



# LAWS OF ALASKA

2013

**Source**

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**Chapter No.**

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## AN ACT

Relating to the Alaska Gasline Development Corporation; establishing the Alaska Gasline Development Corporation as an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by contract carriage; repealing the statutes relating to the Alaska Natural Gas Development Authority and making conforming changes; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



## **AN ACT**

1 Relating to the Alaska Gasline Development Corporation; establishing the Alaska Gasline  
2 Development Corporation as an independent public corporation of the state; establishing and  
3 relating to the in-state natural gas pipeline fund; making certain information provided to or by  
4 the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a  
5 public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska  
6 Housing Finance Corporation; relating to judicial review of a right-of-way lease or an action  
7 or decision related to the development or construction of an oil or gas pipeline on state land;  
8 relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a  
9 corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural  
10 resources, permits, and leases provided to the Alaska Gasline Development Corporation;  
11 relating to procurement by the Alaska Gasline Development Corporation; relating to the  
12 review by the Regulatory Commission of Alaska of natural gas transportation contracts;

1 relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas  
2 pipeline project developed by the Alaska Gasline Development Corporation; relating to the  
3 regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that  
4 provides transportation by contract carriage; repealing the statutes relating to the Alaska  
5 Natural Gas Development Authority and making conforming changes; exempting property of  
6 a project developed by the Alaska Gasline Development Corporation from property taxes  
7 before the commencement of commercial operations; and providing for an effective date.

8

9

10 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
11 to read:

12                   **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

13                   (1) an in-state natural gas pipeline developed by the Alaska Gasline  
14 Development Corporation is required for public convenience and necessity;

15                   (2) the development of a natural gas pipeline by the Alaska Gasline  
16 Development Corporation is in the best interest of the state;

17                   (3) making the Alaska Gasline Development Corporation an independent  
18 public corporation of the State of Alaska located for administrative purposes under the  
19 Department of Commerce, Community, and Economic Development will enhance the ability  
20 of the Alaska Gasline Development Corporation to accomplish its purposes.

21                   (b) It is the intent of the legislature that

22                   (1) the Alaska Gasline Development Corporation, in its new placement as an  
23 independent public corporation of the state, shall be treated for all purposes as the transfer of a  
24 corporation within the state and not as the creation of a new entity by the State of Alaska;

25                   (2) the Board of Directors of the Alaska Gasline Development Corporation  
26 commit to governing the Alaska Gasline Development Corporation so as to affect positively  
27 as many Alaskans as possible, including those in rural and coastal communities, and to extend  
28 opportunities for all Alaskans to benefit from the natural gas resources of the state, including

1 propane and associated gas-related hydrocarbons other than oil;

2 (3) to the maximum extent permitted by law, in developing a natural gas  
3 pipeline, the Alaska Gasline Development Corporation shall procure services, labor, products,  
4 and natural resources from qualified businesses located in the state, including organizations  
5 owned by Alaska Natives and municipal organizations directly affected by the project, if  
6 those persons are competitive;

7 (4) the Alaska Gasline Development Corporation shall, to the maximum  
8 extent permitted by law,

9 (A) hire qualified residents from throughout the state for management,  
10 engineering, construction, operations, maintenance, and other positions for a natural  
11 gas pipeline project;

12 (B) establish hiring facilities in the state or use existing hiring facilities  
13 in the state; and

14 (C) use, as far as practicable, the job centers and associated services  
15 operated by the Department of Labor and Workforce Development and an Internet-  
16 based labor exchange system operated by the state; and

17 (5) the Alaska Gasline Development Corporation and its subsidiaries shall  
18 wind up and dissolve when no bonds, notes, or other obligations are outstanding and the  
19 Alaska Gasline Development Corporation or a subsidiary of the Alaska Gasline Development  
20 Corporation is no longer engaged in the development, financing, construction, or operation of  
21 an in-state natural gas pipeline.

22 \* **Sec. 2. AS 18.56.086** is amended to read:

23 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create  
24 subsidiary corporations for the purpose of financing or facilitating the financing of  
25 school construction, facilities for the University of Alaska, facilities for ports and  
26 harbors, the acquisition, development, management, or operation of affordable  
27 housing, prepayment of all or a portion of a governmental employer's share of  
28 unfunded accrued actuarial liability of retirement systems, or other capital projects. [A  
29 SUBSIDIARY CORPORATION MAY ALSO BE CREATED FOR THE PURPOSE  
30 OF PLANNING, CONSTRUCTING, AND FINANCING IN-STATE NATURAL  
31 GAS PIPELINE PROJECTS OR FOR THE PURPOSE OF AIDING IN THE

1 PLANNING, CONSTRUCTION, AND FINANCING OF IN-STATE NATURAL  
2 GAS PIPELINE PROJECTS.] A subsidiary corporation created under this section  
3 may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer  
4 assets of the corporation to a subsidiary created under this section. A subsidiary  
5 created under this section may borrow money and issue bonds as evidence of that  
6 borrowing, and has all the powers of the corporation that the corporation grants to it.  
7 However, a subsidiary created for the purpose of financing or facilitating the financing  
8 of prepayment of a governmental employer's share of unfunded accrued actuarial  
9 liability of retirement systems may borrow money and issue bonds only if the state  
10 bond rating is the equivalent of AA- or better and subject to AS 37.15.903. [A  
11 SUBSIDIARY CORPORATION CREATED FOR THE PURPOSE OF PLANNING,  
12 CONSTRUCTING, AND FINANCING IN-STATE NATURAL GAS PIPELINE  
13 PROJECTS OR FOR THE PURPOSE OF AIDING IN THE PLANNING,  
14 CONSTRUCTION, OR FINANCING OF IN-STATE NATURAL GAS PIPELINE  
15 PROJECTS IS EXEMPT FROM AS 36.30, INCLUDING AS 36.30.015(d) AND (f).]  
16 Unless otherwise provided by the corporation, the debts, liabilities, and obligations of  
17 a subsidiary corporation created under this section are not the debts, liabilities, or  
18 obligations of the corporation.

19 \* **Sec. 3.** AS 31 is amended by adding a new chapter to read:

20 **Chapter 25. Alaska Gasline Development Corporation.**

21 **Article 1. Organization, Administration, and Powers.**

22 **Sec. 31.25.010. Structure.** The Alaska Gasline Development Corporation is a  
23 public corporation and government instrumentality located for administrative purposes  
24 in the Department of Commerce, Community, and Economic Development, but  
25 having a legal existence independent of and separate from the state. The corporation  
26 may not be terminated as long as it has bonds, notes, or other obligations outstanding.  
27 The corporation may dissolve when no bonds, notes, or other obligations of the  
28 corporation or a subsidiary of the corporation are outstanding and the corporation or a  
29 subsidiary of the corporation is no longer engaged in the development, financing,  
30 construction, or operation of an in-state natural gas pipeline. Upon termination of the  
31 corporation, its rights and property pass to the state.

**Sec. 31.25.020. Governing body.** (a) The corporation shall be governed by a board of directors consisting of

(1) five public members; and

(2) two individuals designated by the governor that are each the head of a principal department of the state, except that the commissioner of natural resources and the commissioner of revenue may not be designated to serve on the board unless the project for which a license is issued under AS 43.90 has been abandoned or is no longer receiving the inducements in AS 43.90.110(a) or the commissioner of natural resources and the commissioner of revenue are no longer signatories on a valid contract under AS 43.90.

(b) Public members of the board shall be appointed by the governor and are subject to confirmation by the legislature. When appointing a public member to the board, the governor shall consider an individual's expertise and experience in natural gas pipeline construction, operation, and marketing; finance; large project management; and other expertise and experience that is relevant to the purpose, powers, and duties of the corporation. Public members of the board serve staggered five-year terms. A public member serves at the pleasure of the governor. A vacancy shall be filled in the same manner as the original appointment.

(c) Notwithstanding AS 39.05.055, the terms of the initially appointed public members of the board shall be set by the governor to be two years for two members, three years for two members, and five years for one member.

(d) The public members of the board receive \$400 compensation for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

**Sec. 31.25.030. Meetings of board.** (a) The board shall elect a chair, secretary, and treasurer from among its membership at each annual meeting. A majority of the members constitutes a quorum for organizing the board, conducting its business, and exercising the powers of the corporation. The board shall meet at the call of the chair. The board shall meet at least once every three months.

(b) The board may meet and transact business by electronic media if

(1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location;

(2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and

(3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public.

(c) A meeting by electronic media as provided in this section has the same legal effect as a meeting in person.

(d) For the purposes of this chapter, public notice of 24 hours or more is adequate notice of a meeting of the board at which the issuance of corporation bonds is authorized.

(e) An affirmative vote of at least four members of the board is required to approve

(1) the sale and issuance of bonds;

(2) the sale or other disposition of a substantial asset or substantial amount of the assets of the corporation; the corporation shall adopt a regulation that defines a substantial asset and a substantial amount of assets for the purposes of this paragraph;

(3) the ownership structure for a pipeline project of which the corporation is a participant;

(4) an action committing the corporation to an additional natural gas pipeline project; and

(5) action on other matters identified in a regulation adopted by the corporation as being subject to this subsection.

**Sec. 31.25.035. Minutes of meetings.** The board shall keep minutes of each meeting and send certified copies to the governor and to the Legislative Budget and Audit Committee.

**Sec. 31.25.040. Administration of affairs.** (a) The board shall manage the assets and business of the corporation and may adopt, amend, and repeal bylaws and

1 regulations governing the manner in which the business of the corporation is  
2 conducted and the manner in which its powers are exercised. The board shall delegate  
3 supervision of the administration of the corporation to the executive director,  
4 appointed in accordance with AS 31.25.045.

5 (b) The board shall adopt and publish procedures to govern the procurement  
6 by the corporation of supplies, services, professional services, and construction. The  
7 procurement procedures must provide for an Alaska veterans' preference that is  
8 consistent with the Alaska veterans' preference in AS 36.30.175.

9 **Sec. 31.25.045. Executive director.** The corporation shall employ an  
10 executive director who may not be a member of the board. The executive director shall  
11 be appointed by the board and serves at the pleasure of the board.

12 **Sec. 31.25.050. Legal counsel.** The corporation shall retain legal counsel to  
13 advise the corporation in legal matters and represent it in litigation.

14 **Sec. 31.25.060. Employment of personnel.** The board may appoint other  
15 officers and engage professional and technical advisors as independent contractors.  
16 The executive director may hire employees of the corporation and engage professional  
17 and technical advisors under contract with the corporation. The board shall prescribe  
18 the duties and compensation of corporation personnel, including the executive  
19 director.

20 **Sec. 31.25.065. Personnel exempt from State Personnel Act.** The personnel  
21 of the corporation are exempt from AS 39.25.

22 **Sec. 31.25.070. Purpose.** The corporation shall, for the benefit of the state, to  
23 the fullest extent possible,

24 (1) advance an in-state natural gas pipeline as described in the July 1,  
25 2011, project plan prepared under former AS 38.34.040 by the corporation while a  
26 subsidiary of the Alaska Housing Finance Corporation, with modifications determined  
27 by the corporation to be appropriate to develop, finance, construct, and operate an in-  
28 state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the  
29 purpose of making natural gas, including propane and other hydrocarbons associated  
30 with natural gas other than oil, available to Fairbanks, the Southcentral region of the  
31 state, and other communities in the state at the lowest rates possible;

(2) endeavor to develop natural gas pipelines and other transportation mechanisms to deliver natural gas, including propane and other hydrocarbons associated with natural gas other than oil, to public utility and industrial customers in areas of the state to which the natural gas, including propane and other hydrocarbons associated with natural gas other than oil, may be delivered at commercially reasonable rates; and

(3) endeavor to develop natural gas pipelines and other transportation mechanisms that offer commercially reasonable rates for shippers and access for shippers who produce natural gas, including propane and other hydrocarbons associated with natural gas other than oil, in the state.

**Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in this chapter, the corporation may

(1) determine the form of ownership and the operating structure of an in-state natural gas pipeline developed by the corporation and may enter into agreements with other persons for joint ownership, joint operation, or both of an in-state natural gas pipeline;

(2) plan, finance, construct, develop, acquire, maintain, and operate a pipeline system and other transportation mechanism, including pipelines, compressors, storage facilities, and other related facilities, equipment, and works of public improvement, in the state to facilitate production, transportation, and delivery of natural gas or other related natural resources to the point of consumption or to the point of distribution for consumption;

(3) lease or rent facilities, structures, and properties;

(4) exercise the power of eminent domain and file a declaration of taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is necessary for an in-state natural gas pipeline; the exercise of powers by the corporation under this paragraph may not exceed the permissible exercise of the powers by the state:

(5) acquire, by purchase, lease, or gift, land, structures, real or personal property, an interest in property, a right-of-way, a franchise, an easement, or other interest in land, or an interest in or right to capacity in a pipeline system determined to

1           be necessary or convenient for the development, financing, construction, or operation  
2           of an in-state natural gas pipeline project or part of an in-state natural gas pipeline  
3           project;

4                   (6) transfer or otherwise dispose of all or part of an in-state natural gas  
5           pipeline project developed by the corporation or transfer or otherwise dispose of an  
6           interest in an asset of the corporation;

7                   (7) elect to provide transportation of natural gas as a contract carrier,  
8           common carrier, or otherwise;

9                   (8) provide light, water, security, and other services for property of the  
10           corporation;

11                   (9) conduct hearings to gather and develop data consistent with the  
12           purpose and powers of the corporation;

13                   (10) advocate for new pipeline capacity before the Federal Energy  
14           Regulatory Commission;

15                   (11) make and execute agreements, contracts, and other instruments  
16           necessary or convenient in the exercise of the powers and functions of the corporation  
17           under this chapter, including a contract with a person, firm, corporation, governmental  
18           agency, or other entity;

19                   (12) sue and be sued in its own name;

20                   (13) adopt an official seal;

21                   (14) adopt bylaws for the regulation of its affairs and the conduct of its  
22           business and adopt regulations and policies in connection with the performance of its  
23           functions and duties;

24                   (15) employ fiscal consultants, engineers, attorneys, appraisers, and  
25           other consultants and employees that may, in the judgment of the corporation, be  
26           required and fix and pay their compensation from funds available to the corporation;

27                   (16) procure insurance against a loss in connection with its operation;

28                   (17) borrow money as provided in this chapter to carry out its  
29           corporate purposes and issue its obligations as evidence of borrowing;

30                   (18) include in a borrowing the amounts necessary to pay financing  
31           charges, to pay interest on the obligations, and to pay the interest, consultant, advisory,

1 and legal fees, and other expenses that are necessary or incident to the borrowing;

2 (19) receive, administer, and comply with the conditions and  
3 requirements of an appropriation, gift, grant, or donation of property or money;

4 (20) do all acts and things necessary, convenient, or desirable to carry  
5 out the powers expressly granted or necessarily implied in this chapter;

6 (21) invest or reinvest, subject to its contracts with noteholders and  
7 bondholders, money or funds held by the corporation, including funds in the in-state  
8 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or  
9 investments in which banks or trust companies in the state may legally invest funds  
10 held in reserves or sinking funds or funds not required for immediate disbursement,  
11 and in certificates of deposit or time deposits secured by obligations of, or guaranteed  
12 by, the state or the United States;

13 (22) enter into, as it determines to be necessary or appropriate, any  
14 swap or hedge, cap, or other contract providing for payments based on levels of or  
15 changes in interest rates or indices or in the cost or price of any commodity, supply, or  
16 expense expected to be used or incurred in connection with the acquisition,  
17 construction, or operation of any facility or property owned, leased, or operated by the  
18 corporation, or an option with respect to any of the foregoing.

19 (b) Upon commencement of construction of an in-state natural gas pipeline,  
20 the corporation shall analyze potential natural gas pipelines and other transportation  
21 mechanisms connecting to industrial, residential, or utility customers in other regions  
22 of the state. If the corporation finds that a natural gas pipeline or other transportation  
23 mechanism analyzed under this subsection is in the best interest of the state and can  
24 meet the needs of industrial, residential, or utility customers at commercially  
25 reasonable rates, the corporation may finance, construct, or operate the natural gas  
26 pipeline or other transportation mechanism as necessary. When developing or  
27 constructing a connecting line or other transportation mechanism, the corporation  
28 shall, to the maximum extent feasible, use existing land, structures, real or personal  
29 property, rights-of-way, easements, or other interests in land acquired by the  
30 corporation.

31 (c) The corporation may not develop or construct a natural gas pipeline that is

1 a competing natural gas pipeline project for purposes of AS 43.90.440.

2 (d) The corporation shall establish a schedule of reasonable fees, rental rates,  
3 and other charges, and collect fees, rentals, and other charges for use of the facilities  
4 of the corporation.

5 (e) If commitments to acquire firm transportation capacity are received in an  
6 open season conducted by the corporation, the corporation shall, within 10 days after  
7 accepting and executing the written commitments received during the open season,  
8 report the results of the open season to the president of the senate and the speaker of  
9 the house of representatives and inform the public of the results of the open season  
10 through publication on the Internet website of the corporation and in a press release or  
11 other announcement to the media. The results made public must include the name of  
12 each prospective shipper, the amount of capacity allocated, and the period of the  
13 commitment. If the corporation determines that the commitments received during the  
14 open season are not sufficient to permit the corporation to continue the development or  
15 construction of the natural gas pipeline, the corporation shall report that to the  
16 legislature within 30 days.

17 (f) The corporation shall, to the maximum extent practicable without delaying  
18 the progress of developing an in-state natural gas pipeline project and without causing  
19 the in-state natural gas pipeline project to become a competing natural gas pipeline  
20 project for purposes of AS 43.90.440, coordinate with and accommodate the  
21 developers of a large-diameter in-state natural gas pipeline by planning for the  
22 development and use of common pipeline facilities from the North Slope to the  
23 Livengood area or to another point from which a large-diameter in-state natural gas  
24 pipeline may be constructed south to tidewater in either the Prince William Sound or  
25 Cook Inlet area. In this subsection, "large-diameter in-state natural gas pipeline"  
26 means a pipeline in the state with a diameter of 42 inches or more.

27 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The  
28 corporation shall have access to information of departments, agencies, and public  
29 corporations of the state that is directly related to the planning, financing,  
30 development, acquisition, maintenance, construction, or operation of an in-state  
31 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and

1 designs that have already been provided or obtained by other state entities. All  
2 departments, agencies, and public corporations of the state shall cooperate with and  
3 shall provide information, services, and facilities to the corporation upon its request  
4 and, except for requests from the Alaska Gasline Inducement Act coordinator  
5 appointed under AS 43.90.250, give priority to processing authorization applications  
6 and other requests of the corporation.

7 (b) Upon request by the corporation, a state entity shall provide water, sand  
8 and gravel, other nonhydrocarbon natural resources, and a permit or a lease to the  
9 corporation at the usual and customary rates, except as provided in (d) of this section.  
10 Review of and action on a request shall be conducted and taken as provided in  
11 AS 38.34.020. In this subsection, "state entity" means a state department, authority, or  
12 other administrative unit of the executive branch of state government, a public  
13 university, or a public corporation of the state.

14 (c) That part of the cost of providing, under (b) of this section, water, sand and  
15 gravel, or other nonhydrocarbon natural resources, or of entering into a lease or  
16 issuing a permit, that is borne by the corporation for an in-state natural gas pipeline  
17 project that is owned in whole or in part by the corporation may not be included in the  
18 rate base in a proceeding under AS 42 or before the Federal Energy Regulatory  
19 Commission.

20 (d) Notwithstanding any contrary provision of law, the Department of Natural  
21 Resources shall grant the corporation a right-of-way lease under AS 38.35 for the gas  
22 pipeline transportation corridor at no appraisal or rental cost if

23 (1) a complete right-of-way lease application under AS 38.35.050 is  
24 submitted;

25 (2) the lease application is made the subject of notice and other  
26 reasonable and appropriate publication requirements under AS 38.35.070; and

27 (3) the corporation submits the application for the right-of-way lease  
28 and agrees to be bound by those right-of-way lease covenants set out in

29 (A) AS 38.35.120 for an in-state natural gas pipeline that the  
30 corporation intends to be a common carrier; or

31 (B) AS 38.35.121 for an in-state natural gas pipeline that the

1 corporation intends to be a contract carrier.

2 (e) After approval by the commissioner of natural resources, a right-of-way  
3 lease received by the corporation under (d) of this section may be transferred to a  
4 successor in interest under the same terms and conditions applicable to the right-of-  
5 way lease granted to the corporation.

6 (f) The corporation may enter into confidentiality agreements necessary to  
7 acquire or provide information to carry out its functions. If a state agency determines  
8 that a law or provision of a contract to which the state agency is a party requires the  
9 state agency to preserve the confidentiality of the information and that delivering the  
10 information to the corporation would violate the confidentiality provision of that law  
11 or contract, the state agency shall

12 (1) identify the applicable law or contract provision to the corporation;  
13 and

14 (2) obtain the consent of the person who has the right to waive the  
15 confidentiality of the information under the applicable law or contract provision before  
16 the state agency transfers the information to the corporation.

17 (g) The portions of records containing information acquired or provided by the  
18 corporation under a confidentiality agreement are not subject to AS 40.25. The  
19 corporation may enter into confidentiality agreements with a public agency, as defined  
20 in AS 40.25.220, to allow release of confidential information. The portions of the  
21 records and files of a public agency bound by a confidentiality agreement that reflect,  
22 incorporate, or analyze information subject to a confidentiality agreement under this  
23 subsection are not public records. Confidentiality agreements entered into under this  
24 subsection are valid and binding against all parties in accordance with the terms of the  
25 confidentiality agreement.

26 (h) Information and trade secrets of the corporation are confidential and not  
27 subject to AS 40.25 if the corporation determines that disclosure would cause  
28 commercial or competitive harm or damage to the corporation. Information that  
29 discloses the particulars of a business or the affairs of a private enterprise, investor,  
30 advisor, consultant, counsel, or manager that is developed or obtained by the  
31 corporation and related to the development, financing, construction, or operation of an

in-state natural gas pipeline project by the corporation is confidential and not subject to AS 40.25. The corporation may waive the confidentiality described in this subsection, except for information that is confidential under another provision of state law or under a federal law or regulation and except for information acquired from another person that is subject to a confidentiality agreement, if the waiver is consistent with the interests of the state and will facilitate the development, financing, or construction of an in-state natural gas pipeline. On the date that the in-state natural gas pipeline project becomes operational, the corporation shall make available, upon request under AS 40.25, records that were exempt from AS 40.25 under this subsection or (g) of this section, unless the corporation determines that

(1) maintaining the confidentiality of the information is necessary to protect the economic interests of the corporation or the state; or

(2) disclosure of the information will violate another provision of state law, a federal law or regulation, or the terms of a confidentiality agreement or other agreement to which the corporation is a party or that is binding on the corporation.

**Sec. 31.25.100. In-state natural gas pipeline fund.** The in-state natural gas pipeline fund is established in the corporation and consists of money appropriated to it. The corporation shall determine fund management and may contract with the Department of Revenue for fund management. Unless otherwise provided by law, money appropriated to the fund lapses into the general fund on the day this section is repealed. Interest and other income received on money in the fund shall be separately accounted for and may be appropriated to the fund. The corporation may use money appropriated to the fund without further appropriation for the cost of managing the fund and for the planning, financing, development, acquisition, maintenance, construction, and operation of an in-state natural gas pipeline.

**Sec. 31.25.120. Creation of subsidiaries.** The corporation may create subsidiary corporations for the purpose of developing, constructing, operating, and financing in-state natural gas pipeline projects or other transportation mechanisms; for the purpose of aiding in the development, construction, operation, and financing of in-state natural gas pipeline projects; or for the purpose of acquiring the state's royalty share of natural gas, natural gas from the North Slope, and natural gas from other

1 regions of the state, including the state's outer continental shelf, and making that  
2 natural gas available to markets in the state, including the delivery of natural gas,  
3 including propane and other hydrocarbons associated with natural gas other than oil, to  
4 coastal communities in the state, or for export. A subsidiary corporation created under  
5 this section may be incorporated under AS 10.20.146 - 10.20.166. The corporation  
6 may transfer assets of the corporation to a subsidiary created under this section. A  
7 subsidiary created under this section may borrow money and issue bonds as evidence  
8 of that borrowing and has all the powers of the corporation that the corporation grants  
9 to it. Unless otherwise provided by the corporation, the debts, liabilities, and  
10 obligations of a subsidiary corporation created under this section are not the debts,  
11 liabilities, or obligations of the corporation.

