STATE OF ALASKA
THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Stephen McAlpine
Antony G. Scott
Daniel A. Sullivan
Janis W. Wilson

In the Matter of the Joint Application for Approval of the Acquisition by Harvest Alaska, LLC of BP PIPELINES (ALASKA) INC.’s Indirect 32% Interest in PTE PIPELINE, LLC, Holder of Certificate of Public Convenience and Necessity No. 746

P-19-015
ORDER NO. 6

In the Matter of the Joint Application for Approval of the Acquisition by Harvest Alaska, LLC of BP PIPELINES (ALASKA) INC.’s Indirect 50% Interest in MILNE POINT PIPELINE, LLC, Holder of Certificate of Public Convenience and Necessity Nos. 329 and 638

P-19-016
ORDER NO. 6

In the Matter of the Joint Application for Approval to Transfer Certificate of Public Convenience and Necessity No. 311 from BP PIPELINES (ALASKA) INC. to Harvest Alaska, LLC

P-19-017
ORDER NO. 6

In the Matter of the Joint Application for Approval to Transfer a 5% Ownership Interest in PTE PIPELINE LLC, Holder of Certificate of Public Convenience and Necessity No. 746, from EXXONMOBIL PIPELINE COMPANY to BP Transportation (Alaska) Inc.

P-19-019
ORDER NO. 3

ORDER GRANTING MOTIONS FOR WAIVER; DENYING MOTION TO STRIKE AND MOTION FOR EXPEDITED CONSIDERATION; DECLARING FINANCIAL STATEMENTS CONFIDENTIAL UNDER AS 42.06.445(c); FINDING REQUEST FOR CONFIDENTIAL TREATMENT OF FINANCIAL STATEMENTS UNDER 3 AAC 48.045 MOOT; AND ADDRESSING TIMELINE FOR DECISION

Order P-19-015(6)/P-19-016(6)/P-19-017(6)/P-19-019(3) - (03/12/2020)
BY THE COMMISSION:

Summary

We grant the motions for waiver of the requirement under 3 AAC 48.625(a)(7)(B) that Harvest Alaska, LLC (Harvest Alaska) and BP Pipelines (Alaska) Inc. (BPPA) provide audited financial statements in support of their application for transfer of a controlling interest and accept the unaudited statements they filed with the application. We deny the motion to strike a filing made by the City of Valdez and deny the motion for expedited consideration. We declare that the financial statements of Harvest Alaska; Hilcorp Alaska, LLC; Harvest Midstream I, L.P.; Hilcorp Energy I, L.P.; Hilcorp Energy Company; and BP Corporation North America Inc. filed in support of the transfer application or in response to our information request to be confidential as a matter of law under AS 42.06.445(c). We find the requests that those financial statements be treated as confidential under 3 AAC 48.045 moot. We address the timeline for decision.

Background

Transfer Applications

Docket P-19-015

Harvest Alaska and BPPA filed an application seeking approval of the transfer of BPPA’s 100% stock ownership interest in BP Transportation (Alaska) Inc. (BPTA), owner of a 32% membership interest in PTE Pipeline, LLC, which holds Certificate of Public Convenience and Necessity (Certificate) No. 746 for the Point Thomson Pipeline, to Harvest Alaska.¹ In support of the application, Harvest Alaska filed its 2017 and 2018 unaudited financial statements and the 2017 and 2018 audited financial statements of Hilcorp Alaska, LLC (Hilcorp Alaska) and Harvest Midstream I, L.P.

¹Joint Application for Approval of Transfer of BP Pipelines (Alaska) Inc.’s Indirect 32.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, to Harvest Alaska, LLC, filed September 27, 2019, in Docket P-19-015.
(Harvest Midstream). Harvest Alaska filed a motion for waiver of the requirement in 3 AAC 48.625(a)(7)(B) that an applicant provide audited financial statements for the two most recent years preceding the date of filing an application. Harvest Alaska, Hilcorp Alaska, and Harvest Midstream filed a petition under 3 AAC 48.045 for confidential treatment of their financial statements submitted with Harvest Alaska’s transfer application.

