

AMENDMENT #3 by Rep. Thomas

OFFERED IN THE HOUSE

TO: CSHB 9(FIN), Draft Version "K"

1 Page 2, line 1, following "Corporation;":

2 Insert "relating to the regulation by the Regulatory Commission of Alaska of an
3 in-state natural gas pipeline that is expressly authorized to provide transportation as a
4 contract carrier;"

5

6 Page 3, line 31:

7 Delete "and"

8

9 Page 4, line 4, following "Corporation":

10 Insert "; and"

11 (5) provide transportation of natural gas by way of contract carriage"

12

13 Page 7, line 17:

14 Delete "AS 38.35.120(a)(1), (2), (5), and (7)"

15 Insert "AS 38.35.120(a)(1), (2), and (5)"

16

17 Page 9, lines 13 - 14:

18 Delete "AS 38.35.120(a)(1), (2), (5), and (7)"

19 Insert "AS 38.35.120(a)(1), (2), and (5)"

20

21 Page 19, line 17, through page 21, line 19:

22 Delete all material and insert:

23 "* Sec. 25. AS 42.04.080(a) is amended to read:

(a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter comes for decision before the commission under AS 42.05, [OR] AS 42.06, or AS 42.08, the chair shall appoint a hearing panel composed of three or more members to hear, or if a hearing is not required, to otherwise consider, and decide the case. The panel shall exercise the powers of the commission with respect to the matter.

* **Sec. 26.** AS 42.05 is amended by adding a new section to read:

Sec. 42.05.433. Review of certain contracts by the commission. (a) A contract entered into by a public utility with the Alaska Gasline Development Corporation (AS 18.56.087) or its successors or assigns may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract. If the contract is approved by the commission under AS 42.08, the rate covenant is valid and enforceable.

(b) A public utility negotiating to purchase natural gas to be shipped on an in-state natural gas pipeline regulated under AS 42.08 shall submit the contract to the commission before the contract takes effect.

(c) A public utility negotiating to contract for the storage of natural gas related to (b) of this section shall submit the contract to the commission before the contract takes effect.

(d) The commission shall review and may conduct an investigation and hearing to determine whether a contract submitted under (b) or (c) of this section is just and reasonable. The commission shall either approve the contract as presented or, if the commission finds that a contract is unjust or unreasonable, disapprove the contract. If the commission has not acted within 180 days after the contract is submitted, the contract shall be considered approved and shall take effect immediately. A contract that is approved or considered approved under this section is not subject to further review by the commission.

* **Sec. 27.** AS 42.05.711 is amended by adding a new subsection to read:

(s) An in-state natural gas pipeline subject to AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt from this chapter.

* **Sec. 28.** AS 42.06 is amended by adding a new section to article 7 to read:

Sec. 42.06.601. Exemption. An in-state natural gas pipeline subject to

1 AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt
2 from this chapter.

3 * **Sec. 29.** AS 42 is amended by adding a new chapter to read:

4 **Chapter 08. In-state Pipeline Contract Carrier.**

5 **Article 1. Application of Chapter; Purpose.**

6 **Sec. 42.08.010. Application of chapter; exemption.** (a) This chapter applies
7 to the regulation of an in-state natural gas pipeline authorized by law to provide
8 transportation by contract carriage.

9 (b) An in-state natural gas pipeline subject exclusively to federal jurisdiction
10 is exempt from this chapter.

11 **Sec. 42.08.020. Qualification of the Alaska Gasline Development**
12 **Corporation; findings.** (a) The Alaska Gasline Development Corporation, a
13 subsidiary created under AS 18.56.086 and authorized to exercise the powers and take
14 the actions described in AS 18.56.087, is financially fit, willing, and able to take the
15 actions, properly to perform the service, and to conform to the requirements of this
16 chapter.

17 (b) The board of directors and the officers of the Alaska Gasline Development
18 Corporation are managerially fit, willing, and able to manage the Alaska Gasline
19 Development Corporation and to take the actions, properly to perform the service, and
20 to conform to the requirements of this chapter.