12 **Sec. 31.25.130. Administrative procedure; regulations.** (a) Except for  
13 AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62 (Administrative Procedure  
14 Act) does not apply to this chapter. The corporation shall make available to members  
15 of the public copies of the regulations adopted under (b) - (e) of this section. Within 45  
16 days after adoption, the chair of the board shall submit a regulation adopted under (b) -  
17 (e) of this section to the chair of the Administrative Regulation Review Committee  
18 under AS 24.20.400 - 24.20.460.

19 (b) The board may adopt regulations by motion or by resolution or in another  
20 manner permitted by its bylaws.

21 (c) The board may adopt regulations to carry out the purposes of this chapter.

22 (d) Except as provided in (e) of this section, at least 15 days before the  
23 adoption, amendment, or repeal of a regulation, the board shall give public notice of  
24 the proposed action by posting notice on the corporation's Internet website and on the  
25 Alaska Online Public Notice System and by mailing a copy of the notice to every  
26 person who has filed a request for notice of proposed regulations with the board or the  
27 corporation. The public notice must include a statement of the time, place, and nature  
28 of the proceedings for the adoption, amendment, or repeal of the regulation and must  
29 include an informative summary of the proposed subject of the regulation. On the date  
30 and at the time and place designated in the notice, the board shall give each interested  
31 person or an authorized representative, or both, the opportunity to present statements,

1 arguments, or contentions in writing and shall give members of the public an  
2 opportunity to present oral statements, arguments, or contentions for a total period of  
3 at least one hour. The board shall consider all relevant matter presented to it before  
4 adopting, amending, or repealing a regulation. At a hearing under this subsection, the  
5 board may continue or postpone the hearing to a time and place that it determines. A  
6 regulation that is adopted, or its amendment or repeal, may vary in content from the  
7 informative summary specified in this subsection if the subject matter of the  
8 regulation, or its amendment or repeal, remains the same and the original notice was  
9 written to ensure that members of the public are reasonably notified of the proposed  
10 subject of the board's action in order for them to determine whether their interests  
11 could be affected by the board's action on that subject.

12 (e) A regulation or order of repeal may be adopted as an emergency regulation  
13 or order of repeal if the board makes a finding in its order of adoption or repeal,  
14 including a statement of the facts that constitute the emergency, that the adoption of  
15 the regulation or order of repeal is necessary for the immediate preservation of the  
16 orderly operation of the corporation's bonding programs. Upon adoption of an  
17 emergency regulation, the board shall, within 10 days after adoption, give notice of the  
18 adoption in accordance with (d) of this section. An emergency regulation adopted  
19 under this subsection does not remain in effect more than 120 days unless the board  
20 complies with (d) of this section during the 120-day period.

21 (f) A regulation adopted under (b) - (e) of this section becomes effective  
22 immediately upon its adoption by the board, unless otherwise specifically provided by  
23 the order of adoption.

24 **Sec. 31.25.140. Exemption from the State Procurement Code; application**  
25 **of the Executive Budget Act; corporation finances.** (a) The corporation and its  
26 subsidiaries are exempt from the provisions of AS 36.30 (State Procurement Code).

27 (b) The operating budget of the corporation and a subsidiary of the corporation  
28 are subject to AS 37.07 (Executive Budget Act).

29 (c) To further ensure effective budgetary decision making by the legislature,  
30 the board shall

31 (1) annually review the corporation's assets, including the assets of the

1 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of  
2 the corporation exceed an amount required to fulfill the purposes of the corporation as  
3 defined in this chapter; in making its review, the board shall determine whether, and to  
4 what extent, assets in excess of the amount required to fulfill the purposes of the  
5 corporation during the next fiscal year are available without

6 (A) breaching an agreement entered into by the corporation;  
7 (B) materially impairing the operations or financial integrity of  
8 the corporation; or  
9 (C) materially affecting the ability of the corporation to fulfill  
10 the purposes of the corporation as defined in this chapter;

11 (2) specifically identify in the corporation's assets the amounts that the  
12 board believes are necessary to meet the requirements of (1)(C) of this subsection; and

13 (3) present to the legislature by January 10 of each year a complete  
14 accounting of all assets of the corporation, including assets of the in-state natural gas  
15 pipeline fund under AS 31.25.100, and a report of the review and determination made  
16 under (1) and (2) of this subsection; the accounting shall be audited by an independent  
17 outside auditor.

## 18 Article 2. Bonds and Notes.

19 **Sec. 31.25.160. Bonds and notes.** (a) The corporation may, by resolution,  
20 issue bonds and bond anticipation notes to provide funds to carry out its purposes.

21 (b) The principal of and interest on the bonds or notes are payable from  
22 corporation funds. Bond anticipation notes may be payable from the proceeds of the  
23 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the  
24 event bond or bond anticipation note proceeds are not available, from other funds or  
25 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a  
26 grant or contribution from the federal government, or a corporation, association,  
27 institution, or person, or a pledge of money, income, or revenue of the corporation  
28 from any source.

29 (c) Bonds or bond anticipation notes may be issued in one or more series and  
30 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be  
31 in the denomination, be in the form, either coupon or registered, carry the conversion

1 or registration provisions, have the rank or priority, be executed in the manner and  
2 form, be payable from the sources in the medium of payment and place or places  
3 within or outside the state, be subject to authentication by a trustee or fiscal agent, and  
4 be subject to the terms of redemption with or without premium, as the resolution of the  
5 corporation may provide. Bond anticipation notes shall mature at the time or times that  
6 are determined by the corporation. Bonds shall mature at a time, not exceeding 50  
7 years from their date, that is determined by the corporation. Before the preparation of  
8 definitive bonds or bond anticipation notes, the corporation may issue interim receipts  
9 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable  
10 for bonds or bond anticipation notes when the definitive bonds or bond anticipation  
11 notes have been executed and are available for delivery.

12 (d) Bonds or bond anticipation notes may be sold in the manner and on the  
13 terms the corporation determines.

14 (e) If an officer whose signature or a facsimile of whose signature appears on  
15 bonds or notes or coupons attached to them ceases to be an officer before the delivery  
16 of the bond, note, or coupon, the signature or facsimile is valid the same as if the  
17 officer had remained in office until delivery.

18 (f) In a resolution of the corporation authorizing or relating to the issuance of  
19 bonds or bond anticipation notes, the corporation has power by provisions in the  
20 resolution that will constitute covenants of the corporation and contracts with the  
21 holders of the bonds or bond anticipation notes

22 (1) to pledge to a payment or purpose all or a part of its revenue to  
23 which its right then exists or may thereafter come into existence the money derived  
24 from the revenue and the proceeds of the bonds or notes;

25 (2) to covenant against pledging all or a part of its revenue or against  
26 permitting or suffering a lien on the revenue of its property;

27 (3) to covenant as to the use and disposition of payments of principal  
28 or interest received by the corporation on investments held by the corporation;

29 (4) to covenant as to establishment of reserves or sinking funds and the  
30 making of provision for and the regulation and disposition of the reserves or sinking  
31 funds;

(5) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(6) to covenant as to bonds and notes to be issued, and their limitations, terms, and condition, and as to the custody, application, and disposition of the proceeds of the bonds and notes;

(7) to covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and the incurring of other debts;

(8) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(9) to provide for the replacement of lost, stolen, destroyed, or mutilated bonds or notes;

(10) to covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;

(11) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(12) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves, or other purposes, and as to the use and disposition of the money held in the funds;

(13) to establish the procedure, if any, by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(14) to covenant as to the custody of any of its properties or investments, the safekeeping and insurance of its properties or investments, and the use and disposition of insurance money;

(15) to covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect

1 to nonpayment or violation of the terms of an agreement to which the corporation is a  
2 party or with respect to which the corporation has enforcement rights;

3 (16) to provide for the rights, liabilities, powers, and duties arising  
4 upon the breach of a covenant, condition, or obligation, and to prescribe the events of  
5 default and the terms and conditions on which any or all of the bonds, notes, or other  
6 obligations of the corporation become or may be declared due and payable before  
7 maturity and the terms and conditions on which a declaration and its consequences  
8 may be waived;

9 (17) to vest in a trustee or trustees within or outside the state the  
10 property, rights, powers, and duties in trust as the corporation may determine, which  
11 may include any or all of the rights, powers, and duties of a trustee appointed by the  
12 holders of the bonds or notes, and to limit or abrogate the right of the holders of the  
13 bonds or notes of the corporation to appoint a trustee under this chapter or limit the  
14 rights, powers, and duties of the trustee;

15 (18) to pay the costs or expenses incident to the enforcement of the  
16 bonds or notes or of the provisions of the resolution or of a covenant or agreement of  
17 the corporation with the holders of its bonds or notes;

18 (19) to agree with a corporate trustee, which may be a trust company  
19 or bank having the powers of a trust company within or outside the state, as to the  
20 pledging or assigning of revenue or funds to which or in which the corporation has any  
21 rights or interest; the agreement may further provide for other rights and remedies  
22 exercisable by the trustee as may be proper for the protection of the holders of the  
23 bonds or notes of the corporation and not otherwise in violation of law and may  
24 provide for the restriction of the rights of an individual holder of bonds or notes of the  
25 corporation;

26 (20) to appoint and provide for the duties and obligations of any  
27 paying agent or paying agents, or other fiduciaries as the resolution may provide  
28 within or outside the state;

29 (21) to limit the rights of the holders of the bonds or notes to enforce a  
30 pledge or covenant securing bonds or notes;

31 (22) to make covenants other than and in addition to the covenants

1 expressly authorized in this section, of like or different character, and to make  
2 covenants to do or refrain from doing acts and things as may be necessary, or as may  
3 be convenient and desirable, to better secure bonds or notes or that, in the absolute  
4 discretion of the corporation, would tend to make bonds or notes more marketable,  
5 notwithstanding that the covenants, acts, or things may not be enumerated in this  
6 section.

7 **Sec. 31.25.170. Independent financial advisor.** In negotiating the sale of  
8 bonds or bond anticipation notes to an underwriter, the corporation may retain a  
9 financial advisor. A financial advisor retained under this section must be independent  
10 from the underwriter.

11 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the  
12 corporation to the payment of the principal of or interest on an obligation of the  
13 corporation is valid and binding from the time the pledge is made, and the assets or  
14 revenue are immediately subject to the lien of the pledge without physical delivery or  
15 further act. The lien of the pledge is valid and binding against all parties having claims  
16 of any kind in tort, contract, or otherwise against the corporation, regardless of  
17 whether those parties have notice of the lien of the pledge. This section does not  
18 prohibit the corporation from selling assets subject to a pledge, except that the sale  
19 may be restricted by the trust agreement or resolution providing for the issuance of the  
20 obligations.

21 **Sec. 31.25.190. Capital reserve funds.** (a) The corporation may not establish  
22 a capital reserve fund as described in this section except as expressly authorized by  
23 law. The enactment of this section does not express that authorization. Upon  
24 enactment of a law expressly authorizing the establishment of a capital reserve fund  
25 described in this section and for the purpose of securing one or more issues of its  
26 obligations, the corporation may establish one or more special funds, called "capital  
27 reserve funds," and shall pay into those capital reserve funds

28 (1) money appropriated and made available by the state for the purpose  
29 of any of those funds;

30 (2) proceeds of the sale of its obligations, to the extent provided in the  
31 resolution or resolutions of the corporation authorizing their issuance; and

(3) other money that may be made available to the corporation for the purposes of those funds from another source.

