CPS) should take a proactive approach to electric competition. For example, one component of the bill requires that the suppliers provide consumer education. CPS should be actively involved in the education/information dissemination process ahead of the actual implementation of the regulations.

Engineering - The licensing requirement will require a regulatory proceeding to establish the applicable rules and application procedure. The proceeding will establish the minimum requirements necessary to meet the licensing criteria. Staff anticipates a Utility Engineering Analyst (UEA) II would devote full time to act as docket manager establishing minimum safety standards and service criteria in more than one regulatory proceeding for two years. Once the regulations are in place and the barriers to entry and exit are reduced, the UEA II would review licensing applications for completeness and to do annual reviews to assure the licensees are still providing service beginning with the third year and thereafter.

Tariffs - Staff anticipates that the impact of the adoption of regulations for a competitive electric market will require a half-time Admin. Clerk II. The increased filings anticipated will require the half-time position over four years.

Hearing Examiner - Staff anticipates that a Hearing Examiner (HE) will be required to decide informal complaints that elevate to formal complaints. The bill requires that the Commission adopt procedures to ensure that complaints are decided in a prompt, effective and low-cost resolution process. The current procedures for formal complaint handling are not prompt. Staff anticipates one half-time HE beginning with year one of implementation, continuing thereafter.

Records and Filings - Staff anticipates that Records and Filing (R&F) will need one half-time Admin. Clerk II (Clerk II) to process filings associated with a competitive electric market. The Clerk II will devote half-time to process filings, routing, docket entries, dockets set up, orders, notices, public requests for copies, and mailings.

Human Resources

Consumer Protection	- CPIO I	$44,400
Engineering	- UEA II	64,579
Hearing Officer	- ½ Hearing Examiner	42,900
Records & Filing	- ½ Admin. Clerk II	15,795
Tariffs	- ½ Admin. Clerk II	15,795
Total		**$183,469**

HB 81

Section I. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.226. Electric consumer protections. (a) The commission shall establish by regulation

1. with consumer protection standards to protect consumers in a competitive electric service market; **[rulemaking - CP, Finance, Engineering]**
2. licensing requirements for electric service providers operating in a competitive electric service market; **[rulemaking - Engineering]**
3. for **prompt**, effective, and low-cost resolution of consumer complaints against electric suppliers, aggregators, and distributors operating in a competitive electric service market; **[rulemaking - CP, Hearing Officer]**
4. minimum safety standards and service criteria for electric service providers in a competitive electric service market; **[rulemaking - Engineering]**

5. penalties for electric service providers operating in a competitive electric service market who fail to comply with the requirements of the chapter; **[rulemaking - Hearing Officer]**

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

(1) provide consumers with free or reasonably priced information and 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; **[rulemaking - CP]**

(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; **[rulemaking - Engineering]**

(3) provide electric service choices and pricing options to all consumers without discrimination; **[rulemaking - CP, Finance]**

(4) maintain information and records, including records concerning individual electric use patterns, about the electric service provider's consumers as confidential records; however, an electric service provider may report information to the commission so long as the information does not identify directly or indirectly an individual consumer; **[rulemaking - CP, Engineering, Tariffs]**

(5) meet the minimum safety standards and service criteria established by the commission; **[rulemaking - Engineering]**

(6) meet its advertised terms and conditions; **[rulemaking - CP, Tariffs]**

(7) refrain from imposing unreasonable terms and conditions as a precondition to providing service to a consumer in a competitive electric service market.**[rulemaking - CP, Engineering, Tariffs]**

(c) The commission **shall** adopt regulations to require electric service providers operating in a competitive electric service market to continue to provide electric service to residential consumers who demonstrate that economic hardship has prevented payment in full of a delinquent bill. The regulations may require the consumer to agree to a reasonable deferred payment plan and to comply with the plan.**[rulemaking - CP, Tariffs]**

(d) The commission **shall** adopt regulations to require a supplier or an aggregator operating in a competitive electric service market to meet minimum standards for certification as a condition of market entry. The commission **shall**, by regulation, **adopt** the standards for certification. **[rulemaking - Engineering, CP]**

(e) The commission **shall**, by regulation, provide that an electric service consumer in a competitive market may receive only one periodic billing for the provision of electric service to a location. The billing **must** set out information in a clear and concise manner so that the consumer is informed about the components of the billing, including charges associated with generation and with transmission and distribution. **[rulemaking - CP, Engineering, Finance, Tariffs]**

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 5, 1999 FURTHER REFERRALS: Labor and Commerce

Date of Committee Action: ______

The HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING Committee considered: HB 81

HOUSE BILL NO. 81 ELECTRIC CONSUMER'S BILL OF RIGHTS

"An Act relating to the provision of electric service in the state; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 81(URS) [X] the same title [ ] a new title

[ ] additional referral to ______ Committee
[ ] attached amendment(s)

ADOPTS: ______ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[X] fiscal note(s) Commerce-APUC [ ] fiscal note(s) ______

[ ] zero fiscal note(s) ______ [ ] zero fiscal note(s) ______

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
John J Cowdery			✓	
Joe Davies	X			
[illegible signature]			✓	
Pete Kott			✓	
Brian Porter	✓			
Bill Hudson	✓			

CHAIR'S SIGNATURE Bill Hudson

Kodiak Electric Association, Inc.
(907) 486-7700
Box 787
KODIAK, ALASKA 99615

WACT

MAY 10 1999

May 4, 1999

The Honorable Bill Hudson, Chairman
Special Committee on Utility Restructuring
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Sent via fax (907) 465-2273 and U.S. Mail

Re: HB 81, HB 174, and HB 169

Dear Representative Hudson:

On behalf of Kodiak Electric Association, Inc., I would like to provide comments on HB81, HB 174, and HB 169, to explain the potential impact of these bills on this cooperative and our community.

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 CEOs, 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 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.

Sincerely yours,

KODIAK ELECTRIC ASSOCIATION, INC.

Edwin K. Kozak

Edwin K. Kozak, P.E.
General Manager

EKK:nbs
cc: Board of Directors, KEA

legislat\rcHB174.99