

## **G.1.** TITLE 42. PUBLIC UTILITIES AND CARRIERS AND ENERGY PROGRAMS

### **G.1.** Chapter 42.04 REGULATORY COMMISSION OF ALASKA

#### **Article 01. COMMISSION AND STAFF Sec. 42.04.010. Regulatory**

**Commission of Alaska created.** (a) There is created within the Department of Commerce, Community, and Economic Development as an independent agency of the state the Regulatory Commission of Alaska.

(b) The commission shall annually elect one of its members to serve as chair for the following fiscal year. When a vacancy occurs in the office of chair, the commission shall elect one of its members to serve the remaining term as chair. The term as chair is one year. The chair may be elected to not more than three successive terms as chair. After a year of not serving as chair, the commissioner is eligible for election as chair again.

**Sec. 42.04.020. Commissioners.** (a) The commission consists of five commissioners appointed by the governor and confirmed by the legislature in joint session. To qualify for appointment as a commissioner, a person must be a member in good standing of the Alaska Bar Association or have a degree from an accredited college or university with a major in engineering, finance, economics, accounting, business administration, or public administration. Actual experience for a period of five years in the practice of law or in the field of engineering, finance, economics, accounting, business administration, or public administration is equivalent to a degree.

(b) The term of office of each member is six years. A commissioner, upon the expiration of a term, shall continue to hold office until a successor is appointed and qualified.

(c) A vacancy arising in the office of a commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session, and, except as provided in [AS 39.05.080\(4\)](#), an appointee selected to fill a vacancy shall hold office for the balance of the full term for which the predecessor on the commission was appointed.

(d) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(e) The governor may remove a commissioner from office for cause, including incompetence, neglect of duty, inability to serve, or misconduct in office or because the member, while serving on the commission, is convicted of a misdemeanor for violating a statute or regulation related to public utilities or is convicted of a felony. A commissioner, to be removed for cause, shall be given a copy of the charges and afforded an opportunity to be publicly heard in person or by counsel in the commissioner's own defense upon not less than 10 days' notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and the governor's finding based

on the charges, together with a complete record of the proceedings.

(f) Members of the commission are in the exempt service and are entitled to a monthly salary equal to a step in Range 27 of the salary schedule in [AS 39.27.011](#)(a) for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal to a step in Range 27 of the salary schedule in [AS 39.27.011](#)(a) for Juneau, Alaska.

(g) Each commissioner, before entering upon the duties of office, shall take and subscribe to the oath prescribed for principal officers of the state.

**Sec. 42.04.030. Principal office; seal.** (a) The commission shall establish a principal office and branch offices necessary to discharge its business efficiently. For the convenience of the public or of parties to a proceeding, the commission may hold meetings, hearings, or other proceedings at other locations.

(b) The commission shall have an official seal.

**Sec. 42.04.040. Legal counsel.** (a) The Department of Law shall provide full-time legal counsel to the commission.

(b) The commission may, subject to the approval of the attorney general, contract for the services of specialized legal counsel or legal consultants.

**Sec. 42.04.050. Employment of commission personnel.** (a) The chair of the commission is responsible for directing the administrative functions of the commission and carrying out the policies as set by the commission. The commission chair may employ engineers, hearing examiners, administrative law judges, arbitrators, mediators, experts, clerks, accountants, and other agents and assistants considered necessary. Employees of the commission who are not in the exempt service under [AS 39.25.110](#) or the partially exempt service under [AS 39.25.120](#) are in the classified service under [AS 39.25.100](#).

(b) The chair of the commission may enter into a contract for no more than \$5,000 to engage the services of a consultant or expert the chair considers necessary. The commission may contract for and engage the services of consultants and experts the commission considers necessary.

(c) At the request of the Alaska Oil and Gas Conservation Commission and to the extent workload permits, the Regulatory Commission of Alaska shall make available to the Alaska Oil and Gas Conservation Commission the services of a hearing examiner.

**Sec. 42.04.060. Restrictions on members and employees.** (a) A member of the commission or an employee of the commission may not have an official connection with, hold stock or securities in, or have a pecuniary interest in a public utility or pipeline carrier within the state. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section; however, a member or employee of the commission may not be an officer, board member, or employee of a cooperative association. A member or employee may not act upon a matter in which a relationship of the member or employee with any person creates a conflict of interest.

(b) A member or employee of the commission may not, after leaving the position as a member or employee of the commission, act as agent for or on behalf of a public utility in any matter before the commission that was before the commission during the employee's employment or the member's term of office. A violation of this subsection is a class A misdemeanor.

(c) Members and employees of the commission, except clerical and secretarial staff, are subject to [AS 39.50](#). Members and employees of the commission are subject to [AS 39.52](#).

(d) A member of the commission is disqualified from voting upon any matter before the commission in which the member has a conflict of interest.

**Sec. 42.04.070. Powers and duties of commission chair.** (a) The chair of the commission shall

(1) employ the commission staff;

(2) establish and implement a time management system for the commission;

(3) assign the work of the commission to members and staff of the commission so that matters before the commission are resolved as expeditiously and competently as possible; when assigning a matter, the chair shall also set a date by which time the matter should be completed.

(b) The chair of the commission may appoint a hearing examiner or an administrative law judge to hear a matter that has come before the commission; a member of the commission may serve as hearing examiner or, if qualified, as an administrative law judge.

(c) The chair of the commission shall request the attorney general to participate as a party in a matter when the commission believes that it is in the public interest for the attorney general to do so.

**Sec. 42.04.080. Decision-making procedures.** (a) Except as provided in [AS 42.05.171](#) or [AS 42.06.140](#), when a matter comes for decision before the commission under [AS 42.05](#), [AS 42.06](#), or [AS 42.08](#), the chair shall appoint a hearing panel composed of three or more members to hear, or if a hearing is not required, to otherwise consider, and decide the case. The panel shall exercise the powers of the commission with respect to the matter.

(b) The commission shall adopt regulations that establish standards of timeliness for the types of cases that come before the commission. The commission shall establish standards based in part on degrees of complexity of the cases.

**Sec. 42.04.090. Impartial decision-making. [Repealed, Sec. 6 ch 2 TSSLA 2002].** Repealed or Renumbered

**Article 02. COMMUNICATIONS CARRIERS SECTION Sec. 42.04.100.**

**Communications carriers section.** There is established within the commission a communications carriers section that shall develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications

common carriers within the state involving the use of wire, cable, radio, and space satellites.

**Sec. 42.04.150. Public advocacy section. [Repealed, E.O. No. 111, Sec. 4 (2003). For current law, see [AS 44.23.020\(e\)](#)].** Repealed or Renumbered

## **Article 01. POWERS AND DUTIES OF THE COMMISSION**

### **G.1.**

#### **Chapter 42.05 ALASKA PUBLIC UTILITIES REGULATORY ACT**

**Sec. 42.05.010. - 42.05.131. Establishment of Public Utilities Commission. [Repealed, Sec. 5 ch 113 SLA 1970; Sec. 24 ch 25 SLA 1999].** Repealed or Renumbered

**Sec. 42.05.141. General powers and duties of the commission.** (a)

The Regulatory Commission of Alaska may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including

- (1) regulate every public utility engaged or proposing to engage in a utility business inside the state, except to the extent exempted by [AS 42.05.711](#);
- (2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services, and facilities of a public utility and hold hearings on them;
- (3) make or require just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for a public utility;
- (4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;
- (5) require a public utility to file reports and other information and data;
- (6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission, or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial, or modification of any petition, application, complaint, or other proceeding;
- (7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state.

(b) The commission shall perform the duties assigned to it under [AS 42.45.100](#) - 42.45.190.

(c) In the establishment of electric service rates under this chapter the commission shall promote the conservation of resources used in the generation of electric energy.

(d) When considering whether the approval of a rate or a gas supply contract proposed by a utility to provide a reliable supply of gas for a reasonable price is in the public interest, the commission shall

- (1) recognize the public benefits of allowing a utility to negotiate different

pricing mechanisms with different gas suppliers and to maintain a diversified portfolio of gas supply contracts to protect customers from the risks of inadequate supply or excessive cost that may arise from a single pricing mechanism; and

(2) consider whether a utility could meet its responsibility to the public in a timely manner and without undue risk to the public if the commission fails to approve a rate or a gas supply contract proposed by the utility.

**Sec. 42.05.145. Telecommunications regulation policy.** A utility that provides local exchange or interexchange telecommunications service in the state affects the public interest. Regulation of these utilities shall, consistent with this chapter, seek to maintain and further the efficiency, availability, and affordability of universal basic telecommunications service.

**Sec. 42.05.150. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.151. Regulations and hearing procedures.** (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper to exercise its powers and to perform its duties under this chapter.

(b) The commission shall adopt regulations governing practice and procedure, consistent with due process of law, including the conduct of formal and informal investigations, pre-hearing conferences, hearings, and proceedings, and the handling of procedural motions by a single commissioner. The regulations must provide for the hearing or, when a hearing is not required, other consideration of a matter in accordance with [AS 42.04.080](#). Technical rules of evidence need not apply to investigations, pre-hearing conferences, hearings, and proceedings before the commission. The commission shall provide for representation by out-of-state attorneys substantially in accordance with Rule 81, Alaska Rules of Civil Procedure.

(c) The commission, each commissioner, or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum, and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts, and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. Each commissioner is authorized to issue orders on procedural motions. The commission may petition a court of this state to enforce its subpoenas, subpoenas duces tecum, or other process.

**Sec. 42.05.160. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.161. Application of Administrative Procedure Act.** (a) The administrative adjudication procedures of [AS 44.62](#) (Administrative Procedure Act) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review under that Act as provided in [AS 42.05.551\(a\)](#).

(b) [AS 44.62](#) (Administrative Procedure Act) applies to regulations adopted by the commission.

**Sec. 42.05.170. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.171. Formal hearings.** A formal hearing that the commission has power to hold may be held by or before a hearing panel appointed under [AS 42.04.080](#), a hearing examiner, or an administrative law judge designated for the purpose by the chair of the commission. In appropriate cases, a formal hearing may be held before an arbitrator or mediator designated for the purpose by the commission. The testimony and evidence in a formal hearing may be taken by the panel, by the hearing examiner, by the arbitrator, by the mediator, or by the administrative law judge to whom the hearing has been assigned. A decision of a hearing examiner, an arbitrator, a mediator, or an administrative law judge is not final until approved by the commission. A commissioner who has not heard or read the testimony, including the argument, may not participate in making a decision of a hearing panel. A party may file a petition for reconsideration of, or an administrative appeal of, a decision by a hearing examiner, an arbitrator, a mediator, or an administrative law judge that has been approved by the commission, or a decision of a hearing panel. The full commission shall act on the petition for reconsideration or the appeal. In determining the place of a hearing, the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

**Sec. 42.05.175. Timelines for issuance of final orders.** (a) The commission shall issue a final order not later than 180 days after a complete application is filed for an application

- (1) for a certificate of public convenience and necessity;
- (2) to amend a certificate of public convenience and necessity;
- (3) to transfer a certificate of public convenience and necessity; and
- (4) to acquire a controlling interest in a certificated public utility.

(b) Notwithstanding a suspension ordered under [AS 42.05.421](#), the commission shall issue a final order not later than 270 days after a complete tariff filing is made for a tariff filing that does not change the utility's revenue requirement or rate design.

(c) Notwithstanding a suspension ordered under [AS 42.05.421](#), the commission shall issue a final order not later than 450 days after a complete tariff filing is made for a tariff filing that changes the utility's revenue requirement or rate design.

(d) The commission shall issue a final order not later than 365 days after a complete formal complaint is filed against a utility or, when the commission initiates a formal investigation of a utility without the filing of a complete formal complaint, not later than 365 days after the order initiating the formal investigation is issued.

(e) The commission shall issue a final order in a rule-making proceeding not

later than 730 days after a complete petition for adoption, amendment, or repeal of a regulation under [AS 44.62.180](#) - 44.62.290 is filed or, when the commission initiates a rule-making docket, not later than 730 days after the order initiating the proceeding is issued.

(f) The commission may extend a timeline required under this section if all parties of record consent to the extension or if, for one time only, before the timeline expires, the

(1) commission reasonably finds that good cause exists to extend the timeline;

(2) commission issues a written order extending the timeline and setting out its findings regarding good cause; and

(3) extension of time is 90 days or less.

(g) The commission shall file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under (f) of this section during the previous quarter and including copies of the written orders issued under (f)(2) of this section.

(h) If the commission does not issue and serve a final order regarding an application or suspended tariff under section (a), (b), or (c) of this section within the applicable timeline specified, and if the commission does not extend the timeline in accordance with (f) of this section, the application or suspended tariff filing shall be considered approved and shall go into effect immediately.

(i) In adjudicated docket matters that come before the commission under state law or federal law and are not subject to a timeline under federal law or (a) - (e) of this section, the commission shall issue a final order not later than 180 days after the filing of an initiating petition. If the matter is commenced on the commission's own motion, the commission shall issue a final order not later than 365 days after the issuance of an order opening the docket. This subsection does not apply to a complaint against a utility, a petition to revoke a certificate of public convenience and necessity, or a functionally equivalent filing.

(j) If the commission does not issue and serve a final order governed by (i) of this section within the applicable timeline specified, including any extension granted by the commission in accordance with (f) of this section, the initiating petition shall be considered approved and shall take effect immediately, or, if the matter was commenced by the commission, the docket shall be closed with no action taken.

(k) If proceedings subject to different timelines under this section are consolidated or if a single proceeding implicates more than one timeline, the latest applicable deadline for the issuance of a final order shall apply.

(l) The commission may not evade the requirement of this section by terminating a proceeding in a docket and opening a proceeding in another docket on substantially the same matter.

(m) For purposes of this section, "final order" means a dispositive

administrative order that resolves all matters at issue and that may be the basis for a petition for reconsideration or request for judicial review.

(n) For purposes of this section, an application, tariff filing, formal complaint, or petition is complete if it complies with the filing, format, and content requirements established by statute, regulation, and forms adopted by the commission under regulation.

**Sec. 42.05.180. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.181. Notice and hearing before final orders.** A final order of the commission compelling affirmative action, denying a right or privilege, or granting a right or privilege over protest of the public utility or any party of record may not be entered without giving the interested party reasonable notice and an opportunity to be heard.

**Sec. 42.05.190. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.191. Contents and service of orders.** Every formal order of the commission shall be based upon the facts of record. However, the commission may, without a hearing, issue an order approving any settlement supported by all the parties of record in a proceeding, including a compromise settlement. Every order entered pursuant to a hearing must state the commission's findings, the basis of its findings and conclusions, together with its decision. These orders shall be entered of record and a copy of them shall be served on all parties of record in the proceeding.

**Sec. 42.05.193. - 42.05.196. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.200. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.201. Publication of reports, orders, decisions, and regulations.** All reports, orders, decisions, and regulations of the commission shall be in writing. The commission shall apprise all affected utilities and interested parties of these reports, orders, decisions, and regulations as they are issued and adopted, and, when appropriate to do so, shall publish them in a manner that will reasonably inform the public or the affected consumers of any public utility service. The commission may set charges for costs of printing or reproducing and furnishing copies of its reports, orders, decisions and regulations. The publication requirement, as it pertains to regulations, does not supersede the requirements of [AS 44.62](#) (Administrative Procedure Act).

**Sec. 42.05.210. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.211. Annual report.** The commission shall, by November 15 of each year, publish an annual report reviewing its activities during the previous fiscal year and notify the legislature that the report is available. The report must address the regulation of public utility service in the state as of



June 30 and must contain details about the commission's compliance with the requirements of [AS 42.05.175\(a\) - \(e\)](#), with the timeline extensions made by the commission under [AS 42.05.175\(f\)](#), and with other performance measures established by the commission.

**Sec. 42.05.220. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 02. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

**Sec. 42.05.221. Certificates required.** (a) A public utility may not operate and receive compensation for providing a commodity or service without first having obtained from the commission under this chapter a certificate declaring that public convenience and necessity require or will require the service. Where a public utility provides more than one type of utility service, a separate certificate of convenience and necessity is required for each type. A certificate must describe the nature and extent of the authority granted in it, including, as appropriate for the services involved, a description of the authorized area and scope of operations of the public utility.

(b) All certificates of convenience and necessity issued to a public utility before July 1, 1970, remain in effect but they are subject to modification where there are areas of conflict with public utilities that have not previously been required to have a certificate or where there is a substantial change in circumstances.

(c) A certificate shall be issued to a public utility that was not required to have one before July 1, 1970, and that is required to have one after that date, if it appears to the commission that the utility was actually operating in good faith on that date. Such a certificate is subject to modification where there are areas of conflict with other public utilities or where there has been a substantial change in circumstances.

