

HB

177

(FILE 1)

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FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB177CS(RES)-DNR-O&G-04-30-07
 Bill Version: CS HB 177 (RES)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Natural Gas Pipeline Project RDU Resource Development
 Component Alaska Gasline Inducements Act
 Sponsor Rules Committee
 Requester House Finance Component No. new

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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

CAPITAL EXPENDITURES	500,000.0*					
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CHANGE IN REVENUES ()						
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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 (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes the Alaska Gasline Inducement Act (AGIA) which would create a competitive public process for inviting applications for a license under this Act. The application process would include certain application requirements before an application can be considered as well as criteria by which the Commissioners of Natural Resources and Revenue will evaluate all qualifying applications.

The Act would also create inducements including: state matching contributions for pipeline construction in an amount not to exceed \$500 million and the benefit of a state gas pipeline coordinator.

(Continued on next page).

Prepared by: Kevin Banks, Acting Director
 Division: Oil and Gas
 Approved by: Tom Irvin, Commissioner
 Agency: Natural Resources

Phone 269-8800
 Date/Time 4/30/2007
 Date 4/30/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CS HB 177 (RES)

ANALYSIS CONTINUATION

Under the AGIA, the licensee or its designated affiliate would be entitled to state matching contributions for qualified expenditures (post license costs incurred by the licensee that are directly and reasonably related to obtaining a certificate of public necessity and convenience or amending a certificate of public convenience from the FERC or RCA for development of the project).

On or before the close of the first binding season, the state will match up to 50 percent of the licensee's qualified expenditures pursuant to the amount specified in the application. After the close of the first binding open season, the state shall match the qualified expenditures at the amount specified but the amount may be no greater than 80 percent. Over a five year period, these contributions may not exceed \$500 million. The present value of the state's total \$500 million contribution would be roughly \$415 million, because state spending will be spread over several years.

AGIA will generate a number of project benefits that could more than offset its costs. The size of these benefits will depend on ultimate project scope and market prices, which AGIA leaves to the competitive process. Actual benefits will vary depending upon project terminus (Alberta, Chicago), size (1.2 Bcf/day, 4.5 Bcf/day), mode of transport (pipeline only, pipeline plus LNG facilities), among other things. Illustrative benefits shown here assume a 4.3 Bcf/day project to Alberta, Canada with a construction cost that is 50% greater than assumed in 2001. Results are presented in present value dollars, assuming a discount rate of 5%, to recognize that a dollar of state benefit received in the future will be worth less than a dollar spent today.

First, AGIA is likely to result in a project sooner than if no pipeline legislation is passed. By having the state agree to shoulder a large share of the up-front capital that is particularly risky, AGIA ensures that in exchange project proponents commit to move the project forward past clearly defined benchmarks. Because AGIA results in a project sooner, the current value of project revenues to the state is enhanced. Assuming a gas price of \$5.50, if AGIA accelerates project startup by one year, from 2017 to 2016, state benefits will exceed \$1.6 billion; a two-year acceleration in the project returns \$3.2 billion; a three-year acceleration generates \$4.9 billion.

Second, AGIA's requirement of a minimum 70 percent share of debt in the determination of tariffs ensures that the state will not pay unnecessarily high transportation costs. Without this protection, project tariffs could be calculated on the basis of 60 or even 50 percent debt and still pass regulatory scrutiny. The tariff benefits of a 70 percent debt structure, rather than 60 percent or 50 percent, are 26 cents and 55 cents per MMBtu, respectively. The savings to the state are \$1.25 billion and \$2.63 billion, respectively. Meanwhile, lower tariffs improve project economics for holders of both existing and yet to be discovered gas reserves, thereby increasing the likelihood that the project will commence sooner. The degree to which such savings are realized depends on how, absent AGIA's requirements, project tariffs would otherwise have been determined.

Third, AGIA's pipeline access provisions promise to increase competition for exploration and development of Alaska's gas resources, leading to earlier and more significant pipeline expansions. The value to the state of such expansions is scenario specific, and cannot be accurately predicted. That said, if AGIA's expansion provisions caused the pipeline to expand by 10% in year 3 of its operations, whereas without AGIA such an expansion would not occur, the increase in state royalty and taxes would be roughly \$3 billion in today's dollars. Even if the chances that such an expansion would otherwise not occur were only one in five the AGIA investment of \$500 million would more than pay for itself in this provision alone.

Finally, AGIA will directly ensure lower tariffs. The state's direct investment in up-front development costs would reduce the cost of moving gas to Alberta by roughly 4 cents. The present value royalty and tax benefits of this 4 cent tariff reduction come to \$183 million. Put differently, assuming \$5.50 gas prices, during pipeline operation the state will receive roughly 45% of the value of its contribution in increased royalty and production tax benefits. And at gas prices of \$7.50 or higher the state's up-front contribution actually generates more in royalty and tax benefits than it costs.

* \$300,000,000 was appropriated last year (SLA2006/Ch13/Sec14) from the general fund to Alaska Housing Finance Corporation for the purpose of funding capital projects including financing expenses and may be available to partially fund the matching grant.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note: 7
Bill Version: CSHB 177(RES)
(H) Publish Date: 4/25/07

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Natural Gas Pipeline Project RDU: Office of the Commissioner
Sponsor: Rules Committee Component: Commissioner's Office
Requester: House RES Component Number: 340

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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

CAPITAL EXPENDITURES	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
1005 Gr /Program Receipts						
1037 Gr /Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0

Estimate of any current year (FY2007) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: Guy Bell, Assistant Commissioner Phone: 465-2700
Division: Commissioner's Office Date/Time: 4/12/07 4:11 PM
Approved by: Click Bishop, Commissioner Date: 4/12/2007
Agency: Department of Labor and Workforce Development

FISCAL NOTE #7

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(RES)

ANALYSIS: (continued)

The Alaska Gasline offers Alaskans the opportunity for thousands of high paying jobs with tremendous legacy potential. To ensure Alaskans are considered first for these jobs, the state needs to invest up-front in determining the best way to deliver that workforce by placing Alaskans first, maximizing job opportunities for all Alaskans, including rural Alaskans and Alaska Natives, developing a training plan taking into account existing skills versus required skills, and developing training infrastructure, and implementing and expanding training programs so employers hire Alaskans qualified for pipeline jobs.

This fiscal note outlines the Alaska Department of Labor and Workforce Development's (DOLWD) estimate of the cost of a comprehensive training program to deliver a prepared Alaska workforce for the Alaska Gas Pipeline. The investment is broken down over a six year period as follows:

FY 08 Gasline Project Budget Request: \$ 6,500.0 GF

1. Pipeline Training Center \$ 4,100.0 GF

This would fund a grant to the Alaska Works Partnership to build and equip a comprehensive pipeline trades training facility in Fairbanks. The facility would contain classroom and shop space for pipeline trades training classes. The center will also include a gas compressor training module. Trades to be trained would include but not be limited to pipefitters, heavy equipment operators, plumbers, carpenters, mechanics and electricians. It is estimated that up to 8,000 Alaskans will be trained at this facility through FY 13.

2. Strategic Planning and Research \$ 850.0 GF

This would fund three activities: (1) strategic planning to be overseen by the Commissioner of the Department of Labor and Workforce Development and the Alaska Workforce Investment Board; (2) Gas line Occupational Supply and Demand Analysis; and (3) Rural Alaskan and Alaska Native Skills Inventory and Gasline Employment Interest.

***Commissioner's Office, Gasline Workforce Plan* \$ 275.0 GF**

Funding to retain experts to assist the Commissioner and the Workforce Investment Board in developing a comprehensive Gasline Workforce Development strategy. Areas of technical assistance include innovative training strategies, training technology upgrades, workforce health and safety issues and development of an outcome driven workforce analysis system. This support will allow the Commissioner's Office to incorporate the specialized knowledge associated with meeting the workforce development needs of a mega project with the resources already available through the various divisions of the department. The department will ensure that Alaska's workforce development concerns for the gas line are well described and articulated to potential producers or contractors.

FISCAL NOTE #7

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(RES)

ANALYSIS: (continued)

Research & Analysis Section \$ 250.0 GF

The department's Research & Analysis Section (R&A) will assess the supply and demand for labor resulting from both the construction and operation of the gas pipeline. In an effort to ensure that a qualified workforce exists at the time of gasline construction, DOLWD will conduct an occupational supply and demand analysis to identify potential workforce gaps.

R&A will assist with the development of strategies to close the projected skills gap. Strategies may include the identification of "training gaps" and the development of career information products that encourage Alaskans, of all ages, to consider potential shortage occupations when planning their careers.

Alaska Labor Exchange System Improvement \$ 325.0 GF

The Employment Security Division will improve the web-based, Alaska Labor Exchange System (ALEXsys) to allow the department to complete a state-wide inventory of workers' individual skill sets and better identify a qualified Alaskan workforce and potential training opportunities for Alaskans in preparation for the construction and maintenance phases of the Alaska gasline.

3. Direct Training \$ 500.0 GF

This investment will continue and expand the extremely successful pipeline trades training program in Fairbanks. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

4. University of Alaska \$ 750.0 GF

Engineering and Construction Management programs.

5. Alaska Laborers Training School \$ 300.0 GF

To purchase a D3 Rock Drill to enhance training delivery.

FY 09 Gas Pipeline Project Budget Request: \$ 18,750.0 GF

1. Other Training Infrastructure \$ 15,000.0 GF

Provide essential upgrades to various training facilities throughout the state to provide site-specific specialized training. Potential sites include AVTEC and Regional Training Centers located throughout rural Alaska.

3. Direct Training \$ 2,500.0 GF

This investment will continue and expand the extremely successful pipeline training in Fairbanks, and other targeted training as determined by the training priorities developed by the department and the Alaska Workforce Investment Board. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

FISCAL NOTE #7

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(RES)

ANALYSIS: (continued)

4. University of Alaska \$ 1,250.0 GF
Engineering and Construction Management programs.

FY 10 to FY 13 Gas Pipeline Project Budget Request: \$ 46,000.0 GF

1. Direct Training \$ 40,000.0 GF

Annual investment of \$10 million to continue and expand training. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

2. University of Alaska \$ 6,000.0 GF

Provide \$1,500.0 annually to support Engineering and Construction Management programs.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 177(RES)
(H) Publish Date: 4/25/07

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title: "An Act relating to the Alaska Gasline
Inducement Act...." RDU: Executive Operations
Sponsor: Rules Committee Component: Executive Office
Requester: House Resources Committee Component No.: 6

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	78.6	368.6	378.2	385.9	396.6	404.6
Travel	8.0	20.0	20.0	20.0	20.0	20.0
Contractual	18.2	56.4	56.4	56.4	56.4	56.4
Supplies	8.0	20.0	20.0	20.0	20.0	20.0
Equipment	20.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	132.8	465.0	474.6	482.3	493.0	501.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	132.8	465.0	474.6	482.3	493.0	501.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	132.8	465.0	474.6	482.3	493.0	501.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This fiscal note assumes the office will begin functioning at the onset of the last quarter of FY08.

Personal services consists of a state gas pipeline coordinator (R28A), an inter-governmental coordinator (R24), and an executive secretary (R14).

Prepared by: Gail Fenunlai, Asst. Administrative Director
Division: Division of Administrative Services
Approved by: Linda J. Perez, Administrative Director
Agency: Office of the Governor

Phone: 465-3885
Date/Time: 4/20/2007, 2:40pm
Date: 4/20/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: HB 177
(H) Publish Date: 3/5/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title AGIA RDU Administration & Support
Component Natural Gas Commercialization
Sponsor Governor
Requester Rules Committee Component No. 2859

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	294.0	294.0	294.0	294.0	294.0	294.0
Travel	25.0	25.0	25.0	25.0	25.0	25.0
Contractual	1,897.0	900.0	450.0	10.0	10.0	10.0
Supplies	10.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	2,226.0	1,221.0	771.0	331.0	331.0	331.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,226.0	1,221.0	771.0	331.0	331.0	331.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	2,226.0	1,221.0	771.0	331.0	331.0	331.0

Estimate of any current year (FY2007) cost: 784.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Operating expenditures include costs for 2 additional economists/commercial analysts in exempt positions. These positions would be used to draft the tax related provisions of the request for application, assess economic viability of projects contained in applications, including economic impacts on future state revenues and value of inducements, and develop the Department's recommendations for changes to the existing gas production tax statutes and regulations that will need to be in place as inducement for producer's gas commitments under the Alaska Gasline Inducements Act. In addition, property tax impacts of pipeline construction to state and municipal revenues will need to be understood and forecasted.

Prepared by: Roger Marks Phone 269-0082
Division Tax Division Date/Time 2/28/07 12:00 AM
Approved by: Jerry Burnett Date 2/28/2007
Agency Department of Revenue

FISCAL NOTE #5

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 177

ANALYSIS CONTINUATION

Contractual expenditures include assistance in formulating revisions to the tax structure, studying comparative international fiscal systems for gas to ensure changes to state's gas production taxes leave Alaska in a globally competitive position, and writing regulations.

Other contractual costs are for legal support for attorneys/law firms with appropriate specialties outside of AGs office to advise us on tax structures and creation of new tax structure; assessment of legal issues and impediments to marketing options now being considered to assist in evaluation of projects; and legal assessment of financial covenants impacting state and its project selection in standard commercial financing arrangements and governmentally guaranteed financing scenarios.

The FY 2008 costs are also in the Oil & Gas Supplemental Bill (SB 82). In addition, that Bill contains FY 2007 costs of \$123,000 personal services, \$425,000 contractual, \$10,000 travel, and \$365,000 legal support.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 177
(H) Publish Date: 3/5/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Alaska Gasline Inducements Act RDU: Resource Development
Component: Oil & Gas Development
Sponsor: Rules Committee
Requester: Governor Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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 (FY2007) cost: 6,550.0 ** Requested as a capital project
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

**This fiscal note represents the gasline-related supplemental requested in HB138/SB82, Section 2 (a). This was requested as a capital project with an effective date of February 1, 2007.

Section 2(a) - \$6,550,000 general fund for gas pipeline analysis projects. This funding will be used to pay for consultants to advise the state on the structure of an RFP for gasline proposals; and to cover the cost of outside experts and legal counsel on federal pipeline law and the FERC process. DNR estimates that \$4,135,000 will be expended in FY07, and \$2,415,000 in FY08.

Prepared by: Kevin Banks, Acting Director
Division: Oil & Gas
Approved by: Tom Irwin, Commissioner
Agency: Natural Resources

Phone 907-269-8800
Date/Time 3/1/2007
Date 3/1/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 177
(H) Publish Date: 3/5/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Alaska Gasline Inducements Act RDU Regulatory Commission of Alaska (399)
Component Regulatory Commission of Alaska
Sponsor Rules
Requester By Request of the Governor Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (141 RCA Receipts)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Regulatory Commission of Alaska (RCA) regulates pipelines and pipeline carriers operating in Alaska under AS 42.06.140(a). AS 42.06.240 requires the RCA to issue a certificate of public convenience and necessity for pipeline carriers engaged in the intrastate transportation of oil or gas by pipeline, or constructing or extending pipeline facilities. To the extent this legislation results in the construction of an intrastate pipeline subject to RCA regulation, costs will be accounted for under the existing RCA structure.

The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. General funds are not allocated for support of the agency, nor are they anticipated to be necessary as a result of this legislation. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of economically regulated utilities and pipeline carriers.

Prepared by: Kate Glard, Chair
Division: Regulatory Commission of Alaska
Approved by: Emil Nottli, Commissioner
Agency: Commerce, Community, and Economic Development

Phone 907.276.6222
Date/Time 2/28/07 3:06 PM
Date 2/28/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 177
(H) Publish Date: 3/5/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: Alaska Gasline Inducement Act RDU: AOGCC
Component: AOGCC
Sponsor: Rulos Committee
Requester: Governor Component No.: 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation will not have a fiscal impact upon the Alaska Oil and Gas Conservation Commission.

Prepared by: Jody J. Colombo, Special Assistant I
Division: Alaska Oil and Gas Conservation Commission
Approved by: Rachael Petro, Deputy Commissioner
Agency: Department of Administration

Phone: 793-1221
Date/Time: 3/2/07 3:19 PM
Date: 3/2/2007 1:00pm

5/10/07

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Thursday

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adopted 5/9/07

25-GH1060V
Bullock
5/9/07

CS FOR HOUSE BILL NO. 177(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

*Completed
5/9/07*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Gasline Inducement Act; providing inducements for the
2 construction of a natural gas pipeline and shippers that commit to use that pipeline;
3 establishing the Alaska Gasline Inducement Act matching contribution fund; providing
4 for an Alaska Gasline Inducement Act coordinator; making conforming amendments;
5 and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. AS 43 is amended by adding a new chapter to read:

8 **Chapter 90. Alaska Gasline Inducement Act.**

9 **Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.**

10 **Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage
11 expedited construction of a natural gas pipeline that

12 (1) facilitates commercialization of North Slope gas resources in the
13 state;

1 (2) promotes exploration and development of oil and gas resources on
2 the North Slope in the state;

3 (3) maximizes benefits to the people of the state from the development
4 of oil and gas resources in the state; and

5 (4) encourages oil and gas lessees and other persons to commit to ship
6 natural gas from the North Slope to a gas pipeline system for transportation to markets
7 in this state or elsewhere.

8 **Article 2. Alaska Gasline Inducement Act License.**

9 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska
10 Gasline Inducement Act license as provided in this chapter. The person awarded a
11 license under this chapter is entitled to the inducement set out in AS 43.90.110.

12 (b) Nothing in this chapter precludes a person from pursuing a gas pipeline
13 independently from this chapter.

14 **Sec. 43.90.110. Natural gas pipeline project construction inducement.** (a)
15 Subject to the limitations of this chapter, a license issued under this chapter entitles the
16 licensee or its designated affiliate to receive

17 (1) subject to appropriation, state matching contributions in a total
18 amount not to exceed \$500,000,000, paid to the licensee during the five-year period
19 immediately following the date the license is awarded; the payment period may be
20 extended by the commissioners under an amendment or modification of the project
21 plan under AS 43.90.210; a payment under this paragraph shall be made according to
22 the following:

23 (A) on or before the close of the first binding open season, the
24 state shall match the licensee's qualified expenditures at the level specified in
25 the license; however, the state's matching contribution may not exceed 50
26 percent of the qualified expenditures incurred before the close of the first
27 binding open season;

28 (B) after the close of the first binding open season, the state
29 shall match the licensee's qualified expenditures at the level specified in the
30 license; however, the state's matching contribution may not exceed 80 percent
31 of the qualified expenditures incurred after the close of the first binding open

1 season;

2 (C) a qualified expenditure is a cost that is incurred after the
3 license is issued under this chapter by the licensee or the licensee's designated
4 affiliate, and is directly and reasonably related to obtaining a certificate or
5 amended certificate of public convenience and necessity from the Federal
6 Energy Regulatory Commission or the Regulatory Commission of Alaska, as
7 appropriate, or satisfying a requirement of an agency with jurisdiction over the
8 project; in this subparagraph, "qualified expenditures" does not include
9 overhead costs, litigation costs, the cost of an asset or work product acquired or
10 developed by the licensee before the license is issued, or civil or criminal
11 penalties or fines; and

12 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
13 has the authority prescribed in AS 43.90.250.

14 (b) The commissioner of revenue in consultation with the commissioner of
15 natural resources shall adopt regulations for determining whether an expenditure is a
16 qualified expenditure for the purposes of (a) of this section.

17 **Sec. 43.90.120. Request for applications for the license.** (a) The
18 commissioners shall commence a public process to request applications for a license
19 under this chapter as soon as practicable after the effective date of this chapter.

20 (b) The commissioners may use independent contractors to assist them in
21 developing the request for applications and in evaluating applications received under
22 this chapter.

23 (c) The provisions of AS 36.30 do not apply to requests for applications under
24 this chapter.

25 **Sec. 43.90.130. Application requirements.** An application for a license must
26 be consistent with the terms of the request for applications under AS 43.90.120 and
27 must

28 (1) be filed by the deadline established by the commissioners in the
29 request for applications;

30 (2) provide a thorough description of a proposed natural gas pipeline
31 project for transporting natural gas from the North Slope to market, which description

1 may include multiple design proposals, including different design proposals for pipe
2 diameter, wall thickness, and transportation capacity, and which description shall
3 include

4 (A) the route proposed for the natural gas pipeline, which may
5 not be the route described in AS 38.35.017(b);

6 (B) the location of receipt and delivery points and the size and
7 design capacity of the proposed natural gas pipeline at the proposed receipt and
8 delivery points, except that this information is not required for in-state delivery
9 points unless the application proposes specific in-state delivery points;

10 (C) an analysis of the project's economic and technical
11 viability, including a description of all pipeline access and tariff terms the
12 applicant plans to offer;

13 (D) an economically and technically viable work plan, timeline,
14 and associated budget for developing and performing the proposed project,
15 including field work, environmental studies, design, and engineering,
16 implementing practices for controlling carbon emissions from natural gas
17 systems as established by the United States Environmental Protection Agency,
18 and complying with all applicable state, federal, and international regulatory
19 requirements that affect the proposed project; the applicant shall address the
20 following:

21 (i) if the proposed project involves a pipeline into or
22 through Canada, a thorough description of the applicant's plan to obtain
23 necessary rights-of-way and authorizations in Canada, a description of
24 the transportation services to be provided and a description of rate-
25 making methodologies the applicant will propose to the regulatory
26 agencies, and an estimate of rates and charges for all services;

27 (ii) if the proposed project involves marine
28 transportation of liquefied natural gas, a description of the marine
29 transportation services to be provided and a description of proposed
30 rate-making methodologies; an estimate of rates and charges for all
31 services by third parties; a detailed description of all proposed access

1 and tariff terms for liquefaction services or, if third parties would
2 perform liquefaction services, identification of the third parties and the
3 terms applicable to the liquefaction services; a complete description of
4 the marine segment of the project including the proposed ownership,
5 control, and cost of liquefied natural gas tankers, the management of
6 shipping services, liquefied natural gas export, destination, re-
7 gasification facilities, and pipeline facilities needed for transport to
8 market destinations, and the entity or entities that would be required to
9 obtain necessary export permits and licenses or a certificate or amended
10 certificate of public convenience and necessity from the Federal Energy
11 Regulatory Commission for the transportation of liquefied natural gas
12 in interstate commerce if United States markets are proposed; and all
13 rights-of-way or authorizations required from a foreign country;

14 (3) commit that if the proposed project is within the jurisdiction of the
15 Federal Energy Regulatory Commission, the applicant will

16 (A) conclude, by a date certain that is not later than 36 months
17 after the date the license is issued, a binding open season that is consistent with
18 the requirements of 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska
19 Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

20 (B) apply for Federal Energy Regulatory Commission approval
21 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
22 and use those procedures before filing an application for a certificate or
23 amended certificate of public convenience and necessity, except where the
24 procedures are not required as a result of sec. 5 of the President's Decision
25 issued under 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of
26 1976); and

27 (C) apply for a Federal Energy Regulatory Commission
28 certificate or amended certificate of public convenience and necessity to
29 authorize the construction and operation of the proposed project described in
30 this section by a date certain;

31 (4) if the proposed project is within the jurisdiction of the Regulatory

1 Commission of Alaska, commit to

2 (A) conclude, by a date certain that is not later than 36 months
3 after the date the license is issued, a binding open season that is consistent with
4 the requirements of AS 42.06; and

5 (B) apply for a certificate or amended certificate of public
6 convenience and necessity to authorize the construction and operation of the
7 proposed project by a date certain;

8 (5) commit that after the first binding open season, the applicant will
9 assess the market demand for additional pipeline capacity at least every two years
10 through public nonbinding solicitations or similar means;

11 (6) commit to expand the proposed project in reasonable engineering
12 increments and on commercially reasonable terms that encourage exploration and
13 development of gas resources in this state; in this paragraph,

14 (A) "commercially reasonable terms" means that, subject to the
15 provisions of (7) of this section, revenue from transportation contracts covers
16 the cost of the expansion, including increased fuel costs and a reasonable
17 return on capital as authorized by the Federal Energy Regulatory Commission
18 or the Regulatory Commission of Alaska, as applicable, and there is no
19 impairment of the proposed project's ability to recover the costs of existing
20 facilities.

