

HOUSE FINANCE COMMITTEE
THIRD SPECIAL SESSION
October 25, 2015
3:10 p.m.

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CALL TO ORDER

Co-Chair Neuman called the House Finance Committee meeting to order at 3:10 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Tammie Wilson

MEMBERS ABSENT

Representative Lance Pruitt

ALSO PRESENT

Marty Rutherford, Deputy Commissioner, Department of Natural Resources; Deepa Poduval, Principle Consultant, Black and Veatch; Mark Myers, Commissioner, Department of Natural Resources; Representative Jim Colver; Representative Dave Talerico; Representative Dan Ortiz; Representative Liz Vazquez; Representative Lora Reinbold; Representative Cathy Tilton; Representative Andy Josephson; Representative Neil Foster; Representative Louise Stutes; Representative Shelley Hughes; Representative Paul Seaton; Representative Bob Herron; Representative Chris Tuck; Representative Bob Lynn; Representative Geran Tarr; Representative Sam Kito III; Representative Gabriel LeDoux; Representative Mike Chenault.

SUMMARY

HB 3001 APPROP: LNG PROJECT & FUND/AGDC/SUPP.

HB 3001 was HEARD and HELD in committee for further consideration.

PRESENTATION: TRANSCANADA'S AKLNG PARTICIPATION

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Co-Chair Neuman reviewed the agenda for the day. He communicated that the department was working on committee questions from the previous day and would provide them at a later time.

#hb3001

House Bill No. 3001

"An Act making supplemental appropriations; making appropriations to capitalize funds; making appropriations to the general fund from the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) in accordance with sec. 12(c), ch. 1, SSSLA 2015; and providing for an effective date."

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^PRESENTATION: TRANSCANADA'S AKLNG PARTICIPATION

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MARTY RUTHERFORD, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, introduced herself.

DEEPA PODUVAL, PRINCIPLE CONSULTANT, BLACK AND VEATCH, introduced herself. She communicated that Black and Veatch was involved in large infrastructure projects around the world with a focus on energy, water, telecommunications, and critical human infrastructure. She relayed that her area of expertise was in midstream natural gas and liquid natural gas (LNG). She had worked on contract for the state for the past ten years, beginning with SGDA [Stranded Gas Development Act] through AGIA [Alaska Gasline Inducement Act], and SB 138 [legislation passed in 2014 related to a gas pipeline, AGDC, and oil and gas production tax].

Co-Chair Neuman noted that the committee would address the presentation the following day as well.

Ms. Rutherford introduced a PowerPoint presentation titled "TransCanada's AKLNG Participation" dated October 25, 2015 (copy on file). She read from slide 2: "Executive Summary":

Background

- In June 2014, the State of Alaska (SOA) and TransCanada Alaska Midstream LP (TransCanada) entered into a key agreement authorizing TransCanada to pay the upfront capital costs and hold the State's 25 percent share of ownership in the midstream components of the Alaska LNG (AKLNG) Project. These midstream components are the Gas Treatment Plant (GTP) and pipeline portions of the overall project.
- The agreement, called the Precedent Agreement (PA), was based on terms of a Memorandum of Understanding (MOU) between the State and TransCanada signed in December 2013. While the Alaska Legislature was not a party to the PA, it reviewed and debated the terms of the MOU during the 2014 legislative session.

Decision at Hand

- The State is now faced with a December 31, 2015 deadline to make a decision on whether to take back TransCanada's share and have direct equity participation in the AKLNG midstream. To do so would require termination of the PA.
- Under the PA's terms, by December 31, 2015, the State is obligated to either enter into a Firm Transportation Services Agreement (FTSA) with TransCanada or TC will be able to terminate the PA. Alternatively, if agreeable to TransCanada, the State can negotiate to extend the date for entering into an FTSA beyond December 2015.

Recommendation

- The State administration recommends termination of the TransCanada relationship by December 2015 and replacing it with the State's direct participation in the AKLNG midstream.

- The State administration expects this path to allow the State to better manage the obligation the State has for AKLNG midstream costs whether or not the project proceeds, increase the overall economics of the project to the State, and allow the State to have more direct voting rights on key AKLNG issues in return for its investment.

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Co-Chair Neuman asked for verification that the presentation would include backup information substantiating the points in the executive summary [slide 2]. Ms. Rutherford responded affirmatively.

Ms. Rutherford read from slide 4 titled "Context for State's 2014 decision to enter into a Precedent Agreement (PA) with TransCanada (TC)":

AGIA framework:

- TransCanada was the State's licensee under AGIA
- AGIA work product could not be transferred to AKLNG until after resolution of AGIA abandonment issues (including cost of the work product)
- AGIA also contained a treble damages provision
- It was in this context that the prior Administration negotiated an MOU with TC in 2013, and the AGIA Termination Agreement in 2014, to exit AGIA, transition to AKLNG, and sign the PA with TC

Entering into the PA with TC

- Gave the State a clean off ramp from the TC relationship, now, which it did not have when it entered into the PA for all the reasons discussed above
- Gave the State time during pre FEED to begin to develop its in house capabilities in order to fully consider the option of participating directly in midstream at appropriate off ramps
- TC's work on AGIA and APP allowed smooth transition into pre FEED
- Entering into the PA with TC for pre FEED also gave the State time to assess its ability to finance its share of investment in AKLNG without TransCanada

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Ms. Rutherford read from slide 5 titled "Key terms of the Precedent Agreement between State of Alaska and TransCanada":

- TC Owns the State's ~25% Entitlement to GTP + Pipeline
- Funds up front midstream cash calls Technical lead for pipeline during pre-FEED
- State to Commit to 20-25 Year Transportation Agreement with
- TC by Dec 2015 to Pay for Using GTP+Pipe
- SOA Ultimately pays TC for all its Costs (including a cost of capital of ~7%)
- Both SOA and TC have Milestones & Off Ramps: SOA Responsible for TC Costs, Regardless of Off Ramps

Ms. Rutherford elaborated that the state was always responsible for the TransCanada costs regardless of off-ramps. She noted that later in the presentation Ms. Poduval would address how the state would pay for each of the responsibilities.

Ms. Rutherford highlighted that the PA had agreed upon off-ramps that allowed the state to terminate before December 31, 2015 (slide 6). The first off-ramp occurred by the end of 2015 and required a termination of the PA by December 31. At that point the state would be obligated to pay TransCanada development costs of approximately \$70 million, which included TransCanada internal costs. The second off-ramp occurred between the FEED [Front End Engineering and Design] stage and the final investment decision [FID], which was set to occur approximately by the end of December 2018. She detailed that the cost of buying out TransCanada at that point was estimated at around \$490 million (the amount would include TransCanada's internal costs).

Ms. Rutherford moved to slide 8 and relayed that the state was faced with the critical decision on whether to terminate the PA with TransCanada. She explained that the state had two options:

1. Terminate the PA by December 31, 2015

State would have to reimburse TransCanada for its costs incurred to date (plus approximately 7 percent

interest) - SOA increases overall equity and voting rights to 25 percent, which equals the SOA's share of gas

2. Or, assuming TC is willing, Execute an FTSA with TransCanada by December 31, 2015

TransCanada would continue to incur costs on behalf of the SOA unless there is a termination at a later date, at which point the SOA will have to reimburse TransCanada's costs (plus approximately 7 percent interest)

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Ms. Rutherford read from slide 9: "The administration recommends Termination of the Precedent Agreement":

Alignment

Currently, the SOA is estimated to receive 25% of the gas from Project; however, with TransCanada's equity participation in the midstream portion of the Project, the SOA only retains approximately 12.5% equity in the project

Voting Rights

Terminating the agreement and increasing the State's voting rights would allow the State to have a more direct say in the decision making process of the project

Ms. Rutherford elaborated that ensuring that the state had a more direct say in project decision making was particularly important as the project moved from pre-FEED to FEED. She continued to read from slide 9:

Economic Benefit

The SOA could realize up to \$400 million of additional annual net cash flows from the Project, based on DOR's expectations of State being able to finance cheaper than TC by financing the midstream portion of the Project directly

Ms. Rutherford noted that consultants Lazard, Greengate LLC, and FirstSouthwest, had all spoken on the topic the previous day. She relayed that she and Ms. Poduval would

continue to address the topic throughout the presentation. She turned the presentation over to Ms. Poduval.

Ms. Poduval stated that the main drivers behind the administration's recommendation were to improve alignment, increase the state's voting rights, and create more economic benefit to the state.

Ms. Poduval addressed the importance of equity alignment and voting rights on slide 11. She pointed to a schematic showing the current project structure. She detailed that ExxonMobil, BP, and ConocoPhillips each held a certain share of gas, which equaled their ownership in the project. She explained that the state was expected to get 25 percent of the gas from the project, but because TransCanada held the equity in the GTP and pipeline, effectively the state only held the 25 percent equity in the LNG plant. She furthered that because the LNG plant was expected to be about half the cost of the total project, it meant that the state had about 12.5 percent ownership in the AKLNG project compared to its 25 percent ownership of the gas.

