

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

May 9, 2025

3:33 p.m.

**MEMBERS PRESENT**

Senator Cathy Giessel, Chair  
Senator Matt Claman  
Senator Forrest Dunbar  
Senator Scott Kawasaki  
Senator Shelley Hughes (via teleconference)  
Senator Robert Myers

**MEMBERS ABSENT**

Senator Bill Wielechowski, Vice Chair

**OTHER LEGISLATORS PRESENT**

Representative Ky Holland  
Representative Donna Mears

**COMMITTEE CALENDAR**

SENATE BILL NO. 180

"An Act relating to the regulation of liquefied natural gas import facilities by the Regulatory Commission of Alaska."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 180

SHORT TITLE: LNG IMPORT FACILITIES

SPONSOR(S): RESOURCES

04/22/25	(S)	READ THE FIRST TIME - REFERRALS
04/22/25	(S)	RES, L&C
04/25/25	(S)	RES AT 3:30 PM BUTROVICH 205
04/25/25	(S)	Heard & Held
04/25/25	(S)	MINUTE(RES)
04/30/25	(S)	RES AT 3:30 PM BUTROVICH 205
04/30/25	(S)	-- MEETING CANCELED --
05/05/25	(S)	RES AT 3:30 PM BUTROVICH 205
05/05/25	(S)	Heard & Held

05/05/25 (S) MINUTE (RES)  
05/09/25 (S) RES AT 3:30 PM BUTROVICH 205

#### **WITNESS REGISTER**

INTIMAYO HARBISON, Staff  
Senator Cathy Giessel  
Alaska State Legislature

**POSITION STATEMENT:** Gave a brief overview of SB 180.

STEVE COLT, Research Professor  
Energy Economics and Policy  
Alaska Center for Energy and Power  
University of Alaska Fairbanks (UAF)  
Fairbanks, Alaska

**POSITION STATEMENT:** Gave a presentation on SB 180.

STEVE DEVRIES, Commissioner  
Regulatory Commission of Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on SB 180.

#### **ACTION NARRATIVE**

[3:33:12 PM](#)

CHAIR GIESSEL called the Senate Resources Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Myers, Claman, Kawasaki and Chair Giessel. Senators Dunbar and Hughes (via teleconference) arrived thereafter.

#### **SB 180-LNG IMPORT FACILITIES**

[3:33:52 PM](#)

CHAIR GIESSEL announced the consideration of SENATE BILL NO. 180 "An Act relating to the regulation of liquefied natural gas import facilities by the Regulatory Commission of Alaska."

[3:34:19 PM](#)

INTIMAYO HARBISON, Staff, Senator Cathy Giessel, Alaska State Legislature, explained that SB 180 would repeal AS 42.05.711(v), which exempts the import of natural gas from regulation by the Regulatory Commission of Alaska (RCA).

[3:34:43 PM](#)

CHAIR GIESSEL announced invited testimony on SB 180.

[3:35:29 PM](#)

STEVE COLT, Research Professor, Energy Economics and Policy, Alaska Center for Energy and Power, University of Alaska Fairbanks, Fairbanks, Alaska, said he would offer ideas and facts related to SB 180.

[3:35:54 PM](#)

MR. COLT said his presentation considers SB 180 from the position of a well-informed consumer. To that end, he examined how this legislation fits into the larger ecosystem's potential transition from Cook Inlet gas to significant reliance on liquified natural gas (LNG). He implied that SB 180 is deceptively simple. He advanced to slide 2:

[Original punctuation provided.]

**This bill repeals AS 42.05.711(v)**

It repeals an exemption to 42.05

**Chapter 05. Alaska Public Utilities Regulatory Act.**

**Secs. 42.05.010 – 42.05.131. Establishment of Public Utilities Commission. [Repealed, Section 5 ch 113 SLA 1970; Section 24 ch 25 SLA 1999.]**

**Sec. 42.05.141. General powers and duties of the commission.**

- a) The Regulatory Commission of Alaska may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including
  - 1) regulate every public utility engaged or proposing to engage in a utility business inside the state, except to the extent exempted by AS 42.05.711;

**What are these exemptions?**

MR. COLT commented that AS 42.05 gives RCA sweeping powers unless otherwise circumscribed. He noted the list of exemptions in AS 42.05.711. He reiterated that AS 42.05.711(v) is one exemption to a broad mandate and turned his consideration to the other exemptions in AS 42.05.711.