21 (B) "reasonable engineering increments" means the amount of
22 additional capacity that could be added by compression or a pipe addition
23 using a compressor size or pipe size, as applicable, that is substantially similar
24 to the original compressor size and pipe size;

25 (7) commit that the applicant

26 (A) will propose and support the recovery of mainline capacity
27 expansion costs, including fuel costs, from all mainline system users through
28 rolled-in rates as provided in (B) and (C) of this paragraph or through a
29 combination of incremental and rolled-in rates as provided in (D) of this
30 paragraph;

31 (B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through
2 rolled-in rates; an applicant is obligated under this subparagraph only if the
3 rolled-in rates would increase the rates

4 (i) not described in (ii) of this subparagraph by not more
5 than 15 percent above the initial maximum recourse rates for capacity
6 acquired before commercial operations commence; in this sub-
7 subparagraph, "initial maximum recourse rates" means the highest cost-
8 based rates for any specific transportation service set by the Federal
9 Energy Regulatory Commission, the Regulatory Commission of
10 Alaska, or the National Energy Board of Canada, as appropriate, when
11 the pipeline commences commercial operations;

12 (ii) by not more than 15 percent above the negotiated
13 rate for pipeline capacity on the date of commencement of commercial
14 operations where the holder of the capacity is not an affiliate of the
15 owner of the pipeline project; for the purposes of this sub-
16 subparagraph, "negotiated rate" means the rate in a transportation
17 service agreement that provides for a rate that varies from the otherwise
18 applicable cost-based rate, or recourse rate, set out in a gas pipeline's
19 tariff approved by the Federal Energy Regulatory Commission, the
20 Regulatory Commission of Alaska, or the National Energy Board of
21 Canada, as appropriate; or

22 (iii) for capacity acquired in an expansion after
23 commercial operations commence, to a level that is not more than 115
24 percent of the volume-weighted average of all rates collected by the
25 project owner for pipeline capacity on the date commercial operations
26 commence;

27 (C) will, if recovery of mainline capacity expansion costs,
28 including fuel costs, through rolled-in rate treatment would increase the rates
29 for capacity described in (B) of this paragraph, propose and support the partial
30 roll-in of mainline expansion costs, including fuel costs, to the extent that rates
31 acquired before commercial operations commence do not exceed the levels

1 described in (B) of this paragraph;

2 (D) may, for the recovery of mainline capacity expansion costs,
3 including fuel costs, that, under rolled-in rate treatment, would result in rates
4 that exceed the level in (B) of this paragraph, propose and support the recovery
5 of those costs through any combination of incremental and rolled-in rates;

6 (E) will not enter into a negotiated rate agreement that would
7 preclude the applicant from collecting from any shipper, including a shipper
8 with a negotiated rate agreement, the rolled-in rates that are required to be
9 proposed and supported by the applicant under (B) of this paragraph or the
10 partial rolled-in rates that are required to be proposed and supported by the
11 applicant under (C) of this paragraph;

12 (8) state how the applicant proposes to deal with a North Slope gas
13 treatment plant, regardless of whether that plant is part of the applicant's proposal, and,
14 to the extent that the plant will be owned entirely or in part by the applicant, commit to
15 seek certificate authority from the Federal Energy Regulatory Commission if the
16 proposed project is engaged in interstate commerce, or from the Regulatory
17 Commission of Alaska if the project is not engaged in interstate commerce; for a
18 North Slope gas treatment plant that will be owned entirely or in part by the applicant,
19 for rate-making purposes, commit to value previously used assets that are part of the
20 gas treatment plant at net book value; describe the gas treatment plant, including its
21 design, engineering, construction, ownership, and plan of operation; the identity of any
22 third party that will participate in the ownership or operation of the gas treatment
23 plant; and the means by which the applicant will work to minimize the effect of the
24 costs of the facility on the tariff;

25 (9) propose a percentage and total dollar amount for the state's
26 matching contribution under AS 43.90.110(a)(1)(A) and (B) to be specified in the
27 license;

28 (10) commit to propose and support rates for the proposed project and
29 for any North Slope gas treatment plant that the applicant may own, in whole or in
30 part, that are based on a capital structure for rate-making that consists of not less than
31 70 percent debt;

1 (11) describe the means for preventing and managing overruns in costs
2 of the proposed project, and the measures for minimizing the effects on tariffs from
3 any overruns;

4 (12) commit to provide a minimum of five delivery points of natural
5 gas in this state;

6 (13) commit to

7 (A) offer firm transportation service to delivery points in this
8 state as part of the tariff regardless of whether any shippers bid successfully in
9 a binding open season for firm transportation service to delivery points in this
10 state, and commit to offer distance-sensitive rates to delivery points in this
11 state consistent with 18 C.F.R. 157.34(c)(8); and

12 (B) offer distance-sensitive rates to delivery points in the state
13 consistent with 18 C.F.R. 157.34(c)(8);

14 (14) commit to establish a local headquarters in this state for the
15 proposed project;

16 (15) to the extent permitted by law, commit to

17 (A) hire qualified residents from throughout the state for
18 management, engineering, construction, operations, maintenance, and other
19 positions on the proposed project;

20 (B) contract with businesses located in the state;

21 (C) establish hiring facilities or use existing hiring facilities in
22 the state; and

23 (D) use, as far as is practicable, the job centers and associated
24 services operated by the Department of Labor and Workforce Development
25 and an Internet-based labor exchange system operated by the state;

26 (16) waive the right to appeal the rejection of the application as
27 incomplete, the issuance of a license to another applicant, or the determination under
28 AS 43.90.180(b) that no application merits the issuance of a license;

29 (17) commit to negotiate, before construction, a project labor
30 agreement; in this paragraph, "project labor agreement" means a comprehensive
31 collective bargaining agreement between the licensee or its agent and the appropriate

1 labor representatives to ensure expedited construction with labor stability for the
2 project by qualified residents of the state;

3 (18) commit that the state matching contribution received by a licensee
4 may not be included in the applicant's rate base, and shall be used as a credit against
5 licensee's cost of service;

6 (19) provide a detailed description of the applicant, all entities
7 participating with the applicant in the application and the project proposed by the
8 applicant, and persons the applicant intends to involve in the construction and
9 operation of the proposed project; the description must include the nature of the
10 affiliation for each person, the commitments by the person to the applicant, and other
11 information relevant to the commissioners' evaluation of the readiness and ability of
12 the applicant to complete the project presented in the application;

13 (20) demonstrate the readiness, financial resources, and technical
14 ability to perform the activities specified in the application by describing the
15 applicant's history of compliance with safety, health, and environmental requirements,
16 the ability to follow a detailed work plan and timeline, and the ability to operate within
17 an associated budget.

18 **Sec. 43.90.140. Initial application review; additional information requests;**
19 **complete applications.** (a) After the deadline established by the commissioners for
20 filing an application has passed, the commissioners shall open and review each
21 application to determine whether it is consistent with the terms of the request for
22 applications and meets the requirements of AS 43.90.130. The commissioners shall
23 reject as incomplete an application that does not meet the requirements of
24 AS 43.90.130.

25 (b) To evaluate whether an application should be rejected under (a) of this
26 section, the commissioners may request additional information relating to the
27 application.

28 (c) If, within the time specified by the commissioners, the applicant fails to
29 provide the additional information requested under (b) of this section, or submits
30 additional information that is not responsive, the application shall be rejected.

31 (d) For an application not rejected under this section, the commissioners shall

1 make a determination that the application, including any requested additional
2 information, is complete.

3 (e) Except as provided under AS 43.90.150, and after determining which
4 applications are complete, the commissioners shall make all applications available to
5 the legislature.

6 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
7 request of the applicant, information submitted under this chapter that the applicant
8 identifies and demonstrates is proprietary or is a trade secret is confidential and not
9 subject to public disclosure under AS 40.25. After a license is awarded, all
10 information submitted by the licensee, retained under this chapter, and not determined
11 by the commissioners to be a proprietary or trade secret, shall be made public.

12 (b) If the commissioners determine that the information submitted by the
13 applicant is not proprietary or is not a trade secret, the commissioners shall notify the
14 applicant and return the information at the request of the applicant.

15 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
16 publish notice and provide a 60-day period for public review and comment on all
17 applications determined complete under AS 43.90.140. Except as provided under
18 AS 43.90.150, all applications filed under this chapter shall be made public, including
19 applications rejected as incomplete under AS 43.90.140.

20 (b) Applications received under this chapter are not subject to public
21 disclosure under AS 40.25 until the commissioners publish notice under this section.
22 However, information that the commissioners have determined is proprietary or a
23 trade secret under AS 43.90.150 may not be made public even after the notice is
24 published under (a) of this section, except as otherwise provided in AS 43.90.150. If
25 information is proprietary or a trade secret and is held confidential under
26 AS 43.90.150, the applicant shall provide a summary of the confidential information
27 that is satisfactory to the commissioners, and the commissioners shall make the
28 summary of the information available to the public.

29 (c) After the commissioners determine that an application is complete under
30 AS 43.90.140, information provided by an applicant to the commissioners under this
31 chapter, including information determined by the commissioners to be confidential

1 under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who
2 serves as head of the legislative finance division, members of the legislature, and their
3 respective agents and contractors, on request and after the individual making the
4 request signs a confidentiality agreement prepared by the commissioners.

5 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
6 shall evaluate all applications determined to be complete under AS 43.90.140,
7 consider public comments received under AS 43.90.160(a), and rank each application
8 according to the net present value of the anticipated cash flow to the state from the
9 applicant's project proposal using the factors in (b) of this section and weighted by the
10 project's likelihood of success based on the commissioners' assessment of the factors
11 listed in (c) of this section.

12 (b) When evaluating the net present value of anticipated cash flow to the state
13 from the applicant's project proposal, the commissioners shall use an undiscounted
14 value and, at a minimum, discount rates of two, five, and eight percent, and consider

15 (1) how quickly the applicant proposes to begin construction of the
16 proposed project and how quickly the project will commence commercial operation;

17 (2) the net back value of the gas determined by the destination market
18 value of the gas and estimated transportation and treatment costs;

19 (3) the ability of the applicant to prevent or reduce project cost
20 overruns that would increase the tariff;

21 (4) the initial design capacity of the applicant's project and the extent
22 to which the design can accommodate low-cost expansion;

23 (5) the amount of the matching contribution by the state under
24 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9); and

25 (6) other factors found by the commissioners to be relevant to the
26 evaluation of the net present value of the anticipated cash flow to the state.

27 (c) When evaluating the project's likelihood of success, the commissioners
28 shall consider

29 (1) the reasonableness, specificity, and feasibility of the applicant's
30 work plan, timeline, and budget required to be submitted under AS 43.90.130,
31 including the applicant's plan to manage cost overruns, insulate shippers from the

1 effect of cost overruns, and encourage shippers to participate in the first binching open
2 season;

3 (2) the financial resources of the applicant;

4 (3) the ability of the applicant to comply with the proposed
5 performance schedule;

6 (4) the applicant's organization, experience, accounting and operational
7 controls, technical skills or the ability to obtain them, and necessary equipment or the
8 ability to obtain the necessary equipment;

9 (5) the applicant's record of

10 (A) performance on projects not licensed under this chapter;

11 (B) integrity and good business ethics; and

12 (6) other evidence and factors found by the commissioners to be
13 relevant to the evaluation of the project's likelihood of success.

14 **Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of**
15 **license.** (a) If, after consideration of public comments received under AS 43.90.160(a)
16 and evaluation of complete applications under AS 43.90.170, the commissioners
17 determine that an application proposes a project that will sufficiently maximize the
18 benefits to the people of this state and merits issuance of a license under this chapter,
19 the commissioners shall

20 (1) issue a determination, with written findings addressing the basis for
21 the determination; the determination becomes a final agency action on the effective
22 date of a bill approving the issuance of the license under AS 43.90.190;

23 (2) publish notice of intent to issue a license under this chapter with
24 written findings addressing the basis for the determination; and

25 (3) forward the notice under (2) of this subsection, along with the
26 findings, supporting documentation, and determination under (1) of this subsection, to
27 the presiding officer of each house of the legislature for action as provided in
28 AS 43.90.190.

29 (b) If, after evaluation of complete applications under AS 43.90.170, the
30 commissioners determine that no application sufficiently maximizes the benefits to the
31 people of this state and merits issuance of a license under this chapter, the

1 commissioners shall issue a written finding that addresses the basis for that
2 determination.

3 (c) The commissioners' determination under (b) of this section is a final
4 agency action.

5 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the
6 presiding officer of each house of the legislature receives a determination from the
7 commissioners under AS 43.90.180, the rules committee of each house of the
8 legislature shall introduce a bill in the committee's respective chamber that provides
9 for the approval of the license proposed to be issued by the commissioners.

10 (b) If a bill approving the issuance of the license passes the legislature within
11 60 days after the last date a presiding officer receives a determination by the
12 commissioners under AS 43.90.180, the commissioners shall issue the license as soon
13 as practicable after the effective date of the Act approving the issuance of the license.

14 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after
15 the end of a special session or after the end of a regular session of a legislature, a bill
16 introduced under (a) of this section that is not passed or not withdrawn, defeated,
17 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or
18 special legislative session convened during the 60-day period described in (b) of this
19 section in the same reading or status it was in at the time of adjournment. However, a
20 bill introduced under (a) of this section may not be carried over to the first regular
21 session of a legislature.

22 (d) If the legislature fails to approve the issuance of the license, the
23 commissioners

24 (1) may not issue the license that the legislature failed to approve; and

25 (2) may request new applications for a license under AS 43.90.120.

26 **Sec. 43.90.200. Certification by regulatory authority and project sanction.**

27 (a) A licensee that is awarded a certificate or amended certificate of public
28 convenience and necessity from a regulatory agency with jurisdiction over the project
29 shall accept the certificate or amended certificate when the order granting the
30 certificate is no longer subject to judicial review, or earlier at the licensee's discretion.

31 (b) If the licensee has credit support sufficient to finance construction of the

1 project through ownership of rights to produce and market gas resources, firm
2 transportation commitments, or government financing, the licensee shall sanction the
3 project within one year after the effective date of the certificate or amended certificate
4 of public convenience and necessity issued by the regulatory agency with jurisdiction
5 over the project.

6 (c) If the licensee does not have credit support sufficient to finance
7 construction of the project through ownership of rights to produce and market gas
8 resources, firm transportation commitments, or government financing, the licensee
9 shall sanction the project before the later of

10 (1) two years after the effective date of the certificate or amended
11 certificate of public convenience and necessity issued by the regulatory agency with
12 jurisdiction over the project; or

13 (2) five years after the close of the first binding open season of the
14 project.

15 (d) If the licensee fails to sanction the project as required under this section,
16 the licensee shall, upon request by the state,

17 (1) seek approval from the Federal Energy Regulatory Commission or
18 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the
19 certificate or amended certificate to the state or the state's designee; and

20 (2) assign to the state or the state's designee all engineering designs,
21 contracts, permits, and other data related to the project that are acquired by the
22 licensee during the term of the license before the date of the abandonment or transfer.

23 (e) The transfer and assignments under (d) of this section as a result of failure
24 to comply with (a) or (b) of this section are at no cost to the state or the state's
25 designee. A transfer under (c) of this section is at the licensee's net cost.

26 (f) In this section, "effective date of the certificate or amended certificate of
27 public convenience and necessity" means the date the order granting the certificate is
28 no longer subject to judicial review, or earlier at the discretion of the licensee.

29 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
30 to the approval of the commissioners, a licensee may amend or modify its project plan
31 if the amendments or modifications improve the net present value of the project to the

1 state, are necessary because of an order or requirement by a regulatory agency with
2 jurisdiction over the project, an order issued by the Alaska Oil and Gas Conservation
3 Commission, or the amendment or modification is necessary because of changed
4 circumstances outside the licensee's control and not reasonably foreseeable before the
5 license was issued. An amendment or modification approved under this section must
6 be consistent with the requirements of AS 43.90.130 and, except for an amendment or
7 modification required because of an order or requirement of a regulatory agency with
8 jurisdiction over the project or an order issued by the Alaska Oil and Gas
9 Conservation Commission, may not substantially diminish the net present value of the
10 project to the state or the project's likelihood of success.

11 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
12 licensee shall maintain complete and accurate records of all expenditures and
13 commitments of state money received under this chapter, including receipts and
14 records showing the payment or cost of purchased items and services, the names and
15 addresses of the sellers and service providers, and the dates of service or delivery.

16 (b) Upon reasonable notice, the commissioners may audit the records, books,
17 and files of the entity receiving the state money or making the expenditures and
18 commitments of money received from the state under this chapter.

19 (c) The commissioners may do the following with respect to information
20 relating to the project: conduct hearings or other investigative inquiries; compel the
21 attendance of witnesses and production of documents; and require the licensee to
22 furnish information in paper copy or electronic format.

23 (d) After a license has been issued and until commencement of commercial
24 operations of a natural gas pipeline, the licensee shall allow the commissioners to

25 (1) have a representative present at all meetings of the licensee's
26 governing body or bodies and equity holders that relate to the project;

27 (2) receive all relevant notices when and as issued and information
28 sent to the governing body or bodies and equity holders;

29 (3) enjoy the same access to information about the licensee as the
30 governing body member and equity owners receive; and

31 (4) receive relevant reports or information from the licensee that the

1 commissioners reasonably request.

2 (e) All proprietary information, privileged information, and trade secrets
3 received by the commissioners or their representative under (d) of this section are not
4 subject to public disclosure under AS 40.25.

5 (f) A licensee shall maintain the records and reports required under this
6 section for seven years from the date the licensee receives state money under this
7 chapter.

8 **Sec. 43.90.230. License violations; damages.** (a) A licensee is in violation of
9 the license if the commissioners determine that the licensee has

10 (1) requested and received money from the state under this chapter for
11 an expenditure that is not a qualified expenditure under AS 43.90.110;

12 (2) except as required to conform with a requirement of a regulatory
13 agency with jurisdiction over the project, substantially departed from the
14 specifications set out in the application without state approval of a project plan
15 amendment or modification under AS 43.90.210;

16 (3) violated any provision of this chapter or any other provision of
17 state or federal law material to the license;

18 (4) failed to accept a certificate as required under AS 43.90.200(a) or
19 failed to sanction the project as required under AS 43.90.200(b); or

20 (5) otherwise violated a material term of the license.

21 (b) The commissioners shall provide written notice to the licensee identifying
22 a license violation. The commissioners and the licensee have 90 days after the date the
23 notice is issued to resolve the violation informally.

24 (c) The commissioners may suspend disbursement of state matching
25 contributions to the licensee beginning on the date that the notice of violation issued
26 under (b) of this section is sent to the licensee. The commissioners may resume
27 disbursement on the date that the commissioners determine that the violation is cured.

28 (d) If the commissioners and the licensee are unable to resolve the violation
29 within the period described in (b) of this section, the commissioners shall notify the
30 licensee that the violation has not been cured and provide the licensee with an
31 opportunity to be heard. If, after notice and hearing, the commissioners determine that

1 the violation has not been cured, the commissioners shall issue a written decision that
2 is a final administrative action for purposes of appeal to the superior court in the state.

3 (c) If the determination issued under (d) of this section finds an unresolved
4 violation, the commissioners may impose one or more of the following remedies:

5 (1) discontinuation of state matching contributions under this chapter;

6 (2) recoupment of state money that the licensee has received under this
7 chapter to date, with interest, regardless of whether the licensee has expended or
8 committed that money;

9 (3) license revocation;

10 (4) assignment to the state or the state's designee of all engineering
11 designs, contracts, permits, and other data related to the project that are acquired by
12 the licensee during the term of the license; and

13 (5) any other remedies provided by law or in equity.

14 **Sec. 43.90.240. Abandonment of project.** (a) If the commissioners and the
15 licensee agree that the project is uneconomic, the project shall be abandoned, the
16 inducement provided for in AS 43.90.110 terminated, and, except for requirements
17 imposed on the licensee under (c) of this section and AS 43.90.220, the state and the
18 licensee no longer have an obligation under this chapter with respect to the license.

19 (b) If the commissioners or the licensee find that the project is uneconomic
20 and the other party disagrees, the disagreement shall be settled by arbitration
21 administered by the American Arbitration Association under the substantive and
22 procedural laws of this state, and judgment on the award rendered by the arbitrators
23 may be entered in superior court in the state. In the event of arbitration, each party
24 shall select an arbitrator from the American Arbitration Association's National Roster,
25 and the two arbitrators shall appoint a third arbitrator from the American Arbitration
26 Association's National Roster who shall serve as the chair of the three-member
27 arbitration panel. If the arbitration panel determines that the project is

28 (1) uneconomic, the state and the licensee no longer have an obligation
29 under this chapter with respect to the license, except for requirements imposed on the
30 licensee under (c) of this section and AS 43.90.220; or

31 (2) not uneconomic, the obligations of the licensee and the state

1 continue as provided under this chapter and the license.

2 (c) The arbitration panel in (b) of this section shall make a determination that
3 the project is uneconomic only if the panel finds that the party claiming the project is
4 uneconomic has proven by a preponderance of the evidence that the

5 (1) project does not have credit support sufficient to finance
6 construction of the project through firm transportation commitments, government
7 assistance, or other external sources of financing; and

8 (2) predicted costs of transportation at a 100 percent load factor, when
9 deducted from predicted gas sales revenue using publicly available predictions of
10 future gas prices, would result in a producer rate of return that is below the rate
11 typically accepted by a prudent oil and gas exploration and production company for
12 incremental upstream investment that is required to produce and deliver gas to the
13 project.

14 (d) If the state makes a payment to the licensee under AS 43.90.440, the
15 license is considered abandoned, and the state and the licensee no longer have any
16 obligations under this chapter with respect to the license, except that the licensee must
17 comply with the

18 (1) requirements imposed on the licensee under AS 43.90.220
19 regarding state money received by the licensee before the license was considered
20 abandoned; and

21 (2) requirements of AS 43.90.440.

22 (e) If the commissioners and the licensee agree that the project is uneconomic
23 or an arbitration panel makes a final determination that the project is uneconomic, the
24 licensee shall, upon the state's request, transfer to the state or the state's designee all
25 engineering designs, contracts, permits, and other data related to the project that are
26 acquired by the licensee during the term of the license upon reimbursement by the
27 state of the net amount of expenditures incurred and paid by the licensee that are
28 qualified expenditures for the purposes of AS 43.90.110.

29 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
30 created in the Office of the Governor the position of Alaska Gasline Inducement Act
31 coordinator. Administrative support for the position shall be provided by the Office of

1 the Governor. The position shall continue until one year after commencement of
2 commercial operations of the project.

3 (b) The governor shall appoint a person to the position of Alaska Gasline
4 Inducement Act coordinator. The individual serving as the Alaska Gasline Inducement
5 Act coordinator may be removed from the position at the discretion of the governor.

6 **Sec. 43.90.260. Expedited review and action by state agencies.** (a) A review
7 conducted and action taken by a state agency relating to the project shall be expedited
8 in a manner consistent with the completion of the necessary approvals in accordance
9 with this chapter.

