May 6, 2019

To: Alaska State Legislature
From: Alaska Public Interest Research Group
RE: Senate Bill 83, “An Act relating to the Regulatory Commission of Alaska; relating to the public utility 2 regulatory cost charge; relating to the regulation of telecommunications; relating to 3 exemptions, charges, and rates applicable to telecommunications utilities; relating to 4 regulation of telephone services; and relating to alternate operator services.”

The Alaska Public Interest Research Group (AkPIRG) is writing to express our strong opposition to Senate Bill 83, relating to telecommunications regulation/exemptions.

AkPIRG, established in 1974, advocates on behalf of public and consumer interests. To our knowledge, we are the only non-governmental organization focused on addressing Alaska-specific consumer interest issues.

We are specifically concerned with revoking the Carrier of Last Resort (COLR) provision, as it will hurt, rather than benefit a large number of rural consumers who will no longer have access to telecommunications—which includes telephone and broadband access. More generally, deregulating telecommunications carriers is not in the public’s interest because it trades protections against harming consumers for private profit.

The Regulatory Commission of Alaska staff is expressly opposed to this bill, for which the language was provided by the Alaska Telecom Association (ATA). The RCA staff’s 10 page explanatory memo had not been included in any legislative hearings or in supplementary documents. To exclude opposition to this bill by experts who are public servants and therefore protecting the public’s interest serves to limit the representation of the public in this matter.

Although ATA proposes eliminating COLR, they do not propose eliminating the subsidy from the Alaska Universal Service Fund (AUSF), which is granted to them for providing this service.

RCA staff states “ATA’s proposal to eliminate COLR protections and designations undercuts the decision to use the COLR concept as the basis for ongoing essential network support…and substantially tracks the R-08-003 presumptions and justifications for extending AUSF support to designated COLRs serving nascent competitive markets.” If telecoms carriers are no longer demonstrably providing essential network support, they should not receive a subsidy for a service they no longer provide.
This bill introduces two clear reasons going forward for why there will be no accountability in knowing who these carriers are serving and whether it is based on providing essential network support or purely economic viability. The first reason is AS 42.05.671, which would “ostensibly end the presumption that anything filed with the Commission by a telecommunications provider is a public records and would possibly result in any filing being automatically deemed confidential without any procedure by an interested party to gain access.” Decreasing transparency creates a lack of accountability going forward.

Where a carrier serves and at what rate may no longer be public, and because of the proposed elimination of AS 42.05.391, telecommunications carriers “could charge similarly situated customers disparate rates for intrastate service and the Commission could not police that conduct or handle a consumer allegation to that effect.”

The system ATA and, consequently, SB83 proposes would create a deregulated telecommunications system for which the Regulatory Commission could no longer hold parties accountable to violations or neglect of consumers.

Although ATA correctly points out that intermodal voice competition is rising in rural Alaska, RCA staff is quick to reassure them that “the Commission’s existing regulations provide an opportunity for a carrier to petition and the Commission to find any market to be competitive on the basis of “competition by a competitor that is not certificated”…The fact remains that there are scores of communities in Alaska that simply do not enjoy competitive voice alternatives.” And the RCA staff memo goes on to caution, “Staff continues to believe the blanket exemption sought by ATA is overbroad, and carries with it a risk of harm to customers in monopoly markets that may have no actual voice substitutes.”

Additionally, there is already recourse to petition unjust regulations, and therefore “the relief sought by ATA can be more efficiently sought through a regulation petition without resort to substantial, permanent reduction to Commission jurisdiction via statutory change.”

Telecommunications is a backbone around which broadband has been built. Beyond quality of life, broadband provides education, telehealth, and telemedicine services to rural areas. Removing CORL provisions and creating a system without accountability will have tangible and severe impacts.

RCA staff decisively conclude:

Given the flexibility already afforded in regulations to declare any telecommunications market to be competitive, and the opportunity for a carrier to unilaterally reduce rates to blunt intermodal competition that may be occurring, Staff believes the Commission should not
endorse a statutory change permanently exempting all carriers from economic regulation without an individualized showing.

For reasons of governance, primarily transparency and accountability, as well as on behalf of public access and consumer interests, AkPIRG strongly opposes this bill. We suggest the Alaska legislature move instead towards the proposed legislative language written by RCA staff, experts who serve the public, rather than private industry interests.

AkPIRG congratulates the Regulatory Commission’s staff for considering this issue carefully and making policy recommendations that benefit the public. We encourage the Alaska State legislature to do the same by halting the passage of this bill.

Sincerely,

Veri di Suvero
Executive Director
Alaska Public Interest Research Group (AkPIRG)