CHAPTER 49-19
COMMON PIPELINE CARRIERS

49-19-01. Definition of common pipeline carriers.

Every person:

1. Owning, operating, or managing any pipeline or any part of any pipeline within this state for the transportation of crude petroleum, gas, coal, or carbon dioxide to or for the public for hire, or engaged in the business of transporting crude petroleum, gas, coal, or carbon dioxide by pipelines;
2. Owning, operating, managing, or participating in the ownership, operation, or management of, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline, or any part of any pipeline, for the transportation of crude petroleum, gas, or coal bought from others from any oil, gas, or coal field or place of production, to any distributing, refining, or marketing center or reshipping point;
3. Engaged in the business of producing, purchasing, transporting for hire or transporting for sale within this state of natural gas, which is transported through pipelines, or any part of a pipeline, the right of way for which is granted or secured under the provisions of this chapter or, subject to chapter 32-15, through the exercise of the right of eminent domain; or
4. Made a common carrier by or under the terms of a contract with or in pursuance of the laws of the United States, is a common carrier and is subject to the provisions of this chapter as a common pipeline carrier.

49-19-02. Pipeline carriers - Special powers of commission.

The commission shall take reports from and may investigate the books and records kept by any pipeline carrier in connection with its business, and may require such company to make monthly reports duly verified under oath showing the total quantity of crude petroleum owned by such carrier and of that held by it in storage for others, and its unfilled storage capacity. No publicity shall be given by the commission to the reports as to stock of crude petroleum of any particular pipeline, but it may make public the aggregate amounts held by all the pipelines making such reports and their aggregate storage capacity.

49-19-03. Enforcement of orders by commission.

The commission shall hear and determine complaints, require attendance of witnesses, and institute suits and sue out such writs and process as may be necessary for the enforcement of its orders.

49-19-04. Reservation in gas franchises.

No city or other public corporation hereafter shall grant to any person a franchise to furnish natural gas to the public in this state without making a reservation therein that a percentage of native natural gas shall be used by such person if and when the same is produced in commercial quantities.

49-19-05. Percentage of native natural gas to be used.

Whenever native natural gas is produced in this state in commercial quantities, any person having a franchise to furnish gas to the public, which franchise is dated after March 9, 1933, shall use fifty percent, or its equivalent, of native natural gas as developed if the source thereof is located not more than six miles [9.66 kilometers] from any established gas pipeline.

49-19-06. Gas in commercial quantities - What constitutes.

Any gas well of two hundred fifty thousand cubic feet [7079.21 cubic meters] volume and two hundred pounds [90.72 kilograms] of rock pressure shall constitute a well producing native natural gas in commercial quantities under the provisions of this chapter.

49-19-07. Pro rata distribution of gas.

All wells having the production specified in section 49-19-06 shall be entitled to supply an equal pro rata share of products to be used by any person holding a franchise to furnish gas to the public.

49-19-08. Operation of pipelines.

The operation of the pipelines to which this chapter applies, for the transportation of crude petroleum, coal, or gas in connection with the purchase or purchase and sale of such crude petroleum, coal, or gas, is a business in the conduct of which the public is interested, and as such is subject to regulation by law. The business of purchasing, or of purchasing and selling, crude petroleum, coal, or gas, which uses in connection with such business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, or gas so bought or sold, shall not be conducted unless such pipeline so used in connection with such business is a common carrier within the purview of this chapter and subject to the jurisdiction herein conferred upon the commission. The attorney general shall enforce these provisions by injunction or other adequate remedy.

49-19-09. Permission to secure right of way - Condition.

The right to lay, maintain, and operate pipelines, together with telecommunications lines incidental to and designed for use only in connection with the operation of such lines along, across, or under any public stream or highway in this state, is conferred upon all common pipeline carriers. Any person, firm, limited partnership, joint-stock association, corporation, or limited liability company may acquire the right to construct pipelines and such incidental telecommunications lines along, across, or over any public road or highway in this state by filing with the commission an acceptance of the provisions of this chapter, expressly agreeing in writing that in consideration of the rights so acquired, the applicant shall be and become a common pipeline carrier, subject to the duties and obligations conferred or imposed in this chapter. Such right to run along, across, or over any public road or highway, as herein provided for, can be exercised only upon condition that the traffic thereon shall not be interfered with, that such road or highway shall be restored promptly to its former condition of usefulness, and that the restoration thereof shall be subject also to the supervision of the board of county commissioners of the county in which said highway is situated.

49-19-10. Compensating county for damage to public road in laying pipelines.

In the exercise of the privileges conferred in section 49-19-09, the common pipeline carrier shall compensate the county for any damage done to any public road in the laying of pipelines, or telecommunications lines, along or across the same. Nothing herein shall be construed to grant any such pipeline the right to use any public street or alley in any incorporated city, except by express permission from the governing authority thereof.

49-19-11. Pipeline carrier must agree to carry without discrimination.

A common pipeline carrier, in the acceptance of the provisions of this chapter, shall agree expressly that it, without discrimination, will accept, carry, or purchase, the oil, coal, gas, or carbon dioxide of the state or of any person not the owner of any pipeline, operating a lease or purchasing oil, coal, gas, or carbon dioxide at prices and under regulations to be prescribed by the commission.

49-19-12. When pipeline carrier may exercise right of eminent domain.

