

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

February 24, 2012

1:09 p.m.

**MEMBERS PRESENT**

Representative Eric Feige, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Peggy Wilson, Vice Chair  
Representative Alan Dick  
Representative Neal Foster  
Representative Bob Herron  
Representative Cathy Engstrom Munoz

**MEMBERS ABSENT**

Representative Berta Gardner  
Representative Scott Kawasaki

**OTHER LEGISLATORS PRESENT**

Representative Mike Chenault  
Representative Mike Hawker

**COMMITTEE CALENDAR**

HOUSE BILL NO. 289

"An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 9

"An Act requiring the Joint In-State Gasline Development Team to report to the legislature recommended changes to state law that are required to enable or facilitate the design, financing, and construction of an in-state natural gas pipeline so that the in-state natural gas pipeline is operational before 2016; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 289

SHORT TITLE: NATURAL GAS STORAGE TAX CREDIT/REGULATION

SPONSOR(s): REPRESENTATIVE(s) THOMPSON

01/17/12 (H) READ THE FIRST TIME - REFERRALS  
01/17/12 (H) RES, FIN  
02/24/12 (H) RES AT 1:00 PM BARNES 124

BILL: HB 9

SHORT TITLE: IN-STATE GASLINE DEVELOPMENT CORP

SPONSOR(s): REPRESENTATIVE(s) CHENAULT

01/18/11 (H) PREFILE RELEASED 1/7/11  
01/18/11 (H) READ THE FIRST TIME - REFERRALS  
01/18/11 (H) RES, FIN  
02/06/12 (H) RES AT 1:00 PM BARNES 124  
02/06/12 (H) Heard & Held  
02/06/12 (H) MINUTE(RES)  
02/08/12 (H) RES AT 1:00 PM BARNES 124  
02/08/12 (H) Heard & Held  
02/08/12 (H) MINUTE(RES)  
02/10/12 (H) RES AT 1:00 PM BARNES 124  
02/10/12 (H) Heard & Held  
02/10/12 (H) MINUTE(RES)  
02/13/12 (H) RES AT 1:00 PM BARNES 124  
02/13/12 (H) <Bill Hearing Canceled>  
02/24/12 (H) RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

JANE PIERSON, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 289 on behalf of the prime sponsor, Representative Thompson.

GENE THERRIAULT, Vice President Resource Development  
Golden Valley Electric Association (GVEA)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 289.

DAN BRITTON, President/CEO  
Fairbanks Natural Gas (FNG)

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 289.

TOM WRIGHT, Staff  
Representative Mike Chenault  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed provisions of and proposed amendments to HB 9 on behalf of Representative Chenault, prime sponsor.

RENA DELBRIDGE, Staff  
Representative Mike Hawker  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed proposed amendments to HB 9 on behalf of Representative Hawker, sponsor.

JOE DUBLER, Vice President  
Alaska Gasline Development Corporation (AGDC)  
Director of Finance, Alaska Housing Finance Corporation (AHFC)  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 9.

DARYL KLEPPIN, Commercial Manager  
Alaska Gasline Development Corporation (AGDC)  
Alaska Housing Finance Corporation (AHFC)  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 9.

TINA GROVIER, Attorney, Natural Resources and Energy Law  
Birch Horton Bittner & Cherot  
Counsel to Alaska Gasline Development Corporation (AGDC)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 9.

#### **ACTION NARRATIVE**

[1:09:02 PM](#)

**CO-CHAIR PAUL SEATON** called the House Resources Standing Committee meeting to order at 1:09 p.m. Representatives Herron, Dick, Foster, Feige, and Seaton were present at the call to

order. Representatives Munoz and P. Wilson arrived as the meeting was in progress.

**HB 289-NATURAL GAS STORAGE TAX CREDIT/REGULATION**

[1:09:23 PM](#)

CO-CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 289, "An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date."

[1:10:12 PM](#)

JANE PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, introduced HB 289 on behalf of the prime sponsor, Representative Thompson. She said the cost of energy is crippling a good portion of Alaska's residents. The ever increasing expense of heating homes and operating businesses during the long cold winter is hurting the ability of Alaskans to put food on the table and plan for the future. The Fairbanks community alone spends over \$600 million per year on space heating and is unable to expand its business district due to a lack of affordable natural gas. An infusion of gas in Fairbanks would reduce the cost to end users and would restore the ability of Fairbanks to grow its economic base.

MS. PIERSON said HB 289 would incent the private sector's delivery of lower cost natural gas to Interior Alaska by extending the tax credits for a liquefied natural gas storage facility, which is necessary for a natural gas trucking project and something that Fairbanks is considering. A new credit for construction of above-ground liquefied gas storage tanks would make this program flexible to fit the varying needs of gas delivery in Fairbanks and possibly throughout the state. The bill would apply to a liquefied natural gas storage tank facility with a minimum volume of 1 million gallons and the amount of the credit would be limited to 50 percent of the construction costs up to \$15 million. Additionally, HB 289 would allow eligible above-ground liquefied natural gas storage facilities sited on state lands to request an exemption from rental payments. The exemption could extend for up to 10 years

following the commencement of commercial operations. The bill defines how credits should be distributed, both as a tax credit and as payments to non-taxable entities.

MS. PIERSON pointed out that HB 289 also has safeguards. The liquefied natural gas storage facility would be regulated by the Regulatory Commission of Alaska (RCA) to ensure incentives are passed on to customers. The bill would also set forth how a person receiving a credit or a payment shall repay the credits or payment if the facility ceases commercial operations within the nine calendar years immediately following the calendar year in which the facility commenced commercial operations. Further, HB 289 would define "liquefied natural gas storage facility," "ceases commercial operations," and "commences commercial operations" for a liquefied natural gas facility.

1:12:48 PM

CO-CHAIR SEATON noted for the record that before the committee was Version I, the proposed committee substitute (CS) for HB 289 [labeled 27-LS1216\I, Bullock, 2/20/12]. He said this is the first hearing on HB 289 and therefore Version I is the bill before the committee.

REPRESENTATIVE HERRON, in regard to the \$15 million and 50 percent credit, inquired what the estimated total construction cost would be for a 1 million gallon facility.

MS. PIERSON replied that the sponsor has been hearing it would be around \$40 million.

CO-CHAIR SEATON asked what percentage of daily use, or how many days of use, would 1 million gallons of liquefied natural gas (LNG) represent.

MS. PIERSON responded that according to Golden Valley Electric Association (GVEA), 1 million gallons would be approximately one week of use. For the amount of usage by Fairbanks Natural Gas, another company that would like to use this, she deferred to the company's representative online [Dan Britton].

1:14:18 PM

CO-CHAIR SEATON inquired whether 1 million gallons would constrain communities [that are smaller than Fairbanks] from being able to use this proposed credit. He further asked

whether Representative Thompson would have a problem if the amount was half a million gallons rather than a million gallons.

MS. PIERSON did not believe that that would be a problem, but said she would research what other communities think they might need so that there would be a basis for the number.

CO-CHAIR SEATON related that in Norway, small inner-port tankers go from coastal village to coastal village delivering LNG into tanks. He said it seems that this could also be applicable to coastal communities in Alaska provided the quantity is not so large that only the largest communities could use it.

[CO-CHAIR SEATON opened public testimony.]

[1:16:33 PM](#)

GENE THERRIAULT, Vice President, Resource Development, Golden Valley Electric Association (GVEA), noted that GVEA is working on projects that will move the utility away from oil-fired electric generation. He offered appreciation to Representative Thompson for introducing HB 289 on GVEA's behalf. He pointed out that the 2010 [Cook Inlet Recovery Act, House Bill 280,] was related to the need of putting a storage mechanism into the natural gas supply stream in Cook Inlet. In that bill the legislature decided to assist with lowering or controlling the cost of that storage component as it was added to that supply stream. A policy call was made that the state would offer assistance up to \$15 million with the construction of that infrastructure.

