

HOUSE BILL NO. 83

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Introduced: 1/19/01

Referred: House Special Committee on Oil and Gas, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to natural gas pipelines, providing a statutory definition for the portion**
2 **of the constitutional statement of policy on resource development as applicable to the**
3 **development and transportation of the state's natural gas reserves, amending Acts**
4 **relating to construction of natural gas pipelines to require conformance to the**
5 **requirements of the statutory definition, and amending the standards applicable to**
6 **determining whether a proposed new investment constitutes a qualified project for**
7 **purposes of the Alaska Stranded Gas Development Act; and providing for an effective**
8 **date."**

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

10 *** Section 1.** AS 38.05.910 is amended by adding a new subsection to read:

11 (b) Consistent with the statements of general state policy guiding resource
12 development set out in art. VIII, sec. 1, Constitution of the State of Alaska, that the

1 resources of the state be developed "by making them available for maximum use
 2 consistent with the public interest" that appears in (a) of this section, and set out in art.
 3 VIII, sec. 2, Constitution of the State of Alaska, directing that provision shall be made
 4 by the legislature for "the utilization, development, and conservation of all natural
 5 resources belonging to the State . . . for the maximum benefit of its people," it is the
 6 policy of this state that the overall strategy for development, use, and control of a
 7 project or projects to develop and transport the state's substantial natural gas resources
 8 be directed

9 (1) to enhance the standard of living of state residents by

10 (A) ensuring that, in conjunction with out-of-state market-
 11 driven commercial demand for the natural gas, state residents and businesses
 12 will have access, direct or indirect, to that portion of the gas that will meet the
 13 reasonably foreseeable in-state demands for it, including substitution of the
 14 natural gas for depleting gas reserves in order to maintain a low-cost domestic
 15 and industrial energy source, and that the pipeline or pipelines for the
 16 transportation of the natural gas will be designed and located to be responsive
 17 to these requirements;

18 (B) making the maximum contribution to the development of
 19 job opportunities in this state by providing direct short-term construction and
 20 long-term operation- and maintenance-related employment on the pipeline or
 21 pipelines and by providing necessary support services; and

22 (C) adding significant long-term property value to the tax base
 23 of the state and its local governments, thereby providing the means to support
 24 public education, public health, transportation, and other essential state and
 25 local government projects and services;

26 (2) to ensure that the design, location, and construction of a pipeline or
 27 pipelines of natural gas from this state to North American markets through connection
 28 to the North American natural gas pipeline network does not foreclose implementation
 29 of gas delivery using alternative technologies and the construction of other pipelines to
 30 accommodate delivery of natural gas to tidewater for delivery to foreign and domestic
 31 markets; and

1 (3) to ensure construction of a pipeline or pipelines consistent with
 2 careful protection of the state's natural environment, with minimum environmental
 3 degradation, to the greatest extent possible, and with protection of fish, wildlife, and
 4 biotic resources for the use of persons who depend upon them, by using available
 5 transportation infrastructure to initiate and complete project construction and
 6 maintenance and by avoiding duplication of facilities.

7 * **Sec. 2.** AS 38.35.100(a) is amended to read:

8 (a) The commissioner shall promptly determine, in a written finding, on an
 9 application filed under AS 38.35.050, whether the applicant is fit, willing, and able to
 10 perform the transportation or other acts proposed in a manner that will be required by
 11 the present or future public interest. **For a natural gas pipeline, the commissioner**
 12 **shall also promptly determine, in a written finding, on an application filed under**
 13 **AS 38.35.050, whether the applicant's proposed use of the right-of-way will**
 14 **comply with the overall strategy for development, use, and control of a project or**
 15 **projects to develop and transport the state's natural gas resources set out in**
 16 **AS 38.05.910(b).** In making a determination the commissioner shall consider whether
 17 or not

18 (1) the proposed use of the right-of-way will unreasonably conflict
 19 with existing uses of the land involving a superior public interest;

20 (2) the applicant has the technical and financial capability to protect
 21 state and private property interests;

22 (3) the applicant has the technical and financial capability to take
 23 action to the extent reasonably practical to

24 (A) prevent any significant adverse environmental impact,
 25 including but not limited to erosion of the surface of the land and damage to
 26 fish and wildlife and their habitat;

27 (B) undertake any necessary restoration or revegetation; and

28 (C) protect the interests of individuals living in the general area
 29 of the right-of-way who rely on fish, wildlife, and biotic resources of the area
 30 for subsistence purposes;

31 (4) the applicant has the financial capability to pay reasonably

1 foreseeable damages for which the applicant may become liable on claims arising
2 from the construction, operation, maintenance, or termination of the pipeline;

3 (5) the applicant has agreed that, in the construction and operation of a
4 pipeline within the right-of-way,

5 (A) the applicant will comply with, and require contractors and
6 their subcontractors to comply with, applicable and valid laws and regulations
7 regarding the hiring of residents of the state then in effect or that take effect
8 subsequently, **and**

9 (B) **for a project or projects to develop and transport the**
10 **state's natural gas resources, the applicant will also use the applicant's**
11 **best efforts to contract with qualified contractors and firms in this state**
12 **for work to be performed, including the fabrication and installation of**
13 **required facilities; in this subparagraph, a contractor or firm is**
14 **considered as qualified if the contractor or firm qualifies as an Alaska**
15 **bidder under AS 36.30.170(b);**

