

Original sponsor: Rules Committee by
request of the Governor

Offered: 4/11/72
Referred: Resources,
Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 315

FCC

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
7 the 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 OMNIBUS 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
22 Public Utilities Commission within its jurisdiction, nondiscriminatory,
23 efficient, and economical oil and gas pipeline transportation at
24 reasonable rates;

25 (3) ensure maximum safety for both persons and property in
26 the operation of an oil and gas pipeline transportation system in the
27 state; and

28 (4) safeguard the interests of the state in the leasing of
29 rights-of-way on state lands for oil and gas pipelines, and provide that

1 the state may obtain the right to acquire an ownership interest in a
2 pipeline as provided in sec. 440 of this chapter.

3 ARTICLE 2. ESTABLISHMENT OF ALASKA PIPELINE COMMISSION.

4 Sec. 42.06.020. ALASKA PIPELINE COMMISSION CREATED. There is
5 created within the Department of Commerce the Alaska Pipeline Commis-
6 sion, as a commission to regulate pipeline facilities and pipeline car-
7 riers, to regulate the access of information concerning pipelines
8 facilities and carriers to this state, and to represent the interests
9 of the state in any proceedings relating to them as provided for in
10 this chapter.

11 Sec. 42.06.030. COMPOSITION OF ALASKA PIPELINE COMMISSION. (a)
12 The Alaska Pipeline Commission consists of three members, appointed
13 by the governor and confirmed by a majority of the members of the
14 legislature in joint session.

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

18 Sec. 42.06.040. TERM OF OFFICE; VACANCY. (a) The members of
19 the commission shall be appointed for terms of six years, except that
20 of the members first appointed to the commission, one shall be appointed
21 for a term of two years, one for a term of four years, and one for a
22 term of six years. Commissioners may be appointed to successive terms.
23 A commissioner, upon the expiration of his term, shall continue to
24 hold office until his successor is appointed and qualified.

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

1 (c) A vacancy on the commission does not impair the authority
2 of a quorum of commissioners to perform all the duties of the commis-
3 sion.

4 Sec. 42.06.050. REMOVAL OF COMMISSIONERS. The governor may remove
5 a commissioner from office by and with the consent of a majority of
6 the legislature.

7 Sec. 42.06.060. QUALIFICATIONS OF COMMISSIONERS. Members of the
8 commission shall be qualified as follows: one member shall be an
9 attorney duly admitted to practice law in this state, and preferably
10 having experience in administrative or regulatory law; one member shall
11 be a graduate of an accredited university with a major or a degree in
12 land management, civil engineering or transportation economics, prefer-
13 ably with experience in oil and gas transportation; one member shall be
14 a graduate of an accredited university with a major or a degree in
15 finance, accounting, or, if not otherwise represented on the commission,
16 transportation economics. A member of the commission may not hold any
17 other state or federal office, position or employment, either elective or
18 appointive, except as a member of the armed forces of the United States
19 or of this state or as a notary public.

20 Sec. 42.06.070. QUORUM. Two members of the commission constitute
21 a quorum for the transaction of business, or for the performance of any
22 duty of the commission.

23 Sec. 42.06.080. OATH OF OFFICE. Each commissioner and the
24 executive director of the commission, before entering upon the duties
25 of his respective office, shall take and subscribe to the oath
26 prescribed for public officers of this state.

27 Sec. 42.06.090. COMPENSATION OF COMMISSIONERS. Commissioners are
28 in the exempt service described in AS 39.25. Commissioners shall re-
29 ceive an annual salary equal to that of a superior court judge, to

1 be paid in 12 equal monthly installments.

2 Sec. 42.06.100. PRINCIPAL OFFICE; SEAL. (a) The commission
3 shall establish a principal office, and may establish branch offices
4 at locations in this state necessary or convenient to the discharge of
5 its duties. For the convenience of the public or of other interested
6 persons the commission may hold meetings, hearings or other proceedings
7 at any of its offices or at other locations in this state.

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

9 Sec. 42.06.110. LEGAL COUNSEL. (a) The attorney general shall
10 be legal counsel for the commission. He shall advise the commission
11 in legal matters arising in the discharge of its duties and shall
12 represent the commission in proceedings to which it is a party.

13 (b) The commission may employ temporary legal counsel from time
14 to time in matters in which the commission is involved in which the
15 attorney general is representing a party in interest other than the
16 commission, or in other matters as determined by the commission.

17 Sec. 42.06.120. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The
18 commission may employ an executive director who shall have had at least
19 five years of experience in oil or gas transportation, management or
20 accounting, or an allied field. The executive director may not be one
21 of the commissioners.

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

28 (c) The executive director, his deputy, and his secretary, shall
29 be in the partially exempt service described in AS 39.25. All other

1 employees of the commission, other than legal counsel, are in the
2 classified service under AS 39.25.

3 Sec. 42.06.130. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES.

4 No member or employee of the commission may have an official connection
5 with, or hold stock or securities in, or have a pecuniary interest in,
6 any corporation, company or association engaged in the production or
7 the transportation of oil or gas. No member or employee may act
8 upon a matter in which his relationship with any person creates a
9 conflict of interest.