10 (b) Notwithstanding any contrary provision of law, a state agency may not
11 include in any project certificate, right-of-way, permit, or other authorization issued to
12 the licensee a term or condition that is not required by law if the coordinator
13 determines that the term or condition would prevent or impair in any significant
14 respect the expeditious construction and operation or expansion of the project.

15 (c) Unless required by law, a state agency may not add to, amend, or abrogate
16 any certificate, right-of-way, permit, or other authorization issued to a licensee if the
17 coordinator determines that the action would prevent or impair in any significant
18 respect the expeditious construction, operation, or expansion of the project.

19 **Article 3. Resource Inducement.**

20 **Sec. 43.90.300. Qualification for resource inducement.** (a) Notwithstanding
21 any contrary provision of law, a lessee or other person that demonstrates to the
22 satisfaction of the commissioners that the person has committed to acquire firm
23 transportation capacity in the first binding open season of the project is qualified to
24 receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas
25 produced on the North Slope and shipped in firm transportation capacity acquired in
26 the first binding open season of the project. The inducement in AS 43.90.310 is
27 contractual.

28 (b) A gas producer receiving a voucher under AS 43.90.330 is qualified to
29 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in
30 the firm transportation capacity described in the voucher for the period described in
31 AS 43.90.330.

1 **Sec. 43.90.310. Royalty inducement.** (a) Before the start of the first binding
2 open season to be conducted by the licensee, the commissioner of natural resources
3 shall adopt regulations that establish a method to determine the monthly value of the
4 state's royalty share of gas production and establish terms under which the state will
5 exercise its right to switch between taking its royalty in value or in kind for gas
6 committed for firm transportation in the first binding open season of the project or
7 shipped in the firm transportation capacity described in a voucher received by the gas
8 producer under AS 43.90.330. The regulations must

9 (1) minimize retroactive adjustments to the monthly value of the state's
10 royalty share of gas production;

11 (2) provide a method for establishing a fair market value for each
12 component of the state's royalty gas that is based on pricing data from reliable and
13 widely available industry trade publications and that uses appropriate adjustments to
14 reflect

15 (A) deductions for actual and reasonable transportation costs
16 for the state's royalty gas, including a reasonable share of the costs associated
17 with unused capacity commitments on gas pipelines from the North Slope to
18 the first destination market with reasonable market liquidity;

19 (B) location differentials between the destination markets
20 where North Slope gas could be sold;

21 (C) reasonable and actual costs for gas processing; in this
22 subparagraph, "gas processing" means post-production treatment of gas to
23 extract natural gas liquids; and

24 (D) deductions permitted under the 1980 Royalty Settlement
25 Agreement for Prudhoe Bay gas; and

26 (3) establish terms under which the state will exercise its authority to
27 switch between taking its royalty gas in value and in kind to ensure that the state's
28 actions do not unreasonably

29 (A) cause the lessee or other person to bear disproportionate
30 transportation costs with respect to the state's royalty gas;

31 (B) interfere with the lessee's or other person's long-term

1 marketing of its production.

2 (b) If a lessee or other person qualified for resource inducement under
3 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to
4 elect

5 (1) to calculate its gas royalty obligation under the regulations adopted
6 under (a) of this section for natural gas transported on a firm contract executed during
7 the project's first binding open season or under the methodology set out in the existing
8 leases from which the gas is produced, and

9 (A) upon the request of the lessee, the commissioner of natural
10 resources shall contractually amend the existing lease to effect the election
11 under this paragraph and incorporate as fixed contract terms the relevant
12 regulatory provisions; and

13 (B) the election under this paragraph remains in effect until
14 new regulations are adopted as a result of a review under (d) of this section, at
15 which time, a lessee or other person qualified under AS 43.90.300 may change
16 its election under this paragraph; upon the request of the lessee, the
17 commissioner of natural resources shall contractually amend the lease to
18 incorporate as fixed contract terms the relevant revised regulatory provisions;

19 (2) to enter into a contract with the state that amends the existing lease
20 terms by providing a mechanism that ensures that, when the state exercises its right to
21 switch between taking its royalty in value or in kind for gas committed for firm
22 transportation in the first binding open season of the project, the lessee or other person
23 does not bear disproportionate transportation costs with respect to the state's royalty
24 gas; and by modifying the required period of notice that the state must provide before
25 exercising the state's right to switch between taking its royalty in value or in kind for
26 gas committed for firm transportation in the first binding open season of the project.

27 (c) To claim the inducement under (b) of this section, a lessee or other person
28 qualified under AS 43.90.300 shall agree, on an application form provided by the
29 Department of Natural Resources, that the lessee or other person, and the lessee's or
30 other person's affiliates, successors, assigns, and agents will not protest or appeal a
31 filing by the licensee to roll in expansion costs of the mainline up to a level that is

1 required in AS 43.90.130(7). The agreement not to protest may not preclude the lessee
2 or other person, or the lessee's or other person's affiliates, successors, assigns, and
3 agents from protesting a filing to roll in mainline expansion costs that licensee is not
4 required to propose and support under AS 43.90.130(7).

5 (d) The commissioner of natural resources shall provide for review of the
6 regulations adopted under (a) of this section at least every two years after the
7 commencement of commercial operations to determine whether the regulations
8 continue to meet the requirements of (a) of this section under current conditions, and
9 shall amend the regulations when the requirements are not being met.

10 (e) No provision of this chapter precludes the election set out in (b) of this
11 section, nor may the commissioner of natural resources assert any provision of any
12 existing lease or unit agreement as precluding the elections set out in (b) of this
13 section.

14 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for
15 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is
16 entitled to an annual exemption from the state's gas production tax in an amount equal
17 to the difference between the amount of the person's gas production tax obligation
18 calculated under the gas production tax in effect during that tax year and the amount of
19 the person's gas production tax obligation calculated under the gas production tax in
20 effect at the start of the first binding open season held under this chapter. If the
21 difference is less than zero, the gas production tax exemption is zero.

22 (b) The exemption under this section may be applied within 10 years
23 immediately following commencement of commercial operations and only applied to
24 production taxes that are levied on North Slope gas shipped through firm
25 transportation capacity the person acquired during the first binding open season or
26 shipped in the firm transportation capacity described in a voucher received by the gas
27 producer under AS 43.90.330.

28 (c) The person claiming the exemption under this section shall agree that the
29 person, and the person's affiliates, successors, assigns, and agents, will not protest or
30 appeal a filing by the licensee to roll in mainline expansion costs up to the level that
31 the licensee is required to propose and support under AS 43.90.130(7). The agreement

1 required under this subsection may not preclude the person, or the person's affiliates,
2 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
3 costs that the licensee is not required to propose and support under AS 43.90.130(7).

4 (d) In this section, "gas production tax" means the tax levied on the production
5 of gas under AS 43.55.

6 **Sec. 43.90.350. Inducement vouchers.** (a) A person that acquires firm
7 transportation capacity in the first binding open season of the project, that does not
8 hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that
9 holds an oil and gas lease on the North Slope, may apply to the commissioners for a
10 voucher under this section. A voucher issued by the commissioners must describe the
11 firm transportation capacity in the project to which the voucher is applicable

12 (b) A voucher issued by the commissioners under this section entitles the
13 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for
14 gas shipped in the firm transportation capacity acquired by the person applying for the
15 voucher during the first binding open season of the project and described in the
16 voucher. The voucher may be transferred to a gas producer that has a binding
17 obligation to sell gas to the person transferring the voucher under a gas purchase
18 agreement.

19 (c) A gas producer holding a voucher may claim the resource inducements for
20 gas shipped through the firm transportation capacity described in the voucher and only
21 on gas that is produced and delivered to the purchaser on the North Slope. A gas
22 producer may claim the resource inducements under this subsection until the earlier of
23 the termination of the binding gas purchase agreement or the expiration of the
24 inducements by operation of law.

25 (d) A person that receives a voucher under this section and a gas producer that
26 receives resource inducements under a voucher shall agree that the person and the gas
27 producer and their respective affiliates, successors, assigns, or agents will not protest
28 or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that
29 the licensee is required to propose and support under AS 43.90.130(7). The agreement
30 required under this subsection may not preclude the person or gas producer or their
31 respective affiliates, successors, assigns, or agents from protesting a filing to roll-in

1 mainline expansion costs that the licensee is not required to propose and support under
2 AS 43.90.130(7).

3 Article 4. Miscellaneous Provisions.

4 Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution
5 fund; disbursements; audits. (a) There is established in the general fund an Alaska
6 Gasline Inducement Act matching contribution fund. The fund consists of money
7 appropriated to it by the legislature for disbursement to pay the state's matching
8 contributions under AS 43.90.110. Money appropriated to the fund may be spent for
9 the purposes of the fund without further appropriation. Appropriations to the fund do
10 not lapse under AS 37.25.010, but remain in the fund for future disbursements.
11 Nothing in this subsection creates a dedicated fund.

12 (b) The Department of Revenue shall manage the fund, and may invest money
13 in the fund so as to yield competitive market rates as provided in AS 37.10.071.
14 Income earned on the fund shall be accounted for separately and may be appropriated
15 annually to the fund.

16 (c) The commissioners shall adopt regulations that provide for application to
17 receive matching contributions for qualified expenditures as provided under
18 AS 43.90.110, and that provide for periodic audits of the use of money disbursed as
19 matching contributions under this chapter.

20 (d) Within 10 days after the convening of each regular session of the
21 legislature, the commissioners shall submit to the legislature a report that lists all the
22 disbursements from the fund during the preceding fiscal year with a written
23 justification for each disbursement and the projected amount of money that will be
24 required for contributions in each of the next three fiscal years.

25 Sec. 43.90.410. Regulations. The commissioners may jointly adopt or amend
26 regulations for the purpose of implementing the provisions of this chapter. The
27 commissioner of revenue and the commissioner of natural resources may adopt or
28 amend regulations adopted under authority outside of this chapter as necessary to
29 implement the provisions of this chapter.

30 Sec. 43.90.420. Statute of limitations. A person may not bring a judicial
31 action challenging the constitutionality of this chapter or the constitutionality of a

1 license issued under this chapter unless the action is commenced in a court of the state
2 of competent jurisdiction within 90 days after the date that a license is issued.

3 **Sec. 43.90.430. Interest.** When a payment due to the state under this chapter
4 becomes delinquent, the payment bears interest at the rate applicable to a delinquent
5 tax under AS 43.05.225.

6 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise
7 provided in this chapter, the state grants a licensee assurances that the licensee has
8 exclusive enjoyment of the inducements provided under this chapter before the
9 commencement of commercial operation. If, before the commencement of commercial
10 operations, the state extends to another person preferential royalty or tax treatment or
11 grant of state money for the purpose of facilitating the construction of a competing
12 natural gas pipeline project in this state, and if the licensee is in compliance with the
13 requirements of the license and with the requirements of state and federal statutes and
14 regulations relevant to the project, the licensee is entitled to payment from the state of
15 an amount equal to three times the total amount of the expenditures incurred and paid
16 by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that
17 the licensee incurred in developing the licensee's project before the date that the state
18 first extended preferential treatment to another person. The payment under this
19 subsection is subject to appropriation. Upon payment by the state of the amount owed
20 under this section, the licensee shall, at no additional cost to the state, assign to the
21 state or the state's designee all engineering designs, contracts, permits, and other data
22 related to the project that were acquired by the licensee during the term of the license.
23 The payment under this subsection is in full satisfaction of all claims the licensee may
24 bring in contract, tort, or other law related to the events that gave rise to the payment.

25 (b) The review, processing, or facilitation of a permit, right-of-way, or
26 authorization by a state agency in connection with a competing natural gas pipeline
27 project does not create an obligation on the part of the state under this section.

28 (c) In this section,

29 (1) "competing natural gas pipeline project" means a project designed
30 to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope
31 gas to market;

1 (2) "preferential royalty or tax treatment" does not include

2 (A) the state's exercise of its right to resolve disputes involving
3 royalties and taxes; or

4 (B) the state's exercise of its right to modify royalties as
5 authorized by law in effect on the effective date of this section.

6 **Sec. 43.90.450. Assignments.** (a) A licensee may transfer all or part of the
7 license, including the rights and obligations arising under the license, if, after
8 publishing notice of the proposed transfer, providing notice to the presiding officer of
9 each house of the legislature, and providing a period of not less than 30 days for public
10 review and comment,

11 (1) the transfer is approved in writing in advance by the
12 commissioners; and

13 (2) the transfer does not increase or diminish the obligations created by
14 the license or diminish the likelihood of success of the project or the net present value
15 of the license to the state.

16 (b) Notwithstanding the commissioners' approval of a transfer of all or part of
17 a license under (a) of this section, the transferor of the license remains subject to the
18 requirements of AS 43.90.220 regarding all state money received by the licensee
19 before the effective date of the transfer.

20 (c) A person may transfer that person's rights to the royalty inducement under
21 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in
22 connection with a sale or merger that results in transfer of all the person's assets in the
23 North Slope along with the person's firm transportation capacity contracts in the
24 project.

25 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),
26 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of
27 firm transportation capacity in the first binding open season of the project may transfer
28 the voucher only if the transfer is in connection with the permanent assignment by the
29 person of 100 percent of the firm transportation capacity acquired in the first binding
30 open season of the project.

31 **Sec. 43.90.460. Conflicting laws.** Nothing in this chapter shall be construed to

1 repeal or abrogate the administrative, regulatory, or statutory procedures and functions
2 of state and federal law governing the development and oversight of a project.

3 **Sec. 43.90.470. State pipeline employment development.** The commissioner
4 of labor and workforce development shall develop a job training program that will
5 provide training for Alaskans in gas pipeline project management, construction,
6 operations, maintenance, and other gas pipeline-related positions.

7 **Article 5. General Provisions.**

8 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
9 requires,

10 (1) "affiliate" means another person that controls, is controlled by, or is
11 under common control with a person, and includes a division that operates as a
12 functional unit;

13 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"
14 means the person appointed under AS 43.90.250;

15 (3) "amended certificate" means a certificate of public convenience
16 and necessity issued by the Federal Energy Regulatory Commission under authority
17 of 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of 1976) that is
18 amended to comply with the terms of the license;

19 (4) "applicant" means a person or group of persons that files an
20 application for a license;

21 (5) "commencement of commercial operations" means the first flow of
22 gas in the project that generates revenue to the owners;

23 (6) "commissioners" means the commissioner of revenue and the
24 commissioner of natural resources, acting jointly;

25 (7) "control" means the possession of ownership interest or authority
26 sufficient to, directly or indirectly, and whether acting alone or in conjunction with
27 others, direct or cause the direction of the management or policies of a company, and
28 is rebuttably presumed if the voting interest held is 10 percent or more;

29 (8) "equity holder" means the

30 (A) stockholders of a corporation;

31 (B) members of a limited liability company;

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(C) partners of a partnership;

(D) joint venturers of a joint venture;

(E) members of a governmental authority and similar persons;

or

(F) holders of any other entity or person;

(9) "gas treatment plant" means a facility downstream of the point of production that conditions gas and removes nonhydrocarbon substances from the gas for the purpose of rendering the gas acceptable for tender and acceptance into a gas pipeline system.

(10) "governing body" means a corporation's board of directors, a limited liability company's managing members, a partnership's general partners, a joint venturer's joint venturers, a governmental authority's board or council members, and similar entities;

(11) "lease" means an oil and gas, or gas, lease issued by this state;

(12) "lessee" means a person that holds a working interest in an oil and gas, or gas, lease issued by this state;

(13) "license" means a license issued under this chapter;

(14) "licensee" means the holder of a license issued under this chapter and all affiliates, successors, assigns, and agents of the holder;

(15) "net present value" means the discounted value of a future stream of cash flow;

(16) "North Slope" means that part of the state that lies north of 68 degrees North latitude;

(17) "open season" means the process that complies with 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects);

(18) "point of production" has the meaning given in AS 43.55.900;

(19) "project" means a natural gas pipeline project authorized under a license issued under this chapter;

(20) "proprietary," when used to describe information, means that the information is treated by an applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant or

1 materially diminish the commercial value of the information to the applicant;

2 (21) "recourse rates" means cost-based rates with a minimum and
3 maximum range that are approved by the Federal Energy Regulatory Commission, the
4 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
5 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
6 rates that the pipeline must make available to all shippers;

7 (22) "sanction" means to make financial commitments to go forward
8 with the project as evidenced by entering into financial commitments of at least
9 \$1,000,000,000 with third parties;

10 (23) "trade secret" has the meaning given in AS 45.50.940;

11 (24) "under common control with" has the meaning given "control" in
12 this section;

13 (25) "unit agreement" means an agreement executed by the working
14 interest owners and royalty owners creating the unit.

15 **Sec. 43.90.990. Short title.** This chapter may be cited as the Alaska Gasline
16 Inducement Act.

17 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

18 (45) contracts for an arbitration panel to determine whether a project is
19 uneconomic under AS 43.90.240, and contracts for the development of application
20 provisions for licensure and for the evaluation of those applications under AS 43.90.

21 * **Sec. 3.** AS 38.05.020(b) is amended to read:

22 (b) The commissioner may

23 (1) establish reasonable procedures and adopt reasonable regulations
24 necessary to carry out this chapter and, whenever necessary, issue directives or orders
25 to the director to carry out specific functions and duties; regulations adopted by the
26 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);
27 orders by the commissioner classifying land, issued after January 3, 1959, are not
28 required to be adopted under AS 44.62 (Administrative Procedure Act);

29 (2) enter into agreements considered necessary to carry out the
30 purposes of this chapter, including agreements with federal and state agencies;

31 (3) review any order or action of the director;

1 (4) exercise the powers and do the acts necessary to carry out the
2 provisions and objectives of this chapter;

3 (5) notwithstanding the provisions of any other section of this chapter,
4 grant an extension of the time within which payments due on any exploration license,
5 lease, or sale of state land, minerals, or materials may be made, including payment of
6 rental and royalties, on a finding that compliance with the requirements is or was
7 prevented by reason of war, riots, or acts of God;

8 (6) classify tracts for agricultural uses;

9 (7) after consulting with the Board of Agriculture and Conservation
10 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
11 of a contract for the sale of agricultural land if

12 (A) the land is inaccessible by road; or

13 (B) transportation, marketing, and development costs render
14 the required development uneconomic;

15 (8) reconvey or relinquish land or an interest in land to the federal
16 government if

17 (A) the land is described in an amended application for an
18 allotment under 43 U.S.C. 1617; and

19 (B) the reconveyance or relinquishment is

20 (i) for the purposes provided in 43 U.S.C. 1617; and

21 (ii) in the best interests of the state;

22 (9) lead and coordinate all matters relating to the state's review and
23 authorization of resource development projects;

24 (10) exercise the powers and do the acts necessary to carry out the
25 provisions and objectives of AS 43.90 that relate to this chapter.

26 * Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:

27 (11) the Alaska Gasline Inducement Act coordinator appointed under
28 AS 43.90.250.

29 * Sec. 5. AS 40.25.120(a) is amended to read:

30 (a) Every person has a right to inspect a public record in the state, including
31 public records in recorders' offices, except

1 (1) records of vital statistics and adoption proceedings, which shall be
2 treated in the manner required by AS 18.50;

3 (2) records pertaining to juveniles unless disclosure is authorized by
4 law;

5 (3) medical and related public health records;

6 (4) records required to be kept confidential by a federal law or
7 regulation or by state law;

8 (5) to the extent the records are required to be kept confidential under
9 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
10 or retain federal assistance;

11 (6) records or information compiled for law enforcement purposes, but
12 only to the extent that the production of the law enforcement records or information

13 (A) could reasonably be expected to interfere with enforcement
14 proceedings;

15 (B) would deprive a person of a right to a fair trial or an
16 impartial adjudication;

17 (C) could reasonably be expected to constitute an unwarranted
18 invasion of the personal privacy of a suspect, defendant, victim, or witness;

19 (D) could reasonably be expected to disclose the identity of a
20 confidential source;

21 (E) would disclose confidential techniques and procedures for
22 law enforcement investigations or prosecutions;

23 (F) would disclose guidelines for law enforcement
24 investigations or prosecutions if the disclosure could reasonably be expected to
25 risk circumvention of the law; or

26 (G) could reasonably be expected to endanger the life or
27 physical safety of an individual;

28 (7) names, addresses, and other information identifying a person as a
29 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
30 advance college tuition savings program under AS 14.40.803 - 14.40.817;

31 (8) public records containing information that would disclose or might

1 lead to the disclosure of a component in the process used to execute or adopt an
2 electronic signature if the disclosure would or might cause the electronic signature to
3 cease being under the sole control of the person using it;

4 (9) reports submitted under AS 05.25.030 concerning certain
5 collisions, accidents, or other casualties involving boats;

6 (10) records or information pertaining to a plan, program, or
7 procedures for establishing, maintaining, or restoring security in the state, or to a
8 detailed description or evaluation of systems, facilities, or infrastructure in the state,
9 but only to the extent that the production of the records or information

10 (A) could reasonably be expected to interfere with the
11 implementation or enforcement of the security plan, program, or procedures;

12 (B) would disclose confidential guidelines for investigations or
13 enforcement and the disclosure could reasonably be expected to risk
14 circumvention of the law; or

15 (C) could reasonably be expected to endanger the life or
16 physical safety of an individual or to present a real and substantial risk to the
17 public health and welfare;

18 (11) the written notification regarding a proposed regulation provided
19 under AS 24.20.105 to the Department of Law and the affected state agency and
20 communications between the Legislative Affairs Agency, the Department of Law, and
21 the affected state agency under AS 24.20.105;

22 (12) records that are

23 (A) proprietary, privileged, or a trade secret in accordance
24 with AS 43.90.150 or 43.90.220(e);

25 (B) applications that are received under AS 43.90 until
26 notice is published under AS 43.90.160.

27 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 FIRST REQUEST FOR APPLICATIONS FOR THE LICENSE. It is the intent of the
30 legislature that the first request for applications for the license by the commissioners under
31 AS 43.90.120, as enacted in sec. 1 of this Act, be issued within 90 days after the effective date

1 of this Act.

2 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 EXPEDITED CONSIDERATION OF COURT CASES. It is the intent of the
5 legislature that the courts of the state, when considering a case related to the development and
6 construction of a natural gas pipeline under this Act or to the commitment of a shipper to
7 acquire firm transportation capacity during the first binding open season for a project
8 developed under this Act, expedite the resolution of the case by giving the case priority over
9 all other civil cases to the extent permitted under the Alaska Rules of Court.

10 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application
13 of it to any person or circumstance, is held invalid, the remainder of this Act and the
14 application to other persons or circumstances are not affected.

