

SS HB 4 pages 40 – 50 incorporating amendment O.9

Existing page/line numbers of SS HB 4 are noted in margin.

40/1 Development Corporation and to take the actions, perform the service, and conform to
40/2 the requirements of this chapter.

40/3 (c) The proposed service, construction, and operation of an in-state natural gas
40/4 pipeline for which the Alaska Gasline Development Corporation applies for a
40/5 certificate under this chapter is required by present and future public convenience and
40/6 necessity.

40/7 (d) The findings that the Alaska Gasline Development Corporation is
40/8 financially fit in (a) of this section and managerially fit in (b) of this section and that
40/9 an in-state natural gas pipeline is required by present or future public convenience and
40/10 necessity in (c) of this section are conclusive and binding on the commission.

40/11 (e) The commission shall determine whether a person making application
40/12 under this chapter is technically fit, willing, and able to take the actions, perform the
40/13 service, and conform to the requirements in this chapter.

40/14 Article 2. Powers and Duties of Regulatory Commission of Alaska.

40/15 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

40/16 (1) regulate, under the provisions of this chapter, an in-state natural gas
40/17 pipeline that provides transportation by way of contract carriage;

40/18 (2) require permits for the construction, enlargement in size or
40/19 operating capacity, extension, connection and interconnection, operation, or
40/20 abandonment of an in-state natural gas pipeline facility under the provisions of this
40/21 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;

40/22 ~~(3)~~ (4) provide all reasonable assistance to the Department of Law in
40/23 intervening in, offering evidence in, and participating in proceedings before an officer,
40/24 department, board, commission, or court of another state or the United States

40/25 involving an in-state natural gas pipeline carrier or an affiliated interest and affecting
40/26 the interests of the state.

40/27 (b) The commission may

40/28 ~~(1) approve contracts as otherwise provided in this chapter;~~

40/29 ~~(2) investigate, on complaint or its own motion, disputes related to~~

40/30 ~~rules, regulations, services, practices, and facilities that are not subject to the dispute~~

40/31 ~~resolution provisions in an in-state natural gas pipeline carrier's contracts or tariffs~~

41/1 ~~(A) that relate to an unreasonable diminution in the quantity or~~

41/2 ~~quality in the provision of service to a public utility;~~

41/3 ~~(B) that are a violation of the in-state natural gas pipeline~~

41/4 ~~carrier's tariff or contract with the public utility;~~

41/5 ~~(C) that have not been resolved by the in-state natural gas~~

41/6 ~~pipeline carrier; and~~

41/7 ~~(D) in which it clearly appears from specific facts shown by~~

41/8 ~~affidavit or by verified complaint that immediate injury, loss, or damage will~~

41/9 ~~result to the peace, health, safety, or general welfare of the public from a~~

41/10 ~~violation;~~

(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 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; 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;

41/11 (3) (4) adopt regulations that are necessary and proper to the performance
41/12 of the duties of the commission under this chapter, including regulations governing
41/13 practices and procedures of the commission; regulations adopted by the commission
41/14 may not be inconsistent with state law;

41/15 (4) (5) initiate, intervene in, and appear personally or by counsel and offer
41/16 evidence in and participate in, proceedings before an officer, department, board,
41/17 commission, or court of this state involving an in-state natural gas pipeline carrier and
41/18 affecting the interests of the state; and

41/19 (5) (6) appoint a qualified, unbiased, and impartial administrative law
41/20 judge with experience in the general practice of law to conduct hearings under this
41/21 chapter; the administrative law judge may perform other duties in connection with the
41/22 administration of this chapter and other laws; an administrative law judge hired to
41/23 conduct hearings under this chapter shall have been admitted to practice law for at
41/24 least five years immediately before appointment under this paragraph.

~~41/25 (e) The commission may not~~

~~41/26 (1) require rates, rate design, or tariff rules or regulations except as
41/27 provided in this chapter; and~~

~~41/28 (2) conduct further review, investigate, or order a modification of a
41/29 contract that is approved, considered approved, or filed under this chapter.~~

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

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

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

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

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

41/30 **Sec. 42.08.230. Commission decision-making procedures.** The commission
41/31 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come

42/1 before the commission.

