

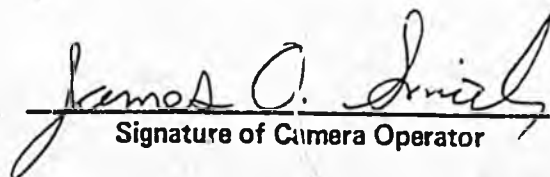
ALASKA LEGISLATURE COMMITTEE FILE 1900-1900 00/2

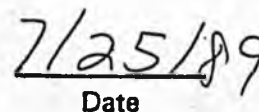
3214.7 HCRA HB 12 - HB 15



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HB

12

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. " " minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Community & Regional Affairs Committee
2/13/85
1/28/85
1/23/85

COMMITTEE REPORT

2/15

HOUSE

(7)

1/14/85

FURTHER: Labor and Commerce

Date: _____

The Committee on Community and Regional Affairs has had HB 12

"An Act relating to the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act."

under consideration and recommends:

do pass do not pass

do pass with attached amendments(s)

replace with CS for HB 12 (CRA) same title new title

and recommends it do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

WALKER J. Kay Walker

KOPPEL Will F. Koppele

GRUENBERG David Gruenberg

GILL P. Lee Gill

MARSH A. L. Marsh

FURNACE Walt Furnace

P. Lee Gill
CHAIRMAN

February 12, 1985

The Honorable Mike Navarre
Chairman
House Committee on Labor and Commerce
Capitol
Juneau, Alaska 99811

Re: CSHB12 (CRA)

Dear Rep. Navarre:

Following are comments submitted for consideration by Representative Andre Marrou and Representative Walt Furnace regarding CSHB12 (CRA).

The undersigned feel that the committee substitute emphasizes overall regulation, plus control of extraterritorial users by those inside the municipality.

What we proposed, and still propose, are two changes to the CS as follows:

Addition of one sentence to Sec. 3.AS 29.23.340(e) to read: "The membership of the board must reflect the composition of the user group to the extent feasible." We feel that this would protect a minority of extraterritorial users from being controlled by those inside the municipality. If, say, 40% of the users lived outside the municipality, they would be provided 2 members on a 5-member board.

Change in the last sentence of the CS, under Sec.4.AS 42.05.711(b): substitute "A majority" for "25 percent". This would ensure that most of the users desire regulation by Alaska Public Utilities Commission, and that 25% of the users would not control the other 75%.

Andre Marrou
Representative

Walt Furnace
Representative

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

February 12, 1985

Mayor Donald W. Cripps
City of Seward
P.O. Box 167
Seward, AK 99664

Re: House Bill 12

Dear Mayor Cripps:

Thank you very much for your letter on House Bill 12. I agree with you that the APUC should not be involved in municipally owned utilities. Several members of the House Community and Regional Affairs Committee, including myself, are attempting to work on the bill to provide an alternative solution. I will make sure that your letter is placed in the committee file on the bill.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.

MFG/ke

cc: Bob Berry, C&RA Committee staff

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3341
- Telecopier (907) 224-3248

February 5, 1985

The Honorable Max Gruenberg, Jr.
House of Representatives
Pouch v
Mail Stop 3100
Juneau, AK 99811

SUBJECT: HOUSE BILL NO. 12, 14th LEGISLATIVE

Dear Representative Gruenberg:

I am very concerned about the impact on the rate payer of the Seward Electric Utility if House Bill 12 were passed as currently drafted. The additional cost required to meet the administrative needs of Alaska Public Utilities Commission would have to be directly passed to the consumer, but would not result in any improvement in service.

The Seward Electric Utility consists of approximately 1800 customer accounts, of which 1400 are within the city limits. Those outside are mainly located in subdivisions adjacent to the city limits, with a few spread along the Seward Highway between miles 17 and 24. The KWH rate is standard throughout this service area, even though the cost of service outside the city far exceeds that within the city limits. The monthly customer charges vary to reflect a slightly higher cost of service outside the city, residential fees being \$20.08 vs \$22.28, and commercial \$36.25 vs \$45.49. Service and response to emergencies is the same, except for travel time delay.

The Seward City Council performs the function of a utility board or commission. All tariffs and similar actions are considered in open assembly and are subject to public hearing as is other city business. The Council has never refused to permit testimony from a person outside city limits on a matter affecting the Utility.

House Bill No. 12
14th Legislative
Page 2

Placing a small utility, such as Seward Electric, under the APUC will subject them to unreasonable and costly administration that will increase the cost of service to the rate payer, while experiencing no improvements to service. The utility generally follows the APUC operating rules published for utilities, however, they are not subject to requirement for APUC tariff hearings and other costly, time consuming administrative reviews. The cost alone of preparing for a tariff revision and subsequent hearings would add 10 to 15% to the operating budget. A utility with 1800 customers cannot absorb such unnecessary overhead without directly impacting the cost of service to the customer. This additional burden would be even more unreasonable if one accepts statements by other utilities concerning the cost of responding to demands of the APUC, or the benefits gained from implementing their procedures.

Seward's position is that placing the Seward Utility under the APUC would not be beneficial by either rate regulation or improved services. Rates would increase and/or service would deteriorate in response to the increased administrative burdens. Furthermore, because the Seward City Council has close communications with rate payers within and without the City limits and is very responsive to their needs, there is no need for another overview agency. This bill should be defeated, or at least amended to allow small municipal owned utilities having the majority of their customers within city limits to continue to be exempt from APUC control.

Respectfully yours,

THE CITY OF SEWARD



DONALD W. CRIPPS
MAYOR

EPD:DWC:mr

REMARKS:

Professionals in action since 1975

128 Seward Street
Juneau, Alaska 99801

Business Phone - (907) 586-1715
Teletype Phone - (907) 586-4821

Introduced: 1/14/85
Referred: Community & Regional Affairs,
and Labor & Commerce

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 12

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the exemption of municipally
owned utilities from certain provisions of the Alaska
Public Utilities Act."

7

8

9

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

10

* Section 1. AS 42.05.711(b) is amended to read:

11

(b) Public utilities owned and operated by a political subdivi-

12

sion of the state and none of whose utilities is in competition with

13

any other utility, are exempt within the boundary of the municipality

14

owning the utility from the provisions of this chapter other than the

15

provisions of AS 42.05.221 - 42.05.281, unless the owner and operator

16

elects to be subject to all provisions of this chapter.

to do it. However, a similar bill was introduced last year and the League staff got conflicting support and resistance for the bill from several municipalities. Shouldn't the State contract with the local police? Municipalities should clarify their position. It has been referred to State Affairs, HESS and Judiciary.

SB 90 DCED Power to Administer Contracts: Introduced by the Rules Committee by request of the Governor, the bill would authorize the Department of Commerce and Economic Development to administer grants to community and regional governments, non-profit organizations or in unorganized boroughs. Referred to L&C and Finance.

COMMITTEE ACTION

HB 12 Municipal Utility Exemption: The bill was heard for the first time Wednesday, January 23 by the House C&RA Committee. The hearing was teleconferenced to Fairbanks and Anchorage. The hearing will be continued Monday, January 28 at 3:00 p.m. Rep. Davis, the sponsor, admitted that there may be other ways to give municipal utility customers outside city limits a voice in regulation other than APUC regulation - 25% petition, legislative action prohibiting discrimination and elected public utility board membership representing customers outside the city limits. Other than the sponsor, two people in Fairbanks spoke in favor of the legislation. Two people spoke in opposition stating that further regulation by APUC would be confusing and costly and would not result in better service. Both mentioned the accessibility and responsiveness of the City Councils and Public Utility Boards in Fairbanks and Ketchikan to customer complaints. The Committee appears sympathetic; please voice your opposition individually.

COMMITTEE MEETINGS/HEARINGS

House Community & Regional Affairs 3:00 p.m. Behrends 209

HB 12 Municipal Utility APUC Exemption ----- Monday, January 28 (continued from 1/23/85)

HB 11 Municipal Taxation of Agricultural Land ----- Wednesday, January 30

HB 39 Preservation of Agricultural Land ----- Friday, February 1

House Labor & Commerce 8:30 a.m. Capitol 124

HB 62 Prevailing Wages/Overtime; Public Construction ----- Friday, January 25

House Resources 8:30 a.m. Capitol 118

HB 33 Agricultural Rights to Land ----- Monday, January 28

HB 33 Agricultural Rights to Land ----- Wednesday, January 30

Senate State Affairs 8:30 a.m. Capitol 205
Butrovich

SB 34 Campaign Financing ----- Thursday, January 31

Senate Labor & Commerce 3:30 p.m. Capitol 211
Beltz

SB 31 Hiring in Rural Areas ----- Wednesday, January 30

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 12(C&RA)
 Title: Relating to municipally owned utility regulation & board representation
 Sponsor: House C&RA
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 Program Category Affected: Protection
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carolyn Guess, Chairman Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 2/13/85
 Approved by Commissioner: *Carolyn Guess* for Carolyn Guess, Chairman Date: 2/13/85
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/25/85

REQUEST

Bill/Resolution No.: HR 12
 Title: Exemption of municipally owned util. from certain provisions of APU Act
 Sponsor: Davis
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Public Util. Commission
 Program Category Affected: _____
 Consumer Protection
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	119.5	119.5	119.5	119.5	119.5
200 TRAVEL	0	3.0	3.0	3.0	3.0	3.0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	.8	.9	1.0	1.0	1.0
500 EQUIPMENT	0	----	----	----	----	----
600 LAND & STRUCTURES	0	6.0	6.0	6.0	6.0	6.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	129.3	129.4	129.5	129.5	129.5

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	129.3	129.4	129.5	129.5	129.5
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	129.3	129.4	129.5	129.5	129.5

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: John B. Farleigh, Executive Director Phone: 276-6222 ext. 111
 Division: Alaska Public Utilities Commission Date: 1/24/85
 Approved by Commissioner: Carolyn Guss Date: 1/25/85
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

465-2504 to receive his information immediately.

