

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

2675 SCOM 120: HOUSE SPEC. COMM. UTILITY RESTRUCTURING, 1999-2000

I-LS0181\G
Cramer/
4/26/99

CS FOR HOUSE BILL NO. 81()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (C) the procedure to change service providers;

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

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

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

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

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

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

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

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

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

10 (6) meet its advertised terms and conditions;

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

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

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

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

1 customer to include information in the bill at nondiscriminatory rates.

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

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

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

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

Preliminary Assessment of HB 81 fiscal impact on the Commission

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

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

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

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

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

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

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

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

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

Human Resources

Consumer Protection - CPIO I	\$44,400
Engineering - UEA II	64,579
Hearing Officer - ½ Hearing Examiner	42,900
Records & Filing - ½ Admin. Clerk II	15,795
<u>Tariffs - ½ Admin. Clerk II</u>	<u>15,795</u>

Total

\$183,469

HB 81

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

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

1. with consumer protection standards to protect consumers in a competitive electric service market; **[rulemaking - CP, Finance, Engineering]**

2. licensing requirements for electric service providers operating in a competitive electric service market; **[rulemaking - Engineering]**

3. for **prompt**, effective, and low-cost resolution of consumer complaints against electric suppliers, aggregators, and distributors operating in a competitive electric service market; **[rulemaking - CP, Hearing Officer]**

4. minimum safety standards and service criteria for electric service providers in a competitive electric service market; **[rulemaking - Engineering]**

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

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

- (1) provide consumers with free or reasonably priced information and educational materials to enable consumers to compare the price, quality, supplier service record, and terms of service offered by the electric service provider with the offerings of other providers in the market; **[rulemaking - CP]**

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

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

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

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

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

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

(c) The commission **shall** adopt regulations to require electric service providers operating in a competitive electric service market to continue to provide electric service to residential consumers who

demonstrate that economic hardship has prevented payment in full of a delinquent bill. The regulations may require the consumer to agree to a reasonable deferred payment plan and to comply with the plan. **[rulemaking - CP, Tariffs]**

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

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

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 81

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

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	207.7	207.7	207.7	207.7	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)	207.7	207.7	207.7	207.7	0.0	0.0
TOTAL	207.7	207.7	207.7	207.7	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

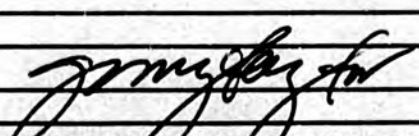
Full-time	3.5	3.5	3.5	3.5	0.0	0.0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Please see attached narrative.

Prepared by Robert A. Lohr

Division APUC

Approved by Commissioner 

Agency _____

Phone 276-6222

Date/Time 4/20/99 4:27 PM

Date 4/20/99

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Mary Ann Pease
Aurora Power Resources, Inc.

April 21, 1999

I would like to take this opportunity to voice my support for HB81-"An Act relating to the provision of electric service in the state; and providing for an effective date."

HB 81 provides a precise and useful summary to address the transitional issues associated with consumer protection as we move forward to a competitive, "customer-Choice" state for electric industry restructuring.

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

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

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

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

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

Obligation to Serve

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

■ Default Service

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

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

A distribution utility will remain responsible for most aspects of power quality because of its retained ownership of the distribution system, that is, the poles and wires that deliver electricity to each customer's home and place of business. Therefore, a distribution

utility will remain responsible for service reliability (outages, their frequency and duration), installation of service (service drops, as well as line extensions in previously unserved areas), disconnection of service, complaint resolution concerning distribution services, change-orders for customer-supplier relationships and billing and collection for at least distribution charges and perhaps for suppliers as well. Electric restructuring legislation in several states has reaffirmed the duty of distribution utilities to maintain service quality and reliability in the transition to a new industry structure and has linked that obligation to the use of Performance-Based Ratemaking (PBR) in setting rates for distribution services.

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

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

April 20, 1999

E-mail: wilkinson@cvea.org

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

SUBJECT: Testimony on House Bill 81

Dear Chairman Hudson:

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

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

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

However, what is not clear at this point is how rural Alaska will be addressed. Moreover, from reading the CH2M Hill draft report, I note page 15 (a map of the Railbelt and Copper Valley Electric service areas) that leads me to wonder just where our 3,300 customers fit into the equation. While we are on the state highway system, we are isolated electrically in that we are not interconnected to the Railbelt transmission grid.

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

Serving the Copper River Basin and Valdez

Testimony on HB 81
April 20, 1999
Page 2

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

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

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

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

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

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

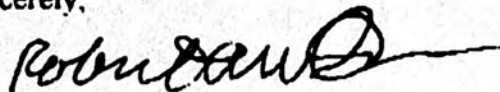
HB 81 amends Article 3 of AS 42.05, which I noted earlier is still applicable to all public utilities requiring a Certificate of Public Convenience and Necessity whether or not they are economically regulated by the APUC. As such, this bill places new regulation back upon CVEA, which under 42.05.711(h)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

Testimony on HB 81
April 20, 1999
Page 3

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

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

Sincerely,



Robert A. Wilkinson
Chief Executive Officer

Utilities Restructuring Committee
HB 81

Subject: RE: Consumer Bill

Date: Tue, 20 Apr 1999 10:20:57 -0600

From: "Rabago, Karl/COR" <KRabago@CH2M.com>

To: Janet Seitz <Janet_Seitz@legis.state.ak.us>

CC: Tom Feiler <feiler@eic-co.com>, Paul Morrison <Paul_Morrison@commerce.state.ak.us>, Deanna Gamble <dgamble@CH2M.com>, Floyd Damron <FDamron@CH2M.com>

Janet,

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

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

karl

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

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

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

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

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

— "A competitive electric service market means a market or program in which

retail electricity customers are provided a choice of electricity provider, whether on a permanent, limited, or pilot basis."

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

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

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

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

-----Original Message-----

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

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

in
the Utility Restructuring Committee.

Thanks.

Janet

"Rabago, Karl/COR" wrote:

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

 <u>HB 81 Comments KRR.doc</u>	Name: HB 81 Comments KRR.doc Type: Winword File (application/msword) Encoding: base64 Download Status: Not downloaded with message
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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 30, 1997

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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JUNEAU, ALASKA 99811-0300
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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. State 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.
MAY 01 1997

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)

The Honorable Norman Rokeberg

April 30, 1997

Page 3

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

The Honorable Norman Rokeberg

April 30, 1997
Page 4

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)

The Honorable Norman Rokeberg

April 30, 1997

Page 5

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; . . .