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Ms. Poduval moved to slide 12: "Alignment through direct participation will facilitate State influence equivalent to its investment." She explained that the state's equity ownership in the AKLNG project would determine its voting rights, which it was currently sharing with TransCanada. She discussed that as a midstream infrastructure company, TransCanada's decisions were driven by maximizing its shareholder value. Whereas, the state's interests would always be to maximize value for Alaskans from the perspective of a resource owner. She explained that the situation created a fundamental misalignment. Often, the state and TransCanada fell on the same side of issues; however, there were several instances where TransCanada fell on a different side. She furthered that rather than being an agent of the state or an extension of the state and always voting as the state would want, TransCanada was a commercial entity that the state had to negotiate when the entities had differences of opinion.

Ms. Poduval relayed that one of the primary learnings in going through the pre-FEED process with TransCanada was understanding the challenges of the structure that had been established. She discussed that TransCanada's role on

behalf of the state was diluting the state's voice in the project. She stated that there were many important decisions on the horizon including, the project budget and schedule, design decisions (e.g. pipeline and GTP), and decisions related to by-product handling at the GTP. She elaborated that by-product handling held a high level of importance to the state because a significant amount of carbon dioxide (CO2) extracted from the gas at Prudhoe Bay, which would require disposal. The decision would be influenced by whoever owned the GTP; it would be important for the state to influence the decision. She explained that the misalignment was not from any ill intent, but was simply a function of TransCanada being a commercial entity working to maximize its shareholder value versus trying to maximize the value of Alaska's resources. Additionally, it created complexity when establishing the project governance agreements. For example, she questioned whether TransCanada would vote on all issues that affect the GTP and pipeline and if the Alaska Gasline Development Corporation (AGDC) would vote on issues that affect the LNG plant. She asked what would occur if there was an issue affecting all three components and who would speak for the state.

Ms. Poduval relayed that another challenge in the structure was access of information [by the state]. She explained that the structure did not work as efficiently as it would if the state was directly at the table. There were challenges for the state associated with the quality, timing, and quantity of the information.

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Ms. Poduval addressed criteria for evaluating economic impact of TransCanada's participation on the state (slide 14). The presentation used three different criteria to evaluate the economics: cash flows, net present value, and risk. She addressed cash flows, which included two components: upfront cash calls the state would make and operational cash flows the state would receive. She addressed the upfront cash calls the state would be required to make if the agreement with TransCanada was terminated. She detailed that state would immediately be responsible for paying back TransCanada for its investment in pre-FEED, which was estimated at approximately \$70 million; and for funding AGDC for the continuation of TransCanada's work on pre-FEED, which was estimated at slightly over \$60 million. Going forward the state would

need to make direct upfront cash calls for FEED and project construction.

Ms. Poduval addressed whether the economic impact to the state was driven by a trade-off between higher upfront investment and higher operational cash flows or lower upfront investment with lower operational cash flows (slide 16). She explained that the fundamental tradeoff had not changed since the last time the legislature had looked at the TransCanada decision. She stated that the economics worked out in the same way. She relayed that the state's total upfront cash call exposure was \$6.9 billion to \$8.3 billion higher without TransCanada's participation (slide 17). The \$7 billion figure was at the project's base capital cost estimate at about \$45 billion, while a 20 percent capital cost overrun at about \$54 billion would produce an upfront cash call of approximately \$8 billion.

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Ms. Poduval discussed that the state's annual upfront cash calls in the AKLNG project were expected to nearly double without TransCanada (slide 18). She detailed that at the peak of construction the state would have to fund about \$1.5 billion with TransCanada, which would increase to slightly over \$2.5 billion without TransCanada. She noted that a very small amount of the project's total investment was spent during pre-FEED (approximately 1 percent) and 4 to 5 percent of the project's total costs were spent during FEED. She elaborated that FID would occur between FEED and construction; 95 percent of the capital costs associated with the project would occur after FID. She discussed that the state's financing would come together at FID. She expounded that each of the project partners would have to sell their LNG under long-term commitments by that time and line up their financing for the project. At that point board approval would have been given, the engineering and design would be complete, and contractors would be ready to begin construction. Before the state took FID for the project, it would have secured financing from the financial market. She explained that the upfront capital calls would be paid by the state's chosen source of debt.

Ms. Poduval highlighted that once the project became operational the state was expected to receive annual cash flows of up to \$400 million higher without TransCanada (slide 19). The savings estimate came from the expectation

that the state had a lower cost of debt than TransCanada's 7 percent interest rate. Additionally, the state did not have certain cost elements that TransCanada had (e.g. in terms of taxes).

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Ms. Poduval discussed slide 20: "NPV increase to the State without TC can be between \$0-1.2B over 20 years." She explained that depending on the discount rate used to calculate the net present value (NPV), the state would be neutral at worst under a 10 percent discount rate, whereas, under a 5 percent discount rate the state would achieve additional value exceeding \$1 billion.

Ms. Poduval discussed slide 21: "The economic benefit of replacing TC could vary based on the SOA's credit rating." She referred to the projection that the state could achieve up to \$400 million per year in additional net cash flows. She explained that the \$400 million was based on the expectation that the state could finance at a lower rate on its own versus through TransCanada. The sensitivity analysis on slide 21 looked at what would occur if the state's cost of capital for the project was higher than expected. She referenced testimony from the previous day by members of the project finance team that they believed the state would be able to obtain financing for the project. Additionally, the presenters had shared the expected cost of debt at different credit ratings for the state. At an A-rating the interest rate would be about 5.5 percent. The \$360 million bar shown on slide 21 had been rounded up to the \$400 million. She stated that even if the state's cost of debt increased to a rate of 5 percent, there would still be \$170 million in additional value to the state without TransCanada. She stated that even under some interest rates that were too high to be realistic, the state would achieve additional cash flows without TransCanada.

Ms. Poduval discussed slide 23: "Why terminate the agreement with TransCanada now?" She relayed that the PA had been designed to have different off-ramps for the state. She elaborated that the agreement had been entered into against the background of AGIA for the pre-FEED period with the recognition that pre-FEED represented a small portion of the project's development costs. She furthered that pre-FEED allowed the state to examine the effectiveness of the relationship with TransCanada and

helped the state understand whether it had the financial ability to invest directly in the midstream. The different off-ramps at the end of pre-FEED and through FEED had been designed to allow the state to come to the fork in road, evaluate the information based on the pre-FEED experience, and understand whether an off-ramp was the right decision for the state. She relayed that the administration was recommending the current off-ramp based on the state's ability to manage financial risk, to avoid back-in rights, and to influence project decisions.

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Ms. Poduval addressed the state's ability to manage financial risk on slide 24. She relayed that the state was obligated to repay TransCanada's costs if during the development stage, the state terminated TransCanada, TransCanada exited the project, or the project was terminated. TransCanada's costs included development and internal costs and a 7 percent interest on the amounts. She continued that if the state could secure lower financing rates on its own, the earlier it made the termination decision, the lower its ultimate costs would be in the event of a failure. Currently there was a prospect of a successful project, which created a much better environment for the state to secure financing in. She explained that if in three years the project was not moving forward, TransCanada would have invested much more on the state's behalf and would have accrued many more internal costs as well as interest expenses. She continued that the state would have the obligation of writing a larger check to TransCanada, potentially with very little notice, and would need to then go to the financing community to fund the debt. At that point the financing community would know that the state's prospects of a successful project had dimmed significantly. She relayed that under the scenario the state's financing costs were expected to be higher.

Ms. Poduval discussed a scenario that included a successful project that included TransCanada. She detailed that the state would be obligated to repay all of TransCanada's costs in the form of a tariff payment. She explained that the tariff payment would be higher because TransCanada's cost of capital was higher than financing the state could secure on its own. The potential savings was reflected in the figure of up to \$400 million. She reiterated that it was better to secure cheaper financing at present than to

try to secure financing later when there was a larger check due to TransCanada and markets knew the project was not going forward. Additionally, if the project was successful, the state could finance its midstream costs directly at a cheaper rate than the rate provided by TransCanada.

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Ms. Poduval briefly addressed that the stakes increased as the project proceeded through the various stage gates. She reiterated that if the state could secure cheaper financing on its own, it was better off starting earlier rather than later.

Ms. Poduval highlighted avoiding TransCanada back-in rights as the second reason the state should terminate its agreement with TransCanada at the present time (slide 26). She detailed that if the state crossed the December 2015 timeline and entered into an FTSA with TransCanada, the terms of the FTSA specified that if within five years of terminating TransCanada the state pursues any substantially similar project, it was required to allow TransCanada an option to participate under similar terms. She explained that the legislature had removed the back-in rights provision from the PA because it wanted to give the state a clean off-ramp once it had evaluated how the process had worked through pre-FEED.

Ms. Poduval advanced to slide 27 and relayed that several key near-term decisions were impending. She stated that there was a fundamental difference in the interests of the state, producers, and TransCanada. She elaborated that the ability for the state to terminate the agreement with TransCanada and to gain full voting rights equal to its 25 percent share in the project would help the state have a much more direct influence over key decisions including by-product handling, project budget, and schedule. Terminating the agreement with TransCanada was also expected to facilitate a simpler and more efficient resolution of voting rights and various terms in the governance agreements currently under negotiation.