21 (c) The proposed service, construction, and operation of an in-state natural gas
22 pipeline is required by present and future public convenience and necessity.

23 (d) The findings that the Alaska Gasline Development Corporation is
24 financially fit in (a) of this section and managerially fit in (b) of this section and that
25 an in-state natural gas pipeline is required by present or future public convenience and
26 necessity in (c) of this section are conclusive and binding on the commission.

27 (e) The commission shall determine whether a person making application
28 under this chapter is technically fit, willing, and able to take the actions, properly to
29 perform the service, and to conform to the requirements in this chapter.

30 **Article 2. Powers and Duties of Regulatory Commission of Alaska.**

31 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

1 (1) regulate, under the provisions of this chapter, an in-state natural gas
 2 pipeline that is expressly authorized by law to provide transportation by way of
 3 contract carriage;

4 (2) require permits for the construction, enlargement in size or
 5 operating capacity, extension, connection and interconnection, operation, or
 6 abandonment of an in-state natural gas pipeline facility, under the provisions of this
 7 chapter and subject to the same standards as certification in AS 42.08.310;

8 (3) provide all reasonable assistance to the Department of Law in
 9 intervening in, offering evidence in, and participating in proceedings involving an in-
 10 state natural gas pipeline carrier or affiliated interest and affecting the interests of the
 11 state, before an officer, department, board, commission, or court of another state or the
 12 United States.

13 (b) The commission may

14 (1) approve contracts as otherwise provided in this chapter;

15 (2) investigate, on complaint or its own motion, disputes related to
 16 rules, regulations, services, practices, and facilities

17 (A) that are not subject to the dispute resolution provisions in
 18 an in-state natural gas pipeline carrier's contracts or tariffs;

19 (B) that relate to an unreasonable diminution in the quantity or
 20 quality in the provision of service to a public utility;

21 (C) that are a violation of the in-state natural gas pipeline
 22 carrier's tariff or contract with the public utility;

23 (D) that have not been resolved by the in-state natural gas
 24 pipeline carrier; and

25 (E) in which it clearly appears from specific facts shown by
 26 affidavit or by verified complaint that immediate and irreparable injury, loss,
 27 or damage will result to the peace, health, safety, or general welfare of the
 28 public from a violation;

29 (3) adopt regulations that are necessary and proper to the performance
 30 of the duties of the commission under this chapter, including regulations governing
 31 practices and procedures of the commission; the regulations may not be inconsistent

1 with state law;

2 (4) initiate, intervene in, and appear personally or by counsel and offer
3 evidence in and participate in, any proceedings involving an in-state natural gas
4 pipeline carrier and affecting the interests of the state, before an officer, department,
5 board, commission, or court of this state; and

6 (5) assign a qualified, unbiased, and impartial administrative law
7 judge, with experience in the general practice of law, to conduct hearings under this
8 chapter; the administrative law judge may perform other duties in connection with the
9 administration of this chapter and other laws; an administrative law judge hired to
10 conduct hearings under this chapter shall have been admitted to practice law for at
11 least five years immediately before appointment under this paragraph.

12 (c) The commission may not

13 (1) require rates, rate design, or tariff rules or regulations except as
14 provided in this chapter; and

15 (2) conduct further review, investigate, or order a modification of a
16 contract that is approved or considered approved or filed under this chapter.

17 **Sec. 42.08.230. Commission decision-making procedures.** The commission
18 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come
19 before the commission.

20 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**
21 All reports, orders, decisions, and regulations of the commission shall be in writing.
22 The commission shall notify all affected operators of in-state natural gas pipeline
23 facilities and interested parties of reports, orders, decisions, and regulations as they are
24 issued and adopted, and, when appropriate, publish them in a manner that will
25 reasonably inform the public or the affected consumers of the services of an in-state
26 natural gas pipeline facility. The commission may set charges for costs of printing or
27 reproducing and furnishing copies of reports, orders, decisions, and regulations. The
28 publication requirement, as it pertains to regulations, does not supersede the
29 requirements of AS 44.62 (Administrative Procedure Act).