The Honorable Norman Rokeberg

April 30, 1997

Page 6

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

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

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

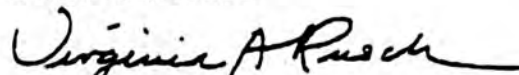
AS 42.05.241. This statute gives the Commission broad authority to impose conditions needed to protect the public when it grants a certificate. The Commission can attach to the grant of a certificate the terms and conditions it considers necessary to protect the public interest. One common remedy against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

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

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Virginia A. Rusch
Assistant Attorney General

VAR:jem

Amed
#1

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

"for those utilities subject to economic regulation by APUC"

Amed #2

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

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

To: Teri Creamer

From: Walt Wilcox

Re: HB 81

4/29

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

Thank you 6820
Walt



Municipal Light & Power

April 27, 1999

Chairman Bill Hudson

Vice-Chairman John Cowdery

Members of the House Committee on Utility Restructuring

GENERAL MANAGER

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

Honorable Representatives:

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

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

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

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

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

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

Amend #3

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

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

Amend #4

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

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

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

ask Memo

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

Amend #5

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

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

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

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

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

Respectfully submitted,

Amend # 6



Meera Kohler
General Manager

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 81

Revision Date/Time (Note if correction)

Dept. Affected

Commerce

Title Consumer protection in a competitive electric
market

BRU

Component Ak Public Utilities Commission

Sponsor Reps. Rokeberg, Dyson

Requester

Component Serial No. 346

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	207.7	207.7	207.7	207.7	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)	207.7	207.7	207.7	207.7	0.0	0.0
TOTAL	207.7	207.7	207.7	207.7	0.0	0.0

Estimate of any current year (FY99) cost:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Please see attached narrative.

Prepared by Robert A. Lohr

Division APUC

Approved by Commissioner

Agency

Phone 276-6222

Date/Time

Date 5-4-99

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Preliminary Assessment of HB 81: Fiscal impact on the Commission

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

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

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

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

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

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Meera Kohler
General Manager

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 81

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

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ANALYSIS: (Attach a separate page if necessary)

Please see attached narrative.

Prepared by Robert A. Lohr Phone 276-6222
 Division APUC Date/Time _____
 Approved by Commissioner *Smiley G. D. Schwach* Date 5-4-99
 Agency _____

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

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

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

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

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

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

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

Human Resources

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

Total

\$183,469

HB 81

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

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

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

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

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

(1) provide consumers with free or reasonably priced information and educational materials to enable consumers to compare the price, quality, supplier service record, and terms of service offered by the electric service provider with the offerings of other providers in the market; **[rulemaking - CP]**

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

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

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

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

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

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

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

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

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

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 5, 1999

FURTHER REFERRALS: Labor and Commerce

Date of Committee Action: _____

The HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING Committee considered:

HB 81

HOUSE BILL NO. 81

ELECTRIC CONSUMER'S BILL OF RIGHTS

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

recommends it be replaced
with the following committee substitute

CSHB 81(CRS)

☒ the same title
☐ a new title

☐ additional referral to _____ Committee

☐ attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

☒ fiscal note(s)

Commerce - APUC

☐ fiscal note(s)

☐ zero fiscal note(s)

☐ zero fiscal note(s)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John J. Condeelis</i>			☒	
<i>John J. Davis</i>	☒			
<i>Robert A. Bunt</i>			☒	
<i>John K. Best</i>			☒	
<i>Barbara J. Foster</i>	☒			
<i>Bill Hudson</i>	☒			

CHAIR'S SIGNATURE

Bill Hudson

Kodiak Electric Association Inc.

(907) 488-7700

Box 787
KODIAK, ALASKA 99615

WMT
MAY 10 1999

May 4, 1999

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

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

Re: HB 81, HB 174, and HB 169

Dear Representative Hudson:

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

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

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

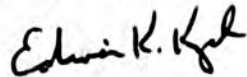
Representative Bill Hudson
May 4, 1999
Page 2

being proposed only for electric cooperatives where the board of directors is elected by the members/consumers to conduct the business and affairs of the cooperative. If the cooperative's members are unhappy with the board of directors' decisions, they are, of course, free to elect new board members. Once elected, however, the board should be free to carry out its fiduciary duty to act in the best interest of the cooperative, and the cooperative's membership should not be involved in day-to-day decision making.

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

Sincerely yours,

KODIAK ELECTRIC ASSOCIATION, INC.



Edwin K. Kozak, P.E.
General Manager

EKK:nbs
cc: Board of Directors, KEA

legislat\rc\HB174.99

SCOMM

120:7



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

May 11, 1999

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

CS HB 183(L&C) version K Sponsor Statement Alaska Public Utilities Commission restructuring

HB 183 restructures the APUC to create responsibility, and accountability through a strong chair. It allows the chair to hire and fire employees, and hire outside legal consultants.

The Bill removes the requirement that the Legislature concur with the Governor on the removal of a Commissioner.

Currently the Commissioners have background requirements as follows: an attorney, an engineer, an accountant and 2 public seats. This legislation deletes the specific background requirements.

This legislation does not allow more than 2 commissioners from the same political party. Ethics standards are added.

The Bill requires the APUC to report by February 1 to the Legislature as to the Commission activities for the year, including timeliness of docket activity.

The Bill adds timelines for action and allows the use of an arbitrator, and addresses consumer complaints. It also encourages the use of an arbitrator.

The effective date is immediate.

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

Section 1:

- A. Gender correction from chairman to chair.**
- B. Election of chair.**

Section 2: Removal of a Commissioner. The Governor will be able to remove a Commissioner for cause, without Legislative approval.

Section 3:

- A. No more than 2 members of the Commission may be from the same party. Commissioners may not change parties during the year prior to appointment or reappointment.**
 - B. A Commission member may not participate in:**
 - 1. political campaigns or fundraising, or lobbying activities**
- Requirements for background equivalent to degrees repealed.**

Section 4: The Chair, rather than the Commission may establish offices for the APUC.

Section 5: The chair, rather than the Commission may employ temporary legal counsel.

Section 6: The chair, rather than the commission may hire outside consultants, employees and experts with the approval of the Commission.

Section 7: Fixes dates for action and requires priority hearings

Section 8: Adds procedural deadlines. Adds mediation and arbitration.

Section 9: Regarding consumer complaint resolution.

Section 10: Provides for formal hearing arbitrator.

Section 11: In addition to the annual report the APUC will present to the Legislature the commission activities, and timeliness of docket activity for the previous year.

Section 12: Repeals actual experience equivalent to a degree.

Section 13: Encourages implementation of a management information system.

Section 14: Regarding removal rights of sitting Commissioners.

Section 15: Defines effective date of Section 7.

Section 16: Immediately effective date.

Please call Rep. Hudson or Walt Wilcox if there are any questions. 6820



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

May 11, 1999

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

Sponsor of Bill
Sectional
Note
Rendition of Bill
Legislative
NRRI Report
APUC Audit

CS HB 183(L&C) version K Sponsor Statement Alaska Public Utilities Commission restructuring

Restructure APUC to ~~improve~~ improve itself

HB 183 restructures the APUC to create responsibility, and accountability through a strong chair. It allows the chair to hire and fire employees, and hire outside legal consultants.

