

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

March 14, 2008

3:16 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Bert Stedman, Vice Chair

**COMMITTEE CALENDAR**

SENATE JOINT RESOLUTION NO. 17

Urging the United States Congress to provide a means for consistently sharing, on an ongoing basis, revenue generated from oil and gas development on the outer continental shelf with all coastal energy-producing states to ensure that those states develop, support, and maintain necessary infrastructure and preserve environmental integrity.

MOVED SJR 17 OUT OF COMMITTEE

Presentation: Alaska Gas Inducement Act (AGIA) update by Steve Porter, Legislative Budget and Audit (LB&A) Consultant

**PREVIOUS COMMITTEE ACTION**

BILL: SJR 17

SHORT TITLE: OFFSHORE OIL & GAS REVENUE

SPONSOR(s): SENATOR(s) WIELECHOWSKI

02/19/08	(S)	READ THE FIRST TIME - REFERRALS
02/19/08	(S)	RES
03/01/08	(S)	RES AT 11:00 AM BUTROVICH 205
03/01/08	(S)	-- MEETING CANCELED --
03/14/08	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR WIELECHOWSKI

Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SJR 17.

MICHELLE SYDEMAN  
Staff to Senator Wielechowski  
Alaska State Capitol  
Juneau AK

**POSITION STATEMENT:** Commented on SJR 17.

STEVE PORTER  
Consultant to the Legislative Budget and Audit Committee  
Juneau AK

**POSITION STATEMENT:** Presented an update on AGIA labeled The Road Not Taken

#### **ACTION NARRATIVE**

**CHAIR CHARLIE HUGGINS** called the Senate Resources Standing Committee meeting to order at [3:36:24 PM](#). Present at the call to order were Senators Green, McGuire, Stevens, Wielechowski, Wagoner and Huggins.

#### **SJR 17-OFFSHORE OIL & GAS REVENUE**

[3:37:22 PM](#)

CHAIR HUGGINS announced SJR 17 to be up for consideration.

SENATOR WIELECHOWSKI, sponsor of SJR 17, said this measure calls on Congress to provide Alaska and other coastal states with a fair share of revenue from oil and gas leases and development in the outer continental shelf (OCS). He explained under the Mineral Lands Leasing Act of 1920, the federal government shares 50 percent of the revenues generated from mineral production on federal lands within each state's boundaries with the state. The shared mineral revenue is distributed automatically outside of the budget process and is not subject to appropriation.

Unfortunately there is no comparable authority for the federal government to automatically share revenue from oil and gas activity occurring six miles or more offshore with adjacent coastal states despite the contribution made by those states to the nation's energy supplies.

For years, coastal states have argued that they deserve a share of OCS revenues because they provide

the infrastructure that supports offshore operations and bear the environmental risks of offshore development. Several times Congress has recognized this federal contribution and created revenue sharing programs most of which have been temporary or were extended to only a handful of states. The most recent one of these programs was included in the Gulf of Mexico Energy Security Act of 2006. Under that act, the federal government agreed to give Alabama, Louisiana, Mississippi and Texas 37.5 percent of revenue from oil and gas leasing and development in newly opened federal waters in the Gulf of Mexico. This act is expected to distribute more than \$60 billion to those four states over the next 25 years.

Alaska was excluded from this program despite the efforts of our congressional delegation. This resolution supports the position that all coastal states with adjacent OCS development should receive on a regular and ongoing basis a fair share of revenue from OCS activities as compensation and reward for their contribution to the nation's energy security. Since statehood, oil and gas activities from Alaska's OCS have generated billions of dollars for the federal government.

A spreadsheet in their packets showed that almost \$6 billion has been collected from leasing and development in Alaska's OCS since 1982, not including the \$2.6 billion that the federal government is likely to earn from the recent Chukchi Sea Sale known as lease sale 193, a record breaking event with 667 bids offered for 488 blocks. If the revenue sharing program had been in existence similar to the one in the Gulf of Mexico, Alaska would have stood to gain \$975 million from that sale alone. He said more leasing and development is likely to occur in the future and while Alaska is still considered a frontier area for OCS development, two-thirds of the nation's OCS is off Alaska's coast. The Minerals Management Service (MMS) estimates there could be as much as 55 billion barrels of technically recoverable oil and 280 Tcf of technically recoverable gas off of Alaska's coast. Alaska already has 263 active oil and gas leases off of its coast covering more than 1.4 million acres.

