

Original sponsor: Rules/Governor

Offered: 5/19/81
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 434 (Judiciary) am
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 to the extent provided by AS 42.05.121(c),
9 experts, clerks, accountants, and other agents and assistants it
10 considers necessary. Employees [THE EXECUTIVE DIRECTOR AND HIS DEPUTY
11 ARE IN THE PARTIALLY EXEMPT SERVICE UNDER AS 39.25.120. ALL OTHER
12 EMPLOYEES] and agents of the commission who are not partially exempt
13 under AS 39.25.120, other than legal counsel, are in the classified
14 service under AS 39.25.100.

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

16 (c) The commission may assign a qualified, unbiased, and impartial
17 administrative law judge, with experience in the general practice of
18 law, to conduct hearings under AS 42.06. The administrative law judge
19 may perform other duties in connection with the administration of
20 AS 42.06 and other laws. An administrative law judge hired to conduct
21 hearings under AS 42.06 shall have been admitted to practice law for at
22 least five years immediately before his appointment.

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

24 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the
25 commission has power to hold may be held by or before three or more
26 commissioners, a hearing officer, or an administrative law judge desig-
27 nated for the purpose by the commission. The testimony and evidence in
28 a formal hearing may be taken by the commissioners, by the hearing
29 officer, or by the administrative law judge to whom the hearing has

1 been assigned. A commissioner who has not heard or read the testimony,
2 including the argument, may not participate in making a decision of the
3 commission. In determining the place of a hearing the commission shall
4 give preference to holding the hearing at a place most convenient for
5 those interested in the subject of the hearing.

6 * Sec. 8. AS 42.05.671 is repealed and reenacted to read:

7 Sec. 42.05.671. PUBLIC RECORDS. (a) Except as provided in (b)
8 of this section, records which are in the possession of the commission
9 are open to public inspection at reasonable times.

10 (b) The commission may, by regulation, classify the records
11 submitted to it by regulated utilities as privileged records which are
12 not open to the public for inspection. However, if a record involves
13 an application or tariff filing pending before the commission, the
14 commission shall release the record for the purpose of preparing for or
15 making a presentation to the commission in the proceeding if the record
16 or information derived from the record will be used by the commission
17 in the proceeding.

18 (c) A person may make written objection to the public disclosure
19 of information contained in a record under the provisions of this
20 chapter or of information obtained by the commission under the pro-
21 visions of this chapter, stating the grounds for the objection. When
22 an objection is made, the commission may not order the information
23 withheld from public disclosure unless the information adversely
24 affects the interest of the person making written objection and
25 disclosure is not required in the interest of the public.

26 (d) In this section, "record" means a report, file, book, account,
27 paper, or application, and the facts and information contained in it.

28 * Sec. 9. AS 42.06.150 is amended to read:

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

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

6 * Sec. 10. AS 42.06.230 is amended to read:

7 Sec. 42.06.230. JURISDICTION OF COMMISSION. Except [AS OTHERWISE
8 PROVIDED IN THIS CHAPTER OR HEREAFTER OTHERWISE EXPRESSLY PROVIDED BY
9 LAW, EXCEPT AS TO ANY CONCURRENT JURISDICTION WITH THE ALASKA PUBLIC
10 UTILITIES COMMISSION UNDER AS 42.05 AS TO A PUBLIC UTILITY DESCRIBED IN
11 AS 42.05.701(2)(D) AND (E), AND EXCEPT] as to jurisdiction of the
12 Department of Law as provided by AS 42.06.140(10), the jurisdiction and
13 authority over the subject matter of this chapter is exclusively in the
14 commission. To the extent that the performance of any duties of the
15 commission affects [AFFECT] a pipeline carrier or a pipeline subject to
16 regulation under federal law [THE INTERSTATE COMMERCE ACT OR THE
17 NATURAL GAS ACT], the performance of its duties shall not, as to that
18 pipeline carrier or pipeline, conflict with applicable federal laws,
19 regulations, rules, orders, or other requirements.

20 * Sec. 11. AS 42.06.240(e) is amended to read:

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

26 * Sec. 12. AS 42.06.245 is amended to read:

27 Sec. 42.06.245. FEDERALLY REGULATED CARRIERS. The requirements
28 of this chapter pertaining to permits and certificates of public con-
29 venience and necessity do not apply to the construction of a pipeline

1 facility exclusively subject to federal [THE] jurisdiction [OF THE
2 INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT] or to the interstate
3 portion of the business of a pipeline or pipeline carrier exclusively
4 subject to federal [THE] jurisdiction [OF THE INTERSTATE COMMERCE ACT
5 OR THE NATURAL GAS ACT]; however, the requirements of this chapter for
6 permits and certificates of public convenience and necessity do apply
7 to all the intrastate portion of the business of a pipeline or pipeline
8 carrier subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT
9 AND THE NATURAL GAS ACT] whenever they engage in intrastate commerce;
10 [PROVIDED,] however, nothing limits the powers of the commission set
11 out in this chapter except to the extent they are preempted by federal
12 law [THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT].