Docket P-19-016

Harvest Alaska and BPPA filed an application seeking approval of the transfer of BPPA’s indirect controlling interest (through its 100% ownership in BPTA) in Milne Point Pipeline, LLC, holder of Certificate Nos. 329 and 638 for the Milne Point Oil Pipeline and the Milne Point Natural Gas Liquids Pipeline, to Harvest Alaska. In support of the application, Harvest Alaska filed its 2017 and 2018 unaudited financial statements and the 2017 and 2018 audited financial statements of Hilcorp Alaska and Harvest Midstream. Harvest Alaska filed a motion for waiver of the requirement in 3 AAC 48.625(a)(7)(B) that an applicant provide audited financial statements for the two most recent years preceding the date of filing an application.

2Motion for Waiver Associated with the Joint Application for Approval of the Transfer of BP Pipelines (Alaska) Inc’s Indirect 32.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, to Harvest Alaska, LLC, filed September 27, 2019, in Docket P-19-015.


4Joint Application for Approval of Transfer of BP Pipelines (Alaska) Inc.’s Indirect Controlling Interest in Milne Point Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity Nos. 329 and 638, to Harvest Alaska, LLC, filed September 27, 2019, in Docket P-19-016.

5Motion for Waiver Associated with Joint Application for Approval of Transfer of BP Pipelines (Alaska) Inc.’s Indirect Controlling Interest in Milne Point Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity Nos. 329 and 638, to Harvest Alaska, LLC, filed September 27, 2019, in Docket P-19-016.
Alaska, and Harvest Midstream filed a petition for confidential treatment of their financial statements submitted with Harvest Alaska’s transfer application.6

**Docket P-19-017**

Harvest Alaska and BPPA filed an application seeking approval of the transfer of Certificate No. 311 for the Trans Alaska Pipeline System (TAPS) to Harvest Alaska.7 In support of the application, Harvest Alaska filed its 2017 and 2018 unaudited financial statements and the 2017 and 2018 audited financial statements of Hilcorp Alaska and Harvest Midstream. Harvest Alaska filed a motion for waiver of the requirement in 3 AAC 48.625(a)(7)(B) that an applicant provide audited financial statements for the two most recent years preceding the date of filing an application.8 Harvest Alaska, Hilcorp Alaska, and Harvest Midstream filed a petition for confidential treatment of their financial statements submitted in the application.9

**Docket P-19-019**

ExxonMobil Pipeline Company’s (EMPCo) and BPTA, a 100% subsidiary of BPPA, filed an application to transfer a 5% portion of EMPCo’s 68% ownership interest

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7Joint Application for Approval of Transfer of Certificate of Public Convenience and Necessity No. 311 and Operating Authority Thereunder from BP Pipelines (Alaska) Inc. to Hilcorp Alaska, LLC, filed September 27, 2019, in Docket P-19-017, as modified by Supplement to Joint Application for Approval of Transfer of CPCN No. 311 and Operating Authority Thereunder From BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC, filed March 6, 2020, in Docket P-19-017.

8Motion for Waiver Associated with Joint Application for Approval of Transfer of Certificate of Public Convenience and Necessity No. 311 and Operating Authority Thereunder from BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC, filed September 27, 2019, in Docket P-19-017.

9Harvest Alaska, LLC, Hilcorp Alaska, LLC, and Harvest Midstream I, LP’s Petition for Confidential Treatment of Financial Statements, filed September 27, 2019, in Docket P-19-017.
in PTEP, to BPTA. BPTA already owns a 32% portion of PTEP.\textsuperscript{10} After the transfer BPTA will own a 37% share and EMPCo will own a 63% share of PTEP. In support of the application, BPTA and Harvest Alaska filed unaudited 2017 and 2018 financial statements of BPTA and Harvest Alaska and audited 2017 and 2018 financial statements of Hilcorp Alaska and Harvest Midstream. BPTA and Harvest Alaska filed a motion for waiver of the requirement in 3 AAC 48.625(a)(7)(B) that an applicant Alaska provide audited financial statements for the two most recent years preceding the date of filing an application.\textsuperscript{11} Harvest Alaska, Hilcorp Alaska, and Harvest Midstream filed a petition for confidential treatment of their financial statements submitted with Harvest Alaska's transfer application.\textsuperscript{12}