DEPARTMENT Commerce & Economic Development	DIVISION Alaska Public Utilities Commission	BILL NUMBER HB 12	SPONSOR Davis
DEPARTMENT POSITION			
PREPARED BY Carolyn S. Guess Chairman	DATE 1/22/85	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

~~BACKGROUND INFORMATION~~

ANALYSIS OF BILL:

The proposed legislation, by modifying the existing exemption statute for municipally owned utilities (AS 42.05.711(b), in effect creates a potential for new Alaska Public Utilities Commission jurisdiction. This new jurisdiction would be particularly complex in that a municipal utility, with rates and services otherwise exempt from the regulatory process, would have to separate its operations and accounts for services outside its municipal boundaries. As a practical matter, it would be impossible to economically regulate such a utility without access to operating data from an exempt municipal utility for the purpose of allocating revenues and expenses between customers residing inside and outside of the municipal boundaries. Such partial regulation would be an administrative nightmare!

Although the potential impact of this bill is not clear at this time, the Alaska Public Utilities Commission is aware that some services provided by the Fairbanks Municipal Utility System would fall into this category. The attached fiscal note was developed as a minimum-cost response to the proposed legislation and could require amendment if the impact is appreciably greater than now estimated.

.....
This legislation identifies a legitimate concern of those utility customers to whom no one is accountable. The APUC has no regulatory jurisdiction and, therefore, cannot respond to these customers' concerns; the elected officials who makes rate and service decisions affecting these consumers are not responsible to them through the elective process. We understand in some instances as much as 50% of the customer base of a municipal utility can be in this "no-man's" land. The Commission is willing to work with those affected to explore possible solutions other than bifurcated regulation of some municipal utilities.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 23, 1985

MEMORANDUM

TO: Representative Mike Davis
FROM: Gretchen E. Keiser, Legislative Analyst
RE: Local Utility Services Outside Municipal Boundaries
Research Request 85-113

Tom Moyer of your staff requested that we provide information about municipally owned utilities which provide various services (electric, telephone, water/sewer and refuse) within the state. We were asked to determine whether providing these services to customers who live outside municipal boundaries is a prevalent practice. Also, we were asked to investigate the basis for the municipal utilities' exemption from regulation by the Alaska Public Utility Commission, as granted in the Alaska Public Utilities Commission Act.

Table 1 summarizes the information obtained from nine municipal utilities regarding the public services they provide. According to the most recent Alaska Public Utilities Commission report (August 1984), these municipal utilities are all exempt from regulation by the APUC, as indicated in AS 42.05.711.¹ Of the nine utilities investigated, Fairbanks, Ketchikan, Petersburg and Seward provided some services (telephone or electric) to customers outside the municipal boundaries. However, the majority of the customers appear to be within the city limits.

Both Fairbanks and Ketchikan have public utility advisory boards which assist the city councils in their deliberations regarding the utilities' rates and services. According to Don LaMarca of the Fairbanks Municipal Utility Services, the Public Utility Board includes two non-city residents on its seven-member board appointed by the mayor. The board has the authority to approve expenditures under \$250,000. Larger budget items must be approved by the Fairbanks City Council. On the other hand, the members of the Ketchikan Public Utility Board are all city residents, and that board provides only advisory comments to the Ketchikan City Council. Although they lack formal representation, utility customers served by the municipalities of Ketchikan, Petersburg and Seward have access to the city councils through the public hearing process.

¹These are the major exempt municipal utilities providing electric and telephone services in the state. In addition, these represent a cross-section of exempt municipalities providing water and sewer services.

TABLE 1

SERVICES PROVIDED BY SOME MUNICIPALLY OWNED UTILITIES IN ALASKA¹

MUNICIPAL UTILITY	LOCAL SERVICES PROVIDED BY MUNICIPALITY				UTILITIES PROVIDED OUTSIDE MUNICIPAL BOUNDARIES	% CUSTOMERS OUTSIDE CITY
	Electric	Telephone	Water/Sewer	Refuse		
Fairbanks Municipal Utilities Service	yes	yes	yes	no	telephone	approx 30 %
City of Fairbanks Public Works Dept.	no	no	no	yes	none	0
Ketchikan Public Utilities	yes	yes	yes	no	electric, telephone	NA
Nome Public Utilities	yes	no	yes	no	none	0
City of Palmer	no	no	yes	yes	none	0
City of Petersburg	yes	no	yes	no	electric	2 %
Seward Public Utility	yes	no	yes	no	electric	24 %
Sitka, City and Borough Public Utilities	yes	no	yes	no	none	0
City of Wrangell Utilities	yes	no	yes	yes	none	0

¹These municipal utilities are exempt from regulation by the Alaska Public Utilities Commission, as indicated in AS 42.05.711.

NA = Not Available.

Prepared by House Research Agency January 1985.

Representative Davis
January 23, 1985
Page Three

As indicated in Table 1, water and sewer services were not provided outside the city limits in the eight utilities which provide these services. Furthermore, refuse collection is not a common municipal function; most communities appear to have private refuse companies.

You also requested information regarding the basis for the exemption from Alaska Public Utilities Commission (APUC) regulation provided to municipal utilities. According to Mr. Ray Wipperman of the APUC, public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility [AS 42.05.711(b)] were exempted from APUC regulation in 1970. The so-called "Ketchikan Amendment" arose because municipalities did not want the State's commission involved in the business of their local utilities. According to Mr. Wipperman, Senator Ziegler might be able to provide you with additional history on the municipal exemption.

We hope this information is useful. Let us know if we can be of further assistance.

GK

Sec. 29.23.340. UTILITY BOARDS. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent. Any resident of any area served by the utility may vote and serve the membership of the board, whether appointed or elected, shall accurately represent, insofar as feasible, the territorial/extra-territorial subscriber composition.

Sec. 42.05.391. DISCRIMINATION IN RATES. (a) A public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned utility shall [may] offer uniform or identical rates for a public utility service to customers located in different areas within its certified service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable.

(Repealed)

[(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.]

SELECT - QUERY
00008 7 SECTION EQ 29.23.340

AS29.23.340 DOCUMENT= 1 OF 1
CITATION Sec. 29.23.340.
CATCH LINE

UTILITY BOARDS.

TEXT

(a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties. ⁽¹⁾

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. ⁽²⁾ The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on a utility board serves until the expiration of the term and until a successor is elected and has qualified.

(d) Unless otherwise provided by ordinance, the board shall
(1) choose its chairman and secretary;
(2) appoint the manager of the public utility for a term not longer than five years and set the manager's salary;
(3) formulate and enforce the general rules and policies of the utility.

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

① If the public utility furnishes services outside the boundaries of the municipality and the revenue from those services is at least 10 percent of the gross revenues of the utility the assembly or council must provide by ordinance for a managing board of five members and the ordinance must grant the powers ^{listed} in (1), (2) and (3) of this section. ~~a resident of any area~~

② any resident of any area served by the utility may vote on the election of members of the board.

(e) A resident of any area served by the utility, is eligible to serve as a member of the board. If the utility furnishes services outside the boundaries of the municipality and the revenue ~~from~~ from those services is at least 10 per cent over

SELECT - QUERY
00009 7 SECTION EQ 29.48.060

AS29.48.060 DOCUMENT= 1 OF 1
CITATION Sec. 29.48.060.
CATCH LINE

PUBLIC UTILITIES RATES.

TEXT The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a municipally owned utility not regulated under AS 42.05, and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest is paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital.

*is managed
by a utility
board under
AS 29.23.340.*

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

If a utility is managed by a utility board established under AS 29.23.340 the board may exercise the powers granted to an assembly or Council under the section.

Sec. 42.05.391. DISCRIMINATION IN RATES. (a) A public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned utility shall [may] offer uniform or identical rates for a public utility service to customers located in different areas within its certified service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable.

(Repealed)

[(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.]

*
* ORIGINAL
* SENT: 01/28/85 TIME: 15:06
* FROM: MICHELE MORSETH
* SUBJECT: HB 12 T/C
* PRINT DATE: 01/29/85 TIME: 09:23
*

PARTICIPANT LIST #1 FROM FAIRBANKS

TO TESTIFY:

1. F.A. BAILEY, MUS
 2. E.M. CUZZOCREA, MUS
- VIRGIL M. GILLESPIE, MUS

TO OBSERVE:

1. DON UPHAM, MUS

*
* DELIVER TO: LTCJ
*
* ORIGINAL
* SENT: 01/28/85 TIME: 15:18
* SUBJECT: PARTICIPANT LIST-JNU-1/28 MON
* PRINT DATE: 01/29/85 TIME: 09:23
*

TO ALL SITES
FROM LTCJ

TO TESTIFY:

MR. SCOTT BURGESS

AML

TO OBSERVE:

MR. W. KEEBLEY
MS. PAT WILLIAMS
C. WALLEN
MR. H. WAYNE

KET PUBLIC UTIL
DEPT OF COMMERCE
WITH REP. SUND'S OFFICE

*
* DELIVER TO: LTCJ
*
* ORIGINAL
* SENT: 01/28/85 TIME: 15:53
* FROM: MICHELE MORSETH
* SUBJECT: HB 12 T/C
* PRINT DATE: 01/29/85 TIME: 09:23
*

PARTICIPANT LIST #2 FROM FAIRBANKS

TO OBSERVE:

2. HERB KUSS, CITY OF FAIRBANKS

 * DELIVER TO: TCJNU *
 * ORIGINAL *
 * SENT: 01/23/85 TIME: 17:10 *
 * FROM: PAULA GRAY *
 * SUBJECT: FINAL STATS *
 * PRINT DATE: 01/23/85 TIME: 17:10 *