30 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The
31 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)

do not apply to adjudicatory proceedings of the commission under this chapter, except that final administrative determinations by the commission are subject to judicial review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

(b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted by the commission.

Sec. 42.08.260. Annual report. The commission shall include in its annual report under AS 42.05.211 and AS 42.06.220 a review of its activities under this chapter during the previous fiscal year and notify the legislature that the report is available. The report must address the regulation of in-state natural gas pipeline facilities in the state as of June 30 of each year and must contain details about the commission's compliance with the performance measures in this chapter.

Article 3. Contract Review; Contract Carriage Certificate.

Sec. 42.08.300. Review of certain contracts by the commission. (a) The Alaska Gasline Development Corporation or its successors or assigns shall submit each of its precedent agreements for firm transportation service to the commission. A precedent agreement negotiated with an entity that is not a public utility may be filed under seal. Under AS 42.08.400, the commission shall keep confidential a precedent agreement filed under seal. Submission of precedent agreements to the commission is permissible before construction of an in-state natural gas pipeline and before a request for certification under this chapter.

(b) In the review of a precedent agreement submitted under (a) of this section and a related contract submitted under AS 42.05.433, the commission shall

(1) conclude that any transaction negotiated at arm's length between the parties is just and reasonable unless the commission finds that there was unlawful market activity connected to the contract rate or there was unfair dealing, such as fraud or duress, at the contract formation stage;

(2) review and may conduct an investigation and hearing to determine whether a contract submitted under (a) of this section is just and reasonable; the commission shall either approve the contract as presented or, if the commission finds that a contract is unjust or unreasonable, disapprove the contract; if the commission has not acted within 180 days after the submission of a contract, the contract shall be

1 considered approved and shall take effect immediately; a contract that is approved or
2 considered approved under this paragraph is not subject to further review by the
3 commission.

4 (c) For the purposes of (b)(1) of this section, a transaction is arm's length if it
5 is between two unaffiliated parties or, if the parties are affiliated, the parties have
6 followed the standards of conduct for transmission providers adopted by the Federal
7 Energy Regulatory Commission.

8 **Sec. 42.08.310. Contract carriage certificate.** (a) The owner of an in-state
9 natural gas pipeline subject to this chapter may not engage in the transportation of
10 natural gas or undertake the construction of a natural gas pipeline facility for that
11 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a
12 certificate of public convenience and necessity by the commission authorizing contract
13 carriage is in force with respect to that owner. A certificate shall describe the nature
14 and extent of the authority granted, including, as appropriate for the services involved,
15 a description of the authorized area and scope of operation for the in-state natural gas
16 pipeline facility.

17 (b) Application for a certificate shall be made in writing to the commission
18 and verified under oath. The commission by regulation shall establish the
19 requirements for the form of the application and the information to be contained in the
20 application. Notice of the application shall be provided to interested parties in the
21 manner provided by regulation.

22 (c) Within 180 days after receiving an application under this chapter, a
23 contract carriage certificate shall be issued to a qualified applicant, authorizing the
24 whole or any part of the operation, service, construction, or acquisition covered by the
25 application, if the commission finds that the applicant is fit, willing, and able properly
26 to do the acts, perform the service proposed, and conform to the provisions of this
27 chapter and the requirements of the commission, and that the proposed service,
28 operation, construction, extension, or acquisition, to the extent authorized by the
29 certificate, is or will be required by the present or future public convenience and
30 necessity. Otherwise, the application shall be denied.

31 (d) Consistent with the terms of this chapter, the commission may attach to a

1 contract carriage certificate terms and conditions that are in the best interest of the in-
2 state natural gas pipeline facility and the public.

3 (e) Operating authority may not be transferred by sale or lease of the contract
4 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline
5 carrier holding a certificate without prior approval by the commission. A transfer not
6 involving a substantial change in ownership shall be summarily approved. The
7 commission's decision under this subsection shall be based on the best interest of the
8 public.

