An Alaska Natural Gas Future *for Alaskans*

House Bill 4: In-State Gasline Development Corp.

Rep. Mike Hawker and Speaker Mike Chenault

Presentation to the Senate Resources Committee, April. 2, 2013

Alaska Gas for Alaskans

Legislature in 2010 charged AGDC with the mission of getting Alaska gas to Alaskans.

- Clean, reliable, reasonably priced instate energy
- Electric and home heating costs
- Economic development for communities
- Industrial development opportunities

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House Bill 369 of 2010 goals:

1. Build a team under AHFC leadership
2. Consolidate state's gas pipeline work to date
3. Fill in data gaps; decide optimal route
4. Report back to the Legislature with a project plan

House Bill 369 passed with broad, bipartisan support

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AGDC delivered with the July 2011 Project Plan

- A pipeline for Alaskans is possible
- An in-state line could deliver competitively priced gas to major population centers
- Project will require firm, long-term contracts for pipeline capacity in order to support financing
- Legislative action required

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AGDC recommended legislation for the authority to:

- Determine pipeline ownership structure
- Work confidentially with private sector partners
- Operate as a contract carrier
- Decide rates and tariff terms

AGDC further needs the state to:

- Waive property taxes and state land lease fees
- Provide sufficient funding and create a pipeline fund
- Limit judicial review

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Now, House Bill 4:

- Provides further direction for AGDC
  - Transfers existing statute from HB 369/38.34 from Joint Instate Gasline Development Team/AHFC subsidiary to AGDC
  - Incorporates HB 9, from 2012
- Provides the framework for AGDC to serve as Alaska's natural gas pipeline corporation
- Maximizes state's efforts in gas pipeline development
- Resolves regulatory uncertainties while supporting future development of Alaska resources
- Includes AGDC recommendations
- Maintains momentum – delays hurt!
  - AGDC estimates $200 million per year inflation
  - Southcentral gas supply (and costs) increasingly uncertain
  - Fairbanks energy costs and air quality – no end in sight
  - Continuing expectation for state to offset high cost

Under House Bill 4, AGDC will:

1. Continue work on the in-state pipeline
   - Requires sufficient shipper support to finance a pipeline
   - Target date: Gas flowing 2019

2. Work with TransCanada and producers to align two projects
   - Uncertain: no development commitment to date

3. Be prepared to participate in other frameworks
   - For example, spur line

4. Once a main line is complete, evaluate other pipeline opportunities
   - Lines off the main line connecting communities, industrial development
   - Other stand-alone Alaska gas pipelines

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Establishes AGDC as Alaska's gas pipeline entity

- Section 3; transition language in Section 1, Section 25
- HB 4 moves AGDC from its present location as a subsidiary of Alaska Housing Finance, to a stand-alone state corporation
- Locates AGDC under Department of Commerce, Community and Economic Development *for administrative purposes only*
  - AGDC will be governed by a 7-member board with expertise in relevant fields, appointed by the governor, confirmed by the legislature. 5 public members, two commissioners
- Provides clear transition language

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Clearly states AGDC's purpose (Section 3):

- To advance an instate gas pipeline as described in the July 2011 project plan, with modifications as appropriate, making gas available to Fairbanks, Southcentral, and other communities in the state at the lowest rates possible;

- To develop pipelines serving utility and industrial customers, at commercial reasonable rates;

- To develop pipelines offering commercial rates to shippers and that offer access for shippers producing gas in Alaska

- Once a mainline is complete, to consider additional pipelines to extend the reach of gas to other communities, industrial users

- Pipelines should also be developed to make propane and other non-oil, gas-related materials available to Alaskans

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Provides clear statutory abilities to AGDC to function as a corporation and to accomplish its purpose (Sec. 3)

AGDC may:

- Enter into ownership and operating partnerships
- Create subsidiaries, including a subsidiary to market gas
- Issue revenue bonds limited to AGDC's own backing to finance a pipeline
- Enter into confidentiality agreements necessary to participate with private sector shippers, partners, financiers
- Keep confidential information like field studies and tariff models that are assets AGDC is developing for the state
- Exercise the state's existing power of eminent domain

House Bill 4 also:

- Exempts AGDC from the state procurement code and state personnel act (Section 3; and Sections 4 and 14)

  * (AGDC is currently exempt from the procurement code as an AHFC subsidiary (per HB 369 of 2010)

- Exempts AGDC's operating budget only from the Executive Budget Act (Section 3)

- Applies public official disclosure rules to AGDC board members (Section 15)

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Maximizes state's efforts in gas pipeline development

- Additional state support for a project in the public's interest will help reduce delays and keep costs as low as possible

House Bill 4:

- Limits judicial review of state permitting decisions and authorizations to avoid delays (Section 13)
- Directs DNR to waive annual fees on a state right-of-way lease for AGDC (Section 3; Section 12)
- Waives state and local property taxes during pipeline construction (Section 22)
- Sunsets the Alaska Natural Gas Development Authority, per a 2010 Leg Audit recommendation

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- Requires state entities to cooperate and share information with AGDC (Section 3)
  - AGDC requests receive priority (except for AGIA requests)
  - AGDC and state entities can enter into confidentiality agreements if necessary to protect third-party information in the state's possession