*** FINAL T/C STATS ***

DATE: 1-23-85-----
 SITE: FAIRBANKS-----
 SPONSOR: REP GOLL-----
 SUBJECT: EXEMPTION OF MUNICIPALLY OWNED UTILITIES-----
 LOCAL MODERATOR: PAULA-----

TESTIFIED:
 NAME/REPRESENTING ADDRESS PHONE
 1. BRIAN ROGERS, SELF, P.O. BX 80690, COLLEGE, AK, 99708 457-2031
 2. TED LEHNE, 1449 GILLAM WAY, FBX 99701, 452-6109
 3. GARY NEWMAN, SELF, 1083 ESRO, FBX, 99701 480-2001

OBSERVED: NAME/REPRESENTING ADDRESS PHONE
 1. CINDY SPANYERS, HSE INT. DEL, POBX 81474, COLLEGE, 99708 479-5776
 2. E.M. SUZZOCREG, MUS, 625 5TH, FKS, 99701 456-1000
 3. VIRGIL GILLESPIE, MUS, 625 5TH, FKS, 99701 456-1000
 4. PAUL WHITNEY, CITY, 410 CUSHMAN, FKS, 99701 452-1881
 5. FLOYD BAILEY, MUS, 1824 KENNEDY, FKS, 99701 456-8903
 6. DON UPHAM, 2506 KUSKOKWIM, FKS, 99701 452-6109
 7. RON SMITH, 924 KELLUM, #209, FKS, 99701 456-4628

TESTIFIED: 3 TIME START: 3:10 P.M.
 OBSERVED: 7 TIME END: 4:20 P.M.
 TOTAL: 10

 *
 * DELIVER TO: TCJNU *
 *
 * ORIGINAL *
 * SENT: 01/23/85 TIME: 16:08 *
 * FROM: TCANC *
 * SUBJECT: SENATE C & R AFFAIRS STATS *
 * PRINT DATE: 01/23/85 TIME: 16:09 *
 *

*** FINAL T/C STATS ***

DATE: _____ JANUARY 23, 1985 - WEDNESDAY _____
 SITE: _____ ANCHORAGE - MAIN MEETING ROOM _____
 SPONSOR: _____ SENATE COMM. ON C & REGIONAL AFFAIRS _____
 SUBJECT: _____ HB 12 -- EXEMPTION OF MUNICIPAL UTILITIES _____
 LOCAL MODERATOR: _____ DAVID J _____

TESTIFIED:
 NAME/REPRESENTING ADDRESS PHONE
 CAROLYN GUESS CHAIRPERSON OF ALASKA PUBLIC UTILITIES COMMISSION
 400 L STREET SUITE 100 ANCH. AK 263-2110

OBSERVED:
 NAME/REPRESENTING ADDRESS PHONE

TESTIFIED: ___01___ TIME START: ___3:00___
 OBSERVED: ___00___ TIME END: ___4:30___
 TOTAL: ___01___

* * * * *
* DELIVER TO: JPOM *
* * * * *
* ORIGINAL *
* SENT: 01/23/85 TIME: 12:12 *
* FROM: LIKOD *
* SUBJECT: KODIAK POM *
* PRINT DATE: 01/23/85 TIME: 12:13 *
* * * * *

TO: REP. GOLL, WALLIS, KOPONEN, GRUENBERG, PHILLIPS,
FURNACE, MARRAU, THOMPSON

SEN. ZHAROFF

FROM: JOHN PUGH, MAYOR
CITY OF KODIAK
P.O. BOX 1397
KODIAK, AK. 99615
486-3224

RE: HB 12

THE CITY OF KODIAK IN COOPERATION WITH THE KODIAK ISLAND BOROUGH PROVIDES UTILITY SERVICE BEYOND IT'S CORPORATE LIMITS. THIS RELATIONSHIP HAS WORKED WELL FOR MANY YEARS, THEREFORE THE CITY IS OPPOSED TO HB 12 WHICH WILL CREATE ANOTHER LEVEL OF BUREAUCRACY THAT WILL BE DETRIMENTAL TO MUNICIPALITIES AND UTILITY CUSTOMERS.

EOM

*
* DELIVER TO: JFOM *
* *
* ORIGINAL *
* SENT: 01/23/85 TIME: 12:39 *
* FROM: FLORENCE CARNAHAN *
* SUBJECT: POM *
* PRINT DATE: 01/23/85 TIME: 12:39 *
*

TO: ALL LEGISLATORS

FROM: LETHA TUCK
PO BOX 4-483
ANCHORAGE, ALASKA 99509
337-2776

RE: VOTING

ABOLISH QUESTIONED BALLOT VOTING IN ALL ELECTIONS. SAVE
THOUSANDS OF DOLLARS IN RECOUNT.

FROM: DON THRAPP
BOX 449
KASILOF, AK 99610

MESSAGE: REGARDING: TELEPHONE ZONING
PLEASE GET ALASKA PUBLIC UTILITIES COMMISSION OFF THEIR TAILS
AND ZONE OUR TELEPHONE SERVICE AREAS SO RURAL RESIDENTS CAN
AFFORD PRIVATE LINES. APPLICATION HAS BEEN BEFORE THEM FOR OVER
TWO YEARS. ACTION PLEASE.
E.O.M.

*
* DELIVER TO: LTCC *
*
* ORIGINAL *
* SENT: 01/23/85 TIME: 15:47 *
* FROM: DAVID JENSEN *
* SUBJECT: ANCHORAGE PARTICIPANTS *
* PRINT DATE: 01/23/85 TIME: 15 23 *
*

TO: BILL

FROM: DAVID

PARTICIPANT LIST #1

TO TESTIFY:
CAROLYN GUESS - CHAIRPERSON OF THE ALASKA PUBLIC UTILITIES
COMMISSION.

TO OBSERVE:

EOM #1 DJ

* SENT: 01/23/85 TIME: 15:10
* FROM: TCFBX
* SUBJECT: UTILITIES T/C, 1/23
* PRINT DATE: 01/23/85 TIME: 15:14
*

MESSAGE # 1...
SITE: FAIRBANKS
T/C: MUNICIPAL OWNED UTILITIES,

TO TESTIFY:

- 1. BRIAN ROGERS ✓
- 2. E.M. CUZZERES, FMUS ✓ ~~ADD~~
- 3. VIRGIL M. GILLESPIE, FMUS
- 4. GARY NEWMAN

TO OBSERVE:

- 1. CINDY SPANYERS, INTERIOR DELEGATION
- 2. PAUL WHITNEY, CITY OF FAIRBANKS

.....EOM

* DELIVER TO: LTCJ
* ORIGINAL
* SENT: 01/23/85 TIME: 15:13
* FROM: PAULA GRAY
* SUBJECT: PUB HEAR 43 12, REP COLL
* PRINT DATE: 01/23/85 TIME: 15:15

FAIRBANKS PARTICIPANTS LEHME 32

TO TESTIFY:

- 1. LLOYD BAILEY, MUS
- 2. TED LEHME ✓ FMUS

TO OBSERVE:

- 3. DON UPHAM

-----EOM

 * DELIVER TO: LTCJ *
 * ORIGINAL *
 * SENT: 01/23/95 TIME: 15:45 *
 * SUBJECT: STATS 1/23 T/C PUB HEARING *
 * PRINT DATE: 01/23/95 TIME: 15:48 *

*** FINAL T/C STATS ***

DATE: __1/23 WEDS_____
 SITE: __JUNEAU_____
 SPONSOR: __HOUSE C & R A_____
 SUBJECT: __HB: 12_____
 LOCAL MODERATOR: BILL CARROLL_____

TESTIFY:

- | NAME/REPRESENTING | ADDRESS | PHONE |
|---------------------|-----------------------------|-------|
| 1. CATHERINE WALLEN | DEPT OF COMMERCE | |
| 2. ROGER R. MROTIN | | |
| 3. DAYID KATYCH | | |
| 4. SCOTT BURGESS | ALASKA MUNICIPAL LEAGUE | |
| *5. JEFF SMITH | DEPT OF COMM & REG. AFFAIRS | |
| 6. SUZUNNE TRYCLE | | |
| 7. JEFFIFER TATE | DCRA | |
| 7. JJE SHERWOOD | | |
| 8. PAT WILLIAMS | | |
| *9. SCOTT BRUGASS | | |
| 10. W. KUBLEY | | |
| 11. REP DAVIS | | |
| 12. REP. TAYLOR | | |
| 13. REP. WALLIS | | |
| 14. REP KOPONEN | | |
| 15. REP MARROU | | |
| 16. REP FURANCE | | |
| 17. REP. PHILLIPS | | |
| 18. REP GRUENBERG | | |
| 19. REP. GOLL | | |

PLEASE NOTE THE THE PARTICIPANTS MARKED WITH A * WILL BE WITNESSES, ALL OTHERS WILL BE OBSERVERS, OTHER THAN THE COMMITTEE MEMBERS.

After completion of the commission among circumstances, results, factors and costs of consultants, reports. The information shall be provided to the public (1970)

relating to the public utility of \$50 per month (ch 113)

of this public utility

is subject to the provisions of the commission making a determination in

purpose of the provisions of the commission from the interest of the public

(d) In this section, "record" means a report, file, book, account, paper, or application, and the facts and information contained in it. (§ 6 ch 113 SLA 1970; am § 8 ch 110 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

NOTES TO DECISIONS

Narrow construction. — The privilege reflected by this section should be construed narrowly so that it does not conflict with the constitutional requirements of due process. City of Fairbanks v. Alaska Pub. Utils. Comm'n & Wire Communications, Inc., Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

Due process controls over section. — The requirement of this section that infor-

mation not be withheld if "required in the interests of the public" will normally prevent a conflict with due process requirements. If a conflict nevertheless occurs, due process must control. City of Fairbanks v. Alaska Pub. Utils. Comm'n & Wire Communications, Inc., Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

Sec. 42.05.681. Validity of certain certificates. A certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may not be considered as terminated, or voided, for the sole reason that the utility did not or would not produce an annual gross income in excess of \$25,000. (§ 6 ch 113 SLA 1970)

Sec. 42.05.691. Utility classes. The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting and other regulatory requirements. (§ 6 ch 113 SLA 1970)

Article 10. General Provisions.