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SENATOR WIELECHOWSKI said the Chukchi Sea sale could result in the leasing of an additional 2.7 million acres and that his office has been in touch with aides in Senator Ted Stevens's

office regarding this resolution and has been assured it will be useful in the Senator's effort to secure revenue sharing for Alaska. Senator Ted Stevens's chief aide for energy and the environment says he is confident legislation will be introduced in 2008 to create a multi-state revenue sharing program.

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MICHELLE SYDEMAN, staff to Senator Wielechowski, added that Senator Ted Stevens thought it would be good to act before the November elections for a number of reasons. One is that several members of Congress who support OCS revenue sharing will be retiring this year.

CHAIR HUGGINS countered that three Alaska legislators were at the Energy Council and New Mexico Senator Bingaman didn't support the revenue sharing concept and while he lives in a landlocked state, he's the Senate Resources Committee chair.

SENATOR WAGONER added that Senator Bingaman didn't come out strongly opposed to their pursuing it.

SENATOR STEVENS moved to report SJR 17 from committee. There were no objections and it was so ordered.

AGIA Update - Steve Porter, LB&A Consultant

CHAIR HUGGINS said the committee next would hear from Steve Porter.

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STEVE PORTER, consultant to the Legislative Budget and Audit Committee, said he titled his presentation The Road Not Taken, because over many years a number of different ways have been tried to get to an Alaskan pipeline, but none of them got us there.

MR. PORTER said his presentation would cover the differences between corporate and government worlds and processes, sovereignty responsibility and the legislative process. He would also cover the shippers concerns and what it really takes to get them to an open season; he would then talk a little bit about where AGIA is now, followed by some informal comments about the TransCanada proposal specifically.

He said sometimes the two worlds don't communicate very well. The corporate world is a world of gated decision-making processes and negotiations. So, when the State of Alaska says

the corporate world must make a commitment by a certain date, they find that difficult to agree to especially in a major project. They may want to do a project, but they have certain gates they need to walk through first. Certain economic analyses have to occur before they move on to the next stage in a project. So when the state says it wants a commitment to build a pipeline and to go all the way to the FERC certificate, they have a difficult time doing that from an internal process standpoint, not because they don't want to do it, but because they could lose control of the project and that could potentially cost them great amounts of money.

The corporations are in a negotiations world; that's where they don't understand the government process which is generally not one of negotiations, but rather of decision-making from the standpoint of a sovereign. He suggested that the corporations should have talked about their concerns with the gas tax, for instance, rather than trying to negotiate with the government about them.

MR. PORTER said he wanted to talk a little more today about how to move through the process of hearing the corporations' concerns and come to a good resolution. He said two processes are occurring currently, one is the corporate process to build a pipeline. ConocoPhillips put a plan forward, but in the government's world they showed what they were going to do to move ahead. ConocoPhillips has also said it has concerns that need to be dealt with to move the project forward. That is the public process outside of both AGIA and the Stranded Gas Act.

He explained the government process is within AGIA and moving the applicant forward through a bid process. This is not normally the responsibility of government, but in unique circumstance when things are not occurring as the government would like, it can step out of its normal role into a role that will allow an activity to occur.

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CHAIR HUGGINS likened it to driving in a car on a road with a 55 mile speed limit, but if you're in a speed boat in a canal running parallel to the road, you don't have to observe the 55 mile speed limit. It will get you to the same place, but different rules.

MR. PORTER agreed. It's the state's responsibility to make sure that the speed boat and the vehicles on the road have the potential for getting to their final destination. The state's

responsibility to both of those processes is to create a stable fiscal environment upon which commercial activity can occur.