10 ARTICLE 3. DUTIES OF THE COMMISSION.

11 Sec. 42.06.140. DUTIES OF THE COMMISSION. As provided in this
12 chapter, the commission

13 (1) shall regulate pipelines and pipeline carriers in this
14 state;

15 (2) may investigate upon complaint or its own motion, the
16 rates, classifications, rules, regulations, prices, services, practices
17 and facilities of pipeline carriers, and the performance of obligations
18 under and compliance with the terms of leases issued under this chapter;

19 (3) may make, prescribe or require just, fair and reasonable
20 rates, classifications, regulations, practices, services and facilities
21 for pipeline carriers;

22 (4) may require pipeline carriers to file with the commission
23 reports and other information and data required or permitted to be
24 required by other provisions of this chapter;

25 (5) shall adjudicate complaints alleging that a pipeline
26 carrier has violated the provisions of this chapter or of a lease
27 issued under this chapter;

28 (6) may adopt regulations that are necessary and proper to
29 the performance of its duties under this chapter, including regulations

1 governing practices and procedures of the commission, which regulations
2 shall not be inconsistent with state law;

3 (7) shall during normal business hours have access to, and
4 may designate any of its employees, agents or consultants to inspect
5 and examine, the accounts, financial and property records, books,
6 maps, inventories, appraisals, valuations, and related reports kept
7 by a pipeline carrier, or kept for it by others, which directly affect
8 the interests of the state and directly relate and pertain to pipelines
9 located in this state;

10 (8) may initiate, intervene in, and appear personally or by
11 counsel and offer evidence in and participate in, any proceedings in-
12 volving a pipeline carrier, and affecting the interests of the state,
13 before any officer, department, board, commission or court of this state
14 or of another state or of the United States.

15 Sec. 42.06.150. JURISDICTION OF COMMISSION. Except as otherwise
16 provided in this chapter or hereafter otherwise expressly provided by
17 law, and except as to any concurrent jurisdiction with the Alaska Public
18 Utilities Commission under ch. 5 of this title as to a public utility
19 described in AS 42.05.701(2)(D) and (E), the jurisdiction and authority
20 over the subject matters of this chapter shall be exclusively in the
21 commission. To the extent that the performance of any duties of the
22 commission affect a pipeline carrier or a pipeline subject to the
23 Interstate Commerce Act or the Natural Gas Act, as provided in sec.
24 580(9)(B) of this chapter, the performance of its duties shall not, as
25 to that pipeline carrier or pipeline, be inconsistent with applicable
26 federal laws, regulations, rules, orders, or other requirements.

27 Sec. 42.06.160. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.
28 The performance of the duties of the commission, including the proce-
29 dures for that performance, are subject to and governed by applicable

1 provisions of the Administrative Procedure Act (AS 44.62).

2 ARTICLE 4. CERTIFICATE OF CONVENIENCE AND NECESSITY.

3 Sec. 42.06.170. CERTIFICATE REQUIRED. (a) No pipeline carrier,
4 or person which will be a pipeline carrier upon completion of any pro-
5 posed construction or extension, shall engage in the transportation of
6 oil or gas by pipeline subject to the jurisdiction of the commission, or
7 undertake the construction or extension of any pipeline facilities for
8 that purpose, or acquire or operate any pipeline facilities or extensions,
9 unless there is in force with respect to that pipeline carrier a certi-
10 ficate of public convenience and necessity issued by the commission
11 authorizing those acts or operations.

12 (b) If any person or predecessor in interest was bona fide engaged
13 in transportation of oil or gas by pipeline subject to the jurisdiction
14 of the commission on the effective date of this chapter, over the
15 route or routes for which application is made and has so operated
16 since that time, the commission shall issue the certificate without
17 requiring further proof that public convenience and necessity will be
18 served by the operation, and without further proceedings, if applica-
19 tion for the certificate is made to the commission within 270 days
20 after the effective date of this chapter; pending the determination of
21 the application, the continued operation of the pipeline or pipelines
22 is lawful.

23 (c) If the division of lands has, before the effective date of
24 this chapter, granted right-of-entry to an applicant for a pipeline
25 right-of-way, or issued a letter of no-objection to the applicant, and
26 if the applicant thereafter fully complies with all of the terms and
27 conditions specified in it by the division of lands or other agency,
28 the applicant shall be considered as being bona fide engaged in trans-
29 portation of oil or gas for the purposes of (b) of this section.

1 (d) In all other cases the commission shall set the matter for
2 hearing and shall give reasonable notice of the hearing to all
3 interested persons which in its judgment may be necessary under rules
4 and regulations prescribed by the commission consistent with the
5 Administrative Procedure Act. The application shall be decided in
6 accordance with sec. 190 of this chapter and the certificate shall be
7 issued or denied accordingly; however, the commission may, without
8 notice of hearing and pending the determination of an application for
9 a certificate, issue a temporary certificate in cases of emergency, to
10 assure maintenance of adequate service or to serve particular customers,
11 and may by regulation exempt from the requirements of this section
12 temporary acts or operations for which the issuance of a certificate
13 will not be required in the public interest.

14 Sec. 42.06.180. APPLICATION. Application for certificates shall
15 be made in writing to the commission, verified under oath, and shall be
16 in the form, and contain the information, and notice of the application
17 shall be served upon the interested parties and in the manner, that the
18 commission by regulation requires.