UTIL
Slow
dockets
Mgt
Prob
NRRI

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3, encourages a Mgt info system

The effective date is immediate.

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

1-LS0764\K

Cramer,

5/4/99

to Fin only not resources

SB133

CS FOR HOUSE BILL NO. 183(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the chair ^{and members} of the Alaska Public Utilities Commission; relating
2 to ^{removal of members of} ~~membership on~~ the Alaska Public Utilities Commission; relating to political
3 conduct by and removal of members of the Alaska Public Utilities Commission;
4 relating to hearings ^{step} ~~held~~ by the Alaska Public Utilities Commission; relating to ^{relating to procedural motions}
5 timely action by the Alaska Public Utilities Commission; relating to ^{relating to members & employees of APUC} procedural
6 motions of the Alaska Public Utilities Commission; relating to provisions for the
7 resolution of consumer complaints; ~~permitting arbitrators to conduct formal~~
8 ~~hearings before the Alaska Public Utilities Commission;~~ ^{relating to RCC} relating to a management
9 information system; relating to the annual report of the Alaska Public Utilities
10 Commission; and providing for an effective date."
11 ^{relating to RCC}

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

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

(b) The commission [GOVERNOR] shall select [DESIGNATE] one member of the commission to serve as chair [CHAIRMAN OF THE COMMISSION. THIS MEMBER SHALL SERVE AS CHAIRMAN] for a term of two [FOUR] years. A commissioner may be elected to successive terms as chair of the commission. The governor may reject the commission's selection of a chair [, BUT MAY BE APPOINTED FOR SUCCESSIVE TERMS].

* Sec. 2. AS 42.05.035 is repealed and reenacted to read:

Sec. 42.05.035. Removal of commissioners. The governor may remove a commissioner from office only for cause, including incompetence, neglect of duty, or misconduct in office, or because the member, while serving on the commission, is convicted of a misdemeanor for violating a statute or regulation related to public utilities or is convicted of a felony. The governor shall deliver to the commissioner a copy of the charges against the commissioner. The commissioner shall have an opportunity to present a defense in person or through counsel at a public hearing before the governor or the governor's designee. The commissioner shall be informed of the hearing by registered mail at least 10 days before the hearing date. At the hearing, the commissioner may confront and cross-examine adverse witnesses. Upon removal of the commissioner, the findings and a complete statement of all charges made against the commissioner shall be filed in the Office of the Lieutenant Governor.

* Sec. 3. AS 42.05.040 is repealed and reenacted to read:

Sec. 42.05.040. Qualifications of members; prohibited conduct. (a) No more than two members of the commission may be members of the same political party. A person may not be appointed or reappointed to the commission for one year after changing political party membership.

(b) A member of the commission may not participate in Prohibited conduct

(1) political management or in a political campaign for a candidate for election to federal, state, or local office regardless of whether the campaign is partisan or nonpartisan or for passage or defeat of a ballot measure of any type;

(2) the campaign of, or attend campaign fund-raising events for, a candidate for governor or the legislature;

(3) a fund-raising event held on behalf of a political party or attend a

political party fund-raising event; or

(4) lobbying activities that would require a person to register as a lobbyist.

* Sec. 4. AS 42.05.101(a) is amended to read:

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

* Sec. 5. AS 42.05.111(b) is amended to read:

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

* Sec. 6. AS 42.05.121 is amended to read:

Sec. 42.05.121. Employment of commission personnel. (a) The commission

may employ an executive director who shall have had at least five years of experience

in public utility management or regulation, law, accounting, engineering, or an allied field. The executive director is responsible for directing the administrative functions

of the commission and carrying out the policies as set by the commission. The chair

of the commission may employ engineers, hearing officers, administrative law judges

to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other

agents and assistants considered [IT CONSIDERS] necessary by the commission.

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 enter into a contract for no more than 50001 and engage the services of consultants and experts the

commission considers necessary.

* Sec. 7. AS 42.05.141 is amended by adding a new subsection to read:

(d) On the filing of a petition, application, or complaint concerning a matter within the jurisdiction of the commission under this chapter for which a hearing is clearly warranted, the chair of the commission shall assign a priority rating to the issue

1 and promptly fix a date for hearing. The hearing shall be expedited in accordance
2 with the priority rating. Regardless of the priority rating, a hearing may not be
3 scheduled to begin later than five months after the petition, application, or complaint
4 was filed unless the commission approves an extension of time for good cause. After
5 the conclusion of the hearing, the commission shall enter its order within 60 days.

6 * Sec. 8. AS 42.05.151(b) is amended to read:

7 (b) The commission shall adopt regulations governing practice and procedure,
8 consistent with due process of law, including the conduct of formal and informal
9 investigations, prehearing [PRE-HEARING] conferences, hearings, mediation,
10 arbitration, and proceedings, and the handling of procedural motions by a single
11 commissioner. The commission, or an assigned commissioner, shall enter an order
12 on procedural motions within 10 days after the close of the applicable briefing
13 period. Technical rules of evidence need not apply to investigations, prehearing
14 [PRE-HEARING] conferences, hearings, mediation, arbitration, and proceedings
15 before the commission. The commission shall provide for representation by out-of-
16 state attorneys substantially in accordance with Rule 81, Alaska Rules of Civil
17 Procedure.

18 * Sec. 9. AS 42.05 is amended by adding a new section to read:

19 **Sec. 42.05.165. Consumer complaints.** The commission shall by regulation
20 provide for

21 (1) the expedited hearing and resolution of consumer complaints; and

22 (2) penalties against a party to a complaint who causes unjustified
23 delays in a consumer complaint proceeding.

24 * Sec. 10. AS 42.05.171 is amended to read:

25 **Sec. 42.05.171. Formal hearings.** A formal hearing that the commission has
26 power to hold may be held by or before ^{a hearing panel appointed} ~~three or more commissioners~~, a hearing
27 officer, or an administrative law judge designated for the purpose by the commission.
28 In appropriate cases, a formal hearing may be held before an arbitrator
29 designated for the purpose by the commission. The testimony and evidence in a
30 formal hearing may be taken by the ^{panel} ~~commissioners~~, by the hearing officer, [OR] by
31 the administrative law judge, or by the arbitrator to whom the hearing has been

1 assigned. A decision of an arbitrator is not final until approved by the
2 commission. A commissioner who has not heard or read the testimony, including the
3 argument, may not participate in making a decision of the commission. In determining
4 the place of a hearing, the commission shall give preference to holding the hearing at
5 a place most convenient for those interested in the subject of the hearing.