3:50:27 PM

CHAIR HUGGINS assumed for a minute that Enstar would build the bullet line, then the question is whether or not that is a competitive or a parallel process with or without an LNG component.

MR. PORTER responded that two AGIA provision address the Enstar proposal; one excludes them if they want to deal with less than 500 Mmcf/day in terms of being a competitive process. Second, AGIA says if you are outside the process and the state isn't providing you with incentives or enhancements, you are also out. Just to build a separate pipeline is not competition to the AGIA process. So, as long as Enstar stays under the 500 Mmcf/day or if they exceeded that, so long as they are just building a pipeline and not asking for any help, it doesn't conflict and the state is not in conflict with doing its responsibilities as a state government, which is permitting and managing a project. "There is no conflict with the Enstar process."

CHAIR HUGGINS asked what happens if the state is part owner or assists in the bonding process or financing.

MR. PORTER answered if the project is less than 500 Mmcf/day, it's probably okay; above 500 Mmcf/day and with special incentives and the state's obligations might have to be looked at.

SENATOR WAGONER said he didn't hear Enstar say they needed any help from the state to construct a pipeline.

CHAIR HUGGINS said they need to understand what the rules are under all scenarios.

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MR. PORTER said Enstar's proposal was to take Foothills gas from Anadarko or others and not the core North Slope gas. So that should not affect the ability of a major pipeline to move forward.

CHAIR HUGGINS asked what if Enstar's project exceeds 500 Mmcf.

MR. PORTER replied you may have a legal problem, not a practical problem. If you're tapping Pt. Thomson reserves, you would want to examine the impact of that against a second pipeline.

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He went on to explain that sovereign responsibility is often forgotten, but it is almost as important from a stability standpoint to major corporations as the tax is. The Majors are worried if the state government can't manage its finances and its budgets properly, then when it gets out of money, it would come to them and raise their taxes. So, in the short term, if the state manages its surplus properly and saves it for the future that brings stability to how a corporation views Alaska as a potential place to invest. Having a long term fiscal plan is important as well.

SENATOR WIELECHOWSKI said Alaska has the largest Constitutional Budget Reserve (CBR) of all the states and asked if corporations would consider that as fiscal stability.

MR. PORTER replied yes.

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MR. PORTER said corporations also look at project-specific stability. He explained that sometimes government doesn't ask the right question of industry. If it asks what it needs, they will generally not answer. If government asks what their concerns are and listens properly, it would get the answer in terms of a list of their concerns and then they could begin to focus on those areas.

He explained that industry has focused on three areas even before the Stranded Gas Act: the term of stability, the gas tax and a couple of royalty issues. Addressing these would substantially increase the likelihood of a project moving forward.

The term issue has two elements; one is the level of certainty and two is the duration of the certainty. The current level of certainty is basically by statute. They passed AGIA that says anyone who shows up at an open season has 10 years worth of fiscal stability. It's in statute and it can be changed any year after this year. So, it really operates more as an intent statement as opposed to an actual contractual stability. In its favor, 50 percent of the legislature has to change their minds and that's very hard to get. So, having it on the books is more than just a nice statement and it is a reasonable position to hold.

The position that both the governor's office made originally in AGIA and most of the industry players are asking for is contractual stability, which doesn't allow the legislature to change its mind for a term of years by contract. The industry would like to see that; it is much more stable than statute. The governor originally proposed that, but the legislature decided not to go that far.

MR. PORTER said the constitutional responsibility is actually the safest of the three.

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SENATOR WAGONER stated the idea of having contractual fiscal certainty was never voted on by the full legislature. He wasn't sure that isn't still a possibility, but the problem he has with that is the legislature hasn't been asked to put that language back into the contract; so maybe it isn't important.