15 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

AGIA 1

25-CH1060V.2
Bullock
5/10/07

adopted 5/10

AMENDMENT

Chenault

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

- 1 Page 1, line 3:
- 2 Delete "matching contribution"
- 3 Insert "reimbursement"
- 4
- 5 Page 2, line 17, following "contributions":
- 6 Insert "in the form of reimbursements"
- 7
- 8 Page 2, line 24:
- 9 Delete "match"
- 10 Insert "reimburse"
- 11
- 12 Page 2, line 25:
- 13 Delete "matching contribution"
- 14 Insert "reimbursements"
- 15
- 16 Page 2, line 29:
- 17 Delete "match"
- 18 Insert "reimburse"
- 19
- 20 Page 2, line 30:
- 21 Delete "matching contribution"
- 22 Insert "reimbursements"
- 23

Agia 1

- 1 Page 8, line 26:
- 2 Delete "matching contribution"
- 3 Insert "reimbursement"
- 4
- 5 Page 10, line 3:
- 6 Delete "matching contribution"
- 7 Insert "reimbursement"
- 8
- 9 Page 12, line 23:
- 10 Delete "matching contribution"
- 11 Insert "reimbursement"
- 12
- 13 Page 17, lines 24 - 25:
- 14 Delete "matching contributions"
- 15 Insert "reimbursements"
- 16
- 17 Page 18, line 5:
- 18 Delete "matching contributions"
- 19 Insert "reimbursements"
- 20
- 21 Page 25, line 4:
- 22 Insert "matching contribution"
- 23 Insert "reimbursement"
- 24
- 25 Page 25, line 6:
- 26 Delete "matching contribution"
- 27 Insert "reimbursement"
- 28
- 29 Page 25, lines 7 - 8:
- 30 Delete "matching contributions"
- 31 Insert "reimbursements"

Amn 1

- 1
- 2 Page 25, line 17:
 - 3 Delete "matching contributions"
 - 4 Insert "reimbursements"
 - 5
- 6 Page 25, line 19:
 - 7 Delete "matching contributions"
 - 8 Insert "reimbursements"
 - 9
- 10 Page 25, line 24:
 - 11 Delete "contributions"
 - 12 Insert "reimbursements"

AGIA 2

25-GH1060V.4
Bullock
5/10/07

5/10/07
adopted

AMENDMENT

Chenault

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

- 1 Page 15, line 25:
- 2 Delete "is at the licensee's net cost"
- 3 Insert "shall be subject to the state's payment to the licensee of the net amount of
- 4 expenditures incurred and paid by the licensee that are qualified expenditures for the purposes
- 5 of AS 43.90.110"

AYIA 3

5/10/07
adopted

25-GH1060V.3
Bullock
5/10/07

AMENDMENT

~~XXXXXXXXXXXXXXXXXXXX~~
Cherault

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

- 1 Page 14, line 29:
- 2 Delete "when"
- 3 Insert "on or before the date"
- 4
- 5 Page 14, line 30:
- 6 Delete ", or earlier at the licensee's discretion"
- 7
- 8 Page 15, line 27:
- 9 Following "means the":
- 10 Insert "earlier of the"
- 11 Following "certificate":
- 12 Insert "or amended certificate"
- 13
- 14 Page 15, line 28:
- 15 Delete "earlier at the discretion of the licensee"
- 16 Insert "the date the licensee accepts the certificate or amended certificate"

MAY-10-2007 THU 08:20 AM LEGAL SERVICES

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FAX NO. 907 465 2029

FAX NO.

P. 03

P. 10

AGIA 4

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

Cherault

AS 43.90.210

Page 16, Line 2- Delete "an order issued by" and insert "or"

16
Page 2, Line 8- Delete "an order issued by"

5/10/07

adopted

MAY-10-2007 THU 08:20 AM LEGAL SERVICES

FAX NO. 907 485 2029

P. 02

MAY-10-2007 THU 08:53 AM

FAX NO.

P. 11

AGIAS

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

Chenault

AS 43.90.220

Page 16, line 27- Subsection (d)(2)

Delete "when and as issued"
Page 16, line 27, following "information":
Insert "when and as" between the words "~~information~~" and "~~and~~"

5/10/07

adopted

ABIA b

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

AS 43.90.300(b)

Cherault

Page 20, line 20

Delete "inducement" and insert "inducements"

5/10/07

adopted

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25-GH1060V.5
Bullock
5/10/07

as amended
adopted 5/10/07
AMENDMENT

Cherault

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

- 1 Page 3, lines 4 - 5:
- 2 Delete "or amended certificate"
- 3
- 4 Page 5, lines 9 - 10:
- 5 Delete "or amended certificate"
- 6
- 7 Page 5, lines 22 - 23:
- 8 Delete "or amended certificate"
- 9
- 10 Page 5, line 28:
- 11 Delete "or amended certificate"
- 12
- 13 Page 6, line 5:
- 14 Delete "or amended certificate"
- 15
- 16 Page 14, line 27:
- 17 Delete "or amended certificate"
- 18
- 19 Page 14, line 29:
- 20 Delete "or amended certificate"
- 21
- 22 Page 15, line 3:
- 23 Delete "or amended certificate"

ajm 7

1

2 Page 15, lines 10 - 11:

3 Delete "or amended certificate"

4

5 Page 15, line 19:

6 Delete "or amended certificate"

7

8 Page 15, line 26:

9 Delete "or amended certificate"

10

11 Page 28, lines 15 - 18:

12 Delete all material.

13

14 Renumber the following paragraphs accordingly.

15

16 Page 28, following line 20:

17 Insert a new paragraph to read:

18 "(4) "certificate of public convenience and necessity" and "certificate"

19 means a certificate of public convenience and necessity issued by the Federal Energy

20 Regulatory Commission or the Regulatory Commission of Alaska ^{an amendment to} or a certificate of

21 public convenience and necessity issued by the Federal Energy Regulatory

22 Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of

23 1976) ~~that is amended to comply with the terms of the license.~~"

24

25 Renumber the following paragraphs accordingly.

AYIA 8

25-GH1060V.6
Bullock
5/10/07

adopted

AMENDMENT

Chenault

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

5/10/07

- 1 Page 29, line 25, following "Projects)":
- 2 Insert "or similar process for soliciting commitments for pipeline capacity under the
- 3 regulations, policies , rules, or precedent of the Regulatory Commission of Alaska"

AGIA9

25-GH1060V.11
Mischel/Bullock
5/10/07

5/10/07 adopted

Chenault

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CHENAULT

TO: CSHB 177(FIN), Draft Version "V"

- 1 Page 11, line 29:
- 2 Delete "an application is"
- 3 Insert "all applications that have not been rejected are"
- 4
- 5 Page 11, line 30:
- 6 Delete "an applicant"
- 7 Insert "the applicants"
- 8
- 9 Page 16, line 9:
- 10 Delete "net present"
- 11
- 12 Page 18, line 19:
- 13 Delete "find"
- 14 Insert "determine"
- 15
- 16 Page 26, line 9:
- 17 Delete "operation"
- 18 Insert "operations"

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

AGIAD
Chenault

AS 43.90.210

Page 16, Line 9

Delete "net present"

5/10/07

withdrawn.

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

AGIA 11
Chenault

AS 43.90.240(b)

Page 18, Line 19-20

adopted

Revise first sentence to read:

"If the commissioners [or] and the licensee do not agree [find] that the project is uneconomic [and the other party disagrees], the ..."

5/10/07

5/10/07

Withdrawn

AGIA12

Chenault

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

AS 43.90.440(a)

Page 26, Line 9

Insert "s" at end of "operation"

5/10/07 adopted

ASIA 13

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

Rep. Kelly

AS 43.90.110(a)(1)

Page 2, Line 18

Delete "five" and insert "seven" to read:

"paid to the licensee during the ~~seven~~-year period immediately following..."

delete "five-year"
insert "seven-year"

adopted

5/10/07

AGIA 14

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

Rep. Thomas
Rep. GARA

AS 43.90.110(a)(1)(B)

Page 2, Line 30

Delete "80" and insert "90"

5/10/07

A 91A 15

HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for House Bill No. 177(FIN)

Rep. Kelly
& Garra

adopted

43.90.170(b)(5)

Page 12, Line 24

Delete "and" at the end of the sentence.
Done 12, following line 24:
Insert a new section 43.90.170(b)(6) that reads:

(6)

"economic value resulting from payments required to be made to the state under the terms of the proposal; and"

Renumber the ~~existing section (6) as (7)~~ following paragraph accordingly

AMENDMENT

9/10/07

AYIA 16

passed
(10-1)

To: CSHB 177(FIN) 25-GH1060\W

Offered in: House Finance Committee

By: Rep. Kelly
Rep. Hawker

AS 43.90.310(c)

Page 23, Line 1

Insert after "that is required in AS 43.90.130(7)" in the last sentence the following:

"if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project."

43.90.320(c)

Page 23, Line 31

Insert after "that is required in AS 43.90.130(7)" in the last sentence the following:

"if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project."

43.90.330(d)

Page 24, Line 29

Insert after "that is required in AS 43.90.130(7)" in the last sentence the following:

"if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project."

Adopted 4-4
5/10/07

AGIA 17
25-GH1060\W.10
Mischel/Bullock
5/10/07

~~Adopted~~

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVES KELLY,

TO: CSHB 177(FIN), Draft Version "V"

CHENAULT, AND THOMAS

1 Page 9, line 29, through page 10, line 2:

2 Delete all material and insert:

3 "(17) commit to negotiate, before construction, a project labor
4 agreement to expedite construction and labor stability for the project by qualified state
5 residents;"

MAY-10-2007 THU 08:21 AM LEGAL SERVICES
MAY-10-2007 THU 06:54 AM

FAX NO. 907 485 2029
FAX NO.

P. 07
P. 16

AGIA 18

5/10/07

25-GH1060\V
5/09/07

Rep. Chenault

AMENDMENT

OFFERED IN THE HOUSE
TO:CSHB177(FIN)

Sec. 43.90.200
Pg. 15 Line 25

Following "at"
Inscr. "50 percent of"

Sec. 43.90.240
Pg. 99 Line 27

19
Following "of"
Insert "50 percent of"

Failed

JRZ

Amendment 18 Backup from
Rep Rosen

80/20 Scenario

Expense

\$200 million

\$500 million

\$700 million

State

\$100 Million

\$400 Million

\$500 million

Licensee

\$100 Million

\$100 Million

\$200 Million

90/10 Scenario

Expense

\$200 million

\$500 million

\$700 million

State

\$100 Million

\$400 Million

\$500 million

Licensee

\$100 Million

\$100 Million

\$200 Million

90/10 Scenario

Expense

\$100 million

\$500 million

\$700 million

State

\$50 Million

\$456 Million

\$500 million

Licensee


\$50 Million

\$50 Million

\$100 Million

Withdrawal
amended

5/10/07

ASIA 
25-GH1060V.8
Bullock
5/10/07
19

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARA

TO: CSHB 177(FIN), Draft Version "V"

1 Page 9, line 19, following "project":

2 Insert "to the maximum extent feasible and [economic]"

3

4 Page ~~17~~⁹, line 20, following "state"

5 Insert "to the maximum extent feasible and [economic]"

←
economical

Page 9 line 16

following the
add maximum

19A

adopted

insert maximum

Page 9 line 16

AGIA ~~20~~

20

25-GH1060V.12
Finley/Bullock
5/10/07

withdrawn

5/10/07

AMENDMENT

Rep. Kelly

OFFERED IN THE HOUSE

TO: CSHB 177(FIN), Draft Version "V"

1 Page 22, lines 19 - 26:

2 Delete all material and insert:

3 "(2) to enter into a contract with the state that amends the existing
4 lease terms by

5 (A) providing a mechanism that ensures that, when the state
6 exercises its right to switch between taking its royalty in value or in kind for
7 gas committed for firm transportation in the first binding open season of the
8 project, the lessee or other person does not bear disproportionate transportation
9 costs for the state's royalty gas; and by modifying the required period of notice
10 that the state must provide before exercising the state's right to switch between
11 taking its royalty in value or in kind for gas committed for firm transportation
12 in the first binding open season of the project; or

13 (B) eliminating the ability of the state to take its royalty in kind
14 on gas produced on the North Slope that is shipped in firm transportation
15 capacity the lessee or other person acquired in the first binding open season of
16 the project or shipped in firm transportation capacity described in a voucher
17 received by the gas producer under AS 43.90.330 subject to the following
18 conditions:

19 (i) the lessee or other person shall agree to sell gas for
20 in-state residential, commercial, and electrical generation use at in-state
21 delivery points at a price that does not exceed the value calculated
22 under the method adopted under (a)(2) of this section, without the
23 deductions under (a)(2)(D) of this section, plus the amount of the

ajin WA 2'

1 distance-sensitive transportation charge incurred in delivering gas to
2 the in-state delivery point;

3 (ii) if the lessee or other person that has exercised this
4 election fails to offer a volume of gas at the in-state delivery points that
5 is at least equal to the volume of the state's royalty in value gas
6 associated with the lessee's or other person's gas qualified for the
7 benefit under this section, the commissioner of natural resources may
8 terminate the election; on termination of the election, the provisions of
9 the lease before amendment under this subparagraph relating to the
10 state's taking its royalty gas in kind or in value shall apply;

11 (iii) a lessee or other person may make this election
12 provided they have resolved any contractual impediment to the state's
13 ability to exercise its right to switch between royalty in value and
14 royalty in kind for the duration of the election; and

15 (iv) in this subparagraph, "in-state residential,
16 commercial, and electrical generation use" means gas consumed in the
17 state and does not include exported gas."

5-9-07
changes

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CS FOR HOUSE BILL NO. 177(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE- FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/10/07

Referred: _____

A BILL
FOR AN ACT ENTITLED

"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the construction of a natural gas pipeline and shippers that commit to use that pipeline; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 43 is amended by adding a new chapter to read:

Chapter 90. Alaska Gasline Inducement Act.

Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.

Sec. 43.90.010. Purpose. The purpose of this chapter is to encourage expedited construction of a natural gas pipeline that

- (1) facilitates commercialization of North Slope gas resources in the state;
- (2) promotes exploration and development of oil and gas resources on the North Slope;
- (3) maximizes benefits to the people of the state from the development of oil and gas resources in the state; and
- (4) encourages oil and gas lessees and other persons to commit to ship natural gas from the North Slope to a gas pipeline system for transportation to markets in this state or elsewhere.

Deleted: in the state

Article 2. Alaska Gasline Inducement Act License.

Sec. 43.90.100. Gas project. (a) The commissioners may award an Alaska Gasline Inducement Act license as provided in this chapter. The person awarded a license under this chapter is entitled to the inducement set out in AS 43.90.110.

(b) Nothing in this chapter precludes a person from pursuing a gas pipeline project independently from this chapter.

Sec. 43.90.110. Natural gas pipeline project construction inducement. (a) Subject to the limitations of this chapter, a license issued under this chapter entitles the licensee or its designated affiliate to receive

(1) subject to appropriation, state matching contributions in a total amount not to exceed \$500,000,000, paid to the licensee during the five-year period immediately following the date the license is awarded; the payment period may be extended by the commissioners under an amendment or modification of the project plan under AS 43.90.210; a payment under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall match the licensee's qualified expenditures at the level specified in the license; however, the state's matching contribution may not exceed 50 percent of the qualified expenditures incurred before the close of the first binding open season;

(B) after the close of the first binding open season, the state shall match the licensee's qualified expenditures at the level specified in the license; however, the state's matching contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first binding open season;

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter, is incurred by the licensee or the licensee's designated affiliate, and is directly and reasonably related to obtaining a certificate or amended certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, or satisfying any other requirement of an agency with jurisdiction over the project; in this subparagraph "qualified expenditure" does not

Deleted: of revenue and the commissioner of natural resources, acting jointly.

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include overhead costs, litigation costs, the cost of an asset or work product acquired or developed by the licensee before the license is issued, civil or criminal penalties, or fines; and

Deleted: penalties.

(2) the benefit of an Alaska Gasline Inducement Act coordinator who has the authority prescribed in AS 43.90.250.

(b) The commissioner of revenue in consultation with the commissioner of natural resources shall adopt regulations for determining whether an expenditure is a qualified expenditure for the purposes of (a) of this section.

Sec. 43.90.120. Request for applications for the license. (a) The commissioners shall commence a public process to request applications for a license under this chapter as soon as practicable after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist them in developing the request for applications and in evaluating the applications received.

(c) The provisions of AS 36.30 do not apply to requests for applications under this chapter.

Sec. 43.90.130. Application requirements. An application for a license must be consistent with the terms of the request for applications under AS 43.90.120 and must

Deleted: In order to be considered for the license, an applicant shall file

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(1) be filed by the deadline established by the commissioners in the request for applications;

Deleted: detailed

(2) provide a thorough description of a proposed natural gas pipeline project for transporting natural gas from the North Slope to market, and which may include multiple design proposals, including different design proposals for pipe diameter, wall thickness, and transportation capacity, and which shall include

(A) the route proposed for the natural gas pipeline, which may not be the route described in AS 38.35.017(b);

(B) the location of receipt and delivery points and the size and design capacity of the proposed natural gas pipeline at the proposed receipt and delivery points, except that this information is not required for in-state delivery points unless the application proposes specific in-state delivery points;

(C) an analysis of the project's economic and technical viability, including a description of all pipeline access and tariff terms the applicant plans to offer;

Deleted: demonstrating
Deleted: of the project
Deleted: detailed

(D) an economically and technically viable work plan, timeline, and associated budget for developing and performing the proposed project including field work, environmental studies, design and engineering, implementing practices for controlling carbon emissions from natural gas systems as established by the United States Environmental Protection Agency, and complying with all applicable state, federal, and international regulatory requirements that affect the proposed project; the applicant shall address the following:

Deleted: and work associated with the project that includes

(i) if the proposed project involves a pipeline into or through Canada, a thorough description of the applicant's plan to obtain necessary rights-of-way and authorizations in Canada, a description of the transportation services to be provided and a description of rate-making methodologies the applicant will propose to the regulatory agencies, an estimate of rates and charges for all services;

Deleted: detailed

(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, the identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export destination, re-gasification facilities and pipeline facilities needed for transport to market destinations; the entity or entities that would be required to obtain necessary export permits and licenses or a certificate or amended certificate of public convenience and necessity from the

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Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

(3) commit that if the proposed project is within the jurisdiction of the Federal Energy Regulatory Commission, the applicant will

Deleted: commit to

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with the requirements of 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

(B) apply for Federal Energy Regulatory Commission approval to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain, and use those procedures before filing an application for a certificate or amended certificate of public convenience and necessity, except where the procedures are not required as a result of section 5 of the President's Decision issued pursuant to the Alaska Natural Gas Transportation Act of 1976; and

(C) apply for a Federal Energy Regulatory Commission certificate or amended certificate of public convenience and necessity to authorize the construction and operation of the proposed project described in this section by a date certain;

(4) if the proposed project is within the jurisdiction of the Regulatory Commission of Alaska, commit to

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with the requirements of AS 42.06; and

(B) apply for a certificate or amended certificate of public convenience and necessity to authorize the construction and operation of the proposed project by a date certain;

(5) commit that after the first binding open season, the applicant will assess the market demand for additional pipeline capacity at least every two years through public nonbinding solicitations or similar means;

Deleted: commit to

(6) commit to expand the proposed project in reasonable engineering increments and on commercially reasonable terms that encourage exploration and development of gas resources in this state; in this paragraph,

(A) "commercially reasonable terms" means that, subject to the provisions of (7) of this section, revenue from transportation contracts covers the cost of the expansion, including increased fuel costs, and a reasonable return on capital as authorized by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable, and there is no impairment of the proposed project's ability to recover the costs of existing facilities;

(B) "reasonable engineering increments" means the amount of additional capacity that could be added by compression or a pipe addition using a compressor size or pipe size, as applicable, that is substantially similar to the original compressor size and pipe size;

(7) commit that the applicant

(A) will propose and support the recovery of mainline capacity expansion costs, including fuel costs, from all mainline system users through rolled-in rates as provided in (B) and (C) of this paragraph or through a combination of incremental and rolled-in rates as provided in (D) of this paragraph;

(B) will propose and support the recovery of mainline capacity expansion costs, including fuel costs, from all mainline system users through rolled-in rates; an applicant is obligated under this subparagraph only if the rolled-in rates would increase the rates

(i) not described in (ii) of this subparagraph by not more than 15 percent above the initial maximum recourse rates for capacity acquired before commercial operations commence; in this subparagraph, "initial maximum recourse rates" means the highest cost-based rates for any specific transportation service set by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, when

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the pipeline commences commercial operations;

(ii) by not more than 15 percent above the negotiated rate for pipeline capacity on the date of commencement of commercial operations where the holder of the capacity is not an affiliate of the owner of the pipeline project; for the purposes of this subparagraph, "negotiated rate" means the rate in a transportation service agreement that provides for a rate that varies from the otherwise applicable cost-based rate, or recourse rate, set out in a gas pipeline's tariff approved by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate; or

(iii) for capacity acquired in an expansion after commercial operations commence, to a level that is not more than 115 percent of the volume-weighted average of all rates collected by the project owner for pipeline capacity on the date commercial operations commence;

(C) will, if recovery of mainline capacity expansion costs, including fuel costs, through rolled-in rate treatment would increase the rates for capacity described in (B) of this paragraph, propose and support the partial roll-in of mainline expansion costs, including fuel costs, to the extent that rates acquired before commercial operations commence do not exceed the levels described in (B) of this paragraph;

(D) may, for the recovery of mainline capacity expansion costs, including fuel costs, that, under rolled-in rate treatment, would result in rates that exceed the level in (B) of this paragraph, propose and support the recovery of those costs through any combination of incremental and rolled-in rates;

(E) will not enter into a negotiated rate agreement that would preclude the applicant from collecting from any shipper, including a shipper with a negotiated rate agreement, the rolled-in rates that are required to be proposed and supported by the applicant under (B) of this paragraph or the partial rolled-in rates that are required to be proposed and supported by the

applicant under (C) of this paragraph;

(8) state how the applicant proposes to deal with a North Slope gas treatment plant regardless of whether that plant is part of the applicant's proposal, and, to the extent that the plant will be owned entirely or in part by the applicant, submit to seek certificate authority from the Federal Energy Regulatory Commission if the proposed project is engaged in interstate commerce or from the Regulatory Commission of Alaska if the project is not engaged in interstate commerce; for a North Slope gas treatment plant that will be owned entirely or in part by the applicant, for rate-making purposes, commit to value previously owned assets that are part of the gas treatment plant at net book value; describe the gas treatment plant, including its design, engineering, construction, ownership, and plan of operation, the identity of any third party that will participate in the ownership or operation of the gas treatment plant, and the means by which the applicant will work to minimize the effect of the costs of the facility on the tariff;

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(9) propose a percentage and total dollar amount for the state's matching contribution under AS 43.90.110(1)(A) and (B) to be specified in the license;

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(10) commit to propose and support rates for the proposed project and for any North Slope gas treatment plant that the applicant may own, in whole or in part, that are based on a capital structure for rate-making that consists of not less than 70 percent debt;

(11) describe the means for preventing and managing overruns in costs of the proposed project, and the measures for minimizing the effect on tariffs from any overruns;

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(12) commit to provide a minimum of five delivery points of natural gas in this state;

(13) commit to

(a) offer firm transportation service to delivery points in this state as part of the tariff regardless of whether any shippers bid successfully in a binding open season for firm transportation service to delivery points in this state; and

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(b) offer distance-sensitive rates to delivery points in this state consistent with 18 C.F.R. 157.34(c)(8);

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(14) commit to establish a local headquarters in this state for the proposed project;

(15) to the extent permitted by law, commit to

(A) hire qualified residents from throughout the state for management, engineering, construction, operations, maintenance, and other positions on the proposed project;

(B) contract with businesses located in the state;

(C) establish hiring facilities or use existing hiring facilities in the state; and

(D) use, as far as is practicable, the job centers and associated services operated by the Department of Labor and Workforce Development and an Internet-based labor exchange system operated by the state;

(16) waive the right to appeal the rejection of an application as incomplete, the issuance of a license to another applicant or the determination under AS 43.90.180(b) that no application merits the issuance of a license;

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(17) commit to negotiate, before construction, a project labor agreement; in this paragraph, "project labor agreement" means a comprehensive collective bargaining agreement between the licensee or its agent and the appropriate labor representatives to ensure expedited construction with labor stability for the project by qualified residents of the state;

(18) commit that the state matching contribution received by the licensee may not be included in the applicant's rate base and shall be used as a credit against the licensee's cost of service;

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(19) provide a detailed description of the applicant and all entities participating with the applicant in the application and the project proposed by the applicant; and persons the applicant intends to involve in the construction and operation of the proposed project; the description must include the nature of the affiliation for each person, the commitments by the person to the applicant, and other information relevant to the commissioners' evaluation of the readiness and ability of

the applicant to complete the project presented in the application; and

(20) otherwise demonstrate the readiness and financial and technical ability to perform the activities specified in the application, including the applicant's history in safety, health, and environmental compliance and in following a detailed work plan, timeline, and operation within an associated budget.

