

HB

204

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT

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HOUSE OF REPRESENTATIVES

Official Business

Session:
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Juneau, Alaska 99801-1182
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SPONSOR STATEMENT HB 204

In 2000 the Alaska State Legislature amended the Alaska Pipeline Act to make provisions for the operation of a North Slope Gas Pipeline. One of the provisions was to allow for two classes of transportation services, firm and interruptible.

When the 2000 amendments were enacted the North Slope Gas Pipeline was the only gas transportation pipeline in the state proposing to provide such service. There is now a pipeline in the Cook Inlet, the Kenai Kachemak Pipeline (KKPL) that proposes to provide a similar transportation service in its Cook Inlet service area.

In a recent ruling (KKPL) requested the Regulatory Commission of Alaska (RCA) to authorize it to provide these "firm" and "interruptible" services. The commission has yet to issue a final ruling, but has raised the question of whether or not a contract carriage for gas pipelines elsewhere in the state of Alaska was permissible, given the recent amendment that was apparently exclusive to transportation of gas on the North Slope of Alaska.

This legislation is intended to resolve the question raised by the RCA.

The Bill amends the provisions regarding "firm" and "interruptible" service to make them available to any natural gas pipeline carrier operating in the state. It also adds the definitions of a "natural gas pipeline" and "natural gas pipeline carrier".

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 204(O&G)
(H) Publish Date: 3/31/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Regulation of Natural Gas Pipelines BRU: Resource Development
Sponsor: Chenault Component: Oil and Gas Development
Requester: House Oil and Gas Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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|-------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| CHANGE IN REVENUES () | ** | ** | ** | ** | ** | ** |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
HB 204 would modify the Alaska Pipeline Act (AS 42.06.055-.640) to allow for contract carriage on all natural gas pipelines over which the State has jurisdiction. At present, only a pipeline bringing North Slope gas to outside markets can clearly offer contract carriage service. All other gas pipelines under the Pipeline Act must provide service as common carriers.

** It is difficult to predict the effects that this bill might have on revenues, because it is difficult to predict the effects of contract carriage pipelines on gas exploration and development.

Continued on next page.

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 3/26/2003
Approved by: Tom Irwin, Commissioner Date 3/26/2003
Agency: Natural Resources

FISCAL NOTE #1

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 204(O&G)

ANALYSIS CONTINUATION

For pipelines that are owned by non-affiliated pipeline companies, contract carriage could reduce uncertainty of future throughput. This would reduce capital costs, which in turn could encourage pipeline construction and facilitate gas exploration and development. However, for pipelines that are owned by affiliated producers, contract carriage may not provide greater assurance of throughput; the pipeline company may know the volumes that its affiliated producer wants to ship. Meanwhile, contract carriage on a pipeline owned by an affiliated producer could potentially be used to impede pipeline access for non-affiliated producers. This could hinder natural gas exploration and development and ultimately result in a negative fiscal impact for the State.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 20, 2003

SUBJECT: House Bill 204, relating to the regulation of natural gas pipelines under the Pipeline Act (AS 42.06) -- sectional analysis.
(Work Order No. 23-LS0695\D)

TO: Representative Mike Chenault

FROM: Jack Chenoweth
Assistant Revisor of Statutes

Traditionally, natural gas pipelines were regulated as "common carriers." "Common carriers" are public utilities for hire in which the transporter is obligated by law to provide service to all interested parties without discrimination. For a common carrier, if the pipeline capacity is reached, the common carrier must accept all gas tendered for transport and offer service ratably to all shippers in proportion to the amounts of transportable product they offer.

Following recent precedents established for federal interstate regulation of natural gas pipeline facilities, Chapter 56, SLA 2000, modified state regulatory oversight of natural gas pipelines that are planned to carry gas from the North Slope to meet export commitments generally to ensure that restrictions under state common carrier regulations are inapplicable to that gas. That measure speaks to oversight by the Regulatory Commission of Alaska of in-state movement of natural gas. By RCA oversight as a "contract carrier," the pipeline would be regulated in order to sell to its customers only pipeline transportation services. Natural gas as a salable commodity would be separated or unbundled from its transportation. This formal separation of gas from its transmission is institutionalized in "contract carriage."

So that other in-state pipelines may have the benefit of the form of contract carrier regulation established in the 2000 Act for North Slope natural gas, House Bill 204 (1) removes from certain provisions enacted by that 2000 Act limiting references to "North Slope" and (2) adds two related definitions.

Bill section 1. Removal of references to "North Slope" from AS 42.06.350(c), relating to tariff filings with the Regulatory Commission of Alaska, would allow other natural gas pipeline carriers to charge separate rates, on a contract basis, to persons arranging to transport natural gas by pipeline on a "firm" basis and persons arranging to transport on an "interruptible" basis.

