

Introduced: 2/7/78
Referred: Commerce and
Resources

1 IN THE SENATE

BY CROFT

2 SENATE BILL NO. 467

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities Com-
7 mission; and providing for an effective date."

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

9 * Section 1. AS 42.05.141 is amended to read:

10 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The
11 Alaska Public Utilities Commission [MAY]

12 (1) shall regulate every public utility engaged or proposing
13 to engage in such a business inside the state, except to the extent
14 exempted by sec. 711 of this chapter and the powers of the commission
15 shall be liberally construed to accomplish its stated purposes;

16 (2) may investigate, upon complaint or upon its own motion,
17 the rates, classifications, rules, regulations, practices, services and
18 facilities of a public utility and hold hearings on them;

19 (3) shall make or require just, fair and reasonable rates,
20 classifications, regulations, practices, services and facilities for a
21 public utility;

22 (4) may prescribe the system of accounts and regulate the
23 service and safety of operations of a public utility;

24 (5) may require a public utility and affiliated interests to
25 file reports and other information and data;

26 (6) may appear personally or by counsel and represent the
27 interests and welfare of the state in all matters and proceedings in-
28 volving a public utility pending before an officer, department, board,
29 commission or court of the state or of another state or the United

1 States and to intervene in, protest, resist, or advocate the granting,
2 denial or modification of any petition, application, complaint or other
3 proceeding;

4 (7) may examine witnesses and offer evidence in any pro-
5 ceeding affecting the state and initiate or participate in judicial
6 proceedings to the extent necessary to protect and promote the interests
7 of the state;

8 (8) shall require permits for the construction, enlargement
9 in size or operating capacity, extension, connection and interconnec-
10 tion, operation or abandonment of any oil or gas pipeline facility or
11 facilities, subject to necessary reasonable terms, conditions and limi-
12 tations;

13 (9) shall provide all reasonable assistance to the Department
14 of Law in intervening in, offering evidence in, and participating in
15 proceedings involving a pipeline carrier or affiliated interests and
16 affecting the interests of the state, before an officer, department,
17 board, commission or court of another state or the United States.

18 * Sec. 2. AS 42.05 is amended by adding new sections to read:

19 Sec. 42.05.146. POWERS AND DUTIES WITH RESPECT TO FEDERALLY
20 REGULATED CARRIERS. Section 141 of this chapter applies to oil and gas
21 pipeline carriers regulated under the Interstate Commerce Act or the
22 Natural Gas Act, only to the extent not preempted under those federal
23 acts.

24 Sec. 42.05.216. JURISDICTION OF THE COMMISSION. To the extent
25 that the performance of any duties of the commission affect a pipeline
26 carrier or a pipeline subject to the Interstate Commerce Act or the
27 Natural Gas Act, the performance of its duties shall not, as to that
28 pipeline carrier or pipeline, conflict with applicable federal laws,
29 regulations, rules, orders, or other requirements.

1 * Sec. 3. AS 42.05.221 is amended by adding new subsections to read:

2 (g) After January 1, 1974 no pipeline carrier, or person which
3 will be a pipeline carrier upon completion of any proposed construction
4 or extension, may engage in the transportation of oil, gas, coal or
5 other mineral slurry by pipeline subject to the jurisdiction of the
6 commission, or undertake the construction, extension, connection or
7 interconnection of any pipeline facilities for that purpose, or acquire
8 or operate any pipeline facilities or extension, unless there is in
9 force with respect to that pipeline carrier a certificate of public
10 convenience and necessity issued by the commission authorizing those
11 acts or operations. A certificate shall describe the nature and extent
12 of the authority granted in it, including, as appropriate for the
13 services involved, a description of the authorized area and scope of
14 operation of the oil and gas pipeline facility.

15 (h) If any person or predecessor in interest was engaged in trans-
16 portation of oil or gas by pipeline or construction of an oil or gas
17 pipeline on or before January 1, 1974, or if any person holds a valid
18 certificate of public convenience and necessity for construction, ex-
19 tension, connection or interconnection, acquisition, or operation of any
20 pipeline facilities issued by an agency authorized to issue the cer-
21 tificates, the commission shall issue a certificate of public convenience
22 and necessity for that pipeline without hearings or proceedings. For
23 purposes of this section, "construct" includes application for a federal
24 right-of-way permit.

