

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3490

HLAB

HB 314

369

Docket Number	Docket Title	Reason for Docket	Documentation	Result
U-81-9	Carl N. Gonder complaint against NEA, Inc. (Electric Mat-Su Borough)	Alleged inadequate Service & Facilities of NEA	Carl N. Gonder formal complaint ltr Re: Installing of a Breaker	Favor of Gonder
U-81-13	Investigation of NEA, Inc. (Electric Mat-Su Borough)	Service Disconnection	Evidence Re: Energy Theft	Agreement between Mr. Zwert & NEA
U-81-20	Investigation of CEA, Inc. (Electric-Anchorage Borough)	Petition Wholesale Power Billing Practices	Petition by APUC STAFF to open docket of investigation	Cost-based Wholesale Rates Established
U-81-34	Investigation of Gen-Tel of Alaska (Telephone-Bethel)	Complaint Quality of Service in the Bethel Exchange Area	Consumers complaints and APUC STAFF formal complaint Quality of Service as a result of total Facility Breakdown	Stipulation between Staff & Gen-Tel to Upgrade Equipment
U-81-53	Investigation of CEA, Inc. (Electric-Chudach)	Service Reliability	Evidence from APUC PROCEEDING To Hear SIZ Rate Inc. Request	153 Recommendations Ordered \$ by Commission
U-82-49	Investigation of NPEC, Inc. (Electric-Cold Bay)	Complaint Quality of Electric Ser to Cold Bay/Ak.	Complaint by City, Consumers and APUC Staff	Resolved by Transfer of Certificate
U-82-51	Investigation of APIT (Electric-Skasway & Craig)	Services & Rates	Complaints & Staff on-site Investigation	Stipulation Between Staff & APT to Correct Documented Service Cond.
U-82-52	Investigation of NUI (Telephone-Tok & Craig)	Quality of Service	Complaint ltr from City of Craig and Tok Consumers	Stipulation between Staff & NUI to correct deficiencies
U-82-70	Dept of Labor complaint against APIT (Electric-Dot Lake)	Safety of facilities at the Tanacross to Bot Lake Lake Transmission Line	Evidence From Dept. Labor	Favor of Utility Subj. to cond.
U-83-6	Investigation of Teller Power (Electric-Teller)	Unauthorized Use of Fuel Surcharge	Ltrs from Consumers Enclosing Bills	Fine Levied Unless Immediate Response to Commission Order
U-83-25	Mark Hite Complaint against Dawn Development Corp. (Water Utility Peter Creek)	Alleged non-compliance with Tariffed discount procedures	Hite's Formal complaint ltr and Staff Recommendations	Favor of Hite

Exh. 1

Docket Number	Docket Title	Reason for Docket	Documentation	Result
J-87-73	Wasilla Refuser, Inc. complaint against Charles Ingram d/b/a Charles's Garbage & Trash Collection (Garbage Hat-Su Borough)	Alleged Unauthorized Provision of Service Within an Existing Certificated Area	Memorandum from existing carrier in support of complaint with proposed order and proposed summons	Pending
★ -84-64	Investigation of AVEC (Electric-Rural Village)	Alleged unsafe facilities, inadequate management practices, and overrecovery of rates	Followup to Order requiring correction of Svs Safety Hazards (1978) as a Result of Legislative Inquiry and two resolutions from North & Northwest Ak. Mayors Conference	Pending
★ -84-65	Investigation of Norfolk (Water Utility-Eagle River)	Alleged inadequate management practices & inferior Service for temporary Period of Time	54 complaint ltrs about water service	Pending

APUC Comments on Proposed Statutory Revisions

AS 42.05.711(h) - The provisions of this chapter other than AS 42.05.221 - 42.05.251 do not apply to a cooperative organized under AS 10.25, unless that cooperative elects to be subject to the provisions of this chapter under the procedure described in AS 42.05.712. [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.]

Impact:

- * Affects regulated cooperatives, both telephone and electric.
- * Eliminates Commission authority to take action on service discontinued or suspended by a cooperative utility.
- * Eliminates Commission authority to modify or revoke a certificate of a cooperative utility.
- * Eliminates Commission authority to approve the transfer of a cooperative's certificate to another utility.
- * Grants to a cooperative a certificate of public convenience and necessity in perpetuity without regard for changes in public need or in fitness and ability of the cooperative utility to serve.

Comments:

This language, like proposed changes to .381(c) and .431(a), virtually eliminates Commission oversight of cooperative utilities after the initial certificate is granted. The Commission believes this suggested change to be contrary to the interests of the consuming public.

APUC Comments on Proposed Statutory Revisions

AS 42.05.712(a) - A utility or cooperative which may elect to be regulated under [exempt from] the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

AS 42.05.712(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 to be regulated [exemption] under (a) of this section.

Impact:

- * Affects regulated cooperatives, both telephone and electric.
- * Legislatively deregulates all cooperatives, some of whose members have already voted to retain regulation.
- * There is no procedure provided for the consumers to petition the Commission for regulation. Utility management would determine if there would be a vote on regulation.
- * Even if a vehicle existed for consumer initiative, a vote to opt into regulation would come only in a crisis situation, where irreversible harm may have already occurred.

Comments:

This proposal is contrary to position of some cooperative boards of directors, (see comments of J. Murphy, President of Chugach to House and Senate Commerce Committees, March 1985).

The Commission believes that it is the Legislature's prerogative to determine what utilities require regulation to protect the public interest. The Commission believes that the current procedure of allowing consumers who are satisfied with the management of their cooperative to vote on "opting out" represents the approach most in the public interest.

APUC Comments on Proposed Statutory Revisions

AS 42.05.720(7) - "tariff" means a rate, charge, toll, rule or regulation of a utility relating to services furnished by the utility to the general public for compensation and every map, page, adoption notice, instrument or other document filed with the commission setting out the terms and conditions under which utility services are offered to the public; [and instruments of concurrence and all other documents and data setting out the terms of a utility's business relations with another utility insofar as they affect the general public either directly or indirectly;]

Impact:

- * Affects all regulated utilities.
- * Intent of the proposed revision is unclear.

Comments:

Without some clarifying language or other indication of the drafter's intent, it is not possible for the Commission to provide meaningful comment regarding the potential impact of the proposed revision.

APUC Comments on Proposed Statutory Revisions

AS 42.05.720(7) - "tariff" means a rate, charge, toll, rule or regulation of a utility relating to services furnished by the utility to the general public for compensation and every map, page, adoption notice, instrument or other document filed with the commission setting out the terms and conditions under which utility services are offered to the public; [and instruments of concurrence and all other documents and data setting out the terms of a utility's business relations with another utility insofar as they affect the general public either directly or indirectly;]

Impact:

- * Affects all regulated utilities.
- * Intent of the proposed revision is unclear.

Comments:

Without some clarifying language or other indication of the drafter's intent, it is not possible for the Commission to provide meaningful comment regarding the potential impact of the proposed revision.

CITY OF KODIAK
REGULATION NUMBER 03-85

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK, ALASKA, ENCOURAGING
THE ALASKA STATE LEGISLATURE TO ADOPT THE 1985 UNIFORM PLUMBING CODE

WHEREAS, reliance by the State on the 1979 Uniform Plumbing Code has
unnecessarily burdened local developers and contractors by denying them the
use of current proven products and practices; and

WHEREAS, the adoption of the 1985 Uniform Plumbing Code would help
alleviate local problems caused by use of such an outdated code,

NOW, THEREFORE, BE IT ESTABLISHED by the Council that the Alaska State
Legislature is hereby urged to pass legislation adopting the 1985 Uniform
Plumbing Code early in the 1985 session.

BE IT FURTHER RESOLVED that copies of this resolution be sent to:

The Honorable Fred Chernoff, Alaska State Senator
The Honorable Uwe Thompson, Alaska State Representative
David Gray, Lobbyist for the City of Kodiak

PASSED AND APPROVED this 10TH day of JANUARY, 1985.

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

CITY OF KODIAK
RESOLUTION NUMBER 25-85

A RESOLUTION OF THE CITY OF KODIAK SUPPORTING HOUSE BILL 63 AND OPPOSING SENATE BILL 238 RELATED TO THE PLUMBING CODE

WHEREAS, both House Bill 63 and Senate Bill 238 have been filed in the first session of the Fourteenth Legislature; and

WHEREAS, House Bill 63 would adopt the 1985 Plumbing Code and, as introduced, is responsive to our needs; and

WHEREAS, Senate Bill 238, which would also adopt the 1985 Plumbing Code, restricts the expanded use of plastic pipe as allowed in said Plumbing Code; and

WHEREAS, it is to the advantage of our community to adopt the 1985 Plumbing Code without amendments which would restrict the use of plastic pipe beyond the restrictions found in the Plumbing Code as published by the International Association of Plumbers and Mechanical Officials,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the Fourteenth State Legislature is respectfully urged to pass House Bill 63 in its present form and to oppose Senate Bill 238.

BE IT FURTHER RESOLVED that copies of this resolution be sent to:

The Honorable Bill Sheffield, Governor of Alaska
The Honorable Fred Sheroff, Alaska State Senator
The Honorable Dave Thompson, Alaska State Representative

PASSED AND APPROVED this 25th day of MARCH, 1985.

ATTEST:

Margaret S. Sullivan
CITY CLERK

CITY OF KODIAK
[Signature]
MAYOR

HB 314 File Contents

April 29, 1985

- 1) Overview -- Roger Poppe, Committee Staff
- 2) Proposed Draft Legislation -- Senate L & C -- April 22, 85
- 3) Written response to Proposed Draft Legislation -- April 23, 85
- 4) Additional Proposed Legislation for Telephone utilities, and written response by APUC
- 5) Copy of CSSB 247

Offered: 4/25/85
Referred: Rules

Original sponsor: Ferguson

1 IN THE SENATE
2 CS FOR SENATE BILL NO. 247 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL.
6 For an Act entitled: "An Act extending the termination date of the Alaska
7 Public Utilities Commission; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 44.66.010(a)(4) is amended to read:
11 (4) Alaska Public Utilities Commission (AS 42.05.010) --
12 June 30, 1986 [1985];
13 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

BY THE LABOR AND
COMMERCE COMMITTEE

M E M O R A N D U M

To: All Members, House Labor and Commerce Committee

From: Roger Poppe, Committee Aide

Date: April 29, 1985

Subject: Overview, HB 314

Since the public hearing on the APUC sunset which was held on April 3, 1985, Chairman Navarre and Chairman Zharoff have had further meetings with representatives of the utilities, and with a representative of APUC. Subsequently, it was agreed that the Senate L & C draw up a draft bill that would get beyond simple extension of sunset such as HB 314 and CSSB 247 propose, and try to resolve specific areas of concern.