9 (f) After receiving a complaint or on its own motion, the commission, after
10 notice and hearing and for good cause shown, may amend, modify, suspend, or
11 revoke, in whole or in part, a certificate. Good cause for amendment, modification,
12 suspension, or revocation of a certificate is

13 (1) misrepresentation of a material fact in obtaining the certificate;

14 (2) unauthorized discontinuance or abandonment of all or part of a
15 service that is the subject of the certificate;

16 (3) wilful failure to comply with the provisions of this chapter or a
17 regulation or order of the commission; or

18 (4) wilful failure to comply with a term, condition, or limitation of the
19 certificate.

20 (g) Service or use of all or a portion of an in-state natural gas pipeline
21 certificated under this chapter may not be abandoned or permanently discontinued
22 without permission and approval by the commission, after due notice and hearing, and
23 a finding by the commission that continued service is not required by public
24 convenience and necessity. Any interested person may file a protest or memorandum
25 of opposition to or in support of discontinuance or abandonment with the commission.
26 The commission may order a temporary suspension of a service or of part of a service.

27 **Sec. 42.08.320. Tariffs, contracts, filing, and public inspection.** (a) An in-
28 state natural gas pipeline carrier shall file with the commission all rules, regulations,
29 terms, and conditions pertaining to service provided under the certificate, and copies
30 of all contracts with shippers that in any way affect or relate to the carrier's rates,
31 tariffs, charges, classifications, rules, regulations, terms, and conditions to service

provided under the certificate. The in-state natural gas pipeline carrier shall maintain copies on file at its principal business office and at places designated by the commission and make the copies available to, and subject to inspection by, the general public on demand. Rules, regulations, terms, and conditions not included in the tariff of an in-state natural gas pipeline carrier shall be included in the contract with each shipper.

(b) The terms and conditions under which an in-state natural gas pipeline carrier offers its services and facilities to the public shall be governed strictly by the provisions of the tariffs and filed contracts that are in effect. A change in tariff rate, charge, rule, regulation, or condition of service is not effective until filed under (a) of this section. If more than one tariff rate or charge may reasonably be applied for billing purposes, the tariff, rate, or charge most advantageous to the shipper shall be used.

Sec. 42.08.330. Expansion; dispute resolution. (a) A contract entered into by an in-state natural gas pipeline carrier may provide for expansion unless the expansion would cause the pipeline to be a competing natural gas pipeline or project as defined in AS 43.90.440.

(b) A contract entered into by an in-state natural gas pipeline carrier shall include dispute resolution procedures.

Sec. 42.08.340. Regulatory cost charge. (a) An in-state natural gas pipeline operating under this chapter shall pay to the commission an annual regulatory cost charge in an amount not to exceed the sum of the following percentages of gross revenue derived from operations in the state: (1) not more than 0.7 percent to fund the operations of the commission, and (2) not more than 0.17 percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. A regulatory cost charge may not be assessed on a pipeline under this chapter unless the pipeline is subject to this chapter and has used the commission's services under this chapter in the prior fiscal year.

(b) The commission shall by regulation establish a method to determine annually the amount of the regulatory cost charge. If the amount the commission expects to collect under (a) of this section, AS 42.05.254(a), and AS 42.06.286(a)

1 exceeds the authorized budgets of the commission and the Department of Law public
2 advocacy function under AS 42.04.070(c) and AS 44.23.020(e), the commission shall,
3 by order, reduce the percentage determined under (e) of this section so that the total
4 amount of the fees collected approximately equals the authorized budgets of the
5 commission and the Department of Law public advocacy function under
6 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

7 (c) The commission shall administer the charge imposed under this section.
8 The Department of Revenue shall collect and enforce the charge imposed under this
9 section. The Department of Administration shall identify the amount of the operating
10 budgets of the commission and the Department of Law public advocacy function
11 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.
12 The legislature may appropriate an amount equal to the lapsed amount to the
13 commission and to the Department of Law public advocacy function under
14 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the
15 legislature does so, the commission shall reduce the total regulatory cost charge
16 collected for that fiscal year by a comparable amount.

17 (d) The commission may adopt regulations under AS 44.62 (Administrative
18 Procedure Act) necessary to administer this section, including requirements and
19 procedures for reporting information and making quarterly payments. The Department
20 of Revenue may adopt regulations under AS 44.62 (Administrative Procedure Act) for
21 investigating the accuracy of filed information and for collecting required payments.

