

SENATE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR WAGONER

Introduced: 1/31/03

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the manner of determining the royalty received by the state on gas
2 production as it relates to the manufacture of certain value-added products."

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

4 * **Section 1.** AS 38.05.180(aa) is amended to read:

5 (aa) Within 90 days after the written request of a lessee of a lease issued under
6 this section or of a lessee of federal land from which the state is entitled under
7 applicable federal law to receive a share of the royalty on gas production, the
8 commissioner shall enter into an agreement with the lessee to use or accept the price
9 for the gas established in the contract between the lessee and a gas or electric utility,
10 or between the lessee and a manufacturer, as appropriate, as the value of the
11 state's royalty share of gas production sold by the lessee under the contract

12 (1) but only if

13 (A) for a contract between the lessee and a gas or electric
14 utility, the primary function of the utility with which the lessee has entered

1 into the contract is to provide, either directly or by selling at wholesale to
 2 another utility, gas or electricity to the general public, including residential
 3 consumers, within the utilities' service areas, and the utility with which the
 4 lessee has entered into the contract is not an affiliated interest, as that term is
 5 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of
 6 more than 10 percent of the utility's gas or electricity; **or**

7 **(B) for a contract between the lessee and a manufacturer,**
 8 **the primary function of the manufacturer is to engage in the production of**
 9 **a value-added product, and the manufacturer with which the lessee has**
 10 **entered into the contract is not affiliated with the lessee or with a**
 11 **subsequent purchaser of more than 10 percent of the manufacturer's**
 12 **value-added product; for purposes of this subparagraph, the parties to a**
 13 **contract or purchase are affiliated if, in the judgment of the commissioner,**
 14 **one of the parties to the contract or purchase exercises substantial**
 15 **influence over the policies and actions of the other as evidenced by**
 16 **relationship based on common ownership or family interest or by action**
 17 **taken in concert without regard to whether that influence is based upon**
 18 **stockholdings, stockholders, officers, or directors;** and

19 (2) unless the commissioner makes a written finding, based on clear
 20 and convincing evidence, that

21 (A) the contract price is unreasonably low;

22 (B) the prospective reduction in royalty receipts would not be
 23 balanced **in a contract entered into for a circumstance described**

24 **(i) in (1)(A) of this subsection** by increased benefits to
 25 in-state gas and electric consumers; **or**

26 **(ii) in (1)(B) of this subsection by increased**
 27 **employment opportunities or other tangible benefits to the state;**

28 (C) the lessee and the utility **or manufacturer, as**
 29 **appropriate,** are related in management, ownership, or other aspect; and

30 (D) the contract price is not in the best interest of the state.

31 * **Sec. 2.** AS 38.05.180(bb)(2) is amended to read:

1 (2) "price for the gas established in the contract" includes tax
2 reimbursement amounts, deliverability and other charges, and other forms of
3 consideration paid by the gas or electric utility **or by the manufacturer, as**
4 **appropriate,** under the contract;

5 * **Sec. 3.** AS 38.05.180(bb) is amended by adding a new paragraph to read:

6 (4) "manufacturer" means a person that is a business entity other than a
7 gas or electric utility primarily engaging in the manufacturing of a value-added
8 product using state royalty natural gas as a component raw material.