[1:18:11 PM](#)

MR. THERRIAULT explained that, at the time, the language talked about storage of gas in a depleted reservoir or pool as well as a tank, a tank denoting a mechanical storage facility on top of the ground. Because the focus at that time was on the needs of Cook Inlet, the threshold for what size tank would qualify was geared toward geologic storage and storage in a gaseous state rather than a liquid state. Because gas needs to come to Interior communities in a liquid state, that section of [House Bill 280] was looked at for applicability to the Interior and, if so, determining any needed modifications. One potential problem is that threshold for how big the tank needs to be for storing liquid methane; therefore, primary for HB 289, is defining how big the liquid tank needs to be. He explained that concern has been expressed by the backers of [House Bill 280]

about modifying that section of statute. They have requested that the problem be addressed by creating a separate, almost identical, section of statute that is geared towards natural gas in a liquefied state. The difference between the two is that when LNG is turned into gas its volume multiplies by 600-620 times, so the difference in quantity that is being dealt with is tremendous. Expressing GVEA's thanks for the policy call to provide some state assistance for putting a storage component into the supply stream, he said GVEA is now trying to ensure that it is workable for the anticipated project in the Interior.

[1:20:26 PM](#)

MR. THERRIAULT outlined the four major components of HB 289 [Version I]. One component would provide a 10-year waiver of lease payments for qualifying storage facilities on state land, as was done in the Cook Inlet Recovery Act and which would help reduce the cost to consumers. A second component would create a separate mechanism for providing a tax credit for the storage of methane in a liquefied form. In response to Co-Chair Seaton, he elaborated that Section 3 of HB 289 deals with an above-ground natural gas storage facility tax credit patterned after the storage tax credit that was granted in the Cook Inlet for gaseous methane. This part of the bill would create a new section [in statute] that mirrors the Cook Inlet mechanism, but is for methane in a liquid form.

[1:22:24 PM](#)

MR. THERRIAULT said a third component would add the word payment. Testimony at the time [of House Bill 280] said the credit would be available for utilities, but it may not have been anticipated that the utility constructing the storage facility would be a not-for-profit, and a not-for-profit utility does not pay tax. In regard to the use of tax credit or refund in the existing language, legislative drafters pointed out that use of the word refund does not fit for an entity that does not pay tax and said that also including the word payment would solve that problem. This way, a non-taxpaying entity building a storage facility would qualify for repayment of a portion of the expense rather than a tax refund. The fourth component would establish mechanisms for the state to get back a portion of the refund or payment if the storage facility ceases to operate within 10 years. It would also provide for a cessation of the waiver of the lease payments for utilization of the state land. He specified that, primarily, Version I would create a separate section of statute that mimics the structure put in place for

geologic storage in the Cook Inlet, but that is workable for above-ground storage as is anticipated in Interior Alaska.

[1:24:20 PM](#)

MR. THERRIAULT stated that GVEA is partnering with Flint Hills Resources for the project that it is currently working on. The preliminary design anticipates a one million gallon tank located on the North Slope and a two million gallon tank in the North Pole area. A two million gallon tank would supply about 10 days of need for both the Flint Hills refinery and GVEA's 60 megawatt generation plant in North Pole. While it does not supply a huge amount, it takes into account any possible disruptions in trucking operations. In working with the design consultants, it may be possible to decrease the size of the North Pole tank because both the Flint Hills and GVEA industrial operations will have the capability of switching back to a liquid, oil-fired generation; it must be determined how quickly and efficiently that could be done should there be a disruption in the trucking operation.

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MR. THERRIAULT said GVEA believes that the most immediate way of giving some energy assistance to the largest number of Interior residents is to reduce the cost of the fuel that fires that particular generator. The association serves residents all the way down the Richardson Highway to Delta Junction and residents all the way down the Parks Highways to Cantwell, and GVEA has notified other potential users in this service area that it would like to sign them up as customers once the liquid product is flowing. Product would be delivered to them at cost or as near to cost as possible so that it could be put to use as seen fit to help with energy costs. For example, the LNG could be used for a power generator that is connected on the road system but not part of the GVEA system, or it could be used for industrial use or industrial space heat. If the overall capacity is increased, everybody's per unit cost will go down, but getting the storage in place will be an integral part of that.

[1:27:12 PM](#)

REPRESENTATIVE P. WILSON asked whether the North Slope tank will be located on state land.

MR. THERRIAULT replied that GVEA has not yet decided where to site the tank, but said it would likely be state land because most of the land in that area that would provide access to the gas is state land. In further response, he said GVEA owns outright the property in North Pole that is located next to the Flint Hills refinery and GVEA's generator. The North Pole tank could also be sited on some of the land owned by Flint Hills, but the choice has yet to be made as to which piece of land is the most optimum location. He said GVEA is keeping in mind that both its generation plant and the refinery have a waste heat stream that can be used for re-gasification and GVEA wants to use that as efficiently as possible.

REPRESENTATIVE P. WILSON inquired whether the Cook Inlet project is located on state land.

MR. THERRIAULT offered his belief that the project is a combination of oil and gas leases that are on state land and possibly some private land.

[1:28:43 PM](#)

REPRESENTATIVE P. WILSON observed that the proposed fiscal note is zero, but asked how much lease revenue the state would be foregoing if an exemption in lease payments was granted.

MR. THERRIAULT answered that the leases are let on a fair market value and it is a fairly modest amount, but deferred to the Department of Natural Resources (DNR) to provide an average rental amount for the North Slope. He noted that GVEA leases land for its Eva Creek wind turbines and pays about \$33,000-\$40,000 per year for about 40 acres. In further response, he said the Eva Creek turbines are in the Healy area, not the North Slope.

[1:30:31 PM](#)

REPRESENTATIVE P. WILSON asked what the differences are between the Cook Inlet statute and the provisions being asked for under HB 289 [Version I].

MR. THERRIAULT replied that, primarily, the total volume of gas is different. To contain the threshold of gas that is workable for geologic storage in Cook Inlet, GVEA would have to build a tank that holds in excess of six million gallons of LNG. That would be far bigger than what makes sense for GVEA's economic activity, so any benefit to the consumer would be lost through

very inefficient operation. Also, the credit for the Cook Inlet area is calculated on 25 percent of the construction cost or \$15 million, whichever is less. [Version I] would provide for 50 percent of the construction cost or \$15 million, whichever is less. This takes into consideration that reservoirs in the Cook Inlet can be used as the tankage, but in the Interior a vessel must be built and therefore the construction costs are higher.

[1:32:06 PM](#)

CO-CHAIR FEIGE observed that Version I, page 3, line 28, states that the liquefied natural gas storage volume must be "not less than 1,000,000 gallons". He surmised that LNG trucked from the North Slope to the Interior could be delivered far cheaper than diesel and therefore communities on their own separate electrical grids, such as Tok, Northway, Valdez, and Glennallen, would benefit from this cheaper energy in the form of LNG. He asked why [a minimum tank size of] 1 million gallons was chosen as the limitation under HB 289.

MR. THERRIAULT responded that debate [during House Bill 280] was that the storage be of a certain size to qualify so as to incent big enough storage. He explained that for possible uses down the highway system, a part of the actual North Slope resource production requires some tankage. If GVEA signed up a customer that was down the highway so that the trucks never stopped at GVEA's North Pole plant, those users would get the benefit of the million gallon storage tank constructed on the North Slope. He said he is unsure, however, whether those communities would think that a million gallon tank would be warranted for receiving and utilizing the resource in their own situation. Therefore, GVEA would be open to the committee's consideration of less storage. He said GVEA designed something that would work for it, keeping in mind that when the debate took place two or three years ago a certain threshold was required before the state credit was available.

[1:34:36 PM](#)

CO-CHAIR FEIGE inquired how many thousand cubic feet (MCF) of gas are in one million gallons of LNG.

MR. THERRIAULT answered that it takes 12.1 gallons of LNG to make 1 MCF of gas.

REPRESENTATIVE HERRON asked what the life expectancy of the infrastructure would be under the business model being used.

MR. THERRIAULT replied that GVEA is going after a life of 20-30 years for the infrastructure and is hoping that an alternative access to natural gas will come along before then. The trucking component, which would not qualify for this, would have to be swapped out because the life of the trucks would be shorter than that.