42/2 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**

42/3 All reports, orders, decisions, and regulations of the commission shall be in writing.
42/4 The commission shall notify all affected operators of in-state natural gas pipeline
42/5 facilities and interested parties of reports, orders, decisions, and regulations as they are
42/6 issued and adopted and, when appropriate, publish them in a manner that will
42/7 reasonably inform the public or the affected consumers of the services of an in-state
42/8 natural gas pipeline facility. The commission may set charges for costs of printing or
42/9 reproducing and furnishing copies of reports, orders, decisions, and regulations. The
42/10 publication requirement, as it pertains to regulations, does not supersede the
42/11 requirements of AS 44.62 (Administrative Procedure Act).

42/12 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The
42/13 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)
42/14 do not apply to adjudicatory proceedings of the commission under this chapter, except
42/15 that final administrative determinations by the commission are subject to judicial
42/16 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

42/17 (b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted
42/18 by the commission.

42/19 **Sec. 42.08.260. Annual report.** The commission shall include in its annual
42/20 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this
42/21 chapter during the previous fiscal year. The report must address the regulation of in22
42/22 state natural gas pipeline facilities in the state as of June 30 of each year and must
42/23 contain details about the commission's compliance with the performance measures in
42/24 this chapter.

42/25 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

42/26 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall
42/27 include in its approved recourse tariff the procedures for conducting open seasons for
42/28 uncommitted firm transportation service and for expansion. At a minimum, the in-state
42/29 natural gas pipeline carrier shall
42/27 publish reasonable public notice in advance of an open season. The notice shall
42/28 contain the ~~proposed~~ approved recourse tariff, the proposed form of the precedent
42/29 agreement,
42/29 the proposed form of the firm transportation service agreement, and other information

42/30 sufficient to show the proposed route, capacity, operating pressures, in-service date,
42/31 quality specifications, and other operating conditions that the pipeline carrier

43/1 determines are relevant to an evaluation of the proposed service. The notice shall also
43/2 state the methods for awarding capacity and whether presubscription agreements have
43/3 been executed. An in-state natural gas pipeline carrier shall provide a mechanism for
43/4 providing additional relevant information requested by potential shippers.

43/5 (b) An open season shall be conducted and firm transportation service shall be
43/6 awarded without undue discrimination or preference.

43/7 (c) An in-state natural gas pipeline carrier shall conduct an open season for
43/8 firm transportation service when it has existing uncommitted firm transportation
43/9 capacity and has received a request for firm transportation capacity from one or more
43/10 potential shippers that meet the pipeline's creditworthiness requirements.

43/11 (d) An in-state natural gas pipeline carrier shall conduct an open season for an
43/12 expansion of its pipeline system when it has received one or more requests for firm
43/13 transportation service from potential shippers that meet the pipeline's creditworthiness
43/14 requirements and that, in the aggregate, would enable the expansion of the pipeline's
43/15 system on a commercially reasonable basis. An expansion of the pipeline system is not
43/16 commercially reasonable if the expansion would cause the pipeline to be a competing
43/17 natural gas pipeline project as defined in AS 43.90.440 unless the project for which a
43/18 license is issued under AS 43.90 has been abandoned or is no longer receiving the
43/19 inducements in AS 43.90.110(a).

43/20 (e) A natural gas pipeline carrier may enter into presubscription agreements
43/21 before the start of an open season.

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

43/22 **Sec. 42.08.310. Transportation service.** (a) Firm transportation service shall
43/23 be made available only through a presubscription agreement, a recourse tariff, or an open
season
43/24 conducted in accordance with AS 42.08.300.