Section	Section
711. Exemptions	720. Definitions
712. Deregulation ballot	721. Short title

Sec. 42.05.701. [Renumbered as AS 42.05.720.]

Sec. 42.05.711. Exemptions. (a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of this chapter, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 unless 25 percent of the subscribers petition the commission for regulation.

NOTES TO DECISIONS

Separation of intrastate and interstate properties, expenses and revenues is required for properly determining the adequacy of a utility's

intrastate rates. *United States v. Alaska Communications, Inc.*, Sup. Ct. No. 1647 (File No. 3772), 597 P.2d (1979).

Collateral references. — Charitable contributions by public utility as part of operating expense, 59 ALR3d 941.

Fuel adjustment clauses: validity of "fuel adjustment" or similar clauses authorizing electric utility to pass on increased costs of fuel to its customers. 83 ALR3d 933.

Advertising or promotional expenditures of public utility as part of operating expenses for ratemaking purposes, 83 ALR3d 963.

Affiliates: amount paid by public utility to affiliate for goods or services as

includible in utility's rate base — operating expenses in rate proceeding ALR4th 454.

Injunctions — rates: validity, construction, and application of Johnson (29 USCS § 1342), prohibiting interference by Federal District Courts with orders affecting rates chargeable by public utilities, 28 ALR Fed 422.

Applied in Alaska Pub. Util. Comm't Greater Anchorage Area Borough, Sup. Ct. Op. No. 1139 (File No. 2314), 534 P.2d 549 (1975).

Sec. 42.05.390. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.391. Discrimination in rates. (a) A public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned utility may offer uniform or identical rates for a public utility service to customers located in different areas within its certificated service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable.

(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.

(c) A public utility may not directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand or receive a greater or lesser compensation for its services than is specified in its effective tariff. A public utility may not extend to any customer any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except such as are extended or applied to all customers under like circumstances. A public utility may not offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of utility service unless it conforms

is a tariff approved by the commission, consideration or equipment is offered to all customers using or applying for the public utility. The reasonableness of such a tariff filed by a public utility shall consider, among other things, the compensation paid by a competitor, regulation of a public utility to secure the installation of a competitor's service.

(d) Nothing in this section prevents a public utility from offering reduced rates to customers transferred to another utility provided the reduction is an integral part of a plan to eliminate the overlapping of facilities and competition. 113 SLA 1970; am § 5 ch 136 SLA 1970.

Effect of amendments. — The 1980 amendment substituted "A public utility may not" for "No public utility may" at the beginning of the first and second sentences in sub-section (a).

NOTES TO DECISIONS

Uniform rates are not required. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Only unreasonable or undue preferences are forbidden. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

When the rate structure is such that one class of customers subsidizes another, discrimination may pass beyond its permitted scope and become undue or unreasonable. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Use of existing pre-tax profits builds into new rates any existing discrimination in the rate structure. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Discrimination based on justified differences is permissible. — Since only unjust discrimination which is unreasonable is unlawful, discrimination based on justified differences in the cost of service or

Sec. 42.05.400. [Repealed, § 5 ch 13

Sec. 42.05.401. Apportionment of utilities share in a joint rate the apportionment is reasonable. The method of apportionment and the commission may, in the public interest, establish the portion to be entitled.

1:06 40
Public Records
116 Records

Title 41
Public Resources

Title 42
Public Utilities
and Carriers

Title 31
ON 118 622

Sec. 29.23.340. Utility boards. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on a utility board serves until the expiration of the term and until a successor is elected and has qualified.

(d) Unless otherwise provided by ordinance, the board shall

- (1) choose its chairman and secretary;
- (2) appoint the manager of the public utility for a term not longer than five years and set the manager's salary;
- (3) formulate and enforce the general rules and policies of the utility. (§ 2 ch 118 SLA 1972)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 560 et seq. 62 C.J.S., Municipal Corporations, § 699.

Public utility acts as applicable to municipal corporations owning or operating waterworks, 10 ALR 1432; 16 ALR 94f

Constitutionality of statute or ordinance for protection of water supply, 72 ALR 673.

Power of municipal corporation to sell equipment to consumers as adjunct to utility service furnished, 108 ALR 1454.

Municipality's power to sell, lease, or mortgage public utility plant or interest therein, 60 ALR2d 595.

Article 7. Other Officers and Employees.

Section	Section
360. Appointment of officers	380. Municipal clerk
370. Municipal attorney	390. Municipal treasurer

Sec. 29.23.360. Appointment of officers. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief administrator are subject to confirmation by the governing body. (§ 2 ch 118 SLA 1972)

Title 30
Navigation, Harbors
and Shipping

NOTES TO DECISIONS

Separation of intrastate and interstate properties, expenses and revenues is required for properly determining the adequacy of a utility's

intrastate rates. *United States v. E. Alaska Communications, Inc.*, Sup. Ct. Op. No. 1647 (File No. 3772), 597 P.2d (1979).

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(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.

(c) A public utility may not directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand or receive a greater or lesser compensation for its services than is specified in its effective tariff. A public utility may not extend to any customer any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except such as are extended or applied to all customers under like circumstances. A public utility may not offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of utility service unless it conforms

by a tariff approved by the commission, consideration or equipment is offered to all customers using or applying for the public utility. The reasonableness of such a tariff filed by a public utility shall consider, among other things, the compensation paid by a competitor, regulation of a public utility to secure the installation of a competitor's service.

(d) Nothing in this section prevents a public utility from offering reduced rates to customers transferred to a new plan to eliminate the overlapping of public utility facilities and competition. 113 SLA 1970; am § 5 ch 136 SLA 1970.

Effect of amendments. — The 1980 amendment substituted "A public utility may not" for "No public utility may" at the beginning of the first and second sentences in sub-section (a).

NOTES TO DECISIONS

Uniform rates are not required. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

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Sec. 42.05.400. [Repealed, § 5 ch 13

Sec. 42.05.401. Apportionment of public utilities share in a joint rate the apportionment should be fair and reasonable. The method of apportionment is subject to the approval of the commission and the commission may, in the public interest, establish the portion to be entitled.

Title 40
Public Records
and Records

Title 41
Public Resources

Title 42
Public Utilities
and Carriers

to a tariff approved by the commission, and the compensation, consideration or equipment is offered to all persons in the same classification using or applying for the public utility service; in determining the reasonableness of such a tariff filed by a public utility the commission shall consider, among other things, evidence of consideration or compensation paid by a competitor, regulated or nonregulated, of the public utility to secure the installation or adoption of the use of the competitor's service.

(d) Nothing in this section prevents a public utility from charging reduced rates to customers transferred to it from a competing utility provided the reduction is an integral part of a contract, arrangement or plan to eliminate the overlapping of service areas or to minimize duplication of facilities and competition between public utilities. (§ 6 ch 113 SLA 1970; am § 5 ch 136 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "A public utility may not" for "No public utility may" at the beginning of the first and second sentences

in subsection (a), and added the present third and fourth sentences in subsection (a).

NOTES TO DECISIONS

Uniform rates are not required. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

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which is otherwise within the zone of reasonableness is permissible. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Language of section and of former AS 42.05.460 and 42.05.520 compared. — See Oil Heat Inst., Inc. v. Alaska Pub. Serv. Corp., Sup. Ct. Op. No. 960 (File No. 1850), 515 P.2d 1229 (1973).

Whether subsection (c) violated is question for initial consideration by commission. — Whether as a matter of law a gas company's plan to increase its sales of natural gas violates the provisions of subsection (c) is a question particularly suited for initial consideration by the Public Utilities Commission. Oil Heat Inst., Inc. v. Alaska Pub. Serv. Corp., Sup. Ct. Op. No. 960 (File No. 1850), 515 P.2d 1229 (1973).

Applied in United States v. RCA Alaska Communications, Inc., Sup. Ct. Op. No. 1647 (File No. 3772), 597 P.2d 489 (1979).

Sec. 42.05.400. [Repealed, § 5 ch 13 SLA 1970.]

Sec. 42.05.401. Apportionment of joint rates. (a) If public utilities share in a joint rate the apportionment of receipts shall be just and reasonable. The method of apportionment shall be approved by the

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Article 10. General Provisions.

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711. Exemptions	720. Definitions
712. Deregulation ballot	721. Short title

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(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

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(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 unless 25 percent of the subscribers petition the commission for regulation.

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Sec. 42.05.221. Certificates required. (a) A public utility may not operate and receive compensation for providing a commodity or service after January 1, 1971 without first having obtained from the commission under this chapter a certificate declaring that public convenience and necessity require or will 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 shall 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.

(b) All certificates of convenience and necessity issued to a public utility before July 1, 1970 remain in effect but they are subject to modification where there are areas of conflict with public utilities that have not previously been required to have a certificate or where there is a substantial change in circumstances.

(c) A certificate shall be issued to a public utility which was not required to have one before July 1, 1970, and which is required to have one after that date, if it appears to the commission that the utility was actually operating in good faith on that date. Such a certificate is subject to modification where there are areas of conflict with other public utilities or where there has been a substantial change in circumstances.

(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.