19 Sec. 42.06.190. GRANT OR DENIAL OF APPLICATION. (a) Except in
20 the cases governed by sec. 170(b) of this chapter, a certificate shall
21 be issued to any qualified applicant, authorizing the whole or
22 any part of the operation, service, construction, extension, or acquisi-
23 tion covered by the application, if it is found that the applicant is
24 able and willing properly to do the acts and to perform the service
25 proposed and to conform to the provisions of this chapter and the re-
26 quirements, rules, and regulations of the commission, and that the pro-
27 posed service, operation, construction, extension, or acquisition,
28 to the extent authorized by the certificate, is or will be required by
29 the present or future public convenience and necessity; otherwise the

1 application shall be denied. The commission shall have the power to
2 attach to the issuance of the certificate and to the exercise of the
3 rights granted under it reasonable terms and conditions that the public
4 convenience and necessity may require, including, but not limited to,
5 reasonable conditions as to required liability and property damage
6 insurance, or an equivalent security deposit, for the reasonable protec-
7 tion of the public against damage and injury resulting from the operation
8 of a pipeline under a certificate.

9 (b) The commission, after a hearing had upon its own motion or
10 upon application, may determine the gathering areas, or the routes over
11 which, the fixed termini between which, and the intermediate and off
12 route points, if any, to which each authorization under this section is
13 to be limited. Within any gathering area determined by the commission
14 a pipeline carrier may, without further authorization, enlarge or extend
15 its pipeline facilities for the purpose of meeting increased demands in
16 that area.

17 (c) Nothing contained in this chapter shall be construed as a
18 limitation upon the power of the commission to grant certificates of
19 public convenience and necessity for service of an area, or routes,
20 already being served by another pipeline.

21 Sec. 42.06.200. ORDER FOR CONNECTION. The commission, upon appli-
22 cation, notice and hearing, and after a finding that the public interest
23 and necessity so require, may order that physical arrangements be made for
24 a pipeline to accept oil or natural gas from fields adjacent to the
25 pipeline, but this order shall not be made if the effect of it would
26 be to impair in any way the primary purpose of the pipeline, or to
27 adversely affect the finances or operating efficiency of the pipeline,
28 or create material risks of disruption of the operation of the pipeline
29 or damage to the pipeline or surrounding land. The order shall

1 provide for full payment of all costs of physical arrangements by
2 the parties applying for it, for full security for these payments to
3 be provided by the applicants, and for control of the physical
4 arrangements by the pipeline carrier.

5 Sec. 42.06.210. ABANDONMENT. (a) No pipeline carrier may aban-
6 don or permanently discontinue use of all or any portion of a pipeline
7 or abandon or permanently discontinue any service rendered by means of
8 a pipeline that is the subject of a certificate of convenience and
9 necessity, without the permission and approval of the commission after
10 due notice and hearing, and a finding by the commission that continued
11 service is not required by public convenience and necessity. Any
12 interested person may file with the commission a protest or memoran-
13 dum of opposition to or in support of discontinuance or abandonment.
14 The commission may authorize temporary suspension of a service or of
15 part of a service.

16 (b) Upon complaint or upon its own motion, the commission may re-
17 investigate a previously authorized discontinuance, abandonment or sus-
18 pension of a service described in (a) of this section. If, after due
19 notice and hearing, the commission finds that the public convenience and
20 necessity require the service to be resumed and that there has not been
21 detrimental reliance on the previous authorization, it may order the
22 pipeline carrier to again provide the service.

23 Sec. 42.06.220. MODIFICATION, SUSPENSION OR REVOCATION OF
24 CERTIFICATES. Upon complaint or upon its own motion the commission,
25 after due notice and hearing and for good cause shown, may amend, modify,
26 suspend, or revoke a certificate, in whole or in part. Good cause for
27 amendment, modification, suspension or revocation of a certificate
28 shall be

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

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

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

5 (4) wilful failure to comply with the provisions of this
6 chapter, or the rules, regulations or orders of the commission, or the
7 provisions of any lease issued under this chapter; or

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

10 Sec. 42.06.230. TRANSFER OF CERTIFICATE. A certificate may not
11 be sold or leased, rented or transferred without the prior approval of
12 the commission.

13 ARTICLE 5. TARIFFS, RATES AND SERVICE.

14 Sec. 42.06.240. TARIFFS; FILING AND INSPECTION. (a) Under those
15 regulations that the commission may prescribe, each pipeline carrier
16 shall file with the commission its complete tariff pertaining to its
17 pipelines at the time, in the form and showing the rates and charges
18 collected and the classifications, rules, regulations, terms and
19 conditions under which the pipeline carrier furnishes its pipeline
20 facilities and related services. Each pipeline carrier shall clearly
21 print its complete tariff and keep an up-to-date copy of it on file
22 at its principal business office in this state and at each office in
23 this state where payments for the pipeline carrier's service are
24 accepted. The tariffs shall be made available to, and subject to
25 inspection by, the general public on demand.

26 (b) The commission may reject the filing of all or part of a
27 tariff which is not consistent with this chapter or does not comply
28 with the applicable regulations of the commission. A tariff or provi-
29 sion so rejected by the commission is void.

1 Sec. 42.06.250. ADHERENCE TO TARIFFS. The terms and conditions
2 under which a pipeline carrier offers its services and facilities to
3 the public shall be governed strictly by the provisions of its currently
4 effective tariffs. No legally filed and effective tariff rate, charge,
5 rule, regulation or condition of service may be changed except in the
6 manner provided in this chapter. If more than one tariff rate or
7 charge can reasonably be applied for billing purposes the one most
8 advantageous to the customer shall be used.