6 * Sec. 11. AS 42.05.211 is amended to read:

7 Sec. 42.05.211. Annual report. The commission shall, by February 1 [15] of
8 each year, publish an annual report reviewing its work and notify the legislature that
9 the report is available. The report must contain

10 (1) information and data that bear a significant relationship to the
11 development and regulation of public utility services in the state;

12 (2) [AND INCLUDE] an outline of the commission's program for the
13 development and regulation of public utility services in the forthcoming year;

14 (3) a summary of the activities of the commission during the
15 previous year; and

16 (4) a report on and evaluation of the timeliness of the commission's
17 action on dockets during the previous year. *9 of RCC*

18 * Sec. 12. AS 42.05.050 is repealed. *New Sec 12 Comm decision making*

19 * Sec. 13. MANAGEMENT INFORMATION SYSTEM. The legislature encourages the
20 Alaska Public Utilities Commission to continue to develop its management information system
21 and to make the system accessible by the general public through the Internet for the purpose
22 of tracking, scheduling, and managing all dockets within the commission.

23 * Sec. 14. The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,
24 apply to a member of the Alaska Public Utilities Commission serving on the effective date
25 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
26 to the removal procedure specified in former AS 42.05.035.

27 * Sec. 15. The provisions of AS 42.05.141(d), enacted by sec. ~~8~~ of this Act, apply to
28 petitions, applications, and complaints first filed with the commission on or after the effective
29 date of this Act. *New 17 Transitional provision*

30 * Sec. 16. This Act takes effect immediately under AS 01.10.070(c).

Defines RCC calc method

SB133 - 5/11 Version

5/8
Rules amended ✓

Amendments for discussion

HB 183

House Labor & Commerce Committee

May 5, 1999

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 5, following "commission;":

2 Insert "relating to members and employees of the Alaska Public Utilities
3 Commission;"

4 Page 3, line 14, following "(a)":

5 Insert "The chair of the commission is responsible for directing the overall
6 operation of the commission."

7 Page 3, line 17:

8 Delete "The"

9 Insert "Under the direction of the chair, the [THE]"

10 Page 3, line 26:

11 Delete "contract for"

12 Insert "enter into a contract for no more than \$5,000 to [AND]"

13 Page 3, line 27:

14 Delete "commission"

15 Insert "chair [COMMISSION]"

16 Following ".":

17 Insert "The commission may contract for and engage the services of
18 consultants and experts the commission considers necessary."

19 Page 3, following line 27:

20 Insert a new bill section to read:

1 ** Sec. 7. AS 42.05.131 is amended by adding new subsections to read:

2 (c) Members and employees of the commission, except clerical and secretarial
3 staff, are subject to AS 39.50. Members and employees of the commission are subject
4 to AS 39.52.

5 (d) A member of the commission is disqualified from voting on any matter
6 before the commission in which the member has a conflict of interest."

7 Renumber the following bill sections accordingly.

8 Page 5, line 27:

9 Delete "sec. 7"

10 Insert "sec. 8"

AMENDMENT**OFFERED IN THE HOUSE****TO: CSHB 183(L&C), Draft Version "K"**

1 Page 3, following line 12:

2 Insert a new bill section to read:

3 **** Sec. 6. AS 42.05 is amended by adding a new section to read:**

4 **Sec. 42.05.115. Powers and duties of commission chair. (a) The chair of**
5 **the commission shall**

6 (1) employ the commission staff;

7 (2) establish and implement a time management system for the
8 commission;

9 (3) assign the work of the commission to members and staff of the
10 commission so that matters before the commission are resolved as expeditiously and
11 competently as possible; when assigning a matter, the chair shall also set a date by
12 which time the matter should be completed.

13 (b) The chair of the commission may appoint a hearing officer to hear a
14 matter that has come before the commission; a member of the commission may serve
15 as hearing officer.

16 (c) When the chair of the commission believes that it is in the public interest
17 for the commission to participate as a party in an adjudicatory matter, the chair shall
18 direct the commission staff to do so."

19 Renumber the following bill sections accordingly.

20 Page 5, line 27:

21 Delete "sec. 7"

22 Insert "sec. 8"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 4, line 13, following "1":

2 Insert "The commission shall adopt regulations by December 31, 1999, that
3 establish standards of timeliness for the types of cases that come before the commission.
4 The commission shall establish the standards based in part on degrees of complexity of
5 the cases. Except as provided in AS 42.05.171, when a matter comes for decision before
6 the commission, the chair shall appoint a hearing panel composed of three or more
7 commissioners to hear and decide the case. The panel shall exercise the powers of the
8 commission with respect to the matter. A decision of a hearing panel may be appealed
9 to the commission if there is an allegation in the appeal that action taken or a decision
10 made by the commission is contrary to commission precedent and is not based on an
11 intervening change in law. The commission may grant or deny the application to
12 appeal. If a decision of a hearing panel is not subject to appeal to the commission or
13 if the commission denies an application to appeal, the decision of the hearing panel is
14 a final decision for purposes of appeal to the courts."

15 Page 4, line 26:

16 Delete "three or more commissioners"

17 Insert " a hearing panel appointed under AS 42.05.151(b) [THREE OR MORE
18 COMMISSIONERS]"

19 Page 4, line 30:

20 Delete "commissioners"

21 Insert "panel [COMMISSIONERS]"

22 Page 5, following line 17:

1 Insert a new bill section to read:

2 **"* Sec. 12.** AS 42.06 is amended by adding a new section to read:

3 **Sec. 42.06.155. Commission decision-making procedures.** The commission
4 shall comply with AS 42.05.151(b) for matters that come before the commission for
5 decision."

6 Renumber the following bill sections accordingly.

7 Page 5, following line 29:

8 Insert a new bill section to read:

9 **"* Sec. 17. TRANSITIONAL PROVISION.** Litigation, hearings, and other proceedings
10 pending under procedures authorized by a law amended by this Act continue in effect and
11 may be completed notwithstanding an amendment made by this Act."

12 Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 10, following "Commission;":

2 Insert "relating to regulatory cost charges;"

3 Page 5, following line 17:

4 Insert new bill sections to read:

5 "* Sec. 12. AS 42.05.254(a) is amended to read:

6 (a) A regulated public utility operating in the state shall pay to the
7 commission an annual regulatory cost charge in an amount not to exceed the
8 maximum percentage of adjusted gross revenue that applies to the utility sector
9 of which the utility is a part. The total regulatory cost charges that the
10 commission expects to collect from all regulated public utilities and regulated
11 pipeline carriers may not exceed .8 percent of the total adjusted gross revenue of
12 all regulated public utilities and the total gross revenue of all regulated pipeline
13 carriers [DERIVED FROM OPERATIONS IN THE STATE, AS MODIFIED
14 UNDER (c) OF THIS SECTION IF APPROPRIATE]. An exempt utility shall pay
15 the actual cost of services provided to it by the commission.

