

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

2664 SCOMM 120: HOUSE SPEC. COMM. UTILITY RESTRUCTURING, 1999-2000

MEMBER COMMENTS

Comments of Co-Chairman, Senator Bert Sharp:

The proposed Chugach Electric pilot program, in my opinion, would only jeopardize the basic utility rate making fundamental of cost causer – cost payer philosophy

The Committee should not recommend any legislative action on mandating competition of electrical rates between electric utilities. I think it would result in prejudicial rates not only within classes, but would result in extreme cost shifting to the residential customers.

Comments of Co-Chairman, Representative Norman Rokeberg:

As a capitalist and believer in the crucible of the market place, I have a bias in favor of competition and deregulation.

It is clear from the testimony before the joint committee that electric utility restructuring at the retail level ("EUR") can contribute to the commerce and prosperity of the United States. But, only if the elements and implementation fit the circumstances and conditions of a particular state or region.

Alaska is unique in many instances making rapid and broad implementation of EUR unworkable and risky to residential consumers, particularly in rural areas.

Therefore, I would caution patience, study and informed decision making by the policy makers of Alaska when considering this issue.

However, I would take exception to those that would block or impede the efforts of future Legislature's from bringing the potential benefits of EUR to Alaskan consumers, specifically more efficient and lower cost delivery of electrical energy.

A number of witnesses have advised or requested the committee recommend a wait and see attitude. While review of the success or failures of EUR in the lower 48 has merit, delay for the purpose of maintaining the status quo does not. The unique characteristics of Alaskan electrical services are not replicated elsewhere. The only way to derive the benefits

of EUR is to design a statutory and regulatory framework that will satisfy the needs of all Alaskans.

Therefore, establishment of a pilot program of limited scope designed to yield empirically verifiable evidence of efficacy of EUR appears to a reasonable method in developing an Alaskan approach.

The design of any pilot program should consider the recommendations of the joint committee/APUC study.

If Alaska cannot do EUR right - then it should not do it.

Comments of Senator Loren Leman:

I believe that free market competition is the best protection for consumers because it generally maximizes value to the consumer. Retail competition should be allowed and promoted consistent with standards of safety, economy, reliability, universal availability and recovery of stranded costs due to competition.

I encourage implementation of a well-designed pilot study in Anchorage to produce meaningful data to be used to implement fair competition in Alaska. I look forward to reviewing the consultants' comments on March 1.

Comments of Representative John Davies:

After listening to much testimony, attending a number of conferences and information meetings and reading a great deal on this issue, I believe that any recommendation to move ahead with restructuring in Alaska at this time is very premature. There are a few places in the lower 48 that are in various stages of restructuring efforts, none of these claim to be successful yet. It appears that there are a variety of thorny issues including stranded investments, universal service, cherry picking, access to and control of the electric power grid, and consumer protection that have not been solved. The lower 48 is mostly interconnected to a very large grid so that, at least in theory, there are enough providers to foster true, market-based competition. It is not clear that Alaska even approximates the conditions required to foster this kind of competition. We have only about 400,00 customers (rough number) connected to one power line (not a grid) and only a handful of providers. Most of the

providers are co-ops or municipal utilities, groups that are not generally involved in the restructuring efforts in the lower 48, so we have little example to draw from. Since there is no clamor from customers in Alaska for this kind of major change to our power deliver system and since its benefits are yet to be proven any where in the lower 48, I believe that we should take a very cautious posture with respect to restructuring in Alaska.

I agree that the pilot in Anchorage should be allowed to go forward after we get some expert guidance on how to set it up so we can get the best information possible out of it. It should have automatic sunset provisions so it ends unless the APUC approves its continuation or expansion. I also support the RFP for a more in-depth analysis of the benefits and pitfalls for Alaska. The special committee should be explicitly charged with carrying forward the work of this committee.

EXHIBITS

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 30, 1997

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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.

The APUC Has Authority Under Current Law to Issue Certificates Allowing Competition in Electric Utility Service.

A. *Statutory Certification Authority*

The Alaska legislature 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 a certificate declaring that public convenience and necessity require or will

4:05 p.m.
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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). Holvoke 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)

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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 competitive 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

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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.

² SECTION 42.05.221. CERTIFICATES REQUIRED. ...

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

- (1) delineate the service area boundaries of each in those areas of competition;
- (2) eliminate existing duplication and paralleling to the fullest reasonable extent;
- (3) preclude future duplication and paralleling;
- (4) provide for the exchange of customers and facilities for the purposes of providing better public service and of eliminating duplication and paralleling; and
- (5) provide such other mutually equitable arrangements as would be in the public interest.

(emphasis added)

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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 42.05.241⁴, AS 42.05.271,⁵ and the Commission's general powers, AS 42.05.141⁶, give the Commission some authority to deal with

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; . . .

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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.

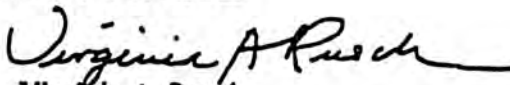
AS 42.05.241. This statute gives the Commission broad authority to impose conditions needed to protect the public when it grants a certificate. The Commission can attach to the grant of a certificate the terms and conditions it considers necessary to protect the public interest. One common remedy against 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,

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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6160

October
 September 9, 1997

MEMORANDUM

TO: Members, Committee on Energy and Natural Resources
FM: Frank Murkowski, Chairman
RE: Electric power industry competition legislation

The Energy Policy Act of 1992 (EPAct) was the first major action taken by Congress to promote competition in the electric power industry. Since the enactment of EPAct, the industry has undergone dramatic change. While this is partially due to regulatory changes made by States, FERC and EPAct, it is largely attributable to the unleashing of market forces. The question facing the Committee is: What more can we do to promote market-based competition?

Over the past two Congresses, the Committee has held numerous hearings and workshops to review the state of competition in the electric power industry, and to identify what changes in Federal law should be made. During the 104th Congress, the Committee held six hearings. During the first session of the 105th Congress, the Committee held eight hearings and workshops.

These hearings and workshops have been wide-ranging and intensive. The topics covered include: FERC's open access wholesale transmission rule (Order No. 888); the issues involved in competition; the role of public power in a competitive environment; the effects of competition on fuel use and types of generation; PURPA and PUHCA repeal; the financial implications of restructuring; the benefits and risks of restructuring to consumers and communities; the regional effects of restructuring; and the overall need for Federal legislation.

This review was undertaken with eleven guiding principles in mind -- namely, that any Federal legislation should: 1) reduce electricity prices for residential consumers; 2) ensure continued system reliability; 3) provide more choices to all consumers; 4) create fair competition; 5) protect individual and pension fund investments; 6) lead to fair stranded cost recovery; 7) protect the environment; 8) assure that no person is left without electricity; 9) empower the States to promote competition; 10) protect the States from overzealous Federal mandates; and 11) deregulate, not create different regulation.

More than 130 witnesses appeared at the Committee's 14 hearings and workshops. These included representatives of residential consumers, commercial consumers, industrial consumers, small business, big business, independent power producers, investor-owned utilities, municipally-

owned utilities, cooperatively-owned utilities, consumer advocates, public interest advocates, the financial community, utility stockholders, farmers, retirees, gas producers, coal producers, nuclear power producers, renewable energy producers, the environmental community, State public utility commissions, cities, the Tennessee Valley Authority, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and the Department of Energy.

Based on the Committee's extensive review of the issues, I have reached the following conclusions.

- o First and foremost, competition is in the public interest. Competition will assure consumers an adequate supply of reasonably priced power.
- o Second, if consumers are to benefit from competition it must be market-based, not government-run. Government management of the market -- command-and-control -- cannot substitute for the discipline of the free market.
- o Third, we must encourage and empower the States to promote retail competition. The States are not only keenly interested in promoting retail competition, they have aggressively taken the lead. Thirteen States have already adopted some type of retail competition, either by law or through public utility commission regulation. These States encompass roughly one-third of the U.S. population. Of the remaining States, virtually every one is now actively considering what it should do to promote retail competition.
- o Fourth, States are best able to determine how to promote retail competition that is in the overall public interest. States are in the best position to take into account local needs, circumstances and interests when fashioning a retail competition program.
- o Fifth, the Federal government has an important role in promoting competition, but it should be limited to that which is truly interstate in nature and cannot otherwise be done by the States or by a combination of States. For example, the FERC has aggressively promoted wholesale competition through its nondiscriminatory wholesale open access transmission rule, Order No. 888, and that seems to be working well.
- o Sixth, there are a number of provisions of Federal law that impair competition, either by impeding State action, or by preventing competitors from competing, or by creating unfair competitive situations. These should be eliminated.

This leads me to the fundamental conclusion that if there is going to be Federal legislation, it should consist of provisions that deregulate, streamline and empower the States to promote competition -- not provisions that enhance government command-and-control of the market, or preempt or place a Federal mandate on the States. In summary, I believe that the public interest is best served through market-based competition, not government-managed competition.

In light of this, the following are the principle matters that I believe need to be considered as part of Federal legislation.

