

CS FOR HOUSE BILL NO. 277(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 5/5/03

Referred: Resources, Labor and Commerce

Sponsor(s): REPRESENTATIVES DAHLSTROM, Kohring

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers of the Regulatory Commission of Alaska in regard to
2 intrastate pipeline transportation services and pipeline facilities, to the rate of interest
3 for funds to be paid by pipeline shippers or carriers at the end of a suspension of tariff
4 filing, and to the application of orders affecting rates of regulated pipeline utilities."

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

6 * **Section 1.** AS 42.06.140(a) is amended to read:

7 (a) The commission

8 (1) shall regulate the provision of intrastate pipeline transportation
9 services within the state, including rates, classifications, regulations, practices,
10 and conditions of service, but only to the extent applicable to the delivery of
11 intrastate transportation services [PIPELINES AND PIPELINE CARRIERS IN
12 THE STATE];

13 (2) may investigate, upon complaint or its own motion, the rates,
14 classifications, rules, regulations, prices, services, **and** practices [, AND FACILITIES]

1 of pipeline carriers [, AND THE PERFORMANCE OF OBLIGATIONS UNDER
2 AND COMPLIANCE WITH THE TERMS OF LEASES ISSUED BY THE STATE];

3 (3) may make, prescribe, or require just, fair, and reasonable rates,
4 classifications, regulations, practices, and service [SERVICES, AND FACILITIES]
5 for pipeline carriers;

6 (4) may require pipeline carriers and affiliated interests to file with the
7 commission reports and other information and data required or permitted to be
8 required by other provisions of this chapter;

9 (5) may adopt regulations that are necessary and proper to the
10 performance of its duties under this chapter, including regulations governing practices
11 and procedures of the commission; the regulations may not be inconsistent with state
12 law;

13 (6) shall, during normal business hours, have access to and may
14 designate any of its employees, agents, or consultants to inspect and examine the
15 accounts, financial and property records, books, maps, inventories, appraisals,
16 valuations, and related reports kept by a pipeline carrier, or kept for it by others, that
17 directly affect the interests of the state and directly relate to pipelines located in the
18 state;

19 (7) may initiate, intervene in, and appear personally or by counsel and
20 offer evidence in and participate in [,] any proceedings involving a pipeline carrier [,]
21 and affecting the interests of the state, before any officer, department, board,
22 commission, or court of this state;

23 (8) shall require permits for the construction, enlargement in size or
24 operating capacity, extension, connection and interconnection, or operation [OR
25 ABANDONMENT] of any oil or gas pipeline facility or facilities, subject to necessary
26 and reasonable terms, conditions, and limitations;

27 (9) may prescribe the system of accounts and regulate the service of an
28 oil or gas pipeline facility;

29 (10) shall provide all reasonable assistance to the Department of Law
30 in intervening in, offering evidence in, and participating in proceedings involving a
31 pipeline carrier or affiliated interest and affecting the interests of the state, before an

1 officer, department, board, commission, or court of another state or the United States.

2 * **Sec. 2.** AS 42.06.230 is amended by adding a new subsection to read:

3 (c) Notwithstanding any other provision of this chapter, the commission does
4 not have jurisdiction over a pipeline carrier with respect to the dismantlement,
5 removal, and restoration of any part of a pipeline facility, or over any amount
6 collected or held by a pipeline carrier for performing dismantlement, removal, and
7 restoration except amounts included in a pipeline carrier's intrastate rates.

8 * **Sec. 3.** AS 42.06.245 is amended to read:

9 **Sec. 42.06.245. Federally regulated carriers.** The requirements of this
10 chapter pertaining to permits and certificates of public convenience and necessity do
11 not apply to the construction of a pipeline facility exclusively subject to federal
12 jurisdiction or to the interstate portion of the business of a pipeline or pipeline carrier
13 [EXCLUSIVELY] subject to federal jurisdiction, **including rates, tariffs, charges,**
14 **classification, rules, regulations, terms, and conditions pertaining to the interstate**
15 **portion of the business subject to federal jurisdiction.** However, the requirements
16 of this chapter for permits and certificates of public convenience and necessity do
17 apply to [ALL] the intrastate portion of the business of a pipeline or pipeline carrier
18 subject to federal jurisdiction **to the extent the pipeline or pipeline carrier is**
19 **engaged** [WHENEVER IT ENGAGES] in intrastate commerce, **including rates,**
20 **tariffs, charges, classification, rules, regulations, terms, and conditions pertaining**
21 **solely to the intrastate portion of the business. The commission may not consider**
22 **revenue collected on interstate transportation when evaluating intrastate rates or**
23 **tariffs** [HOWEVER, NOTHING LIMITS THE POWERS OF THE COMMISSION
24 SET OUT IN THIS CHAPTER EXCEPT TO THE EXTENT THEY ARE
25 PREEMPTED BY FEDERAL LAW].