43/25 (b) The pipeline carrier shall offer a recourse tariff for firm transportation

43/26 service. The rates included in the recourse tariff shall be determined on a cost-of
43/27 service basis and may be levelized over the depreciation life of the pipeline. The recourse
tariff may not preclude the pipeline carrier from
43/28 rolled-in rates so long as the resulting rate for prior shippers does not exceed the initial
43/29 maximum rate allowable under agreements for capacity.

43/30 (c) An in-state natural gas pipeline carrier may contract to provide firm
43/31 transportation service on terms and conditions and for rates different than those in the
recourse tariff.

44/1 (d) An in-state natural gas pipeline carrier shall provide interruptible
44/2 transportation service through capacity not used for firm transportation service. An in
44/3 state natural gas pipeline carrier shall establish means for routinely advising potential
44/4 shippers of the availability of interruptible transportation service.

44/5 **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in
44/6 state natural gas pipeline carrier shall submit each of its precedent agreements for firm
44/7 transportation service and any substantial amendments to the commission. A precedent
agreement negotiated with an
44/8 entity that is not a public utility regulated by the commission may be filed under seal.
44/9 Under AS 42.08.400, the commission shall keep confidential a precedent agreement
44/10 filed under seal. Submission of precedent agreements to the commission is permissible
44/11 before construction of an in-state natural gas pipeline and before a request for
44/12 certification under this chapter. In this subsection, "substantial amendment" means an
amendment that materially changes a rate or term and condition of service.

44/13 (b) In the review of a precedent agreement submitted under (a) of this section
44/14 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

44/15 (1) conclude that a precedent agreement or related contract negotiated
44/16 at arm's length between the parties is just and reasonable unless the commission finds
44/17 that unlawful market activity affected the rate or unfair dealing, such as fraud or
44/18 duress, affected the formation of the contract;

44/19 (2) review and may conduct an investigation and hearing to determine
44/20 whether a contract submitted under (a) of this section is just and reasonable; the
44/21 commission shall either approve the contract as presented or, if the commission finds
44/22 that a contract is not just and reasonable, disapprove the contract; if the commission
44/23 has not acted within 180 days after the submission of a contract, the contract shall be

44/24 considered approved and shall take effect immediately; a contract that is approved or
44/25 considered approved under this paragraph and the associated firm transportation
44/26 agreement are not subject to further review by the commission.

44/27 (c) For purposes of (b)(1) of this section, a precedent agreement or related
44/28 contract is arm's length

44/29 (1) if it incorporates the recourse tariff; or

44/30 (2) if it does not incorporate the recourse tariff,

44/31 (A) precedent agreement or related contract is between two
45/1 state-owned parties;

45/2 (B) the parties are not affiliated; or

45/3 (C) if the parties are affiliated, the precedent agreement or
45/4 related contract is substantially similar to a precedent agreement or related
45/5 contract between unaffiliated parties.

45/6 (d) If a precedent agreement or tract is not arm's length, the

45/7 commission shall determine whether the precedent agreement or related contract is
45/8 just and reasonable using the standards normally applied under AS 42.06.140. If the

45/9 commission is reviewing a precedent agreement, ~~the natural gas pipeline carrier shall~~

45/10 ~~provide to the commission a cost study that shall be used solely for the purpose of this~~

45/11 ~~subsection~~ 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 that
tariff. When considering whether to approve a contract as just and reasonable

45/12 under this subsection, the commission shall consider the consequences of failing to
45/13 approve the contract.

45/14 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state
45/15 natural gas pipeline subject to this chapter may not engage in the transportation of
45/16 natural gas or undertake the construction of a natural gas pipeline facility for that
45/17 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a
45/18 certificate of public convenience and necessity by the commission authorizing contract
45/19 carriage is in force with respect to that owner. A certificate shall describe the nature
45/20 and extent of the authority granted, including, as appropriate for the services involved,
45/21 a description of the authorized area and scope of operation for the in-state natural gas
45/22 pipeline facility.

45/23 (b) Application for a certificate shall be made in writing to the commission

45/24 and verified under oath. The commission by regulation shall establish the
45/25 requirements for the form of the application and the information to be contained in the
45/26 application. Notice of the application shall be provided to interested parties in the
45/27 manner provided by regulation.

