

CS FOR HOUSE BILL NO. 290(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 2/21/00

Referred: Resources, Finance

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil and gas, to the sale and disposition of state royalty oil
2 and gas, to pipeline carriers of natural gas produced from the North Slope of
3 Alaska, and to the intrastate regulation by the Regulatory Commission of Alaska
4 of pipelines and pipeline facilities of that natural gas."

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

6 * **Section 1.** AS 38.05.182 is amended to read:

7 **Sec. 38.05.182. Royalty on natural resources.** (a) Any royalty provided for
8 in AS 38.05.135 - 38.05.181 may be taken in kind rather than in money if the
9 commissioner determines that the taking in kind would be in the best interest of the
10 state. However, royalties on oil and gas shall be taken in kind unless the
11 commissioner determines that the taking in money would be in the best interest of the
12 state. In making a determination under this subsection about whether to
13 recommend that royalties on oil and gas be taken in kind or in money, the
14 commissioner shall give specific consideration as to whether the royalty oil and

1 gas taken in kind may be necessary to meet the state's present and projected
 2 intrastate domestic and industrial needs.

3 (b) Before taking any action with regard to the taking and disposition of
 4 royalties on oil and gas, the [THE] commissioner shall submit a proposed
 5 determination to take royalty [IN MONEY] to the legislature at the first opportunity
 6 during a current session or, if the legislature is not in session, at the next regular
 7 session. The legislature, [WITHIN 60 DAYS OR] by the adjournment of the session,
 8 [WHICHEVER COMES SOONER,] may approve [REVOKE] the proposed
 9 determination by law. If the legislature does not approve the proposed
 10 determination, the commissioner may not implement the determination as
 11 submitted [CONCURRENT RESOLUTION].

12 * **Sec. 2.** AS 38.35.120(a) is amended to read:

13 (a) A noncompetitive lease of state land for a right-of-way for an oil or natural
 14 gas pipeline valued at \$1,000,000 or more may be granted only upon the condition that
 15 the lessee expressly covenants in the lease, in consideration of the rights acquired by
 16 it under the lease, that

17 (1) it assumes the status of and will perform all of its functions
 18 undertaken under the lease as a common carrier and will accept, convey, and transport
 19 without discrimination crude oil or natural gas, depending on the kind of pipeline
 20 involved, delivered to it for transportation from fields in the vicinity of the pipeline
 21 subject to the lease throughout its route both on state land obtained under the lease and
 22 on the other land; however, a lessee that [WHO] owns or operates a natural gas
 23 pipeline

24 (A) subject to regulation either [(A)] under the Natural Gas Act
 25 (15 U.S.C. 717 et seq.) of the United States [,] or [(B)] by the state or political
 26 subdivisions with respect to rates and charges for the sale of natural gas, is, to
 27 the extent of that regulation, exempt from the common carrier requirement in
 28 this paragraph; it will accept, convey, and transport crude oil or natural gas
 29 without unjust or unreasonable discrimination in favor of one producer or
 30 person, including itself, as against another but will take the crude oil or natural
 31 gas, depending on the kind of pipeline involved, delivered or offered, without

1 unreasonable discrimination, that the Regulatory Commission of Alaska shall,
 2 after a full hearing with due notice to the interested parties and a proper finding
 3 of facts, determine to be reasonable in the performance of its duties as a
 4 common carrier;

5 **(B) as a North Slope natural gas pipeline carrier, as that**
 6 **term is defined in AS 42.06.630, is required to operate as a common**
 7 **carrier only with respect to the intrastate transportation of North Slope**
 8 **natural gas and is not otherwise required to perform its functions under**
 9 **the lease as a common carrier;**

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

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

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

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

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

31 (7) it will construct and operate the pipeline in accordance with

1 applicable state laws and lawful regulations and orders of the Regulatory Commission
2 of Alaska;

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

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

5 (B) promptly repair or remedy any damage to the leasehold;

6 (C) promptly compensate for any damage to or destruction of
7 property for which the lessee is liable resulting from damage to or destruction
8 of the leasehold or pipeline;

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

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

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

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

1 of-way not actually occupied or required by the pipeline for the full and safe utilization
 2 of the pipeline, for necessary operations incident to land management, administration,
 3 or disposal;

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

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

13 * **Sec. 3.** AS 42.05.711 is amended by adding a new subsection to read:

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

17 * **Sec. 4.** AS 42.06.230(b) is amended to read:

