

**HB 4**

**(FILE 1)**

<TARGET><BILL>HB 4</BILL><SUBJECT>HB 4 (FILE  
1)</SUBJECT><COMM>HRES28</COMM></TARGET>



28-LS0021\P  
Bullock  
3/4/13

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(RES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Millett, Johnson, Neuman, Hughes, Olson,  
Gattis, Reinbold**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska Gasline Development Corporation; establishing the**  
2 **Alaska Gasline Development Corporation as an independent public corporation of the**  
3 **state; establishing and relating to the in-state natural gas pipeline fund; making certain**  
4 **information provided to or by the Alaska Gasline Development Corporation and its**  
5 **subsidiaries exempt from inspection as a public record; relating to the Joint In-State**  
6 **Gasline Development Team; relating to the Alaska Housing Finance Corporation;**  
7 **relating to judicial review of a right-of-way lease or an action or decision related to the**  
8 **development or construction of an oil or gas pipeline on state land; relating to the lease**  
9 **of a right-of-way for a gas pipeline transportation corridor, including a corridor for a**  
10 **natural gas pipeline that is a contract carrier; relating to the cost of natural resources,**  
11 **permits, and leases provided to the Alaska Gasline Development Corporation; relating**  
12 **to procurement by the Alaska Gasline Development Corporation; relating to the review**

1 by the Regulatory Commission of Alaska of natural gas transportation contracts;  
2 relating to the regulation by the Regulatory Commission of Alaska of an in-state natural  
3 gas pipeline project developed by the Alaska Gasline Development Corporation; relating  
4 to the regulation by the Regulatory Commission of Alaska of an in-state natural gas  
5 pipeline that provides transportation by contract carriage; repealing the statutes  
6 relating to the Alaska Natural Gas Development Authority and making conforming  
7 changes; exempting property of a project developed by the Alaska Gasline Development  
8 Corporation from property taxes before the commencement of commercial operations;  
9 and providing for an effective date."

10 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

11 \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
12 to read:

13 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

14 (1) an in-state natural gas pipeline developed by the Alaska Gasline  
15 Development Corporation is required for public convenience and necessity;

16 (2) the development of a natural gas pipeline by the Alaska Gasline  
17 Development Corporation is in the best interest of the state;

18 (3) making the Alaska Gasline Development Corporation an independent  
19 public corporation of the State of Alaska located for administrative purposes under the  
20 Department of Commerce, Community, and Economic Development will enhance the ability  
21 of the Alaska Gasline Development Corporation to accomplish its purposes.

22 (b) It is the intent of the legislature that

23 (1) the Alaska Gasline Development Corporation, in its new placement as an  
24 independent public corporation of the state, shall be treated for all purposes as the transfer of a  
25 corporation within the state and not as the creation of a new entity by the State of Alaska;

26 (2) to the maximum extent permitted by law, in developing a natural gas  
27 pipeline, the Alaska Gasline Development Corporation shall procure services, labor, products,  
28 and natural resources from qualified businesses located in the state, including organizations

1 owned by Alaska Natives and municipal organizations directly affected by the project, if  
2 those persons are competitive; and

3 (3) the Alaska Gasline Development Corporation shall, to the maximum  
4 extent permitted by law,

5 (A) hire qualified residents from throughout the state for management,  
6 engineering, construction, operations, maintenance, and other positions for a natural  
7 gas pipeline project;

8 (B) establish hiring facilities in the state or use existing hiring facilities  
9 in the state; and

10 (C) use, as far as practicable, the job centers and associated services  
11 operated by the Department of Labor and Workforce Development and an Internet-  
12 based labor exchange system operated by the state.

13 \* **Sec. 2.** AS 18.56.086 is amended to read:

14 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create  
15 subsidiary corporations for the purpose of financing or facilitating the financing of  
16 school construction, facilities for the University of Alaska, facilities for ports and  
17 harbors, the acquisition, development, management, or operation of affordable  
18 housing, prepayment of all or a portion of a governmental employer's share of  
19 unfunded accrued actuarial liability of retirement systems, or other capital projects. [A  
20 SUBSIDIARY CORPORATION MAY ALSO BE CREATED FOR THE PURPOSE  
21 OF PLANNING, CONSTRUCTING, AND FINANCING IN-STATE NATURAL  
22 GAS PIPELINE PROJECTS OR FOR THE PURPOSE OF AIDING IN THE  
23 PLANNING, CONSTRUCTION, AND FINANCING OF IN-STATE NATURAL  
24 GAS PIPELINE PROJECTS.] A subsidiary corporation created under this section  
25 may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer  
26 assets of the corporation to a subsidiary created under this section. A subsidiary  
27 created under this section may borrow money and issue bonds as evidence of that  
28 borrowing, and has all the powers of the corporation that the corporation grants to it.  
29 However, a subsidiary created for the purpose of financing or facilitating the financing  
30 of prepayment of a governmental employer's share of unfunded accrued actuarial  
31 liability of retirement systems may borrow money and issue bonds only if the state

1 bond rating is the equivalent of AA- or better and subject to AS 37.15.903. [A  
 2 SUBSIDIARY CORPORATION CREATED FOR THE PURPOSE OF PLANNING,  
 3 CONSTRUCTING, AND FINANCING IN-STATE NATURAL GAS PIPELINE  
 4 PROJECTS OR FOR THE PURPOSE OF AIDING IN THE PLANNING,  
 5 CONSTRUCTION, OR FINANCING OF IN-STATE NATURAL GAS PIPELINE  
 6 PROJECTS IS EXEMPT FROM AS 36.30, INCLUDING AS 36.30.015(d) AND (f).]

7 Unless otherwise provided by the corporation, the debts, liabilities, and obligations of  
 8 a subsidiary corporation created under this section are not the debts, liabilities, or  
 9 obligations of the corporation.

10 \* **Sec. 3.** AS 31 is amended by adding a new chapter to read:

11 **Chapter 25. Alaska Gasline Development Corporation.**

12 **Article 1. Organization, Administration, and Powers.**

13 **Sec. 31.25.010. Structure.** The Alaska Gasline Development Corporation is a  
 14 public corporation and government instrumentality located for administrative purposes  
 15 in the Department of Commerce, Community, and Economic Development, but  
 16 having a legal existence independent of and separate from the state. The corporation  
 17 may not be terminated as long as it has bonds, notes, or other obligations outstanding.  
 18 Upon termination of the corporation, its rights and property pass to the state.

19 **Sec. 31.25.020. Governing body.** (a) The corporation shall be governed by a  
 20 board of directors consisting of five members.

21 (b) Members of the board shall be appointed by the governor and are subject  
 22 to confirmation by the legislature. When appointing a member to the board, the  
 23 governor shall consider an individual's expertise and experience in natural gas pipeline  
 24 construction, operation and marketing; finance; large project management; and other  
 25 expertise and experience that is relevant to the purpose, powers, and duties of the  
 26 corporation. Members of the board serve staggered seven-year terms. A member may  
 27 be removed from office by the governor only for cause. A removal by the governor  
 28 must be in writing, must state the reason for the removal, and must be made available  
 29 to the public. A vacancy shall be filled in the same manner as the original  
 30 appointment.

31 (c) Notwithstanding AS 39.05.055, the terms of the initially appointed

1 members of the board shall be set by the governor to be two years for one member,  
2 three years for one member, five years for one member, and seven years for two  
3 members.

4 (d) The members of the board described in (a) of this section receive \$400  
5 compensation for each day spent on official business of the corporation and may be  
6 reimbursed by the corporation for actual and necessary expenses at the same rate paid  
7 to members of state boards under AS 39.20.180.

8 **Sec. 31.25.030. Meetings of board.** (a) The board shall elect a chair, secretary,  
9 and treasurer from among its membership at each annual meeting. A majority of the  
10 members constitutes a quorum for organizing the board, conducting its business, and  
11 exercising the powers of the corporation. The board shall meet at the call of the chair.  
12 The board shall meet at least once every three months.

13 (b) The board may meet and transact business by electronic media if

14 (1) public notice of the time and locations where the meeting will be  
15 held by electronic media has been given in the same manner as if the meeting were  
16 held in a single location;

17 (2) participants and members of the public in attendance can hear and  
18 have the same right to participate in the meeting as if the meeting were conducted in  
19 person; and

20 (3) copies of pertinent reference materials, statutes, regulations, and  
21 audio-visual materials are reasonably available to participants and to the public.

22 (c) A meeting by electronic media as provided in this section has the same  
23 legal effect as a meeting in person.

24 (d) For the purposes of this chapter, public notice of 24 hours or more is  
25 adequate notice of a meeting of the board at which the issuance of corporation bonds  
26 is authorized.

27 (e) An affirmative vote of at least three members of the board is required to  
28 approve

29 (1) the sale and issuance of bonds;

30 (2) the sale or other disposition of a substantial asset or substantial  
31 amount of the assets of the corporation; the corporation shall adopt a regulation that

1 defines a substantial asset and a substantial amount of assets for the purposes of this  
2 paragraph;

3 (3) the ownership structure for a pipeline project of which the  
4 corporation is a participant;

5 (4) an action committing the corporation to an additional natural gas  
6 pipeline project; and

7 (5) action on other matters identified in a regulation adopted by the  
8 corporation as being subject to this subsection.

9 **Sec. 31.25.035. Minutes of meetings.** The board shall keep minutes of each  
10 meeting and send certified copies to the governor and to the Legislative Budget and  
11 Audit Committee.

12 **Sec. 31.25.040. Administration of affairs.** (a) The board shall manage the  
13 assets and business of the corporation and may adopt, amend, and repeal bylaws and  
14 regulations governing the manner in which the business of the corporation is  
15 conducted and the manner in which its powers are exercised. The board shall delegate  
16 supervision of the administration of the corporation to the executive director,  
17 appointed in accordance with AS 31.25.045.

18 (b) The board shall adopt and publish procedures to govern the procurement  
19 by the corporation of supplies, services, professional services, and construction. The  
20 procurement procedures must provide for an Alaska veterans' preference that is  
21 consistent with the Alaska veterans' preference in AS 36.30.175.

22 **Sec. 31.25.045. Executive director.** The corporation shall employ an  
23 executive director, who may not be a member of the board. The executive director  
24 shall be appointed by the board and serves at the pleasure of the board.

25 **Sec. 31.25.050. Legal counsel.** The corporation shall retain an attorney as  
26 legal counsel for the corporation. The attorney retained by the corporation shall advise  
27 the corporation in legal matters and represent it in suits.

28 **Sec. 31.25.060. Employment of personnel.** The board may appoint other  
29 officers and engage professional and technical advisors as independent contractors.  
30 The executive director may hire employees of the corporation and engage professional  
31 and technical advisors under contract with the corporation. The board shall prescribe

1 the duties and compensation of corporation personnel, including the executive  
2 director.

3 **Sec. 31.25.065. Personnel exempt from State Personnel Act.** The personnel  
4 of the corporation are exempt from AS 39.25.

5 **Sec. 31.25.070. Purpose.** The corporation shall, to the fullest extent possible,

6 (1) advance an in-state natural gas pipeline as described in the July 1,  
7 2011, project plan prepared under former AS 38.34.040 by the corporation while a  
8 subsidiary of the Alaska Housing Finance Corporation, with modifications determined  
9 by the corporation to be appropriate to develop, finance, construct, and operate an in-  
10 state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the  
11 purpose of making natural gas available to Fairbanks, the Southcentral region of the  
12 state, and other communities in the state at the lowest rates possible;

13 (2) endeavor to develop natural gas pipelines to deliver natural gas to  
14 public utility and industrial customers in areas of the state to which the natural gas  
15 may be delivered at commercially reasonable rates; and

16 (3) endeavor to develop natural gas pipelines that offer commercially  
17 reasonable rates for shippers and access for shippers who produce natural gas in the  
18 state.

19 **Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in  
20 this chapter, the corporation may

21 (1) determine the form of ownership and the operating structure of an  
22 in-state natural gas pipeline developed by the corporation and may enter into  
23 agreements with other persons for joint ownership, joint operation, or both of an in-  
24 state natural gas pipeline;

25 (2) plan, finance, construct, develop, acquire, maintain, and operate a  
26 pipeline system, including pipelines, compressors, storage facilities, and other related  
27 facilities, equipment, and works of public improvement, in the state to facilitate  
28 production, transportation, and delivery of natural gas or other related natural  
29 resources to the point of consumption or to the point of distribution for consumption;

30 (3) lease or rent facilities, structures, and properties;

31 (4) exercise the power of eminent domain and file a declaration of

1 taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is  
2 necessary for an in-state natural gas pipeline; the exercise of powers by the  
3 corporation under this paragraph may not exceed the permissible exercise of the  
4 powers by the state;

5 (5) acquire, by purchase, lease, or gift, land, structures, real or personal  
6 property, an interest in property, a right-of-way, a franchise, an easement, or other  
7 interest in land, or an interest in or right to capacity in a pipeline system determined to  
8 be necessary or convenient for the development, financing, construction, or operation  
9 of an in-state natural gas pipeline project or part of an in-state natural gas pipeline  
10 project;

11 (6) transfer or otherwise dispose of all or part of an in-state natural gas  
12 pipeline project developed by the corporation or transfer or otherwise dispose of an  
13 interest in an asset of the corporation;

14 (7) elect to provide transportation of natural gas as a contract carrier,  
15 common carrier, or otherwise;

16 (8) provide light, water, security, and other services for property of the  
17 corporation;

18 (9) conduct hearings to gather and develop data consistent with the  
19 purpose and powers of the corporation;

20 (10) advocate for new pipeline capacity before the Federal Energy  
21 Regulatory Commission;

22 (11) make and execute agreements, contracts, and other instruments  
23 necessary or convenient in the exercise of the powers and functions of the corporation  
24 under this chapter, including a contract with a person, firm, corporation, governmental  
25 agency, or other entity;

26 (12) sue and be sued in its own name;

27 (13) adopt an official seal;

28 (14) adopt bylaws for the regulation of its affairs and the conduct of its  
29 business and adopt regulations and policies in connection with the performance of its  
30 functions and duties;

31 (15) employ fiscal consultants, engineers, attorneys, appraisers, and

1 other consultants and employees that may, in the judgment of the corporation, be  
2 required and fix and pay their compensation from funds available to the corporation;

3 (16) procure insurance against a loss in connection with its operation;

4 (17) borrow money as provided in this chapter to carry out its  
5 corporate purposes and issue its obligations as evidence of borrowing;

6 (18) include in a borrowing the amounts necessary to pay financing  
7 charges, interest on the obligations for a period not exceeding one year after the date  
8 on which the corporation estimates funds will otherwise be available to pay the  
9 interest, consultant, advisory, and legal fees, and other expenses that are necessary or  
10 incident to the borrowing;

11 (19) receive, administer, and comply with the conditions and  
12 requirements of an appropriation, gift, grant, or donation of property or money;

13 (20) do all acts and things necessary, convenient, or desirable to carry  
14 out the powers expressly granted or necessarily implied in this chapter;

15 (21) invest or reinvest, subject to its contracts with noteholders and  
16 bondholders, money or funds held by the corporation, including funds in the in-state  
17 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or  
18 investments in which banks or trust companies in the state may legally invest funds  
19 held in reserves or sinking funds or funds not required for immediate disbursement,  
20 and in certificates of deposit or time deposits secured by obligations of, or guaranteed  
21 by, the state or the United States.

22 (b) Upon commencement of construction of an in-state natural gas pipeline,  
23 the corporation shall analyze potential natural gas pipelines connecting to industrial,  
24 residential, or utility customers in other regions of the state. If the corporation finds  
25 that a natural gas pipeline analyzed under this subsection is in the best interest of the  
26 state and can meet the needs of industrial, residential, or utility customers at  
27 commercially reasonable rates, the corporation shall finance, construct, or operate the  
28 natural gas pipeline as necessary. When developing or constructing a connecting line,  
29 the corporation shall, to the maximum extent feasible, use existing land, structures,  
30 real or personal property, rights-of-way, easements, or other interests in land acquired  
31 by the corporation.

1 (c) The corporation may not develop or construct a natural gas pipeline that is  
2 a competing natural gas pipeline project for purposes of AS 43.90.440 unless the  
3 project for which a license is issued under AS 43.90 has been abandoned or is no  
4 longer receiving the inducements in AS 43.90.110(a).

5 (d) The corporation shall establish a schedule of reasonable fees and collect  
6 fees, rentals, and other charges for use of the facilities of the corporation.

7 (e) If commitments to acquire firm transportation capacity are received in an  
8 open season conducted by the corporation, the corporation shall, within 10 days after  
9 accepting and executing the written commitments received during the open season,  
10 report the results of the open season to the president of the senate and the speaker of  
11 the house of representatives and inform the public of the results of the open season  
12 through publication on the Internet website of the corporation and in a press release or  
13 other announcement to the media. The results made public must include the name of  
14 each prospective shipper, the amount of capacity allocated, and the period of the  
15 commitment.

16 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The  
17 corporation shall have access to information of departments, agencies, and public  
18 corporations of the state that is directly related to the planning, financing,  
19 development, acquisition, maintenance, construction, or operation of an in-state  
20 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and  
21 designs that have already been provided or obtained by other state entities. All  
22 departments, agencies, and public corporations of the state shall cooperate with and  
23 shall provide information, services, and facilities to the corporation upon its request  
24 and, except for requests from the Alaska Gasline Inducement Act coordinator  
25 (AS 43.90.250), give priority to requests of the corporation.

26 (b) Upon request by the corporation, a state entity shall provide water, sand  
27 and gravel, other nonhydrocarbon natural resources, and a permit or a lease to the  
28 corporation at the usual and customary rates, except as provided in (d) of this section.  
29 Review of and action on a request shall be conducted and taken as provided in  
30 AS 38.34.020. In this subsection, "state entity" means a state department, authority, or  
31 other administrative unit of the executive branch of state government, a public

1 university, or a public corporation of the state.

2 (c) That part of the cost of providing, under (b) of this section, water, sand and  
3 gravel, or other nonhydrocarbon natural resources, or of entering into a lease or  
4 issuing a permit, that is borne by the corporation for an in-state natural gas pipeline  
5 project that is owned in whole or in part by the corporation may not be included in the  
6 rate base in a proceeding under AS 42 or before the Federal Energy Regulatory  
7 Commission.

8 (d) Notwithstanding any contrary provision of law, the Department of Natural  
9 Resources shall grant the corporation a right-of-way lease under AS 38.35 for the gas  
10 pipeline transportation corridor at no appraisal or rental cost if

11 (1) a complete right-of-way lease application under AS 38.35.050 is  
12 submitted;

13 (2) the lease application is made the subject of notice and other  
14 reasonable and appropriate publication requirements under AS 38.35.070; and

15 (3) the corporation that submits the application for the right-of-way  
16 lease agrees to be bound by the right-of-way lease covenants set out in AS 38.35.121.

17 (e) After approval by the commissioner of natural resources, a right-of-way  
18 lease received by the corporation under (d) of this section may be transferred to a  
19 successor in interest under the same terms and conditions applicable to the right-of-  
20 way lease granted to the corporation.

21 (f) The corporation may enter into confidentiality agreements necessary to  
22 acquire or provide information to carry out its functions. If a state agency determines  
23 that a law or provision of a contract to which the state agency is a party requires the  
24 state agency to preserve the confidentiality of the information and that delivering the  
25 information to the corporation would violate the confidentiality provision of that law  
26 or contract, the state agency shall

27 (1) identify the applicable law or contract provision to the corporation;  
28 and

29 (2) obtain the consent of the person who has the right to waive the  
30 confidentiality of the information under the applicable law or contract provision before  
31 the state agency transfers the information to the corporation.

1 (g) Information acquired or provided by the corporation under a  
2 confidentiality agreement is not subject to disclosure under AS 40.25.110. The  
3 corporation may enter into confidentiality agreements with a public agency, as defined  
4 in AS 40.25.220, to allow release of confidential information. The portions of the  
5 records and files of a public agency bound by a confidentiality agreement that reflect,  
6 incorporate, or analyze information subject to a confidentiality agreement under this  
7 subsection are not public records. Confidentiality agreements entered into under this  
8 subsection are valid and binding against all parties in accordance with the terms of the  
9 confidentiality agreement.

10 (h) The conduct of and results from field studies and other technical  
11 information; trade secrets; and information that discloses the particulars of a business  
12 or the affairs of a private enterprise, investor, advisor, consultant, counsel, or manager  
13 developed or obtained by the corporation relating to the development, financing,  
14 construction, or operation of an in-state natural gas pipeline project by the corporation  
15 are confidential and not subject to disclosure under AS 40.25.110. The corporation  
16 may waive the confidentiality of the information described in this subsection, except  
17 for information acquired from another person that is subject to a confidentiality  
18 agreement, if the waiver is consistent with the interests of the state and will facilitate  
19 the development, financing, or construction of an in-state natural gas pipeline. On the  
20 date that the in-state natural gas pipeline project becomes operational, the corporation  
21 shall make available to the public information that would otherwise be exempt from  
22 public disclosure under this subsection or (g) of this section, unless the corporation  
23 determines that

24 (1) maintaining the confidentiality of the information is necessary to  
25 protect the economic interests of the corporation or the state; or

26 (2) disclosure of the information will violate the terms of a  
27 confidentiality agreement or other agreement to which the corporation is a party or  
28 that is binding on the corporation.

29 **Sec. 31.25.100. In-state natural gas pipeline fund.** The in-state natural gas  
30 pipeline fund is established in the corporation and consists of money appropriated to  
31 it. Unless otherwise provided by law, money appropriated to the fund lapses into the

1 general fund on the day this section is repealed. Interest and other income received on  
2 money in the fund shall be separately accounted for and may be appropriated to the  
3 fund. The corporation may use money appropriated to the fund without further  
4 appropriation for the planning, financing, development, acquisition, maintenance,  
5 construction, and operation of an in-state natural gas pipeline.

6 **Sec. 31.25.120. Creation of subsidiaries.** The corporation may create  
7 subsidiary corporations for the purpose of developing, constructing, operating, and  
8 financing in-state natural gas pipeline projects; for the purpose of aiding in the  
9 development, construction, operation, and financing of in-state natural gas pipeline  
10 projects; or for the purpose of acquiring the state's royalty share of natural gas, natural  
11 gas from the North Slope, and natural gas from other regions of the state, including the  
12 state's outer continental shelf, and making that natural gas available to markets in the  
13 state or for export. A subsidiary corporation created under this section may be  
14 incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of  
15 the corporation to a subsidiary created under this section. A subsidiary created under  
16 this section may borrow money and issue bonds as evidence of that borrowing and has  
17 all the powers of the corporation that the corporation grants to it. Unless otherwise  
18 provided by the corporation, the debts, liabilities, and obligations of a subsidiary  
19 corporation created under this section are not the debts, liabilities, or obligations of the  
20 corporation.

21 **Sec. 31.25.130. Administrative procedure; regulations.** (a) Except for  
22 AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62 (Administrative Procedure  
23 Act) does not apply to this chapter. The corporation shall make available to members  
24 of the public copies of the regulations adopted under (b) - (e) of this section. Within 45  
25 days after adoption, the chair of the board shall submit a regulation adopted under (b) -  
26 (e) of this section to the chair of the Administrative Regulation Review Committee  
27 under AS 24.20.400 - 24.20.460.

28 (b) The board may adopt regulations by motion or by resolution or in another  
29 manner permitted by its bylaws.

30 (c) The board may adopt regulations to carry out the purposes of this chapter.

31 (d) Except as provided in (e) of this section, at least 15 days before the

1 adoption, amendment, or repeal of a regulation, the board shall give public notice of  
2 the proposed action by posting notice on the corporation's Internet website and on the  
3 Alaska Online Public Notice System and by mailing a copy of the notice to every  
4 person who has filed a request for notice of proposed regulations with the board or the  
5 corporation. The public notice must include a statement of the time, place, and nature  
6 of the proceedings for the adoption, amendment, or repeal of the regulation and must  
7 include an informative summary of the proposed subject of the regulation. On the date  
8 and at the time and place designated in the notice, the board shall give each interested  
9 person or an authorized representative, or both, the opportunity to present statements,  
10 arguments, or contentions in writing and shall give members of the public an  
11 opportunity to present oral statements, arguments, or contentions for a total period of  
12 at least one hour. The board shall consider all relevant matter presented to it before  
13 adopting, amending, or repealing a regulation. At a hearing under this subsection, the  
14 board may continue or postpone the hearing to a time and place that it determines. A  
15 regulation that is adopted, or its amendment or repeal, may vary in content from the  
16 informative summary specified in this subsection if the subject matter of the  
17 regulation, or its amendment or repeal, remains the same and the original notice was  
18 written to ensure that members of the public are reasonably notified of the proposed  
19 subject of the board's action in order for them to determine whether their interests  
20 could be affected by the board's action on that subject.

21 (e) A regulation or order of repeal may be adopted as an emergency regulation  
22 or order of repeal if the board makes a finding in its order of adoption or repeal,  
23 including a statement of the facts that constitute the emergency, that the adoption of  
24 the regulation or order of repeal is necessary for the immediate preservation of the  
25 orderly operation of the corporation's bonding programs. Upon adoption of an  
26 emergency regulation, the board shall, within 10 days after adoption, give notice of the  
27 adoption in accordance with (d) of this section. An emergency regulation adopted  
28 under this subsection does not remain in effect more than 120 days unless the board  
29 complies with (d) of this section during the 120-day period.

30 (f) A regulation adopted under (b) - (e) of this section becomes effective  
31 immediately upon its adoption by the board, unless otherwise specifically provided by

1 the order of adoption.

2 **Sec. 31.25.140. Exemption from the State Procurement Code and the**  
3 **Executive Budget Act; corporation finances.** (a) The corporation and its subsidiaries  
4 are exempt from the provisions of AS 36.30 (State Procurement Code) and AS 37.07  
5 (Executive Budget Act).

6 (b) To further ensure effective budgetary decision making by the legislature,  
7 the board shall

8 (1) annually review the corporation's assets, including the assets of the  
9 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of  
10 the corporation exceed an amount required to fulfill the purposes of the corporation as  
11 defined in this chapter; in making its review, the board shall determine whether, and to  
12 what extent, assets in excess of the amount required to fulfill the purposes of the  
13 corporation during the next fiscal year are available without

14 (A) breaching an agreement entered into by the corporation;

15 (B) materially impairing the operations or financial integrity of  
16 the corporation; or

17 (C) materially affecting the ability of the corporation to fulfill  
18 the purposes of the corporation as defined in this chapter;

19 (2) specifically identify in the corporation's assets the amounts that the  
20 board believes are necessary to meet the requirements of (1)(C) of this subsection; and

21 (3) present to the legislature by January 10 of each year a complete  
22 accounting of all assets of the corporation, including assets of the in-state natural gas  
23 pipeline fund under AS 31.25.100, and a report of the review and determination made  
24 under (1) and (2) of this subsection; the accounting shall be audited by an independent  
25 outside auditor.

## 26 **Article 2. Bonds and Notes.**

27 **Sec. 31.25.150. Federal taxation of interest on bonds and bond anticipation**  
28 **notes.** If the interest on bonds or bond anticipation notes of the corporation becomes  
29 taxable under the income tax laws of the United States, the legislature may appropriate  
30 an amount sufficient to pay the outstanding principal of and interest on the bonds or  
31 bond anticipation notes. Nothing in this section creates a debt or liability of the state.

1           **Sec. 31.25.160. Bonds and notes.** (a) The corporation may, by resolution,  
2 issue bonds and bond anticipation notes to provide funds to carry out its purposes.

3           (b) The principal of and interest on the bonds or notes are payable from  
4 corporation funds. Bond anticipation notes may be payable from the proceeds of the  
5 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the  
6 event bond or bond anticipation note proceeds are not available, from other funds or  
7 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a  
8 grant or contribution from the federal government, or a corporation, association,  
9 institution, or person, or a pledge of money, income, or revenue of the corporation  
10 from any source.

11           (c) Bonds or bond anticipation notes may be issued in one or more series and  
12 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be  
13 in the denomination, be in the form, either coupon or registered, carry the conversion  
14 or registration provisions, have the rank or priority, be executed in the manner and  
15 form, be payable from the sources in the medium of payment and place or places  
16 within or outside the state, be subject to authentication by a trustee or fiscal agent, and  
17 be subject to the terms of redemption with or without premium, as the resolution of the  
18 corporation may provide. Bond anticipation notes shall mature at the time or times that  
19 are determined by the corporation. Bonds shall mature at a time, not exceeding 50  
20 years from their date, that is determined by the corporation. Before the preparation of  
21 definitive bonds or bond anticipation notes, the corporation may issue interim receipts  
22 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable  
23 for bonds or bond anticipation notes when the definitive bonds or bond anticipation  
24 notes have been executed and are available for delivery.

25           (d) Bonds or bond anticipation notes may be sold in the manner and on the  
26 terms the corporation determines.

27           (e) If an officer whose signature or a facsimile of whose signature appears on  
28 bonds or notes or coupons attached to them ceases to be an officer before the delivery  
29 of the bond, note, or coupon, the signature or facsimile is valid the same as if the  
30 officer had remained in office until delivery.

31           (f) In a resolution of the corporation authorizing or relating to the issuance of

1 bonds or bond anticipation notes, the corporation has power by provisions in the  
2 resolution that will constitute covenants of the corporation and contracts with the  
3 holders of the bonds or bond anticipation notes

4 (1) to pledge to a payment or purpose all or a part of its revenue to  
5 which its right then exists or may thereafter come into existence, the money derived  
6 from the revenue, and the proceeds of the bonds or notes;

7 (2) to covenant against pledging all or a part of its revenue or against  
8 permitting or suffering a lien on the revenue of its property;

9 (3) to covenant as to the use and disposition of payments of principal  
10 or interest received by the corporation on investments held by the corporation;

11 (4) to covenant as to establishment of reserves or sinking funds and the  
12 making of provision for and the regulation and disposition of the reserves or sinking  
13 funds;

14 (5) to covenant with respect to or against limitations on a right to sell  
15 or otherwise dispose of property of any kind;

16 (6) to covenant as to bonds and notes to be issued, and their  
17 limitations, terms, and condition, and as to the custody, application, and disposition of  
18 the proceeds of the bonds and notes;

19 (7) to covenant as to the issuance of additional bonds or notes or as to  
20 limitations on the issuance of additional bonds or notes and the incurring of other  
21 debts;

22 (8) to covenant as to the payment of the principal of or interest on the  
23 bonds or notes, as to the sources and methods of the payment, as to the rank or priority  
24 of the bonds or notes with respect to a lien or security, or as to the acceleration of the  
25 maturity of the bonds or notes;

26 (9) to provide for the replacement of lost, stolen, destroyed, or  
27 mutilated bonds or notes;

28 (10) to covenant against extending the time for the payment of bonds  
29 or notes or interest on the bonds or notes;

30 (11) to covenant as to the redemption of bonds or notes and privileges  
31 of their exchange for other bonds or notes of the corporation;

1 (12) to covenant to create or authorize the creation of special funds of  
2 money to be held in pledge or otherwise for operating expenses, payment or  
3 redemption of bonds or notes, reserves, or other purposes, and as to the use and  
4 disposition of the money held in the funds;

5 (13) to establish the procedure, if any, by which the terms of a contract  
6 or covenant with or for the benefit of the holders of bonds or notes may be amended or  
7 abrogated, the amount of bonds or notes the holders of which must consent to  
8 amendment or abrogation, and the manner in which the consent may be given;

9 (14) to covenant as to the custody of any of its properties or  
10 investments, the safekeeping and insurance of its properties or investments, and the  
11 use and disposition of insurance money;

12 (15) to covenant as to the time or manner of enforcement or restraint  
13 from enforcement of any rights of the corporation arising by reason of or with respect  
14 to nonpayment or violation of the terms of an agreement to which the corporation is a  
15 party or with respect to which the corporation has enforcement rights;

16 (16) to provide for the rights, liabilities, powers, and duties arising  
17 upon the breach of a covenant, condition, or obligation, and to prescribe the events of  
18 default and the terms and conditions on which any or all of the bonds, notes, or other  
19 obligations of the corporation become or may be declared due and payable before  
20 maturity and the terms and conditions on which a declaration and its consequences  
21 may be waived;

22 (17) to vest in a trustee or trustees within or outside the state the  
23 property, rights, powers, and duties in trust as the corporation may determine, which  
24 may include any or all of the rights, powers, and duties of a trustee appointed by the  
25 holders of the bonds or notes, and to limit or abrogate the right of the holders of the  
26 bonds or notes of the corporation to appoint a trustee under this chapter or limit the  
27 rights, powers, and duties of the trustee;

28 (18) to pay the costs or expenses incident to the enforcement of the  
29 bonds or notes or of the provisions of the resolution or of a covenant or agreement of  
30 the corporation with the holders of its bonds or notes;

31 (19) to agree with a corporate trustee, which may be a trust company

1 or bank having the powers of a trust company within or outside the state, as to the  
2 pledging or assigning of revenue or funds to which or in which the corporation has any  
3 rights or interest; the agreement may further provide for other rights and remedies  
4 exercisable by the trustee as may be proper for the protection of the holders of the  
5 bonds or notes of the corporation and not otherwise in violation of law and may  
6 provide for the restriction of the rights of an individual holder of bonds or notes of the  
7 corporation;

8 (20) to appoint and provide for the duties and obligations of any  
9 paying agent or paying agents, or other fiduciaries as the resolution may provide  
10 within or outside the state;

11 (21) to limit the rights of the holders of the bonds or notes to enforce a  
12 pledge or covenant securing bonds or notes;

13 (22) to make covenants other than and in addition to the covenants  
14 expressly authorized in this section, of like or different character, and to make  
15 covenants to do or refrain from doing acts and things as may be necessary, or as may  
16 be convenient and desirable, to better secure bonds or notes or that, in the absolute  
17 discretion of the corporation, would tend to make bonds or notes more marketable,  
18 notwithstanding that the covenants, acts, or things may not be enumerated in this  
19 section.

20 **Sec. 31.25.170. Independent financial advisor.** In negotiating the private sale  
21 of bonds or bond anticipation notes to an underwriter, the corporation may retain a  
22 financial advisor. A financial advisor retained under this section must be independent  
23 from the underwriter.

24 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the  
25 corporation to the payment of the principal of or interest on an obligation of the  
26 corporation is valid and binding from the time the pledge is made, and the assets or  
27 revenue are immediately subject to the lien of the pledge without physical delivery or  
28 further act. The lien of the pledge is valid and binding against all parties having claims  
29 of any kind in tort, contract, or otherwise against the corporation, regardless of  
30 whether those parties have notice of the lien of the pledge. This section does not  
31 prohibit the corporation from selling assets subject to a pledge, except that the sale

1 may be restricted by the trust agreement or resolution providing for the issuance of the  
2 obligations.

3 **Sec. 31.25.190. Capital reserve funds.** (a) For the purpose of securing one or  
4 more issues of its obligations, the corporation may establish one or more special funds,  
5 called "capital reserve funds," and shall pay into those capital reserve funds

6 (1) money appropriated and made available by the state for the purpose  
7 of any of those funds;

8 (2) proceeds of the sale of its obligations, to the extent provided in the  
9 resolution or resolutions of the corporation authorizing their issuance; and

10 (3) other money that may be made available to the corporation for the  
11 purposes of those funds from another source.

12 (b) All money held in a capital reserve fund, except as provided in this section,  
13 shall be used as required, solely for the payment of the principal of obligations or of  
14 the sinking fund payments with respect to those obligations; the purchase or  
15 redemption of obligations; the payment of interest on obligations; or the payment of a  
16 redemption premium required to be paid when those obligations are redeemed before  
17 maturity. However, money in a fund may not, at any time, be withdrawn from the fund  
18 in an amount that would reduce the amount of that fund to less than the capital reserve  
19 requirement set out in (c) of this section, except for the purpose of making, with  
20 respect to those obligations, payment, when due, of principal, interest, redemption  
21 premiums, and the sinking fund payments for the payment of which other money of  
22 the corporation is not available. Income or interest earned by, or increment to, a capital  
23 reserve fund, because of the investment of the fund or other amounts in it, may be  
24 transferred by the corporation to other funds or accounts of the corporation to the  
25 extent that the transfer does not reduce the amount of the capital reserve fund below  
26 the capital reserve fund requirement.

27 (c) If the corporation decides to issue obligations secured by a capital reserve  
28 fund, the obligations may not be issued if the amount in the capital reserve fund is less  
29 than a percentage, not exceeding 10 percent of the principal amount of all of those  
30 obligations secured by that capital reserve fund then to be issued and then outstanding  
31 in accordance with their terms, as may be established by resolution of the corporation

1 (called the "capital reserve fund requirement"), unless the corporation, at the time of  
2 issuance of the obligations, deposits in the capital reserve fund from the proceeds of  
3 the obligations to be issued or from other sources, an amount that, together with the  
4 amount then in the fund, would not be less than the capital reserve fund requirement.

5 (d) In computing the amount of a capital reserve fund for the purpose of this  
6 section, securities in which all or a portion of the funds are invested shall be valued at  
7 par or, if purchased at less than par, at amortized costs as the term is defined by  
8 resolution of the corporation authorizing the issue of the obligations, or by some other  
9 reasonable method established by the corporation by resolution. Valuation on a  
10 particular date shall include the amount of interest earned or accrued to that date.

11 (e) The chair of the corporation shall annually, not later than January 2, make  
12 and deliver to the governor and chairs of the house and senate finance committees a  
13 certificate stating the sum, if any, required to restore a capital reserve fund to the  
14 capital reserve fund requirement. The legislature may appropriate that sum, and the  
15 corporation shall deposit all sums appropriated by the legislature during the then  
16 current fiscal year for the restoration in the proper capital reserve fund. Nothing in this  
17 section creates a debt or liability of the state.

18 **Sec. 31.25.200. Remedies.** A holder of obligations or coupons attached to  
19 them issued under of this chapter, and a trustee under a trust agreement or resolution  
20 authorizing the issuance of the obligations, except as restricted by a trust agreement or  
21 resolution, either at law or in equity,

22 (1) may enforce all rights granted under this chapter, under the trust  
23 agreement or resolution, or under another contract executed by the corporation under  
24 this chapter; and

25 (2) may enforce and compel the performance of all duties required by  
26 this chapter or by the trust agreement or resolution to be performed by the corporation  
27 or by an officer of the corporation.

28 **Sec. 31.25.210. Negotiable instruments.** All obligations and interest coupons  
29 attached to them are negotiable instruments under the laws of this state, subject only to  
30 applicable provisions for registration.

31 **Sec. 31.25.220. Obligations eligible for investment.** Obligations issued under

1 this chapter are securities in which all public officers and public bodies of the state and  
2 its political subdivisions and all insurance companies, trust companies, banking  
3 associations, investment companies, executors, administrators, trustees, and other  
4 fiduciaries may properly and legally invest funds, including capital in their control or  
5 belonging to them. Those obligations may be deposited with a state or municipal  
6 officer of an agency or political subdivision of the state for any purpose for which the  
7 deposit of bonds, notes, or obligations of the state is authorized by law.

8 **Sec. 31.25.230. Refunding obligations.** (a) The corporation may provide for  
9 the issuance of refunding obligations for the purpose of refunding obligations then  
10 outstanding that have been issued under this chapter, including the payment of the  
11 redemption premium on them and interest accrued or to accrue to the date of  
12 redemption of the obligations. The issuance of the obligations, the maturities and other  
13 details of them, the rights of the holders of them, and the rights, duties, and obligations  
14 of the corporation with respect to them are governed by the provisions of this chapter  
15 that relate to the issuance of obligations, insofar as those provisions may be  
16 appropriate.