Legal Memo re: regulation of NG
pipelines

Representative Mike Chenault
March 20, 2003
Page 2

Bill sections 2 and 3. Definitions of the terms "firm transportation service" and "interruptible transportation service" used in the Pipeline Act are amended to remove reference to "North Slope" in the phrase "North Slope natural gas."¹

Bill section 4 supplies definitions for terms used in the bill sections earlier amended.

JBC:med
03-329.med

¹ Generally speaking, the term "firm transportation service" refers to an assigned pipeline capacity or comparable capacity that can be called upon to serve customer requirements on a reliable basis. It gives the holder of the contract the right to capacity and transportation in the pipeline facility for the entire life of the contract, and allows the holder to request shipment of natural gas up to the maximum reserved capacity.

By contrast, the term "interruptible gas service" indicates that natural gas transportation services may be interrupted or suspended consistent with the terms and conditions of the tariff. It gives, for example, the holder of the contract a right to ship a specified volume of natural gas within a specified period, but the timing of delivery may be determined by the pipeline company according to the availability of the pipeline facility's capacity.

1 We therefore conditionally grant KKPL a certificate of public convenience
2 and necessity. The certificate will be issued when Marathon and a financially
3 acceptable entity on behalf of GIJT file unconditional guarantees for KKPL to construct,
4 operate, maintain and terminate the Kenai Kachemak Pipeline.²⁶

5
6 C. Based on the current record, can we determine whether the proposed pipeline tariff,
7 including the rates, rules and regulations satisfies AS 42.06?

8 Under AS 42.06.250 and 3 AAC 48.620, a pipeline carrier application for a
9 new certificate of public convenience and necessity must contain a proposed tariff.
10 KKPL provided an updated tariff in its testimony.²⁷ The proposed tariff includes
11 separate estimated rates for firm transportation service and for interruptible
12 transportation service. This type of tariff structure is termed contract carriage.

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19 ²⁶ In its application, KKPL asked for authority to construct additional receipt and
20 delivery points within its defined service area as may be requested from time to time by
21 shippers or other persons. AS 42.06.140(a)(8), however, provides that the
22 "Commission . . . shall require permits for the construction, enlargement in size or
23 operating capacity, extension, connection and interconnection, operation or
24 abandonment of any oil or gas pipeline facility or facilities, subject to necessary and
25 reasonable terms, conditions and limitations. . . ."

26 Therefore, in conditionally guaranteeing KKPL a certificate of public convenience
and necessity, we do not approve KKPL's request for blanket authority to connect
additional receipt and delivery points without further commission review.

²⁷ See T-2, Ex. EJJ-2.

1 Contract carriage has not been previously allowed under AS 42.06. The
2 Alaska legislature, however, recently amended AS 42.06.350²⁸ to allow for contract
3 carriage for the transportation of gas on the North Slope of Alaska. This amendment
4 raises the following legal issue: *Is contract carriage for gas pipelines elsewhere in the*
5 *State of Alaska permissible?* The facts of this case also raise a policy question: *Should*
6 *contract carriage be allowed when a pipeline is owned by affiliates of the*
7 *producers/shippers?* These two issues are of first impression and of sufficient
8 importance to the State of Alaska that on the limited record before us we are unwilling to
9 resolve them at this time.

10
11 ²⁸Sec. 350 of AS 42.06 provides:

12 (a) Under regulations adopted by the commission, every intrastate oil or gas
13 pipeline carrier shall file with the commission, within the time and in the form
14 designated by the commission, all rates, tariffs, charges, classifications,
15 rules, regulations, terms, and conditions pertaining to service provided under
16 the certificate, and shall maintain copies on file at its principal business office
17 and at places designated by the commission, available to, and subject to
18 inspection by, the general public on demand.

19 (b) The commission may reject the filing of all or part of a tariff that does not
20 comply with the form or filing regulations of the commission or that is not
21 consistent with this chapter or the regulations of the commission. A tariff or
22 provision so rejected is void.

23 (c) In its tariff filed with the commission under (a) of this section, a North
24 Slope natural gas pipeline carrier may charge separate rates for firm
25 transportation service and for interruptible transportation service. A North
26 Slope natural gas pipeline carrier

(1) may, in addition, impose a reservation fee or similar charge for
reservation of capacity in a North Slope natural gas pipeline as a
condition of providing firm transportation service; the reservation
fee or charge imposed by the carrier may not include any variable
costs or fixed costs that are not attributable to the provision of firm
transportation service;

(2) may not impose a reservation fee or similar charge for
reservation of capacity in a North Slope natural gas pipeline for
interruptible transportation service.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 19, 2003

FURTHER REFERRALS: Resources

Date of Committee Action: 03/27/03

The HOUSE SPECIAL COMMITTEE ON OIL AND GAS Committee considered:

HB 204

HOUSE BILL NO. 204

REGULATION OF NATURAL GAS PIPELINES

"An Act relating to the regulation of natural gas pipelines under the Pipeline Act."

