

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 28, 2007

3:37 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator Bert Stedman, Vice Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 104

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 104

SHORT TITLE: NATURAL GAS PIPELINE PROJECT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/05/07	(S)	READ THE FIRST TIME - REFERRALS
03/05/07	(S)	RES, JUD, FIN
03/14/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/14/07	(S)	Heard & Held
03/14/07	(S)	MINUTE(RES)
03/16/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/16/07	(S)	Heard & Held
03/16/07	(S)	MINUTE(RES)
03/19/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/19/07	(S)	Heard & Held
03/19/07	(S)	MINUTE(RES)
03/21/07	(S)	RES AT 3:30 PM SENATE FINANCE 532

03/21/07	(S)	Heard & Held
03/21/07	(S)	MINUTE(RES)
03/21/07	(S)	RES AT 5:30 PM SENATE FINANCE 532
03/21/07	(S)	Heard & Held
03/21/07	(S)	MINUTE(RES)
03/22/07	(S)	RES AT 4:15 PM FAHRENKAMP 203
03/22/07	(S)	Heard & Held
03/22/07	(S)	MINUTE(RES)
03/23/07	(S)	RES AT 1:30 PM BUTROVICH 205
03/23/07	(S)	Heard & Held
03/23/07	(S)	MINUTE(RES)
03/24/07	(S)	RES AT 1:00 PM SENATE FINANCE 532
03/24/07	(S)	Heard & Held
03/24/07	(S)	MINUTE(RES)
03/24/07	(S)	RES AT 3:00 PM SENATE FINANCE 532
03/24/07	(S)	Heard & Held
03/24/07	(S)	MINUTE(RES)
03/26/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/26/07	(S)	Heard & Held
03/26/07	(S)	MINUTE(RES)
03/27/07	(S)	RES AT 3:00 PM BUTROVICH 205
03/27/07	(S)	Heard & Held
03/27/07	(S)	MINUTE(RES)
03/28/07	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

Commissioner Tom Irwin
 Department of Natural Resources (DNR)
 Juneau AK
POSITION STATEMENT: Available for questions

Commissioner Patrick Galvin
 Department of Revenue (DOR)
POSITION STATEMENT: Available for questions

Deputy Commissioner Marty Rutherford
 Department of Natural Resources (DNR)
POSITION STATEMENT: Available for questions

Kevin Banks, petroleum market analyst
 Department of Natural Resources (DNR)
POSITION STATEMENT: Available for questions

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [3:37:35 PM](#). All members were present at the call to order.

SB 104-NATURAL GAS PIPELINE PROJECT

[3:38:52 PM](#)

CHAIR HUGGINS announced SB 104 to be up for consideration, and said that the question is where to go on how to commercialize Alaska's gas.

[3:39:09 PM](#)

Department of Revenue (DOR) Commissioner Patrick Galvin, Department of Natural Resources (DNR) Commissioner Tom Irwin, and Deputy Commissioner Marty Rutherford Department of the DNR introduced themselves.

[3:40:46 PM](#)

COMMISSIONER IRWIN thanked the committee for its time, and commented on the appropriateness and preparedness of AGIA and the people working on it; the state has framed its position well, and is telling different businesses they are all going to be treated fairly. Leverage is the big issue. The previous administration showed how a lot of failures can happen; time limits are dangerous.

[3:45:17 PM](#)

He remarked that a lot of the producer presenters really would like to take AGIA apart so that the state would go back to the previous administration's failed negotiations. However, they refuse to define the issues, which they should do as the companies' heads. Fiscal stability is not a term with an obvious definition. The TransCanada testimony was interesting and encouraging because that company was starting to leverage the state, and it doesn't want more money that will create a greater risk. Another major player has also said it doesn't want too much money from the state.

[3:49:09 PM](#)

He referenced Enbridge's comments regarding failed open seasons, and said it's important to remember that that can happen and the process shouldn't be ended there. If AGIA is minimized the

competition for the pipes goes away, and the state will be hurt severely. Each company is talking about the risks versus the rewards; a lot has been learned about different tariffs and expansion. The state needs to keep an eye on the competition.

[3:51:38 PM](#)

He reemphasized that he is supportive of AGIA, and the administration is willing to work with the legislature on creating healthy competition.

[3:52:19 PM](#)

COMMISSIONER GALVIN said he didn't have much to add; he wasn't surprised by testimony from the interested parties. AGIA needs a few clarifying amendments.

[3:54:21 PM](#)

MS. RUTHERFORD said she was there to respond to questions.

[3:55:02 PM](#)

CHAIR HUGGINS said that the bill was to be heard by three different committees, and each should make as much progress as possible. He referenced the inducements and said that no entity but the administration says they are a must-have; that's a point of contention that needs to be addressed.

[3:55:51 PM](#)

SENATOR MCGUIRE asked if it would be alright to begin the discussion section by section.

CHAIR HUGGINS replied that that was the plan.