ISSUE: *Should Congress give States exclusive authority to order retail wheeling?*

Existing law is ambiguous as to State authority over retail wheeling. States assert that they have jurisdiction over retail transmission. FERC asserts that it, not the States, has exclusive jurisdiction over all transmission, including retail transmission. Absent Congressional action, this is an issue that will only be resolved by the courts.

Note: In the Energy Policy Act of 1992, Congress specifically prohibited FERC from ordering retail wheeling. Thus, if FERC is right that it has exclusive jurisdiction over transmission, that raises the question of who can order retail wheeling.

Proposed Resolution:

Make clear that States have the exclusive authority to order retail wheeling. States are closest to the economic impact of retail wheeling (including retail stranded costs), and they are best able to determine when and how it should occur.

ISSUE: *Should Congress confirm that States will continue to have the authority under State law to address retail distribution issues?*

States, through their public utility commissions, have traditionally had exclusive responsibility for the local distribution and sale of electricity to consumers. Local distribution issues include: obligation to serve; assured service to low-income and rural consumers; safety; universal service; renewable energy; energy conservation; and recovery of transition costs.

Proposed Resolution:

Confirm that States will continue to have the exclusive authority to address local retail distribution issues under State law.

ISSUE: *Should States be authorized to voluntarily establish Interstate Compacts under the Constitution to jointly regulate regional electric markets?*

States cannot regulate matters that are in or affecting interstate commerce without the consent of Congress through a Compact. Aspects of interstate commerce that a multi-State compact could regulate include: regional reliability; reciprocity of competition between States; regional transmission pricing; and recovery of wholesale competition transition costs.

Proposed Resolution:

Authorize States to form regional regulatory compacts that would govern reciprocity and reliability issues, among other things. (This could be similar to that which is in the low-level nuclear waste bill.)

ISSUE: *Should all transmission owners be required to comply with FERC's nondiscriminatory wholesale open access transmission program (FERC Order No. 888), not just investor-owned utilities as under current law?*

Under the Federal Power Act, FERC has authority to impose nondiscriminatory wholesale open access transmission only on investor-owned utilities. Municipally-owned utilities, most cooperatively-owned utilities, the Federal PMAs and TVA -- all of whom own substantial transmission lines -- do not have to comply with FERC's open access rule.

Proposed Resolution:

Require all transmission owners to comply with FERC's nondiscriminatory wholesale open access transmission program.

ISSUE: *Should PURPA's mandatory purchase requirement be terminated prospectively?*

At the Committee's hearings and workshops clear and convincing evidence was presented that PURPA, although well intended, harms consumers and utilities. PURPA requires utilities to purchase power whether or not they need it, and to pay "avoided cost" whether or not that bears any relationship to market price.

PURPA's avoided cost rate was supposed to result in electricity prices no higher than they would have otherwise been -- but it did not work out that way. As a result, utilities will pass on to consumers hundreds of millions of dollars extra in above-market PURPA electric rates. These are costs that consumers will continue to pay into the future because most PURPA contracts were for a long period of time and few have market-based price clauses. Moreover, some electric utilities now find themselves in serious financial straits, as they are unable to pass on above-market PURPA costs in increasingly competitive markets.

Proposed Resolution:

Repeal PURPA prospectively, with protection for existing contracts.

> One option is to repeal PURPA only where a State has adopted retail competition.

ISSUE: *Should wholesale sales of electricity be deregulated?*

FERC has jurisdiction over wholesale electric rates. FERC has created a competitive wholesale market for electricity through Order No. 888, which provides nondiscriminatory transmission access to all sellers of wholesale power.

FERC is already heading in the direction of deregulation of wholesale sales by granting "market-based-rates" for wholesale power on a case-by-case basis. Unfortunately, even these FERC-granted "market-based-rates" remain subject to FERC jurisdiction; they are

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not truly deregulated. Without legislation, wholesale sales of electricity will not be subjected to the full discipline of market forces.

There is a strong parallel with natural gas deregulation. Congress deregulated natural gas at the wellhead, but left regulated the interstate transmission of gas. There is universal agreement that wellhead gas deregulation benefitted consumers by lowering prices and increasing supply.

In this regard, it is important to note that the deregulation of wholesale sales does not deregulate retail sales of electricity to consumers. Retail sales would remain regulated by State public utility commissions in accordance with State law.

Proposed Resolution:

Deregulate wholesale sales of electricity.

ISSUE: *Should utility merger approval authority be moved from the FERC to the Department of Justice?*

Even the FERC admits that its merger review process is not working well. In some cases, it has taken the FERC years to review and act on a proposed merger, and in the meantime the merging utilities and their customers are in limbo waiting for a decision. Notwithstanding FERC's review of proposed mergers, the Department of Justice still has jurisdiction over utility mergers under the antitrust laws. Furthermore, State public utility commissions also must review and approve utility mergers, in addition to FERC and the DOJ.

Proposed Resolution:

Move FERC's authority to review and approve utility mergers to the Department of Justice.

ISSUE: *Should the construction of wholesale electric transmission lines be expedited through the use of Federal eminent domain, as is now the case with interstate gas pipelines.*

As the electric power industry becomes more competitive, constraints on high-voltage wholesale transmission will become increasingly significant. The issue is whether the right of Federal eminent domain should be provided for the construction of new wholesale transmission lines. That authority would help address the market power issue where there is a transmission bottleneck, and it will help assure that new supplies of wholesale power will be able to move to where it is needed. There is similar eminent domain authority in the Natural Gas Act for interstate natural gas pipelines.

Proposed Resolution:

Allow the use of Federal eminent domain to facilitate the construction of new

transmission lines for the purpose of addressing market power and where it will help assure that new supplies of wholesale power can access the market. Such authority should not be available to Federally-owned utilities, or to those who will use it to competitively market power produced by generation financed with tax-exempt bonds.

ISSUE: *Should Federal PMA wholesale power be required to be sold competitively?*

Federal power marketed by the PMA's is sold at cost. In many instances that price is far below the market value. It is offered first to public "preference" customers, primarily municipally-owned and cooperatively-owned utilities. There is a wide range in those who receive preference power, from large urban cities such as Las Vegas to small cities, rural communities, water projects and Indian tribes. Federal power was originally conceived in the 1930's as a way to electrify regions that did not have power, and to help promote economic development.

As we move to an increasingly competitive marketplace where publicly-owned utilities will compete directly with privately-owned utilities, Federally subsidized power confers a substantial competitive advantage to those who receive it. Moreover, many of the original purposes of Federal power have long been satisfied.

Requiring Federal PMA power to be sold competitively on the open market as existing contracts expire would eliminate this problem without imposing undue hardship to customers of public power utilities. In the alternative, Federally-subsidized power could be made available only for purposes worthy of the subsidy.

Proposed Resolution:

Upon the expiration of a PMA wholesale power contract, require that the power be sold on an open, competitive basis. Existing power contracts would not be affected.

- > As an alternative, amend the preference laws to redirect lost-cost Federal preference power to those who most need it.

ISSUE: *Should those who have generation facilities financed through Federal tax-exempt bonds be prevented from selling power outside of their existing service areas?*

Under the Federal tax code, publicly-owned utilities (and certain investor-owned utilities) are able to construct powerplants using tax-exempt debt. If those facilities are used only to supply consumers in their service territory, the impact on competition is minimal. However, because tax-exempt financing substantially lowers the cost of construction, it would be competitively unfair to allow those who have built facilities with tax-exempt financing to use those facilities to compete against others who do not have access to this special tax exemption.

Proposed Resolution:

Prevent those who have generation facilities built using Federal tax-exempt financing from selling power from those facilities outside of their existing service areas.

ISSUE: *Should provisions be included to address the various issues relating to the Bonneville Power Administration?*

The Bonneville Power Administration is a unique Federal agency. It is more than just a power marketing administration. The Northwest Power Planning Act imposes a host of special requirements on BPA. In addition, BPA has a number of other unique requirements created to help restore the fisheries. This is a very complex matter, and the Members of the Northwest delegation have been working with the Governors of the Northwest States to find an acceptable solution.

Proposed Resolution:

The Members from the Northwest should craft a resolution of the issue.

ISSUE: *Should Congress establish an "emission-free portfolio standard" for electrical generation?*

There are concerns that competition will adversely affect the environment by increasing emissions from fossil-fuel powerplants. There is also a concern that emission-free generation sources such as nuclear, solar, geothermal, hydro and wind will suffer in a competitive, deregulated marketplace.

An "emission-free portfolio standard" would retain the existing percentage of U.S. electricity supply that comes from emission-free sources of electricity, including nuclear energy, hydro and renewables, as a baseline. Each power producer must provide credits in the amount of the existing national percentage of emission-free sources. Credits for emission-free sources would be tradable. The required percentage of emission-free sources could be adjusted to meet any emission reduction goals set in the future.

It would provide an incentive to keep existing emission-free sources operating and replace them with emission-free sources when they reach the end of their operating lives. This would be an economically efficient method of ensuring that air quality is not degraded by competition.

Proposed Resolution:

Create an emission-free portfolio standard that would be enforced through a trading program.