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Ms. Poduval indicated she would be skip the next few slides that had been covered by the finance team the previous day.

Co-Chair Neuman commented that they would return to the topic covered in the skipped slides at a later time.

Ms. Poduval addressed how the state could replace TransCanada's technical role in the project. She read from slide 32 titled "What is TC's technical role in the AKLNG Project?":

- TC is experienced in northern pipelines and leads the pipeline technical work for AKLNG
- TC in its current role performs or has performed several functions including the following:
 - o Holds State of Alaska's midstream equity in AKLNG as signatory to the JVA
 - o Contributes pipeline SMEs that were seconded to the JVA PMT
 - o Coordinated FERC NEPA Process

Ms. Poduval addressed slide 33: "How will TransCanada's technical expertise be replaced?" She relayed that TransCanada was not anticipated to build the pipeline. She detailed that the AKLNG Project Management Team (PMT) was responsible for leading and guiding the project. The team was comprised of experts from each of the project partners; the individuals held positions based on their skills and experience. The PMT hired engineering and specialist contractors that were currently advancing the project design efforts; the team would also hire the engineering, procurement, and construction contractors who would eventually build the project. She stated that a significant amount of the work was done by contractors with PMT oversight.

Ms. Poduval moved to slide 34 and continued to discuss how TransCanada's technical expertise would be replaced. She relayed that AGDC had significant Alaska-related pipeline experience given its successful completion of pre-FEED and FEED work on the ASAP pipeline. She communicated that AGDC had already taken over TransCanada's role in coordinating the Federal Energy Regulatory Commission (FERC) National Environmental Policy Act process. The AKLNG producer partners, AGDC, and the contractors would all come together under the PMT structure to build the GTP, pipeline, and LNG plant.

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Ms. Poduval read from slide 35 titled "Conclusions and Recommendations":

The current arrangement with TransCanada was designed to provide the State (and TransCanada) with several off ramps as the AKLNG Project moved through its different development stages, including an important clean off-ramp for the State in December 2015

Ms. Poduval added that the clean off-ramp had no back-in rights for TransCanada. She continued to read from slide 35:

The State administration recommends termination of the TransCanada relationship by December 2015 and replacing it with the State's direct participation in the AKLNG midstream

The exercise of this off ramp is expected to facilitate better alignment and control, lower risk and create additional value for the State in the AKLNG Project over the long term

Co-Chair Neuman remarked that a substantial amount of information had been presented. He encouraged members to submit their questions to the co-chairs.

Ms. Rutherford noted that members' packets included a document titled "TransCanada AKLNG Participation Decision Primer" from the Office of the Governor, dated October 24, 2015 (copy on file). She detailed that it was a follow-on to a Black and Veatch report on the TransCanada participation decision that had been issued on September 30, 2015. The document was a narrative that provided a walk-through of the Black and Veatch report and the current presentation.

Co-Chair Neuman explained that the committee members had not received the information until shortly before the current meeting. He asked members to review the information and ask any questions the following day.

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Vice-Chair Saddler asked, under SB 138, who had the authority to make the termination decision for TransCanada and where the decision was laid out.

Ms. Rutherford responded that the decision was laid out in the PA. She noted that the document had been confidential, but at the administration's request, TransCanada had made the document public. She believed that TransCanada would distribute the document within the next 24 hours. The termination decision was made by the DNR commissioner. She communicated that the commissioner and governor had felt strongly that they did not want to terminate the PA without having the discussion with the legislature in order for the legislature to become party to the decision and the associated appropriation. The appropriation would be mandated by a termination.

Co-Chair Neuman remarked that if the legislature was party to the decision it should have access to confidentiality agreements. Ms. Rutherford agreed, which was why the administration had asked TransCanada to make the PA public. She noted that a very small portion of the document had been redacted. She believed the legislature would receive the information directly from TransCanada.

Co-Chair Neuman asked if the legislature would have access to all of the confidentiality agreements. Ms. Rutherford answered that the PA was the confidential document that drove the arrangement that had emerged from the MOU.

Vice-Chair Saddler referred to the DNR commissioner's ability to make the termination decision. He asked if it was a best interest finding. He wondered if the legislature could get a copy of the finding before making a decision on appropriating the funds.

Ms. Rutherford replied in the negative. She explained that it was a contractual arrangement that could be terminated with "the swipe of a pen."

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Representative Wilson agreed that the state should have a seat at the table. She wondered who would actually sit at

the table on behalf of Alaska. Ms. Rutherford replied that AGDC would be the state's representative and it would hold the 25 percent equity position for all three elements of the project; it currently held the liquefaction portion and would add the GTP and pipeline.

Representative Wilson assumed the AKLNG partners referred to on slide 34 were the three producers (i.e. ExxonMobil, BP, and ConocoPhillips). She surmised that it there would also be a [state] designee at the table instead of TransCanada. Ms. Rutherford answered that the state's representative would be AGDC. She elaborated that AGDC had been set up by the legislature to be the equity holder at least for the liquefaction. She furthered that AGDC would be the state's representative on the project instead of TransCanada holding the two elements.

Co-Chair Neuman asked where SB 138 gave AKLNG [AGDC] statutory authority to continue work on the pipeline and GTP.

Ms. Rutherford stated that the question had also been asked of the administration earlier in the day. She believed the attorney general's office would provide a response directly from the governor's office.

Co-Chair Neuman noted his preference to receive the information sooner rather than later.

Representative Wilson noted that as part of the partnership TransCanada would have been paying into PILT [payment in lieu of taxes] for municipalities. She wondered if it would go away without TransCanada. Alternatively, she wondered if the other partners would pay into PILT.

Ms. Rutherford replied that DNR was not the expert on payment in lieu of taxes. She relayed that she had spoken with DOR on the issue and she believed the calculation had been made based on four partners broken into four quarters. She explained that if the buyout of TransCanada went through there would be three quarters, but the same amount of money would be divided among the municipalities; the municipalities would not have a lower total income resulting from the TransCanada buyout. She conferred with Ms. Poduval and noted they had a slight difference of opinion. She would follow up on the issue with a specific answer the following day.

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Co-Chair Neuman referred to Ms. Rutherford's remark about a slight difference of opinion on the topic. He wanted to hear both sides.

Ms. Rutherford noted it [the disagreement] had been between herself and Ms. Poduval.

Ms. Poduval indicated that each of the producer parties would continue to pay the PILT, which would not change with TransCanada's exit.

Representative Guttenberg remarked that if nothing was done the state would still have the liability for all of the work done by TransCanada, which would continue. He furthered that the state would not have the ability to terminate the project. He asked about the accuracy of his statements.

Ms. Rutherford responded that the state was responsible for TransCanada's costs if TransCanada quit, the state terminated them, or the project terminated. Under the three circumstances the state would pay TransCanada its costs plus 7 percent interest or a FTSA could be established, under which the state would repay TransCanada's costs over a 20 to 25-year FTSA associated with throughput.

Ms. Poduval added that the state had the right to stop participating in the AKLNG project; if it chose the option, TransCanada would no longer incur additional costs on the state's behalf.

Ms. Rutherford clarified that under the scenario highlighted by Ms. Poduval, the state would still owe TransCanada its costs to date plus interest.

Representative Guttenberg discussed that if the state terminated the agreement with TransCanada, it would owe the company 7 percent on top [of the money it owed]. He surmised that the amount would include the cost of capital TransCanada had accrued. Ms. Poduval agreed that he was correct.

Representative Guttenberg asked what parameters the state used to understand what it was paying TransCanada for

(regardless of TransCanada's continued involvement). He asked if it was a straight billing contract. He asked if the state was paying for the company's gardener at the company's headquarters or if the state was paying only direct costs as opposed to incidental costs. Ms. Rutherford replied that the subject was part of the PA the legislature would be receiving from TransCanada [in the near future]. She relayed that the costs were associated with a billing and the state had audit prerogatives.

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Representative Guttenberg referred to slide 4 related to the state's decision to enter into the PA with TransCanada [in 2014]. He pointed to the bullet that stated the PA with TransCanada had given the state time during pre-FEED to develop its in-house capabilities in order to fully consider the options of participating directly in midstream at appropriate off-ramps. He wondered if the state was there yet. He asked if the capacity had been developed or if the appropriate people were on board to follow through.

Ms. Rutherford replied in the affirmative. She relayed that the state had a much better understanding of the relationship as an equity owner as it had begun to enter into some of the commercial negotiations and participated in the project management team oversight of the project. She believed that AGDC felt very comfortable in holding the state's equity position.

Representative Gara spoke to two concerns. First, he addressed whether the state would make more money by terminating TransCanada. He referred to the estimate that if the project succeeded the state would make up to \$360 million to \$400 million per year (without TransCanada), which was between \$3.5 billion and \$8 billion in a 20-year period. He asked if the extra money the state could make without TransCanada was clear of the original \$7.1 billion investment by the state. He wondered if the state would earn back the \$7.1 billion and make up to \$400 million per year in additional funds. Alternatively, he asked if the money would go towards paying back the original \$7.1 billion investment.