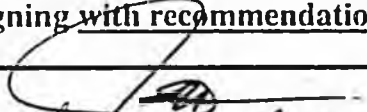
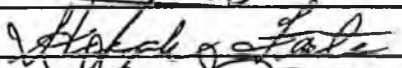


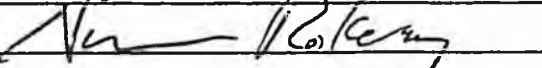
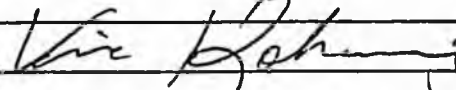
Recommends it be replaced with HCS or CS for HB 204 (OAG)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

| <u>NEW FISCAL NOTES</u> | | | | |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office | | | | |
| List by Dept(s): | *FN# | Fiscal | Indet. | Zero |
| DNR | | | | ✓ |
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| <u>PREVIOUS FISCAL NOTES</u> | | | | |
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| <u>Signing with recommendations</u> | Printed Last Name | DP | DNP | NR | AM |
|--|-------------------|----|-----|----|----|
|  | HOLM | | | ✓ | |
|  | Fato | | | ✓ | |
|  | McGuire | | | ✓ | |
|  | CRAWFORD | | | ✓ | |
|  | Rokeberg | ✓ | | | |
| Chair:  | Kohn | X | | | |
| Chair: | | | | | |



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

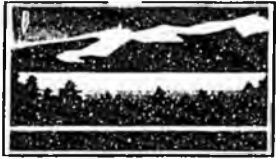
HB 204 / SB 151 “An Act Relating to the Regulation of Natural Gas Pipelines under the Pipeline Act.”

A. Ben Schoffmann
Vice-President, KKPL

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*

1



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

What Does It Do?

- Permits the Regulatory Agency of Alaska (RCA) to approve, should it so choose, the offering of both “firm” and “interruptible” service in a natural gas transportation pipeline under the State Pipeline Act, AS 42.06.
 - Amendments on this concept were made for a North Slope Gas Line in the 2000 Session.
 - A Tool: This bill clarifies that RCA has the authority to grant these two classes of service to regulated gas pipelines elsewhere in the State.

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

What is Firm and Interruptible Service?

- Firm Service:
 - The Shipper commits to pay a “reservation charge” for a set level of capacity, whether or not it is actually used.
 - The Pipeline guarantees the reserved capacity will be made available as and when needed.
- Interruptible Service:
 - The Shipper only pays for the capacity it actually uses at any given time.
 - The Pipeline makes best efforts to provide capacity, but if the desired capacity is not available for whatever reason (mechanical, over-supply, etc.), these shipments are subject to curtailment or interruption.

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

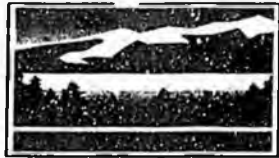
HB 204 / SB 151

Why is This Important?

- It is important to both Pipeline Investors and Potential Shippers.
- **Pipeline Investors:** Provides them with the ability to obtain firm contracts from potential shippers, which help to:
 - economically justify construction and operation of new gas pipelines
 - reduce risk

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

Why is This Important? – Cont.

- **Prospective Shippers:** Enables them to choose the type of gas transportation service which best aligns with their gas supplies and customer contracts.
 - Firm Transportation
 - Firm sales contracts need the accompanying assurance of firm transportation (interruptible transportation and potential curtailment is not compatible with firm sales commitments).
 - Interruptible Transportation
 - Compatible with interruptible sales contracts.
 - Potential Shippers with undiscovered/poorly defined potential gas supplies need not make financial commitments in advance of proving up gas supplies.



KENAI-KACHEMAK
PIPELINE PROJECT

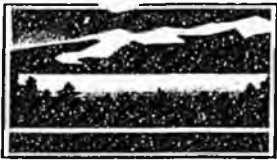
Kenai Kachemak Pipeline LLC

HB 204 / SB 151 What It Won't Do

- It will not force the RCA to approve these two classes of service for a pipeline in the event it is not considered justified.
- It will not change the "Open Access" status of pipelines under the State Pipeline Act.
- It will not have an adverse fiscal impact on the State.

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

Why is It Needed Now?

- RCA has raised a question in their December 24, 2002 Order to KKPL as to whether it has the authority to grant “firm” and “interruptible” service for other than a North Slope Gas Line.
- KKPL will file with the RCA to approve KKPL’s Tariff in the second quarter of 2003.
- Two Shippers require, and have committed to pay for, Firm Service on KKPL.