25 (i) The requirement for a certificate for pipeline carriers does
26 not operate to impose state regulation which has been preempted under
27 the Interstate Commerce Act or the Natural Gas Act. When federal law
28 has preempted state regulation, the commission shall accept the findings
29 made under the federal scheme of regulation.

1 * Sec. 4. AS 42.05 is amended by adding a new section to read:

2 Sec. 42.05.226. FEDERALLY REGULATED PIPELINE CARRIERS. The re-
3 quirements of this chapter pertaining to permits and certificates of
4 public convenience and necessity do not apply to the construction of a
5 pipeline facility exclusively subject to the jurisdiction of the Inter-
6 state Commerce Act or the Natural Gas Act or to the interstate portion
7 of the business of a pipeline or pipeline carrier exclusively subject to
8 the jurisdiction of the Interstate Commerce Act or the Natural Gas Act.
9 However, the requirements of this chapter for permits and certificates
10 of public convenience and necessity do apply to all the intrastate
11 portion of the business of a pipeline or pipeline carrier subject to the
12 Interstate Commerce Act and the Natural Gas Act whenever they engage in
13 intrastate commerce; and nothing limits the powers of the commission set
14 out in this chapter except to the extent they are preempted by the
15 Interstate Commerce Act and the Natural Gas Act.

16 * Sec. 5. AS 42.05.231 is amended to read:

17 Sec. 42.05.231. APPLICATION. (a) Application for a certificate
18 shall be in writing, verified under oath, and shall be in the form and
19 contain the information required by the commission by regulation.

20 (b) The applicant may be required to serve notice of its applica-
21 tion upon the interested parties and in the manner that the commission
22 may direct.

23 * Sec. 6. AS 42.05.241 is amended to read:

24 Sec. 42.05.241. CONDITIONS OF ISSUANCE. (a) Unless governed by
25 sec. 221(h) of this chapter, no [NO] certificate may be issued unless
26 the commission finds that the applicant is fit, willing and able to
27 provide the utility services applied for and to conform to the provi-
28 sions of this chapter and the requirements and regulations of the com-
29 mission, and that the services are or will be required for the conve-

1 nience and necessity of the public.

2 (b) The commission may issue a certificate granting an application
3 in whole or in part and attach to the grant of it the terms and condi-
4 tions it considers necessary to protect and promote the public interest
5 including, but not limited to, the condition that

6 (1) the applicant may or shall serve an area or provide a
7 necessary service not contemplated by the applicant;

8 (2) the applicant furnish securities that the commission
9 considers necessary for the protection of the environment and property.

10 (c) The commission may, for good cause, deny an application with
11 or without prejudice.

12 (d) The commission, after a hearing upon its own motion or upon
13 application, may determine, with respect to pipelines, the gathering
14 areas, or the routes over which, the fixed termini between which, and
15 the intermediate and off-route points, if any, to which each authoriza-
16 tion under this section is to be limited.

17 * Sec. 7. AS 42.05.281 is amended to read:

18 Sec. 42.05.281. TRANSFER OF CERTIFICATE. A certificate may not be
19 [SOLD OR LEASED,] rented, transferred by sale, lease or by the sale of
20 substantially all of the stock or assets of a public utility holding a
21 certificate, or inherited without the prior approval of the commission.

22 * Sec. 8. AS 42.05.291 is amended by adding a new subsection to read:

23 (e) Every common carrier pipeline shall, when ordered by the com-
24 mission, extend or enlarge its pipeline or storage facilities if the
25 extension or enlargement is found to be reasonable and required in the
26 public interest and if the expense involved will not impair the ability
27 of the common carrier to perform its duty to the public.

28 * Sec. 9. AS 42.05.301 is amended to read:

29 Sec. 42.05.301. DISCRIMINATION IN SERVICE. (a) No public utility

1 may, as to service, make or grant an unreasonable preference or advan-
2 tage to any person or subject any person to an unreasonable prejudice or
3 disadvantage.