Compliance Filings

In Order P-19-015(2)/P-19-016(2)/P-19-017(2),\textsuperscript{13} we required Harvest Alaska and BPPA to file financial statements for Harvest Alaska affiliates Hilcorp Energy I, L.P. (HEI) and Hilcorp Energy Company (HEC)\textsuperscript{14} and BPPA affiliate BP Corporation North America Inc. (BPCNA). Harvest Alaska and BPPA filed the 2017 and 2018 audited

\textsuperscript{10}Joint Application for Approval of Transfer of a 5.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, ExxonMobil Pipeline Company to BP Transportation (Alaska), Inc., filed November 5, 2019, in Docket P-19-019.

\textsuperscript{11}Joint Motion for Waiver Associated with the Joint Application for Approval of Transfer of a 5.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, from ExxonMobil Pipeline Company to BP Transportation (Alaska) Inc., filed November 5, 2019, in Docket P-19-019.

\textsuperscript{12}Harvest Alaska, LLC, Hilcorp Alaska, LLC, and Harvest Midstream I, LP’s Petition for Confidential Treatment of Financial Statements, filed November 5, 2019, in Docket P-19-019.

\textsuperscript{13}Order P-19-015(2)/P-19-016(2)/P-19-017(2), Order Requiring Filings, dated December 12, 2019.

\textsuperscript{14}HEI is Hilcorp Alaska’s immediate parent company, while HEC is the general partner for HEI. BPCNA is the indirect parent company of BPPA.
financial statements of HEI, HEC and BPCNA.\textsuperscript{15} HEI and HEC requested confidential
treatment of their financial statements.\textsuperscript{16} BPPA requested confidential treatment of
BPCNA’s financial statements.\textsuperscript{17}

In Order P-19-015(5)/P-19-016(5)/P-19-017(5) (Order 5),\textsuperscript{18} we required
Harvest Alaska and BPPA to discuss in detail the confidential financial information and
the specific harm that would result from disclosure of components of the financial
statements, noting that the arguments contained in their petitions for confidential
treatment did not present a strong case. We also asked whether any of the financial
statements submitted in these dockets were required to be filed with a federal agency.
Harvest Alaska and BPPA filed a joint response to Order 5 in Dockets P-19-015,
P-19-016, and P-19-017 and filed a notice incorporating that response to Order 5 in
Docket P-19-019.\textsuperscript{19}

\textsuperscript{15}Applicants’ Compliance Filing in Response to Order No. 2, filed December 23,

\textsuperscript{16}Hilcorp Energy I, LP and Hilcorp Energy Company’s Petition for Confidential

\textsuperscript{17}BPPA’s Petition for Confidential Treatment of Financial Statements, filed
December 23, 2019.

\textsuperscript{18}Order P-19-015(5)/P-19-016(5)/P-19-017(5), Order Granting Petition for
Confidential Treatment of Purchase and Sale Agreement, Extending Time to Rule on
Petitions for Confidential Treatment of Financial Statements and Motions for Waiver, and

\textsuperscript{19}Applicants’ Joint Response to Order No. 5, filed February 18, 2020, in Dockets
P-19-015, P-19-016, and P-19-017; Joint Notice of Incorporation into this Docket of
Harvest Alaska, LLC and BP Pipelines (Alaska) Inc.’s Joint Response to Order No. 5 Filed
February in Dockets P-19-015, P-19-016, and P-19-017, filed February 20, 2020, in
Docket P-19-019.
Further Filings in Docket P-19-017

