

Alaska Statute AS 42.05.711

Sec. 42.05.711. Exemptions.

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

(b) Except as otherwise provided in this subsection and in (o) of this section, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than [AS 42.05.221](#) — 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter; this paragraph does not apply to a utility or electric operating entity owned and operated by a political subdivision that competes with a telecommunications utility.

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

(d) The commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless the subscribers petition the commission for regulation under [AS 42.05.712](#)(h).

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$500,000 annually may elect to be exempt from the provisions of this chapter other than [AS 42.05.221](#) — 42.05.281 under the procedure described in [AS 42.05.712](#).

(g) A utility, other than a telephone or electric utility, that does not gross \$150,000 annually may elect to be exempt from the provisions of this chapter other than [AS 42.05.221](#) — 42.05.281 under the procedure described in [AS 42.05.712](#).

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

(i) A utility that furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$300,000 or less is exempt from the provisions of this chapter, other than the certification provisions of [AS 42.05.221](#) — 42.05.281, unless the subscribers petition the commission for regulation under [AS 42.05.712](#)(h). Notwithstanding [AS 42.05.712](#)(b) and (g),

if subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation, the utility is subject to the provisions of this chapter.

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

(k) A utility that furnishes cable television service is exempt from the provisions of this chapter other than [AS 42.05.221](#) — 42.05.281 unless the subscribers petition the commission for regulation under the procedure described in [AS 42.05.712](#).

(l) A person, utility, joint action agency established under [AS 42.45.310](#), or cooperative that is exempt from regulation under (a), (d) — (k), (o), or (r) of this section is not subject to regulation by a municipality under [AS 29.35.060](#) and 29.35.070.

(m) The collection and disposal, under [AS 29.35.050](#)(c), by a municipality of waste material deposited at an intermediate transfer site is exempt from this chapter.

(n) Except as provided by [AS 42.06.370](#)(c), the provisions of this chapter do not apply to a person who owns or operates a natural gas pipeline as a North Slope natural gas pipeline carrier, as that term is defined in [AS 42.06.630](#).

(o) A joint action agency established under [AS 42.45.310](#) is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under [AS 42.05.221](#), for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy Authority until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under [AS 42.05.431](#). The exemption provided by this subsection extends to repairs and improvements to the power project the joint action agency purchases from the authority but does not extend to any other power project or other activity of the joint action agency.

(p) A regional solid waste management authority established under [AS 29.35.800](#) — 29.35.925 is exempt from regulation under this chapter, except that a solid waste management authority is subject to this chapter if it directly competes with a utility subject to this chapter.

(q) The service of natural gas storage furnished by operating a natural gas storage facility that is (1) part of a pipeline facility operated by a pipeline carrier, (2) part of a natural gas pipeline facility operated by a natural gas pipeline carrier, or (3) part of a North Slope natural gas pipeline facility operated by a North Slope natural gas pipeline carrier is exempt from this chapter. In this subsection, “natural gas pipeline carrier,” “natural gas pipeline facility,” “North Slope natural gas pipeline carrier,” “North Slope natural

gas pipeline facility,” “pipeline carrier,” and “pipeline facility” have the meanings given in [AS 42.06.630](#).

(r) A plant or facility that generates electricity entirely from renewable energy resources is exempt from regulation under this chapter if

(1) the plant or facility

(A) is first placed into commercial operation on or after August 31, 2010, and before July 1, 2021; and

(B) does not generate more than 65 megawatts of electricity;

(2) the electricity generated by the plant or facility is sold only to one or more electric utilities that are regulated by the commission; and

(3) the person that constructs, owns, acquires, or operates the plant or facility has not received from the state

(A) a grant that was used to generate the electricity from the renewable energy resources; or

(B) a tax credit related to the generation of electricity from the renewable energy resources.

(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.

(t) In this section, “renewable energy resources” means

(1) wind, solar, geothermal, wasteheat recovery, hydrothermal, wave, tidal, river in-stream, or hydropower;

(2) low-emission nontoxic biomass based on solid or liquid organic fuels from wood, forest and field residues, or animal or fish products;

(3) dedicated energy crops available on a renewable basis; or

(4) landfill gas and digester gas.

(u) A utility that provides telecommunications services is exempt from the provisions of this chapter, other than [AS 42.05.141](#)(e) and (f), 42.05.221 — 42.05.281, 42.05.296, 42.05.306, 42.05.381(l) — (n), 42.05.631, 42.05.641, 42.05.661, and 42.05.820 — 42.05.860.

(v) Notwithstanding (u) of this section, the commission has the authority to regulate the rates and terms and conditions of telecommunications services provided to inmates in the custody of the Department of Corrections.