ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 1, 2007
1:11 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Lesil McGuire

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."

MOVED CSSB 104(RES) OUT OF COMMITTEE

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
03/28/07	(S)	Heard & Held
03/28/07	(S)	MINUTE(RES)
03/29/07	(S)	RES AT 5:00 PM BUTROVICH 205
03/29/07	(S)	Heard & Held
03/29/07	(S)	MINUTE(RES)
03/30/07	(S)	RES AT 1:30 PM BUTROVICH 205
03/30/07	(S)	Heard & Held
03/30/07	(S)	MINUTE(RES)
03/31/07	(S)	RES AT 12:00 AM BUTROVICH 205
03/31/07	(S)	Heard & Held
03/31/07	(S)	MINUTE(RES)
04/01/07	(S)	RES AT 11:00 AM BUTROVICH 205

WITNESS REGISTER

DON BULLOCK, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Explained CSSB 104(RES), Version M.

MARCIA DAVIS, Deputy Commissioner
Department of Revenue

Juneau, AK
POSITION STATEMENT: Explained CSSB 104(RES), Version M, and suggested amendments on behalf of the administration.

DONALD SHEPLER
Greenberg Traurig, LLP
Consultant to the Administration
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Testified on CSSB 104(RES), Version M, and the proposed amendments.

PATRICK GALVIN, Commissioner
Department of Revenue
Juneau, AK
POSITION STATEMENT: Discussed proposed amendments to CSSB 104(RES), Version M.

KEVIN BANKS, Acting Director
Division of Oil and Gas
Department of Natural Resources
Juneau, AK
POSITION STATEMENT: Answered questions relating to CSSB 104(RES), Version M.

MARTY RUTHERFORD, Deputy Commissioner
Department of Natural Resources
Anchorage, AK
POSITION STATEMENT: Answered questions pertaining to CSSB 104(RES), Version M.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at 1:11:20 PM. Present at the call to order were Senators Stedman, Green, Stevens, Wielechowski, Wagoner, and Chair Huggins. Senator McGuire was excused.

SB 104-NATURAL GAS PIPELINE PROJECT

CHAIR HUGGINS announced SB 104 to be under consideration.

1:12:01 PM
SENATOR STEDMAN moved to adopt the new proposed committee substitute (CS), labeled 25-GS1060\M, Bullock, 3/31/07. There being no objection, the motion carried and Version M was before the committee.

1:12:43 PM
DON BULLOCK, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, explained that he'd prepared Version M in response to suggestions from the committee yesterday. The first change, page 5, lines 3-4, relates to receipt and delivery points and the size and design capacity. It adds "unless the application proposes specific in-state delivery points". Before, it said such information isn't required for in-state delivery points.

1:13:50 PM
MARCIA DAVIS, Deputy Commissioner, Department of Revenue (DOR), in response to Senator Wielechowski, said the above suggestion came from the administration after hearing discussion at yesterday's meeting. When it says the information isn't required for in-state delivery points, the intent was to not require the five offtake points to be designated with such certainty with respect to sizing, quantity, and so on, until there had been an opportunity to negotiate those terms with the in-state recipients or suppliers. However, it might have sounded too exclusive, since applicants that are proposing specific projects may have worked out the details for specific in-state delivery points.

MS. DAVIS added that the administration wants the language to be helpful but not proscriptive. Thus if a project has specific in-state requirements, those could be provided and the commissioners could consider that information in the application evaluation. In response to Chair Huggins, she said they didn't want the commissioners to not be allowed to consider information related to an in-state delivery point because of how the criteria are worded.

1:15:19 PM
MR. BULLOCK told members the next change, page 5, lines 19-20, applies to the project itself. Paragraph (i), beginning on line 13, says those provisions apply if the proposed project involves a pipeline into or through Canada. The change to paragraph (ii), starting at line 19, relates to a proposed project involving marine transportation of liquefied natural gas (LNG). Deleted was a reference to the pipeline from the North Slope to tidewater. Thus this section just describes the marine portion of the project.

MR. BULLOCK explained that the next change, page 10, line 26, only relates to the placement of a section that was moved ahead

of the next section. The next changes, to Section 43.90.180(b), lines 13-15, were insertion of "an undiscounted value" and changing the discount rate from zero to two percent for evaluation purposes.

SENATOR WIELECHOWSKI asked about the six percent on that same line, recalling Mr. Scott's testimony yesterday that five percent is more appropriate, being more the industry standard.