(d) In an area where the commission determines that two or more public utilities are competing to furnish identical utility service and that this competition is not in the public interest, the commission shall take appropriate action to eliminate the competition and any undesirable duplication of facilities. This appropriate action may include, but is not limited to, ordering the competing utilities to enter into a contract that, among other things, would:

- (1) delineate the service area boundaries of each in those areas of competition;
- (2) eliminate existing duplication and paralleling to the fullest reasonable extent;
- (3) preclude future duplication and paralleling;
- (4) provide for the exchange of customers and facilities for the purposes of providing better public service and of eliminating duplication and paralleling; and
- (5) provide such other mutually equitable arrangements as would be in the

public interest.

(e) If the commission employs professional consultants to assist it in administering this section, it may apportion the expenses relating to their employment among the competing utilities.

(f) *[Repealed, Sec. 12 ch 136 SLA 1980].*

**Sec. 42.05.230. *[Repealed, Sec. 5 ch 113 SLA 1970].*** Repealed or Renumbered

**Sec. 42.05.231. Application.** Application for a certificate shall be in writing and shall be in the form and contain the information required by the commission by regulation.

**Sec. 42.05.240. *[Repealed, Sec. 5 ch 113 SLA 1970].*** Repealed or Renumbered

**Sec. 42.05.241. Conditions of issuance.** A certificate may not be issued unless the commission finds that the applicant is fit, willing, and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public. The commission may issue a certificate granting an application in whole or in part and attach to the grant of it the terms and conditions it considers necessary to protect and promote the public interest including the condition that the applicant may or shall serve an area or provide a necessary service not contemplated by the applicant. The commission may, for good cause, deny an application with or without prejudice.

**Sec. 42.05.250. *[Repealed, Sec. 5 ch 113 SLA 1970].*** Repealed or Renumbered

**Sec. 42.05.251. Use of streets in municipalities.** Public utilities have the right to a permit to use public streets, alleys, and other public ways of a municipality upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the municipality requires. The fee may not exceed the actual cost to the municipality of the utility's use of the public way and of administering the permit program. A dispute as to whether fees, terms, conditions, or exceptions are reasonable shall be decided by the commission. The commission may require a utility to add the amount of any permit fee paid as a pro rata surcharge to its bills for service rendered at locations within the boundaries of any municipality that requires payment of a permit fee.

**Sec. 42.05.253. Public utility regulatory cost charge. *[Repealed, Sec. 36 ch 2 FSSLA 1992].*** Repealed or Renumbered

**Sec. 42.05.254. Public utility regulatory cost charge.** (a) A regulated public utility operating in the state shall pay to the commission an annual regulatory cost charge in an amount not to exceed the maximum percentage of adjusted gross revenue that applies to the utility sector of which the utility is a part. The regulatory cost charges that the commission expects to collect from all regulated utilities may not exceed the sum of the following percentages of the total adjusted gross revenue of all regulated public

utilities derived from operations in the state: (1) not more than .7 percent to fund the operations of the commission, and (2) not more than .17 percent to fund operations of the public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) within the Department of Law. An exempt utility shall pay the actual cost of services provided to it by the commission.

(b) The commission shall by regulation establish a method to determine annually the amount of the regulatory cost charge for a public utility. If the amount the commission expects to collect under (a) of this section and under [AS 42.06.286\(a\)](#) exceeds the authorized budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#), the commission shall, by order, reduce the percentages determined under (h) of this section so that the total amount of the fees collected approximately equals the authorized budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) for the fiscal year.

(c) In determining the amount of the regulatory cost charge imposed under (a) of this section,

(1) a utility selling utility services at wholesale shall modify its gross revenue by deducting payments it receives for wholesale sales;

(2) a local exchange telephone utility shall modify its gross revenue by deducting payments received from other carriers for settlements or access charges;

(3) an electric utility shall reduce its gross revenue by subtracting the cost of power; in this paragraph, "cost of power" means the costs of generation and purchased power reported to the commission.

(d) The commission shall calculate the total regulatory cost charges to be levied against all regulated electric utilities under this section. The commission shall allocate the total amount among the regulated electric utilities by using an equal charge per kilowatt hour sold at retail.

(e) The commission shall administer the charge imposed under this section. The Department of Revenue shall collect and enforce the charge imposed under this section. The Department of Administration shall identify the amount of the operating budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) that lapse into the general fund each year. The legislature may appropriate an amount equal to the lapsed amount to the commission and to the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) for operating costs for the next fiscal year. If the legislature does so, the commission shall reduce the total regulatory cost charge collected for that fiscal year by a comparable amount.

(f) The commission shall allow a public utility to recover all payments made to the commission under this section. The commission may not require a public utility to file a rate case in order to be eligible to recover the regulatory cost charge.

(g) The commission may adopt regulations under [AS 44.62](#) (Administrative Procedure Act) necessary to administer this section, including requirements and procedures for reporting information and making quarterly payments. The Department of Revenue may adopt regulations under [AS 44.62](#) (Administrative Procedure Act) for investigating the accuracy of filed information, and for collecting required payments.

(h) The commission shall by regulation establish a method to determine annually the maximum percentage of adjusted gross revenue that will apply to each regulated public utility sector and the maximum percentage of gross revenue that will apply to the regulated pipeline carrier sector. Other than the cost of services provided to exempt utilities, the method established shall allocate the commission's costs, and the Department of Law's certified costs of its public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#), among the regulated public utility sectors and the regulated pipeline carrier sector based on the relative amount of the commission's annual costs and the Department of Law's certified costs that is attributable to regulating each sector. For purposes of this subsection, the Department of Law shall annually certify to the commission the costs of its public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#).

(i) In this section,

(1) "adjusted gross revenue" means the gross revenue of a utility as modified under (c) of this section, if appropriate;

(2) "exempt utility" means a public utility that is certificated by the commission under [AS 42.05.221](#) - 42.05.281 but, in accordance with [AS 42.05.711](#), is exempt from other regulatory requirements of this chapter;

(3) "gross revenue" means the total operating revenue from intrastate services, as shown in a utility's annual report required by the commission by regulation;

(4) "regulated utility" means a public utility that is certificated by the commission under [AS 42.05.221](#) - 42.05.281 and that is subject to the other regulatory requirements of this chapter;

(5) "wholesale sales" means sales to another utility for resale under circumstances that make revenue from the resale subject to the regulatory cost charge imposed under this section.

**Sec. 42.05.260. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.261. Discontinuance, suspension, or abandonment of certificated service.** (a) Except as otherwise provided in this section, a public utility may not discontinue or abandon a service for which a certificate has been issued by the commission unless upon the application of the public utility and if, after notice and opportunity for hearing, the commission finds that the continued service is not required by public convenience and necessity. Any interested person may file with the commission a protest or memorandum of opposition to or in support of discontinuance or

abandonment. The commission may authorize temporary suspension of a service or of part of a service.

(b) Upon complaint or upon its own motion, the commission may reinvestigate a previously authorized discontinuance, abandonment, or suspension of a service of an operating public utility. If, after providing notice and an opportunity for a hearing, the commission finds that the public convenience and necessity require the service to be resumed, it may order the public utility to again provide the service.

**Sec. 42.05.270. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.271. Modification, suspension, or revocation of certificates.** Upon complaint or upon its own motion the commission, after notice and opportunity for hearing and for good cause shown, may amend, modify, suspend, or revoke a certificate, in whole or in part. Good cause for amendment, modification, suspension, or revocation of a certificate includes

- (1) the requirements of public convenience and necessity;
- (2) misrepresentation of a material fact in obtaining the certificate;
- (3) unauthorized discontinuance or abandonment of all or part of a public utility's service;
- (4) wilful failure to comply with the provisions of this chapter or the regulations or orders of the commission; or
- (5) wilful failure to comply with a term, condition, or limitation of the certificate.

**Sec. 42.05.280. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.281. Transfer of certificate.** A certificate may not be sold or leased, rented, transferred or inherited without the prior approval of the commission.

**Sec. 42.05.290. [Repealed, 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 03. SERVICES AND FACILITIES Sec. 42.05.291. Standards of service and facilities.** (a) Each public utility shall furnish and maintain adequate, efficient, and safe service and facilities. This service shall be reasonably continuous and without unreasonable interruption or delay.

(b) Subject to the provisions of this chapter and the regulations or orders of the commission, a public utility may establish reasonable rules and regulations governing the conditions under which it will render service.

(c) The commission may upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, adopt as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations, and practices to be furnished, imposed, observed, and followed by public utilities; adopt adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage, or other conditions pertaining to the supply of the service of

public utilities; adopt reasonable regulations for the examination and testing of the service, and for the measurement of it; adopt or approve reasonable regulations, specifications, and standards to secure the accuracy of meters and appliances for measurement; and provide for the examination and testing of appliances used for the measurement of a service of a public utility. In doing so, the commission shall conform to the standard practices of the industry.

(d) If the commission upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, finds that the service or facilities of a public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this chapter, the commission shall prescribe, by regulation or order, the reasonable, safe, adequate, sufficient service or facilities to be observed, furnished, enforced, or employed, including all repairs, changes, alterations, extensions, substitutions, or improvements in facilities that are reasonably necessary and proper for the safety, accommodation, and convenience of the public.

**Sec. 42.05.296. Telephone services for certain impaired subscribers.**

(a) The commission shall adopt regulations to require telephone utilities to provide service to deaf, hard of hearing, and speech impaired subscribers that permits the subscriber to communicate by telephone with persons of normal hearing and that makes available reasonable access of all phases of public telephone service to deaf, hard of hearing, and speech impaired telephone subscribers. The regulations must provide for cost recovery through surcharges added to the basic local exchange rate. The commission shall hold hearings to determine the most cost-effective method of providing this service.

(b) A telephone subscriber is eligible for the service required by (a) of this section if the subscriber is certified as deaf, hard of hearing, or speech impaired by a licensed physician, a speech-language pathologist licensed under [AS 08.11](#), an audiologist, or the Department of Health and Social Services or if the subscriber is an organization representing the deaf, hard of hearing, or speech impaired as determined by the commission.

**Sec. 42.05.300. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.301. Discrimination in service.** Except as provided in [AS 42.05.306](#), a public utility may not, as to service, make or grant an unreasonable preference or advantage to any person or subject any person to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain or provide an unreasonable difference as to service, either as between localities or as between classes of service, but nothing in this section prohibits the establishment of reasonable classifications of service or requires unreasonable investment in facilities.

**Sec. 42.05.306. Discounted service and reduced rate.** A public utility may provide a discounted service or a reduced rate for essential local exchange telecommunication services to individuals who receive benefits from a means test social services assistance program administered by the state or federal government. The commission may not require a utility to provide a discounted service or reduced rate or to incur uncompensated costs or administrative burdens for services provided under this section.

**Sec. 42.05.310. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.311. Joint use and interconnection of facilities.** (a) A public utility having sewers, conduits, utilidors, poles, pole lines, pipes, pipelines, mains, or other distribution or transmission facilities shall, for a reasonable compensation, permit another public utility to use them when the public convenience and necessity require this use and the use will not result in substantial injury to the owner, or in substantial detriment to the service to the customers of the owners. The cost of modifications or additions necessary to a joint use shall be at the expense of the public utility requesting the use of the facilities.

(b) A telecommunications utility shall permit connection to be made and service to be furnished between a system operated by it and the system or toll facilities operated by another public utility or with the communications facility or system of a nonutility, or between its toll facilities and the toll facilities of another public utility, when public convenience and necessity require the connection and the connection will not result in substantial injury to the owner or other users of the facilities of either public utility or in substantial detriment to the service of either public utility.

(c) The tariff of a public utility shall include rules setting out the terms and conditions under which it will construct, or permit its customers or subscribers to construct, and install lines, cables, radio links, or pipes from its existing facilities to the premises of applicants for service.

**Sec. 42.05.320. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.321. Failure to agree upon joint use or interconnection.**

(a) In case of failure to agree upon the joint use or interconnection of facilities or the conditions or compensation for joint use or interconnections, the public utility, including any municipality, or an interested person may apply to the commission for an order requiring the interconnection. If, after investigation and opportunity for hearing, the commission finds that public convenience and necessity require the joint use or connection, and that the use or connection will not result in substantial injury to the owner utility or its customers, or in substantial detriment to the services furnished by the owner utility, or in the creation of safety hazards, it shall

(1) order that the use be permitted;

(2) prescribe reasonable conditions and compensation for the joint use;

- (3) order the interconnection to be made;
- (4) determine the time and manner of the interconnection;
- (5) determine the apportionment of costs and responsibility for operation and maintenance of the interconnection.

(b) This section and [AS 42.05.311](#) apply to all utilities whether or not they are exempt from other regulation under [AS 42.05.711](#).

**Sec. 42.05.325. Registration and regulation of alternate operator services.** (a) An alternate operator service may not operate in the state until it has registered and filed its tariffs with the commission. The application for registration must include the service's name, the address of its principal place of business, and the name and address of each of the officers of the service.

(b) An alternate operator shall identify the entity that is providing the alternate operator service and the cost of the service before the consumer incurs a charge for the call. If requested, the alternate operator shall transfer or assist in the transfer of the consumer's call to the consumer's carrier of choice. The consumer may not be charged for the transfer. The service shall also post on or near the telephone instruments subject to the alternate operator service information indicating that the consumer may have access to the carrier the consumer prefers to use at no additional charge.

(c) In this section, "alternate operator service"

(1) means a connection to intrastate or interstate long-distance telecommunications facilities from a nonresidential location in the state including a hotel, motel, hospital, or customer-owned pay telephone, or from a place where business from consumers is aggregated, by a person that does not own any of the telecommunications facilities being connected through the service;

(2) does not include an intrastate or interstate long-distance carrier that contracts for operator services and charges rates for those services that are no greater than the rates charged by long-distance carriers regulated by the Regulatory Commission of Alaska or by the Federal Communications Commission.

**Sec. 42.05.330. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.331. Standards for measurement.** The commission shall establish by regulation adequate, fair, and realistic standards for the measurement of quality, pressure, voltage, or other conditions of utility services and shall prescribe reasonable regulations for examination and testing of the service and the accuracy of the devices used to measure it.

**Sec. 42.05.340. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.341. Testing of meter standards.** The commission shall provide by regulation for the periodic testing and certification of meter



standards by laboratories acceptable to the commission. The commission shall also provide by regulation for the taking of appeals to the commission from the findings of a utility that tests its own meters or appliances for measurement.

**Sec. 42.05.350. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.351. Testing of appliances.** The commission shall provide for the examination and testing of appliances used for the measuring of a service of a public utility and may purchase equipment, apparatus, and standards required for this purpose. The commissioner of transportation and public facilities may assign the examination and testing function to appropriate staff of the Department of Transportation and Public Facilities under [AS 45.75](#). Upon the payment of a reasonable fee established by the commission, a consumer may have an appliance that is used by the consumer tested. The commission shall establish by regulation allowable tolerances with respect to the functioning or operation of the appliance. If the measuring appliance does not perform within these tolerances, the utility concerned shall pay the costs of the test by reimbursing the person requesting the test for the fee paid by that person. This reimbursement shall be made no later than at the time of the next regular billing following the test.

**Sec. 42.05.360. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 04. RATES AND RATE SCHEDULES Sec. 42.05.361. Tariffs, contracts, filing, and public inspection.** (a) Under regulations the commission shall adopt, every public utility shall file with the commission, within the time and in the form the commission designates, its complete tariff showing all rates, including joint rates, tolls, rentals, and charges collected and all classifications, rules, regulations, and terms and conditions under which it furnishes its services and facilities to the general public, or to a regulated or municipally owned utility for resale to the public, together with a copy of every special contract with customers which in any way affects or relates to the serving utility's rates, tolls, charges, rentals, classifications, services, or facilities. The public utility shall clearly print, or type, its complete tariff and keep an up-to-date copy of it on file at its principal business office and at a designated place in each community served. The tariffs shall be made available to, and subject to inspection by, the general public on demand.

(b) The tariffs of a public utility which are also subject to the jurisdiction of a federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by the federal regulatory body.

(c) The commission may reject the filing of all or part of a tariff that does not comply with the form or filing regulations of the commission. A tariff or provision so rejected is void. If the commission rejects a filing, it shall issue

a statement of the reasons for the rejection. Unless the utility and the commission agree to an extension of time, the commission may not reject a filing under this subsection after 45 days have elapsed from the date of filing.

