

Original sponsor: Rules Committee by
request of the Governor

Offered: 5/26/72

1 IN THE SENATE BY THE FREE CONFERENCE COMMITTEE
2 FREE CONFERENCE CS FOR HOUSE CS FOR CS FOR SENATE BILL NO. 314
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas pipelines and to the
7 creation of the Alaska Pipeline Commission; and
8 providing for an effective date."

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

10 * Section 1. AS 42 is amended by adding a new chapter to read:

11 CHAPTER 6. ALASKA PIPELINE COMMISSION ACT.

12 ARTICLE 1. DECLARATION OF POLICY.

13 Sec. 42.06.010. LEGISLATIVE DECLARATION OF POLICY. The trans-
14 portation of oil or gas by pipeline in this state is a business
15 involved with the public interest. It is the purpose of this chapter
16 to

17 (1) promote and oversee the development of an oil and gas
18 pipeline transportation system in this state properly adapted to the
19 present and future needs of the domestic commerce of the state and of
20 the interstate and foreign commerce of the United States;

21 (2) promote and ensure, in conjunction with the Alaska Public
22 Utilities Commission within its jurisdiction, nondiscriminatory,
23 efficient, and economical oil and gas pipeline transportation at
24 reasonable rates.

25 ARTICLE 2. ESTABLISHMENT OF ALASKA PIPELINE COMMISSION.

26 Sec. 42.06.020. ALASKA PIPELINE COMMISSION CREATED. There is
27 created within the Department of Commerce the Alaska Pipeline Commis-
28 sion, as a commission to regulate pipeline facilities and pipeline
29 carriers, to regulate the access of information concerning pipelines

1 facilities and carriers to this state, and to represent the interests
2 of the state in any proceedings relating to them as provided for in
3 this chapter.

4 Sec. 42.06.030. COMPOSITION OF ALASKA PIPELINE COMMISSION. (a)
5 The Alaska Pipeline Commission consists of three members, appointed by
6 the governor and confirmed by a majority of the members of the legis-
7 lature in joint session.

8 (b) The governor shall designate one member of the commission as
9 chairman of the commission. This member shall serve as chairman for
10 a term of two years, and may be appointed for successive terms.

11 Sec. 42.06.040. TERM OF OFFICE; VACANCY. (a) The members of
12 the commission shall be appointed for terms of six years, except that
13 of the members first appointed to the commission, one shall be appointed
14 for a term of two years, one for a term of four years, and one for a
15 term of six years. Commissioners may be appointed to successive terms.
16 A commissioner, upon the expiration of his term, shall continue to
17 hold office until his successor is appointed and qualified.

18 (b) A vacancy arising on the commission shall be filled by appoint-
19 ment by the governor and confirmation by a majority of the members of
20 the legislature in joint session, and an appointee to fill a vacancy
21 shall hold office for the balance of the term for which his predecessor
22 on the commission was appointed.

23 (c) A vacancy in the commission does not impair the authority of
24 a quorum of commissioners to exercise all the powers and perform all
25 the duties of the commission.

26 Sec. 42.06.050. REMOVAL OF COMMISSIONERS. The governor may remove
27 a commissioner from office by and with the consent of a majority of the
28 legislature.

29 Sec. 42.06.060. QUALIFICATIONS OF COMMISSIONERS. Members of the

1 commission shall be qualified as follows: one member shall be an
2 attorney duly admitted to practice law in this state, and preferably
3 having experience in administrative or regulatory law; one member shall
4 be a graduate of an accredited university with a major or a degree in
5 land management, civil engineering or transportation economics, prefer-
6 ably with experience in oil and gas transportation; one member shall be
7 a graduate of an accredited university with a major or a degree in
8 finance, accounting, or, if not otherwise represented on the commission,
9 transportation economics. A member of the commission may not hold any
10 other state or federal office, position or employment, either elective
11 or appointive, except as a member of the armed forces of the United
12 States or of this state.

13 Sec. 42.06.070. QUORUM. Two members of the commission constitute
14 a quorum for the transaction of business, for the performance of a duty,
15 or for the exercise of a power of the commission.

16 Sec. 42.06.080. OATH OF OFFICE. Each commissioner and the execu-
17 tive director of the commission, before entering upon the duties of his
18 office, shall take and subscribe to the oath prescribed for principal
19 officers of the state.

20 Sec. 42.06.090. COMPENSATION OF MEMBERS OF THE COMMISSION. Mem-
21 bers of the commission are in the exempt service described in AS 39.25
22 and receive an annual salary equal to that of a superior court judge,
23 to be paid in 12 equal monthly installments.

24 Sec. 42.06.100. PRINCIPAL OFFICE; SEAL. (a) The commission
25 shall establish a principal office, and may establish branch offices
26 at locations in this state necessary or convenient to the discharge of
27 its duties. For the convenience of the public or of other interested
28 persons the commission may hold meetings, hearings or other proceedings
29 at any of its offices or at other locations in this state.

1 (b) The commission shall have an official seal.

2 Sec. 42.06.110. LEGAL COUNSEL. (a) The attorney general is
3 legal counsel for the commission. He shall advise the commission in
4 legal matters arising in the discharge of its duties and represent the
5 commission in actions to which it is a party. If, in the opinion
6 of the commission, the public interest is not adequately represented
7 by counsel in a proceeding, the attorney general, upon request of the
8 commission, shall represent the public interest.

9 (b) The commission may employ temporary legal counsel from time
10 to time in matters in which the commission is involved.

11 Sec. 42.06.120. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The
12 commission may employ an executive director who shall have had at
13 least five years of experience in oil or gas transportation, management,
14 law, accounting, or an allied field. The executive director may not
15 be one of the commissioners.