MS. DAVIS replied that the administration knows it will do a five percent case because of recommendations from its experts. As legislative staff had pointed out, however, this lists minimums; thus the administration isn't precluded from using five percent. She gave her understanding that legislators desire six percent because it might relate to other technical materials that could assist them in evaluating the project.

1:17:58 PM
MS. DAVIS, in response to Senator Stedman, began discussion of conceptual Amendment 1. She referred to the fact that (b), on page 11, lines 14-15, says in part: "the commissioners shall use an undiscounted value and, at a minimum, discount rates of two, six, and eight percent". She relayed the administration's suggested wording: "shall use, at a minimum, an undiscounted value and discount rates of two, six, and eight percent". She deferred to Mr. Bullock's editing expertise

1:18:45 PM
CHAIR HUGGINS moved to adopt the aforementioned as conceptual Amendment 1. He asked whether there was any objection.

SENATOR WIELECHOWSKI objected, asking to hear from Mr. Bullock.

MR. BULLOCK said the way it is drafted now, there has to be an undiscounted value. In addition, there must be a minimum of the other discount rates. It's still a minimum list.

MS. DAVIS indicated the suggestion was stylistic only, not a substantive change in the number of models the administration would be required to run.

SENATOR WIELECHOWSKI responded that he tended to agreed with Mr. Bullock and that the language should be left alone.

1:20:13 PM

CHAIR HUGGINS withdrew conceptual Amendment 1. He suggested further work might be needed in a later committee.

MR. BULLOCK highlighted a change on page 11, line 8, that the commissioners are to consider the public comments received during the review and comment period. Also on page 11, line 18, paragraph (2), "wellhead value" was changed to "net back value", based on advice from the administration. Furthermore, on line 19, "and treatment costs" was added along with the transportation; this references anything done to the gas treatment facility.

MR. BULLOCK noted on page 12, lines 16-17, statutory citations were edited to reflect the change in order of the review criteria with respect to public comment. On page 13, line 10, "calendar days" was changed from 100 to 60. On lines 22-23, it says "shall accept the certificate when all rights of administrative appeal relating to the certificate have expired." This limits it to the appeal before the agency.

CHAIR HUGGINS suggested this gets to Senator Wielechowski's concern yesterday.

SENATOR WIELECHOWSKI asked what the maximum amount of time is that an administrative appeal could take.

MS. DAVIS recalled that yesterday Mr. Shepler said once the appeal is filed, which must be within 30 days, the Federal Energy Regulatory Commission (FERC) undertakes its consideration. There is no firm timeline for FERC to resolve that appeal.

1:22:50 PM

DONALD SHEPLER, Greenberg Traurig, LLP, Consultant to the Administration, concurred. The term used at FERC is "request for rehearing," which must be filed within 30 days after the order that is being appealed. Then FERC takes that under advisement. There is no timeline for its final decision. Correcting his testimony yesterday that there is a 90-day period after FERC acts on the rehearing before going to the court of appeals, he said it is 60 days. However, that wouldn't be relevant if the committee adopts this change, limiting the appeal right to the administrative process.

SENATOR WIELECHOWSKI said he wants to ensure there is no misunderstanding of what "administrative appeal" means. It refers to the FERC appeal within the administrative process.

MR. SHEPLER replied for a FERC proceeding, he believes "administrative appeal" is clear and generally understood. But this also contemplates a review process if the project is jurisdictional to the Regulatory Commission of Alaska (RCA). While he couldn't speak to whether it is clear with respect to RCA, he opined that it's generally understood to be the appeal within the agency's own rules and regulations and wouldn't extend to a court challenge.

SENATOR WIELECHOWSKI said this can be looked at in the Senate Judiciary Standing Committee, but he wants it to be clear. His intent is adding language to say these rights will expire once someone's right before FERC has expired. Someone can still go to the supreme court or the first circuit court, but that won't hold up the gas line, the award of the certificate.

MR. SHEPLER opined that the aforementioned is embedded in the language.

MR. BULLOCK added that perhaps some language could be suggested such as "all rights of administrative appeal before the agency in this case". A similar provision refers to the administrative appeal before RCA, on page 14, lines 18-19. This makes the certificate timing the same, whether it's from FERC or RCA.