With this goal of compromise in mind, a meeting was held on Tuesday, April 23, 1985 from 1:00 to 5:00 with the following people present: Senator Zharoff and Aide Michael Thill; Representative Navarre and Aide Roger Poppe; Dave Hutchens of Alaska Rural Electric Cooperatives Association; Larry Markley and Julie Simon of Chugach Electric; APUC Commissioner Carolyn Guess, Exec. Director Jack Farleigh, and Virginia Rush, the APUC attorney for the APUC. The proposed Senate bill draft and the APUC's response were discussed, point by point (see file).

At the end of 4 hours, only 4 of the 16 points to be discussed had been covered, and judging from the tenor of the discussion, it was apparent that major differences remained. As a result, it was decided that there would not be enough time left in this first session to work them out. So the Chairmen reluctantly decided that the best approach might be to spend the interim working on and resolving the issues.

There was some consideration as to what to do legislatively to accommodate this interim process. On the one hand, no legislative action now would lead to sunset. However, this process takes a year and it would not be finalized until June 30, 1986. With new legislation in place before the second session ends, we could prevent the APUC from sunseting next year, so this approach was considered. After checking with Billy Berrier for a legal opinion, it was established that while sunseting would not drastically affect many Boards for a year (eg. look at Barber and Hairdressers or Pharmacy), it would have a profound effect on regulatory boards such as APUC. It would mean that APUC could continue to work on cases this coming year, but could not accept any new cases. This was considered unacceptable.

There was also a consideration that we simply extend the Board for 4 more years, and not develop any new corrective legislation for four more years. However, there has been much widespread concern that has been expressed by the utilities this year for the first time; and we have to look at the problems that will be developing before the next set of sunset hearings in 1990, such as the withdrawal of federal REA loans from the electrical coops, which currently are used to fund most bush electrical energy. Consequently, the Chairmen propose as a compromise that the APUC be extended for 1 year to give us time to examine problems in detail.

BILL SHEFFIELD, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET
SUITE 100
ANCHORAGE, ALASKA 99501
(907) 276-6222

April 23, 1985

Honorable Fred F. Zharoff
Chairman, Senate Labor and
Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Honorable Mike Navarre
Chairman, House Labor and
Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Zharoff and Representative Navarre:

This letter and its enclosures are submitted in response to your meeting of April 11, 1985 with Jack Fauleigh, Executive Director of the Commission and representatives of ARECA and Chugach Electric Association. The Commission's comments include an initial assessment of the impact of the proposed statutory changes and our reaction to the effect of those changes.

The Commission has addressed only those proposed amendments in which it was indicated that there is active legislative interest. The Commission did not address proposed revisions to AS 42.05.091, .291(c) and (d) since it was our understanding that those sections would not be given consideration at this time. However, if that is not the case, the Commission will provide comment on those sections immediately.

The Commission has noted for each proposed amendment which utilities would be affected by the changes; we believe this information is an extremely critical consideration for legislative deliberation. The Commission regulates utilities as large as Aiascom, serving over 400,000 consumers and collecting annual revenues in excess of \$276 million to small utilities such as Pelican Utility Company, serving 76 customers with annual revenues of \$257,000. It appears to the Commission that the proposed changes are being suggested by only one segment of the regulated industry, and we would note that among that industry there is not unanimous support for all the changes suggested by ARECA.

In regard to those changes which would substantially alter the regulation of cooperative utilities, it would be preferable to the Commission, to deregulate cooperatives rather than to give the appearance of regulation through verbage which in effect eliminates Commission review and authority.

Senator Zharoff
Representative Navarre

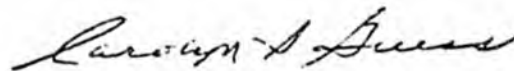
-2-

April 23, 1985

It should be remembered that the Commission is charged with the responsibility of protecting the utility consumers because the State has seen fit through AS 42.05 to grant public and private utilities monopoly power. We cannot emphasize too strongly the argument that the needs of the regulated industry to operate within reasonable regulatory constraints must be balanced with the protection that the existing statutory language of AS 42.05 provides to the consumers of regulated monopoly businesses.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



Carolyn S. Guess, Chairman

CSG/wfs2192W
42285a
Enclosures

Senator Zharoff
Representative Navarre

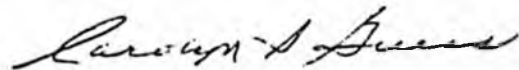
-2-

April 23, 1985

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Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



Carolyn S. Guess, Chairman

CSG/wfs2192W
42285a
Enclosures

APUC Comments on Proposed Statutory Revisions

Section 42.05.141(a)(1) - regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711 [and the power of the commission shall be liberally construed to accomplish its stated purpose];

Impact:

- * Affects all regulate' utilities
- * Removes flexibility to deal with varied situations that benefit both utilities and consumers.
- * Could create judicial confusion as to how to interpret Commission authority.
- * May eliminate Commission authority to issue temporary certificates of public convenience and necessity.

Comments:

Language similar to the current language exists in the statutes of most states and is necessary for a utility commission to achieve effective regulation over a wide variety of utilities operating under different circumstances.

Repeal of the existing language represents a "broad brush" attempt to limit the Commission's power. The Commission respectfully suggests that it would be preferable for the Legislature to specifically address any particular powers of the Commission which are of concern.

APUC Comments on Proposed Statutory Revisions

AS 42.05.141(d) - Notwithstanding any other provision to the contrary, none of the general powers and duties of the commission operate to divest the board of directors of a cooperative organized under AS 10.25 from exercising management authority for the conduct of that cooperative's affairs.

Impact:

- * Affects regulated cooperative utilities, both electric and telephone.
- * Eliminates traditional regulatory oversight.
- * Language contained in this provision may conflict with Commission's responsibilities articulated in AS 42.05.511.
- * Intent of this provision is not clear.

Comments:

Primary responsibility for utility management resides within the sound discretion of its board of directors and appointed managers. However, this has and should be subject to regulatory oversight under an effective regulatory scheme. The proposed revision appears to either eliminate entirely this oversight or radically curtail it (see also comments under proposed AS 42.05.511(a)).

APUC Comments on Proposed Statutory Revisions

AS 42.05.221(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] parties involved[.], including but not limited to utilities, commission staff and consumer intervenors, other than individual consumers.

Impact:

- * Affects all regulated utilities.
- * Intent of the proposed revision is unclear.
- * Does not appear to change existing Commission practice.

Comments:

In practice, this section which relates to utility certification and service area boundaries has been generally used to allocate costs of hearing officers in competing cable television certification proceedings. The only other instance where this section of the statute has been invoked was the result of a ~~Superior~~ ^{Supreme} Court decision to remand a case to the Commission to receive further evidence in order to finalize the service area boundaries of Chugach Electric Association and Municipal Light and Power.

Absent clarifying language or some other indication of the drafter's intended purpose, the Commission is unable to offer a meaningful response beyond that noted above.

APUC Comments on Proposed Statutory Revisions

AS 42.05.381(c) - In establishing the revenue requirement of a cooperative organized under AS 10.25 the commission shall, upon application of the cooperative, allow the cooperative to, without further filing, adjust rates to earn a times interest earned ratio within a range approved by the commission the results of such adjustments shall be subject to verification by the commission and the operation of this adjustment procedure shall be reviewed by the commission at reasonable intervals.

Impact:

- * Affects regulated cooperative utilities, both electric and telephone.
- * Allows cooperatives whose rates are currently regulated by the Commission to modify rates merely by making application (of unspecified content) to the Commission.
- * Allows modification of rates without justification by a utility, without notice to or recourse by consumers, and without review by the Commission to determine that the rates are just and reasonable as otherwise required by AS 42.05.381.
- * Allows rate increases to achieve a Commission established times interest earned ratio (TIER) without restriction as to frequency and amount of changes, and without requiring a concomitant decrease should the cooperative exceed the allowed TIER.
- * Allows modification of rates charged to consumers without consideration of discrimination between classes of service, i.e., residential and commercial, as prohibited by AS 42.05.391.

Comments:

Because rate regulation is a cost plus exercise, this proposed change partially deregulates cooperative rates. The adequacy of a return or TIER is a function of the level of a utility's expenses. Therefore an allowable TIER range while giving the appearance of reasonableness, in effect, provides no restraints on the expenses of a cooperative.

It should be noted that the Commission provides for automatic adjustment of a energy utility's fuel costs, generally its largest expense item, with Commission verification subsequent to the adjustment.

The Legislature should consider the fact that the proposed revision implements a far reaching and not commonly utilized rate methodology with a simplistic statement in the statute.

APUC Comments on Proposed Statutory Revisions

Where final decision making occurs outside the initial six month suspension period (which is less than 10% of our cases), it is (1) because a utility has requested the delay because of its constraints; (2) the utility and Commission staff have agreed to a delay for mutually beneficial reasons; (3) the utility proceeding is unusually large or complex, i.e., Alascom's pending rate design case; (4) generic proceedings as a result of federal decisions affecting all of one regulated industry, i.e., Federal Communications Commission decisions mandating State Commission actions; and (5) lack of Commissioner support staff to assist in preparing legally defensible, written decisions (see page 470 of APUC budget document for verification).

The proposed amendment allows no extension of the six months for those cases which are so complex as to make meaningful review by the Commission, and meaningful participation by intervenors, impossible in the six-month period. Nor does it make an exception for the many instances where the utility itself requests a delay. The Legislature should also consider the balance achieved under the current provision. At present, the Commission is able to fairly consider the interests of both the utility and the consumer as it decides tariff changes. The utility is protected by the Commission's ability to grant interim relief during the period of full review of the permanent request. The consumer is protected by the Commission's careful consideration of the issues, and the potential impact on rate payers that takes place during the suspension period. Imposition of an absolute decision deadline will certainly impact the protection now available to the consumer and create an imbalance of consideration in favor of the utility that may not be the real intent of the Legislature.

The Commission notes that an alternative proposal may be considered which would, in effect, add an additional six months to the suspension period for a total suspension period of 12 months. The impact statements presented above would equally apply to a proposed 12-month suspension. There would be some minimal change in the fiscal impact which can be forecasted at the Committee's request.