[3:38:23 PM](#)

SENATOR DUNBAR joined the meeting.

[3:38:29 PM](#)

MR. COLT advanced to slide 3:

[Original punctuation provided.]

**What are these exemptions in 42.05.711?**

- a) Water, gas or petroleum products by tank, wagon, or similar conveyance
- b) Public utilities owned and operated by a political subdivision of the state
- c) Owners of stock in a utility
- d) God Squad provision-"The commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest."
- e) Any electric or telephone utility
- f) Electric or telephone utility <500k revenue is NOT exempt, but can try...
- g) Non-electric, non-telephone <150k is NOT exempt, but can try...
- h) A cooperative organized under AS 10.25 may elect to be exempt [from rate regulation...] [but not from sec 221-281]
- i) Trash utilities <300k revenue (but may opt in)
- j) Waste heat sales
- k) Cable TV exempt, can opt in
- l) No double jeopardy at the hands of local govt:(l) A person, utility, joint action agency...that is exempt from regulation under (a), (d) - (k), (o), or (r) of this section is not subject to regulation by a municipality
- m) Municipal waste pickup
- n) North slope gas pipelines
- o) A joint action agency established under AS 42.45.310 (SEAPA?)
- p) Regional solid waste management authority

[3:39:50 PM](#)

MR. COLT advanced to slide 4:

[Original punctuation provided.]

**Exemptions in 42.05.711, continued**

- (q) North Slope gas storage...

(r) Fire Island Wind(?): A plant or facility that generates electricity entirely from renewable energy resources, and also:

(s) An in-state natural gas pipeline subject to AS 42.08

(t) A utility that provides telecommunications... partially exempt... BUT...

(u) Exception to exemption (t): RCA does regulate rates charged to prisoners

**And finally,**

(v) A liquefied natural gas import facility under the jurisdiction of the Federal Energy Regulatory Commission is exempt from this chapter.

**SB 180 repeals this subsection (v)**

[3:39:48 PM](#)

CHAIR GIESSEL clarified that the list on slides 3-4 are all of the exceptions from RCA regulation. She asked Mr. Colt to confirm this understanding.

[3:40:09 PM](#)

MR. COLT confirmed this understanding; however, he pointed out that there are many types of exemptions, including partial and total exemptions. He directed attention exemption (h), which is the potential exemption from economic regulation that a cooperative can achieve through an election. He briefly discussed this exemption, noting that the exemption requires an election. In addition, there is a caveat related to rate regulation. He said the exemptions are not blanket exemptions, although some are close.

[3:41:25 PM](#)

MR. COLT directed attention to subsection (v) on slide 4. He pointed out that SB 180 would repeal this exemption. He explained that the exemption refers to the facility, rather than the sale of gas from the facility. He stated that this distinction is a point of interest in the discussion of SB 180.

[3:42:40 PM](#)

MR. COLT said he is asking, "what problem is SB 180 trying to solve." He advanced to slide 5:

[Original punctuation provided.]

**So What? Can't we just live with retaining this exemption?**

- RCA addressed this at length in Order 5 of U-25-004, after asking several parties for their considered opinions.
- RCA asserted that it retains jurisdiction over gas sales from the import facility to be built by Glenfarne, (also over stranded Enstar costs if the project is not built).
- RCA found Enstar's analogy persuasive:  
Enstar: "Ultimately, these costs are no different from a Commission jurisdiction standpoint than ENSTAR's costs to negotiate and enter into a gas sales agreement with an unregulated (by the Commission) Cook Inlet gas producer. Like an LNG import terminal, the Commission does not have jurisdiction over the siting or construction of Cook Inlet producers' platforms and pipelines, but it does have jurisdiction to regulate ENSTAR as a utility-offtaker of those facilities...any necessary gas purchase agreements or terminal use agreements, are all firmly within this Commission's jurisdiction."
- RCA: "We find ENSTAR's analogy to our current jurisdictional boundaries for our review of Cook Inlet gas supply contracts useful." (Order 5, p. 34)

[3:45:04 PM](#)

MR. COLT added that, since preparing the slides, Chugach Electric weighed in and concurred that RCA maintains jurisdiction over any requests by ENSTAR to recover costs associated with receiving gas from an LNG terminal. He clarified that there is not unanimity on the question. He said Chugach Electric is adamant that there is a "good division of the field between Federal Energy Regulatory Commission (FERC) and RCA."