Every common pipeline carrier which shall have filed with the commission its acceptance of the provisions of this chapter has, subject to chapter 32-15, the right and power of eminent domain in the exercise of which it may enter upon and condemn the land, right of way, easements, and property of any person necessary for the construction, maintenance, or authorization of its pipeline. The manner and method of such condemnation, and the assessment and payment of the damages therefor are the same as is provided by law in the case of railroads. The right of eminent domain and the right to use public lands, highways, or

roads for right of way for pipelines shall be acquired only by compliance with the provisions of this chapter.

49-19-13. Hearings on rates of pipeline carrier - Power of commission.

The commission shall establish and enforce rates or charges and regulations for gathering, transporting, loading, and delivering crude petroleum, coal, or gas by common pipeline carriers in this state, and for the use of storage facilities necessarily incident to such transportation, and shall prescribe and enforce rules and regulations for the government and control of such common pipeline carriers in respect to their pipelines and receiving, transferring, and loading facilities. It shall exercise such power upon petition by any person showing substantial interest in the subject matter. No order establishing or prescribing rates, rules, and regulations shall be made except after hearing and notice to the common pipeline carrier affected.

49-19-14. Reimbursement of excessive rates to shipper.

In the event that any rate shall be filed by any common pipeline carrier and complaint against the same or a petition to reduce the same shall be filed by any shipper, and such complaint shall be sustained, in whole or in part, all shippers who shall have paid the rates so filed by the pipeline carrier shall have the right to reparation or reimbursement of all excess in transportation charges paid over and above the proper rate as finally determined on all shipments made after the date of the filing of such complaint.

49-19-15. Exchange of tonnage by common carrier - Facilities to be maintained for receipt and delivery.

Every common pipeline carrier shall exchange crude petroleum tonnage, coal, or gas with each like common pipeline carrier. The commission shall have the power to require connections and facilities for the interchange of such tonnage, coal, or gas to be made at every locality reached by both pipelines whenever the necessity therefor exists and subject to such rates and regulations as may be made by the commission. Any such common pipeline carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum, coal, or gas of patrons at all points on such pipeline. No carrier shall be required to receive or transport any crude petroleum, coal, or gas except such as may be marketable under rules and regulations to be prescribed by the commission.

49-19-16. Commission to make rules on deductions - Orders prima facie evidence.

The commission also shall make rules for the ascertainment of the amount of water and other foreign matter in oil or gas tendered for transportation, and for deduction therefor, and for the amount of deduction to be made for temperature, leakage, and evaporation. The recital herein of particular powers on the part of the commission shall not be construed to limit the general powers conferred by this chapter. Until set aside or vacated by some decree or order of a court of competent jurisdiction, all orders of the commission as to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity.

49-19-17. Pipeline carriers to make and publish tariffs.

Common pipeline carriers shall make and publish their tariffs under such rules and regulations as may be prescribed by the commission.

49-19-18. Joint action by commissions to regulate interstate commerce.

Where pipelines within the scope of this chapter are engaged in interstate transportation of oil, coal, or gas, the commission shall act jointly and in conjunction with the supervisory body which exercises jurisdiction over and control of such pipelines within any other state for the purpose of control, supervision, making joint rates for interstate transportation of oil, coal, or gas, or any other matters within the scope of this chapter.

49-19-19. Discrimination between shippers in facilities furnished, service rendered, and rates prohibited.

No common pipeline carrier may discriminate between or against shippers in regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum, coal, gas, or carbon dioxide, nor may there be any discrimination in the transportation of crude petroleum, coal, gas, or carbon dioxide produced or purchased by itself directly or indirectly. In this connection the pipeline must be considered as a shipper of the crude petroleum, coal, gas, or carbon dioxide produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operation, directly or indirectly, may charge, demand, collect, or receive from anyone a greater or lesser compensation for any service rendered than from another for a like contemporaneous service. This does not limit the right of the commission to prescribe rates and regulations from or to some places different from other rates or regulations for transportation from or to other places as it may determine, nor is any carrier guilty of discrimination when obeying any order of the commission. Where there is offered for transportation more crude petroleum, coal, or carbon dioxide than can be transported immediately, the same must be apportioned equitably. Gas must be taken on a pro rata basis or on such basis as may be established by the industrial commission pursuant to section 38-08-06.

49-19-20. Duties of pipeline carriers.

Subject to the provisions of this chapter and the rules and regulations which may be prescribed by the commission, every common pipeline carrier shall receive and transport crude petroleum, coal, or gas delivered to it for transportation and shall receive and transport the same and perform its other duties with respect thereto without discrimination.

49-19-21. Oil and gas wastes - Dangerous field operations - Commission to regulate.

Repealed by S.L. 1983, ch. 399, § 3.

49-19-22. Violation of law or rules by pipeline carriers - Penalty - Suit by attorney general.

Repealed by S.L. 1975, ch. 106, § 673.

49-19-23. Unlawful discrimination - Damages - Suit.

Actual damages also may be recovered by and for the use of any person against whom there shall have been an unlawful discrimination prohibited by this chapter. Such suit shall be brought in the name and for the use of the party aggrieved.

49-19-24. Individuals guilty of discrimination - Penalty.

Repealed by S.L. 1975, ch. 106, § 673.

49-19-25. Fraudulent consumption of gas - Punishment.

Repealed by S.L. 1975, ch. 106, § 673.