



LAWS OF ALASKA

1986

Source

HCS CSSB 309 (R1s)

Chapter No.

55

AN ACT

Relating to royalty gas contracts; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 29, 1986
Actual Effective Date: May 30, 1986

AN ACT

Relating to royalty gas contracts; and providing for
an effective date.

* Section 1. FINDINGS. The legislature finds that the best interest of the state will be served if the commissioner of natural resources is authorized to establish the in-value royalty for gas sold to a gas or electric utility by using the contract price between the lessee of the state and the utility, whether or not the gas lease establishes a different standard for the valuation and if the lessee and the utility are not related to each other. The legislature finds that this authorization should apply prospectively and does not intend the authorization to apply to the valuation for royalty purposes of gas sold by a lessee under a gas sales contract entered into before the effective date of this Act. The legislature does not intend this Act to apply to the policies of the state regarding the value of the state's royalty share of oil production.

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

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

(1) the contract price is unreasonably low;

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

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

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

8 (bb) In (aa) of this section

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except as otherwise provided in AS 38.05.183(h), the [THE] lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, or the lease, sale, or disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility

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1 making application, and of the terms of the grant under which the land
2 was acquired by the state.

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

8 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).