9 Sec. 42.06.260. RATES TO BE JUST AND REASONABLE. All rates
10 demanded or received by a pipeline carrier, or by any two or more pipe-
11 line carriers jointly, for a service furnished or to be furnished shall
12 be just and reasonable.

13 Sec. 42.06.270. DISCRIMINATION IN RATES. (a) No pipeline car-
14 rier may, as to rates, grant a preference or advantage to any of its
15 customers or subject a customer to an unreasonable prejudice or dis-
16 advantage. No pipeline carrier may establish or maintain an unreason-
17 able difference as to rates, either as between localities served or
18 between classes of service provided under the certificate.

19 (b) No pipeline carrier may directly or indirectly refund, rebate
20 or remit in any manner, or by any device, any portion of the rates
21 and charges or charge, demand or receive a greater or lesser compensa-
22 tion for its services than is specified in its effective tariff, nor
23 extend to any customer served under the certificate any form of con-
24 tract, agreement, inducement, privilege or facility, or apply any
25 rule, regulation or condition of service except as are extended or
26 applied to all customers under like circumstances.

27 Sec. 42.06.280. NEW OR REVISED TARIFFS. (a) No pipeline
28 carrier may establish or place in effect any new or revised rates,
29 charges, rules, regulations, conditions of service or practices except

1 after 30 days notice to the commission and to the public. Notice shall
2 be given by filing with the commission and keeping open for public
3 inspection the revised tariff provisions which shall plainly indicate
4 the changes to be made in the schedules then in force and the time when
5 the changes will go into effect. The commission may prescribe addi-
6 tional means of giving notice. The commission, for good cause shown,
7 may allow changes to take effect on less than 30 days notice under
8 conditions the commission prescribes.

9 (b) New and revised tariffs shall be filed in the manner provided
10 in sec. 240 of this chapter.

11 Sec. 42.06.290. SUSPENSION OF TARIFF FILING. (a) When a tariff
12 filing is made containing a new or revised rate, classification, rule,
13 regulation, practice, or condition of service the commission may,
14 either upon written complaint or upon its own motion, after reasonable
15 notice, conduct a hearing to determine the reasonableness and propriety
16 of the filing. Pending a hearing the commission may, by order stating
17 the reasons for its action, suspend the operation of the tariff filing
18 for an initial period not longer than six months beyond the time when
19 it would otherwise go into effect.

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

25 (c) In the case of a proposed increased rate, the commission may
26 by order require the interested pipeline carrier to place in escrow in
27 a financial institution approved by the commission and keep accurate
28 account of all amounts received by reason of the increase, specifying
29 by whom and in whose behalf the amounts are paid. Upon completion of

1 the hearing and decision the commission may by order require the pipe-
2 line carrier to refund to the persons in whose behalf the amounts were
3 paid, that portion of the increase in rates which was found to be un-
4 reasonable or unlawful and as to which deposits were placed in escrow.
5 No funds may be released from escrow without the commission's prior
6 written consent and the escrow agent shall be so instructed by the
7 pipeline carrier, in writing, with a copy to the commission. The pipe-
8 line carrier, at its expense, may substitute a bond in lieu of the
9 escrow requirement.

10 Sec. 42.06.300. POWER OF COMMISSION TO FIX RATES. When the com-
11 mission, after an investigation and hearing, finds that a rate demanded,
12 observed, charged or collected by a pipeline carrier for a service,
13 subject to the jurisdiction of the commission, or that a classification,
14 rule, regulation, practice, or contract affecting the rate, is unjust,
15 unreasonable, unduly discriminatory or preferential, the commission
16 shall determine a just and reasonable rate, classification, rule,
17 regulation, practice, or contract to be observed or allowed and shall
18 establish it by order. The state or a municipality may covenant with
19 bond purchasers regarding rates of a publicly owned pipeline, and
20 the covenant is valid and enforceable and is considered to be a contract
21 with the holders from time to time of the bonds.

22 Sec. 42.06.310. VALUATION OF PROPERTY OF A PIPELINE CARRIER. (a)
23 The commission may, after providing reasonable notice and opportunity
24 to be heard, ascertain and set the fair value of the whole or any part
25 of the property of a pipeline carrier, insofar as it is material to the
26 exercise of the jurisdiction of the commission. The commission may
27 make revaluations from time to time and ascertain the fair value of all
28 new construction, extensions, and additions to the property of a pipe-
29 line carrier.

1 ARTICLE 6. ACCOUNTS, RECORDS AND REPORTS.

2 Sec. 42.06.340. GENERAL PROVISIONS AS TO ACCOUNTS, RECORDS AND
3 REPORTS. To the extent necessary to the performance of the duties of
4 the commission as provided in this chapter:

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

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

20 (3) The commission may by regulation require a pipeline
21 carrier to establish and maintain as part of its system of accounts con-
22 tinuing property records showing, as to property units in this state,
23 the year of placement in service, original cost and current location,
24 and, as to a pipeline system, accounts and records in a manner showing,
25 on a current basis, the original cost of the system in this state and
26 related reserves for and rates of depreciation.

27 (4) The pipeline carrier shall keep its accounts for its pipe-
28 line facilities located in this state separate from any accounts relating
29 to any other business (including another pipeline facilities business,

1 or a subsidiary business) it engages in, directly or indirectly.