45/28 (c) in 180 days after receiving an application under this chapter, a
45/29 contract carriage certificate shall be issued to a qualified applicant, authorizing, in
45/30 whole or in part, the operation, service, construction, or acquisition covered by the
45/31 application, if the commission finds that the applicant is fit, willing, and able to do the
46/1 acts, perform the proposed service, and conform to the provisions of this chapter and
46/2 the requirements of the commission, and that the proposed service, operation,
46/3 construction, extension, or acquisition, to the extent authorized by the certificate, is or
46/4 will be required by the present or future public convenience and necessity. The
46/5 application must be denied if the commission fails to find that the applicant is fit,
46/6 willing, and able under this subsection.

46/7 (d) The commission may attach to a contract carriage certificate reasonable
46/8 terms and conditions that are consistent with the terms of this chapter and are for the
46/9 mutual benefit of the in-state natural gas pipeline facility and the public.

46/10 (e) Operating authority may not be transferred by sale or lease of the contract
46/11 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline
46/12 carrier holding a certificate without prior approval and a finding by the commission
46/13 that the safe and efficient operation of the natural gas pipeline is not impaired by the
46/14 transfer. The commission shall summarily approve a transfer not involving a
46/15 substantial change in ownership.

46/16 (f) After receiving a complaint or on its own motion, the commission, after
46/17 notice and hearing and for good cause shown, may amend, modify, suspend, or
46/18 revoke, in whole or in part, a certificate. Good cause for amendment, modification,
46/19 suspension, or revocation of a certificate is shown by

46/20 (1) misrepresentation of a material fact in obtaining the certificate;

46/21 (2) unauthorized discontinuance or abandonment of all or part of a
46/22 service that is the subject of the certificate;

46/23 (3) wilful failure to comply with the provisions of this chapter or a
46/24 regulation or order of the commission; or

46/25 (4) wilful failure to comply with a term, condition, or limitation of the

46/26 certificate.

46/27 (g) A person holding a certificate issued under this chapter may not abandon
46/28 or permanently discontinue the use of all or a portion of an in-state natural gas pipeline
46/29 without permission and approval by the commission, after due notice and hearing and
46/30 a finding by the commission that continued service is not required by public
46/31 convenience and necessity. An interested person may file a protest or memorandum of
47/1 opposition to or in support of discontinuance or abandonment with the commission.
47/2 The commission may order the temporary suspension of a service or part of a service.

47/3 **Sec. 42.08.340. Filing requirements; public inspection.** (a) An in-state
47/4 natural gas pipeline carrier shall file with the commission ~~all recourse tariffs~~ a complete
recourse tariff containing rates, rules,

47/5 regulations, terms, and conditions pertaining to service provided under the certificate
47/6 and copies of all contracts with shippers that in any way affect or relate to the carrier's
47/7 rates, tariffs, charges, classifications, rules, regulations, terms, and conditions to

~~47/8 service provided under the certificate. The in-state natural gas pipeline carrier shall
47/9 maintain copies on file at its principal business office and at places designated by the
47/10 commission and make the copies available to, and subject to inspection by, the general
47/11 public on demand. Rules, regulations, terms, and conditions not included in the tariff
47/12 of an in-state natural gas pipeline carrier shall be included in the contract with each
47/13 shipper.~~

~~47/14 (b) The terms and conditions under which an in-state natural gas pipeline
47/15 carrier offers its services and facilities to the public shall be governed strictly by the
47/16 provisions of the tariffs and filed contracts that are in effect. A change in tariff rate,
47/17 charge, rule, regulation, or condition of service is not effective until filed under (a) of
47/18 this section. If more than one tariff rate or charge may reasonably be applied for
47/19 billing purposes, the tariff rate or charge most advantageous to the shipper shall be
47/20 used.~~

(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 30 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 model. 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 30 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 model 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 model incorporates a reasonable depreciation methodology and economic life, and that the cost model uses a reasonable capital structure. A proposed depreciation methodology, economic life, or capital structure is

reasonable if it is commonly accepted or used by the commission or the Federal Energy Regulatory Commission.