Sec. 43.90.140. Initial application review; additional information requests; complete applications. (a) Upon expiration of the deadline for the filing of applications under AS 43.90.130, the commissioners shall open all applications and review each application filed under AS 43.90.130 to determine whether it is consistent with the terms of the request for applications and meets the requirements of AS 43.90.130. The commissioners shall reject as incomplete an application that does not meet the requirements of AS 43.90.130.

(b) To evaluate whether an application should be rejected under (a) of this section, the commissioners may request additional information relating to the application.

(c) If, within the time specified by the commissioners, the applicant fails to provide the additional information requested under (b) of this section, or submits additional information that is not responsive, the application shall be rejected.

(d) For an application not rejected under this section, the commissioners shall make a determination that the application, including any requested additional information, is complete.

(e) Except as provided under AS 43.90.150, and after determining which applications are complete, the commissioners shall make all applications available to the legislature.

Sec. 43.90.150. Proprietary information and trade secrets. (a) At the request of the applicant, information submitted under this chapter that the applicant identifies and demonstrates is proprietary or is a trade secret is confidential and not subject to public disclosure under AS 40.25, unless the applicant is granted a license under this chapter. After a license is awarded, all information submitted by the licensee under this chapter, retained for the purposes of this chapter, and not

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determined by the commissioners to be proprietary or a trade secret shall be made public.

(b) If the commissioners determine that the information submitted by the applicant is not proprietary or is not a trade secret, the commissioners shall notify the applicant and return the information at the request of the applicant.

Sec. 43.90.160. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.140. Except as provided under AS 43.90.150, all applications filed under this chapter shall be made public, regardless of whether they are deemed complete.

(b) Applications received under this chapter are not subject to public disclosure under AS 40.25 until the commissioners publish notice under this section. However, information that the commissioners have determined is proprietary or a trade secret, under AS 43.90.150 may not be made public even after the notice is published under (a) of this section, except as provided in AS 43.90.150. If information is proprietary or is a trade secret under AS 43.90.150, the applicant shall provide a summary of the confidential information that is satisfactory to the commissioners, and the commissioners shall make the summary of the confidential information available to the public.

(c) When the commissioners determine that the applications are complete under AS 43.90.140, information provided by an applicant to the commissioners under this chapter, including information determined by the commissioners to be confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who serves as head of the legislative finance division, and members of the legislature, and their respective agents and contractors on request and after the individual making the request signs a confidentiality agreement prepared by the commissioners.

Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.140, consider public comments received under AS 43.90.160(a), and rank each application according to the net present value of the anticipated cash flow to the state from the

Deleted: (c) In this section, "proprietary" means that the information is treated by the applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant, or materially diminish the commercial value of the information to the applicant. 5

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applicant's project proposal using the factors in (b) of this section and weighted by the project's likelihood of success based on the commissioners' assessment of the factors listed in (c) of this section.

(b) When evaluating the net present value of anticipated cash flow to the state from the applicant's project proposal, the commissioners shall use an undiscounted value and, at a minimum, discount rates of two, five, and eight percent, and consider

(1) how quickly the applicant proposes to begin construction of the proposed project and how quickly the project will commence commercial operation;

(2) the net back value of the gas determined by the destination market value of the gas and estimated transportation and treatment costs;

(3) the ability of the applicant to prevent or reduce project cost overruns that would increase the tariff;

(4) the initial design capacity of the applicant's project and the extent to which the design can accommodate low-cost expansion;

(5) the amount of the matching contribution by the state under AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9); and

(6) other factors found by the commissioners to be relevant to the evaluation of the net present value of the anticipated cash flow to the state,

(c) When evaluating the project's likelihood of success, the commissioners shall consider

(1) the reasonableness, specificity, and feasibility of the applicant's work plan, timeline, and budget required to be submitted under AS 43.90.130, including the applicant's plan to manage cost overruns, insulate shippers from the effect of cost overruns, and encourage shippers to participate in the first binding open season;

(2) the financial resources of the applicant;

(3) the ability of the applicant to comply with the proposed performance schedule;

(4) the applicant's organization, experience, accounting and operational controls, technical skills or the ability to obtain them, necessary equipment or the

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ability to obtain the necessary equipment;

(5) the applicant's record of

(A) performance on projects not licensed under this chapter;

(B) integrity and good business ethics; and

(6) other evidence and factors found by the commissioners to be relevant to the evaluation of the project's likelihood of success.

(d) In this section, "net present value" means the discounted value of a future stream of cash flow.

Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of license. (a) If, after consideration of public comments received under AS 43.90.160(a) and evaluation of complete applications under AS 43.90.170, the commissioners determine that an application proposes a project that will sufficiently maximize the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action on the effective date of the legislative approval under with AS 43.90.190(b);

(2) publish notice of intent to issue a license under this chapter with written findings addressing the basis for the determination; and

(3) forward the notice under (2) of this subsection, along with the findings, supporting documentation, and determination under (1) of this subsection, to the presiding officer of each house of the legislature for action as provided in AS 43.90.190.

(b) If, after evaluation of complete applications under AS 43.90.170, the commissioners determine that no application sufficiently maximizes the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall issue a written finding that addresses the basis for that determination.

(c) The commissioners' determination under (b) of this section is a final agency action.

Sec. 43.90.190. Legislative approval; Issuance of license. (a) After the

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presiding officer of each house of the legislature receives a determination from the commissioners under AS 43.90.180, the rules committee of each house of the legislature shall introduce a bill in the committee's respective chamber that provides for the approval of the license proposed to be issued by the commissioners.

(b) If a bill approving the issuance of the license passes the legislature within 90 days after the last date a presiding officer receives a determination by the commissioners under AS 43.90.180, the commissioners shall issue the license as soon as practicable after the effective date of the Act approving the issuance of the license.

(c) Notwithstanding a legislative rule that prohibits the carryover of a bill after the end of a special session or after the end of a regular session of a legislature, a bill introduced under (a) of this section that is not passed or not withdrawn, defeated, vetoed, or indefinitely postponed shall be carried over to any subsequent regular or special legislative session convened during the 90-day period described in (b) of this section in the same reading or status it was in at the time of adjournment. However, a bill introduced under (a) of this section may not be carried over to the first regular session of a legislature.

(d) If the legislature fails to approve the issuance of the license, the commissioners

(1) may not issue the license that the legislature failed to approve; and

(2) may request new applications for a license under AS 43.90.120.

Sec. 43.90.200. Certification by regulatory authority and project sanction.

(a) A licensee that is awarded a certificate or amended certificate of public convenience and necessity from a regulatory agency with jurisdiction over the project shall accept the certificate or amended certificate when the order granting the certificate is no longer subject to judicial review or earlier at the licensee's discretion.

(b) If the licensee has credit support sufficient to finance construction of the project through ownership of rights to produce and market gas resources, firm transportation commitments, or government financing, the licensee shall sanction the

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project within one year after the effective date of the certificate or amended certificate of public convenience and necessity issued by the regulatory agency with jurisdiction over the project.

(c) If the licensee does not have credit support sufficient to finance construction of the project through ownership of rights to produce and market gas resources, firm transportation commitments, or government financing, the licensee shall sanction the project by the later of:

(i) two years after the effective date of the certificate or amended certificate of public convenience and necessity issued by the regulatory agency with jurisdiction over the project; or

(ii) five years after the conclusion of the first open season of the project.

(d) If the licensee fails to sanction the project as required under this section, the licensee shall, upon request by the state,

(1) seek approval from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable, to abandon and transfer the certificate or amended certificate to the state or the state's designee; and

(2) assign to the state or the state's designee all, engineering designs, contracts, permits, and other data related to the project that are acquired by the licensee during the term of the license before the date of the abandonment or transfer.

(e) The transfer and assignments under (d) of this section as a result of failure to comply with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer under (c) of this section is at 50 percent of the licensee's net cost.

(f) In this section, "effective date of the certificate or amended certificate" means the date the order granting the certificate or amended certificate is no longer subject to judicial review or earlier at the licensee's discretion.

Sec. 43.90.210. Amendment of or modification to the project plan. Subject to the approval of the commissioners, a licensee may amend or modify its project plan if the amendments or modifications improve the net present value of the project to the state, are necessary because of an order issued by the Alaska Oil and Gas

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Conservation Commission, or are necessary as a result of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification approved under this section must be consistent with the requirements of AS 43.90.130 and, except for an amendment or modification required because of an order or requirement of a regulatory agency with jurisdiction over the project or issued by the Alaska Oil and Gas Conservation Commission, may not substantially diminish the value of the project to the state or the project's likelihood of success.

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Sec. 43.90.220. Records, reports, conditions, and audit requirements. (a) A licensee shall maintain complete and accurate records of all expenditures and commitments of state money received under this chapter, including receipts and records showing the payment or cost of purchased items and services, the names and addresses of the sellers and service providers, and the dates of service or delivery.

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(b) Upon reasonable notice, the commissioners may audit the records, books, and files of the entity receiving the state money or making the expenditures and commitments of money received from the state under this chapter.

(c) The commissioners may do the following with respect to information relating to the project; conduct hearings or other investigative inquiries; compel the attendance of witnesses and production of documents; and require the licensee to furnish information in paper copy or electronic format.

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(d) After a license has been issued and until commencement of commercial operations, the licensee shall allow the commissioners to

- (1) have a representative present at all meetings of the licensee's governing body or bodies and meetings of equity holders that relate to the project;
- (2) receive all relevant notices when and as issued and information sent to the governing body and equity holders;
- (3) enjoy the same access to information about the licensee as the governing body members and equity owners receive; and
- (4) receive relevant reports or information from the licensee that the commissioners reasonably request.

All proprietary or privileged information or trade secrets received by the state under this subsection shall not be subject to public disclosure under AS 40.25.

(e) A licensee shall maintain the records and reports required under this section for seven years from the date the licensee receives state money under this chapter.

Sec. 43.90.230. License violations; damages. (a) A licensee is in violation of the license if the commissioners determine that the licensee has

(1) requested and received money from the state under this chapter for an expenditure that is not a qualified expenditure under AS 43.90.110;

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(2) except as required to conform with a requirement of a regulatory agency with jurisdiction over the project, substantially departed from the specifications set out in the application without state approval of a project plan amendment or modification under AS 43.90.210;

(3) violated any provision of this chapter or any other provision of state or federal law material to the license;

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(4) failed to accept a certificate as required by AS 43.90.200(a) or failed to sanction the project as required by AS 43.90.200(b); or

(5) otherwise violated a material term of the license.

(b) The commissioners shall provide written notice to the licensee identifying a license violation. The commissioners and the licensee have 90 days after the date the notice is issued to resolve the violation informally.

(c) The commissioners may suspend disbursement of state matching contributions to the licensee beginning on the date that the notice of violation issued under (b) of this section is sent to the licensee. The commissioners may resume disbursement on the date that the commissioners determine that the violation is cured.

(d) If the commissioners and the licensee are unable to resolve the violation within the time specified in (b) of this section, the commissioners shall provide the licensee with notice that the violation has not been cured and provide the opportunity for the licensee to be heard. If after notice and hearing the commissioners determine that the violation has not been cured, the commissioners shall issue a written decision that is a final administrative action for purposes of appeal to the superior court in the

state.

(e) If the determination issued under (d) of this section finds an unresolved violation, the commissioners may impose one or more of the following remedies:

- (1) discontinuation of state matching contributions under this chapter;
- (2) recoupment of state money that the licensee has received under this chapter to date, with interest, regardless of whether the licensee has expended or committed that money;
- (3) license revocation;
- (4) assignment to the state or the state's designee of all engineering designs, contracts, permits, and other data related to the project that are acquired by the licensee during the term of the license; and
- (5) any other remedies provided by law or in equity.

Sec. 43.90.240. Abandonment of project. (a) If the commissioners and the licensee agree that the project is uneconomic, the project shall be abandoned, the inducements provided for in AS 43.90.110 terminate, and, except for requirements imposed on the licensee under (e) of this section and AS 43.90.220, the state and the licensee no longer have an obligation under this chapter with respect to the license,

(b) If the commissioners and the licensee do not agree that the project is uneconomic, the disagreement shall be settled by arbitration administered by the American Arbitration Association under the substantive and procedural laws of this state, and judgment on the award rendered by the arbitrators may be entered in a superior court in the state. In the event of arbitration, each party shall select an arbitrator from the American Arbitration Association's National Roster and the two arbitrators shall appoint a third arbitrator from the American Arbitration Association's National Roster who shall serve as the chair of the three-member arbitration panel. If the arbitration panel determines that the project is

(1) uneconomic, the state and the licensee no longer have any obligation under this chapter with respect to the license, except for requirements imposed on the licensee under (e) of this section and AS 43.90.220; or

(2) not uneconomic, the obligations of the licensee and the state continue as provided under this chapter and the license.

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(c) The arbitration panel in (b) of this section shall make a determination that the project is uneconomic only if the panel finds that the party claiming the project is uneconomic has proven by a preponderance of the evidence that the

(1) project does not have credit support sufficient to finance construction of the project through firm transportation commitments, government assistance, or other external sources of financing; and

(2) predicted costs of transportation at a 100 percent load factor, when deducted from predicted gas sales revenue using publicly available predictions of future gas prices, would result in a producer rate of return that is below the rate accepted by a prudent oil and gas exploration and production company for incremental upstream investment that is required to produce and deliver gas to the project.

(d) If the state makes a payment to the licensee under AS 43.90.440, the license is considered abandoned, and the state and the licensee no longer have any obligations under this chapter with respect to the license, except that the licensee must comply with the

(1) requirements imposed on the licensee under AS 43.90.220 regarding state money received by the licensee before the license was considered abandoned; and

(2) requirements of AS 43.90.440.

(e) If the commissioners and the licensee agree that the project is uneconomic or an arbitration panel makes a final determination that the project is uneconomic, the licensee shall, upon the state's request, transfer to the state or the state's designee all engineering designs, contracts, permits, and other data relating to the project that are acquired by the licensee during the term of the license upon reimbursement by the state of the net amount of expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110.

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Sec. 43.90.250. Alaska Gasline Inducement Act coordinator. (a) There is created in the office of the governor the position of Alaska Gasline Inducement Act coordinator. Administrative support for the position shall be provided by the office of the governor. The position shall continue until one year after commencement of

commercial operations of the project.

(b) The governor shall appoint a person to the position of Alaska Gasline Inducement Act coordinator. The individual serving as the Alaska Gasline Inducement Act coordinator may be removed from the position at the discretion of the governor.

Sec. 43.90.260. Expedited review and action by state agencies. (a) A review conducted and action taken by a state agency relating to the project shall be expedited in a manner consistent with the completion of the necessary approvals in accordance with this chapter.

(b) Notwithstanding any contrary provision of law, a state agency may not include in any project certificate, right-of-way, permit, or other authorization issued to the licensee a term or condition that is not required by law if the coordinator determines that the term or condition would prevent or impair in any significant respect the expeditious construction and operation or expansion of the project.

(c) Unless required by law, a state agency may not add to, amend, or abrogate a certificate, right-of-way, permit, or other authorization issued to a licensee if the coordinator determines that the action would prevent or impair in any significant respect the expeditious construction, operation, or expansion of the project.

Article 3. Resource Inducement.

Sec. 43.90.300. Qualification for resource inducement. (a) Notwithstanding any contrary provision of law, a lessee or other person that demonstrates to the satisfaction of the commissioners that the person has committed to acquire firm transportation capacity in the first binding open season of the project is qualified to receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas produced on the North Slope and shipped in firm transportation capacity acquired in the first binding open season of the project. The inducement in AS 43.90.310 is contractual.

(b) A gas producer receiving a voucher under AS 43.90.330 is qualified to receive the resource inducements in AS 43.90.310 and 43.90.320 for the gas shipped in the firm transportation capacity described in the voucher for the period described in AS 43.90.330.

Deleted: (c) The Alaska Gasline Inducement Act coordinator is entitled to receive an annual salary equal to Step A, Range 28, of the salary schedule set out in AS 39.27.011(a) for Juneau.
(d) The Alaska Gasline Inducement Act coordinator shall, in conjunction with the commissioners,
(1) coordinate expeditious performance of all activities by state agencies for the project;
(2) ensure compliance by state agencies with the provisions of this chapter; and
(3) coordinate with the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects (29 U.S.C. 720d) for natural gas transportation projects in the state.

Sec. 43.90.310. Royalty inducement. (a) Before the start of the first binding open season to be conducted by the licensee, the commissioner of natural resources shall adopt regulations that establish a method to determine the monthly value of the state's royalty share of gas production and establish terms under which the state will exercise its right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project or shipped in the firm transportation capacity described in a voucher received by the gas producer under AS 43.90.330. The regulations must

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(1) minimize retroactive adjustments to the monthly value of the state's royalty share of gas production;

(2) provide a method for establishing a fair market value for each component of the state's royalty gas that is based on pricing data from reliable and widely available industry trade publications and that uses appropriate adjustments to reflect

(A) deductions for actual and reasonable transportation costs for the state's royalty gas, including a reasonable share of the costs associated with unused capacity commitments on gas pipelines from the North Slope to the first destination market with reasonable market liquidity;

(B) location differentials between the destination markets where North Slope gas could be sold;

(C) reasonable and actual costs for gas processing; for purposes of this subsection, "gas processing" means post-production treatment of gas to extract natural gas liquids; and

(D) deductions permitted under the 1980 Royalty Settlement Agreement for Prudhoe Bay gas; and

(3) establish terms under which the state will exercise its authority to switch between taking its royalty gas in value and in kind to ensure that the state's actions do not unreasonably

(A) cause the lessee or other person to bear disproportionate transportation costs with respect to the state's royalty gas;

(B) interfere with the lessee's or other person's long-term

marketing of its production.

(b) If a lessee or other person qualified for resource inducement under AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to elect

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(1) to calculate its gas royalty obligation under the regulations adopted under (a) of this section for natural gas transported on a firm contract ~~and executed during the project's first binding open season or under the methodology set out in the existing leases from which the gas is produced, and~~

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(A) upon the request of the lessee, the commissioner of natural resources shall contractually amend the existing lease to effect the election under this paragraph and incorporate as fixed contract terms the relevant regulatory provisions; and

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(B) the election under this subsection remains in effect until new regulations are adopted as a result of a review under (d) of this section, at which time, a lessee or other person qualified under AS 43.90.300 may change its election under this subsection; upon the request of the lessee, the commissioner of natural resources shall contractually amend the lease to incorporate as fixed contract terms the relevant revised regulatory provisions; or

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(2) to enter into a contract with the state that amends the existing lease terms by providing a mechanism that ensures that when the state exercises its right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project, the lessee or other person shall not bear disproportionate transportation costs with respect to the state's royalty gas; and modifying the required period of notice that the state must provide before exercising the state's right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project;

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(c) To claim the inducement under (b) of this section, a lessee or other person qualified under AS 43.90.300 shall agree, on an application form provided by the Department of Natural Resources, that the lessee or other person, and the lessee's

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or other person's affiliates, successors, assigns, and agents will not protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to a level that is required in AS 43.90.130(7). The agreement not to protest may not preclude the lessee or other person, or the lessee's or other person's affiliates, successors, assigns, and agents, from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.130(7).

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(d) The commissioner of natural resources shall provide for review of the regulations adopted under (a) of this section at least every two years after the commencement of commercial operations to determine whether the regulations continue to meet the requirements of (a) of this section under current conditions, and shall, shall amend the regulations when the requirements are not being met.

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(e) No provision of this chapter precludes the election set out in (b) of this section, nor may the commissioner of natural resources assert any provision of any existing lease or unit agreement as precluding the elections set out in (b) of this section.

Sec. 43.90.320. Gas production tax exemption. (a) If a person qualified for resource inducement under AS 43.90.300 agrees under (c) of this section, the person is entitled to an annual exemption from the state's gas production tax in an amount equal to the difference between the amount of the person's gas production tax obligation calculated under the gas production tax in effect during that tax year and the amount of the person's gas production tax obligation calculated under the gas production tax in effect at the start of the first binding open season held under this chapter. If the difference is less than zero, the gas production tax exemption is zero.

(b) The exemption under this section may be applied within the 10 years immediately following commencement of commercial operations and only applied to production taxes that are levied on North Slope gas shipped through firm transportation capacity that person acquired during the first binding open season or shipped in the firm transportation capacity described in a voucher received by the gas producer under AS 43.90.330.

(c) The person claiming the exemption under this section shall agree that the person and the person's affiliates, successors, assigns, and agents will not protest or

appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.130(7). The agreement required under this subsection may not preclude the person or the person's affiliates, successors, assigns, and agents, from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.130(7).

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(d) For purposes of this section, "gas production tax" means the tax on gas in AS 43.55.

Sec. 43.90.330. Inducement vouchers. (a) A person that acquires firm transportation capacity in the first binding open season of the project, that does not hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that holds an oil and gas lease on the North Slope, may apply to the commissioners for a voucher under this section. A voucher issued by the commissioners must describe the firm transportation capacity in the project to which the voucher is applicable.

(b) A voucher issued by the commissioners under this section entitles the holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for gas shipped in the firm transportation capacity acquired by the person applying for the voucher during the first binding open season of the project and described in the voucher. The voucher may be transferred to a gas producer that has a binding obligation to sell gas to the person transferring the voucher under a gas purchase agreement.

(c) A gas producer holding a voucher may claim the resource inducements for gas shipped through the firm transportation capacity described in the voucher and only on gas that is produced and delivered to the purchaser on the North Slope. A gas producer may claim the resource inducements under this subsection until the earlier of the termination of the binding gas purchase agreement or the expiration of the inducements by operation of law.

(d) The person that receives a voucher under this section, and a gas producer that receives resource inducements under a voucher shall agree that the person or gas producer, and their respective affiliates, successors, assigns, and agents will not

protest or appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.130(7). The agreement required under this subsection may not preclude the person or gas producer or their respective affiliates, successors, assigns, or agents from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.130(7).

Article 4. Miscellaneous Provisions.

Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits. (a) There is established in the general fund an Alaska Gasline Inducement Act matching contribution fund. The fund consists of money appropriated to it by the legislature for disbursement to pay the state's matching contributions under AS 43.90.110. Money appropriated to the fund may be spent for the purposes of the fund without further appropriation. Appropriations to the fund do not lapse under AS 37.25.010, but remain in the fund for future disbursements. Nothing in this subsection creates a dedicated fund.

(b) The Department of Revenue shall manage the fund, and may invest money in the fund so as to yield competitive market rates as provided in AS 37.10.071. Income earned on the fund shall be accounted for separately and may be appropriated annually to the fund.

(c) The commissioners shall adopt regulations that provide for application to receive matching contributions for qualified expenditures as provided under AS 43.90.110, and that provide for periodic audits of the use of money disbursed as matching contributions under this chapter.

(d) Within 10 days after the convening of each regular session of the legislature, the commissioners shall submit to the legislature a report that lists the disbursements from the fund during the preceding fiscal year with a written justification for each disbursement and the projected amount of money that will be required for contributions in each of the next three fiscal years.

Sec. 43.90.410. Regulations. The commissioners may jointly adopt or amend regulations for the purpose of implementing the provisions of this chapter. The

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commissioner of revenue and the commissioner of natural resources may adopt or amend regulations adopted under authority outside of this chapter as necessary to implement the provisions of this chapter.