MR. BULLOCK highlighted a stylistic editorial change on page 16, lines 18-20, related to violations of the license. The term "project data" was deleted and replaced with "other data"; it occurs several other places that he didn't point out, since it's not substantive. And on page 17, lines 23 and 25, "qualified" was deleted before "person" at the administration's request.

1:28:08 PM
MS. DAVIS explained that as the team began working on the requested definition for "or other qualified person" and ensuring they were identifying the right category of persons that this intends to benefit - those entitled to lock up initial capacity in the first open season, and then to have the tax and royalty associated with the gas shipped in that capacity receive the benefit - the team needed to think about how the assignment provisions may or may not affect it. They realized it was a more complicated fix, but they weren't able to provide a definition of "qualified person" today.

MS. DAVIS elaborated, noting some places said "another person" or "qualified person". They'd thought a partial fix would be to

use just one term, "other person". So this is the only place where it said "qualified person". Although they wanted to eliminate it, they also wanted to put on the record that other pieces may require tightening up, to ensure the definition works correctly in the body of the bill.

1:29:19 PM
MR. BULLOCK said he'd asked and was told "qualified person" is a person qualified under AS 43.90.300 to take the inducement.

MS. DAVIS noted there's a difference between "qualified person" and "person qualified". That is another reason to take out "qualified" in this context. As Mr. Bullock said, the only time one sees "person qualified" it means qualified under the section .300 inducement. She acknowledged the need for further cleanup.

CHAIR HUGGINS surmised a few elements will have to be addressed in another committee in order to maintain the momentum of the Alaska Gasline Inducement Act (AGIA).

MS. DAVIS concurred.

MR. BULLOCK noted on page 18, line 13, "amend" was changed to "amends". The final change is on page 22, line 22, where he'd spelled out 500 million cubic feet numerically.

CHAIR HUGGINS asked whether there were questions. He then invited Ms. Davis to address the handout she'd provided.

MS. DAVIS said many of the changes to Version M that she would propose are typographical or conforming changes.

1:31:20 PM
MS. DAVIS began discussion of Amendment 2. She said lines 23 and 28 have essentially the same language, but one uses the word "matching" and the other doesn't. The administration has no problem with taking Mr. Bullock's suggestion that "matching" be deleted on line 28 to provide parallel construction.

MR. BULLOCK affirmed that "matching" is redundant language because it says the percentage that the state will contribute.

1:32:33 PM
CHAIR HUGGINS moved to adopt Amendment 2, to delete "matching" on page 2, line 28. There being no objection, it was so ordered.

MS. DAVIS began discussion of Amendment 3, relating to language that originally was the administration's. On page 3, the paragraphs beginning at lines 24 and 27 set forth the finding to be made by the three-person arbitration panel. Unfortunately, the original language had a two-pronged finding: that the project is uneconomic and then whether it should be abandoned. The administration doesn't believe the question of whether it should be abandoned is an appropriate inquiry for an arbitration panel, however. They want the question framed clearly: Is the project economic or uneconomic? So they recommend deleting "and should be abandoned" on lines 24 and 27.

1:33:46 PM
SENATOR WIELECHOWSKI pointed out that if there is a temporary dip in gas prices at the time of evaluation, an arbitrator could say it isn't economically feasible. However, gas prices could rise later.

MS. DAVIS indicated if criteria for abandonment were set up, it might not be structured to address that concern, an important one. Thus perhaps the framing of the "uneconomic" question should be clarified and set within a timeframe, such as at a point in time, over the life of the project, or for a range of time in the future. However, she'd have concerns just letting a three-party arbitration panel loose with regard to the range of considerations they believe relevant to the question of whether there should be abandonment; she didn't know what the panel would do. Usually, the desire is to be very tight as to what is sent to an arbitration group.

1:36:05 PM
PATRICK GALVIN, Commissioner, Department of Revenue, added that the administration intends to do further work on the definition of "uneconomic" and have it tightened up before the next committee. Once it's defined, he believes it will answer Senator Wielechowski's concern about ensuring it isn't just at that particular moment in time. The panel should only decide whether the project is uneconomic under the definition provided, and isn't to have a subsequent value judgment that's undefined about whether it should be abandoned.

CHAIR HUGGINS asked whether that satisfied Senator Wielechowski's concern.

SENATOR WIELECHOWSKI said this is turning over a tremendous amount of power and authority to the arbitrators. He urged caution.