AS 42.05.421(A)(1) FISCAL NOTE BASED ON MANDATORY SIX MONTH SUSPENSION PERIOD

LINE ITEM	FY '85	FY '86	FY '87	FY '88	FY '89	FY '90
100-PERSONAL SERVICES: MERIT OR NEGOTIATED SALARY INCREASES NOT INCLUDED)						
Hrg. Officer, R 24A (ex.)	68,967	68,967	68,967	68,967	68,967	68,967
Paralegal I, R 13A	34,076	34,076	34,076	34,076	34,076	34,076
Paralegal I, R 13A	34,076	34,076	34,076	34,076	34,076	34,076
Economist, R 20A	53,306	53,306	53,306	53,306	53,306	53,306
AST II, R 8A	25,947	25,947	25,947	25,947	25,947	25,947
100 TOTAL =	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>
200-TRAVEL (THIS LINE ITEM INCLUDES A 0% INFLATION FACTOR 86-90)						
	-0-	-0-	-0-	-0-	-0-	-0-
300-CONTRACTUAL (NO INFLATION FACTOR)						
Computer Programming	-0-	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-
300 TOTAL =	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
400-COMMODITIES (THIS LINE ITEM INCLUDES A 0% INFLATION FACTOR 86-90)						
Hrg. Officer, R 24A (ex.)	400	400	400	400	400	400
Paralegal I, R 13A	400	400	400	400	400	400
Paralegal I, R 13A	400	400	400	400	400	400
Economist, R 20A	400	400	400	400	400	400
AST II, R 8A	400	400	400	400	400	400
	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>
500-EQUIPMENT (ONE TIME PURCHASES, FIRST YEAR ONLY)						
Hrg. Officer, R 24A (ex.)	2,025	-0-	-0-	-0-	-0-	-0-
Paralegal I, R 13A	2,025	-0-	-0-	-0-	-0-	-0-
Paralegal I, R 13A	2,025	-0-	-0-	-0-	-0-	-0-
Economist, R 20A	2,025	-0-	-0-	-0-	-0-	-0-
AST II, R 8A	1,200	-0-	-0-	-0-	-0-	-0-
	<u>9,300</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
600-LAND (NO INFLATION AND FORMULA IS SQ. FT. X 12 MONTHS X \$2.00 PER SQ. FT.)						
Hrg. Officer, R 24A (ex.)	3,000	3,000	3,000	3,000	3,000	3,000
Paralegal I, R 13A	3,000	3,000	3,000	3,000	3,000	3,000
Paralegal I, R 13A	3,000	3,000	3,000	3,000	3,000	3,000
Economist, R 20A	3,000	3,000	3,000	3,000	3,000	3,000
AST II, R 8A	1,992	1,992	1,992	1,992	1,992	1,992
	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>
GRAND TOTAL	241,664	232,364	232,364	232,364	232,364	232,364

AS 42.05.421(A)(1) FISCAL NOTE BASED ON MANDATORY SIX MONTH SUSPENSION PERIOD

LINE ITEM	FY '85	FY '86	FY '87	FY '88	FY '89	FY '90
100-PERSONAL SERVICES: MERIT OR NEGOTIATED SALARY INCREASES NOT INCLUDED)						
Hrg. Officer, R 24A (ex.)	68,967	68,967	68,967	68,967	68,967	68,967
Paralegal I, R 13A	34,076	34,076	34,076	34,076	34,076	34,076
Paralegal I, R 13A	34,076	34,076	34,076	34,076	34,076	34,076
Economist, R 20A	53,306	53,306	53,306	53,306	53,306	53,306
AST II, R 8A	25,947	25,947	25,947	25,947	25,947	25,947
100 TOTAL =	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>	<u>216,372</u>
200-TRAVEL (THIS LINE ITEM INCLUDES A 0% INFLATION FACTOR 86-90)						
	-0-	-0-	-0-	-0-	-0-	-0-
300-CONTRACTUAL (NO INFLATION FACTOR)						
Computer Programming	-0-	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-
300 TOTAL =	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
400-COMMODITIES (THIS LINE ITEM INCLUDES A 0% INFLATION FACTOR 86-90)						
Hrg. Officer, R 24A (ex.)	400	400	400	400	400	400
Paralegal I, R 13A	400	400	400	400	400	400
Paralegal I, R 13A	400	400	400	400	400	400
Economist, R 20A	400	400	400	400	400	400
AST II, R 8A	400	400	400	400	400	400
	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>	<u>2,000</u>
500-EQUIPMENT (ONE TIME PURCHASES, FIRST YEAR ONLY)						
Hrg. Officer, R 24A (ex.)	2,025	-0-	-0-	-0-	-0-	-0-
Paralegal I, R 13A	2,025	-0-	-0-	-0-	-0-	-0-
Paralegal I, R 13A	2,025	-0-	-0-	-0-	-0-	-0-
Economist, R 20A	2,025	-0-	-0-	-0-	-0-	-0-
AST II, R 8A	1,200	-0-	-0-	-0-	-0-	-0-
	<u>9,300</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
600-LAND (NO INFLATION AND FORMULA IS SQ. FT. X 12 MONTHS X \$2.00 PER SQ. FT.)						
Hrg. Officer, R 24A (ex.)	3,000	3,000	3,000	3,000	3,000	3,000
Paralegal I, R 13A	3,000	3,000	3,000	3,000	3,000	3,000
Paralegal I, R 13A	3,000	3,000	3,000	3,000	3,000	3,000
Economist, R 20A	3,000	3,000	3,000	3,000	3,000	3,000
AST II, R 8A	1,992	1,992	1,992	1,992	1,992	1,992
	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>	<u>13,992</u>
GRAND TOTAL	241,664	232,364	232,364	232,364	232,364	232,364

APUC Comments on Proposed Statutory Revisions

AS 42.05.431(a) - When the commission, after an investigation and hearing, finds that a rate demanded, observed, charged or collected by a public utility for a service, subject to the jurisdiction of the commission, or that a classification, rule regulation, practice, or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the commission shall determine a just and reasonable rate, classification, rule, regulation, practice, or contract to be observed or allowed and shall establish it by order. A municipality may covenant with bond purchasers regarding rates of a municipally owned utility, and the covenant is valid and enforceable and is considered to be a contract with the holders from time to time of the bonds. The financial covenants contained in mortgages and other debt instruments of cooperative utilities organized under AS 10.25 are likewise valid and enforceable, and rates set by the commission must be adequate to merit those covenants. Municipal utilities and cooperative utilities organized under AS 10.25 shall file an informational copy of debt instruments affecting rates with the commission upon execution.

Impact:

- * Affects regulated cooperative utilities, both telephone and electric, and regulated municipal utilities.
- * Requires the Commission to automatically grant rates which will generate income sufficiently in excess of expenses to cover any financial covenants that cooperatives might have in their debt instruments, regardless of their reasonableness.
- * Eliminates Commission review of whether utility facilities are used and useful or otherwise prudent, and replaces it with whatever terms the utility and its lenders have agreed to.

Comments:

As proposed, .381(c) eliminates Commission review of cooperative expenses, this provision eliminates Commission review of the reasonableness of cooperative debt instruments. REA, on whose behalf these changes were suggested according to ARECA, has been contacted by the Commission and has indicated it (1) does not require the changes, (2) it was not contacted about the proposed changes, and (3) it has no problems with the Commission's past decision making under current statutory language.

APUC Comments on Proposed Statutory Revisions

AS 42.05.431(b) - The commission may not alter, change, modify or amend wholesale power agreements after they are in effect.

Impact:

- * Affects all regulated utilities.
- * Is contrary to REA requirements.
- * Destroys Commission ability to protect wholesale and retail consumers.
- * Eliminates Commission oversight of a potentially large element of a utility's operating expenses and revenues.

Comments:

Evidence in a Commission proceeding confirms that until the Commission exercised its jurisdiction over Chugach Electric's wholesale rates, the consumers in Anchorage were subsidizing the rates of Matanuska Electric and Homer Electric Association Cooperatives.

The Commission should have continuing jurisdiction over wholesale rates. Periodic review of wholesale power contracts is necessary to prevent some consumers from subsidizing other consumers.

APUC Comments on Proposed Statutory Revisions

AS 42.05.431(c) - Permanent rates shall not be subject to refund.

Impact:

- * Affects all regulated utilities.
- * Eliminates Commission authority to make refundable permanent rates when evidence provided by a utility indicates that its rates are excessive and a Commission investigation is underway.
- * If rates were ultimately found excessive, the customer would not be entitled to any refund for the period during which the rates were under investigation by the Commission, and arguably under appeal in the courts.

Comments:

Permanent rates are ordinarily not refundable. However, if costs have decreased or revenues increased substantially the Commission has an obligation to determine whether current permanent rates are excessive, just as the Commission has an obligation to determine when a utility requests an interim (emergency) rate increase whether current permanent rates are too low. Interim rate increases are generally granted within 45 days of a utility's request and are refundable. Where the Commission becomes aware, via credible evidence, that rates are too high, current rates are declared interim and refundable, subject to the Commission's final determination. This approach protects both the utility and the ratepayer under either scenario. Legislative adoption of the proposed revision would continue the utility's protected status, but would leave the consumer vulnerable during the intervening period if the investigation confirmed the rates were too high.

At this time, the Commission has made refundable, permanent rates of Matanuska Electric Association when it requested the reinstatement of a fuel surcharge that had been eliminated due to an overrecovery of revenues because of substantial growth in its service area; and permanent rates of Alaska Village Electric Cooperative when it updated its request for Power Cost Assistance and the utility's financial information indicated a substantial overrecovery of revenues.

APUC Comments on Proposed Statutory Revisions

AS 42.05.461 - The commission may require a public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records segregated by the year of placement in service including a list or inventory of all the units of tangible property used or useful in the public service. [showing the current location of the property units by definite reference to the specific land parcels upon which the units are located or stored. The commission may require a public utility to keep accounts and records in such a manner as to show, currently, the original cost of the property when first devoted to the public service, and the related reserve for depreciation.] Each public utility with annual revenues exceeding \$100,000 shall keep continuing property records.

Impact:

- * Affects all regulated utilities.
- * Eliminates certain data elements that are essential for rate making and full compliance with other provisions of this chapter (i.e., location of plant in service, original cost, depreciation reserve, depreciation expense, etc.).
- * Makes auditing of utility more difficult.
- * Prevents verification of whether plant is being used to provide utility services.
- * Encourage subjective instead of objective arguments in rate cases.

Comments:

Continuing Property Records (CPR's) provide a complete record of each type of property owned by a utility. The Commission uses these records to verify the net value of plant on which a utility is allowed to earn a return and for which a depreciation expense is allowed.

In order for the utility to prove that its investment is being used for utility service as required by AS 42.05.441(b) without adequate accounts and records, it is anticipated that additional utility funds would be expended to prove to the Commission that utility plant exists and to verify its original cost. This expense, which the Commission believes is unnecessary, would be passed on to the ratepayer.

APUC Comments on Proposed Statutory Revisions

AS 42.05.511(a) - [The commission may investigate the management of a public utility,] In a rate proceeding, the commission has the burden of proving that the management practices of a public utility, including but not limited to staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with affiliated interests [for the purpose of determining] are inefficient or unreasonable practices which adversely affect the cost or quality of service of the public utility.

Impact:

- * Affects all regulated utilities.
- * There is an immediate conflict between the proposed language in 511(a) and the existing language in 511(c).
- * Effectively eliminates Commission oversight into management practices of a utility.
- * Burden is shifted from the utility to Commission staff and provides an opportunity for a utility so inclined to slow-down an investigation.
- * Could result in unreasonable delay in approving permanent rates which could jeopardize utility funding and which arguably will result in increased litigation.
- * If management practices can only be reviewed in the context of rate proceedings, then the Commission is forced either to expand a management investigation into a rate proceeding or to regularize review of management practices during a rate proceeding. In either event, this would unnecessarily complicate and lengthen rate proceedings as well as create delays in timely Commission response to pressing management problems affecting service quality.