[3:47:21 PM](#)

CHAIR GIESSEL pointed out that in Order 5 of U-25-004, JL Properties, Inc. asserted that RCA did not have jurisdiction over Cook Inlet gas sales contracts. She stated that is illustrative of the confusion created by AS 42.05.711(v).

[3:47:59 PM](#)

MR. COLT concurred. He expressed hope that his testimony would not be interpreted as alignment with one party over another. He indicated that he is not taking a position. However, he agreed that JL Properties, Inc. made a persuasive case that there is confusion regarding this issue.

[3:48:32 PM](#)

MR. COLT advanced to slide 6:

[Original punctuation provided.]

RCA said, we're OK with the exemption, because gas from the terminal would be like gas from a well. RCA also said repeal of the exemption would clarify this jurisdiction over costs of gas from the facility.

So far, so good. But - the U-25-004 situation is only one scenario, a scenario now underway.

We identified two other scenarios that may merit consideration.

[3:50:43 PM](#)

MR. COLT advanced to slide 7:

[Original punctuation provided.]

**Scenario A:**

If the exemption is NOT repealed, what if Enstar, not Glenfarne, builds an LNG import facility. (Or Chugach.)

What if they supply gas to themselves without any gas sales contract. Would this exemption insulate them from RCA scrutiny of the rates emanating from this gas supply?

That is maybe one risk of not repealing.

MR. COLT said that, as a ratepayer, he feels reassured that RCA is actively safeguarding his interests via its approval of sales contracts or sales arrangements. He expressed confidence that RCA would protect ratepayers such as himself from paying too much for gas, regardless of where it comes from. He briefly discussed hypothetical scenario A, in which the operator of the

terminal is also the user of the gas. He indicated that this scenario could result in a problem (clouding the issue and harming the ratepayer) if the legislature does not repeal AS 42.05.711(v).

3:53:36 PM

SENATOR MYERS asked for confirmation of his understanding that, in scenario A on slide 7, while RCA would not be able to examine the contracts, RCA would retain consumer rate regulation authority.

3:54:04 PM

MR. COLT noted that RCA is better suited to answer this question. He then replied yes; however, he added that determinations classified as fait accompli are difficult for RCA to undo once a rate case is under consideration. He deferred the question to RCA.

3:55:22 PM

STEVE DEVRIES, Commissioner, Regulatory Commission of Alaska, Anchorage, Alaska, stated that AS 42.05.441(c) and AS 42.05.511(c) both govern how RCA governs affiliated transactions. He explained that RCA closely scrutinizes those transactions to ensure they are realistically cost-based without any unfair dealings as the costs are passed through to ratepayers. He directed his attention to potential adverse implications of scenario A. He stated that any adverse implications would be proportional to the overall impact [of AS 42.05.711(v)] on the capabilities of RCA to review the rates charged for a gas sales agreement or terminal use agreement. This is due to the interplay between FERC jurisdiction and RCA jurisdiction.

3:57:00 PM

COMMISSIONER DEVRIES said the potential for harm that exists due to AS 42.05.711(v) applies to the entirety of the Regulatory Commission of Alaska's (RCA) review authority for gas sales agreements. This includes scenario A from slide 7. He commented that Mr. Colt's presentation is thoughtful and thorough. He went on to explain the potential issue related to AS 42.05.711(v). He stated that RCA has determined the extent of its jurisdiction vis-a-vis the jurisdiction of FERC. He emphasized that FERC has exclusive jurisdiction over the siting, construction, expansion, and operation of a liquified natural gas (LNG) import facility. He contrasted this with the jurisdiction of RCA to review rates passed through to ratepayers. However, he emphasized that the courts - not RCA - are the ultimate arbiters of the jurisdiction

of RCA. If this self-determined jurisdiction is challenged, a significant lynchpin in that argument would be AS 42.05.711(v). He stated that SB 180 (which removes the exemption in AS 42.05.711(v)) would help to remove the uncertainty related to the jurisdiction of RCA.