[3:56:40 PM](#)

COMMISSIONER GALVIN said that the \$500 million is meant to induce some behavior; TransCanada said it did not see the value in the inducements in terms of required FERC certification. The previous day TransCanada had clarified its position: while from the corporate perspective there isn't value in moving beyond an unsuccessful open season, the state would have value in moving from open season to certification. The state needs the leverage on the producers to move through an open season and on to a certificate; someone needs to be committed to move the project

forward and remove uncertainties. A participant can't be able to drive the state into a leverage position by virtue of an unsuccessful open season.

[3:59:41 PM](#)

CHAIR HUGGINS said he didn't see any companies saying they would go on to pursue a FERC certificate.

COMMISSIONER GALVIN replied that the administration still needed to hear from MidAmerica on that issue. TransCanada did not say it wouldn't pursue a FERC certificate; it said it would rather let the state figure out how to get further.

[4:01:21 PM](#)

CHAIR HUGGINS said that TransCanada had said it would refuse to pursue a certificate in a theoretical situation.

COMMISSIONER GALVIN explained that TransCanada is maximizing its position; every company wants to do so. The state can't just roll over on its ideas. Companies have to be pushed to accept risks.

[4:03:35 PM](#)

SENATOR WIELECHOWSKI asked if the \$500 million is a must-have for the administration, and if the amount should change.

MS. RUTHERFORD answered that it is a must-have, and explained that no lesser amount would do.

[4:06:00 PM](#)

COMMISSIONER GALVIN added that the state wouldn't want to commit the full amount if a company is willing to go without the money. What the state anticipates is a change in the company's perceived risk after open season; the state can't allow an unsuccessful open season stop this project.

[4:06:34 PM](#)

SENATOR STEDMAN said no company has testified that it needs the \$500 million.

SENATOR MCGUIRE said she heard TransCanada say the inducements would factor into its decision; the company's concern was with post-open season risk-sharing rates.

[4:07:35 PM](#)

SENATOR STEDMAN said his recollection was that the inducements weren't needed, but the company would take them. The issue is if the company is to be forced to go beyond a failed open season and the business wants to terminate. If an arbitrator rules for the state, the business partner would pull out and repay the state. He asked if that scenario would be correct under the definition of abandonment.

[4:08:30 PM](#)

COMMISSIONER GALVIN said he heard TransCanada say it did not want to have to commit to go from an unsuccessful open season to FERC certification. If they were required to do so, the \$500 million would be necessary.

SENATOR STEDMAN said he understood differently; TransCanada wants to work until it was sure there would be a good open season.

[4:11:45 PM](#)

COMMISSIONER GALVIN said \$500 million was enough to keep TransCanada going to a certification; AGIA requires a company to commit at the time of the licensing.

[4:13:10 PM](#)

SENATOR STEDMAN asked if a company would have to replace money from the state and hand over documents if it leaves a project considered economically feasible by an arbitrator.

COMMISSIONER GALVIN replied that in such a scenario the company would still be bound by the license. The state would recover money, work product, and any damages available by law in that case.

[4:14:44 PM](#)

SENATOR WAGONER said over the years he has heard how gas is recycled to keep oil production up, but he remembers that there is crossover point where the gas needs to be shipped; he asked for comment on that.

[4:16:26 PM](#)

COMMISSIONER IRWIN said that it's okay for the state to stand for what it wants.

SENATOR WIELECHOWSKI said \$500 million is a shocking amount to many Alaskans; he asked what kind of money the state was incentivizing in the last contract.

MS. RUTHERFORD replied that analysis showed that the quantifiable values were over \$10 billion in 2005 dollars.

[4:18:25 PM](#)

CHAIR HUGGINS said the legislature never voted on that.

COMMISSIONER GALVIN said the only reason to bring the matter up is because it's an important lesson about what happens when the state has to meet the producer's demands. The state needs leverage. Companies will recognize the value of booking reserves.

SENATOR STEDMAN said nothing in the bill requires the applicant to build by a specific date; that would result in a failed process. He asked if other players besides the main three could finance the project, and why the state wouldn't deal with them.

[4:22:35 PM](#)

COMMISSIONER GALVIN replied that the three producers are the only ones that have sufficient gas to finance the project; they're at the point of seeing how much more they can get from the state. The dialogue needs to be changed, and the state needs to tell the producers that they won't be the only three entities involved.

[4:24:59 PM](#)

CHAIR HUGGINS remarked that that was an important conversation, and asked the presenters to talk about how a licensee will be encouraged to move beyond an open season.

[4:26:50 PM](#)

COMMISSIONER GALVIN said the state needs to require FERC certification; the project can't be characterized as simply getting to an open season.

[4:27:45 PM](#)

SENATOR STEDMAN asked Commissioner Galvin to restate why the state wouldn't want to leave the process open for a company not wanting to build a pipeline under AGIA.