4 (b) No public utility may establish or maintain or provide an un-
5 reasonable difference as to service, either as between localities or as
6 between classes of service, but nothing in this section prohibits the
7 establishment of reasonable classifications of service or requires un-
8 reasonable investment in facilities.

9 (c) No public utility which is owned by more than one owner may
10 require that users make separate requests of each owner in order to
11 obtain a reasonable share of the service provided.

12 * Sec. 10. AS 42.05 is amended by adding a new section to read:

13 Sec. 42.05.306. POWER OF COMMISSION TO ALLOCATE USAGE. If the
14 commission, upon its own motion or upon complaint, after providing
15 reasonable notice and opportunity for hearing, finds that a utility is
16 making or granting an unreasonable preference or advantage to any person
17 or subjecting any person to an unreasonable prejudice or discrimination,
18 the commission may prescribe rules to end the discrimination or the
19 commission may itself prescribe the allocation of the service until it
20 determines the discrimination can be avoided by appropriate rule or
21 agreement.

22 * Sec. 11. AS 42.05.321 is amended by adding a new subsection to read:

23 (b) During construction of a pipeline the commission, after in-
24 vestigation and opportunity for hearing and findings as required in (a)
25 of this section, may order the inclusion within the pipeline at points
26 that it designates, special fittings including but not limited to tees,
27 wyes, spools, reducers, enlargers, flanges, flange plates, valves and
28 valve boxes, to reduce the time and cost of future connections for the
29 injection and removal of gas and oil from the main pipeline, and to

1 maintain and facilitate intrastate commerce. A request for special
2 fittings may be made by the commissioner of natural resources for the
3 state. A request for special fittings and valves may be made to the
4 commission by a person or local government. The cost of furnishing and
5 installing special fittings shall be paid by the state. However, if the
6 special fittings are used by a person for a commercial enterprise or by
7 a municipality for the operation of a utility, the commission shall
8 require that the using person or municipality reimburse the state for
9 the cost of furnishing and installing.

10 * Sec. 12. AS 42.05.451 is repealed and re-enacted to read:

11 Sec. 42.05.451. SYSTEM OF ACCOUNTS AND REPORTS. (a) The commis-
12 sion may classify the public utilities under its jurisdiction and, with
13 respect to pipelines, may designate the pipeline facilities or groups of
14 pipeline facilities in the state that constitute a pipeline system for
15 the purposes of this chapter.

16 (b) The commission may prescribe a uniform system of accounts for
17 each class of public utilities or pipeline facilities which best repre-
18 sents and clearly reveals the investment, revenues, direct operating
19 costs and other expenses of the subject classification of utilities or
20 pipeline facilities and the manner in which the accounts and supporting
21 records shall be kept in order to clearly show the investment, revenues
22 and costs pertaining to the subject utilities or pipeline facilities or
23 to a pipeline system constituting part of it.

24 (c) Each public utility shall maintain its accounts on a calendar-
25 year basis unless specifically authorized by the commission to maintain
26 its accounts on a fiscal-year basis. Within 90 days after the close of
27 its authorized annual accounting period, or additional time granted upon
28 a showing of good cause, each public utility shall file with the com-
29 mission a verified annual report of its operations during the period

1 reported, on forms prescribed by the commission. The annual report of a
2 pipeline carrier shall include, in addition to such information as the
3 commission requires,

4 (1) for a pipeline subject to the Interstate Commerce Act or
5 the Natural Gas Act, a copy of the annual report as filed with the
6 appropriate federal agency under the applicable Act, and, for other
7 pipelines, a report of general corporation information and financial
8 statements in the same general format as the report of pipelines of the
9 same classification subject to the jurisdiction of the appropriate
10 federal agency; and

11 (2) in the same general format as the report referred to in
12 (1) of this subsection, a statement of income and investment applicable
13 to pipelines in this state, and statement of investment, revenues,
14 direct operating costs and other expenses, detailed in accordance with
15 the uniform system of accounts to be applied under this chapter, for
16 each pipeline system designated by the commission under (a) of this
17 section.

