

House Bill 111 the Right Vehicle to Update Telecommunication Laws in Alaska

By Rep. Tom Anderson

The Regulatory Commission of Alaska ([RCA](#)) was created July 1, 1999 to ensure safe and adequate public utility service throughout the state, while preventing discrimination and regulating reasonable rates consistent with the public's and utility's interests. The RCA regulates utilities pursuant to laws adopted and set forth by the Alaska Legislature.

House Bill 111 ([HB 111](#)), sponsored by the administration, is the reauthorization of the RCA scheduled to sunset on June 30, 2003. HB 111 was referred to the House Labor & Commerce Committee, which I chair. Upon the first hearing it was clear many players in the mix, affected by past RCA rulings, desired revision to the current laws the RCA adheres to as a regulator. The committee agreed the RCA should be renewed, but it also determined a subcommittee process would offer a definitive overview. Only the most concerted amendments would be considered. Since 1977, bills reauthorizing the commission were amended by the legislature six out of nine times with additional statutory guidance, so precedence was on the subcommittee's side.

Following a deliberative review of potential revisions, recommendations were forwarded by the subcommittee for separate legislation to improve regulatory matters relating to pipeline tariffs, waste management and the implementation of a hearing officer structure within the Commission. Telecom amendments, however, were added to HB 111. The rationale behind the amendments focused on the Legislature's responsibility to ensure equitable and consistent regulation of the telecom market by the RCA. When the RCA fails to adequately regulate, statutory direction is the fail safe.

In the case of facility management, new rules adopted by a state regulator like the RCA should apply to new, but not existing facilities. Rules requiring telecom networks to retrofit existing facilities to meet already outdated certain performance standards makes no sense.

While means and measures have been implemented to insure competition, companies constructing or leasing facilities for use by competitors must be allowed to recover expected costs. Past rulings have stifled investment in new infrastructure by obligating companies to lease facilities at rates below their costs. Investment dollars by telecom companies should not be deflected, by RCA rulings, from creating newer and more desirable technology that results in improved service for the consumer.

As local telecom markets become competitive, it was the subcommittee's view retail operations of all telecom competitors should face equal regulatory oversight. While tariffs are typically required in monopoly situations, and while the RCA functions as an alternative to the forces of competition to prevent abuse occurring in a monopoly environment, once a market becomes competitive and absent a monopoly, the role of the RCA should transition and let the forces of competition operate freely. Exempting all companies in competitive markets from tariffing obligations assures equity. This is not the case with telecom regulation in Alaska.

Depreciation rates for telecom companies were also addressed in the amendments. The FCC has deemed accelerated depreciation in competitive telecom markets appropriate. The IRS has consistently offered opportunities for accelerated depreciation in conjunction with federal income tax computation. However, RCA decisions have gone the other way – inexplicably extending depreciation recovery periods in highly competitive markets. This results in less investment in Alaska’s telecommunications infrastructure.

Indeed, telecommunication laws can be mired in confusing and complicated regulatory language. But the Legislature is mandated to address issues of this nature affecting its citizenry. The Alaska Legislature is the policymaking body for state law. Conversely, RCA commissioners are appointed. The RCA’s accountability through the political process is minimal. The true accountability measure for the RCA’s performance is during the periodic sunset review, hence the House Labor & Commerce’s intensive overview and subsequent policy direction.

The policy guidance and telecom detariffing proposals set forth in the amended HB 111 will lead to fewer RCA proceedings, resulting in time and momentum for the Commission to resolve its remaining caseload. Should HB 111 pass as amended, telecom competitors will continue to have access to incumbent facilities at rates offering fair margin opportunities. A policy change prompting companies and competitors to build their own facilities will provide an incentive for additional infrastructure investment. And most importantly, consumers will reap the reward of beneficial pricing set by free-flow market forces and state of the art equipment and services.

Amended House Bill 111 promotes fair competition, which translates into infrastructure investments for Alaskans, and improved and more reliable telecom service. The bottom line, consumers don’t care about regulation technicalities. At the end of the day what they do care about is being charged a fair price for a phone line that works.