MR. PORTER said industry doesn't want to tell the legislature what to do; rather the legislature has to listen to industry's concerns. For instance, ConocoPhillips talked about its contractual stability; BP and Exxon have been a little more silent. Generally, the way he has analyzed the three corporations is that he watches what ConocoPhillips says; some are less forthcoming than others in explaining whether something was sufficient to move a project forward. This goes back to the basic responsibility of government to determine what is fair. They might not get a specific answer, but lawmakers need to listen to concerns, decide if they are valid and then address them. If they do those things, the pipeline will move forward and be built eventually.

SENATOR WIELECHOWSKI asked if he is saying the state is taking the wrong road because he labeled his slides The Road Not Taken.

MR. PORTER explained that "basically the road that has not been taken so far is the one that leads to a pipeline."

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SENATOR STEVENS added that at the end of this poem by Robert Frost he says the right road is the one less traveled. But he didn't know which one is the less traveled.

SENATOR GREEN asked Senator Wagoner what the combined vote was on passing that bill out of the Super Committee.

SENATOR WAGONER clarified that he was referring to a vote in the Judiciary Committee and he didn't know what that vote was. The contractual language that gave a 10-year certainty for those who committed gas at an open season was taken out of AGIA.

SENATOR WIELECHOWSKI recalled that they were trying to do it in a way that would best withstand challenge - recognizing it is hard to bind future legislators.

CHAIR HUGGINS said if one assumes TransCanada is going to get the contract, the state has between now and the fall of 2009 to establish the fiscal terms. If it wants to use present rates, they should just say that so people could plan.

He said two months ago he talked to another long-time senator about how TransCanada would be presented for an up or down vote, but that senator responded, "There's never an up and down vote. He said you can change what ever you want to within reason in AGIA...." He asked Mr. Porter to elaborate on that.

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MR. PORTER said he planed to address that later in his presentation. In response to Senator Wielechowski's comment, having fiscal certainty in statute presented the least risk for being overturned. Otherwise a constitutional amendment would be needed and that would require a near unanimous vote of the legislature and the governor would have to support it. She would have to convince Governor Hickel, Backbone, the Port Authority, and any other major stakeholders to support it as well. Otherwise it would fail the public vote. Failing a public vote would make bringing it back difficult to even put in the contract. The risk is to the industry that a failure with the public would forever close that door.

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He said the next piece talks about the duration of certainty. Current statute says 10 years. A few weeks ago, the governor said she is comfortable with 10-15 years; ConocoPhillips said 20-25 years. The Stranded Gas Contract said 35 years.

CHAIR HUGGINS recalled that ConocoPhillips also suggested indexing the fiscal certainty timeframe to the length of the gas commitments.

MR. PORTER said that was a good point. He said the public perception of the Stranded Gas contract is 45 years because it consisted of the 10 years of construction plus the 35 years. He

saw maybe a 5-year gap under AGIA with the 10-15 years, which is a lot more solvable. So he didn't see that as a major problem in moving the gas pipeline forward.

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MR. PORTER said the next issue was the gas tax and they have heard about billions of dollars in concessions, but those are not necessary. All the industry needs is a fair tax and that is all it is asking for. He explained that a fair tax is very similar to the PPT. Its analysis was all about what is a fair tax at low, medium and high prices, because if the tax is unfair to anybody, the state or the taxpayer, you get results than you don't want to see. If it's unfair to the taxpayers, they invest less money and the state gets less revenue; if the state gets less money in relationship to the industry, it would create what he equates with the ELF environment where the state ultimately created a new tax. So having a tax that is fair between the parties at all prices is very important. "The further you get away from what I'll call the fairness line, the more unstable the tax becomes."

MR. PORTER said this tax could be the one, but the gas tax has not been analyzed yet.

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CHAIR HUGGINS said forget about negotiations. Just for the record, last October and November the legislature established a regime and everybody got to weigh in and people he talks to support it.

MR. PORTER agreed. This is not about negotiations; it is the legislature's responsibility to evaluate what a fair tax will be and they should review and change it if need be.