[3:59:26 PM](#)

SENATOR CLAMAN asked whether RCA has formally endorsed SB 180.

[3:59:34 PM](#)

COMMISSIONER DEVRIES replied no.

[4:00:10 PM](#)

MR. COLT advanced to slide 8:

[Original punctuation provided.]

**Scenario B:**

If the exemption IS repealed, might a Glenfarne be subject to being declared a public utility?

RCA appealed to statutory guidance and to legislative history of House Bill 50 when it declined RAPA's suggestion to exercise jurisdiction over the LNG facility under the "Hinshaw Amendment" to the Natural Gas Act. (Order 5 p. 31)

MR. COLT surmised that the exemption in AS 42.05.711(v) was added because it was desirable for someone. He posed scenario B to consider whether repealing the exemption would allow RCA greater regulatory reach, thus potentially resulting in a negative impact on the utilities. He explained that this scenario considers whether there is a potential for RCA to overregulate if the exemption is removed.

[4:02:38 PM](#)

MR. COLT continued to discuss scenario B on slide 8. He explained that RCA previously declined an offer from the Regulatory Affairs and Public Advocacy Section (RAPA) to exercise additional regulatory authority. At that time, RCA appealed to statutory guidance and legislative history related to the jurisdiction of RCA to support its decision.

[4:04:00 PM](#)

SENATOR HUGHES joined the meeting via teleconference.

[4:04:19 PM](#)

MR. COLT advanced to slide 9 and provided a brief overview of the history of House Bill 50:

[Original punctuation provided.]

House Bill 50 history: Senate Resources added companion language to the exemption...

SCS CS House Bill 50 (RES) by Senate Resources (5/6/2024):

(p) For rate-making purposes, the commission shall consider the investment of a public utility in a liquefied natural gas import or export facility as utility property, even if the liquefied natural gas import or export facility is exempt from regulation by the commission. In this subsection,

Senate Finance took it out:

5-12-24, Amendment 4 to Work Draft T. Per Senate Finance Minutes, "Senator Bishop relayed that he had problems with the amendment. He asked that members pay close attention to the topic going forward. He expressed concern that the price of imported LNG would be higher than expected and that ratepayers would bear the burden.

MR. COLT said that the Senate Resources Standing Committee added language to House Bill 50 that would expand the authority of RCA with respect to LNG import or export facility. This language was later removed by the Senate Finance Committee. He posed the question of whether the removal of the language in House Bill 50, combined with the removal of the language in AS 42.05.711(v), would allow RCA to over-regulate.

[4:07:21 PM](#)

CHAIR GIESSEL referred to slide 9, item (p) and could not recall adding that specific language. However, she stated that she understands the intent of that language. She emphasized that the ratemaking done by RCA is key for ensuring the protection of the public. She expressed appreciation that Mr. Colt included Senator Bishop's comment on slide 9. She asked whether slide 10 would clarify the conclusion of scenario B.

[4:08:28 PM](#)

MR. COLT indicated that slide 10 does not provide a conclusion but rather brings forward an additional question related to the legislature's policymaking duty. He advanced to slide 10:

[Original punctuation provided.]

Back to Scenario B: If the exemption IS repealed, might a Glenfarne be subject to being declared a public utility, or directly regulated by RCA?

RCA: "Not only does this subsection's express language appear to clearly bar our assumption of jurisdiction, but the legislative history underlying its enactment reinforces this conclusion.<sup>127</sup> Therefore, if we were to assert LNG facility oversight under the Hinshaw Amendment which RAPA suggests is possible, we would be disregarding the jurisdictional side boards imposed on us by the legislature. We decline to do so." (Order 5 U-25-004, p. 31)

Were this guidance changed, might current or future RCA choose or be pressured to assert this jurisdiction?