[4:28:32 PM](#)

COMMISSIONER GALVIN said that was a good question; AGIA is an inducement, but not an exclusive opportunity to build a line. If another project materialized, there are opportunities within the existing state framework to for the applicant to come forward. A project that meets AGIA's requirements is in the state's interests and therefore should be given the benefits therein. AGIA doesn't need to provide inducements for a non-AGIA project.

CHAIR HUGGINS said that the inducements could be given to a party not operating under AGIA. He asked why the state wouldn't want to encourage an entity that came up with novel process.

MS. RUTHERFORD said that the authority for the commissioner to provide a process for any development project is already in statute.

[4:32:38 PM](#)

CHAIR HUGGINS referenced a section of AGIA and asked what kind of timeline the extension has.

COMMISSIONER GALVIN replied that the administration established a five-year timeline for getting to FERC certificate application; approval takes 18 months. There may be some additional work necessary during the application consideration period. The money the state will spend is capped at \$500 million.

[4:35:55 PM](#)

CHAIR HUGGINS asked Commissioner Galvin to explain a section of the bill.

COMMISSIONER GALVIN replied that it applies to the risk profile on the project and how much obligation the state will take on in

terms of successful or unsuccessful open seasons. The state's not expecting that no one will complain about the risk-sharing in AGIA. An 80/20 split is as far as the state is willing to go; it will create maximum potential participation. The best way to maximize the state's opportunity is to not dictate the terms; it will depend on the results of the open season.

[4:38:31 PM](#)

CHAIR HUGGINS said he thought 80 percent was a little too high and it seems the state got leveraged. This is a critical juncture; it's a high-risk situation. A producer has said it wouldn't even be willing to spend the 20 percent. His concern is that the state could be leveraged in multiple ways.

COMMISSIONER GALVIN said the administration has the same concern; the only way to avoid being leveraged is to get the commitment up-front through the requirements in the application. The pot needs to be sweet enough that pipeline companies participate, but it can't be so generous that after a failed open season the producers ask for whatever they want. AGIA has enough inducements that a pipeline company will commit through an unsuccessful open season.

CHAIR HUGGINS said that the licensee could also just walk away from the deal.

COMMISSIONER GALVIN said that if a company does so it risks losing everything related to the project.

[4:42:45 PM](#)

SENATOR WIELECHOWSKI asked how there could be a failed open season on an economically feasible project, and what the outcome of such would be.

[4:44:00 PM](#)

COMMISSIONER IRWIN said nothing would preclude another open season. In the meantime, the country needs gas and that's in Alaska's favor.

[4:45:01 PM](#)

COMMISSIONER GALVIN said a lot of different options are out there; if everyone goes to an open season and then stops, the

producers are going to expect a lot from the state to keep going.

[4:46:45 PM](#)

MS. RUTHERFORD commented that the producers are reasonable economic players in terms of AGIA leverage. They will participate appropriately as long as the state doesn't continue to make itself vulnerable to leveraging.

COMMISSIONER IRWIN clarified that he respects the companies; they have a lot of good employees. The problem is that recycling the gas is becoming expensive.

[4:49:03 PM](#)

KEVIN BANKS, Director, Division of Oil and Gas, DNR, introduced himself.

[4:49:25 PM](#)

SENATOR WAGONER asked how much gas is being recycled on the North Slope now and how much longer can it be recycled without affecting oil production.

MR. BANKS replied that Prudhoe Bay is recycling six to eight bcf per day. Residual gas is being used to recover and maintain pressure; missile injection is scheduled to stop in 2015. He said he didn't know what the exact timeline would be, but at that time the producers will want to sell the gas.

[4:51:50 PM](#)

COMMISSIONER GALVIN said he had previously testified about the optic rate, and no one had asked the producers for a turnoff date. They don't have enough information to say whether the rate should be increased or changed, and there is a risk that they could damage the reservoir eventually. He has requested that the AOGCC look at the issue.

[4:53:33 PM](#)

MR. BANKS reiterated that the administration has requested that the AOGCC examine the issue.

[4:55:26 PM](#)

SENATOR STEDMAN said there's a reasonable chance that a consortium would be put together, and asked how the legislature would give a company \$500 million when everyone knows the project will be extremely profitable.

COMMISSIONER GALVIN said the \$500 million creates competition, and the chance that the producers would lose their control of the project. Ideally the perceived threat of competition will drive a producer to agree to a project that meets Alaska's needs.

[4:56:51 PM](#)

MS. RUTHERFORD said that if the \$500 million does what it's intended to, it will be money well-spent. Everyone will benefit from lower tariffs.

[4:58:12 PM](#)

CHAIR HUGGINS said that there are myriad ways that could raise costs. The FERC has said it wouldn't be overly enthusiastic about having a company continue to certification.

COMMISSIONER GALVIN said there are tight requirements for getting to open season and FERC application. The state has to compare that to the current situation, with no timeline. The up-front timeline is driving the applicants to decide how they'll commit to the project. The five-year stipulation is in case the producers' gas still isn't committed to the project, which is the worst-case scenario.