The City of Valdez filed comments in Docket P-19-017 in response to Order 5.20 Harvest Alaska and BPPA filed a motion to strike the comments of the City of Valdez and a motion for expedited consideration in Docket P-19-017.21 The City of Valdez filed an opposition to the motion to strike.22 Harvest Alaska and BPPA filed a reply to the opposition to the motion to strike filed by the City of Valdez.23

Discussion

Motions for Waiver

In Dockets P-19-015, P-19-016, and P-19-017, Harvest Alaska requested that we waive the requirement in 3 AAC 48.625(a) that an applicant include with its application audited financial statements for the two most recent fiscal years preceding the application and accept its unaudited financial statements. In Docket P-19-019, Harvest Alaska and BPPA jointly requested the same waiver for their unaudited financial statements submitted in that docket.

Under 3 AAC 48.625(a)(7)(D) a party may request a waiver of filing the audited financial statements required by 3 AAC 48.625(a)(7)(B). The request for waiver must be accompanied by a certification that independent audits are not performed. In lieu of the audited financial statement, the requester must submit financial statements consisting of, at a minimum, comparative balance sheets, income, and cash flow statements.

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20The City of Valdez's Comments Re: Order 5, filed March 4, 2020, in Docket P-19-017.
21Applicants’ Motion to Strike the City of Valdez’s Comments Re: Order 5, filed March 5, 2020, in Docket P-19-017; Applicants’ Motion for Expedited Consideration of Motion to Strike the City of Valdez’s Comments Re: Order 5, filed March 5, 2020, in Docket P-19-017.
22Opposition to Motion to Strike the City of Valdez’s Comments Re: Order 5, filed March 6, 2020, in Docket P-19-017 (Opposition).
23Applicants’ Reply to Opposition to Motion to Strike the City of Valdez’s Comments Re: Order 5, filed March 9, 2020, in Docket P-19-017 (Reply).
statements for the two most recent fiscal years preceding the date of the application, verified and certified for accuracy. Harvest Alaska and BPTA satisfied these requirements in their requests for waivers. We grant Harvest Alaska and BPPA’s motions for waiver and accept the unaudited financial statements of Harvest Alaska and BPTA.

Supplemented Petitions for Confidential Treatment

Petition Supplement

Harvest Alaska, Hilcorp Alaska, Harvest Midstream, and BPPA (Petitioners) requested that we apply the balancing test contained in AS 42.06.445(d) and 3 AAC 48.045 and find good cause to grant them confidential treatment of the financial statements of Harvest Alaska, Hilcorp Alaska, Harvest Midstream, HEI, HEC, and BPCNA filed in these dockets. We considered the arguments presented by Petitioners and concluded their arguments contained only general statements about the possible use of financial information for bidding and pricing, but did not discuss the filed information in any level of detail and did not provide any demonstration of specific harm.

We required Petitioners to supplement their petitions for confidential treatment with a more detailed discussion of the financial statements and an explanation of specific harm that would result from disclosure of components of the financial statements. We also noted that the filed financial statements might be entitled to confidential treatment under AS 42.06.445(c) and required that Petitioners tell us whether any of the financial statements were required to be filed with a federal agency and explain how and whether they relate to the finances or operations of a federally regulated pipeline.

\[^{24}\text{Order 5 at 10-11.}\]
Petitioners complied with Order 5 by filing a joint response. Although Petitioners characterized that filing as a response, we construe the filing as a supplement to their petitions for confidential treatment (Petition Supplement). In the Petition Supplement, Petitioners stated:

For multiple decades, Hilcorp and Harvest have developed a business model that has relied on their competitive advantage of being private, while foregoing many of the advantages their peers enjoy by being public (such as increased access to the capital markets). The trade-off Hilcorp and Harvest have made by choosing to remain private and to keep their financial and operational information private is what allows the companies to be purchasers and operators of late-life, mature fields and assets.