2 (5) Subject to the provisions of sec. 150 of this chapter,
3 the pipeline carrier shall keep books, accounts, papers and
4 records required by this chapter or by regulations adopted by the
5 commission under this chapter in an office in this state and may remove
6 them from the state only upon written authority by the commission.

7 (6) For pipelines subject to the Interstate Commerce Act
8 or the Natural Gas Act, the uniform system of accounts and manner of
9 maintaining the same, the property records kept and maintained, and
10 depreciation rates and accounts, prescribed or required by the commission
11 under this section shall be the same as required under regulations
12 prescribed by the applicable federal agency.

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

17 (A) for a pipeline subject to the Interstate Commerce
18 Act or the Natural Gas Act, a copy of the annual report as filed
19 with the appropriate federal agency pursuant to the applicable
20 act, and for other pipelines a report of general corporation
21 information and financial statements in the same general format
22 as the report of pipelines of the same classification subject
23 to the jurisdiction of the appropriate federal agency; and

24 (B) in the same general format as the report referred
25 to in (7)(A) of this section, a statement of income and invest-
26 ment applicable to pipelines in this state, and a statement of
27 investment, revenues, direct operating costs and other expenses,
28 detailed in accordance with the uniform system of accounts to
29 be applied under this chapter, for each pipeline system designated

1 by the commission under (1) of this section.

2 Sec. 42.06.350. INSPECTION OF RECORDS. A pipeline carrier at
3 its own expense and within a reasonable time shall furnish the commis-
4 sion with a certified copy of any record required to be kept under this
5 chapter or under a lease issued under this chapter that the commission
6 requests.

7 ARTICLE 7. RIGHT-OF-WAY LEASING.

8 Sec. 42.06.360. GRANT OF RIGHT-OF-WAY LEASE. The commission
9 may grant noncompetitive rights-of-way leases and other leases for
10 the construction, operation, maintenance, repair, reconstruction, re-
11 moval, replacement and improvement of pipelines, and related pump
12 stations, tankage, access roads, bridges, airfields, docks, wharves
13 and terminal facilities, communications facilities and other related
14 structures and facilities, for or used in connection with the trans-
15 portation of oil, gas, or their products, on, over, under, along or
16 across any land, including land occupied by rivers and other bodies of
17 water and the right-of-way of any road, highway, railroad or public
18 utility, belonging to or administered by the state, or to which it may
19 become entitled or which otherwise are subject to being leased by the
20 state. Those leases shall be granted upon written application, the
21 form and content of which may be prescribed by regulations of the com-
22 mission, and which shall include a statement of the primary purpose of
23 the lease. Public notice of an application shall be given by
24 publication in the manner prescribed by the commission not less than
25 60 days before the granting of a lease. This notice shall state the
26 general nature of the application, the general route of the pipeline,
27 where the application may be examined, and other information that
28 the commission may determine. The commission shall submit copies of
29 the application for review, to the governor, the Department of Natural

1 Resources, the Department of Highways, the Department of Environmental
2 Conservation, the Department of Fish and Game, and other state officials
3 which the commission determines, promptly upon receipt of the appli-
4 cation by the commission but not less than 60 days before granting a
5 lease.

6 Sec. 42.06.370. COMMON CARRIER REQUIREMENT. If the commission
7 determines that the proposed purpose, location and character of the
8 pipeline and financial and operational considerations make it feasible
9 for the pipeline to be operated as a common carrier, or finds that
10 under federal regulations or under the conditions of any right-of-way
11 granted over federal land the pipeline, or the portion upon federal
12 land, is required to be operated as a common carrier, and further
13 determines that the interests of the state in land management and
14 resource development would be served by it, it may require as a
15 condition of a lease that the pipeline be operated as a common carrier
16 accepting oil, natural gas, or their products, in accordance with
17 the purpose of the pipeline, for transportation without discrimina-
18 tion. This section is not applicable to a natural gas pipeline
19 operated by a person subject to regulation under the Natural Gas
20 Act.

21 Sec. 42.06.380. CONNECTIONS. If, under the lease, the pipeline
22 is to be operated as a common carrier, the commission may, upon appli-
23 cation, notice and hearing, order that physical arrangements be made
24 for accepting oil or gas from fields upon state lands adjacent to the
25 pipeline, but this order shall not be made if the effect of it would
26 be to impair in any way the primary purpose of the pipeline as stated
27 in the application for the lease, or to adversely affect the finances
28 or operating efficiency of the pipeline, or create material risks of
29 disruption of the operation of the pipeline or damage to the pipeline

1 or surrounding land. The order, if made, shall provide for full pay-
2 ment of all costs of physical arrangements by the parties applying for
3 it, for full security for the payments to be provided by the applicants,
4 and for control of the physical arrangements by the pipeline carrier.
5 This section, and any order under it, shall be subject to and not in
6 conflict with any applicable federal laws, regulations, rules, orders
7 or requirements.