He added that pursuing a FERC certificate without commitments is obviously an unfavorable path. The administration is trying to avoid that by providing inducements in the initial open season. Even worse than that would be an unsuccessful open season followed by the participants wanting the state to bail them out. The requirement of FERC certification is a strategy to avoid this.

[5:02:33 PM](#)

CHAIR HUGGINS said that AGIA could end up costing the state billions.

COMMISSIONER GALVIN responded that Chair Huggins was comparing AGIA to a non-existent project; there's no basis for comparison.

CHAIR HUGGINS replied that he agreed; he just wanted to point out the high cost.

[5:03:39 PM](#)

SENATOR STEDMAN said he has gotten the same impression from his meetings; the FERC didn't give the impression they would like to go through an open season to a certificate.

MS. RUTHERFORD agreed that no one is very excited about that; however the FERC does recognize that keeping that door open would be in the state's and the nation's interest.

[5:05:22 PM](#)

SENATOR STEDMAN said that he wanted to see historical pricing data on Henry Hub Index gas prices over the last several years; at some recent point there was a substantial change in gas prices and thus the value of the basins.

[5:06:34 PM](#)

MS. RUTHERFORD replied that they could get him that information and a member of the administration was available for questions on the subject.

SENATOR STEDMAN said he's interested in the timeline and the impact of the revenue stream on the state.

The committee took an at-ease from [5:08:22 PM](#) to [5:25:06 PM](#).

[5:25:23 PM](#)

CHAIR HUGGINS said it is clear that different people hear different things in statements. He asked the presenters to talk about the inducement act coordinator, and said he assumes that the coordinator is also available for independent projects not coming through AGIA.

MS. RUTHERFORD said that was correct, and said that the citation provides for the commissioner to streamline such an alternative process.

CHAIR HUGGINS said that it would be wise to open up the process for the coordinator.

COMMISSIONER GALVIN said the way it is envisioned, AGIA will result in a tremendous amount of activity right away, and the AGIA coordinator will be taxed. If an alternative project is proposed, the administration can provide a coordinator to focus on that project.

[5:28:42 PM](#)

MS. RUTHERFORD added that the coordination process for any large resource development project has elevated the awareness of that alternative. The administration sees a lot of different parties asking about that process, so the awareness and capabilities are out there.

CHAIR HUGGINS said it is fair to say that the position is based on precedence that there is a federal coordinator that already exists, but without much experience. The capability is the important thing to exercise.

[5:30:19 PM](#)

COMMISSIONER GALVIN said he doesn't disagree, but the position is established and is intended to be an inducement because the administration wants participants to accept its terms, and it would be concerned if there was a move to provide all benefits to any project.

CHAIR HUGGINS said he would appreciate an indication of where modifications might be planned in AGIA.

[5:31:07 PM](#)

COMMISSIONER GALVIN said that Deputy Commissioner Marcia Davis was working on amendment language to be provided the following day; he wasn't prepared to talk about amendments that day.

CHAIR HUGGINS said he understood, but wanted to see those spots at least acknowledged.

[5:32:04 PM](#)

SENATOR GREEN commented on the training program and expressed the same concern with that as with the coordinator, in terms of it not being available to other projects.

CHAIR HUGGINS said that was a good point; he would hope that some of the framework put together could be used for other things for the greater good of the state.

COMMISSIONER GALVIN said he sees a distinction between the provisions, and he doesn't have the same concern. A program will be provided for any pipeline-related job.

COMMISSIONER IRWIN said that is a real issue for the state. He is not only concerned about workers for the pipeline but for other industries around the state as well.

[5:33:53 PM](#)

CHAIR HUGGINS asked the presenters for comment on abandonment.

COMMISSIONER GALVIN said the administration is looking at clarifying the arbitration aspect; there needs to be a bit more substance to the process.

SENATOR STEDMAN asked for an explanation of the arbitration process and how it would work if a company wants out.

[5:35:09 PM](#)

COMMISSIONER GALVIN said the intent is to provide an opportunity for recognition that a project isn't economic and there's no further reason to continue to spend money, and also the possibility that one party will take the position of uneconomicness and the other party might not agree. The intent is to provide a way to select an arbitrator and then have that person rule on the decision. The other element is further refinement of the term uneconomic; there shouldn't be an impasse that cannot be overcome. The issue goes hand in hand with violation of a lease.

[5:37:38 PM](#)

SENATOR STEVENS asked about a situation wherein the state would want out and the industry wouldn't.

COMMISSIONER GALVIN said that is an extremely unlikely scenario; the administration is providing the opportunity for symmetry.

COMMISSIONER IRWIN said a contract should treat both parties equally.

[5:38:40 PM](#)

CHAIR HUGGINS said it makes him nervous that it's agreed upon up-front to pay the \$500 million.