MS. DAVIS agreed, but opined that tightening the aforementioned definition to include the frame of reference for timing would satisfy Senator Wielechowski's concern. Furthermore, including "and should be abandoned" would turn over even more power to a three-party panel to make further value judgments beyond the math and timing of the project evaluation on economic terms.

COMMISSIONER GALVIN, in response to Chair Huggins, clarified that today they're asking to eliminate "and should be abandoned" on page 3, line 24, as well as "and should not be abandoned" on line 27, to make it clear that the issue for the arbitration panel is just a determination of whether it is uneconomic. Subsequently, the administration will further define "uneconomic" so it clarifies what that determination is.

1:38:29 PM
CHAIR HUGGINS moved to adopt Amendment 3, on page 3, to delete "should be abandoned" on line 24 and to delete "should not be abandoned" on line 27. He asked if there was any objection.

SENATOR WIELECHOWSKI objected. He said he'd almost rather leave it as is, until there is further definition.

MR. BULLOCK suggested one issue is whether abandonment will automatically follow "uneconomic". That is a policy decision. Another is, uneconomic for whom? Does it relate to the state's economic interest until the certificate is issued, or just that it's no longer a good project for the licensee?

MS. DAVIS replied that the administration is taking that point into consideration. The definition needs to focus on the frame of reference. It isn't an easy definition, since they're working through different party references.

COMMISSIONER GALVIN opined that the two phrases which are the subject of Amendment 3 don't need to remain as placeholders. It might give the false impression that the administration is going to define both whether a project is uneconomic and whether it should be abandoned. The administration considers the section as a whole to establish that relationship. The primary issue will be defining "uneconomic".

1:40:58 PM
SENATOR WIELECHOWSKI said as he reads the statute, this authority is being given to the arbitrators, who have two decisions to make: 1) whether the project is uneconomic and

2) whether it should be abandoned. The statute does take into account that there could be a price dip or other factors in the world that affect the price of natural gas. If "and should be abandoned" is removed, then the sole criterion for the arbitrators is whether it is uneconomic. He disagreed with the assessment, saying this gives the arbitrators a tremendous amount of additional power, which he also disagreed with.

MS. DAVIS opined that they were saying the same thing, not wanting to give the arbitrators a tremendous amount of power and agreeing that, as this is written, it requires the arbitrators to make two findings. The administration wants one finding, based on a finding of "uneconomic". Unfortunately, the legislature doesn't have the definition that will be provided yet and thus doesn't have assurance that the timing issue will be addressed. She said there are many paths to the right place.

1:42:18 PM
COMMISSIONER GALVIN added that when the structure was set up, it was to allow one party to say the project is uneconomic and won't work. If that is determined to be correct, the desire is to give the party a chance to get out of having to move the project forward. The administration didn't intend for there to be other considerations. Rather, the intention was for a determination that a project is uneconomic to be the determining factor on whether to allow the abandonment provisions to then kick in. It wasn't viewed as a two-part test.

The committee took an at-ease from 1:44:15 PM to 1:45:59 PM.

CHAIR HUGGINS withdrew Amendment 3, saying the committee would defer it based on the objection and the administration.

MS. DAVIS called attention to page 5, line 20, paragraph (D)(ii), noting it wasn't listed on the handout because it arose when the administration saw Version M this morning. Mr. Bullock had thought the language transmitted to him last night was a little odd because it said "if the proposed project involves marine transportation of liquefied natural gas that is bringing North Slope gas to the tide line". He'd questioned the concept of a boat bringing gas from the North Slope to the tide line, and thus he'd eliminated that phrase.

MS. DAVIS said while Mr. Bullock's change might be fine, the administration is mindful of possible types of projects. Conceivably, an LNG plant on the North Slope could involve

marine transportation. She asked those present whether they had any suggestions for this language.

MR. BULLOCK noted the project only involves North Slope gas.

1:47:53 PM
MS. DAVIS suggested discussing the language during the next recess to confirm whether anything needs to be reinserted. She turned to page 18, lines 22-23, and identical language on page 19, lines 25-27. As discussed yesterday, this inserts a qualifier on the requirement of a receiver of the resource inducements to not protest the rolled-in rates relating to the 15 percent that the pipeline companies are required to propose and support. This was an effort to have an intermediate position that says: As long as there is a FERC rebuttable presumption, that receiver of the resource inducement isn't bound to honor the nonprotest of rolled-in rates for the 15 percent that the pipeline company has.