18 * Sec. 13. AS 42.05.461 is amended to read:

19 Sec. 42.05.461. CONTINUING PROPERTY RECORDS. The commission may
20 require a public utility or affiliated interest engaged in activities
21 relating to utilities to establish, provide, and maintain as a part of
22 its system of accounts, continuing property records segregated by the
23 year of placement in service, including a list or inventory of all the
24 units of tangible property used or useful in the public service, showing
25 the current location of the property units by definite reference to the
26 specific land parcels upon which the units are located or stored. The
27 commission may require a public utility to keep accounts and records in
28 such a manner as to show, currently, the original cost of the property
29 when first devoted to the public service, and the related reserve for

1 depreciation. Each public utility with annual revenues exceeding
2 \$100,000 shall keep continuing property records.

3 * Sec. 14. AS 42.05 is amended by adding a new section to read:

4 Sec. 42.05.466. ACCOUNTS AND PROPERTY RECORDS OF FEDERALLY REGU-
5 LATED PIPELINE CARRIERS. For pipelines subject to the Interstate
6 Commerce Act or the Natural Gas Act, the uniform system of accounts and
7 manner of maintaining them and the property records kept and maintained
8 shall, where considered practicable by the commission, be the same as
9 required under regulations prescribed by the applicable federal agency.
10 However, where federal law permits a pipeline carrier to consolidate its
11 reporting for more than one pipeline in which it has an ownership in-
12 terest, the commission shall require the reports to be made on an indi-
13 vidual pipeline basis for any pipeline located wholly or in part in the
14 state.

15 * Sec. 15. AS 42.05.501 is amended to read:

16 Sec. 42.05.501. INSPECTION OF BOOKS AND RECORDS BY COMMISSION.

17 Subject to AS 31.05.035(c), the [THE] commission shall at all reasonable
18 times have access to, and may designate any of its employees, agents or
19 consultants to inspect and examine, the accounts, records, books, maps,
20 inventories, appraisals, valuations, or other reports and documents,
21 kept by public utilities or their affiliated interests, or prepared or
22 kept for them by others, which relate to any contract or transaction
23 between them. The commission may require a public utility or its af-
24 filiated interest to file with the commission, copies of any or all of
25 these accounts, records, books, maps, inventories, appraisals, valua-
26 tions, or other reports and documents or to maintain those materials at
27 some convenient location in the state specified by order.

28 * Sec. 16. AS 42.05 is amended by adding new sections to read:

29 Sec. 42.05.546. DESIGNATION OF SERVICE AGENTS. Each public

1 utility shall file with the commission a written appointment of a named
2 permanent resident (which may be a corporation) of this state as its
3 registered agent in this state upon whom service of all notices, regu-
4 lations, and requests of the commission may be made. The appointment
5 shall specify an address in this state of the appointed agent, which
6 address may be changed from time to time by filing a new Alaska address
7 with the commission. If a public utility fails to appoint an agent,
8 service of notices, regulations and requests may be made by posting a
9 copy in the main office of the commission and filing a copy in the
10 office of the lieutenant governor.

11 Sec. 42.05.556. COMPLAINT AGAINST PUBLIC UTILITY. (a) Any person
12 (including a commissioner or employee of the commission) may file a
13 complaint with the commission under AS 44.62.360 alleging that a rate,
14 price, service, practice or action of a public utility or affiliated
15 interest violates this chapter or regulations adopted under it, or that
16 a public utility or affiliated interest has not complied with the certi-
17 ficate issued under this chapter.

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

21 Sec. 42.05.557. ADJUDICATION BY COMMISSION UNDER ADMINISTRATIVE
22 PROCEDURE ACT. The commission shall adjudicate and decide cases initi-
23 ated by complaint filed under sec. 556 of this chapter in accordance
24 with AS 44.62.330 - 44.62.630.

25 Sec. 42.05.626. PRIVATE CAUSE OF ACTION. (a) A person subjected
26 to an unlawful rate, price, service, or practice, in violation of this
27 chapter, may sue in a state court of appropriate jurisdiction for
28 damages resulting from the unlawful rate, price, service, or practice.

29 (b) If the violation described in (a) of this section resulted in

1 the overcharge of rate or price, the person paying the unlawful rate or
2 price is entitled to recover as damages at least double the amount of
3 the overcharge.