17 (b) Refunding obligations may be sold or exchanged for outstanding  
18 obligations issued under this chapter and, if sold, the proceeds may be applied, in  
19 addition to other authorized purposes, to the purchase, redemption, or payment of the  
20 outstanding obligations. Pending the application of the proceeds of refunding  
21 obligations, with other available funds, to the payment of the principal of, accrued  
22 interest on, and any redemption premium on the obligations being refunded and, if so  
23 provided or permitted in the resolution authorizing the issuance of the refunding  
24 obligations or in the trust agreement securing them, to the payment of any interest on  
25 the refunding obligations and any expenses in connection with the refunding, the  
26 proceeds may be invested in direct obligations of, or obligations the principal of and  
27 the interest on which are unconditionally guaranteed by, the United States that mature  
28 or that will be subject to redemption, at the option of the holders of them, not later  
29 than the respective dates when the proceeds, together with the interest accruing on  
30 them, will be required for the purposes intended.

31 **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this

1 chapter do not constitute a debt, liability, or obligation of the state or of a political  
2 subdivision of the state or a pledge of the faith and credit of the state or of a political  
3 subdivision of the state but are payable solely from the revenue or assets of the  
4 corporation. Each obligation issued under this chapter shall contain on its face a  
5 statement that the corporation is not obligated to pay the obligation or the interest on  
6 the obligation except from the revenue or assets of the corporation and that neither the  
7 faith and credit nor the taxing power of the state or of any political subdivision of the  
8 state is pledged to the payment of the principal of or the interest on the obligation.  
9 This subsection applies to all debt, obligations, and liabilities of the corporation  
10 regardless of how the debt, obligations, or liabilities are created, including by contract,  
11 tort, or bond or note issuance. Except as provided in this subsection, a person may not  
12 bring suit against the state or a political subdivision of the state other than the  
13 corporation in the courts of the state to enforce or seek a remedy with respect to a  
14 debt, obligation, or liability of the corporation.

15 (b) Expenses incurred by the corporation in carrying out the provisions of this  
16 chapter are payable from funds provided under this chapter and liability may not be  
17 incurred by the corporation in excess of those funds.

### 18 **Article 3. General Provisions.**

19 **Sec. 31.25.250. Limitation on personal liability.** A member of the board or  
20 other officer of the corporation or a subsidiary of the corporation is not subject to  
21 personal liability or accountability because the member or officer executed or issued  
22 an obligation.

23 **Sec. 31.25.260. Tax exemption.** (a) The exercise of the powers granted by this  
24 chapter is, in all respects, for the benefit of the people of the state, for their well-being  
25 and prosperity, and for the improvement of their social and economic conditions, and  
26 the corporation is not required to pay a tax or assessment on any property owned by  
27 the corporation under the provisions of this chapter or on the income from it, including  
28 state taxes levied or authorized under AS 43.56.010(a) and local taxes under  
29 AS 43.56.010(b) as provided in AS 43.56.020.

30 (b) All obligations issued under this chapter are declared to be issued by a  
31 body corporate and public of the state and for an essential public and governmental

1 purpose, and the obligations, and the interest and income on and from the obligations,  
2 and all fees, charges, funds, revenue, income, and other money pledged or available to  
3 pay or secure the payment of the obligations, or interest on the obligations, are exempt  
4 from taxation except for transfer, inheritance, and estate taxes.

5 **Sec. 31.25.270. Annual report.** (a) The corporation shall prepare and transmit  
6 annually a report to the governor accounting for the efficient discharge of all  
7 responsibility assigned by law or by directive to the corporation. The corporation shall  
8 notify the legislature that the report is available.

9 (b) By January 10 of each year, the board shall prepare a report of the  
10 corporation. The board shall notify the governor and the legislature that the report is  
11 available, and publish notice to the public on the Alaska Online Public Notice System  
12 under AS 44.62.175 that the report is available on the corporation's Internet website.  
13 The report shall be written in easily understandable language. The report must include  
14 a financial statement audited by an independent outside auditor, a comparison of the  
15 corporation's performance with the goals of the corporation, and any other information  
16 the board believes would be of interest to the governor, the legislature, and the public.  
17 The annual income statement and balance sheet of the corporation shall be published  
18 on the Internet. The board may also publish electronically or in print, at the  
19 corporation's discretion, other reports it considers desirable to carry out its purpose.

20 **Sec. 31.25.390. Definitions for AS 31.25.010 - 31.25.390.** In AS 31.25.010 -  
21 31.25.390, unless the context clearly indicates a different meaning,

22 (1) "board" means the board of directors of the corporation;

23 (2) "bond" or "obligation" means a bond, bond anticipation note, or  
24 other note of the corporation authorized to be issued by the corporation under this  
25 chapter;

26 (3) "corporation" means the Alaska Gasline Development Corporation;

27 (4) "governmental agency" means a department, division, public  
28 agency, political subdivision, or other public instrumentality of the state or the federal  
29 government;

30 (5) "in-state natural gas pipeline" means a natural gas pipeline for  
31 transporting natural gas in the state;

1 (6) "natural gas pipeline" means a total system of pipe and connected  
2 facilities for the transportation, treatment or conditioning, delivery, storage, or further  
3 transportation of natural gas, including all pipe, compressor stations, station  
4 equipment, and all other facilities used or necessary for an integral line of pipe to carry  
5 out the transportation of the natural gas.

6 \* **Sec. 4.** AS 36.30.850(b) is amended by adding a new paragraph to read:

7 (46) the Alaska Gasline Development Corporation (AS 31.25) and  
8 subsidiaries of the Alaska Gasline Development Corporation.

9 \* **Sec. 5.** AS 37.05.146(c)(22) is amended to read:

10 (22) Regulatory Commission of Alaska under AS 42.05, [AND]  
11 AS 42.06, and AS 42.08:

12 \* **Sec. 6.** AS 38.05.180(bb)(1) is amended to read:

13 (1) "gas or electric utility" includes an electric cooperative organized  
14 under AS 10.25, a municipal utility, and a gas or electric utility regulated under  
15 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers  
16 through a pipeline and the gas utility either owns the pipeline or is related in  
17 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or  
18 electric utility" within the meaning of this paragraph only if it is bound or agrees to be  
19 bound by the covenants set out in AS 38.35.120 or 38.35.121, as applicable:

20 \* **Sec. 7.** AS 38.34.099 is repealed and reenacted to read:

21 **Sec. 38.34.099. Definitions.** In this chapter,

22 (1) "Alaska Gasline Development Corporation" means the corporation  
23 created under AS 31.25.010;

24 (2) "in-state natural gas pipeline" and "natural gas pipeline" have the  
25 meanings given in AS 31.25.390.

26 \* **Sec. 8.** AS 38.35.100(d) is amended to read:

27 (d) The commissioner shall include in a conditional lease each requirement  
28 and condition of the covenants established under AS 38.35.120 or 38.35.121, as  
29 applicable. The commissioner may also require that the lessee agree to additional  
30 conditions that the commissioner finds to be in the public interest. In place of the  
31 covenant established under AS 38.35.120(a)(9), the commissioner shall require the

1 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,  
2 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline  
3 subject to the conditional lease, unless the commissioner, after considering the public  
4 interest and issuing written findings to substantiate a decision to allow the transfer,  
5 authorizes the transfer. The commissioner shall also require the lessee to agree not to  
6 allow the transfer of control of the lessee without the approval of the commissioner; as  
7 used in this subsection, "transfer of control of the lessee" means the transfer of 30  
8 percent or more, in the aggregate, of ownership interest in the lessee in one or more  
9 transactions to one or more persons by one or more persons.

10 \* **Sec. 9.** AS 38.35.120(a) is amended to read:

11 (a) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
12 **a** [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas  
13 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the  
14 lessee expressly covenants in the lease, in consideration of the rights acquired by it  
15 under the lease, that

16 (1) it assumes the status of and will perform all of its functions  
17 undertaken under the lease as a common carrier and will accept, convey, and transport  
18 without discrimination crude oil or natural gas, depending on the kind of pipeline  
19 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
20 subject to the lease throughout its route both on state land obtained under the lease and  
21 on the other land; it will accept, convey, and transport crude oil or natural gas without  
22 unjust or unreasonable discrimination in favor of one producer or person, including  
23 itself, as against another but will take the crude oil or natural gas, depending on the  
24 kind of pipeline involved, delivered or offered, without unreasonable discrimination,  
25 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to  
26 the interested parties and a proper finding of facts, determine to be reasonable in the  
27 performance of its duties as a common carrier; however, a lessee that owns or operates  
28 a natural gas pipeline

29 (A) subject to regulation either under **15 U.S.C. 717 et seq.**  
30 **(Natural Gas Act)** [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF  
31 THE UNITED STATES] or by the state or **a** political **subdivision**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

[SUBDIVISIONS] with respect to rates and charges for the sale of natural gas, is, to the extent of that regulation, exempt from the common carrier requirement in this paragraph;

(B) that is a North Slope natural gas pipeline (i) is required to operate as a common carrier only with respect to the intrastate transportation of North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not required to operate as a common carrier as to a liquefied natural gas facility or a marine terminal facility associated with the pipeline, and is not otherwise required to perform its functions under the lease as a common carrier; for purposes of this subparagraph, "North Slope natural gas pipeline" means all the facilities of a total system of pipe, whether owned or operated under a contract, agreement, or lease, used by a carrier for transportation of North Slope natural gas, as defined by AS 42.06.630, for delivery, for storage, or for further transportation, and including all pipe, [PUMP, OR] compressor stations, station equipment, tanks, valves, access roads, bridges, airfields, terminals and terminal facilities, including docks and tanker loading facilities, operations control centers for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to carry out transportation, including an extension or enlargement of the line;

(2) it will interchange crude oil or natural gas, depending on the kind of pipeline involved, with each like common carrier and provide connections and facilities for the interchange of crude oil or natural gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate state or federal regulatory agency;

(3) it will maintain and preserve books, accounts, and records and will make those reports that the state may prescribe by regulation or law as necessary and appropriate for purposes of administration of this chapter;

(4) it will accord at all reasonable times to the state and its authorized agents and auditors the right of access to its property and records, of inspection of its

1 property, and of examination and copying of records;

2 (5) it will provide connections, as determined by the Regulatory  
3 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the  
4 lease, both on state land and other land in the state, for the purpose of delivering crude  
5 oil or natural gas, depending on the kind of pipeline involved, to persons (including  
6 the state and its political subdivisions) contracting for the purchase at wholesale of  
7 crude oil or natural gas transported by the pipeline when required by the public  
8 interest;

9 (6) it shall, notwithstanding any other provision, provide connections  
10 and interchange facilities at state expense at [SUCH] places the state considers  
11 necessary if the state determines to take a portion of its royalty or taxes in oil or  
12 natural gas;

13 (7) it will construct and operate the pipeline in accordance with  
14 applicable state laws and lawful regulations and orders of the Regulatory Commission  
15 of Alaska;

16 (8) it will, at its own expense, during the term of the lease,

17 (A) maintain the leasehold and pipeline in good repair;

18 (B) promptly repair or remedy [ANY] damage to the leasehold;

19 (C) promptly compensate for [ANY] damage to or destruction  
20 of property for which the lessee is liable resulting from damage to or  
21 destruction of the leasehold or pipeline;

22 (9) it will not transfer, assign, or dispose of, in any manner, directly or  
23 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-  
24 way lease, or [ANY] rights under the lease or a [ANY] pipeline subject to the lease to  
25 a [ANY] person other than another owner of the pipeline (including subsidiaries,  
26 parents, and affiliates of the owners), except to the extent that the commissioner, after  
27 consideration of the protection of the public interest (including whether the proposed  
28 transferee is fit, willing, and able to perform the transportation or other acts proposed  
29 in a manner that will reasonably protect the lives, property, and general welfare of the  
30 people of Alaska), authorizes; the commissioner shall not unreasonably withhold  
31 consent to the transfer, assignment, or disposal;

1 (10) it will file with the commissioner a written appointment of a  
2 named permanent resident of the state to be its registered agent in the state and to  
3 receive service of notices, regulations, decisions, and orders of the commissioner; if it  
4 fails to appoint an agent for service, service may be made by posting a copy in the  
5 office of the commissioner, filing a copy in the office of the lieutenant governor, and  
6 mailing a copy to the lessee's last known address;

7 (11) the applicable law of this state will be used in resolving questions  
8 of interpretation of the lease;

9 (12) the granting of the right-of-way lease is subject to the express  
10 condition that the exercise of the rights and privileges granted under the lease will not  
11 unduly interfere with the management, administration, or disposal by the state of the  
12 land affected by the lease, and that the lessee agrees and consents to the occupancy  
13 and use by the state, its grantees, permittees, or other lessees of any part of the right-  
14 of-way not actually occupied or required by the pipeline for the full and safe  
15 utilization of the pipeline, for necessary operations incident to land management,  
16 administration, or disposal;

17 (13) it will be liable to the state for damages or injury incurred by the  
18 state caused by the construction, operation, or maintenance of the pipeline and it will  
19 indemnify the state for the liabilities or damages;

20 (14) it will procure and furnish liability and property damage insurance  
21 from a company licensed to do business in the state or furnish other security or  
22 undertaking upon the terms and conditions the commissioner considers necessary if  
23 the commissioner finds that the net assets of the lessee are insufficient to protect the  
24 public from damage for which the lessee may be liable arising out of the construction  
25 or operation of the pipeline.

26 \* **Sec. 10.** AS 38.35.120(b) is amended to read:

27 (b) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
28 **for** [FOR] a right-of-way lease granted under this chapter for an oil or natural gas  
29 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain  
30 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An  
31 oil or natural gas pipeline right-of-way lease granted under this chapter **and subject to**

1        **this section** that does not contain the required terms is null and void and without legal  
2        effect and does not vest any interest in state land or any authority in the carrier granted  
3        the lease.

4        \* **Sec. 11.** AS 38.35 is amended by adding a new section to read:

5                **Sec. 38.35.121. Covenants required to be in a lease to a natural gas**  
6        **pipeline that is a contract carrier.** (a) For a lease of state land for a right-of-way for  
7        which an applicant has applied as a contract carrier under AS 42.08, a noncompetitive  
8        lease of state land for a right-of-way for a natural gas pipeline valued at \$1,000,000 or  
9        more may be granted only on the condition that the lessee expressly covenant in the  
10       lease, in consideration of the rights acquired by it under the lease, that

11                    (1) except for the covenants in AS 38.35.120(a)(1), (2), and (5), it will  
12       meet the requirements of AS 38.35.120;

13                    (2) it will interchange natural gas and provide connections with each  
14       public utility pipeline, common carrier pipeline, or contract carrier pipeline, and  
15       facilities for the interchange of natural gas at every locality reached by both pipelines  
16       when the necessity exists, as provided in contracts on file with the Regulatory  
17       Commission of Alaska;

18                    (3) it assumes the status of and will perform all of its functions  
19       undertaken under the lease as a contract carrier and, subject to contracts with shippers,  
20       will accept, convey, and transport, without discrimination, natural gas delivered to it  
21       for transportation from fields in the vicinity of the pipeline subject to the right-of-way  
22       lease throughout the pipeline route, both on state land obtained under the lease and on  
23       other land, and that, subject to contracts with shippers, it will accept, convey, and  
24       transport natural gas without unjust or unreasonable discrimination in favor of itself or  
25       one producer or person against another, but will take the natural gas delivered or  
26       offered without unreasonable discrimination;

27                    (4) it will expand the natural gas pipeline on commercially reasonable  
28       terms that, when possible, encourage exploration and development of gas resources in  
29       this state without increasing transportation costs for a shipper except as provided for in  
30       the contract with the shipper; in this paragraph, "commercially reasonable terms"  
31       means terms that produce sufficient revenue from transportation contracts to cover the

1 cost of the expansion, including increased fuel costs and a reasonable return on capital,  
2 without impairing the ability of the pipeline to recover the costs of existing facilities;

3 (5) it will not require a shipper to pay a rate in excess of the rates  
4 provided for in the contract with that shipper.

5 (b) A contract carrier may offer to a shipper firm transportation service,  
6 interruptible transportation service, or both. In this subsection, "firm transportation  
7 service" has the meaning given in AS 42.08.900.

8 (c) The lessee may not construct or expand or allow the construction or  
9 expansion of a natural gas pipeline under (a) of this section to be a competing natural  
10 gas pipeline project unless the project for which a license is issued under AS 43.90 has  
11 been abandoned or is no longer receiving the inducements under AS 43.90.110(a). In  
12 this subsection,

13 (1) "competing natural gas pipeline project" has the meaning given in  
14 AS 43.90.440;

15 (2) "license" has the meaning given in AS 43.90.900.

16 \* **Sec. 12.** AS 38.35.140 is amended by adding a new subsection to read:

17 (c) Notwithstanding (a) of this section, a right-of-way lease shall be granted  
18 without appraisal or rental costs to the Alaska Gasline Development Corporation  
19 created under AS 31.25.010.

20 \* **Sec. 13.** AS 38.35.200 is amended by adding new subsections to read:

21 (c) Except as provided for an applicant in (a) of this section and  
22 notwithstanding any contrary provision of law, an action or decision of the  
23 commissioner or other state officer or agency concerning the issuance or approval of a  
24 necessary right-of-way, permit, lease, certificate, license, or other authorization for the  
25 planning, financing, acquisition, maintenance, development, construction, or initial  
26 operation of a natural gas pipeline by the Alaska Gasline Development Corporation  
27 under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to  
28 judicial review, except that a claim alleging the invalidity of this subsection must be  
29 brought within 60 days after the effective date of this Act, and a claim alleging that an  
30 action will deny rights under the Constitution of the State of Alaska must be brought  
31 within 60 days following the date of that action. A claim that is not filed within the

1 limitations established in this subsection is barred. A complaint under this subsection  
2 must be filed in superior court, and the superior court has exclusive jurisdiction.  
3 Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a  
4 claim filed under this subsection, the superior court may not grant injunctive relief,  
5 including a temporary restraining order, preliminary injunction, permanent injunction,  
6 or stay, against the issuance of a necessary right-of-way, permit, lease, certificate,  
7 license, or other authorization for the planning, financing, acquisition, maintenance,  
8 development, construction, or initial operation of a natural gas pipeline by the Alaska  
9 Gasline Development Corporation. In this subsection, "natural gas pipeline" has the  
10 meaning given in AS 38.34.099.

11 (d) An appeal of a permitting decision or authorization by the Department of  
12 Environmental Conservation under AS 46.03 or AS 46.14 that is made under a  
13 program approved or delegated by the United States Environmental Protection Agency  
14 is not

15 (1) subject to the limitation in (a) of this section;

16 (2) included in the actions or decisions described in (c) of this section.

17 \* **Sec. 14.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

18 (H) Alaska Gasline Development Corporation and subsidiaries  
19 of the Alaska Gasline Development Corporation;

20 \* **Sec. 15.** AS 39.50.200(b) is amended by adding a new paragraph to read:

21 (64) the board of directors of the Alaska Gasline Development  
22 Corporation or the board of directors of a subsidiary of the Alaska Gasline  
23 Development Corporation.

24 \* **Sec. 16.** AS 40.25.120(a) is amended to read:

25 (a) Every person has a right to inspect a public record in the state, including  
26 public records in recorders' offices, except

27 (1) records of vital statistics and adoption proceedings, which shall be  
28 treated in the manner required by AS 18.50;

29 (2) records pertaining to juveniles unless disclosure is authorized by  
30 law;

31 (3) medical and related public health records;

1 (4) records required to be kept confidential by a federal law or  
2 regulation or by state law;

3 (5) to the extent the records are required to be kept confidential under  
4 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
5 or retain federal assistance;

6 (6) records or information compiled for law enforcement purposes, but  
7 only to the extent that the production of the law enforcement records or information

8 (A) could reasonably be expected to interfere with enforcement  
9 proceedings;

10 (B) would deprive a person of a right to a fair trial or an  
11 impartial adjudication;

12 (C) could reasonably be expected to constitute an unwarranted  
13 invasion of the personal privacy of a suspect, defendant, victim, or witness;

14 (D) could reasonably be expected to disclose the identity of a  
15 confidential source;

16 (E) would disclose confidential techniques and procedures for  
17 law enforcement investigations or prosecutions;

18 (F) would disclose guidelines for law enforcement  
19 investigations or prosecutions if the disclosure could reasonably be expected to  
20 risk circumvention of the law; or

21 (G) could reasonably be expected to endanger the life or  
22 physical safety of an individual;

23 (7) names, addresses, and other information identifying a person as a  
24 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
25 advance college tuition savings program under AS 14.40.803 - 14.40.817;

26 (8) public records containing information that would disclose or might  
27 lead to the disclosure of a component in the process used to execute or adopt an  
28 electronic signature if the disclosure would or might cause the electronic signature to  
29 cease being under the sole control of the person using it;

30 (9) reports submitted under AS 05.25.030 concerning certain  
31 collisions, accidents, or other casualties involving boats;

1 (10) records or information pertaining to a plan, program, or  
2 procedures for establishing, maintaining, or restoring security in the state, or to a  
3 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
4 but only to the extent that the production of the records or information

5 (A) could reasonably be expected to interfere with the  
6 implementation or enforcement of the security plan, program, or procedures;

7 (B) would disclose confidential guidelines for investigations or  
8 enforcement and the disclosure could reasonably be expected to risk  
9 circumvention of the law; or

10 (C) could reasonably be expected to endanger the life or  
11 physical safety of an individual or to present a real and substantial risk to the  
12 public health and welfare;

13 (11) the written notification regarding a proposed regulation provided  
14 under AS 24.20.105 to the Department of Law and the affected state agency and  
15 communications between the Legislative Affairs Agency, the Department of Law, and  
16 the affected state agency under AS 24.20.105;

17 (12) records that are

18 (A) proprietary, privileged, or a trade secret in accordance with  
19 AS 43.90.150 or 43.90.220(e);

20 (B) applications that are received under AS 43.90 until notice is  
21 published under AS 43.90.160;

22 **(13) information of the Alaska Gasline Development Corporation**  
23 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**  
24 **Corporation that is confidential by law or under a valid confidentiality**  
25 **agreement.**

26 \* **Sec. 17.** AS 42.04.080(a) is amended to read:

27 (a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter  
28 comes for decision before the commission under AS 42.05, [OR] AS 42.06, **or**  
29 **AS 42.08**, the chair shall appoint a hearing panel composed of three or more members  
30 to hear, or if a hearing is not required, to otherwise consider, and decide the case. The  
31 panel shall exercise the powers of the commission with respect to the matter.

1 \* **Sec. 18.** AS 42.05 is amended by adding a new section to read:

2 **Sec. 42.05.433. Review of certain contracts by the commission.** (a) A  
3 precedent agreement or contract entered into by a public utility with the Alaska  
4 Gasline Development Corporation or its successors or assigns may contain a covenant  
5 for the public utility to establish, charge, and collect rates sufficient to meet its  
6 obligations under the contract. If the precedent agreement associated with the contract  
7 is approved by the commission under AS 42.08, the rate covenant in the associated  
8 contract is valid and enforceable.

9 (b) A public utility negotiating to purchase natural gas to be shipped through  
10 an in-state natural gas pipeline regulated under AS 42.08 shall submit the contract to  
11 the commission before the contract takes effect.

12 (c) A public utility negotiating to contract for the storage of natural gas  
13 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the  
14 contract to the commission before the contract takes effect.

15 (d) The commission shall review and may conduct an investigation and  
16 hearing to determine whether a contract submitted under (b) or (c) of this section is  
17 just and reasonable. The review and determination shall be conducted as provided in  
18 AS 42.08.320(b) - (d). The commission shall either approve the contract as presented  
19 or, if the commission finds that a contract is not just and reasonable, disapprove the  
20 contract. Notwithstanding AS 42.05.175, if the commission has not acted within 180  
21 days after the contract is submitted, the contract shall be considered approved and  
22 shall take effect immediately. The commission may, by order, extend the 180-day  
23 review period by the duration of a delay caused by a failure of the public utility to  
24 submit supplemental information that is available to the public utility. A contract that  
25 is approved or considered approved under this section is not subject to further review  
26 by the commission.

27 \* **Sec. 19.** AS 42.05.711 is amended by adding a new subsection to read:

28 (t) An in-state natural gas pipeline subject to AS 42.08 and an in-state natural  
29 gas pipeline carrier subject to AS 42.08 are exempt from this chapter.

30 \* **Sec. 20.** AS 42.06 is amended by adding a new section to article 7 to read:

31 **Sec. 42.06.601. Exemption.** An in-state natural gas pipeline subject to

1 AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt  
2 from this chapter.

3 \* **Sec. 21.** AS 42 is amended by adding a new chapter to read:

4 **Chapter 08. In-State Pipeline Contract Carrier.**

5 **Article 1. Application of Chapter; Purpose.**

6 **Sec. 42.08.010. Application of chapter; exemption.** (a) This chapter applies  
7 to the regulation of in-state natural gas pipelines that provide transportation by  
8 contract carriage.

9 (b) An in-state natural gas pipeline subject exclusively to federal jurisdiction  
10 is exempt from this chapter.

11 **Sec. 42.08.020. Qualification of the Alaska Gasline Development**  
12 **Corporation; findings.** (a) The Alaska Gasline Development Corporation is  
13 financially fit, willing, and able to take the actions, perform the service, and conform  
14 to the requirements of this chapter.

15 (b) The board of directors and the officers of the Alaska Gasline Development  
16 Corporation are managerially fit, willing, and able to manage the Alaska Gasline  
17 Development Corporation and to take the actions, perform the service, and conform to  
18 the requirements of this chapter.

19 (c) The proposed service, construction, and operation of an in-state natural gas  
20 pipeline for which the Alaska Gasline Development Corporation applies for a  
21 certificate under this chapter is required by present and future public convenience and  
22 necessity.

23 (d) The findings that the Alaska Gasline Development Corporation is  
24 financially fit in (a) of this section and managerially fit in (b) of this section and that  
25 an in-state natural gas pipeline is required by present or future public convenience and  
26 necessity in (c) of this section are conclusive and binding on the commission.

27 (e) The commission shall determine whether a person making application  
28 under this chapter is technically fit, willing, and able to take the actions, perform the  
29 service, and conform to the requirements in this chapter.

30 **Article 2. Powers and Duties of Regulatory Commission of Alaska.**

31 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

1 (1) regulate, under the provisions of this chapter, an in-state natural gas  
2 pipeline that provides transportation by way of contract carriage;

3 (2) require permits for the construction, enlargement in size or  
4 operating capacity, extension, connection and interconnection, operation, or  
5 abandonment of an in-state natural gas pipeline facility under the provisions of this  
6 chapter and subject to the same standards as certification in AS 42.08.330;

7 (3) to the extent necessary to perform the duties of the commission  
8 under this chapter, have access to, and may designate its employees, agents, or  
9 consultants to inspect and examine, the accounts, financial and property records,  
10 books, maps, inventories, appraisals, valuations, and related reports kept by an in-state  
11 natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by  
12 others, that directly affect the interests of the state and directly relate to in-state natural  
13 gas pipelines located in the state during normal business hours;

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

19 (b) The commission may

20 (1) review and approve recourse tariffs filed by an in-state natural gas  
21 pipeline carrier under this chapter;

22 (2) review and approve contracts;

23 (3) investigate on its own motion or after receiving a complaint, a  
24 dispute

25 (A) related to rules, regulations, services, practices, and  
26 facilities that are not subject to the dispute resolution provisions in an in-state  
27 natural gas pipeline carrier's contracts or recourse tariff;

28 (B) presented by a complainant that does not have a contract  
29 with the in-state natural gas pipeline carrier;

30 (C) related to the conduct of an in-state natural gas pipeline  
31 carrier's open season under AS 42.08.300; or

1 (D) related to an unreasonable diminution in quantity or quality  
2 in the provision of service to a public utility that

3 (i) is a violation of the in-state natural gas pipeline  
4 carrier's tariff or contract with the public utility;

5 (ii) has not been resolved by the in-state natural gas  
6 pipeline carrier; and

7 (iii) will result in immediate injury, loss, or damage to  
8 the peace, health, safety, or general welfare of the public as clearly  
9 demonstrated by specific facts shown by affidavit or verified  
10 complaint;

11 (4) adopt regulations that are necessary and proper to the performance  
12 of the duties of the commission under this chapter, including regulations governing  
13 practices and procedures of the commission; regulations adopted by the commission  
14 may not be inconsistent with state law;

15 (5) initiate, intervene in, and appear personally or by counsel and offer  
16 evidence in and participate in, proceedings before an officer, department, board,  
17 commission, or court of this state involving an in-state natural gas pipeline carrier and  
18 affecting the interests of the state; and

19 (6) appoint a qualified, unbiased, and impartial administrative law  
20 judge with experience in the general practice of law to conduct hearings under this  
21 chapter; the administrative law judge may perform other duties in connection with the  
22 administration of this chapter and other laws; an administrative law judge hired to  
23 conduct hearings under this chapter shall have been admitted to practice law for at  
24 least five years immediately before appointment under this paragraph.

25 (c) Except as provided in this chapter, the commission may not

26 (1) require rates, rate design, or tariff rates or regulations;

27 (2) require an in-state natural gas pipeline carrier to make a recourse  
28 tariff filing;

29 (3) order a modification of a contract that is approved, considered  
30 approved, or filed under this chapter; or

31 (4) conduct further review or investigation of a contract that is

1 approved, considered approved, or filed under this chapter.

2 **Sec. 42.08.230. Commission decision-making procedures.** The commission  
3 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come  
4 before the commission.

5 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**  
6 All reports, orders, decisions, and regulations of the commission shall be in writing.  
7 The commission shall notify all affected operators of in-state natural gas pipeline  
8 facilities and interested parties of reports, orders, decisions, and regulations as they are  
9 issued and adopted and, when appropriate, publish them in a manner that will  
10 reasonably inform the public or the affected consumers of the services of an in-state  
11 natural gas pipeline facility. The commission may set charges for costs of printing or  
12 reproducing and furnishing copies of reports, orders, decisions, and regulations. The  
13 publication requirement, as it pertains to regulations, does not supersede the  
14 requirements of AS 44.62 (Administrative Procedure Act).

15 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The  
16 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)  
17 do not apply to adjudicatory proceedings of the commission under this chapter, except  
18 that final administrative determinations by the commission are subject to judicial  
19 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

20 (b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted  
21 by the commission.

22 **Sec. 42.08.260. Annual report.** The commission shall include in its annual  
23 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this  
24 chapter during the previous fiscal year. The report must address the regulation of in-  
25 state natural gas pipeline facilities in the state as of June 30 of each year and must  
26 contain details about the commission's compliance with the performance measures in  
27 this chapter.

28 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

29 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall  
30 include in its approved recourse tariff the procedures for conducting open seasons for  
31 uncommitted firm transportation service and for expansion. At a minimum, the in-state

1 natural gas pipeline carrier shall publish reasonable public notice in advance of an  
2 open season. The notice shall contain the approved recourse tariff, the proposed form  
3 of the precedent agreement, the proposed form of the firm transportation service  
4 agreement, and other information sufficient to show the proposed route, capacity,  
5 operating pressures, in-service date, quality specifications, and other operating  
6 conditions that the pipeline carrier determines are relevant to an evaluation of the  
7 proposed service. The notice shall also state the methods for awarding capacity and  
8 whether presubscription agreements have been executed. An in-state natural gas  
9 pipeline carrier shall provide a mechanism for providing additional relevant  
10 information requested by potential shippers.

11 (b) An open season shall be conducted and firm transportation service shall be  
12 awarded without undue discrimination or preference.

13 (c) An in-state natural gas pipeline carrier shall conduct an open season for  
14 firm transportation service when it has existing uncommitted firm transportation  
15 capacity and has received a request for firm transportation capacity from one or more  
16 potential shippers that meet the pipeline's creditworthiness requirements.

17 (d) An in-state natural gas pipeline carrier shall conduct an open season for an  
18 expansion of its pipeline system when it has received one or more requests for firm  
19 transportation service from potential shippers that meet the pipeline's creditworthiness  
20 requirements and that, in the aggregate, would enable the expansion of the pipeline's  
21 system on a commercially reasonable basis. An expansion of the pipeline system is not  
22 commercially reasonable if the expansion would cause the pipeline to be a competing  
23 natural gas pipeline project as defined in AS 43.90.440 unless the project for which a  
24 license is issued under AS 43.90 has been abandoned or is no longer receiving the  
25 inducements in AS 43.90.110(a).

26 (e) A natural gas pipeline carrier may enter into presubscription agreements  
27 before the start of an open season.

28 (f) An in-state natural gas pipeline carrier shall file revised recourse rates  
29 before conducting an open season under (c) and (d) of this section unless the in-state  
30 natural gas pipeline carrier filed revised recourse rates during the immediately  
31 preceding two-year period.

1           **Sec. 42.08.310. Transportation service.** (a) Firm transportation service shall  
 2 be made available only through a presubscription agreement, a recourse tariff, or an  
 3 open season conducted in accordance with AS 42.08.300.

4           (b) The pipeline carrier shall offer a recourse tariff for firm transportation  
 5 service. The rates included in the recourse tariff shall be determined on a cost-of-  
 6 service basis and may be levelized over the depreciation life of the pipeline. The  
 7 recourse tariff may not preclude the pipeline carrier from collecting rolled-in rates so  
 8 long as the resulting rate for prior shippers does not exceed the initial maximum rate  
 9 allowable under agreements for capacity.

10           (c) An in-state natural gas pipeline carrier may contract to provide firm  
 11 transportation service for rates and containing provisions different than those in the  
 12 recourse tariff. For purposes of this subsection, "provisions" are limited to those terms  
 13 and conditions that directly relate to the rate and are distinct from the general  
 14 operating terms and conditions of the recourse tariff.

15           (d) An in-state natural gas pipeline carrier shall provide interruptible  
 16 transportation service through capacity not used for firm transportation service. An in-  
 17 state natural gas pipeline carrier shall establish means for routinely advising potential  
 18 shippers of the availability of interruptible transportation service.

19           **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in-  
 20 state natural gas pipeline carrier shall submit each of its precedent agreements for firm  
 21 transportation service and any substantial amendments to the commission. A precedent  
 22 agreement negotiated with an entity that is not a public utility regulated by the  
 23 commission may be filed under seal. Under AS 42.08.400, the commission shall keep  
 24 confidential a precedent agreement filed under seal. Submission of precedent  
 25 agreements to the commission is permissible before construction of an in-state natural  
 26 gas pipeline and before a request for certification under this chapter. In this subsection,  
 27 "substantial amendment" means an amendment that materially changes a rate or term  
 28 and condition of service.

29           (b) In the review of a precedent agreement submitted under (a) of this section  
 30 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

31                   (1) conclude that a precedent agreement or related contract negotiated

1 at arm's length between the parties is just and reasonable unless the commission finds  
2 that unlawful market activity affected the rate or unfair dealing, such as fraud or  
3 duress, affected the formation of the contract;

4 (2) review and may conduct an investigation and hearing to determine  
5 whether a contract submitted under (a) of this section is just and reasonable; the  
6 commission shall either approve the contract as presented or, if the commission finds  
7 that a contract is not just and reasonable, disapprove the contract; if the commission  
8 has not acted within 180 days after the submission of a contract, the contract shall be  
9 considered approved and shall take effect immediately; a contract that is approved or  
10 considered approved under this paragraph and the associated firm transportation  
11 agreement are not subject to further review by the commission.

12 (c) For purposes of (b)(1) of this section, a precedent agreement or related  
13 contract is arm's length

14 (1) if it incorporates the recourse tariff; or

15 (2) if it does not incorporate the recourse tariff,

16 (A) the precedent agreement or related contract is between two  
17 state-owned parties;

18 (B) the parties are not affiliated; or

19 (C) if the parties are affiliated, the precedent agreement or  
20 related contract is substantially similar to a precedent agreement or related  
21 contract between unaffiliated parties.

22 (d) If a precedent agreement or related contract is not arm's length, the  
23 commission shall determine whether the precedent agreement or related contract is  
24 just and reasonable using the standards normally applied under AS 42.06.140. If the  
25 commission is reviewing a precedent agreement under (c)(2) of this section, the  
26 commission may consider the in-state natural gas pipeline carrier's approved recourse  
27 tariff, including the cost data underlying that tariff. When considering whether to  
28 approve a contract as just and reasonable under this subsection, the commission shall  
29 consider the consequences of failing to approve the contract.

30 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state  
31 natural gas pipeline subject to this chapter may not engage in the transportation of

1 natural gas or undertake the construction of a natural gas pipeline facility for that  
2 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a  
3 certificate of public convenience and necessity by the commission authorizing contract  
4 carriage is in force with respect to that owner. A certificate shall describe the nature  
5 and extent of the authority granted, including, as appropriate for the services involved,  
6 a description of the authorized area and scope of operation for the in-state natural gas  
7 pipeline facility.

8 (b) Application for a certificate shall be made in writing to the commission  
9 and verified under oath. The commission by regulation shall establish the  
10 requirements for the form of the application and the information to be contained in the  
11 application. Notice of the application shall be provided to interested parties in the  
12 manner provided by regulation.

13 (c) Within 180 days after receiving an application under this chapter, the  
14 commission shall issue a contract carriage certificate authorizing, in whole or in part,  
15 the operation, service, construction, or acquisition covered by the application to a  
16 qualified applicant if the commission finds that the applicant is fit, willing, and able to  
17 do the acts, perform the proposed service, and conform to the provisions of this  
18 chapter and the requirements of the commission, and that the proposed service,  
19 operation, construction, extension, or acquisition, to the extent authorized by the  
20 certificate, is or will be required by the present or future public convenience and  
21 necessity. The commission may, by order, extend the 180-day period for considering  
22 an application by the duration of a delay caused by the failure of the applicant to  
23 provide additional information reasonably required by the commission. If, within the  
24 180-day period and any extension of the period for considering the application, the  
25 commission fails to issue a contract carriage certificate and does not make a finding  
26 that the applicant is not fit, willing, and able under this subsection, the application  
27 shall be considered approved and the contract carriage certificate shall take effect  
28 immediately.

29 (d) The commission may attach to a contract carriage certificate reasonable  
30 terms and conditions that are consistent with the terms of this chapter and are for the  
31 mutual benefit of the in-state natural gas pipeline facility and the public.

1 (e) Operating authority may not be transferred by sale or lease of the contract  
2 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline  
3 carrier holding a certificate without prior approval and a finding by the commission  
4 that the safe and efficient operation of the natural gas pipeline is not impaired by the  
5 transfer. The commission shall summarily approve a transfer not involving a  
6 substantial change in ownership.

7 (f) After receiving a complaint or on its own motion, the commission, after  
8 notice and hearing and for good cause shown, may amend, modify, suspend, or  
9 revoke, in whole or in part, a certificate. Good cause for amendment, modification,  
10 suspension, or revocation of a certificate is shown by

11 (1) misrepresentation of a material fact in obtaining the certificate;

12 (2) unauthorized discontinuance or abandonment of all or part of a  
13 service that is the subject of the certificate;

14 (3) wilful failure to comply with the provisions of this chapter or a  
15 regulation or order of the commission; or

16 (4) wilful failure to comply with a term, condition, or limitation of the  
17 certificate.

18 (g) A person holding a certificate issued under this chapter may not abandon  
19 or permanently discontinue the use of all or a portion of an in-state natural gas pipeline  
20 without permission and approval by the commission, after due notice and hearing and  
21 a finding by the commission that continued service is not required by public  
22 convenience and necessity. An interested person may file a protest or memorandum of  
23 opposition to or in support of discontinuance or abandonment with the commission.  
24 The commission may order the temporary suspension of a service or part of a service.

25 **Sec. 42.08.340. Filing requirements; recourse tariffs.** (a) An in-state natural  
26 gas pipeline carrier shall file with the commission a complete recourse tariff  
27 containing rates, rules, regulations, terms, and conditions pertaining to service  
28 provided under the certificate and copies of all contracts with shippers that in any way  
29 affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations,  
30 terms, and conditions to service provided under the certificate.