ISSUE: *Should the Federal Trade Commission be required to create an "electricity labeling" program whereby consumers will know the type generators that produced the electricity they are purchasing?*

In competitive electricity markets, absent further information, consumers will choose their electricity supplier solely on the basis of price. There is a concern that this will

result in an increase of generation and emissions from old coal-fired power plants that are exempted from many of the provisions of the Clean Air Act.

Proposed Resolution:

Require the Federal Trade Commission to create an "electricity labeling" program whereby consumers will know the type of generators that produced the electricity they are purchasing. This would allow consumers to base their purchasing decisions on factors other than price, if they so choose.

ISSUE: *How can Congress act to retain the nuclear power option?*

Some analysts have predicted that as many as 39 nuclear power plants will shut down as a result of the move to competitive electricity markets. Nuclear energy accounts for 89% of all the CO₂ emissions avoided by U.S. electric utilities between 1973 and 1995. In total, more than 1.9 billion metric tons of carbon emissions have been avoided in the U.S. alone through the use of nuclear energy. In the face of growing concern over the potential effects of emissions on the global climate, it would be prudent to ensure that, at a minimum, our existing emission-free generation sources have a fair chance to compete, and that competition does not degrade our nation's air quality.

Proposed Resolution:

Ensure that nuclear energy has a reasonable opportunity to compete with other forms generation, and remove existing impediments that inhibit nuclear power plants' ability to compete. This would be done by—

- > Establishing a workable, integrated solution for unfunded decommissioning obligations. These changes would ensure that, despite competitive pressures on pricing and corporate restructuring, the funds will be available for the decontamination and decommissioning of nuclear plants as they reach the end of their operating licenses.
 - Unfunded nuclear power plant decommissioning costs could be recovered through a non-bypassable "wires" charge mandated by the federal government.
 - Monies collected for the purpose of decommissioning nuclear power plants should continue to be deductible for federal income tax purposes as allowed under current law.
 - In the event of bankruptcy, trust funds established for the purpose of decommissioning nuclear power plants should not be considered the property of the bankrupt entity.
- > Correct unfair statutory requirements that will put nuclear power plants at a competitive disadvantage. The statutory restriction on foreign ownership may have

made sense 40 years ago in the early days of nuclear power. Given the global political and economic changes that have occurred since then, this blanket prohibition no longer makes sense. Major overseas corporations — *Le.*, British Energy — have expressed an interest in investing in U.S. commercial nuclear power plants. Such investments by U.S. allies should not be foreclosed arbitrarily. Specifically:

- Repeal the requirement that the Nuclear Regulatory Commission conduct antitrust reviews of all licensing actions. The requirement that NRC conduct antitrust reviews is duplicative. State regulatory agencies, the U.S. Department of Justice, the Federal Trade Commission, the Federal Energy Regulatory Commission and the Securities and Exchange Commission are already conducting antitrust reviews in every case involving mergers, transmission tariffs or other industry restructuring initiatives. Potential competitors will be able to use the hearing process to delay license transfers or restructuring, thereby potentially placing the nuclear plant in question at a competitive disadvantage.
 - Repeal the prohibition on foreign ownership of U.S. commercial nuclear power facilities.
- > Ensure that the Nuclear Regulatory Commission's license transfer process and licensing board proceedings are disciplined and accountable. The transition to greater competition in electricity generation will likely result in the formation of new corporate entities such as joint nuclear operating companies. By focusing resources solely on nuclear power operations, such restructuring will further enhance nuclear power plant reliability, safety performance and, in parallel, economic performance. The public interest is best-served if such restructuring—which will improve operational reliability and efficiency—are managed with dispatch and not delayed unnecessarily by a lengthy, undisciplined hearing process. Past experience suggests that these proceedings likely will be very lengthy. In a competitive market, success will be determined by the speed with which companies can implement business decisions. The nuclear licensing process should be as efficient as possible to allow nuclear operating companies to make timely business decisions.
- Limit NRC review to issues that arise because of the license transfer or amendment being sought.
 - Provide that there must be a safety basis for issues raised by intervenors in NRC proceedings.
- > Require a comprehensive assessment of innovative financing techniques to ensure construction of new, advanced-design nuclear power plants in the U.S. when they are needed. The 1992 Energy Policy Act reaffirmed the strategic importance of nuclear energy in U.S. electricity supply. The legislation included a number of provisions—including a new licensing process for new nuclear power plants—to ensure a continuing role for nuclear energy. The new licensing process resolves all

design-related and safety issues before plant construction begins. Several advanced-design nuclear power plants are in the process of obtaining certification and pre-approval from the Nuclear Regulatory Commission. These advanced-design plants are being sold and built overseas, but construction of new, advanced-design nuclear power plants in the United States is subject to unique conditions and risks because of extensive and intrusive federal government involvement in the nuclear power business.

The regulatory risks associated with unpredictable and changing Nuclear Regulatory Commission requirements may be sufficiently large to deter construction of any new nuclear power plants in the United States by private industry. Private industry should, and will, accept the normal market risks associated with building new nuclear generating facilities in a competitive market. Private industry cannot, however, be expected to shoulder the risks that result from federal government intervention in the timely construction and licensing of new nuclear power plants.

This provision would require a comprehensive assessment of innovative financing techniques that might be employed to ensure construction of new, advanced-design nuclear power plants in the U.S. when they are needed to meet growing demand for electricity. This assessment would best be conducted by an independent firm with specialized expertise reporting directly to the President and the U.S. Congress (similar to the Smith Barney assessment that established the terms and conditions for privatization of the Department of Energy's uranium enrichment enterprise and led to the formation of the U.S. Enrichment Corp.).

CBO Publication

S U M M A R Y

November 1997

SHOULD THE FEDERAL GOVERNMENT SELL ELECTRICITY?

The Tennessee Valley Authority and the power marketing administrations of the Department of Energy supply about 8 percent of the nation's electricity. Municipal and cooperative utilities in the West and the Southeast are the main customers for that power, and two-thirds of it goes to just four states. The federal presence in what is primarily a private and local function is in many ways an anomaly, little changed since the New Deal era. Today, many policymakers question whether the government should continue to produce and sell electricity. The Congressional Budget Office's (CBO's) study *Should the Federal Government Sell Electricity?* reviews the operations of federal power agencies, examines the ways in which the benefits and costs of the federal presence in power supply have changed over time, and describes options for altering or ending that presence.

Many of the original concerns that gave rise to the current federal role have greatly diminished. The stimulation of rural communities by the construction of dams and electric grids was realized long ago. The market power of private utilities is now limited by federal and local regulation and, increasingly, by competition. And the old conservation philosophy of not letting water flow by unused has given way to environmental concerns about saving waterways. A growing recognition of the full costs of government solutions has emerged as well. Evidence of those costs comes from the inadequate maintenance of power assets and low utilization rates of hydropower plants. New competition in power markets may add to the problems of federal agencies in the future.

CBO's study considers three options for change. The Congress may legislate reforms such as market-based pricing to make federal programs operate more efficiently; it may transfer, or devolve, responsibility for federal facilities to local governments; or it may privatize those facilities. Legislating reforms to address all the management failures inherent in federal ownership may not be possible, and local governments may fall prey to the same problems that now hamper federal management. Privatization may offer the best opportunity for enhancing the efficiency of power markets and producing budgetary savings. In the study, CBO estimates the market value of federal power assets and the long-term budgetary savings from their sale, but the analysis does not represent an official CBO cost estimate of any legislation.

CBO estimates that businesses might pay from \$45 billion to \$62 billion for federal power assets, depending on assumptions about future power rates. Those assets include all facilities that directly support power production and transmission. But such a sale would yield long-term budgetary savings only if the proceeds were greater than the income that the government would forgo. That income includes the revenues that the power agencies collect to pay for past construction. Those revenues, which are net income to the Treasury, would be lost after a sale.

On net, a sale of all power assets could yield budgetary savings totaling as much as \$16 billion (for a sale at a high market value) or a loss of \$0.2 billion (for a sale at a low market value). The actual budgetary savings could be greater if there were new subsidies for federal power in the future or if the Congress decided to include some nonpower assets in the sale. Congressional action may not depend solely on budgetary considerations, however, because budgetary savings are not a measure of the gains in efficiency from privatization.

Questions about this study should be directed to Richard D. Farmer of CBO's Natural Resources and Commerce Division at (202) 226-2940. For additional copies of the report, please call CBO's Publications Office at 226-2809. The study is also available at CBO's World Wide Web site: <http://www.cbo.gov/>



CONGRESSIONAL
BUDGET OFFICE

Steven and D. Steven, S.M.