16 * Sec. 13. AS 42.05.254(b) is amended to read:

17 (b) The commission shall by regulation establish a method to determine
18 annually the amount of the regulatory cost charge for a public utility. If the amount
19 the commission expects to collect under (a) of this section and under AS 42.06.286(a)
20 exceeds the authorized budget of the commission, the commission shall, by order,
21 reduce the percentages determined under (i) [SET OUT IN (a)] of this section so
22 that the total amount of the fees collected approximately equals the authorized budget
23 of the commission for the fiscal year.

24 * Sec. 14. AS 42.05.254(h) is amended by adding a new paragraph to read:

1 (5) "adjusted gross revenue" means the gross revenue of a utility as
 2 modified under (c) of this section, if appropriate.

3 * Sec. 15. AS 42.05.254 is amended by adding a new subsection to read:

4 (i) The commission shall by regulation establish a method to determine
 5 annually the maximum percentage of adjusted gross revenue that will apply to each
 6 regulated public utility sector and the maximum percentage of gross revenue that will
 7 apply to each regulated pipeline carrier sector. The method established shall allocate
 8 the commission's costs, other than the cost of services provided to exempt utilities,
 9 among the regulated public utility sectors and the regulated pipeline carrier sector
 10 based on the relative amount of the commission's annual costs that is attributable to
 11 regulating each sector.

12 * Sec. 16. AS 42.06.286(a) is amended to read:

13 (a) A pipeline carrier operating in the state shall pay to the commission an
 14 annual regulatory cost charge in an amount not to exceed the maximum percentage
 15 of gross revenue that applies to regulated pipeline carriers. The total regulatory
 16 cost charges that the commission expects to collect from all regulated pipeline
 17 carriers and regulated public utilities may not exceed .8 percent of the total gross
 18 revenue of all regulated pipeline carriers and the total gross revenue of all
 19 regulated public utilities [DERIVED FROM OPERATIONS IN THE STATE]. A
 20 regulatory cost charge may not be assessed on pipeline carrier operations unless the
 21 operations are within the jurisdiction of the commission.

22 * Sec. 17. AS 42.06.286(b) is amended to read:

23 (b) The commission shall by regulation establish a method to determine
 24 annually the amount of the regulatory cost charge. If the amount the commission
 25 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
 26 authorized budget of the commission, the commission shall, by order, reduce the
 27 percentage determined under (f) [SET OUT IN (a)] of this section so that the total
 28 amount of the fees collected approximately equals the authorized budget of the
 29 commission for the fiscal year.

30 * Sec. 18. AS 42.06.286 is amended by adding a new subsection to read:

31 (f) The commission shall by regulation establish a method to determine
 32 annually the maximum percentage of gross revenue that will apply to each regulated

- 1 pipeline carrier sector and the maximum percentage of gross revenue that will apply
- 2 to the regulated public utility sector in accordance with AS 42.05.254(i)."
- 3 Renumber the following bill sections accordingly.

AMENDMENT**OFFERED IN THE HOUSE****TO: CSSB 183(L&C)**

1 Page 1, lines 1 - 3:

2 Delete "relating to the chair of the Alaska Public Utilities Commission; relating
3 to membership on the Alaska Public Utilities Commission; relating to political conduct
4 by and removal of members of the Alaska Public Utilities Commission;"

5 Insert "relating to the chair and members of the Alaska Public Utilities
6 Commission; relating to removal of members of the Alaska Public Utilities
7 Commission;"

8 Page 1, lines 4 - 6:

9 Delete "relating to hearings held by the Alaska Public Utilities Commission;
10 relating to timely action by the Alaska Public Utilities Commission; relating to
11 procedural motions of the Alaska Public Utilities Commission;"

12 Insert "relating to the conduct of proceedings of the Alaska Public Utilities
13 Commission;"

14 Page 1, lines 7 - 8:

15 Delete "permitting arbitrators to conduct formal hearings before the Alaska
16 Public Utilities Commission;"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "K"

1 Page 1, line 8, following ";;":

2 Insert "relating to regulatory cost charges;"

3 Page 5, following line 17:

4 Insert new bill sections to read:

5 **** Sec. 12.** AS 42.05.254(b) is amended to read:

6 (b) The commission shall by regulation establish a method to determine
7 annually the amount of the regulatory cost charge for a public utility based on the
8 utility sector to which the utility belongs. In determining the regulatory cost
9 charge for individual public utilities, the total cost for regulation of public
10 utilities under this chapter shall be allocated among the public utility sectors in
11 proportion to the cost of regulating each sector. If the amount the commission
12 expects to collect under (a) of this section and under AS 42.06.286(a) exceeds the
13 authorized budget of the commission, the commission shall, by order, reduce the
14 percentages set out in (a) of this section proportionately so that the total amount of
15 the fees collected approximately equals the authorized budget of the commission for
16 the fiscal year.

17 *** Sec. 13.** AS 42.06.286(b) is amended to read:

18 (b) The commission shall by regulation establish a method to determine
19 annually the amount of the regulatory cost charge. In determining the regulatory
20 cost charge for a pipeline, the cost for regulation of pipelines under this chapter
21 shall be allocated to the pipeline sector. If the amount the commission expects to
22 collect under (a) of this section and under AS 42.05.254(a) exceeds the authorized
23 budget of the commission, the commission shall, by order, reduce the percentage set
24 out in (a) of this section proportionately so that the total amount of the fees collected

- 1 approximately equals the authorized budget of the commission for the fiscal year."
- 2 Renumber the following bill sections accordingly.

5/3/99 ~~held down~~

I-LS0764V.4
Cramer
4/30/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C), Draft Version "I"

1 Page 2, lines 19 - 23:

2 Delete "Qualifications of members; prohibited conduct. (a) No more than two
3 members of the commission may be members of the same political party. A person may not
4 be appointed or reappointed to the commission for one year after changing political party
5 membership.

6 (b)"

7 Insert "Prohibited conduct."

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 3, 1999

VIA FACSIMILE & U.S. MAIL

The Honorable Norman Rokeberg
Alaska State Legislature
House of Representatives
Alaska State Capitol, Room 24
Juneau, Alaska 99801

Re: Requested amendment to
House Bill 183 (L&C)

Dear Rep. Rokeberg:

Attached you will find, as requested, a proposed amendment that will allow the Alaska Public Utilities Commission to assign matters to a hearing officer or arbitrator for a proposed decision in the same manner provided by AS 44.62.500 of the Administrative Procedures Act.

One of the purposes of HB 183 is to allow the assignment of hearing officers and arbitrators in order to get more efficiency in deciding matters before the Commission. The Alaska Administrative Procedures Act allows an agency to assign a hearing officer to hear a case alone and to submit a proposed decision to the agency. The agency may adopt such a proposed decision without a review of entire record or argument.