16 (b) The commission may, as it considers necessary for the purpose
17 of performing its duties under this chapter, employ or contract for the
18 services of hearing officers, engineers, experts, clerks, accountants,
19 and other consultants, agents and assistants. The commission shall make
20 the maximum possible use of employees and experts available in the
21 various departments and agencies of state government.

22 (c) The executive director, his deputy, and his secretary, shall
23 be in the partially exempt service described in AS 39.25. All other
24 employees of the commission, other than legal counsel, are in the
25 classified service under AS 39.25.

26 Sec. 42.06.130. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES.
27 No member or employee of the commission may have an official connec-
28 tion with, or hold stock or securities in, or have a pecuniary interest
29 in, any corporation, company or association engaged in the production

1 or the transportation of oil or gas. No member or employee may act
2 upon a matter in which his relationship with any person creates a
3 conflict of interest.

4 ARTICLE 3. POWERS AND DUTIES OF COMMISSION.

5 Sec. 42.06.140. POWERS AND DUTIES OF THE COMMISSION. As provided
6 in this chapter, the commission

7 (1) shall regulate pipelines and pipeline carriers in this
8 state;

9 (2) may investigate upon complaint or its own motion,
10 the rates, classifications, rules, regulations, prices, services,
11 practices and facilities of pipeline carriers, and the performance
12 of obligations under and compliance with the terms of leases issued
13 by the state;

14 (3) may make, prescribe or require just, fair and reason-
15 able rates, classifications, regulations, practices, services and
16 facilities for pipeline carriers;

17 (4) may require pipeline carriers to file with the
18 commission reports and other information and data required or per-
19 mitted to be required by other provisions of this chapter;

20 (5) may adopt regulations that are necessary and proper
21 to the performance of its duties under this chapter, including
22 regulations governing practices and procedures of the commission,
23 which regulations shall not be inconsistent with state law;

24 (6) shall during normal business hours have access to and
25 may designate any of its employees, agents or consultants to inspect
26 and examine, the accounts, financial and property records, books,
27 maps, inventories, appraisals, valuations, and related reports kept
28 by a pipeline carrier, or kept for it by others, which directly
29 affect the interests of the state and directly relate and pertain

1 to pipelines located in this state;

2 (7) may initiate, intervene in, and appear personally or
3 by counsel and offer evidence in and participate in, any proceedings
4 involving a pipeline carrier, and affecting the interests of the
5 state, before any officer, department, board, commission or court of
6 this state or of another state or of the United States;

7 (8) shall require permits for the construction, enlargement
8 in size or operating capacity, extension, operation or abandonment of
9 any oil or gas pipeline facility, subject to necessary and reasonable
10 terms, conditions and limitations;

11 (9) may prescribe the system of accounts and regulate the
12 service of an oil or gas pipeline facility.

13 Sec. 42.06.150. POWERS AND DUTIES WITH RESPECT TO FEDERALLY
14 REGULATED CARRIERS. Sec. 140 of this chapter applies to oil and gas
15 pipeline carriers regulated under the Interstate Commerce Act of 1906,
16 or the Natural Gas Act of 1938, only to the extent not preempted under
17 those federal Acts.

18 Sec. 42.06.160. ADMINISTRATIVE AUTHORITY OF COMMISSION; REGULA-
19 TIONS AND HEARING PROCEDURES. (a) The commission may adopt regulations,
20 not inconsistent with the law, necessary or proper to exercise its
21 powers and to perform its duties under this chapter.

22 (b) The commission shall adopt regulations governing practice and
23 procedure, consistent with due process of law, including the conduct
24 of formal and informal investigations, prehearing conferences, hearings
25 and proceedings, and the handling of procedural motions by a single
26 commissioner. Technical rules of evidence need not apply to investiga-
27 tions, prehearing conferences, hearings and proceedings before the
28 commission. The commission shall provide for representation by out-of-
29 state attorneys substantially in accordance with Civil Rule 81.

1 (c) The commission, a commissioner or an employee authorized by
2 the commission may administer oaths, certify to all official acts, and
3 issue subpoenas, subpoenas duces tecum and other process to compel the
4 attendance of witnesses and the production of testimony, records, papers,
5 accounts and documents in any inquiry, investigation, hearing or pro-
6 ceeding before the commission in the state. Each commissioner is
7 authorized to issue orders on procedural motions. The commission may
8 petition a court of this state to enforce its subpoenas, subpoenas duces
9 tecum and other process.

10 Sec. 42.06.170. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)
11 The administrative adjudication procedures of the Administrative Proce-
12 dure Act (AS 44.62) do not apply to adjudicatory proceedings of the
13 commission except that final administrative determinations by the com-
14 mission are subject to judicial review under that Act as provided in
15 sec. 551(a) of this chapter.

16 (b) The Administrative Procedure Act applies to regulations
17 adopted by the commission.

18 Sec. 42.06.180. FORMAL HEARINGS. A formal hearing which the
19 commission has power to hold may be held by or before two or more com-
20 missioners designated for the purpose by the commission. The testimony
21 and evidence in a formal hearing may be taken by the commissioners to
22 whom the hearing has been assigned. A commissioner who has not heard
23 the testimony, including the argument, may not participate in making a
24 decision of the commission. In determining the place of a hearing the
25 commission shall give preference to holding the hearing at a place most
26 convenient for those interested in the subject of the hearing.

27 Sec. 42.06.190. FINAL ORDERS OF THE COMMISSION. No final order
28 of the commission compelling affirmative action, denying a right or
29 privilege, or granting a right or privilege over protest of the oil

1 or gas pipeline facility or any party of record may be entered without
2 giving the interested party reasonable notice and an opportunity to be
3 heard.