(e) The commission may employ professional consultants to assist it in administering the provisions of this section and may apportion the expenses relating to this administration among the competing utilities involved.

(f) *[Repealed. § 12 ch 136 SLA 1980.]* (§ 6 ch 113 SLA 1970; am § 1 ch 76 SLA 1973; am § 12 ch 136 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (f).

NOTES TO DECISIONS

A certificate of public convenience and necessity is a property right and as such entitled to protection. *Homer Elec. Ass'n v. City of Kenai*, Sup. Ct. Op. No. 390 (File No. 675), 423 P.2d 285 (1967).

Certificate does not grant monopoly. — A certificate of public convenience and necessity to a public utility by the Alaska Public Service Commission is not an exclusive, or monopoly, grant to furnish electrical energy within the corporate limits of a city. *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

A public utility's certificate did not grant to it the exclusive right to furnish electrical energy within the corporate limits of a city. *Homer Elec. Ass'n v. City of Kenai*, Sup. Ct. Op. No. 390 (File No. 675), 423 P.2d 285 (1967).

Municipality may compete with certificated utility. — The delineation of a service area contained in a certificate of public convenience and necessity does not provide the basis for precluding a municipality from competing, within its own corporate limits, with a certificated utility. *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

The legislature did not intend, by virtue of its passage of the 1963 amendments to this chapter, that a certificate of public convenience and necessity was to be a monopoly grant in relation to competition from a municipally owned and operated utility. *Homer Elec. Ass'n v. City of Kenai*, Sup. Ct. Op. No. 390 (File No. 675), 423 P.2d 285 (1967).

The Public Service Commissioner's issuance, to a public utility, of a certificate of public convenience and necessity providing for a service area which encompassed within its territory a city did not preclude such city from furnishing electrical energy within its own city limits, in competition with such public utility's electrical distribution system. *Homer Elec. Ass'n v. City of Kenai*, Sup. Ct. Op. No. 390 (File No. 675), 423 P.2d 285 (1967).

Legislative intent. — In enacting subsection (b) of this section the legislature

indicated its intention that any right afforded certificated utilities under former AS 42.05.196 was not saved. *Alaska Pub. Utils. Comm'n v. Chugach Elec. Ass'n*, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 580 P.2d 687 (1978), overruled on other grounds, Sup. Ct. Op. No. (File No. 3636), 595 P.2d 626 (1979).

Subsection (b) of this section was supplemented by AS 42.05.271, which provides for the modification, suspension or revocation of certificates for several listed reasons, including the requirements of public convenience and necessity. *Alaska Pub. Utils. Comm'n v. Chugach Elec. Ass'n*, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 580 P.2d 687 (1978), overruled on other grounds, Sup. Ct. Op. No. (File No. 3636), 595 P.2d 626 (1979).

Subsection (d) of this section relates to questions of duplication of electrical services or facilities and the interpretation of a utility's certificate of public convenience and necessity. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972), overruled on other grounds, 595 P.2d 629 (Alaska 1979).

Operation of garbage disposal sites does not constitute a utility service; it is only the passing over of control of solid waste to the disposal site operator which is regulated as a utility function. *McClellan v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1440 (File Nos. 2493, 2543), 565 P.2d 175 (1977).

Dumpsters are not equivalent of final landfill sites. — Interpretation that dumpsters serving as intermediate dump sites qualify as the functional equivalent of final landfill sites is not reasonable in that it would allow the Borough to place dumpsters in such a pervasive fashion as to completely vitiate the requirement of AS 29.48.033(b) and former subsection (f) of this section that certificate holders be compensated for their interests. *McClellan v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1440 (File Nos. 2493, 2543), 565 P.2d 175 (1977).

§ 42.05.221

§ 42.05.230

PUBLIC UTILITIES AND CARRIERS

§ 42.05.261

Sec. 42.05.230. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.231. Application. Application for a certificate shall be in writing and shall be in the form and contain the information required by the commission by regulation. (§ 6 ch 113 SLA 1970)

Sec. 42.05.240. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 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. (§ 6 ch 113 SLA 1970)

Sec. 42.05.250. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.251. Use of streets in cities and boroughs. Public utilities have the right to a permit to use public streets, alleys and other public ways of a city or borough, whether home rule or otherwise, upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the city or borough requires. A dispute as to whether fees, terms, conditions or exceptions are reasonable shall be decided by the commission. The commission may require a utility to add the amount of any permit fee paid as a pro rata surcharge to its bills for service rendered at locations within the boundaries of any city or borough which requires payment of a permit fee. (§ 6 ch 113 SLA 1970)

NOTES TO DECISIONS

Municipal franchises granted to a cable television company were not superseded by the Alaska Public Utilities Commission Act, AS 42.05, since provisions of a municipal franchise not in

actual conflict with commission regulatory activity remain in force. B-C Cable Co. v. City of Juneau, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

Sec. 42.05.260. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.261. Discontinuance, suspension or abandonment of certificated service. (a) Except as otherwise provided in this section, a public utility may not discontinue or abandon a service for

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which a certificate has been issued by the commission unless upon the application of the public utility and if, after notice and opportunity for hearing, the commission finds that the continued service is not required by public convenience and necessity. Any interested person may file with the commission a protest or memorandum of opposition to or in support of discontinuance or abandonment. The commission may authorize temporary suspension of a service or of part of a service.

(b) Upon complaint or upon its own motion, the commission may reinvestigate a previously authorized discontinuance, abandonment or suspension of a service of an operating public utility. If, after providing notice and an opportunity for a hearing, the commission finds that the public convenience and necessity require the service to be resumed, it may order the public utility to again provide the service. (§ 6 ch 113 SLA 1970)

Sec. 42.05.270. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 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. (§ 6 ch 113 SLA 1970)

NOTES TO DECISIONS

AS 42.05.221(b) was supplemented by this section, which provides for the modification, suspension or revocation of certificates for several listed reasons, including the requirements of public convenience and necessity. *Alaska Pub. Utils. Comm'n v. Chugach Elec. Ass'n*, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 580 P.2d 687 (1978), overruled on other grounds. *Sup. Ct. Op. No.* (File No. 3636), 595 P.2d 626 (1979).

The term "wilful" itself if not a "word of art" or a "technical term." It has many different meanings, depending upon the context in which it is used. *North State*

Tel. Co. v. Alaska Pub. Util. Comm'n, Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

The word "wilful" often denotes an act which is voluntary, knowingly or permissively done, as distinguished from one which is accidental or otherwise beyond the control of the person to be charged. *North State Tel. Co. v. Alaska Pub. Util. Comm'n*, Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

If a person (1) intentionally does an act which is prohibited, irrespective of evil motive or reliance on erroneous advice, or (2) acts with careless disregard of statu-

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§ 42.05.280

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§ 42.05.290

tory requirements, the violation is wilful. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

The concept of wilfulness, i.e., failure to meet responsibility and exercise control, is in accordance with case law. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

"Wilful failure" may be such behavior through acts of commission or omission which justified belief that there was an intent entering into and characterizing the failure complained of. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

A failure to perform an act for a long period of time, which is required by law to be performed, generally constitutes a wilful failure to perform. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

The general notion that a wilful act

implies a bad purpose is derived from criminal statutes. It has no such meaning when used in a statute to denounce an act not in itself wrong. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

Commission's definition of "wilful" did not shift burden of justification. — The commission's definition of "wilful" as "requiring only a showing that the failure to comply was with knowledge of the consequences of such failure" in finding that there was a "wilful failure" to meet the condition in the certificate, i.e., "good cause," did not shift the burden of justification to the telephone company; rather, the commission was merely delineating the nature of what would be reasonable justification, so as to render a failure to meet the condition nonwilful and, thus, the nature of the case that had to be made out by the evidence. North State Tel. Co. v. Alaska Pub. Util. Comm'n. Sup. Ct. Op. No. 1035 (File No. 1838), 522 P.2d 711 (1974).

Sec. 42.05.280. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.281. Transfer of certificate. A certificate may not be sold or leased, rented, transferred or inherited without the prior approval of the commission. (§ 6 ch 113 SLA 1970)

Sec. 42.05.290. [Repealed, § 5 ch 113 SLA 1970.]

Article 4. Services and Facilities.

Section	Section
291. Standards of service and facilities	331. Standards for measurement
301. Discrimination in service	341. Testing of meter standards
311. Joint use and interconnection of facilities	351. Testing of appliances
321. Failure to agree upon joint use or interconnection	

Collateral references. — 64 Am. Jur. 2d, Public Utilities, §§ 236 -- 239.
73 C.J.S., Public Utilities, § 44.

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§ 42.05.681

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§ 42.05.711

(d) In this section, "record" means a report, file, book, account, paper, or application, and the facts and information contained in it. (§ 6 ch 113 SLA 1970, am § 8 ch 110 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

NOTES TO DECISIONS

Narrow construction. — The privilege reflected by this section should be construed narrowly so that it does not conflict with the constitutional requirements of due process. *City of Fairbanks v. Alaska Pub. Utils. Comm'n & Wire Communications, Inc.*, Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

Due process controls over section. — The requirement of this section that infor-

mation not be withheld if "required in the interests of the public" will normally prevent a conflict with due process requirements. If a conflict nevertheless occurs, due process must control. *City of Fairbanks v. Alaska Pub. Utils. Comm'n & Wire Communications, Inc.*, Sup. Ct. Op. No. 2079 (File No. 3977), 611 P.2d 493 (1980).

Sec. 42.05.681. Validity of certain certificates. A certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may not be considered as terminated, or voided, for the sole reason that the utility did not or would not produce an annual gross income in excess of \$25,000. (§ 6 ch 113 SLA 1970)

Sec. 42.05.691. Utility classes. The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting and other regulatory requirements. (§ 6 ch 113 SLA 1970)

Article 10. General Provisions.

