

unless 25 percent of the subscribers petition the commission for regulation.

(l) A person, utility, or cooperative that is exempt from regulation under (a) or (d) — (k) of this section is not subject to regulation by a municipality under AS 29.35.060 and 29.35.070. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7 — 9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982; am § 1 ch 30 SLA 1983; am § 68 ch 74 SLA 1985; am § 1 ch 80 SLA 1985; am § 2 ch 107 SLA 1986)

**Cross references.** — For limitations on these exemptions, see AS 42.05.321(b) and AS 42.05.381(c).

**Effect of amendments.** — The first 1985 amendment substituted "AS 29.35.060 and 29.35.070" for "AS 29.48.060 — 29.48.090" at the end of subsection (l).

The second 1985 amendment in subsection (b) inserted the language beginning "electric operating entities" and ending "subdivision of the state."

The 1986 amendment rewrote subsection (b).

**Opinions of attorney general.** — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical au-

thority had completed its proposed organization as a nonprofit corporation under AS 10.20. June 7, 1976, Op. Att'y Gen.

When a deregulated utility exceeds the gross annual limit of \$325,000 specified in subsection (f), and thus fails to be eligible for deregulation, the deregulation exemption ends automatically, and the utility is again subject to economic regulation. December 20, 1988, Op. Att'y Gen.

In order for the commission to effectively provide for an overview of eligibility for statutory exemption from regulation, it should specify the nature and extent of the exemption certified and require the subject utility to submit a report on its annual operating revenues. These terms and conditions should be included in the order which certifies the deregulation election results. December 20, 1988, Op. Att'y Gen.

#### NOTES TO DECISIONS

**Municipally owned utilities in competition with other utilities subjected to full gamut of regulation pertaining to other utilities, with exception relat-**

**ing to bond covenants.** — See Alaska Pub. Utils. Comm'n v. Municipality of Anchorage, 555 P.2d 262 (Alaska 1976).

**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 dereg-

ulation or regulation by the Alaska Public Utilities Commission 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 Alaska Public Utilities Commission?

[    ] 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 may elect to terminate its exemption in the same manner. (§ 10 ch 136 SLA 1980)

**Sec. 42.05.720. Definitions.** In this chapter

(1) "affiliated interest" includes:

(A) a person owning or holding directly or indirectly five per cent 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 per cent or more of voting securities, the chain beginning with the holder of the voting securities of such public utility;

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

(D) a corporation five per cent 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 per cent 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 Alaska Public Utilities Commission;

(3) "public" or "general public" means

(A) any group of 10 or more customers that purchase the service or commodity furnished by a public utility as defined in (4) of this section; and

(B) any utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products which are re-sold to a group included in (A) of this paragraph or which are used to produce the service or commodity sold to the public by the utility;

(4) "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 Alaska public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the Alaska 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;

(5) "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;

(6) "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;

(7) "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;

(8) "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. (§ 6 ch 113 SLA 1970; am § 2 ch 36 SLA 1971; am § 2 ch 76 SLA 1973)

Revisor's notes. — Formerly AS 42.05.701. Renumbered in 1983 and reorganized to alphabetize the defined terms.

Cross references. — For legislative

purpose of subparagraph (4)(E) of this section, see § 1, ch. 36, SLA 1971 in the Temporary and Special Acts.

AS 42.06

PIPELINE ACT

NOTES TO DECISIONS

Applied in *McClellan v. Kenai Peninsula Borough*, 565 P.2d 175 (Alaska 1977); *Alaska Pub. Utils. Comm'n v. Chugach Elec. Ass'n*, 580 P.2d 687 (Alaska 1978), overruled on other grounds, *City & Bor-*

*ough of Juneau v. Thibodeau*, 595 P.2d 626 (Alaska 1979); *B-C Cable Co. v. City of Juneau*, 613 P.2d 616 (Alaska 1980). Cited in *Drake v. Fairbanks N. Star Borough*, 715 P.2d 1167 (Alaska 1986).

Collateral references. — 64 Am. Jur. 2d, *Public Utilities*, §§ 1 — 2.

73B C.J.S., *Public Utilities*, §§ 1 — 3.

What are "public utilities" within provisions relating to municipal purchase, construction or repair of public utility. 9 ALR 1033; 35 ALR 592.

Conclusiveness of charter as regards character of corporation as a public utility corporation. 119 ALR 1019.

Electricity, gas, or water furnished by public utility as "goods" within provisions of Uniform Commercial Code Article 2 on Sales. 48 ALR3d 1060.