4 Sec. 42.06.200. FORMAT OF ORDERS. Formal orders of the commission
5 shall be based upon the facts of record. An order entered pursuant to
6 a hearing shall state the commission's findings, the basis of its
7 findings and conclusions, together with its decision. These orders
8 shall be entered of record and a copy of them shall be served on all
9 parties of record in the proceeding.

10 Sec. 42.06.210. PUBLICATION OF REPORTS, ORDERS, DECISIONS AND
11 REGULATIONS. All reports, orders, decisions and regulations of the
12 commission shall be in writing. The commission shall apprise all
13 affected operators of oil or gas pipeline facilities and interested
14 parties of these reports, orders, decisions, and regulations as they
15 are issued and adopted, and, when appropriate to do so, shall publish
16 them in a manner that will reasonably inform the public or the affected
17 consumers of the services of any oil or gas pipeline facility. The
18 commission may set charges for costs of printing or reproducing and
19 furnishing copies of its reports, orders, decisions and regulations.
20 The publication requirement, as it pertains to regulations, does not
21 supersede the requirements of the Administrative Procedure Act (AS 44.-
22 62).

23 Sec. 42.06.220. ANNUAL REPORT. The commission shall publish an
24 annual report reviewing its work and submit it to the legislature by
25 February 15 of each year. The report shall contain information and
26 data which bear a significant relationship to the development and regu-
27 lation of oil or gas pipeline facilities in the state and include an
28 outline of the commission's program for the development and regulation
29 of oil or gas pipeline facilities in the forthcoming year.

1 Sec. 42.06.230. JURISDICTION OF COMMISSION. Except as otherwise
2 provided in this chapter or hereafter otherwise expressly provided by
3 law, and except as to any concurrent jurisdiction with the Alaska
4 Public Utilities Commission under ch. 5 of this title as to a public
5 utility described in AS 42.05.701(2)(D) and (E), the jurisdiction and
6 authority over the subject matters of this chapter shall be exclusively
7 in the commission. To the extent that the performance of any duties
8 of the commission affect a pipeline carrier or a pipeline subject to
9 the Interstate Commerce Act or the Natural Gas Act, the performance
10 of its duties shall not, as to that pipeline carrier or pipeline,
11 conflict with applicable federal laws, regulations, rules, orders, or
12 other requirements.

13 Sec. 42.06.240. CERTIFICATE REQUIRED. (a) After January 1, 1973
14 no pipeline carrier, or person which will be a pipeline carrier upon
15 completion of any proposed construction or extension, shall engage in
16 the transportation of oil or gas by pipeline subject to the jurisdiction
17 of the commission, or undertake the construction or extension of any
18 pipeline facilities for that purpose, or acquire or operate any pipeline
19 facilities or extensions, unless there is in force with respect to that
20 pipeline carrier a certificate of public convenience and necessity
21 issued by the commission authorizing those acts or operations. A certi-
22 ficate shall describe the nature and extent of the authority granted
23 in it, including, as appropriate for the services involved, a descrip-
24 tion of the authorized area and scope of operation of the oil or gas
25 pipeline facility.

26 (b) If any person or predecessor in interest was engaged in
27 transportation of oil or gas by pipeline subject to the jurisdiction
28 of the commission on or before January 1, 1973, over the route or
29 routes for which application is made, the commission shall issue the

1 certificate without requiring further proof that public convenience
2 and necessity will be served by the operation, and without further
3 proceedings, if application for the certificate is made to the commis-
4 sion before January 1, 1973; pending the determination of the applica-
5 tion, the continued operation of the pipeline or pipelines is lawful.

6 (c) In an area where the commission determines that two or more
7 oil or gas pipeline facilities are competing or are planning to
8 compete to offer identical oil or gas pipeline service, and this
9 competition is not in the public interest, the commission shall take
10 appropriate action to eliminate or not allow the competition and
11 undesirable duplication of facilities.

12 (d) The commission may attach to certificates of convenience and
13 necessity terms and conditions and require issuance of securities it
14 considers necessary for the protection of the environment and for the
15 best interest of the oil or gas pipeline facility and the general
16 public.

17 (e) The requirement for a certificate shall not operate to impose
18 state regulation which has been preempted under the Interstate Commerce
19 Act of 1906 or the Natural Gas Act of 1938. When federal law has
20 preempted state regulation the commission must accept the findings made
21 under the federal scheme of regulation.

22 Sec. 42.06.250. APPLICATION. Application for certificate shall
23 be made in writing to the commission, verified under oath, and shall
24 be in the form, and contain the information, and notice of the applica-
25 tion shall be served upon the interested parties and in the manner,
26 that the commission by regulation requires.

27 Sec. 42.06.260. PUBLIC HEARINGS. At least 30 days before issuing
28 a certificate of convenience and necessity, the commission shall hold
29 a public hearing on the application. Copies of the completed

1 application shall be made available to the public at least 10 days
2 before the public hearing date. A transcript of the public hearing
3 shall be included in the permanent record of agency action on that
4 application, and copies of the public hearing transcripts shall be
5 available to the public. The commission may, without notice of hearing
6 and pending the determination of an application for a certificate,
7 issue a temporary certificate in cases of emergency, to assure mainte-
8 nance of adequate service or to serve particular customers, and may by
9 regulation exempt from the requirements of this section temporary acts
10 or operations for which the issuance of a certificate will not be
11 required in the public interest.