[4:10:54 PM](#)

COMMISSIONER DEVRIES suggested that it could be helpful to consider the question from the jurisdictional level. Under federal law, FERC has exclusive jurisdiction with respect to siting, operations, permitting, construction, and expansion for LNG facilities. He noted that there is one exception in that law, which is known as the Hinshaw amendment. He explained that the Hinshaw amendment applies to inter-state commerce and does not apply to foreign commerce. Alaska's imported LNG is foreign commerce; therefore, the flexibility - to the extent that it exists - for FERC to delegate or permit a state commission to exercise jurisdictional oversight over the siting, construction, operation, etc. of an LNG facility would not apply [in Alaska].

[4:12:33 PM](#)

SENATOR MYERS shared his understanding that the federal government regulates both foreign and inter-state commerce. He asked why FERC would not have authority in this situation. He offered two examples involving LNG import and export between Alaska and Canada to illustrate his question.

[4:13:03 PM](#)

COMMISSIONER DEVRIES replied that FERC authority would apply in the examples posed by Senator Myers. He clarified that situation B (slides 9-10) is also foreign commerce and FERC authority would apply. He explained that FERC would have regulatory authority over citing, construction, etc. of the facility itself. He further clarified that RCA does not assert that it has legal or constitutional authority (or jurisdiction) to insert itself into the regulatory jurisdiction of FERC. He said U.S.C. Art VI.C2 (Supremacy Clause) would bar Alaska's commission from exercising any regulatory commission over a FERC jurisdictional property (notwithstanding any state law that gives RCA the jurisdiction to do so).

[4:14:22 PM](#)

MR. COLT shared his understanding that the Hinshaw amendment applies to situations in which Alaska receives LNG via interstate commerce (e.g. from Oregon). He asked if this understanding is correct.

[4:15:16 PM](#)

COMMISSIONER DEVRIES replied that the Jones Act requires LNG to arrive from a US flag LNG tanker, of which there are none. He expressed uncertainty regarding whether scenario B could occur - unless there are US flag tankers currently under construction. He is not aware of any tankers currently under construction, although he opined it is a good idea. Given this information, he expressed uncertainty with the plausibility of scenario B. However, he stated that if scenario B were to occur, the Hinshaw amendment could theoretically provide FERC the jurisdictional authority under interstate commerce. In that case, FERC could allow RCA to exercise authority. He stated that this would give RCA additional concern regarding the continued existence of the exemption in AS 42.05.711(v). He explained that this could potentially fuel an argument that RCA lacks the ability to exercise regulatory authority (despite FERC extending that authority to RCA).

[4:17:12 PM](#)

MR. COLT advanced to slide 11:

[Original punctuation provided.]

### **Summary**

In our view, SB 180:

- Removes a broad exemption from a broad [chapter]

- Removing the exemption helps clarify that RCA has jurisdiction over prices/rates for LNG supplied by a 3d-party facility to a regulated utility
- Hence, removing the exemption might also help the RCA deal with the case where Enstar, Chugach, etc. is the Builder and self-supplies.
- Removes sideboards that RCA currently defers to, which might enable (or force?) RCA to regulate LNG facilities, potentially conflicting with FERC.

[4:20:11 PM](#)

CHAIR GIESSEL asked for clarification of the fourth point on slide 11. She asked whether removing - or leaving - AS 42.05.711(v) would remove sideboards.

[4:20:21 PM](#)

MR. COLT returned to slide 10 and paraphrased the quote from RCA:

[Original punctuation provided.]

Back to Scenario B: If the exemption IS repealed, might a Glenfarne be subject to being declared a public utility, or directly regulated by RCA?

RCA: "Not only does this subsection's express language appear to clearly bar our assumption of jurisdiction, but the legislative history underlying its enactment reinforces this conclusion. 127 Therefore, if we were to assert LNG facility oversight under the Hinshaw Amendment which RAPA suggests is possible, we would be disregarding the jurisdictional side boards imposed on us by the legislature. We decline to do so." (Order 5 U-25-004, p. 31)

Were this guidance changed, might current or future RCA choose or be pressured to assert this jurisdiction?