COMMISSIONER GALVIN said that stipulation insures that the state isn't going to create an out for itself; it demonstrates that terminating a license will not be a unilateral decision.

[5:40:07 PM](#)

CHAIR HUGGINS asked where Commissioner Galvin might see the scenario unfolding on the timeline.

COMMISSIONER GALVIN said he thinks there is no particular likely place. From a licensee standpoint, there would be concern it would happen before an open season due to producer pressure. They would also be in a leveraged position if the FERC certificate is achieved and the state decides to go with a producer deal. The state also wants to avoid being leveraged by requiring forward progress on the project.

[5:42:52 PM](#)

CHAIR HUGGINS asked about any concerns in a particular section of the bill.

COMMISSIONER GALVIN said there is a judicial challenge risk, and the administration is trying to develop language regarding what can be appealed or challenged. At some point there should be an ability to cut off challenging, and the bill will reflect that. Constitutional limitations are being examined.

[5:45:16 PM](#)

CHAIR HUGGINS asked about state procurement code regarding independent contractors.

COMMISSIONER GALVIN said the ability to use that code would be appreciated. The administration recognizes that such provisions were embedded in the stranded gas act, but it did not feel that it would be appropriate to put that in AGIA. The overarching process was placed within the procurement code, but it was decided not to mention it specifically.

[5:46:32 PM](#)

COMMISSIONER IRWIN commented on the language in the bill, and said that the administration is trying not to lose momentum.

CHAIR HUGGINS asked about another section of the bill.

COMMISSIONER GALVIN commented on a part of the bill that was technically questionable, and said that there are a number of different elements that the administration is trying to clean up.

CHAIR HUGGINS said it would be prudent for the committee to wait for the changes to be made available.

[5:49:32 PM](#)

He then asked for comment about certain dates and deadlines.

COMMISSIONER GALVIN said the intent is to require commitment to an open season. That is one of the must-haves and one of the primary objects of the inducements is the project moving ahead under schedule. It's not requiring anyone to break ground or complete construction, because that would be unreasonable, and the schedule would drive the project with artificial deadlines; however it is reasonable to ask for open season date, and a company can commit to that in return for the inducements. If not it would be in violation of the agreement.

CHAIR HUGGINS asked what happens when a company is in violation.

[5:51:52 PM](#)

COMMISSIONER GALVIN said that if the value to the state is not diminished, the commissioners can allow for modification. If the project does not meet those requirements the state gives a notice of violation and if the violations are not corrected, the state gets its money back, collects damages, and decides where to go from there. The best-case scenario is that they would abide by a subsequent deadline and would demonstrate non-diminishment of the value of the project.

[5:52:52 PM](#)

SENATOR GREEN asked where that information was cited.

COMMISSIONER GALVIN referenced the page.

CHAIR HUGGINS asked if two elements of the bill were congruent.

COMMISSIONER GALVIN replied yes.

[5:53:45 PM](#)

CHAIR HUGGINS asked about definitions of terms on that page, and if they could be moved.

COMMISSIONER GALVIN said that was a drafting decision.

SENATOR STEDMAN said that in the case of a binding open season, there's clearly interest in having open seasons after first gas to allow other companies in. He asked for comment on the construction process happening through open season.

[5:54:57 PM](#)

COMMISSIONER GALVIN said initial open season will take place in the first three years, and FERC certification will happen by year five. When open season comes about, there will be an opportunity to expand the line design, and it may happen early on, or it may need to be scheduled after the first flow. The bill is protecting from forced expansion which could delay initial gas flow.

[5:56:54 PM](#)

CHAIR HUGGINS asked how a particular provision differed from its FERC counterpart.

COMMISSIONER GALVIN said he would have to get back to the committee.

CHAIR HUGGINS asked for data on the 15-percent threshold provision, and said he has heard that it may not be possible.

[5:58:01 PM](#)

COMMISSIONER IRWIN said that he hadn't heard that statement, and would be consulting with the drafters to find out if that was proprietary or replicable.

MS. RUTHERFORD noted that the threshold was modeled with outside consultants and the administration could provide that data.

SENATOR STEVENS referenced a requirement about rolled-in rates, and asked if it is appropriate that the state get into that business if the FERC could handle it.

[5:59:34 PM](#)

COMMISSIONER GALVIN said that the FERC has the final say and the state is not trying to take its authority. Having the applicant provide for a certain result does impact how the FERC feels about the issue; it has to justify its actions. While the state does defer to the FERC, it wants to insure that the application is favorable to the state.

MS. RUTHERFORD added that just as the upstream producers are concerned about royalty versus regulation, similarly the executive branch is concerned about rolled-in rates imbedded in regulation. It will affect that as much as it's able to because of the interest to the state. The modeling isn't superb providing rolled-in rates for expansion shippers is critical to exploration and development.