12 Sec. 42.06.270. GRANT OR DENIAL OF APPLICATION. (a) Unless
13 governed by sec. 240(b) of this chapter, a certificate shall be issued
14 to any qualified applicant, authorizing the whole or any part of the
15 operation, service, construction, extension, or acquisition covered
16 by the application, if it is found that the applicant is able and
17 willing properly to do the acts and to perform the service proposed
18 and to conform to the provisions of this chapter and the requirements,
19 rules, and regulations of the commission, and that the proposed service,
20 operation, construction, extension, or acquisition, to the extent
21 authorized by the certificate, is or will be required by the present
22 or future public convenience and necessity; otherwise the application
23 shall be denied.

24 (b) The commission, after a hearing had upon its own motion or
25 upon application, may determine the gathering areas, or the routes over
26 which, the fixed termini between which, and the intermediate and off
27 route points, if any, to which each authorization under this section is
28 to be limited.

29 (c) Nothing contained in this chapter shall be construed as a

1 limitation upon the power of the commission to grant certificates of
2 public convenience and necessity for service of an area, or routes,
3 already being served by another pipeline.

4 Sec. 42.06.280. INSURANCE OR DEPOSIT OF SECURITY. (a) In grant-
5 ing a certificate of convenience and necessity the commission shall re-
6 quire the oil or gas pipeline carrier to either procure and file li-
7 ability and property damage insurance from a company licensed to write
8 insurance in the state or deposit security for the limits of liability
9 upon the terms and conditions the commission determines necessary for
10 the reasonable protection of the public against damage and injury for
11 which the owner or operator of the oil or gas pipeline facility may be
12 liable by reason of the operation of an oil or gas pipeline facility.

13 (b) In fixing the amount of insurance or security, the commission
14 shall give consideration to the character and amount of traffic, the
15 number of persons affected and the degree of danger which the proposed
16 operation involves.

17 Sec. 42.06.290. ABANDONMENT. (a) No pipeline carrier may aban-
18 don or permanently discontinue use of all or any portion of a pipe-
19 line or abandon or discontinue any service rendered by means of a
20 pipeline that is the subject of a certificate of convenience and
21 necessity, without the permission and approval of the commission after
22 due notice and hearing, and a finding by the commission that continued
23 service is not required by public convenience and necessity. Any
24 interested person may file with the commission a protest or memoran-
25 dum of opposition to or in support of discontinuance or abandonment.
26 The commission may authorize temporary suspension of a service or of
27 part of a service.

28 (b) Upon complaint or upon its own motion, the commission may re-
29 investigate a previously authorized discontinuance, abandonment or sus-

1 pension of a service described in (a) of this section. If, after due
2 notice and hearing, the commission finds that the public convenience
3 and necessity requires the service to be resumed, and that there has
4 not been detrimental reliance on the previous authorization, it may
5 order the operator or owner of the oil or gas pipeline facility to
6 again provide the service.

7 Sec. 42.06.300. MODIFICATION, SUSPENSION OR REVOCATION OF
8 CERTIFICATES. Upon complaint or upon its own motion the commission,
9 after due notice and hearing and for good cause shown, may amend,
10 modify, suspend, or revoke a certificate, in whole or in part. Good
11 cause for amendment, modification, suspension or revocation of a
12 certificate shall be

13 (1) the requirements of public convenience and necessity;

14 (2) misrepresentation of a material fact in obtaining the
15 certificate;

16 (3) unauthorized discontinuance or abandonment of all or
17 part of a service that is the subject of such certificate;

18 (4) wilful failure to comply with the provisions of this
19 chapter, or the rules, regulations or orders of the commission; or

20 (5) wilful failure to comply with a term, condition, or
21 limitation of the certificate.

22 Sec. 42.06.305. TRANSFER OF CERTIFICATE. A certificate may not
23 be sold or leased, rented or transferred without the prior approval of
24 the commission; the transfer of a certificate not involving a substan-
25 tial change of ownership shall be summarily approved.

26 Sec. 42.06.310. STANDARDS OF SERVICE AND FACILITIES. (a) Each
27 oil or gas pipeline facility shall furnish and maintain adequate,
28 efficient and safe service and facilities. This service shall be
29 reasonably continuous and without unreasonable interruption or delay.

1 (b) If the commission, upon its own motion or upon complaint,
2 after providing reasonable notice and opportunity for hearing, finds
3 that the service or facilities of an oil or gas pipeline facility
4 are unreasonable, unsafe, inadequate, insufficient, or unreasonably
5 discriminatory, or otherwise in violation of this chapter, the commis-
6 sion shall prescribe by regulation or order, the reasonable, safe,
7 adequate, sufficient service or facilities to be observed, furnished,
8 enforced, or employed, including all repairs, changes, alterations,
9 extensions, substitutions, or improvements in facilities that are
10 reasonably necessary and proper for the safety, accommodation, and
11 convenience of the public and the users. Regulations or orders issued
12 under this subsection shall conform to accepted industry standards and
13 practices.

14 Sec. 42.06.320. DISCRIMINATION IN SERVICE. No oil or gas pipeline
15 carrier may, as to service, make or grant an unreasonable preference
16 or advantage to any person or subject any person to an unreasonable
17 prejudice or disadvantage. No oil or gas pipeline facility which is
18 owned by more than one owner may require that users make separate
19 requests of each separate owner in order to obtain a reasonable share
20 of the service provided by the oil or gas pipeline facility.

21 Sec. 42.06.330. POWER OF COMMISSION TO ALLOCATE USAGE. If the
22 commission, upon its own motion or upon complaint, after providing
23 reasonable notice and opportunity for hearing, finds that an oil or gas
24 pipeline facility is making or granting an unreasonable preference
25 or advantage to any person or subjecting any person to an unreasonable
26 prejudice or discrimination, the commission may prescribe rules to end
27 the discrimination or the commission may itself prescribe the allocation
28 of the service until it determines the discrimination can be avoided
29 by appropriate rules or agreements.