REPRESENTATIVE HERRON inquired how many trucks would be needed for the 10-day supply at the Flint Hills location.

MR. THERRIAULT responded that for serving Flint Hills' needs and GVEA's needs in North Pole, the expectation is 40 trucks on the road every day: 20 going north and 20 coming south in a continuous cycle.

[1:37:02 PM](#)

DAN BRITTON, President/CEO, Fairbanks Natural Gas (FNG), noted that FNG has been serving the Fairbanks market with liquefied natural gas (LNG) since 1998 and currently operates a liquefaction facility in the Cook Inlet and two storage facilities in Fairbanks, with a total capacity of 350,000 gallons of storage. He said FNG supports HB 289 and would look to install additional storage at one of its existing facilities, which could be used as quickly as the tank is built. Fairbanks Natural Gas has excess liquefaction capacity in the summer months that could be used to fill the larger storage volume and this volume could be used for peaking in the winter when higher gas volumes are being sold. This would allow FNG to begin to expand its distribution system as quickly as the tank could be in service.

MR. BRITTON added that the tankage would provide for backup in the event a pipeline is built. A pipeline would be a single-source energy supply, so if a large earthquake stopped the flow of supply that tankage could provide a backup source. Based on FNG's current sales in Fairbanks, a million gallons of storage would provide 15 days of LNG. Regarding the limitation that the storage be at least 1 million gallons, he said FNG would favor making that a smaller number for any of the other communities that might benefit.

[1:39:05 PM](#)

CO-CHAIR SEATON requested Mr. Britton to get back to the committee in regard to the size of tankage that would be needed for smaller communities.

CO-CHAIR SEATON held over HB 289 and noted that the public will be able to add further comment when the bill is next brought up.

**HB 9-IN-STATE GASLINE DEVELOPMENT CORP**

[1:39:57 PM](#)

CO-CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 9, "An Act requiring the Joint In-State Gasline Development Team to report to the legislature recommended changes to state law that are required to enable or facilitate the design, financing, and construction of an in-state natural gas pipeline so that the in-state natural gas pipeline is operational before 2016; and providing for an effective date." [Before the committee was the proposed committee substitute (CS), Version U, labeled 27-LS0075\U, Bullock, 1/19/12, adopted as the working document on 2/6/12.]

[1:41:26 PM](#)

TOM WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature, on behalf of Representative Chenault, prime sponsor, allowed that HB 9 is a complex and lengthy bill and said he will review its provisions. The first of the bill's three major components is that it would define the duties and abilities of the Alaska Gasline Development Corporation (AGDC), which was created under House Bill 369 as a subsidiary corporation of the Alaska Housing Finance Corporation (AHFC). For maximum efficiency of state resources, HB 9 would consolidate under AHFC the state's various efforts to develop natural gas infrastructure by making the Alaska Natural Gas Development Authority (ANGDA) a subsidiary of AHFC and restructuring ANGDA's role to that of a gas marketing entity. The bill would also pave the way for an AGDC gasline to operate as a contract carrier rather than a common carrier, both through right-of-way leases and through regulatory oversight.

[1:42:19 PM](#)

MR. WRIGHT first reviewed the sections of HB 9 related to AGDC. He explained that Section 1 would define AGDC's duties and responsibilities and would allow AGDC to determine ownership and operating structures for a pipeline and to manage its assets as

necessary. Section 1 would also allow AGDC to issue revenue bonds to carry out its mission and would create a fund for AGDC; this fund was approved by the House last year in HB 203. Section 3 would transition to AGDC the Joint In-State Gasline Development Team ability to have access to pertinent information from other state agencies. Section 4 would give direction to state agencies to cooperate with AGDC in the same manner that they did with the Joint In-State Gasline Development Team. Section 6 would transition to AGDC another Joint In-State Gasline Team ability to enter into confidential agreements; the basis of the confidentiality sections was approved by the House last year in HB 189. Section 14 would build on Section 6 to specifically exempt confidential information from the Alaska Public Records Act; this basis of confidentiality sections was approved by the House last year in HB 189. Section 7 would relate to definitions. Section 29 would exempt an AGDC project from state and local property taxes during construction only.

[1:44:07 PM](#)

MR. WRIGHT next reviewed the sections of HB 9 related to right-of-way leases and regulatory oversight. He said Section 5 would transition to AGDC a House Bill 369 provision that directed the Department of Natural Resources (DNR) to grant AHFC a right-of-way lease. Section 5 would further exempt that lease from the common carrier covenants; the basis for which was approved by the House last session in HB 215. Sections 8, 9, and 10 would make conforming changes to other sections of the Alaska Right-of-Way Leasing Act to reflect those changes made in Section 5. Section 11 would call on state agencies to grant leases at no cost. Sections 12 and 13 would limit judicial review on state leasing and permit decisions; the basis for which can be found in HB 215 passed by the House last session. Sections 25-28 would exempt an AGDC line from Regulatory Commission of Alaska (RCA) oversight as a public utility and as a common carrier under the Pipeline Act.

MR. WRIGHT then reviewed the bill's provisions related to ANGDA. He noted that Section 2 would exempt ANGDA contracts from the state procurement code. Sections 15 and 16 would redefine ANGDA's role as a gas marketer and would remove overly prescriptive language regarding where gas will come from and where it will go to. Section 17 would allow ANGDA to market the state's royalty gas with the commissioner of DNR. Sections 18-24 would provide for the transition of ANGDA to AHFC governance and would allow the flow of confidential information from ANGDA

to AGDC. Sections 30 and 31 would make repeals that are related to ANGDA's new role and that are no longer necessary.

[1:46:05 PM](#)

CO-CHAIR SEATON drew attention to Version U, page 3, line 26 onward, that would establish the natural gas pipeline fund. He understood that AGDC would be structured such that it would not make and retain money; rather, money would flow through to the state and the state would appropriate money to the fund to operate AGDC.

MR. WRIGHT replied correct.

CO-CHAIR SEATON stated that this is a very important point.

MR. WRIGHT pointed out that it is subject to appropriation.

[1:46:56 PM](#)

CO-CHAIR SEATON directed attention to page 5, lines 24-26, and asked about the reasoning for making the development, financing, construction, and operation documents confidential and not subject to disclosure. He presumed these documents would not be available to the legislature.

RENA DELBRIDGE, Staff, Representative Mike Hawker, Alaska State Legislature, on behalf of Representative Hawker, sponsor, responded that the intent was not to keep them confidential from the legislature specifically, but from the public in general. The technical data developed by AGDC as it advances a project is something that is essentially proprietary, she said. Allowing access by interested parties to confidential or technical information that has been provided to AGDC could put an AGDC gasline at disadvantage if, for example, there is competition. The ability to keep field studies and technical data confidential relates more to AGDC's need to have that proprietary information as AGDC develops its plan.

[1:48:27 PM](#)

CO-CHAIR SEATON said he understands the aforementioned, but his question runs to what the purpose is for keeping confidential the operation of an in-state gasline. He further asked whether it is necessary to keep confidential the contract between AGDC and shippers or suppliers because that would have nothing to do with a competitive advantage. In response to Ms. Delbridge, he

confirmed that he is referring to subsection (f) [of Section 6] and said he is not referring specifically to the development, financing, or construction, but rather to the operation of the in-state gas pipeline.

MS. DELBRIDGE deferred to Mr. Joe Dubler of AGDC.

JOE DUBLER, Vice President, Alaska Gasline Development Corporation (AGDC), Director of Finance, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), deferred to Mr. Daryl Kleppin of AGDC to provide an answer to the question.

[1:50:41 PM](#)

CO-CHAIR SEATON moved to another question while online technical difficulties were resolved to allow Mr. Kleppin to respond. He read aloud Section 17, page 14, lines 26-29, and inquired whether this provision is the current situation with royalty gas and royalty oil. He further asked whether it is the DNR commissioner who [currently] determines the price of royalty gas or oil.

MR. WRIGHT understood that this is the case.

The committee took a brief at-ease.

CO-CHAIR SEATON noted that public testimony will be re-opened after the committee deals with the proposed amendments to HB 9. He then asked Mr. Kleppin to address the previous questions.

