

Offered: 2/28/86

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1 IN THE SENATE

BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 309 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to royalty gas contracts; and pro-
7 viding for an effective date."

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

9 * Section 1. FINDINGS. (a) The legislature finds that the best inter-
10 est of the state will be served if the commissioner of natural resources is
11 authorized to establish the in-value royalty for gas sold to a gas or
12 electric utility by using the contract price between the lessee of the
13 state and the utility, whether or not the gas lease establishes a different
14 standard for the valuation and if the lessee and the utility are not re-
15 lated to each other. The legislature finds that this authorization should
16 apply prospectively and does not intend the authorization to apply to the
17 valuation for royalty purposes of gas sold by a lessee under a gas sales
18 contract entered into before the effective date of this Act.

19 (b) The legislature finds that it is also in the best interest of the
20 state to give the commissioner explicit discretionary authority to sell
21 royalty gas received in kind by the state to gas or electric utilities at a
22 price that is below market value.

23 (c) The legislature finds that the proper exercise of the discretion
24 conferred on the commissioner by this Act would support and complement the
25 other programs that assist the citizens of the state with their long-term
26 gas and electrical needs, including the power cost equalization program
27 under AS 44.83.162 - 44.83.165 and hydroelectric and other programs for the
28 generation of electricity.

29 (d) The legislature finds that the state should adopt a policy for
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1 the sale of royalty gas to gas or electric utilities for in-state consumer
2 use and in-state generation of electricity that is fundamentally different
3 from the policies of the state for the sale of royalty oil and for the sale
4 of royalty gas for export from the state or for uses other than in-state
5 consumer use and in-state generation of electricity.

6 (e) The legislature finds it is in the state's best interest to
7 facilitate the financing and construction of a pipeline and increased gas
8 production from the Prudhoe Bay reservoir by establishing a procedure by
9 which the state could commit itself to a royalty valuation methodology for
10 as long as the state takes its royalty share of gas production in value.

11 * Sec. 2. AS 38.05.180 is amended by adding new subsections to read:

12 (aa) Within 90 days after the written request of a lessee of a
13 lease issued under this section, unless the commissioner makes a
14 written finding based on clear and convincing evidence that the con-
15 tract price is unreasonably low and that a prospective reduction in
16 royalty receipts would not be balanced by increased benefits to in-
17 state gas and electric consumers, the commissioner shall enter into an
18 agreement with the lessee to use the price for the gas established in
19 the contract between the lessee and a gas or electric utility, if the
20 lessee and the utility are not related in management, ownership, or
21 other aspect, as the value of the state's royalty share of gas produc-
22 tion sold by the lessee under the contract to the utility. In this
23 subsection

24 (1) "gas or electric utility" includes an electric coopera-
25 tive organized under AS 10.25, a municipal utility, and a gas or
26 electric utility regulated under AS 42.05; and

27 (2) "price for the gas established in the contract" in-
28 cludes tax reimbursement amounts, deliverability and other charges,
29 and other forms of consideration paid by the gas or electric utility

1 under the contract.

2 (bb) In the event of a contract between parties that are unrelat-
3 ed in management, ownership, or other aspect for the sale of gas from
4 Prudhoe Bay reservoir gas leases by means of delivery of the gas
5 through a pipeline for export out of the state, and within 90 days
6 after the written request of a lessee of a lease issued under this
7 section, unless the commissioner makes a written finding that the
8 contract price does not assure the maximum benefits to the people of
9 the state in return for the state's gas resources, the commissioner
10 shall enter into an agreement with the lessee to use the price for the
11 gas established in the gas sales contract as the value of the state's
12 royalty share of gas production sold by the lessee under the gas sales
13 contract. The lessee shall have the burden of providing all informa-
14 tion necessary for the commissioner to make an informed decision, and
15 shall provide clear and convincing evidence that the value of the gas
16 is reflected by the gas sales contract price rather than being attri-
17 buted to transportation, marketing, or other profit or cost centers.
18 In this subsection, "price for the gas established in the gas sales
19 contract" includes tax reimbursement amounts, deliverability and other
20 charges, and other forms of consideration received by the lessee under
21 the gas sales contract.

22 * Sec. 3. AS 38.05.183 is amended by adding a new subsection to read:

23 (h) The commissioner may enter into a contract to sell royalty
24 gas taken in kind by the state to a gas or electric utility at less
25 than the market value of the royalty gas if the commissioner, after
26 considering the consumer benefits, other benefits, and detriments of
27 the sale, makes a written finding that the sale is in the best inter-
28 est of the state. In this subsection, "gas or electric utility"
29 includes an electric cooperative organized under AS 10.25, a municipal

1 utility, and a gas or electric utility regulated under AS 42.05.

2 * Sec. 4. AS 38.05.810(a) is amended to read:

3 (a) Except as otherwise provided in AS 38.05.183(h), the [THE]
 4 lease, sale, or other disposal of state land or resources may be made
 5 to a state or federal agency or political subdivision, or the lease,
 6 sale, or disposal of coal deposits suitable for mining may be made to
 7 a utility owned and operated by a government agency or nonprofit
 8 cooperative association organized to participate under the Federal
 9 Rural Electrification Act for the purpose of generating electric power
 10 and energy or the production of process steam, or both, for less than
 11 the appraised value as determined by the director and approved by the
 12 commissioner to be fair and proper and in the best interests of the
 13 public, with due consideration given to the nature of the public
 14 services or function rendered by the agency, subdivision, or utility
 15 making application, and of the terms of the grant under which the land
 16 was acquired by the state.

17 * Sec. 5. AS 38.05.180(aa), enacted by sec. 2 of this Act, applies to
 18 agreements to establish for a lease issued under AS 38.05.180 the in-value
 19 royalties on gas production that is sold under a contract entered into on
 20 or after the effective date of this Act between the state's lessee and a
 21 gas or electric utility.

22 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
 23 10.070(c).