

Offered: 5/10/86
Referred: Rules

Original sponsors: Faiks, Kelly
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1 IN THE SENATE BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 309 (Finance)

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. The legislature finds that the best interest of
10 the state will be served if the commissioner of natural resources is au-
11 thorized to establish the in-value royalty for gas sold to a gas or elec-
12 tric utility by using the contract price between the lessee of the state
13 and the utility, whether or not the gas lease establishes a different stan-
14 dard for the valuation and if the lessee and the utility are not related to
15 each other. The legislature finds that this authorization should apply
16 prospectively and does not intend the authorization to apply to the val-
17 uation for royalty purposes of gas sold by a lessee under a gas sales
18 contract entered into before the effective date of this Act. The legisla-
19 ture does not intend this Act to apply to the policies of the state regard-
20 ing the value of the state's royalty share of oil production.

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

22 (aa) Within 90 days after the written request of a lessee of a
23 lease issued under this section, the commissioner shall enter into an
24 agreement with the lessee to use the price for the gas established in
25 the contract between the lessee and a gas or electric utility as the
26 value of the state's royalty share of gas production sold by the
27 lessee under the contract unless the commissioner makes a written
28 finding, based on clear and convincing evidence, that

29 (1) the contract price is unreasonably low;

1 (2) the prospective reduction in royalty receipts would not
2 be balanced by increased benefits to in-state gas and electric con-
3 sumers;

4 (3) the lessee and the utility are related in management,
5 ownership, or other aspect; and

6 (4) the contract price is not in the best interest of the
7 state.

8 (bb) Notwithstanding (aa) of this section, in the event of a
9 contract for the sale of royalty gas from North Slope gas leases that
10 provides for delivery of the gas through a pipeline for export out of
11 the state, the commissioner may enter into an agreement with the
12 lessee to use the price for the gas established in the gas sales
13 contract as the value of the state's royalty share of gas production
14 sold by the lessee under the gas sales contract if the commissioner
15 makes a written finding that the contract price assures the receipt of
16 maximum benefits to the people of the state in return for the state's
17 resources. To obtain the agreement allowed in this subsection, a
18 lessee must file a written request with the commissioner within 90
19 days after the first delivery of gas under the gas sales contract.
20 The commissioner shall act in writing on the request within 120 days
21 of receiving the written request. The agreement between the lessee
22 and the commissioner may be for a lesser period of time than the
23 length of the lessee's gas sales contract and may provide for periodic
24 review of the royalty value term by the commissioner. The lessee has
25 the burden of providing all information necessary for the commissioner
26 to make an informed decision and shall provide clear and convincing
27 evidence that the value of the gas is reflected by the gas sales
28 contract rather than attributable to transportation, marketing, manu-
29 facturing, or other profit or cost centers. In this subsection,

1 (1) "gas sales contract" includes a written agreement for
2 the intracompany transfer of gas;

3 (2) "North Slope gas leases" includes a gas lease that is
4 issued by the state under this section and that covers land lying in
5 whole or in part north of 68 degrees north latitude; and

6 (3) "price for the gas established in the gas sales con-
7 tract" includes tax reimbursement amounts, deliverability and other
8 charges, and other forms of consideration received by the lessee under
9 the gas sales contract.

10 (cc) In (aa) of this section

11 (1) "gas or electric utility" includes an electric coopera-
12 tive organized under AS 10.25, a municipal utility, and a gas or
13 electric utility regulated under AS 42.05; provided that if the con-
14 tract gas is transmitted to consumers through a pipeline and the gas
15 utility either owns the pipeline or is related in ownership to the
16 owner of the pipeline, then the gas utility qualifies as a "gas or
17 electric utility" within the meaning of this paragraph only if it is
18 bound or agrees to be bound by the covenants set out in AS 38.35.120;

19 (2) "price for the gas established in the contract" in-
20 cludes tax reimbursement amounts, deliverability and other charges,
21 and other forms of consideration paid by the gas or electric utility
22 under the contract;

23 (3) "state's royalty share of gas production" does not
24 include the state's royalty share of gas production from land patented
25 to the state under

26 (A) P.L. 84-830, 70 Stat. 709 (Alaska Mental Health
27 Enabling Act);

28 (B) 38 Stat. 1214 (Act of March 4, 1915); or

29 (C) 43 U.S.C. 1635 in settlement of the claims of the

1 state under 38 Stat. 1214.

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

3 (h) Upon legislative approval, the commissioner may enter into a
4 contract to sell royalty gas taken in kind by the state to a gas or
5 electric utility at a negotiated price for the gas if the
6 commissioner, after considering the consumer benefits, other benefits,
7 and detriments of the sale, makes a written finding that the sale is
8 in the best interest of the state. In this subsection,

9 (1) "gas or electric utility" has the meaning given in
10 AS 38.05.180(cc);

11 (2) "royalty gas taken in kind by the state" does not
12 include royalty gas taken in kind by the state from gas production on
13 land patented to the state under

14 (A) P.L. 84-830, 70 Stat. 709 (Alaska Mental Health
15 Enabling Act);

16 (B) 38 Stat. 1214 (Act of March 4, 1915); or

17 (C) 43 U.S.C. 1635 in settlement of the claims of the
18 state under 38 Stat. 1214.

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

20 (a) Except as otherwise provided in AS 38.05.183(h), the [THE]
21 lease, sale, or other disposal of state land or resources may be made
22 to a state or federal agency or political subdivision, or the lease,
23 sale, or disposal of coal deposits suitable for mining may be made to
24 a utility owned and operated by a government agency or nonprofit
25 cooperative association organized to participate under the Federal
26 Rural Electrification Act for the purpose of generating electric power
27 and energy or the production of process steam, or both, for less than
28 the appraised value as determined by the director and approved by the
29 commissioner to be fair and proper and in the best interests of the

1 public, with due consideration given to the nature of the public
2 services or function rendered by the agency, subdivision, or utility
3 making application, and of the terms of the grant under which the land
4 was acquired by the state.

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

10 * Sec. 6. AS 38.05.180(bb), enacted by sec. 2 of this Act, applies to
11 agreements to establish for a lease issued under AS 38.05.180 the in-value
12 royalties on gas production that is sold under a gas sales contract entered
13 into on or after the effective date of this Act between the state's lessee
14 and a purchaser of the gas.

15 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).