18 (b) The commission's jurisdiction and authority extend to

19 (1) an oil or gas pipeline facility operating in a municipality, whether
 20 home rule or otherwise; **if** [IF] a conflict between a certificate, order, decision, or
 21 regulation of the commission and a charter, permit, franchise, ordinance, rule, or
 22 regulation of such a local governmental entity occurs, the certificate, order, decision,
 23 or regulation of the commission prevails; **and**

24 **(2) the intrastate transportation of North Slope natural gas through**
 25 **a North Slope natural gas pipeline.**

26 * **Sec. 5.** AS 42.06.240 is amended by adding a new subsection to read:

27 (f) In addition to other requirements of (a) - (e) of this section, the provisions
 28 of this subsection apply to a certificate of public convenience and necessity for a North
 29 Slope natural gas pipeline carrier or person that will be a North Slope natural gas
 30 pipeline carrier under this chapter:

31 (1) the person making application shall dedicate a portion of the

1 pipeline's initial capacity sufficient to transport the total volume of North Slope natural
2 gas that has been committed by producers and shippers of North Slope natural gas to
3 tendering for intrastate firm transportation service at the time that the operation of the
4 North Slope natural gas pipeline commences;

5 (2) upon receipt of the certificate application under this subsection, the
6 commission shall issue a public notice inviting prospective intrastate shippers of North
7 Slope natural gas to file requests for service; a request for service submitted by a
8 shipper in response to a notice issued under this paragraph must include a proof of the
9 shipper's commitment to use the North Slope natural gas pipeline for intrastate firm
10 transportation service, specifying the volume of North Slope natural gas that the
11 shipper will tender for initial intrastate firm transportation service;

12 (3) in its review of an application submitted under this subsection,

13 (A) for purposes of evaluating the total volume of intrastate
14 transportation of North Slope natural gas to be accepted for initial intrastate
15 transportation, the commission shall determine total volume based upon written
16 commitments to tender North Slope natural gas for intrastate firm transportation
17 service continuously for a period of not less than three years after the operation
18 of the North Slope natural gas pipeline commences as follows:

19 (i) each request for service by an intrastate shipper that
20 is a public utility, as that term is defined in AS 42.05.990, for the
21 purpose of furnishing natural gas for ultimate consumption within the
22 state by its customers in which the consumption by customers is an
23 average annual volume of less than 20,000,000 standard cubic feet of
24 gas per day shall be supported by a written commitment by the public
25 utility that sets out the utility's best current estimate of the average
26 annual volume that the utility will require during the three-year period;

27 (ii) each request for service by an intrastate shipper that
28 is not a public utility, as that term is defined in AS 42.05.990, for the
29 purpose of furnishing natural gas for ultimate consumption within the
30 state by its customers in which the consumption by customers is an
31 average annual volume of 20,000,000 or more standard cubic feet of

1 gas per day, that purchases North Slope natural gas from a North Slope
 2 natural gas producer, must be supported by one or more contracts for
 3 the purchase of the North Slope natural gas on a take-or-pay basis that
 4 extends for a period of not less than three years after the operation of
 5 the North Slope natural gas pipeline commences;

6 (iii) the commission may consider peak volumes
 7 specified in the written commitments of North Slope natural gas
 8 producers and purchase contracts; and

9 (B) the commission shall set out in its order granting a
 10 certificate of public convenience and necessity the total volume of intrastate
 11 North Slope natural gas that the North Slope natural gas pipeline carrier shall
 12 accept for intrastate transportation; the total volume may not exceed the volume
 13 substantiated by written commitments and contracts that comply with the
 14 requirements of this chapter;

15 (4) if the North Slope natural gas pipeline carrier wants to transport
 16 North Slope natural gas within the state in excess of the amount set out in the
 17 statement of total volume in the pipeline carrier's certificate of public convenience and
 18 necessity, the pipeline carrier may apply for authority to transport a greater volume of
 19 North Slope natural gas within the state than the carrier is required by the commission
 20 to transport in its order entered under (3)(B) of this subsection; the commission shall
 21 grant the authority requested by the pipeline carrier if the commission determines that
 22 the pipeline carrier's transportation of a greater volume is consistent with public
 23 convenience and necessity.