22 (e) The commission shall by regulation establish a method to determine
23 annually the maximum percentage of gross revenue that will apply to each regulated
24 public utility sector, the maximum percentage of gross revenue that will apply to the
25 regulated pipeline carrier sector under AS 42.06, and the maximum percentage of
26 gross revenue that will apply to pipelines regulated under this chapter in accordance
27 with AS 42.05.254(h).

28 **Sec. 42.08.350. Nothing to alter the calculation of taxes and royalty.**
29 Nothing in this chapter shall alter the calculation of production taxes under
30 AS 43.55.011 – 43.55.180 or the calculation of royalty due for leases issued under
31 AS 38.05.180.

Article 4. Records; Investigations.

Sec. 42.08.400. Public records. (a) Except as provided in (b) and (c) of this section or prohibited from disclosure under state or federal law, records in the possession of the commission are open to public inspection at reasonable times.

(b) The commission may by regulation classify records received from an in-state natural gas pipeline carrier or in-state natural gas pipeline as privileged records that are not open to the public for inspection.

(c) A record filed with the commission that is or relates to a precedent agreement or other contract between an in-state natural gas pipeline carrier and an unregulated entity is a privileged record that is not open to the public for inspection.

(d) A person may make written objection to the public disclosure of information contained in a record filed under this chapter or of information obtained by the commission or by the attorney general under this chapter, stating the grounds for the objection. When an objection is made, the commission shall order the information withheld from public disclosure if the information adversely affects the interest of the person making written objection and disclosure is not required in the interest of the public.

(e) A commissioner may certify as to all official records of the commission under this section and may certify as to all official acts of the commission under this chapter.

Sec. 42.08.410. Investigations. The commission may investigate any matter set out in AS 42.08.220(b)(2). An investigation may be public, nonpublic, or both. In conducting an investigation, the commission may compel the attendance and testimony of witnesses and the production of records and testimony before the commission or its designee. In the course of an investigation, the commission may exclude from attendance at the taking of investigative testimony all persons except a person compelled to attend, that person's attorney, members of the commission or the commission's staff, and a person authorized to transcribe the proceedings.

Article 5. General Provisions.

Sec. 42.08.510. Designation of service agents. An in-state natural gas pipeline carrier shall file with the commission a written appointment of a named permanent

1 resident, which may be a corporation, of this state as its registered agent in this state
 2 upon whom service of all notices, regulations, and requests of the commission may be
 3 made. The appointment shall specify the address in this state of the appointed agent.
 4 The address may be changed from time to time by filing a new address in the state
 5 with the commission. If an in-state natural gas pipeline carrier fails to appoint a
 6 registered agent, service of notices, regulations, and requests may be made by posting
 7 a copy in the main office of the commission and filing a copy in the office of the
 8 lieutenant governor.

9 **Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission
 10 under this chapter have the effect of law.

11 **Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in
 12 AS 38.35.200(c), a final order of the commission under this chapter is subject to
 13 judicial review under AS 44.62.560 and 44.62.570.

14 (b) If an appeal is not taken from a final order of the commission within 10
 15 calendar days after an investigation under AS 42.08.220(b)(2), the commission may
 16 apply to the superior court for enforcement of the order of the commission. The court
 17 shall enforce the order by injunction or other process.

18 **Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals
 19 from orders of the commission and applications for enforcement of orders of the
 20 commission may be joined. The court may, in the interests of justice, separate the
 21 actions.