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*

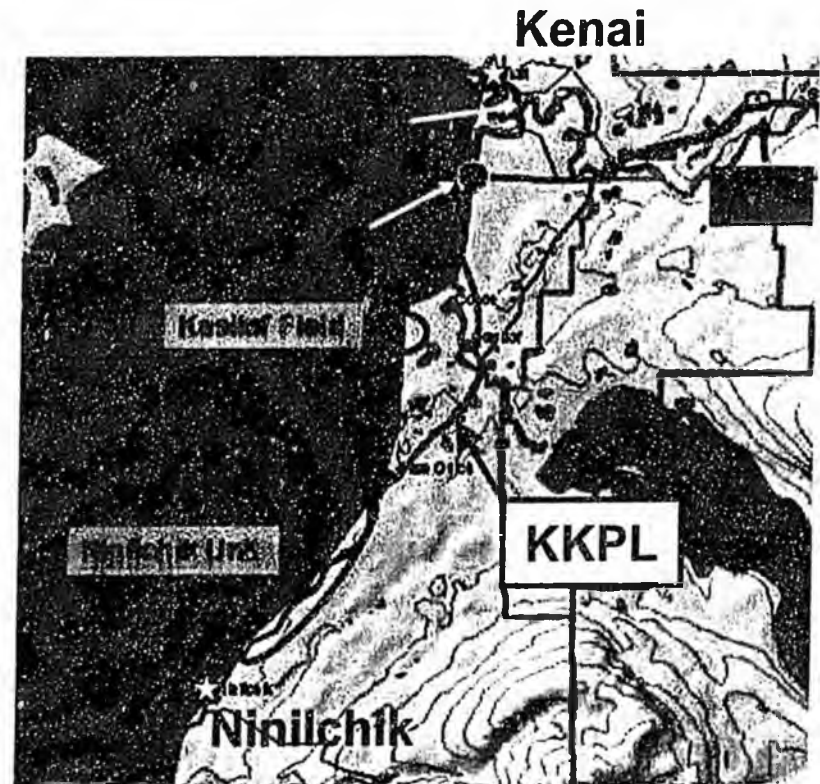


KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

What is KKPL?

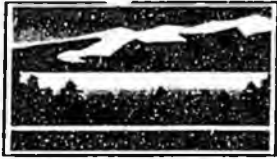
- Owned by an Alaska Limited Liability Company
 - Marathon (60%)
 - Unocal, through GUT (40%)
- New \$25 million, 33-mile, 12-inch diameter Gas Transmission Pipeline.
- Connects newly discovered gas to existing Cook Inlet gas pipeline and market infrastructure.



Kenai Peninsula

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

KKPL Facts

- June 2002: Held “Open Season” for potential shippers
- Two Shippers made “firm” commitments
 - Total of 300 BCF of gas over 15-years
 - Marathon ~ 180 BCF
 - Unocal ~ 120 BCF
 - Total Peak Committed Rate is 90 MMCFPD (in year 4)
- Required a 12-inch diameter pipeline
 - Nominal operating capacity ~ 130 MMCFPD
 - Expansion is possible

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

KKPL Facts – Cont.

- Received RCA Temporary Certificate of Convenience and Necessity under AS 42.06 on January 9, 2003.
- Construction is in Progress.
 - Started in January 2003.
 - Contractual Target In-Service Date is 11/1/03.
 - Construction is ahead of schedule by ~ 2 months.
- RCA Tariff Filing is required at least 90 days before Commencement of Commercial Operation.
 - KKPL tentatively plans to make this filing in late April.

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*

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KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

Impacts to State of Alaska

- Pro-Development, without providing a “handout”.
 - Provides stability to potential pipeline investors if firm capacity is committed.
 - Provides gas suppliers with flexibility to match transportation service to gas supplies (proven or prospective) and sales contracts (firm or interruptible).



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151 Conclusions

- **Provides a Tool:** Clarifies RCA's Authority
 - They have the ability to approve, should they choose, a Two-Tiered Transportation Service (as for the North Slope Gas line) for Natural Gas Pipelines under the Pipeline Act.
- **Has a Purpose:** Encourages Investment
 - Meets the needs of Pipeline Owners who require economic justification and minimization of risk for their investments.
 - Helps Potential Shippers align their transportation service with their gas supplies and gas sales contracts.
 - Retains "Open Access" provisions of the Pipeline Act.
- **Meets a Need:** The issue will shortly be before RCA

March 27, 2003

*Testimony of A Ben Schoffmann to Senate Labor
& Commerce and House Oil & Gas Committees*