Washington, D.C. 20515

CS FOR HOUSE CONCURRENT RESOLUTION NO. 34(L&C) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Amended: 4/27/98

Offered: 4/9/98

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A RESOLUTION

1 **Establishing a Joint Committee on Electric Utility Restructuring.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** electricity is among modern society's most basic requirements and
4 commodities; and

5 **WHEREAS** even other forms of infrastructure, such as water and waste water systems,
6 are largely dependent on electricity; and

7 **WHEREAS** the provision of adequate, reliable, and reasonably priced electrical energy
8 is essential to the daily functions, safety, and economic well-being of Alaskans, their local
9 communities, and the state; and

10 **WHEREAS** fundamental restructuring of the electric utility industry is now under
11 deliberation by the Congress and other states; and

12 **WHEREAS** electric utility restructuring is a highly complex issue, carrying with it
13 profound implications for all classes of electrical consumers; and

14 **WHEREAS** the implications and ramifications of such restructuring deserve detailed,
15 careful, and informed decision making by the Alaska State Legislature;

16 **BE IT RESOLVED** by the Alaska State Legislature that a Joint Committee on Electric
17 Utility Restructuring is established; and be it

1 **FURTHER RESOLVED** that the Speaker of the House of Representatives and the
2 President of the Senate shall determine an equal number of members of the House of
3 Representatives and of the Senate to serve on the joint committee, and that the Speaker of the
4 House of Representatives shall appoint the representatives to the committee and that the
5 President of the Senate shall appoint the senators to the committee; and be it

6 **FURTHER RESOLVED** that the presiding officer of each body shall apportion
7 minority members to the joint committee as provided in Rule 1(e), Uniform Rules of the
8 Alaska State Legislature, for standing committees; and be it

9 **FURTHER RESOLVED** that the joint committee may meet during and after the
10 Second Session of the Twentieth Alaska State Legislature and is terminated on the convening
11 of the First Session of the Twenty-First Alaska State Legislature; and be it

12 **FURTHER RESOLVED** that the joint committee shall provide to the legislature
13 written recommendations on whether and how to implement electric utility restructuring in
14 Alaska.

SCOMM

120:2



Alaska State Legislature

Representative Bill Hudson

State Capitol
Juneau, Alaska
99801-1182
Phone: (907) 465-3744
Fax: (907) 465-2273

Committees:

Chair
Fisheries
Utilities
Restructuring

Member
Transportation
State Affairs

UTILITY RESTRUCTURING COMMITTEE

Wednesday March 3, 1999 @ 8AM in room # 120

(posted 2/25/98)

Representatives Bill Hudson-Chair, John Cowdery- Vice Chair, Pete Kott, Norman Rokeberg, Brian Porter, John Davies and Ethan Berkowitz, Joe Green-alternate

AGENDA

Call to order
Roll Call
Discussion

**Pilot Study presentation by CH2M Hill 1 hour
Marlow Power and Steam**

Notice of public hearing

***HB 101 Reinstatement of public utility corporations**

If you have any question please call me, or Committee Aide Walter Wilcox Sr.

*Bill Wednesday
packet*
Walt

*3379 Meander
789-7376*

Public hearing on HB 101
3/3/99
Utilities Restructuring Committee
Contents

HB 101 "reinstatement of corporations that are public utilities"

Sponsor statement by Rep. Morgan

Fiscal note

Comments by AK Telephone Assn.

Comments by Bush-Tell inc.

HOUSE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MORGAN

Introduced: 2/19/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the reinstatement of corporations that are public utilities; and
2 providing for an effective date."

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

4 * Section 1. Reinstatement of public utility corporations. Notwithstanding
5 AS 10.06.633(e), a corporation that is a public utility, that has been involuntarily dissolved
6 by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during
7 the period established under AS 10.06.633(e) may be reinstated under AS 10.06.633(e) on or
8 before December 31, 1999. A reinstatement authorized under this section is retroactive to the
9 date of the involuntary dissolution, and the reinstated corporation and its shareholders have
10 all of the rights, privileges, liabilities, and obligations that would have applied to them if the
11 corporation had not been dissolved. If a corporation elects to seek reinstatement under this
12 section and if the corporation's previously used corporate name is no longer available for use
13 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the
14 articles of incorporation changing the previously used corporate name may be adopted by

1 action of the corporation's board of directors alone. In this section, "public utility" has the
2 meaning given in AS 42.05.990.

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

Alaska State Legislature

SESSION

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Aniak, Alaska 99557
Phone: 907-675-4413

MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

This legislation is a vehicle to allow the Alaska Department of Commerce and Economic Development the discretion to reinstate, as a corporation, a local exchange (telecommunications) company that serves several communities in western Alaska.

After reviewing the facts and circumstances surrounding the issue, I hope that you will agree that this measure warrants our attention and support. The following are the facts surrounding the involuntary dissolution of Bush-Tell.

Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Bob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities & Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

Bush-Tell's designated agent was a sole practitioner in Anchorage, Alaska who also served as Bush-Tell's general counsel. In the early 1980's, Bush-Tell hired another law firm to do its legal work but continued to retain the sole practitioner as its registered agent. The forms for Bush-Tell's biennial reports were sent to the registered agent and were filed by the registered agent up to and including the period ending December 31, 1990.

In 1991, the registered agent left the private practice of law, closed his office and left a forwarding address for his mail with the U.S. Postal Service. The registered agent did not inform the Alaska Division of Banking, Securities & Corporations that his address was changing or that he was resigning as Bush-Tell's registered agent. Alaska Statute 10.06.170(b) requires that, if a registered agent resigns, the registered must file a

Page Two
Sponsor Statement
HB 101

written notice with the commissioner setting out the latest address of the principal office of the corporation and the names, addresses and titles of the most recent officers of the corporation. The commission must then immediately mail a copy of the notice to the corporation at its principal office.

On July 12, 1993, the Alaska Division of Banking, Securities & Corporations sent a notice by certified mail to Bush-Tell, care of the registered agent, informing Bush-Tell that it had not filed its biennial report and/or tax for the period ending December 31, 1992 and that, if the biennial report and/or tax are not mailed by September 19, 1993, the Certificate of Involuntary Dissolution will be issued and the corporation will cease to exist as of September 20, 1993. This notice was returned to the Alaska Division Banking, Securities & Corporations because the register agent's forwarding notice had expired. On September 20, 1993, Bush-Tell was involuntarily dissolved.

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 101

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Commerce & Econ. Dev.</u>
Title <u>Corporate Public Utility Reinstatement</u>	BRU <u>Banking, Securities and Corporations</u>
	Component <u>Banking, Securities and Corporations</u>
Sponsor <u>Rep. Morgan</u>	
Requester <u>House URS</u>	Component Serial No. <u>1233</u>

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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY99) cost:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by
 Division
 Approved by Commissioner
 Agency

Franklin T. Elder
 Franklin T. Elder, Director
 Banking, Securities and Corporations
 Deborah B. Sedwick
 Commerce and Economic Development

Phone 465-2521
 Date/Time 3/1/99 3:58 PM
 Date 3/1/99

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STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

TONY KNOWLES, GOVERNOR

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Banking & Securities (907) 465-2521

ANCHORAGE

Corporation Information (907) 269-8140
TDD: (907) 465-5437

HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, which is the reinstatement of public utility corporations. The Alaska Telephone Association supports this measure because of its importance to local telephone service provider Bush-Tell, Inc.

The current ownership and management of Bush-Tell, Inc. has been the same since its inception in 1969. Since that time the corporation has provided service, often in challenging conditions, to many small communities in western Alaska, including Aniak, Red Devil, Crooked Creek, Shageluk, Sleetmute and Stony River. This corporation has always done an outstanding job of providing reliable telecommunications services while being an integral part of the community and good corporate citizen.

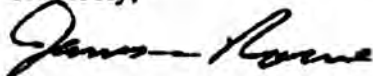
Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe

BUSH-TELL, INC.

Box 109 • Aniak, Alaska 99557 • (907) 675-4311

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am President and sole shareholder of Bush-Tell, a small, rural local exchange telephone company located in Aniak, Alaska. Bush-Tell, Inc. provides local exchange telephone service to ten small villages in Western Alaska.

I moved to Alaska in 1958 and worked as a technician providing maintenance and operations services to the White Alice Communications system from 1958 to 1978. I started Bush-Tell in 1969 and worked as both the full-time manager of Bush-Tell and as a technician on the White Alice Communications and have since devoted all of my time to managing Bush-Tell. I have lived in Aniak for approximately 39 years.

This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income taxes.

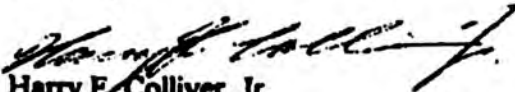
My company performs a necessary public service, especially for residents of rural Alaska. Telecommunications services are vital for emergencies, for businesses and for a full range of human and social needs. Bush-Tell, Inc. has provided an outstanding job in providing service in rural Alaska, and its corporate dissolution took place through no fault of mine or any of my

employees. Rather, the dissolution arose out of the neglect of a registered corporate agent.

Upon learning of Bush-Tell's involuntary dissolution, I sought reinstatement from the Alaska Department of Commerce. However, the Department of Commerce advised me that it was unable to reinstate Bush-Tell because too much time had passed and that a legislative enactment would be required. I understand that the Alaska Legislature has passed similar legislation in the past. Under the circumstance, I am hopeful that the Alaska Legislature would pass H.B. 101.

Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,



Harry E. Colliver, Jr.
President, Bush-Tell, Inc.