[1:53:06 PM](#)

DARYL KLEPPIN, Commercial Manager, Alaska Gasline Development Corporation (AGDC), Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), first addressed the question about Section 6, subsection (f). He explained that this subsection specifically relates to field studies and other technical information. A big issue with the acquisition of data is that the data has a value and could potentially be sold at a later date, but that opportunity would be precluded if that data was made public.

CO-CHAIR SEATON asked whether page 5, lines 24-26, "operation of an in-state natural gas pipeline" by AGDC relates only to field studies and other technical information, not the operational agreements for the operation of the line.

MR. KLEPPIN answered correct, that that particular section relates specifically to the field studies and other technical information.

MR. WRIGHT added that DNR will also get an answer to the committee in this regard.

CO-CHAIR SEATON proceeded to amendments, noting that five amendments to HB 9 were previously adopted. He informed the committee that additional written public comment has been received for members to review.

[1:56:44 PM](#)

REPRESENTATIVE P. WILSON moved to adopt the amendment labeled 27-LS0075\U.28, Bullock, 2/23/12, which read [original punctuation provided]:

Page 2, line 9:

Delete "In addition"

Insert "The Alaska Gasline Development Corporation shall, to the fullest extent possible, advance an in-state natural gas pipeline as described in the July 1, 2011, project plan prepared under AS 38.34.040 by the Alaska Gasline Development Corporation and the Joint In-State Gasline Development Team, with modifications determined by the Alaska Gasline Development Corporation to be necessary to construct and operate an in-state natural gas pipeline in a safe and economic manner. In addition to the powers granted to it by the corporation"

Page 2, following line 26:

Insert a new subsection to read:

"(b) Upon commencement of construction of an in-state natural gas pipeline, the Alaska Gasline Development Corporation shall analyze potential natural gas pipelines connecting to industrial, residential, or utility customers in other regions of the state. If the Alaska Gasline Development Corporation finds that a natural gas pipeline analyzed under this subsection is in the best interest of the state and can meet the needs of industrial, residential, or utility customers at commercially reasonable rates, the Alaska Gasline Development Corporation shall finance, construct, or operate the natural gas pipeline as necessary, subject to

appropriation. When developing or constructing a connecting line, the Alaska Gasline Development Corporation shall, to the maximum extent feasible, use existing land, structures, real or personal property, rights-of-way, easements, or other interests in land acquired by the Alaska Gasline Development Corporation or the Alaska Natural Gas Development Authority."

Reletter the following subsections accordingly.

CO-CHAIR SEATON labeled the aforementioned Amendment 6 and objected for purposes of discussion.

[1:57:05 PM](#)

MR. WRIGHT noted that Amendment 6 is a two-part amendment and he will address the first portion and Co-Chair Feige will address the second. He explained that during discussions it was discovered that there is no direct link between what the Joint In-State Gasline Development Team was supposed to be doing under House Bill 369 to AGDC, the project plan that was released on July 1, 2011, and the core mission of AGDC. Amendment 6 would provide that link to carry on the mission that was presented in the project plan. Amendment 6 would also give AGDC the ability to modify the plan when necessary as the various phases of the project are gone through, which is important so that AGDC can maintain needed flexibility as it continues its work. The project will be refined in increasing degrees as AGDC tries to get down to that threshold of plus or minus 10 percent; so the project may not be identical to what is in the July 2011 project plan. Additionally, an open season will draw shippers that may place bids on capacity on a similar, but not identical, pipeline plan and AGDC needs to be able to respond to any of these changes.

[1:58:47 PM](#)

CO-CHAIR SEATON pointed out that Co-Chair Feige is the author of Amendment 6.

CO-CHAIR FEIGE explained the intent of paragraph 2 in the amendment. He said the historical basis for the currently envisioned in-state gasline goes back to House Bill 369 where AGDC was tasked with the mission of coming up with the most economic pipeline, not necessarily the one with the most economic benefits to the citizens of Alaska. Inserting the second paragraph would ensure that regardless of where a

pipeline is built - whether it goes directly to the Anchorage Bowl, or Valdez, or Bethel - the AGDC is tasked, as soon as the pipeline is under construction, with investigating additional lines that will distribute gas to as much of the state as is economically feasible.

[2:00:59 PM](#)

CO-CHAIR FEIGE advised he would like to make some small changes to the amendment. He moved to adopt Conceptual Amendment 1 to Amendment 6 as follows:

Page 1, line 14:  
Delete "potential"  
Insert "additional"

CO-CHAIR SEATON [objected for purposes of discussion]. There being no discussion, he removed his objection. There being no further objection, Conceptual Amendment 1 to Amendment 6 was adopted.

[2:02:18 PM](#)

CO-CHAIR FEIGE moved to adopt [Conceptual] Amendment 2 to Amendment 6 as follows:

Page 1, line 21:  
Delete "a connecting line"  
Insert "an additional natural gas pipeline"

CO-CHAIR SEATON objected for purposes of discussion. There being no discussion, he removed his objection. There being no further objection, [Conceptual] Amendment 2 to Amendment 6 was adopted.

CO-CHAIR SEATON removed his objection to Amendment 6. There being no further objection, Amendment 6, as amended, was adopted.

[2:04:15 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 7, labeled 27-LS0075\U.12, Bullock, 2/13/12, which read [original punctuation provided]:

Page 3, following line 25:  
Insert a new subsection to read:

"(d) In the exercise of its powers under (b) and (c) of this section, the Alaska Gasline Development Corporation may not pledge the faith and credit of the state or a political subdivision of the state other than the Alaska Gasline Development Corporation to the repayment of the principal of or interest on any bonds issued by the Alaska Gasline Development Corporation."

Reletter the following subsections accordingly.

CO-CHAIR SEATON objected for purposes of discussion.

MR. WRIGHT explained that Amendment 7 would put up side boards to clarify that AGDC does have the responsibility and credit to issue bonds and that AGDC may not pledge the faith and credit of the state in doing so. He said this was a concern brought to the sponsor by the Department of Law and the sponsor concurred that it was a good amendment to place into the bill.

[2:05:05 PM](#)

CO-CHAIR FEIGE inquired whether this would affect the bond rating that a project could receive.

MR. WRIGHT deferred to a representative from AGDC.

MR. DUBLER replied that Amendment 7 should not impact the rating on the bonds that AGDC intends to issue. There was never an intention to issue general obligation bonds of the state. This was something raised by the Department of Law just to ensure that AGDC could not sell general obligation bonds. Current statute does not allow AGDC to sell general obligation bonds without a vote of the people. Therefore, it is a "belts and suspenders" kind of thing that lawyers like to see in language like this.

REPRESENTATIVE HERRON commented that Amendment 7 would not actually restrict AGDC because the state may have some burdens on it; so, it essentially frees AGDC from the state.

MR. DUBLER concurred to the extent that the state had a lower rating. He pointed out that there are no ratings higher than the state's current AAA rating, so AGDC could not be higher rated than that. To the extent the state were downgraded in the future before AGDC came to this issuance, and this issuance is based on the shippers of the line, it could be rated higher than the state.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 7 was adopted.

[2:07:07 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 8, labeled 27-LS0075\U.21, Bullock, 2/15/12, which read [original punctuation provided]:

Page 2, lines 15 - 16:

Delete "to acquire land under AS 09.55.240 - 09.55.460"

Insert "or file a declaration of taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is necessary for an in-state natural gas pipeline; the exercise of powers by the Alaska Gasline Development Corporation under this paragraph may not exceed the permissible exercise of the powers by the state"

Page 4, line 8:

Delete "has the meaning"

Insert "and "natural gas pipeline" have the meanings"

Page 6, line 17, following "a":

Insert "natural gas"

Page 6, line 18, following "state":

Insert ";

(3) "natural gas pipeline" means all the facilities of a total system of pipe for transportation of natural gas for treatment or conditioning, delivery, storage, or further transportation, and including all pipe, pump and compressor stations, station equipment, and all other facilities used or necessary for an integral line of pipe to carry out the transportation of the gas"

Page 11, line 25:

Delete "AS 42.06.630"

Insert "AS 38.34.099"

CO-CHAIR SEATON objected for purposes of discussion.