In response to our request that they discuss components of the financial statements and why harm would result from disclosure to the public, Petitioners stated:

[N]either Hilcorp Alaska nor Harvest Alaska would produce stand-alone financial statements in the ordinary course of business. Instead, to be responsive to the requests of various State of Alaska agencies, including the Commission, the companies have created these financial statements. However, because these are financial statements of subsidiaries that would not be produced in the ordinary course of business, the level of detail and granularity included in these financial statements far exceeds that of their public peers who produce financial statements at higher materiality thresholds. Therefore, there are many specific items about the businesses of Hilcorp Alaska and Harvest Alaska in their respective financial statements . . . that were never intended for an audience other than a regulatory agency and that would not be included if these financial statements were simply those of a publicly-traded company doing business at the size and scale of Hilcorp and Harvest.

Petitioners also addressed the requirements of AS 42.06.445(c) and argued that the filed financial statements were entitled to confidential treatment under that statutory provision. Petitioners stated that “[t]he submitted financial statements of Harvest Alaska, Harvest Midstream and Hilcorp Alaska all directly relate the finances of federally

\[25\text{Under 3 AAC 48.090(c), we liberally construe pleadings.}\]
\[26\text{Petition Supplement at 9.}\]
\[27\text{Petition Supplement at 11 (emphasis in original).}\]
regulated pipelines."

They further stated that '[t]o the extent that the Commission sought the HEI and HEC financial statements in connection with the financial fitness of Harvest Alaska, they are related to the finances of federally-regulated pipelines."

**Opposition to Supplemented Petitions**

The City of Valdez filed comments in Docket P-19-017 (TAPS docket) requesting that we deny confidential treatment of the filed financial statements (City of Valdez Comments). Although the City of Valdez characterizes its filing as comments responding to Order 5 we construe the filing to be an opposition to Petitioners’ supplemented petitions for confidential treatment.

The City of Valdez made three primary arguments as to why confidentiality is not warranted. The first is a clerical defect under AS 42.06.445(c), which grants confidentiality as a matter of law to certain pipeline documents. The City of Valdez argues that the Petitioners did not file the financial statements with an assertion of confidentiality under AS 42.06.445(c) or with the proper legend asserting that confidentiality and, therefore, that they have waived confidentiality under the statute. The City of Valdez further argues that AS 42.06.445(c) is designed to protect the finances of a pipeline carrier, and Harvest, Hilcorp Alaska, Harvest Midstream, HEI, HEC, and BPCNA are not pipeline carriers with regard to TAPS and are not pipeline carriers jointly regulated by a federal agency and this Commission. Lastly, The City of Valdez argues that we have previously incorrectly broadly construed AS 42.06.445(c) in an over-inclusive manner.

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28Petition Supplement at 5.
29Petition Supplement at 6.
30City of Valdez Comments at 4-5.
31City of Valdez Comments at 5.
The City of Valdez alleges public policy requires a narrow construction that would deny confidentiality and allow public access.\footnote{City of Valdez Comments at 5-10. In making its public policy argument, the City of Valdez attempts to parse the meaning of “a copy of” within AS 42.06.445(c) and states that we have taken those words to mean “different from” instead of “the same as.” We reject that argument to the extent we understand it.}  

**Motion to Strike Opposition to Supplemented Petitions**

Harvest Alaska and BPPA filed a motion to strike the City of Valdez Comments regarding Order 5 (Motion to Strike) accompanied by a motion for expedited consideration requesting a decision prior to the March 12, 2020 decisional deadline for the financial statements (Motion for Expedited Consideration).\footnote{Motion to Strike; Motion for Expedited Consideration.} Harvest Alaska and BPPA made a procedural argument based on the City of Valdez Comments being untimely because they were filed 83 days after the close of the public comment period and a month after the February 5, 2020 deadline set at the public input hearing. They argue that Order 5 did not allow or contemplate any filings by non-parties like the City of Valdez and that the City of Valdez offered no authority, procedural basis, or standing for filing its comments.\footnote{Motion to Strike 1-3.}

The City of Valdez filed an opposition to the Motion to Strike briefly arguing that Order 5 raised new issues regarding the applicability of AS 42.06.445(c) and stressing the importance of transparency and public input in Docket P-19-017.\footnote{Opposition at 1-3.}