The current statute in AS 42.05.171, which HB 183 (L & C) amends, has a sentence in it that provides, "A commissioner who has not heard or read the testimony, including argument, may not participate in making a decision of the commission." This arguably does not allow commissioners to approve a proposed decision of a hearing officer or arbitrator if they have not read the transcript or sat in on the hearing.

TONY KNOWLES GOVERNOR

PLEASE REPLY TO:

1001 W. 5th Avenue Suite 200
Anchorage Alaska 99511-1944
PHONE (907) 264-5100
FAX (907) 274-4907

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS ALASKA 99711-4674
PHONE (907) 451-2511
FAX (907) 451-2444

1110 S. 11th Avenue Court House
Juneau, Alaska 99801-0301
PHONE (907) 461-1500
FAX (907) 461-1500

The Honorable Norman Rokeberg
Alaska State Legislature

May 3, 1989
Page 2

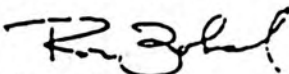
The APA allows an approval of a proposed decision or reduction in a penalty without a review of the record and requires such a review only if the agency decides to further modify the decision. The attached amendment adopts that version of the APA for APUC hearings so that in appropriate cases the commissioners can adopt a proposed decision of a hearing officer or arbitrator without reviewing the entire record. The suggested amendment gives the chair the power to assign cases as appropriate, the assigned commissioners retain the power to approve or modify the decision of hearing officers and arbitrators, and requires a review of the record or hearing of the evidence and argument only when the proposed decision is modified in the manner of the APA. The word "decision" has been used to include an order or arbitrator's award. Under this amendment, the chair would have to use judgment in assigning appropriate cases to an arbitrator. Not all cases are appropriate for an arbitrator.

If any more drafting or information is necessary, please contact me.

Very truly yours.

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Ron Zobel

Assistant Attorney General

Enclosure:

AS 42.05.171 is amended to read:

Sec. 42.05.171 Formal hearing. (a) A formal hearing that the commission has the power to hold may be held by or before three or more commissioners, a hearing officer, an administrative law judge, or arbitrator as assigned [designated for the purpose] by the chair of the commission. The testimony and evidence in a formal hearing may be taken by the commissioners, [by the] hearing officer, [by the] administrative law judge, or arbitrator to whom the hearing has been assigned. [A commissioner who has not heard or read the testimony, including the argument, may not participate in making a decision of the commission.] In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

(b) If a hearing is held before a hearing officer, an administrative law judge, or an arbitrator alone, the hearing officer, administrative law judge, or arbitrator shall prepare a proposed decision in a form that may be adopted by the commissioners assigned. A copy of the decision shall be filed in the record of the proceedings and served on each party. The commissioners assigned may adopt the proposed decision in its entirety, or may reduce a proposed penalty and adopt the balance of the decision.

(c) If the proposed decision is not adopted as provided in (b) of this section, the commissioners assigned may decide the case upon the record, with or without taking additional evidence or argument, or may remand the case to the same or another hearing officer or arbitrator to take additional evidence. If the case is so remanded, the hearing officer or arbitrator shall prepare a proposed decision as provided in (b) of this section upon the additional evidence and the record of the earlier hearing. A commissioner who has not heard or read the testimony and argument may not participate in making a decision under this subsection.

Corrected
Drafted
by Ron Zobe

5/3/99



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

April 21, 1999

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

CS HB 183(URS) Sponsor Statement Alaska Public Utilities Commission restructuring

HB 183 restructures the APUC to create responsibility, and accountability through a strong chair. It allows the chair to hire and fire employees, and hire outside legal consultants.

The Bill removes the requirement that the Legislature concur with the Governor on the removal of a Commissioner.

Currently the Commissioners have background requirements as follows: an attorney, an engineer, an accountant and 2 public seats. This legislation deletes the specific background requirements.

This legislation does not allow more than 2 commissioners from the same political party. Ethics standards are added.

The Bill requires the APUC to report by February 1 to the Legislature as to the Commission activities for the year, including timeliness of docket activity.

The effective date is immediate.

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

Section 1:

- A. Gender correction from chairman to chair.
- B. Makes the chair responsible for the administration of the commission and commission employees.

Section 2:

Removal of a Commissioner. The Governor will be able to remove a Commissioner for cause, without Legislative approval.

Section 3:

- A. No more than 2 members of the Commission may be from the same party. Commissioners may not change parties during the year prior to appointment or reappointment.
- B. A Commission member may not participate in:
 - 1. political campaigns or fundraising, or lobbying activities

Section 4:

The Chair, rather than the Commission may establish offices for the APUC.

Section 5:

The chair, rather than the Commission may employ temporary legal counsel.

Section 6:

The chair, rather than the commission may hire outside consultants, and experts with the approval of the Commission.

Section 7:

In addition to the annual report the APUC will present to the Legislature the commission activities, and timeliness of docket activity for the previous year.

Section 8: Removes employee/public category requirements.

Section 9: Rights of sitting Commissioners impacted by section 2.

Section 10: Immediately effective date

Please call Rep. Hudson or Walt Wilcox if there are any questions. 6820

12 delete background requirements

13 encourages 1st info system

to see 11
Also fixing dates for action and priority hearing
Adds procedural motion deadlines
Adds expediting consumer complaints
Adds hearing panel and arbitrators

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 183

Revision Date/Time (Note if correction) _____

Dept. Affects DCED

Title Alaska Public Utilities Commission

BRU AK Public Utilities Commission

Component APUC Operations

Sponsor Utility Restructuring

Requester Rep. Hudson

Component Serial No. 346

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the Alaska Public Utilities Commission.

Prepared by Robert A. Lohr

Division APUC

Approved by Commissioner Deborah B. Sedwick

Agency _____

Phone 263-2174

Date/Time _____

Date 4.14.99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

Section 1:

- A. Gender correction from chairman to chair.
- B. Makes the chair responsible for the administration of the commission and commission employees.

Section 2:

Removal of a Commissioner. The Governor will be able to remove a Commissioner for cause, without Legislative approval.

Section 3:

- A. No more than 2 members of the Commission may be from the same party. Commissioners may not change parties during the year prior to appointment or reappointment.
- B. A Commission member may not participate in:
 - 1. political campaigns or fundraising, or lobbying activities

Section 4:

The Chair, rather than the Commission may establish offices for the APUC.

Section 5:

The chair, rather than the Commission may employ temporary legal counsel.

Section 6:

The chair, rather than the commission may hire outside consultants, and experts with the approval of the Commission.

Section 7:

In addition to the annual report the APUC will present to the Legislature the commission activities, and timeliness of docket activity for the previous year. Also fixing dates

to Sec 11
Section 8: Removes employee/public category requirements.

Adds procedural motion deadlines

Section 9: Rights of sitting Commissioners impacted by section 2.