MR. COLT offered his understanding that there are two sideboards. The first is the legislative history of House Bill 50, which removed language that would have given RCA an affirmative ability to regard LNG import facilities as utility property. He stated that this would have made a direct connection between the facility and the rates. He said that the removal of that language placed one sideboard on RCA. The second

sideboard is the continuing existence of AS 42.05.711(v). He explained that this exemption ensures that RCA does not have regulatory authority over LNG facilities.

[4:22:17 PM](#)

SENATOR MYERS suggested a hypothetical scenario C. He stated that there is a proposal for Harvest to purchase the current Marathon plant and convert it to an import facility. He noted that Enstar would not be involved in the deal but would presumably be a customer. He asked if there is any significant difference between the scenarios considered by Mr. Colt and scenario C. He pointed out that the latter scenario does not already involve a regulated natural gas utility.

[4:23:16 PM](#)

MR. COLT replied that, given very brief consideration, scenario C seems less problematic as Enstar would be purchasing LNG from the facility. He referenced a comment from RCA which proposed that purchasing gas from an import terminal is analogous to purchasing gas from a gas well. He surmised that scenario C is akin to this. He suggested that representatives from RCA would be able to provide a more knowledgeable response.

[4:24:59 PM](#)

COMMISSIONER DEVRIES also responded to scenario C as proposed by Senator Myers. He said the jurisdictional landscape is no different. He reiterated that FERC has exclusive jurisdiction over the facilities (i.e. citing, construction, operation, etc.). RCA maintains authority to review gas sales agreements and/or terminal use agreements presented to RCA by the utilities using those facilities for the purposes of preserving capacity or obtaining gas supplies. He opined that the jurisdictional authority would not change as a result of changing facilities.

[4:26:13 PM](#)

SENATOR KAWASAKI asked what the consequences would be if the legislature does not repeal AS 42.05.711(v). He asked if that would be sufficient for someone to make the argument that the legislature does not want RCA to regulate LNG facilities.

[4:27:19 PM](#)

CHAIR GIESSEL echoed Commissioner Devries' comments that RCA does not regulate LNG facilities. She clarified that AS 42.05.711(v) has created confusion regarding whether RCA has jurisdiction over LNG sales. She deferred to Commissioner Devries for further comment.

[4:27:50 PM](#)

COMMISSIONER DEVRIES replied that, if the exemption is not repealed, RCA believes it still retains the jurisdiction to review LNG sale agreements and terminal use agreements (regardless of what facility houses those agreements). He reiterated that RCA is not the ultimate arbiter of its jurisdiction or the jurisdiction of FERC. He explained that the continued existence of the exemption in AS 42.05.711(v) provides ammunition for an argument that could be made regarding the jurisdiction of RCA. He asserted that the exemption could be the lynchpin in that argument. Repealing the exemption removes the force behind the argument (which could be made to a court) that RCA lacks the jurisdiction to review gas sale agreements and terminal sale agreements.

[4:29:20 PM](#)

CHAIR GIESSEL said that Commissioner Devries' answer was the reason for SB 180. She briefly discussed several instances of confusion that illustrate the need for clarification. She suggested further discussions of subsection (p), which was part of House Bill 50 and which the Senate Finance Committee removed.

[4:30:37 PM](#)

MR. COLT expressed appreciation for the learning opportunity, as well as for the willingness of RCA to participate in the discussion. He stated that, as a ratepayer and consumer, he appreciates the Senate Resources Standing Committee's ongoing attempts to place consumer protection front and center during the industry's transition.

[4:31:18 PM](#)

SENATOR MYERS turned the discussion to Fairbanks gas. He explained that Harvest Alaska is building an LNG facility on the North Slope. That gas would be trucked to Fairbanks and placed in the Interior Gas Utility system (which is owned by the Fairbanks North Star Borough). He asked whether RCA is involved in regulating that system.

[4:32:08 PM](#)

COMMISSIONER DEVRIES shared his understanding that the utility responsible for obtaining the gas for Fairbanks is not economically regulated.

[4:32:22 PM](#)

Chair Giessel thanked the presenters and industry representatives for being present and available for questions.

4:32:59 PM

[CHAIR GIESSEL held SB 180 in committee.]

4:33:13 PM

There being no further business to come before the committee, Chair Giessel adjourned the Senate Resources Standing Committee meeting at 4:33 p.m.