Subject: CH2M Hill Pilot Program Rpt

Date: Mon, 01 Mar 1999 14:09:06 -0900

From: Paul Morrison <paul_morrison@ent.state.ak.us>

Reply-To: paul_morrison@commerce.state.ak.us

Organization: Alaska Public Utilities Commission

To: Walter J Wilcox SR <Walter_Wilcox@legis.state.ak.us>

CH2's pilot program report is now available on our WEB page. The address is
<http://www.state.ak.us/apuc/>

Karl put together a brief press release that may be useful for you. Here it is:

As for the press, here are some quick ideas:

Consultants Submit Detailed Recommendations on Electricity Pilot Program

APUC consultant CH2M HILL delivered the first set of recommendations under a contract to study and comment upon electric utility restructuring today.

The detailed recommendations, authored by consultants Karl R. Rabago of CH2M HILL, and Tom Feiler of Econergy International Corporation, relate to the conduct of a retail electricity pilot program and would test the application of competitive market forces in the electric utility industry in Alaska. Retail pilot programs typically operate as a "trial run" on competition within the electric utility industry, and provide some customers with an opportunity to choose from among competing electricity suppliers. The consultants grouped their recommendations to Alaska policy makers in three areas:

1. Consultants recommended initiating and expanding program efforts for rural Alaska: (1) to improve utility operating efficiency, and (2) to develop and deploy new electricity technologies.
2. Consultants recommended initiating a "no-regrets" regulatory reform agenda at the Alaska Public Utilities Commission to apply lessons learned from other states in order to make electric utility regulation more efficient and more market oriented.
3. Consultants set forth a detailed roadmap of the competitive market issues that should be considered before proceeding with a retail pilot program.