Comments:

Management investigations are few and instituted only after documented evidence that serious problems affecting the safety, reliability or quality of a utility's service exists. Exhibit 1 shows 14 investigations during a four-year period.

APUC Comments on Proposed Statutory Revisions

AS 42.05.511(a) - [The commission may investigate the management of a public utility,] In a rate proceeding, the commission has the burden of proving that the management practices of a public utility, including but not limited to staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with affiliated interests [for the purpose of determining] are inefficient or unreasonable practices which adversely affect the cost or quality of service of the public utility.

Impact:

- * Affects all regulated utilities.
- * There is an immediate conflict between the proposed language in 511(a) and the existing language in 511(c).
- * Effectively eliminates Commission oversight into management practices of a utility.
- * Burden is shifted from the utility to Commission staff and provides an opportunity for a utility so inclined to slow-roll an investigation.
- * Could result in unreasonable delay in approving permanent rates which could jeopardize utility funding and which arguably will result in increased litigation.
- * If management practices can only be reviewed in the context of rate proceedings, then the Commission is forced either to expand a management investigation into a rate proceeding or to regularize review of management practices during a rate proceeding. In either event, this would unnecessarily complicate and lengthen rate proceedings as well as create delays in timely Commission response to pressing management problems affecting service quality.

Comments:

Management investigations are few and instituted only after documented evidence that serious problems affecting the safety, reliability or quality of a utility's service exists. Exhibit 1 shows 14 investigations during a four-year period.

Docket Number	Docket Title	Reason for Docket	Documentation	Result
1-83-73	Wavilla Refuse, Inc. complaint against Charles Jordan d/b/a Charles's Garbage & Trash Collection (Garbage Hat-Su Borough)	Alleged Unauthorized Provision of Service Within an Existing Certificated Area	Memorandum from existing carrier in support of complaint with proposed order and proposed summons	Pending
* -84-64	Investigation of AVEC (Electric-Rural Village)	Alleged unsafe facilities, inadequate management practices, and overrecovery of rates	Followup to Order requiring correction of S&G Safety Hazards (1978) as a Result of Legislative Inquiry and two resolutions from North & Northwest Ak. Mayors Conference	Pending
* -84-65	Investigation of Norfolk (Water Utility-Eagle River)	Alleged inadequate management practices & inferior Service for recovery Period of Time	SA complaint ltr about water service	Pending

APUC Comments on Proposed Statutory Revisions

AS 42.05.711(h) - The provisions of this chapter other than AS 42.05.221 - 42.05.251 do not apply to a cooperative organized under AS 10.25, unless that cooperative elects to be subject to the provisions of this chapter under the procedure described in AS 42.05.712. [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.]

Impact:

- * Affects regulated cooperatives, both telephone and electric.
- * Eliminates Commission authority to take action on service discontinued or suspended by a cooperative utility.
- * Eliminates Commission authority to modify or revoke a certificate of a cooperative utility.
- * Eliminates Commission authority to approve the transfer of a cooperative's certificate to another utility.
- * Grants to a cooperative a certificate of public convenience and necessity in perpetuity without regard for changes in public need or in fitness and ability of the cooperative utility to serve.

Comments:

This language, like proposed changes to .381(c) and .431(a), virtually eliminates Commission oversight of cooperative utilities after the initial certificate is granted. The Commission believes this suggested change to be contrary to the interests of the consuming public.

1
2 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

3 SENATE BILL NO.

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to public utilities."

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

9 * Section 1. AS 42.05.141(a) is amended to read:

10 (a) The Alaska Public Utilities Commission may

11 (1) regulate every public utility engaged or proposing to
12 engage in such a business inside the state, except to the extent
13 exempted by AS 42.05.711 [, AND THE POWERS OF THE COMMISSION SHALL BE
14 LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

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

18 (3) make or require just, fair and reasonable rates, clas-
19 sifications, regulations, practices, services and facilities for a
20 public utility;

21 (4) prescribe the system of accounts and regulate the
22 service and safety of operations of a public utility;

23 (5) require a public utility to file reports and other
24 information and data;

25 (6) appear personally or by counsel and represent the
26 interests and welfare of the state in all matters and proceedings
27 involving a public utility pending before an officer, department,
28 board, commission or court of the state or of another state or the
29 United States and to intervene in, protest, resist, or advocate the
granting, denial or modification of any petition, application,

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2 complaint or other proceeding;

3 (7) examine witnesses and offer evidence in any proceeding
4 affecting the state and initiate or participate in judicial proceed-
5 ings to the extent necessary to protect and promote the interests of
6 the state.

7 * Sec. 2. AS 42.05.141 is amended by adding a new subsection to read:

8 (d) Notwithstanding any other provision of this chapter, the
9 general powers and duties of the commission under this section may not
10 be used to divest the board of directors of a cooperative organized
11 under AS 10.25 of its management authority over the cooperative. For
12 purposes of this section, management authority includes the authority
13 to determine staffing patterns, wage and salary scales and agreements,
14 investment policies and practices, and purchasing and payment
15 arrangements with affiliated interests.

16 * Sec. 3. AS 42.05.221(e) is amended to read:

17 (e) The commission may employ professional consultants to assist
18 it in administering the provisions of this section and may apportion
19 the expenses relating to this administration among [THE] competing
20 utilities and other interested parties, including commission staff and
21 consumer intervenors, other than individual consumers [INVOLVED].

22 * Sec. 4. AS 42.05.361 is amended by adding a new subsection to read:

23 (d) The commission may approve an automatic annual rate adjust-
24 ment clause inserted in a tariff filing by a cooperative utility
25 organized under AS 10.25.

26 * Sec. 5. AS 42.05.421(a) is amended to read:

27 (a) When a tariff filing is made containing a new or revised
28 rate, classification, rule, regulation, practice, or condition of
29 service the commission may, either upon written complaint or upon its
own motion, after reasonable notice, conduct a hearing to determine

1 the reasonableness and propriety of the filing. Pending such a hear
2 ing the commission may, by order stating the reasons for its action
3 suspend the operation of the tariff filing for
4

5 (1) a [AN INITIAL] period not longer than six months beyond
6 the time when it would otherwise go into effect if the annual gross
7 revenues of the utility making the filing are more than \$3,000,000
8 and

9 (2) not longer than 150 days before an interim rate equa
10 to the requested new rate goes into effect and not longer than one
11 year before a permanent rate goes into effect if the annual gross
12 revenues of the utility making the filing are \$3,000,000 or less.

13 * Sec. 6. AS 42.05.421 is amended by adding a new subsection to read:

14 (e) If the commission conducts a hearing to determine the
15 reasonableness and propriety of a tariff filing under (a) of this
16 section and the commission fails to issue a final order on the tariff
17 filing within 12 months after the date of the tariff filing, the
18 tariff filing takes effect on a permanent basis.

19 * Sec. 7. AS 42.05.431 is amended by adding new subsections to read:

20 (b) A cooperative utility organized under AS 10.25 may covenant
21 with mortgage purchasers or other debt purchasers regarding the rate
22 of the cooperative. If the mortgage or other debt instrument contain
23 ing the covenant is purchased and an actual mortgage or debt purchase
24 and holder exists, the mortgage or debt covenant is valid and enforce
25 able and the commission shall fix a rate necessary to provide for th
26 adequate coverage of the mortgage or debt covenant.

27 (c) A municipally owned utility and a cooperative utility
28 organized under AS 10.25 shall file with the commission a copy of
29 executed mortgages or other debt instruments containing covenant
affecting rates.

1
2 (d) Notwithstanding any other provision of this chapter, a
3 wholesale power agreement filed as part of a tariff filing may not be
4 altered, modified, changed, or amended by the commission after the
5 effective date of the tariff filing.

6 (e) The commission may not require a public utility to directly
7 or indirectly refund, rebate, or remit in any manner or by any device
8 any portion of a permanent rate approved by the commission that is
9 later found by the commission to be unjust, unreasonable, or unduly
10 discriminatory or preferential.

11 * Sec. 8. AS 42.05.461 is amended to read:

12 Sec. 42.05.461. CONTINUING PROPERTY RECORDS. The commission may
13 require a public utility to establish, provide, and maintain as a part
14 of its system of accounts, continuing property records segregated by
15 the year of placement in service, including a list or inventory of all
16 the units of tangible property used or useful in the public service [
17 SHOWING THE CURRENT LOCATION OF THE PROPERTY UNITS BY DEFINITE REFER
18 ENCE TO THE SPECIFIC LAND PARCELS UPON WHICH THE UNITS ARE LOCATED OR
19 STORED. THE COMMISSION MAY REQUIRE A PUBLIC UTILITY TO KEEP ACCOUNT
20 AND RECORDS IN SUCH A MANNER AS TO SHOW, CURRENTLY, THE ORIGINAL COST
21 OF THE PROPERTY WHEN FIRST DEVOTED TO THE PUBLIC SERVICE, AND THE
22 RELATED RESERVE FOR DEPRECIATION]. Each public utility with annual
23 revenues exceeding \$100,000 shall keep continuing property records.

24 * Sec. 9. AS 42.05.511(c) is repealed and reenacted to read:

25 (c) In a rate proceeding, the commission has the burden of
26 proving that the management practices of a public utility, including
27 staffing patterns, wage and salary scales and agreements, investment
28 policies and practices, purchasing and payment arrangements with
29 affiliated interests, are inefficient and unreasonable practices that
adversely affect the cost or quality of service of the public utility

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2 * Sec. 10. AS 42.05.711(h) is repealed and reenacted to read:

3 (h) A cooperative utility organized under AS 10.25 is exempt
4 from the provisions of this chapter, other than AS 42.05.221 -
5 42.05.281, unless the cooperative elects to be regulated under the
6 provisions of this chapter according to the procedure described in
7 AS 42.05.713.

8 * Sec. 11. AS 42.05 is amended by adding a new section to read:

9 Sec. 42.05.713. REGULATION BALLOT. (a) By using the procedure
10 described in AS 42.05.712, a cooperative utility organized under
11 AS 10.25 may elect regulation under this chapter in the same manner
12 that a utility or cooperative may elect exemption from the provisions
13 of this chapter.

14 (b) A cooperative that elects to be regulated under this section
15 may elect to terminate its regulation in the same manner.
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March 15, 1985

Introduced: _____
Referred: _____

IN THE _____ BY _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: " _____ "

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

SECTION 1. AS 42.05.091. Compensation. (a) Members of the commission are in the exempt service and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

(b) A salary warrant may not be issued to a commissioner until the commissioner has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the commissioner for opinion or decision has been uncompleted or undecided by the commissioner for a period of more than six months.