8 Sec. 42.06.390. TERM OF LEASE. The term of a right-of-way lease
9 granted by the commission shall be for the estimated life of the field
10 or fields to be served by the pipeline as shown in the statement of
11 primary purpose in the application and as determined by the commission
12 upon the best available evidence, plus 10 years, but not in excess of
13 55 years. Upon application and a showing that the period of usefulness
14 is longer than originally estimated or that proposed financing of
15 improvements of the pipeline necessitates extension of the term of the
16 lease, the commission may at any time extend the original term of the
17 lease up to a period of 55 years from the commencement of the original
18 term. If at the end of the term of the lease, or any extension or re-
19 newal of it, the pipeline, or any portion of it, upon state land
20 is still in operation and the lessee is in compliance with the terms
21 of the lease, upon application for renewal or further renewal of the
22 lease or portion thereof, the commission shall grant a renewal for a
23 period of up to 10 years, but not in excess of the then estimated period
24 of usefulness of the pipeline or any portion of it.

25 Sec. 42.06.400. RENTS. (a) The lease shall provide for a basic
26 rental equivalent to the fair rental value of the land leased,
27 determined in relation to the fair market value of the land, excluding
28 any enhanced value by reason of the improvements to be placed on it
29 under the lease, plus compensatory rental determined by amortization

1 over the term of the lease of the amount, if any, by which the fair
2 market value of state land adjacent to the leased premises is reduced
3 by the occupation of the leased premises by the pipeline. Fair rental
4 values and market values shall be determined by the commission after
5 an independent appraisal or estimate. The compensatory rental shall be
6 determined once for the term of the lease and shall be further deter-
7 mined for any period of extension or renewal of the lease. Each lease
8 shall stipulate that the basic rental is subject to adjustment at
9 five-year intervals based upon a redetermination of the fair rental
10 value of the land leased thereunder determined as stated above in this
11 section. Rental rates for the leases under this section shall be con-
12 sistent with those prevailing for other state land. The lease shall
13 provide for payment of the rentals on a monthly, quarterly, semiannual,
14 or annual basis and shall provide that any installment of rent not paid
15 when due shall bear interest at the rate of 10 per cent per year.

16 (b) Notwithstanding the provisions of (a) of this section, all
17 pipelines having an outside diameter of 47 inches or more shall pay
18 rentals of not less than \$4,000 per year per mile of state land crossed.

19 Sec. 42.06.410. MAINTENANCE AND INSPECTION. The lease shall
20 provide that the lessee shall, during the term of the lease and any
21 extension or renewal of it, maintain the leased premises and the pipe-
22 line and other improvements on it in good and safe condition and that
23 the lessee will promptly repair or remedy any damage to the leased
24 land or adjacent state land resulting from the operations of the lessee.
25 The commission and any appropriate officer or agent of the commission
26 or the state shall have the reasonable right at all times to enter
27 upon the leased premises to inspect the condition of the premises and
28 the improvements on it.

29 Sec. 42.06.420. RESERVATIONS AND OTHER TERMS. (a) The lease

1 shall provide

2 (1) for the reservation of resources and access to them as
3 required by sec. 9, art. VIII, Alaska Constitution, and for the protec-
4 tion of the pipeline and operations of it under this reservation;

5 (2) that violation of the lease or the applicable provisions
6 of this chapter shall subject the lessee to appropriate legal action,
7 including forfeiture of the lease upon notice of the violation, reason-
8 able opportunity for corrective action, and opportunity for hearing
9 upon the violation and the adequacy of corrective action;

10 (3) that the lessee may not sublet the leased premises or
11 assign the lease, except to a party who is a joint lessee under the
12 lease or to any affiliate of any lessee under the lease, without the
13 prior written approval of the commission;

14 (4) for termination of the lease by the commission upon
15 abandonment of the leased premises by the lessee;

16 (5) for the removal or reasonable abandonment in place, at
17 the cost of the lessee, of its properties from or on the leased premises
18 within a reasonable time after termination of the lease and for reason-
19 able restoration of the premises;

20 (6) for other terms, conditions, and requirements, not
21 inconsistent with applicable law, pertaining to the use and protection
22 of the state lands that the commission shall determine to be in the
23 best interests of the state and for the protection of the pipeline and
24 its use.

25 (b) Rights-of-way shall be granted upon the expressed condition
26 that the oil or gas pipelines shall transport or purchase without
27 discrimination, oil or natural gas produced from lands in the vicinity
28 of the pipeline in the proportionate amounts that the commission may,
29 after a full hearing with due notice to the interested parties,

1 determine to be reasonable, taking into account, among other things,
2 conservation and the prevention of waste.

3 Sec. 42.06.430. OTHER LAWS. Nothing in secs. 360 - 440 of this
4 chapter or in any lease or agreement under secs. 360 - 440 of this
5 chapter may be applied in any manner inconsistent with an applicable
6 federal law, regulation, rule, order, or requirement. Secs. 360 - 440
7 of this chapter may not be considered to restrict any authority which
8 the commission may otherwise exercise under this chapter. The proce-
9 dures of AS 44.62.330 - 44.62.630 shall be applicable to any order,
10 determination, or finding of the commission proposed or made adverse
11 to any applicant or lessee under secs. 360 - 430 of this chapter; how-
12 ever, nothing in this chapter may impair any judicial remedy otherwise
13 available to the state or the applicant or lessee.

14 Sec. 42.06.440. OPTION AND PURCHASE BY STATE. (a) The governor
15 has the authority to obtain an option to purchase an undivided interest,
16 not to exceed 20 per cent, in a trans-Alaska pipeline project or
17 facility.