(c) Unless a recourse tariff is denied because it includes a proposed term or condition of service that is unduly discriminatory or includes a proposed rate element that does not comply with (b) of this section, the commission shall approve the initial recourse tariff. If the commission does not issue its ruling within 30 days, the initial recourse tariff filing shall be considered approved.

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

(e) The commission shall review the proposed revised recourse tariff and verify that a new or revised term or condition of service is not unduly discriminatory. The commission shall review the cost study supporting a revised recourse tariff filing and verify that, for the rate elements specified in (b) of this section, the carrier is using the same elements that were last approved by the commission. A proposed recourse tariff with a new or revised term or condition of service that is unduly discriminatory shall be denied. The commission also shall deny a revised tariff rate that does not use the previously approved value of the specified rate element, unless the carrier proves that the new value is just and reasonable. If the commission does not issue its ruling within 90 days, the revised recourse tariff filing shall be considered approved.

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

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

47/21 ~~Sec. 42.08.350~~ **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline

47/22 carrier operating under this chapter shall maintain its records and accounts in
47/23 accordance with the uniform system of accounts for class A natural gas pipelines in 18
47/24 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

47/25 ~~Sec. 42.08.360~~ **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by

47/26 an in-state natural gas pipeline carrier may provide for expansion unless the expansion
47/27 would cause the pipeline to be a competing natural gas pipeline project as defined in
47/28 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been
47/29 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

~~47/30 (b) A contract entered into by an in-state natural gas pipeline carrier shall
47/31 include dispute resolution procedures.~~

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

(1) provide that notice of a dispute be given to all shippers;

(2) culminate in a process that is determined by an independent third party or panel; and

(3) permit the participation of existing shippers and creditworthy potential shippers that have previously made good faith requests for firm transportation service; a participant must satisfy the commission's standard for intervention in an adjudicatory proceeding and demonstrate that the participant has a property, financial, or other significant interest in the dispute.

48/1 ~~Sec. 42.08.370~~ **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an

48/2 in-state natural gas pipeline under this chapter shall pay to the commission a

48/3 regulatory cost charge if the pipeline for which the charge is assessed is subject to this
48/4 chapter and the commission has taken action on the pipeline or certificate under this
48/5 chapter during the prior fiscal year. The amount of the regulatory cost charge may not
48/6 exceed the sum of the following percentages of gross revenue derived from operations
48/7 in the state:

- 48/8 (1) 0.7 percent to fund the operations of the commission; and
- 48/9 (2) 0.17 percent to fund operations of the public advocacy function
48/10 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

48/11 (b) The commission shall by regulation establish a method to determine
48/12 annually the amount of the regulatory cost charge that will apply to a pipeline
48/13 regulated under this chapter. If the amount the commission expects to collect under (a)
48/14 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets
48/15 of the commission and the Department of Law public advocacy function under AS
48/16 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the
48/17 percentage determined under a regulation adopted under this subsection so that the
48/18 total amount of the fees collected approximately equals the authorized budgets of the
48/19 commission and the Department of Law public advocacy function under AS
48/20 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

48/21 (c) The commission shall administer the charge imposed under this section.
48/22 The Department of Revenue shall collect and enforce the charge imposed under this
48/23 section. The Department of Administration shall identify the amount of the operating
48/24 budgets of the commission and the Department of Law public advocacy function
48/25 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.
48/26 The legislature may appropriate an amount equal to the lapsed amount to the
48/27 commission and to the Department of Law public advocacy function under AS
48/28 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the
48/29 legislature does so, the commission shall reduce the total regulatory cost charge
48/30 collected for that fiscal year by a comparable amount.