[2:07:21 PM](#)

MS. DELBRIDGE explained that Amendment 8 is housekeeping. The Department of Law recommended that parameters be set on AGDC's ability to exercise eminent domain. The intent of the amendment is to keep that ability to exercise eminent domain directly related to AGDC's other empowerments to work on in-state gas pipeline projects. It is similar to language that other state entities enjoy with their ability to use eminent domain that is in strict relation to their duties.

[2:08:17 PM](#)

CO-CHAIR SEATON surmised that this means AGDC would not be taking eminent domain on buildings in Anchorage.

MS. DELBRIDGE responded that AGDC certainly should not be and read the provision on page 1, lines 3-6, of Amendment 8. She said another part of Amendment 8 relates to the definitions that are used throughout HB 9; a definition of "in-state natural gas pipeline" is already in the bill. Section 13 of the bill uses the term "natural gas pipeline" which needed to be defined in that section. Where it is defined in Section 13, a statute is referenced that comes under AS 42.06, the regulatory statute for the Pipeline Act, which later in the bill this kind of a project is exempted from. The Department of Law recommended that it would be much cleaner to redefine "natural gas pipeline" specifically within this legislation. She read the definition included in Amendment 8, page 1, lines 17-21. She said Amendment 8 also has three citations for conforming the putting of this definition in statute instead of referencing the AS 42.06 natural gas pipeline definition.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 8 was adopted.

[2:11:06 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 9, labeled 27-LS0075\U.20, Bullock, 2/15/12, which read [original punctuation provided]:

Page 4, following line 7:

Insert a new subsection to read:

"(e) If commitments to acquire firm transportation capacity are received in an open season conducted by the Alaska Gasline Development Corporation, the Alaska Gasline Development

Corporation shall, within 10 days after executing the commitments, report the results of the open season to the president of the senate and the speaker of the house of representatives and inform the public of the results of the open season through publication on the Internet website of the Alaska Gasline Development Corporation and in a press release or other announcement to the media. The results made public must include the name of each prospective shipper, the amount of capacity allocated, and the period of the commitment."

Reletter the following subsection accordingly.

CO-CHAIR SEATON objected for purposes of discussion.

[2:11:23 PM](#)

MR. WRIGHT stated Amendment 9 is being offered by the sponsor in response to committee concerns. It would place conditions on what is to be released 10 days after firm transportation commitments or precedent agreements are signed between shippers and AGDC. This is derived from Federal Energy Regulatory Commission (FERC) rules governing inter-state pipeline open seasons. The information that is to be released is the name of each prospective shipper, the amount of capacity allocated, and the period of commitment.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 9 was adopted.

[2:12:46 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 10, labeled 27-LS0075\U.16, Bullock, 2/14/12, which read [original punctuation provided]:

Page 5, line 16:

Delete "information protected by a  
confidentiality agreement to that public agency"  
Insert "confidential information"

CO-CHAIR SEATON objected for purposes of discussion.

[2:12:57 PM](#)

MR. WRIGHT explained that Amendment 10 is clarifying language from the Department of Law. The provision within the amendment would apply to all confidential information; AGDC would then be able to enter into confidential agreements, particularly with public agencies.

MS. DELBRIDGE read the current language in Version U on page 5, lines 14-16, which states that AGDC "may enter into confidentiality agreements with a public agency, as defined in AS 40.25.220, to allow release of information protected by a confidentiality agreement to that public agency." Amendment 10 would allow the release of confidential information within the confidentiality agreements that AGDC can have with a public agency, rather than the current language which would allow only information protected by a confidentiality agreement to that public agency.

[2:15:01 PM](#)

CO-CHAIR SEATON understood the effect of Amendment 10 would be that AGDC could enter into a confidentiality agreement, but as part of that confidentiality agreement there could be agreement to release that information.

MS. DELBRIDGE responded that AGDC could enter into confidentiality agreements with a public agency and, within that, [AGDC] could release confidential information within the agreement to [the agency].

CO-CHAIR SEATON asked whether this would mean, for example, that AGDC could release confidential information from a shipper to an agency or that it could be publically released.

MS. DELBRIDGE replied it would not be publicly released. If AGDC had a confidential agreement outside of this part with a shipper, that agreement would have to allow for the further release of information by AGDC to a public agency. For example, if AGDC has technical data or field study information that it holds confidential but would like to share with an agency such as DNR, Amendment 10 would allow AGDC to enter into a confidentiality agreement with DNR so it could share that confidential information with that agency.

[2:16:42 PM](#)

CO-CHAIR SEATON understood it would be agency to agency. It would be confidential information that AGDC would share with

another agency, but the information would remain confidential to the secondary agency that AGDC has an agreement with.

MS. DELBRIDGE concurred and said that Amendment 10 would allow the sharing of information that is held confidential between AGDC and a public agency.

REPRESENTATIVE HERRON commented that the Department of Law is essentially saying that there is currently a barn door in the bill and the amendment sizes it down to a small window.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 10 was adopted.

[2:18:06 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 11, labeled 27-LS0075\U.19, Bullock, 2/14/12, which read [original punctuation provided]:

Page 18, line 30, following "41.41.040,":  
Insert "41.41.050,"

CO-CHAIR SEATON objected for purposes of discussion.

MR. WRIGHT explained that Amendment 11 would add to the section of repealers and would repeal AS 41.41.050 because that statute would no longer be necessary with the transition of ANGDA to the AHFC board of directors. This was an oversight, he continued, because the repeal should have been included in the sponsor's first list of repealers.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 11 was adopted.

[2:19:00 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 12, labeled 27-LS0075\U.15, Bullock, 2/14/12, which read [original punctuation provided]:

Page 5, line 4:  
Delete "except for the covenants in AS 38.35.120(a)(1), (2), (5), and (7),"

Page 5, line 6, following "AS 38.35.120":

Insert ", except for the covenants in AS 38.35.120(a)(1), (2), (5), and (7)"

CO-CHAIR SEATON objected for purposes of discussion.

MS. DELBRIDGE explained that Amendment 12 is clarifying language suggested by the Department of Law. The amendment would re-order the sentence by moving the starting clause in Section 5, paragraph (3), to the end of the paragraph. Paragraph (3) says that the corporation that submits this application for a right-of-way lease agrees to be bound by the right-of-way lease covenants set out in the general Right-of-Way Leasing Act, except for several of those covenants. Those covenants are covenants requiring common carriage and, in conjunction with that, covenants requiring a line to provide connections as determined by the RCA under the Pipeline Act and requiring other cooperation with RCA orders that as a contract carrier they would not be subject to.

[2:20:47 PM](#)

CO-CHAIR SEATON, regarding interconnections on a gas pipeline, inquired whether there is language somewhere in the bill or in the general requirements and purpose of AGDC that provides a mechanism for making take-off points available to communities along the pipeline, given that the RCA would not be involved.

MS. DELBRIDGE replied that that would be part of the negotiation when there is a shipper that has arranged for capacity for gas to that community. Within this bill, the RCA is not in a position to unilaterally mandate that off-takes be arranged at places where there are no customers.

[2:21:53 PM](#)

CO-CHAIR SEATON requested Mr. Dubler to address this question.

MR. DUBLER directed attention to Amendment 6, labeled 27-LS0075\U.28, Bullock, 2/23/12, and said that HB 9, as amended, would direct AGDC, upon commencement of a line, to look at additional communities for connection and where connection would make sense. Therefore, AGDC would not sit back and wait for the communities, AGDC would go out and find communities that want to hook up to the pipeline.

CO-CHAIR SEATON said he wants to ensure that there is not testimony that a pipeline will be built right by a community but

that that community will not be getting service. He offered his belief that everybody's goal here is to get gas for Alaskans and he wants it on the record that the aforementioned will transpire and is part of AGDC's mission in constructing the natural gas pipeline.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 12 was adopted.