1 Sec. 42.06.340. ORDER FOR JOINT USE OR CONNECTION. When there
2 is failure to agree upon the joint use or interconnection of oil or
3 gas pipeline facilities or the conditions or compensation for joint use
4 or interconnections, any interested person may apply to the commission
5 for an order requiring the interconnection. If, after investigation
6 and opportunity for hearing, the commission finds that public conveni-
7 ence and necessity require the joint use or connection, and that the
8 use or connection will not result in substantial injury to the oil or
9 gas pipeline facility or its customers, or in substantial detriment
10 to the services furnished by the oil or gas pipeline facility, or in
11 the creation of safety hazards, it shall

12 (1) order that the use be permitted;

13 (2) prescribe reasonable conditions and compensation for the
14 joint use;

15 (3) order the interconnection to be made;

16 (4) determine the time and manner of the interconnection;

17 (5) determine the apportionment of costs and responsibility
18 for operation and maintenance of the interconnection.

19 Sec. 42.06.350. TARIFFS, CONTRACTS, FILING AND PUBLIC INSPECTION.

20 (a) Under such regulations as the commission shall prescribe, every
21 intrastate oil or gas pipeline carrier shall file with the commission,
22 within the time and in the form designated by the commission, all
23 rates, tariffs, charges, classifications, rules, regulations, terms,
24 and conditions pertaining to service provided under the certificate,
25 and shall maintain copies on file at its principal business office and
26 at places designated by the commission, available to, and subject to
27 inspection by, the general public on demand.

28 (b) The commission may reject the filing of all or part of a
29 tariff which does not comply with the form or filing regulations of

1 the commission or which is not consistent with this chapter or the
2 regulations of the commission. A tariff or provision so rejected is
3 void.

4 Sec. 42.06.360. ADHERENCE TO TARIFFS. The terms and conditions
5 under which a pipeline carrier offers its services and facilities to
6 the public shall be governed strictly by the provisions of its currently
7 effective tariffs. No legally filed and effective tariff rate, charge,
8 rule, regulation or condition of service may be changed except in the
9 manner provided in this chapter. If more than one tariff rate or
10 charge can reasonably be applied for billing purposes the one most
11 advantageous to the customer shall be used.

12 Sec. 42.06.370. RATES TO BE JUST AND REASONABLE. (a) All rates
13 demanded or received by a pipeline carrier, or by any two or more pipe-
14 line carriers jointly, for a service furnished or to be furnished shall
15 be just and reasonable.

16 (b) Additional regulations and rules governing determination of
17 a reasonable tariff shall be published by the commission.

18 Sec. 42.06.380. DISCRIMINATION IN RATES. (a) No pipeline car-
19 rier may, as to rates, grant a preference or advantage to any customer
20 or subject a customer to an unreasonable prejudice or disadvantage.
21 No pipeline carrier may establish or maintain an unreasonable differ-
22 ence as to rates, either as between localities served or between
23 classes of service provided under the certificate.

24 (b) No pipeline carrier may directly or indirectly refund, rebate
25 or remit in any manner, or by any device, any portion of the rates
26 and charges or charge, demand or receive a greater or lesser compensa-
27 tion for service than is specified in its effective tariff nor extend
28 to any customer served under the certificate any form of contract,
29 agreement, inducement, privilege or facility, or apply any rule,

1 regulation or condition of service except as are extended or applied
2 to all customers under like circumstances.

3 Sec. 42.06.390. NEW OR REVISED TARIFFS. (a) No pipeline
4 carrier may establish or place in effect any new or revised rates,
5 charges, rules, regulations, conditions of service or practices except
6 after 30 days notice to the commission and to the public. Notice
7 shall be given by filing with the commission and keeping open for
8 public inspection the revised tariff provisions which shall plainly
9 indicate the changes to be made in the schedules then in force and the
10 time when the changes will go into effect. The commission may pre-
11 scribe additional means of giving notice. The commission, for good
12 cause shown, may allow changes to take effect on less than 30 days
13 notice under conditions the commission prescribes.

14 (b) New and revised tariffs shall be filed in the manner provided
15 in sec. 350 of this chapter.

16 Sec. 42.06.400. SUSPENSION OF TARIFF FILING. (a) When a tariff
17 filing is made containing a new or revised rate, classification, rule,
18 regulation, practice, or condition of service the commission may,
19 either upon written complaint or upon its own motion, after reasonable
20 notice, conduct a hearing to determine the reasonableness and propriety
21 of the filing. Pending a hearing the commission may, by order stating
22 the reasons for its action, suspend the operation of the tariff filing
23 for an initial period not longer than six months beyond the time when
24 it would otherwise go into effect.

25 (b) An order suspending a tariff filing may be vacated if, after
26 investigation, the commission finds that it is in all respects proper.
27 Otherwise the commission shall hold a hearing on the suspended filing
28 and issue its order, before the end of the suspension period, granting,
29 denying or modifying the suspended tariff in whole or in part.

1 (c) In the case of a proposed increased rate, the commission may
2 by order require the interested pipeline carrier to place in escrow in
3 a financial institution approved by the commission and keep accurate
4 account of all amounts received by reason of the increase, specifying
5 by whom and in whose behalf the amounts are paid. Upon completion of
6 the hearing and decision the commission may by order require the pipe-
7 line carrier to refund to the persons in whose behalf the amounts were
8 paid, that portion of the increase in rates which was found to be
9 unreasonable or unlawful. No funds may be released from escrow without
10 the commission's prior written consent and the escrow agent shall be
11 so instructed by the pipeline carrier, in writing, with a copy to the
12 commission. The pipeline carrier, at its expense, may substitute a
13 bond in lieu of the escrow requirement.

14 (d) One who initiates a change in existing tariffs bears the
15 burden of proving the reasonableness of the change.