[6:02:05 PM](#)

COMMISSIONER GALVIN said he had talked about getting the explorers to be confident that they will get their gas into the line at a reasonable time and rate. The state doesn't have that insurance if defers to the FERC; that level of uncertainty is enough to prevent explorers from drilling the well. Ideally the explorer could rely on the state's assurance and not have to worry about that drawn-out process; the gas could be moving within three years of discovery.

[6:04:09 PM](#)

CHAIR HUGGINS asked if any difficulties are foreseen in getting applicants to agree to AGIA provisions.

COMMISSIONER GALVIN said it is incumbent on the state to package both requirements and benefits. The state can't expect to hear from applicants that everything in the bill is fine; then there wouldn't be value in pushing them to accept it. The elements of the bill are meant to be beneficial to the state.

CHAIR HUGGINS said that Enbridge was not kidding about not applying under the current form of AGIA; the state may run that risk with other players as well. He suggested reexamining that risk.

[6:07:28 PM](#)

COMMISSIONER GALVIN said Enbridge made its position clear from the beginning.

COMMISSIONER IRWIN added that there have been many discussions and the ultimate goal is to get gas to market while encouraging as many participants as possible.

SENATOR STEDMAN asked if any other companies have said they would participate even if producers didn't commit gas.

[6:09:19 PM](#)

COMMISSIONER GALVIN said that TransCanada doesn't expect the producers to commit gas before it invests money, and MidAmerica will likely say the same thing. The issue with Enbridge is that it doesn't play the game that way; it works closely with the oil and gas companies to build a project, and it is very upfront about that. Its desire is for the state to do anything necessary to get the producers to commit their gas upfront.

SENATOR STEDMAN said there seems to be only three viable entities that have the financing and the gas to build the line; it's a limited group that can finance. The midstream entities are TransCanada, MidAmerica and Enbridge; he asked if that list is down to one.

[6:11:42 PM](#)

COMMISSIONER GALVIN said unless there are surprises, there are three alternatives to the producers doing the project. TransCanada did not take itself out of the picture, and MidAmerica can be expected to participate as well. What the state needs to get out of AGIA is a company willing to move the project forward; it has certain requirements that are hurdles to companies. They don't want obligations because they are solely for the state's benefit. The key is competition, and an alternative to the three big producers. The state needs a company to move ahead, and some company will be willing; competition is what it is all about.

[6:14:47 PM](#)

MS. RUTHERFORD said AGIA will lead to a project truly in the state's interest, but it doesn't mean a basin will ever be

developed. TAPS is a model for what not to do; it has driven away major players. The state doesn't want that type of model; it wants a project in the state's interest with adequate tariffs.

COMMISSIONER GALVIN said he can't stress enough that the state needs a tough stance; not having control over expansion provisions would mean the state would have no control over the project which is essential to Alaska's long-term future.

6:17:06 PM

SENATOR STEDMAN asked if AGIA was written for one mid-stream company.

COMMISSIONER GALVIN replied it absolutely was not. It provides reasonable terms for the producers and mid-stream companies. There may also be other players watching from afar that might surprise the state. The state can't just favor a company with certain aspects. They all need a chance to apply so they all feel a need to compete; the companies are going to have to come to terms with what the state is asking for, and it can't get what it wants if there's no competition.

6:19:12 PM

SENATOR GREEN asked for clarification on TransCanada's position.

COMMISSIONER GALVIN said the company has said it would participate to get to open season, but it was not sure it saw the value in going from an unsuccessful open season to a FERC certificate; it would prefer to put that money somewhere else.

6:20:51 PM

SENATOR GREEN asked if TransCanada was the company that said "no customers, no credit, no pipeline".

CHAIR HUGGINS confirmed that.

COMMISSIONER GALVIN said that is important to distinguish that Enbridge said "no producers, no pipeline". The producers aren't the customer on the line. There is a movement in the gas market to have the consumer group make the shipping commitments; what TransCanada was saying is it needs customers; the credit is the negotiable part. TransCanada is saying it wants to go to an open season and if the producers don't come it will turn to the

state. The state is saying no; it wants to drive the project to the FERC certificate. The federal government can play its role and ask why the producers aren't participating. Stopping at an open season is not in the state's interest.

6:24:01 PM

COMMISSIONER IRWIN said that an applicant's desire must be to get the line built. There will be a lot of real business activity once an applicant is selected, and the state looks forward to that.

SENATOR GREEN asked if a customer is the same as a producer.

CHAIR HUGGINS said no. He said that he heard that a certain company's ability to participate in the Alaskan project was diminished, but that was debatable; he asked if other pipeline companies might come forward.

MS. RUTHERFORD said the administration has not had conversations with other companies, but other parties are said to have been watching the process closely.

6:26:47 PM

SENATOR STEDMAN said it would be hard to finance a project without using the wherewithal of the three majors; there may be utility companies without f/t commitments.

COMMISSIONER GALVIN said it is a matter of who makes the f/t commitments, not who puts up the money. If the gas is there, and everyone knows it is, participants will bank on it; they make an offer to buy gas at the wellhead and make a commitment to pay for the shipping. The rate-payers are going to make the payment that backs up the legitimacy of the commitment.