[2:23:50 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 13, labeled 27-LS0075\U.27, Bullock, 2/23/12, which read [original punctuation provided]:

Page 6, lines 21 - 22:

Delete "for covenants that do not apply to a lease entered into under AS 38.34.050(c)"

Insert "that, for a lease entered into under AS 38.34.050(c), the covenants in AS 38.35.120(a)(1), (2), (5), and (7) may not be included"

CO-CHAIR SEATON objected for purposes of discussion.

MS. DELBRIDGE explained that Amendment 13 would make conforming changes to Section 8 related to the changes that were just made in Section 5. This amendment for sentence structure was suggested by the Department of Law to add clarity. The intent is that the commissioner of DNR shall include in a conditional lease each requirement and condition of the covenants established under Alaska's Right-of-Way Leasing Act, except for those that are entered into already per Section 5 an AGDC specific one that exempts a few covenants.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 13 was adopted.

[2:25:24 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 14, labeled 27-LS0075\U.24, Bullock, 2/22/12, which read [original punctuation provided]:

Page 19, following line 1:

Insert a new bill section to read:

"\* **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION AND LEGISLATIVE INTENT. It is the intent of the Alaska Legislature that a right-of-way lease subject to AS 38.34.050(c), as amended by sec. 5 of this Act, AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of this Act, and AS 38.35.120(b), as amended by sec. 10 of this Act, that is entered into between the commissioner of natural resources and the Alaska Gasline Development Corporation, a subsidiary created under AS 18.56.086, before the effective dates of secs. 5 and 8 - 10 of this Act be amended as soon as practicable after the effective dates of secs. 5 and 8 - 10 of this Act to conform to the requirements of AS 38.34.050(c), as amended by sec. 5 of this Act, AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of this Act, and AS 38.35.120(b), as amended by sec. 10 of this Act."

Renumber the following bill sections accordingly.

CO-CHAIR SEATON objected for purposes of discussion.

[2:25:42 PM](#)

MS. DELBRIDGE explained that Amendment 14 relates to right-of-way leasing and that AGDC has a right-of-way lease from DNR. That lease specifically contemplated the potential of statutes down the road that would make AGDC exempt from some covenants that are in the lease today. What needs to be done related to these Section 5 exemptions for right-of-way leases is add a new Section 32 that calls on the parties to this existing lease to amend it upon passage of HB 9. The Alaska State Constitution bars the Alaska State Legislature from passing laws that apply retroactively to contracts already in place. Therefore, exempting AGDC in Section 5 would not necessarily change the lease without the legislature's direction to also do so. Amendment 14, then, expresses that intent that the parties to the lease amend the lease. The sponsors have received assurances from the Department of Law, which has attorneys assigned to DNR, that the parties will be amenable to amending the lease as requested by the intent of the legislature.

[2:27:12 PM](#)

MS. DELBRIDGE, in response to Co-Chair Seaton, confirmed that the aforementioned relates to right-of-way leases. She said AGDC and DNR entered into a right-of-way lease in June/July 2011. That lease was per the existing state Right-of-Way Leasing Act, so the covenants related to common carriage would still apply. In the covenant section of the lease it was foreseen that a situation might arise like today where it is desired to exempt AGDC from operating as a common carrier under the Right-of-Way Leasing Act. Thus, the lease includes language with the covenants indicating unless specifically exempted by law, these covenants apply. Section 5 would exempt AGDC from the covenants of the state Right-of-Way Leasing Act related to common carriage. However, there is a lease in place, and the sponsors want to use the transitional language presented in Amendment 14 to express the intent of the legislature that the exemptions it is now offering AGDC from common carriage requirements be immediately reflected as an amendment to the lease that AGDC has already entered into with DNR. She reiterated that the state constitution disallows passing a law that retroactively applies to a contract already in place; therefore, the transition expressing the legislature's intent on that is important.

REPRESENTATIVE HERRON surmised that this is as close to "shall" as possible.

MS. DELBRIDGE answered yes.

[2:28:51 PM](#)

CO-CHAIR SEATON pointed out that the committee has been considering this mainly in relationship to an in-state gas pipeline servicing mines and other things. He inquired whether this would negate the Alaska Gasline Inducement Act (AGIA) requirement of rolled-in rates and other provisions if AGDC was involved with the large diameter line from the North Slope to Valdez as an export LNG facility, or would this be simply to right-of-way leases and not to operations and other requirements of the AGIA pipeline.

MS. DELBRIDGE replied it is difficult to say precisely because it is unknown whether a future large-diameter pipeline to Valdez will be built under AGIA. However, under the aforementioned hypothetical circumstance, if the pipeline is built under AGIA, AGIA is the law of the land and would pre-empt what is being done here. At that point, AGDC's most likely role would be perhaps building the spur line to connect other communities to

this main transportation line that is also an export line. This, however, relates specifically to right-of-way leases to AGDC.

[2:30:40 PM](#)

CO-CHAIR SEATON said he wants to ensure that this is clear so it cannot be said at a later date that provisions previously set by the legislature are being circumvented by requiring that something be modified. It is very clear, he continued, that it is right-of-way leases that are being talked about here, not operations of AGIA.

MS. DELBRIDGE concurred. She said AGIA is statute, but a contract is also attached. She offered her belief that that contract stands legally and cannot be changed without the parties agreeing to do so.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 14 was adopted.

[2:32:02 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 15, labeled 27-LS0075\U.25, Bullock, 2/22/12, which read [original punctuation provided]:

Page 16, line 28, through page 18, line 19:

Delete all material and insert:

"\* **Sec. 25.** AS 42.05 is amended by adding a new section to read:

**Sec. 42.05.433. Review of certain contracts by the commission.** (a) A public utility negotiating a contract with the Alaska Gasline Development Corporation created under AS 18.56.086, or with any entity controlled by the Alaska Gasline Development Corporation, may submit the contract to the commission before the contract takes effect.

(b) A public utility negotiating to purchase natural gas to be shipped on any pipeline owned by either the Alaska Gasline Development Corporation or an entity controlled by the Alaska Gasline Development Corporation may submit the contract to the commission before the contract takes effect.

(c) A public utility negotiating a natural gas storage contract related to (a) or (b) of this section

may submit the contract to the commission before the contract takes effect.

(d) The commission may conduct an investigation and hearing to determine whether a contract submitted under (a), (b), or (c) of this section is just and reasonable. The commission shall either approve the contract as presented, or, if the commission finds that the contract is unjust, unreasonable, or unduly discriminatory or preferential, the commission shall disapprove the contract. If the commission does not act within 180 days after the submission of the contract, the contract shall be considered approved and shall be implemented. A contract that is approved or considered approved under this subsection is not subject to further review by the commission.

\* **Sec. 26.** AS 42.05.711 is amended by adding a new subsection to read:

(s) The Alaska Gasline Development Corporation created under AS 18.56.086, a joint venture, partnership, or other entity controlled by the Alaska Gasline Development Corporation, or a natural gas pipeline owned or financed by the Alaska Gasline Development Corporation is exempt from this chapter until all debt incurred to finance or refinance the cost of developing and constructing the natural gas pipeline is paid in full. However, the Alaska Gasline Development Corporation or a joint venture, partnership, or other entity that includes the Alaska Gasline Development Corporation may elect to be subject to regulation under this chapter to the extent and in the manner the Alaska Gasline Development Corporation elects and determines is appropriate.

\* **Sec. 27.** AS 42.06 is amended by adding a new section to article 7 to read:

**Sec. 42.06.601. Exemption.** The Alaska Gasline Development Corporation created under AS 18.56.086, an entity controlled by the Alaska Gasline Development Corporation, or a natural gas pipeline owned, operated, financed, or controlled, in whole or in part, by the Alaska Gasline Development Corporation is not subject to this chapter except to the extent and in the manner the Alaska Gasline Development Corporation elects and determines is appropriate."

Renumber the following bill sections accordingly.

CO-CHAIR SEATON objected for purposes of discussion.