22 **Sec. 42.08.900. Definitions.** In this chapter,

23 (1) "commission" means the Regulatory Commission of Alaska
 24 (AS 42.04.010);

25 (2) "commissioner" means a member of the commission;

26 (3) "firm transportation service" means service by an in-state natural
 27 gas pipeline carrier that is not subject to a prior claim by another shipper or another
 28 class of service; service constitutes "firm transportation service" if the service receives
 29 the same priority as any other class of firm transportation service;

30 (4) "in-state natural gas pipeline" or "in-state natural gas pipeline
 31 facility" means a natural gas pipeline that has been authorized by the legislature to

1 transport natural gas in the state by way of contract carriage;

2 (5) "in-state natural gas pipeline carrier" means the owner, including a
3 corporation, company, or other entity organized under the laws of the United States or
4 of any state, of an in-state natural gas pipeline or an interest in it, or any person,
5 including a corporation, company, or other entity organized under the laws of the
6 United States or of any state, that has been granted the right to transport natural gas as
7 a contract carrier by the legislature;

8 (6) "natural gas pipeline" has the meaning given in AS 38.34.099;

9 (7) "precedent agreement" means a contractual commitment to acquire
10 firm transportation capacity, executed between an in-state natural gas pipeline carrier
11 and another person, that establishes the rates, terms, and conditions for service;

12 (8) "record" means a report, file, book, account, paper, or application,
13 and the facts and information contained in it."
14

15 Renumber the following bill sections accordingly.

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Amendment K.15 to CSHB 9 (FIN), Draft Version "K"

The amendment K.15 replaces three sections in HB 9 relating to Regulatory Commission of Alaska (RCA) oversight of an Alaska Gasline Development Corporation (AGDC) line, with a new chapter of law creating a regulatory framework for an instate natural gas pipeline authorized to operate as a contract carrier.

In House Bill 9, the amendment:

Title, page 2, line 1, following "Corporation;":

Changes the title of HB 9 to specifically state the bill relates to regulation of an in-state natural gas pipeline "that is expressly authorized to provide transportation as a contract carrier."

Page 4, line 5:

In Section 2, adds a fifth ability to allow AGDC to provide contract carriage. The new regulatory section applies to a pipeline authorized by law to provide contract carriage. This change explicitly authorizes AGDC to do so, making an AGDC pipeline subject to the new RCA chapter.

Page 7, line 17:

In Section 6 related to state Right-of-Way Leasing Act covenant exemptions, removes the exemption from covenant (7).

Covenant 7: "it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Regulatory Commission of Alaska;". The exemption was necessary only if the pipeline would be exempt from RCA oversight; as the amendment provides RCA oversight, this exemption is no longer necessary.

Page 9, lines 13-14:

Conforming. In Section 9 related to state Right-of-Way Leasing Act covenant exemptions, removes the exemption from covenant (7).

Page 19, line 17, through page 21, line 19:

Removes three sections (25, 26 and 27) related to RCA oversight.

Replaces with new sections 25, 26, 27, 28 and 29

Section 25: Amends AS 42.04.080(a), Regulatory Commission of Alaska, Decision-making procedures, to add 42.08, the new regulatory chapter, to the list of other regulatory chapters exempt from this provision; provides that the RCA chair may appoint a panel for hearings.

Section 26: Adds a new section to 42.05 (Alaska Public Utilities Regulatory Act): Section 42.05.433, Review of certain contracts by the commission. Provides a link between 42.08 and existing Public Utility regulation. While an AGDC line itself would be regulated under 42.08 and therefore exempt from regulation under 42.05, public utilities may have associated contracts for other than transportation capacity that the RCA would regulate under 42.05. An RCA-approved contract with a utility and AGDC can include a covenant that the utility can pass on costs in rates charged to consumers. Utilities which are not shippers but have related contracts to purchase or store gas shipped on the pipeline, must submit those contracts to the RCA. In all cases, the RCA will review the contracts to determine, within 180 days, whether they are just and reasonable.

Section 27: Adds a new subsection to 42.05.711 (Alaska Public Utilities Regulatory Act, Exemptions). This subsection exempts an instate natural gas pipeline subject to 42.08 from regulation under 42.05, Public Utilities Act.

Section 28: Adds a new section to 42.06, Article 7 (Pipeline Act, General Provisions). This subsection exempts an instate natural gas pipeline subject to 42.08 from regulation under 42.06, Pipeline Act.

Section 29: Adds a new chapter to AS 42 (Public Utilities and Carriers and Energy Programs)

New Chapter 42.08: In-state Pipeline Contract Carrier

Section 42.08.010 Application of chapter; exemption. States that this chapter applies to an instate natural gas pipeline authorized by law to operate as a contract carrier. Exempts an instate natural gas pipeline subject exclusively to federal jurisdiction.