Harvest Alaska and BPPA filed a reply to the City of Valdez’s opposition to the Motion to Strike, again stressing the untimeliness of the City of Valdez Comments. They argue Order 5 asked for filings from them and not from the public. Further, they argue that there is no provision in the regulations allowing a public commenter to...
participate in the docket as a party or to file briefing or other materials in opposition to an applicant's filings after the public comment period.\textsuperscript{36}

We deny the Motion to Strike and the Motion for Expedited Consideration. We have not yet determined whether we need an evidentiary hearing in these dockets. Thus, the transfer requests in these dockets are presently non-hearing matters. Under 3 AAC 48.110(a), in non-hearing matters, any interested person may file documents authorized under 3 AAC 48.010 – 3 AAC 48.170 without first obtaining permission. We construe Petitioners’ response to Order 5 to be a supplement to their petitions for confidential treatment. Under 3 AAC 48.045(c) any person may file a statement in opposition to a petition for confidential treatment. We construe the City of Valdez Comments to be an opposition to the supplemented petitions for confidential treatment.

We reject Harvest Alaska and BPPA’s argument that the City of Valdez Comments are unauthorized. They are allowed under 3 AAC 48.110(a) as a non-hearing matter filing. Petitioners argue that the comments are untimely because they were filed after the public comment period closed. We reject that argument since we do not consider them comments. However, the filing was submitted after the 5-day timeline in 3 AAC 48.045(c). Nonetheless, because of the intense interest by the public in Docket P-19-017, we accept the filing and consider the arguments contained in it when ruling on confidential treatment in this order.

\textbf{Records Confidential under AS 42.06.445(c)}

AS 42.06.445(c) provides:

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.

\textsuperscript{36}Reply at 1-3.
As we have previously stated, the protection of documents provided by AS 42.06.445(c) is unusual among public records statutes. Only three requirements must be met. If those requirements are met, we have no discretion to release the documents to the public. We must treat the documents as confidential. First, the document must relate to the “finances or operations” of a pipeline. Second, the pipeline must be “subject to federal jurisdiction.” Third, the information must not be required to be filed with “the appropriate federal agency.”

We have previously stated that “[i]n the abstract, it is hard to think of a document that a pipeline carrier would file with this Commission that does not relate to its finances or operations.” The documents in dispute here are not an exception. The financial statements filed by affiliates of the pipeline owners in these dockets relate to both the finances and the operations of the Point Thomson Pipeline, the Milne Point Pipelines, and TAPS. The financial statements were filed by Harvest Alaska and BPPA either because they determined those financial statements were needed to support their transfer applications or because we determined they were needed to support the applications. In these dockets we are determining whether an entity that already owns 50% of a pipeline subject to federal jurisdiction (Milne Point Oil Pipeline) will acquire the other 50% of Milne Point Pipeline, LLC (MPPLLC) and will acquire 37% of PTEP and approximately 49% of TAPS, both of which are subject to federal jurisdiction. The documents relate to the operation and finances of the pipelines because they concern how the proposed change in ownership affects the ability of the pipeline to satisfy all common carrier obligations.

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37Order P-97-004(76), Order Finding that Information Contained in TAPS Settlement Methodology Disks or Derived From Them Is Confidential and Denying Request for Nonconfidential Treatment, dated April 7, 2000, at 12 (Order P-97-004(76)).

38Order P-97-004(76 at 13 n.24.)
BPTA and Harvest Alaska are members of MPPLLC, a pipeline subject to federal jurisdiction. The information (the financial statements) provided to support the application of Harvest Alaska to acquire BPTA’s ownership interest in MPPLLC is entitled to the protection afforded by AS 42.06.445(c) because the Milne Point Oil Pipeline is subject to federal jurisdiction and the information is not required to be filed with the FERC. It would be a perverse result if the same information, when filed in the dockets relating to PTEP and TAPS do not receive the same protection. Although we believe information about the finances of a prospective owner of a pipeline subject to federal jurisdiction is protected by AS 42.06.445(c), we need not in this order address the issue of whether that information is entitled to protection since the information relates to a current owner of a pipeline subject to federal jurisdiction.