2:32:10 PM

MS. DELBRIDGE explained that Amendment 15 would replace Sections 25-28, which deal with RCA oversight. Amendment 15 would allow RCA oversight of public utility contracts related to this gasline. Public utilities already have the option of seeking pre-approval from the RCA when they commit to large projects or purchases that are a significant financial investment for them. They seek that pre-approval to ensure that the RCA is giving a general okay that the utility will be able to cover those costs later in the rates that it charges its customers. Amendment 15 specifically states that the public utilities negotiating contracts with AGDC can submit these contracts to the commission for pre-approval. Should the RCA find the contract to be unjust, unreasonable, or unduly discriminatory, it can disprove that contract. The amendment would set some sidebars on this because a contract with a utility would occur after an open season when there is a precedent agreement or a conditioned agreement for capacity on this pipeline. All those conditions must be worked out over a period of two years so that solid, firm agreements can be brought forth to get financing and build the project. During that two-year window, the RCA would be able to review a contract over a period of 180 days and decide whether the contract is acceptable. If not, the utility and the carrier could renegotiate to work out the difference.

2:34:18 PM

CO-CHAIR SEATON understood that a contract with a utility would not be available until after the precedent agreements. Once the contract was submitted to the RCA, the RCA would have 180 days to make a final decision; otherwise the contract will be presumed just and reasonable. During the time that the precedent agreements were being negotiated there would not be anything to present to the RCA. He therefore surmised it would be when a utility enters into a contract, which has the rates and costs, that it would be submitted to the RCA.

MS. DELBRIDGE answered yes. With a gasline like this, a public utility might actually go into the open season itself and subscribe to capacity itself. Or, it could be a utility that has an agreement to purchase gas that someone else is committing to cover that line capacity for. Amendment 15 would allow utilities that are negotiating to purchase to take the terms to the RCA for pre-approval before they sign the firm transportation commitment or before their shipper does. So, the

utilities would have a basic agreement that specifies the terms and rates if the conditions are worked out, including, likely, this RCA pre-approval.

[2:36:03 PM](#)

CO-CHAIR SEATON requested Ms. Delbridge to review the reasons why most utilities would want to submit to the RCA.

MS. DELBRIDGE explained that when a utility undertakes a big financial investment, whether it is committing to decades of shipping gas in a pipeline or building a new power plant, that utility must have some assurance from the RCA - which regulates the rates the utility can charge - that it will be able to recover the costs of those investments in the rates that it will charge to its customers.

REPRESENTATIVE HERRON asked whether the 180-day time period is a commonly used length of time.

MS. DELBRIDGE replied that 180 days seemed like a comfortable window for AGDC. The terms of an agreement with a utility would be generally known at the point that a precedent agreement is signed. Once precedent agreements are signed it will take a period of time to iron out all the conditions in those agreements to where the utility is willing to sign a firm transportation commitment. It was felt by AGDC that a 180-day window would be appropriate and would also fit within that time slot so that RCA approval of what a utility wants to do to participate would not hold up the project's financing or the project's construction, but would still provide an ample regulatory window.

[2:38:12 PM](#)

REPRESENTATIVE HERRON inquired whether someone could pause the clock on the 180 days.

MS. DELBRIDGE responded that a provision to pause the clock has not been included.

REPRESENTATIVE HERRON clarified that his concern is whether others could pause the clock, not necessarily AGDC.

MS. DELBRIDGE offered her understanding that unless it is implicitly provided, the 180 days after the submission of the

contract is what stands. She said she will double-check this, however.

CO-CHAIR SEATON recalled that in previous committee discussions a provision was talked about for AGDC to pause the clock or to ask for an extension. After wrestling with the entire scenario, AGDC decided that if RCA was not making the decision by the 180 days then the request could be withdrawn; AGDC did not want to get into the situation where there were pressures to not make a decision or leverage people to put in a request for a pause to extend the time period.

2:40:01 PM

CO-CHAIR FEIGE noted that Version U, as amended, would allow AGDC to essentially be a contract carrier. He asked whether as a contract carrier those contracts would automatically be subject to review by the RCA.

MS. DELBRIDGE replied that as a contract carrier there is no clear RCA oversight of the contracts; therefore, things have been specifically structured so that public utilities with contracts are given that additional layer of comfort.

2:40:50 PM

CO-CHAIR FEIGE observed that lines 7, 11, and 14 of Amendment 15 state that a public utility "may" submit the contract to the RCA. He pointed out that if, as part of the contract, the tariff is made a significant portion of the cost of the gas the value of that gas is lowered at the point of production, which is the point where the state taxes the gas. This could be seen by a shipper as a way to lower the value of the gas and hence the tax that the shipper pays on the gas, while the shipper collects that revenue as a tariff instead of as a cost for the gas itself. He therefore inquired why the language is "may" instead of "shall".

MS. DELBRIDGE responded that the provisions in Section 25 on page 1 of Amendment 15 relate to public utilities and the RCA consideration of this as pre-approval is something that the utilities can use to protect themselves from precisely that sort of scenario. Right now a public utility has the option of seeking pre-approval from the RCA; the sponsors did not think it appropriate in HB 9 to start requiring public utilities to seek pre-approval of those contracts. The sponsors realize that the public utilities in the state vary in size and in priorities and

whether to seek RCA pre-approval needs to be a decision that the utilities are left with. However, the sponsors wanted to ensure that it was clearly and specifically enabled as a way for the RCA to take a look at the kinds of terms that these utilities would be signing on for.

[2:43:09 PM](#)

CO-CHAIR FEIGE reiterated that the utilities would not be required to request a review by the RCA and said that a utility's interest is the price of the gas as it goes into the turbine. Therefore, he is looking at how to protect the interest of the state and the interest of the tax revenue going to the state.

MS. DELBRIDGE replied that her answer will be in two parts, with one part not meant to dodge the very legitimate concern of how to protect the state, its resource, and its revenue. She said it is unknown exactly how gas off the North Slope is going to be taxed in the future. The sponsors have a conceptual amendment to Amendment 15 that would require the RCA to review the rate of return on equity to pipeline owners. The intent of the sponsors to keep this line unencumbered by regulation as a public utility, which it would not be, or as a common carrier, which it would not be. The conceptual amendment would allow for some level of assurance that the tariffs and the rate of return are not something where Alaska is getting taken. The public utilities and the ratepayers would be protected through Section 25 and through the conceptual amendment to Amendment 15. The conceptual amendment would protect that broader interest by having RCA specifically consider the rate of return that the pipeline owners would get on this project. Conceptually, the sponsors would like for that rate of return on equity to be within the range of rate of return that is normal and customary for a large transportation gas pipeline in the United States. While there is nothing in the U.S. quite comparable to what will hopefully be seen someday in Alaska, the sponsors propose that the rate of return for this line be within the FERC standard of acceptable rate of return. The RCA would be given a window of 180 days once an application is submitted to consider whether the rate of return is within this range and then certify the application yes or no. She said she believes that that would help ensure that whatever the tariff the overall rate of return would not be detrimental to the state's take on its share of the gas resource should producers be the ones owning this line.

[2:46:18 PM](#)

CO-CHAIR SEATON noted that the aforementioned conceptual amendment is being handed out to committee members, but urged that it be dealt with after consideration of Amendment 15.

CO-CHAIR SEATON, in regard to the provision of subsection (d) of Section 25 in Amendment 15, asked whether subsections (a-c) would restrict petitioning for a review of a contract to the utility itself; in other words, ratepayers would be disallowed from making such a request independent of the utility itself.

MS. DELBRIDGE answered that Amendment 15 specifically refers to public utilities, so it is specifically a public utility that can take a request for pre-approval to the commission. The RCA is, by nature, designed to regulate and provide oversight of the rates charged to ratepayers when it holds hearings and proceedings on a pre-approval or rate case. Since ratepayers participate in that process, the ratepayer would have some say if a utility brings a request for pre-approval to the commission.

[2:48:25 PM](#)

CO-CHAIR SEATON understood that the public and ratepayers could not bring forward an issue of a contract if they thought the contract unreasonable; it would have to be brought forward by the utility itself that is purchasing the gas.

MS. DELBRIDGE said that is her understanding and added that Amendment 15 does not specifically allow that. She deferred to a representative of AGDC to provide a definitive answer as to whether ratepayers themselves could present a case to the RCA for pre-approval.