- Calls on the state to provide water, sand, gravel, and other non-hydrocarbon natural resources to AGDC (Section 3)
  - AGDC will pay usual prices; cost cannot be included in tariff base and passed on to pipeline shippers

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Resolves regulatory uncertainties

- Regulatory uncertainties add risk, which adds costs and can deter private sector participation. AGDC needs to know how a pipeline will be regulated before soliciting private sector partners

House Bill 4:

- Allows natural gas pipelines to operate as contract carriers through changes to the Right-of-Way Leasing Act and through Regulatory Commission of Alaska oversight

- Reinforces state policy that pipelines should be fair; offer reasonable access to new/future shippers; and encourage future development of Alaska's oil and gas resources

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Why a contract carrier?

- Shippers need to know that the space they are 'reserving' by signing long-term commitments will be available
- Those firm, uninterruptible contracts are the way gas pipelines are financed
- The future income promised through those contracts secures revenue bonds
- House Bill 4 establishes contract carrier status while providing for expansions in the future

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Interfaces

- Key common carriage principles – expansions, access – are retained
- Contract carriage is allowed
- Interface between right-of-way leasing act and new regulatory chapter for instate contract carrier natural gas pipelines:
  - Both require expansions on commercially reasonable terms
  - Both allow that expansions cannot make an initial shipper pay more than is allowed per the shipper's contract with the pipeline
  - Both sections require a pipeline to offer service without undue discrimination
  - Open season oversight by the RCA ensures that new entrants have opportunity
  - Capacity availability notification rules in Sec. 21 ensure new entrants have opportunity

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Right-of-Way Leasing Act

- Section 11: Sections 6, 8, 9 and 10 are conforming
- Includes a set of 14 covenants a lessee must agree to
- HB 4 modifies covenants reflecting common carrier principles, to allow for contract carriage
  - ‘Nuts and bolts’ of covenants remain the same
  - Contract carrier covenants still require a pipeline, per contractual terms, to provide connections with other pipelines and facilities
  - Contract carrier covenants still require expansions on commercially reasonable terms
  - Contract carrier covenants still require a pipeline to ship without discrimination

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Right-of-Way Leasing Act, con't.

- Of the 14 covenants:
  - Covenants (a) (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), and (14) apply to both common carrier pipelines and to contract carrier natural gas pipelines
  - Covenants (a) (1), (2) and (5) are rebuilt to retain the general policy principle while allowing for contract carriage
    - Contracts govern terms for connections, facilities
    - Expansions required on commercially reasonable terms
    - Ship without discrimination

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Transitioning to contract carrier

- AGDC has an existing state right-of-way lease
- It provides for the possibility of amended statute for contract carriers
- Provision in section 25 (page 55 Version I) expresses Legislative intent that the lease is amended upon passage of HB 4
- The bill does not change the terms of other existing state right-of-way leases

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Regulatory Commission of Alaska oversight for a contract carrier gas pipeline

- Section 21 is new regulatory chapter; Section18 is related. Sections 19, 20, 5 are conforming)
- Mandates a baseline package of rates and terms (recourse tariff) available to all interested parties, and allows negotiations of final rates
- Requires an RCA-approved initial recourse tariff
- Requires RCA to decide if precedent agreements are 'just and reasonable'
- Premise is contracts entered into willingly by two parties are just and reasonable - with checks and balances
- Provides certainty and protection for public utilities

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Recourse tariff review:

- Supported by full cost study
- Terms and conditions are 'not unduly discriminatory'
- Rate elements are reasonable – return on equity, capital structure, depreciation
- Revisions required – post construction, pre-open seasons
- Triennial rate review and operating reserve fund for excess ROR

Precedent agreement review:

- Are contracts just and reasonable as evidenced by arm's length transaction?
- Heightened scrutiny for affiliate relationships

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- Allows confidential filing of precedent agreements; requires public filing of final contracts
- Requires a CPCN (building permit) from the RCA, with special terms for an AGDC pipeline reflecting the state-sanctioned mission
- Directs RCA to intervene when a dispute threatens the public health and safety
- Allows contracts to include dispute resolution methods that give all shippers notice and opportunity to protect their interests
- Sets standards for fair, accessible open seasons; requires open seasons for new capacity/expansions
- Directs RCA to oversee open seasons and field complaints
- Sets timelines that should not interfere with commercial processes

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Open season provisions

- Currently, nothing in state law addressing open seasons
- Open seasons commonly used in Lower 48 as a mechanism to attract shippers and advertise pipeline opportunities
- Generally seen as a way to be fair and transparent in filling pipeline capacity\

In HB 4 (Section 21, 42.08.300, pages 40-42, Version I):

Open seasons are required for initial and new capacity

Procedures are left to the carrier but must be included in initial recourse tariff terms and conditions

Minimum requirements for noticing an open season

Requires a carrier hold open seasons and award capacity without undue discrimination or preference

Expansions may not violate the terms of AGIA

Additionally, carrier must routinely keep current and potential shippers advised of both uncommitted firm capacity and interruptible capacity

Thank you

House Bill 4:
In-state Gasline Development Corp.

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