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Regarding the royalty in kind (RIK) versus royalty in value (RIV) issue, he said concerns were expressed by industry and dealt with in AGIA which said the DNR would establish how to handle it. Then the industry could lock that in by contract. There is only one concern and that is that DNR wouldn't complete that regulatory process until just before the open season and it therefore would not be reviewable by the legislature and somehow they will do something unreasonable. The best way to solve that concern is request that DNR complete that regulatory process before the next legislative session.

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CHAIR HUGGINS said the issue of the regulations not being done had been brought up a lot. He asked if they are doable by next January.

MR. PORTER replied that DNR has already had one year to work on them and state agencies tend to hit their deadlines. So if the legislature sets a deadline just before open season, that's when the regs will get done. If they put a priority on them, they will get done sooner. After listening to industry and the legislature, he found, "You don't have to move very far."

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He said the term issue should be dealt with before the tax issue. He recommended starting to deal with it now, because there would be upward or downward pressure on the tax depending on the term of certainty.

CHAIR HUGGINS said he had requested that LB&A look at the full spectrum so they can start reviewing it.

MR. PORTER said the recommendations he is making are simple, but they will substantially increase the likelihood of a project moving forward.

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He moved on to the AGIA process that is now in the bid stage. The most important thing about that is that the state cannot renegotiate with the bidders; it would be unethical. The winning bidder comes before the legislature and that's when some of the terms could be changed slightly. A license could be awarded under that scenario.

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CHAIR HUGGINS said the license could have some qualifiers on it.

MR. PORTER agreed and explained that all the economic terms of the license proposal should be examined. An up or down vote is one of the possibilities; some argue the legislature doesn't have the right to change a license. Someone asked what their authority is to change it. His response is when a statute is silent, which this statute is, on the type of license to be awarded, the courts would generally give a reasonable amount of deference to the legislature, because it is the decision-maker and the writer of the bill. So, the real question is, "When the statute is silent, what authority do we have to write up a bill that changes the parameters of TransCanada's license proposal?"

MR. PORTER opined the risk is if the license is changed too much, TransCanada might choose to not move forward with the project.

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SENATOR WIELECHOWSKI recalled the governor's position is that the legislature could recommend to AGIA, but she would have to accept the recommendation.

MR. PORTER responded that was a good question, but the way AGIA works is it first has a public hearing, which was just completed. That's when the legislature can make its recommendations. Once that is done, the governor reviews it and decides whether or not to move the licensee forward. Someone asked if the governor could renegotiate the license at that point, but the statute is silent on that as well.

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He said, "You're granting the license; she gets a chance to either sign the contract or whatever. I think it's your responsibility to basically approve the license; it's not hers. So you're sitting in the responsibility seat, you might say."

CHAIR HUGGINS said a big conjecture in the previous administration was if the governor could just go off and, say, build a pipeline under AGIA no matter what the legislature does.

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MR. PORTER answered that he remembers that conversation and his position is the same - it would have been irrational for the previous governor to do so; he would have been violating the law and it would be irrational for this governor to do so as well. He said, "She has no authority to do it."

In terms of why they might want to consider some changes to the license, he said it doesn't change the TransCanada proposal, but it changes the state's commitment to TransCanada. He said that TransCanada proposed a rate of return on equity (ROR) of 965 basis points above the rate of U.S. 10-year treasury notes in effect at the beginning of that year. The 10-year treasury yield has been somewhere above 3 percent to just over 5 percent. So that gives a 13-15 percent ROR, which isn't too bad. If one thinks a 14 percent ROR is fair, it would be okay to tie it to the 10-year Treasury note. But if you look at what is going to happen, you would have 10 years worth of construction, plus 20 years of FTC. So the question is: what is a 10-year treasury note going to do over the next 30 years. A very different story

emerges looking at the last 30 years when it's been anywhere from 3-15 percent, which would give the licensee under the proposal somewhere between a 13-25 percent ROR. That is very healthy for a monopoly pipeline.

SENATOR WIELECHOWSKI asked if the FERC doesn't set the rate of return.