Sec. 42.05.721. Short title. This chapter may be cited as the Alaska Public Utilities Commission Act. (§ 6 ch 113 SLA 1970)

Chapter 06. Pipeline Act.

Article

1. Powers and Duties of Public Utilities Commission (§§ 42.06.140 — 42.06.230)
2. Certificate of Public Convenience and Necessity (§§ 42.06.240 — 42.06.305)
3. Services and Facilities (§§ 42.06.310 — 42.06.340)
4. Rates and Rate Schedules (§§ 42.06.350 — 42.06.420)
5. Accounts, Records, and Reports (§§ 42.06.430 — 42.06.460)
6. Enforcement Provisions (§§ 42.06.470 — 42.06.590)
7. General Provisions (§§ 42.06.605 — 42.06.640)

Legislative history reports. — For report of the Free Conference Committee on ch. 139, SLA 1972 (FCCS HCS CSSB 314), see 1972 Senate Journal, p. 1072; or 1972 House Journal, p. 1420.

Collateral references. — 13 Am. Jur. 2d, *Carriers*, §§ 20 — 32, 75 — 104; 61 Am. Jur. 2d, *Pipelines*, § 1 et seq.; 64 Am. Jur. 2d, *Public Utilities*, § 292 et seq. 13 C.J.S., *Carriers*, §§ 15 — 24.

Secs. 42.06.010 — 42.06.120. *Legislative policy; Alaska Pipeline Commission. [Repealed, § 20 ch 110 SLA 1981.]*

Sec. 42.06.130. *[Renumbered as AS 42.06.605.]*

Article 1. Powers and Duties of Public Utilities Commission.

Section

- 140. General powers and duties
- 150. Powers and duties with respect to federally regulated carriers
- 210. Publication of reports, orders, deci-

Section

- sions and regulations
- 220. Annual report
- 230. Jurisdiction of commission

**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. (§ 1 ch 139 SLA 1972; am §§ 1, 2 ch 201 SLA 1976; am §§ 1 — 3 ch 35 SLA 1977; am § 6 ch 110 SLA 1981)

Revisor's notes. — Subsection (b) was enacted as AS 42.05.121(c). Renumbered in 1981.

#### NOTES TO DECISIONS

Applied in *Amerada Hess Pipeline Corp. v. Alaska Pub. Utils. Comm'n*, 711 P.2d 1170 (Alaska 1986).

**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. (§ 1 ch 139 SLA 1972; am § 9 ch 110 SLA 1981)

*Secs. 42.06.160 — 42.06.200. Administrative authority and procedures. [Repealed, § 20 ch 110 SLA 1981.]*

**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 the Administrative Procedure Act (AS 44.62). (§ 1 ch 139 SLA 1972)

**Sec. 42.06.220. Annual report.** The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. The report must contain information and data that bear a significant relationship to the development and regulation of oil or gas pipeline facilities in the state and include an outline of the commission's program for the development and regulation of oil or gas pipeline facilities in the forthcoming year. (§ 1 ch 139 SLA 1972)

**Sec. 42.06.230. Jurisdiction of commission.** (a) Except as to jurisdiction of the Department of Law as provided by AS 42.06.140(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 an oil or gas pipeline facility operating in a city or borough, 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. (§ 1 ch 139 SLA 1972; am § 3 ch 201 SLA 1976; am § 10 ch 110 SLA 1981)

Revisor's notes. — Subsection (b) was formerly AS 42.06.600. Renumbered in 1983.

**Article 2. Certificate of Public Convenience and Necessity.**

<b>Section</b>	<b>Section</b>
240. Certificate required	280. Insurance and security
245. Federally regulated carriers	290. Abandonment
250. Application	300. Modification, suspension or revocation of certificates
260. Public hearings	305. Transfer of operating authority
270. Grant or denial of application	

**Sec. 42.06.240. Certificate required.** (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. (§ 1 ch 139 SLA 1972; am §§ 1, 2 ch 6 FSSLA 1973; am § 11 ch 110 SLA 1981)

Collateral references. — 13 Am. Jur.  
2d, Carriers, §§ 75 — 104.  
13 C.J.S., Carriers, §§ 15 — 24.