MS. DAVIS noted the administration expressed concern about this language yesterday and has had more time to think about it. She asked Mr. Shepler to articulate the concerns. She clarified that the suggested amendment would eliminate that insert in the royalty section and the tax section, to restore the requirement that someone receiving resource inducements has to honor the rolled-in rates plus 15 percent, just as the pipeline builder would in the pipeline-construction inducement phase.

1:50:08 PM
MR. SHEPLER told members the administration's position since introduction of AGIA has been that rolled-in pricing for an expansion of the line, up to a 15 percent rate bump-up for existing shippers, is essential. As originally drafted, without the phrase under consideration, AGIA has an obligation for the pipeline company to file at FERC for rolled-in pricing. As a condition to getting the inducement, there is a parallel obligation by the resource owners that get the upstream inducement to agree not to protest that aspect of the pipeline company's filing. So there is increased certainty as to how an expansion will be treated for rate purposes. This symmetry in obligations by the pipeline company and the shippers that are receiving resource inducements exists in the original AGIA.

MR. SHEPLER explained that the added language says so long as FERC has a rebuttable presumption in favor of rolled-in pricing, the upstream party receiving the resource inducement isn't committed to not oppose the pricing. He acknowledged the double

negatives. He said FERC has a policy, applicable only in Alaska, of a rebuttable presumption in favor of rolled-in pricing. This language says that if the expansion were filed today, the existing shippers - the upstream "inducees" - could protest the rolled-in treatment that the pipeline is obligated to propose to FERC. This sets the stage for litigation.

MR. SHEPLER noted at FERC the pipeline company proposes a certificate application for the expansion and proposes how the rates will be derived. Under AGIA, even with this language, the pipeline company presumably would propose rolled-in treatment. But without the quasi-contractual commitment, the shippers - the resource inducees - would be free to protest the price increase. Thus whether the expansion would be priced incrementally or on a rolled-in basis is unknown and indeterminable until a certificate is issued at the end of the FERC process. In addition, if this issue has arisen, the resolution can go to the court of appeals, further delaying the final answer.

1:55:32 PM
MR. SHEPLER recalled testimony yesterday that an explorer must have some confidence as to how an expansion will be priced before investing. He indicated the language under question in these two sections allows litigation and eliminates the degree of certainty, disrupting the symmetry attempted in the original bill and adding delay to the process. Thus the administration recommends deleting from Version M the phrase on page 18, lines 22-23, and on page 19, lines 25-27.

SENATOR WIELECHOWSKI recalled testimony from TransCanada on the impact of rolled-in rates, assuming a 4.8 billion cubic foot (bcf) line up to, say, 6.0 bcf, essentially modeling the J-curve. He asked whether the administration has a similar type of modeling.

1:58:06 PM
KEVIN BANKS, Acting Director, Division of Oil and Gas, Department of Natural Resources (DNR), replied there is some modeling of the impact to all shippers of such an expansion with respect to rolled-in tariffs; it was described in the second presentation to the committee a couple of weeks ago.

SENATOR WIELECHOWSKI asked how critical rolled-in rates are to the whole concept of AGIA.

MR. BANKS replied they are very critical because they have a tremendous impact on how explorers will evaluate an exploration

program. Under the bill, explorers can anticipate an opportunity every two years to respond to a solicitation by the pipeline company to expand the pipe. If they may come into an open season for that expansion but don't know the outcome for the tariff, however, it affects their attitude about proceeding with exploration activities.

MR. BANKS noted the second issue is potential delay, should there be an appeal at FERC of the tariff resulting from the expansion. Even a year's delay, under the modeling shown a week or so ago, can kill an exploration prospect. Explorers' economics are fairly tight, and any delay or carving away with respect to the rates can steal tremendous value from the explorer and severely damage the potential for new gas coming off the North Slope.

SENATOR STEDMAN said the state wants rolled-in rates. But the future models haven't been reviewed yet, and the Legislative Budget and Audit Committee hasn't yet brought forward consultants to assist with some of these questions. He recalled testimony showing that the tariffs under expansion could rise, fall, or stay the same. He suggested there is time to work through these issues and others. He said this bill is being moved along fairly fast.

2:02:05 PM
CHAIR HUGGINS recalled that MidAmerica described multiple scenarios with rolled-in rates, most of which depressed the price to the shipper. As for the 15 percent, he said he'd yet to hear someone testify that the 15 percent plateau could be bumped up against. He asked about the likelihood that rolled-in rates will raise the price for the shipper, noting he'd heard the producers say they'd be subsidizing new gas in the pipe.