16 (6) **for a North Slope natural gas pipeline, as that term is defined**
17 **in AS 42.06.630, the applicant voluntarily agrees to use the applicant's best**
18 **efforts to employ residents of this state, consistent with law; for purposes of this**
19 **paragraph, a person is considered a resident if the person is physically present in**
20 **the state with the intent to remain in the state indefinitely and has a home in the**
21 **state.**

22 * **Sec. 3.** AS 38.35.100(b) is amended to read:

23 (b) If the commissioner makes the determinations under (a) of this section
24 favorably to the applicant, then the commissioner may grant the whole or part of the
25 application. If the commissioner makes the determinations under **(a)** [(a)(1) - (5)] of
26 this section favorably to the applicant but determines that the applicant is not then fit,
27 willing, and able to perform under the application, the commissioner may grant the
28 application under a conditional lease subject to conditions established by the
29 commissioner that will ensure that the applicant will, within a prescribed period of
30 time not exceeding 10 years, establish that the applicant is fit, willing, and able, under
31 (a) of this section, to perform the transportation or other acts that will be required by

1 the present or future public interest. An applicant is not entitled to a notice or
 2 authorization to proceed to construction, or its equivalent, under a conditional lease
 3 until the commissioner determines in writing that the applicant has satisfactorily
 4 established that the applicant is then fit, willing, and able to perform under (a) of this
 5 section. Otherwise, the commissioner shall deny the application.

6 * **Sec. 4.** AS 42.06.310(d) is amended to read:

7 (d) **To reduce the time and cost of future connections for the injection and**
 8 **removal of gas from the main North Slope natural gas pipeline in order to**
 9 **maintain and facilitate access to a portion of the gas for use in intrastate**
 10 **commerce to meet the reasonably foreseeable in-state demands for it, including**
 11 **substitution of the natural gas for depleting gas reserves in order to maintain a**
 12 **low-cost domestic and industrial energy source, the** [THE REQUIREMENT OF
 13 (c) OF THIS SECTION DOES NOT APPLY TO A NORTH SLOPE NATURAL
 14 GAS PIPELINE CARRIER TO THE EXTENT THAT THE CAPACITY OF THE
 15 CARRIER'S NORTH SLOPE NATURAL GAS PIPELINE DOES NOT ALLOW
 16 FOR EXPANDED CAPACITY, AND DOES NOT APPLY TO REQUIRE A
 17 NORTH SLOPE NATURAL GAS PIPELINE CARRIER TO ENLARGE OR
 18 EXTEND ITS NORTH SLOPE NATURAL GAS PIPELINE SYSTEM.
 19 HOWEVER, THE] commission

20 **(1) shall, notwithstanding the criteria applicable under (c) of this**
 21 **section,** [MAY] require a North Slope natural gas pipeline [CARRIER] to **be**
 22 **designed and constructed in size and operating capability beyond the capacity, as**
 23 **measured by the average daily volume throughput, sufficient to provide gas in**
 24 **interstate commerce, and shall enter other appropriate orders under**
 25 **AS 42.06.340(b); and**

26 **(2) may otherwise require a North Slope natural gas pipeline**
 27 **carrier to** expand, enlarge, or extend its North Slope natural gas pipeline system if,
 28 after notice and opportunity for hearing, the commission determines that

29 **(A)** [(1)] a person making a request for expanded, enlarged, or
 30 extended service by a North Slope natural gas pipeline carrier has made a firm
 31 contractual commitment to the North Slope natural gas pipeline carrier to

1 transport North Slope natural gas; and

2 **(B)** [(2)] the expansion, enlargement, or extension will not
3 result in

4 **(i)** [(A)] substantial injury, including economic injury,
5 to the North Slope natural gas pipeline facility or its customers;

6 **(ii)** [(B)] substantial detriment to the services furnished
7 by the North Slope natural gas pipeline facility; or

8 **(iii)** [(C)] the creation of safety hazards.

9 * **Sec. 5.** AS 43.82.100 is amended to read:

10 **Sec. 43.82.100. Qualified project.** Based on information available to the
11 commissioner, the commissioner may determine that a proposal for new investment is
12 a qualified project under this chapter only if the project

13 (1) [IS A PROJECT FOR THE EXPORT OF LIQUEFIED
14 NATURAL GAS;

15 (2)] would produce at least 500,000,000,000 cubic feet of stranded gas
16 within 20 years from the commencement of commercial operations; and

17 **(2) complies with the overall strategy for development, use, and**
18 **control of a project or projects to develop the state's natural gas resources set out**
19 **in AS 38.05.910(b)** [(3) IS CAPABLE, SUBJECT TO APPLICABLE
20 COMMERCIAL REGULATION AND TECHNICAL AND ECONOMIC
21 CONSIDERATIONS, OF MAKING GAS AVAILABLE TO MEET THE
22 REASONABLY FORESEEABLE DEMAND IN THIS STATE FOR GAS WITHIN
23 THE ECONOMIC PROXIMITY OF THE PROJECT].

24 * **Sec. 6.** AS 42.06.240(f) is repealed.

25 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).