26 * **Sec. 4.** AS 42.06.290(a) is amended to read:

27 (a) A pipeline carrier may not [ABANDON OR PERMANENTLY
28 DISCONTINUE USE OF ALL OR ANY PORTION OF A PIPELINE OR] abandon
29 or discontinue any service rendered by means of a pipeline that is the subject of a
30 certificate of convenience and necessity [,] without the permission and approval of the
31 commission, after due notice and hearing, and a finding by the commission that

1 continued service is not required by public convenience and necessity. Any interested
 2 person may file with the commission a protest or memorandum of opposition to or in
 3 support of discontinuance or abandonment. The commission may authorize temporary
 4 suspension of a service or part of a service.

5 * **Sec. 5.** AS 42.06.400(b) is amended to read:

6 (b) An order suspending a tariff filing may be vacated if, after investigation,
 7 the commission finds that it is, in all respects, proper. Otherwise, the commission
 8 shall hold a hearing on the suspended filing and issue its order, before the end of the
 9 suspension period, granting, denying, or modifying the suspended tariff in whole or in
 10 part. If an initial tariff is suspended, the commission shall establish a reasonable
 11 temporary tariff. The commission may allow the collection of the filed initial tariff, or
 12 it may require collection of the temporary tariff. If the commission allows collection
 13 of the filed initial tariff, it shall require the pipeline carrier to place the revenue
 14 representing the difference between the filed tariff and the temporary tariff in escrow
 15 in a financial institution approved by the commission, and keep accurate accounts of
 16 all amounts received, specifying by whom and in whose behalf the amounts are paid.
 17 At the end or vacation of the suspension period, the amount, if any, owing to the
 18 pipeline carrier from the difference between the temporary tariff and the permanent
 19 tariff shall be paid to the pipeline carrier. The surplus, if any, shall be refunded to the
 20 persons in whose behalf the amounts were paid into escrow. Funds may not be
 21 released from escrow without the commission's prior written consent and instructions
 22 to the escrow agent. The commission may allow the pipeline carrier, at the carrier's
 23 expense, to substitute a bond or letter of credit in lieu of the escrow requirement. If
 24 the commission requires collection of the temporary tariff, it shall require the shipper
 25 to place the revenue representing the difference between the filed initial tariff and the
 26 temporary tariff in escrow in a financial institution approved by the commission, and
 27 require that accurate accounts similar to those specified above in this section be kept
 28 by the carrier and the shipper. The person owing shall pay the person owed to the
 29 satisfaction of the commission within 30 days after the commission order allowing or
 30 setting a permanent tariff. The amount, if any, by which the permanent tariff exceeds
 31 the temporary tariff shall be paid by the shipper to the carrier, or, if the temporary

1 tariff exceeds the permanent tariff, the difference shall be paid by the carrier to the
 2 shipper, and, in either event, **provided that the funds were not placed in escrow as**
 3 **provided by this subsection, the** [SUCH] payment shall be made with interest
 4 calculated on the balance due at the end of each calendar month at the **rate of interest**
 5 **specified in AS 09.30.070(a)** [LEGAL RATE, AS DEFINED IN AS 45.45.010(a)].
 6 The commission may allow the shipper, at the shipper's expense, to substitute a bond
 7 or letter of credit in place of the escrow requirement.

8 * **Sec. 6.** AS 42.06.410(a) is amended to read:

9 (a) When the commission, after an investigation and hearing, finds that a rate
 10 demanded, observed, charged, or collected by a pipeline carrier for a service, subject
 11 to the jurisdiction of the commission, or that a classification, rule, regulation, practice,
 12 or contract affecting the rate, is unjust, unreasonable, unduly discriminatory, or
 13 preferential, the commission shall determine a just and reasonable rate, classification,
 14 rule, regulation, practice, or contract to be observed or allowed and shall establish it by
 15 order. **An order setting rates under this subsection may not affect rates in effect**
 16 **before the date the protest or complaint was filed, or the date of the commission**
 17 **action that initiated the investigation or hearing, whichever is earliest.**

18 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 APPLICABILITY. This Act applies to any matters pending before the Regulatory
 21 Commission of Alaska involving pipelines or a pipeline carrier on the effective date of this
 22 Act.