24 * **Sec. 6.** AS 42.06.310 is amended by adding a new subsection to read:

25 (d) The requirement of (c) of this section does not apply to a North Slope
 26 natural gas pipeline carrier to the extent that the capacity of the carrier's North Slope
 27 natural gas pipeline does not allow for expanded capacity, and does not apply to
 28 require a North Slope natural gas pipeline carrier to enlarge or extend its North Slope
 29 natural gas pipeline system. However, the commission may require a North Slope
 30 natural gas pipeline carrier to expand, enlarge, or extend its North Slope natural gas
 31 pipeline system if, after notice and opportunity for hearing, the commission determines

1 that

2 (1) a person making a request for expanded, enlarged, or extended
3 service by a North Slope natural gas pipeline carrier has made a firm contractual
4 commitment to the North Slope natural gas pipeline carrier to transport North Slope
5 natural gas; and

6 (2) the expansion, enlargement, or extension will not result in

7 (A) substantial injury, including economic injury, to the North
8 Slope natural gas pipeline facility or its customers;

9 (B) substantial detriment to the services furnished by the North
10 Slope natural gas pipeline facility; or

11 (C) the creation of safety hazards.

12 * **Sec. 7.** AS 42.06.350 is amended by adding a new subsection to read:

13 (c) In its tariff filed with the commission under (a) of this section, a North
14 Slope natural gas pipeline carrier may charge separate rates for firm transportation
15 service and for interruptible transportation service. A North Slope natural gas pipeline
16 carrier

17 (1) may, in addition, impose a reservation fee or similar charge for
18 reservation of capacity in a North Slope natural gas pipeline as a condition of
19 providing firm transportation service; the reservation fee or charge imposed by the
20 carrier may not include any variable costs or fixed costs that are not attributable to the
21 provision of firm transportation service;

22 (2) may not impose a reservation fee or similar charge for reservation
23 of capacity in a North Slope natural gas pipeline for interruptible transportation
24 service.

25 * **Sec. 8.** AS 42.06.370 is amended by adding a new subsection to read:

26 (c) Rates demanded, observed, charged, or collected by a North Slope natural
27 gas pipeline carrier for intrastate service shall be designed as if that portion of the
28 North Slope natural gas pipeline were a public utility regulated under the provisions
29 of AS 42.05.

30 * **Sec. 9.** AS 42.06.630 is amended by adding new paragraphs to read:

31 (11) "capacity" means, with reference to a North Slope natural gas

1 pipeline, the average daily volume throughput of the North Slope natural gas pipeline,
2 calculated at the normal operating pressure of the North Slope natural gas pipeline as
3 set out in the pipeline design;

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

8 (13) "interruptible transportation service" means service by a North
9 Slope natural gas pipeline carrier in which the carrier's pipeline system capacity may
10 be subject to a prior claim by another shipper or another class of service; a service
11 constitutes "interruptible transportation service" if the service is given a lower priority
12 than another class of service, resulting in noncontinuous service to a shipper of North
13 Slope natural gas;

14 (14) "intrastate," as applied to the transportation of North Slope natural
15 gas, means the transportation of North Slope natural gas between any point within the
16 state and another point within the state, for ultimate consumption of the North Slope
17 natural gas within the state;

18 (15) "North Slope natural gas" means gas that is produced from the
19 area of Alaska lying north of 68 degrees North latitude and that, but for a pipeline
20 subject to regulation under this chapter, had not been committed for sale and delivery
21 in a commercial market due to the prevailing costs or price conditions;

22 (16) "North Slope natural gas pipeline" or "North Slope natural gas
23 pipeline facility" means all the facilities of a total system of pipe, whether owned or
24 operated by a North Slope natural gas pipeline carrier under a contract, agreement, or
25 lease, in this state used by a North Slope natural gas pipeline carrier for transportation
26 of North Slope natural gas for delivery, storage, or further transportation, including all
27 pipe, pump, and compressor stations, station equipment, gas processing plants, treaters,
28 separators, and all other facilities used or necessary for an integral line of pipe to carry
29 out the transportation from point to point, but excluding marine terminal facilities and
30 the integrated plant, facilities, and equipment, including pollution control equipment,
31 used for conditioning, storage, handling, or processing of North Slope natural gas into

1 liquefied natural gas;

2 (17) "North Slope natural gas pipeline carrier" means the owner,
3 including a corporation, company, or other entity organized under the laws of the
4 United States or of a state, of a North Slope natural gas pipeline, or an interest in it,
5 or a person, including a corporation, company, or other entity, organized under the
6 laws of the United States or of a state, authorized to construct, operate, or extend
7 North Slope natural gas pipeline facilities under this chapter.