13 * Sec. 13. AS 42.06.510 is repealed and reenacted to read:

14 Sec. 42.06.510. PUBLIC RECORDS. (a) Except as provided in (b)
15 and (c) of this section, records which are in the possession of the
16 commission are open to public inspection at reasonable times.

17 (b) The commission may, by regulation, classify records submitted
18 to it by regulated pipeline carriers or pipelines as privileged records
19 which are not open to the public for inspection. However, if a record
20 involves an application or tariff filing pending before the commission,
21 the commission shall release the record for the purpose of preparing
22 for or making a presentation to the commission in the proceeding if the
23 record or information derived from the record will be used by the
24 commission in the proceeding.

25 (c) A document filed with the commission which relates to the
26 finances or operations of a pipeline subject to federal jurisdiction
27 and which is in addition to or other than the copy of a document
28 required to be filed with the appropriate federal agency is open to
29 inspection only by an appropriate officer or official of the state for

1 relevant purposes of the state.

2 (d) A person may make written objection to the public disclosure
3 of information contained in a record filed under the provisions of this
4 chapter or of information obtained by the commission under the provi-
5 sions of this chapter, stating the grounds for the objection. When an
6 objection is made, the commission may not order the information
7 withheld from public disclosure unless the information adversely
8 affects the interest of the person making written objection and disclo-
9 sure is not required in the interest of the public.

10 (e) A commissioner, and the executive director, may certify as to
11 all official records of the commission under this section and any
12 certify as to all official acts of the commission under this chapter.

13 (f) In this section, "record" means a report, file, book, account,
14 paper, or application, and the facts and information contained in it.

15 * Sec. 14. AS 42.06.630(1) is amended to read:

16 (1) "commission" means the Alaska Public Utilities [PIPE-
17 LINE] Commission;

18 * Sec. 15. AS 42.06.630(6) is amended to read:

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

22 * Sec. 16. AS 42.06.640 is amended to read:

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

25 * Sec. 17. AS 43.56.210(6)(B)(iii) is amended to read:

26 (iii) oil and gas pipeline systems owned and
27 operated by a [CERTIFICATED] public utility which is
28 certificated under AS 42.05.221 and is regulated by the
29 Alaska Public Utilities Commission; and

1 * Sec. 18. TRANSITION. (a) All orders, determinations, regulations,
2 contracts, certificates, decisions, and privileges which have been issued,
3 made, adopted, granted, or allowed to become effective by the Alaska Pipe-
4 line Commission or by a court of competent jurisdiction, in the performance
5 of functions or in the conduct of proceedings which are transferred by this
6 Act, continue in effect according to their terms until modified, terminated,
7 superseded, set aside, or revoked in accordance with law by the Alaska
8 Public Utilities Commission or other authorized officials, a court of com-
9 petent jurisdiction, or by operation of law.

10 (b) The provisions of this Act do not affect a tariff proceeding or an
11 application for a certificate which is pending before the Alaska Pipeline
12 Commission on the effective date of this Act, but these proceedings and the
13 processing of applications continue under the Alaska Public Utilities Com-
14 mission. Orders shall be issued in these proceedings, and appeals may be
15 taken from them, as if this Act had not been enacted; and orders issued in
16 these proceedings continue in effect until modified, terminated, superseded,
17 or revoked by an authorized official, or by a court of competent jurisdic-
18 tion or by operation of law. Nothing in this subsection prohibits the
19 discontinuance or modification of these proceedings under the same terms and
20 conditions and to the same extent that these proceedings could have been
21 discontinued or modified if this Act had not been enacted.

22 (c) The Alaska Public Utilities Commission, with the advice of the
23 Alaska Pipeline Commission, shall provide for the orderly transfer of pro-
24 ceedings from the Alaska Pipeline Commission to the Alaska Public Utilities
25 Commission.

26 (d) Except as provided in this subsection, the personnel employed in
27 connection with, and the personnel positions, assets, liabilities, contracts,
28 property, records, and unexpended balances of appropriations, authorizations,
29 allocations, and other funds employed, held, used, arising from, available

1 to or to be made available with, the functions and programs transferred by
2 this Act are transferred from the Alaska Pipeline Commission to the Alaska
3 Public Utilities Commission for appropriate allocation in accordance with
4 law. The positions of commissioner and of executive director of the Alaska
5 Pipeline Commission are abolished.

6 * Sec. 19. REFERENCES TO PIPELINE COMMISSION. All other references in
7 the Alaska Statutes to the Alaska Pipeline Commission, or to the commis-
8 sioners of the Alaska Pipeline Commission, not expressly amended by or
9 referred to in this Act shall be read as the Alaska Public Utilities Commis-
10 sion, or the commissioners of the Alaska Public Utilities Commission, re-
11 spectively, in order to implement this Act.

12 * Sec. 20. AS 39.50.200(b)(22); AS 42.06.010 - 42.06.120, 42.06.160 -
13 42.06.200, 42.06.490 - 42.06.500, 42.06.630(5) and (7); AS 44.62.330(a)(37);
14 and AS 44.66.010(a)(5) are repealed.

15 * Sec. 21. Sections 1 - 17, 18(a), (b), and (d), 19 and 20 of this Act
16 take effect July 1, 1981.

17
18
19
20
21
22
23
24
25
26
27
28
29