TINA GROVIER, Attorney, Natural Resources and Energy Law, Birch Horton Bittner & Cherot, Counsel to Alaska Gasline Development Corporation (AGDC), understood that the question being asked is whether a ratepayer would have recourse if the utility did not take advantage of the language contained in subsections (a-c) of Section 25 in Amendment 15. She said she thinks a ratepayer would because for a utility to recover the expenses it would need to file a rate case asking for those costs to be included in its rate base and at that time a ratepayer could go in and argue for whatever reasons that the cost was imprudently incurred. It is precisely to prevent that from happening that utilities would want to go to the RCA ahead of time.

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CO-CHAIR SEATON surmised that, in essence, if a utility decided not to apply then the 180-day clock would go away; however, ratepayers would still have the ability to petition not to have to pay full compensation of the tariff that the utility proposes to apply because it would make the rate paid for the gas and tariff unreasonable.

MS. GROVIER replied correct, whatever was the particular contract at issue.

2:51:53 PM

REPRESENTATIVE P. WILSON observed that subsections (a-c) of Section 25 in Amendment 15 would provide that the public utility negotiating the contract "may" submit the contract to the RCA, "may" meaning if the utility wants to. She further observed that subsection (d) would provide that the RCA "may" conduct an investigation. She asked whether this means that a utility could ask for an investigation but the RCA could choose whether it will or will not investigate.

MS. DELBRIDGE responded that she does not know what the RCA currently has in place, but she suspected that if someone submits an application for pre-approval the commission does absolutely consider that. However, whether it decides that an investigation and a hearing are warranted in each specific case may be something that is left to the RCA's discretion.

REPRESENTATIVE P. WILSON said that is her concern because in this circumstance the utility would want to get some assurances, but the commission would not have to deal with it if it did not want to. She observed that [subsection (d), line 18,] states that the commission "shall" approve the contract and asked whether the language [on line 16] should be changed so that the commission "shall" conduct an investigation.

MS. DELBRIDGE answered that the sponsors would be open to that.

2:54:20 PM

REPRESENTATIVE P. WILSON moved Amendment 1 to Amendment 15 as follows:

Page 1, line 16, after "commission":  
Delete "may"

Insert "shall"

REPRESENTATIVE P. WILSON stated that this would give the public utility some assurance before it proceeds.

CO-CHAIR SEATON objected for discussion purposes and offered his agreement that public utilities need the protection that the RCA will review the contracts to provide assurance to the utilities that the contracts are just and reasonable. Things would be left in limbo if that did not happen.

MR. WRIGHT countered that if the RCA feels the rates are not just or reasonable, it may conduct an investigation anyway. Putting in "shall" would require the RCA to look at every contract. Most contracts may be just and reasonable and subsection (d) would provide the authority to the RCA to look at any contracts that it does not believe to be just and reasonable.

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CO-CHAIR SEATON clarified that the "may" for submission of contracts is not being changed; rather, it is being said that if someone submits a contract the RCA "shall" conduct a hearing.

MR. WRIGHT replied that he understands that, but reiterated that if the RCA does not feel it is just and reasonable it already has the right to look into the contract under this provision.

MS. DELBRIDGE added she does not suppose that there would be a problem with changing the wording to "shall" so that the RCA is required to respond to a utility's submission of a request for review.

CO-CHAIR SEATON said what is being looked for here is to require that if the utility submits, then the RCA must give some assurance to the utility by conducting a hearing and investigation within the 180-day time period.

CO-CHAIR SEATON removed his objection. There being no further objection, Amendment 1 to Amendment 15 was adopted.

[2:57:47 PM](#)

CO-CHAIR SEATON announced that a committee substitute (CS) would be drafted after all amendments are considered and that the committee would take up the CS at its next meeting.

MS. DELBRIDGE returned to her explanation of Amendment 15, moving to the amendment's provisions on page 2. She explained that currently the RCA can regulate a pipeline either as a public utility under AS 42.05, the Alaska Public Utilities Commission Act, or as a common carrier pipeline under the Pipeline Act. [Under Section 26] the sponsors propose that a pipeline that AGDC owns, finances, or is in a partnership with but controls, would be exempt from RCA regulation as a public utility; the sponsors do not believe that this kind of a gasline is a public utility. The sponsors also propose in Section 27 to exempt an AGDC line from RCA regulation as a common carrier under the Pipeline Act. The sponsors do not believe that a gas pipeline is going to be able to operate as a common carrier. The sponsors believe it is going to be required to sign long-term contracts negotiated with individual shippers and therefore the pipeline should not be regulated as a common carrier.

CO-CHAIR SEATON surmised that if it is in conjunction with an AGIA pipeline this would not override the provisions of the AGIA pipeline.

MS. DELBRIDGE concurred.

[2:59:50 PM](#)

CO-CHAIR SEATON moved to adopt Conceptual Amendment 2 to Amendment 15, written as follows [original punctuation provided]:

Add a new section after Section 27, Page 2, Line 19:

The RCA shall review the rate of return on equity to pipeline owners. The rate of return on equity must be within the range of rates of return on equity commonly accepted for natural gas transportation pipelines of a similar nature in the United States. If the commission does not act within 180 days after the submission of an application by equity owners, the rate of return on equity shall be considered approved and shall be implemented. An application that is approved or considered approved under this section is not subject to further review by the commission.

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REPRESENTATIVE P. WILSON objected for purposes of discussion. Regarding "commonly accepted for natural gas transportation pipelines of a similar nature in the United States", she asked whether there are any similar pipelines in the United States.

MS. DELBRIDGE responded that anything done in Alaska is going to be unique. She said the sponsors' intent with that language is that this would be comparable to a large gas transportation pipeline, and the sponsors want to qualify that as similar. While there are lots of distribution pipelines that individual utilities might own, the sponsors do not feel that those are comparable.

[3:01:58 PM](#)

CO-CHAIR SEATON inquired why the conceptual amendment states return on "equity" rather than "tariff". He further asked that since natural gas pipelines are defined as all ancillary things, such as compressors, conditioning plants, and so forth, how that works into this amendment as opposed to tariff.

MS. DELBRIDGE answered that the sponsors chose not to use a tariff. She said the concern prompting this conceptual amendment was that, absent regulation as a public utility or common carrier, there would be little oversight for a project that may include state support. If the state was going to be supporting a public project like this, then the state needed some level of assurance from some independent authority that the owners of this line, of which AGDC might only be one of several, are not earning a rate of return that is exorbitant. Because of that state support there is a need for some degree of oversight. The sponsors have worked very hard to keep politics out of what happens in the future with this project, she continued. To that end, the sponsors felt that the RCA, as an independent regulatory body, would be very well suited to evaluate something like the rate of return that the pipeline owners will get on this project. The rate of return is something that the pipeline owners will get for the entire project, but the tariffs may vary. With a contract carrier, tariffs may be different for different customers because some customers will want to subscribe to only a very small part of the pipeline while others may want to subscribe to a larger part. Therefore, looking at all those tariffs independently would not provide a clear overall picture that the pipeline owners as a whole are not getting an exorbitant rate of return on a project that the state is helping to support.

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CO-CHAIR SEATON reiterated that the definition of pipeline includes compressor stations, conditioning plants, and so forth, so the rates of return are going to be just and reasonable compared to other similar pipelines and operations that are regulated either by FERC or an RCA-type entity. Protection of the public is what is being looked at for a subsidized pipeline where the state is investing money to keep the tariff low. He further noted that a contract carrier is something that has not been exempt from RCA regulation in the past.

REPRESENTATIVE P. WILSON removed her objection to the conceptual amendment. There being no further objection, Conceptual Amendment 2 to Amendment 15 was adopted.

[3:06:14 PM](#)

CO-CHAIR SEATON removed his objection to Amendment 15. There being no further objection, Amendment 15, as amended, was adopted.

Co-Chair Seaton held over HB 9, noting that public testimony would be taken once the proposed committee substitute (CS) incorporating the amendments is before the committee.

[3:06:57 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:07 p.m.