

Introduced: 3/31/81
Referred: Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 434

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pipelines and merging the Alaska
7 Pipeline Commission with the Alaska Public Utilities
8 Commission; and providing for an effective date."

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

10 * Section 1. AS 31.15.050(1) is amended to read:

11 (1) "commission" means the Alaska Public Utilities [PIPELINE]
12 Commission;

13 * Sec. 2. AS 38.35.120(a)(5) is amended to read:

14 (5) it will provide connections, as determined by the Alaska
15 Public Utilities [PIPELINE] Commission under AS 42.06.340, to facili-
16 ties on the pipeline subject to the lease, both on state land and other
17 land in the state, for the purpose of delivering crude oil or natural
18 gas, depending on the kind of pipeline involved, to persons (including
19 the state and its political subdivisions) contracting for the purchase
20 at wholesale of crude oil or natural gas transported by the pipeline
21 when required by the public interest;

22 * Sec. 3. AS 38.35.120(a)(7) is amended to read:

23 (7) it will construct and operate the pipeline in accordance
24 with applicable state laws and lawful regulations and orders of the
25 Alaska Public Utilities [PIPELINE] Commission;

26 * Sec. 4. AS 39.25.120(10) is amended to read:

27 (10) the executive director, [AND] deputy director, hearing
28 officers, and administrative law judges of the Alaska Public Utilities
29 Commission;

1 * Sec. 5. AS 42.05.121(a) is amended to read:

2 (a) The commission may employ an executive director who shall
3 have had at least five years of experience in public utility management
4 or regulation, law, accounting, engineering, or an allied field. The
5 executive director is responsible for directing the administrative
6 functions of the commission and carrying out the policies as set by the
7 commission. The commission may employ engineers, hearing officers,
8 administrative law judges, experts, clerks, accountants, and other
9 agents and assistants it considers necessary. The executive director,
10 [AND] his deputy, hearing officers, and administrative law judges are
11 in the partially exempt service under AS 39.25.120. All other employees
12 and agents of the commission, other than legal counsel, are in the
13 classified service under AS 39.25.100.

14 * Sec. 6. AS 42.05.121 is amended by adding a new subsection to read:

15 (c) Hearing officers and administrative law judges shall conduct
16 proceedings assigned to them by the commission.

17 * Sec. 7. AS 42.05.171 is amended to read:

18 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the
19 commission has power to hold may be held by or before three or more
20 commissioners, a hearing officer, or an administrative law judge desig-
21 nated for the purpose by the commission. The testimony and evidence in
22 a formal hearing may be taken by the commissioners, by the hearing
23 officer, or by the administrative law judge to whom the hearing has
24 been assigned. A commissioner who has not heard or read the testimony,
25 including the argument, may not participate in making a decision of the
26 commission. In determining the place of a hearing the commission shall
27 give preference to holding the hearing at a place most convenient for
28 those interested in the subject of the hearing.

29 * Sec. 8. AS 42.06.150 is amended to read:

1 CHAPTER 06. [ALASKA] PIPELINE [COMMISSION] ACT.

2 Sec. 42.06.150. POWERS AND DUTIES WITH RESPECT TO FEDERALLY REGU-
3 LATED CARRIERS. AS 42.06.140 applies to oil and gas pipeline carriers
4 regulated under federal law [THE INTERSTATE COMMERCE ACT OF 1906, OR
5 THE NATURAL GAS ACT OF 1938,] only to the extent not pre-empted by
6 [UNDER THOSE] federal law [ACTS].

7 * Sec. 9. AS 42.06.230 is amended to read:

8 Sec. 42.06.230. JURISDICTION OF COMMISSION. Except [AS OTHERWISE
9 PROVIDED IN THIS CHAPTER OR HEREAFTER OTHERWISE EXPRESSLY PROVIDED BY
10 LAW, EXCEPT AS TO ANY CONCURRENT JURISDICTION WITH THE ALASKA PUBLIC
11 UTILITIES COMMISSION UNDER CH. 5 OF THIS TITLE AS TO A PUBLIC UTILITY
12 DESCRIBED IN AS 42.05.701(2)(D) AND (E), AND EXCEPT] as to jurisdiction
13 of the Department of Law as provided by AS 42.06.140(10), the jurisdic-
14 tion and authority over the subject matter of this chapter is exclu-
15 sively in the commission. To the extent that the performance of any
16 duties of the commission affects [AFFECT] a pipeline carrier or a
17 pipeline subject to regulation under federal law [THE INTERSTATE COM-
18 MERCE ACT OR THE NATURAL GAS ACT], the performance of its duties shall
19 not, as to that pipeline carrier or pipeline, conflict with applicable
20 federal laws, regulations, rules, orders, or other requirements.

21 * Sec. 10. AS 42.06.240(e) is amended to read:

22 (e) The requirement for a certificate does [SHALL] not operate to
23 impose state regulation which has been preempted under federal law [THE
24 INTERSTATE COMMERCE ACT OF 1906 OR THE NATURAL GAS ACT OF 1938]. When
25 federal law has preempted state regulation the commission shall accept
26 the findings made under the federal scheme of regulation.

27 * Sec. 11. AS 42.06.245 is amended to read:

28 Sec. 42.06.245. FEDERALLY REGULATED CARRIERS. The requirements
29 of this chapter pertaining to permits and certificates of public con-

1 venience and necessity do not apply to the construction of a pipeline
2 facility exclusively subject to federal [THE] jurisdiction [OF THE
3 INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT] or to the interstate
4 portion of the business of a pipeline or pipeline carrier exclusively
5 subject to federal [THE] jurisdiction [OF THE INTERSTATE COMMERCE ACT
6 OR THE NATURAL GAS ACT]; however, the requirements of this chapter for
7 permits and certificates of public convenience and necessity do apply
8 to all the intrastate portion of the business of a pipeline or pipeline
9 carrier subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT
10 AND THE NATURAL GAS ACT] whenever they engage in intrastate commerce;
11 provided, however, nothing limits the powers of the commission set out
12 in this chapter except to the extent they are preempted by federal law
13 [THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT].