We have interpreted “appropriate federal agency” to mean the federal agency that economically regulates pipelines as we do. The Federal Energy Regulatory Commission (FERC) economically regulates oil pipelines at the federal level. The FERC does not certificate oil pipelines as they do gas pipelines. Thus, no documents related to the transfer of ownership in a pipeline carrier are required to be filed with the FERC. And the Petitioners have stated that the financial statements at issue were not required to be filed and were not filed with the FERC.

Based on the information supplied in the Petition Supplement, we find that the financial statements are documents related to the finances and operations of pipelines subject to federal jurisdiction and that they are not required to be filed with the FERC. Thus, we are required by AS 42.06.445(c) to treat the financial statements as confidential, unless, as argued by the City of Valdez, the Petitioners have waived that protection.

39Order P-97-004(76) at 13.
The City of Valdez argues that Petitioners waived the protection of AS 42.06.445(c) by not asserting confidentiality under that statute and not marking the documents with the legend “Confidential Pursuant to AS 42.06.445(c).” We stated in Order P-97-004(76) that, if the legend is not affixed, the protection of AS 42.06.445(c) is deemed waived.\textsuperscript{40}

The purpose of the requirement to file with the legend “Confidential Pursuant to AS 42.06.445(c)” was to avoid the filing of a petition under 3 AAC 48.045 requesting confidential treatment when the requirements of AS 42.06.445(c) are straightforward and need no detailed explanation. If the document relates to the finances or operations of a pipeline regulated by FERC and is not required to be filed with FERC it is confidential. Not requiring a petition for confidential treatment to be filed was an accommodation made for the convenience of filers and the Commission, to streamline our procedures. We stated:

The only requirement for classifying pipeline carrier information confidential under AS 42.06.445(c) is that it be filed with a legend stating “Confidential Pursuant to AS 42.06.445(c).” The Commission will understand this legend as a statement by the federally regulated pipeline carrier that this information relates to its finances or operations and is in addition to or other than the copy of a document required to be filed with the appropriate federal agency and that the pipeline carrier does not waive confidentiality of the information.

This accommodation was never intended to prevent filing a petition for confidential treatment under 3 AAC 48.045 or to place a pipeline carrier in the position of losing the protection of AS 42.06.445(c) if it chooses to file a petition.

We have previously addressed the current situation. In 2004 Cook Inlet Pipe Line Company filed an agreement for which it requested confidential treatment. The agreement was marked “Confidential” and filed with a petition under 3 AAC 48.045 asking us to apply the balancing test and find good cause to classify the agreement as confidential.

\textsuperscript{40}Order P-97-004(76) at 13.
confidential. The petition did not mention AS 42.06.445(c). We noted that the agreement “is a document that relates to the finances or operations of a pipeline subject to federal jurisdiction” and stated: “When such a document is filed with us, we first consider whether the document may be confidential under AS 42.06.445(c).” We did not deem that the pipeline in that case had waived the protection accorded it by AS 42.06.445(c) because it did not affix the complete legend, “Confidential Pursuant to AS 42.06.445(c)” and did not ask for confidential treatment under AS 42.06.445(c). And because we found the agreement in that case was entitled to confidential treatment under AS 42.06.445(c), we stated there was no need to determine whether it met the balancing test in 3 AAC 48.045. That is our precedent. We treat the confidential filings in this case the same way.

Petitioners have not waived the protection of AS 42.06.445(c). The financial statements of Harvest Alaska, Hilcorp Alaska, Harvest Midstream, HEI, HEC, and BPCNA are confidential under AS 42.06.445(c). We do not apply the 3 AAC 48.045 balancing test. We find the requests for confidential treatment under 3 AAC 48.045 moot.

Decision Timeline

The commission will issue final orders in these proceedings by September 28, 2020.