MR. BANKS responded that if the expectation is that rolled-in rates will be the actual rates paid, an explorer asking for the expansion can figure out what it will be. With this provision, however, at the outset the explorer won't know the outcome of a FERC open season or the expansion rate, whether rolled in or incremental. That's the uncertainty. And then there is potential for having the expansion delayed because of an appeal.

2:03:51 PM
SENATOR WIELECHOWSKI gave his understanding that under current FERC rules and regulations, there cannot be rolled-in rates for a new tariff if they'll be subsidized. He asked how that rule

applies under the bill's current language, and if there would still be no subsidies on tariffs if the language were taken out.

MR. SHEPLER replied that FERC Orders 2005 and 2005-A said FERC intends to continue to balance two objectives: 1) no subsidy of one shipper by another and 2) for the Alaskan project, the statutory mandate of Congress in 2004 that FERC adopt regulations that encourage the exploration, production, and development of the Alaskan resources. In balancing those, FERC has come to its current policy: a rebuttable presumption in favor of rolled-in pricing. Order 2005-A discussed what constitutes a subsidy. Just because one rate is higher than another and it raises an existing shipper's rate, that isn't necessarily a subsidy. Rather, FERC would have to investigate it in the context of a particular application.

MR. SHEPLER opined that since that FERC policy is in place, the language being discussed here invites an existing shipper that receives the resource inducement to protest the rolled-in treatment. Rolled-in rates will go down under some scenarios, but if they rise it can be expected that the existing shippers will protest, resulting in litigation, delay, and uncertainty.

2:07:56 PM
MARTY RUTHERFORD, Deputy Commissioner, Department of Natural Resources, added that the state made a conscious decision, recognizing rolled-in rates could result in increased prices borne in part by the state; this is associated with the net backs for tax and royalty purposes. But because the expansion provisions for the North Slope are so critical to the state's interests, to ensure that new exploration activities occur and that there are reasonable tariff structures available to the gas outside the original 37 trillion cubic feet (TCF) or 35 TCF, it was decided that this is absolutely in the state's interest. The administration believes allowing a shipper to challenge rolled-in rates is antithetical to the state's interest, and thus they oppose the amendment and support the original construct of AGIA.

2:09:18 PM
CHAIR HUGGINS recalled that Anadarko, the only explorer the committee had heard from, alluded to the importance of the rate, saying the important thing was a successful gas pipeline open season. He asked for Ms. Rutherford's comments.

MS. RUTHERFORD replied she hadn't heard that testimony, but Commissioner Galvin could speak to it. However, having had many

discussions with Anadarko, British Gas (BG), and Shell about the importance of rolled-in tolls to their exploration interests, she firmly believes they think this is a critical element of AGIA.

2:10:23 PM
COMMISSIONER GALVIN noted they'd heard from "two and a half" explorers: Anadarko and the BG group spoke favorably about the expansion provisions, including rolled-in rates, with the latter particularly expressing much more confidence that its gas could get into a line. And Chevron said half the company would support rolled-in rates, but the other half might not. He told members that everyone has been clear that, from an explorer standpoint, rolled-in rates are great; however, someone with no intention of exploring and bringing in new gas or who doesn't own the pipeline will see it differently.

COMMISSIONER GALVIN added that the administration believes the inducement offered here has value, with a twofold goal: getting companies to commit gas while ensuring that explorers feel confident they can participate in this line in the future and therefore should start drilling wells. The amendment strips away half - though not half the overall value, since getting the gas committed is the primary interest - of what the administration is trying to get in exchange for the upstream inducements. They want it preserved in the bill.

2:13:04 PM
CHAIR HUGGINS said he tends to agree, but asked what incentives for exploration exist with PPT - known as the petroleum production tax or petroleum profits tax - or elsewhere.

COMMISSIONER GALVIN replied that PPT has the equivalent of 42.5 percent of exploration costs that the state will reimburse through credits or deductions off the tax bill. On top of that, there are opportunities to have 20 or 40 percent of exploration costs - depending on whether it is located within a producing unit or the distance from it - under the exploration incentive credit (EIC) program. Programs within DNR's leasing program offer incentives for particular leases where it is deemed appropriate. And there are some for Cook Inlet exploration as well. The state has programs geared towards providing a state contribution to an exploration's cost.