Ms. Poduval answered that the earnings of up to \$400 million per year would be net of all of the state's costs; the funds would be in addition to the repayment of the

state's original \$7 billion investment. She elaborated that the state was expected to borrow the \$7 billion and would have a debt payment obligation during the project's operation. The additional cash flows of up to \$400 million come after the debt payments had been met.

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Representative Gara surmised that the state would receive \$200 million to \$400 million [per year] and would not have to subtract the original \$7.1 billion. Ms. Poduval replied in the affirmative.

Representative Gara discussed a failed project scenario. He surmised that if the state ended the project at present (he believed that would be a mistake) and bought out TransCanada, it would not cost the state any more money than if the legislature did not pass the bill [HB 3001]. Ms. Poduval responded in the affirmative. She explained that the state had the obligation to pay back regardless.

Representative Gara asked if it would save the state money to buyout TransCanada at present in the event of a project failure in three or four years' time, given that the state would not continue to pay TransCanada's 7 percent interest and financing costs.

Ms. Poduval replied in the affirmative. She expounded that if the project failed in three or four years' time, without TransCanada the state would be writing a smaller check for its participation up to that point in time. She furthered that Black and Veatch believed the state could secure cheaper financing than TransCanada's 7 percent interest on pre-FEED and FEED costs.

Representative Gara restated his understanding that if the project failed, the state would save more money without TransCanada and if the project succeeded, the state would earn more money. He asked for the accuracy of his statement. Ms. Poduval replied in the affirmative, assuming that the state could finance at a rate below 7 percent.

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Co-Chair Thompson asked if there had been any alignment issues between the state and TransCanada to date. He asked for detail. Ms. Rutherford replied that the confidentiality

agreement made discussing some of the issues difficult. She was not able to go into any detail, but there had been some difficulties because the state and TransCanada had different commercial perspectives. She added that the difficulties had not been extreme, but they did exist.

Ms. Poduval provided the access to information as an example. The area was challenging for the state because information was provided indirectly through TransCanada.

Co-Chair Neuman wanted to know the problems and issues that existed. He wondered if the state's relationship with TransCanada was good or bad and in what areas it was good or bad.

Ms. Rutherford replied that governance was a good example of areas where there had been differences of opinion. She expounded that there was lack of clarity on who would vote on AKLNG under a split ownership between TransCanada and AGDC. She elaborated that if AGDC would want the vote if it was fronting the state's money and participating in the project. The state would want the vote due to its ownership in the liquefaction.

Co-Chair Thompson referred to the Black and Veatch report, which talked about that the state gas team and AGDC were participants in the regulatory process and commercial negotiations with the producers. He spoke to project expansion and third-party access issues and asked who made up the state gas team and what role the individuals played.

Ms. Rutherford offered to provide a written list of names of individuals under contract and within the various agencies.

Co-Chair Thompson requested additional information on how the individuals interacted with AGDC on the decision making process. Ms. Rutherford would provide that information.

Co-Chair Neuman asked if there was anything specific that laid out who the project team members and their duties.

Ms. Rutherford asked for clarification. She questioned whether he was referring to the AKLNG project or the state gas team.

Co-Chair Neuman was referring to both. Ms. Rutherford would

provide the information.

[4:14:42 PM](#)

Representative Munoz asked whether TransCanada had fulfilled its obligations in the pre-FEED process. Ms. Rutherford responded in the affirmative.

Representative Munoz wondered if TransCanada supported potentially increasing the pipe size from 42-inches to 48-inches. Ms. Rutherford affirmed that the AKLNG project had supported the work associated with fully analyzing the larger pipe as part of the final pre-FEED effort. She noted that the decision had required all parties to vote in support of the analysis.

Representative Munoz asked if the financial decision the legislature would make included the additional money required of the expansion decision. Ms. Rutherford answered that it was not a decision, but a commitment by the project to bring a 48-inch analysis up to the same level of pre-FEED information as the 42-inch pipeline. The analysis would enable the project and its equity owners to make an informed decision on the appropriate pipe size.

Representative Munoz asked about the expected budget for reviewing the information leading to the decision. Ms. Rutherford answered that the additional analysis was \$30 million.

Representative Munoz asked if the state's portion of the \$30 million was included in the appropriation request in the bill. Ms. Rutherford replied in the affirmative.

Co-Chair Neuman requested numbers as the meeting continued.

Representative Munoz asked about TransCanada's level of involvement in the project in terms of its employees dedicated to the project. She queried how many individuals from TransCanada were actively working on the project. Ms. Rutherford believed 15 TransCanada employees were working on the project.

[4:17:58 PM](#)

Representative Munoz asked what would happen to the relationship with TransCanada if the buyout did not occur

at present. Ms. Rutherford stated that in discussions with TransCanada, the company had offered to enable its key employees to continue working on the project through the pre-FEED stage.

Representative Munoz was curious about the state's relationship with TransCanada going forward if the buyout did not occur. She wondered how the decision would impact forward movement on the project.

Ms. Rutherford believed the legislature would hear from TransCanada that it was supportive of the buyout. She believed it was the company's preference. She remarked that the company would be available for discussion with the legislature later in the week. She relayed that she had been told by TransCanada that it was supportive of the buyout.

Representative Gattis remarked that when SB 138 had been passed there seemed to be significant value associated with including TransCanada in the deal. She wanted to know the downside of losing TransCanada's participation in the project.

Ms. Rutherford replied that the downside was that the state did not want to lose any momentum on the pre-FEED work. In relation to one of the most significant risks, TransCanada had been obliging by agreeing to either second its employees to the project or allow the project to hire TransCanada's employees to finish the work.

[4:20:52 PM](#)

Co-Chair Neuman referred to Ms. Poduval's testimony that it was a good transaction. He remarked that nothing was perfect. He asked about problems that had arisen or items she thought were concerns to the state. He relayed that the committee needed all of the information to understand the whole story.

Ms. Poduval reiterated there were some constraints due to confidentiality, but she wanted to help the committee understand where the misalignments were. She relayed that access to information was an area that had been challenging because it came to the state indirectly through TransCanada. She spoke to by-product handling and the importance of the state having a direct seat at the table.

She elaborated that there was a substantial amount of CO2 that would need to be extracted from the Prudhoe Bay gas; it was the expectation that the CO2 would be reinjected in the Prudhoe Bay unit. There needed to be negotiations about how the costs associated with the by-product handling would be negotiated effectively. She continued that it could be done on a bilateral basis between each of the parties bringing gas in or the AKLNG project could negotiate with the Prudhoe Bay unit. From TransCanada's perspective any cost incurred would be a pass-through to the state in the form of a tariff. However, from the state's perspective, it was billions of dollars. She relayed that in the specific example, the best way to protect the state's interest was to be there directly.

Co-Chair Neuman asked Ms. Rutherford to provide the committee with a list of some of the issues the administration had looked at and how it had weighted the concerns to the state or TransCanada. Ms. Rutherford affirmed that she would follow up with the information.

[4:23:50 PM](#)

Vice-Chair Saddler referred to his earlier question about when the termination mechanism would occur. He recalled that Ms. Rutherford had answered that it was a contractual provision that could be changed with the stroke of a pen. He wanted to see the document once it had been signed and wondered when it would be provided to the committee.

Ms. Rutherford replied that the partnership with TransCanada had not yet been terminated; no document had been signed. She relayed that the commissioner of DNR and the governor believed it was not an appropriate action to take without the legislature's engagement related to the appropriation.

Vice-Chair Saddler wondered if the contract would be signed before the appropriation was made. Ms. Rutherford replied that the administration would not terminate the PA without the legislature's approval of the appropriation.

Vice-Chair Saddler surmised that it was putting the cart before the horse. He believed that only once the commissioner decided to terminate the contract with TransCanada did it become the legislature's decision to appropriate the money or not. Ms. Rutherford replied that

the commissioner could have taken the action to terminate TransCanada. However, the commissioner did not feel that obligating the state to approximately \$70 million without having the discussion with the legislature was prudent.

Vice-Chair Saddler asked what would occur if the legislature declined to vote in support of appropriation. Ms. Rutherford responded that the administration would begin to explore the FTSA with TransCanada.

4:26:03 PM

Vice-Chair Saddler referred to Ms. Rutherford's testimony that TransCanada was willing to make the PA public. He was anxious to see the document. Ms. Rutherford replied in the affirmative. She had asked TransCanada to transmit the document as quickly as possible.

Vice-Chair Saddler queried the project voting mechanism. He asked whether scenario without TransCanada meant the state would have one vote out of four instead of one vote out of five. He wondered how it would materially change the state's bargaining power.

Ms. Rutherford agreed to provide the information in written form. She could not remember off hand whether the information was confidential.

Representative Edgmon remarked that the bill consisted of two pages. He referred to the \$13 million increment included on page 2 for three state agencies. He noted that Pat Pitney (director of Office of Management and Budget, Office of the Governor) had told the committee the previous day that the money tied to legal contracts and bankability work. He wondered how it would impact the state's momentum on the project if the bill failed to pass. He asked for comments on the importance of the money in terms of the administration and AGDC.