18 (b) A lease of state public land for right-of-way for a trans-
19 Alaska pipeline facility may contain the condition that the lessee
20 grants to the state the option to purchase, on reasonable notice, an
21 undivided interest, not to exceed 20 per cent, in the entire pipeline
22 project or facility.

23 (c) The governor shall not exercise any option to purchase an
24 interest in the pipeline project or facility unless the purchase price
25 and other terms of the purchase proposal are approved by the legisla-
26 ture. In no event may the option to purchase be exercised until the
27 purchase of the interest has been approved by a majority of the voters
28 in a statewide referendum.

29 ARTICLE 8. SAFETY.

1 Sec. 42.06.450. PIPELINE SAFETY. (a) Each pipeline carrier
2 shall maintain its pipeline in good condition and repair, and shall
3 promptly replace or repair damage to or destruction of its pipeline if
4 necessary to prevent injury to persons and property.

5 (b) The commission may prescribe by regulation safety standards
6 for the transportation by pipeline of oil and gas. The commission
7 may make reasonable inspection of pipelines and their operations to
8 determine compliance with safety standards established by the commis-
9 sion, or, in the case of pipelines subject to the Interstate Commerce
10 Act or the Natural Gas Act, by the federal government. In carrying
11 out its responsibilities under this section, the commission may
12 require pipeline carriers to keep maintenance records which may be
13 inspected by the commission.

14 ARTICLE 9. MISCELLANEOUS PROVISIONS.

15 Sec. 42.06.470. DESIGNATION OF SERVICE AGENTS. Each pipeline
16 carrier shall file with the commission a written appointment of a
17 named permanent resident (which may be a corporation) of this state
18 as its registered agent in this state upon whom service of all
19 notices, regulations, and requests of the commission may be made.
20 The appointment shall specify an address in this state of such
21 appointed agent, which address may be changed from time to time by
22 filing a new Alaskan address with the commission. If a pipeline
23 carrier fails to appoint an agent, service of notices, regulations
24 and requests may be made by posting a copy in the main office of
25 the commission and filing a copy in the office of the lieutenant
26 governor.

27 Sec. 42.06.480. PUBLIC RECORDS. The records, including the
28 facts and information in them, of and in the possession of the com-
29 mission, except records which by law or by regulation of the commission

1 are designated to be a nonpublic or privileged nature, are public
2 records open to public inspection at reasonable times; however,
3 any documents filed with the commission and relating to the finances
4 or operations of a pipeline subject to the Interstate Commerce Act
5 or the Natural Gas Act and being in addition to or other than copies
6 of documents required to be filed with the appropriate federal agency,
7 shall be open to inspection only by appropriate officers and officials
8 of the state for relevant purposes of the state. A person may make
9 written objections to the public disclosure of any information filed
10 with or obtained by the commission under the provisions of this
11 chapter, stating the grounds for the objection; when an objection
12 is made, the commission shall order the information withheld from
13 public disclosure if in the judgment of the commission the information
14 could adversely affect the interest of that person and is not required
15 in the interest of the public. Any commissioner, and the executive
16 director, may certify as to all official acts and records of the
17 commission.

18 Sec. 42.06.490. FEES. With each application relating to a
19 certificate of public convenience and necessity, the applicant shall
20 pay the commission a fee of \$50. The commission shall deposit in the
21 general fund of the state all fees, penalties, damages, and any other
22 amounts it collects in administering this chapter.

23 Sec. 42.06.500. INVESTIGATION OF MANAGEMENT PRACTICES. The
24 commission may investigate the management practices of a pipeline
25 carrier to determine how they affect the cost or quality of its
26 transportation in this state of oil or gas or both or other related
27 service. The commission's investigation may include, but is not
28 limited to, staffing patterns, compensation policies and practices,
29 investment policy and practice, purchasing and billing practices,

1 accounting, record keeping, and reporting practices, and relations
2 with affiliates.

3 Sec. 42.06.510. COMPLAINT AGAINST PIPELINE CARRIER. (a) Any
4 person (including a commissioner or employee of the commission) may
5 file a complaint with the commission under AS 44.62.360 alleging
6 that a rate, price, service, practice or action of a pipeline carrier
7 violates this chapter or regulations hereunder, or that a pipeline
8 carrier has not complied with the certificate issued under this
9 chapter.

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

13 Sec. 42.06.520. ADJUDICATION BY COMMISSION UNDER ADMINISTRATIVE
14 PROCEDURE ACT. The commission shall adjudicate and decide cases
15 initiated by complaint filed under sec. 510 of this chapter in accor-
16 dance with AS 44.62.330 - 44.62.630.

17 ARTICLE 10. SANCTIONS.

18 Sec. 42.06.540. MONETARY SANCTION. (a) A pipeline carrier
19 is subject to a civil penalty of not more than \$10,000 if a rate or
20 price it charges, a service it performs, or a practice it conducts,
21 violates this chapter, or regulations of the commission under this
22 chapter, and to any liquidated damages or penalties specified in a
23 right-of-way lease issued under sec. 360 of this chapter if it
24 violates the lease.

25 (b) An individual is subject to a civil penalty of not more
26 than \$2,000 if he violates a provision of this chapter, or regulations
27 of the commission under this chapter, and to any liquidated damages
28 or penalties specified in a right-of-way lease issued under sec. 360
29 of this chapter, if he violates the lease.