(b) All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for the payment of the principal of obligations or of the sinking fund payments with respect to those obligations; the purchase or redemption of obligations; the payment of interest on obligations; or the payment of a redemption premium required to be paid when those obligations are redeemed before maturity. However, money in a fund may not, at any time, be withdrawn from the fund in an amount that would reduce the amount of that fund to less than the capital reserve requirement set out in (c) of this section, except for the purpose of making, with respect to those obligations, payment, when due, of principal, interest, redemption premiums, and the sinking fund payments for the payment of which other money of the corporation is not available. Income or interest earned by, or increment to, a capital reserve fund, because of the investment of the fund or other amounts in it, may be transferred by the corporation to other funds or accounts of the corporation to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(c) If the corporation decides to issue obligations secured by a capital reserve fund, the obligations may not be issued if the amount in the capital reserve fund is less than a percentage, not exceeding 10 percent of the principal amount of all of those obligations secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms, as may be established by resolution of the corporation (called the "capital reserve fund requirement"), unless the corporation, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources an amount that, together with the amount then in the fund, would not be less than the capital reserve fund requirement.

(d) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued at par or, if purchased at less than par, at amortized costs as the term is defined by resolution of the corporation authorizing the issue of the obligations, or by some other reasonable method established by the corporation by resolution. Valuation on a

1 particular date shall include the amount of interest earned or accrued to that date.

2 (e) The chair of the corporation shall annually, not later than January 2, make  
3 and deliver to the governor and chairs of the house and senate finance committees a  
4 certificate stating the sum, if any, required to restore a capital reserve fund to the  
5 capital reserve fund requirement. The legislature may appropriate that sum, and the  
6 corporation shall deposit all sums appropriated by the legislature during the then  
7 current fiscal year for the restoration in the proper capital reserve fund. Nothing in this  
8 section creates a debt or liability of the state.

9 **Sec. 31.25.200. Remedies.** A holder of obligations or coupons attached to  
10 them issued under this chapter, and a trustee under a trust agreement or resolution  
11 authorizing the issuance of the obligations, except as restricted by a trust agreement or  
12 resolution, either at law or in equity,

13 (1) may enforce all rights granted under this chapter, under the trust  
14 agreement or resolution, or under another contract executed by the corporation under  
15 this chapter; and

16 (2) may enforce and compel the performance of all duties required by  
17 this chapter or by the trust agreement or resolution to be performed by the corporation  
18 or by an officer of the corporation.

19 **Sec. 31.25.210. Negotiable instruments.** All obligations and interest coupons  
20 attached to them are negotiable instruments under the laws of this state, subject only to  
21 applicable provisions for registration.

22 **Sec. 31.25.220. Obligations eligible for investment.** Obligations issued under  
23 this chapter are securities in which all public officers and public bodies of the state and  
24 its political subdivisions and all insurance companies, trust companies, banking  
25 associations, investment companies, executors, administrators, trustees, and other  
26 fiduciaries may properly and legally invest funds, including capital in their control or  
27 belonging to them. Those obligations may be deposited with a state or municipal  
28 officer of an agency or political subdivision of the state for any purpose for which the  
29 deposit of bonds, notes, or obligations of the state is authorized by law.

30 **Sec. 31.25.230. Refunding obligations.** (a) The corporation may provide for  
31 the issuance of refunding obligations for the purpose of refunding obligations then

1 outstanding that have been issued under this chapter, including the payment of the  
2 redemption premium on them and interest accrued or to accrue to the date of  
3 redemption of the obligations. The issuance of the obligations, the maturities and other  
4 details of them, the rights of the holders of them, and the rights, duties, and obligations  
5 of the corporation with respect to them are governed by the provisions of this chapter  
6 that relate to the issuance of obligations, insofar as those provisions may be  
7 appropriate.

8 (b) Refunding obligations may be sold or exchanged for outstanding  
9 obligations issued under this chapter, and, if sold, the proceeds may be applied, in  
10 addition to other authorized purposes, to the purchase, redemption, or payment of the  
11 outstanding obligations.

12 **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this  
13 chapter do not constitute a debt, liability, or obligation of the state or of a political  
14 subdivision of the state or a pledge of the faith and credit of the state or of a political  
15 subdivision of the state but are payable solely from the revenue or assets of the  
16 corporation. Each obligation issued under this chapter shall contain on its face a  
17 statement that the corporation is not obligated to pay the obligation or the interest on  
18 the obligation except from the revenue or assets of the corporation and that neither the  
19 faith and credit nor the taxing power of the state or of any political subdivision of the  
20 state is pledged to the payment of the principal of or the interest on the obligation.  
21 This subsection applies to all debt, obligations, and liabilities of the corporation  
22 regardless of how the debt, obligations, or liabilities are created, including by contract,  
23 tort, or bond or note issuance. Except as provided in this subsection, a person may not  
24 bring suit against the state or a political subdivision of the state other than the  
25 corporation in the courts of the state to enforce or seek a remedy with respect to a  
26 debt, obligation, or liability of the corporation.

27 (b) Expenses incurred by the corporation in carrying out the provisions of this  
28 chapter are payable from funds provided under this chapter, and liability may not be  
29 incurred by the corporation in excess of those funds.

30 **Article 3. General Provisions.**

31 **Sec. 31.25.250. Limitation on personal liability.** A member of the board or

1 other officer of the corporation or a subsidiary of the corporation is not subject to  
2 personal liability or accountability because the member or officer executed or issued  
3 an obligation.

4 **Sec. 31.25.260. Tax exemption.** (a) The exercise of the powers granted by this  
5 chapter is, in all respects, for the benefit of the people of the state, for their well-being  
6 and prosperity, and for the improvement of their social and economic conditions, and  
7 the corporation is not required to pay a tax or assessment on any property owned by  
8 the corporation under the provisions of this chapter or on the income from it, including  
9 state taxes levied or authorized under AS 43.56.010(a) and municipal taxes under  
10 AS 43.56.010(b) as provided in AS 43.56.020.

11 (b) All obligations issued under this chapter are declared to be issued by a  
12 body corporate and public of the state and for an essential public and governmental  
13 purpose, and the obligations, and the interest and income on and from the obligations,  
14 and all fees, charges, funds, revenue, income, and other money pledged or available to  
15 pay or secure the payment of the obligations, or interest on the obligations, are exempt  
16 from taxation except for transfer, inheritance, and estate taxes.

17 **Sec. 31.25.270. Annual report; final report.** (a) The corporation shall prepare  
18 and transmit annually a report to the governor accounting for the efficient discharge of  
19 all responsibility assigned by law or by directive to the corporation. The corporation  
20 shall notify the legislature that the report is available.

21 (b) By January 10 of each year, the board shall prepare a report of the  
22 corporation. The board shall notify the governor and the legislature that the report is  
23 available, and publish notice to the public on the Alaska Online Public Notice System  
24 under AS 44.62.175 that the report is available on the corporation's Internet website.  
25 The report shall be written in easily understandable language. The report must include  
26 a financial statement audited by an independent outside auditor and any other  
27 information the board believes would be of interest to the governor, the legislature,  
28 and the public. The annual income statement and balance sheet of the corporation shall  
29 be published on the Internet. The board may also publish electronically or in print, at  
30 the corporation's discretion, other reports it considers desirable to carry out its  
31 purpose.

(c) After a decision of the corporation to dissolve under AS 31.25.010, the corporation shall provide a final report to the governor, the legislature, and the public that summarizes the reasons for the dissolution of the corporation and a statement by an independent outside auditor that the corporation and the subsidiaries of the corporation, if any, have no bonds, notes, or other obligations outstanding.

**Sec. 31.25.390. Definitions.** In this chapter, unless the context clearly indicates a different meaning,

(1) "board" means the board of directors of the corporation;

(2) "bond" or "obligation" means a bond, bond anticipation note, or other note of the corporation authorized to be issued by the corporation under this chapter;

(3) "corporation" means the Alaska Gasline Development Corporation;

(4) "governmental agency" means a department, division, public agency, political subdivision, or other public instrumentality of the state or the federal government;

(5) "in-state natural gas pipeline" means a natural gas pipeline for transporting natural gas in the state;

(6) "natural gas pipeline" means a total system of pipe and connected facilities for the transportation, treatment or conditioning, delivery, storage, or further transportation of natural gas, including all pipe, compressor stations, station equipment, and all other facilities used or necessary for an integral line of pipe to carry out the transportation of the natural gas.

\* **Sec. 4.** AS 36.30.850(b) is amended by adding a new paragraph to read:

(46) the Alaska Gasline Development Corporation (AS 31.25) and subsidiaries of the Alaska Gasline Development Corporation.

\* **Sec. 5.** AS 37.05.146(c)(22) is amended to read:

(22) Regulatory Commission of Alaska under AS 42.05, [AND]  
**AS 42.08;**

\* **Sec. 6.** AS 38.05.180(bb)(1) is amended to read:

(1) "gas or electric utility" includes an electric cooperative organized under AS 10.25, a municipal utility, and a gas or electric utility regulated under

1 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers  
2 through a pipeline and the gas utility either owns the pipeline or is related in  
3 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or  
4 electric utility" within the meaning of this paragraph only if it is bound or agrees to be  
5 bound by the covenants set out in AS 38.35.120 **or 38.35.121, as applicable;**

6 \* **Sec. 7.** AS 38.34.099 is repealed and reenacted to read:

7 **Sec. 38.34.099. Definitions.** In this chapter,

8 (1) "Alaska Gasline Development Corporation" means the corporation  
9 created under AS 31.25.010;

10 (2) "in-state natural gas pipeline" and "natural gas pipeline" have the  
11 meanings given in AS 31.25.390.

12 \* **Sec. 8.** AS 38.35.100(d) is amended to read:

13 (d) The commissioner shall include in a conditional lease each requirement  
14 and condition of the covenants established under AS 38.35.120 **or 38.35.121, as**  
15 **applicable.** The commissioner may also require that the lessee agree to additional  
16 conditions that the commissioner finds to be in the public interest. In place of the  
17 covenant established under AS 38.35.120(a)(9), the commissioner shall require the  
18 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,  
19 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline  
20 subject to the conditional lease, unless the commissioner, after considering the public  
21 interest and issuing written findings to substantiate a decision to allow the transfer,  
22 authorizes the transfer. The commissioner shall also require the lessee to agree not to  
23 allow the transfer of control of the lessee without the approval of the commissioner; as  
24 used in this subsection, "transfer of control of the lessee" means the transfer of 30  
25 percent or more, in the aggregate, of ownership interest in the lessee in one or more  
26 transactions to one or more persons by one or more persons.