31 (b) The terms and conditions under which an in-state natural gas pipeline

1 carrier offers its services and facilities to the public shall be governed strictly by the  
2 provisions of its currently effective recourse tariff as supplemented and modified by  
3 contracts that have been approved by the commission. A legally filed and effective  
4 recourse tariff rate, charge, rule, regulation, or condition of service may not be  
5 changed except as provided in this chapter. The in-state natural gas pipeline carrier  
6 shall maintain copies of its recourse tariff on file at its principal business office and at  
7 places designated by the commission and make the copies available to and subject to  
8 inspection by the general public on demand.

9 (c) A change in a recourse tariff rate, charge, rule, regulation, or condition of  
10 service is not effective until filed under (a) of this section. If more than one recourse  
11 tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff  
12 rate or charge most advantageous to the shipper shall be used.

13 (d) The commission may reject the filing of all or part of a recourse tariff that  
14 is not consistent with this chapter. A recourse tariff rate or provision so rejected is  
15 void.

16 (e) Initial and revised recourse tariffs shall be filed in the manner provided in  
17 AS 42.08.350.

18 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline  
19 carrier may not establish or place in effect an initial recourse tariff containing rates,  
20 charges, rules, regulations, conditions of service, or practices without providing notice  
21 to the commission and to the public at least 30 days before establishing or placing in  
22 effect the initial recourse tariff. Notice shall be filed with the commission before an  
23 open season and by making the recourse tariff provisions available for public  
24 inspection. The notice shall plainly indicate the time when the recourse tariff will go  
25 into effect and include a supporting cost model. The commission may prescribe  
26 additional requirements for the notice and the form in which the notice must be  
27 provided. The commission, for good cause shown, may allow initial recourse tariffs to  
28 take effect on less than 30 days' notice under conditions the commission prescribes by  
29 order. Submission of a precedent agreement or an associated contract is not subject to  
30 this section.

31 (b) The commission shall review the proposed initial recourse tariff and verify

1 that the proposed terms and conditions of service are not unduly discriminatory. The  
2 commission also shall review the supporting cost model provided with an initial  
3 recourse tariff filing and verify, taking into consideration the expected risks, that the  
4 proposed rate of return on equity is within the range of permissible rates of return as  
5 determined by the Federal Energy Regulatory Commission in recent decisions related  
6 to the construction of natural gas pipelines, that the cost model incorporates a  
7 reasonable depreciation methodology and economic life, and that the cost model uses  
8 a reasonable capital structure. A proposed depreciation methodology, economic life, or  
9 capital structure is reasonable if it is commonly accepted or used by the commission or  
10 the Federal Energy Regulatory Commission.

11 (c) Unless a recourse tariff is denied because it includes a proposed term or  
12 condition of service that is unduly discriminatory or includes a proposed rate element  
13 that does not comply with (b) of this section, the commission shall approve the initial  
14 recourse tariff. If the commission does not issue its ruling within 30 days, the initial  
15 recourse tariff filing shall be considered approved.

16 (d) An in-state natural gas pipeline carrier may not establish or place in effect  
17 a revised rate, charge, rule, regulation, condition of service, or practice contained in a  
18 recourse tariff before providing notice to the commission and to the public at least 90  
19 days before taking the action. After construction of the pipeline, and any time  
20 thereafter that a carrier files for a revised recourse rate, the carrier shall file a  
21 supporting cost study. Notice shall be given by filing with the commission and  
22 keeping open for public inspection the revised recourse tariff provisions, which shall  
23 plainly indicate the changes to be made in the schedules then in force and the time  
24 when the changes will go into effect. The commission may prescribe additional means  
25 of giving notice. The commission, for good cause shown, may allow changes to take  
26 effect on shorter notice under conditions the commission prescribes by order.  
27 Submission of a precedent agreement or an associated contract is not subject to this  
28 subsection.

29 (e) The commission shall review the proposed revised recourse tariff and  
30 verify that a new or revised term or condition of service is not unduly discriminatory.  
31 The commission shall review the cost study supporting a revised recourse tariff filing

1 and verify that, for the rate elements specified in (b) of this section, the carrier is using  
 2 the same elements that were last approved by the commission. A proposed recourse  
 3 tariff with a new or revised term or condition of service that is unduly discriminatory  
 4 shall be denied. The commission also shall deny a revised tariff rate that does not use  
 5 the previously approved value of the specified rate element, unless the carrier proves  
 6 that the new value is just and reasonable. If the commission does not issue its ruling  
 7 within 90 days, the revised recourse tariff filing shall be considered approved.

8 (f) A person initiating a change in an existing recourse tariff bears the burden  
 9 of proving the reasonableness of the change. The in-state natural gas pipeline carrier  
 10 bears the burden of proving the recourse tariff terms and conditions are not unduly  
 11 discriminatory.

12 (g) An in-state natural gas pipeline carrier shall provide for separate rates for  
 13 one or more classes of firm transportation service and for interruptible transportation  
 14 service in a recourse tariff filed with the commission under (a) of this section. An in-  
 15 state natural gas pipeline carrier may impose a reservation fee or similar charge for  
 16 reservation of capacity in an in-state natural gas pipeline as a condition of providing  
 17 firm transportation service, but may not impose a reservation fee or similar charge for  
 18 reservation of capacity in an in-state natural gas pipeline for interruptible  
 19 transportation service.

20 **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline  
 21 carrier operating under this chapter shall maintain its records and accounts in  
 22 accordance with the uniform system of accounts for class A natural gas pipelines in 18  
 23 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

24 **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by  
 25 an in-state natural gas pipeline carrier may provide for expansion unless the expansion  
 26 would cause the pipeline to be a competing natural gas pipeline project as defined in  
 27 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been  
 28 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

29 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline  
 30 carrier may include a dispute resolution procedure. A dispute resolution procedure  
 31 shall

1 (1) provide that notice of a dispute be given to all shippers;

2 (2) culminate in a process that is determined by an independent third  
3 party or panel; and

4 (3) permit the participation of existing shippers and creditworthy  
5 potential shippers that have previously made good faith requests for firm  
6 transportation service; a participant must satisfy the commission's standard for  
7 intervention in an adjudicatory proceeding and demonstrate that the participant has a  
8 property, financial, or other significant interest in the dispute.

9 **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an  
10 in-state natural gas pipeline under this chapter shall pay to the commission a  
11 regulatory cost charge if the pipeline for which the charge is assessed is subject to this  
12 chapter and the commission has taken action on the pipeline or certificate under this  
13 chapter during the prior fiscal year. The amount of the regulatory cost charge may not  
14 exceed the sum of the following percentages of gross revenue derived from operations  
15 in the state:

16 (1) 0.7 percent to fund the operations of the commission; and

17 (2) 0.17 percent to fund operations of the public advocacy function  
18 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

19 (b) The commission shall by regulation establish a method to determine  
20 annually the amount of the regulatory cost charge that will apply to a pipeline  
21 regulated under this chapter. If the amount the commission expects to collect under (a)  
22 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets  
23 of the commission and the Department of Law public advocacy function under  
24 AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the  
25 percentage determined under a regulation adopted under this subsection so that the  
26 total amount of the fees collected approximately equals the authorized budgets of the  
27 commission and the Department of Law public advocacy function under  
28 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

29 (c) The commission shall administer the charge imposed under this section.  
30 The Department of Revenue shall collect and enforce the charge imposed under this  
31 section. The Department of Administration shall identify the amount of the operating

1 budgets of the commission and the Department of Law public advocacy function  
2 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.  
3 The legislature may appropriate an amount equal to the lapsed amount to the  
4 commission and to the Department of Law public advocacy function under  
5 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the  
6 legislature does so, the commission shall reduce the total regulatory cost charge  
7 collected for that fiscal year by a comparable amount.

8 (d) The commission may adopt regulations under AS 44.62 (Administrative  
9 Procedure Act) necessary to administer this section, including procedures and  
10 requirements for reporting information and a requirement for paying the regulatory  
11 cost charge in quarterly payments. The Department of Revenue may adopt regulations  
12 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
13 information and for collecting required payments.

14 **Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this  
15 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180  
16 or the calculation of a royalty due for a lease issued under AS 38.05.180.

#### 17 **Article 4. Public Records; Investigations.**

18 **Sec. 42.08.400. Public records.** (a) Except as provided in (b) and (c) of this  
19 section or prohibited from disclosure under state or federal law, records in the  
20 possession of the commission are open to public inspection at reasonable times.

21 (b) The commission may by regulation classify records received from an in-  
22 state natural gas pipeline carrier or in-state natural gas pipeline as privileged records  
23 that are not open to the public for inspection.

24 (c) A record filed with the commission that is a precedent agreement between  
25 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record  
26 that is not open to the public for inspection. For a record that relates to a precedent  
27 agreement, or is or relates to a contract other than a precedent agreement between an  
28 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas  
29 pipeline carrier identifies the provisions of the record that contain information that, if  
30 disclosed, could adversely affect the competitive position of the shipper or could cause  
31 commercial or competitive harm or damage if disclosed and the commission agrees,

1 the information shall be treated by the commission as confidential.

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

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

12 **Sec. 42.08.410. Investigations.** The commission may investigate any matter  
13 for which an investigation is authorized under this chapter. An investigation may be  
14 public, nonpublic, or both. In conducting an investigation, the commission may  
15 compel the attendance and testimony of witnesses and the production of records and  
16 testimony before the commission or its designee. In the course of an investigation, the  
17 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of  
18 investigative testimony all persons except a person compelled to attend, that person's  
19 attorney, members of the commission or the commission's staff, and a person  
20 authorized to transcribe the proceedings.

21 **Article 5. Accounts, Records, and Reports.**

22 **Sec. 42.08.450. Accounts; records; triennial reports.** (a) To the extent  
23 necessary for the commission to perform the duties of the commission under this  
24 chapter,

25 (1) the commission may by regulation require an in-state natural gas  
26 pipeline carrier or affiliated interest engaged in activities relating to pipelines to  
27 establish and maintain as part of its system of accounts continuing property records  
28 showing, as to property that is actually being used in pipeline activity in this state, the  
29 year of placement in service, original cost, and current location, and, as to a pipeline  
30 system, accounts and records in a manner showing, on a current basis, the original cost  
31 of the system in the state and related reserves for depreciation;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

(2) the in-state natural gas pipeline carrier shall

(A) keep its accounts for its pipeline facilities located in this state separate from any accounts relating to any other business, including another pipeline facilities business or a subsidiary business, in which it engages, directly or indirectly; except as the commission provides, property, expense, or revenue used in or derived from the other business may not be considered in establishing the rates and charges of the facility;

(B) keep books, accounts, papers, and records required by this chapter or by regulations adopted by the commission under this chapter in an office in this state and may not remove them from the state except upon written authority by the commission; and

(C) file a report with the commission that contains an updated cost study and a calculation of the three-year average actual return on equity; the report shall be filed every three years after the pipeline begins operations, within 90 days after the close of the annual accounting period for the in-state natural gas pipeline carrier, or within additional time granted by the commission upon a showing of good cause.

(b) The commission shall review the cost study described in (a)(2)(C) of this section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier is using the same elements that were last approved by the commission. If the carrier does not use the correct rate elements in its triennial report, the commission may require the carrier to recalculate and file a corrected report. If, on the date the report described in (a)(2)(C) of this section is delivered, the report reflects that the three-year average actual return on equity exceeds the approved rate of return, the carrier shall, not later than 90 days after the date the report is delivered, deposit an amount equal to the excess in a segregated operating reserve fund. The carrier shall continue to deposit the excess described in this subsection at the times described in this subsection until the amount in the operating reserve fund is equal to 20 percent of the most recent three-year average of the carrier's annual operating costs. The carrier may use money in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to

1 exceed 20 percent of the most recent three-year average of the carrier's annual  
2 operating costs, the amount exceeding 20 percent must be used to reduce, on a  
3 volumetric basis, the firm transportation service rates for all shippers for the next  
4 three-year period.

5 **Article 6. General Provisions.**

6 **Sec. 42.08.510. Designation of service agents.** An in-state natural gas pipeline  
7 carrier shall file with the commission a written appointment of a named permanent  
8 resident, which may be a corporation, of this state as its registered agent in this state  
9 on whom service of all notices, regulations, and requests of the commission may be  
10 made. The appointment shall specify the address in this state of the appointed agent.  
11 The address may be changed from time to time by filing a new address in the state  
12 with the commission. If an in-state natural gas pipeline carrier fails to appoint a  
13 registered agent, service of notices, regulations, and requests may be made by posting  
14 a copy in the main office of the commission and filing a copy in the office of the  
15 lieutenant governor.

16 **Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission  
17 under this chapter have the effect of law.

18 **Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in  
19 AS 38.35.200(c), a final order of the commission under this chapter is subject to  
20 judicial review under AS 44.62.560 and 44.62.570.

21 (b) If an appeal is not taken from a final order of the commission within 10  
22 calendar days after an investigation under AS 42.08.220(b)(3), the commission may  
23 apply to the superior court for enforcement of the order of the commission. The court  
24 shall enforce the order by injunction or other process.

25 **Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals  
26 from orders of the commission and applications for enforcement of orders of the  
27 commission may be joined. The court may, in the interests of justice, separate the  
28 actions.

29 **Sec. 42.08.900. Definitions.** In this chapter,

30 (1) "commission" means the Regulatory Commission of Alaska  
31 (AS 42.04.010);

1 (2) "commissioner" means a member of the commission;

2 (3) "firm transportation service" means service by a natural gas  
3 pipeline carrier that is not subject to a prior claim by another shipper or another class  
4 of service; service constitutes "firm transportation service" if the service receives the  
5 same priority as any other class of firm transportation service;

6 (4) "in-state natural gas pipeline" or "in-state natural gas pipeline  
7 facility" means a natural gas pipeline that transports natural gas in the state by way of  
8 contract carriage;

9 (5) "in-state natural gas pipeline carrier" means the owner, including a  
10 corporation, company, or other entity organized under the laws of the United States or  
11 of any state, of an in-state natural gas pipeline or an interest in it, or a person,  
12 including a corporation, company, or other entity organized under the laws of the  
13 United States or of any state, that transports natural gas as a contract carrier;

14 (6) "natural gas pipeline" has the meaning given in AS 38.34.099;

15 (7) "precedent agreement" means a contractual commitment to acquire  
16 firm transportation capacity, executed between an in-state natural gas pipeline carrier  
17 and another person, that establishes the rates, terms, and conditions for service;

18 (8) "record" means a report, file, book, account, paper, or application  
19 and the facts and information contained in it.

20 \* **Sec. 22.** AS 43.56.020 is amended by adding a new subsection to read:

21 (d) Taxable property of a natural gas pipeline project owned or financed by  
22 the Alaska Gasline Development Corporation or a joint venture, partnership, or other  
23 entity that includes the Alaska Gasline Development Corporation is exempt from state  
24 taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized  
25 under AS 43.56.010(b) before the commencement of commercial operations of that  
26 natural gas pipeline project. In this subsection, "commencement of commercial  
27 operations" means the first flow of natural gas in the project that generates revenue to  
28 the owners of the natural gas pipeline project.

29 \* **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;  
30 AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020, 41.41.030, 41.41.040,  
31 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,

1 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,  
2 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,  
3 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

4 \* **Sec. 24.** Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed.

5 \* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7       TRANSITION AND LEGISLATIVE INTENT. (a) It is the intent of the legislature  
8 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,  
9 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
10 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
11 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the  
12 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of  
13 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this  
14 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,  
15 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
16 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
17 sec. 11 of this Act.

18       (b) The transition of the Alaska Gasline Development Corporation from a subsidiary  
19 of the Alaska Housing Finance Corporation to an independent public corporation of the state  
20 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.  
21 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon  
22 as practicable after the effective date of this Act. It is the intent of the legislature that the  
23 governor appoint the new board of the Alaska Gasline Development Corporation within 90  
24 days after the effective date of this Act. The board of the Alaska Housing Finance  
25 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the  
26 governor appoints the board of the Alaska Gasline Development Corporation under this  
27 subsection. The board of directors of the Alaska Gasline Development Corporation shall work  
28 with the board of directors of the Alaska Housing Finance Corporation and the commissioner  
29 of commerce, community, and economic development to ensure the smooth transition of the  
30 Alaska Gasline Development Corporation to being an independent public corporation,  
31 including modifying the articles of incorporation of the Alaska Gasline Development

1 Corporation.

2 (c) It is the intent of the legislature that the transition of the Alaska Gasline  
3 Development Corporation to being an independent public corporation of the state located for  
4 administrative purposes in the Department of Commerce, Community, and Economic  
5 Development be treated for all purposes only as a change of placement within the state and  
6 not as the creation of a new public corporation of the state.

7 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the  
8 board of directors of the Alaska Gasline Development Corporation as a subsidiary created  
9 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of  
10 commerce, community, and economic development expeditiously amend the articles of  
11 incorporation, the bylaws, and other documents of the Alaska Gasline Development  
12 Corporation to reflect the change in the placement of the Alaska Gasline Development  
13 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an  
14 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this  
15 Act.

16 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and  
17 the commissioner of commerce, community, and economic development coordinate the  
18 transition of the Alaska Gasline Development Corporation to its new placement within the  
19 state as an independent public corporation of the state and assist the newly appointed board of  
20 directors of the Alaska Gasline Development Corporation to ensure that the development of  
21 an in-state natural gas pipeline is not unreasonably delayed because of the change in  
22 placement within the state of the corporation.

23 \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 REVISOR'S INSTRUCTIONS. The revisor of statutes shall change the catch lines of

26 (1) AS 38.35.120 from "Covenants required to be included in lease" to  
27 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline  
28 contract carrier"; and

29 (2) AS 38.35.200 from "Judicial review of decisions of commissioner on  
30 application" to "Judicial review."

31 \* **Sec. 27.** This Act takes effect immediately under AS 01.10.070(c).

**Linda Hay**

---

**From:** Trevor Fulton  
**Sent:** Monday, March 04, 2013 4:51 PM  
**To:** LAA Legal  
**Cc:** Linda Hay  
**Subject:** URGENT: HB 4 (28-LS0021\O) CS Request  
**Attachments:** DOC.PDF

URGENT

Please incorporate the attached and marked-up amendments into a (RES) CS for HB 4 (28-LS0021\O) to be read across the floor at 8:00 pm tonight.

Please deliver draft by email.

Please call me at x3768 with any questions.

Thanks and regards,

**Trevor Fulton**

Legislative Aide  
Office of Rep. Dan Saddler  
Alaska State Legislature  
907.465.3768 office  
907.632.1221 cell  
[trevor.fulton@akleg.gov](mailto:trevor.fulton@akleg.gov)

**AMENDMENT**

# 1

PASSED

AMENDED ON

PAGE 3

OFFERED IN THE HOUSE

TO: SSHB 4

1 Page 40, following line 21:

2 Insert a new paragraph to read:

3 "(3) to the extent necessary to perform the duties of the commission  
4 under this chapter, have access to, and may designate its employees, agents, or  
5 consultants to inspect and examine, the accounts, financial and property records,  
6 books, maps, inventories, appraisals, valuations, and related reports kept by an in-state  
7 natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by  
8 others, that directly affect the interests of the state and directly relate to in-state natural  
9 gas pipelines located in the state during normal business hours;"

10

11 Renumber the following paragraph accordingly.

12

13 Page 40, line 28, through page 41, line 10:

14 Delete all material and insert:

15 "(1) review and approve recourse tariffs filed by an in-state natural gas  
16 pipeline carrier under this chapter;

17 (2) review and approve contracts;

18 (3) investigate on its own motion or after receiving a complaint, a  
19 dispute

20 (A) related to rules, regulations, services, practices, and  
21 facilities that are not subject to the dispute resolution provisions in an in-state  
22 natural gas pipeline carrier's contracts or recourse tariff;

23 (B) presented by a complainant that does not have a contract

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

with the in-state natural gas pipeline carrier;  
(C) related to the conduct of an in-state natural gas pipeline carrier's open season under AS 42.08.300; or  
(D) related to an unreasonable diminution in quantity or quality in the provision of service to a public utility that  
(i) is a violation of the in-state natural gas pipeline carrier's tariff or contract with the public utility;  
(ii) has not been resolved by the in-state natural gas pipeline carrier; and  
(iii) will result in immediate injury, loss, or damage to the peace, health, safety, or general welfare of the public as clearly demonstrated by specific facts shown by affidavit or verified complaint;"

Renumber the following paragraphs accordingly.

Page 41, lines 25 - 29:

Delete all material and insert:

"(c) Except as provided in this chapter, the commission may not

- (1) require rates, rate design, or tariff rates or regulations;
- (2) require an in-state natural gas pipeline carrier to make a recourse tariff filing;
- (3) order a modification of a contract that is approved, considered approved, or filed under this chapter; or
- (4) conduct further review or investigation of a contract that is approved, considered approved, or filed under this chapter."

Page 42, line 26, following "shall":

Insert "include in its approved recourse tariff the procedures for conducting open seasons for uncommitted firm transportation service and for expansion. At a minimum, the in-state natural gas pipeline carrier shall"

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Page 42, line 28½, **FOLLOWING "CONTAIN THE":** **AMENDMENT**

Delete "proposed"

Insert "approved"

Page 43, following line 21:

Insert a new subsection to read:

"(f) An in-state natural gas pipeline carrier shall file revised recourse rates before conducting an open season under (c) and (d) of this section unless the in-state natural gas pipeline carrier filed revised recourse rates during the immediately preceding two-year period."

Page 43, line 23, following "agreement":

Insert ", a recourse tariff,"

Page 43, line 27, following "basis":

Insert "and may be levelized over the depreciation life of the pipeline"

Page 43, line 31, following "terms":

Insert "and conditions"

Page 44, line 7, following "service":

Insert "and any substantial amendments"

Page 44, line 12, following "chapter.":

Insert "In this subsection, "substantial amendment" means an amendment that materially changes a rate or term and condition of service."

Page 45, lines 9 - 11:

Delete ", the natural gas pipeline carrier shall provide to the commission a cost study that shall be used solely for the purpose of this subsection"

1           Insert "under (c)(2) of this section, the commission may consider the in-state natural  
2 gas pipeline carrier's approved recourse tariff, including the cost data underlying that tariff"

3  
4 Page 47, line 4:

5           Delete "all recourse tariffs"

6           Insert "a complete recourse tariff containing rates"

7  
8 Page 47, lines 8 - 13:

9           Delete "The in-state natural gas pipeline carrier shall maintain copies on file at its  
10 principal business office and at places designated by the commission and make copies  
11 available to, and subject to inspection by, the general public on demand. Rules, regulations,  
12 terms, and conditions not included in the tariff of an in-state natural gas pipeline carrier shall  
13 be included in the contract with each shipper."

14  
15 Page 47, lines 14 - 20:

16           Delete all material and insert:

17           "(b) The terms and conditions under which an in-state natural gas pipeline  
18 carrier offers its services and facilities to the public shall be governed strictly by the  
19 provisions of its currently effective recourse tariff as supplemented and modified by  
20 contracts that have been approved by the commission. A legally filed and effective  
21 recourse tariff rate, charge, rule, regulation, or condition of service may not be  
22 changed except as provided in this chapter. The in-state natural gas pipeline carrier  
23 shall maintain copies of its recourse tariff on file at its principal business office and at  
24 places designated by the commission and make the copies available to and subject to  
25 inspection by the general public on demand.

26           (c) A change in a recourse tariff rate, charge, rule, regulation, or condition of  
27 service is not effective until filed under (a) of this section. If more than one recourse  
28 tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff  
29 rate or charge most advantageous to the shipper shall be used.

30           (d) The commission may reject the filing of all or part of a recourse tariff that  
31 is not consistent with this chapter. A recourse tariff rate or provision so rejected is

1 void.

2 (e) Initial and revised recourse tariffs shall be filed in the manner provided in  
3 AS 42.08.350.

4 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline  
5 carrier may not establish or place in effect an initial recourse tariff containing rates,  
6 charges, rules, regulations, conditions of service, or practices without providing notice  
7 to the commission and to the public at least 30 days before establishing or placing in  
8 effect the initial recourse tariff. Notice shall be filed with the commission before an  
9 open season and by making the recourse tariff provisions available for public  
10 inspection. The notice shall plainly indicate the time when the recourse tariff will go  
11 into effect and include a supporting cost model. The commission may prescribe  
12 additional requirements for the notice and the form in which the notice must be  
13 provided. The commission, for good cause shown, may allow initial recourse tariffs to  
14 take effect on less than 30 days' notice under conditions the commission prescribes by  
15 order. Submission of a precedent agreement or an associated contract is not subject to  
16 this section.

17 (b) The commission shall review the proposed initial recourse tariff and verify  
18 that the proposed terms and conditions of service are not unduly discriminatory. The  
19 commission also shall review the supporting cost model provided with an initial  
20 recourse tariff filing and verify, taking into consideration the expected risks, that the  
21 proposed rate of return on equity is within the range of permissible rates of return as  
22 determined by the Federal Energy Regulatory Commission in recent decisions related  
23 to the construction of natural gas pipelines, that the cost model incorporates a  
24 reasonable depreciation methodology and economic life, and that the cost model uses  
25 a reasonable capital structure. A proposed depreciation methodology, economic life, or  
26 capital structure is reasonable if it is commonly accepted or used by the commission or  
27 the Federal Energy Regulatory Commission.

28 (c) Unless a recourse tariff is denied because it includes a proposed term or  
29 condition of service that is unduly discriminatory or includes a proposed rate element  
30 that does not comply with (b) of this section, the commission shall approve the initial  
31 recourse tariff. If the commission does not issue its ruling within 30 days, the initial

1 recourse tariff filing shall be considered approved.

2 (d) An in-state natural gas pipeline carrier may not establish or place in effect  
3 a revised rate, charge, rule, regulation, condition of service, or practice contained in a  
4 recourse tariff before providing notice to the commission and to the public at least 90  
5 days before taking the action. After construction of the pipeline, and any time  
6 thereafter that a carrier files for a revised recourse rate, the carrier shall file a  
7 supporting cost study. Notice shall be given by filing with the commission and  
8 keeping open for public inspection the revised recourse tariff provisions, which shall  
9 plainly indicate the changes to be made in the schedules then in force and the time  
10 when the changes will go into effect. The commission may prescribe additional means  
11 of giving notice. The commission, for good cause shown, may allow changes to take  
12 effect on shorter notice under conditions the commission prescribes by order.  
13 Submission of a precedent agreement or an associated contract is not subject to this  
14 subsection.

15 (e) The commission shall review the proposed revised recourse tariff and  
16 verify that a new or revised term or condition of service is not unduly discriminatory.  
17 The commission shall review the cost study supporting a revised recourse tariff filing  
18 and verify that, for the rate elements specified in (b) of this section, the carrier is using  
19 the same elements that were last approved by the commission. A proposed recourse  
20 tariff with a new or revised term or condition of service that is unduly discriminatory  
21 shall be denied. The commission also shall deny a revised tariff rate that does not use  
22 the previously approved value of the specified rate element, unless the carrier proves  
23 that the new value is just and reasonable. If the commission does not issue its ruling  
24 within 90 days, the revised recourse tariff filing shall be considered approved.

25 (f) A person initiating a change in an existing recourse tariff bears the burden  
26 of proving the reasonableness of the change. The in-state natural gas pipeline carrier  
27 bears the burden of proving the recourse tariff terms and conditions are not unduly  
28 discriminatory.

29 (g) An in-state natural gas pipeline carrier shall provide for separate rates for  
30 one or more classes of firm transportation service and for interruptible transportation  
31 service in a recourse tariff filed with the commission under (a) of this section. An in-

1 state natural gas pipeline carrier may impose a reservation fee or similar charge for  
2 reservation of capacity in an in-state natural gas pipeline as a condition of providing  
3 firm transportation service, but may not impose a reservation fee or similar charge for  
4 reservation of capacity in an in-state natural gas pipeline for interruptible  
5 transportation service."  
6  
7

8 Page 47, line 21:

9 Delete "Sec. 42.08.359"

10 Insert "Sec. 42.08.360"

11

12 Page 47, line 25:

13 Delete "Sec. 42.08.360"

14 Insert "Sec. 42.08.370"

15

16 Page 47, lines 30 - 31:

17 Delete all material and insert:

18 "(b) The recourse tariff or a contract filed by an in-state natural gas pipeline  
19 carrier may include a dispute resolution procedure. A dispute resolution procedure  
20 shall

21 (1) provide that notice of a dispute be given to all shippers;

22 (2) culminate in a process that is determined by an independent third  
23 party or panel; and

24 (3) permit the participation of existing shippers and creditworthy  
25 potential shippers that have previously made good faith requests for firm  
26 transportation service; a participant must satisfy the commission's standard for  
27 intervention in an adjudicatory proceeding and demonstrate that the participant has a  
28 property, financial, or other significant interest in the dispute."  
29

30 Page 48, line 1:

31 Delete "Sec. 42.08.370"

1           **Insert "Sec. 42.08.380"**

2

3   **Page 49, line 6:**

4           **Delete "Sec. 42.08.380"**

5           **Insert "Sec. 42.08.390"**

6

7   **Page 50, following line 12:**

8           **Insert new material to read:**

9                           **"Article 5. Accounts, Records, and Reports.**

10           **Sec. 42.08.450. Accounts; records; triennial reports. (a) To the extent**  
 11 **necessary for the commission to perform the duties of the commission under this**  
 12 **chapter,**

13                           **(1) the commission may by regulation require an in-state natural gas**  
 14 **pipeline carrier or affiliated interest engaged in activities relating to pipelines to**  
 15 **establish and maintain as part of its system of accounts continuing property records**  
 16 **showing, as to property that is actually being used in pipeline activity in this state, the**  
 17 **year of placement in service, original cost, and current location, and, as to a pipeline**  
 18 **system, accounts and records in a manner showing, on a current basis, the original cost**  
 19 **of the system in the state and related reserves for depreciation;**

20                           **(2) the in-state natural gas pipeline carrier shall**

21                                   **(A) keep its accounts for its pipeline facilities located in this**  
 22 **state separate from any accounts relating to any other business, including**  
 23 **another pipeline facilities business or a subsidiary business, in which it**  
 24 **engages, directly or indirectly; except as the commission provides, property,**  
 25 **expense, or revenue used in or derived from the other business may not be**  
 26 **considered in establishing the rates and charges of the facility;**

27                                   **(B) keep books, accounts, papers, and records required by this**  
 28 **chapter or by regulations adopted by the commission under this chapter in an**  
 29 **office in this state and may not remove them from the state except upon written**  
 30 **authority by the commission; and**

31                                   **(C) file a report with the commission that contains an updated**

1 cost study and a calculation of the three-year average actual return on equity;  
 2 the report shall be filed every three years after the pipeline begins operations,  
 3 within 90 days after the close of the annual accounting period for the in-state  
 4 natural gas pipeline carrier, or within additional time granted by the  
 5 commission upon a showing of good cause.

6 (b) The commission shall review the cost study described in (a)(2)(C) of this  
 7 section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier  
 8 is using the same elements that were last approved by the commission. If the carrier  
 9 does not use the correct rate elements in its triennial report, the commission may  
 10 require the carrier to recalculate and file a corrected report. If, on the date the report  
 11 described in (a)(2)(C) of this section is delivered, the report reflects that the three-year  
 12 average actual return on equity exceeds the approved rate of return, the carrier shall,  
 13 not later than 90 days after the date the report is delivered, deposit an amount equal to  
 14 the excess in a segregated operating reserve fund. The carrier shall continue to deposit  
 15 the excess described in this subsection at the times described in this subsection until  
 16 the amount in the operating reserve fund is equal to 20 percent of the most recent  
 17 three-year average of the carrier's annual operating costs. The carrier may use money  
 18 in the operating reserve fund to offset any shortage in the recovery of operating costs  
 19 set out in another triennial report. If a deposit will cause the operating reserve fund to  
 20 exceed 20 percent of the most recent three-year average of the carrier's annual  
 21 operating costs, the amount exceeding 20 percent must be used to reduce, on a  
 22 volumetric basis, the firm transportation service rates for all shippers for the next  
 23 three-year period."  
 24

25 Page 50, line 13:

26 Delete "Article 5"

27 Insert "Article 6"

28  
 29 Page 50, line 30:

30 Delete "AS 42.08.220(b)(2)"

31 Insert "AS 42.08.220(b)(3)"

**AMENDMENT**

#2

PASSED  
NO OBJECTION  
NO CHANGES

OFFERED IN THE HOUSE  
TO: SSHB 4

- 1 Page 43, line 31, as amended by adopted amendment O.9:
- 2 Delete "on terms and conditions and"
- 3
- 4 Page 43, line 31, following "rates":
- 5 Insert "and containing provisions"
- 6
- 7 Page 43, line 31, following "tariff.":
- 8 Insert "For purposes of this subsection, "provisions" are limited to those terms and
- 9 conditions that directly relate to the rate and are distinct from the general operating terms and
- 10 conditions of the recourse tariff."

AMENDMENT

#3

OFFERED IN THE HOUSE  
TO: SSHB 4

BY REPRESENTATIVE SADDLER

PASSED W/O OBJECTION  
NO CHANGES

- 1 Page 6, line 25, following "construction.":
- 2       Insert "The procurement procedures must provide for an Alaska veterans' preference
- 3 that is consistent with the Alaska veterans' preference in AS 36.30.175."

**AMENDMENT**

#4

BY REP. JOHNSON

OFFERED IN THE HOUSE  
TO: SSHB 4

PASSED W/O OBJECT.  
NO CHANGES

1 Page 2, lines 7 - 8:

2 Delete "relating to the Alaska Natural Gas Development Authority; relating to  
3 the procurement of certain services by the Alaska Natural Gas Development Authority;"

4

5 Page 2, line 10, following "operations;":

6 Insert "repealing the establishment of the Alaska Natural Gas Development  
7 Authority and making conforming changes;"

8

9 Page 25, line 12:

10 Delete "new paragraphs"

11 Insert "a new paragraph"

12

13 Page 25, lines 13 - 14:

14 Delete all material.

15

16 Renumber the following paragraph accordingly.

17

18 Page 35, line 3, through page 38, line 9:

19 Delete all material.

20

21 Renumber the following bill sections accordingly.

22

23 Page 52, lines 6 - 7:

1 Delete "AS 41.41.030, 41.41.040, 41.41.050, 41.41.080, 41.41.100, and 41.41.990(4)"

2 Insert "AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020,  
3 41.41.030, 41.41.040, 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100,  
4 41.41.110, 41.41.120, 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310,  
5 41.41.320, 41.41.330, 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390,  
6 41.41.400, 41.41.410, 41.41.450, 41.41.500, 41.41.900, and 41.41.990"

7

8 Page 52, line 8:

9 Delete all material and insert:

10 "\*\* Sec. 24. Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed."

AMENDMENT

BY REP. HAWKER

#5

OFFERED IN THE HOUSE

TO: SSHB 4

PASSED <sup>10/0</sup> NO OBJECT.

AS AMENDED

1 Page 1, line 1:

2 Delete "making"

3 Insert "establishing"

4

5 Page 1, lines 2 - 3:

6 Delete ", a subsidiary of the Alaska Housing Finance Corporation,"

7 Insert "as"

8

9 Page 10, line 11:

10 Delete "may"

11 Insert "shall"

12

13 Page 12, line 22, through page 13, line 4:

14 Delete all material.

AMEND TO AMEND.

P. 10 LIT

DELETE "FACILITIES, AND LOANS"

INSERT "AND ~~LOANS~~ FACILITIES"

NO OBJECT

AMENDMENT

BY REP. HAWKER

#6

PASSED W/O  
OBJECT.

NO CHANGES

OFFERED IN THE HOUSE  
TO: SSHB 4

1 Page 1, lines 7 - 8:

2 Delete "relating to the price of the state's royalty gas for certain contracts;"

3

4 Page 2, lines 20 - 23:

5 Delete "it is the policy of the state to make the state's share of royalty natural gas  
6 available for shipment in an in-state natural gas pipeline developed by the Alaska Gasline  
7 Development Corporation;

8 (4)"

9

10 Page 13, lines 5 - 6:

11 Delete "; sale of natural gas by a subsidiary"

12

13 Page 13, line 6:

14 Delete "(a)"

15

16 Page 13, lines 20 - 26:

17 Delete all material.

AMENDMENT

BY PER. HAWKER

#7

OFFERED IN THE HOUSE  
TO: SSHB 4

PASSED W/O OBJECTION.

NO CHANGES

- 1 Page 45, line 28, through page 46, line 6:  
2 Delete all material and insert:  
3 "(c) Within 180 days after receiving an application under this chapter, the  
4 commission shall issue a contract carriage certificate authorizing, in whole or in part,  
5 the operation, service, construction, or acquisition covered by the application to a  
6 qualified applicant if the commission finds that the applicant is fit, willing, and able to  
7 do the acts, perform the proposed service, and conform to the provisions of this  
8 chapter and the requirements of the commission, and that the proposed service,  
9 operation, construction, extension, or acquisition, to the extent authorized by the  
10 certificate, is or will be required by the present or future public convenience and  
11 necessity. The commission may, by order, extend the 180-day period for considering  
12 an application by the duration of a delay caused by the failure of the applicant to  
13 provide additional information reasonably required by the commission. If, within the  
14 180-day period and any extension of the period for considering the application, the  
15 commission fails to issue a contract carriage certificate and does not make a finding  
16 that the applicant is not fit, willing, and able under this subsection, the application  
17 shall be considered approved and the contract carriage certificate shall take effect  
18 immediately."

**AMENDMENT**

BY REP. HAWKER

#8

OFFERED IN THE HOUSE

TO: SSHB 4

PASSED W/O OBJECT.

NO CHANGES

1 Page 12, line 13, following "pipeline.":

2 Insert "On the date that the in-state natural gas pipeline project becomes operational,  
3 the corporation shall make available to the public information that would otherwise be exempt  
4 from public disclosure under this subsection or (g) of this section, unless the corporation  
5 determines that

6 (1) maintaining the confidentiality of the information is necessary to  
7 protect the economic interests of the corporation or the state; or

8 (2) disclosure of the information will violate the terms of a  
9 confidentiality agreement or other agreement to which the corporation is a party or  
10 that is binding on the corporation."

AMENDMENT

#9

~~PROPOSED NO OBJECT.~~  
NO CHANGES  
BY REPRESENTATIVE FEIGE

OFFERED IN THE HOUSE  
TO: SSHB 4

- 1 Page 9, following line 25:  
2 Insert a new subsection to read:  
3 "(b) Upon commencement of construction of an in-state natural gas pipeline,  
4 the corporation shall analyze potential natural gas pipelines connecting to industrial,  
5 residential, or utility customers in other regions of the state. If the corporation finds  
6 that a natural gas pipeline analyzed under this subsection is in the best interest of the  
7 state and can meet the needs of industrial, residential, or utility customers at  
8 commercially reasonable rates, the corporation shall finance, construct, or operate the  
9 natural gas pipeline as necessary. When developing or constructing a connecting line,  
10 the corporation shall, to the maximum extent feasible, use existing land, structures,  
11 real or personal property, rights-of-way, easements, or other interests in land acquired  
12 by the corporation."  
13  
14 Reletter the following subsections accordingly.