Ms. Rutherford replied that there were various elements to the appropriation bill including the buyout of TransCanada; funding AGDC's ability to pick up its operational costs and the final pre-FEED costs; and funding for the Department of Revenue (DOR), the Department of Law (DOL), and the Department of Natural Resources' (DNR) roles in the commercial aspects of the negotiations. The commercial aspects included everything from fiscals (fiscal certainty)

to upstream cost allocations. Additionally, because the state was not a working interest owner in the Point Thomson or Prudhoe Bay units, the state needed to ensure it would have the gas available to sell and supply on a regular basis. She elaborated that if the state did not receive the appropriations to finish up the current portion of the fiscal year, it would greatly affect the state's ability to continue the negotiations and bring commercial agreements to the legislature as quickly as possible.

4:30:03 PM

Representative Edgmon surmised that Ms. Rutherford believed it would be a setback [on the project's momentum if the bill failed to pass]. Ms. Rutherford replied that it would be a significant setback. She elaborated that when DNR had put its budget together for the gas commercialization efforts, it had requested \$13 million and had been funded slightly under \$9 million with the understanding from various finance members that the department could come back with a supplemental request if necessary. She relayed that the increment in the bill represented a supplemental request for DNR and she believed it was what the other two agencies were doing as well.

Representative Edgmon queried the length of time the legislature would have to address the fiscal implications that would result if the bill failed to pass and the DNR commissioner elected to terminate TransCanada. He wondered if the costs would come forward in a supplemental bill.

Ms. Rutherford replied that TransCanada had up to 30 days to provide the state with a billing, and the state had up to 90 days to pay the costs plus the 7 percent. She noted that the state could audit and challenge the costs. After 120 days the interest rate would increase to 10 percent plus LIBOR [London Interbank Offered Rate]. She noted that the previous Friday, LIBOR had been 0.182 (approximately 10.2 percent interest after the 120th day).

Ms. Poduval expounded that if TransCanada issued a termination notice to the state or the commissioner of DNR chose to terminate, the payment due date would be 30 days after the notice was provided and 90 days after that the state would begin incurring a penalty at LIBOR plus 10 percent.

Ms. Rutherford continued that if TransCanada provided a billing to the state the day after the company had given termination notice, the 90 days would begin at that time; 120 days was the maximum time period.

Representative Edgmon remarked on the testifiers' earlier statements that if the bill failed to pass, the administration would move forward in pursuing the FTSA with TransCanada. He observed that under that scenario his questions were not applicable.

4:34:06 PM

Representative Gara referred to discussion about the possibility of a 48-inch pipe. He recalled that under the former Parnell Administration that staff (then DNR Commissioner Joe Balash and DOR Deputy Commissioner Michael Palowski) had pushed a 48-inch pipe with the caveat that they felt the state would be able to fill it. He did not believe in ExxonMobil, BP, and ConocoPhillips monopolization of the North Slope. He discussed that with a 42-inch pipe there was a certain amount of inexpensive expansion, but at some point expansion became very expensive and the state would risk not having competitors on the North Slope. He asked about the accuracy of his statement.

Ms. Rutherford replied that a 42-inch pipe would be expandable, but the administration believed that a 48-inch pipe would be a superior option for third-party expansion opportunities on the North Slope. She expounded that the operational costs for the fuel gas would offset the additional cost of the pipe within 12 years. Part of the discussion at the project level was about whether the premises were true. She furthered that part of the reason for bringing the 48-inch pipe up to the same level of information as the 42-inch pipe was to make the determination with informed information.

Co-Chair Neuman referred to the administration's economics and noted that there was a breakpoint related to compression and the amount of money it would cost for additional compression. He asked Ms. Rutherford to provide the information to the committee.

Ms. Rutherford agreed to provide that information. She noted that the information would be based on the analysis

within the gas team and would not be a project representation. The project would not yet make a determination on the assumption until the studies had been completed.

Representative Gara understood that "you wouldn't want to build a pipe if you didn't think the gas was there." He appreciated that the issue was being studied. He spoke to a scenario it was determined that there was sufficient gas to support a 48-inch pipe plus expansion. Under that scenario, if the state elected to go with a 42-inch pipe it would increase the chances that that it only had basin control on the North Slope with ConocoPhillips, BP, and ExxonMobil. Additionally, he surmised that it would deter additional exploration, jobs, revenue, and gas through the pipeline. He asked if his statements were fair.

Ms. Rutherford agreed that the statements were consistent with DNR's perspective. She stressed that DNR had always been an advocate for opening up opportunities for third parties to develop the gas. The department strongly believed it was in the state's best interest. The department also believed that resource owners on the North Slope would try to "right-size" the pipe for their own resources. She believed having the tension between the resource owner wanting to have an upscale pipe or an easily expandable pipe is a natural and probably healthy discussion.

[4:38:25 PM](#)

Co-Chair Neuman requested any information the administration had from the Alaska Oil and Gas Conservation Commission (AOGCC) on offtake and the effects offtake had on oil production. Ms. Rutherford agreed to provide that information. She noted that AOGCC had recently made new offtake orders for Prudhoe Bay and Point Thomson.

Representative Guttenberg felt that TransCanada had "no skin in the game." He elaborated that the state reimbursed TransCanada for every dime spent on the project. He reasoned that because the company had no risk, downsizing or changing parameters of the project was not a problem for the company. He stated that all TransCanada would think about was how to make more money. He elaborated that if the project failed the company would be reimbursed and if the project succeeded there would be more upside. He asked

about the accuracy of his assessment. He wondered if the administration had made the consideration about the state's relationship with TransCanada when the company was at the table voting on the state's behalf or making decisions at the management team level.

Ms. Poduval agreed with that summation. She furthered that any costs incurred as part of the project expenses would eventually be passed through to the state under the current agreement with TransCanada and the expected FTSA. She agreed that it was something that influenced the recommendation and that the state needed to be aware of.

Ms. Poduval clarified that the AKLNG work product and budget (capital needed to keep the project going) allowed for the state to influence TransCanada's vote on the specific area.

Representative Guttenberg queried the difference between the state terminating the agreement and TransCanada terminating the agreement. He wondered about the state's liabilities in each scenario. Ms. Poduval replied that the issue was covered under the terms of the confidential PA that TransCanada had agreed to release shortly. She explained that if TransCanada terminated the agreement, the state's payment to the company would be due in 30 days. She detailed that the state would still accrue interest at a 7.1 percent rate during that period. She relayed that if the state had not made its termination payment within 90 days of the due date, the state would begin accruing interest at a higher percentage (LIBOR plus 10 percent). Under a scenario where the state terminated the agreement, if the state failed to make a payment within 30 days, the LIBOR plus 10 percent would begin accruing at that point.

Ms. Rutherford disagreed with Ms. Poduval's statement. Ms. Poduval stated that the lawyers could answer the question.

[4:43:08 PM](#)

Co-Chair Neuman requested a chart outlining the dates and information. Ms. Rutherford agreed to provide the information.

Representative Wilson wondered why the commissioner of DNR was not at the table to answer questions.

Co-Chair Neuman invited Commissioner Myers to the table.

Representative Wilson wondered why the commissioner did not sign off on it [the decision to terminate TransCanada] if it was in the state's best interest. She remarked that the legislation had been implemented to take the politics out of the equation.

[4:44:35 PM](#)

MARK MYERS, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, answered that there were several reasons. First, there was an appropriate time to terminate (December 31, 2015), which optimized the state's position. He did not want to presume the termination until he was confident the funds were available. He detailed that the state would be responsible for paying additional interest if there was a failure to fund the termination bill. He believed it was appropriate to understand whether it was the will of the legislature to fund or not fund the appropriation. He relayed that the bill itself did not provide for sufficient funding. He furthered that because of the last year's budget cycle, the department did not have sufficient funding to get through the current [fiscal] year without a supplemental budget. Additionally, DNR could not fund the work plan and budget, which was also part of the budget. He noted that DNR would default on many fronts. He stated that the issue was a matter of timeliness and appropriateness of process and was out of respect for the legislature's position as the appropriation body. Secondly, the decision to terminate TransCanada was a judgement call in the end. He believed the pros and cons had been accurately laid out. He stated that the decision made significant sense on an NPV basis. He elaborated that the value to the state had been presented. Additionally, the administration had shown the non-direct financial value of the decision, which included increased authority for the state. He believed it was the right decision and a good one.

Commissioner Myers relayed that the relationship with TransCanada had been developing over time. The company's willingness or desire for termination had recently become apparent. He stated that for multiple reasons it was apparent that the termination was the best decision to make. He stressed that from a timely standpoint, it was a decision to make on December 31, 2015 in order to optimize its value to the state. He reiterated that if the funding

was not in place, the state would incur a significant liability and additional penalties and payments because there was no funding mechanism until the regular session [beginning in January 2016], which would lead to a point of paying extra interest.

Representative Wilson remarked that the administration could have limited the request to the funding. She stressed the importance of keeping politics out of the decision. She believed the project should be run as a business. She addressed a scenario where TransCanada was terminated and AGDC replaced the company's responsibilities going forward. She asked for verification that the legislature's only involvement would be to decide whether or not to fund the next project stages. She assumed AGDC would come to the legislature (when a stage had been completed) with a request for funds to move forward. She asked for verification that the legislature would not be asked to make decisions on project partners and what would occur next.