COMMISSIONER GALVIN recalled that ConocoPhillips requested that the producers which make the initial shipping commitments not have to bear the burden, since the state has many tools to

provide exploration incentives. In that scenario, he said, the state would shoulder it in the form of another incentive credit. The administration believes that in exchange for the certainty provided on the royalty and tax, however, the state should receive a commitment to accept rolled-in rates. It's an exchange being offered. The administration believes it provides significant value to explorers. They'd like to see it stay.

2:15:55 PM
CHAIR HUGGINS indicated the incentives just described were deemed generous when PPT was being discussed, but now there is concern about impeding exploration. He said the incentive is rolled-in rates, and he hadn't come to that conclusion yet.

COMMISSIONER GALVIN replied he wouldn't characterize rolled-in rates as an incentive to exploration. Rather, it is an assurance that the commercial terms available to an explorer will be predictable, be reasonable, allow them to commercialize gas, and allow them to expect a decision within a period of time. That's a different offer than covering some costs. The administration sees rolled-in rates as a way for the state to use the inducements in this package to get commitments, from both the pipeline company and the initial shippers, that they'll have terms for explorers that are fair.

2:18:01 PM
MR. BANKS pointed out that while the timing of the capital credits offered to an explorer is important, happening early in the development of a prospect, the value of rolled-in rates continues through the life of the project, past the point where capital credits might have been used.

MS. RUTHERFORD opined that it furthers the state's interests and the partnership arrangement. Through PPT last year, the State of Alaska has become a partner through its tax role with respect to exploration and development. She sees rolled-in rates similarly. It is in the state's long-term interest to maximize exploration and full-basin development in all the basins and offshore. Rolled-in rates encourage this.

MS. RUTHERFORD said for short-term expansions, everyone will be advantaged; for the expensive expansions, everyone will take a bit of a hit, although the 15 percent element would limit that. Those who don't currently hold proven reserves have said how critical it is. And the results of rolled-in rates are seen in the Canadian Alberta Basin areas. She said she wants to

replicate that model of development in Alaska, into the years beyond the 35 TCF.

2:20:22 PM
CHAIR HUGGINS urged caution about disadvantaging the state or inviting litigation, but acknowledged the importance of assurance for explorers. He indicated the need to see modeling or something beyond opinions, even if the opinions might be good ones.

SENATOR WIELECHOWSKI asked if the PPT incentives were too generous.

CHAIR HUGGINS indicated he didn't want to expand the conversation in that direction.

COMMISSIONER GALVIN referred to previous testimony from the different players. He said clearly the administration is trying to balance the various interests while recognizing how the state will facilitate the desired behavior. While acknowledging concern voiced about the possible use of rolled-in rates, he didn't recall any direct testimony that this provision would preclude someone from accepting the upstream inducement package.

2:22:50 PM
CHAIR HUGGINS offered his feeling that in a best-case scenario, the three big producers would come forward in the open season, but others would defer until later. The producers would say they are subsidizing others' gas moving through the pipeline. He surmised that this provision grew out of that frustration.

COMMISSIONER GALVIN expressed confusion, noting he hadn't heard anyone say that if the explorers find gas before the open season they'll wait because of some intent to get a better deal later. Rather, as soon as they find gas they intend to make a commitment, rather than riding on the coattails of someone else.

MS. RUTHERFORD said she hadn't heard the testimony, but she'd had conversations with some explorer companies in the last week. She'd heard complaints from some that if their reserves don't allow participation in the initial open season, they will - through the construct of AGIA as it currently exists - miss the opportunity for the upstream inducements. So they want to avail themselves of those values. She opined that while an initial compression expansion might lower the tariff structure, the values of the AGIA-provided upstream inducements will counteract any predisposition to waiting and, in fact, will encourage them

to be ready for the initial open season if there is any opportunity for them to do so.

The committee took an at-ease from 2:25:26 PM to 2:47:22 PM.

CHAIR HUGGINS reported that they'd conferred about this language and agreed it would remain. The administration would come back with data, legislators would get data, and it would be addressed in a subsequent committee.

MS. DAVIS told members that was the end of the administration's suggested changes. However, regarding the change made on page 13, line 10, with respect to the legislative approval, the administration is still concerned that even with the 60-day provision there will be timing problems. Nonetheless, the administration is comfortable with letting this provision continue to be debated and worked in the next committee.