*set  
aside*

28-LS0021

**CONCEPTUAL  
AMENDMENT**

**# 3**

**OFFERED IN THE HOUSE**

**TO: SSBH 4 VO**

**By: Representative Tarr**

1 **Page 8, line 2, following "consumption;":**

2 **Insert "except that the corporation or a subsidiary of the corporation may not issue**  
3 **bonds or make other financial commitments to finance the construction of an in-state natural**  
4 **gas pipeline until the corporation has received firm transportation commitments to transport**  
5 **least 400,000,000 feet per day of natural gas in the in-state natural gas pipeline;"**

6

7 **Page 16, line 7:**

8 **Deletes "The"**

9 **Insert "Except as provided in AS 31.25.080(a)(2), the"**

10

*set aside*

*Conceptual  
10.19  
Tuck*

**CONCEPTUAL  
AMENDMENT**

**#2**

**OFFERED IN THE HOUSE**

**TO: SSBH 4 \0**

**By: Representative Tuck**

1 **Page 7, line 19:**

2 **Delete "and"**

3

4 **Page 7, line 22, following "state"**

5 **Insert "; and"**

6 **To maximize the economic benefits of the project to Alaskan businesses, shall**  
7 **use Alaska contractors and suppliers to the maximum extent possible to take advantage of the**  
8 **Alaska experience in Arctic engineering and construction."**

9

10 **Page 11, line 8:**

11 **Delete the second occurrence of "and"**

12

13 **Page 11, line 10, following "AS 38.35.121":**

14 **Insert "; and"**

15 **(4) the person that submits the application for the right of way lease commits to**  
16 **hire residents of the state and to contract with businesses in the state to the maximum extent**  
17 **allowed by law for the construction and operation of a natural gas pipeline."**

18

24  
6N / Seaton  
out

28-LS0021\0.37  
Neuman/Bullock  
3/2/13

**AMENDMENT**

#20

Tarr

**OFFERED IN THE HOUSE  
TO: SSHB 4**

- 1 **Page 8, line 15, following "(6)":**
- 2 **Insert "subject to the approval of the legislature,"**
- 3
- 4 **Page 8, line 16:**
- 5 **Delete the first occurrence of "or"**
- 6 **Insert ";**
- 7 **(7) except as provided in (6) of this subsection,"**
- 8
- 9 **Renumber the following paragraphs accordingly.**
- 10
- 11 **Page 13, line 14:**
- 12 **Delete "The"**
- 13 **Insert "Except as provided in AS 31.25.080(a)(6), the"**

*[Handwritten signature]*  
withdrawn

28-LS0021\O.35  
Bullock  
3/2/13

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: SSHB 4

#19 Tuck

1 Page 39, line 2:

2 Delete "AS 42.08.320(b) - (d)"

3 Insert "AS 42.08.320(b) - (e)"

4

5 Page 45, following line 13:

6 Insert a new subsection to read:

7 "(e) Notwithstanding (b)(1) of this section, the commission may not find that a  
8 precedent agreement or related contract is just and reasonable if the rate in the  
9 precedent agreement or related contract is less than the cost of providing the service."

24  
6/20 (Seaton  
out)

28-LS002110.33  
Neuman/Bullock  
3/2/13

**AMENDMENT**

#18

Tuck

**OFFERED IN THE HOUSE  
TO: SSHB 4**

- 1 **Page 7, line 7:**
- 2 **Delete "personnel"**
- 3 **Insert "president, vice-president, director of administrative services, and controller"**
- 4
- 5 **Page 32, lines 25 - 27:**
- 6 **Delete all material and insert:**
- 7 **\*\* Sec. 14. AS 39.25.110 is amended by adding a new paragraph to read:**
- 8 **(44) the president, vice-president, director of administrative services,**
- 9 **and controller of the Alaska Gasline Development Corporation."**

24  
6/2 (Session out)

28-LS0021VO.32  
Nauman/Bullock  
3/2/13

**AMENDMENT**

#17 Tarr

**OFFERED IN THE HOUSE  
TO: SSHB 4**

- 1 **Page 5, line 15, following "meeting.":**
- 2 **Insert "The board may meet and transact business if public notice of the time and**
- 3 **location where the meeting will be held has been given for seven days or more."**
- 4
- 5 **Page 5, line 28:**
- 6 **Delete "A"**
- 7 **Insert "Except as provided in (d) of this section, a"**
- 8
- 9 **Page 5, line 30, through page 6, line 1:**
- 10 **Delete all material and insert:**
- 11 **"(d) For purposes of this chapter, a meeting of the board must be held in a**
- 12 **single physical location to authorize the issuance of corporate bonds or an expenditure**
- 13 **greater than \$10,000,000."**

24  
6/10 (Seaton out)

28-LS0021VO.26  
Bullock  
3/2/13

AMENDMENT

#110

Tarr

OFFERED IN THE HOUSE

TO: SSHB 4

- 1 Page 1, lines 8 - 10:
- 2 Delete "relating to judicial review of a right-of-way lease or an action or decision
- 3 related to the development or construction of an oil or gas pipeline on state land;"
- 4
- 5 Page 31, line 28, through page 32, line 24:
- 6 Delete all material.
- 7
- 8 Renumber the following bill sections accordingly.
- 9
- 10 Page 50, lines 26 - 27:
- 11 Delete "Except as provided in AS 38.35.200(c), a"
- 12 Insert "A"
- 13
- 14 Page 53, line 29:
- 15 Delete "lines"
- 16 Insert "line"
- 17
- 18 Page 53, line 30:
- 19 Delete "(1)"
- 20
- 21 Page 54, lines 1 - 3:
- 22 Delete "carrier"; and
- 23 (2) AS 38.35.200 from "Judicial review of decisions of commissioner on

- 1 application" to "Judicial review."
- 2 Insert "carrier."

24  
60  
(Seaton out)

28-LS0021\O.25  
Bullock  
3/2/13

Tuck

**AMENDMENT**

#15

**OFFERED IN THE HOUSE**

**TO: SSHB 4**

- 1 Page 10, lines 24 - 26:
- 2 Delete "In this subsection, "state entity" means a state department, authority, or other
- 3 administrative unit of the executive branch of state government, a public university, or a
- 4 public corporation of the state."
- 5
- 6 Page 11, line 14, following "corporation":
- 7 Insert ", except that a successor in interest that is not a state entity is liable for any
- 8 applicable appraisal or rental cost"
- 9
- 10 Page 12, following line 13:
- 11 Insert a new subsection to read:
- 12 "(i) In this section, "state entity" means a state department, authority, or other
- 13 administrative unit of the executive branch of state government, a public university, or
- 14 a public corporation of the state."
- 15
- 16 Page 24, following line 10:
- 17 Insert a new subsection to read:
- 18 "(c) Notwithstanding the exemption in (a) of this section, a person that is not a
- 19 state entity that acquires property owned by the corporation shall pay the taxes or
- 20 assessments that would have otherwise been due during the three calendar years
- 21 preceding the year of acquisition had the property not been exempt under (a) of this
- 22 section."
- 23

1 Page 51, line 28:

2 Delete "a new subsection"

3 insert "new subsections"

4

5 Page 52, following line 5:

6 Insert a new subsection to read:

7 "(e) Notwithstanding the exemption in (d) of this section, a person that is not a  
8 state entity that acquires the natural gas pipeline project described in (d) of this section  
9 shall pay the taxes that would have otherwise been due during the three calendar years  
10 preceding the year of acquisition had the taxable property not been exempt under (d)  
11 of this section."

24  
6 N  
(Leaton OUT)

28-LS0021\O.24  
Neuman/Bullock  
3/2/13

**AMENDMENT**

#14 Tuck

**OFFERED IN THE HOUSE  
TO: SSHB 4**

- 1 **Page 10, following line 9:**
- 2 **Insert a new subsection to read:**
- 3 **"(e) To the maximum extent permitted by law and before the commencement**
- 4 **of construction, the corporation or its agent shall negotiate a project labor agreement**
- 5 **for the construction of the natural gas pipeline. In this subsection, "project labor**
- 6 **agreement" means a comprehensive collective bargaining agreement between the**
- 7 **corporation or its agent and the appropriate labor representatives to ensure expedited**
- 8 **construction with labor stability by employing qualified residents of the state."**

Tarr

28-LS0021\O.22  
Bullock  
3/2/13

**AMENDMENT**

#13

24  
6N  
(seated out)

**OFFERED IN THE HOUSE  
TO: SSHB 4**

- 1 Page 12, following line 13:
- 2 Insert a new subsection to read:
- 3 "(l) Notwithstanding any contrary provision of law, a contract to sell all or a
- 4 portion of an in-state natural gas pipeline is public information and may be disclosed
- 5 to the public."

AMENDMENT

#12.

Tarr

24  
6 N  
(Seaton out)

OFFERED IN THE HOUSE  
TO: SSHB 4

1 Page 46, lines 7 - 9:

2 Delete all material and insert:

3 "(d) A contract carriage certificate issued by the commission

4 (1) shall require that a public utility in the state have priority over other  
5 shippers if the transportation capacity of an in-state natural gas pipeline is reduced;  
6 and

7 (2) may include other reasonable terms and conditions that are  
8 consistent with this chapter and that are for the mutual benefit of the in-state natural  
9 gas pipeline and the public."

24  
7N

28-LS0021VO.18  
Bullock  
3/2/13

**AMENDMENT**

#11

Tuck

OFFERED IN THE HOUSE  
TO: SSHB 4

- 1 Page 2, lines 1 - 2:
- 2 Delete "relating to procurement by the Alaska Gasline Development
- 3 Corporation;"
- 4
- 5 Page 2, lines 7 - 8:
- 6 Delete "relating to the procurement of certain services by the Alaska Natural Gas
- 7 Development Authority;"
- 8
- 9 Page 6, line 18:
- 10 Delete "(a)"
- 11
- 12 Page 6, lines 24 - 25:
- 13 Delete all material.
- 14
- 15 Page 15, line 8:
- 16 Delete "the State Procurement Code and"
- 17
- 18 Page 15, line 10:
- 19 Delete "AS 36.30 (State Procurement Code) and"
- 20
- 21 Page 25, lines 12 - 16:
- 22 Delete all material.
- 23

1 **Renumber the following bill sections accordingly.**

2

3 **Page 36, lines 14 - 15:**

4 **Delete "The procurement of services under this subsection is exempt from**  
5 **AS 36.30, including AS 36.30.015(d) and (f)."**

6

7 **Page 52, line 13:**

8 **Delete "sec. 8"**

9 **Insert "sec. 7"**

10 **Delete "sec. 9"**

11 **Insert "sec. 8"**

12

13 **Page 52, line 14:**

14 **Delete "sec. 10"**

15 **Insert "sec. 9"**

16

17 **Page 52, lines 14 - 15:**

18 **Delete "sec. 11"**

19 **Insert "sec. 10"**

20

21 **Page 52, line 16:**

22 **Delete "secs. 3 and 8 - 11"**

23 **Insert "secs. 3 and 7 - 10"**

24

25 **Page 52, line 17:**

26 **Delete "secs. 3 and 8 - 11"**

27 **Insert "secs. 3 and 7 - 10"**

28

29 **Page 52, line 19:**

30 **Delete "sec. 8"**

31 **Insert "sec. 7"**

- 1 Delete "sec. 9"
- 2 Insert "sec. 8"
- 3
- 4 Page 52, line 20:
- 5 Delete "sec. 10"
- 6 Insert "sec. 9"
- 7
- 8 Page 52, lines 20 - 21:
- 9 Delete "sec. 11"
- 10 Insert "sec. 10"

**AMENDMENT**

#10

Tarr

OFFERED IN THE HOUSE  
TO: SSHB 4

- 1 Page 1, line 4, following "fund;":  
2 Insert "requiring legislative approval before construction of an in-state natural  
3 gas pipeline developed by the Alaska Gasline Development Corporation;"  
4  
5 Page 10, following line 9:  
6 Insert a new subsection to read:  
7 "(e) The corporation may not begin to construct an in-state natural gas  
8 pipeline before project sanction and before receiving authorization by law to proceed  
9 with the construction. In this subsection,  
10 (1) "authorization by law" means a law passed by the legislature and  
11 enacted into law or an appropriation for the construction of the pipeline that is not  
12 entirely vetoed;  
13 (2) "sanction" means having financial commitments that are adequate  
14 to proceed with the construction of the in-state natural gas pipeline."

24  
72  
Fails

**Linda Hay**

---

**From:** Linda Hay  
**Sent:** Tuesday, March 05, 2013 12:28 PM  
**To:** HRES Members & Staff  
**Cc:** resourceliaisons  
**Subject:** FW: Request for RCA review of House Bill 4  
**Attachments:** HB0004C.pdf; HB4 Letter to RCA 03-5-2013.pdf

All - Attached is the final version of the CSSSHB4 (RES) along with a letter from the co-sponsors to the RCA. Since this was part of our final discussion of the bill and the possible consideration of a Letter of Intent yesterday, I felt it appropriate to distribute to members.

Regards  
lh

*Linda Hay  
House Resources Committee Aide  
Representative Eric Feige  
House Resources Co-Chair  
State Capitol Room 126  
907-465-3715 - Direct  
907-321-1249 - Cell  
[linda.hay@akleg.gov](mailto:linda.hay@akleg.gov)*

---

**From:** Rena Delbridge  
**Sent:** Tuesday, March 05, 2013 12:09 PM  
**To:** Patch, T W (RCA) ([tw.patch@alaska.gov](mailto:tw.patch@alaska.gov))  
**Cc:** Rep. Mike Hawker; Rep. Mike Chenault; Rep. Dan Saddler; Rep. Eric Feige  
**Subject:** Request for RCA review of House Bill 4

Commissioner Patch,

Please see attached letter from Rep. Mike Hawker and Rep. Mike Chenault requesting the RCA review House Bill 4, legislation they are sponsoring related to an instate natural gas pipeline. Also attached is a copy of the most current version of the bill, which was moved from the House Resources Committee March 4. I am copying the Resources Committee chairmen, Rep. Dan Saddler and Rep. Eric Feige, on this email.

We are available if you have any questions or if we can be of assistance.

Thank you,  
Rena

Rena Delbridge  
Office of Rep. Hawker  
(907)465-4949 office

## Linda Hay

---

**From:** Patch, T W (RCA) <tw.patch@alaska.gov>  
**Sent:** Tuesday, March 05, 2013 2:17 PM  
**To:** Rena Delbridge; RCA Commissioners  
**Cc:** Rep. Mike Hawker; Rep. Mike Chenault; Rep. Dan Saddler; Rep. Eric Feige; Koeneman, Crystal A (CED)  
**Subject:** RE: Request for RCA review of House Bill 4  
**Categories:** Linda

Ms. Delbridge,

I acknowledge your communication. Thank you for the letter from Speaker Chennault and Representative Hawker and for the current bill as it was passed from H-Resources to the next committee of referral. My intention is to consult with my fellow commissioners before determining how to proceed and timely address the request of the bill's sponsors. I look forward to being in contact with you soon.

Your communication with attachments and this response have been posted to the RCA website as correspondence.

TW Patch

---

**From:** Rena Delbridge [<mailto:Rena.Delbridge@akleg.gov>]  
**Sent:** Tuesday, March 05, 2013 12:09 PM  
**To:** Patch, T W (RCA)  
**Cc:** Rep. Mike Hawker; Rep. Mike Chenault; Rep. Dan Saddler; Rep. Eric Feige  
**Subject:** Request for RCA review of House Bill 4

Commissioner Patch,

Please see attached letter from Rep. Mike Hawker and Rep. Mike Chenault requesting the RCA review House Bill 4, legislation they are sponsoring related to an instate natural gas pipeline. Also attached is a copy of the most current version of the bill, which was moved from the House Resources Committee March 4. I am copying the Resources Committee chairmen, Rep. Dan Saddler and Rep. Eric Feige, on this email.

We are available if you have any questions or if we can be of assistance.

Thank you,  
Rena

Rena Delbridge  
Office of Rep. Hawker  
(907)465-4949 office

**HOUSE SPEAKER  
MIKE CHENAULT**

**R - NIKISKI (HD28)  
CAPITOL ROOM 208  
JUNEAU: 465-3779  
NIKISKI: 283-7223**



**REPRESENTATIVE  
MIKE HAWKER**

**R - ANCHORAGE (HD27)  
CAPITOL ROOM 502  
JUNEAU: 465-4949  
ANCHORAGE: 269-0244**

---

March 5, 2013

T.W. Patch, Chairman  
Regulatory Commission of Alaska  
701 West 8<sup>th</sup> Ave., Suite 300  
Anchorage, AK 99501

Dear Commissioner Patch:

As you are aware, we are sponsoring legislation laying the framework for the Alaska Gasline Development Corporation (AGDC) to develop in-state natural gas pipelines, including the project described in AGDC's July 2011 Project Plan. The most recent version of House Bill 4 (HB 4), as amended by the House Resources Committee, is attached.

Part of this legislation addresses the regulatory framework for contract carrier natural gas pipelines, and therefore involves the Regulatory Commission of Alaska. HB 4 in its present form creates a new set of covenants within the Right-of-Way Leasing Act permitting contract carriage. The bill exempts a contract carrier gas pipeline from regulations under 42.05, Public Utilities Regulatory Act, and from 42.06, Pipeline Act. HB 4 adds a new chapter to state statute, 42.08, for a contract carrier natural gas pipeline.

Our policy position in developing this legislation is that independent, private parties should be able to privately contract rates and terms they consider reasonable; that regulation serves a role yet should be based on the premise that private contracts are reasonable; and that traditional cost-based ratemaking does not serve the public interest in such a case. We also believe in checks and balances that establish accountability and ensure Alaskans and the State are treated fairly in a major gas pipeline; you will see this policy position reflected in the use of a required recourse tariff, in sturdy dispute resolution provisions; in the CPCN process; and in the triennial review of certain rate elements, for example.

We respectfully ask that, if the RCA decides to comment on HB 4, comments are offered as soon as possible. We anticipate the RCA may be requested to testify before legislative committees on HB 4, and view this submission today as an early-level review towards meaningful testimony. We remain open to constructive suggestions on the technical structure of the bill, and to comments on the statutory policy.

In particular, we respectfully request the RCA, in conducting a review, to consider whether the bill language provides a clear process for the RCA in carrying out regulation under the new 42.08. We welcome suggestions on improving the technical structure. We want the definitions and terms used to be sufficient for the RCA in administering 42.08. In those instances in which the legislation directs the RCA to conduct a review (precedent agreements, recourse tariffs, triennial rate elements review), we will appreciate comments as to whether we have provided sufficient statutory authority and have

required enough information to the RCA for the RCA to conduct its review. We welcome comments regarding any structural flaws you may identify, and in potential, reasonably foreseeable unintended consequences. Further, this legislation includes timelines for each review step, and we would like the commission's analysis of whether those timelines are reasonable in light of what the commission is being asked to consider. If the commission anticipates requiring additional resources to carry out regulation under 42.08, with reasonable expectations of submissions in the future, please advise.

We understand that 42.08 and the concept of contract carriage and negotiated rates are new to the RCA (at least as statutory authority), and we appreciate respect for the policy position we as the bill sponsors have taken. We in turn respect the experience and expertise your individual members bring to regulation, and the conduct of the commission itself in administering regulation in Alaska.

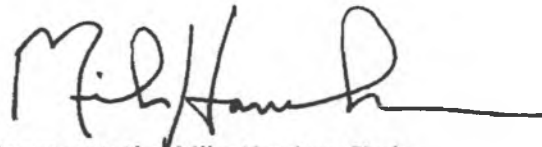
Should the RCA desire to discuss HB 4, we are available and will appreciate the opportunity to answer any questions you may have.

Regards,



Representative Mike Chenault

Speaker of the Alaska State House



Representative Mike Hawker, Chair

Legislative Council

# ALASKA STATE LEGISLATURE

## House Resources Committee

**Rep. Eric Feige, Co-Chair**

State Capitol Building, Room 126  
Juneau, AK 99801 – 1182  
Phone (907) 465-4859  
Fax (907) 465-3799  
[rep.eric.feige@akleg.gov](mailto:rep.eric.feige@akleg.gov)



**Rep. Dan Saddler, Co-Chair**

State Capitol Building, Room 104  
Juneau, AK 99801-1182  
Phone (907) 465-3783  
Fax (907) 465-2293  
[rep.dan.saddler@akleg.gov](mailto:rep.dan.saddler@akleg.gov)

## Intent Language

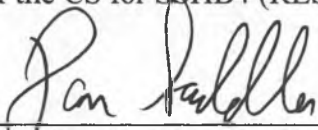
### **CS for SSHB4 (RES) – In-State Gasline Development Corporation**

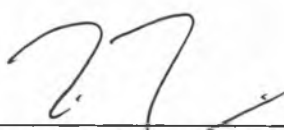
Recognizing that the CS for SSHB4 (RES) makes significant changes to state statute relating to the Regulatory Commission of Alaska; and

Further recognizing that the RCA, because of its formal procedures for reviewing and commenting on legislation, was unable to review or comment on the CS for SSHB4 (RES) while the bill was before the House Resources Committee;

It is the intent of the House Resources Committee that the CS for SSHB4 (RES) be formally submitted to the RCA for review and comment at the Commission's next scheduled meeting on March 13, 2013.

It is the further intent of the House Resources Committee that the next committee of referral, the House Finance Committee, consider the RCA's comments during the committee's deliberations of the CS for SSHB4 (RES).

  
\_\_\_\_\_  
Rep. Dan Saddler, Co-Chair

  
\_\_\_\_\_  
Rep. Eric Feige, Co-Chair



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of Natural Resources

Office of the Commissioner  
550 West 7th Avenue, Suite 1400  
Anchorage, Alaska, 99501-3650  
Phone: 907.269.8431  
Fax: 907.269.8918

February 12, 2013

The Honorable Dan Saddler, Co-Chair  
The Honorable Eric Feige, Co-Chair  
House Resources Committee  
State Capitol  
Juneau, AK 99801

Dear Representatives Saddler and Feige and members of the House Resources Committee:

In response to a question posed by Rep. Seaton relating to the Department of Natural Resources' administration of right of way leases, in consultation with the Department of Law, we offer the following response:

A lease with contract carrier covenants rather than common carrier covenants may be issued only to an applicant eligible to be regulated under the new AS 42.08 (Section 33 of HB4\O). Since AS 42.08 is limited to in-state natural gas pipelines, no oil pipeline can become a contract carrier. With respect to existing gas pipelines, there is no language within HB4 that would require any existing lease other than a single lease with AGDC to transition to contract carriage.

Under HB4, an existing lessee with a 38.35 right of way for an in-state gas pipeline may apply to amend its lease to include the 38.35.121 covenants instead of the 38.35.120 covenants. That would require notice to the public and a determination by the commissioner that the applicant is "fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest." This is the same finding the commissioner must make before granting a lease in the first instance.

I have attached a summary of the lease amendment process including a recent example where DNR added lands to the TAPS lease. This process is expected to take at least 70-80 days.

While not considered a routine activity, the SPCO has amended the TAPS right-of-way lease 56 times over the life of the lease (<http://dnr.alaska.gov/commis/pco/tapsamendments.htm>).

If you have any additional questions, please let me know.

Kindest Regards,



Esther Tempel  
Legislative Liaison

CC: Heather Brakes, Legislative Director, Governor's Office  
Mike Thompson, Director, State Pipeline Coordinator's Office

Enclosures:

Aleaska Lease Amendment Request  
Lease Amendment Public Notice  
Commissioner's Analysis and Proposed Decision Public Notice  
Commissioner's Analysis and Proposed Decision  
Final Lease Amendment

## DNR Lease Amendment Summary

The AS 38.35 right-of-way lease amendment process is summarized as follows:

1. The State Pipeline Coordinator's Office (SPCO) receives a lease amendment request or application with payment.
2. The SPCO issues a 60-day notice of application for the proposed lease amendment.
3. The State Pipeline Coordinator (SPC) notifies the Commissioner of the request, reviews the request, and drafts the Commissioner's Analysis and Proposed Decision.
4. The SPCO issues a 30-day public notice of the Commissioner's Analysis and Proposed Decision.
5. At the close of public notice the Commissioner may sign the decision and it becomes the Final Decision.
6. If there are significant changes to the Proposed Decision, the Commissioner may choose to re-notice the Analysis and Proposed Decision, but it is not required by statute.
7. The lease amendment document is signed by the lessee.
8. The lease amendment is executed by the Commissioner.
9. The SPCO records the lease amendment document in the appropriate recording district(s).

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
STATE PIPELINE COORDINATOR'S OFFICE  
411 WEST 4TH AVENUE, SUITE 2  
ANCHORAGE, ALASKA 99501  
(907) 269-6403

NOTICE OF RIGHT-OF-WAY AMENDMENT APPLICATION  
TRANS-ALASKA PIPELINE SYSTEM – ADL 63574  
FUEL GAS LINE MANUAL GATE VALVE REPLACEMENTS

Subject to the provisions of Alaska Statutes (AS) 38.35.015 and AS 38.35.070 and pursuant to the regulations promulgated thereunder, the State Pipeline Coordinator's Office hereby gives notice that Alyeska Pipeline Service Company, as agent for the Trans-Alaska Pipeline System (TAPS) lessees, submitted a request to amend the Right-Of-Way Lease for the Trans-Alaska Pipeline, ADL 63574, to add approximately 0.78 acres of land adjacent to the Dalton Highway at two locations.

The purpose of the request is to replace two existing below ground valve sets on the TAPS Fuel Gas Line (FGL), as part of TAPS Project F802. FGL Manual Gate Valves (MGV) No. 5 and No. 7 will be replaced with above ground valve sets that will be set further from the highway on new gravel pads to ensure adequate distance from the highway to prevent vehicular damage. The project will increase the long term integrity of the new pipe and valve sets. Access workpads will be constructed from the Dalton Highway to the new valve sites and vehicle gates will be installed to control access.

The lands are generally described as:

FGL MGV No. 5

Township 2 South, Range 14 East, Umiat Meridian, Alaska,  
Section 21, NW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway at milepost 342.1, containing approximately 0.24 acres, and

FGL MGV No. 7

Township 7 South, Range 14 East, Umiat Meridian, Alaska,  
Section 9, SW4, and Section 16, NW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway at milepost 311.7, containing approximately 0.54 acres.

Pursuant to AS 38.35.070(3), copies of the notice or application will be furnished, at cost, to persons requesting them.

AS 38.35.200 governs judicial review of decisions of the commissioner:

38.35.200. Judicial review of decisions of commissioner on application.

- (a) An applicant or competing applicant or a person who has direct financial interest affected by the lease who raises objections within 60 days of the publication of notice under AS 38.35.070 are the only persons with standing to seek judicial review of a decision of the commissioner under AS 38.35.100.
- (b) The only grounds for judicial review of a decision of the commissioner are
  - (1) failure to follow the procedures set out in this chapter; or
  - (2) abuse of discretion so capricious, arbitrary, or confiscatory as to constitute a denial of due process.

Any objections pursuant to AS 38.35.200 must be submitted to the State of Alaska, Department of Natural Resources, State Pipeline Coordinator's Office, via letter, email or facsimile before 5:00 p.m. on July 30, 2012:

State Pipeline Coordinator's Office  
411 West 4<sup>th</sup> Avenue, Suite 2  
Anchorage, AK 99501-2343  
Phone: (907) 269-6403 Fax: (907) 269-6880  
E-Mail: [spco.records@alaska.gov](mailto:spco.records@alaska.gov)

The State of Alaska, Department of Natural Resources, State Pipeline Coordinator's Office, complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, or special modifications to participate in this review may call 269-8411 TTY/TTD. Please provide sufficient notice in order for the Department to accommodate your needs.

The State Pipeline Coordinator's Office reserves the right to waive technical defects in this publication.

/s/ Frederick M. Thompson  
State Pipeline Coordinator

Publish May 31, 2012

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
STATE PIPELINE COORDINATOR'S OFFICE  
411 WEST 4TH AVENUE, SUITE 2  
ANCHORAGE, ALASKA 99501  
(907) 269-6403

NOTICE OF ANALYSIS OF AMENDMENT APPLICATION AND PROPOSED DECISION  
TRANS-ALASKA PIPELINE SYSTEM – ADL 63574  
FUEL GAS LINE MANUAL GATE VALVE REPLACEMENTS

In accordance with Alaska Statute (AS) 38.35.015, the State Pipeline Coordinator's Office received an application submitted by Alyeska Pipeline Service Company, agent for the Trans-Alaska Pipeline System (TAPS) lessees, to amend the Right-of-Way Lease for the Trans-Alaska Pipeline, ADL 63574. The amendment is to add approximately 0.78 acres of land adjacent to and across from the Dalton Highway to replace two existing below ground valve sets on the TAPS Fuel Gas Line (FGL) and make modifications to the Pump Station 3 Lateral Line as part of TAPS Project F802. FGL Manual Gate Valves (MGV) No. 5 and No. 7 will be replaced with above ground valve sets that will be set farther from the highway on new gravel pads to ensure adequate distance from the highway and prevent vehicular damage. The project will increase the long term integrity of the new pipe and valve sets. Access workpads will be constructed from the Dalton Highway to the new valve sites and vehicle gates will be installed to control access.

The lands are generally described as:

**FGL MGV No. 5**

Township 2 South, Range 14 East, Umiat Meridian, Alaska,  
Section 21, NW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway at milepost 342.1, containing approximately 0.24 acres, and

**FGL MGV No. 7 and Pump Station 3 Lateral Line**

Township 7 South, Range 14 East, Umiat Meridian, Alaska,  
Section 9, SW4, and Section 16, NW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway at milepost 311.7, containing approximately 0.54 acres.

Pursuant to AS 38.35.070, public notice of the application was published in the Anchorage Daily News and the Fairbanks Daily News-Miner on May 31, 2012. A copy of the application was filed with coordinate agencies.

In accordance with AS 38.35.080, the State Pipeline Coordinator has prepared an analysis of the application and Proposed Decision to approve the application. The proposed modification was determined not to be a substantial amendment of the existing lease. A copy of the Analysis of Amendment Application and Proposed Decision is available online at the State Pipeline Coordinator's website: <http://dnr.alaska.gov/commis/pco/>, or at cost by request. Any comment, objection, or expression of interest pertaining to the analysis and proposed decision must be submitted in writing to the State Pipeline Coordinator's Office by letter, e-mail or facsimile before 5:00 p.m. on July 30, 2012:

State Pipeline Coordinator's Office  
411 West 4<sup>th</sup> Avenue, Suite 2  
Anchorage, AK 99501-2343  
Phone: (907) 269-6403 Fax: (907) 269-6880  
E-Mail: [spco.records@alaska.gov](mailto:spco.records@alaska.gov)

If public comment indicates the need for significant changes in the proposed decision, then additional public notice will be given on or about August 1, 2012. If no significant change is required, then the proposed decision, including any minor changes, will be issued as the final decision of the Department of Natural Resources after July 30, 2012, without further notice.

The State of Alaska, Department of Natural Resources, State Pipeline Coordinator's Office, complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, or special modifications to participate in this review may call 269-8411 TTY/TTD. Please provide sufficient notice in order for the Department to accommodate your needs.

The State Pipeline Coordinator's Office reserves the right to waive technical defects in this publication.

/s/ Frederick M. Thompson  
State Pipeline Coordinator

Publish June 29, 2012



P.O Box 196660

ANCHORAGE, ALASKA 99519-6660

RECEIVED  
MAY 31 2012  
STATE PIPELINE  
COORDINATORS OFFICE  
TELEPHONE (907) 787-8700

May 29, 2012

APSC Letter No. 25883

Mr. Frederick M. Thompson, State Pipeline Coordinator  
Alaska Department of Natural Resources  
411 West 4th Avenue, Suite 2C  
Anchorage, AK 99501

RE: Right-of-Way Lease, ADL 63574  
Trans Alaska Pipeline System, Fuel Gas Line Milepost 74.9 & 106.12  
Gate Valves 5 & 7 Replacement and Relocation (F802)

Dear Mr. Thompson:

Alyeska Pipeline Service, on behalf of the TAPS Lessees, hereby applies to modify the land description of the referenced Lease in order to accommodate the subject work. This package follows the several discussions at recent Monthly Lands and Permits Meetings about the work which also includes one federal-land valve site.

Also enclosed are:

1. a check for \$100.00 to cover the application fee,
2. Legal Description (Attachment A) and Project Narrative,
3. Final Design (Issued for Review) binder (2 paper w/ hand-corrected typo & 1 CD),
4. Project schedule (in triplicate),
5. Grant Stipulation Compliance Matrix (in triplicate),
6. Copy of the Department of the Army permit application (to follow).

Alyeska further requests a determination of need for a Notice to Proceed for the same work in accordance with SPCO letter no. 12-086-AS dated March 13, 2012, and the issuance of a Notice to Proceed pursuant to Stipulation 1.7.1 of the referenced right-of-way if your determination is affirmative. In accordance with the request in Joint Pipeline Office letter no. 00-62-MC dated August 1, 2000, we also address this request to the Federal Authorized Officer by copy of this letter.

The Final Design (Issued for Construction) package is anticipated by mid-June. Upon completion of construction, we will submit an as-built survey of the structure for the purpose of describing the permanent right-of-way addition.



SPCO-20120601-2

APSC Letter No. 25883

5/29/2012

Page 2

And, this letter serves to request, pursuant to Stipulation 2.9.1 of the TAPS right-of-way lease, that Alyeska may conduct certain short-term, non-intrusive activities related to the work, such as dewatering and water quality monitoring, outside of the permanent and amended right-of-way limits. Such access would occur only if needed and be via foot, passenger vehicles and small, rubber-tired or tracked equipment and include the placement of hoses, and other small, portable equipment.

If you have any questions or need other information, please contact Tom Marchesani at at 787-8827 or myself at 787-8170.

Sincerely,

A handwritten signature in black ink that reads "Peter C. Nagel". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Peter C. Nagel, SR/WA  
Land and Right-of-Way

Enclosures

cc: Nolan Heath, Acting Federal Authorized Officer, BLM  
Joe Kemp DNR/JPO  
Pat Jarrett DNR/JPO  
SPCO Record Centers

ATTACHMENT A

FGL Valve no. 5

Township 2 South, Range 14 East (Umiat Meridian)

Section 21 NW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway containing approximately 0.25 acres (See attached drawing).

FGL Valve no. 7

Township 7 South, Range 14 East (Umiat Meridian)

Sections 16 NW4 and 9 SW4, lands immediately adjacent to the existing TAPS right-of-way and the Dalton Highway containing approximately 0.52 acres (See attached drawing).

## TRANS ALASKA PIPELINE SYSTEM

### Project F802 – 2012 Fuel Gas Line Manual Gate Valve Replacements

Project Narrative (May, 2012)

#### Project Purpose

Project F802 will replace three of the existing Alyeska Pipeline Service Company's fuel gas line (FGL) mainline gate valve (MGV) sets, as well as make modifications to the Pump Station 3 (PS03) Lateral line. The purpose of the project is to replace existing below ground valve sets with above ground valve sets and off-set them further from the highway to ensure adequate distance from the highway to prevent vehicular damage and the long term integrity of the new pipe and valve set being installed.

#### Location

The project sites are located immediately adjacent to the Dalton Highway a) 74.9 (MGV-5, Dalton Hwy MP 342.1), b) 106.1 (MGV-7 and PS03, Dalton Hwy MP 311.7), and c) 135.3 (MGV-9, Dalton Hwy MP 282.4) miles south of Pump Station 1 on the Trans Alaska Pipeline System.

#### Work Description

The MGV-5 and MGV-9 sites will require 2 lengths of trenching for installing the off-setting pipe and two excavation holes for stopple work. The MGV-7 and Pump Station 3 Lateral site will have three stopple excavations. The trenching will be performed by construction vehicles travelling only on tundra mats. Excavations for stopple equipment will be 30 feet long by 15 feet wide at the surface (orientation along the pipe), sloping inward to a depth of 6 feet (two for MGV-5 and MGV-9 each, and three for MGV-7 & PS03). At the Pump Station 3 Lateral, 2-inch-diameter carrier pipe inside a 6-in. casing pipe will be installed across the highway to maintain service to the pump station during the project on a temporary basis. The excavations will be typical TAPS fuel gas line excavations extending below the pipe for purposes of welding, and will remain open until recoating is completed.

Each relocated MGV will be supported by 2 vertical supports of 4" diameter, 20' long steel pipes filled with new slurry backfill. Concrete pad with steel platforms and stairs will provide personnel access for valve operations. Clean gravel materials will be used for the construction of the required access workpads. The pads will be level with the elevation of the highway which should correlate to 3 to 4 feet above the grade level of the surrounding tundra. Chain-link fencing will be moved to the new above-ground valve locations and vehicle gates will be installed to control site access.

With the exception of the existing lateral piping crossing the highway at Pump Station 3, the existing valve sets and piping being retired will be physically removed from the ground prior to ground restoration activities. At the highway crossing, the retired piping will be abandoned in-place after being purged of natural gas and capped.

Backhoes, pick-up trucks, boom-trucks/cranes, and ancillary equipment; welding skids, heaters, light plants and equipment common to Alyeska Pipeline excavations are expected to be used. Traffic control, comprising signs, flaggers, lane closures, barriers (Jersey Barricades) and other contractor designed traffic control plans, will be implemented.

#### **Environmental Considerations and Mitigation**

Adjacent to the highway and TAPS workpads, wetland plant communities predominate of the lowland tundra variety which includes mosses, lichens, herbs and low shrubs. The soils in this area consist of organic silt with some sand, gravel mixed with sand, numerous cobbles and scattered boulders.

The excavated material will be temporarily stockpiled on mats as needed to protect the natural ground surface, with the vegetation and organic soils stored separately from the gravel and silt, and then be used to backfill the excavations after the piping is installed and padding fill has been completed. The pad expansions are situated to utilize existing gravel embankments while maintaining vehicular access. When the project is complete, the disturbed areas will be restored to stable slopes approximating the original grade and drainage patterns in accordance with TAPS manual MR-48, section 23 (Erosion Control). Heavy equipment use will be confined to existing TAPS workpad, the new pad expansions and tundra mats. There is very minor loss in the area of waters of the U.S. in an area abundant in such, and no additional mitigation is planned.

#### Schedule

The field implementation is planned to begin after August 1, 2012, and be substantially complete by November 1, 2012.

## Linda Hay

---

**From:** Rena Delbridge  
**Sent:** Tuesday, February 12, 2013 1:33 PM  
**To:** Trevor Fulton; Linda Hay  
**Cc:** Rep. Mike Hawker; Tom Wright; frichards@agdc.us  
**Subject:** Responses to H RES on HB 4  
**Attachments:** H RES Responses 2013-02-12.pdf; Leg Legal on Judicial Review.pdf

Trevor, Linda:

Please see the attached document of responses to committee questions on HB 4, and an attached legal memo. I'm available if you have any questions.

Thank you for the hearing opportunity tomorrow at 3:30; we'll be ready to complete the sectional analysis and to run through these responses to the committee.

Best,  
Rena

Rena Delbridge  
Office of Rep. Hawker  
907-465-4949



# Representative Mike Hawker

## Alaska State Legislature

---

Co-Chair Saddler and Co-Chair Feige,

Included are responses to questions posed by House Resources Committee members in hearings Feb. 4 and Feb. 6 on House Bill 4, In-State Gasline Development Corp. These responses are provided in part by my office and in part by the Alaska Gasline Development Corporation (AGDC).

Additionally, my office has provided via email to the committee co-chairs copies of the 2010 Alaska Natural Gas Development Authority audit, by the Division of Legislative Audit. That document and a summary are available online at <http://www.legaudit.state.ak.us/pages/digests/2010/30054dig.htm>

Thank you,

A handwritten signature in black ink that reads "Mike Hawker".

Representative Mike Hawker

**Question:** Explain why the State Procurement Code is a problem and why AGDC should be exempt.

AGDC is already exempt from the procurement code; House Bill 369 in 2010 exempted an AHFC natural gas pipeline subsidiary. As HB 4 repositions AGDC as a stand-alone state corporation, HB 4 also moves the existing procurement code exemption from an AHFC subsidiary to AGDC. As requested by the committee, AGDC has prepared a comprehensive explanation for the need for a procurement code exemption; that explanation is attached at the end of this letter.

**Question:** Is it a violation of AGIA for a) the legislature to ask AGDC to or b) for AGDC to calculate the maximum technical capacity of the size and specification of pipe AGDC plans to use for the instate natural gas pipeline project designed to carry no more than 500 million cubic feet per day?

HB 4 sponsors have requested a Legislative Legal Services opinion on whether legislators, in making this request, could violate AGIA. The advisory opinion will be forwarded to the committee co-chair offices upon receipt, for distribution to the committee.

AGDC's legal counsel is still determining if this request could put AGDC at risk of violating AGIA.