**Sec. 42.05.365. Interest on deposits.** (a) A public utility may collect and retain a deposit for contracted recurring monthly service. A public utility that collects and retains a deposit of over \$100 for recurring monthly service shall pay interest on that deposit at or before the time it is returned. Interest paid under this section shall be at the legal rate of interest at the time the deposit is made. However, if the deposit is placed in an interest bearing account, the utility shall pay the interest rate of the interest bearing account.

(b) If delinquent payments result in interruption of service, a public utility is not required to pay interest under (a) of this section for 12 months after reestablishment of service.

**Sec. 42.05.370. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.371. Adherence to tariffs.** The terms and conditions under which a public utility offers its services and facilities to the public shall be governed strictly by the provisions of its currently effective tariffs. A legally filed and effective tariff rate, charge, toll, rental, rule, regulation, or condition of service may not be changed except in the manner provided in this chapter. If more than one tariff rate or charge can reasonably be applied for billing purposes the one most advantageous to the customer shall be used.

**Sec. 42.05.380. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.381. Rates to be just and reasonable.** (a) All rates demanded or received by a public utility, or by any two or more public utilities jointly, for a service furnished or to be furnished shall be just and reasonable; however, a rate may not include an allowance for costs of political contributions, or public relations except for reasonable amounts spent for

- (1) energy conservation efforts;
- (2) public information designed to promote more efficient use of the utility's facilities or services or to protect the physical plant of the utility;
- (3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance; or
- (4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown.

(b) In establishing the revenue requirements of a municipally owned and operated utility the municipality is entitled to include a reasonable rate of return.

(c) A utility, whether subject to regulation by the commission or exempt

from regulation, may not charge a fee for connection to, disconnection from, or transfer of services in an amount in excess of the actual cost to the utility of performing the service plus a profit at a reasonable percentage of that cost not to exceed the percentage established by the commission by regulation.

(d) A utility shall provide for a reduced fee or surcharge for standby water for fire protection systems approved under [AS 18.70.081](#) which use hydraulic sprinklers.

(e) The commission shall adopt regulations for electric cooperatives and for local exchange telephone utilities setting a range for adjustment of rates by a simplified rate filing procedure. A cooperative or telephone utility may apply for permission to adjust its rates over a period of time under the simplified rate filing procedure regulations. The commission shall grant the application if the cooperative or telephone utility satisfies the requirements of the regulations. The commission may review implementation of the simplified rate filing procedure at reasonable intervals and may revoke permission to use the procedure or require modification of the rates to correct an error.

(f) A local exchange telephone utility may adjust its rates in conformance with changes in jurisdictional cost allocation factors required by either the Federal Communications Commission or the Regulatory Commission of Alaska upon a showing to the Regulatory Commission of Alaska of

- (1) the order requiring the change in allocation factors;
- (2) the aggregate shift in revenue requirement, segregated by service classes or categories, caused by the change in allocation factors; and
- (3) the rate adjustment required to conform to the required shift in local revenue requirement.

(g) The commission shall allow, as a necessary and reasonable expense, all payments made to the Department of Environmental Conservation under [AS 46.14.240](#) - 46.14.250. The commission shall allow the public utility to recover these fees through a periodic fuel surcharge rate adjustment.

(h) An electric or telephone utility that has overhead utility distribution lines and that provides services in a municipality with a population of more than 200,000 must spend at least one percent of the utility's annual gross revenue from retail customers in that municipality to place existing overhead utility distribution lines in that municipality underground. In determining the annual gross revenue under this subsection, only revenue derived from the utility's distribution lines in the municipality shall be considered.

(i) An electric or telephone utility that is implementing a program to place existing overhead utility distribution lines located in a municipality underground may amend its rates for services provided to customers in the municipality to enable the utility to recover the full actual cost of placing the lines underground. Notwithstanding [AS 42.05.411](#) - 42.05.431, an amendment to a utility's rates under this subsection is not subject to

commission review or approval. A utility amending its rates under this subsection shall notify the commission of the amendment. This subsection applies to an undergrounding program to the extent that the costs do not exceed two percent of the utility's annual gross revenue. If an undergrounding program's costs exceed two percent, the commission may regulate rate increases proposed for the recovery of the amount above two percent.

(j) When an electric utility or a telephone utility is implementing a program to place existing overhead utility distribution lines located in a municipality underground, any other overhead line or cable in the same location shall be placed underground at the same time. Each entity whose lines or cables are placed underground shall pay the cost of placing its own lines or cables underground.

(k) The cost to the utility of storing gas in a gas storage facility or storing liquefied natural gas in a liquefied natural gas storage facility that is allowed in determining a just and reasonable rate shall reflect the reduction in cost attributable to any exemption from a payment due under [AS 38.05.096](#) or 38.05.180(u), as applicable, and the value of a tax credit that the owner of the gas storage facility received under [AS 43.20.046](#) or 43.20.047, as applicable. The commission may request the (1) commissioner of natural resources to report the value of the exemption from a payment due under [AS 38.05.096](#) or 38.05.180(u), as applicable, that the gas storage facility received; and (2) commissioner of revenue to report information on the amount of tax credits claimed under [AS 43.20.046](#) and 43.20.047, as applicable, for the gas storage facility or liquefied natural gas storage facility. In this subsection,

(1) "gas storage facility" has the meaning given in [AS 31.05.032](#);

(2) "liquefied natural gas storage facility" has the meaning given in [AS 42.05.990](#).

**Sec. 42.05.385. Charges for water and sewer line extensions.** (a) A water or sewer line extension may not be constructed unless the legislative body of each municipality through which the extension passes has approved the extension. This subsection does not apply to an extension that will not create any charges or assessments against the adjacent property.

(b) Except as provided in (e) of this section, when utility service is available to a property owner as a result of a water or sewer line extension, the utility offering the service through the extension shall notify the property owner, according to the procedure set forth for service of process in the Alaska Rules of Civil Procedure, of the charges and interest due the utility if the property owner elects to obtain the utility service through the extension. The property owner does not owe the charge for the extension until the property owner connects to the extension.

(c) Except as provided in (e) of this section, and unless the property owner connects to the extension,

- (1) charges do not accrue against the property for construction of the extension;
- (2) interest does not accrue against the property for the construction of the extension; and
- (3) a lien or encumbrance may not be levied against the property for the construction of the extension.
- (d) If the costs of constructing a water or sewer line extension have been paid by charges collected under this chapter, a utility may not charge for connection to the extension an amount greater than the actual cost of the connection.
- (e) The provisions of this section do not apply to a water or sewer line extension constructed by a municipality under [AS 29.46](#).

**Sec. 42.05.390. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.391. Discrimination in rates.** (a) Except as provided in [AS 42.05.306](#), a public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. A municipally owned utility may offer uniform or identical rates for a public utility service to customers located in different areas within its certificated service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable.

(b) A rate charged by a municipality for a public utility service furnished beyond its corporate limits is not considered unjustly discriminatory solely because a different rate is charged for a similar service within its corporate limits.

(c) A public utility may not directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand, or receive a greater or lesser compensation for its services than is specified in its effective tariff. A public utility may not extend to any customer any form of contract, agreement, inducement, privilege, or facility, or apply any rule, regulation, or condition of service except such as are extended or applied to all customers under like circumstances. A public utility may not offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of utility service unless it conforms to a tariff approved by the commission, and the compensation, consideration, or equipment is offered to all persons in the same classification using or applying for the public utility service; in determining the reasonableness of such a tariff filed by a public utility the commission shall consider, among other things, evidence of consideration or compensation paid by a competitor, regulated or nonregulated, of the public

utility to secure the installation or adoption of the use of the competitor's service.

(d) Nothing in this section prevents a public utility from charging reduced rates to customers transferred to it from a competing utility provided the reduction is an integral part of a contract, arrangement, or plan to eliminate the overlapping of service areas or to minimize duplication of facilities and competition between public utilities.

**Sec. 42.05.400. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.401. Apportionment of joint rates.** (a) If public utilities share in a joint rate the apportionment of receipts shall be just and reasonable. The method of apportionment shall be approved by the commission and the commission may, if it considers it to be in the public interest, establish the portion to which each public utility shall be entitled.

(b) If the commission does not have professional staff to investigate, evaluate, and testify regarding any proceeding under (a) of this section it may employ qualified professional consultants for this purpose at the direct expense of the parties to the dispute and divide the cost among the parties in the proportion of their respective operating revenues before commencement of the proceeding. The cost allocation to each party shall be determined before employment of the consultants and after giving the parties reasonable notice and opportunity to be heard.

**Sec. 42.05.410. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.411. New or revised tariffs.** (a) A public utility may not establish or place in effect any new or revised rates, charges, rules, regulations, conditions of service or practices except after 45 days' notice to the commission and 30 days' notice to the public. Notice shall be given to the commission by filing with the commission and keeping open for public inspection the revised 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 shall prescribe means by regulation whereby notice is given to the public before or no later than 15 days after the filing that is reasonably adequate to notify customers affected by the filing. The commission, for good cause shown, may allow changes to take effect on less than 45 days' notice to the commission or 30 days' notice to the public under conditions the commission prescribes.

(b) New and revised tariffs shall be filed in the manner provided in [AS 42.05.361\(a\)](#).

(c) Upon the filing of a new or revised tariff, the commission upon complaint or upon its own motion, without notice, may initiate an investigation of the reasonableness and lawfulness of the change.

**Sec. 42.05.420. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.421. Suspension of tariff filing.** (a) When a tariff filing is made containing a new or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing. Pending the hearing the commission may, by order stating the reasons for its action, suspend the operation of the tariff filing. For a tariff filing that does not change the utility's revenue requirement or rate design, the suspension may last for a period not longer than six months beyond the effective date established in the tariff filing unless the commission extends the period for good cause. For a tariff filing that changes the utility's revenue requirement or rate design, the suspension may last, unless the commission extends the period for good cause, for a period not longer than

(1) six months before an interim rate equal to the requested rate goes into effect and not longer than 12 months before a permanent rate goes into effect if the annual gross revenues of the utility making the filing are more than \$3,000,000; and

(2) 150 days before an interim rate equal to the requested new rate goes into effect and not longer than one year before a permanent rate goes into effect if the annual gross revenues of the utility making the filing are \$3,000,000 or less.

(b) An order suspending a tariff filing may be vacated if, after investigation, the commission finds that it is in all respects proper. Otherwise the commission shall hold a hearing on the suspended filing and issue its order, before the end of the suspension period, granting, denying or modifying the suspended tariff in whole or in part.

(c) In the case of a proposed increased rate, the commission may by order require the interested public utility or utilities to place in escrow in a financial institution approved by the commission and keep accurate account of all amounts received by reason of the increase, specifying by whom and in whose behalf the amounts are paid. Upon completion of the hearing and decision the commission may by order require the public utility to refund to the persons in whose behalf the amounts were paid, that portion of the increased rates which was found to be unreasonable or unlawful. Funds may not be released from escrow without the commission's prior written consent and the escrow agent shall be so instructed by the utility, in writing, with a copy to the commission. The utility may, at its expense, substitute a bond in lieu of the escrow requirement.

(d) One who initiates a change in existing tariffs shall bear the burden to prove the reasonableness of the change.

**Sec. 42.05.430. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.431. Power of commission to fix rates.** (a) When the commission, after an investigation and hearing, finds that a rate demanded,

observed, charged, or collected by a public utility for a service subject to the jurisdiction of the commission, or that a classification, rule, regulation, practice, or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the commission shall determine a just and reasonable rate, classification, rule, regulation, practice, or contract to be observed or allowed and shall establish it by order. A municipality may covenant with bond purchasers regarding rates of a municipally owned utility, and the covenant is valid and enforceable and is considered to be a contract with the holders from time to time of the bonds. The financial covenants contained in mortgages and other debt instruments of cooperative utilities organized under [AS 10.25](#) are also valid and enforceable, and rates set by the commission must be adequate to meet those covenants.

However, a cooperative utility that is negotiating to enter a mortgage or other debt instrument that provides for a times-interest-earned ratio (TIER) greater than the ratio the commission most recently approved for that cooperative shall submit the mortgage or debt instrument to the commission before the instrument takes effect. The commission may disapprove the instrument within 60 days after its submission. If the commission has not acted within 60 days, the instrument is considered to be approved.

(b) A wholesale power agreement between public utilities is subject to advance approval of the commission. After a wholesale power agreement is in effect, the commission may not invalidate any purchase or sale obligation under the agreement. However, if the commission finds that rates set in accordance with the agreement are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement and if the parties fail to agree, to use the dispute resolution procedures contained in the contract.

(c) Notwithstanding (b) of this section,

(1) a wholesale agreement for the sale of power from a project licensed by the Federal Energy Regulatory Commission on or before January 1, 1987, and related contracts for the wheeling, storage, regeneration, or wholesale repurchase of power purchased under the agreement, entered into between the Alaska Energy Authority and one or more other public utilities or among the utilities after October 31, 1987, and before January 1, 1988, and amendments to the wholesale agreement or related contract, and the wholesale agreement or related contract assigned by the Alaska Energy Authority to a joint action agency formed under [AS 42.45.310](#) that purchases the project from the Alaska Energy Authority, are not subject to review or approval by the commission until all long-term debt incurred for the project is retired, or, for a wholesale agreement or related contract assigned to a joint action agency formed under [AS 42.45.310](#), until all long-term debt incurred to pay the purchase price to the Alaska Energy Authority is retired; and

(2) a wholesale agreement or related contract described in (1) of this



subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; the rate covenant is valid and enforceable.

(d) Meetings between the Alaska Energy Authority and public utilities concerning a wholesale agreement for the sale of power or other matter exempted from review of the commission under (c) of this section must comply with [AS 44.62.310](#).

(e) Validated costs incurred by a utility in connection with the related contracts described in (c)(1) of this section must be allowed in the rates charged by the utility. In this subsection, "validated costs" are the actual costs that a utility uses, under the formula set out in related contracts described in (c) of this section, to establish rates, charges for services and rights, and the payment of charges for services and rights. This subsection does not grant the commission jurisdiction to alter or amend the formula set out in those related contracts.

(f) In the establishment of rates of a utility furnishing solid waste material collection and disposal service, the commission shall permit recovery of reasonable, net capital and operating costs relating to solid waste recovery and recycling services after considering the utility's recovery of revenue associated with the service.

(g) In the establishment of rates under this chapter, the commission shall promote cost-effective solid waste recovery and recycling services.

(h) When setting or reviewing rates for a public utility that sends or receives power over the power transmission interties between Fairbanks and Healy or between Anchorage and the Kenai Peninsula, the commission shall consider those costs that have not been directly assigned to other individual generating utilities by the utility responsible for the construction of the intertie to have been incurred for the system existing on August 11, 1993.

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

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

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

(d) The commission shall review and may conduct an investigation and hearing to determine whether a contract submitted under (b) or (c) of this

section is just and reasonable. The review and determination shall be conducted as provided in [AS 42.08.320](#)(b) - (d). The commission shall either approve the contract as presented or, if the commission finds that a contract is not just and reasonable, disapprove the contract. Notwithstanding [AS 42.05.175](#), if the commission has not acted within 180 days after the contract is submitted, the contract shall be considered approved and shall take effect immediately. The commission may, by order, extend the 180-day review period by the duration of a delay caused by a failure of the public utility to submit supplemental information that is available to the public utility. A contract that is approved or considered approved under this section is not subject to further review by the commission.

**Sec. 42.05.440. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.441. Valuation of property of a public utility.** (a) The commission may, after providing reasonable notice and opportunity to be heard, ascertain and set the fair value of the whole or any part of the property of a public utility, insofar as it is material to the exercise of the jurisdiction of the commission. The commission may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of a public utility. If a public utility furnishes more than one classification of utility service the utility shall allocate the investment and expenses associated with the property used and useful in furnishing service among the utility services and it may not solely consider the utility's total investment and expenses in fixing rates for a particular service.

(b) In determining the value for rate-making purposes of public utility property used and useful in rendering service to the public, the commission shall be guided by acquisition cost or, if lower, the original cost of the property to the person first devoting it to public service, less accrued depreciation, plus materials and supplies and a reasonable allowance for cash working capital when required.

(c) For rate-making purposes, indebtedness, debt service, and payments by a regulated public utility to a person having an ownership interest of more than 70 percent in the utility shall be considered to be ownership equity, profits, or dividends except to the extent that there is a clear and convincing showing that

(1) the indebtedness was incurred, or the payments made, for goods or services that were reasonably necessary for the operation of the utility; and  
(2) the goods or services were provided at a cost that was competitive with the price at which they could have been obtained from a person having no ownership interest.

**Sec. 42.05.450. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 05. ACCOUNTS, RECORDS, AND REPORTS Sec. 42.05.451.**

**System of accounts and reports.** (a) The commission may classify the public utilities under its jurisdiction and prescribe a uniform system of accounts for each class and the manner in which the accounts and supporting records shall be kept.