1 SECTION 2. AS 42.05.141 is amended to read:

2 The Alaska Public Utilities Commission may

3 (1) regulate every public utility engaged or proposing to engage
4 in such a business inside the state, except to the extent exempted by
5 AS 42.05.711 [and the power of the commission shall be liberally con-
6 strued to accomplish its stated purpose.];

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

10 (3) make or require just, fair and reasonable rates, classifica-
11 tions, regulations, practices, services and facilities for a public
12 utility;

13 (4) prescribe the system of accounts and regulate the service and
14 safety of operations of a public utility;

15 (5) require a public utility to file reports and other
16 information and data;

17 (6) appear personally or by counsel and represent the interests
18 and welfare of the state in all matters and proceedings involving a
19 public utility pending before an officer, department, board,
20 commission or court of the state or of another state or the United
21 States and to intervene in, protest, resist, or advocate the granting,
22 denial or modification of any petition, application, complaint or
23 other proceeding;

24 (7) examine witnesses and offer evidence in any proceeding
25 affecting the state and initiate or participate in judicial
26 proceedings to the extent necessary to protect and promote the
27 interests of the state.

1 (b) The commission shall perform the duties assigned to it under
2 AS 44.83.162.

3 (c) In the establishment of electric service rates under this
4 chapter the commission shall promote the conservation of resources
5 used in the generation of electric energy.

6 (d) Notwithstanding any other provision to the contrary, none of
7 the general powers and duties of the commission operate to divest the
8 board of directors of a cooperative organized under AS 10.25 from
9 exercising management authority for the conduct of that cooperative's
10 affairs.

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12 SECTION 3. AS 42.05 221 is amended to read:

13 (a) A public utility may not operate and receive compensation for
14 providing a commodity or service after January 1, 1971 without first
15 having obtained from the commission under this chapter a certificate
16 declaring that public convenience and necessity require or will
17 require the service. Where a public utility provides more than one
18 type of utility service, a separate certificate of convenience and
19 necessity is required for each type. A certificate shall describe the
20 nature and extent of the authority granted in it, including, as
21 appropriate for the services involved, a description of the authorized
22 area and scope of operations of the public utility.

23 (b) All certificates of convenience and necessity issued to a
24 public utility before July 1, 1970 remain in effect but they are sub-
25 ject to modification where there are areas of conflict with public

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1 utilities that have not previously been required to have a certificate
2 or where there is a substantial change in circumstances.

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

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

17 (1) delineate the service area boundaries of each in those areas
18 of competition;

19 (2) eliminate existing duplication and paralleling to the fullest
20 reasonable extent;

21 (3) preclude future duplication and paralleling;

22 (4) provide for the exchange of customers and facilities for the
23 purposes of providing better public service and of eliminating
24 duplication and paralleling; and

25 (5) provide such other mutually equitable arrangements as would
26 be in the public interest.

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1 (e) The commission may employ professional consultants to assist
2 it in administering the provisions of this section and may apportion
3 the expenses relating to this administration among the competing
4 [utilities] parties involved[.], including but not limited to
5 utilities, commission staff and consumer intervenors, other than
6 individual consumers.

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8 SECTION 4. AS 42.05.291 shall be amended as follows:

9 (a) Each public utility shall furnish and maintain adequate,
10 efficient and safe service and facilities. This service shall be
11 reasonably continuous and without unreasonable interruption or delay.

12 (b) Subject to the provisions of this chapter and the regulations
13 or orders of the commission, a public utility may establish reasonable
14 rules and regulations governing the conditions under which it will
15 render service.

16 (c) Except in the case of a cooperative organized under AS 10.25,
17 [T]the commission may, upon its own motion or upon complaint, after
18 providing reasonable notice and opportunity for hearing, adopt as to
19 service and facilities, including the crossing of facilities, just and
20 reasonable standards, classifications, regulations, and practices to
21 be furnished, imposed, observed, and followed by public utilities;
22 adopt adequate and reasonable standards for the measurement of quantity,
23 quality, pressure, initial voltage, or other conditions pertaining to
24 the supply of the service of public utilities; adopt reasonable regula-
25 tions for the examination and testing of the service, and for the
26 measurement of it; adopt or approve reasonable regulations, specifica-

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1 tions, and standards to secure the accuracy of meters and appliances
2 for measurement; and provide for the examination and testing of appli-
3 ances used for the measurement of a service of a public utility. In
4 doing so, the commission shall conform to the standard practices of
5 the industry.

6 (d) In the case of a cooperative organized under AS 10.25, the
7 commission may, upon the written petition of 15 percent of the coopera-
8 tive membership, after providing reasonable notice and opportunity for
9 hearing, adopt as to service and facilities, including the crossing of
10 facilities, just and reasonable standards, classifications, regulations,
11 and practices to be furnished, imposed, observed, and followed by public
12 utilities; adopt adequate and reasonable standards for the measurement
13 of quantity, quality, pressure, initial voltage, or other conditions
14 pertaining to the supply of the service of public utilities; adopt
15 reasonable regulations for the examination and testing of the service,
16 and for the measurement of it; adopt or approve reasonable regulations,
17 specifications, and standards to secure the accuracy of meters and
18 appliances for measurement; and provide for the examination and testing
19 of appliances used for the measurement of a service of a public utility.
20 In doing so, the commission shall conform to the standard practices of
21 the industry.

22 [(d)] (e) If the commission, upon its own motion or upon complaint,
23 after providing reasonable notice and opportunity for hearing, finds
24 that the services or facilities of a public utility are unreasonable,
25 unsafe, inadequate, insufficient, or unreasonably discriminatory, or
26 otherwise in violation of this chapter, the commission shall prescribe,

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1 by regulation or order, the reasonable, safe, adequate, sufficient
2 service or facilities to be observed, furnished, enforced, or employed,
3 including all repairs, changes, alterations, extensions, substitutions,
4 or improvements in facilities that are reasonably necessary and proper
5 for the safety, accommodation, and convenience of the public.

6

7 SECTION 5. AS 42.05.381 is amended to read:

8 (a) All rates demanded or received by a public utility, or by any
9 two or more public utilities jointly, for a service furnished or to be
10 furnished shall be just and reasonable; however, a rate may not
11 include an allowance for costs of political contributions, or public
12 relations except for reasonable amounts spent for

13 (1) energy conservation efforts;

14 (2) public information designed to promote more efficient use of
15 the utility's facilities or services or to protect the physical plant
16 of the utility;

17 (3) informing shareholders and members of a cooperative of meet-
18 ings of the utility and encouraging attendance; or

19 (4) emergency situations to the extent and under the
20 circumstances authorized by the commission for good cause shown.

21 (b) In establishing the revenue requirements of a municipally
22 owned and operated utility the municipality is entitled to include a
23 reasonable rate of return.

24 (c) In establishing the revenue requirement of a cooperative
25 organized under AS 10.25 the commission shall, upon application of the
26 cooperative, allow the cooperative to, without further filing, adjust

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1 rates to earn a times interest earned ratio approved by the
2 commission.

3 [(c)] (d) A utility, whether subject to regulation by the commis-
4 sion or exempt from regulation, may not charge a fee for connection
5 to, disconnection from, or transfer of services in an amount in excess
6 of the actual cost to the utility of performing the service plus a
7 profit at a reasonable percentage of that cost not to exceed the per-
8 centage established by the commission by regulation.

9 [(d)] (e) A utility shall provide for a reduced fee or surcharge
10 for standby water for fire protection systems approved under AS
11 18.70.081 which use hydraulic sprinklers.

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13 SECTION 6. AS 42.05.421 is amended to read:

14 (a) When a tariff filing is made containing a new or revised
15 rate, classification, rule, regulation, practice, or condition of
16 service the commission may, either upon written complaint or upon its
17 own motion, after reasonable notice, conduct a hearing to determine
18 the reasonableness and propriety of the filing. Pending such a
19 hearing the commission may, by order stating the reasons for its
20 action, suspend the operation of the tariff filing for

21 (1) [an initial] a period not longer than six months beyond the
22 time when it would otherwise go into effect if the annual gross reve-
23 nues of the utility making the filing are more than \$3,000,000; and

24 (2) not longer than 150 days before an interim rate equal to the
25 requested new rate goes into effect and not longer than one year

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1 before a permanent rate goes into effect if the annual gross revenues
2 of the utility making the filing are \$3,000,000 or less.

3 (3) failure by the commission to issue a final order on a tariff
4 filing within six months of the filing will result in the tariff filing
5 requested going into effect on a permanent basis.

6 (b) An order suspending a tariff filing may be vacated if, after
7 investigation, the commission finds that it is in all respects proper.
8 Otherwise the commission shall hold a hearing on the suspended filing
9 and issue its order, before the end of the suspension period,
10 granting, denying or modifying the suspended tariff in whole or in
11 part.

12 (c) In the case of a proposed increased rate, the commission may
13 by order require the interest public utility or utilities to place in
14 escrow in a financial institution approved by the commission and keep
15 accurate account of all amounts received by reason of the increase,
16 specifying by whom and in whose behalf the amounts are paid. Upon
17 completion of the hearing and decision the commissioner may by order
18 require the public utility to refund to the persons in whose behalf
19 the amounts were paid, that portion of the increased rates which was
20 found to be unreasonable or unlawful. Funds may not be released from
21 escrow without the commission's prior written consent and the escrow
22 agent shall be so instructed by the utility, in writing, with a copy
23 to the commission. The utility may, at its expense, substitute a bond
24 in lieu of the escrow agreement.

25 (d) One who initiates a change in existing tariffs shall bear the
26 burden to prove the reasonableness of the change.

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SECTION 7. AS 42.05.431 is amended to read:

(a) When the commission, after an investigation and hearing, finds that a rate demanded, observed, charged or collected by a public utility for a service, subject to the jurisdiction of the commission, or that a classification, rule regulation, practice, or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the commission shall determine a just and reasonable rate, classification, rule, regulation, practice, or contract to be observed or allowed and shall establish it by order. A municipality may covenant with bond purchasers regarding rates of a municipally owned utility, and the covenant is valid and enforceable and is considered to be a contract with the holders from time to time of the bonds. The financial covenants contained in mortgages and other debt instruments of cooperative utilities organized under AS 10.25 are likewise valid and enforceable, and rates set by the commission must be adequate to meet those covenants. Municipal utilities and cooperative utilities organized under AS 10.25 shall file an informational copy of debt instruments affecting rates with the commission upon execution.

(b) The commission may not alter, change, modify or amend whole-sale power agreements after they are in effect.

(c) Permanent rates shall not be subject to refund.

1 SECTION 8. AS 42.05.461 is amended to read:

2 The commission may require a public utility to establish,
3 provide, and maintain as a part of its system of accounts, continuing
4 property records segregated by the year of placement in service
5 including a list or inventory of all the units of tangible property
6 used or useful in the public service, [showing the current location of
7 the property units by definite reference to the specific land parcels
8 upon which the units are located or stored. The commission may
9 require a public utility to keep accounts and records in such a manner
10 as to show, currently, the original cost of the property when first
11 devoted to the public service, and the related reserve for
12 depreciation.] Each public utility with annual revenues exceeding
13 \$100,000 shall keep continuing property records.

14

15 SECTION 9. AS 42.05.511 is amended to read:

16 (a) [The commission may investigate the management of a public
17 utility,] In a rate proceeding, the commission has the burden of prov-
18 ing that the management practices of a public utility, including but
19 not limited to staffing patterns, wage and salary scales and
20 agreements, investment policies and practices, purchasing and payment
21 arrangements with affiliated interests [for the purpose of
22 determining] are inefficient or unreasonable practices which adversely
23 affect the cost or quality of service of the public utility.

