

**SENATE BILL NO. 226**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 1/27/00

Referred: Resources

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to stranded gas pipeline carriers and to the intrastate regulation  
2 by the Regulatory Commission of Alaska of pipelines and pipeline facilities of  
3 stranded gas pipeline carriers."

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

5 \* **Section 1.** AS 38.35.120(a) is amended to read:

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

10 (1) it assumes the status of and will perform all of its functions  
11 undertaken under the lease as a common carrier and will accept, convey, and transport  
12 without discrimination crude oil or natural gas, depending on the kind of pipeline  
13 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
14 subject to the lease throughout its route both on state land obtained under the lease and

1 on the other land; however, a lessee **that** [WHO] owns or operates a natural gas  
2 pipeline

3 (A) subject to regulation either [(A)] under the Natural Gas Act  
4 (15 U.S.C. 717 et seq.) of the United States [,] or [(B)] by the state or political  
5 subdivisions with respect to rates and charges for the sale of natural gas, is, to  
6 the extent of that regulation, exempt from the common carrier requirement in  
7 this paragraph; it will accept, convey, and transport crude oil or natural gas  
8 without unjust or unreasonable discrimination in favor of one producer or  
9 person, including itself, as against another but will take the crude oil or natural  
10 gas, depending on the kind of pipeline involved, delivered or offered, without  
11 unreasonable discrimination, that the Regulatory Commission of Alaska shall,  
12 after a full hearing with due notice to the interested parties and a proper finding  
13 of facts, determine to be reasonable in the performance of its duties as a  
14 common carrier;

15 (B) **as a stranded gas pipeline carrier, as that term is**  
16 **defined in AS 42.06.630, is required to operate as a common carrier only**  
17 **with respect to the intrastate transportation of stranded gas and is not**  
18 **otherwise required to perform its functions under the lease as a common**  
19 **carrier;**

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

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

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

31 (5) it will provide connections, as determined by the Regulatory

1 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the  
2 lease, both on state land and other land in the state, for the purpose of delivering crude  
3 oil or natural gas, depending on the kind of pipeline involved, to persons (including  
4 the state and its political subdivisions) contracting for the purchase at wholesale of  
5 crude oil or natural gas transported by the pipeline when required by the public  
6 interest;

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

10 (7) it will construct and operate the pipeline in accordance with  
11 applicable state laws and lawful regulations and orders of the Regulatory Commission  
12 of Alaska;

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

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

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

16 (C) promptly compensate for any damage to or destruction of  
17 property for which the lessee is liable resulting from damage to or destruction  
18 of the leasehold or pipeline;

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

29 (10) it will file with the commissioner a written appointment of a  
30 named permanent resident of the state to be its registered agent in the state and to  
31 receive service of notices, regulations, decisions, and orders of the commissioner; if

1 it fails to appoint an agent for service, service may be made by posting a copy in the  
 2 office of the commissioner, [AND] filing a copy [OF IT] in the office of the lieutenant  
 3 governor, and [BY] mailing a copy to the lessee's last known address;

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

6 (12) the granting of the right-of-way lease is subject to the express  
 7 condition that the exercise of the rights and privileges granted under the lease will not  
 8 unduly interfere with the management, administration, or disposal by the state of the  
 9 land affected by the lease, and that the lessee agrees and consents to the occupancy  
 10 and use by the state, its grantees, permittees, or other lessees of any part of the right-  
 11 of-way not actually occupied or required by the pipeline for the full and safe utilization  
 12 of the pipeline, for necessary operations incident to land management, administration,  
 13 or disposal;

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

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

23 \* **Sec. 2.** AS 42.05.711 is amended by adding a new subsection to read:

24 (n) The provisions of this chapter do not apply to a person who owns or  
 25 operates a natural gas pipeline as a stranded gas pipeline carrier, as that term is defined  
 26 in AS 42.06.630.

27 \* **Sec. 3.** AS 42.06.230(b) is amended to read:

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

29 (1) an oil or gas pipeline facility operating in a municipality, whether  
 30 home rule or otherwise; **if** [ IF] a conflict between a certificate, order, decision, or  
 31 regulation of the commission and a charter, permit, franchise, ordinance, rule, or

1 regulation of such a local governmental entity occurs, the certificate, order, decision,  
2 or regulation of the commission prevails; **and**

3 **(2) the intrastate transportation of stranded gas through a stranded**  
4 **gas pipeline.**

5 \* **Sec. 4.** AS 42.06.240 is amended by adding a new subsection to read:

6 (f) In addition to other requirements of (a) - (e) of this section, the provisions  
7 of this subsection apply to a certificate of public convenience and necessity for a  
8 stranded gas pipeline carrier or person that will be a stranded gas pipeline carrier under  
9 this chapter:

10 (1) the person making application shall dedicate a portion of the  
11 pipeline's initial capacity sufficient to transport the total volume of stranded gas that  
12 has been committed by producers and shippers of stranded gas to tendering for  
13 intrastate firm transportation service at the time that the operation of the stranded gas  
14 pipeline commences;