12

HB 204 / SB 151

Application Already Limited to Intrastate Pipelines

- 1) AS 42.06 is sufficiently clear that the Pipeline Act, as it currently stands, already is limited to pipelines within the State of Alaska.
 - a) First, the whole of the Pipeline Act (AS 42.06) is limited to intrastate pipelines.
 - i) While AS 42.06.140 (a)(1) does not limit itself merely to “intrastate” pipelines, the provisions of AS 42.06.150 and 42.06.230 (a), combined with federal preemption law related to the federal Natural Gas Act, have that effect.
 - ii) Under court cases interpreting the Natural Gas Act, the FERC is clearly given exclusive jurisdiction over gas pipelines flowing interstate gas and the states are preempted from regulating any portion of a gas pipeline engaged in that business.
 - iii) The effect of these cases, combined with AS 42.06.150, is to carve out jurisdiction over interstate gas pipelines from the RCA, leaving the Commission with jurisdiction only over intrastate gas pipelines.
 - b) Second, AS 42.06.350 (c), the specific provision being amended, is specifically limited to intrastate pipelines
 - i) AS 42.06.350 (c) applies only to a “tariff filed with the commission under (a)” of that section.
 - ii) AS 42.06.350 (a), in turn, applies only to “intrastate oil or gas pipeline carrier[s].”
- 2) Further changes appear to be unnecessary and should be avoided for fear of creating unanticipated side effects and concerns from other parties.

HB 204 Oil & Gas Committee
Comments & Questions Arising During Discussion
(from Hearing on 3/27/03)

1. Does the language make it clear that this legislation addresses “in state” carriers? (Rep. Fate)

AS 42.06 is sufficiently clear that the Pipeline Act, as it currently stands, already is limited to pipelines within the State of Alaska.

- a) First, the whole of the Pipeline Act (AS 42.06) is limited to intrastate pipelines.
 - i) While AS 42.06.140 (a)(1) does not limit itself merely to “intrastate” pipelines, the provisions of AS 42.06.150 and 42.06.230 (a), combined with federal preemption law related to the federal Natural Gas Act, have that effect.
 - ii) Under court cases interpreting the Natural Gas Act, the FERC is clearly given exclusive jurisdiction over gas pipelines flowing interstate gas and the states are preempted from regulating any portion of a gas pipeline engaged in that business.
 - iii) The effect of these cases, combined with AS 42.06.150, is to carve out jurisdiction over interstate gas pipelines from the RCA, leaving the Commission with jurisdiction only over intrastate gas pipelines.

- b) Second, AS 42.06.350 (c), the specific provision being amended, is specifically limited to intrastate pipelines.
 - i) AS 42.06.350 (c) applies only to a “tariff filed with the commission under (a)” of that section.
 - ii) AS 42.06.350 (a), in turn, applies only to “intrastate oil or gas pipeline carrier[s].”

Further changes appear to be unnecessary and should be avoided for fear of creating unanticipated side effects and concerns from other parties.

2. Would like to look at and compare statutes regarding “common carrier” regulations. (Rep. Rokeberg)

The gas producing states (Oklahoma, Texas, and Louisiana) and the federal government all have different statutory schemes to deal with the transportation of natural gas on pipelines. However, each of those schemes, in one form or the other, permit gas to be transported on a firm and interruptible basis. Firm and interruptible gas transportation is common throughout the lower 48 and has benefited both gas producers and gas consumers.

3. Keep fair - Open Season provision that allows everyone an opportunity to use pipeline carrier services as needed. (Rep. McGuire)

KKPL conducted a reasonable and fair open season that gave all potential shippers an equal opportunity to use KKPL's services under exactly the same terms and conditions. KKPL had an extensively advertised open season process lasting from December 2001 to June 2002. The open season was advertised for 4 consecutive weeks in the Anchorage Daily News and Alaska Petroleum News. Notices were also sent to all Kenai Peninsula leaseholders and potentially interested state officials. The RCA was advised of plans and given the opportunity to comment and influence KKPL's open season in a number of meetings prior to and during the open season process.

Moreover, RCA has broad authority in the governance of pipelines under AS 42.06. RCA could be reasonably expected to exercise that authority to make certain a reasonable and fair "open season" for firm and interruptible services was followed by any prospective owner seeking approval for a Certificate of Convenience and Necessity as a requirement for receiving such approval.

4. Fiscal Note commentary – How can this legislation impede exploration? (Mark Myers – Div. of O&G)

This comment was made with respect to the issue of producer-affiliate ownership of a pipeline. The DNR contended that, in general, "contract carriage" was positive, as it "could reduce uncertainty of future throughput" and "reduce capital costs." The result would be to "encourage pipeline construction and facilitate gas exploration and development." On the other hand, DNR also stated that "contract carriage on a pipeline owned by an affiliated producer "could potentially" be used to impede pipeline access for non-affiliated producers" and "hinder natural gas exploration and development". We believe that affiliate ownership has promoted, not hindered, development of oil and gas resources in Alaska. Without affiliate ownership, newly discovered resources might be left in the ground because no unaffiliated pipeline company has been willing to bear the risk and cost of constructing a new pipeline to transport Alaska oil and gas resources.