Section

711. Exemptions
712. Deregulation ballot

Section

720. Definitions
721. Short title

Sec. 42.05.701. [Renumbered as AS 42.05.720.]

Sec. 42.05.711. Exemptions. (a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of this chapter, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25 may elect to be exempt from the provisions of this chapter, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 — 42.05.281 unless 25 percent of the subscribers petition the commission for regulation.

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§ 42.05.712

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(D) A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a) or (d) — (k) is not subject to regulation by a municipality under AS 29.48.060 — 29.48.090. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982; am § 1 ch 30 SLA 1983)

Cross references. — For limitations on these exemptions, see AS 42.05.321(b) and AS 42.05.381(c).

Effect of amendments. — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted

"under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding "a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

The 1983 amendment added subsections (k) and (l).

Opinions of attorney general. — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

NOTES TO DECISIONS

Municipally owned utilities in competition with other utilities subjected to full gamut of regulation pertaining to other utilities, with exception

relating to bond covenants. — See Alaska Pub. Utils. Comm'n v. Municipality of Anchorage, Sup. Ct. Op. No. 1326 (File No. 2940), 555 P.2d 262 (1976).

Sec. 42.05.712. Deregulation ballot. (a) A utility or cooperative which may elect to be exempt from the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

(b) The votes of a majority of those voting in an election in which at least 15 percent of the eligible subscribers or members return ballots are required for a utility or cooperative to elect exemption under (a) of this section.

(c) Each subscriber or member of the utility or cooperative shall receive notice of an election under this section with the subscriber's or member's regular bill for service at least 60 days before the date set for the election. The notice shall contain impartial language informing the subscribers or members that an election on the option of deregulation or regulation by the Alaska Public Utilities Commission will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each subscriber or member of the utility or cooperative with the regular bill for service. The notice shall also state

NOTES TO DECISIONS

Separation of intrastate and interstate properties, expenses and revenues is required for properly determining the adequacy of a utility's

intrastate rates. *United States v. Alaska Communications, Inc.*, Sup. Ct. No. 1647 (File No. 3772), 597 P.2d (1979).

Collateral references. — Charitable contributions by public utility as part of operating expense, 59 ALR3d 941.

Fuel adjustment clauses: validity of "fuel adjustment" or similar clauses authorizing electric utility to pass on increased costs of fuel to its customers. 83 ALR3d 933.

Advertising or promotional expenditures of public utility as part of operating expenses for ratemaking purposes. 83 ALR3d 963.

Affiliates: amount paid by public utility to affiliate for goods or services as

includible in utility's rate base, operating expenses in rate proceeding ALR4th 454.

Injunctions — rates: validity, construction, and application of Johnson Act (29 USCS § 1342), prohibiting interference by Federal District Courts with orders affecting rates chargeable by public utilities. 28 ALR Fed 422.

Applied in Alaska Pub. Util. Comm'n's Greater Anchorage Area Borough, Sup. Ct. Op. No. 1139 (File No. 2314), 534 P.2d 549 (1975).

Sec. 42.05.390. [Repealed, § 5 ch 113 SLA 1970.]

Sec. 42.05.391. Discrimination in rates. (a) A public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned utility (may) offer uniform or identical rates for a public utility service to customers located in different areas within its certificated service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable.

(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.

(c) A public utility may not directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand or receive a greater or lesser compensation for its services than is specified in its effective tariff. A public utility may not extend to any customer any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except such as are extended or applied to all customers under like circumstances. A public utility may not offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of utility service unless it conforms

a tariff approved by the commission, installation or equipment is offered to all customers using or applying for the public utility. The reasonableness of such a tariff filed by the commission shall consider, among other things, the compensation paid by a competitor, regulation of the public utility to secure the installation of a competitor's service.

Nothing in this section prevents a public utility from offering reduced rates to customers transferred to another utility provided the reduction is an integral part of a plan to eliminate the overlapping of facilities and competition. See 113 SLA 1970; am § 5 ch 136 SLA 1971.

Effect of amendments. — The 1980 amendment substituted "A public utility may not" for "No public utility may" at the beginning of the first and second sentences in sub-section (a).

NOTES TO DECISIONS

Uniform rates are not required. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Only unreasonable or undue preferences are forbidden. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

When the rate structure is such that one class of customers subsidizes another, discrimination may pass beyond its permitted scope and become undue or unreasonable. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Use of existing pre-tax profits builds into new rates any existing discrimination in the rate structure. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Discrimination based on justified differences is permissible. — Since only undue discrimination which is unreasonable and unlawful, discrimination based on justified differences in the cost of service is permissible. See 113 SLA 1970; am § 5 ch 136 SLA 1971.

Sec. 42.05.400. [Repealed, § 5 ch 136 SLA 1971.]

Sec. 42.05.401. Apportionment of public utilities share in a joint rate the apportionment should be fair and reasonable. The method of apportionment is subject to the review of the commission and the commission may, in the public interest, establish the portion to be entitled to.

Title 40
Public Records
and Records

Title 41
Public Resources

Title 42
Public Utilities
and Carriers

(repealed)

to a tariff approved by the commission, and the compensation, consideration or equipment is offered to all persons in the same classification using or applying for the public utility service; in determining the reasonableness of such a tariff filed by a public utility the commission shall consider, among other things, evidence of consideration or compensation paid by a competitor, regulated or nonregulated, of the public utility to secure the installation or adoption of the use of the competitor's service.

(d) Nothing in this section prevents a public utility from charging reduced rates to customers transferred to it from a competing utility provided the reduction is an integral part of a contract, arrangement or plan to eliminate the overlapping of service areas or to minimize duplication of facilities and competition between public utilities. (§ 6 ch 113 SLA 1970; am § 5 ch 136 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "A public utility may not" for "No public utility may" at the beginning of the first and second sentences

in subsection (a), and added the present third and fourth sentences in subsection (a).

NOTES TO DECISIONS

Uniform rates are not required. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Only unreasonable or undue preferences are forbidden. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

When the rate structure is such that one class of customers subsidizes another, discrimination may pass beyond its permitted scope and become undue or unreasonable. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Use of existing pre-tax profits builds into new rates any existing discrimination in the rate structure. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Discrimination based on justified differences is permissible. — Since only that discrimination which is unreasonable is unlawful, discrimination based on justified differences in the cost of service or

which is otherwise within the zone of reasonableness is permissible. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Language of section and of former AS 42.05.400 and 42.05.520 compared. — See Oil Heat Inst., Inc. v. Alaska Pub. Serv. Corp., Sup. Ct. Op. No. 960 (File No. 1850), 515 P.2d 1229 (1973).

Whether subsection (c) violated is question for initial consideration by commission. — Whether as a matter of law a gas company's plan to increase its sales of natural gas violates the provisions of subsection (c) is a question particularly suited for initial consideration by the Public Utilities Commission. Oil Heat Inst., Inc. v. Alaska Pub. Serv. Corp., Sup. Ct. Op. No. 960 (File No. 1850), 515 P.2d 1229 (1973).

Applied in United States v. RCA Alaska Communications, Inc., Sup. Ct. Op. No. 1647 (File No. 3772), 597 P.2d 489 (1979).

Sec. 42.05.400. [Repealed, § 5 ch 13 SLA 1970.]

Sec. 42.05.401. Apportionment of joint rates. (a) If public utilities share in a joint rate the apportionment of receipts shall be just and reasonable. The method of apportionment shall be approved by the

Title 43
Revenue and Taxation

REPEALED BY
§ 5 CH 136 SLA 1980

Sec. 29.23.340. Utility boards. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on a utility board serves until the expiration of the term and until a successor is elected and has qualified.

(d) Unless otherwise provided by ordinance, the board shall

- (1) choose its chairman and secretary;
- (2) appoint the manager of the public utility for a term not longer than five years and set the manager's salary;
- (3) formulate and enforce the general rules and policies of the utility. (§ 2 ch 118 SLA 1972)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 560 et seq. 62 C.J.S., Municipal Corporations, ¶ 699.

Public utility acts as applicable to municipal corporations owning or operating waterworks, 10 ALR 1432; 18 ALR 946.

Constitutionality of statute or ordinance for protection of water supply, 72 ALR 673.

Power of municipal corporation to sell equipment to consumers as adjunct to utility service furnished, 108 ALR 1454.

Municipality's power to sell, lease, or mortgage public utility plant or interest therein, 60 ALR2d 595.

Article 7. Other Officers and Employees.

Section

- 360. Appointment of officers
- 370. Municipal attorney

Section

- 380. Municipal clerk
- 390. Municipal treasurer

Sec. 29.23.360. Appointment of officers. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief administrator are subject to confirmation by the governing body. (§ 2 ch 118 SLA 1972)

The 31
OR 118 633

The 31
118 633

118 633

Title 30
Navigation, Harbors
and Shipping



Alaska State Legislature

Representative Mike Davis

Pouch V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

MEMORANDUM

TO: Representative Peter Goll, Chairman
House Community & Regional Affairs Committee

FROM: Rep. Mike Davis

RE: HB 12

DATE: January 17, 1985

House Bill 12 would partially repeal the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act.

Under the current law a municipally owned utility that serves customers outside of its municipal limits, in effect, disenfranchises those customers from their decision making process. As an example in Fairbanks, approximately half of the Fairbanks Municipal Utility System's (FMUS) telephone subscribers are from outside the city. FMUS is regulated by the City Council (the Public Utilities Board is advisory only). Subscribers outside the city exercise no control over the City Council thus have no say in rate structuring, expansion plans, how funds are allocated from one utility service to another etc.

Allowing APUC to regulate such a utility would give such subscribers a legitimate means to participate in deciding matters that the Commission regulates such as described above.