15 (2) upon receipt of the certificate application under this subsection, the  
16 commission shall issue a public notice inviting prospective intrastate shippers of  
17 stranded gas to file requests for service; a request for service submitted by a shipper  
18 in response to a notice issued under this paragraph must include a proof of the  
19 shipper's commitment to use the stranded gas pipeline for intrastate firm transportation  
20 service, specifying the volume of stranded gas that the shipper will tender for initial  
21 intrastate firm transportation service;

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

23 (A) for purposes of evaluating the total volume of intrastate  
24 transportation of stranded gas to be accepted for initial intrastate transportation,  
25 the commission

26 (i) shall determine total volume based upon written  
27 commitments to tender stranded gas for intrastate firm transportation  
28 service continuously for a period of not less than three years after the  
29 operation of the stranded gas pipeline commences; each request for  
30 service by an intrastate shipper who purchases stranded gas from a  
31 stranded gas producer must be supported by one or more contracts for

1 the purchase of the stranded gas on a take-or-pay basis that extends for  
 2 a period of not less than three years after the operation of the stranded  
 3 gas pipeline commences;

4 (ii) may consider peak volumes specified in the written  
 5 commitments of stranded gas producers and purchase contracts; and

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

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

20 \* **Sec. 5.** AS 42.06.310 is amended by adding a new subsection to read:

21 (d) The requirement of (c) of this section does not apply to a stranded gas  
 22 pipeline carrier to the extent that the capacity of the carrier's stranded gas pipeline  
 23 does not allow for expanded capacity, and does not apply to require a stranded gas  
 24 pipeline carrier to enlarge or extend its stranded gas pipeline system; however,

25 (1) the commission may require a stranded gas pipeline carrier to  
 26 expand, enlarge, or extend its stranded gas pipeline system if, after notice and  
 27 opportunity for hearing, the commission determines that

28 (A) a person making a request for expanded, enlarged, or  
 29 extended service by a stranded gas pipeline carrier has made a firm contractual  
 30 commitment to the stranded gas pipeline carrier to transport stranded gas in  
 31 sufficient quantity so that meeting the commission's requirement will not

1 impose an undue financial burden on the stranded gas pipeline carrier or its  
2 customers; and

3 (B) the ability of the stranded gas pipeline carrier to provide  
4 adequate services to its customers is not impaired; and

5 (2) if, under (1) of this subsection, the commission requires a stranded  
6 gas pipeline carrier to expand, enlarge, or extend its stranded gas pipeline system, the  
7 commission shall set rates for the service so that the additional cost of the requirement  
8 is borne by the person making the request, taking into consideration any benefits to  
9 customers of the stranded gas pipeline carrier that may result from the expansion,  
10 enlargement, or extension of the system.

11 \* **Sec. 6.** AS 42.06.350 is amended by adding a new subsection to read:

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

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

20 (2) may not impose a reservation fee or similar charge for reservation  
21 of capacity in a stranded gas pipeline for interruptible transportation service.

22 \* **Sec. 7.** AS 42.06.630 is amended by adding new paragraphs to read:

23 (11) "capacity" means, with reference to a stranded gas pipeline, the  
24 average daily volume throughput of the stranded gas pipeline, calculated at the normal  
25 operating pressure of the stranded gas pipeline as set out in the pipeline design;

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

30 (13) "interruptible transportation service" means service by a stranded  
31 gas pipeline carrier in which the carrier's pipeline system capacity may be subject to

1 a prior claim by another shipper or another class of service; a service constitutes  
2 "interruptible transportation service" if the service is given a lower priority than  
3 another class of service, resulting in noncontinuous service to a shipper of stranded  
4 gas;

5 (14) "intrastate," as applied to the transportation of stranded gas, means  
6 the transportation of stranded gas between any point within the state and another point  
7 within the state, for ultimate consumption of the stranded gas within the state;

8 (15) "stranded gas" has the meaning given in AS 43.82.900;

9 (16) "stranded gas pipeline" or "stranded gas pipeline facility" means  
10 all the facilities of a total system of pipe, whether owned or operated by a stranded gas  
11 pipeline carrier under a contract, agreement, or lease, in this state used by a stranded  
12 gas pipeline carrier for transportation of stranded gas for delivery, storage, or further  
13 transportation, including all pipe, pump, and compressor stations, station equipment,  
14 gas processing plants, treaters, separators, and all other facilities used or necessary for  
15 an integral line of pipe to carry out the transportation from point to point, but  
16 excluding marine terminal facilities and the integrated plant, facilities, and equipment,  
17 including pollution control equipment, used for conditioning, storage, handling, or  
18 processing of stranded gas into liquefied natural gas;

19 (17) "stranded gas pipeline carrier" means the owner, including a  
20 corporation, company, or other entity organized under the laws of the United States or  
21 of a state, of a stranded gas pipeline, or an interest in it, or a person, including a  
22 corporation, company, or other entity, organized under the laws of the United States  
23 or of a state, authorized to construct, operate, or extend stranded gas pipeline facilities  
24 under this chapter.