
From: Rep. Paul Seaton
Subject: FW: Conflict of interest
Attachments: DOC006.pdf

From: Scott Heyworth [<mailto:heyworth@gci.net>]
Sent: Tuesday, February 14, 2012 4:25 PM
To: Rep. Eric Feige; Rep. Paul Seaton
Subject: Conflict of interest

Co-Chairs Feige and Seaton:

Please review the 2 attached letters that document the serious problems of combining ANGDA and AGDC.

Scott

----- Original Message -----

From: Witz, Regina J (DOR)

Scott~

Here is the correspondence that you asked for.

Thanks,

Regina J. Witz
ANGDA, Alaska Natural Gas Development Authority
Acting Administrative Officer
(907)269-6501 Fax: (907)269-6531
411 W. 4th Ave. 1st floor
Anchorage, Ak. 99501

"Success is not the key to happiness.
Happiness is the key to success.
If you love what you are doing,
you will be successful."
- Albert Schweitzer

STATE OF ALASKA
ALASKA NATURAL GAS
DEVELOPMENT AUTHORITY

SEAN PARNELL, GOVERNOR

411 WEST 4th AVENUE, FIRST FLOOR
ANCHORAGE, ALASKA 99501

TELEPHONE: (907) 269-6501

February 8, 2011

Mr. Dan Fauske
Mr. Dave Haugen
Alaska Gasline Development Corporation
411 W. 4th Avenue, Ste. 1E
Anchorage, AK 99501

Dear Dan & Dave,

This memo is to document my non-participation in your project management decisions on the stand alone gas pipeline ("bullet line") connecting the North Slope to Cook Inlet. What started last summer as concerns by potential AGDC pipeline partners that ANGDA's position as an announced potential shipper on the TransCanada and Denali gas pipeline projects represented a conflict with my participation on the HB 369 team, has now come full circle.

I have in the past indicated to you that the benefit to the Alaskan consumer of ANGDA continuing its unique "discount" position as an open season participant with both big gas mainline sponsor groups is significant and measured in the range of \$200 million or more..

In the course of negotiating precedent agreements with the Alaska Pipeline Project and Denali – The Alaska Gas Pipeline over the last several months, both sponsor groups have made it clear that your bullet line work is "competitive" to their commercial efforts to advance their projects.

To avoid even the appearance of a conflict, I ask that you acknowledge in writing my non-participation in the "team" and pipeline project development decisions. Further, I request that in presenting the organization chart for the HB 369 effort you footnote that ANGDA is not participating as a pipeliner so it can continue as a potential shipper in a mainline gas project.

This does not impact your continued access to the public studies ANGDA has made available. Additionally, this does not impact your ability to timely work with ANGDA as one of the potential in-state gas shippers.

Sincerely,


Harold Heinze

Copies To: ANGDA Board Members



February 15, 2011

Harold Heinze, CEO
Alaska Natural Gas Development Authority
State of Alaska
411 West 4th Avenue, First Floor
Anchorage, AK 99501

RE: Response to ANGDA letter dated 2/8/11

Dear Harold;

Thank you for your letter regarding your potential shipper status on other gasline projects and your non-participation in the Alaska Stand Alone Gas Pipeline management decisions.

I understand and appreciate your responsibility to maintain a position that is not a conflict with your sponsor groups. I interpret your request and your "non-participation in the Team" comments as a resignation from the AGDC Joint In-State Team effective immediately. As President of AGDC, I accept your resignation and I appreciate your continued efforts to assist AGDC by offering ANGDA information that could progress our project work as spelled out in HB369.

Thank you for acknowledging the potential difficulties that could face ANGDA through any further participation on the Joint In-State Natural Gas Pipeline Team. We wish you continued success with your efforts on behalf of ANGDA, if we can be of any assistance please do not hesitate to let us know.

Sincerely,

Daniel Fauske
President

March 15, 2011

Dear Mr. Norton

You requested information on ANGDA's ability to maintain confidentiality of information from a gas pipeline sponsor group. This request relates to your intent to develop a mutual licensing agreement with a specific sponsor group. In particular, you requested a copy of the Attorney General's letter on the matter.

ANGDA, as a potential shipper, is currently negotiating with both sponsor groups of Alaska gas pipelines (Alaska Pipeline Project and Denali – the Alaska gas pipeline Project) under confidentiality considerations described in their public filings at the start of the open seasons. Initial interactions with both projects involved the review of project design information in "reading rooms", but no confidential information came into ANGDA's physical possession. More recent efforts have focused on the commercial contractual arrangements of a precedent agreement.

The FERC umbrella rules on confidentiality provide a legally significant exterior framework and may not apply to the AGDC situation since you are not a potential shipper.

At this point I do not feel I can give you a copy of the open season documents, but I have extracted and pasted below some relevant sections of the AGs analysis on ANGDA specific considerations.

- *ANGDA is not obligated to release private business information:*

ANGDA's obligation to make its records available to the public under the Public Records Act is qualified by AS 41.41.150, which provides that information in ANGDA's possession is a public record, except that "information that discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record for purposes of AS 40.25.110 – 40.25.140." AS 41.41.150 goes on to provide that "[c]onfidential information may be disclosed only for the purposes of an official law enforcement investigation or when production is required in a court proceeding."

- **ANGDA is not obligated to release information it does not possess physically**

With respect to paragraph █, I have no knowledge of what information was placed in █ SRR. I understand, however, that ANGDA was granted access to the SRR, but never received copies of documents placed in the SRR, except documents that were available publicly. The Public Records Act requires disclosure of public records, but since ANGDA never received copies of any confidential documents in the SRR, ANGDA has no statutory obligation to – and as a practical matter cannot – disclose them. The Public Records Act does not compel ANGDA personnel who reviewed information in the SRR to disclose any information they may recall.

For similar reasons, the Public Records Act does not compel ANGDA to disclose information conveyed orally. Since the Public Records Act only applies to public records, and not employee knowledge, ANGDA personnel are not compelled to disclose confidential information orally conveyed to them. The Public Records Act therefore does not affect ANGDA's obligations under paragraph █ of the definition of "Confidential Information."

Please note that:

1. the ANGDA statute language in AS 41.41.150 (Public Access to Information) is unique;
2. ANGDA is a "potential gas shipper" working with a pipeline commercial team, not a competing pipeline making a business deal with another pipeline;
3. you may be contemplating taking possession of certain types of information that ANGDA has not; and
4. the ANGDA arrangement is strictly a one-way protection of private company business information, not a two-way information licensing arrangement.

Mr. Jeff Stark replaced Mr. Jim Cantor as the AG to ANGDA and your counsel Mr. Vassar may wish to contact Mr. Stark directly for guidance on the specific objectives of the pipeline to pipeline business arrangement you propose. Mr. Stark would be the best source of information on provisions related to FOIAs

Harold Heinze ANGDA