(b) A public utility shall maintain its accounts on a calendar year basis unless specifically authorized by the commission to maintain its accounts on a fiscal year basis. Within 90 days after the close of its authorized annual accounting period, or additional time granted upon a showing of good cause, a public utility shall file with the commission a verified annual report of its operations during the period reported, on forms prescribed by the commission.

**Sec. 42.05.460. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.461. Continuing property records.** The commission may require a public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records segregated by the year of placement in service, including a list or inventory of all the units of tangible property used or useful in the public service, identifying the property by location and project. The commission may require a public utility to keep accounts and records in a manner that shows the original cost of the property when first devoted to the public service, and the current related reserve for depreciation. A public utility with annual revenues exceeding \$100,000 shall keep continuing property records.

**Sec. 42.05.470. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.471. Depreciation rates and accounts.** (a) To provide for the loss in service value of its property, not restored by current maintenance, a utility shall charge adequate, but not excessive, depreciation expense for each major class of utility property used and useful in serving the public. From time to time the commission shall determine the proper and adequate rates of depreciation for each major class of property of a public utility. The commission shall accept rates of depreciation and depreciation accounts prescribed and maintained under regulations of a federal agency or the terms of a bond ordinance. The commission shall determine and allow depreciation expense in fixing the rates, tolls, and charges to be paid for the services of a public utility.

(b) The commission is not bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual or accrued depreciation established under the provisions of this section, or to allow annual or accrued depreciation on utility property directly or indirectly contributed by customers or others.

**Sec. 42.05.480. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.481. Subsidiary business accounts.** A public utility engaged, directly or indirectly, in another business, including another utility business or a subsidiary business, shall keep separate accounts relating to that business. Except as the commission provides, property, expense, or revenue used in or derived from that business may not be considered in establishing the rates and charges of the utility for its public services.

**Sec. 42.05.490. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.491. Records and accounts to be kept in state.** A public utility shall keep the books, accounts, papers, and records required by the commission in an office within this state, and may not remove them from the state, except upon the terms and conditions that may be prescribed by the commission. The provisions of this section do not apply to a public utility whose accounts are kept at its principal place of business outside the state, in the manner prescribed by a federal regulatory body; however, such a public utility shall at its option, either furnish to the commission, within a reasonable time fixed by the commission, certified copies of its books, accounts, papers, and records relating to the business done by the public utility within this state, or agree to pay the actual expenses incurred by the commission in sending personnel to examine the utility's books and records at the place where they are kept.

**Sec. 42.05.500. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.501. Inspection of books and records.** (a) The commission shall at all reasonable times have access to, and may designate any of its employees, agents, or consultants to inspect and examine, the accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents, kept by public utilities or their affiliated interests, or prepared or kept for them by others, that relate to any contract or transaction between them. The commission may require a public utility or its affiliated interest to file with the commission, copies of any or all of these accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents.

(b) When participating as a party under [AS 42.04.070\(c\)](#) or [AS 44.23.020\(e\)](#), the attorney general shall, at all reasonable times, have the right to reasonable access to, and may designate any of the attorney general's employees, agents, or consultants to inspect and examine, the accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents kept by public utilities that are relevant to the issues presented in any adjudicatory matter before the commission in which the attorney general has appeared as a party under [AS 42.04.070\(c\)](#) or [AS 44.23.020\(e\)](#). This access is subject to reasonable notice to all parties with an opportunity to object before the commission. Included under this subsection is access to records or other documents under the custody or

control of an affiliated interest of a public utility that relate to any contract or transaction between the public utility and the affiliated interest.

**Sec. 42.05.510. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 06. FINANCIAL AND MANAGEMENT REGULATION Sec.**

**42.05.511. Unreasonable management practices.** (a) The commission may investigate the management of a public utility, including but not limited to staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with affiliated interests, for the purpose of determining inefficient or unreasonable practices that adversely affect the cost or quality of service of the public utility.

(b) Where unreasonable practices are found to exist, the commission may, after providing reasonable notice and opportunity for hearing, take appropriate action to protect the public from the inefficient or unreasonable practices and may order the public utility to take the corrective action the commission may require to achieve effective development and regulation of public utility services.

(c) In a rate proceeding the utility involved has the burden of proving that any written or unwritten contract or arrangement it may have with any of its affiliated interests for the furnishing of any services or for the purchase, sale, lease, or exchange of any property is necessary and consistent with the public interest and that the payment made therefor, or consideration given, is reasonably based, in part, upon the submission of satisfactory proof as to the cost to the affiliated interest of furnishing the service or property and, in part, upon the estimated cost the utility would have incurred if it furnished the service or property with its own personnel and capital.

**Sec. 42.05.520. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.521. Impaired capital.** When the commission finds that the capital of a public utility corporation is impaired, or might become impaired, it may, after investigation and hearing, issue an order directing the public utility to cease paying dividends on its common stock until the impairment has been removed.

**Sec. 42.05.530. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.531. Distribution of surplus and profits.** The surplus and profits of a public utility shall be distributed in accordance with the bylaws or ordinances controlling the utility.

**Sec. 42.05.540. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 07. JUDICIAL REVIEW, PENALTIES, AND ENFORCEMENT Sec.**

**42.05.541. Effect of regulations.** Regulations adopted and issued by the commission in accordance with this chapter have the effect of law.

**Sec. 42.05.550. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.551. Review and enforcement.** (a) All final orders of the commission are subject to judicial review in accordance with [AS 44.62.560](#) - 44.62.570.

(b) If an appeal is not taken from a final order of the commission, the commission may apply to the superior court for enforcement of this chapter, the regulations adopted under it, and the orders of the commission. The court shall enforce the order by injunction or other process.

**Sec. 42.05.560. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.561. Injunctions and monetary sanctions.** (a) A person who violates a provision of [AS 42.05.291](#) insofar as it governs the safety of pipeline facilities and the transportation of gas, or of any regulation issued under [AS 42.05.291](#) is subject to a civil penalty of not more than \$1,000 for each violation for each day that the violation persists. However, the maximum civil penalty may not exceed \$200,000 for any related series of violations.

(b) A civil penalty may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the state courts.

(c) A person may be enjoined by the superior court from committing any violation mentioned in this section.

**Sec. 42.05.570. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.571. Civil penalties.** (a) In addition to all other penalties and remedies provided by law, a public utility and every person, and their lessees or receivers appointed by a court in any way subject to the provisions of this chapter, together with their officers, managers, agents, or employees that either violate or procure, aid, or abet the violation of any provision of this chapter, or of any order, regulation, or written requirement of the commission are subject to a maximum penalty of \$100 for each violation. Each act of omission as well as each act of commission shall be considered a violation subject to the penalty.

(b) A penalty may not be assessed unless the commission first issues an order to show cause why the penalty should not be levied. The order shall describe each violation with reasonable particularity and designate the maximum penalty that may be assessed for each violation. The order shall

be served on the alleged violator named in the order. The order must state a time and place for the hearing.

(c) After a hearing the commission shall enter its findings of fact and final order which shall state when the penalties, if any, are payable.

**Sec. 42.05.580. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.581. Each violation a separate offense.** Each violation of a provision of this chapter or of an order, decision, regulation, or written requirement of the commission is a separate and distinct offense, and in case of a continuing violation each day's continuance is a separate and distinct offense.

**Sec. 42.05.590. - 42.05.600. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.601. Actions to recover penalties; disposition.** (a) Actions to recover penalties under this chapter shall be brought by the attorney general in a court of competent jurisdiction.

(b) All penalties recovered under the provisions of this chapter shall be paid to the commission and deposited by it in the general fund of the state.

**Sec. 42.05.610. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.611. Penalties cumulative.** (a) All penalties imposed under this chapter are cumulative and an action for the recovery of a civil penalty is not a bar to any criminal prosecution. A criminal prosecution is not a bar to an action for the recovery of a civil penalty.

(b) Neither a criminal prosecution nor an action to recover a civil penalty is a bar to an enforcement proceeding to require compliance, or to any other remedy provided by this chapter.

**Sec. 42.05.620. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.621. Joinder of actions.** Under the applicable court rules, appeals from orders of the commission, applications for enforcement of commission orders, and actions for recovery of a penalty may be joined. The court may, in the interests of justice, separate the action.

**Sec. 42.05.630. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Article 08. MISCELLANEOUS PROVISIONS Sec. 42.05.631. Eminent domain.** A public utility may exercise the power of eminent domain for public utility uses. This section does not authorize the use of a declaration of taking.

**Sec. 42.05.640. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.641. Regulation by municipality.** The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict

between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.

**Sec. 42.05.645. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.650. [Repealed, Sec. 5 ch 113 SLA 1970].** Repealed or Renumbered

**Sec. 42.05.651. Expenses of investigation or hearing.** (a) During a hearing or investigation held under this chapter, the commission may allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission shall consider the regulatory cost charge paid by a utility under [AS 42.05.254](#) and may consider the results, ability to pay, evidence of good faith, other relevant factors, and mitigating circumstances. Notwithstanding an intervening party's ability to pay, if the commission determines that an intervening party has conducted its intervention in a frivolous manner, the commission shall allocate all costs associated with the intervention to that party. The costs allocated may include the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants. The costs allocated may also include any out-of-pocket expenses incurred by the commission in the particular proceeding. The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final.

(b) *[Repealed, Sec. 28 ch 90 SLA 1991].*

(c) Notwithstanding the commission's discretion under (a) of this section to allocate costs to parties, the commission may not require a state agency to pay any costs allocated to the state agency.

**Sec. 42.05.661. Application fees.** With each application relating to a certificate the applicant shall pay the commission a fee set by the commission by regulation that shall be deposited in the general fund of the state.

**Sec. 42.05.671. Public records.** (a) Except as provided in (b) of this section, records in the possession of the commission are open to public inspection at reasonable times.

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

(c) A person may make written objection to the public disclosure of



information contained in a record under the provisions of this chapter or of information obtained by the commission or by the attorney general under the provisions of this chapter, stating the grounds for the objection. When an objection is made, the commission may not order the information withheld from public disclosure unless the information adversely affects the interest of the person making written objection and disclosure is not required in the interest of the public.

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

**Sec. 42.05.681. Validity of certain certificates.** A certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may not be considered as terminated or voided for the sole reason that the utility did not or would not produce an annual gross income in excess of \$25,000.

**Sec. 42.05.691. Utility classes.** The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership, and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting, and other regulatory requirements.

**Sec. 42.05.701. [Renumbered as AS 42.05.720].** Repealed or Renumbered

**Sec. 42.05.711. Exemptions.** (a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest".

(b) Except as otherwise provided in this subsection and in (o) of this section, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter; this paragraph does not apply to a utility or electric operating entity owned and operated by a political subdivision that competes with a telecommunications utility.

(c) The ownership in whole or part of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless the subscribers petition the commission for regulation under [AS 42.05.712](#)(h).

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$500,000 annually may elect to be exempt from the provisions of this chapter other than [AS 42.05.221](#) - 42.05.281 under the procedure described in [AS 42.05.712](#).

(g) A utility, other than a telephone or electric utility, that does not gross \$150,000 annually may elect to be exempt from the provisions of this chapter other than [AS 42.05.221](#) - 42.05.281 under the procedure described in [AS 42.05.712](#).

(h) A cooperative organized under [AS 10.25](#) may elect to be exempt from the provisions of this chapter, other than [AS 42.05.221](#) - 42.05.281, under the procedure described in [AS 42.05.712](#).

(i) A utility that furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$300,000 or less is exempt from the provisions of this chapter, other than the certification provisions of [AS 42.05.221](#) - 42.05.281, unless the subscribers petition the commission for regulation under [AS 42.05.712](#)(h).

Notwithstanding [AS 42.05.712](#)(b) and (g), if subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation, the utility is subject to the provisions of this chapter.

(j) The provisions of this chapter do not apply to sales, exchanges, or gifts of energy to an electric utility certificated under this chapter when the energy which is the subject of the sale, exchange, or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange, or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange, or gift of energy exempt under this subsection does not make the supplier a public utility and does not transfer the responsibility to provide utility services from a certificated utility to any other person.

(k) A utility that furnishes cable television service is exempt from the provisions of this chapter other than [AS 42.05.221](#) - 42.05.281 unless the subscribers petition the commission for regulation under the procedure described in [AS 42.05.712](#).

(l) A person, utility, joint action agency established under [AS 42.45.310](#), or cooperative that is exempt from regulation under (a), (d) - (k), (o), or (r) of this section is not subject to regulation by a municipality under [AS 29.35.060](#) and 29.35.070.

(m) The collection and disposal, under [AS 29.35.050\(c\)](#), by a municipality of waste material deposited at an intermediate transfer site is exempt from this chapter.

(n) Except as provided by [AS 42.06.370\(c\)](#), the provisions of this chapter do not apply to a person who owns or operates a natural gas pipeline as a North Slope natural gas pipeline carrier, as that term is defined in [AS 42.06.630](#).

(o) A joint action agency established under [AS 42.45.310](#) is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under [AS 42.05.221](#), for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy Authority until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under [AS 42.05.431](#). The exemption provided by this subsection extends to repairs and improvements to the power project the joint action agency purchases from the authority but does not extend to any other power project or other activity of the joint action agency.

(p) A regional solid waste management authority established under [AS 29.35.800](#) - 29.35.925 is exempt from regulation under this chapter, except that a solid waste management authority is subject to this chapter if it directly competes with a utility subject to this chapter.

(q) The service of natural gas storage furnished by operating a natural gas storage facility that is (1) part of a pipeline facility operated by a pipeline carrier, (2) part of a natural gas pipeline facility operated by a natural gas pipeline carrier, or (3) part of a North Slope natural gas pipeline facility operated by a North Slope natural gas pipeline carrier is exempt from this chapter. In this subsection, "natural gas pipeline carrier," "natural gas pipeline facility," "North Slope natural gas pipeline carrier," "North Slope natural gas pipeline facility," "pipeline carrier," and "pipeline facility" have the meanings given in [AS 42.06.630](#).

(r) A plant or facility that generates electricity entirely from renewable energy resources is exempt from regulation under this chapter if

(1) the plant or facility

(A) is first placed into commercial operation on or after August 31, 2010, and before January 1, 2016; and

(B) does not generate more than 65 megawatts of electricity;

(2) the electricity generated by the plant or facility is sold only to one or more electric utilities that are regulated by the commission; and

(3) the person that constructs, owns, acquires, or operates the plant or facility has not received from the state

(A) a grant that was used to generate the electricity from the renewable energy resources; or

(B) a tax credit related to the generation of electricity from the renewable energy resources.

- (s) In this section, "renewable energy resources" means
- (1) wind, solar, geothermal, wasteheat recovery, hydrothermal, wave, tidal, river in-stream, or hydropower;
  - (2) low-emission nontoxic biomass based on solid or liquid organic fuels from wood, forest and field residues, or animal or fish products;
  - (3) dedicated energy crops available on a renewable basis; or
  - (4) landfill gas and digester gas.
- (t) An in-state natural gas pipeline subject to [AS 42.08](#) and an in-state natural gas pipeline carrier subject to [AS 42.08](#) are exempt from this chapter.

**Sec. 42.05.712. Deregulation ballot.** (a) A utility or cooperative that may elect to be exempt from the provisions of this chapter shall poll its subscribers or members in the manner described in this section.

(b) The votes of a majority of those voting in an election in which at least 15 percent of the eligible subscribers or members return ballots are required for a utility or cooperative to elect exemption under (a) of this section.

(c) Each subscriber or member of the utility or cooperative shall receive notice of an election under this section with the subscriber's or member's regular bill for service at least 60 days before the date set for the election. The notice shall contain impartial language informing the subscribers or members that an election on the option of deregulation or regulation by the Regulatory Commission of Alaska will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each subscriber or member of the utility or cooperative with the regular bill for service. The notice shall also state that a subscriber or member of the cooperative is entitled to vote in the election without regard to whether the subscriber's or member's account with the utility or cooperative is current and that the ballot must be postmarked or returned to the commission within 30 days after it was mailed or otherwise delivered to the subscriber or member. The notice shall also announce the schedule for one or more public meetings which shall provide an opportunity for the subscribers or members to discuss this election. The public meeting or meetings shall be held not more than 30 days before the ballots are mailed or distributed to those eligible to vote. A cooperative may satisfy this requirement by including a discussion of this election on the agenda of an annual meeting if the annual meeting is scheduled to be held not more than 30 days before the election.