27 \* **Sec. 9.** AS 38.35.120(a) is amended to read:

28 (a) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
29 **a** [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas  
30 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the  
31 lessee expressly covenants in the lease, in consideration of the rights acquired by it

1 under the lease, that

2 (1) it assumes the status of and will perform all of its functions  
3 undertaken under the lease as a common carrier and will accept, convey, and transport  
4 without discrimination crude oil or natural gas, depending on the kind of pipeline  
5 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
6 subject to the lease throughout its route both on state land obtained under the lease and  
7 on the other land; it will accept, convey, and transport crude oil or natural gas without  
8 unjust or unreasonable discrimination in favor of one producer or person, including  
9 itself, as against another but will take the crude oil or natural gas, depending on the  
10 kind of pipeline involved, delivered or offered, without unreasonable discrimination,  
11 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to  
12 the interested parties and a proper finding of facts, determine to be reasonable in the  
13 performance of its duties as a common carrier; however, a lessee that owns or operates  
14 a natural gas pipeline

15 (A) subject to regulation either under **15 U.S.C. 717 et seq.**  
16 **(Natural Gas Act)** [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF  
17 THE UNITED STATES] or by the state or ~~a~~ political **subdivision**  
18 [SUBDIVISIONS] with respect to rates and charges for the sale of natural gas,  
19 is, to the extent of that regulation, exempt from the common carrier  
20 requirement in this paragraph;

21 (B) that is a North Slope natural gas pipeline (i) is required to  
22 operate as a common carrier only with respect to the intrastate transportation of  
23 North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not  
24 required to operate as a common carrier as to a liquefied natural gas facility or  
25 a marine terminal facility associated with the pipeline, and is not otherwise  
26 required to perform its functions under the lease as a common carrier; for  
27 purposes of this subparagraph, "North Slope natural gas pipeline" means all the  
28 facilities of a total system of pipe, whether owned or operated under a contract,  
29 agreement, or lease, used by a carrier for transportation of North Slope natural  
30 gas, as defined by AS 42.06.630, for delivery, for storage, or for further  
31 transportation, and including all pipe, [PUMP, OR] compressor stations,

1 station equipment, tanks, valves, access roads, bridges, airfields, terminals and  
2 terminal facilities, including docks and tanker loading facilities, operations  
3 control centers for both the upstream part of the pipeline and the terminal,  
4 tanker ballast treatment facilities, fire protection system, communication  
5 system, and all other facilities used or necessary for an integral line of pipe,  
6 taken as a whole, to carry out transportation, including an extension or  
7 enlargement of the line;

8 (2) it will interchange crude oil or natural gas, depending on the kind  
9 of pipeline involved, with each like common carrier and provide connections and  
10 facilities for the interchange of crude oil or natural gas at every locality reached by  
11 both pipelines when the necessity exists, subject to rates and regulations made by the  
12 appropriate state or federal regulatory agency;

13 (3) it will maintain and preserve books, accounts, and records and will  
14 make those reports that the state may prescribe by regulation or law as necessary and  
15 appropriate for purposes of administration of this chapter;

16 (4) it will accord at all reasonable times to the state and its authorized  
17 agents and auditors the right of access to its property and records, of inspection of its  
18 property, and of examination and copying of records;

19 (5) it will provide connections, as determined by the Regulatory  
20 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the  
21 lease, both on state land and other land in the state, for the purpose of delivering crude  
22 oil or natural gas, depending on the kind of pipeline involved, to persons (including  
23 the state and its political subdivisions) contracting for the purchase at wholesale of  
24 crude oil or natural gas transported by the pipeline when required by the public  
25 interest;

26 (6) it shall, notwithstanding any other provision, provide connections  
27 and interchange facilities at state expense at [SUCH] places the state considers  
28 necessary if the state determines to take a portion of its royalty or taxes in oil or  
29 natural gas;

30 (7) it will construct and operate the pipeline in accordance with  
31 applicable state laws and lawful regulations and orders of the Regulatory Commission

1 of Alaska;

2 (8) it will, at its own expense, during the term of the lease,

3 (A) maintain the leasehold and pipeline in good repair;

4 (B) promptly repair or remedy [ANY] damage to the leasehold;

5 (C) promptly compensate for [ANY] damage to or destruction

6 of property for which the lessee is liable resulting from damage to or  
7 destruction of the leasehold or pipeline;

8 (9) it will not transfer, assign, or dispose of, in any manner, directly or  
9 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-  
10 way lease, or [ANY] rights under the lease or ~~a~~ [ANY] pipeline subject to the lease to  
11 ~~a~~ [ANY] person other than another owner of the pipeline (including subsidiaries,  
12 parents, and affiliates of the owners), except to the extent that the commissioner, after  
13 consideration of the protection of the public interest (including whether the proposed  
14 transferee is fit, willing, and able to perform the transportation or other acts proposed  
15 in a manner that will reasonably protect the lives, property, and general welfare of the  
16 people of Alaska), authorizes; the commissioner shall not unreasonably withhold  
17 consent to the transfer, assignment, or disposal;

18 (10) it will file with the commissioner a written appointment of a  
19 named permanent resident of the state to be its registered agent in the state and to  
20 receive service of notices, regulations, decisions, and orders of the commissioner; if it  
21 fails to appoint an agent for service, service may be made by posting a copy in the  
22 office of the commissioner, filing a copy in the office of the lieutenant governor, and  
23 mailing a copy to the lessee's last known address;

24 (11) the applicable law of this state will be used in resolving questions  
25 of interpretation of the lease;

26 (12) the granting of the right-of-way lease is subject to the express  
27 condition that the exercise of the rights and privileges granted under the lease will not  
28 unduly interfere with the management, administration, or disposal by the state of the  
29 land affected by the lease, and that the lessee agrees and consents to the occupancy  
30 and use by the state, its grantees, permittees, or other lessees of any part of the right-  
31 of-way not actually occupied or required by the pipeline for the full and safe

1 utilization of the pipeline, for necessary operations incident to land management,  
2 administration, or disposal;

3 (13) it will be liable to the state for damages or injury incurred by the  
4 state caused by the construction, operation, or maintenance of the pipeline and it will  
5 indemnify the state for the liabilities or damages;

6 (14) it will procure and furnish liability and property damage insurance  
7 from a company licensed to do business in the state or furnish other security or  
8 undertaking upon the terms and conditions the commissioner considers necessary if  
9 the commissioner finds that the net assets of the lessee are insufficient to protect the  
10 public from damage for which the lessee may be liable arising out of the construction  
11 or operation of the pipeline.

12 \* **Sec. 10.** AS 38.35.120(b) is amended to read:

13 (b) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
14 **for** [FOR] a right-of-way lease granted under this chapter for an oil or natural gas  
15 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain  
16 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An  
17 oil or natural gas pipeline right-of-way lease granted under this chapter **and subject to**  
18 **this section** that does not contain the required terms is null and void and without legal  
19 effect and does not vest any interest in state land or any authority in the carrier granted  
20 the lease.

21 \* **Sec. 11.** AS 38.35 is amended by adding a new section to read:

22 **Sec. 38.35.121. Covenants required to be in a lease to a natural gas**  
23 **pipeline that is a contract carrier.** (a) For a lease of state land for a right-of-way for  
24 which an applicant has applied as a contract carrier under AS 42.08, a noncompetitive  
25 lease of state land for a right-of-way for a natural gas pipeline valued at \$1,000,000 or  
26 more may be granted only on the condition that the lessee expressly covenant in the  
27 lease, in consideration of the rights acquired by it under the lease, that

28 (1) except for the covenants in AS 38.35.120(a)(1), (2), and (5), it will  
29 meet the requirements of AS 38.35.120;

30 (2) it will interchange natural gas and provide connections with each  
31 public utility pipeline, common carrier pipeline, or contract carrier pipeline, and

1 facilities for the interchange of natural gas at every locality reached by both pipelines  
2 when the necessity exists, as provided in contracts on file with the Regulatory  
3 Commission of Alaska;

4 (3) it assumes the status of and will perform all of its functions  
5 undertaken under the lease as a contract carrier and, subject to contracts with shippers,  
6 will accept, convey, and transport, without discrimination, natural gas delivered to it  
7 for transportation from fields in the vicinity of the pipeline subject to the right-of-way  
8 lease throughout the pipeline route, both on state land obtained under the lease and on  
9 other land, and that, subject to contracts with shippers, it will accept, convey, and  
10 transport natural gas without unjust or unreasonable discrimination in favor of itself or  
11 one producer or person against another, but will take the natural gas delivered or  
12 offered without unreasonable discrimination;

13 (4) it will expand the natural gas pipeline on commercially reasonable  
14 terms that, when possible, encourage exploration and development of gas resources in  
15 this state without increasing transportation costs for a shipper except as provided for in  
16 the contract with the shipper; in this paragraph, "commercially reasonable terms"  
17 means terms that produce sufficient revenue from transportation contracts to cover the  
18 cost of the expansion, including increased fuel costs and a reasonable return on capital,  
19 without impairing the ability of the pipeline to recover the costs of existing facilities;

20 (5) it will not require a shipper to pay a rate in excess of the rates  
21 provided for in the contract with that shipper.

22 (b) A contract carrier may offer to a shipper firm transportation service,  
23 interruptible transportation service, or both. In this subsection, "firm transportation  
24 service" has the meaning given in AS 42.08.900.

25 (c) The lessee may not construct or expand or allow the construction or  
26 expansion of a natural gas pipeline under (a) of this section to be a competing natural  
27 gas pipeline project for purposes of AS 43.90. In this subsection, "competing natural  
28 gas pipeline project" has the meaning given in AS 43.90.440.

29 \* **Sec. 12.** AS 38.35.140 is amended by adding a new subsection to read:

30 (c) Notwithstanding (a) of this section, a right-of-way lease shall be granted  
31 without appraisal or rental costs to the Alaska Gasline Development Corporation

1 created under AS 31.25.010.

2 \* **Sec. 13.** AS 38.35.200 is amended by adding new subsections to read:

3 (c) Except as provided for an applicant in (a) of this section and  
4 notwithstanding any contrary provision of law, an action or decision of the  
5 commissioner or other state officer or agency concerning the issuance or approval of a  
6 necessary right-of-way, permit, lease, certificate, license, or other authorization for the  
7 planning, financing, acquisition, maintenance, development, construction, or initial  
8 operation of a natural gas pipeline by the Alaska Gasline Development Corporation  
9 under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to  
10 judicial review, except that a claim alleging the invalidity of this subsection must be  
11 brought within 60 days after the effective date of this Act, and a claim alleging that an  
12 action will deny rights under the Constitution of the State of Alaska must be brought  
13 within 60 days following the date of that action. A claim that is not filed within the  
14 limitations established in this subsection is barred. A complaint under this subsection  
15 must be filed in superior court, and the superior court has exclusive jurisdiction.  
16 Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a  
17 claim filed under this subsection, the superior court may not grant injunctive relief,  
18 including a temporary restraining order, preliminary injunction, permanent injunction,  
19 or stay, against the issuance of a necessary right-of-way, permit, lease, certificate,  
20 license, or other authorization for the planning, financing, acquisition, maintenance,  
21 development, construction, or initial operation of a natural gas pipeline by the Alaska  
22 Gasline Development Corporation. In this subsection, "natural gas pipeline" has the  
23 meaning given in AS 38.34.099.

24 (d) An appeal of a permitting decision or authorization by the Department of  
25 Environmental Conservation under AS 46.03 or AS 46.14 that is made under a  
26 program approved or delegated by the United States Environmental Protection Agency  
27 is not

28 (1) subject to the limitation in (a) of this section;

29 (2) included in the actions or decisions described in (c) of this section.

30 \* **Sec. 14.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

31 (H) Alaska Gasline Development Corporation and subsidiaries

1 of the Alaska Gasline Development Corporation;

2 \* **Sec. 15.** AS 39.50.200(b) is amended by adding a new paragraph to read:

3 (64) the board of directors of the Alaska Gasline Development  
4 Corporation or the board of directors of a subsidiary of the Alaska Gasline  
5 Development Corporation.