\(^{42}\)We considered the City of Valdez’s argument that we should narrowly construe AS 42.06.445(c) in favor of disclosure. Because the legislative history is sketchy, the purpose of AS 42.06.445(c) is not clear. Ordinarily, the purpose of a statute helps inform our interpretation of it. Unfortunately, this aid is not available and we must rely exclusively on the words in the statute. Our decision in these dockets is consistent with our decades-long interpretation of AS 42.06.445(c). The public policy argument made by the City of Valdez is more appropriately addressed to the Alaska Legislature rather than to us.
ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Motion for Waiver Associated with the Joint Application for Approval of the Transfer of BP Pipelines (Alaska) Inc’s Indirect 32.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, to Harvest Alaska, LLC*, filed September 27, 2019, in Docket P-19-015, is granted.

2. The *Motion for Waiver Associated with Joint Application for Approval of Transfer of BP Pipelines (Alaska) Inc.’s Indirect Controlling Interest in Milne Point Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity Nos. 329 and 638, to Harvest Alaska, LLC*, filed September 27, 2019, in Docket P-19-016, is granted.

3. The *Motion for Waiver Associated with Joint Application for Approval of Certificate of Public Convenience and Necessity No. 311 and Operating Authority Thereunder from BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC*, filed September 27, 2019, in Docket P-19-017, is granted.

4. The *Joint Motion for Waiver Associated with the Joint Application for Approval of Transfer of a 5.0% Ownership Interest in PTE Pipeline, LLC, Holder of Certificate of Public Convenience and Necessity No. 746, from ExxonMobil Pipeline Company to BP Transportation (Alaska) Inc.*, filed November 5, 2019, in Docket P-19-019, is granted.

5. *Applicants’ Motion to Strike the City of Valdez’s Comments Re: Order 5*, filed March 5, 2020, by Harvest Alaska, LLC and BP Pipelines (Alaska) Inc., is denied.

6. *Applicants’ Motion for Expedited Consideration of Motion to Strike the City of Valdez’s Comment Re: Order 5*, filed March 5, 2020, by Harvest Alaska, LLC and BP Pipelines (Alaska) Inc., is denied.
7. The unaudited financial statements of Harvest Alaska, LLC filed in Dockets P-19-015, P-19-016, P-19-017, and P-19-019 are confidential as a matter of law under AS 42.06.445(c).

8. The audited financial statements of Hilcorp Alaska, LLC filed in Dockets P-19-015, P-19-016, P-19-017, and P-19-019 are confidential as a matter of law under AS 42.06.445(c).

9. The audited financial statements of Harvest Midstream I, L.P. filed in Dockets P-19-015, P-19-016, P-19-017, and P-19-019 are confidential as a matter of law under AS 42.06.445(c).

10. The audited financial statements of Hilcorp Energy I, L.P. filed in Dockets P-19-015, P-19-016, and P-19-017 are confidential as a matter of law under AS 42.06.445(c).

11. The audited financial statements of Hilcorp Energy Company filed in Dockets P-19-015, P-19-016, and P-19-017 are confidential as a matter of law under AS 42.06.445(c).

12. The audited financial statements of BP Corporation North America Inc. filed in Dockets P-19-015, P-19-016, and P-19-017 are confidential as a matter of law under AS 42.06.445(c).

13. The requests for confidential treatment under 3 AAC 48.045 contained in three petitions, each titled Harvest Alaska, LLC, Hilcorp Alaska, LLC, and Harvest Midstream I, LP’s Petition for Confidential Treatment of Financial Statements, filed on September 27, 2019, in Dockets P-19-015, P-19-016, and P-19-017, are moot.
14. The request for confidential treatment under 3 AAC 48.045 contained in Harvest Alaska, LLC, Hilcorp Alaska, LLC, and Harvest Midstream I, LP’s Petition for Confidential Treatment of Financial Statements, filed on November 5, 2019, in Docket P-19-019 is moot.


DATED AND EFFECTIVE at Anchorage, Alaska, this 12th day of March, 2020.

BY DIRECTION OF THE COMMISSION
(Commissioner Stephen McAlpine, dissenting.)