This exemption would apply only to a municipality owning a utility that serves consumers beyond the municipal borders and only to its activities in the area beyond its borders.



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

From: Representative Max F. Gruenberg
To: Community & Regional Affairs Committee
Date: January 28, 1985
Re: Proposed Committee Substitute for HB 12

Sec. 1 AS 29.23.340(b) is amended to read as follows:

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent. Any customer of the utility may vote and serve.

*resident of any area
served by*

EXPLANATION

The proposed Committee Substitute for HB 12 amends current law to permit all customers of municipally owned utilities (whether living inside the municipal boundaries or outside) to vote for vacancies on the utility boards and be ed (if the boards are elected) or be appointed (if the board members are appointed).

The policy behind this amendment to existing law is that customers residing outside municipal boundaries shall be treated fairly by being allowed to vote for the board and being permitted to serve on it, either by election or appointment, without regard to whether or not they reside inside the municipal limits.

Original sponsor: Davis

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 12 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipally owned public utility
7 regulation and managing board representation."

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

9 * Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

10 (48) AS 29.23.340.

11 * Sec. 2. AS 29.23.340(b) is amended to read:

12 (b) As determined by ordinance, members of the board are appoint-
13 ed by the municipal executive and confirmed by the assembly or council
14 or are elected at the regular election held annually on the first
15 Tuesday of October, unless a different election date or interval of
16 years is provided by ordinance. A resident of any area served by the
17 utility may vote on the election of members of the board. The term of
18 a utility board member is two years and until a successor is selected
19 and has qualified. However, the assembly or council may by ordinance
20 provide for a different term not to exceed four years and not altering
21 the current term of an elected incumbent.

22 * Sec. 3. AS 29.23.340 is amended by adding a new subsection to read:

23 (e) If the utility provides services outside the municipality, a
24 resident of any area served by the utility is eligible to serve as a
25 member of the board. ~~[The membership of the board must reflect the~~
26 ~~composition of the user group to the extent possible, with at least~~
27 ~~one member of the board from outside the municipality.]~~
in states passed

28 * Sec. 4. AS 42.05.711(b) is amended to read:

29 (b) Public utilities owned and operated by a political

1 subdivision of the state and none of whose utilities is in competition
2 with any other utility, are exempt from the provisions of this chap-
3 ter, other than the provisions of AS 42.05.221 - 42.05.281, unless the
4 owner and operator elects to be subject to all provisions of this
5 chapter. However, if the public utility provides services outside the
6 boundaries of the municipality, the utility is subject to regulation
7 if ^{anyone} 25 percent of the customers of the utility petition the commission
8 for regulation.
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TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: House Community and Regional Affairs Committee

From: Scott A. Burgess, Executive Director 

Date: January 23, 1985

Subject: HB 12 - Municipal Utilities Exemption from APUC

On behalf of the Alaska Municipal League, I am opposed to HB 12. Repealing the current exemptions of public utilities from regulation by the APUC (AS 42.05.711(b)), would not be in the best interests of the public, the municipalities, the utilities or the level of service they provide.

My understanding of the bill is that it would repeal the current exemption for the utility service area outside the municipal limits. In the service area outside the municipal limits, the APUC would also regulate in addition to the council/assembly. The APUC regulation would be primarily one of rates, not service. Currently, the APUC does review and regulate service areas, determining who can provide the best service in a given area. Therefore, to require them to regulate municipal utilities would only add expense and bureaucracy, not improve service.

In the interests of brevity, I have outlined some points that clarify the League's opposition to the bill, and why I do not believe the legislation would have the desired effect of improving utility service by franchising customers receiving municipal utility service outside of municipal boundaries:

1. The City Council is a local regulator, and convenient, sympathetic and responsive to the local customer with complaints. Where the service area is in a borough, the borough assembly is also available. Boroughs also may seek utility authority.

2. The major public utilities providing utility service beyond the city limits are Fairbanks and Ketchikan. Both have utility boards with representation from the public outside the cities.

3. The APUC currently regulates service areas of municipal utilities. The additional regulation called for in HB 12 would only apply to rate setting. The utility manager in Seward estimated a cost of \$50,000 to \$100,000 to prepare a rate case before the APUC. The result would not be improved service but, in fact, higher costs to the rate payer from the added bureaucracy.

4. Without the presence of the public utility, no service may be provided to the public outside the municipal boundary.

5. The bill addresses a problem unique to the Fairbanks Municipal Utility Service and, specifically, the telephone utility. Much of the problem has been as a result of State subdivisions providing residential lots in proximity to urban areas without providing utilities or the funds to the public utility to provide the services expected by the eventual homeowner.

6. Municipalities that provide some utility service outside the municipalities boundaries, and that I was able to contact, oppose the bill on the basis that it will add confusion and cost with no improvement in service. More importantly, the city council and their utility boards are more accessible and responsive than the APUC in Anchorage. The municipalities that I contacted are: Fairbanks, Ketchikan, Seward, and Kenai.

"The League supports the current statutory exemptions which allow municipal utilities to operate in the best interests of the consumer public without regulation by the APUC." (1985 Policy Statement, PART VI, A.2., page 10)

"The League endorses the return to municipalities of the authority to regulate all utilities, other than co-op utilities and utilities that have opted out of the Alaska Public Utilities Commission (APUC) regulation, within their jurisdiction to the extent not regulated or specifically exempted from municipal regulation under state law." (1985 Policy Statement, PART VIII, A. 6., page 13)

Again, the League opposes HB 12. Thank you for the opportunity to comment.

*
* DELIVER TO: JFOM *
*
* ORIGINAL *
* SENT: 01/22/85 TIME: 16:13 *
* FROM: LIOSOL *
* SUBJECT: TELEPHONE ZONING *
* PRINT DATE: 01/22/85 TIME: 16:14 *
*

P.O.M.

TO: ALL SENATORS AND ALL REPRESENTATIVES

FROM: DON THRAPP
BOX 449
KASILOF, AK 99610
262-1433

MESSAGE: PLEASE GET ALASKA PUBLIC UTILITY COMMISSION OFF THEIR TAILS AND ZONE OUR TELEPHONE SERVICE AREAS SO RURAL RESIDENTS CAN AFFORD PRIVATE LINES. APPLICATION HAS BEEN BEFORE THEM FOR OVER TWO YEARS. ACTION PLEASE!

E.O.M.

TELECOPY COVER SHEET
FAIRBANKS INFORMATION OFFICE

TO: JNU Info Rep. GOLL
FOR: + Rep. Davis PHONE: _____

FROM: GARY Newman - Fairbanks PHONE: _____

ADDITIONAL INSTRUCTIONS: This is testimony for a meeting this afternoon on HB 12.

DATE/TIME SENT: 9:00 AM SENT BY: Ann
1/28/85

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP: _____

NUMBER OF PAGES 2 (NOT COUNTING COVER SHEET)

Gary C. Newman
1083 Esro Road
Fairbanks, Alaska 99701
Phone 488-2001

January 25, 1985

Rep. Peter Goll, Chairman
House Committee on Community
and Regional Affairs
Pouch V
Juneau, Alaska 99811

Dear Rep. Goll,

Please accept this written testimony on HB 12, as I was not able to finish my testimony during the teleconference last week and I will be in Chalkyitsik during the next teleconference on Monday.

I would like to explain that I am a journeyman telephone installer who worked for FMUS for nine years. I am presently a member of the Fairbanks North Star Borough Planning Commission and previously served on the Platting Board, so I have absorbed some knowledge about the development that has taken place over the years in the Fairbanks area.

I do support the intent of this bill. There has been a real problem in insuring that FMUS Telephone:

- 1) sets rates appropriately to meet their construction and expansion needs,
- 2) when collecting revenues, insuring that those revenues do go into meeting their construction and expansion needs.
- 3) meets their construction and expansion needs in the areas that they are franchised to serve.

Rates are and have been artificially low. While Fairbanks has been a fast growing for the past several years, there was a several year period prior to that where there was plenty of opportunity to catch up on inside and outside plant construction. Extra revenues received by the telephone utility have traditionally been used to subsidize the other utilities over the years. Major construction and expansion projects have been limited to occasional bond issues and legislative appropriations. From a recent study funded by the city, it would take \$160,000,000 to bring the telephone utility up to standard.

While most of the brunt of the poor shape of the utility has fallen on outlying areas where there is a lack of facilities with which to provide service, all areas have been equally hard hit by overloaded switches.

The question in my mind regarding this bill is whether APUC regulation would improve the utility. The additional burden of regulation will be costly to the utility in rate filings before the commission. However, I think that the APUC would more readily see and insist that the utility meets its obligations under its franchise to operate.

There is definitely an issue as to whether subscribers or potential subscribers within the FMUS service are who live outside the City of Fairbanks have any legal recourse before a political body which sets the rates, the Fairbanks City Council. It was a step in the right direction to re-establish the Public Utilities Board with some members as representatives of those living outside the City of Fairbanks. Yet the P.U.B. is essentially an advisory board to the City Council. The City Council must retain the right and obligation to encumber city funds. The last time the P.U.B. strongly insisted that the City upgrade its facilities, the City Council abolished the P.U.B.

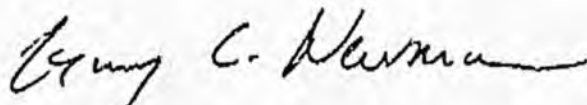
I think that the simplest description of the problem has been that the FMUS telephone utility has been guided by political decisions and not utility management decisions. The present mayor, just recently reelected, has pledged that he will veto an rate increase in defiance of the recent study that shows how bad things really are. I can recognize that FMUS Telephone has just about reached the end of the line with special appropriations in the state's capital budget. Yet the subscribers and those who would subscribe to telephone service in areas outside the city boundaries that FMUS should be serving were not amongst those who elected the mayor of the City of Fairbanks.