SENATOR STEDMAN asked for a list of utilities that could bankroll a \$30 million project.

COMMISSIONER GALVIN said that MidAmerica would know about that. If the state asks today which companies are ready and able to compete with the producers to build the pipeline, the answer would be that no one is immediately willing to sign on; that is why the producers have the state over a barrel. The true question is, if the state can move the project ahead, what is the possibility that it coming to fruition will drive the aggregate of utilities to pursue that option?

SENATOR STEDMAN said that didn't answer his question; he wanted to see a list of the utilities that could finance this project without the backing of BP, ConocoPhillips and Exxon. The project is a huge one, and it would be surprising if one of the big three wasn't needed for financing.

[6:31:06 PM](#)

MS. RUTHERFORD said the presenters didn't have that information, and were not suggesting that that would be the scenario; they have simply heard that there may be utilities that may be willing to take f/t commitments in an open season so they have a secured supply of gas; that's very different from building the project, but it helps build the line.

SENATOR STEDMAN said he would believe that scale of f/t commitments.

[6:32:57 PM](#)

CHAIR HUGGINS said the committee would meet again on Friday.

SENATOR WIELECHOWSKI asked where the \$18 billion federal loan guarantee factored into the discussion, and which parties might be eligible for it.

COMMISSIONER GALVIN said while there is potential for utilities to take a position, the administration recognizes that the three producers are the focus. Moving the project ahead creates the opportunity for others to take a part in it. The federal government has made a substantial offer for loan guarantees; what nobody knows is the real cost of making that commitment. A major point of discussion will be the perceived credit worthiness of the project. The balance that everyone is trying to find is creating a project that generates credit worthiness that will make for a good loan guarantee price that the federal government is willing to buy.

[6:36:04 PM](#)

He said that the administration is suggesting that the state's interest is in allowing the project to continue to move so that all options can be fully explored. The federal government can choose to fill in the fiscal gap, which is currently unknown. What the state needs is to ensure that commercial and federal participants are willing to invest in the process. The state is

changing the dynamic so that it's not just the state and the producers in the game any more.

[6:38:26 PM](#)

CHAIR HUGGINS asked if there is any relationship between completion of the pipeline and loan guarantees.

MS. RUTHERFORD said there have not been regulations promulgated; there's nothing in legislation that deals with completion issues. There has been discussion about the potential for the federal loan guarantee being used as a mitigator for project completion risk, cost overrun risk, or a failed open season.

CHAIR HUGGINS said there will be a new president; that could change things.

SENATOR MCGUIRE talked about a handout from ConocoPhillips, and said that all the listed projects are under a column for finance sponsors; partnering is not an unprecedented concept. She asked what the administration will do in terms of the RFA, and she said she hopes it will include submitting a letter inviting all pipeline companies to participate.

MS. RUTHERFORD said it is hoped that coalitions will be formed, and the state will try to reach out to potential applicants. However it won't be a long list.

[6:43:00 PM](#)

COMMISSIONER GALVIN observed that the bill does have a provision for the partial signing of interest in the license, because most projects are not completed by only one entity. The state is very cognizant of that fact; it's in the state's interest to continue to move towards FERC certification and bring more players into the game.

COMMISSIONER IRWIN said that is the flurry of activity he previously talked about; people want to invest. He had the privilege of visiting the American Gas Association and its excitement was huge. The need for energy is going through the roof; other resources have issues, and Alaska is sitting on a premium. He commented that it was interesting that the loan guarantee escalates to keep up with the cost of steel.

[6:46:08 PM](#)

SENATOR STEDMAN said that without the three producers, the state can't build anything. Without one producer coming to the table, it can't get financing.

[6:47:12 PM](#)

COMMISSIONER IRWIN said there are real business opportunities, and the state needs to be fair.

COMMISSIONER GALVIN said the administration is not saying a company will come in and pull the money out of the bank to build the pipeline. The state needs a project in which the producers will want to participate. The state cannot afford to satisfy all the producer's demands. It has to change where it is going or it will be right back to square one if it builds toward an open season and then stops. At that point the state will be just as vulnerable as it is now.

[6:49:04 PM](#)

SENATOR STEDMAN said there's a mechanical process in building the line, and TransCanada said it has experience building and it doesn't need help. However, producers are needed to finance it.

COMMISSIONER GALVIN said TransCanada isn't going to ask the producers to finance the line, but it will ask them to commit to it.

SENATOR STEDMAN said that if Exxon is the only producer, shipper pay is the financial mechanism.

[6:50:38 PM](#)

COMMISSIONER GALVIN clarified that the commitment to ship the gas is the key. There is security in the commitment, but it is the commitment to move the gas that will finance the project. The producers will have to make a business decision on the rate of return. Simply put, they are holding out now because they want more from the state.