There are three key points to be made about affiliate ownership:

- a) The RCA ("Commission") already has sufficient authority to prevent any favoritism or gaming:
 - i) AS 42.06.320 prohibits any pipeline from "mak[ing] or grant[ing] an unreasonable preference or advantage to any person or subject[ing] any person to an unreasonable prejudice or disadvantage." The Commission could prevent any such favoritism or gaming as creating an unreasonable preference or advantage. If it finds that any exists, it has the power under AS 42.06.330 to take remedial action, including reallocating any capacity that the pipeline may have previously allocated to its affiliate by contract or otherwise.
 - ii) AS 42.06.310 (c) provides the Commission with the power to require a pipeline to "extend or enlarge its pipeline or storage facilities provided the

extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public." The Commission could exercise this authority to require KKPL and other such pipelines to provide additional capacity to new shippers if it found that KKPL was refusing to do so for unreasonable reasons (such as protecting its affiliates).

- b) The Legislature already has dealt with this issue and the same result should be applied to KKPL.
 - i) It is clear that any North Slope gas pipeline would involve affiliate ownership. That fact did not prevent the Legislature, however, from enacting the 2000 amendments to AS 42.06, providing such a pipeline with the right to provide firm and interruptible service. This was likely because the Legislature found that the other provisions of AS 42.06 already provided the RCA with adequate authority to remedy the situation in the event the Commission found that the relationship resulted in any unreasonable preferences or advantages. There is no reason to apply a different approach to KKPL and other intrastate gas pipelines.
 - ii) Similarly, FERC does not prohibit or discriminate against producer-affiliate pipeline ownership in pipelines it regulates.

- c) Allowing, rather than prohibiting, affiliated pipelines to provide firm and interruptible service will result in quicker development of the State's gas resources.
 - i) It is clear that the primary source of capital for the construction of new gas pipelines will come from the oil & gas companies developing the resources that have been discovered. Other than for the pipelines owned by Enstar/APL – which declined to build KKPL – all of the other gas pipelines in the State have been built by affiliated producers.
 - ii) Gas producers are interested in exploring for and developing new reserves if they believe that they can assure the ability to deliver those reserves to market. If producers are not able to obtain that assurance, they will invest their capital in other locations.
 - iii) If gas producers in the State are prevented from arranging for firm transportation (and, thus, firm markets) through affiliated pipelines, less capital will be committed to the State. This is because the producers will be unable to arrange for firm transportation. The producers will be prevented from providing it for themselves and no other non-affiliated entity is stepping up to fill the gap. The producers will take their capital elsewhere, to more secure environments.
 - iv) There is no reason for such a result, where the RCA already has been given adequate authority to regulate against any abuses it might find. By providing affiliated producers with the opportunity to arrange for firm transportation (as long as they do not abuse the privilege), the Legislature will be encouraging additional investment in Alaska.

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Aurora Gas, LLC

www.aurorapower.com

April 9, 2003

The Honorable Mike Chenault
Alaska House of Representatives
State Capitol, Room 432
Juneau, AK 99801-1182

RE: **An Act Relating to the Regulation of Natural Gas Pipelines under the Pipeline Act
Senate Bill 151 / House Bill 204**

Dear Mr. Chenault,

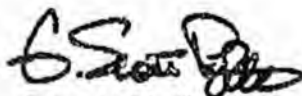
Aurora Gas, LLC and its marketing affiliate, *Aurora Power Resources, Inc.* ("Aurora"), support Senate Bill 151 and House Bill 204. As a producer and marketer of natural gas, *Aurora* understands how critical infrastructure is to the ultimate development of natural gas reserves in Cook Inlet. Additionally, we are in favor of rate structures that provide flexibility and can be tailored to the needs of various entities seeking to transport gas on regulated pipelines. We are in favor of having the option to choose between firm and interruptible transportation rates on pipelines. As we understand the legislative revision, it will provide clarification as to the Regulatory Commission of Alaska's ability to approve such rate structures for pipelines in the Cook Inlet.

Although the Cook Inlet basin has been explored and produced for over forty years, the development of associated infrastructure is not very mature. As a result, producers will be the most likely entities that own, and financially back, the construction of new pipelines. *Aurora* understands this and is comfortable that the regulatory process will sufficiently protect the interests of third parties seeking to access these pipelines.

Aurora Gas would not avoid exploring and developing acreage in the vicinity of producer owned facilities. However, *Aurora* can and would substantially discount the value of exploring and developing acreage with no infrastructure whatsoever.

For these reasons, *Aurora* supports Senate Bill 151/House Bill 204. Please do not hesitate to contact me directly, should have any questions on this matter.

Sincerely,



G. Scott Pfoff
President

GSP: djn

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1029 West 3rd Avenue, Suite 220 • Anchorage, Alaska 99501 • (907) 277-1005 • Fax (907) 277-1006



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151
**“An Act Relating
to the Regulation of
Natural Gas Pipelines
under the Pipeline Act.”**

**A. Ben Schoffmann
Vice-President, KKPL**

April, 2003

*Testimony of A Ben Schoffmann to Alaska State
Senate and House Resource Committees*

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KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

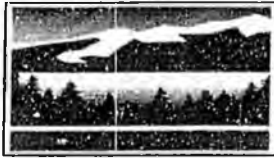
What Does It Do?