**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 they engage 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. (§ 3 ch 6 FSSLA 1973; am § 12 ch 110 SLA 1981)

**Sec. 42.06.250. Application.** Application for certificate shall be made in writing to the commission, verified under oath, and shall be in the form, and contain the information, and notice of the application shall be served upon the interested parties in the manner that the commission by regulation requires. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972; am § 4 ch 6 FSSLA 1973; am § 110 ch 6 SLA 1984)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**Sec. 42.06.305. Transfer of operating authority.** 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. (§ 1 ch 139 SLA 1972; am § 4 ch 35 SLA 1977)

**Article 3. Services and Facilities.**

<p><b>Section</b>                  310. Standards of service and facilities                  320. Discrimination in service                  330. Power of commission to allocate usage</p>	<p><b>Section</b>                  340. Order for joint use or connection</p>
---	---

**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 pre-

scribe 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. (§ 1 ch 139 SLA 1972; am § 29 ch 3 FSSLA 1973; am § 90 ch 59 SLA 1982)

**Collateral references.** — What constitutes abandonment of facilities or service, under § 7(b) of Natural Gas Act (15 USCS § 717(b)). 61 ALR Fed. 454.

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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 ser-

vices 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. (§ 1 ch 139 SLA 1972; am § 1 ch 5 SSSLA 1974)

Article 4. Rates and Rate Schedules.

<p>Section 350. Tariffs, contracts, filing and public inspection 360. Adherence to tariffs 370. Rates to be just and reasonable 380. Discrimination in rates</p>	<p>Section 390. Initial or revised rates 400. Suspension of tariff filing 410. Power of commission to fix rates 420. Valuation of property of a pipeline carrier</p>
--	--

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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972; am § 5 ch 35 SLA 1977)

*Collateral references.* — Use of in-line price as basis for initial price determination on issuance of certificate of public convenience and necessity under § 7 of

Natural Gas Act (15 USCS § 717D), where area rate has been established. 43 ALR Fed. 803.

**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 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. (§ 1 ch 139 SLA 1972; am § 6 ch 35 SLA 1977; am §§ 1, 2 ch 22 SLA 1978; am § 1 ch 2 SLA 1979)

**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. (§ 1 ch 139 SLA 1972; am § 2 ch 27 SLA 1981)

**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. (§ 1 ch 139 SLA 1972)

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

<p><b>Section</b> 430. General provisions as to accounts, records and reports 440. Inspection of records</p>	<p><b>Section</b> 445. Public records 450. Investigations 460. Designation of service agents</p>
--	--

**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 49 U.S.C. 1 — 1240 (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. (§ 1 ch 139 SLA 1972; am §§ 5, 6 ch 6 FSSLA 1973; am § 7 ch 35 SLA 1977)

**Sec. 42.06.440. Inspection of records.** 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. (§ 1 ch 139 SLA 1972; am § 8 ch 35 SLA 1977)

**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 under the provisions of this chapter, stating the grounds for the objection. When an objection is made, the commission shall order the information with-

held 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.

(c) A commissioner, and the executive director, 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. (§ 1 ch 139 SLA 1972; am § 13 ch 110 SLA 1981)

Revisor's notes. — Formerly AS 42.06.510. Renumbered in 1983.

**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. (§ 1 ch 139 SLA 1972; am § 9 ch 35 SLA 1977)

**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. (§ 1 ch 139 SLA 1972)

### Article 6. Enforcement Provisions.

Section	Section
470. Effect of regulations	560. Actions to recover damages and penalties; disposition
480. Review and enforcement	570. Penalties cumulative
530. Injunctive and monetary sanctions	580. Joinder of actions
540. Civil penalties	590. Private cause of action
550. Each violation a separate offense	

**Sec. 42.06.470. Effect of regulations.** Regulations adopted by the commission under this chapter have the effect of law. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972; am § 10 ch 35 SLA 1977)

#### NOTES TO DECISIONS

**Standard of review.** — The "substitution of judgment" standard of review, under which the reviewing court may substitute its judgment for that of the agency, rather than the "rational basis" standard, under which it is merely determined whether the agency's decision is supported by the facts and has a reasonable basis in law, will be applied in a suit brought under this act in which all issues

revolve around questions of statutory construction, questions peculiarly suited for judicial resolution and which do not involve agency expertise and in which the agency's specialized knowledge and experience would not be particularly probative as to the meaning of the statutes. *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896 (Alaska 1987).

*Secs. 42.06.490 — 42.06.500. Complaint against pipeline carriers; adjudication. [Repealed, § 20 ch 110 SLA 1981.]*

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

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

**Sec. 42.06.530. Injunctive 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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

**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. (§ 1 ch 139 SLA 1972)

### Article 7. General Provisions.

Section	Section
605. Restrictions on commissioners and employees	620. Classification
607. Application fees	630. Definitions
610. Expenses of investigation or hearing	640. Short title

**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. (§ 1 ch 139 SLA 1972)

Revisor's notes. — Formerly AS 42.06.130. Renumbered in 1983.