16 Sec. 42.06.410. POWER OF COMMISSION TO FIX RATES. When the com-
17 mission, after an investigation and hearing, finds that a rate demanded,
18 observed, charged or collected by a pipeline carrier for a service,
19 subject to the jurisdiction of the commission, or that a classification,
20 rule, regulation, practice, or contract affecting the rate, is unjust,
21 unreasonable, unduly discriminatory or preferential, the commission
22 shall determine a just and reasonable rate, classification, rule,
23 regulation, practice, or contract to be observed or allowed and shall
24 establish it by order.

25 Sec. 42.06.420. VALUATION OF PROPERTY OF A PIPELINE CARRIER.
26 The commission may, after providing reasonable notice and opportunity
27 to be heard, ascertain and set the fair value of the whole or any part
28 of the property of a pipeline carrier, insofar as it is material to the
29 exercise of the jurisdiction of the commission. The commission may

1 make revaluations from time to time and ascertain the fair value of all
2 new construction, extensions, and additions to the property of a pipe-
3 line carrier.

4 Sec. 42.06.430. GENERAL PROVISIONS AS TO ACCOUNTS, RECORDS AND
5 REPORTS. To the extent necessary to the performance of the duties of
6 the commission as provided in this chapter:

7 (1) The commission by regulation shall, for the purposes of
8 this section, classify pipeline facilities, and may designate the
9 pipeline facilities or groups of pipeline facilities within this state
10 that constitute a pipeline system for the purposes of this section.

11 (2) The commission may by regulation prescribe a uniform
12 system of accounts for any classification of pipeline facilities which
13 best represents and clearly reveals the investment, revenues, direct
14 operating costs and other expenses of the subject classification of
15 facilities, and may prescribe the manner in which the accounts and
16 supporting records are kept in order to clearly show the investment,
17 revenues and costs pertaining to the subject facilities or to a pipe-
18 line system constituting a part of it. Accounts shall be maintained
19 on a calendar year basis unless the commission specifically authorizes
20 the maintenance of accounts on the basis of a fiscal year other than
21 the calendar year.

22 (3) The commission may by regulation require a pipeline
23 carrier to establish and maintain as part of its system of accounts
24 continuing property records showing, as to property units in this state,
25 the year of placement in service, original cost and current location,
26 and, as to a pipeline system, accounts and records in a manner showing,
27 on a current basis, the original cost of the system in this state and
28 related reserves for depreciation. From time to time the commission
29 shall determine the proper and adequate rates of depreciation for each

1 major class of property of an oil or gas pipeline facility.

2 (4) The pipeline carrier shall keep its accounts for its
3 pipeline facilities located in this state separate from any accounts
4 relating to any other business (including another pipeline facilities
5 business, or a subsidiary business) it engages in, directly or
6 indirectly. Except as the commission provides, no property, expense
7 or revenue used in or derived from the other business may be considered
8 in establishing the rates and charges of the facility.

9 (5) The pipeline carrier shall keep books, accounts, papers
10 and records required by this chapter or by regulations adopted by the
11 commission under this chapter in an office in this state and may not
12 remove them from the state except upon written authority by the commission.

13 (6) For pipelines subject to the Interstate Commerce Act or
14 the Natural Gas Act, the uniform system of accounts and manner of main-
15 taining the same and the property records kept and maintained under this
16 section shall, wherever considered practicable by the commission, be
17 the same as required under regulations prescribed by the applicable
18 federal agency.

19 (7) Within 90 days after the close of its authorized annual
20 accounting period, or within additional time granted by the commission
21 for good cause shown, a pipeline carrier shall file a verified annual
22 report with the commission. This annual report shall consist of,

23 (A) for a pipeline subject to the Interstate Commerce
24 Act or the Natural Gas Act, a copy of the annual report as filed
25 with the appropriate federal agency pursuant to the applicable
26 Act, and for other pipelines a report of general corporation
27 information and financial statements in the same general format
28 as the report of pipelines of the same classification subject to
29 the jurisdiction of the appropriate federal agency; and

1 (B) in the same general format as the report referred
2 to in (7)(A) of this section, a statement of income and investment
3 applicable to pipelines in this state, and a statement of invest-
4 ment, revenues, direct operating costs and other expenses, detailed
5 in accordance with the uniform system of accounts to be applied
6 under this chapter, for each pipeline system designated by the
7 commission under (1) of this section; and

8 (C) such additional accounts and information as may
9 be required under (2) of this section.

10 Sec. 42.06.440. INSPECTION OF RECORDS. Subject to AS 31.05.035(c),
11 the commission shall at all reasonable times have access to, and may
12 designate any of its employees, agents or consultants to inspect and
13 examine, the accounts, records, books, maps, inventories, appraisals,
14 valuations, or other reports and documents, kept by an oil or gas
15 pipeline carrier or its affiliated interests, or prepared or kept for
16 it by others, which relate to any contract or transaction between them.
17 The commission may require an oil or gas pipeline carrier or its
18 affiliated interest to file with the commission copies of any or all
19 of these accounts, records, books, maps, inventories, appraisals,
20 valuations, or other reports and documents.

21 Sec. 42.06.450. INVESTIGATION OF MANAGEMENT PRACTICES. (a) The
22 commission may investigate the management practices of a pipeline
23 carrier to determine how they affect the cost or quality of its trans-
24 portation in this state of oil or gas or both or other related service.
25 The commission's investigation may include, but is not limited to,
26 staffing patterns, compensation policies and practices, investment
27 policy and practice, purchasing and billing practices, accounting,
28 record keeping, and reporting practices, and relations with affiliates.