**Question:** What would the \$400 per day board member compensation apply to; what is ‘official board business?’ What kind of work load should new board members anticipate? If AGDC’s board meets on the same day as the members also meet as ANGDA’s board, do board members get compensated for both meetings?

The \$400 per day applies to days that the board meets and other official business as required by the board; for example, attendance by a board member at some other related meeting, at the request of the board. If AGDC’s board meets twice in a day, once as AGDC’s board and once as a subsidiary corporation’s board, they receive \$400 for each meeting. This is reasonable in considering the amount of time and effort required to prepare for a board meeting, and helps maintain the separation between a subsidiary and the parent corporation.

House Bill 4 allows for compensation for “official board business”. This is identical to the allowances in Alaska Housing Finance Corporation and Alaska Industrial Development and Export Authority statutes (AS 18.56.030-AHFC, AS 44.80.050 -AIDEA). Both AIDEA and AHFC compensate board members for board meetings. Days spent outside of board meetings are not compensated when spent preparing for board meetings. Members of two related boards (AGDC and a subsidiary, such as ANGDA) receive compensation per meeting; if meetings for AGDC and for a subsidiary are on the same day, board members receive compensation for both meetings.

The sponsors intend that the compensation is for board meetings and other official, authorized board business, such as meetings a board member may be required to attend that are not board meetings. The sponsors further intend that board members receive compensation for each board meeting they attend, if serving as boards of multiple corporations; even if they meet twice in one day, once as AGDC’s board and once as a subsidiary’s board. Board compensation is to reflect the time and engagement required not only for the meeting, but for the off-hours time members must invest in preparing for meetings.

The learning curve for new board members is, as the committee suggested, likely to be high; that said, the appointment of board members with expertise in specialized, relevant areas should result in members relatively knowledgeable in the matters that will come before the board, as opposed to board members starting from scratch on complex issues. The sponsors acknowledge there will need to be, in part, a public service motivation for board members in accepting a board position.

**Question:** Provide more information comparing and contrasting AGDC and other public corporations of the state in regards to corporate authority and, specifically, applicability to the State Procurement Code; Administrative Procedure Act; State Personnel Act; Executive Budget Act; and legal counsel.

The sponsors continue working on this labor-intensive request. Initial review has compared the Alaska Railroad Corporation; Alaska Housing Finance Corporation; Alaska Permanent Fund Corporation; Alaska Student Loan Corporation; Alaska Aerospace Corporation; Alaska Industrial Development and Export Authority; and Alaska Energy Authority. Preliminarily:

- State Procurement Code: For all, at least some contracts are exempt; alternatively, some are exempt but are also required to develop procurement regulations substantially similar to the procurement code (AHFC, Aerospace, Railroad). AEA does not appear to be statutorily exempt.

- Administrative Procedures Act: AGDC would be exempt except for the Open Meetings Act under HB4. Also exempt except for the Open Meetings Act are Aerospace, AHFC, and AIDEA. The Permanent Fund and Alaska Railroad are partially exempt.
- State Personnel Act: All but AEA are exempt; AGDC would be exempt under HB4.
- Executive Budget Act: The Alaska Railroad is exempt; AGDC would be exempt under HB4. AHFC, AIDEA and ASLC are partially exempt; the operating budgets only are subject.
- Legal Counsel: Under HB4, AGDC will retain independent legal counsel. The Attorney General is by statute legal counsel for AIDEA and AHFC. Aerospace may hire legal counsel. The railroad must advise the Department of Law before initiating legal action.

House Bill 4 requires AGDC to retain legal counsel. The sponsors believe a deviation from the norm is appropriate for AGDC. The Attorney General is also legal counsel for the administration in regards to the Alaska Gasline Inducement Act and the contract between the commissioners of Natural Resources and Revenue, and licensee TransCanada.

Further, AGDC will engage with private sector partners; shippers; and financial institutions, and in doing so will require prompt, priority service from its legal counsel in order to retain a level relationship with these other entities. Subjecting AGDC to the potential for delays; sub-prioritization; and counsel dependent on state resources risks placing AGDC at a disadvantage in negotiations with these private sector entities. For these reasons, the sponsors believe it is appropriate to allow AGDC to retain its own legal counsel, other than the Attorney General.

**Question:** What constitutes ‘property’ in relation to ANGDA, AS 41.41.450?

HB4, Section 26, conforms ANGDA section 41.41.450, Property of the authority, to reflect the elimination of the term “project” from ANGDA’s definitions. With the change in HB4, ANGDA could still acquire property as described above, for the purposes of the corporation, but not for the purposes of financing a project. An example of property ANGDA may need to acquire is office space. Real property is physical land and the improvements attached to that land; personal property would be other property not attached (for example, an office is real property, and the office furniture is personal property).

ANGDA statute: Sec. 41.41.450. Property of the authority.

The authority may acquire, by purchase, lease, or gift, upon terms that it considers proper, land, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in land it considers necessary or convenient for the financing of the project or a part of the project.

House Bill 4, Section 26:

Sec. 41.41.450. Property of the authority. The authority may acquire, by purchase, lease, or gift, upon terms that it considers proper, land, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in land it considers necessary or convenient for the purposes of the corporation [THE FINANCING OF THE PROJECT OR A PART OF THE PROJECT].

**Question:** HB 4, Section 3, 31.25.230, provides for refunding obligations. How will this work? Would any excess be returned to the general fund?

In general, a reduction in the cost of the debt or the pipeline operating costs would result in a lower tariff going forward. If the tariff was based upon the cost of the original financing, a later refinancing to lower cost debt would result in refunding/repaying the original bonds and a recalculation of new tariffs going forward at a lower rate. There would likely be little to no extra revenues to go back to the general fund.

**Question:** HB 4, Section 3, 31.25.260 exempts AGDC corporate property from state and local taxes. Would this apply to AGDC's partners? Does this give AGDC an advantage over the private sector?

AS 29.45 exempts state entities from state and local taxes. AGDC would be a state entity, and thus exempt per existing statute. AGDC's subsidiary corporations would likely also be tax exempt. AGDC's partners would not derive tax-exempt status from being partners with AGDC or any AGDC subsidiary.

The sponsors do not believe AGDC's tax-exempt status confers an advantage over private sector companies. First, AGDC would not be undertaking a gas pipeline if a private sector company was doing the project; without competition, there is little case for claiming an advantage. Further, AGDC's exemption does not affect the private sector's tax burden; the private sector would need to pay taxes whether AGDC was a partner or not. Finally, if a private company owned part of the pipeline, it would be subject to property taxes; but would also be ensured the opportunity to earn a regulated rate of return that would likely be of far greater value to the company than the cost of the property tax due. To that end, the sponsors find it unlikely that the private companies would forgo the benefits of pipeline ownership simply to enjoy a reprieve from property taxes.

AS 29.45.030. Required exemptions.

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by a nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of an integrated transportation and port facility owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes

**Question:** HB 4, Section 34, exempts an AGDC-owned-or-financed project from paying state and local property taxes during construction. Can you estimate the amount of property taxes that the project would be subject to without this exemption?

AGDC has not done this calculation due to the high degree of uncertainty involved – where equipment and materials will be staged, for how long, etc. It is proposed mainly as a method for avoiding the tremendous accounting effort to track inventory and equipment movements during construction between different boroughs in the State. As such inventory and equipment is moved into a given borough, it becomes subject to property taxes in that borough, and ceases to be subject to property tax in the borough in which it was previously located.

**Question:** Provide detail on the types of information that could be held confidential under HB 4, and the types of confidentiality agreements AGDC could enter into.

HB 4 allows for certain information to be held confidential, and does not set time limits for that protection. In HB 4:

- AGDC can sign confidentiality agreements with private sector companies to protect information exchanged between the two. The information covered by these agreements will probably never be made public, as the agreements are the private sector's assurance that they may talk and negotiate freely with AGDC.
- AGDC can sign confidentiality agreements with a state entity and a third party to share information that the state is already holding confidential. As AGDC would be a 'third party' to existing confidentiality agreements or confidential information, AGDC would not disclose this information at any time (for example, taxpayer data that is protected by the state).
- AGDC can keep self-generated data and information confidential. This information includes results of field studies, technical data, and tariff models that are assets AGDC is developing for the state, using state money. While HB 4 does not restrict the confidentiality by time, this information may be of public benefit once a pipeline is operational.
- AGDC's open season negotiations are confidential, out of respect for the years of negotiations that generate first precedent agreements, then firm transportation agreements. However, HB 4 does require (as does FERC for an Alaska gas project) that certain information be released after a successful open season. After signing precedent agreements, AGDC is to release, for each successful bid, the name of the shipper; the amount of capacity contracted for, and the length of the commitments. This information is intended to assure Alaskans that, in an open season, AGDC has signed on enough credit-worthy shippers with long-term contracts that will be sufficient to support revenue bonds issued to pay for the pipeline.
- Also in HB 4, a contract carrier pipeline will need to provide precedent agreements to the Regulatory Commission of Alaska for review. While those contracts will be confidential, once the conditions on the agreements are resolved and the precedent agreements turn into firm transportation agreements (about the time of project sanction), the RCA will make the firm agreements public. However, information that, if released, could cause commercial harm, can be held confidential if the RCA agrees the information should be privileged.

The primary information AGDC would hold confidential is the information obtained from other entities through confidentiality agreements. AGDC would keep that information confidential as long as required by the confidentiality agreements; a standard provision of confidentiality agreements is that the information becomes public to the extent AGDC uses it as part of a permit application process.

**Question:** Provide a list of pros and cons of making ANGDA a subsidiary corporation of AGDC.

Realizing that AGDC may need a gas aggregator/marketing subsidiary, the sponsors have ensured that HB 4 allows AGDC to create subsidiary corporations. Under HB 4, ANGDA becomes a subsidiary of AGDC. This reduces redundancies in state efforts developing natural gas. However, the sponsors are uncertain as to whether ANGDA will be used, as AGDC has the ability to create other subsidiaries as well; and the sponsors are uncertain as to whether a new role for ANGDA is sufficient to relieve concerns that ANGDA has exceeded its statutory authority, as identified in the 2010 legislative audit.

**Question:** Why does AGDC need a marketing subsidiary? How would a marketing subsidiary work? Does there need to be a firewall between AGDC and its marketing subsidiary? If so, why, and how? Does a marketing subsidiary have an advantage over other entities that want to ship gas through an AGDC line?

AGDC may need a subsidiary corporation to aggregate gas volumes on an AGDC pipeline. If an independent, private sector aggregator/marketer is involved in the AGDC project, AGDC would not need to create a subsidiary corporation for that purpose.

A gas marketing subsidiary would have the ability to acquire and transport gas in the ASAP pipeline. They could act as an aggregator for Alaska utilities or potential smaller customers who may not have the experience or wherewithal to do this on their own. A marketing subsidiary could also transport the state's royalty gas, if the DNR commissioner chooses to sell gas to customers through an AGDC pipeline.

In creating a marketing/aggregator subsidiary, AGDC can confer its statutory authorities to the subsidiary; for example, tax exemption. However, as AGDC would not need a marketing subsidiary if a private sector aggregator/marketer participates, it is unlikely that an AGDC subsidiary would have an advantage over other entities. Further, an AGDC marketing/aggregator subsidiary would have the same relationship with AGDC as other gas shippers; this is accomplished through a 'firewall' to prevent unfair information exchange or an inadvertent advantage.

The requirement that a shipper and a carrier who are affiliates have a strict "firewall" between them so neither one can unfairly benefit ensures the pipeline does not act anti-competitively by conferring an undue advantage on its affiliate. This is a standard business practice in the corporate world, and AGDC's potential partners and customers will expect a firewall to be in place. An example would be providing the marketing affiliate access to AGDC information while denying other marketing entities access to the same information. The firewall ensures a fair and competitive process for all shippers without undue discrimination, regardless of affiliation.

**Question:** HB 4 limits judicial review of state permitting and other decisions. Does the Legislature have the authority to limit judicial review, including jurisdiction for complaints?

The sponsors encourage the committee to pose this question to the Department of Law. The sponsors have included with this response a memo from Legislative Legal Services dated April 4, 2011; the memo references language similar to the judicial review limitation in House Bill 4, and was in fact written regarding a bill that was a precursor to HB 4. The memo indicates that while the Alaska Constitution states that a court's jurisdiction will be determined by law, the Alaska courts will ultimately decide their jurisdiction and whether the court is able to grant injunctive relief.

**Question:** HB 4 creates a new set of right-of-way lease covenants for a contract carrier. What are the implications for pipelines already operating on common carrier covenants in a state right-of-way lease?

Under HB 4, other pipelines would be able to apply to the state for a right-of-way lease as a contract carrier; further, HB 4 would not prohibit existing pipelines with a state right-of-way lease from requesting an amended lease agreement with the Department of Natural Resources to reflect contract carrier principles. DNR would best be able to discuss this question, including the lease amendment process and whether DNR anticipates other, existing pipelines seeking lease amendments.

## AGDC Response to Procurement Code Exemption Question:

AGDC, as a subsidiary of AHFC, was granted exemption from the state procurement code by HB369. The primary reason for continuing relief from the State of Alaska procurement regulations for acquiring goods and services for the purpose of construction of an in-state natural gas pipeline is to expedite the contracting and purchasing process in light of the urgency to construct a viable method of transporting natural gas for the residents of the State of Alaska.

A project as large as the proposed gas line project will require an enormous effort to acquire necessary design contractors, construction contractors, temporary housing, transportation, equipment, materials, quality control, testing, and supplies to name just a few of the major components.

Given the time constraints for construction in terms of both the urgency and Alaska's limited "fair weather" construction season for certain tasks, a typical 60 to 90 day solicitation to advertise, review, and award contracts based on current procurement methods could translate to tens of millions of dollars in costs. (The cost of carrying \$8 billion dollars for three months is roughly \$50 million).

The state procurement code focuses primarily on the lowest price, while the magnitude of this project will best be served by availability or other qualities as circumstances dictate to complete the project as expediently as possible.

Relief from existing procurement regulations would reduce costs in the following ways:

1. Reduced administrative burden (time & expense) to prepare, advertise, review and award Invitations to Bid or Requests for Proposals. For instance, the procurement code mandates a public notice with a minimum 21-day advertising period, a 10-day protest period and if there is a protest a stay of award. The time and expense to ramp up/train a procurement organization large enough to exercise traditional state procurement regulations would be significant.
2. Eliminates costly delays due to simple clerical errors in solicitations that require addendums or extensions of the bidding/proposal time. Under the procurement code, if there is an error in the bid the party submitting the bid must be withdrawn. There is no allowance for corrections. This is unfortunate as even under the federal procurement process there is allowance to correct errors. A project of this magnitude will require extensive schedule preparation and analysis. Once the schedule is established, a "critical path" will be defined where any deviations from the "critical path" will result in delays along the entire path, resulting in an extended completion date.
3. Eliminates potential for bid protests that may not be germane to the project, yet have the potential to inflict significant schedule delays, or whose only purpose is to delay the contract award and project completion. Current regulations contain very generous opportunities to file bid protests that may be unrelated to the project, or may be based on minor technicalities that nonetheless must be addressed by a Contracting Officer in a time-consuming manner. Allowing time for bid protests and a statutory response time requires the attention and resources of the Contracting Officer at the expense of an expedited project completion date.
4. Reduce delays along the scheduled critical path by allowing poor performing contractors, vendors or suppliers to be quickly replaced when needed. Typically projects of this size will incorporate

some form of performance based contracting method that allows the performance of the contractors, vendors, suppliers, etc., to be evaluated, and if necessary replaced quickly in order to maintain the established schedule. A relatively minor hiccup in the project can cause a major disruption in the project completion schedule, if AGDC does not have the flexibility to replace that element as quickly as possible.

Use of contracting methods such as "Time & Materials" or "Cost-Plus", are common in the private sector and government contracting as well. They can be done with full transparency and accountability. Third party estimators and other resources can be used to verify that costs are reasonable or within a range that is acceptable. Internal controls can be put in place to monitor and audit the procurement process at all phases of the project.

The US federal government recognizes the need for an alternate contracting and purchasing process for large projects and in 1994 the Federal Acquisition Streamlining Act was placed into United States law with the goal of lowering procurement barriers.

This Act enables simplified procurement procedures where the procurement is limited, facilitate reliance of commercial off-the-shelf technology, and promotes fixed-price performance based contracting. The law alters the United States government procurement strategy from lowest bid to best value. The Federal Acquisition Reform Act of 1996 removed the traditional oversight mechanisms that had been in place for decades and paved the way for a new method of awarding federal contracts.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

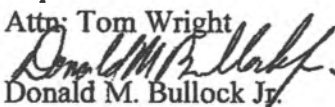
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 4, 2011

**SUBJECT:** Separation of powers between the legislature and the courts  
(CSHB 215( ); Work Order No. 27-LS0741\B)

**TO:** Representative Mike Chenault  
Attn: Tom Wright

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed is a draft CS that limits the time period in which certain claims related to a natural gas pipeline may be brought and limits the relief that may be granted by the superior court. Please read this draft carefully to ensure that it is consistent with your intent.

The repeal and reenactment of AS 38.35.200(b) would limit the jurisdiction of the superior court with regard to the injunctive relief the court may grant. There may be a separation of powers issue, although, art. IV, sec. 1, Constitution of the State of Alaska, states that the jurisdiction of the courts "shall be prescribed by law." Ultimately, the court will decide its jurisdiction when considering a complaint described in the proposed changes to AS 38.35.200(b), and whether the court is precluded from ordering injunctive relief before final judgment.

DMB:plm  
11-217.plm

Enclosure

## SS HB 4 pages 40 – 50 incorporating amendment O.9

*Existing page/line numbers of SS HB 4 are noted in margin.*

40/1 Development Corporation and to take the actions, perform the service, and conform to  
40/2 the requirements of this chapter.

40/3 (c) The proposed service, construction, and operation of an in-state natural gas  
40/4 pipeline for which the Alaska Gasline Development Corporation applies for a  
40/5 certificate under this chapter is required by present and future public convenience and  
40/6 necessity.

40/7 (d) The findings that the Alaska Gasline Development Corporation is  
40/8 financially fit in (a) of this section and managerially fit in (b) of this section and that  
40/9 an in-state natural gas pipeline is required by present or future public convenience and  
40/10 necessity in (c) of this section are conclusive and binding on the commission.

40/11 (e) The commission shall determine whether a person making application  
40/12 under this chapter is technically fit, willing, and able to take the actions, perform the  
40/13 service, and conform to the requirements in this chapter.

### 40/14 **Article 2. Powers and Duties of Regulatory Commission of Alaska.**

40/15 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

40/16 (1) regulate, under the provisions of this chapter, an in-state natural gas  
40/17 pipeline that provides transportation by way of contract carriage;

40/18 (2) require permits for the construction, enlargement in size or  
40/19 operating capacity, extension, connection and interconnection, operation, or  
40/20 abandonment of an in-state natural gas pipeline facility under the provisions of this  
40/21 chapter and subject to the same standards as certification in AS 42.08.330;

(3) to the extent necessary to perform the duties of the commission under this chapter, have access to, and may designate its employees, agents, or consultants to inspect and examine, the accounts, financial and property records, books, maps, inventories, appraisals, valuations, and related reports kept by an in-state natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by others, that directly affect the interests of the state and directly relate to in-state natural gas pipelines located in the state during normal business hours;

40/22 ~~(3)~~ (4) provide all reasonable assistance to the Department of Law in  
40/23 intervening in, offering evidence in, and participating in proceedings before an officer,  
40/24 department, board, commission, or court of another state or the United States

40/25 involving an in-state natural gas pipeline carrier or an affiliated interest and affecting  
40/26 the interests of the state.

40/27 (b) The commission may

40/28 (1) ~~approve contracts as otherwise provided in this chapter;~~

40/29 (2) ~~investigate, on complaint or its own motion, disputes related to~~

40/30 ~~rules, regulations, services, practices, and facilities that are not subject to the dispute~~

40/31 ~~resolution provisions in an in-state natural gas pipeline carrier's contracts or tariffs~~

41/1 ~~(A) that relate to an unreasonable diminution in the quantity or~~

41/2 ~~quality in the provision of service to a public utility;~~

41/3 ~~(B) that are a violation of the in-state natural gas pipeline~~

41/4 ~~carrier's tariff or contract with the public utility;~~

41/5 ~~(C) that have not been resolved by the in-state natural gas~~

41/6 ~~pipeline carrier; and~~

41/7 ~~(D) in which it clearly appears from specific facts shown by~~

41/8 ~~affidavit or by verified complaint that immediate injury, loss, or damage will~~

41/9 ~~result to the peace, health, safety, or general welfare of the public from a~~

41/10 ~~violation;~~

(1) review and approve recourse tariffs filed by an in-state natural gas pipeline carrier under this chapter;

(2) review and approve contracts;

(3) investigate on its own motion or after receiving a complaint, a dispute

(A) related to rules, regulations, services, practices, and facilities that are not subject to the dispute resolution provisions in an in-state natural gas pipeline carrier's contracts or recourse tariff;

(B) presented by a complainant that does not have a contract with the in-state natural gas pipeline carrier;

(C) related to the conduct of an in-state natural gas pipeline carrier's open season under AS 42.08.300; or

(D) related to an unreasonable diminution in quantity or quality in the provision of service to a public utility that

(i) is a violation of the in-state natural gas pipeline carrier's tariff or contract with the public utility;

(ii) has not been resolved by the in-state natural gas pipeline carrier; and

(iii) will result in immediate injury, loss, or damage to the peace, health, safety, or general welfare of the public as clearly demonstrated by specific facts shown by affidavit or verified complaint;

41/11                   (3) (4) adopt regulations that are necessary and proper to the performance  
41/12 of the duties of the commission under this chapter, including regulations governing  
41/13 practices and procedures of the commission; regulations adopted by the commission  
41/14 may not be inconsistent with state law;

41/15                   (4) (5) initiate, intervene in, and appear personally or by counsel and offer  
41/16 evidence in and participate in, proceedings before an officer, department, board,  
41/17 commission, or court of this state involving an in-state natural gas pipeline carrier and  
41/18 affecting the interests of the state; and

41/19                   (5) (6) appoint a qualified, unbiased, and impartial administrative law  
41/20 judge with experience in the general practice of law to conduct hearings under this  
41/21 chapter; the administrative law judge may perform other duties in connection with the  
41/22 administration of this chapter and other laws; an administrative law judge hired to  
41/23 conduct hearings under this chapter shall have been admitted to practice law for at  
41/24 least five years immediately before appointment under this paragraph.

41/25 ~~(c) The commission may not~~

41/26 ~~(1) require rates, rate design, or tariff rules or regulations except as~~  
41/27 ~~provided in this chapter; and~~

41/28 ~~(2) conduct further review, investigate, or order a modification of a~~  
41/29 ~~contract that is approved, considered approved, or filed under this chapter.~~

(c) Except as provided in this chapter, the commission may not

(1) require rates, rate design, or tariff rates or regulations;

(2) require an in-state natural gas pipeline carrier to make a recourse tariff filing;

(3) order a modification of a contract that is approved, considered approved, or filed under this chapter; or

(4) conduct further review or investigation of a contract that is approved, considered approved, or filed under this chapter.

41/30                   **Sec. 42.08.230. Commission decision-making procedures.** The commission  
41/31 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come

42/1 before the commission.

42/2 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**

42/3 All reports, orders, decisions, and regulations of the commission shall be in writing.  
42/4 The commission shall notify all affected operators of in-state natural gas pipeline  
42/5 facilities and interested parties of reports, orders, decisions, and regulations as they are  
42/6 issued and adopted and, when appropriate, publish them in a manner that will  
42/7 reasonably inform the public or the affected consumers of the services of an in-state  
42/8 natural gas pipeline facility. The commission may set charges for costs of printing or  
42/9 reproducing and furnishing copies of reports, orders, decisions, and regulations. The  
42/10 publication requirement, as it pertains to regulations, does not supersede the  
42/11 requirements of AS 44.62 (Administrative Procedure Act).

42/12 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The  
42/13 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)  
42/14 do not apply to adjudicatory proceedings of the commission under this chapter, except  
42/15 that final administrative determinations by the commission are subject to judicial  
42/16 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

42/17 (b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted  
42/18 by the commission.

42/19 **Sec. 42.08.260. Annual report.** The commission shall include in its annual  
42/20 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this  
42/21 chapter during the previous fiscal year. The report must address the regulation of in22  
42/22 state natural gas pipeline facilities in the state as of June 30 of each year and must  
42/23 contain details about the commission's compliance with the performance measures in  
42/24 this chapter.

42/25 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

42/26 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall  
include in its approved recourse tariff the procedures for conducting open seasons for  
uncommitted firm transportation service and for expansion. At a minimum, the in-state  
natural gas pipeline carrier shall  
42/27 publish reasonable public notice in advance of an open season. The notice shall  
42/28 contain the ~~proposed~~ approved recourse tariff, the proposed form of the precedent  
agreement,  
42/29 the proposed form of the firm transportation service agreement, and other information

42/30 sufficient to show the proposed route, capacity, operating pressures, in-service date,  
42/31 quality specifications, and other operating conditions that the pipeline carrier

43/1 determines are relevant to an evaluation of the proposed service. The notice shall also  
43/2 state the methods for awarding capacity and whether presubscription agreements have  
43/3 been executed. An in-state natural gas pipeline carrier shall provide a mechanism for  
43/4 providing additional relevant information requested by potential shippers.

43/5 (b) An open season shall be conducted and firm transportation service shall be  
43/6 awarded without undue discrimination or preference.

43/7 (c) An in-state natural gas pipeline carrier shall conduct an open season for  
43/8 firm transportation service when it has existing uncommitted firm transportation  
43/9 capacity and has received a request for firm transportation capacity from one or more  
43/10 potential shippers that meet the pipeline's creditworthiness requirements.

43/11 (d) An in-state natural gas pipeline carrier shall conduct an open season for an  
43/12 expansion of its pipeline system when it has received one or more requests for firm  
43/13 transportation service from potential shippers that meet the pipeline's creditworthiness  
43/14 requirements and that, in the aggregate, would enable the expansion of the pipeline's  
43/15 system on a commercially reasonable basis. An expansion of the pipeline system is not  
43/16 commercially reasonable if the expansion would cause the pipeline to be a competing  
43/17 natural gas pipeline project as defined in AS 43.90.440 unless the project for which a  
43/18 license is issued under AS 43.90 has been abandoned or is no longer receiving the  
43/19 inducements in AS 43.90.110(a).

43/20 (e) A natural gas pipeline carrier may enter into presubscription agreements  
43/21 before the start of an open season.

(f) An in-state natural gas pipeline carrier shall file revised recourse rates before  
conducting an open season under (c) and (d) of this section unless the in-state natural gas  
pipeline carrier filed revised recourse rates during the immediately preceding two-year  
period.

43/22 **Sec. 42.08.310. Transportation service.** (a) Firm transportation service shall  
43/23 be made available only through a presubscription agreement, a recourse tariff, or an open  
season  
43/24 conducted in accordance with AS 42.08.300.

43/25 (b) The pipeline carrier shall offer a recourse tariff for firm transportation

43/26 service. The rates included in the recourse tariff shall be determined on a cost-of  
43/27 service basis and may be levelized over the depreciation life of the pipeline. The recourse  
tariff may not preclude the pipeline carrier from  
43/28 rolled-in rates so long as the resulting rate for prior shippers does not exceed the initial  
43/29 maximum rate allowable under agreements for capacity.

43/30 (c) An in-state natural gas pipeline carrier may contract to provide firm  
43/31 transportation service on terms and conditions and for rates different than those in the  
recourse tariff.

44/1 (d) An in-state natural gas pipeline carrier shall provide interruptible  
44/2 transportation service through capacity not used for firm transportation service. An in  
44/3 state natural gas pipeline carrier shall establish means for routinely advising potential  
44/4 shippers of the availability of interruptible transportation service.

44/5 **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in  
44/6 state natural gas pipeline carrier shall submit each of its precedent agreements for firm  
44/7 transportation service and any substantial amendments to the commission. A precedent  
agreement negotiated with an  
44/8 entity that is not a public utility regulated by the commission may be filed under seal.  
44/9 Under AS 42.08.400, the commission shall keep confidential a precedent agreement  
44/10 filed under seal. Submission of precedent agreements to the commission is permissible  
44/11 before construction of an in-state natural gas pipeline and before a request for  
44/12 certification under this chapter. In this subsection, "substantial amendment" means an  
amendment that materially changes a rate or term and condition of service.

44/13 (b) In the review of a precedent agreement submitted under (a) of this section  
44/14 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

44/15 (1) conclude that a precedent agreement or related contract negotiated  
44/16 at arm's length between the parties is just and reasonable unless the commission finds  
44/17 that unlawful market activity affected the rate or unfair dealing, such as fraud or  
44/18 duress, affected the formation of the contract;

44/19 (2) review and may conduct an investigation and hearing to determine  
44/20 whether a contract submitted under (a) of this section is just and reasonable; the  
44/21 commission shall either approve the contract as presented or, if the commission finds  
44/22 that a contract is not just and reasonable, disapprove the contract; if the commission  
44/23 has not acted within 180 days after the submission of a contract, the contract shall be

44/24 considered approved and shall take effect immediately; a contract that is approved or  
44/25 considered approved under this paragraph and the associated firm transportation  
44/26 agreement are not subject to further review by the commission.

44/27 (c) For purposes of (b)(1) of this section, a precedent agreement or related  
44/28 contract is arm's length

44/29 (1) if it incorporates the recourse tariff; or

44/30 (2) if it does not incorporate the recourse tariff,

44/31 (A) precedent agreement or related contract is between two  
45/1 state-owned parties;

45/2 (B) the parties are not affiliated; or

45/3 (C) if the parties are affiliated, the precedent agreement or  
45/4 related contract is substantially similar to a precedent agreement or related  
45/5 contract between unaffiliated parties.

45/6 (d) If a precedent agreement or tract is not arm's length, the  
45/7 commission shall determine whether the precedent agreement or related contract is  
45/8 just and reasonable using the standards normally applied under AS 42.06.140. If the  
45/9 commission is reviewing a precedent agreement, ~~the natural gas pipeline carrier shall~~  
45/10 ~~provide to the commission a cost study that shall be used solely for the purpose of this~~  
45/11 ~~subsection~~ under (c)(2) of this section, the commission may consider the in-state natural  
gas pipeline carrier's approved recourse tariff, including the cost data underlying that  
tariff. When considering whether to approve a contract as just and reasonable  
45/12 under this subsection, the commission shall consider the consequences of failing to  
45/13 approve the contract.

45/14 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state  
45/15 natural gas pipeline subject to this chapter may not engage in the transportation of  
45/16 natural gas or undertake the construction of a natural gas pipeline facility for that  
45/17 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a  
45/18 certificate of public convenience and necessity by the commission authorizing contract  
45/19 carriage is in force with respect to that owner. A certificate shall describe the nature  
45/20 and extent of the authority granted, including, as appropriate for the services involved,  
45/21 a description of the authorized area and scope of operation for the in-state natural gas  
45/22 pipeline facility.

45/23 (b) Application for a certificate shall be made in writing to the commission

45/24 and verified under oath. The commission by regulation shall establish the  
45/25 requirements for the form of the application and the information to be contained in the  
45/26 application. Notice of the application shall be provided to interested parties in the  
45/27 manner provided by regulation.

45/28 (c) in 180 days after receiving an application under this chapter, a  
45/29 contract carriage certificate shall be issued to a qualified applicant, authorizing, in  
45/30 whole or in part, the operation, service, construction, or acquisition covered by the  
45/31 application, if the commission finds that the applicant is fit, willing, and able to do the  
46/1 acts, perform the proposed service, and conform to the provisions of this chapter and  
46/2 the requirements of the commission, and that the proposed service, operation,  
46/3 construction, extension, or acquisition, to the extent authorized by the certificate, is or  
46/4 will be required by the present or future public convenience and necessity. The  
46/5 application must be denied if the commission fails to find that the applicant is fit,  
46/6 willing, and able under this subsection.

46/7 (d) The commission may attach to a contract carriage certificate reasonable  
46/8 terms and conditions that are consistent with the terms of this chapter and are for the  
46/9 mutual benefit of the in-state natural gas pipeline facility and the public.

46/10 (e) Operating authority may not be transferred by sale or lease of the contract  
46/11 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline  
46/12 carrier holding a certificate without prior approval and a finding by the commission  
46/13 that the safe and efficient operation of the natural gas pipeline is not impaired by the  
46/14 transfer. The commission shall summarily approve a transfer not involving a  
46/15 substantial change in ownership.

46/16 (f) After receiving a complaint or on its own motion, the commission, after  
46/17 notice and hearing and for good cause shown, may amend, modify, suspend, or  
46/18 revoke, in whole or in part, a certificate. Good cause for amendment, modification,  
46/19 suspension, or revocation of a certificate is shown by

46/20 (1) misrepresentation of a material fact in obtaining the certificate;

46/21 (2) unauthorized discontinuance or abandonment of all or part of a  
46/22 service that is the subject of the certificate;

46/23 (3) wilful failure to comply with the provisions of this chapter or a  
46/24 regulation or order of the commission; or

46/25 (4) wilful failure to comply with a term, condition, or limitation of the

46/26 certificate.

46/27 (g) A person holding a certificate issued under this chapter may not abandon  
46/28 or permanently discontinue the use of all or a portion of an in-state natural gas pipeline  
46/29 without permission and approval by the commission, after due notice and hearing and  
46/30 a finding by the commission that continued service is not required by public  
46/31 convenience and necessity. An interested person may file a protest or memorandum of  
47/1 opposition to or in support of discontinuance or abandonment with the commission.  
47/2 The commission may order the temporary suspension of a service or part of a service.

47/3 **Sec. 42.08.340. Filing requirements; public inspection.** (a) An in-state  
47/4 natural gas pipeline carrier shall file with the commission ~~all recourse tariffs~~ a complete  
recourse tariff containing rates, rules,  
47/5 regulations, terms, and conditions pertaining to service provided under the certificate  
47/6 and copies of all contracts with shippers that in any way affect or relate to the carrier's  
47/7 rates, tariffs, charges, classifications, rules, regulations, terms, and conditions to  
47/8 service provided under the certificate. ~~The in-state natural gas pipeline carrier shall~~  
47/9 ~~maintain copies on file at its principal business office and at places designated by the~~  
47/10 ~~commission and make the copies available to, and subject to inspection by, the general~~  
47/11 ~~public on demand. Rules, regulations, terms, and conditions not included in the tariff~~  
47/12 ~~of an in-state natural gas pipeline carrier shall be included in the contract with each~~  
47/13 ~~shipper.~~

47/14 ~~(b) The terms and conditions under which an in-state natural gas pipeline~~  
47/15 ~~carrier offers its services and facilities to the public shall be governed strictly by the~~  
47/16 ~~provisions of the tariffs and filed contracts that are in effect. A change in tariff rate,~~  
47/17 ~~charge, rule, regulation, or condition of service is not effective until filed under (a) of~~  
47/18 ~~this section. If more than one tariff rate or charge may reasonably be applied for~~  
47/19 ~~billing purposes, the tariff rate or charge most advantageous to the shipper shall be~~  
47/20 ~~used.~~

(b) The terms and conditions under which an in-state natural gas pipeline carrier offers its services and facilities to the public shall be governed strictly by the provisions of its currently effective recourse tariff as supplemented and modified by contracts that have been approved by the commission. A legally filed and effective recourse tariff rate, charge, rule, regulation, or condition of service may not be changed except as provided in this chapter. The in-state natural gas pipeline carrier shall maintain copies of its recourse

tariff on file at its principal business office and at places designated by the commission and make the copies available to and subject to inspection by the general public on demand.

(c) A change in a recourse tariff rate, charge, rule, regulation, or condition of service is not effective until filed under (a) of this section. If more than one recourse tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff rate or charge most advantageous to the shipper shall be used.

(d) The commission may reject the filing of all or part of a recourse tariff that is not consistent with this chapter. A recourse tariff rate or provision so rejected is void.

(e) Initial and revised recourse tariffs shall be filed in the manner provided in AS 42.08.350.

**Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline carrier may not establish or place in effect an initial recourse tariff containing rates, charges, rules, regulations, conditions of service, or practices without providing notice to the commission and to the public at least 30 days before establishing or placing in effect the initial recourse tariff. Notice shall be filed with the commission before an open season and by making the recourse tariff provisions available for public inspection. The notice shall plainly indicate the time when the recourse tariff will go into effect and include a supporting cost model. The commission may prescribe additional requirements for the notice and the form in which the notice must be provided. The commission, for good cause shown, may allow initial recourse tariffs to take effect on less than 30 days' notice under conditions the commission prescribes by order. Submission of a precedent agreement or an associated contract is not subject to this section.

(b) The commission shall review the proposed initial recourse tariff and verify that the proposed terms and conditions of service are not unduly discriminatory. The commission also shall review the supporting cost model provided with an initial recourse tariff filing and verify, taking into consideration the expected risks, that the proposed rate of return on equity is within the range of permissible rates of return as determined by the Federal Energy Regulatory Commission in recent decisions related to the construction of natural gas pipelines, that the cost model incorporates a reasonable depreciation methodology and economic life, and that the cost model uses a reasonable capital structure. A proposed depreciation methodology, economic life, or capital structure is

reasonable if it is commonly accepted or used by the commission or the Federal Energy Regulatory Commission.

(c) Unless a recourse tariff is denied because it includes a proposed term or condition of service that is unduly discriminatory or includes a proposed rate element that does not comply with (b) of this section, the commission shall approve the initial recourse tariff. If the commission does not issue its ruling within 30 days, the initial recourse tariff filing shall be considered approved.

(d) An in-state natural gas pipeline carrier may not establish or place in effect a revised rate, charge, rule, regulation, condition of service, or practice contained in a recourse tariff before providing notice to the commission and to the public at least 90 days before taking the action. After construction of the pipeline, and any time thereafter that a carrier files for a revised recourse rate, the carrier shall file a supporting cost study. Notice shall be given by filing with the commission and keeping open for public inspection the revised recourse tariff provisions, which shall plainly indicate the changes to be made in the schedules then in force and the time when the changes will go into effect. The commission may prescribe additional means of giving notice. The commission, for good cause shown, may allow changes to take effect on shorter notice under conditions the commission prescribes by order. Submission of a precedent agreement or an associated contract is not subject to this subsection.

(e) The commission shall review the proposed revised recourse tariff and verify that a new or revised term or condition of service is not unduly discriminatory. The commission shall review the cost study supporting a revised recourse tariff filing and verify that, for the rate elements specified in (b) of this section, the carrier is using the same elements that were last approved by the commission. A proposed recourse tariff with a new or revised term or condition of service that is unduly discriminatory shall be denied. The commission also shall deny a revised tariff rate that does not use the previously approved value of the specified rate element, unless the carrier proves that the new value is just and reasonable. If the commission does not issue its ruling within 90 days, the revised recourse tariff filing shall be considered approved.

(f) A person initiating a change in an existing recourse tariff bears the burden of proving the reasonableness of the change. The in-state natural gas pipeline carrier bears the burden of proving the recourse tariff terms and conditions are not unduly discriminatory.

(g) An in-state natural gas pipeline carrier shall provide for separate rates for one or more classes of firm transportation service and for interruptible transportation service in a recourse tariff filed with the commission under (a) of this section. An in-state natural gas pipeline carrier may impose a reservation fee or similar charge for reservation of capacity in an in-state natural gas pipeline as a condition of providing firm transportation service, but may not impose a reservation fee or similar charge for reservation of capacity in an in-state natural gas pipeline for interruptible transportation service."