###

--

~~~~~  
Paul C. Morrison V-(907)263-2146 AK Public Utilities Commission  
Chief Utility Engineer F-(907)276-0160 1016 W. 6th Ave., Suite 400  
Paul\_Morrison@commerce.state.ak.us Anchorage, AK 99501  
<http://www.state.ak.us/apuc/>

**Recommendations  
to the  
Alaska State Legislature  
and the  
Alaska Public Utilities Commission  
Regarding a Retail Pilot Program**

**Karl R. Rábago**

CH2M HILL

krabago@ch2m.com

303.713.2208

**Tom Feiler**

EIC

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303.473.9007

**CH2M HILL - Anchorage Office**

Deanna Gamble - 907.278.2551

**March 1, 1999**

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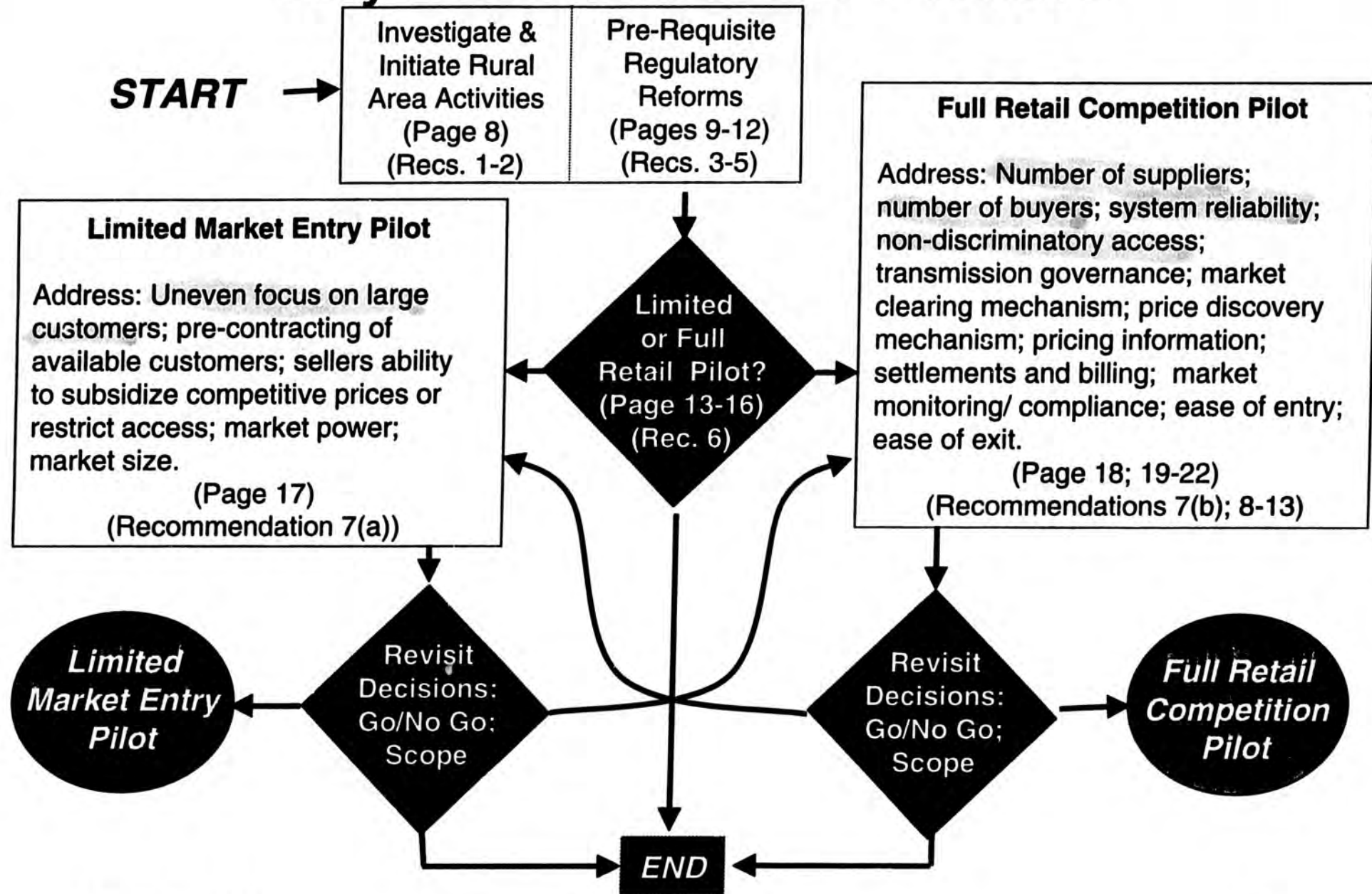
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| <b>Identify Most Promising Areas for Benefits.....</b>                              | <b>19</b> |
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# Objective: Maximizing the Opportunities for Learning and Competition

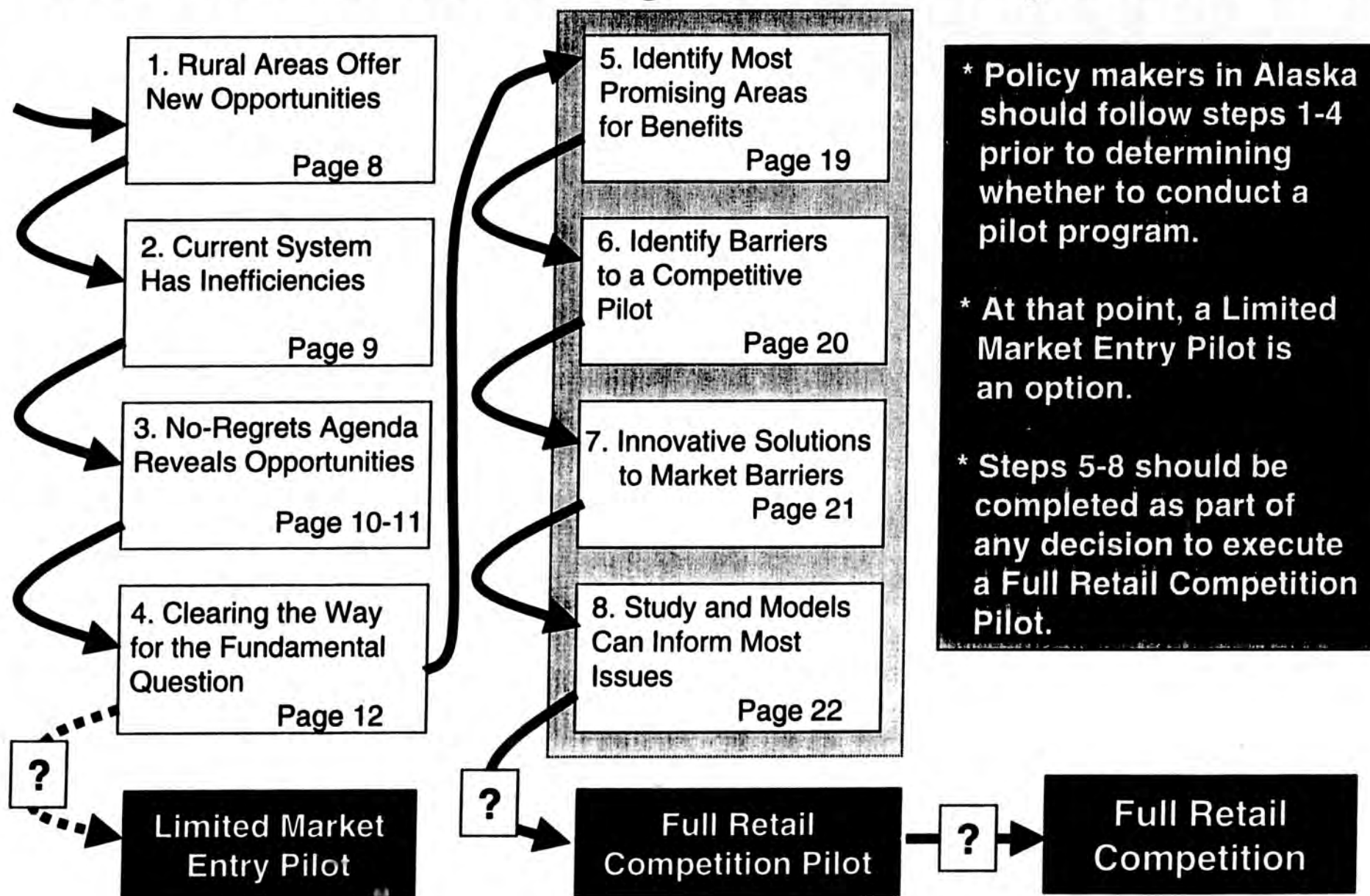
To provide recommendations to the Alaska Public Utilities Commission and the Alaska State Legislature on the scope, character, and structure of a pilot program:

- To support and inform public policy decisions regarding restructuring the electric power industry.
- To most effectively use regulatory reforms and competitive market forces to reveal and deliver cost savings to Alaska electricity customers.
- To apply the lessons learned from other jurisdictions and industries to the unique characteristics of the electricity industry in Alaska.
- To recommend two distinct, but not mutually exclusive, pathways to discover and to learn about competitive markets.

# Key Decisions in the Process



# Process for Informing Public Policy Decisions



# Competition - What Do You Need to Know?

- What are the minimum number of sellers to ensure a liquid supply market and effectively mitigate market power and market collusion?
- What are the minimum number of buyers to ensure demand responsiveness (demand elasticity and diversity)?
- How do you structure and manage the transmission system to ensure system reliability and stability?
- How do you structure and manage the transmission and distribution system to ensure non-discriminatory access to all facilities?
- How do you structure and manage the transmission system to balance system reliability and nondiscriminatory access?
- How can you provide a robust, competitive and credible marketplace where utilities, power marketers, load aggregators, cogenerators and large customers can do business quickly and easily?
- How do you establish an electronic auction mechanism to accept supply and demand bids to determine a market clearing price for each of the 24 periods in the trading day?

# Competition - What Do You Need to Know?

- How do you provide real time information to all market participants and interested parties about trading volumes and market clearing prices over the course of a trading day?
- What is the most cost effective way to coordinate scheduling and arrange delivery of power, and to provide transactions settlement and billing services to buyers and sellers?
- Who has the responsibility for monitoring the activities of market participants to detect practices or behaviors that indicate that the markets are being manipulated to the detriment of their fairness or efficiency?
- Under what circumstances will current ownership of generating resources be maintained, or required to be sold to affiliate companies or new market entrants?
- What analytic methodology should be used to calculate and allocate stranded costs?

# Rural Areas Offer New Opportunities

- A policy that makes sense for ALL of Alaska must address the rural areas.
- An important objective is to improve resilience to Power Cost Equalization challenges.
- Several promising and isolated projects are currently underway, but have not appeared on the regulatory agenda.
- Recommendation 1: Continue and expand efforts to improve rural system efficiencies through aggregation of administrative, fuel-purchasing, operations, logistical and other appropriate functions among geographically separate but proximate villages.
- Recommendation 2: In order to build practical experience in the use and deployment of distributed energy systems which offer potential long-term cost savings, consider the creation of a pilot program based on technology demonstration and deployment, conducted in coordination with government and non-governmental organizations.

# Current System Has Inefficiencies

- Structural inefficiencies exist in wholesale, transmission, and retail services - largely as a result of history.
- Most of this inefficiency remains because Alaska has not yet applied the market-informed learning of other jurisdictions to its electricity system.
- Aurora Power Resources, Inc.'s (Aurora) proposal demonstrates that inefficiencies are large enough to motivate a profit-making company.
- Policy Question: Are the opportunities created by current structural inefficiencies most effectively addressed through regulatory reform or by introduction of competitively motivated 3d party intermediaries.
- Recommendation 3: Permitting 3d party intermediaries to pursue economic opportunities created by structural inefficiencies does not necessarily prove the benefits of competition. Initiate a specific set of market-friendly regulatory reforms today in order to bring the real competitive opportunity into focus.

# No-Regrets Agenda Reveals Competitive Opportunities

- Market thinking in other states and industries, and the October 1998 Black & Veatch Study, have revealed new tools for improving efficiency, which can be implemented through a more aggressive regulatory agenda.
- Absent positive action today, market and structural uncertainties dissuade many potential competitors.
- Regulatory reforms form a foundation for competitive regimes; by removing inefficiencies and defining market rules, they allow focus on competitive opportunities.

# **No-Regrets Agenda Reveals Competitive Opportunities** (cont'd.)

**Recommendation 4: Complete a regulatory agenda that -**

- (a) calculates and allocates component costs for Railbelt utilities in a rational and uniform manner (unbundling and cost allocation);**
- (b) rationalizes access to, and governance of, the transmission system to create a non-discriminatory open access network while ensuring reliability;**
- (c) rationalizes oversight of generation siting and construction to minimize stranded cost exposure and to foster the emergence of a competitive wholesale market with new merchant generators; and**
- (d) implements central dispatch/power pooling recommendations of the October 1998 Black & Veatch Study in the Railbelt to harvest near-term savings and to facilitate emergence of a competitive wholesale market over the longer term.**

# Clearing the Way for the Fundamental Question

- Regulatory reforms allow assessment of the magnitude of the residual market inefficiencies.
- Regulatory reforms reveal savings and/or other public policy goals and objectives. These, in turn, establish the economic and policy justifications for a pilot program and/or the implementation of retail competition.
- The Fundamental Question:

**Can retail competition produce savings or benefits beyond those from improved regulation?**

- Recommendation 5: Don't ask the fundamental question until you are ready to answer it. Then, decide what kind of pilot to conduct.

# Pilot Program Design - The Key Decision

- The primary value of a pilot program is to learn about and gain practical experience with selected elements of a more open and competitive industry environment.
- Careful focus on which elements to test informs both design of the pilot and criteria for performance measurement.
- By revealing what kind of competitive system is reasonably obtainable, a well-designed pilot program can inform critical public policy decisions.
- In essence, pilot program design and implementation should reflect learning objectives.
- Recommendation 6: Carefully review the elements of competitive markets and craft a pilot which demonstrates/tests the desired model of competition.

# Deciding the Scope of the Pilot

|   | ELEMENT                   | CRITICAL QUESTION                                                                                                                                                                           | IS THIS ADDRESSED<br>IN THE PROPOSED<br>AURORA PILOT? | IS THIS ADDRESSED<br>IN THE PROPOSED<br>CHUGACH PILOT? | CAN THIS BE<br>ADDRESSED IN A<br>MORE<br>COMPREHENSIVE<br>PILOT DESIGN? |
|---|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------------------|
| 1 | Number of Suppliers       | What are the minimum number of sellers to ensure a liquid supply market and effectively mitigate price fixing and market collusion?                                                         | No                                                    | No                                                     | Yes                                                                     |
| 2 | Number of Buyers          | What are the minimum number of buyers to ensure demand responsiveness (demand elasticity and diversity)?                                                                                    | No                                                    | No                                                     | Yes                                                                     |
| 3 | System Reliability        | How do you structure and manage the transmission system to ensure system reliability and stability?                                                                                         | No                                                    | No                                                     | Yes                                                                     |
| 4 | Non-discriminatory Access | How do you structure and manage the transmission and distribution system to ensure non-discriminatory access to all facilities?                                                             | No                                                    | No                                                     | Yes                                                                     |
| 5 | Transmission Governance   | How do you structure and manage the transmission system to balance reliability and nondiscriminatory access?                                                                                | No                                                    | No                                                     | Yes                                                                     |
| 6 | Market Clearing Mechanism | How can you provide a robust, competitive and credible marketplace where utilities, power marketers, load aggregators, cogenerators and large customers can do business quickly and easily? | No                                                    | No                                                     | Yes                                                                     |

# Deciding the Scope of the Pilot (cont'd.)

|    | ELEMENT                          | CRITICAL QUESTION                                                                                                                                                                                                       | IS THIS ADDRESSED<br>IN THE PROPOSED<br>AURORA PILOT? | IS THIS ADDRESSED<br>IN THE PROPOSED<br>CHUGACH PILOT? | CAN THIS BE<br>ADDRESSED IN A<br>MORE<br>COMPREHENSIVE<br>PILOT DESIGN? |
|----|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------------------|
| 7  | Price Discovery Mechanism        | How do you establish an electronic auction mechanism to accept supply and demand bids to determine a market clearing price for each of the 24 periods in the trading day?                                               | No                                                    | No                                                     | Yes                                                                     |
| 8  | Pricing Information              | How do you provide real time information to all market participants and interested parties about trading volumes and market clearing prices over the course of a trading day?                                           | No                                                    | No                                                     | Yes                                                                     |