48/31 (d) The commission may adopt regulations under AS 44.62 (Administrative
49/1 Procedure Act) necessary to administer this section, including procedures and
49/2 requirements for reporting information and a requirement for paying the regulatory
49/3 cost charge in quarterly payments. The Department of Revenue may adopt regulations
49/4 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed

49/5 information and for collecting required payments.

49/6 ~~Sec. 42.08.380~~ **Sec. 42.08.390. Effect of chapter on taxes and royalties.**

Nothing in this

49/7 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180

49/8 or the calculation of a royalty due for a lease issued under AS 38.05.180.

49/9 Article 4. Records; Investigations.

49/10 **Sec. 42.08.400. Public records.** (a) Except as provided in (b) and (c) of this

49/11 section or prohibited from disclosure under state or federal law, records in the

49/12 possession of the commission are open to public inspection at reasonable times.

49/13 (b) The commission may by regulation classify records received from an in14

49/14 state natural gas pipeline carrier or in-state natural gas pipeline as privileged records

49/15 that are not open to the public for inspection.

49/16 (c) A record filed with the commission that is a precedent agreement between

49/17 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record

49/18 that is not open to the public for inspection. For a record that relates to a precedent

49/19 agreement, or is or relates to a contract other than a precedent agreement between an

49/20 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas

49/21 pipeline carrier identifies the provisions of the record that contain information that, if

49/22 disclosed, could adversely affect the competitive position of the shipper or could cause

49/23 commercial or competitive harm or damage if disclosed and the commission agrees,

49/24 the information shall be treated by the commission as confidential.

49/25 (d) A person may make written objection to the public disclosure of

49/26 information contained in a record filed under this chapter or of information obtained

49/27 by the commission or by the attorney general under this chapter, stating the grounds

49/28 for the objection. When an objection is made, the commission shall order the

49/29 information withheld from public disclosure if the information adversely affects the

49/30 interest of the person making written objection and disclosure is not required in the

49/31 interest of the public.

50/1 (e) A commissioner may certify as to all official records of the commission

50/2 under this section and may certify as to all official acts of the commission under this

50/3 chapter.

50/4 **Sec. 42.08.410. Investigations.** The commission may investigate any matter

50/5 for which an investigation is authorized under this chapter. An investigation may be

50/6 public, nonpublic, or both. In conducting an investigation, the commission may
50/7 compel the attendance and testimony of witnesses and the production of records and
50/8 testimony before the commission or its designee. In the course of an investigation, the
50/9 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of
50/10 investigative testimony all persons except a person compelled to attend, that person's
50/11 attorney, members of the commission or the commission's staff, and a person
50/12 authorized to transcribe the proceedings.

Article 5. Accounts, Records, and Reports.

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

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

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

50/13

Article 5 Article 6. General Provisions.

50/14

Sec. 42.08.510. Designation of service agents. An in-state natural gas pipeline

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carrier shall file with the commission a written appointment of a named permanent

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resident, which may be a corporation, of this state as its registered agent in this state

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on whom service of all notices, regulations, and requests of the commission may be

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made. The appointment shall specify the address in this state of the appointed agent.

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The address may be changed from time to time by filing a new address in the state

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with the commission. If an in-state natural gas pipeline carrier fails to appoint a

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registered agent, service of notices, regulations, and requests may be made by posting

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a copy in the main office of the commission and filing a copy in the office of the

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lieutenant governor.

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Sec. 42.08.520. Effect of regulations. Regulations adopted by the commission

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under this chapter have the effect of law.

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Sec. 42.08.530. Judicial review and enforcement. (a) Except as provided in

50/27 AS 38.35.200(c), a final order of the commission under this chapter is subject to
50/28 judicial review under AS 44.62.560 and 44.62.570.
50/29 (b) If an appeal is not taken from a final order of the commission within 10
50/30 calendar days after an investigation under ~~AS 42.08.220(b)(2)~~AS 42.08.220(b)(3), the
commission may
50/31 apply to the superior court for enforcement of the order of the commission. The court

End of page 50

Bill continues as written starting on page 51.