47/21 ~~Sec. 42.08.350~~ **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline

47/22 carrier operating under this chapter shall maintain its records and accounts in  
47/23 accordance with the uniform system of accounts for class A natural gas pipelines in 18  
47/24 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

47/25 ~~Sec. 42.08.360~~ **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by

47/26 an in-state natural gas pipeline carrier may provide for expansion unless the expansion  
47/27 would cause the pipeline to be a competing natural gas pipeline project as defined in  
47/28 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been  
47/29 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

47/30 ~~(b) A contract entered into by an in-state natural gas pipeline carrier shall~~

47/31 ~~include dispute resolution procedures.~~

(b) The recourse tariff or a contract filed by an in-state natural gas pipeline carrier may include a dispute resolution procedure. A dispute resolution procedure shall

(1) provide that notice of a dispute be given to all shippers;

(2) culminate in a process that is determined by an independent third party or panel; and

(3) permit the participation of existing shippers and creditworthy potential shippers that have previously made good faith requests for firm transportation service; a participant must satisfy the commission's standard for intervention in an adjudicatory proceeding and demonstrate that the participant has a property, financial, or other significant interest in the dispute.

48/1 ~~Sec. 42.08.370~~ **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an

48/2 in-state natural gas pipeline under this chapter shall pay to the commission a

48/3 regulatory cost charge if the pipeline for which the charge is assessed is subject to this  
48/4 chapter and the commission has taken action on the pipeline or certificate under this  
48/5 chapter during the prior fiscal year. The amount of the regulatory cost charge may not  
48/6 exceed the sum of the following percentages of gross revenue derived from operations  
48/7 in the state:

- 48/8 (1) 0.7 percent to fund the operations of the commission; and
- 48/9 (2) 0.17 percent to fund operations of the public advocacy function  
48/10 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

48/11 (b) The commission shall by regulation establish a method to determine  
48/12 annually the amount of the regulatory cost charge that will apply to a pipeline  
48/13 regulated under this chapter. If the amount the commission expects to collect under (a)  
48/14 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets  
48/15 of the commission and the Department of Law public advocacy function under AS  
48/16 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the  
48/17 percentage determined under a regulation adopted under this subsection so that the  
48/18 total amount of the fees collected approximately equals the authorized budgets of the  
48/19 commission and the Department of Law public advocacy function under AS  
48/20 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

48/21 (c) The commission shall administer the charge imposed under this section.  
48/22 The Department of Revenue shall collect and enforce the charge imposed under this  
48/23 section. The Department of Administration shall identify the amount of the operating  
48/24 budgets of the commission and the Department of Law public advocacy function  
48/25 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.  
48/26 The legislature may appropriate an amount equal to the lapsed amount to the  
48/27 commission and to the Department of Law public advocacy function under AS  
48/28 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the  
48/29 legislature does so, the commission shall reduce the total regulatory cost charge  
48/30 collected for that fiscal year by a comparable amount.

48/31 (d) The commission may adopt regulations under AS 44.62 (Administrative  
49/1 Procedure Act) necessary to administer this section, including procedures and  
49/2 requirements for reporting information and a requirement for paying the regulatory  
49/3 cost charge in quarterly payments. The Department of Revenue may adopt regulations  
49/4 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed

49/5 information and for collecting required payments.

49/6 ~~Sec. 42.08.380~~ **Sec. 42.08.390. Effect of chapter on taxes and royalties.**

Nothing in this

49/7 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180

49/8 or the calculation of a royalty due for a lease issued under AS 38.05.180.

**49/9 Article 4. Records; Investigations.**

49/10 **Sec. 42.08.400. Public records.** (a) Except as provided in (b) and (c) of this  
49/11 section or prohibited from disclosure under state or federal law, records in the  
49/12 possession of the commission are open to public inspection at reasonable times.

49/13 (b) The commission may by regulation classify records received from an in14  
49/14 state natural gas pipeline carrier or in-state natural gas pipeline as privileged records  
49/15 that are not open to the public for inspection.

49/16 (c) A record filed with the commission that is a precedent agreement between  
49/17 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record  
49/18 that is not open to the public for inspection. For a record that relates to a precedent  
49/19 agreement, or is or relates to a contract other than a precedent agreement between an  
49/20 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas  
49/21 pipeline carrier identifies the provisions of the record that contain information that, if  
49/22 disclosed, could adversely affect the competitive position of the shipper or could cause  
49/23 commercial or competitive harm or damage if disclosed and the commission agrees,  
49/24 the information shall be treated by the commission as confidential.

49/25 (d) A person may make written objection to the public disclosure of  
49/26 information contained in a record filed under this chapter or of information obtained  
49/27 by the commission or by the attorney general under this chapter, stating the grounds  
49/28 for the objection. When an objection is made, the commission shall order the  
49/29 information withheld from public disclosure if the information adversely affects the  
49/30 interest of the person making written objection and disclosure is not required in the  
49/31 interest of the public.

50/1 (e) A commissioner may certify as to all official records of the commission  
50/2 under this section and may certify as to all official acts of the commission under this  
50/3 chapter.

50/4 **Sec. 42.08.410. Investigations.** The commission may investigate any matter  
50/5 for which an investigation is authorized under this chapter. An investigation may be

50/6 public, nonpublic, or both. In conducting an investigation, the commission may  
50/7 compel the attendance and testimony of witnesses and the production of records and  
50/8 testimony before the commission or its designee. In the course of an investigation, the  
50/9 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of  
50/10 investigative testimony all persons except a person compelled to attend, that person's  
50/11 attorney, members of the commission or the commission's staff, and a person  
50/12 authorized to transcribe the proceedings.

#### **Article 5. Accounts, Records, and Reports.**

**Sec. 42.08.450. Accounts; records; triennial reports.** (a) To the extent necessary for the commission to perform the duties of the commission under this chapter,

(1) the commission may by regulation require an in-state natural gas pipeline carrier or affiliated interest engaged in activities relating to pipelines to establish and maintain as part of its system of accounts continuing property records showing, as to property that is actually being used in pipeline activity in this state, the year of placement in service, original cost, and current location, and, as to a pipeline system, accounts and records in a manner showing, on a current basis, the original cost of the system in the state and related reserves for depreciation;

(2) the in-state natural gas pipeline carrier shall

(A) keep its accounts for its pipeline facilities located in this state separate from any accounts relating to any other business, including another pipeline facilities business or a subsidiary business, in which it engages, directly or indirectly; except as the commission provides, property, expense, or revenue used in or derived from the other business may not be considered in establishing the rates and charges of the facility;

(B) keep books, accounts, papers, and records required by this chapter or by regulations adopted by the commission under this chapter in an office in this state and may not remove them from the state except upon written authority by the commission; and

(C) file a report with the commission that contains an updated<sup>1</sup> cost study and a calculation of the three-year average actual return on equity; the report shall be filed every three years after the pipeline begins operations, within 90 days after the close of the annual accounting period

for the in-state natural gas pipeline carrier, or within additional time granted by the commission upon a showing of good cause.

(b) The commission shall review the cost study described in (a)(2)(C) of this section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier is using the same elements that were last approved by the commission. If the carrier does not use the correct rate elements in its triennial report, the commission may require the carrier to recalculate and file a corrected report. If, on the date the report described in (a)(2)(C) of this section is delivered, the report reflects that the three-year average actual return on equity exceeds the approved rate of return, the carrier shall, not later than 90 days after the date the report is delivered, deposit an amount equal to the excess in a segregated operating reserve fund. The carrier shall continue to deposit the excess described in this subsection at the times described in this subsection until ' the amount in the operating reserve fund is equal to 20 percent of the most recent three-year average of the carrier's annual operating costs. The carrier may use money in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to exceed 20 percent of the most recent three-year average of the carrier's annual operating costs, the amount exceeding 20 percent must be used to reduce, on a volumetric basis, the firm transportation service rates for all shippers for the next three-year period.

50/13

**Article 5 Article 6. General Provisions.**

50/14

**Sec. 42.08.510. Designation of service agents.** An in-state natural gas pipeline

50/15

carrier shall file with the commission a written appointment of a named permanent

50/16

resident, which may be a corporation, of this state as its registered agent in this state

50/17

on whom service of all notices, regulations, and requests of the commission may be

50/18

made. The appointment shall specify the address in this state of the appointed agent.

50/19

The address may be changed from time to time by filing a new address in the state

50/20

with the commission. If an in-state natural gas pipeline carrier fails to appoint a

50/21

registered agent, service of notices, regulations, and requests may be made by posting

50/22

a copy in the main office of the commission and filing a copy in the office of the

50/23

lieutenant governor.

50/24

**Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission

50/25

under this chapter have the effect of law.

50/26

**Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in

50/27 AS 38.35.200(c), a final order of the commission under this chapter is subject to  
50/28 judicial review under AS 44.62.560 and 44.62.570.  
50/29 (b) If an appeal is not taken from a final order of the commission within 10  
50/30 calendar days after an investigation under ~~AS 42.08.220(b)(2)~~AS 42.08.220(b)(3), the  
commission may  
50/31 apply to the superior court for enforcement of the order of the commission. The court

**End of page 50**

**Bill continues as written starting on page 51.**

1. Recourse tariff plays a much bigger role
2. Recourse tariff is 'checked off on' by RCA
3. Pipeline has to put everything in the tariff; all rules, conditions, terms – "complete"
4. Dispute resolutions
5. Runaway ROE protections

Page 40, 42.08.220, General powers and duties:

Add provision giving RCA explicit access to financial, property, and other records of an instate gas pipeline carrier.

(More authority to the RCA to carry out its responsibilities under this chapter)

Page 40-41, General powers and duties:

Replace RCA "mays":

1. Allow the RCA to approve not only contracts, but to review and approve recourse tariffs as well.
2. Regarding RCA's ability to intervene in a dispute, we re-word language so it is clear the RCA may intervene in disputes that:
  - a. Relate to all matters that may come up that are not provided for in the dispute resolution provisions in the contracts and/or tariff
  - b. That are made by someone who does not have a contract
  - c. That related to the conduct of an open season
  - d. That involve a public utility and threaten the health and safety of the general public.

Page 41, General powers and duties:

Replace the RCA "may nots"

Previously, the RCA may not

1. Require rates or rules except as provided in this chapter and
2. Conduct further review of contracts approved under this chapter

Now, the RCA may not:

1. Require certain rates or tariffs (the carrier must file recourse rates/tariff)
2. Require the carrier to make a recourse tariff filing (the carrier is now obligated to do so under this chapter, initially, at start of operations, in advance of open seasons for expanded capacity, and every two years)

3. Modify approved contracts
4. Conduct further review

Page 42, 42.08.300 Open Season:

Add requirement that the recourse tariff must include the carrier's process for conducting open seasons. Changes a requirement that an open season notice must contain a 'proposed' recourse tariff, so that now the carrier must include the 'approved' recourse tariff.

Page 42, 42.08.300, Open season:

Adds requirement that in advance of an open season, the carrier must file revised recourse rates (unless the carrier has a current tariff on file, defined as filed within the last two years)

Page 43, 42.08.310, Transportation service

Adds that firm transportation service can be awarded only through a presubscription agreement or an open season – adding, and through a recourse tariff

Allows (but does not require) that rates may be levelized over the depreciable life of the pipeline.

Page 43, 42.08.320, Review of certain contracts

1. Requires RCA review not only of <sup>precedent</sup> agreements, but of any substantial amendments; defines substantial amendments (same standard of review used)
2. Page 45; if contracts are not at arm's length and trigger the deeper level of RCA review, the RCA can use the recourse tariff and the cost study supporting the recourse tariff to decide whether the contract can meet the just and reasonable standard.

*post open season  
but pre-sanctioning*

Page 47, 42.08.340 Filing requirements; public inspection

1. Previously, the carrier had to file 'all recourse tariffs' – this has been tightened so that the carrier must provide a complete (entire) recourse tariff that includes all rate schedules.
2. Says that 'approved' recourse tariff is THE definitive tariff by which the pipeline is to operate
3. The public has to have access to the recourse tariff

\* Adds a new 42.08.350, Initial or revised rates, section

1. An initial recourse tariff isn't valid unless the RCA and public have had notice
2. Recourse tariff must be accompanied by a supporting costs model
3. RCA must review the proposed initial tariff and verify that the terms and conditions are not unduly discriminatory
4. RCA must also review the accompanying cost model and verify certain things, while weighing in the project risks:
  - a. Proposed ROE is within a reasonable range of recent FERC decisions
  - b. Cost model uses a reasonable depreciation methodology and economic life

*retain  
on equity*

- c. Cost model uses a reasonable capital structure
- d. 'Reasonable' means commonly accepted by RCA or FERC
- e. RCA can deny a recourse tariff as unduly discriminatory, or as failing to include 'reasonable' elements as noted above
- f. RCA has 30 days to rule on a proposed initial recourse tariff
- g. Recourse revisions/amendments/updates require 90 days notice to RCA and public; all updated recourse tariffs must include a current cost study
- h. RCA is to review all revised tariffs for undue discrimination and that the rate elements (capital structure, depreciation, ROR) are as the RCA previously approved; if it varies, it is the carrier's obligation to prove the new value is just and reasonable
- i. Carrier will offer separate rates for one or more classes of firm service and for interruptible service, all in the recourse tariff
- j. A carrier can also impose a reservation fee for firm service, but not for interruptible service

Page 47, 42.08.360, Expansion; dispute resolution

- 1. Formerly, required a DRP be included in contracts.
- 2. Now, allows dispute resolution method be included in recourse tariff. Such a procedure MUST:
  - a. Give notice to all shippers
  - b. Include an independent third party as ultimate 'decider'
  - c. Allow other shippers and creditworthy potential shippers to participate

\* Page 50, new material – new 42.08.XXX Accounts; records; triennial reports

- 1. RCA can require property records by the carrier
- 2. Carrier must keep accounts in an Alaska facility, separate from other business interests
- 3. Carrier must, after operations start, file a report every 3 years with an updated cost study (actual costs); must also calculate the three-year average actual return on equity.
- 4. The RCA must review the cost study and verify, for certain elements, that those elements are as the RCA previously approved.
  - a. If the three year average actual return on equity exceeds the approved rate of return, the carrier has to put the excess in a separate, special, operating reserves fund. The pipeline has to keep putting excess in the fund until there is an amount equal to 20% of the carrier's average annual operating costs. The carrier can draw on this money as needed for operations, IF there is a shortage in a future triennial report.
  - b. Once there is 20% of average operating costs in the fund, the carrier, if there is excess ROE, the excess has to reduce the tariff on the transportation rates for ALL shippers over the next three years, by volume.

## House Resources Committee: HB 4 \O Amendments

(All are sponsor blank at this time)

### **Amendment XX: RCA**

This amendment is being drafted by Leg Legal; the sponsors hope to have it by Thursday morning.

The amendment will replace all of Section 33 ( page 39-51, creating the new regulatory chapter 42.08 for a contract carrier gas pipeline) with a revised version that, among other things, requires an applicant to file a complete initial recourse tariff and the supporting cost study; requires RCA approval of the recourse tariff; requires regular tariff updates; prohibits unreasonable profits by a pipeline carrier; expands the dispute resolution process to ensure all affected parties have opportunity to participate to protect their interests; and directs non-contractual disputes or complaints to the RCA.

### **Amendment O.3: Housekeeping**

Attached.

This amendment corrects drafting errors. It rewords the title to eliminate uncertainty as to whether AGDC is to become a stand-alone state corporation. This amendment changes the directive of state agencies to make information available to AGDC from "may" to "shall". This amendment deletes the ability for AGDC to participate in international borrowing; this is not a necessary ability.

### **Amendment O.4: Royalty gas**

Attached.

Governor Parnell and his administration have conveyed concerns that the two references to the state's royalty gas in HB 4 could be construed as obligating the state's royalty gas and, in doing so, potentially taking away the DNR commissioner's ability to manage the state's royalty gas. The sponsors acknowledge this concern, while stating that legislative and AGDC attorneys do not concur. However, in respect to the DNR commissioner's statutory authority to manage the state's royalty resources in conjunction with the royalty board, the sponsors are willing to remove all references to royalty gas. Specifically, this amendment deletes intent language in section 1 related to royalty gas; and deletes the ability for an AGDC marketing subsidiary (with the DNR commissioner) to commit state royalty gas to contracts for shipment through an AGDC pipeline.

### **Amendment O.5: RCA time to issue approval**

Attached.

HB 4 requires AGDC to obtain a CPCN (Certificate of Public Convenience and Necessity) from the RCA before building a pipeline. HB 4 requires the RCA to act on an application within 180 days. As discussed in committee, the bill does not 'default' to automatic approval if the RCA fails to approve within that timeframe.

This amendment defaults to automatic approval if the RCA fails to act on a CPCN application within the 180 day timeframe, including extensions that are permitted if requests for supporting information are not forthcoming from the applicant.

*Johnson  
will offer*

**Amendment O.2: ANGDA**

Attached.

HB 4 adapts ANGDA to serve as marketing subsidiary of AGDC, if AGDC decides a marketing subsidiary is required. As discussed in committee, AGDC does not require ANGDA; ANGDA no longer exists for all intents and purposes (no board, funding, staff, offices; all assets, files have been either returned to others per contracts or turned over to the State Pipeline Coordinator's Office).

This amendment repeals ANGDA in its entirety, and makes (extensive) conforming changes.

*Seaton  
Concern*

**Amendment O.6: Confidentiality**

Attached.

This amendment requires that once a pipeline is operational, AGDC must release information held confidentiality provided that the release of the information 1) doesn't adversely affect the economic interests of the state and 2) is not covered by confidentiality agreements with third parties.

## Linda Hay

---

**From:** Trevor Fulton  
**Sent:** Friday, March 01, 2013 12:13 PM  
**To:** Anna Latham; Cecile Elliott; Chere Klein; Erin Shine; George Ascott; Joseph Caissie; Linda Hay; Louie Flora; Rep. Chris Tuck; Rep. Craig Johnson; Rep. Dan Saddler; Rep. Eric Feige; Rep. Geran Tarr; Rep. Kurt Olson; Rep. Mike Hawker; Rep. Paul Seaton; Rep. Peggy Wilson  
**Cc:** Rena Delbridge; Tom Wright; Darrell Breese; Crystaline Jones; Julie Koehler; Ken Erickson; LIO Juneau; 'Brakes, Heather K (GOV)'; 'Brandon Maitlen'; 'Brandy Cote'; 'Egan, Alicia R (DOR)'; 'Esther Cha Temple ([esther.tempel@alaska.gov](mailto:esther.tempel@alaska.gov))'; 'Marit Carlson-Van Dort ([marit.carlson-van.dort@alaska.gov](mailto:marit.carlson-van.dort@alaska.gov))'; 'Mulligan, Ben (DFG)'; 'Paulyn Swanson ([paulyn.swanson@alaska.gov](mailto:paulyn.swanson@alaska.gov))'  
**Subject:** House Resources 3/1/2013, part iv  
**Attachments:** HB04 Amendment O.9 Incorporated.pdf; HB04 Amendments O.1-6&10.pdf

All,

Attached are two additional documents for today's hearing on HB 4:

- a document showing what Amendment O.9 (RCA) would look like incorporated into the bill;
- several additional amendments that will likely be introduced on Monday but that may, time allowing, be introduced this afternoon.

The plan for today is to begin with Amendment O.9 and then introduce some or all of the additional amendments as time allows.

Trevor

---

**From:** Trevor Fulton  
**Sent:** Friday, March 01, 2013 9:53 AM  
**To:** Anna Latham; Cecile Elliott; Chere Klein; Erin Shine; George Ascott; Joseph Caissie; Linda Hay; Louie Flora; Rep. Chris Tuck; Rep. Craig Johnson; Rep. Dan Saddler; Rep. Eric Feige; Rep. Geran Tarr; Rep. Kurt Olson; Rep. Mike Hawker; Rep. Paul Seaton; Rep. Peggy Wilson  
**Cc:** Rena Delbridge; Tom Wright; Darrell Breese; Crystaline Jones; Julie Koehler; Ken Erickson; LIO Juneau; 'Brakes, Heather K (GOV)'; 'Brandon Maitlen'; 'Brandy Cote'; 'Egan, Alicia R (DOR)'; 'Esther Cha Temple ([esther.tempel@alaska.gov](mailto:esther.tempel@alaska.gov))'; 'Marit Carlson-Van Dort ([marit.carlson-van.dort@alaska.gov](mailto:marit.carlson-van.dort@alaska.gov))'; 'Mulligan, Ben (DFG)'; 'Paulyn Swanson ([paulyn.swanson@alaska.gov](mailto:paulyn.swanson@alaska.gov))'  
**Subject:** House Resources 3/1/2013, part iii

All,

Attached is a copy of the PowerPoint presentation for today's HRES hearing on HB 4.

Trevor

---

**From:** Trevor Fulton  
**Sent:** Thursday, February 28, 2013 1:57 PM  
**To:** Anna Latham; Cecile Elliott; Chere Klein; Erin Shine; George Ascott; Joseph Caissie; Linda Hay; Louie Flora; Rep. Chris Tuck; Rep. Craig Johnson; Rep. Dan Saddler; Rep. Eric Feige; Rep. Geran Tarr; Rep. Kurt Olson; Rep. Mike Hawker; Rep. Paul Seaton; Rep. Peggy Wilson  
**Cc:** Rena Delbridge; Tom Wright; Darrell Breese; Crystaline Jones; Julie Koehler; Ken Erickson; LIO Juneau; Brakes, Heather K (GOV); Brandon Maitlen; Brandy Cote; Egan, Alicia R (DOR); Esther Cha Temple ([esther.tempel@alaska.gov](mailto:esther.tempel@alaska.gov)); Marit Carlson-Van Dort ([marit.carlson-van.dort@alaska.gov](mailto:marit.carlson-van.dort@alaska.gov)); Mulligan, Ben (DFG); Paulyn Swanson ([paulyn.swanson@alaska.gov](mailto:paulyn.swanson@alaska.gov))  
**Subject:** House Resources 3/1/2013, part ii

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: SSHB 4

BY REPRESENTATIVE SADDLER

- 1 Page 6, line 25, following "construction.":
- 2       Insert "The procurement procedures must provide for an Alaska veterans' preference
- 3 that is consistent with the Alaska veterans' preference in AS 36.30.175."

**AMENDMENT**

BY REP. JOHNSON

OFFERED IN THE HOUSE

TO: SSHB 4

1 Page 2, lines 7 - 8:

2 Delete "relating to the Alaska Natural Gas Development Authority; relating to  
3 the procurement of certain services by the Alaska Natural Gas Development Authority;"  
4

5 Page 2, line 10, following "operations;":

6 Insert "repealing the establishment of the Alaska Natural Gas Development  
7 Authority and making conforming changes;"  
8

9 Page 25, line 12:

10 Delete "new paragraphs"

11 Insert "a new paragraph"

12

13 Page 25, lines 13 - 14:

14 Delete all material.  
15

16

16 Renumber the following paragraph accordingly.  
17

17

18 Page 35, line 3, through page 38, line 9:

19 Delete all material.  
20

20

21 Renumber the following bill sections accordingly.  
22

22

23 Page 52, lines 6 - 7:

1 Delete "AS 41.41.030, 41.41.040, 41.41.050, 41.41.080, 41.41.100, and 41.41.990(4)"

2 Insert "AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020,  
3 41.41.030, 41.41.040, 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100,  
4 41.41.110, 41.41.120, 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310,  
5 41.41.320, 41.41.330, 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390,  
6 41.41.400, 41.41.410, 41.41.450, 41.41.500, 41.41.900, and 41.41.990"

7

8 Page 52, line 8:

9 Delete all material and insert:

10 "\* Sec. 24. Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed."

AMENDMENT

BY REP. HAWKER

OFFERED IN THE HOUSE

TO: SSHB 4

- 1 Page 1, line 1:
- 2 Delete "making"
- 3 Insert "establishing"
- 4
- 5 Page 1, lines 2 - 3:
- 6 Delete ", a subsidiary of the Alaska Housing Finance Corporation,"
- 7 Insert "as"
- 8
- 9 Page 10, line 11:
- 10 Delete "may"
- 11 Insert "shall"
- 12
- 13 Page 12, line 22, through page 13, line 4:
- 14 Delete all material.

AMENDMENT

BY REP. HAWKER

OFFERED IN THE HOUSE

TO: SSHB 4

1 Page 1, lines 7 - 8:

2 Delete "relating to the price of the state's royalty gas for certain contracts;"

3

4 Page 2, lines 20 - 23:

5 Delete "it is the policy of the state to make the state's share of royalty natural gas  
6 available for shipment in an in-state natural gas pipeline developed by the Alaska Gasline  
7 Development Corporation;

8 (4)"

9

10 Page 13, lines 5 - 6:

11 Delete "; sale of natural gas by a subsidiary"

12

13 Page 13, line 6:

14 Delete "(a)"

15

16 Page 13, lines 20 - 26:

17 Delete all material.

AMENDMENT

BT REP. HAWKER

OFFERED IN THE HOUSE

TO: SSB 4

1 Page 45, line 28, through page 46, line 6:

2 Delete all material and insert:

3 "(c) Within 180 days after receiving an application under this chapter, the  
4 commission shall issue a contract carriage certificate authorizing, in whole or in part,  
5 the operation, service, construction, or acquisition covered by the application to a  
6 qualified applicant if the commission finds that the applicant is fit, willing, and able to  
7 do the acts, perform the proposed service, and conform to the provisions of this  
8 chapter and the requirements of the commission, and that the proposed service,  
9 operation, construction, extension, or acquisition, to the extent authorized by the  
10 certificate, is or will be required by the present or future public convenience and  
11 necessity. The commission may, by order, extend the 180-day period for considering  
12 an application by the duration of a delay caused by the failure of the applicant to  
13 provide additional information reasonably required by the commission. If, within the  
14 180-day period and any extension of the period for considering the application, the  
15 commission fails to issue a contract carriage certificate and does not make a finding  
16 that the applicant is not fit, willing, and able under this subsection, the application  
17 shall be considered approved and the contract carriage certificate shall take effect  
18 immediately."

AMENDMENT

BY REP. HAWKER

OFFERED IN THE HOUSE

TO: SSHB 4

1 Page 12, line 13, following "pipeline.":

2 Insert "On the date that the in-state natural gas pipeline project becomes operational,  
3 the corporation shall make available to the public information that would otherwise be exempt  
4 from public disclosure under this subsection or (g) of this section, unless the corporation  
5 determines that

6 (1) maintaining the confidentiality of the information is necessary to  
7 protect the economic interests of the corporation or the state; or

8 (2) disclosure of the information will violate the terms of a  
9 confidentiality agreement or other agreement to which the corporation is a party or  
10 that is binding on the corporation."

**AMENDMENT**

**OFFERED IN THE HOUSE  
TO: SSHB 4**

**BY REPRESENTATIVE FEIGE**

1 **Page 9, following line 25:**

2 **Insert a new subsection to read:**

3 **"(b) Upon commencement of construction of an in-state natural gas pipeline,**  
4 **the corporation shall analyze potential natural gas pipelines connecting to industrial,**  
5 **residential, or utility customers in other regions of the state. If the corporation finds**  
6 **that a natural gas pipeline analyzed under this subsection is in the best interest of the**  
7 **state and can meet the needs of industrial, residential, or utility customers at**  
8 **commercially reasonable rates, the corporation shall finance, construct, or operate the**  
9 **natural gas pipeline as necessary. When developing or constructing a connecting line,**  
10 **the corporation shall, to the maximum extent feasible, use existing land, structures,**  
11 **real or personal property, rights-of-way, easements, or other interests in land acquired**  
12 **by the corporation."**

13

14 **Reletter the following subsections accordingly.**

# An Alaska Natural Gas Future *for Alaskans*

House Bill 4: In-State Gasline Development Corp.  
Rep. Mike Hawker and Speaker Mike Chenault

*Section 33 Amendment Presentation to House Resources Committee, March 1, 2013*

# Alaska Gas for Alaskans

---

## Resolves regulatory uncertainties

- Regulatory uncertainties add risk, which adds costs and can deter private sector participation. AGDC needs to know how a pipeline will be regulated before soliciting private sector partners

## House Bill 4:

- Allows natural gas pipelines to operate as contract carriers through changes to the Right-of-Way Leasing Act and through Regulatory Commission of Alaska oversight
- Reinforces state policy that pipelines should be fair; offer reasonable access to new/future shippers; and encourage future development of Alaska's oil and gas resources

# Alaska Gas for Alaskans

---

## Why a contract carrier?

- Shippers need to know that the space they are 'reserving' by signing long-term commitments will be available
- Those firm, uninterruptible contracts are the way gas pipelines are financed
- The future income promised through those contracts secures revenue bonds
- House Bill 4 establishes contract carrier status while providing for expansions in the future

# Alaska Gas for Alaskans

---

## Definitions

*(Not official definitions ... but practically speaking)*

**Tariff:** A package of the rates and the terms and conditions that a pipeline offers. Rates may be a 'schedule' of rates distinguishing different classes of service.

**Recourse tariff:** A tariff that is kept on file as the pipeline's official 'offering'. The recourse rate is available to customers who do not negotiate rates with the pipeline.

**Just and reasonable:** A concept; generally, just is fair to all, reasonable is within a range of acceptableness.

# Alaska Gas for Alaskans

---

## Refresher: The Process

Pipeline puts together a project

Before taking that project to the market to sign up customers, pipeline has to develop its rates and terms/conditions of service = the tariff

Pipeline has to file the tariff as a 'recourse tariff' with the RCA before holding an open season to sign up customers

Recourse tariff is the sticker price; customers can negotiate final price

Supported by a full cost study

Amended, HB 4 would require RCA pre-approval of recourse tariff before an open season

# Alaska Gas for Alaskans

---

## Refresher: The Process

With an approved recourse tariff, the pipeline holds an open season  
Pipeline negotiates rates with potential customers: price, volume,  
where the gas comes into the line, where the gas leaves the line, etc.

Once a deal is reached, the pipeline signs up customers with a  
'precedent agreement'

May include conditions the pipeline has to meet over the next couple  
years

If the conditions are met, the precedent agreement eventually becomes  
a firm transportation agreement

# Alaska Gas for Alaskans

---

## Refresher: The Process

Negotiated contracts in an open season is one of several ways a customer can sign up for pipeline service

A customer could simply sign up using the recourse rate (instead of negotiating)

Or, the pipeline and a customer could make a 'presubscription agreement' before the open season starts – but only using the same terms/conditions everyone else will get, and subject to the same standard of review as all the open season contracts

# Alaska Gas for Alaskans

---

## Refresher: The Process

After the open season, the pipeline keeps working on design, permitting, engineering, commercial structures

And, the pipeline turns all those precedent agreements in to the RCA

RCA needs to decide whether those agreements are 'just and reasonable'

These contracts, once approved, cannot be changed by anyone, including the RCA (unless the contract allows for the contracting parties to make changes)

Disputes about the contract terms, if they arise, get handled through a dispute resolution method that is spelled out in the recourse tariff

# Alaska Gas for Alaskans

---

## Refresher: The Process

### Just and Reasonable – What does it mean?

Just and reasonable is a standard – in this case, a contract must meet this standard

Just: Everyone is treated fairly and in a reasonable way

Reasonable: Not too much, not too little: within an acceptable range and defensible

How do we know?

Was the contract made at arm's length?

Arm's length is a legal principle pulled from contract law. An agreement is arm's length if it was made by independent parties, on equal footing; if parties are connected by 'shared interests', an arm's length agreement that stands up to scrutiny is important.

# Alaska Gas for Alaskans

---

## Meeting the Arm's Length Standard

Start with the contract. Does it include the recourse rate offered to everybody?

**YES:** Contract is at arm's length and acceptable.

**NO:** Next step: Was the contract made between two state entities?

**YES:** Contract is at arm's length and acceptable.

**NO:** Next step. Is the contract between two unaffiliated parties?

**YES:** Contract is at arm's length and acceptable.

**NO:** Parties are affiliated. Next step: Is the contract 'substantially similar' to one made between unaffiliated parties?

**YES:** Contract is at arm's length and acceptable.

**NO:** Next step. Triggers deeper review by the RCA to determine 'just and reasonable' by new standards, using all cost data, digging into the details – BUT, the RCA must also consider the consequences of failing to approve the contract at hand.

# Alaska Gas for Alaskans

---

## Refresher: The Process

Once construction ends, the pipeline will know a lot more detail about costs

At that point, the pipeline has to go back to the RCA with that 'actual' information, and update the old 'recourse tariff' that was based on estimates (HB 4 amended)

The pipeline also has to update the recourse tariff in the future, whenever the pipeline plans an open season to expand the pipeline or to ask for customers for capacity if extra space becomes available (HB 4 amended)

## Alaska Gas for Alaskans

---

### Amendment:

1. Significantly increases the RCA's role in resolving disputes, offering better accountability to potential shippers; the public; and interested parties
2. Ensures that all parties with shipping contracts and potential shippers have an opportunity to participate in disputes not directly involving them
3. Protects against the potential of 'runaway' rates of return, making the pipeline more accountable to customers and ratepayers
4. Amplifies the role of the recourse tariff by adding substantial RCA review, creating a more accountable, open and fair process for shippers, future shippers, related customers, and ratepayers

# Alaska Gas for Alaskans

---

## Amendment: Disputes

1. Contracts between shippers and a pipeline can include a dispute resolution method
2. If so, the method must be included in the pipeline's recourse tariff (terms and conditions of service)
3. A dispute resolution method must:
  - Notify all shippers of a dispute
  - Result in a process determined by an independent third party/panel
  - Allow existing shippers and creditworthy potential shippers to participate
    - Participants must meet the RCA's standards for intervention

# Alaska Gas for Alaskans

---

Amendment: Dispute resolution, con't.

When can the RCA step in?

1. Disputes related to things that are not subject to contractual dispute resolution methods (catch-all)
2. Complaints brought by someone who doesn't have a contract with the pipeline
3. Complaints about the way an open season is conducted
4. Disputes that cannot otherwise be resolved that involve a public utility and would result in an immediate threat to the public health and safety

# Alaska Gas for Alaskans

---

## Amendment: Excessive rates of return protection

\* Excessive rates of return are *not* anticipated, however:

Every three years the carrier has to submit a detailed cost study to the RCA

- Actual, current costs, within 90 days of the close of the pipeline's annual accounting period
- Report has to include a calculation of the three-year average actual return on equity

## Alaska Gas for Alaskans

---

### Amendment: Excessive rates of return protection, con't.

- The RCA must review the cost study and verify if the rate element 'actuals' are the same as the RCA previously approved
- If the elements do not match, the RCA requires a corrected report
- If there is more profit than allowed per the approved rate of return, the excess has to go into a segregated operating reserve fund
- The pipeline has to keep putting excess into the fund, until the fund hits 20% of the annual average operating costs of the pipeline
- Once the fund is full – 20% - the pipeline uses any remaining excess to reduce the firm service rates for all shippers in the next 3-year period
- The pipeline can draw on these reserves in three-year periods in the future when operating costs are high and result in a shortage of rate of return

# Alaska Gas for Alaskans

---

## Amendment: Recourse tariff

Previously, required the pipeline to file a recourse tariff in advance of an open season; an open-to-all-comers sticker price

Now, RCA must use a pipeline's cost study to review and approve a recourse tariff

Heightened scrutiny

Standard of review: not unduly discriminatory (fair)

The recourse tariff must include the procedure for conducting open seasons

---

# Alaska Gas for Alaskans

---

Amendment: Recourse tariff, con't.

When does a recourse tariff come into play?

1. Before the first open season for a new pipeline
2. After construction, when costs are about 95% known
3. In advance of any open season for new capacity or pipeline expansions

Why?

- Sticker price
- Terms that anyone has the option of using to get in on the pipeline, whether they choose to negotiate or not
- Everyone has had the opportunity to get in on the pipeline on the same terms (although rates in the recourse tariff may vary per shipper category)
- Commonly used for short-term interruptible capacity, when available

## Alaska Gas for Alaskans

---

Amendment: Recourse tariff, con't.

Review process:

RCA must review and approve initial recourse tariff, and any substantial amendments

1. Terms and conditions may not be 'unduly discriminatory'
2. Rates need to be supported by an accompanying cost study

RCA looks at rates and, weighing the risks of the particular pipeline, looks at:

1. Is the proposed rate of return within a reasonable range per recent FERC decisions?
2. Does the cost model incorporate a reasonable depreciation method and economic life?
3. Does the cost model use a reasonable capital structure?

RCA can deny recourse tariff; RCA must rule on a recourse tariff within 30 days

# Alaska Gas for Alaskans

---

Amendment: Recourse tariff, con't.

What is “reasonable?”

These elements are reasonable if they are “commonly accepted or used by the commission or the Federal Energy Regulatory Commission”

## Alaska Gas for Alaskans

---

### Amendment: Recourse tariff, con't.

- Same review process, standards, apply for recourse tariff revisions in the future
- Rate elements previously ruled 'reasonable' now have to match what the RCA initially allowed
- RCA shall deny recourse tariff revisions if terms/conditions are unduly discriminatory
- RCA shall deny recourse tariffs if they do not include the previously approved rate element values, unless the pipeline can prove the new element is just and reasonable
- For recourse tariff revisions, the RCA has 90 days to act

# Alaska Gas for Alaskans

---

## Amendment: Overall

1. Because the amendment creates a significant review and approval process for the recourse tariff, the recourse tariff becomes more important
2. So, the amendment has some pieces where the recourse tariff plays a greater role; for example, the tariff must include procedures for holding an open season, and the recourse tariff will be the 'official' record of the pipeline's offering (rates, terms/conditions)
3. Also, some housekeeping: giving the RCA greater latitude (similar to other regulatory chapters) to investigate; to access pipeline accounts, financials and records;
4. And, as we've directed the RCA to clearly 'do' some things in relation to the recourse tariff, we go back into the 'General Powers and Duties' to be clear on the boundaries of the RCA's powers

Thank you

---

## House Bill 4: In-state Gasline Development Corp.

Sponsors:  
Rep. Mike Hawker & Speaker Mike Chenault

Contact: Rena Delbridge, Staff to Rep. Hawker  
(907) 465-4949 – [Rena.Delbridge@akleg.gov](mailto:Rena.Delbridge@akleg.gov)

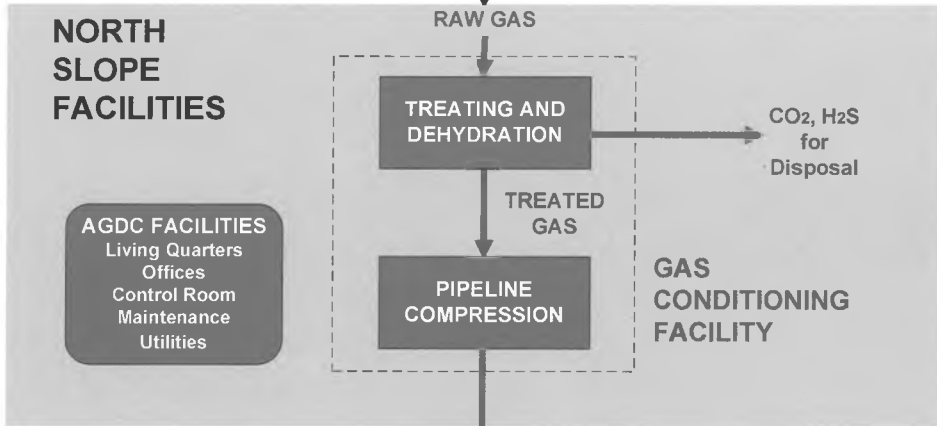
# Expansion Scenario per AGIA: 100 MMSCFD Added in Nenana Basin

**Base Case  
Anchorage Tariff  
500 MMSCFD**

**Expansion Case  
Allowed per AGIA  
Anchorage Tariff  
Base +100 MMSCFD**

**Tariff :  
\$2.00 - \$2.75**

**Post Expansion  
Tariff on Original  
Gas :  
\$2.00 - \$2.75**



**Tariff :  
\$2.25- \$3.00**

**Post Expansion  
Tariff on Original  
Gas :  
\$2.25- \$3.00**

**PIPELINE  
NORTHERN  
SECTION**

**Potential Expansion  
South of 68<sup>th</sup> Parallel  
As Allowed Under  
AGIA**



**Tariff on New  
Gas GCF:  
\$0.50 - \$0.80**

**Tariff :  
\$1.50 - \$2.25**

**Tariff  
Original Gas &  
New Gas :  
\$1.10 - \$1.85**

**PIPELINE  
SOUTHERN  
SECTION**



**Post Expansion  
Total Tariff  
Original Gas :  
\$5.35- \$7.60  
(Base Case)  
New Gas :  
\$1.60 - \$2.65  
(+100 MMSCF  
above base)**

**Total Tariff  
Original Gas :  
\$5.75 - \$8.00  
(Base case)**

- Included in Big Lake Gas Tariff Only
- Included in both Big Lake Gas Tariff and Expansion Gas Tariff
- Included in Expansion Gas Tariff Only

NOTICE – AGDC MAKES NO REPRESENTATION OR WARRANTY REGARDING THE TRUTH OR ACCURACY OF THE INFORMATION CONTAINED IN THIS DOCUMENT EXCEPT AS MAY BE EXPRESSLY STATED WITHIN THIS DOCUMENT. ANY PERSON USING OR RELYING ON THIS INFORMATION DOES SO AT SUCH PERSON'S OWN RISK AND BASED UPON SUCH PERSON'S OWN INVESTIGATION, AND NO LIABILITY SHALL ARISE AGAINST AGDC AS A CONSEQUENCE THEREOF. © 2013 AGDC. All rights reserved.