Commissioner Myer affirmed that her statements were correct with respect to the pipeline and the engineering design and construction process. There were a series of other decisions that were necessary including the royalty in kind (RIK) election, terms, governance issues, and other. Most of the items were with the administration and in negotiation. There were also decisions to be made by the sponsors group on a continual basis through the pre-FEED process.

[4:48:33 PM](#)

Representative Wilson asked for confirmation that AGDC would be the state's representative on the project if the legislation was passed. Ms. Rutherford replied affirmatively that on all of the project pieces AGDC would have the discussion about funding along with the executive on moving into FEED, FID, and other related issues. She relayed that the commercial agreements associated with fiscals and royalties would go through the executive and the associated contracts would be brought to the legislature.

Co-Chair Neuman clarified that legislators in the audience could submit questions to the chairs.

Vice-Chair Saddler appreciated hearing the administration's respect for the roles of the executive branch and the legislature. He believed it was important to respect the separation of powers. He detailed that it was the DNR commissioner's responsibility to make the decision and request funding from the legislature. He stated that the current special session had been called to discuss the termination of the state's partnership with TransCanada. He referred to testimony from Ms. Rutherford that the administration had experienced some disagreements with TransCanada. He believed it was important to understand how well the process laid out in SB 138 had been pursued before a decision was made on making changes. He asked how often the administration's team had met with TransCanada to work on project issues. He queried TransCanada's involvement with the administration over the past 10 months.

Ms. Rutherford stated that TransCanada had been very involved in all of the project aspects in its role on the project management team. However, they were not privy to some of the commercial marketing discussions because they were not involved in the upstream gas supply or the sovereign's decisions on fiscals. There had been some discussions on FTSA between the administration and TransCanada that had started in December [2014], which had continued off and on through June [2015]. She the administration had begun to move towards a termination decision once it had become more aware of some of the difficulties with information and as governance tensions began to develop related to recognition that a split ownership would be difficult. She did not know the precise number of meetings that had occurred, but she thought they may have been weekly.

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Vice-Chair Saddler wondered when the administration had made the decision to move towards the termination of TransCanada. Ms. Rutherford did not recall a specific date. As the administration had begun to look at the economics of the decision, information flow, and governance questions it had developed a general recognition that it was more in the state's interest to have the state hold its own equity instead of having an agent in the middle.

Vice-Chair Saddler asked that she specify a month. Ms. Rutherford deferred the question to Commissioner Myers.

Commissioner Myers replied that with a new administration it had taken time for the new commissioners to fully understand the economics of the project. Additionally, the LNG market had been changing. One of the things the administration had looked at with the help of Black and Veatch and others was how to protect the state's downside. Due to the volatility and changes in the gas market, the administration recognized that models and predictions about oil price-linked LNG pricing were not as robust as was hoped. He did not believe anyone had been modelling oil-linked pricing at less than \$70 per barrel. He relayed that maximizing value for the state had become very critical when looking at the Pacific Rim market and the significant volatility. Subsequently, when the administration had looked at all of the places it could maximize value in terms of netting back a higher wellhead value, the issue at hand had come up as a prime area where significant value to the state resided. When the administration had done the analysis of the TransCanada structure, it felt that the state was taking additional risk by not buying out the company and was losing upside that could protect the state particularly in a lower price environment. The major reason for his decision on the recommendation to terminate TransCanada was due to increased economic value to the state and lowering its risk during low return price cycles. He stated that the decision had been an evolving process as the new administration had worked through the data. The communications issues had been present at various times, much of which depended on the timing of AKLNG management committee meetings. He reiterated that the reason the administration had come forward with the recommendation was its belief that the state was better off economically on the project and was more protected, particularly under the lower priced oil and gas environment.

[4:56:30 PM](#)

Vice-Chair Saddler recalled that oil price had been dropping even before the new administration had taken office in the past year. He surmised that there had to have been a specific point when the administration had determined that TransCanada should be terminated from the project. He wondered if the timing could be narrowed down to a specific month or so.

Commissioner Myers replied that it had occurred during the

past summer [2015]. He discussed that after looking at and understanding the market volatility there had been significant internal research on competitive projects and at the idea of whether future LNG prices would be linked to oil. He referred to Henry Hub [U.S. oil pricing company] and stated that the administration was learning much more about the state's commercial competition, which had been an evolving process. At the start of the past summer, he believed that the whole industry was looking at whether a longer-term systematic change was occurring. To maximize the state's competitiveness, given the values, the decision had become increasingly more important. He estimated that the administration had the data in June or July. He referred to other data as well. He reiterated that it was difficult to find a case in which the termination was not in the state's best interest.

[4:58:19 PM](#)

Vice-Chair Saddler asked how much work needed to be done to be done on the FTSA if TransCanada was not terminated from the project. He wondered if the timeline of next December would be met. Ms. Rutherford believed the FTSA could be completed within a couple of weeks.

Co-Chair Neuman asked about the risk assessments. He wondered about the risk assessment method of analysis related to terminating or staying with TransCanada.

Commissioner Myers answered that the administration had discussions with the LNG team that had been developing the assessment (primarily led by ExxonMobil) and was aware that TransCanada secondees were very important to the project. Additionally, the administration was aware that the governance had not progressed as quickly as the state had hoped. The administration wanted to know who the operators of the various components would be. He relayed that if TransCanada seconded employees into the project it would allow for a smooth transition. He wanted to be careful to avoid discussing any confidential information. He noted that a project operator had not been announced for each of the components. He relayed that the governance pieces had to be finalized. He stated that if TransCanada had been chosen as the operator, the situation may be different. He stated that it was early enough in the project for successful transition to occur. He remarked that TransCanada was a great company.

5:01:16 PM

Co-Chair Neuman asked whether there had been any discussion about the other partners in the project when the analysis had been done on whether or not to separate from TransCanada. He asked if the risk to the other partners was impacted with the removal of TransCanada.

Ms. Rutherford replied that the administration had asked the AKLNG partners. The partners had relayed that they had no preference and the decision was up to the state. She added that the partners had consistently been very specific on the issue.

Representative Kawasaki remarked that every version of SB 138 or HB 277 [similar gasline legislation introduced by the governor in 2014] had envisioned a time where the state would have the ability to make the decision at hand. He furthered that the new administration had to figure out whether it was the best course of action. He compared the situation to a divorce or dissolution. He was concerned about having a partner that was not "gung-ho" about the relationship.

Ms. Rutherford replied that it was better for TransCanada to speak on its own behalf. However, she relayed that the company had been very clear that it was acceptable for the state to discuss that TransCanada also wanted to end the relationship.

Representative Kawasaki expressed discomfort at the situation. He asked if the administration was concerned that TransCanada would pull out from the PA at a certain time. Ms. Rutherford agreed that it had always been a possibility, which would remain if TransCanada was not terminated at present. She believed it was a fair concern.

5:04:00 PM

Representative Kawasaki remarked that the project could be several years down the road and several hundred million dollars invested; knowing that the partner had been willing for disillusion seemed like a costly gamble.

Ms. Rutherford agreed and believed that financial groups had spoken to the issue the previous day. She reasoned that

it was a risk moving forward if the state did not buy TransCanada out at present.

Co-Chair Thompson asked where the process had deviated from SB 138 related to timeframe. He queried deadlines proposed in the HOA that had not been met. He wondered if there had been any conversation about moving the December 31, 2015 deadline to July 31, 2016 in order to get things in line and to help TransCanada feel that the state was being more cooperative.

Ms. Rutherford replied that she did not recall if there were any agreements within the HOA that had been missed. She relayed that the department was currently looking into the issue in response to an earlier question from the Senate. She hoped to have the information for the committee later in the day or the following morning. She did not believe any deadlines had been missed. She added that it had always been the hope that the commercial agreements would be in place prior to entering into a FTSA; it made it more difficult because the agreements were not yet available.

Co-Chair Neuman for a written status report of the negotiations. Ms. Rutherford answered in the affirmative.

Co-Chair Thompson asked, in TransCanada's absence, who would be responsible for engineering and commercial work on future pipeline expansion to accommodate gas not owned by the producers (e.g. gas in the Nenana Basin). He wanted to know who would be doing the engineering.

Ms. Rutherford responded that it would be the responsibility of the project. She elaborated that the project would be operating the pipeline; there had been no decisions made yet on whether it would be governed as an integrated project or have operators for each segment (the GTP, pipeline, and liquefaction). There were currently discussions being held on the commercial level about under what terms the project would have to address third-party access and expansion demands.

Co-Chair Thompson asked who would own the infrastructure to monetize the gas of a partner that withdrew from the project. He wondered if the financial burden would fall on the state. He asked if the scenario would be different if TransCanada remained in the project.

Ms. Poduval responded that if one of the producers withdrew from the project, it would fall upon the remaining AKLNG parties (the two remaining producers and the state) to evaluate the options to move the project forward. She noted that there would be a financial side. Additionally, the three producers control the gas on the North Slope; it would be necessary to determine how the continuing project would have access to the gas. It would be necessary for a decision to be made by the three remaining parties on whether to pick up the exiting parties portion of the project or to bring in another partner.