| 9  | Settlements and Billing          | What is the most cost effective way to coordinate scheduling and arrange delivery of power, and to provide transactions settlement and billing services to buyers and sellers?                                          | No                                                    | No                                                     | Yes                                                                     |
| 10 | Market Monitoring and Compliance | Who has the responsibility for monitoring the activities of market participants to detect practices or behaviors that indicate that the markets are being manipulated to the detriment of their fairness or efficiency? | No                                                    | No                                                     | Yes                                                                     |
| 11 | Ease of Entry                    | Under what circumstances will current ownership of generating resources be maintained, or required to be sold to affiliate companies or new market entrants?                                                            | No                                                    | No                                                     | Yes                                                                     |
| 12 | Ease of Exit                     | How do you calculate and allocate stranded costs?                                                                                                                                                                       | No                                                    | No                                                     | Yes                                                                     |

# Pilot Complexity Dictates Cost & Effort and Learning Opportunities

**Limited Market  
Entry Pilot**

**Full Retail  
Competition Pilot**



## What You Learn:

1. Customers accept/  
seek price discounts
2. Diffusion rate of  
Customer Awareness
- 3 Impacts associated  
with loss of customers
4. Competitive tactics

## What You Learn:

1. No. of suppliers
2. No. of buyers
3. Reliability impacts
4. Openness of access
5. Trans. Governance
6. Market clearing  
mechanism
7. Price discovery  
mechanism
8. Information  
dissemination
9. Settlements &  
billing
10. Market policing
11. Ease of entry/exit,  
Plus - lessons from  
Limited Market  
Entry pilot

# Implementing a Limited Market Entry Pilot

| <b>Problem:</b>                                                                  | <b>Recommendation 7(a):</b>                                                           |
|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Uneven focus on large customers                                                  | Match customer participation in proportion to current rate class percentages (by kWh) |
| Pre-contracting limits pool of available customers                               | Fresh start for all eligible customers, with cooling off period                       |
| Sellers may subsidize competitive prices from captive customers                  | All sellers must satisfy APUC that captive customers are held harmless                |
| Sellers may leverage incumbency to restrict access or gain competitive advantage | APUC ensures captive customers held harmless and equal access to customer information |
| Exercise of market power                                                         | Require generating resources used in pilot program to be removed from ratebase        |
| Market size too small to support competition                                     | Increase contestible market size; change trading unit; and/or cap market shares       |

# Implementing a Full Retail Competition Pilot

| <b>Element:</b>                  | <b>Recommendation 7(b):</b>                                                                                       |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Number of Suppliers              | Use computer models to assess market power                                                                        |
| Number of Buyers                 | Use computer models to assess demand responsiveness                                                               |
| System Reliability               | Study transmission reliability issues and recommend operating criteria                                            |
| Non-discriminatory Access        | Design rules and protocols for open access                                                                        |
| Transmission Governance          | Establish governing principals and draft bylaws                                                                   |
| Market Clearing Mechanism        | Design and implement power exchange                                                                               |
| Price Discovery Mechanism        | Design software for aggregating all valid supply bids and demand bids to determine market clearing price          |
| Pricing Information              | Design internet-based real-time information system                                                                |
| Settlements and Billing          | Design customer information and billing systems                                                                   |
| Market Monitoring and Compliance | Establish rules and protocols to coordinate scheduling and arrange delivery of power, and settle all transactions |
| Ease of Entry                    | Study and design rules and procedures for divestiture of generating assets                                        |
| Ease of Exit                     | Determine analytic methodology and allocation formulas for possible stranded investment                           |

# Identify Most Promising Areas for Benefits

- Experience in other industries and locations demonstrates that market benefits exceed expectations when markets are properly structured.
- Recommendation 8: Maximize potential for market success -

| <b>What?</b>                                                                        | <b>Why?</b>                                                               |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Mitigate regulatory and structural inefficiencies                                   | To produce near-term savings and encourage efficient market behavior      |
| Design pilot and retail competition to encourage technology-based competition       | To realize the potential for technological innovation to reduce costs     |
| Design efficient commodity markets                                                  | To enable value-added service innovation                                  |
| Exploit Alaska's small electricity systems                                          | To lead the industry trend toward new, modular distributed energy systems |
| Harmonize restructuring agendas in telecommunications, natural gas, and electricity | To realize convergence benefits                                           |

# Identify Barriers to a Competitive Pilot

- What are the costs associated with piloting competition?
- To what extent are the costs indifferent to the size of the pilot?
- To what extent should these cost considerations drive a decision to bypass a pilot and move directly to full retail competition?
- Recommendation 9: Any market, regardless of size and scope, must carry its own administration and oversight costs.

# Innovative Solutions to Market Barriers

- Number and/or diversity of suppliers may be insufficient to prevent exercise of market power.
- Number and/or diversity of buyers may be insufficient to produce robust demand responsiveness.
- Market for electricity may be too illiquid to support secondary markets.
- Recommendation 10: Consider contract-based competition in small increments of energy, e.g., 500 kWh contracts, to increase market liquidity.
- Recommendation 11: Consider a BTU Exchange, e.g., create a market exchange where both gas and electricity are traded as BTU contracts, to increase market liquidity.

# Study and Models Can Inform Most Issues

- Most structural and operational issues associated with a full retail competition pilot and competitive markets can be studied using sophisticated market simulation models.
- The goal of modeling is to determine whether viable retail competition is reasonably obtainable.
- Recommendation 12: Commission retail market simulation modeling as part of the decision to move to a full retail competition pilot.
- Recommendation 13: Full retail market opening must be preceded by modeling and simulation in any case.

# Comparison of Pilot Characteristics

|             | <b>Limited Market Entry Pilot</b>                                                                                     | <b>Full Retail Market Pilot</b>                                                                                                                                 |
|-------------|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description | Implements regulatory reforms; introduces limited market forces                                                       | Implements regulatory reforms; studies and learns about the scope, character and structure of competitive power markets in the unique context of Alaska.        |
| Goal        | Optimizes and updates the status quo; most direct path to limited customer choice                                     | Provides the necessary information and insights to the Alaska State Legislature and the APUC to make the decision whether to implement full retail competition. |
| Drivers     | Any retail market experience creates an opportunity to discover benefits of competitive forces in electricity markets | Retail competition pilots should be preceded by careful study, and should serve as a means to explore the contours of a more competitive electricity market.    |

# Comparison of Pilot Characteristics (cont'd.)

|                  | <b>Limited Market Entry Pilot</b>                                                                                                                                                  | <b>Full Retail Market Pilot</b>                                                                                                                                                                               |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rural Areas      | Offers new opportunities to improve rural system efficiencies; takes leadership position in development of distributed energy systems through a technology-based competitive pilot | Offers new opportunities to improve rural system efficiencies; takes leadership position in development of distributed energy systems through a technology-based competitive pilot                            |
| Biggest Risk     | Exercise of market power                                                                                                                                                           | Lost opportunities in near-term; sufficiently liquid market for competition may not develop                                                                                                                   |
| Regulatory Role  | Addresses and removes regulatory inefficiencies; comprehensive oversight and management for public benefit                                                                         | Addresses and removes regulatory inefficiencies; reveals barriers to competitive markets; studies and designs structures and rules to ensure that markets are structured to operate efficiently and equitably |
| Legislative Role | Provides public policy direction; clarifies APUC jurisdiction in several important areas                                                                                           | Establishes public policy goals and objectives regarding electric industry restructuring; provides APUC with broader authority and jurisdiction as necessary; appropriates additional funds as required       |

# Comparison of Pilot Characteristics (cont'd.)

|                  | <b>Limited Market Entry Pilot</b>                                               | <b>Full Retail Market Pilot</b>                                                                                                                      |