1 (c) Each violation of this chapter or a regulation described
2 in (a) or (b) of this section is a distinct violation, subject to a
3 separate civil penalty, and in the case of a continuing violation
4 each day's continuance is a distinct violation, subject to a separate
5 civil penalty. However, the maximum civil penalty may not exceed
6 \$200,000 under (a) of this section, or \$40,000 under (b) of this
7 section, for a related series of violations.

8 (d) If a decision by the commission imposing a civil penalty,
9 or liquidated damages or penalty specified in a lease, under this
10 section is not appealed, the commission may if necessary apply to
11 the superior court for a judgment enforcing payment of the civil
12 penalty, or liquidated damages or penalty specified in a lease.

13 Sec. 42.06.550. REMEDIES. When, in the judgment of the com-
14 mission, a person has committed or is about to commit a violation
15 described in sec. 540(a) or (b) of this chapter, the commission may
16 seek from the superior court relief appropriate to remedy or prevent
17 the violation.

18 Sec. 42.06.560. PRIVATE CAUSE OF ACTION. (a) A person sub-
19 jected to an unlawful rate, price, service, or practice, in violation
20 of this chapter, may sue in a state court of appropriate jurisdiction
21 for damages resulting from the unlawful rate, price, service, or
22 practice.

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

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

1 Sec. 42.06.570. SANCTIONS CUMULATIVE. A civil penalty may be
2 imposed, an appropriate writ granted, and damages awarded, all for
3 the same violation described in sec. 540 of this chapter.

4 ARTICLE 11. GENERAL PROVISIONS.

5 Sec. 42.06.580. DEFINITIONS. As used in this chapter

6 (1) "commission" means Alaska Pipeline Commission;

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

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

10 (4) "gas" means natural gas, including bradenhead gas,
11 casinghead gas, gas produced from an oil or gas well, and any mixture
12 of natural and artificial gas, and includes liquid products and by-
13 products of gas;

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

16 (6) "municipality" means an organized borough or incor-
17 porated city;

18 (7) "Natural Gas Act" means the Natural Gas Act of 1938,
19 52 Stat. 821, as amended;

20 (8) "oil" means crude petroleum oil in its natural state,
21 and crude petroleum oil from which only basic sediment and water
22 have been removed, and includes liquid products and by-products of
23 oil;

24 (9) "pipeline" or "pipeline facility" means all the facili-
25 ties of a total system of pipe (whether owned or operated by a pipeline
26 carrier under a contract, agreement, or lease) in this state used by
27 a pipeline carrier for transportation, for hire and as a common carrier,
28 of oil or gas for delivery, for storage, or for further transportation,
29 and including all pipe, pump and compressor stations, station equipment,

1 and all other facilities used or necessary for an integral line of
2 pipe to effectuate such transportation from point to point, excluding,
3 however,

4 (A) gas processing plants, and producer-owned gathering
5 facilities (including but not limited to gathering lines, treaters,
6 separators, compressor facilities and pump stations); and

7 (B) pipelines which are subject to the Interstate
8 Commerce Act or to the Natural Gas Act, except that the provisions
9 of secs. 340 - 440, 450 and 530 of this chapter shall be applicable
10 to these pipelines to the extent that the provisions and the
11 application of them are not inconsistent with applicable federal
12 laws, regulations, rules, orders, or other requirements, and that
13 the transportation of oil and gas within the state other than as
14 part of commerce among the states or with foreign countries shall
15 be subject to the tariff and nondiscriminatory provisions of
16 secs. 250, 270 and 280 of this chapter;

17 (10) "pipeline carrier" means the owner, including corpora-
18 tions organized under the laws of the United States or of other states,
19 of any pipeline, as said term is defined in this section, or any interest
20 therein;

21 (11) "regulation" includes rules;

22 (12) "trans-Alaska pipeline project or facility" means a
23 structure or facility designed for use as a pipeline to provide trans-
24 portation for oil and natural gas from Prudhoe Bay and adjacent areas
25 to the port of Valdez and other ports and related facilities, including
26 but not limited to roads, port facilities, airports, docks, wharves,
27 storage facilities and other marine equipment, sewage or waster dis-
28 posal facilities, facilities for furnishing electric energy, gas, or
29 water, air or water pollution control facilities, parks, playgrounds,

1 and other recreational and sports facilities, and other systems,
2 properties or instrumentalities, used or useful in connection with the
3 transportation by the authority of oil and natural gas, and any other
4 laboratory, maintenance, storage or utility facilities or other building
5 or structure necessary or useful for the transportation of oil and
6 natural gas, or any multipurpose structure designed to combine two or
7 more of the functions served by the types of structures or facilities
8 included in this paragraph; the term also includes all real and
9 personal property and rights or interest in property, improvements,
10 driveways, roads, approaches, pedestrian access roads, rights-of-way,
11 railroad sidings, utilities, easements, vehicles, furniture, fixtures,
12 machinery and equipment, and similar items necessary or convenient for
13 the operation of any of the structures or facilities listed in this
14 paragraph either on, above or under the ground which are used or usable
15 in connection with the structures or facilities listed in this para-
16 graph.

17 Sec. 42.06.590. SHORT TITLE. This chapter may be cited as the
18 Alaska Pipeline Omnibus Act.

19 * Sec. 2. This Act takes effect on the day after its passage and approval
20 or on the day it becomes law without approval.
21
22
23
24
25
26
27
28
29