24 (b) Where unreasonable practices are found to exist, the commis-
25 sion may, after providing reasonable notice and opportunity for
26 hearing, take appropriate action to protect the public from the

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1 inefficient or unreasonable practices and may order the public utility
2 to take the corrective action the commission may require to achieve
3 effective development and regulation of public utility services.

4 (c) In a rate proceeding the utility involved has the burden of
5 proving that any written or unwritten contract or arrangement it may
6 have with any of its affiliated interests for the furnishing of any
7 services or for the purchase, sale, lease or exchange of any property
8 is necessary and consistent with the public interest and that the pay-
9 ment made therefor, or consideration given, is reasonably based, in
10 part, upon the submission of satisfactory proof as to the cost to the
11 affiliated interest of furnishing the service or property and, in
12 part, upon the estimated cost the utility would have incurred if it
13 furnished the service or property with its own personnel and capital.

14

15 SECTION 10. AS 42.05.711(h) is repealed and reenacted to read:

16 (h) The provisions of this chapter other than AS 42.05.221 -
17 42.05.251 do not apply to a cooperative organized under AS 10.25, un-
18 less that cooperative elects to be subject to the provisions of this
19 chapter under the procedure described in AS 42.05.712. [A cooperative
20 organized under AS 10.25 may elect to be exempt from the provisions of
21 this chapter, other than AS 42.05.221 - 42.05.281, under the procedure
22 described in AS 42.05.712.

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24 SECTION 11. AS 42.05.712 is amended to read:

25 (a) A utility or cooperative which may elect to be regulated
26 under [exempt from] the provisions of this chapter shall poll its

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1 subscribers or members in the manner described in this section.

2 (b) The votes of a majority of those voting in an election in
3 which at least 15 percent of the eligible subscribers or members re-
4 turn ballots are required for a utility or cooperative to elect to be
5 regulated [exemption] under (a) of this section.

6 (c) Each subscriber or member of the utility or cooperative shall
7 receive notice of an election under this section with the subscriber's
8 or member's regular bill for service at least 60 days before the date
9 set for the election. The notice shall contain impartial language
10 informing the subscribers or members that an election on the option of
11 deregulation or regulation by the Alaska Public Utilities Commission
12 will be held within 60 days and that a ballot to participate in that
13 election will be mailed or delivered to each subscriber or member of
14 the utility or cooperative with the regular bill for service. The
15 notice shall also state that a subscriber or member of the cooperative
16 is entitled to vote in the election without regard to whether the sub-
17 scriber's or member's account with the utility or cooperative is cur-
18 rent and that the ballot must be postmarked or returned to the
19 commission within 30 days after it was mailed or otherwise delivered
20 to the subscriber or member. The notice shall also announce the
21 schedule for one or more public meetings which shall provide an oppor-
22 tunity for the subscribers or members to discuss this election. The
23 public meeting or meetings shall be held not more than 30 days before
24 the ballots are mailed or distributed to those eligible to vote. A
25 cooperative may satisfy this requirement by including a discussion of
26 this election on the agenda of an annual meeting if the annual meeting

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1 is scheduled to be held not more than 30 days before the election.

2 (d) A ballot with return postage shall be mailed or delivered to
3 each subscriber or member of the utility or cooperative with the sub-
4 scriber's or member's bill for service and shall contain only the
5 following language:

6 "Shall.....(name of utility or cooperative) be regulated by
7 [exempt from regulation] by the Alaska Public Utilities
8 Commission?

9 [] YES [] NO

10

11 (e) The results of an election under this section shall be certi-
12 fied by the commission within 60 days after the ballots are mailed or
13 delivered to the subscribers or members.

14 (f) During the 60 days immediately preceding an election under
15 this section a list of subscribers or members of the utility or cooper-
16 ative shall be made available at cost to any subscriber or member of
17 the utility or cooperative who requests ones. The list shall be in
18 the same form that is available to the utility or cooperative.

19 (g) The board of directors of a utility or cooperative may call
20 an election under this section on its own initiative and shall call an
21 election upon the receipt of a valid petition from its subscribers or
22 members. A petition shall be considered valid if it is signed by not
23 less than the number of subscribers or members equal to ten percent of
24 the first 5,000 subscribers or members and three percent of the
25 subscribers or members in excess of 5,000. An election under this
26 section may only be held once every two years.

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1 (h) A utility [or cooperative] which is already exempt from regu-
2 lation under this section may elect to terminate its exemption in the
3 same manner.

4
5 SECTION 12. AS 42.05.720 is amended to read:

6 (1) "affiliated interest" includes:

- 7 (A) a person owning or holding directly or indirectly five per
8 cent or more of the voting securities of a public utility engaged in
9 intrastate business in this state;
- 10 (B) a person, other than those specified in (A) of this paragraph,
11 in a chain of successive ownership of five per cent or more of voting
12 securities, the chain beginning with the holder of the voting securi-
13 ties of such public utility;
- 14 (C) a corporation five per cent or more of whose voting securities
15 are owned by a person owning five per cent or more of the voting secu-
16 rities of the public utility or by a person in such a chain of succes-
17 sive ownership of five per cent or more of voting securities;
- 18 (D) a corporation five per cent or more of whose voting securities
19 are owned or held by a public utility;
- 20 (E) a person with whom the public utility has a management or
21 service contract;
- 22 (F) a person who is an officer or director of such a public util-
23 ity or of a corporation in a chain of successive ownership of five per
24 cent or more of voting securities;
- 25 (G) a corporation which has one or more officers or directors in
26 common with a public utility;

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1 (H) a person or corporation who or which the commission determines
2 as a matter of fact, after investigation and hearing, actually is exer-
3 cising such substantial influence over the policies and actions of a
4 utility in conjunction with one or more other corporations or persons
5 with whom they are related by ownership or blood, or by action in con-
6 cert, that together they are affiliated with the utility within the
7 meaning of this section even though none of them alone is so affili-
8 ated;

9 (I) a person or corporation who or which the commission determines
10 as a matter of fact after investigation and hearing actually is exercis-
11 ing substantial influence over the policies and actions of a utility
12 even though such influence is not based upon stockholdings, stockhold-
13 ers, officers or directors to the extent specified in this section;

14 (2) "commission" means the Alaska Public Utilities Commission;

15 (3) "public" or "general public" means

16 (A) any group of 10 or more customers that purchase the service
17 or commodity furnished by a public utility as defined in (2) of this
18 section; and

19 (B) any utility purchasing the product or service or paying for
20 the transmission of electric energy, natural or manufactured gas, or
21 petroleum products which are re-sold to a group included in (A) of
22 this paragraph or which are used to produce the service or commodity
23 sold to the public by the utility;

24 (4) "public utility" or "utility" includes every corporation
25 (whether public, cooperative, or otherwise), company, individual, or
26 association of individuals, their lessees, trustees, or receivers

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1 appointed by the court, that owns, operates, manages or controls any
2 plant, pipeline or system for

3 (A) furnishing, by generation, transmission or distribution,
4 electrical service to the public for compensation;

5 (B) furnishing telecommunications service to the public for com-
6 pensation;

7 (C) furnishing water, steam or sewer service to the public for
8 compensation;

9 (D) furnishing by transmission or distribution of natural or man-
10 ufactured gas to the Alaska public for compensation;

11 (E) furnishing for distribution or by distribution petroleum or
12 petroleum products to the Alaska public for compensation when the con-
13 sumer has no alternative in the choice of supplier of a comparable
14 product and service at an equal or lesser price;

15 (F) furnishing collection and disposal service of garbage, refuse,
16 trash or other waste material;

17 (5) "rate" includes each rate, toll, fare, rental, charge, or
18 other form of compensation demanded, observed, charged or collected by
19 a public utility for its services;

20 (6) "service" means (unless the context indicates otherwise) every
21 commodity, product, use, facility, convenience or other form of service
22 which is offered for and provided by a public utility for the con-
23 venience and necessity of the public;

24 (7) "tariff" means a rate, charge, toll, rule or regulation of a
25 utility relating to services furnished by the utility to the general
26 public for compensation and every map, page, adoption notice, instru-

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1 ment or other document filed with the commission setting out the terms
2 and conditions under which utility services are offered to the public;
3 [and instruments of concurrence and all other documents and data set-
4 ting out the terms of a utility's business relations with another
5 utility insofar as they affect the general public either directly or
6 indirectly;]

7 (8) "telecommunications" means the transmission and reception of
8 messages, impressions, pictures and signals by means of electricity,
9 electromagnetic waves and any other kind of energy, force variations
10 or impulses whether conveyed by cable, wire, radiated through space,
11 or transmitted through other media within a specified area or between
12 designated points.

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14 SECTION 13. This Act takes effect June 1, 1985.

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APUC Comments on Proposed Statutory Revisions

AS 42.05.711(f)(1),(2),(3), & (4)

(See attached for full text of proposed revisions)

Impact:

- * The proposal is flawed because it does not allow for public input and does not accomplish its intended goal.

Comments:

staff
The Commission agrees that the requirement to frequently file rate cases is burdensome on small utilities. However, in lieu of proposed legislative action at this time, the Staff of the Alaska Public Utilities Commission recommends being given the opportunity to formulate solution options to be presented to the Commission. The Commission, under its authority to promulgate regulations, would then have the opportunity to evaluate the relative merits of these options as well as to accept public comment in an open forum prior to selecting the optimum approach. As an example of a possible solution option, the Commission Staff presents the following outline of a variable tariff concept:

Telephone, Electric, Water and Sewer public utilities that serve less than 750 customers and gross less than \$ 1,000,000 in revenues would be given the option of seeking rate relief through variable rate tariffs. Under this proposal, instead of filing supporting information for increased rates as required by 3 AAC 48.275 (i.e., the current rate case requirements), qualifying utilities could support their need for increasing rates by submitting a comparison between actual fiscal performance during the previous year and the revenue requirement that was approved in the previous rate case. Revenue deficiencies identified in this manner should then be supplemented with operating and capital budgets that would identify anticipated changes in revenues, expenses and capital requirements in the impending year. At intervals not exceeding once every five years, the Commission may require such utilities to fully support their rate requests per 3 AAC 48.275.

To achieve and maintain eligibility for this rate relief option, utilities must have timely complied with the filing requirement of their annual reports, must maintain current tariffs and must meet the Commission's service and safety standards.

REVISED

1 Introduced: _____
2 Referred: _____
3 _____

4 IN THE _____ BY _____
5 _____

6 _____ BILL NO. _____
7
8 IN THE LEGISLATURE OF THE STATE OF ALASKA
9
10 FOURTEENTH LEGISLATURE - FIRST SESSION
11
12 A BILL

13 For an Act entitled: " _____ "
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

15
16 SECTION 1. AS 42.05.091. Compensation. (a) Members of the com-
17 mission are in the exempt service and are entitled to a monthly salary
18 equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a)
19 for Juneau, Alaska.