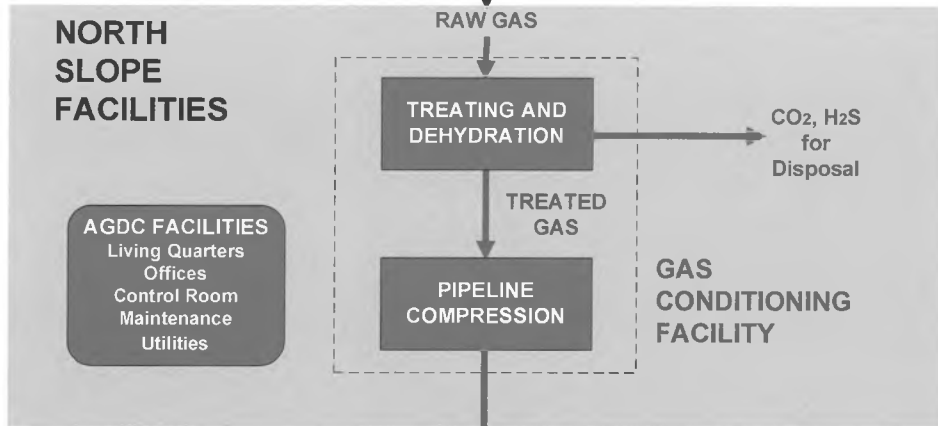
**Expansion Scenario per AGIA:  
500 MMSCFD Added  
in Nenana Basin**

**Base Case  
Anchorage Tariff  
500 MMSCFD**

**Expansion Case  
Allowed per AGIA  
Anchorage Tariff  
Base +500 MMSCFD**

**Tariff :  
\$2.00 - \$2.75**

**Post Expansion  
Tariff on Original  
Gas :  
\$2.00 - \$2.75**



**Tariff :  
\$2.25- \$3.00**

**PIPELINE  
NORTHERN  
SECTION**

**Post Expansion  
Tariff on Original  
Gas :  
\$2.25- \$3.00**

**Potential Expansion  
South of 68<sup>th</sup> Parallel  
As Allowed Under  
AGIA**

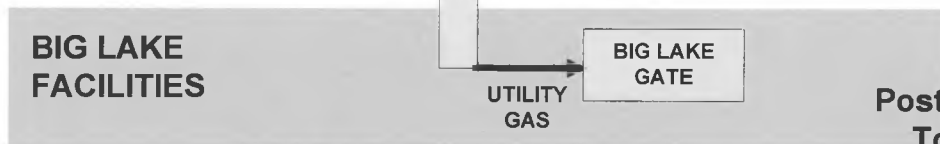


**Tariff on New  
Gas GCF:  
\$0.20-\$0.35**

**Tariff :  
\$1.50 - \$2.25**

**PIPELINE  
SOUTHERN  
SECTION**

**Tariff  
Original Gas &  
New Gas :  
\$0.75-\$1.35**



**Post Expansion  
Total Tariff  
Original Gas :  
\$5.00- \$7.10  
(Base Case)  
New Gas :  
\$0.95 - \$1.70  
(+ 500 MMSCF  
above base)**

**Total Tariff  
Original Gas :  
\$5.75 - \$8.00  
(Base case)**

- Included in Big Lake Gas Tariff Only
- Included in both Big Lake Gas Tariff and Expansion Gas Tariff
- Included in Expansion Gas Tariff Only

**NOTICE – AGDC MAKES NO REPRESENTATION OR WARRANTY REGARDING THE TRUTH OR ACCURACY OF THE INFORMATION CONTAINED IN THIS DOCUMENT EXCEPT AS MAY BE EXPRESSLY STATED WITHIN THIS DOCUMENT. ANY PERSON USING OR RELYING ON THIS INFORMATION DOES SO AT SUCH PERSON’S OWN RISK AND BASED UPON SUCH PERSON’S OWN INVESTIGATION, AND NO LIABILITY SHALL ARISE AGAINST AGDC AS A CONSEQUENCE THEREOF. © 2013 AGDC. All rights reserved.**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 15, 2013

**SUBJECT:** Assurances to a project licensed under the Alaska Gasline Inducement Act (Work Order No. 28-LS0457)

**TO:** Representative Mike Hawker  
Attn: Rena Delbridge

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You asked for an opinion about the licensed project assurances (assurances) offered in AS 43.90.440<sup>1</sup> to a project licensed under the Alaska Gasline Inducement Act (AS 43.90)

---

<sup>1</sup> **AS 43.90.440. Licensed project assurances.** (a) Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducements provided under this chapter before the commencement of commercial operations. If, before the commencement of commercial operations, the state extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person. The payment under this subsection is subject to appropriation. Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort, or other law related to the events that gave rise to the payment.

(b) The review, processing, or facilitation of a permit, right-of-way, or authorization by a state agency in connection with a competing natural gas pipeline project does not create an obligation on the part of the state under this section.

(c) In this section,

(1) "competing natural gas pipeline project" means a project designed to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope gas to market;

Representative Mike Hawker

February 15, 2013

Page 2

(AGIA). You asked about the type of pipeline that is a "competing natural gas pipeline" and the type of state support to a "competing natural gas pipeline" that may create liability under the assurances provision.

As a word of caution, the language in the assurances is subject to interpretation. No court has considered the meaning of the assurances and I am not aware of an administrative determination that has interpreted the assurances.

Liability under AS 43.90.440 arises only if the licensee is in compliance with the requirements of the license and in compliance with the requirements of state and federal statutes and regulations relevant to the project. If the licensee is not in compliance, the issue of whether the state has violated the assurances is irrelevant because liability only arises if the licensee is in compliance. However, if the licensee is in compliance, the issues regarding the route and design capacity of another natural gas pipeline, the type of benefits and support by the state to that pipeline, and the time period in which the state provides support become relevant. If there is liability under the assurances, the amount of liability is based on the amount of qualified expenditures incurred and paid by the licensee.

To understand the assurances and how they work, it is helpful to break up AS 43.90.440 in segments, and interpret the meaning of each segment. The different segments involve an analysis of the definition of the project, particularly after the failed open season on the project to the Canadian border; the characteristics of a competing natural gas pipeline project; the money provided and preferential royalty and tax treatment provided by the state to a competing pipeline; the determination of the amount of payments that are the basis for determining the payment to the licensee; and the status of the license if the state makes a payment. The licensee is not entitled to any payment if not in compliance as described in the statute. The status of the project licensed under AGIA must be examined. The first open season was unsuccessful. An amended project plan has been approved by the commissioner of natural resources and the commissioner of revenue (commissioners) but the amended plan should be reviewed to see if it is truly an amendment of the original project or a different project that would be subject to different AGIA application requirements for a project that involves the transportation of liquefied natural gas.

### **Discussion**

To be eligible for a payment from the state under AS 43.90.440, the licensee must be eligible to receive a payment and the state must have violated the assurances. The

---

(2) "preferential royalty or tax treatment" does not include

(A) the state's exercise of its right to resolve disputes involving royalties and taxes; or

(B) the state's exercise of its right to modify royalties as authorized by law in effect on June 8, 2007.

licensee is eligible if in compliance with the requirements of the license and state and federal law. The state is liable to an eligible licensee after facilitating the construction of a competing natural gas pipeline by providing preferential royalty or tax treatment, or granting state money.

The licensee must be in compliance: licensed project

The first issue is whether the licensee is eligible to receive a payment from the state for the state's violation of the assurances. The licensee is only entitled to a payment for a violation, "if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations *relevant to the project*" (emphasis added). If the licensee is not in compliance, there is no liability that arises from anything the state does to facilitate the development of another natural gas pipeline of any designed capacity.

The first step in determining whether the licensee is in compliance is to determine what the project is that is licensed under AGIA.<sup>2</sup> This issue is not as simple as you may expect, because in May 2012 the licensee reported to the Federal Energy Regulatory Commission that,

Although producers expressed significant interest in the Alberta Project, the open season ultimately was not successful in securing transportation agreements. Therefore, by notice filed in May 3, 2012, TC Alaska formally terminated the open season and withdrew the transportation service offerings in its Open Season Notice.<sup>3</sup>

The "Alberta Project" referred to above is the project from the North Slope to the Canadian border to link with a pipeline system in Canada. With the "Alberta Project" no longer being actively pursued, the commissioners approved an in-state project to tidewater as a project plan amendment. Although the project plan has been amended and approved by the commissioners, there is a question as to whether the approved amendment is truly an amendment to the "Alberta Project" or authorizes a project that is different than that applied for and approved by the state in 2008.<sup>4</sup>

---

<sup>2</sup> "Project" is defined in AS 43.90.900(19) to mean "a natural gas pipeline project authorized under a license issued under [AS 43.90]."

<sup>3</sup> Letter from Eugene R. Elrod, Counsel for TransCanada Alaska Company, LLC, and Alaska Pipeline Project, to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission (May 11, 2012).

<sup>4</sup> Ch. 3, 4SSLA 2008.

On May 2, 2012, the commissioner of natural resources and the commissioner of revenue approved project plan amendments that allowed the licensee to engage in a "concept selection assessment of a liquefied natural gas ("LNG") alternative specifically relating to a gas pipeline and related midstream facilities to deliver natural gas from the Alaska North Slope to tidewater of south-central Alaska."<sup>5</sup> The commissioners referred to the Alaska Pipeline Project ("APP") in the May 2, 2012, letter and described it as the project "being developed under an agreement entered into in 2009 between affiliates of TransCanada and ExxonMobil ("APP Parties") to jointly develop the project set forth in the Licensees' AGIA project plan."<sup>6</sup> Finally, in the *Request for Commission Approval of Detailed Plan for Conducting an Open Season*,<sup>7</sup> filed by TransCanada Alaska Company, LLC, with FERC, the project is described as follows:

The Alaska Pipeline Project will consist of:

- A FERC jurisdictional gas treatment plant ("GTP") near Prudhoe Bay, Alaska, which will treat North Slope gas for pipeline transportation;
- A FERC jurisdictional gas transmission pipeline from the outlet of the Point Thomson plant in Alaska to the GTP and from there, subject to shipper confirmation during the Open Season process, to either:
  - The Alaska/Canada border (the "Alaska-Canada Pipeline"), where it will interconnect to a new pipeline in Canada that APP plans to design, permit and construct (the "Canadian Pipeline"); or
  - Valdez, Alaska (the "Valdez Pipeline").

AGIA required an applicant for a license to select a route and provide information related to the route proposed. The two alternatives were for a project to the Canadian border and through Canada, or a route to tidewater and LNG transport by water. The two alternative routes and the information required to be submitted by the licensee for each route are described in AS 43.90.130(2).<sup>8</sup> The project route submitted by TransCanada and the commissioners to the legislature was the route through Canada.

---

<sup>5</sup> Letter from Daniel S. Butcher, commissioner of the department of natural resources, and Bryan Butcher, commissioner of revenue, to Tony Palmer, Vice President, Major Projects Development, TransCanada Pipelines Limited (May 2, 2012), p. 2.

<sup>6</sup> *Id.*

<sup>7</sup> TransCanada Alaska Company, LLC, *Request for Commission Approval of Detailed Plan for Conducting an Open Season*, Federal Energy Regulatory Commission Docket No. PF09-11-001 (Jan. 29, 2010) pp. 2 - 3.

<sup>8</sup> AS 43.90.130(2) described the two project options and the information an applicant must provide for each alternative route:

[An application for the AGIA license must]

---

(2) provide a thorough description of a proposed natural gas pipeline project for transporting natural gas from the North Slope to market, which description may include multiple design proposals, including different design proposals for pipe diameter, wall thickness, and transportation capacity, and which description must include

(A) the route proposed for the natural gas pipeline, which may not be the route described in AS 38.35.017(b);

(B) the location of receipt and delivery points and the size and design capacity of the proposed natural gas pipeline at the proposed receipt and delivery points, except that this information is not required for in-state delivery points unless the application proposes specific in-state delivery points;

(C) an analysis of the project's economic and technical viability, including a description of all pipeline access and tariff terms the applicant plans to offer;

(D) an economically and technically viable work plan, timeline, and associated budget for developing and performing the proposed project, including field work, environmental studies, design, and engineering, implementing practices for controlling carbon emissions from natural gas systems as established by the United States Environmental Protection Agency, and complying with all applicable state, federal, and international regulatory requirements that affect the proposed project; the applicant shall address the following:

(i) *if the proposed project involves a pipeline into or through Canada*, a thorough description of the applicant's plan to obtain necessary rights-of-way and authorizations in Canada, a description of the transportation services to be provided and a description of rate-making methodologies the applicant will propose to the regulatory agencies, and an estimate of rates and charges for all services;

(ii) *if the proposed project involves marine transportation of liquefied natural gas*, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, regasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate

The commissioners summarized the project proposed by TransCanada in its application in the written findings and determination prepared for presentation to the legislature. The project proposed in the application was summarized by the commissioners as follows:<sup>9</sup>

#### **1. The TC Alaska Application**

The TC Alaska Application proposes a 1,715-mile long, 48-inch diameter, mostly buried pipeline running from a gas treatment plant at Prudhoe Bay on the North Slope to the Alberta Hub in Canada. This is the second largest natural gas trading center in North America, which interconnects with pipelines that carry more than 10 Bcf/d of gas into U.S. markets. This overland pipeline's base design is capable of carrying between 3.5 and 5.9 billion cubic feet per day (Bcf/d) of natural gas. The gas treatment plant will be constructed by a third-party or by TC Alaska. The Alaska section of the pipeline will be approximately 750 miles long with six compressor stations at startup and five gas delivery points in Alaska. The Application includes an initial expansion capability of up to 6.5 Bcf/d. Further expansions would include a combination of additional compression and pipeline looping.

TransCanada addressed the LNG Project in its application as follows:<sup>10</sup>

#### **2.1.3 LNG Project**

*TransCanada has not proposed an LNG project. However, in the event that the Project through Canada does not attract sufficient volumes in the*

---

*commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country[.]*

(Emphasis added.)

<sup>9</sup> Summary of Projects, *Written Findings and Determination by the Commissioners of Natural Resources and Revenue for Issuance of a License under the Alaska Gasline Inducement Act (AGIA)* (May 27, 2008), p. 1-7. See also, Summary of Proposed Project, *Written Findings and Determination by the Commissioners of Natural Resources and Revenue for Issuance of a License under the Alaska Gasline Inducement Act (AGIA)* (May 27, 2008), p. 3-5. (The TC Alaska application proposes to construct a 4.5 Bcf/day natural gas pipeline from Prudhoe Bay to existing pipeline infrastructure near Boundary Lake in Alberta, Canada.)

<sup>10</sup> TransCanada Alaska, LLC, and Foothills Pipeline Ltd., Plan for Proposed Project Description, *Application for License, Alaska Gasline Inducement Act* (Nov. 30, 2007), p. 2.1-13.

initial binding Open Season, or Shippers commit sufficient volumes for both the pipeline through Canada and an LNG project, TransCanada is willing to offer gas treatment and pipeline transportation services from Prudhoe Bay to Delta Junction or Valdez in the event a Shipper requests such services. Refer to Appendix N "Tariffs for LNG Option" for a brief discussion of these offerings.

(Emphasis added.)

Other projects described included "LNG Project Options," "Producer Project," "Bullet Line," and "LNG and an Overland Pipeline." The "LNG Project Options" were all based on a large-volume pipeline running from the North Slope to a new liquefaction facility on Prince William Sound.<sup>11</sup> The "Producer Project" was a project proposed by BP Alaska and Conoco Phillips that was similar to the TransCanada proposal in that it exported gas from Alaska at the Canadian border.<sup>12</sup> The "Bullet Line" was a "smaller volume (500,000,000 cubic feet of gas per day or less), small-diameter, in-state energy-oriented pipeline."<sup>13</sup> The "LNG and Overland Pipeline" project left open the possibility of participation by TransCanada, but was distinguished from the overland pipeline project in TransCanada's application. The commissioners described this option as follows:

#### **5. LNG and an Overland Pipeline**

An overland pipeline to Alberta does not preclude an LNG project. TC Alaska has stated a willingness to offer gas treatment and pipeline transportation services to Delta Junction or Valdez in support of an LNG project, if a shipper requests such services. An overland pipeline and a pipeline delivering gas to an LNG facility are not mutually exclusive undertakings; there are economies of scale to be realized from a large-diameter overland pipeline that can make the economics of an LNG Y Line project more attractive. An overland pipeline project may facilitate the development of an LNG Y Line project within Alaska.

The commissioners specifically rejected an LNG option in their recommendation to the legislature. Therefore, under the terms of AGIA, the project licensed under AGIA is the project from the North Slope through Canada. If the route through Canada is the licensed project, changing the project to an LNG project is not a modification to the licensed project, but is a rejection of the AGIA project.

---

<sup>11</sup> Summary of Projects, *supra*, p. 1-7.

<sup>12</sup> *Id.*, pp. 1-7 - 1-8.

<sup>13</sup> *Id.*, p. 1-8.

Thus, while TransCanada was open to soliciting interest in shipping gas to Valdez and expressed that possibility in its application to FERC, the project pitched under AGIA to the commissioners and the legislature was the highway project, that is, the project to the Canadian border. It appears that the licensees and the commissioners, in the context of the PPA, are pursuing a mixed project: pursuing the original AGIA project through Canada (but delaying the FERC filing for two years) while exploring the tidewater option.

In other words, if the project licensed under AGIA is the natural gas pipeline into or through Canada as described in AS 43.90.130(2)(D)(i) and is no longer being actively pursued, then the licensee may not be in compliance with the requirements in AGIA. On the other hand, if the commissioners have properly modified the original project plan in the May 2, 2012 letter to allow the licensee to engage in a concept selection assessment of an LNG alternative involving a natural gas pipeline to tidewater in south-central Alaska, then the project is both the route through Canada and an LNG project. A strong argument may be made that the licensee's assessment of an in-state natural gas pipeline is a different project and not a modification of the project licensed under AGIA. In its application, the licensee described the project under AS 43.90.130(2)(D)(i) -- the Canadian route -- and did not comply with the requirements for a route to market in (D)(ii), which was the LNG option. The licensee never described, so far as it is publicly known, the information required in an application for the LNG option:

[An] economically and technically viable work plan, timeline, and associated budget for developing and performing the proposed project, including field work, environmental studies, design, and engineering, implementing practices for controlling carbon emissions from natural gas systems as established by the United States Environmental Protection Agency, and complying with all applicable state, federal, and international regulatory requirements that affect the proposed project; the applicant shall address the following:

...

(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, regasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory

Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

However, if the commissioners properly amended the project plan for the licensee under AGIA, then, if the licensee is in compliance with the new requirements of the license and with state and federal statutes and regulations relevant to the project, the licensee is entitled to payment if the state violates the assurances.

#### A competing natural gas pipeline

In AS 43.90.440(a), the state agreed to pay to the licensee "three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person" for the purpose of facilitating the construction of a competing natural gas pipeline project in the state. "Competing natural gas pipeline project" is defined in AS 43.90.440(c)(1):

(1) "competing natural gas pipeline project" means a project designed to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope gas to market;

The definition includes both a description of the route, commodity being transported, and the designed capacity of the pipeline. Identifying a pipeline that transports North Slope natural gas to market is relatively simple, just look at both ends of the pipe and what is inside. However, "designed to accommodate throughput of more than 500,000,000 cubic feet a day" is more difficult to determine because of the physical nature of natural gas.

A natural gas pipeline may initially be designed to accommodate a certain throughput, but after construction the capacity may be increased by adding compressor stations or more pipe. This option for expanding the AGIA pipeline and the effect on the tariff were extensively discussed during the legislature's consideration of the AGIA bill.<sup>14</sup> The first means for expansion is increased compression, which enables increased throughput in the original pipeline. Tony Palmer of TransCanada addressed expansion of the project proposed in the company's AGIA license application:

MR. PALMER provided highlights. He said the design is best suited for 4.5 Bcfd of initial capacity, but final volumes will be determined in the open season. If TransCanada is successful in attracting that much gas, it

---

<sup>14</sup> See, e.g., *Minutes*, House Special Committee on Oil and Gas (March 28 and 30, 2007); *Minutes*, House Finance Committee (May 3, 2007); *Minutes*, Senate Resources Committee (February 6, 2008).

will be an inexpensive pipeline to expand by one-third of the volume, using compression only; he alluded to wording on slide 7 that says the initial design is expandable to 5.9 Bcfd with compression only.<sup>15</sup>

If "designed to accommodate throughput of more than 500,000,000 cubic feet a day" means "*initially* designed" with the limited throughput, then a proposed project could be designed for a certain pressure within pipe of a certain diameter. The proponents of the project could also put not more than the allowable capacity before potential shippers.

However, if the limitation is read to be a project designed to accommodate throughput of *not more than* 500,000,000 cubic feet a day *including expansion*, then the limitation is that the only "safe" pipeline that the state could incentivize would be a pipeline that could never exceed the limited capacity.

Natural gas is compressible. A fixed physical space can contain more or fewer molecules, or BTU equivalent barrels, depending on pressure and the limitations of the container to withstand pressure. The phrase "designed to accommodate throughput of more than 500,000,000 cubic feet" could be interpreted if challenged in court, but could also be interpreted by an agreement with the licensee.

One other factor to be considered is the period in which the assurances to the licensee are in place. The potential liability for the state is only present "before the commencement of commercial operations"<sup>16</sup> of the licensed project. "Commencement of commercial operations" is defined in AS 43.90.900 to mean "the first flow of gas in the project that generates revenue to the owners." It may be that the time limit "before the commencement of commercial operations" when read in conjunction with the throughput limit for a competing natural gas pipeline means that the competing pipeline could not exceed the throughput limit until the AGIA pipeline is generating revenue. By that time, the AGIA project is likely to have the transportation commitments to ensure the viability of its pipeline.

#### Preferential royalty or tax treatment or grant of state money

The state is liable for violating the assurances if it "extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state." AS 43.90.440(b) identifies some actions taken by the state that do not violate the assurances:

---

<sup>15</sup> *Minutes*, Senate Resources Committee (February 6, 2008). "Bcfd" stands for billions of cubic feet a day and is a measure of the amount of natural gas transported by the pipeline.

<sup>16</sup> AS 43.90.440(a).

(b) The review, processing, or facilitation of a permit, right-of-way, or authorization by a state agency in connection with a competing natural gas pipeline project does not create an obligation on the part of the state under this section.

Preferential royalty and tax treatment under in AGIA was offered to

a lessee or other person that demonstrates to the satisfaction of the commissioners that the person has committed to acquire firm transportation capacity in the first binding open season of the project[.]<sup>17</sup>

The tax and royalty incentives were intended to entice shippers to commit to the AGIA project sooner rather than later, during the first open season. The first open season has terminated and the licensee failed to secure transportation agreements during that open season.<sup>18</sup>

Although the production and tax credits in AGIA are no longer available, similar incentives offered to potential shippers of a competing pipeline could violate the assurances. Other incentives that could be offered would be special tax treatment for the competing pipeline itself, such as unique tax credits or property tax exemptions. Even if such special treatment survived constitutional muster, the unique incentives could violate the assurances.

The assurances prohibit "preferential royalty or tax treatment." A change in royalty or tax treatment that benefits the AGIA project and a competing project would not be preferential so long as both projects benefit.

Liability under the assurances also arises if there is "a grant of state money" for the purpose of facilitating the construction of a competing pipeline. The AGIA licensee is entitled to up to \$500,000,000 under AS 43.90.110(a)(1) in the form of reimbursement for qualified expenditures incurred by the licensee or an affiliate of the licensee. The reimbursement of a percentage of the qualified expenditures incurred for the licensed project subsidizes the licensee's project by sharing in the cost. Financial support for a competing pipeline could result in liability under the assurances.

Three times the total amount of qualified expenditures incurred and paid

If the licensee is fully in compliance as described above, and the state has violated the assurances, two things will happen under AS 43.90.440(a), and the license will be

---

<sup>17</sup> AS 43.90.300.

<sup>18</sup> Letter from Eugene R. Elrod, *supra*.

considered abandoned under AS 43.90.240(d). First, under AS 43.90.440(a), the licensee is entitled to

payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person.

A qualified expenditure is described in AS 43.90.110(a)(1)(C):

[A] qualified expenditure is a cost that is incurred after the license is issued under this chapter by the licensee or the licensee's designated affiliate, and is directly and reasonably related to pursuing firm transportation commitments in a binding open season, to securing financing for the project, or to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, or satisfying a requirement of an agency with jurisdiction over the project; in this subparagraph, "qualified expenditures" does not include overhead costs, lobbying costs, litigation costs, the cost of an asset or work product acquired or developed by the licensee before the license is issued, or civil or criminal penalties or fines[.]

A qualified expenditure that is the basis for the payment from the states must be "incurred and paid" by the licensee. Unpaid qualified expenditures at the time the state first extends preferential treatment to another person are not included in determining the payment.

What is not clear is the expression "incurred and paid by the licensee." At first glance, it seems clear -- the licensee incurs a qualified expenditure and pays for it. However, the state reimburses the licensee for 50 percent or 90 percent of its qualified expenditures under AS 43.90.110(a)(1)(A) and (B), up to a total of \$500,000,000. On the one hand, the licensee incurs qualified expenditures before being reimbursed under AS 43.90.110(a)(1)(A) and (B), but on the other hand, the licensee has only spent the amount not reimbursed by the state.

In my opinion, the better interpretation is that the payment is on the net amount paid by the licensee after reimbursement by the state. The reimbursement of expenditures, the benefit of an Alaska Gasline Inducement Act coordinator under AS 43.90.110(a)(2), and the assurances all reduce the risk of the licensee. Reimbursement by the state already removes a percentage of the risk, and the financial investment of the licensee that remains is the percentage not paid and the expenses incurred and not subsidized after the \$500,000,000 has been exhausted.

Representative Mike Hawker  
February 15, 2013  
Page 13

The second thing that will happen if the state makes a payment under AS 43.90.440(a) is described as follows:

Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort, or other law related to the events that gave rise to the payment.

The payment by the state also results in the abandonment of the project under AS 43.90.240(d). That subsection reads as follows:

(d) If the state makes a payment to the licensee under AS 43.90.440, the license is considered abandoned, and the state and the licensee no longer have any obligations under this chapter with respect to the license, except that the licensee must comply with the

(1) requirements imposed on the licensee under AS 43.90.220 regarding state money received by the licensee before the license was considered abandoned; and

(2) requirements of AS 43.90.440.

If the state violates the assurances, the licensee is compliant with the terms of the license and state and federal law, and the state makes a payment under AS 43.90.440, then the project is abandoned, the state gets the engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license, and the license is abandoned. No provision bars the state from using what it receives on another natural gas pipeline project.

DMB:ljw  
13-092.ljw

Representative Mike Hawker  
February 15, 2013  
Page 14

THIS PAGE INTENTIONALLY LEFT BLANK.

Amended: 02/19/13

Adopted: 02/19/13

**MATANUSKA-SUSITNA BOROUGH  
RESOLUTION SERIAL NO. 13-030**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING A GASLINE PROJECT FORM THE NORTH SLOPE THAT PROVIDES FOR A LARGE DIAMETER PIPELINE TO FAIRBANKS WITH EXPORT CAPACITY AND IS DESIGNED FOR SMALLER FEEDER GASLINES TO SERVE ALASKAN COMMUNITIES DEVELOPED BY THE ALASKA GASLINE DEVELOPMENT CORPORATION.

WHEREAS, available supplies of natural gas in Southcentral Alaska are forecast to be inadequate to meet demand in the near future; and

WHEREAS, interior Alaska and Rural Alaska would benefit from an in-state pipeline as proposed in House Bill (HB) 4 with a reliable and cheaper energy; and

WHEREAS, reliable and affordable energy supplies are critically important to Alaska residents and are vitally needed to grow our economy and provide energy for resource development; and

WHEREAS, HB 4, which empowers the Alaska Gasline Development Corporation (AGDC) to further advance an in-state gas pipeline; and

WHEREAS, the best case for Alaska is a large capacity line serving both in-state and export (lower 48) markets, HB 4 allows the AGDC to participate in a large diameter gas line project; and


WHEREAS, the retention of gas liquids in an in-state pipeline will provide for a larger economic spinoff by creating the opportunity for a manufacturing industry at Port McKenzie; and

WHEREAS, it is in the best interest of the State to include the gas liquids within the transported gas for the in-state pipeline project; and

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly supports legislation to move the Alaska Stand Alone Pipeline forward, with amendments to require retention of the gas liquids.

BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Assembly also supports a large diameter gasline project and supports integration of the projects to deliver gas for in-state needs as well as for export.

ADOPTED by the Matanuska-Susitna Borough Assembly this 19 day of February, 2013.

  
LARRY DEVILBISS, Borough Mayor

ATTEST:

  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Keogh, Woods, Arvin, Colligan, Salmon, Colver, and Halter



**TESORO**

Tesoro Alaska Company  
1601 Tidewater Road  
Anchorage, AK 99501

February 20, 2013

Speaker of the House Mike Chenault  
Representative Mike Hawker  
Capitol Room 208  
Juneau, Alaska 99801

Dear Speaker Chenault and Representative Hawker:

On behalf of Tesoro Alaska, I am writing in support of House Bill 4, an Act relating to the Alaska Gasline Development Corporation.

Tesoro Alaska's Kenai refinery is located on the Cook Inlet, 70 miles southwest of Anchorage. The refinery can process up to 72,000 barrels of crude oil per day. The refinery produces gasoline, jet fuel, ultra-low sulfur diesel, heating oil, heavy fuel oils, propane and asphalt. A reliable supply of natural gas is critical for the continued success of our refinery operations.

Your combined leadership on Cook Inlet issues is recognized and appreciated by our approximately 550 full-time Alaskan employees. House Bill 4 is another critical step towards supplying Alaskan residents and businesses with access to the state's abundant natural gas supplies on the North Slope.

Tesoro Alaska believes House Bill 4 would help Alaska move forward towards and assist in the development of much needed infrastructure that would provide the state with a permanent and reliable supply of natural gas. The benefits to both residents and businesses would be substantial.

We applaud your efforts and leadership and encourage your colleagues in the Alaska State Legislature to support the passage of House Bill 4.

Sincerely,

James Tangaro  
Vice President Kenai Refinery  
Tesoro Alaska

February 20, 2013

The Honorable Mike Hawker  
Alaska House of Representatives  
Capitol Room 502  
Juneau, AK 99801

Re: Support of House Bill 4

Dear Representative Hawker,

The Alaska State Chamber of Commerce (Alaska Chamber) is an organization dedicated to improving the business climate in Alaska. The Alaska Chamber represents hundreds of statewide businesses from Ketchikan to Barrow that share a common goal: to make Alaska a viable and competitive place to do business. Today, I am writing in support of House Bill 4 (HB 4).

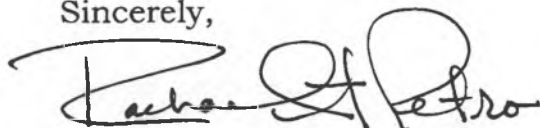
Last fall Alaska Chamber members adopted dozens of positions they believe will positively impact the business environment in Alaska and three top priorities. One of the three top priority positions is "reducing the high cost of energy" by supporting initiatives that lower the high cost of energy in Alaska by developing energy resources.

The Alaska Chamber supports HB 4 which allows AGDC to advance an in state pipeline to the construction stage. Such a process will identify opportunities for getting natural gas to Alaskans in the most commercially and economically viable manner available. Additionally, should it be an option, HB 4 allows AGDC to participate in a large diameter export gasline project.

As an organization representing private sector business in Alaska, the Alaska Chamber will evaluate future recommendations stemming from the AGDC process carefully. In other words, we prefer projects be funded by the private sector.

The Alaska Chamber looks forward to passage of HB 4.

Sincerely,



Rachael A. Petro  
President/CEO



ALASKA STATE  
CHAMBER  
OF COMMERCE

*The Voice of  
Alaska Business*

**Headquarters**

471 W 36th Ave  
Suite 201  
Anchorage  
AK 99503  
(907) 278-2722

**Regional Office**

3100 Channel Dr.  
Suite 300  
Juneau  
AK 99801  
(907) 586-2323



**Copper Valley Development Association, Inc.**

P.O. Box 9, Glennallen, AK 99588 \* 907-822-5001 phone \* 888-256-5569 fax  
[www.coppervalley.org](http://www.coppervalley.org) \* [info@coppervalley.org](mailto:info@coppervalley.org)

February 19, 2013

Representative Mike Hawker  
State Capitol, Room 502  
Juneau, Alaska 99801

RE: HB 4 Support

Representative Hawker,

I would like to offer support from Copper Valley Development Association, the regional ARDOR with Department of Commerce, Community and Economic Development for House Bill 4. This bill provides framework for the Alaska Gasline Development Corporation (AGDC) and a natural gas distribution system and affiliated infrastructure within the state of Alaska. These facilities will make it feasible to deliver liquefied natural gas from the North Slope to the Interior, and will allow for a wider distribution of gas and propane elsewhere in the state. House Bill 4 will help reduce the high cost of energy, bring gas to the interior, raise the number and quality of economic development projects in the state, and increase the number of jobs available to Alaskans. The establishment of this is the first step in a series of incremental steps necessary to alleviate the high cost of energy in rural Alaska, and broaden the possibilities for this region. In order for our great state to move forward, we need measures such as HB 4 to occur.

Thank you very much for your attention to this Representative, and please feel free to contact me for additional information.

Sincerely,



Jason Hoke,  
Executive Director

**City of Nenana  
Resolution 2013-03**

**A Resolution Supporting the Legislative Efforts to Construct a Natural  
Gas Pipeline From the North Slope to South Central Alaska**

**Whereas** the development of an in-state gas pipeline is in the best interest of the State of Alaska, AND

**Whereas** known reserves in Cook Inlet are insufficient to supply the demand for natural gas in South Central Alaska in the future, AND

**Whereas** the Interior area of Alaska is in dire need of a means to lower energy costs in both short and long terms, AND

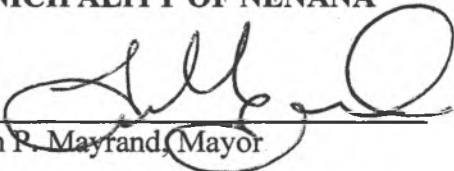
**Whereas** an Alaska natural gas pipeline project will provide a long-term affordable and clean energy solution for the majority of Alaskans and Alaskan businesses, AND

**Whereas** House Bill 4 includes the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project.

**Therefore be it resolved** that the Nenana Assembly supports Legislative efforts to fund AGDC in order to continue moving forward developing a project to construct a natural gas pipeline.

Adopted by a duly constituted quorum of the Municipal Assembly on the 14 day of February 2013

**MUNICIPALITY OF NENANA**

  
\_\_\_\_\_  
Jason R. Mayrand, Mayor

ADOPTED:

ATTEST:

  
\_\_\_\_\_  
Sharon Ridlington

Sponsored by: Hunt

**CITY OF SEWARD, ALASKA  
RESOLUTION 2013-008**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,  
ALASKA, SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A  
NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO SOUTH-  
CENTRAL ALASKA**

**WHEREAS**, the electricity produced by Chugach Electric and purchased by the Seward Electric Utility is primarily produced from plants fueled by natural gas; and

**WHEREAS**, the gas used for power production comes exclusively from the Cook Inlet basin; and

**WHEREAS**, Chugach, other power producers, and ENSTAR currently consume all of the gas produced in Cook Inlet and are expected to face supply shortage; and

**WHEREAS**, recent exploration resulting in added gas production and the Cook Inlet Natural Gas Storage facility have postponed the projected shortfall until 2015; and

**WHEREAS**, options for mitigating the projected shortfall are new hydro or other alternative facilities producing sufficient volume, imported liquefied or compressed gas, or gas from the North Slope; and

**WHEREAS**, Speaker Chenault and Representative Hawker have sponsored House Bill 4, which supports the Alaska Gasline Development Corporation's (AGDC) pipeline project; and

**WHEREAS**, the bill provides the necessary structure, changes to existing statute, and direction to move forward a natural gas pipeline for instate use whether as a stand-alone project or in conjunction with the producers and Trans-Canada in a larger project; and

**WHEREAS**, of all the options presented to date, the instate gas supply from the North Slope has the best potential for the earliest positive impact on the cost of electric power to Seward residents and businesses in the near term, and the possibility of gas delivery for local use in the longer term; and

**WHEREAS**, the bill, as introduced, includes the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project that best benefits Seward and all the Railbelt utilities.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA that:**

**CITY OF SEWARD, ALASKA  
RESOLUTION 2013-008**

---


**Section 1.** The City Council of the City of Seward supports House Bill 4 as introduced and Legislative efforts to fund AGDC as they move forward in developing a project to construct a natural gas pipeline from the North Slope to South-Central Alaska.

**Section 2.** That a copy of this Resolution be sent to Speaker Mike Chenault, Senator Cathy Giesel, and Representative Mike Hawker.

**Section 3.** This resolution shall take effect immediately.

**PASSED AND APPROVED** by the City Council of the City of Seward, Alaska, this 28<sup>th</sup> day of January 2013.

**THE CITY OF SEWARD, ALASKA**

  
\_\_\_\_\_  
**David Seaward, Mayor**

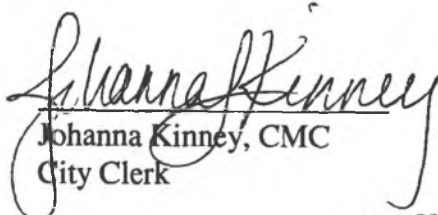
AYES: Bardarson, Terry, Casagranda, Keil, Valdatta, Shafer, Mayor Seaward

NOES: None

ABSENT: None

ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Johanna Kinney, CMC  
City Clerk

(City Seal)



# Council Agenda Statement



Meeting Date: January 28, 2013

Through: City Manager Jim Hunt

From: Community Development Director Ron Long

Agenda Item: Supporting Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska

---

**BACKGROUND & JUSTIFICATION:**

Administration respectfully requests Council support for this resolution as part of the City’s effort to maintain affordable energy costs for local residents and business through power sales by the Electric Utility in the near term and potential availability of natural gas to Seward in the longer term.

The City supported various measures designed to fund and maintain critical infrastructure and cost control measures for the delivery of electricity along the rail belt and to Seward, including transmission lines and the City’s participation in Alaska Energy Authority measures and in The Alaska Railbelt Cooperative Transmission and Electric Company (ARCTEC).