Adds expediting consumer complaints

Section 10: Immediately effective date.

Adds hearing panel and arbitrators

Please call Rep. Hudson or Walt Wilcox if there are any questions. 6820

12 deletes background requirements

13 encourages Net info system

14 sitting commissioner removal rights

15 explains effective date of Sec 7

16 eff date. immediate

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 183

Revision Date/Time (Note if correction) _____

Dept. Affect: DCED

Title Alaska Public Utilities Commission

BRU AK Public Utilities Commission

Component APUC Operations

Sponsor Utility Restructuring

Requester Rep. Hudson

Component Serial No. 346

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the Alaska Public Utilities Commission.

Prepared by Robert A. Lohr

Division APUC

Approved by Commissioner Deborah B. Schneider

Agency _____

Phone 263-2174

Date/Time _____

Date 4.14.99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 183(L&C)

OK

1 Page 1, lines 1 - 3:

2 Delete "relating to the chair of the Alaska Public Utilities Commission; relating
3 to membership on the Alaska Public Utilities Commission; relating to political conduct
4 by and removal of members of the Alaska Public Utilities Commission;"

5 Insert "relating to the chair and members of the Alaska Public Utilities
6 Commission; relating to removal of members of the Alaska Public Utilities
7 Commission;"

8 Page 1, lines 4 - 6:

9 Delete "relating to hearings held by the Alaska Public Utilities Commission;
10 relating to timely action by the Alaska Public Utilities Commission; relating to
11 procedural motions of the Alaska Public Utilities Commission;"

12 Insert "relating to the conduct of proceedings of the Alaska Public Utilities
13 Commission;"

14 Page 1, lines 7 - 8:

15 Delete "permitting arbitrators to conduct formal hearings before the Alaska
16 Public Utilities Commission;"



**FACSIMILE TRANSMISSION COVER
SHEET**

Fair Business Practices Section

Suite 200

1031 W. Fourth Ave.

Anchorage, AK 99501

PHONE: (907) 269-5200

FAX: (907) 270-3007

DATE: MAY 4, 1999

TO: ATTN: JANET SEITZ

FOR REP. NORMAN ROKEBERG FAX: 907-465-2040

FROM: RON ZOBEL

NUMBER OF PAGES INCLUDING THIS SHEET: 3

MESSAGE:

MAY 04 1999

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

**PLEASE INFORM US IMMEDIATELY
IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL.
(907) 269-5200 ASK FOR: MARY**

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 4, 1999

VIA FACSIMILE & U.S. MAIL

The Honorable Norman Rokeberg
Alaska State Legislature
House of Representatives
Alaska State Capitol, Room 24
Juneau, Alaska 99801

Re: Amendment AS 42.05.171
House Bill 183(L&C)

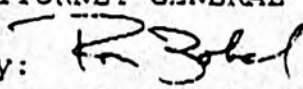
Dear Rep. Rokeberg:

Chairman Cotten has raised the issue of whether the draft amendment to AS 42.05.171 sent yesterday would relieve Commissioners of the obligation to hear or read the testimony when commissioners hear the case themselves and make a decision rather than referring the matter to a hearing officer. We believe it is implied that any person who hears a case and makes findings will have heard or read the testimony and argument. In order to remove any doubt, you will find an attached revision that makes it clear that only when the matter has been delegated to a hearing officer or arbitrator for hearing and proposed decision, can a commissioner approve a decision without hearing or reading the testimony and transcript.

We hope this clarifies the meaning of the provision.

Very truly yours

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 

Ron Zobel

Assistant Attorney General

Enclosure:

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☒ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 274-3697

☐ KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4879
PHONE: (907) 451-2811
FAX: (907) 451-2848

☐ P.O. BOX 110300-DIMOND COUNTY HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

AS 42.05.171 is amended to read:

Sec. 42.05.171 **Formal hearing.** (a) A formal hearing that the commission has the power to hold may be held by or before three or more commissioners, a hearing officer, an administrative law judge, or arbitrator as assigned [DESIGNATED FOR THE PURPOSE] by the chair of the commission. The testimony and evidence in a formal hearing may be taken by the commissioners, [by the] hearing officer, [by the] administrative law judge, or arbitrator to whom the hearing has been assigned. Except as provided in (b) of this section, a [A] commissioner who has not heard or read the testimony and [, INCLUDING THE] argument, may not participate in making a decision of the commission. In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

(b) If a hearing is held before a hearing officer, an administrative law judge, or an arbitrator alone, the hearing officer, administrative law judge, or arbitrator shall prepare a proposed decision in a form that may be adopted by the commissioners assigned. A copy of the decision shall be filed in the record of the proceedings and served on each party. The commissioners assigned may adopt the proposed decision in its entirety, or may reduce a proposed penalty and adopt the balance of the decision.

(c) If the proposed decision is not adopted as provided in (b) of this section, the commissioners assigned may decide the case upon the record, with or without taking additional evidence or argument, or may remand the case to the same or another hearing officer or arbitrator to take additional evidence. If the case is so remanded, the hearing officer or arbitrator shall prepare a proposed decision as provided in (b) of this section upon the additional evidence and the record of the earlier hearing. A commissioner who has not heard or read the testimony and argument may not participate in making a decision under this subsection.

Alaska State Legislature

REPRESENTATIVE
GAIL PHILLIPS
Chair



SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472

Legislative Budget and Audit Committee

TO: Norm Rokeberg, Chair *Norm*
Labor and Commerce Committee

FROM: Representative Gail Phillips, Chair *Gail*
Legislative Budget and Audit Committee

RE: Amendment Request - SB 133 - Creating the Regulatory Commission of Alaska; Repealing the Alaska Public Utilities Commission

After conferring with the Legislative Auditor, Pat Davidson, I respectfully request you consider the following minor amendment to SB 133.

Page 11, on lines 18 through 21, delete:

[The governor shall appoint one member from the Regulatory Commission of Alaska and one member from the Alaska Oil and Gas Conservation Committee to work with the Legislative Budget and Audit Committee on the report"]

The Legislative Budget and Audit Committee (LBAC), and therefore our auditors already have statutory authorization to require the assistance and cooperation of officials and other state employees (AS 24.20.201 (a) (3) and AS 24. 20. 271 (5). Additionally, the audit team must be independent in its work from the organizations audited and conform to Governmental Auditing Standards. During the regular course of this study, the audit team will no doubt work closely with not only the commissioners from both entities, but staff as well.

Thank you for your consideration of this request. An amendment accomplishing the above is attached.

attachment

INTERIM ADDRESS

345 W. Sterling Highway, Suite 102B, Homer, Alaska 99603 (907) 235-2921 Fax: (907) 235-4008

I-LS0771\XA.3

Cramer✓
5/6/99

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 133(RLS) am

- 1 Page 11, lines 18 - 21:
- 2 Delete "The governor shall appoint one member from the Regulatory Commission of
- 3 Alaska and one member from the Alaska Oil and Gas Conservation Commission to work with
- 4 the Legislative Budget and Audit Committee on the report."