(d) A ballot with return postage paid shall be mailed or delivered to each subscriber or member of the utility or cooperative with the subscriber's or member's bill for service and shall contain only the following language:

'Shall. . . . . (name of utility or cooperative) be exempt from regulation by the Regulatory Commission of Alaska?

YES NO'

(e) The results of an election under this section shall be certified by the commission within 60 days after the ballots are mailed or delivered to the subscribers or members.

(f) During the 60 days immediately preceding an election under this section a list of subscribers or members of the utility or cooperative shall be made available at cost to any subscriber or member of the utility or cooperative who requests one. The list shall be in the same form that is available to the utility or cooperative.

(g) The board of directors of a utility or cooperative may call an election under this section on its own initiative and shall call an election upon receipt of a valid petition from its subscribers or members. A petition shall be considered valid if it is signed by not less than the number of subscribers or members equal to ten percent of the first 5,000 subscribers or members and three percent of the subscribers or members in excess of 5,000. An election under this section may only be held once every two years.

(h) A utility or cooperative that is already exempt from regulation under this section or that is exempt from regulation under [AS 42.05.711](#)(e), (i), or (k) may elect to terminate its exemption in the same manner.

**Sec. 42.05.720. [Renumbered as [AS 42.05.990](#)].** Repealed or Renumbered

**Sec. 42.05.721. [Renumbered as [AS 42.05.995](#)].** Repealed or Renumbered

**Article 09. COMPETITIVE INTRASTATE LONG DISTANCE TELEPHONE SERVICE Sec. 42.05.800. Findings.** The legislature finds that

(1) modern, affordable, efficient, and universally available local and long distance telephone service is essential to the people of the state;

(2) facilities based, long distance telephone service should be provided competitively wherever possible;

(3) technological advances, reduced costs, and increased consumer choices for long distance telephone service, resulting from the adoption of an appropriate competitive market structure, will enhance the state's economic development;

(4) the benefits of competition in long distance telephone service should be shared by consumers throughout the state;

(5) the commission should oversee competition in long distance telephone service to ensure that the competition is fair to consumers and competitors;

(6) the commission should provide for competition in a timely manner and should adopt regulations that eliminate inappropriate impediments to entry for long distance carriers fit, willing, and able to provide service.

**Sec. 42.05.810. Competition.** (a) By February 14, 1991, the commission shall adopt regulations that authorize and establish conditions governing competition in long distance telephone service.

(b) Beginning February 15, 1991, the commission shall accept applications to provide competitive long distance telephone service and shall approve or

reject applications within 90 days after the filing of a complete application. The commission shall approve an application upon a finding that the applicant is fit, willing, and able. The authority granted to a fit, willing, and able applicant shall include the authority to provide intrastate long distance telephone service using any facilities that the applicant owned and operated on May 1, 1990, to provide interstate long distance message telephone service to the public.

(c) Except as provided in (b) of this section, the commission may prohibit installation of facilities for origination or termination of long distance service in a given location only if it determines that installation of the facilities in that location is not in the public interest.

**Sec. 42.05.820. No municipal regulation.** A long distance telephone company that is exempted in whole or in part from complying with all or a portion of this chapter may not be regulated by a municipality under [AS 29.35.060](#) and 29.35.070.

**Sec. 42.05.830. Exchange access charges.** In providing for competition under [AS 42.05.800](#) - 42.05.890, the commission shall establish a system of access charges to be paid by long distance carriers to compensate local exchange carriers for the cost of originating and terminating long distance services.

**Sec. 42.05.840. Universal service fund.** The commission may establish a universal service fund or other mechanism to be used to ensure the provision of long distance telephone service at reasonable rates throughout the state and to otherwise preserve universal service.

**Sec. 42.05.850. Exchange carrier association.** The commission may require the local exchange carriers to form an association to assist in administering the system of access charges and may require the association to file tariffs and to engage in pooling of exchange access costs and revenue if necessary to achieve the purposes of [AS 42.05.800](#) - 42.05.890.

**Sec. 42.05.860. Restrictions on resale of telecommunications services prohibited.** A telephone company may not prohibit or restrict the resale of telecommunications service. If an interexchange telecommunications service is resold, the reseller shall receive credit in an appropriate amount for an applicable exchange access charge if the credit is necessary to prevent double payment of the access charges.

**Sec. 42.05.890. Definitions.** In [AS 42.05.800](#) - 42.05.890,

(1) "local exchange carrier" means any carrier certificated to provide local telephone services;

(2) "long distance carrier" or "long distance telephone company" means any carrier certificated to provide long distance telephone services;

(3) "long distance telephone service" or "long distance service" means intrastate, interexchange telephone service.

**Article 10. GENERAL PROVISIONS Sec. 42.05.990. Definitions.** In this chapter,

(1) "affiliated interest" includes

(A) a person owning or holding directly or indirectly five percent or more of the voting securities of a public utility engaged in intrastate business in this state;

(B) a person, other than those specified in (A) of this paragraph, in a chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public utility;

(C) a corporation five percent or more of whose voting securities are owned by a person owning five percent or more of the voting securities of the public utility or by a person in such a chain of successive ownership of five percent or more of the voting securities;

(D) a corporation five percent or more of whose voting securities are owned or held by a public utility;

(E) a person with whom the public utility has a management or service contract;

(F) a person who is an officer or director of such a public utility or of a corporation in a chain of successive ownership of five percent or more of voting securities;

(G) a corporation which has one or more officers or directors in common with a public utility;

(H) a person or corporation who or which the commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of a utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood, or by action in concert, that together they are affiliated with the utility within the meaning of this section even though none of them alone is so affiliated; or

(I) a person or corporation who or which the commission determines as a matter of fact after investigation and hearing actually is exercising substantial influence over the policies and actions of a utility even though such influence is not based upon stockholdings, stockholders, officers or directors to the extent specified in this section;

(2) "commission" means the Regulatory Commission of Alaska;

(3) "liquefied natural gas storage facility" means a facility that receives natural gas volumes in a liquid or gaseous state from customers, holds the gas volumes in a liquid state in a reservoir, and delivers the gas volumes in a liquid or gaseous state to the customer; in this paragraph, "facility" includes

(A) all parts of the facility from the point at which the natural gas volumes are received by the facility from the customer to the point at which the natural gas volumes are delivered by the facility to the customer;

(B) a facility consisting of a reservoir, either underground or aboveground, and one or more of the following components of the facility:

(i) pipe;

- (ii) compressor stations;
  - (iii) station equipment;
  - (iv) liquefaction plant or facility;
  - (v) gasification plant or facility;
  - (vi) on-site or remote monitoring, supervision, and control facilities;
  - (vii) gas processing plants and gas treatment plants, but not including a manufacturing plant or facility;
  - (viii) other equipment necessary to receive, place into the reservoir, monitor, remove from the reservoir, process, and deliver natural gas;
- (4) "natural gas storage facility" means a facility that receives natural gas volumes from customers, holds the gas volumes in a reservoir, and delivers the gas volumes to the customer; in this paragraph, "facility" includes
- (A) all parts of the facility from the point at which the natural gas volumes are received by the facility from the customer to the point at which the natural gas volumes are delivered by the facility to the customer;
  - (B) a facility consisting of a reservoir, either underground or aboveground, and one or more of the following components of the facility:
    - (i) pipe;
    - (ii) compressor stations;
    - (iii) station equipment;
    - (iv) injection and extraction wells;
    - (v) on-site or remote monitoring, supervision, and control facilities;
    - (vi) gas processing plants and gas treatment plants, but not including a liquefied natural gas or manufacturing plant or facility;
    - (vii) other equipment necessary to receive, place into the reservoir, monitor, remove from the reservoir, process, and deliver natural gas;
- (5) "public" or "general public" means
- (A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility;
  - (B) one or more customers that purchase electrical service for use within an area that is certificated to and presently or formerly served by an electric utility if the total annual compensation that the electrical utility receives for sales of electricity exceeds \$50,000; and
  - (C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;
- (6) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for
- (A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;



- (B) furnishing telecommunications service to the public for compensation;
- (C) furnishing water, steam, or sewer service to the public for compensation;
- (D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;
- (E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;
- (F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;
- (G) furnishing the service of natural gas storage to the public for compensation;
- (H) furnishing the service of liquefied natural gas storage to the public for compensation;
- (7) "rate" includes each rate, toll, fare, rental, charge, or other form of compensation demanded, observed, charged, or collected by a public utility for its services;
- (8) "reservoir" means a receptacle or chamber, either natural or man-made, holding a gas or liquid, and includes a tank or a depleted or nearly depleted pool;
- (9) "service" means, unless the context indicates otherwise, every commodity, product, use, facility, convenience, or other form of service that is offered for and provided by a public utility for the convenience and necessity of the public;
- (10) "service of liquefied natural gas storage" means the operation of a liquefied natural gas storage facility; "service of liquefied natural gas storage" does not include the storage of liquefied natural gas
  - (A) owned by or contractually obligated to the owner, operator, or manager of the liquefied natural gas storage facility;
  - (B) that is incidental to the production or sale of natural gas to one or more third-party customers; or
  - (C) for which the price of storage is not separately itemized;
- (11) "service of natural gas storage" means the operation of a natural gas storage facility primarily or exclusively for the benefit of third-party customers, and not for the benefit of the owner, operator, or manager of the natural gas storage facility; "service of natural gas storage" does not include the storage of natural gas
  - (A) owned by or contractually obligated to the owner, operator, or manager of the natural gas storage facility;
  - (B) that is incidental to the production or sale of natural gas to one or more third-party customers; or
  - (C) for which the price of storage is not separately itemized;
- (12) "tariff" means a rate, charge, toll, rule, or regulation of a utility relating

to services furnished by the utility to the general public for compensation and every map, page, adoption notice, instrument, or other document filed with the commission setting out the terms and conditions under which utility services are offered to the public and instruments of concurrence and all other documents and data setting out the terms of a utility's business relations with another utility insofar as they affect the general public either directly or indirectly;

(13) "telecommunications" means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points.

**Sec. 42.05.995. Short title.** This chapter may be cited as the Alaska Public Utilities Regulatory Act.

## **G.1.** Chapter 42.06 PIPELINE ACT

**Article 01. POWERS AND DUTIES OF REGULATORY COMMISSION OF ALASKA Sec. 42.06.010. - 42.06.050. Legislative policy; Alaska Pipeline Commission. [Repealed, Sec. 20 ch 110 SLA 1981].** Repealed or Renumbered

**Sec. 42.06.055. Commission decision-making procedures.** The commission shall comply with [AS 42.04.080](#) for matters that come before the commission for decision.

**Sec. 42.06.060. - 42.60.120. Alaska Pipeline Commission. [Repealed, Sec. 20 ch 110 SLA 1981].** Repealed or Renumbered

**Sec. 42.06.130. [Renumbered as [AS 42.06.605](#)].** Repealed or Renumbered

**Sec. 42.06.140. General powers and duties.** (a) The commission

- (1) shall regulate pipelines and pipeline carriers in the state;
- (2) may investigate upon complaint or its own motion, the rates, classifications, rules, regulations, prices, services, practices, and facilities of pipeline carriers, and the performance of obligations under and compliance with the terms of leases issued by the state;
- (3) may make, prescribe, or require just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for pipeline carriers;
- (4) may require pipeline carriers and affiliated interests to file with the commission reports and other information and data required or permitted to be required by other provisions of this chapter;
- (5) may adopt regulations that are necessary and proper to the performance of its duties under this chapter, including regulations governing practices and procedures of the commission; the regulations may not be inconsistent

with state law;

(6) shall during normal business hours have access to and may designate any of 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 a pipeline carrier, or kept for it by others, that directly affect the interests of the state and directly relate to pipelines located in the state;

(7) may initiate, intervene in, and appear personally or by counsel and offer evidence in and participate in, any proceedings involving a pipeline carrier and affecting the interests of the state, before any officer, department, board, commission, or court of this state;

(8) shall require permits for the construction, enlargement in size or operating capacity, extension, connection and interconnection, operation or abandonment of any oil or gas pipeline facility or facilities, subject to necessary and reasonable terms, conditions and limitations;

(9) may prescribe the system of accounts and regulate the service of an oil or gas pipeline facility;

(10) shall provide all reasonable assistance to the Department of Law in intervening in, offering evidence in, and participating in proceedings involving a pipeline carrier or affiliated interest and affecting the interests of the state, before an officer, department, board, commission, or court of another state or the United States.

(b) The commission may assign a qualified, unbiased, and impartial administrative law judge, with experience in the general practice of law, to conduct hearings under this chapter. The administrative law judge may perform other duties in connection with the administration of this chapter and other laws. An administrative law judge hired to conduct hearings under this chapter shall have been admitted to practice law for at least five years immediately before appointment under this subsection.

**Sec. 42.06.150. Powers and duties with respect to federally regulated carriers.** [AS 42.06.140](#) applies to oil and gas pipeline carriers regulated under federal law only to the extent not preempted by federal law.

**Sec. 42.06.160. - 42.06.200. Administrative authority and procedures.** *[Repealed, Sec. 20 ch 110 SLA 1981]*. Repealed or Renumbered

**Sec. 42.06.210. Publication of reports, orders, decisions, and regulations.** All reports, orders, decisions, and regulations of the commission shall be in writing. The commission shall apprise all affected operators of oil or gas pipeline facilities and interested parties of these reports, orders, decisions, and regulations as they are issued and adopted, and, when appropriate to do so, publish them in a manner that will reasonably inform the public or the affected consumers of the services of any oil or gas pipeline facility. The commission may set charges for costs of printing or reproducing and furnishing copies of its reports, orders,

decisions, and regulations. The publication requirement, as it pertains to regulations, does not supersede the requirements of [AS 44.62](#) (Administrative Procedure Act).

**Sec. 42.06.220. Annual report.** The commission shall, by November 15 of each year, publish an annual report reviewing its activities during the previous fiscal year and notify the legislature that the report is available. The report must address the regulation of oil and gas pipeline facilities in the state as of June 30 and must contain details about the commission's compliance with performance measures reported by the commission.

**Sec. 42.06.230. Jurisdiction of commission.** (a) Except as to jurisdiction of the Department of Law as provided by [AS 42.06.140\(a\)\(10\)](#), the jurisdiction and authority over the subject matter of this chapter is exclusively in the commission. To the extent that the performance of any duties of the commission affects a pipeline carrier or a pipeline subject to regulation under federal law, the performance of its duties may not, as to that pipeline carrier or pipeline, conflict with applicable federal laws, regulations, orders, or other requirements.

(b) The commission's jurisdiction and authority extend to

(1) an oil or gas pipeline facility operating in a municipality, whether home rule or otherwise; if a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity occurs, the certificate, order, decision, or regulation of the commission prevails; and

(2) the intrastate transportation of North Slope natural gas through a North Slope natural gas pipeline.

## **Article 02. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

### **Sec. 42.06.240. Certificate required; special requirements for North Slope natural gas.**

(a) After January 1, 1974 a pipeline carrier, or person that will be a pipeline carrier upon completion of any proposed construction or extension, may not engage in the transportation of oil or gas by pipeline subject to the jurisdiction of the commission, or undertake the construction or extension of any pipeline facilities for that purpose, or acquire or operate any pipeline facilities or extension, unless there is in force with respect to that pipeline carrier a certificate of public convenience and necessity issued by the commission authorizing those acts or operations. A certificate shall describe the nature and extent of the authority granted in it, including, as appropriate for the services involved, a description of the authorized area and scope of operation of the oil or gas pipeline facility.

(b) If any person or predecessor in interest was engaged in transportation of oil or gas by pipeline or construction of an oil or gas pipeline on or before January 1, 1974, the commission shall issue a certificate of public convenience and necessity for that pipeline without hearings or proceedings. For purposes of this section, "construction" includes application for a federal right-of-way permit.

(c) In an area where the commission determines that two or more oil or gas pipelines facilities are competing or are planning to compete to offer identical oil or gas pipeline service, and this competition is not in the public interest, the commission shall take appropriate action to eliminate or not allow the competition and undesirable duplication of facilities.

(d) The commission may attach to certificates of convenience and necessity terms and conditions and require issuance of securities it considers necessary for the protection of the environment and for the best interest of the oil or gas pipeline facility and the general public.

(e) The requirement for a certificate does not operate to impose state regulation that has been preempted under federal law. When federal law has preempted state regulation the commission shall accept the findings made under the federal scheme of regulation.