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

7 * Sec. 17. AS 42.05.671 is amended to read:

8 Sec. 42.05.671. PUBLIC DISCLOSURE OF INFORMATION. Facts and
9 information in the possession of the commission are public, and reports,
10 files, books, accounts and papers of every nature in its possession
11 except records which by regulation are designated to be of a nonpublic
12 or privileged nature are open to public inspection at reasonable times;
13 however, a document filed with the commission and relating to the fi-
14 nances or operations of a pipeline subject to the Interstate Commerce
15 Act or the Natural Gas Act and being in addition to or other than copies
16 of a document filed with the appropriate federal agency shall be open to
17 inspection only by appropriate officers and officials of the state for
18 relevant purposes of the state. However, a person may make written
19 objections to the public disclosure of information contained in an
20 application, report or document filed under the provisions of this
21 chapter or of information obtained by the commission under the provi-
22 sions of this chapter, stating the grounds for the objection. When an
23 objection is made, the commission shall order the information withheld
24 from public disclosure if the information would adversely affect the
25 interest of that person and is not required in the interest of the
26 public.

27 * Sec. 18. AS 42.05.701(2) is amended by adding a new subparagraph to
28 read:

29 (G) furnishing the common carriage of oil, gas, coal, or

1 other mineral slurry for delivery, storage, or further transporta-
2 tion.

3 * Sec. 19. AS 42.05.701(6) is amended to read:

4 (6) "affiliated interest" [RECONCILE DEFINITIONS FOUND IN
5 AS 42.05.701(6), APUC, and AS 42.06.630(13), APC]

6 * Sec. 20. AS 42.05.701 is amended by adding new paragraphs to read:

7 (9) "gas" includes all natural gas and hydrocarbons produced
8 at the wellhead and not defined as oil;

9 (10) "Interstate Commerce Act" means the Interstate Commerce
10 Act of 1906, 34 Stat. 584, as amended;

11 (11) "Natural Gas Act" means the Natural Gas Act of 1938, 52
12 Stat. 821, as amended;

13 (12) "oil" includes crude oil, and other hydrocarbons regard-
14 less of gravity which are produced at the wellhead in liquid form, its
15 products and liquid hydrocarbons, including the liquid hydrocarbons
16 known as distillate or condensate recovered or extracted from gas, other
17 than gas produced in association with oil and commonly known as casing-
18 head gas;

19 (13) "pipeline" or "pipeline facility" means all the facili-
20 ties of a total system of pipe (whether owned or operated by a pipeline
21 carrier under a contract, agreement, or lease) in this state used by a
22 pipeline carrier for transportation, for hire and as a common carrier,
23 of oil, gas, coal, or other mineral slurry, for delivery, storage, or
24 further transportation, and including all pipe, pump and compressor
25 stations, station equipment, and all other facilities used or necessary
26 for an integral line of pipe to effectuate the transportation from point
27 to point, excluding, however, gas processing plants, treaters and
28 separators;

29 (14) "pipeline carrier" means the owner, including corpora-

1 tions organized under the laws of the United States or of other states,
2 of any pipeline, as the term is defined in this section, or any interest
3 in it.

4 * Sec. 21. (a) Notwithstanding AS 42.05.020 and 42.05.040, the commis-
5 sioners of the Alaska Pipeline Commission serving on the day before the ef-
6 fective date of this Act shall be members of the Alaska Public Utilities
7 Commission. Not later than 30 days after the effective date of this Act, the
8 governor shall, by letter directed to the Alaska Public Utilities Commission
9 and the chairman of the Alaska Legislative Council, designate the attorney,
10 engineer, and business administration members of the commission whose terms
11 expire earliest. After the expiration of those terms the vacancies created
12 shall not be filled and membership of the commission shall be as governed by
13 AS 42.05.020 and 42.05.040.

14 (b) Notwithstanding AS 42.05.071 and until such time as membership on
15 the commission is reduced to five under (a) of this section, a majority of
16 the members of the commission shall constitute a quorum for the transaction
17 of business, for the performance of a duty, or for the exercise of a power of
18 the commission.

19 * Sec. 22. AS 39.50.200(9)(X); AS 42.06; AS 44.62.330(a)(37); and AS 44.-
20 66.010(a)(5) are repealed.

21 * Sec. 23. This Act takes effect July 1, 1978.
22
23
24
25
26
27
28
29