14 * Sec. 12. AS 42.06.510 is amended to read:

15 Sec. 42.06.510. PUBLIC RECORDS. The records, including the facts
16 and information in them, of and in the possession of the commission,
17 except records which by law or by regulation of the commission are
18 designated to be a nonpublic or privileged nature, are public records
19 open to public inspection at reasonable times; however, a document
20 filed with the commission and relating to the finances or operations of
21 a pipeline subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT
22 OR THE NATURAL GAS ACT] and which is [BEING] in addition to or other
23 than copies of documents required to be filed with the appropriate
24 federal agency, shall be open to inspection only by appropriate officers
25 and officials of the state for relevant purposes of the state. A
26 person may make written objections to the public disclosure of any
27 information filed with or obtained by the commission under the provi-
28 sions of this chapter, stating the grounds for the objection; when an
29 objection is made, the commission shall order the information withheld

1 from public disclosure if in the judgment of the commission the infor-
2 mation could adversely affect the interest of that person and is not
3 required in the interest of the public. Any commissioner, and the
4 executive director, may certify as to all official acts and records of
5 the commission.

6 * Sec. 13. AS 42.06.630(1) is amended to read:

7 (1) "commission" means the Alaska Public Utilities [PIPELINE]
8 Commission;

9 * Sec. 14. AS 42.06.630(6) is amended to read:

10 (6) "municipality" means a home rule or general law borough
11 or city, including a municipality unified under AS 29.68 [AN ORGANIZED
12 BOROUGH OR INCORPORATED CITY];

13 * Sec. 15. AS 42.06.640 is amended to read:

14 Sec. 42.06.640. [SHORT] TITLE. This chapter may be cited as the
15 [ALASKA] Pipeline [COMMISSION] Act.

16 * Sec. 16. AS 43.56.210(6)(B)(iii) is amended to read:

17 (iii) oil and gas pipeline systems owned and operated
18 by a [CERTIFICATED] public utility which is certificated un-
19 der AS 42.05.221 and is regulated by the Alaska Public Utili-
20 ties Commission; and

21 * Sec. 17. TRANSITION. (a) All orders, determinations, regulations,
22 contracts, certificates, decisions, and privileges which have been issued,
23 made, adopted, granted, or allowed to become effective by the Alaska Pipe-
24 line Commission or by a court of competent jurisdiction, in the performance
25 of functions or in the conduct of proceedings which are transferred by this
26 Act, continue in effect according to their terms until modified, terminated,
27 superseded, set aside, or revoked in accordance with law by the Alaska
28 Public Utilities Commission or other authorized officials, a court of com-
29 petent jurisdiction, or by operation of law.

1 (b) The provisions of this Act do not affect a tariff proceeding or an
2 application for a certificate which is pending before the Alaska Pipeline
3 Commission on the effective date of this Act, but these proceedings and the
4 processing of applications continue under the Alaska Public Utilities Commis-
5 sion. Orders shall be issued in these proceedings, and appeals may be taken
6 from them, as if this Act had not been enacted; and orders issued in these
7 proceedings continue in effect until modified, terminated, superseded, or
8 revoked by an authorized official, or by a court of competent jurisdiction
9 or by operation of law. Nothing in this subsection prohibits the discon-
10 tinuance or modification of these proceedings under the same terms and
11 conditions and to the same extent that these proceedings could have been
12 discontinued or modified if this Act had not been enacted.

13 (c) The Alaska Public Utilities Commission, with the advice of the
14 Alaska Pipeline Commission, shall provide for the orderly transfer of pro-
15 ceedings from the Alaska Pipeline Commission to the Alaska Public Utilities
16 Commission.

17 (d) Except as provided in this subsection, the personnel employed in
18 connection with, and the personnel positions, assets, liabilities, contracts,
19 property, records, and unexpended balances of appropriations, authorizations,
20 allocations, and other funds employed, held, used, arising from, available
21 to or to be made available with, the functions and programs transferred by
22 this Act are transferred from the Alaska Pipeline Commission to the Alaska
23 Public Utilities Commission for appropriate allocation in accordance with
24 law. The positions of commissioner and of executive director of the Alaska
25 Pipeline Commission are abolished.

26 * Sec. 18. REFERENCES TO PIPELINE COMMISSION. All other references in
27 the Alaska Statutes to the Alaska Pipeline Commission, or to the commis-
28 sioners of the Alaska Pipeline Commission, not expressly amended by or
29 referred to in this Act shall be read as the Alaska Public Utilities Commis-

1 sion, or the commissioners of the Alaska Public Utilities Commission, re-
2 spectively, in order to implement this Act.

3 * Sec. 19. AS 39.50.200(b)(22), AS 42.06.010 -- 42.06.120, 42.06.160 --
4 42.06.200, 42.06.490 -- 42.06.500, 42.06.630(5) and (7), AS 44.62.330(a)(37),
5 and AS 44.66.010(a)(5) are repealed.

6 * Sec. 20. Except for sec. 17(c) of this Act, this Act takes effect
7 July 1, 1981. Section 17(c) of this Act takes effect immediately in accord-
8 ance with AS 01.10.070(c).

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