2:49:04 PM
MR. BULLOCK noted the first section of the bill, where it talks about the $500 million, needs to be fleshed out with regard to how it will be handled.

CHAIR HUGGINS said it appears it will be addressed in the Senate Finance Committee.

CHAIR HUGGINS moved to adopt conceptual Amendment 4, to agree with the changes to be implemented by Mr. Bullock, whether they were from the administration or Mr. Bullock. There being no objection, it was so ordered.

2:50:08 PM
SENATOR WAGONER moved to adopt conceptual Amendment 5, on page 13 of Version M, deleting Section 43.90.200, titled "Legislative approval; issuance of license", and replacing it with the language from Version A, the original bill. Noting Mr. Shepler had spoken about uncertainty and potential delays relating to FERC, he said it is the same thing here. He believes there is a lot of uncertainty and potential delay if the legislature is allowed even 60 days to review a contract that it doesn't have authority to change.

SENATOR WAGONER added that it seems preposterous to take that responsibility to the legislative level. If the administration provides the legislature with a copy of the contract and bullet points explaining what is in the contract, he doesn't see any

need for more than 30 days, which he views as generous for such a review.

2:52:02 PM
CHAIR HUGGINS objected to the amendment.

SENATOR GREEN pointed out differences in wording. Version A refers to the 30th legislative day, whereas Version M says 60 calendar days. She asked how those compare.

SENATOR WAGONER replied it would be about 45 days. He indicated the amendment was offered to generate discussion.

CHAIR HUGGINS said another difference is approval versus disapproval.

SENATOR WAGONER concurred.

2:52:44 PM
SENATOR WIELECHOWSKI spoke against conceptual Amendment 5. While saying it is important to get this done as quickly as possible, he voiced concerns about the first version. First, perhaps it should be approval rather than disapproval, an issue likely to be addressed in the Senate Judiciary Standing Committee. Also, he'd like the administration to consider having the legislature approve it as a bill, rather than a resolution, to make it more "bulletproof."

SENATOR WIELECHOWSKI referred to the issue of 60, 30, or 100 days. He opined that 60 is a fair compromise, since 100 seems too long and 30 too short. It is "within" 60 days, so it could be done more quickly than that. Furthermore, he envisions the administration coming forward and presenting a tremendous amount of detailed information, including economics and modeling. It's a highly important decision for the state, and 30 days seems to short.

SENATOR STEDMAN told members he agreed with most of what Senator Wielechowski said. He opined that this is the most important decision the legislature has faced in the last several decades. Getting as much buy-in as possible with the people is important. The legislature needs to review the decision and ratify it so it's clear to all the players that Alaskans stand behind it and are moving forward to get a gas pipeline.

CHAIR HUGGINS agreed with Senator Wielechowski, adding that there is a potential for going to Alaskans and explaining the

merits of the entity that is awarded the license, and then getting Alaskans' comments.

SENATOR WAGONER said he doesn't disagree, but doesn't believe it is the legislature's responsibility; it is an administrative function. He expressed hope that when the Senate Judiciary Standing Committee reviews this bill, it will look at who has authority to negotiate and approve contracts under the constitution. It's not the legislature. It's the governor.

CHAIR HUGGINS said that is a good point.

The committee took an at-ease from 2:55:55 PM to 2:56:11 PM.

A roll call vote was taken. Senator Wagoner voted for conceptual Amendment 5. Senators Green, Stedman, Stevens, Wielechowski, and Huggins voted against it. Therefore, conceptual Amendment 5 failed by a vote of 1-5.

2:56:42 PM
SENATOR WIELECHOWSKI referred to discussion about rolled-in rates, pages 18, lines 22-23, and page 19, lines 25-27. He opined that this is an important policy call requiring a lot more discussion. He expressed concern that adding that provision could delay the project and discourage expansion of the line. He'd like to see more modeling from the administration on actual economic impacts. He'd also like to hear from experts as to whether this will impact an open season and future expansion. He noted he wasn't offering an amendment.

2:57:38 PM
SENATOR STEDMAN moved to report CSSB 104(RES), 25-GS1060\M, Bullock, 3/31/07, as amended, from committee with individual recommendations and accompanying fiscal notes. There being no objection, CSSB 104(RES) was reported from the Senate Resources Standing Committee.

There being no further business to come before the committee, Chair Huggins adjourned the Senate Resources Standing Committee meeting at 2:58:18 PM.