Sec. 43.90.420. Statute of limitations. A person may not bring a judicial action challenging the constitutionality of this chapter, or the constitutionality of a license issued under this chapter unless the action is commenced in a court of the state of competent jurisdiction within 90 days after the date that a license is issued.

Sec. 43.90.430. Interest. When a payment due to the state under this chapter becomes delinquent, the payment bears interest at the rate applicable to a delinquent tax under AS 43.05.225.

Sec. 43.90.440. Licensed project assurances. (a) Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducement provided under this chapter before the commencement of commercial operations. If, before the commencement of commercial operations, the state extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person. The payment under this subsection is subject to appropriation. Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort or other law, related to the events that gave rise to the payment.

(b) In this section,

(1) "competing natural gas pipeline project" means a project designed to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope gas to market;

(2) "preferential royalty or tax treatment" does not include

(A) the state's exercise of its right to resolve disputes involving royalties and taxes; or

(B) the state's exercise of its right to modify royalties as authorized by law in effect on the effective date of this section; and

(3) the review, processing and facilitation of permits, rights of ways and authorizations by state agencies in connection with a competing natural gas pipeline project shall not create any obligation on the part of the state under this section.

Sec. 43.90.450. Assignments. (a) A licensee may transfer all or part of the license, including the rights and obligations arising under the license, if, after publishing notice of the proposed transfer, providing notice to the presiding officer of each house of the legislature, and providing a period not less than 30 days for public review and comment,

(1) the transfer is approved in writing in advance by the commissioners; and

(2) the transfer does not increase or diminish the obligations created by the license or diminish the likelihood of success of the project or the net present value of the license to the state.

(b) Notwithstanding the commissioners' approval of a transfer of all or part of a license under (a) of this section, the transferor of the license remains subject to the requirements of AS 43.90.220 regarding all state money received by the licensee before the effective date of the transfer.

(c) A person may transfer that person's rights to the royalty inducement under AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in connection with a sale or merger that results in transfer of all the person's assets in the North Slope, along with the person's firm transportation capacity contracts in the project.

(d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),

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Deleted: (C) the benefits of a large project permit coordinator authorized by a law in effect on the effective date of this section.

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a person receiving a voucher under AS 43.90.330 based on the person's acquisition of firm transportation capacity in the first binding open season of the project may transfer the voucher only if the transfer is in connection with the permanent assignment by the person of 100 percent of the firm transportation capacity acquired in the first binding open season of the project.

Sec. 43.90.460. Conflicting laws. Nothing in this chapter shall be construed to repeal or abrogate the administrative, regulatory, or statutory procedures and functions of state and federal law governing the development and oversight of a project.

Sec. 43.90.470. State pipeline employment development. The commissioner of labor and workforce development shall develop a job training program that will provide training for Alaskans in gas pipeline project management, construction, operations, maintenance, and other gas pipeline-related positions.

Article 5. General Provisions.

Sec. 43.90.900. Definitions. In this chapter, unless the context otherwise requires,

(1) "affiliate" means another person that controls, is controlled by, or is under common control with a person and includes a division that operates as a functional unit;

(2) "Alaska Gasline Inducement Act coordinator" and "coordinator" means the person appointed under AS 43.90.250;

(3) "amended certificate" means a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission under authority of the Alaska Natural Gas Transportation Act of 1976 that is amended to comply with the terms of the license.

(4) "applicant" means a person, or group of persons that files an application under this chapter;

(5) "commencement of commercial operations" means the first flow of gas in the project that generates revenue to the owners;

(6) "commissioners" means the commissioner of revenue and the commissioner of natural resources, acting jointly;

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(7) "control" means the possession of ownership interest or authority sufficient to, directly or indirectly, and whether acting alone or in conjunction with others, direct or cause the direction of the management or policies of a company, and is rebuttably presumed if the voting interest held is 10 percent or more;

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(8) "equity holder" means the

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- (A) stockholders of a corporation;
- (B) members of a limited liability company;
- (C) partners of a partnership;
- (D) joint venturers of a joint venture;
- (E) members of a governmental authority and similar persons;

or

(F) holders of any other entity or person;

(9) "gas treatment plant" means a facility downstream of the point of production that conditions gas and removes non-hydrocarbon substances from the gas for the purpose of rendering the gas acceptable for tender and acceptance into a gas pipeline system;

Deleted: (7) "gas processing" means the treatment of gas downstream of the point of production to extract natural gas liquids;

(10) "governing body" means a corporation's board of directors, a limited liability company's managing members, a partnership's general partners, a joint venturer's joint venturers, a governmental authority's board or council members, and similar entities;

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(11) "lease" means an oil and gas or gas lease issued by this state;

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(12) "lessee" means a person that holds a working interest in an oil and gas or gas lease issued by this state;

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(13) "license" means a license issued under this chapter;

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(14) "licensee" means the holder of a license issued under this chapter and all affiliates, successors, assigns, and agents of the holder;

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(15) "net present value" means the discounted value of a future stream of cash flow.

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(16) "North Slope" means that part of the state that lies North of 68 degrees North latitude;

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(17) "open season" means the process that complies with 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects);

(18) "point of production" has meaning set forth in AS 43.55.900(20).

(19) "project" means a natural gas pipeline project authorized under a license issued under this chapter;

(20) "proprietary" means that the information is treated by the applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant, or materially diminish the commercial value of the information to the applicant.

(21) "recourse rates" means cost-based rates with a minimum and maximum range that are approved by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those rates that the pipeline must make available to all shippers;

(22) "sanction" means financial commitments to go forward with the project as evidenced by entering into firm financial commitments of at least \$1,000,000,000 with third parties;

(23) "trade secret" has the meaning set forth in AS 45.50.940(3).

(24) "under common control with" has the meaning given "control" in this section;

(25) "unit agreement" means an agreement executed by the working interest owners and royalty owners creating the unit.

Sec. 43.90.990. Short title. This chapter may be cited as the Alaska Gasline Inducement Act.

* Sec. 2. AS 36.30.850(b) is amended by adding a new paragraph to read:

(45) contracts for an arbitration panel to determine whether a project is uneconomic under AS 43.90.240, and contracts for the development of application provisions for licensure and for the evaluation of those applications under AS 43.90.

* Sec. 3. AS 39.25.110 is amended by adding a new paragraph to read:

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250.

Deleted: (14) "North Slope gas" means natural gas produced on the North Slope;

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* Sec. 4. AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a

participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged or a trade secret in accordance with AS 43.90.150 or AS 43.90.220(d);

(B) applications that are received under AS 43.90.120 - 43.90.140 until notice is published under AS 43.90.160.

* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to read:

FIRST REQUEST FOR APPLICATIONS FOR THE LICENSE. It is the intent of the legislature that the first request for applications for the license by the commissioners under AS 43.90.120, enacted by sec. 1 of this Act, be issued within 90 days after the effective date of this Act.

* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to read:

EXPEDITED CONSIDERATION OF COURT CASES. It is the intent of the legislature that the courts of the state, when considering a case related to the development and construction of a natural gas pipeline under this Act or to the commitment of a shipper to acquire firm transportation capacity during the first binding open season for a project developed under this Act, expedite the resolution of the case by giving the case priority over all other civil cases to the extent permitted under the Alaska Rules of Court.

* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of it to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.

Sec. 8. AS 38.05.020(b) is amended by adding a new paragraph to read:

(10) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter;

Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

The Palin-Parnell Administration presents

AGIA

The Alaska Gasline Inducement Act

**Economics of AGIA's rolled-in rate provisions
Presentation to House Finance Committee
4/30/2007**

Rolled in Rates Question has been answered



- Fair
 - One service, one price. Not a subsidy!
 - Canadian pipelines and shippers apply this methodology
 - US market did likewise until pipeline grid adequately matured
- Effective
 - Alberta example: roughly 75 Tcf of known reserves has become over 200 Tcf of production with that much more yet to be produced
- Required
 - Frontier basin development requires different methodology than developed supply basin
 - FERC recognized this when it established the rolled-in rate presumption

Summary of economics of AGIA rolled-in rate provisions



The Alaska Gasline Inducement Act

- AGIA rolled-in rates promote competition, exploration and development.
- Rolled-in rates are in the state's interest given uncertainty of where expansion gas will come.
- Despite protests to the contrary, the objective evidence indicates that rolled-in rates:
 - impose relatively modest costs on Producers
 - are significantly off-set by AGIA's \$500M
 - are unlikely to affect Producer decisions to ship

Rolled-in Rates What They Are - Illustration



The Alaska Gasline Inducement Act

Initial Cost

\$100

Throughput

100

Initial Toll

\$100/100

= **\$1.00/unit**

Expansion Cost

\$30

Exp. Throughput

18

Rolled in Toll

$\$(100+30)/(100+18)$

= **\$1.10/unit**

Expansion Cost

\$30

Exp. Throughput

18

Increment. Toll

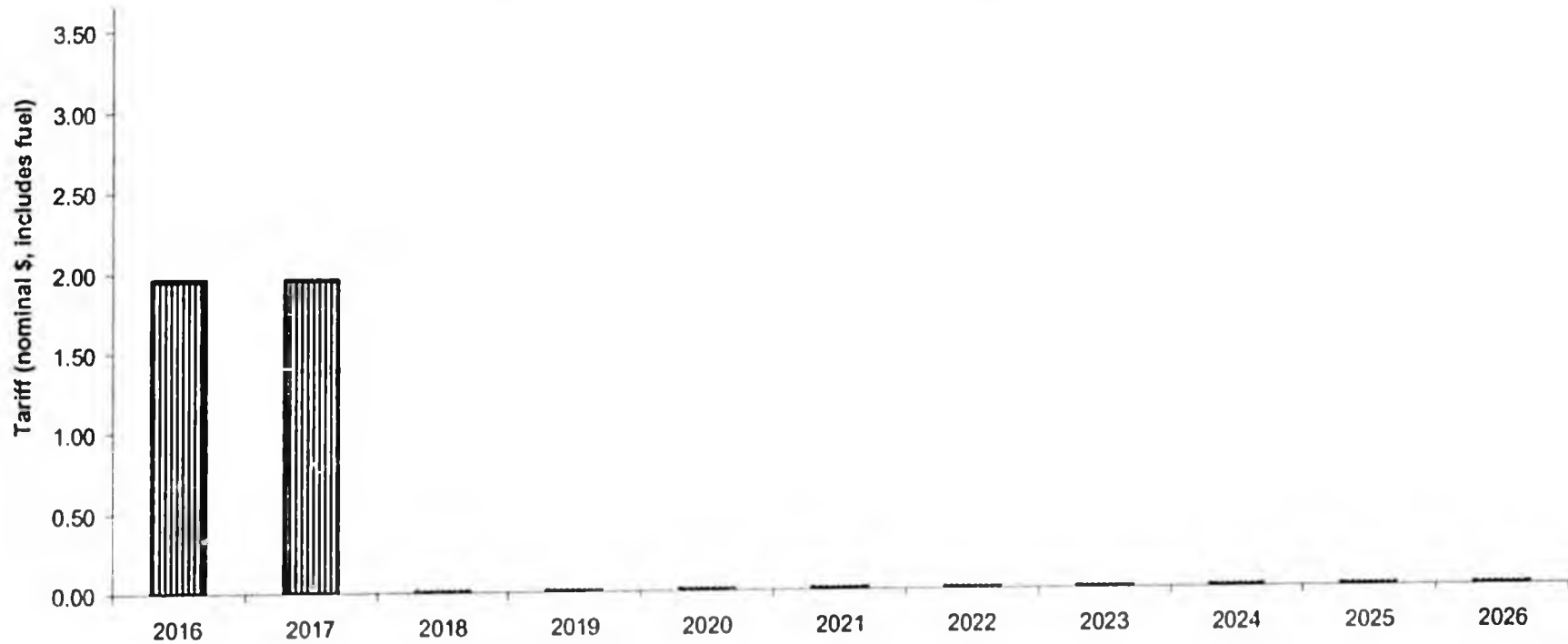
\$30/18 unit

= **\$1.67/unit**

Tariff Effects of Expansions FERC-L48 Rate Policy (\$5.50)



▣ Lower-48 FERC policy, Initial Shippers' Rates



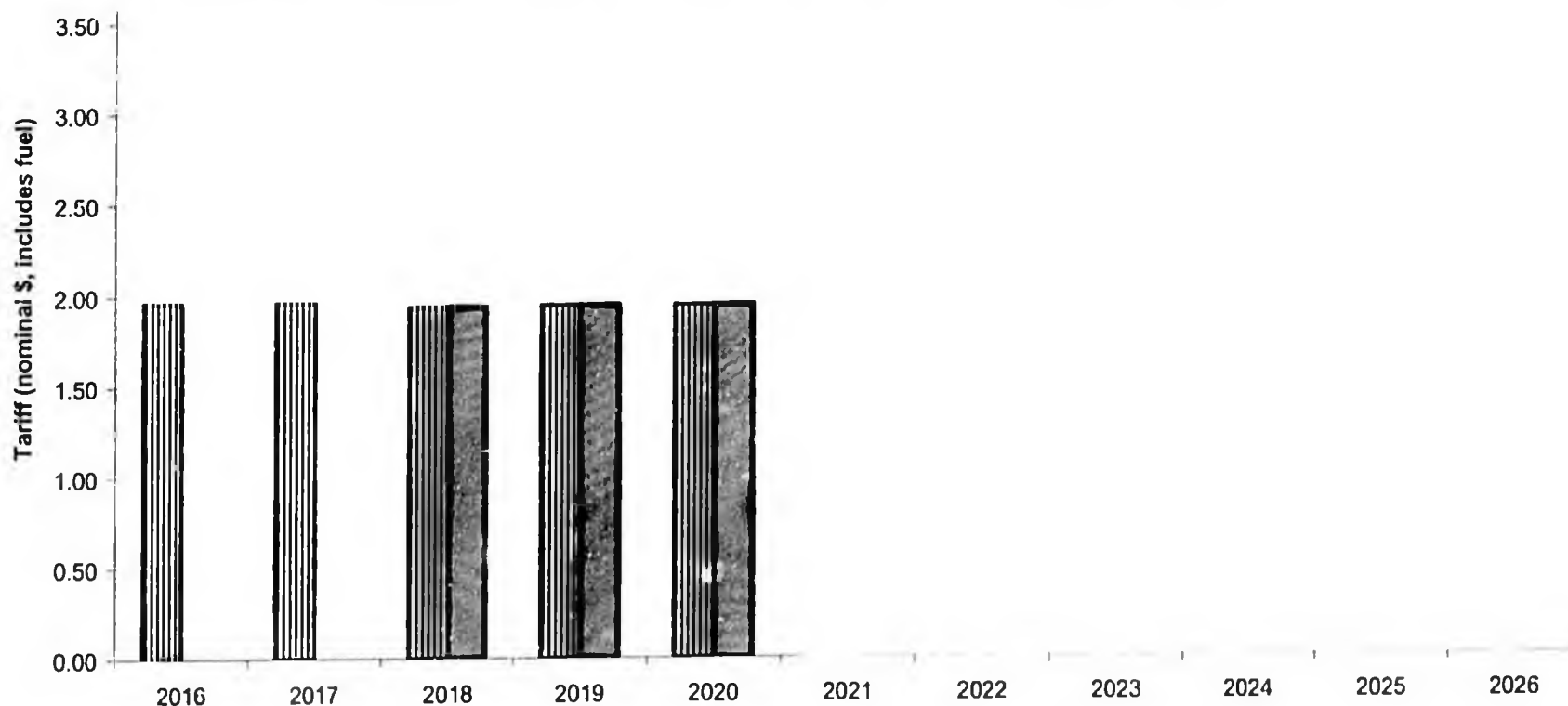
Assumes \$5.50 real Chicago gas prices

Tariff Effects of Expansions FERC-L48 Rate Policy (\$5.50)



▨ Lower-48 FERC policy, Initial Shippers' Rates

■ Lower-48 FERC policy, 1st Expansion (2018) Shippers' Rates

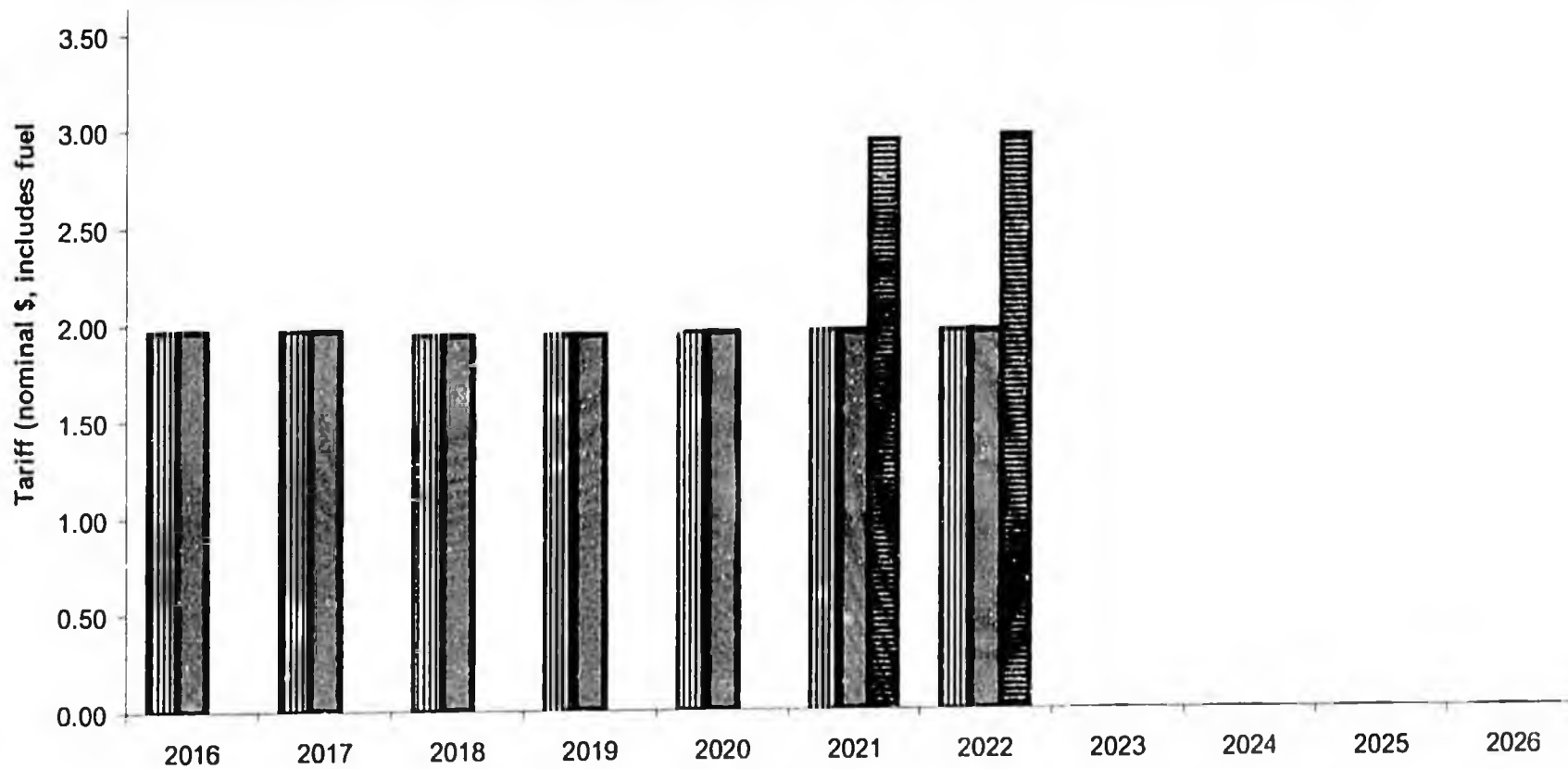


Assumes \$5.50 real Chicago gas prices

Tariff Effects of Expansions FERC-L48 Rate Policy (\$5.50)



- ▨ Lower-48 FERC policy, Initial Shippers' Rates
- ▣ Lower-48 FERC policy, 1st Expansion Shippers' Rates (2018)
- ▩ Lower-48 FERC policy, 2nd Expansion Shippers' Rates (2021)



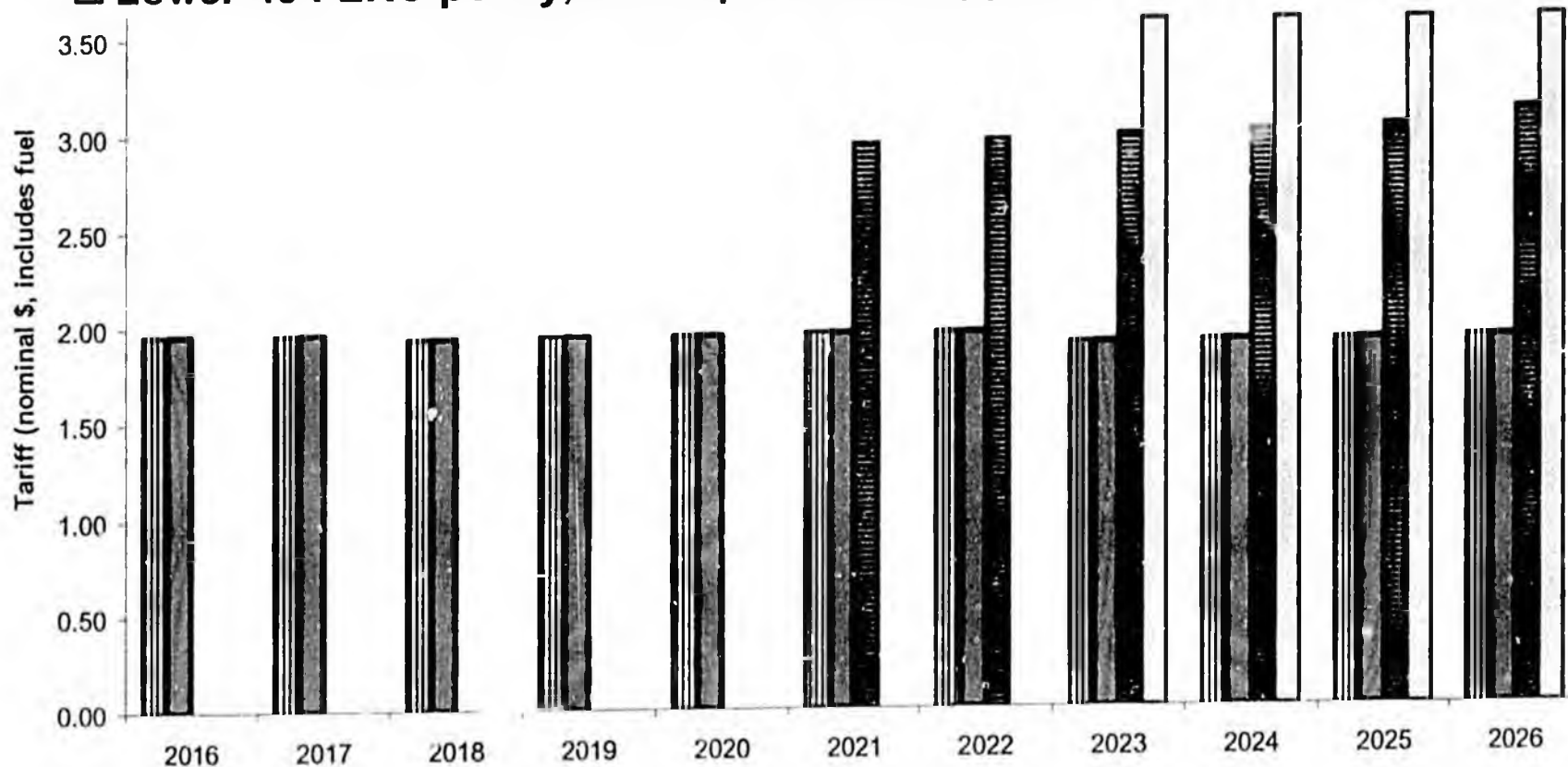
Assumes \$5.50 real Chicago gas prices

Tariff Effects of Expansions FERC-L48 Rate Policy (\$5.50)