(f) In addition to other requirements of (a) - (e) of this section, the provisions of this subsection apply to a certificate of public convenience and necessity for a North Slope natural gas pipeline carrier or person that will be a North Slope natural gas pipeline carrier under this chapter:

(1) the person making application shall dedicate a portion of the pipeline's initial capacity sufficient to transport the total volume of North Slope natural gas that has been committed by producers and shippers of North Slope natural gas to tendering for intrastate firm transportation service at the time that the operation of the North Slope natural gas pipeline commences;

(2) upon receipt of the certificate application under this subsection, the commission shall issue a public notice inviting prospective intrastate shippers of North Slope natural gas to file requests for service; a request for service submitted by a shipper in response to a notice issued under this paragraph must include a proof of the shipper's commitment to use the North Slope natural gas pipeline for intrastate firm transportation service, specifying the volume of North Slope natural gas that the shipper will tender for initial intrastate firm transportation service;

(3) in its review of an application submitted under this subsection,

(A) for purposes of evaluating the total volume of intrastate transportation of North Slope natural gas to be accepted for initial intrastate transportation, the commission shall determine total volume based upon written commitments to tender North Slope natural gas for intrastate firm transportation service continuously for a period of not less than three years after the operation of the North Slope natural gas pipeline commences as follows:

(i) each request for service by an intrastate shipper that is a public utility, as that term is defined in [AS 42.05.990](#), for the purpose of furnishing natural gas for ultimate consumption within the state by its customers that individually consume an average annual volume of less than 20,000,000 standard cubic feet of gas per day shall be supported by a written commitment by the public utility that sets out the utility's best current

estimate of the average annual volume that the utility will require during the three-year period;

(ii) each request for service by an intrastate shipper that is not a public utility, as that term is defined in [AS 42.05.990](#), and each request for service by a public utility for the purpose of furnishing natural gas for ultimate consumption within the state by a customer that individually consumes an average annual volume of 20,000,000 or more standard cubic feet of gas per day, that purchases North Slope natural gas from a North Slope natural gas producer, must be supported by one or more contracts for the purchase of the North Slope natural gas on a take-or-pay basis that extends for a period of not less than three years after the operation of the North Slope natural gas pipeline commences;

(iii) the commission may consider peak volumes specified in the written commitments of North Slope natural gas producers and purchase contracts; and

(B) the commission shall set out in its order granting a certificate of public convenience and necessity the total volume of intrastate North Slope natural gas that the North Slope natural gas pipeline carrier shall accept for intrastate transportation; the total volume may not exceed the volume substantiated by written commitments and contracts that comply with the requirements of this chapter;

(4) if the North Slope natural gas pipeline carrier wants to transport North Slope natural gas within the state in excess of the amount set out in the statement of total volume in the pipeline carrier's certificate of public convenience and necessity, the pipeline carrier may apply for authority to transport a greater volume of North Slope natural gas within the state than the carrier is required by the commission to transport in its order entered under (3)(B) of this subsection; the commission shall grant the authority requested by the pipeline carrier if the commission determines that the pipeline carrier's transportation of a greater volume is consistent with public convenience and necessity.

**Sec. 42.06.245. Federally regulated carriers.** The requirements of this chapter pertaining to permits and certificates of public convenience and necessity do not apply to the construction of a pipeline facility exclusively subject to federal jurisdiction or to the interstate portion of the business of a pipeline or pipeline carrier exclusively subject to federal jurisdiction.

However, the requirements of this chapter for permits and certificates of public convenience and necessity do apply to all the intrastate portion of the business of a pipeline or pipeline carrier subject to federal jurisdiction whenever it engages in intrastate commerce. However, nothing limits the powers of the commission set out in this chapter except to the extent they are preempted by federal law.

**Sec. 42.06.250. Application.** Application for a certificate shall be made in writing to the commission, verified under oath. The commission, by

regulation, shall establish the requirements for the form of the application, and the information to be contained in it. Notice of the application shall be served upon the interested parties in the manner that the commission by regulation requires.

**Sec. 42.06.260. Public hearings.** At least 30 days before issuing a certificate of convenience and necessity, the commission shall hold a public hearing on the application. Copies of the completed application shall be made available to the public at least 10 days before the public hearing date. A transcript of the public hearing shall be included in the permanent record of agency action on that application, and copies of the public hearing transcripts shall be available to the public. The commission may, without notice of hearing and pending the determination of an application for a certificate, issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

**Sec. 42.06.270. Grant or denial of application.** (a) Unless governed by [AS 42.06.240\(b\)](#), a certificate shall be issued to any qualified applicant, authorizing the whole or any part of the operation, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements and regulations of the commission, and that the proposed service, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise the application shall be denied. (b) The commission, after a hearing upon its own motion or upon application, may determine the gathering areas, or the routes over which, the fixed termini between which, and the intermediate and off route points, if any, to which each authorization under this section is to be limited. (c) Nothing contained in this chapter shall be construed as a limitation upon the power of the commission to grant certificates of public convenience and necessity for service of an area, or routes, already being served by another pipeline.

**Sec. 42.06.280. Insurance and security.** The commission may require a lessee to procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commission considers necessary if the commission finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

**Sec. 42.06.285. Pipeline carrier regulatory cost charge. [Repealed, Sec. 36 ch 2 FSSLA 1992].** Repealed or Renumbered

**Sec. 42.06.286. Pipeline carrier regulatory cost charge.** (a) A pipeline carrier operating in the state shall pay to the commission an annual regulatory cost charge in an amount not to exceed the sum of the following percentages of gross revenue derived from operations in the state: (1) not more than .7 percent to fund the operations of the commission, and (2) not more than .17 percent to fund operations of the public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) within the Department of Law. A regulatory cost charge may not be assessed on pipeline carrier operations unless the operations are within the jurisdiction of the commission.

(b) The commission shall by regulation establish a method to determine annually the amount of the regulatory cost charge. If the amount the commission expects to collect under (a) of this section and under [AS 42.05.254\(a\)](#) exceeds the authorized budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#), the commission shall, by order, reduce the percentage determined under (e) of this section so that the total amount of the fees collected approximately equals the authorized budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) for the fiscal year.

(c) The commission shall administer the charge imposed under this section. The Department of Revenue shall collect and enforce the charge imposed under this section. The Department of Administration shall identify the amount of the operating budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) that lapse into the general fund each year. The legislature may appropriate an amount equal to the lapsed amount to the commission and to the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) for operating costs for the next fiscal year. If the legislature does so, the commission shall reduce the total regulatory cost charge collected for that fiscal year by a comparable amount.

(d) The commission may adopt regulations under [AS 44.62](#) (Administrative Procedure Act) necessary to administer this section, including requirements and procedures for reporting information and making quarterly payments. The Department of Revenue may adopt regulations under [AS 44.62](#) (Administrative Procedure Act) for investigating the accuracy of filed information, and for collecting required payments.

(e) The commission shall by regulation establish a method to determine annually the maximum percentage of gross revenue that will apply to each regulated public utility sector and the maximum percentage of gross revenue that will apply to the regulated pipeline carrier sector in accordance with [AS 42.05.254\(h\)](#).

(f) In this section, "gross revenue" means the total intrastate operating revenue as shown in a pipeline carrier's annual report required by the commission by regulation.



**Sec. 42.06.290. Abandonment.** (a) A pipeline carrier may not abandon or permanently discontinue use of all or any portion of a pipeline or abandon or discontinue any service rendered by means of a pipeline that is the subject of a certificate of convenience and necessity, without the permission and approval of the commission, after due notice and hearing, and a finding by the commission that continued service is not required by public convenience and necessity. Any interested person may file with the commission a protest or memorandum of opposition to or in support of discontinuance or abandonment. The commission may authorize temporary suspension of a service or of part of a service.

(b) Upon complaint or upon its own motion, the commission may reinvestigate a previously authorized discontinuance, abandonment, or suspension of a service described in (a) of this section. If, after due notice and hearing, the commission finds that the public convenience and necessity requires the service to be resumed, and that there has not been detrimental reliance on the previous authorization, it may order the operator or owner of the oil or gas pipeline facility to again provide the service.

**Sec. 42.06.300. Modification, suspension, or revocation of certificates.** Upon complaint or upon its own motion the commission, after due notice and hearing and for good cause shown, may amend, modify, suspend, or revoke a certificate, in whole or in part. Good cause for amendment, modification, suspension, or revocation of a certificate shall be

- (1) the requirements of public convenience and necessity;
- (2) misrepresentation of a material fact in obtaining the certificate;
- (3) unauthorized discontinuance or abandonment of all or part of a service that is the subject of the certificate;
- (4) wilful failure to comply with the provisions of this chapter, or the regulations or orders of the commission; or
- (5) wilful failure to comply with a term, condition, or limitation of the certificate.

**Sec. 42.06.305. Transfer of operating authority.** (a) Operating authority may not be transferred by sale or lease of the certificate or by the sale of substantially all of the stock or assets of a pipeline carrier holding a certificate without the prior approval of the commission. A transfer not involving a substantial change in ownership shall be summarily approved.

(b) The commission's decision under this section shall be based on the best interest of the public.

**Article 03. SERVICES AND FACILITIES Sec. 42.06.310. Standards of service and facilities.** (a) Each oil or gas pipeline facility shall furnish and maintain adequate, efficient, and safe service and facilities. This service shall be reasonably continuous and without unreasonable interruption or delay.

(b) If the commission, upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, finds that the service or facilities of an oil or gas pipeline facility are unreasonable, unsafe,

inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this chapter, the commission shall prescribe by regulation or order, the reasonable, safe, adequate, sufficient service or facilities to be observed, furnished, enforced, or employed, including all repairs, changes, alterations, extensions, substitutions, or improvements in facilities that are reasonably necessary and proper for the safety, accommodation, and convenience of the public and the users. Regulations or orders issued under this subsection shall conform to accepted industry standards and practices.

(c) Every common carrier shall, when ordered by the commission, extend or enlarge its pipeline or storage facilities provided the extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public.

(d) The requirement of (c) of this section does not apply to a North Slope natural gas pipeline carrier to the extent that the capacity of the carrier's North Slope natural gas pipeline does not allow for expanded capacity, and does not apply to require a North Slope natural gas pipeline carrier to enlarge or extend its North Slope natural gas pipeline system. However, the commission may require a North Slope natural gas pipeline carrier to expand, enlarge, or extend its North Slope natural gas pipeline system if, after notice and opportunity for hearing, the commission determines that

(1) a person making a request for expanded, enlarged, or extended service by a North Slope natural gas pipeline carrier has made a firm contractual commitment to the North Slope natural gas pipeline carrier to transport North Slope natural gas; and

(2) the expansion, enlargement, or extension will not result in

(A) substantial injury, including economic injury, to the North Slope natural gas pipeline facility or its customers;

(B) substantial detriment to the services furnished by the North Slope natural gas pipeline facility; or

(C) the creation of safety hazards.

**Sec. 42.06.320. Discrimination in service.** An oil or gas pipeline carrier may not, as to service, make or grant an unreasonable preference or advantage to any person or subject any person to an unreasonable prejudice or disadvantage. An oil or gas pipeline facility that is owned by more than one owner may not require that users make separate requests of each separate owner in order to obtain a reasonable share of the service provided by the oil or gas pipeline facility.

**Sec. 42.06.330. Power of commission to allocate usage.** If the commission, upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, finds that an oil or gas pipeline facility is making or granting an unreasonable preference or advantage to any person or subjecting any person to an unreasonable prejudice or discrimination, the commission may prescribe rules to end the

discrimination or the commission may itself prescribe the allocation of the service until it determines the discrimination can be avoided by appropriate rule or agreement.

**Sec. 42.06.340. Order for joint use or connection.** (a) When there is failure to agree upon the joint use or interconnection of oil or gas pipeline facilities or the conditions or compensation for joint use or interconnections, any interested person may apply to the commission for an order requiring the interconnection. If, after investigation and opportunity for hearing, the commission finds that public convenience and necessity require the joint use or connection, and that the use or connection will not result in substantial injury to the oil or gas pipeline facility or its customers, or in substantial detriment to the services furnished by the oil or gas pipeline facility, or in the creation of safety hazards, it shall

- (1) order that the use be permitted;
- (2) prescribe reasonable conditions and compensation for the joint use;
- (3) order the interconnection to be made;
- (4) determine the time and manner of the interconnection;
- (5) determine the apportionment of costs and responsibility for operation and maintenance of the interconnection.

(b) During construction of a pipeline the commission, after investigation and opportunity for hearing and findings as required in (a) of this section, may order the inclusion within the pipeline at points that it designates, special fittings including but not limited to tees, wyes, spools, reducers, enlargers, flanges, flange plates, valves, and valve boxes, to reduce the time and cost of future connections for the injection and removal of gas and oil from the main pipeline, and to maintain and facilitate intrastate commerce. A request for special fittings may be made by the commissioner of natural resources for the state. A request for special fittings and valves may be made to the commission by a local government, person, company, or corporation. The cost of furnishing and installing the special fittings shall be paid by the state. However, if the special fittings are used by a person for a commercial enterprise or by a municipality for the operation of a utility, the commission shall require that the using person or municipality reimburse the state for the cost of furnishing and installing.

**Article 04. RATES AND RATE SCHEDULES Sec. 42.06.350. Tariffs, contracts, filing, and public inspection.** (a) Under regulations adopted by the commission, every intrastate oil or gas pipeline carrier shall file with the commission, within the time and in the form designated by the commission, all rates, tariffs, charges, classifications, rules, regulations, terms, and conditions pertaining to service provided under the certificate, and shall maintain copies on file at its principal business office and at places designated by the commission, available to, and subject to inspection by, the general public on demand.

(b) The commission may reject the filing of all or part of a tariff that does

not comply with the form or filing regulations of the commission or that is not consistent with this chapter or the regulations of the commission. A tariff or provision so rejected is void.

(c) In its tariff filed with the commission under (a) of this section, a natural gas pipeline carrier may charge separate rates for firm transportation service and for interruptible transportation service. A natural gas pipeline carrier (1) may, in addition, impose a reservation fee or similar charge for reservation of capacity in a natural gas pipeline as a condition of providing firm transportation service; the reservation fee or charge imposed by the carrier may not include any variable costs or fixed costs that are not attributable to the provision of firm transportation service;

(2) may not impose a reservation fee or similar charge for reservation of capacity in a natural gas pipeline for interruptible transportation service.

**Sec. 42.06.360. Adherence to tariffs.** The terms and conditions under which a pipeline carrier offers its services and facilities to the public shall be governed strictly by the provisions of its currently effective tariffs. A legally filed and effective tariff rate, charge, rule, regulation, or condition of service may not be changed except in the manner provided in this chapter. If more than one tariff rate or charge can reasonably be applied for billing purposes the one most advantageous to the customer shall be used.

**Sec. 42.06.370. Rates to be just and reasonable.** (a) All rates demanded or received by a pipeline carrier, or by any two or more pipeline carriers jointly, for a service furnished or to be furnished shall be just and reasonable.

(b) Additional regulations governing determination of a reasonable tariff shall be published by the commission.

(c) Rates demanded, observed, charged, or collected by a North Slope natural gas pipeline carrier for intrastate service shall be designed as if that portion of the North Slope natural gas pipeline were a public utility regulated under the provisions of [AS 42.05](#).

**Sec. 42.06.380. Discrimination in rates.** (a) A pipeline carrier may not, as to rates, grant a preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage. A pipeline carrier may not establish or maintain an unreasonable difference as to rates, either as between localities served or between classes of service provided under the certificate.

(b) A pipeline carrier may not directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand or receive a greater or lesser compensation for service than is specified in its effective tariff nor extend to any customer served under the certificate any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except as are extended or applied to all customers under like circumstances.

**Sec. 42.06.390. Initial or revised rates.** (a) A pipeline carrier may not establish or place in effect any initial rates, charges, rules, regulations, conditions of service or practices except after 90 days' notice to the commission and to the public. Notice shall be given by filing with the commission and keeping open for public inspection the tariff provisions which shall plainly indicate the time when the tariff will go into effect. The commission may prescribe additional means of giving notice. The commission, for good cause shown, may allow initial tariffs to take effect on less than 90 days' notice under conditions the commission prescribes by order.

(b) A pipeline carrier may not establish or place in effect any revised rates, charges, rules, regulations, conditions of service or practices except after 30 days' notice to the commission and to the public. Notice shall be given by filing with the commission and keeping open for public inspection the revised 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 less than 30 days' notice under conditions the commission prescribes by order.

(c) Initial and revised tariffs shall be filed in the manner provided in [AS 42.06.350](#).