6 \* **Sec. 16.** AS 40.25.120(a) is amended to read:

7 (a) Every person has a right to inspect a public record in the state, including  
8 public records in recorders' offices, except

9 (1) records of vital statistics and adoption proceedings, which shall be  
10 treated in the manner required by AS 18.50;

11 (2) records pertaining to juveniles unless disclosure is authorized by  
12 law;

13 (3) medical and related public health records;

14 (4) records required to be kept confidential by a federal law or  
15 regulation or by state law;

16 (5) to the extent the records are required to be kept confidential under  
17 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
18 or retain federal assistance;

19 (6) records or information compiled for law enforcement purposes, but  
20 only to the extent that the production of the law enforcement records or information

21 (A) could reasonably be expected to interfere with enforcement  
22 proceedings;

23 (B) would deprive a person of a right to a fair trial or an  
24 impartial adjudication;

25 (C) could reasonably be expected to constitute an unwarranted  
26 invasion of the personal privacy of a suspect, defendant, victim, or witness;

27 (D) could reasonably be expected to disclose the identity of a  
28 confidential source;

29 (E) would disclose confidential techniques and procedures for  
30 law enforcement investigations or prosecutions;

31 (F) would disclose guidelines for law enforcement

1 investigations or prosecutions if the disclosure could reasonably be expected to  
2 risk circumvention of the law; or

3 (G) could reasonably be expected to endanger the life or  
4 physical safety of an individual;

5 (7) names, addresses, and other information identifying a person as a  
6 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
7 advance college tuition savings program under AS 14.40.803 - 14.40.817;

8 (8) public records containing information that would disclose or might  
9 lead to the disclosure of a component in the process used to execute or adopt an  
10 electronic signature if the disclosure would or might cause the electronic signature to  
11 cease being under the sole control of the person using it;

12 (9) reports submitted under AS 05.25.030 concerning certain  
13 collisions, accidents, or other casualties involving boats;

14 (10) records or information pertaining to a plan, program, or  
15 procedures for establishing, maintaining, or restoring security in the state, or to a  
16 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
17 but only to the extent that the production of the records or information

18 (A) could reasonably be expected to interfere with the  
19 implementation or enforcement of the security plan, program, or procedures;

20 (B) would disclose confidential guidelines for investigations or  
21 enforcement and the disclosure could reasonably be expected to risk  
22 circumvention of the law; or

23 (C) could reasonably be expected to endanger the life or  
24 physical safety of an individual or to present a real and substantial risk to the  
25 public health and welfare;

26 (11) the written notification regarding a proposed regulation provided  
27 under AS 24.20.105 to the Department of Law and the affected state agency and  
28 communications between the Legislative Affairs Agency, the Department of Law, and  
29 the affected state agency under AS 24.20.105;

30 (12) records that are

31 (A) proprietary, privileged, or a trade secret in accordance with

1 AS 43.90.150 or 43.90.220(e);

2 (B) applications that are received under AS 43.90 until notice is  
3 published under AS 43.90.160;

4 **(13) information of the Alaska Gasline Development Corporation**  
5 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**  
6 **Corporation that is confidential by law or under a valid confidentiality**  
7 **agreement.**

8 \* **Sec. 17.** AS 42.04.080(a) is amended to read:

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

14 \* **Sec. 18.** AS 42.05 is amended by adding a new section to read:

15 **Sec. 42.05.433. Review of certain contracts by the commission.** (a) A  
16 precedent agreement or contract entered into by a public utility with the Alaska  
17 Gasline Development Corporation or its successors or assigns may contain a covenant  
18 for the public utility to establish, charge, and collect rates sufficient to meet its  
19 obligations under the contract. If the precedent agreement associated with the contract  
20 is approved by the commission under AS 42.08, the rate covenant in the associated  
21 contract is valid and enforceable.

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

25 (c) A public utility negotiating to contract for the storage of natural gas  
26 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the  
27 contract to the commission before the contract takes effect.

28 (d) The commission shall review and may conduct an investigation and  
29 hearing to determine whether a contract submitted under (b) or (c) of this section is  
30 just and reasonable. The review and determination shall be conducted as provided in  
31 AS 42.08.320(b) - (d). The commission shall either approve the contract as presented

1 or, if the commission finds that a contract is not just and reasonable, disapprove the  
2 contract. Notwithstanding AS 42.05.175, if the commission has not acted within 180  
3 days after the contract is submitted, the contract shall be considered approved and  
4 shall take effect immediately. The commission may, by order, extend the 180-day  
5 review period by the duration of a delay caused by a failure of the public utility to  
6 submit supplemental information that is available to the public utility. A contract that  
7 is approved or considered approved under this section is not subject to further review  
8 by the commission.

9 \* **Sec. 19.** AS 42.05.711 is amended by adding a new subsection to read:

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

12 \* **Sec. 20.** AS 42.06 is amended by adding a new section to article 7 to read:

13 **Sec. 42.06.601. Exemption.** An in-state natural gas pipeline subject to  
14 AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt  
15 from this chapter.

16 \* **Sec. 21.** AS 42 is amended by adding a new chapter to read:

17 **Chapter 08. In-State Pipeline Contract Carrier.**

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

19 **Sec. 42.08.010. Application of chapter; exemption.** (a) This chapter applies  
20 to the regulation of in-state natural gas pipelines that provide transportation by  
21 contract carriage.

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

24 **Sec. 42.08.020. Qualification of the Alaska Gasline Development  
25 Corporation; findings.** (a) The Alaska Gasline Development Corporation is  
26 financially fit, willing, and able to take the actions, perform the service, and conform  
27 to the requirements of this chapter.

28 (b) The board of directors and the officers of the Alaska Gasline Development  
29 Corporation are managerially fit, willing, and able to manage the Alaska Gasline  
30 Development Corporation and to take the actions, perform the service, and conform to  
31 the requirements of this chapter.

(c) The proposed service, construction, and operation of an in-state natural gas pipeline for which the Alaska Gasline Development Corporation applies for a certificate under this chapter is required by present and future public convenience and necessity.

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

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

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

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

(1) regulate, under the provisions of this chapter, an in-state natural gas pipeline that provides transportation by way of contract carriage;

(2) require permits for the construction, enlargement in size or operating capacity, extension, connection and interconnection, operation, or abandonment of an in-state natural gas pipeline facility under the provisions of this chapter and subject to the same standards as certification in AS 42.08.330;

(3) to the extent necessary to perform the duties of the commission under this chapter, have access to, and may designate its employees, agents, or consultants to inspect and examine, the accounts, financial and property records, books, maps, inventories, appraisals, valuations, and related reports kept by an in-state natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by others, that directly affect the interests of the state and directly relate to in-state natural gas pipelines located in the state during normal business hours;

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

(b) The commission may

(1) review and approve recourse tariffs filed by an in-state natural gas pipeline carrier under this chapter;

(2) review and approve contracts;

(3) investigate, on its own motion or after receiving a formal complaint, a dispute

(A) related to rules, regulations, services, practices, and facilities that are not subject to the dispute resolution provisions in an in-state natural gas pipeline carrier's contracts or recourse tariff;

(B) presented by a complainant that does not have a contract with the in-state natural gas pipeline carrier;

(C) related to the conduct of an in-state natural gas pipeline carrier's open season under AS 42.08.300; to resolve the dispute, the commission may order an expansion of an in-state natural gas pipeline or order an open season under the terms provided for an expansion or open season in this chapter or AS 38.35.121(a)(4) and (c); or

(D) related to an unreasonable diminution in quantity or quality in the provision of service to a public utility that

(i) is a violation of the in-state natural gas pipeline carrier's tariff or contract with the public utility;

(ii) has not been resolved by the in-state natural gas pipeline carrier; and

(iii) will result in immediate injury, loss, or damage to the peace, health, safety, or general welfare of the public as clearly demonstrated by specific facts shown by affidavit or verified complaint;

(4) adopt regulations that are necessary and proper to the performance of the duties of the commission under this chapter, including regulations governing practices and procedures of the commission; regulations adopted by the commission may not be inconsistent with state law;

(5) initiate, intervene in, and appear personally or by counsel and offer

1 evidence in and participate in, proceedings before an officer, department, board,  
2 commission, or court of this state involving an in-state natural gas pipeline carrier and  
3 affecting the interests of the state; and

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

10 (c) Except with regard to a precedent agreement under AS 42.08.320(a) that is  
11 filed before the issuance of a certificate, consideration of an application for a contract  
12 carriage certificate under AS 42.08.330, and an initial recourse tariff under  
13 AS 42.08.350(a), the commission may extend a timeline required under this chapter if  
14 all parties of record consent to the extension or if, for one time only, before the  
15 timeline expires, the

16 (1) commission reasonably finds that good cause exists to extend the  
17 timeline;

18 (2) commission issues a written order extending the timeline and  
19 setting out its findings regarding good cause; and

20 (3) extension of time is 30 days or less.

21 (d) Except as provided in this chapter, the commission may not

22 (1) require rates, rate design, or tariff rates or regulations;

23 (2) require an in-state natural gas pipeline carrier to make a recourse  
24 tariff filing;

25 (3) order a modification of a contract that is approved, considered  
26 approved, or filed under this chapter;

27 (4) conduct further review or investigation of a contract that is  
28 approved, considered approved, or filed under this chapter; or

29 (5) investigate a dispute under (b)(3) of this section if a complete  
30 formal complaint has not been filed with the commission within 60 days after the  
31 event giving rise to the complaint.

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

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

**Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The 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 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this chapter during the previous fiscal year. 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; Open Seasons.**

**Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall include in its approved recourse tariff the procedures for conducting open seasons for uncommitted firm transportation service and for expansion. At a minimum, the in-state natural gas pipeline carrier shall publish reasonable public notice in advance of an

1 open season. The notice shall contain the approved recourse tariff, the proposed form  
2 of the precedent agreement, the proposed form of the firm transportation service  
3 agreement, and other information sufficient to show the proposed route, capacity,  
4 operating pressures, in-service date, quality specifications, and other operating  
5 conditions that the pipeline carrier determines are relevant to an evaluation of the  
6 proposed service. The notice shall also state the methods for awarding capacity set out  
7 in the carrier's recourse tariff and whether presubscription agreements have been  
8 executed. An in-state natural gas pipeline carrier shall provide a mechanism for  
9 providing additional relevant information requested by potential shippers.

10 (b) An open season shall be conducted and firm transportation service shall be  
11 awarded without undue discrimination or preference. Presubscription agreements are  
12 subject to the methods for awarding capacity set out in the open season notice.

13 (c) An in-state natural gas pipeline carrier shall conduct an open season for  
14 firm transportation service when it has existing uncommitted firm transportation  
15 capacity and has received a request for firm transportation capacity from one or more  
16 potential shippers that meet the pipeline's creditworthiness requirements or after it has  
17 executed presubscription agreements for firm transportation.

18 (d) An in-state natural gas pipeline carrier shall conduct an open season for an  
19 expansion of its pipeline system when it has received one or more requests for firm  
20 transportation service from potential shippers that meet the pipeline's creditworthiness  
21 requirements and that, in the aggregate, would enable the expansion of the pipeline's  
22 system on a commercially reasonable basis. An expansion of the pipeline system is not  
23 commercially reasonable if the expansion would cause the pipeline to be a competing  
24 natural gas pipeline project for purposes of AS 43.90.

25 (e) A natural gas pipeline carrier may enter into presubscription agreements  
26 before the start of an open season, but not before an initial recourse tariff is approved.

27 (f) An in-state natural gas pipeline carrier shall file revised recourse rates  
28 before conducting an open season under (c) and (d) of this section unless the in-state  
29 natural gas pipeline carrier filed revised recourse rates during the immediately  
30 preceding two-year period.

31 (g) If executed precedent agreements are received by an in-state natural gas

1 pipeline carrier, the carrier shall, within 10 days after accepting and executing the  
2 agreements, inform the public of the results through publication on the carrier's  
3 Internet website and in a press release or other announcement to the media. The results  
4 made public must include the name of each prospective shipper, the amount of  
5 capacity allocated, and the period of commitment. If the carrier determines that the  
6 commitments received during the open season are not sufficient to permit the carrier to  
7 continue the development or construction of the in-state natural gas pipeline, the  
8 corporation shall report that to the commission within 30 days.

9 **Sec. 42.08.310. Transportation service.** (a) Firm transportation service shall  
10 be made available only through a presubscription agreement, a recourse tariff, or an  
11 open season conducted in accordance with AS 42.08.300.

12 (b) The pipeline carrier shall offer a recourse tariff for firm transportation  
13 service. The rates included in the recourse tariff shall be determined on a cost-of-  
14 service basis and may be leveled over the depreciable life of the pipeline. The  
15 recourse tariff may not preclude the pipeline carrier from collecting rolled-in rates so  
16 long as the resulting rate for prior shippers does not exceed the initial maximum rate  
17 allowable under agreements for capacity.

18 (c) An in-state natural gas pipeline carrier may contract to provide firm  
19 transportation service for rates and containing provisions different than those in the  
20 recourse tariff. For purposes of this subsection, "provisions" are limited to those terms  
21 and conditions that directly relate to the rate and do not include the general operating  
22 terms and conditions of the recourse tariff.

23 (d) An in-state natural gas pipeline carrier shall provide interruptible  
24 transportation service through capacity not used for firm transportation service. An in-  
25 state natural gas pipeline carrier shall establish means for routinely advising potential  
26 shippers of the availability of interruptible transportation service and of uncommitted  
27 firm transportation capacity.

28 **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in-  
29 state natural gas pipeline carrier shall submit each of its precedent agreements for firm  
30 transportation service and any substantial amendments to the commission. A precedent  
31 agreement negotiated with an entity that is not a public utility regulated by the

1 commission may be filed under seal. Under AS 42.08.400, the commission shall keep  
2 confidential a precedent agreement filed under seal. Submission of precedent  
3 agreements to the commission is permissible before construction of an in-state natural  
4 gas pipeline and before a request for certification under this chapter. In this subsection,  
5 "substantial amendment" means an amendment that materially changes a rate or term  
6 and condition of service.