The Alaska Gasline Inducement Act

- ▨ Lower-48 FERC policy, Initial Shippers' Rates
- ▩ Lower-48 FERC policy, 1st Expansion Shippers' Rates (2018)
- Lower-48 FERC policy, 2nd Expansion Shippers' Rates (2021)
- Lower-48 FERC policy, 3rd Expansion Shippers' Rates (2023)



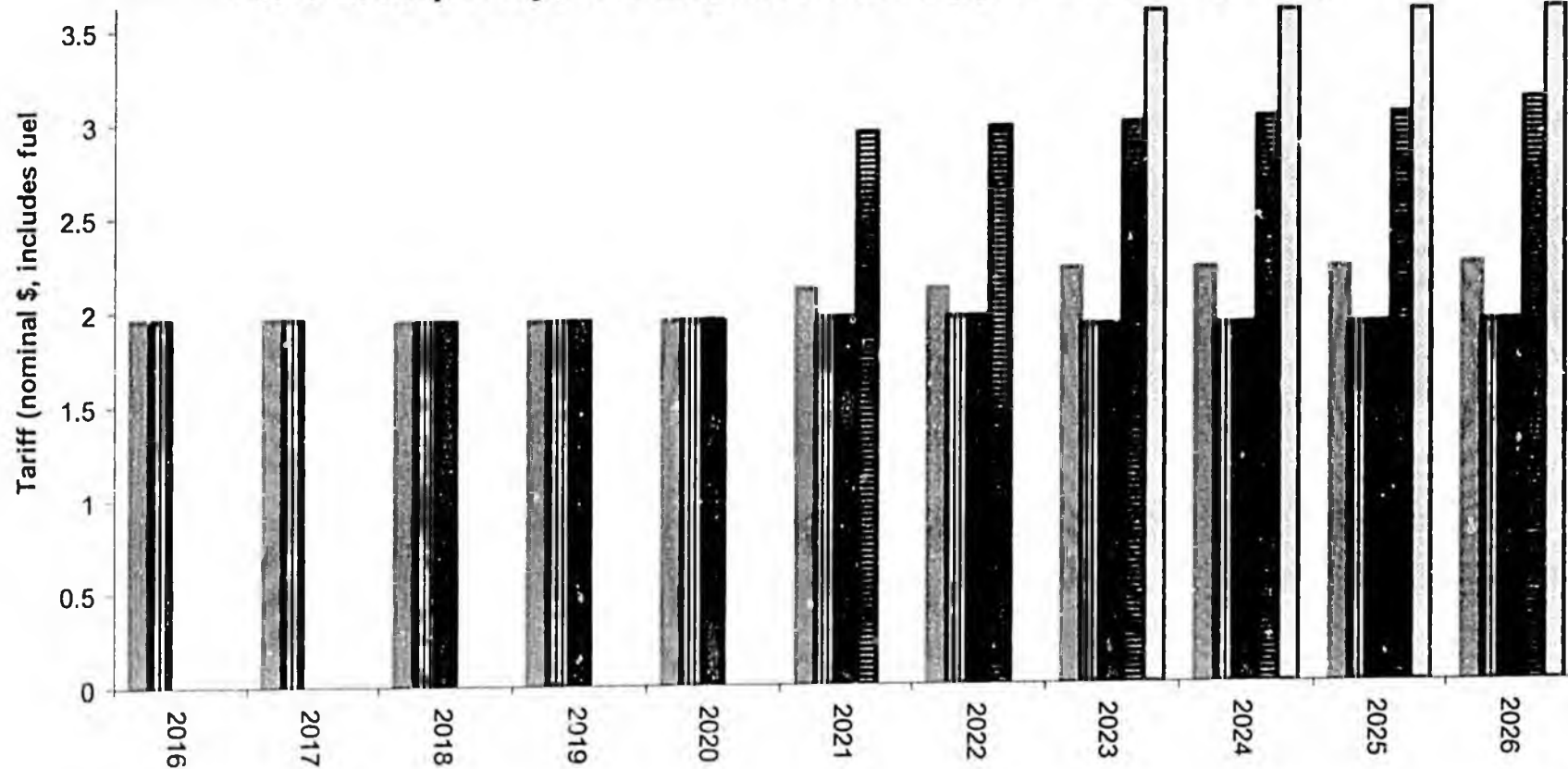
Assumes \$5.50 real Chicago gas prices

AGIA vs. FERC-L48 Rate Policies (\$5.50)



The Alaska Gasline Inducement Act

- AGIA policy; Initial, 1st and 2nd Expansion Shippers' Rates
- ▨ Initial shippers rates - FERC Lower-48 policy
- Lower-48 FERC policy, 1st Expansion Shippers' Rates (2018)
- Lower-48 FERC policy, 2nd Expansion Shippers' Rates (2021)
- Lower-48 FERC policy, 3rd Expansion Shippers' Rates (2023)

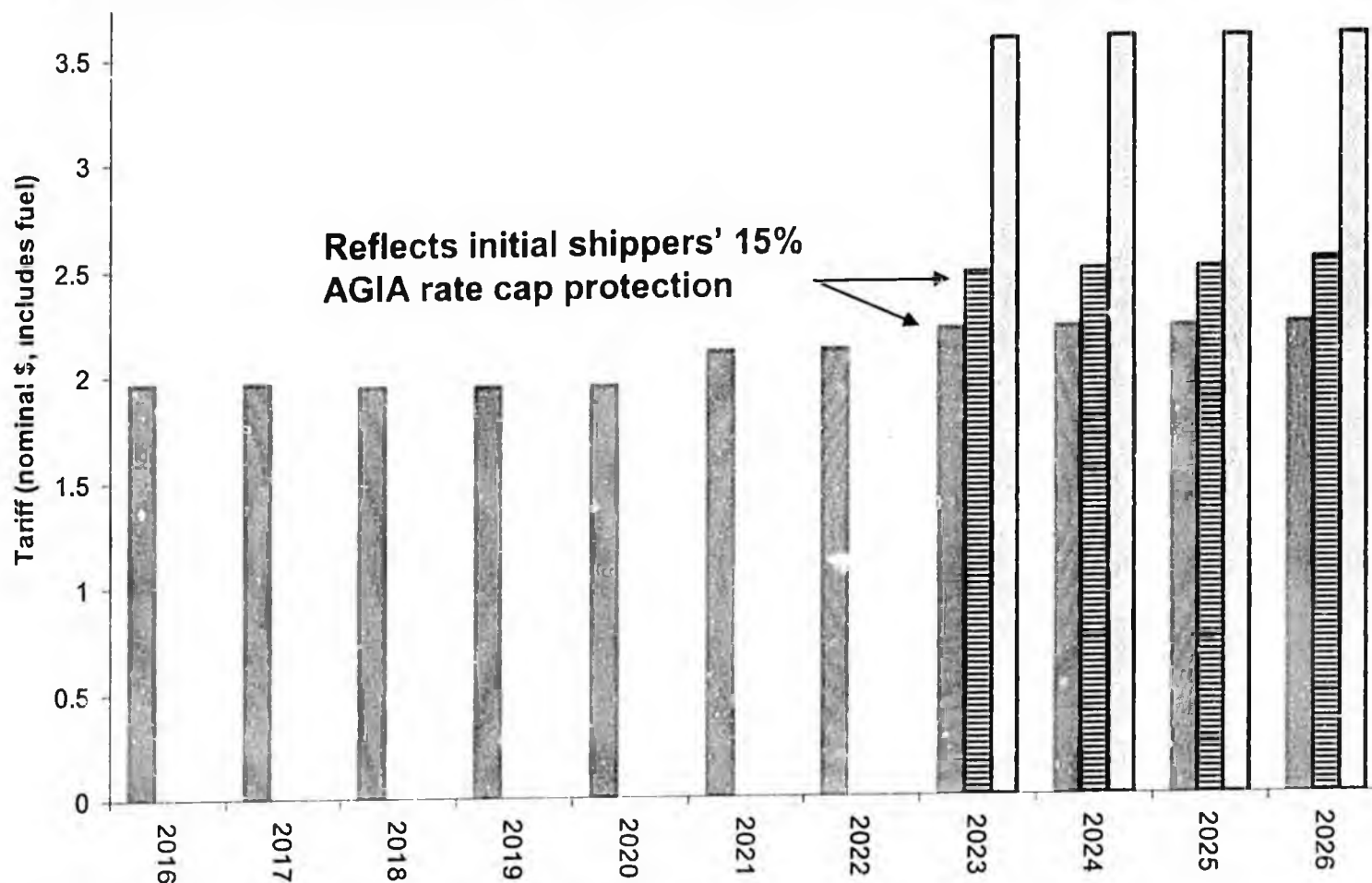


Assumes \$5.50 real Chicago gas prices

AGIA vs. FERC-L48 Rate Policies (cont.) (\$5.50)



- AGIA policy, Initial, 1st and 2nd Shippers' Rates
- ▨ AGIA policy, 3rd Expansion Shippers' Rates (2023)
- Lower-48 FERC policy, 3rd Expansion Shippers' Rates (2023)



Assumes \$5.50 real Chicago gas prices

Exploration economics AGIA vs. FERC policy



- Without rolled-in rates it is **unlikely** that 3rd (looped) expansion will occur.
- Expected value of generic prospect is very negative under incremental rate treatment:
 - \$15.7 million for OCS prospect
 - \$19.7 million for onshore prospect
- Expected value of generic prospect is **positive** under AGIA rate treatment:
 - \$18.1 million for OCS prospect
 - \$6.4 million for onshore prospect

Exploration economics

AGIA vs. FERC policy (cont.)



- Without rolled-in rates it is **unlikely** that 2nd expansion (full in-fill compression) will occur.
- Expected value of generic onshore prospect is negative under incremental rate treatment:
 - \$4.1 million for OCS prospect
 - \$4.6 million for onshore prospect
- Expected value of generic prospect (both on and offshore) is **positive** under AGIA rate treatment:
 - \$29.5 million for OCS prospect
 - \$14.9 million for onshore prospect

State Revenue, AGIA Rate Provisions: Summary



- State revenue from an expansion depends on where the gas comes from
 - State lands: 12.5% royalty + PPT
 - Federal lands: 1/2 fed. royalty + PPT
 - Outer Continental Shelf (OCS): 0% royalty, no PPT
- We don't know from where gas for a given expansions will come
- Given such uncertainty it turns out that the state is clearly better off with AGIA's rolled-in rate provisions

State Revenue: Background To Scenarios (\$5.50 gas)



- **Base Case: 4.5 Bcf/day, pipeline to Alberta, 2016**
 - Initial tariff of \$1.96 (includes GTP)
- **1st Expansion: 1 Bcf, infill compression, 2018**
 - Capital cost of \$1.1 billion
 - Tariff of \$1.96
- **2nd Expansion: 1 Bcf, infill compression, 2021**
 - Capital cost \$2.1 billion
 - Tariff of \$2.93/\$2.10 for incremental/rolled-in rate treatment
- **3rd Expansion: 1 Bcf, looping, 2023**
 - Capital cost \$4.1 billion
 - Tariff of \$3.56/\$2.47 for incremental/rolled-in rate treatment

Note: Volumes reported at pipe inlet;
rates include fuel

State Revenue: Background To Scenarios (\$5.50 gas)



Case A: "State gas first"

- 1st bcf from state lands (2018)
- 2nd bcf from NPR-A (2021)
- 3rd bcf from OCS (2023)

Case B: "State gas second"

- 1st bcf from NPR-A (2018)
- 2nd bcf from state lands (2021)
- 3rd bcf from OCS (2023)

Case C: "State gas last"

- 1st bcf from OCS (2018)
- 2nd bcf from NPR-A (2021)
- 3rd bcf from state lands (2023)

State Revenue, AGIA Rates: All Expansions Occur



- Without rolled-in rates it is **very unlikely** all expansions would occur. But if they did:
 $[AGIA \text{ revenue}] - [L48 \text{ FERC revenue}] =$

State NPV₅ difference, \$2007 (billion)

	<u>Case A</u>	<u>Case B</u>	<u>Case C</u>	<u>Expected</u>
	State gas first	State gas 2nd	State gas last	<u>Value</u>
\$3.50	(0.91)	(0.79)	0.15	(0.52)
\$5.50	(0.75)	(0.58)	0.25	(0.36)
\$7.00	(0.71)	(0.52)	0.05	(0.39)

State Revenue, AGIA Rates: No Looping



- Without rolled-in rates it is **very likely** the last expansion **won't occur**. If it doesn't:
 $[AGIA \text{ revenue}] - [L48 \text{ FERC revenue}] =$

State NPV₅ difference, \$2007 (billion)

	<u>Case A</u>	<u>Case B</u>	<u>Case C</u>	<u>Expected</u>
	State gas first	State gas 2nd	State gas last	<u>Value</u>
\$3.50	(1.13)	(1.05)	0.85	(0.44)
\$5.50	(0.74)	(0.65)	3.30	0.64
\$7.00	(0.56)	(0.46)	5.00	1.33

State Revenue, AGIA Rates: No Looping, No Full in-fill



The Alaska Gasline Inducement Act

- Without rolled-in rates it is *likely neither 2nd nor 3rd* expansion occur. If they don't:
 $[AGIA\ revenue] - [L48\ FERC\ revenue] =$

State NPV₅ difference, \$2007 (billion)

	<u>Case A</u>	<u>Case B</u>	<u>Case C</u>	<u>Expected</u>
	State gas first	State gas 2nd	State gas last	<u>Value</u>
\$3.50	1.71	1.67	2.18	1.85
\$5.50	5.63	5.57	6.28	5.83
\$7.00	8.51	8.45	9.27	8.75

Producer Upstream Returns

Base case cost = \$20.5B



	NPV₁₀ (\$B)	IRR	P/I	NPV₁₀ per BOE
\$4.00	6.1	39.7%	4.3	\$0.74
\$5.50	12.1	62.9%	7.5	\$1.46
\$7.00	17.8	79.2%	10.5	\$2.15

Prices are real, \$2007, escalating at 2%/year

Worst-Case Producer Effects of AGIA Rates



- The following shows Producer upstream investment measures given the three expansions under the “worst case” of no producer gas in any of the expansions.

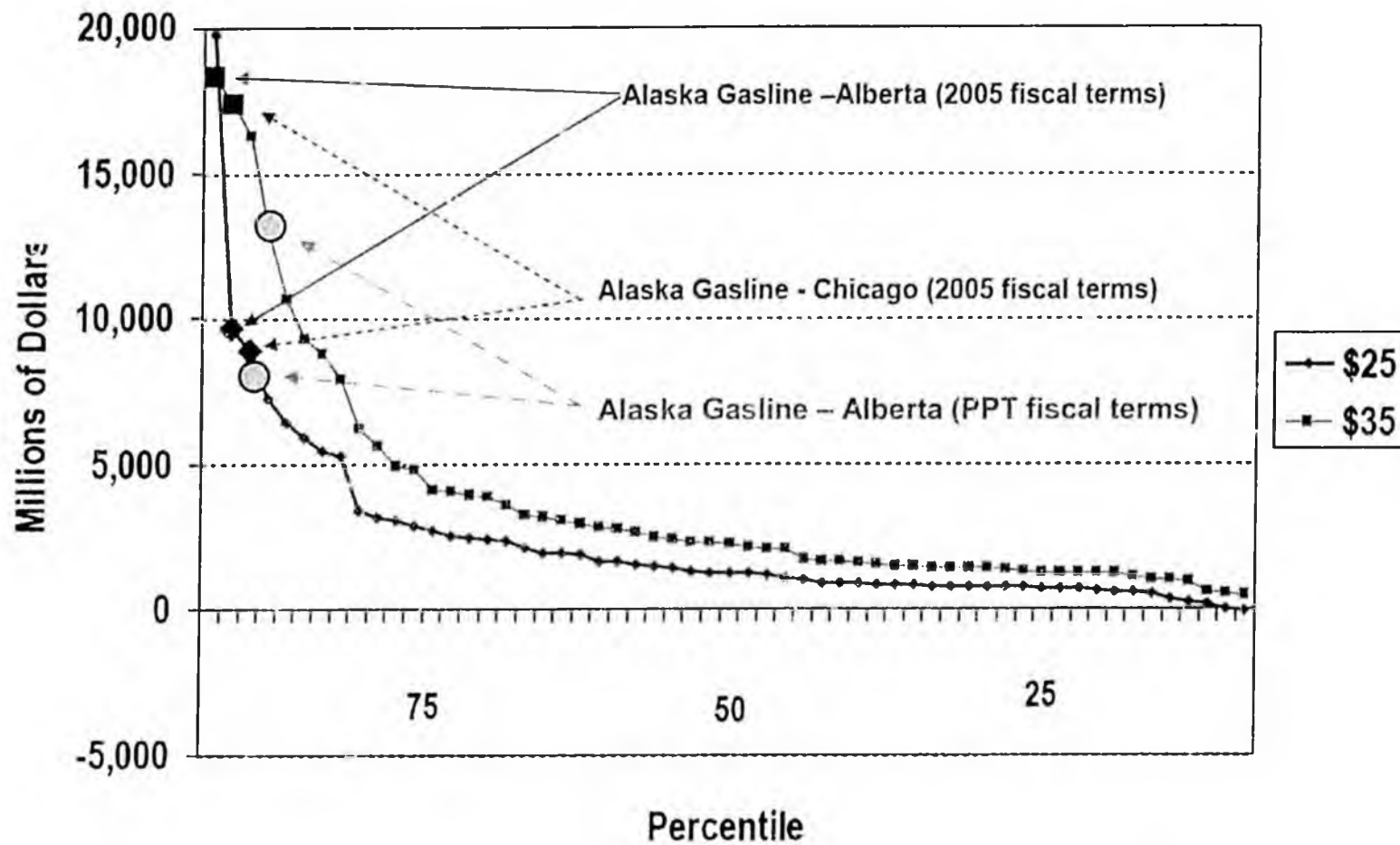
	<u>NPV₁₀ (\$B)</u>	<u>IRR</u>	<u>P/I</u>	<u>NPV₁₀ per BOE</u>	<u>% Δ NPV</u>	<u>Δ IRR</u>	<u>% Δ P/I</u>
\$4.00	5.8	39.6%	4.1	\$0.70	-5.4%	-0.10%	-4%
\$5.50	11.7	62.8%	7.3	\$1.41	-3.3%	-0.10%	-3%
\$7.00	17.4	79.0%	10.3	\$2.10	-2.3%	-0.13%	-2%

Prices are real, \$2007, escalating at 2%/year

Project Comparison

Producer Net Cash Flow (NPV10)

(\$35 and \$25 oil and 6/1 oil/gas ratio)

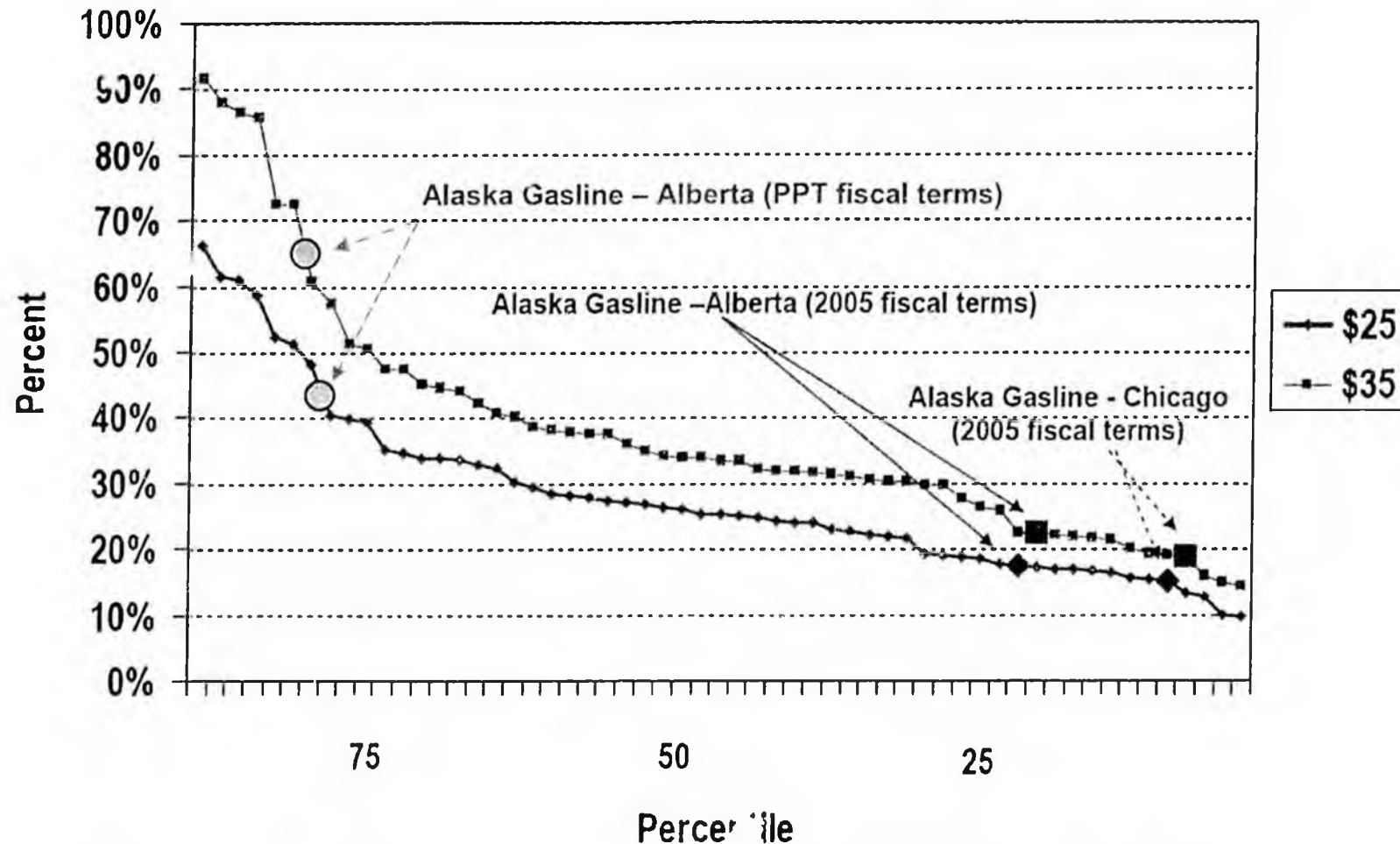


Project comparison data from EconOne presentation to LB&A Committee, 6/14/06. EconOne data assumes 100% Producer pipeline ownership; upstream return data assumes 0% pipeline ownership.