AMENDMENT**OFFERED IN THE HOUSE****TO: CSSB 133(RLS) am**

1 Page 5, lines 9 - 12:

2 Delete all material and insert:

3 "(c) On the filing of a petition, application, or complaint concerning a matter
4 within the jurisdiction of the commission under AS 42.05 for which a hearing is
5 clearly warranted, the chair of the commission shall assign a priority rating to the
6 issue and promptly set a date for hearing. The hearing shall be expedited in
7 accordance with the priority rating. Regardless of the priority rating, a hearing may
8 not be scheduled to begin later than five months after the petition, application, or
9 complaint was filed unless the commission approves an extension of time for good
10 cause. After the conclusion of the hearing, the commission shall enter its order within
11 60 days."

AMENDMENT**OFFERED IN THE HOUSE****TO: CSSB 133(RLS) am**

1 Page 12, following line 15:

2 Insert a new bill section to read:

3 **"* Sec. 29. APUC ASSISTANCE TO RCA. The Alaska Public Utilities Commission**
4 **shall, to the extent possible, transfer as many duties and activities as possible from members**
5 **of the commission to commission staff in order to make the transition between the Alaska**
6 **Public Utilities Commission and the Regulatory Commission of Alaska as smooth as**
7 **possible."**

8 Renumber the following bill sections accordingly.

9 Page 14, line 13:

10 Delete all material and insert:

11 **"* Sec. 33. (a) Section 29 of this Act takes effect immediately under AS 01.10.070(c).**

12 **(b) Except as provided in (a) of this section, this Act takes effect July 1, 1999."**

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 133(RLS) am

- 1 **Page 4, lines 23 - 27:**
- 2 **Delete all material.**

- 3 **Page 5, lines 13 - 18:**
- 4 **Delete all material.**

- 5 **Page 5, line 19:**
- 6 **Delete "Article 3"**
- 7 **Insert "Article 2"**

- 8 **Page 11, line 10:**
- 9 **Delete "42.05.123,"**

1-LS0771\K ✓

Cramer

4/29/99

Agccc/Apnc Study may not will merge
Back offered on advocacy to ~~major~~ major item

CS FOR SENATE BILL NO. 133(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR PEARCE

A BILL

FOR AN ACT ENTITLED

1 "An Act creating and providing for the Regulatory Commission of Alaska and
2 transferring to it certain powers and duties of the Alaska Public Utilities
3 Commission; transferring regulation of pipelines to the Alaska Oil and Gas
4 Conservation Commission; repealing the Alaska Public Utilities Commission;
5 relating to the powers of the chair of the Regulatory Commission of Alaska;
6 relating to regulatory cost charges for public utilities; relating to the appellate
7 procedures of the Regulatory Commission of Alaska; and providing for an
8 effective date."

NAME
CHANGE

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

10 * Section 1. AS 42 is amended by adding a new chapter to read:

11 Chapter 04. Regulatory Commission of Alaska.

12 Article 1. Commission and Staff.

1 **Sec. 42.04.010. Regulatory Commission of Alaska created.** (a) There is
2 created as an independent agency of the state the Regulatory Commission of Alaska.

3 (b) The commission may nominate one of its members to serve as chair. The
4 governor shall designate the chair of the commission, either by selecting the member
5 nominated by the commission or another member. The term as chair is four years.
6 The chair may not be appointed to successive terms as chair.

7 **Sec. 42.04.020. Commissioners.** (a) The commission consists of five
8 commissioners appointed by the governor and confirmed by the legislature in joint
9 session.

10 (b) The term of office of each member is six years. A commissioner, upon
11 the expiration of a term, shall continue to hold office until a successor is appointed and
12 qualified.

13 (c) A vacancy arising in the office of a commissioner shall be filled by
14 appointment by the governor and confirmed by the legislature in joint session, and,
15 except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall
16 hold office for the balance of the full term for which the predecessor on the
17 commission was appointed.

18 (d) A vacancy in the commission does not impair the authority of a quorum
19 of commissioners to exercise all the powers and perform all the duties of the
20 commission.

21 (e) The governor may remove a commissioner from office for cause, including
22 incompetence, neglect of duty, or misconduct in office or because the member, while
23 serving on the commission, is convicted of a misdemeanor for violating a statute or
24 regulation related to public utilities or is convicted of a felony. A commissioner, to
25 be removed for cause, shall be given a copy of the charges and afforded an opportunity
26 to be publicly heard in person or by counsel in the commissioner's own defense upon
27 not less than 10 days' notice. If a commissioner is removed for cause, the governor
28 shall file with the lieutenant governor a complete statement of all charges made against
29 the commissioner and the governor's finding based on the charges, together with a
30 complete record of the proceedings.

31 (f) Members of the commission are in the exempt service and are entitled to

1 a monthly salary equal to Step C, Range 26, of the salary schedule in AS 39.27.011(a)
2 for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal
3 to Step C, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

4 (g) Each commissioner, before entering upon the duties of office, shall take
5 and subscribe to the oath prescribed for principal officers of the state.

6 **Sec. 42.04.030. Principal office; seal.** (a) The commission shall establish a
7 principal office and branch offices necessary to discharge its business efficiently. For
8 the convenience of the public or of parties to a proceeding, the commission may hold
9 meetings, hearings, or other proceedings at other locations.

10 (b) The commission shall have an official seal.

11 **Sec. 42.04.040. Legal counsel.** (a) The Department of Law shall provide full-
12 time legal counsel to the commission. The legal counsel provided by the Department
13 of Law is subject to the approval of the commission.

14 (b) The commission may contract for the services of specialized legal counsel
15 or legal consultants.

16 **Sec. 42.04.050. Employment of commission personnel.** (a) The chair of the
17 commission is responsible for directing the administrative functions of the commission
18 and carrying out the policies as set by the commission. The commission chair may
19 employ engineers, hearing officers, experts, clerks, accountants, and other agents and
20 assistants considered necessary. Employees of the commission who are not in the
21 exempt service under AS 39.25.110, other than legal counsel, are in the classified
22 service under AS 39.25.100.

23 (b) The chair of the commission may enter into a contract for no more than
24 \$5,000 to engage the services of a consultant or expert the chair considers necessary.
25 The commission may contract for and engage the services of consultants and experts
26 the commission considers necessary.

27 **Sec. 42.04.060. Restrictions on members and employees.** (a) A member of
28 the commission or an employee of the commission may not have an official connection
29 with, hold stock or securities in, or have a pecuniary interest in a public utility within
30 the state. Membership in a cooperative association is not a "pecuniary interest" within
31 the meaning of this section; however, a member or employee of the commission may