[5:09:26 PM](#)

Ms. Rutherford added that under the scenario it made no difference whether TransCanada was the state's agent on the pipeline or the GTP because the project itself would still be dealing with the withdrawal of a partner. She relayed that it was one of the reasons Governor Walker felt so strongly about having commitments from the producers that should they withdraw there would be a provision for making the gas available. She spoke to the critical nature of the issue and communicated that volumes made a huge difference on the cost of the supply and the economics of the overall AKLNG project.

Co-Chair Thompson thought it would make sense for TransCanada to take on and purchase the gas from the withdrawing party. He surmised that it could be a costly undertaking for the state to take on the responsibility. He added that the other partners may not be interested.

Commissioner Myers replied that TransCanada was a pipeline operation company and did not sell or market gas. He followed up on Co-Chair Thompson's question related to expansion of other gas. He relayed that it was one of the reasons the state wanted a 48-inch pipeline; it was easier to expand on a base load. Additionally, it required fewer compressor stations and provided significantly more available capacity within the pipe. He stated that things like the Nenana Basin could be handled a number of different ways, but the state wanted to assure that there was capacity for the issues. He furthered that the consideration of an intake point on the Nenana Basin would be looked at along with the off-take points in Fairbanks and other locations. He added that AGDC had the off-take

responsibility. Additionally, the commercial side that the state was working to ensure that the project expansion terms were favorable to enable other parties to bring gas in. Under the current FERC regulation for an LNG project there was not an assured, easy expansion route. He relayed that it was one of the major negotiation issues to assure the project terms included language supporting the concept. He remarked that from the standpoint of a producer with gas in two large fields, any additional gas would be competition. However, the state had a desire to see additional gas (from the state, Doyon, or other).

[5:12:41 PM](#)

Co-Chair Thompson referenced that the department had mentioned the attorney general would be providing the legislature with a decision on AGDC's statutory authority to take on the lead for the GTP and pipe. Ms. Rutherford believed the information would be completed by the following day. She noted that based on language she had looked at, she believed the authority currently resided in AGDC.

Representative Gattis referenced the timeline that state would have to pay TransCanada [if the buyout occurred]. She addressed billing and auditing. She asked if it would take longer than 120 days for the state to go through all of TransCanada's bills to audit. She wondered if the state was current with its auditing or if it would have to backtrack and spend months working the issue out.

Ms. Rutherford replied that she wanted to discuss the question with DOR. She relayed that an answer would be provided in writing. She believed there were provisions to accommodate any challenges to TransCanada's billings that would not negatively affect the state's payment responsibilities.

Co-Chair Neuman referred to slide 6 that addressed off-ramps and termination clauses provided by SB 138 for TransCanada. He wanted to know the state's option for exiting the project including the costs and liabilities.

Ms. Poduval responded that the state and TransCanada both had the option of terminating the PA. The December 2015 clean off-ramp was available to both parties. Additionally, each party would have the off-ramps available going through

December 2018.

Co-Chair Neuman asked if the state had the same options and off-ramps for termination as TransCanada. Ms. Poduval replied in the affirmative. She noted that the PA included slightly different conditions that trigger termination, but both parties had the ability to terminate the PA.

Co-Chair Neuman asked about the administration's "plan B." He wondered what would occur if HB 3001 failed to pass. Ms. Poduval replied that if TransCanada's termination was not possible, the state would negotiate and execute the FTSA.

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Co-Chair Neuman asked what the FTSA process would involve. Ms. Poduval replied that the state would negotiate the terms of a long-term (20 to 25 years) FTSA with TransCanada; the state and TransCanada would agree on the tariff the state would pay. TransCanada would be obligated to provide the service to the state and the state would be obligated to make the payments for the services during the project's operation.

Co-Chair Neuman provided a scenario where the legislation did not pass, the state did not spend another \$160 million, TransCanada and the other producers continued to build a pipeline. He remarked that the risk to the state would be minimal. He needed further clarity on the issue.

Ms. Poduval referred to slide 19 showing where the state would be from a cash flow perspective. She explained that the blue line delineated the path in which the state terminated its agreement with TransCanada and took ownership in the GTP and pipeline. The green line represented maintained its partnership with TransCanada and entered into an FTSA. The slide indicated that the state would achieve lower revenues (up to \$400 million less) if the state continued the partnership with TransCanada.

Co-Chair Neuman asked for the baseline methodology. Ms. Poduval confirmed that the information could be provided.

Ms. Poduval clarified her response to an earlier question from Representative Gara about whether the \$400 million per year would be a net benefit of all of the costs and investment that the state would make in the project. She

pointed out that the assumption behind the \$360 million was that the state would finance its \$7 billion with 30 percent equity and 70 percent debt; there would be a \$2 billion upfront equity investment in the project. She furthered that the net effect was shown in the table on slide 19; the state would still come out at \$5 billion more [than it would with TransCanada].

Ms. Rutherford relayed that the administration had made Black and Veatch available to work with enalytica (the legislature's consultant) to ensure enalytica had complete access to the administration's modelling and the premises that went into the modelling.

Commissioner Myers added that there were five parties currently in the project and any of the parties were able to terminate the project at any point in time. He was not forecasting that any party would terminate, but there would be more project surety for the state with four parties rather than five.

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Co-Chair Neuman returned to slide 6. He discussed the option available to TransCanada to exit the agreement. He listed items that would take place as a result. He referred to the department's testimony that the state would have the same opportunities as TransCanada. He wondered if the state chose to exit the project, whether it would have the opportunity in five years to enter back into the project.

Commissioner Myers reported that the project would stop if the state failed to sign the work plan and budget.

Ms. Rutherford added that the state and TransCanada had the right to terminate up until FID. After December 31, 2015, even after the FTSA was in place, if at any time the AKLNG project terminated and the state began pursuing a similar project, TransCanada would have a back-in right back into the project.

Co-Chair Neuman asked if the state had the same right. He remarked that the department had testified that the state had the same rights as TransCanada.

Ms. Rutherford replied that she must have misspoken. She clarified that the state could not force TransCanada to

remain in the project.

Co-Chair Neuman restated his question. He asked if the state would have the same ability to buy back into the project. Ms. Rutherford explained that TransCanada had no separate prerogative associated with AKLNG from the State of Alaska. TransCanada was simply the state's agent on two segments of the project.

Co-Chair Neuman would follow up on the question at a later time.

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Co-Chair Neuman referred to 26 titled "Avoid Back-In Rights for TransCanada." He wondered if the state had the same right to buy back into to a project within five years. Ms. Poduval explained that the back-in right related specifically to the relationship between the state and TransCanada and the ability the state had given TransCanada to take its 25 percent in the GTP and pipeline. She relayed that if the state chose to terminate the relationship with TransCanada after December 31, 2015 and the state chose to pursue a substantially similar project, TransCanada would have the right to come back into the project. She surmised that he was asking if the state terminated the relationship with TransCanada whether the state could come back into the project or bring TransCanada in. She believed the state could bring TransCanada in, but the state would already be in the project. She explained that if the state was not in the AKLNG project, the project would likely be terminated.

Ms. Rutherford attempted to restate Co-Chair Neuman's question. She believed he may be asking whether the state would have the same back-in rights if TransCanada independently began to pursue an alternative project in the State of Alaska with producers. She did not believe the state had the same right.

Co-Chair Neuman discussed that through the exercise on SB 138 (the enabling legislation that continued the AKLNG project), nothing that was done could be perfect. He furthered that there were things that arose throughout the process that may not be the best thing for the state, but they were specified in SB 138. He wondered if the state had a plan B. He wondered what options the state would want to include in plan B legislation if things did not work out.

For example, he asked if there was a plan if the governor wanted to introduce a bill that better protected the state's rights. He asked about opportunities.

Ms. Rutherford replied that if TransCanada chose to terminate with the state, the plan B was embedded in SB 138. The plan was for AGDC to pick up the role currently held by TransCanada, which was exactly what the administration was suggesting should be done.

Co-Chair Neuman stated that there was still a question about whether AGDC had statutory authority to fill the role. Ms. Rutherford agreed and stated that the administration would provide the answer to the committee.

Co-Chair Neuman wondered what would occur if it was determined that AGDC did not have the statutory authority to take over the role. He asked what plan B was. Ms. Rutherford responded that plan B was to pursue the FTSA with TransCanada.

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Vice-Chair Saddler wondered about an analysis of what TransCanada brought to the project outside of the financial advantages. He pointed to information provided about net cash flow advantages and others, but he observed that the success of the AKLNG project was as likely with TransCanada's involvement as without. He asked if the chances of getting to FID (excluding the financial advantages) were stronger without TransCanada.

Commissioner Myers replied that it would be appropriate for TransCanada to address the question about what it desired. He stated that TransCanada was a world-class pipeline company; other world-class pipeline companies also existed. He agreed that TransCanada certainly brought value to the project. Whether TransCanada would be better than Enbridge or one of the producers' pipeline companies, was a value judgement. Ultimately, the operator of the system had not yet been determined; the determination was part of the governance decision. He agreed that there were valuable TransCanada employees seconded to the project; the project was working on maintaining continuity going forward. There were two pieces: 1) who would be responsible for designing and building the pipeline; and 2) who the state's agent for the pipeline would be. The administration's proposal in the

bill was that AGDC would be the state's agent, but not the pipeline operator. He stated that the project had to define the operators after the engineering design work was completed.