MR. PORTER answered that was a good point and because the FERC and the NEB set the rates of return anyway, why should the state be committed to supporting a rate of return that doesn't seem to be in its best interest. The state should allow TransCanada to propose anything it wants to the FERC and the NEB because they are the decision makers. The state should represent itself and its taxpayers in those regulatory decisions, but it shouldn't necessarily tie itself to TransCanada's proposed rate of return. It looks generous. He speculated that tying ROR to 10-year treasury notes transferred inflation to the state and the shippers, because 10-year treasury bills generally follow the rate of inflation.

Another element on his ROR page was the up-to-2-percent reduction on the variants between actual capital costs and the base capital costs for five years. In other words, if they make a mistake and have cost overruns, they are going to take a hit on their ROR. That's a good recommendation and it's something they didn't have to do and it increases their commitment to try to keep the costs down. He said it has two elements to it; one is the five years and he pointed out that for large capital overruns a five year hit on ROR wouldn't come anywhere close to addressing the hit the State of Alaska or the shippers would take.

The other element is the difference between the actual costs and the base capital costs. The base capital costs are those costs that are determined at the end of the FERC process. The costs that the shippers commit to are the costs at the open season. Definitely TransCanada gets quite a bit more certainty as to the economics of the project and they get a higher class level of understanding of capital costs. It's not a major issue, but it's important to recognize that the shippers are taking the risk in a less informed environment and TransCanada is taking the risk on the differential. But he thought this was a good term and that TransCanada brought it forward to enhance the overall economics of the project.

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MR. PORTER said the next issue had to do with the debt/equity ratio. TransCanada proposed a 70/30 during the construction phase; they proposed to refinance that debt equity to a 75/25 during the operations phase. That is very good for the state. The 60/40 during expansions is a violation of the statute and is a bad idea. He would change it to 70/30.

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CHAIR HUGGINS interrupted and asked where he got these ratios.

MR. PORTER replied from the TransCanada proposal.

CHAIR HUGGINS said the TransCanada proposal is just their thoughts.

MR. PORTER said that's an interesting question - if this proposal is their thoughts or is the state committing to every term in the license. He believes that TransCanada thinks every single financial term in the proposal is a commitment by them and a commitment by the State of Alaska if the license is granted to them. And he thought they were right.

On the 60/40 issue, you have to first understand the definition of "project." This is where he differs a little bit from the administration that says there's a difference in the statute between the initial project and subsequent expansions. He didn't find that in law, but Marty Rutherford showed him the language that she believed backed up that view. The definition of "project" in the statute says it means "a natural gas pipeline authorized under a license issued under this chapter." This means the whole thing. He went to section 130 [AS 43.90.130] where all the "must haves" were located and found that section 130 didn't have any distinctions between those sections of 130 that apply to an initial project and those sections of 130 that apply to expansions. They all apply to the project.

He said the problem is that section 130(10) says "commit to, propose and support rates for post project and for any North Slope gas treatment plant an applicant may own in whole or in part that are based on a capital structure for rate making if it's not less than 70 percent debt." The problem with using a 60/40 debt equity ratio is that this language says anything in the project has to be a 70/30 ratio and he didn't see any way of getting around that.

However, he talked to TransCanada and they are that the RFA says the applicant may commit to, propose and support a capital

structure for expansion facilities that consist of less than 70 percent debt. So, the administration does believe and intended that TransCanada could move to a 60/40 debt equity structure. The only question if they follow the RFA, is their application deemed to be complete. Then you go back to the statute that says, "The commissioner shall reject an incomplete, as incomplete, an application that does not meet the requirements of AS 43.90.130." So, it is a difficult situation where the administration gave the wrong guidance to the applicant; the applicant followed and they are both in violation of the statute. He wanted to leave that problem with the legislature, but he would make some recommendations that would take them to the next stage.

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MR. PORTER said TransCanada explained its concern to him about being able to finance an expansion with 70/30 debt equity; they believed they needed 60/40 to do it. So, Mr. Porter suggested finding out if that is true. If they can't finance an expansion with 70/30 debt equity, then the statute probably needs to be fixed. If they don't need 60/40, then TransCanada's application needs to be fixed by dealing with it in its license.