|------------------|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Market Operation | Collaboration and limited competition among incumbent utilities                 | Functionally or structurally separated generation dispatch and transmission system operations, perhaps under new independent governing organizations |
| Wholesale Market | Limited number of players; competition primarily among 3rd party intermediaries | More robust and transparent; partially segmented according to new retail market demands                                                              |
| Retail Market    | Very limited choices -- price and maybe green                                   | Burgeoning array of novel energy products and services                                                                                               |
| New Entrants     | Exclusive and traditional group; narrow play in quiet market                    | Broad range of companies from non-utility industries team and compete to establish novel products and services in wide open new markets              |

# Summary of Recommendations

1. Continue and expand efforts to improve rural system efficiencies through aggregation of administrative, fuel-purchasing, operations, logistical and other appropriate functions among geographically separate but proximate villages.
2. In order to build practical experience in the use and deployment of distributed energy systems which offer potential long-term cost savings, consider the creation of a pilot program based on technology demonstration and deployment, conducted in coordination with government and non-governmental organizations.
3. Permitting 3rd party intermediaries to pursue economic opportunities created by structural inefficiencies does not necessarily prove the benefits of competition. Initiate a specific set of market-friendly regulatory reforms today in order to bring the real competitive opportunity into focus.

# Summary of Recommendations (cont'd.)

4. Complete a regulatory agenda that -
  - (a) calculates and allocates component costs for Railbelt utilities in a rational and uniform manner (unbundling and cost allocation);
  - (b) rationalizes access to, and governance of, the transmission system to create a non-discriminatory open access network while ensuring reliability;
  - (c) rationalizes oversight of generation siting and construction to minimize stranded cost exposure and to foster the emergence of a competitive wholesale market with new merchant generators; and
  - (d) implements central dispatch/power pooling recommendations of the October 1998 Black & Veatch study in the Railbelt to harvest near-term savings and to facilitate emergence of a competitive wholesale market over the longer term.

## Summary of Recommendations (cont'd.)

5. Don't ask the fundamental question - "Can retail competition produce savings or benefits beyond those from improved regulation?" - until you are ready to answer it. Then, decide what kind of pilot to conduct.
6. Carefully review the elements of competitive markets and craft a pilot which demonstrates/tests the desired model of competition.
7. Execute recommendations specific to implementation of (a) Limited Market Entry Pilot and/or (b) Full Retail Competition Pilot, as appropriate.

# Summary of Recommendations (cont'd.)

8. Maximize potential for market success -
  - (a) Mitigate regulatory and structural inefficiencies to produce near-term savings and encourage efficient market behavior.
  - (b) Design pilot and retail competition to encourage technology- based competition and to realize the potential for technological innovation to reduce costs.
  - (c) Design efficient commodity markets to enable value-added service innovation.
  - (d) Exploit Alaska's small electricity systems to lead the industry trend toward new, modular distributed energy systems.
  - (e) Harmonize restructuring agendas in telecommunications, natural gas, and electricity to realize convergence benefits.

## Summary of Recommendations (cont'd.)

9. Any market, regardless of size and scope, must carry its own administrative and oversight costs.
10. To increase market liquidity, consider contract-based competition in small increments of energy, e.g., 500 kWh contracts.
11. To increase market liquidity, consider a BTU Exchange, e.g., create a market exchange where both gas and electricity are traded as BTU contract.
12. Commission retail market simulation modeling as part of the decision to move to a full retail competition pilot.
13. Full retail market opening must be preceded by modeling and simulation in any case.

# Recommended Legislative Positions - Rural

- The Alaska Legislature supports the application of innovative ideas and programs to increase the value and decrease the costs of electricity services in rural Alaska, and encourages the Alaska Public Utility Commission (APUC), working with other governmental and non-governmental organizations, to craft and conduct programs to:
  - improve rural system efficiencies through aggregation of administrative, fuel-purchasing, operations, logistical and other appropriate functions among geographically separate but proximate villages,
  - build practical experience in the use and deployment of distributed energy systems, which offer potential long-term cost savings, through a pilot program based on technology demonstration and deployment, and
  - develop and execute other appropriate pilot activities in rural Alaska.
- The Alaska Legislature finds that the APUC's current statutory authority is sufficient to conduct such activities.

# Recommended Legislative Positions - Railbelt

- The Alaska Legislature supports the conduct of a retail electricity pilot program to explore the potential for improved electric services and reduced costs in a more competitive, market oriented electricity services environment.
- The Alaska Legislature finds that, while the implementation of full retail competition in the electricity sector merits the passage of specific enabling legislation, the APUC currently enjoys sufficient statutory authority to implement such a pilot program, including:
  - making provisions for streamlined registration and oversight mechanisms for pilot program participants under Alaska Statutes Title 42, Chapter 05 (including, specifically, AS §§ 42.05.141, .221, .241, and .431); and
  - imposing such other structural and administrative requirements upon pilot program participants as may be appropriate to protect the public interest and advance the purposes of the pilot program.

# Recommended Legislative Positions

## - Railbelt (cont'd.)

- The Alaska Legislature concludes that prior to the opening of any retail electricity pilot program, and no later than July 1, 2000, the APUC must complete a regulatory agenda that:
  - calculates and allocates component costs for Railbelt utilities in a rational and uniform manner (unbundling and cost allocation);
  - rationalizes access to, and governance of, the transmission system to create a non-discriminatory open access network while ensuring reliability;
  - rationalizes oversight of generation siting and construction to minimize stranded cost exposure and to foster the emergence of a competitive wholesale market with new merchant generators; and
  - implements central dispatch/power pooling recommendations of the October 1998 Black & Veatch study in the Railbelt to harvest near-term savings and to facilitate emergence of a competitive wholesale market over the longer term.

# Recommended Legislative Positions

## - Railbelt (cont'd.)

- The Alaska Legislature concludes that, prior to the opening of any retail electricity pilot program, the APUC should ensure that the design and execution of such a program addresses a full range of competitive market issues, including, but not limited to:
  - number of suppliers,
  - number of buyers,
  - system reliability,
  - non-discriminatory access,
  - transmission governance,
  - market clearing mechanism,
  - price discovery mechanism,
  - price discovery mechanism,
  - pricing information,
  - settlements and billing,
  - market monitoring/ compliance,
  - ease of entry, and
  - ease of exit.

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# Alaska State Legislature

**Representative Bill Hudson**

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
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Committees:

Chair  
Fisheries  
Utilities  
Restructuring

Member  
Transportation  
State Affairs

## UTILITY RESTRUCTURING COMMITTEE

**Wednesday March 10, 1999 @ 8AM in room # 120  
(posted 3/4/98)**

**Representatives Bill Hudson-Chair, John Cowdery- Vice Chair, Pete Kott, Norman Rokeberg, Brian Porter, John Davies and Ethan Berkowitz, Joe Green-alternate**

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### AGENDA

**Call to order  
Roll Call**

#### **Notice of public hearing**

**HB 101 Reinstatement of public utility corporations-Morgan  
HB 62 APUC Sunset-Therriault**

#### **Presentations**

- 1. Alaska Telephone Association- Dave Fauske, President  
Sunset bill, APUC reform/reorg, issues of concern (15 minutes)**
- 2. Four Dam Pool (15 minutes)**

#### **Packet Items**

- 1. Four Dam Pool & Four Dam Pool PCE transfer fund**
- 2. Four Dam Pool-AIDEA Power sales agreements**
- 3. Southeast Alaska Electric Intertie System Plan**
- 4. TelAlaska Inc. APUC audit observations**
- 5. APUC- regulated utilities and statistics**
- 6. Briefing on the adoption of proxy cost models by telecommunications regulators as the means to calculate universal service support.**
- 7. Restructuring and Small Electric customers- NCSL**
- 8. Last dance for the regulated disco- Public Utilities Fortnightly**
- 9. PCE restructuring proposal Rep. Kohring**

**If you have any question please call me, or Committee Aide Walter Wilcox Sr.**

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: HB 62

BY  
UTILITY RESTRUCTURING COMMITTEE

1 Page 1, following line 3:

2 Insert new bill sections to read:

3 **\*\* Section 1.** AS 42.05.020(b) is amended to read:

4 (b) The governor shall designate one member of the commission as chair  
5 [CHAIRMAN] of the commission. This member shall serve as chair [CHAIRMAN]  
6 for a term of four years, but may be appointed for successive terms. The chair is  
7 responsible for the administration of the commission and commission employees.

8 **\* Sec. 2.** AS 42.05.101(a) is amended to read:

9 (a) The chair of the commission shall establish for the commission a  
10 principal office and branch offices necessary to discharge its business efficiently. For  
11 the convenience of the public or of parties to a proceeding, the commission may hold  
12 meetings, hearings, or other proceedings at other locations.

13 **\* Sec. 3.** AS 42.05.111(b) is amended to read:

14 (b) The chair of the commission may employ temporary legal counsel for the  
15 commission from time to time in proceedings before the commission in which the  
16 attorney general is representing the public interest or a party before the commission.

17 **\* Sec. 4.** AS 42.05.121 is amended to read:

18 **Sec. 42.05.121. Employment of commission personnel.** (a) The chair of  
19 the commission may employ an executive director of the commission. The  
20 executive director [WHO] shall have had at least five years of experience in public  
21 utility management or regulation, law, accounting, engineering, or an allied field. The  
22 executive director is responsible for directing the administrative functions of the  
23 commission and carrying out the policies as set by the commission. The chair of the  
24 commission may employ engineers, hearing officers, administrative law judges to the  
25 extent provided by AS 42.06.140(b), experts, clerks, accountants, and other agents and

assistants considered [IT CONSIDERS] necessary. Employees and agents of the  
commission who are not partially exempt under AS 39.25.120, other than legal  
counsel, are in the classified service under AS 39.25.100.

(b) In addition to the [ITS] staff of regular employees, the chair of the  
commission may contract for and engage the services of consultants and experts the  
chair [COMMISSION] considers necessary."

Page 1, line 4:

Delete "Section 1"

Insert "Sec. 5"

Renumber the following bill section accordingly.