Ms. Rutherford added that the contract developer had also not yet been determined. She remarked that it was quite possible that the project would not chose TransCanada to be the contract developer even if TransCanada remained in the project as the state's agent on the equity components.

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Vice-Chair Saddler understood that the project was a process. His goal was to reach FID. He stated that if TransCanada helped to bring the state integrity and credibility with its partners, he saw a continued advantage to maintaining the partnership. He requested to see any evidence showing that it was not the case.

Ms. Poduval replied that the AKLNG partners were deeply vested in maximizing the likelihood of the project's success. The partners had communicated their neutral stance on whether or not TransCanada stayed in the project. The stance indicated that the partners believed the technical capabilities needed to continue the project forward would still be available from the remaining partners and contractors.

Co-Chair Neuman noted that Ms. Rutherford had mentioned that AGDC's statutory authority to represent the state on the pipeline and the GTP was in question. He believed SB 138 allowed AGDC to represent the state in the gas liquefaction facility only. He discussed that TransCanada had the ability to leave the project. He remarked that Ms. Rutherford had stated that TransCanada wanted out of the project. He wanted to know about plan B. He restated his earlier questions about whether the governor would introduce another piece of legislation asking the legislature to provide AGDC with the authority to represent the state on the additional components.

Ms. Rutherford clarified that she did not believe there was a question on AGDC's authority. She relayed that the question had been asked of the administration; therefore DOL was looking into the issue and would provide an answer. She did not believe the administration had questioned

AGDC's authority. Secondly, she did not believe she had stated that TransCanada had said it wanted out of the project. She relayed that the company would be able to speak for itself, but it had specified that it was supportive of the appropriation in the bill. The administration's presumption was that if for some reason the appropriation was not funded, the project would continue with TransCanada. She had not heard the company say categorically that they would leave the project; it was a question the legislature needed to put to the company.

Co-Chair Neuman shared his understanding that TransCanada had "represented the fact that they would like to get out of this deal now." He believed that Ms. Rutherford had stated earlier that TransCanada would like out of the project.

Ms. Rutherford replied that TransCanada would like the termination to be funded, but she had no certainty that the company would chose to leave the state if the appropriation was not funded. She stated that the company had never said those words to her or the commissioner.

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Representative Gara stated that there had been some questions about when the administration had arrived at the decision that it was in the state's best interest to continue forward without TransCanada. He addressed Ms. Poduval. He stated that she had shared her conclusions that if the pipeline moved ahead the state would make more money without TransCanada and if the project failed the state would lose less money without TransCanada. He asked for verification that she had made the same analysis for the former Parnell Administration as well.

Ms. Poduval replied in the affirmative.

Representative Gara asked for verification that Ms. Poduval would not have altered her conclusion that the state was better off without TransCanada if she was still working for the Parnell Administration. Ms. Poduval replied that the fundamental economic tradeoff had always been known. The analysis in the current report was very similar to the analysis it had provided for SB 138. She affirmed that her answer was still the same.

Representative Gara indicated he would be uncomfortable with the project if the state spent \$7.1 billion on building a pipeline and could not find a customer. He stated that no pipeline owner spent all of the money to build a pipeline until they had someone to sell and buy the gas at a price that was high enough to make money for all project partners. He asked if his statements were accurate.

Ms. Poduval replied in the affirmative. She believed the factors were compounded in an LNG project even more than in a pipeline project. She explained that LNG projects were inherently very capital intensive; the projects paid back the capital through long-term cash flows. She furthered that after going through pre-FEED and FEED all of the important uncertainties had been sketched out. She referred to the magnitude of the project costs of \$45 billion to \$65 billion. She stated that at that point the project partners had sketched out the engineering details, had worked the financial community to reduce their cost of capital, and most importantly they had acquired buyers for the LNG who were willing to commit over the long-term at a price that would most likely be indexed to oil price. All of the components had to come to fruition prior to any of the parties taking FID, which would be board approved. She agreed that it would not be speculative in the least.

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Representative Gara mentioned referred to an earlier question about the decision to remove TransCanada from the project and the decision about whether to build a 42-inch or 48-inch pipe. He stated that the questions had clearly been envisioned when SB 138 had passed. He recalled the recommendations from former DOR Deputy Commissioner Pawlowski that the administration was planning to try to make a 48-inch pipe feasible because it was in the state's best interest if the gas was available. Additionally, the former administration had planned to analyze whether it was in the state's best interest to remove TransCanada from the project. He did not believe there was anything in the current bill that violated or departed from the fundamentals in SB 138. He asked for verification that the considerations were all consistent with SB 138. He believed the questions considered in the legislation were the exact questions the state was supposed to address prior to December 15, 2015.

Ms. Poduval answered in the affirmative. She explained that the PA was designed to have the off-ramps and it was the legislature that had included the clean off-ramp provision. The legislature had determined that it did not want any back-in rights and that the state needed the right to get to the juncture and decide whether it wanted to keep TransCanada in or not. She stated that it had been very much part of the plan to reach the decision point. Additionally, starting with the former Parnell Administration the state had been consistent in expressing its preference for a 48-inch pipeline; the position was not new. She noted that she had been part of some of the discussions.

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Co-Chair Neuman addressed that there had been a considerable amount of discussion on legal counsel for the representation of the state during work on SB 138. At the time it had been decided that the attorney general's office would act as legal counsel for the state on the issue. He suspected that legal counsel may have given different options. He wondered Commissioner Myers encountered any specific conclusions where there had been a question about legal interpretations on SB 138 (where an independent legal counsel may have come up with different conclusions).

Commissioner Myers replied that he had been pleased with the legal support provided by DOL. He referred to contracted attorneys from Greenberg Traurig LLP and Milbank, Tweed, Hadley & McCloy LLP working on the state's behalf. He stated that it was a significant amount of money, but there was a great discussion due to the multiple viewpoints. He believed getting a good legal interpretation from many different attorneys was very valuable. He remarked that the legal components of SB 138 were well-spelled out. Getting the timing of the commercial pieces together in the right order with all of the parties was one of the challenges. He furthered that at any given time the companies' economics were different; they had competing interests themselves. He stated that the alignment and the arm wrestling of the commercial negotiations had been the biggest challenge. He noted that it took a long time for the number of parties and the number of different views. He spoke to his experience working in the upstream segment of the industry and in the early stages of the development of the Kuparuk [oil] field; he had witnessed the arm wrestling

of the companies over very small issues in terms of internal equity. He reasoned that it was not uncommon for companies to take a long time to make a complex commercial arrangement, particularly when their equities were not equal between the two fields. He stated that it was a tough negotiation. He did not believe SB 138 had contemplated the timeframe. He explained that the biggest thing he had seen was not differing legal opinions, but bringing commercial alignment among parties in a challenging economic time. Additionally, robust resources were needed, which was the reason for the significant budget request for DOL in HB 3001. He believed the state was getting very good legal advice, but it needed DOL and the consultants.

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Vice-Chair Saddler agreed that the decisions before the committee had been envisioned in SB 138; however, the critical information that was to have been available to the legislature and the work that should have been done prior to the decision point had not been provided. He stated that the SB 138 process had envisioned that the legislature would gather in special session to consider a completed FTSA, royalty modification contracts, gas balancing, marketing contracts, and the PILT decision. He stressed that the information was essential to give the legislature the ability to make an informed decision about whether or not to buyout TransCanada. He stated that the decision to terminate resided with the commissioner of DNR. He did not understand the reluctance to make the decision; he believed he decision would allow the process to proceed in the proper sequence.

Co-Chair Neuman remarked that the meeting represented the committee's first delve into the "meat and potatoes" of the discussion. He noted the importance of the discussion.

Representative Wilson asked for verification that statute under SB 138 did not specify the size of the pipe. Ms. Poduval replied that the statute did not specify the size of the pipe. She detailed that the decision would be taken by the AKLNG project team. The statute did include a requirement for the study and report the legislature on a larger diameter pipeline. Representative Wilson thanked Ms. Poduval for the clarification. She had previously thought that it did [contain a provision specifying the size of the pipe].

Co-Chair Neuman noted that all members of the legislature could provide their questions through the co-chairs.

Co-Chair Neuman asked Ms. Rutherford if she wanted to go through the participation decision primer ["TransCanada AKLNG Participation Decision Primer" (copy on file)] the following day. Ms. Rutherford replied in the negative. The document was a narrative describing the findings of the Black and Veatch report. She would be glad to answer any questions that arose related to the document.

Co-Chair Neuman requested an executive summary on SB 138. Ms. Rutherford agreed to provide that information.

HB 3001 was HEARD and HELD in committee for further consideration.

Co-Chair Neuman discussed the agenda for the following day.

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ADJOURNMENT

5:47:59 PM

The meeting was adjourned at 5:47 p.m.