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

9 (1) conclude that a precedent agreement or related contract negotiated  
10 at arm's length between the parties is just and reasonable unless the commission finds  
11 that unlawful market activity affected the rate or unfair dealing, such as fraud or  
12 duress, affected the formation of the contract;

13 (2) review and may conduct an investigation and hearing to determine  
14 whether a contract submitted under (a) of this section is just and reasonable; the  
15 commission shall either approve the contract as presented or, if the commission finds  
16 that a contract is not just and reasonable, disapprove the contract; if the commission  
17 has not acted within 180 days after the submission of a contract, the contract shall be  
18 considered approved and shall take effect immediately; a contract that is approved or  
19 considered approved under this paragraph and the associated firm transportation  
20 service agreement are not subject to further review by the commission.

21 (c) For purposes of (b)(1) of this section, and except as provided in (d) of this  
22 section, a precedent agreement or related contract is arm's length

23 (1) if it incorporates the approved recourse tariff; or

24 (2) if it does not incorporate the approved recourse tariff,

25 (A) the precedent agreement or related contract is between two  
26 state-owned parties;

27 (B) the parties are not affiliated; or

28 (C) if the parties are affiliated, the precedent agreement or  
29 related contract is substantially similar to a precedent agreement or related  
30 contract between unaffiliated parties, and the formation of the precedent  
31 agreement or related contract was not affected by unlawful market activity or

unfair dealing as described in (b)(1) of this section.

(d) Notwithstanding (c) of this section, a precedent agreement or related contract with a public utility is not arm's length if the rate paid for transportation on an in-state natural gas pipeline is greater than the recourse tariff rate.

(e) If a precedent agreement or related contract is not arm's length, the commission shall determine whether the precedent agreement or related contract is just and reasonable using the standards normally applied under AS 42.06.140. If the commission is reviewing a precedent agreement under (c)(2) of this section, the commission may consider the in-state natural gas pipeline carrier's approved recourse tariff, including the cost data underlying the tariff. When considering whether to approve a contract as just and reasonable under this subsection, the commission shall consider the consequences of failing to approve the contract.

**Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state natural gas pipeline subject to this chapter may not engage in the transportation of natural gas or undertake the construction of a natural gas pipeline facility for that purpose, or acquire or operate an in-state natural gas pipeline facility, unless a certificate of public convenience and necessity by the commission authorizing contract carriage is in force with respect to that owner. A certificate shall describe the nature and extent of the authority granted, including, as appropriate for the services involved, a description of the authorized area and scope of operation for the in-state natural gas pipeline facility.

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

(c) Within 180 days after receiving an application under this chapter, the commission shall issue a contract carriage certificate authorizing, in whole or in part, the operation, service, construction, or acquisition covered by the application to a qualified applicant if the commission finds that the applicant is fit, willing, and able to do the acts, perform the proposed service, and conform to the provisions of this

1 chapter and the requirements of the commission, and that the proposed service,  
2 operation, construction, extension, or acquisition, to the extent authorized by the  
3 certificate, is or will be required by the present or future public convenience and  
4 necessity. The commission may, by order, extend the 180-day period for considering  
5 an application by the duration of a delay caused by the failure of the applicant to  
6 provide additional information reasonably required by the commission. If, within the  
7 180-day period and any extension of the period for considering the application, the  
8 commission fails to issue a contract carriage certificate and does not make a finding  
9 that the applicant is not fit, willing, and able under this subsection or that the proposed  
10 service is not required by public convenience and necessity, the application shall be  
11 considered approved and the contract carriage certificate shall take effect immediately.

12 (d) The commission may attach to a contract carriage certificate reasonable  
13 terms and conditions that are consistent with the terms of this chapter and are for the  
14 mutual benefit of the in-state natural gas pipeline facility and the public.

15 (e) Operating authority may not be transferred by sale or lease of the contract  
16 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline  
17 carrier holding a certificate without prior approval and a finding by the commission  
18 that the safe and efficient operation of the natural gas pipeline is not impaired by the  
19 transfer. The commission shall summarily approve a transfer not involving a  
20 substantial change in ownership.

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

- 25 (1) misrepresentation of a material fact in obtaining the certificate;
- 26 (2) unauthorized discontinuance or abandonment of all or part of a  
27 service that is the subject of the certificate;
- 28 (3) wilful failure to comply with the provisions of this chapter or a  
29 regulation or order of the commission; or
- 30 (4) wilful failure to comply with a term, condition, or limitation of the  
31 certificate.

(g) A person holding a certificate issued under this chapter may not abandon or permanently discontinue the use of all or a portion of an in-state natural gas pipeline without permission and approval by the commission, after due notice and hearing and a finding by the commission that continued service is not required by public convenience and necessity. An interested person may file a protest or memorandum of opposition to or in support of discontinuance or abandonment with the commission. The commission may order the temporary suspension of a service or part of a service.

**Sec. 42.08.340. Filing requirements; recourse tariffs.** (a) An in-state natural gas pipeline carrier shall file with the commission a complete recourse tariff containing rates, rules, regulations, terms, and conditions pertaining to service provided under the certificate and copies of all contracts with shippers that in any way affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations, terms, and conditions to service provided under the certificate.

(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 its currently effective recourse tariff as supplemented and modified by contracts that have been approved by the commission. A legally filed and effective recourse tariff rate, charge, rule, regulation, or condition of service may not be changed except as provided in this chapter. The in-state natural gas pipeline carrier shall maintain copies of its recourse tariff 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.

(c) A change in a recourse tariff rate, charge, rule, regulation, or condition of service is not effective until filed under (a) of this section. If more than one recourse tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff rate or charge most advantageous to the shipper shall be used.

(d) The commission may reject the filing of all or part of a recourse tariff that is not consistent with this chapter. A recourse tariff rate or provision so rejected is void.

(e) Initial and revised recourse tariffs shall be filed in the manner provided in AS 42.08.350.

**Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline carrier may not establish or place in effect an initial recourse tariff containing rates, charges, rules, regulations, conditions of service, or practices without providing notice to the commission and to the public at least 90 days before establishing or placing in effect the initial recourse tariff. Notice shall be filed with the commission before an open season and by making the recourse tariff provisions available for public inspection. The notice shall plainly indicate the time when the recourse tariff will go into effect and include a supporting cost study. The commission may prescribe additional requirements for the notice and the form in which the notice must be provided. The commission, for good cause shown, may allow initial recourse tariffs to take effect on less than 90 days' notice under conditions the commission prescribes by order. Submission of a precedent agreement or an associated contract is not subject to this section.

(b) The commission shall review the proposed initial recourse tariff and verify that the proposed terms and conditions of service are not unduly discriminatory. The commission also shall review the supporting cost study provided with an initial recourse tariff filing and verify, taking into consideration the expected risks, that the proposed rate of return on equity is within the range of permissible rates of return as determined by the Federal Energy Regulatory Commission in recent decisions related to the construction of natural gas pipelines, that the cost study incorporates a reasonable depreciation methodology and depreciable life, and that the cost study uses a reasonable capital structure. A proposed depreciation methodology, depreciable life, or capital structure is reasonable if it is commonly accepted or used by the commission or the Federal Energy Regulatory Commission.

(c) Upon written complaint or in its own motion, and after reasonable notice, the commission may conduct a hearing to determine whether the initial recourse tariff filed with the commission complies with the requirements in (b) of this section. Pending a hearing the commission may, by order stating the reasons for its action, suspend the operation of the initial recourse tariff for a period not longer than 30 days beyond the time when the initial recourse tariff would otherwise go into effect. An order suspending an initial recourse tariff filing may be vacated if, after investigation,

1 the commission finds that it is in all respects proper. Otherwise, the commission shall  
2 hold a hearing on the suspended filing and issue its order, before the end of the  
3 suspension period, approving or denying the suspended initial recourse tariff.

4 (d) Unless a recourse tariff is denied because it includes a proposed term or  
5 condition of service that is unduly discriminatory, includes a proposed rate element  
6 that does not comply with (b) of this section, or violates a provision of this chapter, the  
7 commission shall approve the initial recourse tariff. If the commission does not issue  
8 its ruling within the 90-day period, and the period of suspension, if any, the initial  
9 recourse tariff filing shall be considered approved.

10 (e) An in-state natural gas pipeline carrier may not establish or place in effect  
11 a revised rate, charge, rule, regulation, condition of service, or practice contained in a  
12 recourse tariff before providing notice to the commission and to the public at least 90  
13 days before taking the action. After construction or an expansion of the pipeline, and  
14 at any time that a carrier files for a revised recourse rate, the carrier shall file a  
15 supporting cost study. Notice shall be given by filing with the commission and  
16 keeping open for public inspection the revised recourse tariff provisions, which shall  
17 plainly indicate the changes to be made in the schedules then in force and the time  
18 when the changes will go into effect. The commission may prescribe additional means  
19 of giving notice. The commission, for good cause shown, may allow changes to take  
20 effect on shorter notice under conditions the commission prescribes by order.  
21 Submission of a precedent agreement or an associated contract is not subject to this  
22 subsection.

23 (f) The commission shall review a proposed revised recourse tariff in the same  
24 manner as the review of a proposed initial recourse tariff under (b) of this section,  
25 except that the depreciable life may be adjusted in accordance with the time period  
26 between the approval of the recourse tariff and the approval of the revised recourse  
27 tariff. The commission shall verify that the carrier is using the same elements that  
28 were last approved by the commission. A proposed recourse tariff with a new or  
29 revised term or condition of service that is unduly discriminatory shall be denied. The  
30 commission also shall deny a revised tariff rate that does not use the previously  
31 approved value of the specified rate element, unless the carrier proves that the new

1 value is just and reasonable. If the commission does not issue its ruling within 90  
2 days, the revised recourse tariff filing shall be considered approved.

3 (g) A person initiating a change in an existing recourse tariff bears the burden  
4 of proving the reasonableness of the change. The in-state natural gas pipeline carrier  
5 bears the burden of proving the recourse tariff terms and conditions are not unduly  
6 discriminatory.

7 (h) An in-state natural gas pipeline carrier shall provide for separate rates for  
8 one or more classes of firm transportation service and for interruptible transportation  
9 service in a recourse tariff filed with the commission under (a) of this section. An in-  
10 state natural gas pipeline carrier may impose a reservation fee or similar charge for  
11 reservation of capacity in an in-state natural gas pipeline as a condition of providing  
12 firm transportation service, but may not impose a reservation fee or similar charge for  
13 reservation of capacity in an in-state natural gas pipeline for interruptible  
14 transportation service.

15 **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline  
16 carrier operating under this chapter shall maintain its records and accounts in  
17 accordance with the uniform system of accounts for class A natural gas pipelines in 18  
18 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

19 **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by  
20 an in-state natural gas pipeline carrier may provide for expansion unless the expansion  
21 would cause the pipeline to be a competing natural gas pipeline project for purposes of  
22 AS 43.90.

23 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline  
24 carrier may include a dispute resolution procedure. A dispute resolution procedure  
25 shall

26 (1) provide that notice of a dispute be given to all shippers;  
27 (2) culminate in a process that is determined by an independent third  
28 party or panel; and

29 (3) permit the participation of existing shippers and creditworthy  
30 potential shippers that have previously made good-faith requests for firm  
31 transportation service; a participant must satisfy the commission's standard for

1 intervention in an adjudicatory proceeding and demonstrate that the participant has a  
2 property, financial, or other significant interest in the dispute.