20
21 (b) A salary warrant may not be issued to a commissioner until
22 the commissioner has filed with the state officer designated to issue
23 salary warrants an affidavit that no matter referred to the commis-
24 sioner for opinion or decision has been uncompleted or undecided by
25 the commissioner for a period of more than six months.

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*ck w/comm.
r leg. services*

1 SECTION 2. AS 42.05.141 is amended to read:

2 The Alaska Public Utilities Commission may

3 (1) regulate every public utility engaged or proposing to engage
4 in such a business inside the state, except to the extent exempted by
5 AS 42.05.711 [and the power of the commission shall be liberally con-
6 strued to accomplish its stated purpose.];

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

10 (3) make or require just, fair and reasonable rates, classifica-
11 tions, regulations, practices, services and facilities for a public
12 utility;

13 (4) prescribe the system of accounts and regulate the service and
14 safety of operations of a public utility;

15 (5) require a public utility to file reports and other
16 information and data;

17 (6) appear personally or by counsel and represent the interests
18 and welfare of the state in all matters and proceedings involving a
19 public utility pending before an officer, department, board,
20 commission or court of the state or of another state or the United
21 States and to intervene in, protest, resist, or advocate the granting,
22 denial or modification of any petition, application, complaint or
23 other proceeding;

24 (7) examine witnesses and offer evidence in any proceeding
25 affecting the state and initiate or participate in judicial
26 proceedings to the extent necessary to protect and promote the
27 interests of the state.

1 (b) The commission shall perform the duties assigned to it under
2 AS 44.83.162.

3 (c) In the establishment of electric service rates under this
4 chapter the commission shall promote the conservation of resources
5 used in the generation of electric energy.

6 (d) Notwithstanding any other provision to the contrary, none of
7 the general powers and duties of the commissioner operate to divest the
8 board of directors of a cooperative organized under AS 10.25 from
9 exercising management authority for the conduct of that cooperative's
10 affairs.

11
12 SECTION 3. AS 42.05.221 is amended to read:

13 (a) A public utility may not operate and receive compensation for
14 providing a commodity or service after January 1, 1971 without first
15 having obtained from the commission under this chapter a certificate
16 declaring that public convenience and necessity require or will
17 require the service. Where a public utility provides more than one
18 type of utility service, a separate certificate of convenience and
19 necessity is required for each type. A certificate shall describe the
20 nature and extent of the authority granted in it, including, as
21 appropriate for the services involved, a description of the authorized
22 area and scope of operations of the public utility.

23 (b) All certificates of convenience and necessity issued to a
24 public utility before July 1, 1970 remain in effect but they are sub-
25 ject to modification where there are areas of conflict with public
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*ck w/comm.
does this
restrict the
comms.
or duties
See 42.05.511*

1 utilities that have not previously been required to have a certificate
2 or where there is a substantial change in circumstances.

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

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

17 (1) delineate the service area boundaries of each in these areas
18 of competition;

19 (2) eliminate existing duplication and paralleling to the fullest
20 reasonable extent;

21 (3) preclude future duplication and paralleling;

22 (4) provide for the exchange of customers and facilities for the
23 purposes of providing better public service and of eliminating
24 duplication and paralleling; and

25 (5) provide such other mutually equitable arrangements as would
26 be in the public interest.

27

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42.05.221

1 * (e) The commission may employ professional consultants to assist
2 it in administering the provisions of this section and may apportion
3 the expenses relating to this administration among the competing
4 [utilities] ~~utilities~~ involved, including but not limited to
5 utilities, commission staff and consumer intervenors, other than
6 individual consumers.

7
8 SECTION 4. AS 42.05.291 shall be amended as follows:

9 (a) Each public utility shall furnish and maintain adequate,
10 efficient and safe service and facilities. This service shall be
11 reasonably continuous and without unreasonable interruption or delay.

12 (b) Subject to the provisions of this chapter and the regulations
13 or orders of the commission, a public utility may establish reasonable
14 rules and regulations governing the conditions under which it will
15 render service.

16 (c) Except in the case of a cooperative organized under AS 10.25,
17 [T]he commission may, upon its own motion or upon complaint, after
18 providing reasonable notice and opportunity for hearing, adopt as to
19 service and facilities, including the crossing of facilities, just and
20 reasonable standards, classifications, regulations, and practices to
21 be furnished, imposed, observed, and followed by public utilities;
22 adopt adequate and reasonable standards for the measurement of quantity,
23 quality, pressure, initial voltage, or other conditions pertaining to
24 the supply of the service of public utilities; adopt reasonable regula-
25 tions for the examination and testing of the service, and for the
26 measurement of it; adopt or approve reasonable regulations, specifica-

1 tions, and standards to secure the accuracy of meters and appliances
2 for measurement; and provide for the examination and testing of appli-
3 ances used for the measurement of a service of a public utility. In
4 doing so, the commission shall conform to the standard practices of
5 the industry.

6 (d) In the case of a cooperative organized under AS 10.25, the
7 commission may, upon the written petition of 15 percent of the coopera-
8 tive membership, after providing reasonable notice and opportunity for
9 hearing, adopt as to service and facilities, including the crossing of
10 facilities, just and reasonable standards, classifications, regulations,
11 and practices to be furnished, imposed, observed, and followed by public
12 utilities; adopt adequate and reasonable standards for the measurement
13 of quantity, quality, pressure, initial voltage, or other conditions
14 pertaining to the supply of the service of public utilities; adopt
15 reasonable regulations for the examination and testing of the service,
16 and for the measurement of it; adopt or approve reasonable regulations,
17 specifications, and standards to secure the accuracy of meters and
18 appliances for measurement; and provide for the examination and testing
19 of appliances used for the measurement of a service of a public utility.
20 In doing so, the commission shall conform to the standard practices of
21 the industry.

22 [(d)] (e) If the commission, upon its own motion or upon complaint,
23 after providing reasonable notice and opportunity for hearing, finds
24 that the services or facilities of a public utility are unreasonable,
25 unsafe, inadequate, insufficient, or unreasonably discriminatory, or
26 otherwise in violation of this chapter, the commission shall prescribe,

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? Possibility of
Coop. service areas.
-- Village units --

1 by regulation or order, the reasonable, safe, adequate, sufficient
2 service or facilities to be observed, furnished, enforced, or employed,
3 including all repairs, changes, alterations, extensions, substitutions,
4 or improvements in facilities that are reasonably necessary and proper
5 for the safety, accommodation, and convenience of the public.

6

7 SECTION 5. AS 42.05.381 is amended to read:

8 (a) All rates demanded or received by a public utility, or by any
9 two or more public utilities jointly, for a service furnished or to be
10 furnished shall be just and reasonable; however, a rate may not
11 include an allowance for costs of political contributions, or public
12 relations except for reasonable amounts spent for

13 (1) energy conservation efforts;

14 (2) public information designed to promote more efficient use of
15 the utility's facilities or services or to protect the physical plant
16 of the utility;

17 (3) informing shareholders and members of a cooperative of meet-
18 ings of the utility and encouraging attendance; or

19 (4) emergency situations to the extent and under the
20 circumstances authorized by the commission for good cause shown.

21 (b) In establishing the revenue requirements of a municipally
22 owned and operated utility the municipality is entitled to include a
23 reasonable rate of return.

24 (c) In establishing the revenue requirement of a cooperative
25 organized under AS 10.25 the commission shall, upon application of the
26 cooperative, allow the cooperative to, without further filing, adjust

27

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Tier indexing
Mich
Virginia
KANSAS

Tier indexing
[presented to Comm. or rejected]

within A RANGE

is it a reasonable return?
Tier-indexing at the discretion of the Comm. (X) (Y) (Z) (basis) ??

1 rates to earn a times interest earned ratio approved by the
2 commission. The results of such adj. shall be subject verification
by the Comm, and the op. of this adj. procedure shall
be reviewed by the Comm. at reasonable intervals.

3 [(c)] (d) A utility, whether subject to regulation by the commis-
4 sion or exempt from regulation, may not charge a fee for connection
5 to, disconnection from, or transfer of services in an amount in excess
6 of the actual cost to the utility of performing the service plus a
7 profit at a reasonable percentage of that cost not to exceed the per-
8 centage established by the commission by regulation.

9 [(d)] (e) A utility shall provide for a reduced fee or surcharge
10 for standby water for fire protection systems approved under AS
11 18.70.081 which use hydraulic sprinklers.

12
13 SECTION 6. AS 42.05.421 is amended to read:

14 (a) When a tariff filing is made containing a new or revised
15 rate, classification, rule, regulation, practice, or condition of
16 service the commission may, either upon written complaint or upon its
17 own motion, after reasonable notice, conduct a hearing to determine
18 the reasonableness and propriety of the filing. Pending such a
19 hearing the commission may, by order stating the reasons for its
20 action, suspend the operation of the tariff filing for

Could cause rejection of filing

(1) 6 mo. extension

21 (1) [an initial] a period not longer than six months beyond the
22 time when it would otherwise go into effect if the annual gross reve-
23 nues of the utility making the filing are more than \$3,000,000; and

24 (2) not longer than 150 days before an interim rate equal to the
25 requested new rate goes into effect and not longer than one year

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1 before a permanent rate goes into effect if the annual gross revenues
2 of the utility making the filing are \$3,000,000 or less.

3 (3) failure by the commission to issue a final order on a tariff
4 filing within ¹²~~six~~ months of the filing will result in the tariff filing
5 requested going into effect on a permanent basis.

6 (b) An order suspending a tariff filing may be vacated if, after
7 investigation, the commission finds that it is in all respects proper.

8 Otherwise the commission shall hold a hearing on the suspended filing
9 and issue its order, before the end of the suspension period,
10 granting, denying or modifying the suspended tariff in whole or in
11 part.

12 (c) In the case of a proposed increased rate, the commission may
13 by order require the interested public utility or utilities to place in
14 escrow in a financial institution approved by the commission and keep
15 accurate account of all amounts received by reason of the increase,
16 specifying by whom and in whose behalf the amounts are paid. Upon
17 completion of the hearing and decision the commission may by order
18 require the public utility to refund to the persons in whose behalf
19 the amounts were paid, that portion of the increased rates which was
20 found to be unreasonable or unlawful. Funds may not be released from
21 escrow without the commission's prior written consent and the escrow
22 agent shall be so instructed by the utility, in writing, with a copy
23 to the commission. The utility may, at its expense, substitute a bond
24 in lieu of the escrow agreement.

25 (d) One who initiates a change in existing tariffs shall bear the
26 burden to prove the reasonableness of the change.