- Permits all natural gas transportation pipelines within the State to file a tariff with the RCA offering both “firm” and “interruptible” service (“contract carriage”) under the Alaska Pipeline Act, AS 42.06.
 - Amendments on this concept were made for a North Slope Gas Line in the 2000 Session.
 - This bill clarifies that other regulated gas pipelines elsewhere in the State also may offer these two classes of service.

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What is Firm and Interruptible Service?

- Firm Service:
 - The Shipper commits to pay a monthly “reservation charge” for a set level of capacity, whether or not it is actually used.
 - The Pipeline guarantees the reserved capacity will be made available as and when needed.
- Interruptible Service:
 - The Shipper only pays for the capacity it actually uses at any given time.
 - The Pipeline makes best efforts to provide capacity, but if the desired capacity is not available for whatever reason (mechanical, over-supply, etc.), these shipments are subject to curtailment or interruption.



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Why is This Important?

- It is important to both Pipeline Investors and Potential Shippers.
- **Pipeline Investors:** Provides them with the ability to obtain firm contracts from potential shippers, which help to:
 - economically justify construction and operation of new gas pipelines
 - reduce risk

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Why is This Important? – Cont.

- **Prospective Shippers:** Enables them to choose the type of gas transportation service which best aligns with their customer contracts and gas supplies.
 - Firm Transportation (FT)
 - Firm sales contracts need the accompanying assurance of firm transportation (interruptible transportation and potential curtailment is not compatible with firm sales commitments).
 - Interruptible Transportation (IT)
 - Compatible with interruptible sales contracts and/or uncertain supplies
 - Potential Shippers with undiscovered/poorly defined potential gas supplies need not make financial commitments in advance of proving up gas supplies.



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PIPELINE PROJECT

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HB 204 / SB 151 What It Won't Do

- It will not change the “Open Access” status of pipelines under the State Pipeline Act.
- It will not have an adverse fiscal impact on the State.
- It will not have an adverse impact on “smaller shippers” or those without an ownership position in the pipeline.

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Is Producer-Affiliate Ownership an Issue?

- Pipeline Owners in Alaska are mostly Public Utilities & Producer Affiliates
 - These entities have the capital and incentives to construct new pipelines
 - Other PL developers have no incentives to invest in the current environment
- Producer Affiliates can't "Lock Out" Smaller Producers
 - Existing law provides remedies
 - Prohibits unreasonable discrimination (AS 42.06.320)
 - Permits RCA to reallocate usage to remedy discrimination (AS 42.06.330)
 - Authorizes RCA to require capacity expansions (AS 42.06.310(c))
 - RCA can take additional steps
 - As the FERC has done, require an Open Season as a condition of a determination that a proposed pipeline serves the public convenience and necessity
 - Under an Open Season a pipeline offers access on the same terms to all shippers (affiliated and non-affiliated) before it can be constructed
 - Does not require any additional statutory authority
 - FYI, KKPL held an Open Season
- Other statutes and agencies do not think producer-affiliation is an issue
 - 2000 Amendments providing for "firm" and "interruptible" service for North Slope Gas Pipeline did not prohibit or discriminate against ownership by producer affiliates
 - FERC has not prohibited or discriminated against producer-affiliate ownership

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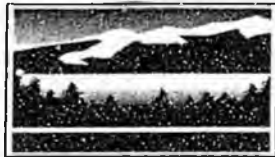
Kenai Kachemak Pipeline LLC

Pipelines, Regardless of Ownership, Are Good for Business

- Gas Business Drivers:
 - 1) Gas Supply (or access to land & prospects)
 - 2) Gas Sales Contracts (demand & price)
 - 3) Costs (exploration, development, & production)
 - 4) Infrastructure (access to & cost of transportation)
- New pipeline projects will encourage investments by other potential producers:
 - As “Open Access” Infrastructure moves closer, business hurdles of stranded gas are overcome
- More pipeline throughput is good for everyone:
 - Shipper cost of service per unit is reduced
 - Owners’ revenue stream is more stable and predictable

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KENAI-KACHEMAK
PIPELINE PROJECT

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HB 204 / SB 151

Why is It Needed Now?

- RCA has raised a question in their December 24, 2002 Order to KKPL as to whether RCA has the authority to grant “firm” and “interruptible” service for other than a North Slope Gas Line.
- KKPL will file with the RCA to approve KKPL’s Tariff in the second quarter of 2003.
- After holding an extensively publicized Open Season, two Shippers require, and have committed to pay for, Firm Service on KKPL.