SENATOR WAGONER remarked that TransCanada didn't say they couldn't build the line at 70/30; it was talking about the expansion of capacity.

MR. PORTER agreed and said if they need 60/40 for an expansion, the legislature has to decide if that is fair and that should be addressed in the license. He said that was the end of his presentation.

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CHAIR HUGGINS said you mentioned equity, but not about someone taking equity in the pipeline - maybe 51 percent.

MR. PORTER responded that he was the state's lead negotiator under the Stranded Gas Act for the pipeline. A 51 percent position is very high-risk venture. He is now trying to figure out how much risk the state could take on. Owning a piece of the pipeline ultimate is not a bad thing, because of the value. The question is do you want to take the risk during the building stages. Under the gas pipeline contract he negotiated the state took an ownership position at project sanction. This exposed basically \$200-\$300 million to project sanction. At that point, if the parties wanted to move forward with the project, the state got the choice of what piece of the project it wanted to

hold based on its own risk portfolio. It could own portions of the upstream feeder lines or the Alaskan portion only et cetera. It could actually sell everything else off at that point to the other applicants at 100 percent of value. Buying before the pipeline is built is risky; after the pipeline is built, buying a piece is a fine idea. If the state wanted to participate during the construction phase, he suggested 51 percent was very high risk.

CHAIR HUGGINS said their concern is about the rate subsequent to construction and if the small players get together and buy 51 percent of the project. How could they get around that potential scenario?

MR. PORTER replied he didn't think that concern was necessary. He explained there is a very different role between the FERC and a regulated pipeline and the TAPS pipeline. Commissioner Galvin talked about this and said the TAPS issues won't occur on this pipeline because every single change will have to go before the FERC before it happens.

CHAIR HUGGINS said some members were pretty overwrought about this.

MR. PORTER replied that he didn't think it got thoroughly vetted because of the circumstances under which AGIA was passed.

SENATOR WAGONER asked what position FERC would take on the 60/40 ratio for an expansion.

MR. PORTER guessed they wouldn't have a problem with it, but they could change it. FERC would see through all the manipulations of contracts and determine what is fair.

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CHAIR HUGGINS said FERC's theorem is that potentially in going forward, they would be the authority over the LNG plants and the pipeline, which is different than what he had heard that they would have the LNG plant.

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MR. PORTER responded if an open season allows for an LNG project to go forward as well as the Canadian project, you allow the commercial players to make the decisions they have to make. The state shouldn't stand in the way.

SENATOR WAGONER asked what he meant by external FERC control. He would support an LNG project and then shipping to the Lower 48 and being reinjected into a FERC regulated system; but he wouldn't if it the LNG gets exported. FERC would have no say over that.

SENATOR MCGUIRE countered that FERC does have a say under the export license.

SENATOR WAGONER said that's under the Department of Energy (DOE), not FERC.

SENATOR MCGUIRE added, but through their coordination, FERC would have a say in any LNG project. When the Yukon Pacific license was granted the world looked a whole lot different. In 2005 when the legislation passed, FERC believed it had the authority to revisit that issue in a completely different manner. It went out of its way to say so.

SENATOR WAGONER said his point is that it's not a FERC responsibility, but rather DOE's.

CHAIR HUGGINS recalled that one of BG Group's major concerns was who regulated the pipe in an LNG operation. They were concerned about a conflict with the state and the RCA. It was new to him when FERC said it would be involved.

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SENATOR MCGUIRE said FERC's point was that there would be federal authority over the project. Some people have thought the old Yukon Pacific license was a separate viable ready-to-go deal, but it's not. She also added that FERC went out of its way to say it didn't care about politics whether it's AGIA or the Stranded Gas Act.

CHAIR HUGGINS said some of the financial houses have referred to a non-equity partner or owner and asked what that conjures up in his mind.

MR. PORTER replied that he wasn't familiar with a non-equity owner.

CHAIR HUGGINS thanked Mr. Porter for his presentation and adjourned the meeting at [4:55:41 PM](#).