**Sec. 42.06.400. Suspension of tariff filing.** (a) When a tariff filing is made containing an initial or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing. Pending a hearing the commission may, by order stating the reasons for its action, suspend the operation of the tariff filing for an initial period not longer than six months beyond the time when it would otherwise go into effect. If good cause is shown, the commission may suspend the operation of the tariff filing for an additional period not to exceed one year following the end of the initial suspension period. If information on which to base a just and reasonable tariff is lacking or incomplete at the close of the second suspension period, the commission may, during the suspension period and for good cause shown, with or without a hearing, order a further suspension and in such instance shall order the filed rate to be collected, subject to refund of the difference between the filed rate and the final rate, until a final rate can be set. The commission may order the difference between the temporary rate established under this section and the filed rate to be placed in escrow or secured by bond pending establishment of the final rate.

(b) An order suspending a tariff filing may be vacated if, after investigation, the commission finds that it is in all respects proper. Otherwise the commission shall hold a hearing on the suspended filing and issue its order, before the end of the suspension period, granting, denying, or modifying the

suspended tariff in whole or in part. If an initial tariff is suspended, the commission shall establish a reasonable temporary tariff. The commission may allow the collection of the filed initial tariff, or it may require collection of the temporary tariff. If the commission allows collection of the filed initial tariff, it shall require the pipeline carrier to place the revenue representing the difference between the filed tariff and the temporary tariff in escrow in a financial institution approved by the commission, and keep accurate accounts of all amounts received, specifying by whom and in whose behalf the amounts are paid. At the end or vacation of the suspension period the amount, if any, owing to the pipeline carrier from the difference between the temporary tariff and the permanent tariff shall be paid to the pipeline carrier. The surplus, if any, shall be refunded to the persons in whose behalf the amounts were paid into escrow. Funds may not be released from escrow without the commission's prior written consent and instructions to the escrow agent. The commission may allow the pipeline carrier, at the carrier's expense, to substitute a bond or letter of credit in lieu of the escrow requirement. If the commission requires collection of the temporary tariff, it shall require the shipper to place the revenue representing the difference between the filed initial tariff and the temporary tariff in escrow in a financial institution approved by the commission, and require that accurate accounts similar to those specified above in this section be kept by the carrier and the shipper. The person owing shall pay the person owed to the satisfaction of the commission within 30 days after the commission order allowing or setting a permanent tariff. The amount, if any, by which the permanent tariff exceeds the temporary tariff shall be paid by the shipper to the carrier, or, if the temporary tariff exceeds the permanent tariff, the difference shall be paid by the carrier to the shipper, and in either event such payment shall be made with interest calculated on the balance due at the end of each calendar month at the legal rate, as defined in [AS 45.45.010\(a\)](#). The commission may allow the shipper, at the shipper's expense, to substitute a bond or letter of credit in place of the escrow requirement.

(c) If a proposed increased rate is suspended, the commission shall establish a reasonable temporary tariff. The temporary tariff may be the same as the tariff the carrier is seeking to revise. The commission may allow the collection of the filed proposed increased rate, or it may require collection of the temporary rate. If the commission allows collection of the filed increased rate, it shall require the pipeline carrier to place the revenue representing the difference between the filed proposed increased rate and the temporary rate in escrow in a financial institution approved by the commission, and keep an accurate account of all amounts received, specifying by whom and on whose behalf the amounts are paid. At the end or vacation of the suspension period the amount, if any, owing to the pipeline carrier from the difference between the temporary rate and the permanent rate shall be paid to the pipeline carrier. The surplus, if any, shall be refunded to the persons

on whose behalf the amounts were paid into escrow. Funds may not be released from escrow without the commission's prior written consent and instructions to the escrow agent. The commission may allow the pipeline carrier, at the carrier's expense, to substitute a bond or letter of credit in place of the escrow requirement. If the commission requires collection of the temporary rate, it shall require the shipper to place the revenue representing the difference between the proposed increased rate and the temporary rate in escrow in a financial institution approved by the commission, and require that accurate accounts similar to those specified above in this subsection be kept by the carrier and the shipper. The person owing shall pay the person owed to the satisfaction of the commission within 30 days after the commission's order allowing or setting a permanent tariff. The commission may allow the shipper, at the shipper's expense, to substitute a bond or letter of credit instead of meeting the escrow requirement.

(d) One who initiates a change in existing tariffs bears the burden of proving the reasonableness of the change.

**Sec. 42.06.410. Power of commission to fix rates.** (a) When the commission, after an investigation and hearing, finds that a rate demanded, observed, charged, or collected by a pipeline carrier for a service, subject to the jurisdiction of the commission, or that a classification, rule, regulation, practice, or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the commission shall determine a just and reasonable rate, classification, rule, regulation, practice, or contract to be observed or allowed and shall establish it by order.

(b) If an investigation is conducted in multiple phases, the commission may establish a rate at the end of a single phase. The rate established at the end of a single phase is to be considered a final rate under [AS 42.06.400](#). If the rate established at the conclusion of the proceeding under (a) of this section or after judicial review is less than the rate established after a single phase of an investigation, a shipper is entitled to a refund of the difference between the amounts paid by the shipper and the amounts that would have been paid under the rate established at the conclusion of the proceeding or after judicial review. If the rate established at the conclusion of the proceeding under (a) of this section or after judicial review is more than the rate established after a single phase, a pipeline carrier is entitled to a payment of the difference between the amounts paid to the carrier and the amount that would have been paid under the rate established at the conclusion of the proceeding or after judicial review.

**Sec. 42.06.420. Valuation of property of a pipeline carrier.** The commission may, after providing reasonable notice and opportunity to be heard, ascertain and set the fair value of the whole or any part of the property of a pipeline carrier, insofar as it is material to the exercise of the jurisdiction of the commission. The commission may make revaluations from

time to time and ascertain the fair value of all new construction, extensions, and additions to the property of a pipeline carrier.

**Article 05. ACCOUNTS, RECORDS, AND REPORTS Sec. 42.06.430.**

**General provisions as to accounts, records, and reports.** To the extent necessary to the performance of the duties of the commission as provided in this chapter,

(1) the commission by regulation shall, for the purposes of this section, classify pipeline facilities, and may designate the pipeline facilities or groups of pipeline facilities within the state that constitute a pipeline system for the purposes of this section;

(2) the commission may by regulation prescribe a uniform system of accounts for any classification of pipeline facilities which best represents and clearly reveals the investment, revenues, direct operating costs and other expenses of the subject classification of facilities, and may prescribe the manner in which the accounts and supporting records are kept in order to clearly show the investment, revenues, and costs pertaining to the subject facilities or to a pipeline system constituting a part of it; accounts shall be maintained on the calendar year basis unless the commission specifically authorizes the maintenance of accounts on the basis of a fiscal year other than the calendar year;

(3) the commission may by regulation require a 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 units which are 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; from time to time the commission shall determine the proper and adequate rates of depreciation for each major class of property of an oil or gas pipeline facility;

(4) the pipeline carrier shall 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) it engages in, 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;

(5) the pipeline carrier shall 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;

(6) for pipelines subject to the Interstate Commerce Act or the Natural Gas Act, the uniform system of accounts and manner of maintaining them and the property records kept and maintained shall, where considered



practicable by the commission, be the same as required under regulations prescribed by the applicable federal agency; however, where federal law permits a pipeline carrier to consolidate its reporting for more than one pipeline in which it has an ownership interest, the commission shall require the reports to be made on an individual pipeline basis for any pipeline located wholly or in part in the state;

(7) within 90 days after the close of its authorized annual accounting period, or within additional time granted by the commission for good cause shown, a pipeline carrier shall file a verified annual report with the commission; the annual report must consist of the following:

(A) for a pipeline subject to the Interstate Commerce Act or 15 U.S.C. 717 - 717w (Natural Gas Act), a copy of the annual report as filed with the appropriate federal agency under the applicable Act, and, for other pipelines, a report of general corporation information and financial statements in the same general format as the report of pipelines of the same classification subject to the jurisdiction of the appropriate federal agency;

(B) in the same general format as the report referred to in (A) of this paragraph, a statement of income and investment applicable to pipelines in this state, and a statement of investment, revenues, direct operating costs and other expenses, detailed in accordance with the uniform system of accounts to be applied under this chapter, for each pipeline system designated by the commission under (1) of this section; and

(C) such additional accounts and information as may be required under (2) of this section;

(8) the commission may require such additional accounts and information as may be necessary.

**Sec. 42.06.440. Inspection of records.** (a) Subject to [AS 31.05.035\(c\)](#), the commission shall at all reasonable times have access to, and may designate any of its employees, agents, or consultants to inspect and examine, the accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents, kept by an oil or gas pipeline carrier or its affiliated interests, or prepared or kept for it by others, which relate to any contract or transaction between them. The commission may require an oil or gas pipeline carrier or its affiliated interest to file with the commission copies of any or all of these accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents, or to maintain those materials at some convenient location in the state specified by order. Costs incurred in complying with a commission request to review the records referred to in this section or to maintain these records in such a manner as to make them conveniently available for the commission's review shall be borne by the party controlling the records.

(b) Subject to [AS 31.05.035\(c\)](#), when participating as a party under [AS 42.04.070\(c\)](#) or [AS 44.23.020\(e\)](#), the attorney general shall, at all reasonable times, have the right to reasonable access to, and may designate

any of the attorney general's employees, agents, or consultants to inspect and examine, the accounts, records, books, maps, inventories, appraisals, valuations, or other reports and documents kept by an oil or gas pipeline carrier that are relevant to the issues presented in any adjudicatory matter before the commission in which the attorney general has appeared as a party under [AS 42.04.070\(c\)](#) or [AS 44.23.020\(e\)](#). This access is subject to reasonable notice to all parties with an opportunity to object before the commission. Included under this subsection is access to records or other documents under the custody or control of an affiliated interest of the pipeline carrier that relate to any contract or transaction between the public utility and the affiliated interest. Costs incurred in complying with a request to review the records referred to in this subsection or to maintain those records in such a manner as to make them conveniently available for review shall be borne by the party controlling the records.

**Sec. 42.06.445. Public records.** (a) Except as provided in (b) and (c) of this section, or prohibited from disclosure under state or federal law, records in the possession of the commission are open to public inspection at reasonable times.

(b) The commission may, by regulation, classify records submitted to it by regulated pipeline carriers or pipelines as privileged records that are not open to the public for inspection. However, if a record involves an application or tariff filing pending before the commission, the commission may release the record for the purpose of preparing for or making a presentation to the commission in the proceeding if the record or information derived from the record is considered by the commission to be relevant to an issue in the proceeding, and if the record or information will be used by the commission in the proceeding. A record or information that the commission releases under this subsection may be released only after giving to the party that filed the record or information reasonable notice of its intention to release the record or information and opportunity to object to that release.

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

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

(e) A commissioner may certify as to all official records of the commission

under this section and may certify as to all official acts of the commission under this chapter.

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

**Sec. 42.06.450. Investigations.** The commission may investigate any matter that affects the cost or quality of transportation of oil or gas in this state by pipeline carriers or affiliated interests or of related services and may ensure compliance by pipeline carriers and their affiliated interests with the provisions of this chapter. Investigations may be public, nonpublic, or both. In conducting investigations, the commission may compel the attendance and testimony of witnesses and the production of records and testimony before the commission or its designee. In the course of an investigation, the commission may exclude from attendance at the taking of investigative testimony all persons except the person compelled to attend, that person's attorney, members of the commission or the commission's staff, and a person authorized to transcribe the proceedings. Following an investigation and after providing reasonable notice and opportunity for hearing, the commission may institute proceedings to determine whether unreasonable practices have occurred, whether expenditures have been imprudently incurred, the costs of those practices or expenditures, and whether a pipeline carrier and its affiliated interests are in compliance with this chapter. Following such a determination, the commission shall take appropriate action to ensure that neither the direct nor indirect costs of any unreasonable practices or imprudent expenditures are included in any tariff or rate of a pipeline carrier or are borne by the public or the state.

**Sec. 42.06.460. Designation of service agents.** Each pipeline carrier shall file with the commission a written appointment of a named permanent resident, which may be a corporation, of this state as its registered agent in this state upon whom service of all notices, regulations, and requests of the commission may be made. The appointment shall specify an address in this state of the appointed agent, which address may be changed from time to time by filing a new Alaska address with the commission. If a pipeline carrier fails to appoint an agent, service of notices, regulations, and requests may be made by posting a copy in the main office of the commission and filing a copy in the office of the lieutenant governor.

**Article 06. ENFORCEMENT PROVISIONS Sec. 42.06.470. Effect of regulations.** Regulations adopted by the commission under this chapter have the effect of law.

**Sec. 42.06.480. Review and enforcement.** (a) All final orders of the commission are subject to judicial review under [AS 44.62.560](#) - 44.62.570. (b) If an appeal is not taken from a final order of the commission within 10 calendar days, the commission may apply to the superior court for enforcement of this chapter, the regulations adopted under it, and the

orders of the commission. The court shall enforce the order by injunction or other process.

**Sec. 42.06.490. - 42.06.500. Complaint against pipeline carriers; adjudication. [Repealed, Sec. 20 ch 110 SLA 1981].** Repealed or Renumbered

**Sec. 42.06.510. [Renumbered as AS 42.06.445].** Repealed or Renumbered

**Sec. 42.06.520. [Renumbered as AS 42.06.607].** Repealed or Renumbered

**Sec. 42.06.530. Injunctions and monetary sanctions.** (a) The full amount of damages determined by a civil action may be compromised by the commission. In determining the amount of the damages, or the amount agreed upon in compromise, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the damages, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the state courts.

(b) A person may be enjoined by the superior court from committing a violation mentioned in this section.

**Sec. 42.06.540. Civil penalties.** (a) In addition to all other penalties and remedies provided by law, a person subject to the provisions of this chapter, as well as an officer, manager, agent, or employee of that person, that either violates or procures, aids, or abets the violation of any provision of this chapter, or of an order, regulation, or written requirement of the commission is subject to a maximum penalty of \$500 for each violation.

(b) A penalty may not be assessed unless the commission first issues an order to show cause why the penalty should not be levied. The order shall describe the violation with reasonable particularity and designate the maximum penalty that may be assessed for the violation. The order shall be served on the alleged violator named in the order. The order shall state a time and place for the hearing.

(c) After a hearing the commission shall enter its findings of fact and final order which shall state when the penalties, if any, are payable.

**Sec. 42.06.550. Each violation a separate offense.** Each violation of a provision of this chapter or of an order, decision, regulation, or written requirement of the commission is a separate and distinct offense and in case of a continuing violation each day the violation continues constitutes a separate offense.

**Sec. 42.06.560. Actions to recover damages and penalties;**

**disposition.** (a) Actions to recover damages and penalties under this chapter shall be brought by the attorney general in a court of competent jurisdiction.

(b) All damages and penalties recovered under the provisions of this chapter

shall be paid to the commission and deposited by it in the general fund of the state.

**Sec. 42.06.570. Penalties cumulative.** (a) All penalties imposed under this chapter are cumulative.

(b) An action to recover a civil penalty is not a bar to an enforcement proceeding to require compliance, or to any other remedy provided by this chapter.

**Sec. 42.06.580. Joinder of actions.** Under the applicable court rules, appeals from orders of the commission, applications for enforcement of commission orders and actions for recovery of damages or penalties may be joined. The court may in the interests of justice separate the actions.

**Sec. 42.06.590. Private cause of action.** (a) A person subjected to an unlawful rate, price, service, or practice, in violation of this chapter, may sue in a state court of appropriate jurisdiction for damages resulting from the unlawful rate, price, service, or practice.

(b) If the violation described in (a) of this section resulted in the overcharge of rate or price, the person paying the unlawful rate or price is entitled to recover as damages at least double the amount of the overcharge.

(c) A person recovering damages under this section is entitled to a reasonable attorney fee, fixed by the court, to be taxed and collected as costs of the suit.

**Article 07. GENERAL PROVISIONS Sec. 42.06.600. [Renumbered as [AS 42.06.230\(b\)](#)].** Repealed or Renumbered

**Sec. 42.06.601. Exemption.** An in-state natural gas pipeline subject to [AS 42.08](#) and an in-state natural gas pipeline carrier subject to [AS 42.08](#) are exempt from this chapter.

**Sec. 42.06.605. Restrictions on commissioners and employees.** A member or employee of the commission may not have an official connection with, or hold stock or securities in, or have a pecuniary interest in, a corporation, company, or association engaged in the production or the transportation of oil or gas. A member or employee may not act upon a matter in which the relationship of the member or employee with any person creates a conflict of interest.

**Sec. 42.06.607. Application fees.** The commission may establish reasonable fees to cover the costs of initial processing of applications for certificates or amendments to certificates.