29 (b) When unreasonable practices are found to exist, the commission

1 may, after providing reasonable notice and opportunity for hearing,
2 take appropriate action to insure that neither the direct nor the
3 indirect costs of the practices are borne by the public.

4 (c) In a rate proceeding the oil or gas pipeline carrier has the
5 burden of proving that any written or unwritten contract or arrangement
6 it may have with any of its affiliated interests for the furnishing
7 of any services or for the purchase, sale, lease or exchange of any
8 property is necessary and consistent with the public interest and that
9 the payment made for it, or consideration given, is reasonably based,
10 in part, upon the submission of satisfactory proof as to the cost to
11 the affiliated interest of furnishing the service or property and, in
12 part, upon the estimated cost the oil or gas pipeline carrier would
13 have incurred if it furnished the service or property with its own
14 personnel and capital.

15 Sec. 42.06.460. DESIGNATION OF SERVICE AGENTS. Each pipeline
16 carrier shall file with the commission a written appointment of a named
17 permanent resident (which may be a corporation) of this state as its
18 registered agent in this state upon whom service of all notices, regu-
19 lations, and requests of the commission may be made. The appointment
20 shall specify an address in this state of such appointed agent, which
21 address may be changed from time to time by filing a new Alaskan
22 address with the commission. If a pipeline carrier fails to appoint an
23 agent, service of notices, regulations and requests may be made by
24 posting a copy in the main office of the commission and filing a copy
25 in the office of the lieutenant governor.

26 Sec. 42.06.470. EFFECT OF REGULATIONS. Regulations adopted and
27 issued by the commission in accordance with this chapter have the
28 effect of law.

29 Sec. 42.06.480. REVIEW AND ENFORCEMENT. (a) All final orders

1 of the commission are subject to judicial review in accordance with
2 AS 44.62.560 - 44.62.570.

3 (b) If an appeal is not taken from a final order of the commis-
4 sion, the commission may apply to the superior court for enforcement of
5 this chapter, the regulations adopted under it and the orders of the
6 commission. The court shall enforce the order by injunction or other
7 process.

8 Sec. 42.06.490. COMPLAINT AGAINST PIPELINE CARRIER. (a) Any
9 person (including a commissioner or employee of the commission) may
10 file a complaint with the commission under AS 44.62.360 alleging that
11 a rate, price, service, practice or action of a pipeline carrier violates
12 this chapter or regulations hereunder, or that a pipeline carrier has
13 not complied with the certificate issued under this chapter.

14 (b) The content, service, and amendment requirements of a com-
15 plaint filed with the commission under this section shall be as speci-
16 fied in AS 44.62.360, 44.62.380 and 44.62.400.

17 Sec. 42.06.500. ADJUDICATION BY COMMISSION UNDER ADMINISTRATIVE
18 PROCEDURE ACT. The commission shall adjudicate and decide cases
19 initiated by complaint filed under sec. 490 of this chapter in accor-
20 dance with AS 44.62.330 - 44.62.630.

21 Sec. 42.06.510. PUBLIC RECORDS. The records, including the facts
22 and information in them, of and in the possession of the commission,
23 except records which by law or by regulation of the commission are
24 designated to be a nonpublic or privileged nature, are public records
25 open to public inspection at reasonable times; however, any documents
26 filed with the commission and relating to the finances or operations of
27 a pipeline subject to the Interstate Commerce Act or the Natural Gas
28 Act and being in addition to or other than copies of documents required
29 to be filed with the appropriate federal agency, shall be open to

1 inspection only by appropriate officers and officials of the state for
2 relevant purposes of the state. A person may make written objections
3 to the public disclosure of any information filed with or obtained by
4 the commission under the provisions of this chapter, stating the
5 grounds for the objection; when an objection is made, the commission
6 shall order the information withheld from public disclosure if in the
7 judgment of the commission the information could adversely affect the
8 interest of that person and is not required in the interest of the
9 public. Any commissioner, and the executive director, may certify as
10 to all official acts and records of the commission.

11 Sec. 42.06.520. APPLICATION FEES. The commission may establish
12 reasonable fees to cover the costs of initial processing of applications
13 for certificates or amendments to certificates.

14 Sec. 42.06.530. INJUNCTIVE AND MONETARY SANCTIONS. (a) The
15 full amount of damages determined by a civil action may be compromised
16 by the commission. In determining the amount of the damages, or the
17 amount agreed upon in compromise, the gravity of the violation, and
18 the good faith of the person charged in attempting to achieve compli-
19 ance, after notification of a violation, shall be considered. The
20 amount of the damages, when finally determined, or the amount agreed
21 upon in compromise, may be deducted from any sums owing by the state
22 to the person charged or may be recovered in a civil action in the
23 state courts.

24 (b) A person may be enjoined by the superior court from committing
25 a violation mentioned in this section.

26 Sec. 42.06.540. CIVIL PENALTIES. (a) In addition to all other
27 penalties and remedies provided by law, every person subject to the
28 provisions of this chapter, together with their officers, managers,
29 agents or employees that either violates or procures, aids, or abets

1 the violation of any provision of this chapter, or of an order, rule,
2 regulation or written requirement of the commission is subject to a
3 maximum penalty of \$500 for each violation.

4 (b) No penalty may be assessed unless the commission first issues
5 an order to show cause why the penalty should not be levied. The order
6 shall describe the violation with reasonable particularity and designate
7 the maximum penalty which may be assessed for the violation. The
8 order shall be served on the alleged violator named in the order. The
9 order shall state a time and place for the hearing.

10 (c) After a hearing the commission shall enter its findings of
11 fact and final order which shall state when the penalties, if any, are
12 payable.

13 Sec. 42.06.550. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
14 tion of a provision of this chapter or of an order, decision, regulation
15 or written requirement of the commission is a separate and distinct
16 offense and in case of a continuing violation each day the violation
17 continues constitutes a separate offense.