Speaker Chenault and Representative Hawker have introduced House Bill 4 to provide the necessary structure, changes to existing statute, and direction to move forward a natural gas pipeline. South-central’s present and projected future consumption of natural gas used for electric generation and for heating exceeds known natural gas reserves in the Cook Inlet basin and it is imperative that sufficient quantities of gas remain available. Exploration in the basin is not forecasted to yield sufficient gas to avoid a shortfall, now projected for 2015, and the only near term sources for replacement gas are via import. Utility rates would skyrocket under this scenario.

Seward’s primary interest in this project is to ensure Chugach Electric and other ARCTEC members have sufficient contract gas to provide affordable power into the future. Once the power generation picture for south-central is stabilized, we would want to pursue pipeline delivery of burner tip gas to Seward.

**INTENT:** Support Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska

<b><u>CONSISTENCY CHECKLIST:</u></b>		Yes	No	N/A
1.	Comprehensive Plan ( <i>document source here</i> ): Section 3.1, Economic Development and 3.9 Quality of Life.	x		
2.	Strategic Plan ( <i>document source here</i> ): Page 2, city mission. Page 3 vision. Page 5, economic base. Page 7, Reduce Energy Costs, and throughout	x		
3.	Other ( <i>list</i> ):			x

**FISCAL NOTE:** This is a resolution of support that has no fiscal impact.

Approved by Finance Department: *Kristen Archunge*

**ATTORNEY REVIEW:** Yes \_\_\_\_\_ No X

---

**RECOMMENDATION:** Council approve Resolution 2013-<sup>000</sup> supporting Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska.



# Cook Inlet Energy

February 19, 2013

Dear Representative Hawker,

Thank you very much for your continuing efforts to improve and enhance the energy markets in Alaska. Last year Cook Inlet Energy supported your efforts to pass HB 9, and we find that the passing of the last year has only sharpened the case for creating mechanisms that can move gas into and out of the Cook Inlet. HB 4 would take concrete steps towards doing just that.

Cook Inlet Energy is a small, Anchorage-based oil and gas company working hard to develop and deliver oil and gas to market to try to contribute to the solution to Alaska's future energy needs. We have had some success in increasing our gas production recently, and with several exciting gas exploration opportunities we hope to grow production for years to come.

Unfortunately, no explorer can predict how successful they will be, let alone know for certain what the future cost or deliverability of any discovered gas would be.

However, just as I emphasized last year, the economics of gas exploration in Cook Inlet are challenged because it is a small, isolated market with a limited consumer base. Without an ability to import and export gas from outside the region there is no spot market to sell into or buy from, and no market price. We will constantly be in either a state of shortage, or a state of oversupply. The last few winters we have seen very tight gas markets. This was especially challenging for our efforts to try to purchase fuel gas for our facilities. But we in Southcentral are also vulnerable to the risk that a large producer could lock the entire market up under long-term contracts, shutting competitors out of the market and stifling development of the Cook Inlet's abundant gas potential. And a truly large discovery could never find the necessary markets to recoup its investment. To have stable supply and stable prices, the region must be able to purchase additional gas when needed, and sell it when it can.

HB 4 will take concrete steps toward the construction of a pipeline to Southcentral Alaska. It is our understanding that development of such a pipeline would involve an anchor shipper in Southcentral that would expand demand. This seems like the best plan on the table for creating a larger and more liquid gas market in Cook Inlet.

Some fear that bringing North Slope gas into the region would pose a threat to Cook Inlet producers. Far from it. The threat posed to future Cook Inlet gas production is monopolization. Cook Inlet gas will always be able to compete against North Slope gas, as long as the pipeline tariff is not subsidized. But if there is no market to sell into who will invest in Cook Inlet gas production?

Please keep up the good work. We earnestly hope that HB 4 can pass both chambers this year, and that it ultimately results in a project that helps monetize North Slope gas and stabilizes energy supply on the Rail belt. We very much hope as Alaskans that the resulting infrastructure in Southcentral has enough capacity to accommodate additional deliveries from the Cook Inlet Basin, and will be open to all on commercially reasonable terms.

Sincerely,

David Hall,  
CEO  
Cook Inlet Energy, LLC

**CITY OF NORTH POLE**

**RESOLUTION 13-01**

**A RESOLUTION SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A  
NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO SOUTH CENTRAL  
ALASKA.**

**WHEREAS**, the development of an in-state gas pipeline would provide stable and affordable gas for Alaskans for many years; and

**WHEREAS**, known reserves in the Cook Inlet Basin are insufficient to supply the demand for natural gas in South Central Alaska in the future; and

**WHEREAS**, many Interior and Rural Alaskan communities are suffering from extremely high energy cost; and

**WHEREAS**, development of vibrant local and statewide economies are dependent on affordable energy; and

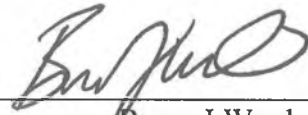
**WHEREAS**, Alaskans wish to leave a legacy of prosperity through development of our natural resources to the maximum benefit for the most Alaskans; and

**WHEREAS**, Alaska Gasline Development Corporation (AGDC) has created the Alaska Stand Alone Gas Pipeline (ASAP) and is seeking monies to bring a instate gas-line to open season; and ultimately to fruition; and

**WHEREAS**, House Bill 4 includes the necessary provisions to advance a successful Alaska natural gas pipeline project.

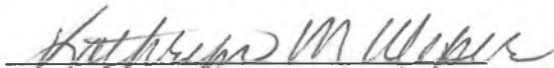
**NOW, THEREFORE, BE IT RESOLVED** that the North Pole City Council supports legislative efforts to fund AGDC as they move forward in developing and advancing a project to construct a natural gas pipeline from the North Slope to South Central Alaska.

**PASSED AND APPROVED** by a duly constituted quorum of the North Pole City Council this 4<sup>th</sup> day of February, 2013



Bryce J Ward, Mayor

**ATTEST:**

  
Kathryn M. Weber, MMC  
North Pole City Clerk

**PASSED**

Yes: Nelson, McGhee, Holm, Smith, Sikma, Ward

No: 0

Absent: Hunter





February 22, 2013

Dear Alaska Legislators,

This letter is statement of support for the passage of HB 4, and the Alaska Stand Alone Gas Pipeline Project.

Doyon, Limited is the state chartered Alaska Native Claims Settlement Act Regional Corporation for Interior Alaska. Doyon has over 18,500 shareholders, most of whom reside within the State of Alaska; and many of our shareholders share the need of Alaskans for new options for heating and power generation fuels.

Furthermore, Doyon, Limited is the largest private land owner in the State. One of our highest priorities, made possible by the passage of SB 23 during the 2012 legislative session, is continued exploration for oil and gas resources on both Doyon and State owned lands along the proposed Alaska Stand Alone Pipeline corridor. Pipeline access for new discoveries of gas resources along the ASAP route would be good for all Alaskans.

Therefore, we support the passage of HB 4. We believe the ASAP gas pipeline effort has the potential to move forward this year. The project has made progress as indicated by the completion of the Final Environmental Impact Statement, the 604 miles State of Alaska lease ROW, and plan of development.

Thank you for the work you do to support Alaska, and for the opportunity to comment. If you have any questions about this letter of support, please contact our office at (907) 459-2000.

Sincerely,



Aaron M. Schutt  
President and CEO  
Doyon, Limited

Introduced By: Mayor Jerry Cleworth  
Date: February 4, 2013

**RESOLUTION NO. 4560**

**A RESOLUTION IN SUPPORT OF THE ALASKA STAND ALONE PIPELINE  
FROM THE NORTH SLOPE TO SOUTHCENTRAL ALASKA**

**WHEREAS**, the extremely high cost of energy for residents and businesses in the interior of Alaska is well known; and

**WHEREAS**, trucking LNG from the North Slope to the interior is a vital short-term solution; and

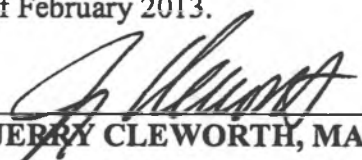
**WHEREAS**, there is a critical need for a long-term solution that provides clean affordable gas to the interior; and

**WHEREAS**, the Alaska Gasline Development Corporation (AGDC) has created the Alaska Stand Alone Pipeline (ASAP) and has done much of the preliminary work required before going to Open Season; and

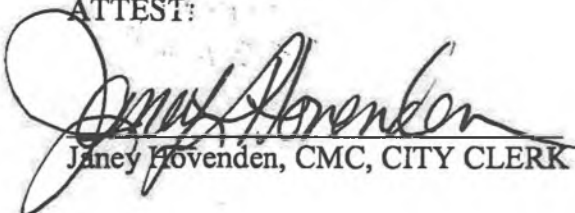
**WHEREAS**, production of Cook Inlet gas reserves is uncertain and currently insufficient to provide long-term supply guarantees,

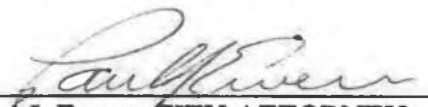
**NOW, THEREFORE, BE IT RESOLVED** that the City of Fairbanks supports legislation that continues the ASAP project as it will add a long overdue critical component to our state's infrastructure needs and will utilize an important resource to greatly reduce energy costs and help make Alaska competitive.

**PASSED and APPROVED** this 4th day of February 2013.

  
\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

**AYES:** Gatewood, Walley, Eberhart, Staley, Hilling  
**NAYS:** None  
**ABSENT:** Matherly  
**APPROVED:** February 04, 2013

**ATTEST:**  
  
\_\_\_\_\_  
**Janey Hovenden, CMC, CITY CLERK**

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
**Paul J. Ewers, CITY ATTORNEY**

**North Slope Borough**  
**OFFICE OF THE MAYOR**

P.O. Box 69  
Barrow, Alaska 99723  
Phone: 907 852-2611 or 0200  
Fax: 907 852-0337 or 2595



Charlotte E. Brower, Mayor

February 28, 2013

The Honorable Mike Hawker  
Alaska House of Representatives  
State Capitol Building  
Juneau, Alaska 99811

Subject: Support for House Bill 4

Dear Representative Hawker:

On behalf of the office of Mayor of the North Slope Borough, please convey my support to your colleagues for the passage of HB4- development of an in-state natural gas pipeline.

The North Slope Borough is comprised of villages who understand the burden of high energy costs. All across Alaska, the issue is becoming more and more of a concern for both urban and rural communities. Both you and Speaker Chenault should be commended for your efforts to connect the natural gas supply here on the North Slope with as many Alaskans as possible.

Development of a natural gas pipeline is something that has waited for many years. The North Slope Borough is willing to work with the Governor and the Legislature towards solving whatever issues may stand in our way. We must work together if we are to accomplish anything.

The North Slope Borough believes the benefits of an in-state natural gas pipeline built by AGDC include:

- Increased access to affordable, clean, and secure energy along the pipeline corridor for both urban and rural communities
- Greater economic development opportunities across the state, including community and industrial development during and after construction
- Expanded property tax base (post-construction) for communities along the route, due to infrastructure development and activity

As the Legislature works on the issue of developing the natural gas resources here on the North Slope, please continue to recognize the needs of all communities and respect the concerns of Alaskan residents in cities and villages who need access to affordable energy and jobs.

Please let me know if my staff or I can provide you with assistance in moving this project forward.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte Brower".

Charlotte E. Brower  
Mayor, North Slope Borough

**Linda Hay**

---

**From:** Green, Richard <rgreen@sbsalaska.com>  
**Sent:** Friday, February 15, 2013 9:21 AM  
**To:** Rep. Eric Feige  
**Subject:** HB 4 Testimony

Representative Eric Feige;

I am a fourth generation Alaskan and am greatly concerned about the future for my children and grandchildren. Present energy costs in the interior region are kicking everybody's butt. The best light at the end of the tunnel is the work being done by Dan Fauske and the Alaska Gasline Development Corporation. Personally, I would like to see a bigger diameter to tidewater, but the misdirected commitment to Trans Canada has prevented pursuing that option. Representative Hawker and his supporters have the right idea; go with what we can until something better develops. Keep funding the AGDC until the rest of the State realizes how we will all be winners with a larger diameter to tidewater.....

**Richard Green** LEED-AP BD&C

General Manager/Fairbanks

Spenard Builders Supply/ProBuild

2460 Phillips Field Road

Fairbanks Alaska, 99701

907-450-2223

907-388-1833 c

---

CONFIDENTIALITY NOTICE: This email may contain confidential and privileged material for the sole use of the intended recipient(s). Any review or use by others is strictly prohibited. Any distribution or disclosure by or to others is strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail and delete the message and any file attachments from your computer.

**Linda Hay**

---

**From:** Alan LeMaster <gakona@gakonaak.net>  
**Sent:** Friday, February 15, 2013 7:44 PM  
**To:** Representative\_Eric\_Feige@legis.state.ak.us  
**Cc:** Rep. Dan Saddler; Rep. Peggy Wilson; Representative\_Paul\_Seaton@legis.state.ak.us;  
Representative\_Craig\_Johnson@legis.state.ak.us; Representative\_Mike\_Hawker@legis.state.ak.us;  
Representative\_Kurt\_Olson@legis.state.ak.us; Representative\_Chris\_Tuck@legis.state.ak.us;  
Representative\_Geran\_Tarr@legis.state.ak.us  
**Subject:** Alaska Natural Gas Pipeline Coalition ~ Resolutions  
**Attachments:** City of Valdez Resolution 2012.txt; City of Delta Junction Resolution.txt; Fbks NS Borough Resolution 2012.txt; Resolution - Delta Junction.pdf; Resolution ~ Copper Valley Chamber of Commerce.docx; Fbks NS Borough Resolution 2012.txt; Resolution ~ Copper Valley Chamber of Commerce.docx; Resolution - Alaska Municipal League.pdf; Copper Valley Electric ~ Resolution 12-04 (2).pdf



Alaska Natural Gas Pipeline Coalition  
Mile 128.5 Richardson Highway ~ P. O. Box 222 ~ Gakona, AK 99586  
Phone: (907) 822-3664 ~ E-mail: [gakona@gakonaak.net](mailto:gakona@gakonaak.net)

---

February 15, 2013

State of Alaska  
House of Representatives  
State Capitol Building  
Juneau, AK 80

Attn.: House Resources Committee: Eric Feige, Co-Chair; Dan Saddler, Co-Chair; Peggy Wilson, Vice Chair;  
Mike Hawker, Member; Craig Johnson, Member; Kurt Olson,  
Member; Paul Seaton, Member; Geran Tarr, Member; Chris Tuck,  
Member

Re: Resolutions from Coalition Members:

Dear Committee Members:

Thank you for allowing my testimony today.

I was asked by Representative Seaton to forward copies of the resolutions we have received from our members that show support for a large-diameter natural gas pipeline from the North Slope to a deep port in Prince William Sound.

I am attaching said resolutions to this email and invite you to review each of them and respond with any questions you may have.

Also be advised that we are talking with other groups and have recently found interest from Ahtna, Inc., and the Association of Alaska School Boards.

Our members are all driven by the same issues of extremely high energy costs and are confident that a natural gas pipeline to Prince William Sound will help ease those complications on several levels.

Best regards,

L. Alan LeMaster, Director



# The Greater Copper Valley Chamber of Commerce

PO Box 469

GLENNALLEN, ALASKA 99588

*Home of the world famous Copper River Reds*

## RESOLUTION:

**Whereas**, research proves a large-diameter gasline would serve more Alaskan residents with low cost energy if routed from the North Slope to Valdez, and with a 24" spur line from Glennallen to Palmer adjacent to the Glenn Highway corridor for transporting natural gas to Anchorage if needed, or from Anchorage to Valdez should significant supplies be discovered in Cook Inlet, allowing for sales of Cook Inlet natural gas to the Asian market, and;

**Whereas**, in the opinion of most comprehensive studies that the Port of Valdez is the only port in Alaska that can adequately be used for shipment of liquid natural gas (LNG) on large capacity tankers to the Asian market necessary for transporting LNG in the greatest volume and at the most economical costs, and;

**Whereas**, the Richardson Highway is an existing pipeline corridor, that has received federal approval in the form of a FEIS for a gasline, where other routes have not, and that Right of Way and permitting risk should be minimized, and;

**Whereas**, a Richardson Highway routing also ensures that outlying areas along that corridor such as Paxson, Gakona, Gulkana, Glennallen, Copper Center, Tazlina, Tonsina, Kenny Lake, and Chitina, as well as communities along the Glenn Highway corridor such as Tolsona, Mendeltna, Nelchina, and Eureka will receive low cost energy from Alaska's natural gas supplies, and;

**Whereas**, the Alaska Natural Gas Pipeline Coalition. (ANGPC) is hereby established and is recognized as an ad hoc citizens committee, formed and dedicated to the promotion of a large-diameter (48") natural gas pipeline from the North Slope to tidewater at Valdez, Alaska, to service first the low cost energy needs of Alaskans and subsequently to allow the state of Alaska to export and market the excess Liquid Natural Gas to the Asian markets;

**Therefore be it resolved**, that the Greater Copper Valley Chamber of Commerce hereby agrees to support the Alaska Natural Gas Pipeline Coalition. (ANGPC) in its efforts to support the construction and operation of a large-diameter natural gas pipeline routed from the North Slope to Valdez with take-offs where needed and demanded in, but not limited to, Fairbanks, North Pole, Delta Junction, and Glennallen.

Passed this day, 8 June 2012, by action of The Greater Copper Valley Chamber of Commerce Board.

\_\_\_\_\_  
Richard Dennis, President

\_\_\_\_\_  
Naomi Young, Secretary



## RESOLUTION 2012-05

### A Resolution Supporting Research of Transporting Natural Gas to Interior Alaska

**Whereas,** the Richardson Highway transportation corridor from Fairbanks in the Interior to tidewater in Valdez is home to over 110,000 Alaskans. It is the home of three major military facilities: Fort Wainwright near Fairbanks, Eielson Air Force Base near North Pole, and Fort Greely near Delta Junction.

**Whereas,** the Richardson has been the route of the Trans-Alaska Pipeline (TAPS) for over 30 years, yet our homes and businesses are starving for affordable energy.

**Whereas,** the Highway Interior needs affordable energy to heat people's homes and fuel their vehicles, but people need jobs too. The TAPS statutory policy of high oil producer taxation and selling State royalty oil for the highest dollar has produced a Permanent Fund Dividend that benefits all Alaskans equally, but has produced unsustainable energy expenses for the Interior.

**Whereas,** individuals get Permanent Fund Dividends every year, but our employers, businesses, schools, military bases, and other users get nothing but the high cost. Businesses are constrained or lost and with their disappearance comes empty houses and family out-migration.

**Whereas,** Eielson AFB will now possibly relocate a major portion of its functions with the loss of hundreds of jobs due to high cost of operations, a large part of which is energy cost related. Refining is uneconomic and Flint Hills Refinery is partially shut down due to the high cost of State royalty oil. Our electric cooperative, Golden Valley Electric Association, is now forced to sell electricity at over 20¢ a KWH due to the cost of State royalty oil.

**Whereas,** it is understood that Alaska is a very small market and that to properly amortize the cost of the TAPS pipeline a much bigger market is needed, thus the terminus in Valdez where the vast majority of oil is shipped to the world market. Tax policy and economics of scale thus produce the puzzling fact that much of the petroleum products used in the Interior are produced from TAPS oil that is shipped to the Lower 48, processed and transported back here to be sold at a price lower than is possible with local production.

**Whereas,** Alaskans have recognized for many years that the vast North Slope supply of natural gas holds the best promise of reasonably priced energy for the Interior road system, provided that this gas can be brought to market in Alaska relatively inexpensively, which may well have to include a different tax and royalty gas pricing structure than what currently exists under TAPS.

**Whereas,** economic laws undoubtedly function similarly with natural gas, and a gas pipeline to the Lower 48 or to Valdez tidewater would have been built long ago by private enterprise venture capital if it were clearly profitable. However, it is particularly peculiar that Flint Hills and GVEA can combine to somewhat cut the cost of Interior energy production by building a processing plant on the North Slope and operating a fleet of tanker trucks to haul natural gas hundreds of miles over gravel roads to North Pole to replace their current feedstock coming straight out of the TAPS pipe.

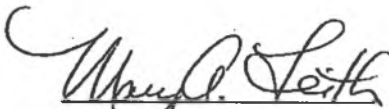
**Whereas,** it is also particularly peculiar that the Legislature would seriously consider using State dollars otherwise available for statewide capital projects to build a small diameter "bullet line" from the Slope to Anchorage that bypasses Fairbanks, North Pole, Delta Junction, Glennallen and Valdez when Anchorage clearly has nearby proven natural gas reserves of its own under a lower tax structure than TAPS.

Now therefore be it Resolved by the City of Delta Junction, that

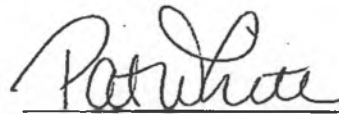
1. The City of Delta Junction, on behalf of the 5,000 residents of our area, hereby supports construction of a gas pipeline from the North Slope to the Interior and on to Valdez tidewater along the Richardson Highway corridor, with a potential arm from Glennallen to Anchorage.
2. That natural gas be made available in the Interior to businesses, schools, electric cooperatives, military bases, and individual consumers at a reasonable rate so as to reduce the current uneconomic cost of energy.
3. That we go on record as opposing construction of a "bullet line" constructed with State dollars to serve mainly Anchorage and outlying communities.

PASSED AND APPROVED this 19th day of June 2012.

ROLL CALL	YES	NO	ABSENT	ABSTAIN
Seat A: Leith	x			
Seat B: Musgrove	x			
Seat C: Saarloos	x			
Seat D: Stebbins			x	
Seat E: Grossmann	x			
Seat F: Porter	x			
Seat G: Hallgren	x			

  
Mary Leith, Mayor



  
Pat White, City Clerk



## ALASKA MUNICIPAL LEAGUE

### RESOLUTION #2012-01

**A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE SUPPORTING A LARGE VOLUME GASLINE WHICH WOULD SIGNIFICANTLY REDUCE THE COST OF ENERGY IN THE FAIRBANKS/NORTH POLE AREA AND OTHER PARTS OF ALASKA WITH GAS VIA A GASLINE FROM PRUDHOE BAY TO FAIRBANKS AND CONTINUING SOUTH TO GLENALLEN, CONNECTING TO A SPURLINE FROM GLENALLEN TO THE EXISTING SOUTH CENTRAL GAS GRID AND CONTINUING TO THE KENAI PENINSULA FOR EXPORT AND PROVIDING FOR EXPORT FROM THE ICE FREE DEEP WATER PORT AT VALDEZ**

**WHEREAS**, Alaska is fortunate to have 35 trillion cubic feet of known gas reserves plus potentially an additional undiscovered hundreds of trillions of cubic feet of natural gas on Alaska's North Slope region, the development of this resource will greatly increase the volume of oil put into the Trans Alaska Pipeline (TAPS), providing economic and revenue benefits to Alaska; and

**WHEREAS**, Alaska, rich in natural resources, suffers from having the highest cost of energy and coldest temperature days per capita in the nation; and

**WHEREAS**, the Alaska Constitution, Article 8, Section 1 states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest," and Section 2 mandates, "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people;" settlement requires access and affordable, competitive energy to develop commerce to sustain the settlement of Alaska; and

**WHEREAS**, the legislature is to be commended for taking steps to provide for the development of natural gas, the first effort being AGIA, which is an international line through Canada and which pays incentives of \$500 million, and which is not likely to be built unless in phases due to shale gas exploitation in North America; the second effort was HB 369, passed by the 26<sup>th</sup> Alaska Legislature in April 2010, establishing the Alaska Gasline Development Corporation (AGDC), as a subsidiary corporation of AHFC, to pursue developing a project plan for delivering North Slope natural gas to interior and south-central Alaska. The legislature received AGDC's Project Plan in July 2011. The plan described how a 737-mile long, 24-inch diameter Alaska Stand Alone Gas Pipeline (ASAP) project could be feasibly designed, financed, constructed and operated as the legislation directed. However, as proposed, it does not provide for maximum settlement or benefit and has an inequitable tariff structure; and

**WHEREAS**, each legislative proposal for developing natural gas should include an evaluation of the following considerations:

- a. Does the routing of the pipeline encourage the greatest settlement of Alaska's land and provide for the maximum development of Alaska's resources? Does it facilitate the ability of the people to affordably live where cities and communities have already been established?
- b. Is the tariff equal to all parts of the pipeline, the resource being equally owned by all?
- c. Is the tariff as low as possible due to the ability to export?
- d. Is the diameter of the pipe as large as possible to be able to competitively market the resource?
- e. Are the terminals or take-off points placed for maximum integration into existing energy production and transmission infrastructure?

**WHEREAS**, AGDC's ASAP project would route through national and state parks along the Parks Highway, which has minimal settlement or development opportunities, thereby providing for minimal benefit to Alaskans; and because a 12-inch diameter pipe will be built approximately 35 miles from the main pipe, to supply interior Alaska, but will stop 20 miles from the 2 oil refineries and the 120 (plus) megawatt electric generation plant in North Pole, which produces much of the gasoline, heating oil, jet fuel, and electricity for use throughout interior, rural and south-central Alaska, but the pipeline that is to benefit Alaskans, in its current form, will require interior Alaskans to pay a greater tariff than the consumer in south-central twice; and additional tariff for a spur from the mainline, and additionally to construct the line to North Pole and/or beyond – negatively affecting the economics of such a spur to interior Alaska; and

**WHEREAS**, AGDC's ASAP line projects the tariff by eventual demand, the actual price to the consumer may be too expensive to encourage an infrastructure build-out and home or business conversions, but that dynamic could be changed by incentivizing the build-out and heating oil conversions in interior Alaska by ensuring that the tariff is the same system-wide; if the cost to the consumer is not economical, make it economical by increasing the market of consumers through export opportunities from ports on the Kenai and at Valdez; if exports can't be facilitated because of the restrictions of AGIA, then either:

- a. The legislature should get us out of AGIA to allow for an in-state gasline with throughput greater than 500 million standard cubic feet per day (MMcfd); or
- b. The legislature should amend the provisions of HB 369 to ensure the routing of the 24-inch line is down the Richardson Highway, supplying the greater number of communities, including North Pole, Eielson AFB, Salcha, Delta Junction, Ft. Greely, and Glennallen, and bringing the energy supply to mining projects in operation or being permitted, such as Pogo Mine; or
- c. The legislature or administration should marry AGIA and ASAP, thus allowing a large diameter pipeline to be built down the Richardson corridor to Delta, as a possible Phase 1 of the Trans Canada line, and be continued south to Glennallen, connecting to a spur line from Glennallen to the existing south-

central gas grid and continuing to the Kenai Peninsula for export, and providing for export from the ice free, deep water port at Valdez; and

**WHEREAS**, it is time that this take place by moving natural gas throughout Alaska in such a way, to provide a source of cheap, clean energy to heat our homes and businesses to the maximum number of Alaskans; the cost of energy in the Fairbanks/North Pole area, including the military bases, is threatening the very existence of our interior communities; and

**WHEREAS**, the high cost of energy at our interior military bases could be a deciding factor if the bases were once again evaluated on a closure criteria; and

**WHEREAS**, the world markets for natural gas made into liquefied natural gas (LNG) are seeking suppliers of LNG to their countries, for example, Japan is seeking contracts from far away states like Pennsylvania and from northern Europe, which have travel distances far greater than the 3,400 miles from Alaska to Tokyo, making Alaska LNG far more competitive when export is provided for; and

**WHEREAS**, export is already provided for from the Kenai; and Governors Bill Egan, Walter Hickel, Jay Hammond and the late Senator Ted Stevens all supported and took steps in advancing the building of an All-Alaska Gasline, parallel to the Trans Alaska Oil Pipeline to Fairbanks and continuing south to tidewater at Valdez for liquefaction and export; and

**WHEREAS**, because of the robust economics in the Asian energy markets in need of LNG, Alaska finally has the opportunity to monetize its natural gas in such a manner that would bring billions of dollars each year in additional revenues to the state and low cost energy to Alaskans; and

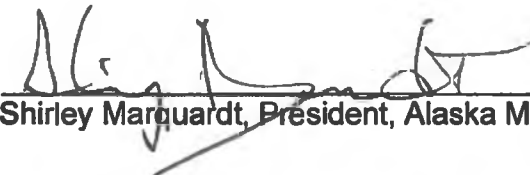
**WHEREAS**, only a large volume gasline from Prudhoe Bay to Fairbanks and continuing south to the deepwater port at Valdez, the All-Alaska line, or through Glennallen to south-central and the Kenai, provides significant benefits to all Alaskans.

**NOW, THEREFORE BE IT RESOLVED** that the Alaska Municipal League urges the Governor and Legislature to:

1. Utilizing the considerations and three options within this resolution, take immediate steps to advance the building of a large volume gasline from Prudhoe Bay parallel to the TAPS to tidewater at Valdez, with the maximum amount of off-take locations at every logical local point, such as the Yukon River, Fairbanks, all interior military bases, Delta Junction, and Glennallen, to points south, for maximum gas distribution throughout Alaska.
2. Make an analysis that evaluates the benefits of taking LNG or compressed natural gas (CNG) from Valdez, and the Yukon River to coastal communities throughout Alaska, that are currently utilizing diesel fuel as the source of power generation and space heating.

**BE IT FURTHER RESOLVED** that this resolution is to be distributed to the Governor, Legislature, AGDC, AGPA, AML, Trans Canada.....

**PASSED AND APPROVED BY THE ALASKA MUNICIPAL LEAGUE** on the 11<sup>th</sup> day of November, 2011.

Signed:   
Shirley Marquardt, President, Alaska Municipal League

Attest:   
Kathie Wasserman, Executive Director, Alaska Municipal League

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

RESOLUTION 12-04

SUPPORTING A LARGE VOLUME GAS LINE FROM PRUDHOE BAY TO FAIRBANKS  
AND CONTINUING SOUTH TO GLENNALLEN, CONNECTING TO A SPUR LINE  
FROM GLENNALLEN TO THE EXISTING SOUTH CENTRAL GAS GRID  
AND CONTINUING TO VALDEZ

WHEREAS, Copper Valley Electric Association is the certificated electric utility providing central station electric service to nearly 4,000 electric customers in Valdez and the Copper River Basin; and

WHEREAS, CVEA is a nonprofit rural electric cooperative utility organized under Alaska Statute 10.25; and

WHEREAS, CVEA provides service to 160 miles of the Richardson Highway, 80 miles of the Glenn Highway, 17 miles of the Edgerton Highway, and serves the Tok Road to and including the HAARP site; and

WHEREAS, CVEA generates 50 percent of its annual energy requirements with fossil fuel; and

WHEREAS, the cost of fossil fuel is unsustainable and is having adverse impacts on the economic well being of the region served by CVEA; and

WHEREAS, an abundance of studies prove that a large-diameter gas line would serve more Alaskan residents with low cost energy if routed from the North Slope to Valdez, and a spur line from Glennallen to Palmer, adjacent to the Glenn Highway corridor, for transporting natural gas to Anchorage if needed; and

WHEREAS, a Richardson Highway routing would ensure natural gas would be made available to key military bases such as Fort Wainright, Eielson Air Force Base, and Fort Greely National Missile Defense; and

WHEREAS, a Richardson Highway routing would ensure that affordable natural gas was made available in the corridor where research has determined that vast mineral resources exist, and where large mines are already in operation or under consideration, and that mineral resource extraction requires significant energy and affordable natural gas reduces this expense; and


WHEREAS, Copper Basin gas wells that are currently under study and development in the gas-rich Copper River Basin could be developed; and

WHEREAS, a Richardson Highway routing ensures a gas line routing next to the Golden Valley Electric Association North Pole Expansion Facility where a power generating turbine may be fed with natural gas, potentially reducing GVEA members' electric bills; and

WHEREAS, a Richardson Highway routing also ensures that outlying areas of the Fairbanks North Star Borough, such as Livengood, Harding Lake, Salcha, and all communities along that corridor such as Delta Junction, Summit Lake, Paxson, Gakona, Gulkana, Glennallen, Copper Center, Tazlina, Tonsina, Kenny Lake, Chitina and Valdez, as well as communities along the Glenn Highway corridor such as Tolsona, Mendeltna, Nelchina, and Eureka have the potential to receive lower cost electric and thermal energy from Alaska's natural gas supplies; now therefore,

BE IT RESOLVED, that Copper Valley Electric Association supports the construction and operation of a large-diameter natural gas pipeline routed from the North Slope to Valdez with take-offs where needed and demanded in, but not limited to, Fairbanks, North Pole, Delta Junction, and Glennallen and with a spur line connected to the south central gas grid.

Approved and signed this 16<sup>th</sup> day of August 2012, in Valdez, Alaska.



---

Secretary (attest)

(seal)



---

William Stark, Vice President

## **Resolution: Fairbanks North Star Borough**

**Whereas**, Interior and Southcentral Alaska uses about 75 million gallons of fuel oil to stay warm in the winter at a cost of over \$320.00 million dollars per year, and;

**Whereas**, the work of scientists with USGS, EIA, Escopeta, Buccaneer Energy and others that 16-24 trillion cubic feet of natural gas reserves are believed to exist under Cook Inlet; which is a 200+ year supply of gas given existing railbelt consumption of 240 million cubic feet per day (MCF/D), and;

**Whereas**, Cook Inlet gas is dry gas, perfect for use in heating and electrical generation in the Anchorage bowl and surrounding communities from the Mat-Su Valley to Homer on the Kenai Peninsula, and;

**Whereas**, Cook Inlet is much closer to Anchorage than Prudhoe Bay thus greatly reducing the cost of distribution, and;

**Whereas**, there is in excess of 35 trillion cubic feet (T/cf) of known natural gas reserves in North Slope oil wells and, by some estimates, unknown reserves may be from an additional 35 T/cf to 200 (T/cf) in unknown reserves, yet to be certified and;

**Whereas**, research proves a large-diameter gasline would serve more Alaskan residents with low cost energy if routed from the North Slope to Valdez, and with a 24" spur line from Glennallen to Palmer adjacent to the Glenn Highway corridor for transporting natural gas to Anchorage if needed, or from Anchorage to Valdez should significant supplies are discovered in Cook Inlet, allowing for sales of Cook Inlet natural gas to the Asian market, and;

**Whereas**, a Richardson Highway routing would ensure natural gas would be made available to key military bases such as Ft. Wainright, Eielson AFB, and Ft. Greely National Missile Defense, and these bases are more secure if their operating costs are reduced, given significant US defense spending cuts that have been announced, and;

**Whereas**, in the opinion of most comprehensive studies that the Port of Valdez is the only port in Alaska that can adequately be used for shipment of liquid natural gas (LNG) on large capacity tankers to the Asian market necessary to transport LNG in the greatest volume and at the most economical costs, and;

**Whereas**, a Richardson Highway routing would ensure that a large-diameter natural gasline to the deep water, ice free Port of Valdez, would enable gas to be fed into the small diameter (24") gasline to the Mat-Su/Anchorage/Kenai Peninsula system, with a minimum of one or two gas off takes - thereby reducing the capital expenditures (CAPEX) of the large line, and also, ensuring that Interior and other Southcentral residents enjoyed the benefits of the low cost of gas transported through Alaska from the large-diameter gasline, and;

**Whereas**, a Richardson Highway routing would ensure that affordable natural gas was made available in the corridor where research has determined that vast mineral resources exist, and where a large mine (Pogo) is already in operation and other large mining operations are under consideration (Livengood), and that mineral resource extraction requires significant energy and that affordable natural gas reduces this expense, and;

**Whereas**, the Richardson Highway is an existing pipeline corridor, that has received federal approval in the form of a FEIS for a gasline, where other routes have not, and that Right of Way and permitting risk should be minimized, and;

**Whereas**, a Glennallen to Palmer routing-as the first leg of this project ensures that significant Right of Way and permitting of that corridor was established by the work of ANGDA; and such a routing ensures gas from Cook

Inlet can be more easily transported to Valdez for export, and other gas wells are currently under study and development in the gas-rich Copper River basin, and;

**Whereas**, a small diameter line in conjunction and integrated with a large gas line provides redundancy to ensure that Southcentral and Interior Alaska gas customers have alternative gas supplies in the event of a major earthquake or other natural or manmade disaster, and;

**Whereas**, such a line could be built with billions of dollars Alaska has in state savings and with the sale of Bonds from major financial institutes around the world thereby reducing the pipeline's operating costs, specifically, not requiring a return on equity, as the state already does with highways, ports, airports, and other public infrastructure, and;

**Whereas**, a Richardson Highway routing ensures a gas line routing next to the Golden Valley Electric Association (GVEA) - North Pole Expansion Facility where a General Motors LM-6000 power generating turbine may be fed with cheap natural gas thereby significantly reducing GVEA member's electricity bills, and;

**Whereas**, a Richardson Highway routing also ensures that outlying areas of the Fairbanks North Star Borough, such as Livengood, Harding Lake, Salcha, and all communities along that corridor such as Delta Junction, Summit Lake, Paxson, Gakona, Gulkana, Glennallen, Copper Center, Tazlina, Tonsina, Kenny Lake, and Chitina, as well as communities along the Glenn Highway corridor such as Tolsona, Mendeltna, Nelchina, and Eureka will receive low cost energy from Alaska's natural gas supplies, and;

**Whereas**, with the correct routing, and a minimal return on equity would significantly reduce the cost of energy in the Southcentral and Interior Alaska, and dramatically improve our winter time air quality in all the communities affected, and;

**Whereas**, the Alaska Natural Gas Pipeline Coalition. (ANGPC) is hereby established and is recognized as an ad hoc citizens committee, formed and dedicated to the promotion of a large-diameter (48") natural gas pipeline from the North Slope to tidewater at Valdez, Alaska, first to service the low cost energy needs of Alaskans and subsequently to allow the state of Alaska to export and market the excess Liquid Natural Gas to the Asian markets;

**Therefore be it resolved**, that the Fairbanks North Star Borough hereby agrees to align itself with members of the Alaska Natural Gas Pipeline Coalition. (ANGPC) in its efforts to support the construction and operation of a large-diameter natural gas pipeline routed from the North Slope to Valdez with take-offs where needed and demanded in, but not limited to, Fairbanks, North Pole, Delta Junction, and Glennallen and;

**Be it further resolved**, that said pipeline will be a cooperative effort in design, development, construction and operation with the State of Alaska, TransCanada Corporation, British Petroleum, Conoco/Phillips, and Mobil/Exxon.

Fairbanks North Star Borough

---

Diane Hutchinson, Presiding Officer

---

Luke Hopkins, Mayor

Introduced By: Mayor Cleworth

Date: July 23, 2012

**RESOLUTION NO. 4537**

**A RESOLUTION IN SUPPORT OF A LARGE DIAMETER NATURAL  
GAS PIPELINE TO TIDEWATER AT VALDEZ, ALASKA**

**WHEREAS**, a large-diameter gas pipeline has been discussed for over forty years and should be a fundamental part of the infrastructure of the State of Alaska; the North Slope to Valdez line has been researched extensively and takes advantage of the existing corridor; and

**WHEREAS**, the decline in dependence on both nuclear and coal energy sources has resulted in a significant increase in demand for natural gas; and

**WHEREAS**, this corridor encompasses a larger population and user base, including Fairbanks, Fort Wainwright, and Eielson AFB, than other potential routes; and

**WHEREAS**, energy costs for residents in the interior and rural Alaska are staggering and severely limit economic growth; and

**WHEREAS**, the only realistic answer for achieving air quality standards in Fairbanks would be rapid conversion to natural gas; and

**WHEREAS**, because an all Alaskan route is strategically desirable, the City of Fairbanks joins with the numerous other communities who have submitted Resolutions,

**NOW, THEREFORE, BE IT RESOLVED** that the Fairbanks City Council supports the construction of a large-diameter natural gas pipeline from the North Slope to Valdez, with various take-off points where needed, to further the development of our natural resources.

**PASSED and APPROVED this \_\_\_ Day of July, 2012.**

\_\_\_\_\_  
Jerry Cleworth, Mayor

AYES:  
NAYS:  
ABSENT:  
APPROVED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, City Clerk CMC

\_\_\_\_\_  
Paul Ewers, City Attorney