There are a couple other options that might affect the need for this legislation, but that seem unlikely in the near future: that of selling the utility or that of unifying the city and the borough.

I would suggest that this bill be modified to read that the exemption from APUC regulation be removed for any municipal utility if more than 10% of their customers reside outside the municipal boundaries. The task of delineating which items affect non-city subscribers would be too complex. I think the utility subscribers would be better served if a regulatory body with expertise in that utility was able to take a stronger hand than an advisory body.

Thank you for your attention to my concerns. Please share this letter with the other members of your committee.

Best regards,



cc: Rep. Mike Davis

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3341
- Telecopier (907) 224-3248

February 5, 1985

The Honorable Peter Goll
House of Representatives
Pouch V
Mail Stop 3100
Juneau, AK 99811

SUBJECT: HOUSE BILL NO. 12, 14th LEGISLATIVE

Dear Representative Goll:

I am very concerned about the impact on the rate payer of the Seward Electric Utility if House Bill 12 were passed as currently drafted. The additional cost required to meet the administrative needs of Alaska Public Utilities Commission would have to be directly passed to the consumer, but would not result in any improvement in service.

The Seward Electric Utility consists of approximately 1800 customer accounts, of which 1400 are within the city limits. Those outside are mainly located in subdivisions adjacent to the city limits, with a few spread along the Seward Highway between miles 12 and 24. The KWH rate is standard throughout this service area, even though the cost of service outside the city far exceeds that within the city limits. The monthly customer charges vary to reflect a slightly higher cost of service outside the city, residential fees being \$20.08 vs \$22.28, and commercial \$36.25 vs \$45.49. Service and response to emergencies is the same, except for travel time delay.

The Seward City Council performs the function of a utility board or commission. All tariffs and similar actions are considered in open assembly and are subject to public hearing as is other city business. The Council has never refused to permit testimony from a person outside city limits on a matter affecting the Utility.

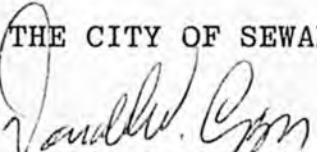
House Bill No. 12
14th Legislative
Page 2

Placing a small utility, such as Seward Electric, under the APUC will subject them to unreasonable and costly administration that will increase the cost of service to the rate payer, while experiencing no improvements to service. The utility generally follows the APUC operating rules published for utilities, however, they are not subject to requirement for APUC tariff hearings and other costly, time consuming administrative reviews. The cost alone of preparing for a tariff revision and subsequent hearings would add 10 to 15% to the operating budget. A utility with 1800 customers cannot absorb such unnecessary overhead without directly impacting the cost of service to the customer. This additional burden would be even more unreasonable if one accepts statements by other utilities concerning the cost of responding to demands of the APUC, or the benefits gained from implementing their procedures.

Seward's position is that placing the Seward Utility under the APUC would not be beneficial by either rate regulation or improved services. Rates would increase and/or service would deteriorate in response to the increased administrative burdens. Furthermore, because the Seward City Council has close communications with rate payers within and without the City limits and is very responsive to their needs, there is no need for another overview agency. This bill should be defeated, or at least amended to allow small municipal owned utilities having the majority of their customers within city limits to continue to be exempt from APUC control.

Respectfully yours,

THE CITY OF SEWARD



DONALD W. CRIPPS
MAYOR

EPD:DWC:mr

REMARKS:

Professionals in action since 1975

128 Seward Street
Juneau, Alaska 99801

Business Phone - (907) 586-1715
Telecopy Phone - (907) 586-4821

Introduced: 1/16/85
Referred: Community & Regional Affairs,
and Labor & Commerce

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 12

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EXEMPTION OF MUNICIPALLY
7 OWNED UTILITIES FROM CERTAIN PROVISIONS OF THE ALASKA
8 PUBLIC UTILITIES ACT."

9

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

10

* Section 1. AS 42.05.711(b) is amended to read:

11

(b) Public utilities owned and operated by a political subdivi-

12

sion of the state and none of whose utilities is in competition with

13

any other utility, are exempt within the boundary of the municipality

14

owning the utility from the provisions of this chapter other than the

15

provisions of AS 42.05.221 - 42.05.281, unless the owner and operator

16

elect to be subject to all provisions of this chapter.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

January 18, 1985

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

POSITION PAPER

RE: HB 12

SPONSOR: Representative Mike Davis

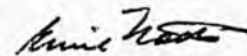
Program Effects of Bill

This bill would limit the current exemption from APUC regulation of utilities of political subdivisions of the State to operations within municipal limits. It would not affect departmental programs.

Comments

The department does not oppose this bill. Municipalities may operate a public utility outside municipal limits pursuant to AS 29.48.040. Municipalities currently enjoy exemption from most APUC regulation, in part because it is felt that resident users are protected by their ability to participate in the political process of governing the municipality. This protection obviously does not exist for utility users outside of municipal limits who are unable to vote in municipal elections. The proposed amendment could serve to provide some protection for these users' interests. However, administration of a utility in such a divided manner would be extremely difficult.

It should be noted that the exemption granted in AS 42.05.711(b) as it exists applies not just to a municipality, but to "a political subdivision of the state." The proposed amendment would have specific application to a regional electrical authority established in AS 18.57 which is statutorily defined as a political subdivision of the state (AS 18.57.020(a)). The proposed amendment in the bill could have a great potential impact on such an authority. This impact could be avoided by replacing "municipality" in the proposed bill with the language "political subdivision of the state." At the present time there is only one such regional electrical authority, which has, in any case, chosen to submit itself to APUC authority.



Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 12

Title: An Act relating to the exempt-

ion of municipally owned utilities from certain provisions of the Alaska Public Utilities Act

Sponsor: Davis

Requestor: House C&RA Committee

Date of Request: 1-14-85

FISCAL DETAIL

Agency Affected: DCRA

Program Category Affected: None

BRU, Program or Subprogram(s) Affected: None

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-			

CAPITAL	-0-	-0-	-0-			
----------------	-----	-----	-----	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill would have no fiscal impact on the Department.

Prepared By: James Plasman

Division: Municipal & Regional Assistance

Phone: 465-4707

Date: 1-18-85

Approved by Commissioner: *Neil Ross*

Agency: _____

Date: 1/18/85

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

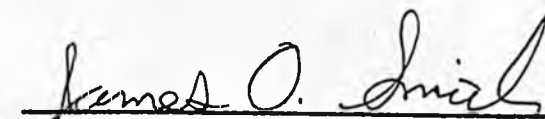
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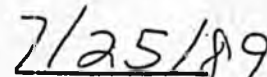


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HB

15

Introduced: 1/14/85
Referred: Community & Regional Affairs,
State Affairs and Finance

1 IN THE HOUSE

BY GOLL BY REQUEST

2

HOUSE BILL NO. 15

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring an advisory election before an
7 annexation may be proposed to the legislature."

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

9 * Section 1. AS 44.47 is amended by adding a new section to read:

10 Sec. 44.47.582. ADVISORY ELECTIONS ON ANNEXATIONS. (a) A
11 proposed annexation may not be voted on by the Local Boundary Commis-
12 sion unless an advisory election on the proposal has been held, and
13 the results considered by the commission. The advisory election shall
14 poll

15 (1) the area proposed to be annexed;

16 (2) any municipality that includes the area proposed to be
17 annexed; and

18 (3) the proposed annexing municipality.

19 (b) The director of elections shall supervise an advisory elec-
20 tion held under this section in the general manner prescribed by the
21 Alaska Election Code (AS 15). The state shall pay all election costs.

*

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Community and Regional Affairs Committee

4/10/85

4/8/85

3/27/85

3/22/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 15
 Title: Municipal Annexation
Elections
 Sponsor: Goll
 Requestor: _____
 Date of Request: 1/14/85

FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: _____
Division of Elections
 BRU, Program or Subprogram(s) Affected: _____
Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		303.0	318.2	334.1	350.8	368.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N/A	303.0	318.2	334.1	350.8	368.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	N/A	303.0	318.2	334.1	350.8	368.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED NARRATIVE

Prepared By: Sherry Valentine Phone: 465-4611
 Division: Elections Date: 3/11/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

It is anticipated that approximately 10 municipalities may apply to hold annexation elections during FY86. This fiscal note was developed by estimating that three (3) boroughs and six (6) cities will apply to the local Boundry Commission to hold annexation advisory elections.

In determining the fiscal impact, 10 specific municipalities were identified and broken out as to whether they are comprised of punch card or paper ballot precincts, or both. The cost to conduct an election in a punch card (computer counted) precinct is approximately \$5.8, while the cost for a paper ballot (hand counted) precinct is \$2.8. Computer counted ballot precincts are generally higher due to the need for computer programming and a Data Processing Review Board to oversee ballot counting.

Introduced: 1/14/85
Referred: Community & Regional Affairs,
State Affairs and Finance

1 IN THE HOUSE

BY GOLL BY REQUEST

2

HOUSE BILL NO. 15

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring an advisory election before an
7 annexation may be proposed to the legislature."

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

9 * Section 1. AS 44.47 is amended by adding a new section to read:

10 Sec. 44.47.582. ADVISORY ELECTIONS ON ANNEXATIONS. (a) A
11 proposed annexation may not be voted on by the Local Boundary Commis-
12 sion unless an advisory election on the proposal has been held, and
13 the results considered by the commission. The advisory election shall
14 poll

15 (1) the area proposed to be annexed;

16 (2) any municipality that includes the area proposed to be
17 annexed; and

18 (3) the proposed annexing municipality.

19 (b) The director of elections shall supervise an advisory elec-
20 tion held under this section in the general manner prescribed by the
21 Alaska Election Code (AS 15). The state shall pay all election costs.