[6:52:01 PM](#)

CHAIR HUGGINS said that a small difference in debt ratio percentage points is probably worth more than \$500 million.

MS. RUTHERFORD said the \$500 million is for moving the project to open season and FERC certification. The debt equity structure

is a factor in ensuring the lowest possible tariffs, which benefits shippers. The \$500 million helps the winning entity defray risks. The way that AGIA is structured, the \$500 million couldn't be rolled in to the tariff structure.

CHAIR HUGGINS said tariffs were considered in the inducement rationale.

COMMISSIONER GALVIN said that a five percent change in tariff structure would equal \$600 million to the state; ten percent would be around \$1.2 billion. Chair Huggins' statement is correct and the debt-to-equity ratio is probably a more substantial driver to the value of the state.

[6:54:59 PM](#)

CHAIR HUGGINS asked why the rate shouldn't be changed to a 75/25 ratio.

COMMISSIONER GALVIN said there's a balance between the must-haves and what could be competed for. Anything lower than 70 percent would be unfair to the state. Moving it upwards means running the risk of a company meeting all criteria but wanting a 75 percent rate.

[6:56:21 PM](#)

CHAIR HUGGINS said that other pipeline companies had suggested ratios of 75/35 and 80/20. Based on those conversations he would want to change the numbers immediately.

COMMISSIONER GALVIN said the decision is not for the pipeline companies to make; the producers shouldn't be excluded simply because the rate is too high.

SENATOR STEDMAN asked if there could be amendment on that issue to make sure the gas treatment plant is included, as well as year-round jobs.

[6:58:21 PM](#)

COMMISSIONER GALVIN said it is his opinion that requiring the building of a gas treatment plan under AGIA would cause companies to not participate in the process. The language has been adjusted to allow for inclusion of the gas treatment plant; as part of the application the company would have to agree to the same debt-to-equity ratio.

COMMISSIONER IRWIN said at no time in his participation in previous negotiations were the producers ever willing to discuss the debt ratio. That may have changed.

SENATOR STEDMAN said the lower the equity position and the tariff, the better the state's advantage.

MS. RUTHERFORD said that what emerged in the contract didn't have any reference to the commercial structure, but she agreed with Senator Stedman.

[7:00:25 PM](#)

SENATOR STEVENS said that in coastal Alaska propane is truly important, that he wanted to know more about taking it off the line and having it delivered, and asked if there's been a study on that.

COMMISSIONER GALVIN said the Alaska Natural Gas Development Authority has looked at off-take points and methods to bring propane to communities; it identified methods of transport like shipping down rivers or tidewaters.

SENATOR STEVENS said North Slope gas is rich in propane.

[7:02:37 PM](#)

COMMISSIONER IRWIN said that is an issue that is important and all Alaska wants cheap energy but would be satisfied with economic energy. With the pipeline Alaska can prosper; it's important for the state's future.

CHAIR HUGGINS said the number of delivery points on the Yukon Rover is arbitrary.

[7:04:18 PM](#)

CHAIR HUGGINS said he heard multiple times not to be too hasty in the application process; maybe there is a novel approach that hasn't been brought up yet.

COMMISSIONER GALVIN said the application guidelines are must-haves and it's absolutely sure the state has to have them to move forward. The administration is not going to get into a negotiation over what applicants are providing. The producers just want broad objectives which put the state in a position

where other pressures are brought to bear. In this process, if a company wants to be involved, it's up to the applicant to meet the must haves.

[7:07:31 PM](#)

CHAIR HUGGINS said they had already agreed that if a company goes in another direction from AGIA, it could still build the project.

COMMISSIONER GALVIN said with regard to the training, that was correct; the administration won't be closing the door to anybody who wants to build a pipeline; the incentives are only attached to AGIA, however.

CHAIR HUGGINS said there is a big contrast between the two options; some companies may have ideas that are better than the state's.

COMMISSIONER GALVIN said the administration isn't putting solutions for dealing with the requirements into AGIA. The companies can use their creativity to solve the way they meet the requirements.

[7:09:32 PM](#)

COMMISSIONER GALVIN said the administration is happy to make amendments to many aspects of the bill, but there are fundamentals to AGIA, including the incentives and the must-haves. If those were to be taken away AGIA would not work.

CHAIR HUGGINS said that is the administration's frame of reference.

[7:11:07 PM](#)

COMMISSIONER GALVIN said the state has concerns about keeping applications confidential. It intends to provide for the entire application to be made public once the decision for acceptance is made; applications would only be confidential before that time. In most such processes, the winning applicant is made public and the losers are not, but the administration will require all to be made public.

CHAIR HUGGINS said that the committee wouldn't talk about application criteria at that point in time.

COMMISSIONER IRWIN said the administration has put in much time and effort into AGIA, and it is passionate about it.

CHAIR HUGGINS said the legislature is a cooperative entity. There being no further business to come before the committee, he adjourned the meeting at [7:13:50 PM](#).