18 Sec. 42.06.560. ACTIONS TO RECOVER DAMAGES AND PENALTIES; DIS-
19 POSITION. (a) Actions to recover damages and penalties under this
20 chapter shall be brought by the attorney general in a court of competent
21 jurisdiction.

22 (b) All damages and penalties recovered under the provisions of
23 this chapter shall be paid to the commission and deposited by it in the
24 general fund of the state.

25 Sec. 42.06.570. PENALTIES CUMULATIVE. (a) All penalties imposed
26 under this chapter are cumulative.

27 (b) An action to recover a civil penalty is not a bar to an enforce-
28 ment proceeding to require compliance, or to any other remedy provided
29 by this chapter.

1 Sec. 42.06.580. JOINDER OF ACTIONS. Under the applicable court
2 rules, appeals from orders of the commission, applications for enforce-
3 ment of commission orders and actions for recovery of damages or
4 penalties may be joined. The court may in the interests of justice
5 separate the actions.

6 Sec. 42.06.590. PRIVATE CAUSE OF ACTION. (a) A person subjected
7 to an unlawful rate, price, service, or practice, in violation of this
8 chapter, may sue in a state court of appropriate jurisdiction for
9 damages resulting from the unlawful rate, price, service, or practice.

10 (b) If the violation described in (a) of this section resulted
11 in the overcharge of rate or price, the person paying the unlawful
12 rate or price is entitled to recover as damages at least double the
13 amount of the overcharge.

14 (c) A person recovering damages under this section is entitled
15 to a reasonable attorney fee, fixed by the court, to be taxed and
16 collected as costs of the suit.

17 Sec. 42.06.600. REGULATION BY MUNICIPALITY. The commission's
18 jurisdiction and authority extend to an oil or gas pipeline facility
19 operating in a city or borough, whether home rule or otherwise. If a
20 conflict between a certificate, order, decision or regulation of the
21 commission and a charter, permit, franchise, ordinance, rule or regula-
22 tion of such a local governmental entity occurs, the certificate, order,
23 decision or regulation of the commission prevails.

24 Sec. 42.06.610. EXPENSES OF INVESTIGATION OR HEARING. After
25 completion of a hearing or investigation held under this chapter, the
26 commission shall allocate the costs of the hearing or investigation
27 among the parties, including the commission, as is just under the
28 circumstances. The costs allocated may include the costs of any time
29 devoted to the investigation or hearing by hired consultants, whether

1 or not the consultants appear as witnesses or participants. The com-
2 mission shall provide an opportunity for any person objecting to an
3 allocation to be heard before the allocation becomes final.

4 Sec. 42.06.620. CLASSIFICATION. The commission may by regulation
5 provide for the classification of oil or gas pipeline facilities based
6 upon differences in annual revenue, assets, nature of ownership and
7 other appropriate distinctions and as between these classifications,
8 by regulation, provide for different reporting, accounting and other
9 regulatory requirements.

10 Sec. 42.06.630. DEFINITIONS. As used in this chapter

11 (1) "commission" means the Alaska Pipeline Commission;

12 (2) "commissioner" means a member of the commission;

13 (3) "duties" means duties, powers, obligations and functions;

14 (4) "gas" means natural gas, including bradenhead gas,
15 casinghead gas, gas produced from an oil or gas well, and any mixture
16 of natural and artificial gas, and includes liquid products and by-
17 products of gas;

18 (5) "Interstate Commerce Act" means the Interstate Commerce
19 Act of 1906, 34 Stat. 584, as amended;

20 (6) "municipality" means an organized borough or incorporated
21 city;

22 (7) "Natural Gas Act" means the Natural Gas Act of 1938,
23 52 Stat. 821, as amended;

24 (8) "oil" means crude petroleum oil in its natural state,
25 and crude petroleum oil from which only basic sediment and water have
26 been removed;

27 (9) "pipeline" or "pipeline facility" means all the facili-
28 ties of a total system of pipe (whether owned or operated by a pipeline
29 carrier under a contract, agreement, or lease) in this state used by

1 a pipeline carrier for transportation, for hire and as a common carrier,
2 of oil or gas for delivery, for storage, or for further transportation,
3 and including all pipe, pump and compressor stations, station equipment,
4 and all other facilities used or necessary for an integral line of
5 pipe to effectuate such transportation from point to point, excluding,
6 however, gas processing plants, treaters and separators;

7 (10) "pipeline carrier" means the owner, including corpora-
8 tions organized under the laws of the United States or of other states,
9 of any pipeline, as said term is defined in this section, or any inter-
10 est therein;

11 (11) "regulation" includes rules;

12 (12) "tariff" means a rate, charge, toll, rule or regulation
13 of an oil or gas pipeline facility relating to services furnished by
14 the facility to the general public or other users for compensation.

15 Sec. 42.06.640. SHORT TITLE. This chapter may be cited as the
16 Alaska Pipeline Commission Act.

17 * Sec. 2. Notwithstanding the provisions of AS 42.06.030 - 42.06.040,
18 until July 1, 1973 the duties and functions of the Alaska Pipeline Commission
19 under AS 42.06 may, by executive order of the governor, be carried out by a
20 single commissioner appointed and paid pursuant to the provisions of AS 42.06
21 and two temporary commissioners who shall be appointed for terms expiring
22 July 1, 1973. Temporary commissioners shall receive no compensation except
23 per diem and travel authorized by law for other state boards and commissions
24 and shall not be subject to the provisions of AS 42.06.060.

25 * Sec. 3. This Act takes effect on the day after its passage and approval
26 or on the day it becomes law without approval.
27
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29