3 **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an  
4 in-state natural gas pipeline under this chapter shall pay to the commission a  
5 regulatory cost charge if the pipeline for which the charge is assessed is subject to this  
6 chapter and the commission has taken action on the pipeline or certificate under this  
7 chapter during the prior fiscal year. The amount of the regulatory cost charge may not  
8 exceed the sum of the following percentages of gross revenue derived from operations  
9 in the state:

10 (1) 0.7 percent to fund the operations of the commission; and  
11 (2) 0.17 percent to fund operations of the public advocacy function  
12 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

13 (b) The commission shall by regulation establish a method to determine  
14 annually the amount of the regulatory cost charge that will apply to a pipeline  
15 regulated under this chapter. If the amount the commission expects to collect under (a)  
16 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets  
17 of the commission and the Department of Law public advocacy function under  
18 AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the  
19 percentage determined under a regulation adopted under this subsection so that the  
20 total amount of the fees collected approximately equals the authorized budgets of the  
21 commission and the Department of Law public advocacy function under  
22 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

23 (c) The commission shall administer the charge imposed under this section.  
24 The Department of Revenue shall collect and enforce the charge imposed under this  
25 section. The Department of Administration shall identify the amount of the operating  
26 budgets of the commission and the Department of Law public advocacy function  
27 under AS 42.04.070(c) and AS 44.23.020(e) that lapses into the general fund each  
28 year. The legislature may appropriate an amount equal to the lapsed amount to the  
29 commission and to the Department of Law public advocacy function under  
30 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the  
31 legislature does so, the commission shall reduce the total regulatory cost charge

1 collected for that fiscal year by a comparable amount.

2 (d) The commission may adopt regulations under AS 44.62 (Administrative  
3 Procedure Act) necessary to administer this section, including procedures and  
4 requirements for reporting information and a requirement for paying the regulatory  
5 cost charge in quarterly payments. The Department of Revenue may adopt regulations  
6 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
7 information and for collecting required payments.

8 **Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this  
9 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180  
10 or the calculation of a royalty due for a lease issued under AS 38.05.180.

11 **Article 4. Public Records; Investigations.**

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

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

18 (c) A record filed with the commission that is a precedent agreement between  
19 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record  
20 that is not open to the public for inspection. For a record that relates to a precedent  
21 agreement, or is or relates to a contract other than a precedent agreement between an  
22 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas  
23 pipeline carrier identifies the provisions of the record that contain information that, if  
24 disclosed, could adversely affect the competitive position of the shipper or could cause  
25 commercial or competitive harm or damage if disclosed and the commission agrees,  
26 the information shall be treated by the commission as confidential.

27 (d) A person may make written objection to the public disclosure of  
28 information contained in a record filed under this chapter or of information obtained  
29 by the commission or by the attorney general under this chapter, stating the grounds  
30 for the objection. When an objection is made, the commission shall order the  
31 information withheld from public disclosure if the information adversely affects the

1 interest of the person making written objection and disclosure is not required in the  
2 interest of the public.

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

6 **Sec. 42.08.410. Investigations.** The commission may investigate any matter  
7 for which an investigation is authorized under this chapter. An investigation may be  
8 public, nonpublic, or both. In conducting an investigation, the commission may  
9 compel the attendance and testimony of witnesses and the production of records and  
10 testimony before the commission or its designee. In the course of an investigation, the  
11 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of  
12 investigative testimony all persons except a person compelled to attend, that person's  
13 attorney, members of the commission or the commission's staff, and a person  
14 authorized to transcribe the proceedings. In conducting an investigation related to a  
15 timely filed dispute, the commission shall issue a final order within 150 days after the  
16 date the formal complaint was filed with the commission, except for disputes related  
17 to open seasons, in which case, a final order must be issued within 60 days. If the  
18 commission has not acted within the applicable time period in this section, the dispute  
19 shall be considered to have been dismissed with prejudice.

20 **Article 5. Accounts, Records, and Reports.**

21 **Sec. 42.08.450. Accounts; records; triennial reports.** (a) To the extent  
22 necessary for the commission to perform the duties of the commission under this  
23 chapter,

24 (1) the commission may by regulation require an in-state natural gas  
25 pipeline carrier or affiliated interest engaged in activities relating to pipelines to  
26 establish and maintain as part of its system of accounts continuing property records  
27 showing, as to property that is actually being used in pipeline activity in this state, the  
28 year of placement in service, original cost, and current location, and, as to a pipeline  
29 system, accounts and records in a manner showing, on a current basis, the original cost  
30 of the system in the state and related reserves for depreciation;

31 (2) the in-state natural gas pipeline carrier shall

(A) keep its accounts for its pipeline facilities located in this state separate from any accounts relating to any other business, including another pipeline facilities business or a subsidiary business, in which it engages, directly or indirectly; except as the commission provides, property, expense, or revenue used in or derived from the other business may not be considered in establishing the rates and charges of the facility;

(B) keep books, accounts, papers, and records required by this chapter or by regulations adopted by the commission under this chapter in an office in this state and may not remove them from the state except upon written authority by the commission; and

(C) file a report with the commission that contains an updated cost study and a calculation of the three-year average actual return on equity; the report shall be filed every three years after the pipeline begins operations, within 90 days after the close of the annual accounting period for the in-state natural gas pipeline carrier, or within additional time granted by the commission upon a showing of good cause.

(b) The commission shall review the cost study described in (a)(2)(C) of this section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier is using the same elements that were last approved by the commission. If the carrier does not use the correct rate elements in its triennial report, the commission may require the carrier to recalculate and file a corrected report. If, on the date the report described in (a)(2)(C) of this section is delivered, the report reflects that the three-year average actual return on equity exceeds the approved rate of return, the carrier shall, not later than 90 days after the date the report is delivered, deposit an amount equal to the excess in a segregated operating reserve fund. The carrier shall continue to deposit the excess described in this subsection at the times described in this subsection until the amount in the operating reserve fund is equal to 20 percent of the most recent three-year average of the carrier's annual operating costs. The carrier may use money in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to exceed 20 percent of the most recent three-year average of the carrier's annual

1 operating costs, the amount exceeding 20 percent must be used to reduce, on a  
2 volumetric basis, the firm transportation service rates for all shippers for the next  
3 three-year period.

4 **Article 6. General Provisions.**

5 **Sec. 42.08.510. Designation of service agents.** An in-state natural gas pipeline  
6 carrier shall file with the commission a written appointment of a named permanent  
7 resident, which may be a corporation, of this state as its registered agent in this state  
8 on whom service of all notices, regulations, and requests of the commission may be  
9 made. The appointment shall specify the address in this state of the appointed agent.  
10 The address may be changed from time to time by filing a new address in the state  
11 with the commission. If an in-state natural gas pipeline carrier fails to appoint a  
12 registered agent, service of notices, regulations, and requests may be made by posting  
13 a copy in the main office of the commission and filing a copy in the office of the  
14 lieutenant governor.

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

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

20 (b) If an appeal is not taken from a final order of the commission within 10  
21 calendar days after an investigation under AS 42.08.220(b)(3), the commission may  
22 apply to the superior court for enforcement of the order of the commission. The court  
23 shall enforce the order by injunction or other process.

24 **Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals  
25 from orders of the commission and applications for enforcement of orders of the  
26 commission may be joined. The court may, in the interests of justice, separate the  
27 actions.

28 **Sec. 42.08.900. Definitions.** In this chapter,  
29 (1) "affiliated" or "affiliated interest," with respect to an in-state  
30 natural gas pipeline carrier, means any person that

31 (A) is controlled or owned, in whole or in part, by the in-state

1 natural gas pipeline carrier;

2 (B) is controlled or owned, in whole or in part, by an entity that  
3 controls or owns, in whole or in part, the in-state natural gas pipeline carrier; or

4 (C) controls or owns, in whole or in part, the in-state natural  
5 gas pipeline carrier;

6 (2) "commission" means the Regulatory Commission of Alaska  
7 created under AS 42.04.010;

8 (3) "commissioner" means a member of the commission;

9 (4) "firm transportation service" means service by a natural gas  
10 pipeline carrier that is not subject to a prior claim by another shipper or another class  
11 of service; service constitutes "firm transportation service" if the service receives the  
12 same priority as any other class of firm transportation service;

13 (5) "in-state natural gas pipeline" or "in-state natural gas pipeline  
14 facility" means a natural gas pipeline that transports or will transport natural gas in the  
15 state by way of contract carriage;

16 (6) "in-state natural gas pipeline carrier" means the owner, including a  
17 corporation, company, or other entity organized under the laws of the United States or  
18 of any state, of an in-state natural gas pipeline or an interest in it, or a person,  
19 including a corporation, company, or other entity organized under the laws of the  
20 United States or of any state, that transports or will transport natural gas as a contract  
21 carrier;

22 (7) "natural gas pipeline" has the meaning given in AS 31.25.390;

23 (8) "precedent agreement" means a contractual commitment, including  
24 a presubscription agreement, to acquire firm transportation capacity, executed between  
25 an in-state natural gas pipeline carrier and another person, that establishes the rates,  
26 terms, and conditions for service;

27 (9) "record" means a report, file, book, account, paper, or application  
28 and the facts and information contained in it.

29 \* **Sec. 22.** AS 43.56.020 is amended by adding a new subsection to read:

30 (d) Taxable property of a natural gas pipeline project owned or financed by  
31 the Alaska Gasline Development Corporation or a joint venture, partnership, or other

1 entity that includes the Alaska Gasline Development Corporation is exempt from state  
2 taxes levied or authorized under AS 43.56.010(a) and municipal taxes levied or  
3 authorized under AS 43.56.010(b) before the commencement of commercial  
4 operations of that natural gas pipeline project. In this subsection, "commencement of  
5 commercial operations" means the first flow of natural gas in the project that generates  
6 revenue to the owners of the natural gas pipeline project.

7 \* **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;  
8 AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020, 41.41.030, 41.41.040,  
9 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,  
10 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,  
11 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,  
12 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

13 \* **Sec. 24.** Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed.

14 \* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16           TRANSITION AND LEGISLATIVE INTENT. (a) It is the intent of the legislature  
17 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,  
18 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
19 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
20 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the  
21 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of  
22 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this  
23 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,  
24 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
25 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
26 sec. 11 of this Act.

27           (b) The transition of the Alaska Gasline Development Corporation from a subsidiary  
28 of the Alaska Housing Finance Corporation to an independent public corporation of the state  
29 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.  
30 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon  
31 as practicable after the effective date of this Act. It is the intent of the legislature that the

1 governor appoint the new board of the Alaska Gasline Development Corporation within 90  
2 days after the effective date of this Act. The board of the Alaska Housing Finance  
3 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the  
4 governor appoints the board of the Alaska Gasline Development Corporation under this  
5 subsection. The board of directors of the Alaska Gasline Development Corporation shall work  
6 with the board of directors of the Alaska Housing Finance Corporation and the commissioner  
7 of commerce, community, and economic development to ensure the smooth transition of the  
8 Alaska Gasline Development Corporation to being an independent public corporation,  
9 including modifying the articles of incorporation of the Alaska Gasline Development  
10 Corporation.

11 (c) It is the intent of the legislature that the transition of the Alaska Gasline  
12 Development Corporation to being an independent public corporation of the state located for  
13 administrative purposes in the Department of Commerce, Community, and Economic  
14 Development be treated for all purposes only as a change of placement within the state and  
15 not as the creation of a new public corporation of the state.

16 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the  
17 board of directors of the Alaska Gasline Development Corporation as a subsidiary created  
18 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of  
19 commerce, community, and economic development expeditiously amend the articles of  
20 incorporation, the bylaws, and other documents of the Alaska Gasline Development  
21 Corporation to reflect the change in the placement of the Alaska Gasline Development  
22 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an  
23 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this  
24 Act.

25 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and  
26 the commissioner of commerce, community, and economic development coordinate the  
27 transition of the Alaska Gasline Development Corporation to its new placement within the  
28 state as an independent public corporation of the state and assist the newly appointed board of  
29 directors of the Alaska Gasline Development Corporation to ensure that the development of  
30 an in-state natural gas pipeline is not unreasonably delayed because of the change in  
31 placement within the state of the corporation.

1       \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           REVISOR'S INSTRUCTIONS. The revisor of statutes shall change the catch lines of  
4                   (1) AS 38.35.120 from "Covenants required to be included in lease" to  
5 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline  
6 contract carrier"; and

7                   (2) AS 38.35.200 from "Judicial review of decisions of commissioner on  
8 application" to "Judicial review."

9       \* **Sec. 27.** This Act takes effect immediately under AS 01.10.070(c).