Section 42.08.020 Qualification of the Alaska Gasline Development Corporation; findings. Determines that AGDC is financially and managerially fit, willing and able to provide service under 42.08. States that an instate natural gas pipeline is required by public convenience and necessity. Directs the RCA to determine whether an entity applying under 42.08 is technically fit, willing and able.

Section 42.08.220 General powers and duties. Provides enabling direction for the RCA under 42.08. Requires permits for construction, interconnections, expansions and abandonment. Enables the RCA to intervene in disputes that are between the carrier

and a public utility, and that are unable to be resolved by contractual dispute resolution methods, and that threaten the public safety and welfare. Directs the RCA to not require rates or tariff regulations, and not to conduct further review of contracts approved under 42.08.

Section 42.08.230 Commission decision-making procedures. Directs the RCA to follow its standard decision-making procedures, and to expeditiously adjudicate matters.

Section 42.08.240 Publication of reports, orders, decisions and regulations. Standard RCA direction for publishing reports, orders, decisions and regulations.

Section 42.08.250 Application of Administrative Procedure Act. Standard RCA exemption from Administrative Procedure Act adjudication procedures; the RCA's adjudication procedures would apply.

Section 42.08.260 Annual report. Requires the RCA to include in its annual report activities related to 42.08.

Section 42.08.300 Review of certain contracts by the commission. AGDC or its successors will submit all precedent agreements to the RCA; precedent agreements with other than a public utility may be kept under seal. The RCA will have 180 days to approve or disprove precedent agreements as just and reasonable, based on whether contracts were negotiated at arm's length and whether there was unlawful activity or unfair dealing. Approved contracts are not subject to further review. A contract is arm's length if it is made between two unaffiliated parties; or, if parties are affiliated, they have followed the standards of conduct for transmission providers adopted by the Federal Energy Regulatory Commission.

Section 42.08.310 Contract carriage certificate. The owner of an instate natural gas pipeline must have a certificate of public convenience and necessity (CPCN) to construct a pipeline and to transport gas. The RCA has 180 days to issue a CPCN once application is made, providing that the applicant is found fit, willing and able to perform the services proposed. The RCA may attach conditions to and amend, suspend or revoke a CPCN. Operating authority may not be transferred without RCA approval.

Section 42.08.320 Tariffs, contracts, filing, and public inspection. Requires an instate natural gas pipeline carrier to file all rules, regulations, terms and conditions pertaining to service, and all contracts with shippers. Requires changes in tariff rates/rules and service conditions to be filed with the RCA.

Section 42.08.330 Expansion, dispute resolution. Contracts may provide for expansion, unless an expansion would violate the terms of the Alaska Gasline Inducement Act. Requires contracts to include procedures for resolving disputes.

Section 42.08.340 Regulatory cost charge. Implements standard RCA assessment of a user fee on regulated entities; includes a cap and directs administration of the user fee.

Section 42.08.350: Nothing to alter the calculation of taxes and royalty. Nothing in 42.08 will change the calculation of production taxes or of royalties due the state.

Section 42.08.400 Public records. RCA records are available to the public, except when classified by the RCA as privileged; precedent agreements will be kept confidential.

Section 42.08.410 Investigations. Allows the RCA to investigate matters in 42.08.

Section 42.08.510 Designation of service agents. Requires an instate natural gas pipeline carrier to file a named, permanent resident as its agent (standard RCA provision)

Section 42.08.520 Effect of regulations. Regulations adopted by the RCA under 42.08 have the effect of law (standard RCA provision).

Section 42.08.530 Judicial review and enforcement. RCA final orders are subject to the judicial review provisions in Section 13, HB 9.

Section 42.08.540 Joinder of actions. Appeals may be joined under applicable court rules (standard RCA provision).

Section 42.08.900 Definitions. Defines terms standard to the RCA (commission, commissioner, record) and includes terms within HB 9 (instate natural gas pipeline, instate natural gas pipeline carrier).