**Sec. 42.06.610. Expenses of investigation or hearing.** (a) During a proceeding held under this chapter, the commission may allocate the cost of the proceeding among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission shall consider the regulatory cost charge paid directly or indirectly under [AS 42.06.286](#). The costs allocated may include the costs of any time devoted to investigations or hearings by hired consultants, whether or not the consultants appear as witnesses or participants. The commission shall provide an opportunity for

any person objecting to an allocation to be heard before the allocation becomes final.

(b) After completion of a proceeding held under this chapter, the commission may reallocate the cost of the proceeding among the parties, including the commission, as is just under the circumstances. The costs which are reallocated may include the costs of time devoted to investigations or hearings by hired consultants, whether or not the consultants appear as witnesses or participants. The commission shall provide an opportunity for any person objecting to a reallocation to be heard before the reallocation becomes final.

(c) *[Repealed, Sec. 28 ch 90 SLA 1991].*

(d) Notwithstanding the commission's discretion under (a) and (b) of this section to allocate costs to parties, the commission may not require a state agency to pay any costs allocated to the state agency.

**Sec. 42.06.620. Classification.** The commission may by regulation provide for the classification of oil or gas pipeline facilities based upon differences in annual revenue, assets, nature of ownership, and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting, and other regulatory requirements.

**Sec. 42.06.630. Definitions.** In this chapter,

(1) "affiliated interest" means any person or other entity that

(A) is controlled or owned, in whole or in part, by a pipeline carrier;

(B) is controlled or owned, in whole or in part, by an entity which controls or owns, in whole or in part, a pipeline carrier;

(C) is an agent, employee, contractor, or subcontractor of a pipeline carrier or any entity controlled or owned, in whole or in part, by a pipeline carrier;  
or

(D) controls or owns, in whole or in part, a pipeline carrier;

(2) "capacity" means, with reference to a North Slope natural gas pipeline, the average daily volume throughput of the North Slope natural gas pipeline, calculated at the normal operating pressure of the North Slope natural gas pipeline as set out in the pipeline design;

(3) "commission" means the Regulatory Commission of Alaska ([AS 42.04.010](#));

(4) "commissioner" means a member of the commission;

(5) "duties" means duties, powers, obligations, and functions;

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

(7) "gas" includes all natural gas and hydrocarbons produced at the wellhead and not defined as oil;

(8) "interruptible transportation service" means service by a natural gas

pipeline carrier in which the carrier's pipeline system capacity may be subject to a prior claim by another shipper or another class of service; a service constitutes "interruptible transportation service" if the service is given a lower priority than another class of service, resulting in noncontinuous service to a shipper of natural gas;

(9) "intrastate," as applied to the transportation of North Slope natural gas, means the transportation of North Slope natural gas between any point within the state and another point within the state, for ultimate consumption of the North Slope natural gas within the state;

(10) "natural gas pipeline" or "natural gas pipeline facility" means all the facilities of a total system of pipe, whether owned or operated by a natural gas pipeline carrier under a contract, agreement, or lease in this state used by a natural gas pipeline carrier for transportation of natural gas for delivery, storage, or further transportation, and including all pipe, pump and compressor stations, station equipment, and all other facilities used or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters, and separators;

(11) "natural gas pipeline carrier" means the owner, including a corporation, company, or other entity organized under the laws of the United States or of any state, of a natural gas pipeline, as the term is defined in this section, or an interest in it, or any person, including a corporation, company, or other entity organized under the laws of the United States or of any state, authorized to construct or extend pipeline facilities under this chapter;

(12) "North Slope natural gas" means gas that is produced from the area of Alaska lying north of 68 degrees North latitude and that, but for a pipeline subject to regulation under this chapter, had not been committed for sale and delivery in a commercial market due to the prevailing costs or price conditions;

(13) "North Slope natural gas pipeline" or "North Slope natural gas pipeline facility" means all the facilities of a total system of pipe, whether owned or operated by a North Slope natural gas pipeline carrier under a contract, agreement, or lease, in this state used by a North Slope natural gas pipeline carrier for transportation of North Slope natural gas for delivery, storage, or further transportation, including all pipe, pump, and compressor stations, station equipment, gas processing plants, treaters, separators, and all other facilities used or necessary for an integral line of pipe to carry out the transportation from point to point, but excluding marine terminal facilities and the integrated plant, facilities, and equipment, including pollution control equipment, used for conditioning, storage, handling, or processing of North Slope natural gas into liquefied natural gas;

(14) "North Slope natural gas pipeline carrier" means the owner, including a corporation, company, or other entity organized under the laws of the United States or of a state, of a North Slope natural gas pipeline, or an interest in

it, or a person, including a corporation, company, or other entity, organized under the laws of the United States or of a state, authorized to construct, operate, or extend North Slope natural gas pipeline facilities under this chapter;

(15) "oil" includes crude oil, and other hydrocarbons regardless of gravity that are produced at the wellhead in liquid form, its products and liquid hydrocarbons, including the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(16) "pipeline" or "pipeline facility" means all the facilities of a total system of pipe, whether owned or operated by a pipeline carrier under a contract, agreement, or lease, in this state used by a pipeline carrier for transportation, for hire and as a common carrier, of oil, gas, coal, or other mineral slurry for delivery, storage, or further transportation, and including all pipe, pump and compressor stations, station equipment, and all other facilities used or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters, and separators;

(17) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of any state, of any pipeline, as the term is defined in this section, or any interest in it, or any person, including corporations organized under the laws of the United States or of any state, authorized to construct or extend pipeline facilities under [AS 42.06.240\(a\)](#);

(18) "regulation" includes rules;

(19) "tariff" means a rate, charge, toll, rule, or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation.

**Sec. 42.06.640. Short title.** This chapter may be cited as the Pipeline Act.

## **G.1.** Chapter 42.07 ALASKA TRANSPORTATION COMMISSION ACT

*[Repealed, 1983 Initiative Proposal No. 2, Sec. 6].*

### **Article 01. APPLICATION OF CHAPTER; QUALIFICATIONS**

## **G.1.** Chapter 42.08 IN-STATE PIPELINE CONTRACT CARRIER

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

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

**Sec. 42.08.020. Qualification of the Alaska Gasline Development Corporation; findings.** (a) The Alaska Gasline Development Corporation is



financially fit, willing, and able to take the actions, perform the service, and conform to the requirements of this chapter.

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

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

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

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

**Article 02. POWERS AND DUTIES OF REGULATORY COMMISSION OF ALASKA Sec. 42.08.220. General powers and duties.** (a) The commission shall

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

(2) require permits for the construction, enlargement in size or operating capacity, extension, connection and interconnection, operation, or abandonment of an in-state natural gas pipeline facility under the provisions of this 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;

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

(b) The commission may

(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 formal 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](#); to resolve the dispute, the commission may order an expansion of an in-state natural gas pipeline or order an open season under the terms provided for an expansion or open season in this chapter or [AS 38.35.121](#)(a)(4) and (c); 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;

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

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

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

(c) Except with regard to a precedent agreement under [AS 42.08.320](#)(a) that is filed before the issuance of a certificate, consideration of an application for a contract carriage certificate under [AS 42.08.330](#), and an initial recourse tariff under [AS 42.08.350](#)(a), the commission may extend a timeline required under this chapter if all parties of record consent to the extension or if, for one time only, before the timeline expires, the

(1) commission reasonably finds that good cause exists to extend the timeline;

- (2) commission issues a written order extending the timeline and setting out its findings regarding good cause; and
- (3) extension of time is 30 days or less.
- (d) 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;
  - (4) conduct further review or investigation of a contract that is approved, considered approved, or filed under this chapter; or
  - (5) investigate a dispute under (b)(3) of this section if a complete formal complaint has not been filed with the commission within 60 days after the event giving rise to the complaint.

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

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

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

(b) [AS 44.62](#) (Administrative Procedure Act) applies to regulations adopted by the commission.

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

**Article 03. CONTRACT REVIEW; CONTRACT CARRIAGE CERTIFICATE;**

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

(b) An open season shall be conducted and firm transportation service shall be awarded without undue discrimination or preference. Presubscription agreements are subject to the methods for awarding capacity set out in the open season notice.

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

(d) An in-state natural gas pipeline carrier shall conduct an open season for an expansion of its pipeline system when it has received one or more requests for firm transportation service from potential shippers that meet the pipeline's creditworthiness requirements and that, in the aggregate, would enable the expansion of the pipeline's system on a commercially reasonable basis. An expansion of the pipeline system is not commercially reasonable if the expansion would cause the pipeline to be a competing natural gas pipeline project for purposes of [AS 43.90](#).

(e) A natural gas pipeline carrier may enter into presubscription agreements before the start of an open season, but not before an initial recourse tariff is approved.

(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.

(g) If executed precedent agreements are received by an in-state natural gas pipeline carrier, the carrier shall, within 10 days after accepting and executing the agreements, inform the public of the results through publication on the carrier's Internet website and in a press release or other announcement to the media. The results made public must include the name

of each prospective shipper, the amount of capacity allocated, and the period of commitment. If the carrier determines that the commitments received during the open season are not sufficient to permit the carrier to continue the development or construction of the in-state natural gas pipeline, the corporation shall report that to the commission within 30 days.

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

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

(c) An in-state natural gas pipeline carrier may contract to provide firm transportation service for rates and containing provisions different than those in the recourse tariff. For purposes of this subsection, "provisions" are limited to those terms and conditions that directly relate to the rate and do not include the general operating terms and conditions of the recourse tariff.

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

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

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

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

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

(c) For purposes of (b)(1) of this section, and except as provided in (d) of this section, a precedent agreement or related contract is arm's length

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

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

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

(B) the parties are not affiliated; or

(C) if the parties are affiliated, the precedent agreement or related contract is substantially similar to a precedent agreement or related contract between unaffiliated parties, and the formation of the precedent agreement or related contract was not affected by unlawful market activity or unfair dealing as described in (b)(1) of this section.

(d) Notwithstanding (c) of this section, a precedent agreement or related contract with a public utility is not arm's length if the rate paid for transportation on an in-state natural gas pipeline is greater than the recourse tariff rate.

(e) If a precedent agreement or related contract is not arm's length, the commission shall determine whether the precedent agreement or related contract is just and reasonable using the standards normally applied under [AS 42.06.140](#). If the commission is reviewing a precedent agreement 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 the tariff. When considering whether to approve a contract as just and reasonable under this subsection, the commission shall consider the consequences of failing to approve the contract.

**Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state natural gas pipeline subject to this chapter may not engage in the transportation of natural gas or undertake the construction of a natural gas pipeline facility for that purpose, or acquire or operate an in-state natural gas pipeline facility, unless a certificate of public convenience and necessity by the commission authorizing contract carriage is in force with respect to that owner. A certificate shall describe the nature and extent of the authority granted, including, as appropriate for the services involved, a description of the authorized area and scope of operation for the in-state natural gas pipeline facility.

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

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

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

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

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

- (1) misrepresentation of a material fact in obtaining the certificate;
- (2) unauthorized discontinuance or abandonment of all or part of a service that is the subject of the certificate;
- (3) wilful failure to comply with the provisions of this chapter or a regulation or order of the commission; or
- (4) wilful failure to comply with a term, condition, or limitation of the certificate.

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

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

(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 90 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 study. 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 90 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 study 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 study incorporates a reasonable depreciation methodology and depreciable life, and that the cost study uses a reasonable capital structure. A proposed depreciation methodology, depreciable life, or capital structure is reasonable if it is commonly accepted or used by the commission or the Federal Energy Regulatory Commission.

(c) Upon written complaint or in its own motion, and after reasonable notice, the commission may conduct a hearing to determine whether the initial recourse tariff filed with the commission complies with the requirements in (b) of this section. Pending a hearing the commission may, by order stating the reasons for its action, suspend the operation of the initial recourse tariff for a period not longer than 30 days beyond the time when the initial recourse tariff would otherwise go into effect. An order suspending an initial recourse tariff filing may be vacated if, after investigation, the commission finds that it is in all respects proper. Otherwise, the commission shall hold a hearing on the suspended filing and issue its order, before the end of the suspension period, approving or denying the suspended initial recourse tariff.

(d) Unless a recourse tariff is denied because it includes a proposed term or condition of service that is unduly discriminatory, includes a proposed rate element that does not comply with (b) of this section, or violates a provision of this chapter, the commission shall approve the initial recourse tariff. If the commission does not issue its ruling within the 90-day period, and the period of suspension, if any, the initial recourse tariff filing shall be considered approved.

(e) 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 or an expansion of the pipeline, and at any time 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.

(f) The commission shall review a proposed revised recourse tariff in the same manner as the review of a proposed initial recourse tariff under (b) of this section, except that the depreciable life may be adjusted in accordance with the time period between the approval of the recourse tariff and the approval of the revised recourse tariff. The commission shall verify that 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.

(g) 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.

(h) 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.

**Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by an in-state natural gas pipeline carrier may provide for expansion unless the expansion would cause the pipeline to be a competing natural gas pipeline project for purposes of [AS 43.90](#).

(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.

**Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an in-state natural gas pipeline under this chapter shall pay to the commission a regulatory cost charge if the pipeline for which the charge is assessed is subject to this chapter and the commission has taken action on the pipeline or certificate under this chapter during the prior fiscal year. The amount of the regulatory cost charge may not exceed the sum of the following percentages of gross revenue derived from operations in the state: (1) 0.7 percent to fund the operations of the commission; and (2) 0.17 percent to fund operations of the public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) in the Department of Law.

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

(c) The commission shall administer the charge imposed under this section. The Department of Revenue shall collect and enforce the charge imposed under this section. The Department of Administration shall identify the amount of the operating budgets of the commission and the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) that lapses into the general fund each year. The legislature may appropriate an amount equal to the lapsed amount to the commission and to the Department of Law public advocacy function under [AS 42.04.070\(c\)](#) and [AS 44.23.020\(e\)](#) for operating costs for the next fiscal year. If the legislature does so, the commission shall reduce the total regulatory cost charge collected for that fiscal year by a comparable amount.

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

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

**Article 04. PUBLIC RECORDS; INVESTIGATIONS Sec. 42.08.400.**

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

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

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

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

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

**Sec. 42.08.410. Investigations.** The commission may investigate any matter for which an investigation is authorized under this chapter. An investigation may be public, nonpublic, or both. In conducting an investigation, the commission may compel the attendance and testimony of witnesses and the production of records and testimony before the commission or its designee. In the course of an investigation, the commission may, subject to [AS 44.23.020](#)(e), exclude from attendance at the taking of investigative testimony all persons except a person compelled to attend, that person's attorney, members of the commission or the commission's staff, and a person authorized to transcribe the proceedings. In conducting an investigation related to a timely filed dispute, the commission shall issue a final order within 150 days after the date the

formal complaint was filed with the commission, except for disputes related to open seasons, in which case, a final order must be issued within 60 days. If the commission has not acted within the applicable time period in this section, the dispute shall be considered to have been dismissed with prejudice.

**Article 05. ACCOUNTS, RECORDS, AND REPORTS Sec. 42.08.440.**

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

**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 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.

**Article 06. GENERAL PROVISIONS Sec. 42.08.510. Designation of service agents.** An in-state natural gas pipeline carrier shall file with the commission a written appointment of a named permanent resident, which may be a corporation, of this state as its registered agent in this state on whom service of all notices, regulations, and requests of the commission may be made. The appointment shall specify the address in this state of the appointed agent. The address may be changed from time to time by filing a new address in the state with the commission. If an in-state natural gas pipeline carrier fails to appoint a registered agent, service of notices, regulations, and requests may be made by posting a copy in the main office of the commission and filing a copy in the office of the lieutenant governor.

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

**Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in [AS 38.35.200\(c\)](#), a final order of the commission under this chapter is subject to judicial review under [AS 44.62.560](#) and 44.62.570. (b) If an appeal is not taken from a final order of the commission within 10 calendar days after an investigation under [AS 42.08.220\(b\)\(3\)](#), the commission may apply to the superior court for enforcement of the order of the commission. The court shall enforce the order by injunction or other process.

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

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

(1) "affiliated" or "affiliated interest," with respect to an in-state natural gas pipeline carrier, means any person that

(A) is controlled or owned, in whole or in part, by the in-state natural gas

pipeline carrier;

(B) is controlled or owned, in whole or in part, by an entity that controls or owns, in whole or in part, the in-state natural gas pipeline carrier; or

(C) controls or owns, in whole or in part, the in-state natural gas pipeline carrier;

(2) "commission" means the Regulatory Commission of Alaska created under [AS 42.04.010](#);

(3) "commissioner" means a member of the commission;

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

(5) "in-state natural gas pipeline" or "in-state natural gas pipeline facility" means a natural gas pipeline that transports or will transport natural gas in the state by way of contract carriage;

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

(7) "natural gas pipeline" has the meaning given in [AS 31.25.390](#);

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

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