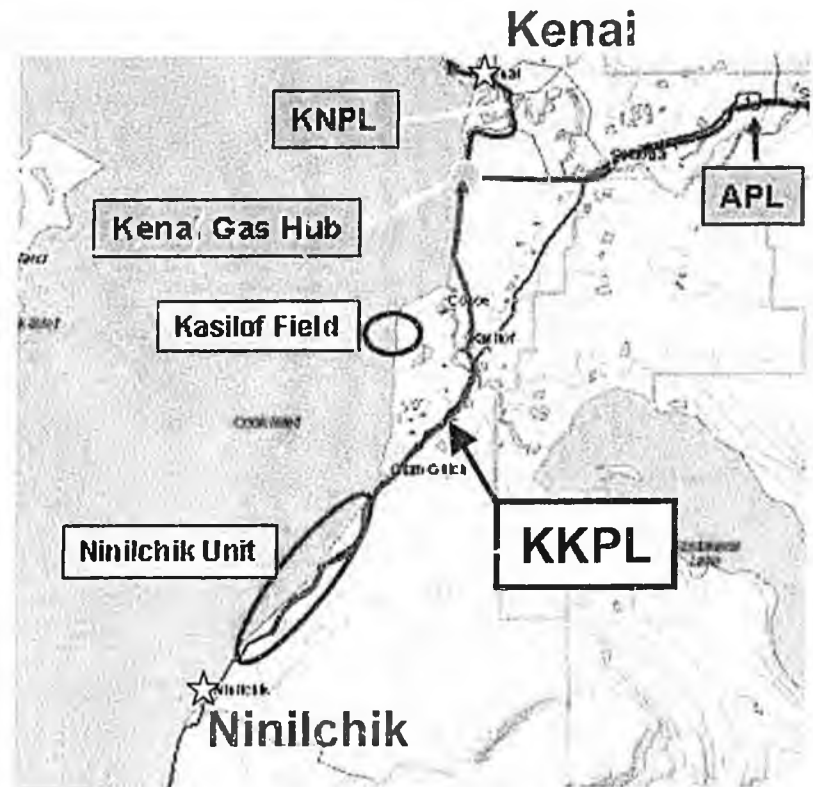


KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

What is KKPL?

- Owned by an Alaska Limited Liability Company
 - Marathon (60%)
 - Unocal, through GUT (40%)
- New \$25 million, 33-mile, 12-inch diameter Gas Transmission Pipeline.
- Connects newly discovered gas to existing Cook Inlet gas pipeline and market infrastructure.



Kenai Peninsula

April, 2003

Testimony of A Ben Schoffmann to Alaska State
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KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

KKPL Facts

- June 2002: Held extensively publicized “Open Season” for potential shippers
- Two Shippers made “firm” commitments
 - Total of 300 BCF of gas over 15-years
 - Marathon ~ 180 BCF
 - Unocal ~ 120 BCF
 - Total Peak Committed Rate is 90 MMCFPD (in year 4)
- Required a 12-inch diameter pipeline
 - If Inlet Pressure is 1050 psig & Outlet Pressure is 750 psig, Capacity would be 120 - 130 MMCFPD
 - Expansion is possible

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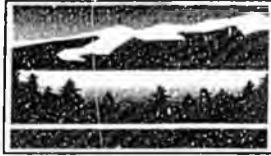
KKPL Facts – Cont.

- Received RCA Temporary Certificate of Convenience and Necessity under AS 42.06 on January 9, 2003.
- Construction is in Progress.
 - Started in January 2003.
 - Contractual Target In-Service Date is 11/1/03.
 - Construction is ahead of schedule by ~ 2 months.
- RCA Tariff Filing is required at least 90 days before Commencement of Commercial Operation.
 - KKPL tentatively plans to make this filing in late April.

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KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151

Impacts to State of Alaska

- Pro-Development, without providing a “handout”.
 - Provides stability to potential pipeline investors if firm capacity is committed.
 - Provides gas suppliers with flexibility to match transportation service to gas supplies (proven or prospective) and sales contracts (firm or interruptible).



KENAI-KACHEMAK
PIPELINE PROJECT

Kenai Kachemak Pipeline LLC

HB 204 / SB 151 Conclusions

- **Provides a Tool:** Clarifies RCA's Authority
 - They have the ability to approve firm and interruptible service for all intrastate Natural Gas Pipelines under the Pipeline Act.
- **Has a Purpose:** Encourages Investment
 - Meets the needs of Pipeline Owners who require economic justification and minimization of risk for their investments.
 - Helps Potential Shippers align their transportation service with their gas supplies and gas sales contracts.
 - Firm Transport for Firm Contracts and Relatively Certain Supplies
 - Interruptible Transport for Interruptible Contracts and less certain supplies
 - Retains "Open Access" provisions of the Pipeline Act.
- **Meets a Need:** KKPL has commitments for this service & will shortly file for approval by RCA.

April, 2003

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A. Ben Schoffmann
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