27

28

1 SECTION 7. AS 42.05.431 is amended to read:

2 (a) When the commission, after an investigation and hearing,
3 finds that a rate demanded, observed, charged or collected by a public
4 utility for a service, subject to the jurisdiction of the commission,
5 or that a classification, rule regulation, practice, or contract
6 affecting the rate, is unjust, unreasonable, unduly discriminatory or
7 preferential, the commission shall determine a just and reasonable
8 rate, classification, rule, regulation, practice, or contract to be
9 observed or allowed and shall establish it by order. A municipality
10 may covenant with bond purchasers regarding rates of a municipally
11 owned utility, and the covenant is valid and enforceable and is
12 considered to be a contract with the holders from time to time of the
13

14 bonds. The financial covenants contained in mortgages and other debt
15 instruments of cooperative utilities organized under AS 10.25 are
16 likewise valid and enforceable, and rates set by the commission must
17 be adequate to meet those covenants. Municipal utilities and
18 cooperative utilities organized under AS 10.25 shall file an
19 informational copy of debt instruments affecting rates with the
20 commission upon execution.

21 (b) The commission may not alter, change, modify or amend whole-
22 sale power agreements after they are in effect.

23 (c) Permanent rates approved by the commission shall not be sub-
24 ject to refund.

should be protected (sacred)



*ck w/ Ros
GARDENIA
City Mgr. SEWARD*

see 42.05.511

*need for this is
order to secure
funding in the
financial mkt. - more
secure position.*

?

1 SECTION 8. AS 42.05.461 is amended to read:

2 The commission may require a public utility to establish,
3 provide, and maintain as a part of its system of accounts, continuing
4 property records segregated by the year of placement in service
5 including a list or inventory of all the units of tangible property
6 used or useful in the public service, [showing the current location of
7 the property units by definite reference to the specific land parcels
8 upon which the units are located or stored. The commission may
9 require a public utility to keep accounts and records in such a manner
10 as to show, currently, the original cost of the property when first
11 devoted to the public service, and the related reserve for
12 depreciation.] Each public utility with annual revenues exceeding
13 \$100,000 shall keep continuing property records.

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15 SECTION 9. AS 42.05.511 is amended to read:

16 (a) [The commission may investigate the management of a public
17 utility,] In a rate proceeding, the commission has the burden of proving
18 that the management practices of a public utility, including but
19 not limited to staffing patterns, wage and salary scales and
20 agreements, investment policies and practices, purchasing and payment
21 arrangements with affiliated interests [for the purpose of
22 determining] are inefficient or unreasonable practices which adversely
23 affect the cost or quality of service of the public utility.

24 (b) Where unreasonable practices are found to exist, the commis-
25 sion may, after providing reasonable notice and opportunity for
26 hearing, take appropriate action to protect the public from the

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See Section
42.05.291
Applies to this chapter

1 inefficient or unreasonable practices and may order the public utility
2 to take the corrective action the commission may require to achieve
3 effective development and regulation of public utility services.

4 (c) In a rate proceeding the utility involved has the burden of
5 proving that any written or unwritten contract or arrangement it may
6 have with any of its affiliated interests for the furnishing of any
7 services or for the purchase, sale, lease or exchange of any property
8 is necessary and consistent with the public interest and that the pay-
9 ment made therefor, or consideration given, is reasonably based, in
10 part, upon the submission of satisfactory proof as to the cost to the
11 affiliated interest of furnishing the service or property and, in
12 part, upon the estimated cost the utility would have incurred if it
13 furnished the service or property with its own personnel and capital.

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15 SECTION 10. AS 42.05.711(h) is repealed and reenacted to read:

16 (h) The provisions of this chapter other than AS 42.05.221 -
17 42.05.251 do not apply to a cooperative organized under AS 10.25, un-
18 less that cooperative elects to be subject to the provisions of this
19 chapter under the procedure described in AS 42.05.712. [A cooperative
20 organized under AS 10.25 may elect to be exempt from the provisions of
21 this chapter, other than AS 42.05.221 - 42.05.²⁷¹~~221~~, under the procedure
22 described in AS 42.05.712.] *chg. to 42.05.254*

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24 SECTION 11. AS 42.05.712 is amended to read:

25 (a) A utility or cooperative which may elect to be regulated
26 under [exempt from] the provisions of this chapter shall poll its

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1 subscribers or members in the manner described in this section.

2 (b) The votes of a majority of those voting in an election in
3 which at least 15 percent of the eligible subscribers or members re-
4 turn ballots are required for a utility or cooperative to elect to be
5 regulated [exemption] under (a) of this section.

6 (c) Each subscriber or member of the utility or cooperative shall
7 receive notice of an election under this section with the subscriber's
8 or member's regular bill for service at least 60 days before the date
9 set for the election. The notice shall contain impartial language
10 informing the subscribers or members that an election on the option of
11 deregulation or regulation by the Alaska Public Utilities Commission
12 will be held within 60 days and that a ballot to participate in that
13 election will be mailed or delivered to each subscriber or member of
14 the utility or cooperative with the regular bill for service. The
15 notice shall also state that a subscriber or member of the cooperative
16 is entitled to vote in the election without regard to whether the sub-
17 scriber's or member's account with the utility or cooperative is cur-
18 rent and that the ballot must be postmarked or returned to the
19 commission within 30 days after it was mailed or otherwise delivered
20 to the subscriber or member. The notice shall also announce the
21 schedule for one or more public meetings which shall provide an oppor-
22 tunity for the subscribers or members to discuss this election. The
23 public meeting or meetings shall be held not more than 30 days before
24 the ballots are mailed or distributed to those eligible to vote. A
25 cooperative may satisfy this requirement by including a discussion of
26 this election on the agenda of an annual meeting if the annual meeting

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1 is scheduled to be held not more than 30 days before the election.

2 (d) A ballot with return postage shall be mailed or delivered to
3 each subscriber or member of the utility or cooperative with the sub-
4 scriber's or member's bill for service and shall contain only the
5 following language:

6 "Shall.....(name of utility or cooperative) be regulated by
7 [exempt from regulation] by the Alaska Public Utilities
8 Commission?

9 [] YES [] NO

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11 (e) The results of an election under this section shall be certi-
12 fied by the commission within 60 days after the ballots are mailed or
13 delivered to the subscribers or members.

14 (f) During the 60 days immediately preceding an election under
15 this section a list of subscribers or members of the utility or cooper-
16 ative shall be made available at cost to any subscriber or member of
17 the utility or cooperative who requests ones. The list shall be in
18 the same form that is available to the utility or cooperative.

19 (g) The board of directors of a utility or cooperative may call
20 an election under this section on its own initiative and shall call an
21 election upon the receipt of a valid petition from its subscribers or
22 members. A petition shall be considered valid if it is signed by not
23 less than the number of subscribers or members equal to ten percent of
24 the first 5,000 subscribers or members and three percent of the
25 subscribers or members in excess of 5,000. An election under this
26 section may only be held once every two years.

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1 (h) A utility [or cooperative] which is already exempt from regu-
2 lation under this section may elect to terminate its exemption in the
3 same manner.

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5 SECTION 12. AS 42.05.720 is amended to read:

6 (i) "affiliated interest" includes:

7 (A) a person owning or holding directly or indirectly five per
8 cent or more of the voting securities of a public utility engaged in
9 intrastate business in this state;

10 (B) a person, other than those specified in (A) of this paragraph,
11 in a chain of successive ownership of five per cent or more of voting
12 securities, the chain beginning with the holder of the voting securi-
13 ties of such public utility;

14 (C) a corporation five per cent or more of whose voting securities
15 are owned by a person owning five per cent or more of the voting secu-
16 rities of the public utility or by a person in such a chain of succes-
17 sive ownership of five per cent or more of voting securities;

18 (D) a corporation five per cent or more of whose voting securities
19 are owned or held by a public utility;

20 (E) a person with whom the public utility has a management or
21 service contract;

22 (F) a person who is an officer or director of such a public util-
23 ity or of a corporation in a chain of successive ownership of five per
24 cent or more of voting securities;

25 (G) a corporation which has one or more officers or directors in
26 common with a public utility;

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1 (H) a person or corporation who or which the commission determines
2 as a matter of fact, after investigation and hearing, actually is exer-
3 cising such substantial influence over the policies and actions of a
4 utility in conjunction with one or more other corporations or persons
5 with whom they are related by ownership or blood, or by action in con-
6 cert, that together they are affiliated with the utility within the
7 meaning of this section even though none of them alone is so affili-
8 ated; or

9 (I) a person or corporation who or which the commission determines
10 as a matter of fact after investigation and hearing actually is exercis-
11 ing substantial influence over the policies and actions of a utility
12 even though such influence is not based upon stockholdings, stockhold-
13 ers, officers or directors to the extent specified in this section;

14 (2) "commission" means the Alaska Public Utilities Commission;

15 (3) "public" or "general public" means

16 (A) any group of 10 or more customers that purchase the service
17 or commodity furnished by a public utility as defined in (2) of this
18 section; and

19 (B) any utility purchasing the product or service or paying for
20 the transmission of electric energy, natural or manufactured gas, or
21 petroleum products which are re-sold to a group included in (A) of
22 this paragraph or which are used to produce the service or commodity
23 sold to the public by the utility;

24 (4) "public utility" or "utility" includes every corporation
25 (whether public, cooperative, or otherwise), company, individual, or
26 association of individuals, their lessees, trustees, or receivers

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1 appointed by the court, that owns, operates, manages or controls any
2 plant, pipeline or system for

3 (A) furnishing, by generation, transmission or distribution,
4 electrical service to the public for compensation;

5 (B) furnishing telecommunications service to the public for com-
6 pensation;

7 (C) furnishing water, steam or sewer service to the public for
8 compensation;

9 (D) furnishing by transmission or distribution of natural or man-
10 ufactured gas to the Alaska public for compensation;

11 (E) furnishing for distribution or by distribution petroleum or
12 petroleum products to the Alaska public for compensation when the con-
13 sumer has no alternative in the choice of supplier of a comparable
14 product and service at an equal or lesser price;

15 (F) furnishing collection and disposal service of garbage, refuse,
16 trash or other waste material;

17 (5) "rate" includes each rate, toll, fare, rental, charge, or
18 other form of compensation demanded, observed, charged or collected by
19 a public utility for its services;

20 (6) "service" means (unless the context indicates otherwise) every
21 commodity, product, use, facility, convenience or other form of service
22 which is offered for and provided by a public utility for the con-
23 venience and necessity of the public;

24 (7) "tariff" means a rate, charge, toll, rule or regulation of a
25 utility relating to services furnished by the utility to the general
26 public for compensation and every map, page, adoption notice, instru-

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overly broad?

1 ment or other document filed with the commission setting out the terms
2 and conditions under which utility services are offered to the public;
3 [and instruments of concurrence and all other documents and data set-
4 ting out the terms of a utility's business relations with another
5 utility insofar as they affect the general public either directly or
6 indirectly:]

7 (8) "telecommunications" means the transmission and reception of
8 messages, impressions, pictures and signals by means of electricity,
9 electromagnetic waves and any other kind of energy, force variations
10 or impulses whether conveyed by cable, wire, radiated through space,
11 or transmitted through other media within a specified area or between
12 designated points.

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SECTION 13. This Act takes effect June 1, 1985.