Project Comparison

Internal Rate of Return (IRR)

(\$35 and \$25 oil and 6/1 oil/gas ratio)

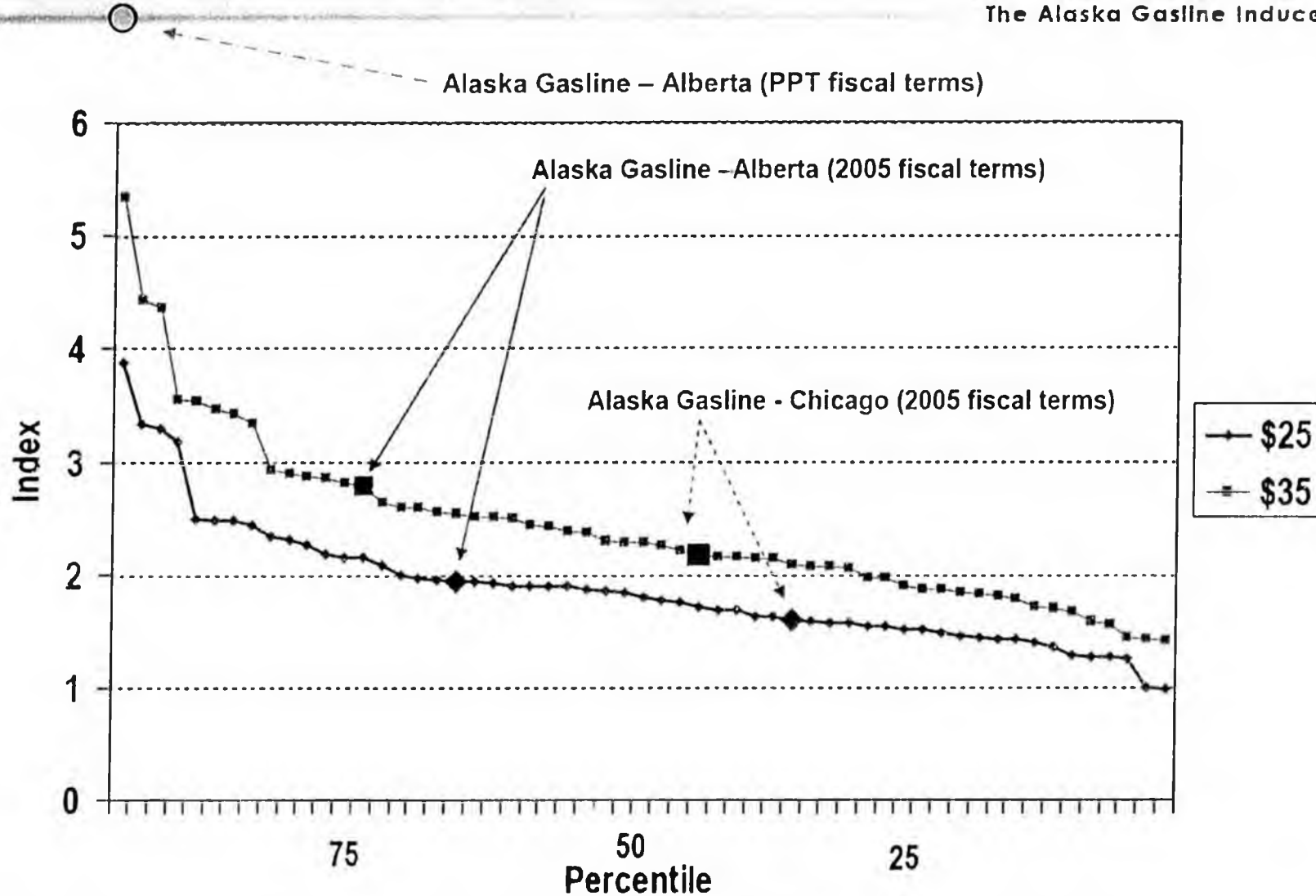


Project comparison data from EconOne presentation to LB&A Committee, 6/14/06. EconOne data assumes 100% Producer pipeline ownership; upstream return data assumes 0% pipeline ownership. 22

Project Comparison

Profitability Index Ratio (PIR10)

(\$35 and \$25 oil and 6/1 oil/gas ratio)

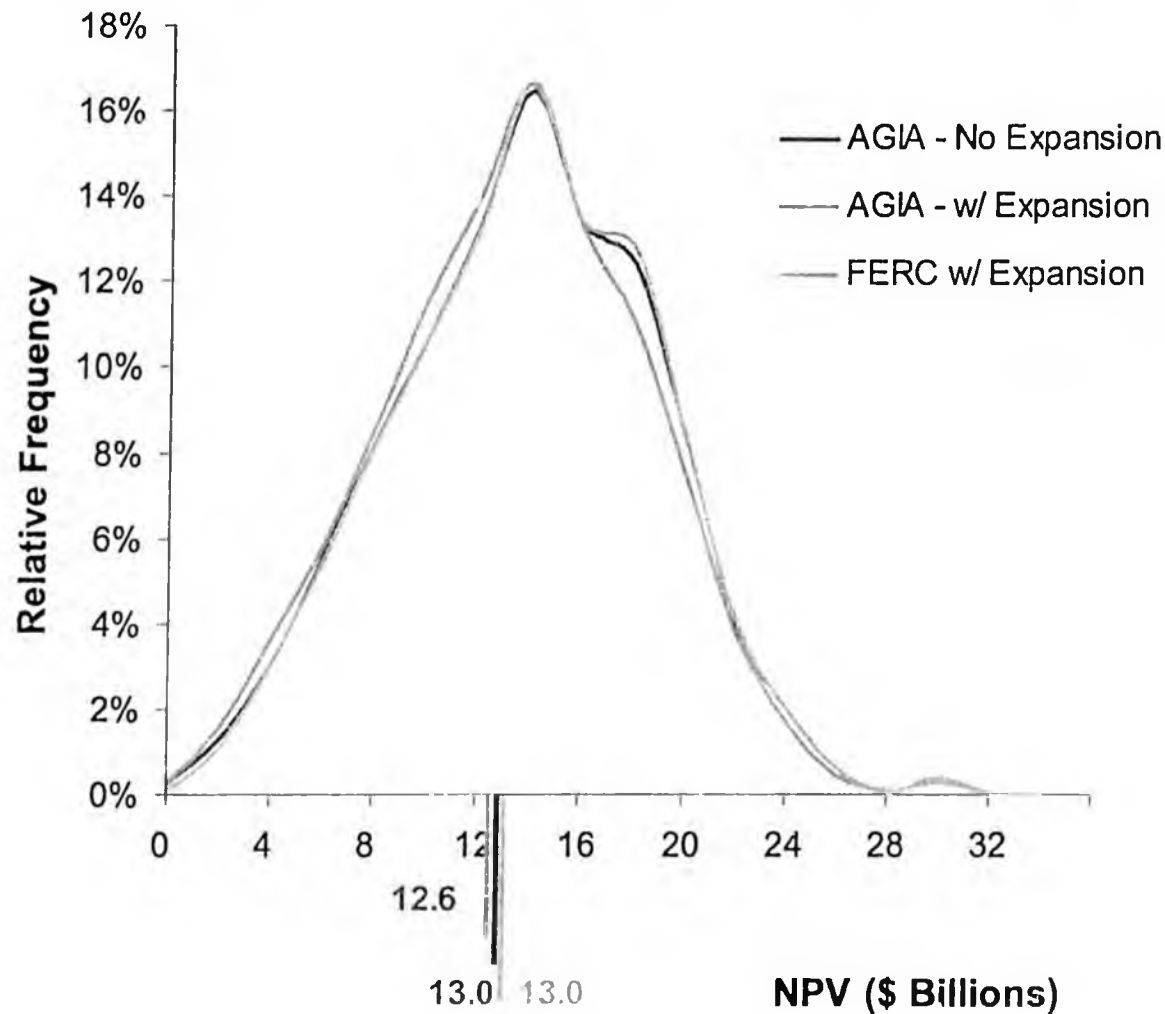


Project comparison data from EconOne presentation to LB&A Committee, 6/14/06. EconOne data assumes 100% Producer pipeline ownership; upstream return data assumes 0% pipeline ownership.

Worst-Case Producer Effects of AGIA Rates - NPV



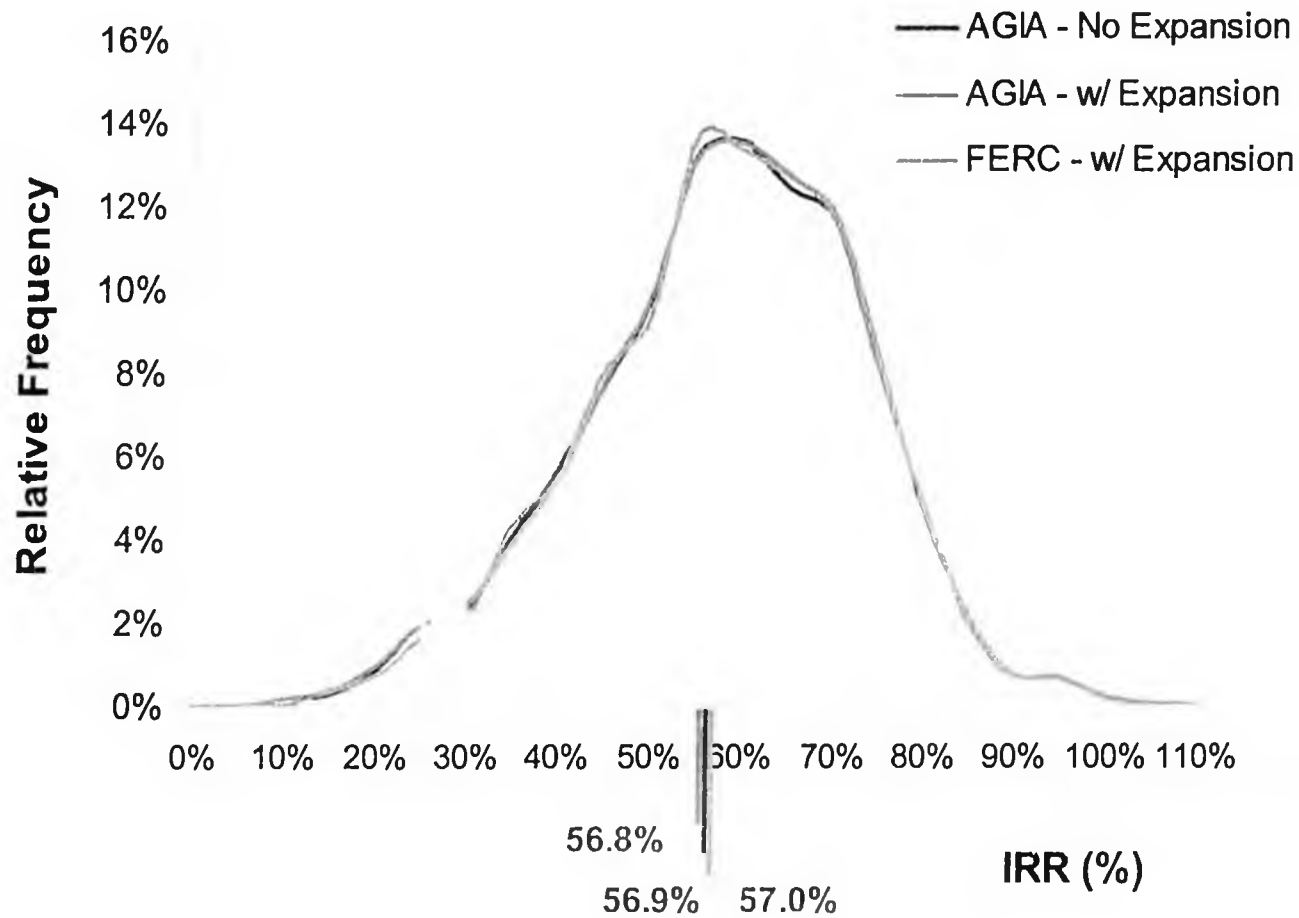
Frequency Distribution Producer Upstream NPV₁₀



Worst-Case Producer Effects of AGIA Rates - IRR



Frequency Distribution Producer Upstream IRR

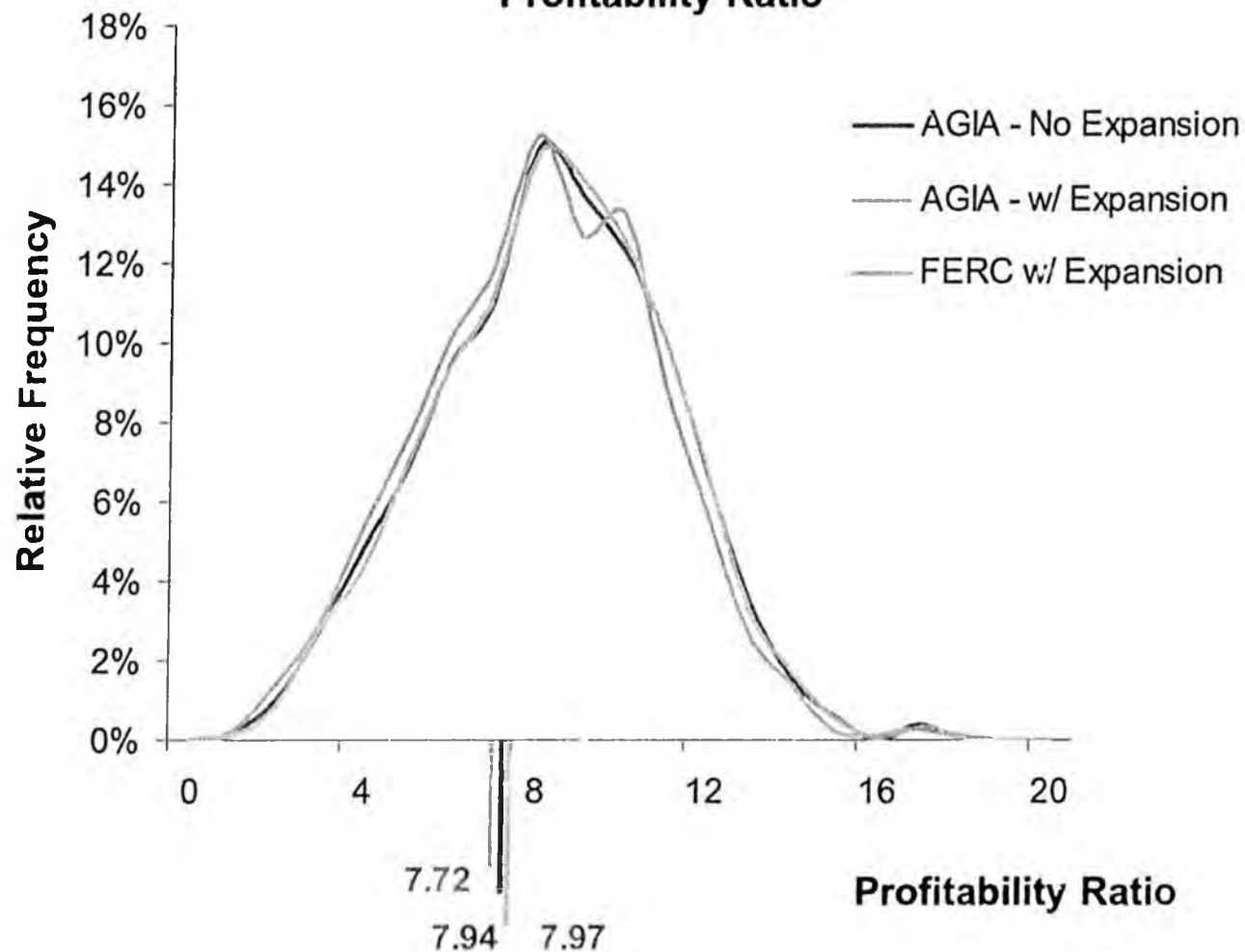


Worst-Case Producer Effects of AGIA Rates – P/I



The Alaska Gasline Inducement Act

Frequency Distribution Producer UpStream Profitability Ratio



Summary



- AGIA rolled-in rates promote competition, exploration and development.
- Given uncertainties, AGIA's rolled-in rates are clearly in the state's monetary interest.
- Protests notwithstanding, the objective evidence indicates that AGIA's rolled-in provisions cost the Producers only modestly and are unlikely to affect initial investment decisions.

AGIA

The Palin-Parnell Administration presents

AGIA

The Alaska Gasline Inducement Act
House Finance

4/30/07

Overview of “FERC issues”



- FERC’s new mandatory expansion authority
 - Not a panacea
- AGIA’s rolled in rate provisions
 - In harmony with FERC policy
- “Negotiated” versus “Recourse” rates
 - AGIA requires that negotiated rates do not thwart the possibility of rolled-in rates, and helps foster meaningful pipeline access

FERC's authority to order expansions is problematic



ANGPA Sec. 105—FERC can mandate expansion only if FERC finds that several criteria are first met, including:

- 1) No “rate subsidy”
- 2) No adverse effect on “financial or economic viability” of project
- 3) No adverse effect on “overall operations” of project
- 4) Cannot diminish the “contract rights of existing shippers to previously subscribed certificated capacity
- 5) Find that adequate downstream capacity exists or will exist

Section 105 provisions invite litigation



- The statute is unprecedented and has not been tested in court.
- The Section 105 criteria are potentially ambiguous, and fertile ground for litigation.
- Litigation necessarily involves:
 - 1) Delay
 - 2) Uncertainty
- The duration of delay is likely to be measured in years, not months

AGIA avoids Section 105



- AGIA requires the licensee to:
 - 1) Regularly test the market for new capacity;
 - 2) Expand in reasonable engineering increments;
 - 3) Expand under commercially reasonable terms
- AGIA thus avoids uncertainty/delay of litigation.

FERC Rolled-in Rate Policy In Alaska



- 2004 ANGPA mandate to FERC:
 - Open season regulations should: “promote competition in the exploration, development and production of Alaska natural gas.” (§103(e)(2)(b)).
- FERC’s implementation of that directive:
 - “incremental pricing of expansion could put expansion shippers at a significant rate disadvantage compared with initial shippers, and accordingly could discourage exploration, development and production of Alaska natural gas.” (Order 2005 at ¶ 123)

FERC Rolled-in Rate Policy In Alaska



- FERC's Open Season regulations provide a rebuttable presumption in favor of rolled-in rates.
- This departure from lower-43 policy was in recognition of Alaska's unique circumstances.
 - "Our existing lower-48 states policy favoring incremental rates for expansions does not apply in the case of an Alaska natural gas project. There is likely to be only one Alaska pipeline so there will be little or no opportunity for competition between pipelines." (Order 2005 at ¶ 123).

FERC Rolled-in Rate Policy In Alaska



- A rate increase is not necessarily a subsidy.
(see, order 2005-A at ¶ 50).
“An alternative ...definition of subsidization could be whether the expansion rate is no higher than the actual initial rate or of an initial rate without built in subsidies.” (Order 2005-A at ¶ 49)
- FERC left open the question of whether to allow rolled-in rates to a level that is no higher than the initial rate without subsidies.
- Total Government contributions (“built in subsidies”) reduce rates by more than 15%

Government Rate Contributions: Summary



- Government contributions total about 25¢, and reduce initial rates from \$2.25 to \$2.00
- Initial rates are therefore subsidized by government by about 12.5%
- But owners of Gas Treatment Plant also get a Federal Investment Tax Credit
- If this subsidy is included then total government subsidies exceed 15%

FERC Process



“A pipeline company

PROPOSES

But the FERC

DISPOSES.”

(an old industry adage)

FERC Process



- AGIA does not intrude on FERC's authority
- AGIA requires the licensee to **PROPOSE** rolled-in rates
- FERC will **DISPOSE**
- AGIA prevents Producers from negotiating rates with themselves (or others) that preclude collection of rolled-in rates

“Negotiated” versus “Recourse” rates



Recourse rates:

Old fashioned, cost-based, just and reasonable rates established in FERC rate proceedings.

All shippers must have access to recourse rates as an alternative to negotiated rates (*i.e.*, recourse rates are a “lifeline”).

“Negotiated” versus “Recourse” rates



Negotiated Rates

Negotiate rates are just that: Negotiated

Virtually anything can be negotiated

Negotiated rates are now the norm for new pipeline capacity in the Lower-48

FERC regulates recourse rates, not negotiated rates



FERC sets recourse rates through regulatory process

Shipper and pipeline set negotiated rates through commercial process

AGIA's restrictions on negotiated rates



AGIA requires commitment by licensee not to enter negotiated rate contracts that preclude rate increases due to roll-in of expansion costs up to 15% above original negotiated rates.

By spreading expansion costs over all billing determinants, AGIA ensures that rolled-in rate treatment can – as a practical matter – be offered to expansion shippers.

Appendix

Negotiated rate example (Rockies Express)



Rockies Express Open Season Notice (for zone 3 “end-to-end” service):

1. Estimated “recourse rate:” \$1.427.
2. Negot. rate (fixed rate, non-Anchor shipper): \$1.094
3. Negot. rate (adjustable (depending on price of steel), non-Anchor shipper):
From \$1.04 to \$1.14

Appendix

**Negotiated rate example
(Rockies Express)**



Negotiated rates are for life of contract
(minimum 10 years).

No risk of rate change due to cost overruns,
changes in volume commitments, cost of
capital, etc.

Appendix

Breakdown of Effects of Government Contributions on Rates



The Alaska Gasline Inducement Act

- **Base rate:** All government contributions included
 - For a pipeline into Alberta, tariff = **\$2.00**
- **Federal loan guarantee:** reduces cost of debt
 - Without loan guarantee, tariff rises to **\$2.10**
- **Accelerated depreciation:** 7-year vs. 15-year
 - With 15-year depreciation tariff rises to **\$2.19**
- **AGIA contribution:** \$500 million reduces rate base
 - Without AGIA contribution, tariff rises to **\$2.25**

Appendix

Base Case Assumptions for Rates to Alberta



- Base rate assumes the following government subsidies:
 - Federal loan guarantee (assumed here to reduce debt costs by 0.75%)
 - Accelerated 7-year tax depreciation (part of Federal enabling legislation)
 - AGIA contribution of \$500 million (50% until open season, 80% after)
- And assumes further:
 - 70/30 debt/equity ratio
 - 14% ROE
 - 6.5% cost of debt
 - 30 year depreciation schedule
 - 25-year FT contracts
 - Cost input price escalation at 2%/year
 - Pipeline cost to Alberta of \$20.5 billion (\$2007)
 - Rates calculated on a levelized cost of service basis

Appendix

Federal Loan Guarantee: Value is Scenario-dependent



Alaska Natural Gas Pipeline

- Value of [federal] loan guarantee offers significant benefits

150-200 bp savings

Presentation from Goldman Sachs to State of Alaska on June 3, 2004
"Partnering and Risk Allocation Strategies for the Alaska Natural Gas Pipeline"
Assumes creative use of loan guarantees to achieve maximum benefits

- Federal Loan Guarantee could reduce taxable yields by approximately 50 basis points.

Presentation from JP Morgan to Legislative Budget and Analysis Committee, June 16, 2004
"Interim Hearings: Alaska Natural Gas Pipeline Issues"
Assumes underlying credit rating of A, at most 60% debt

"...application of the DOE Guarantees to Alaska LLC's debt will probably lower the cost of borrowing with respect to such debt by approximately 50 to 100 basis points, depending on market conditions."

Dept. of Revenue, SGDA Contract FIF

110 FERC ¶ 61,095
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Regulations Governing the Conduct of Open
Season for Alaska Natural Gas Transportation
Projects

Docket No. RM05-1-000

ORDER NO. 2005

FINAL RULE

(Issued February 9, 2005)

1. The Federal Energy Regulatory Commission is amending its regulations to establish requirements governing the conduct of open seasons for capacity on proposals to construct Alaska natural gas transportation projects. This Final Rule fulfills the Commission's responsibilities to issue open season regulations under section 103 of the Alaska Natural Gas Pipeline Act (the Act), enacted on October 13, 2004.¹ Section 103(e)(1) of the Act directs the Commission, within 120 days from enactment of the Act, to promulgate regulations governing the conduct of open seasons for Alaska natural gas transportation projects, including procedures for allocation of capacity. As required by section 103(e)(2) of the Act, these regulations (1) include the criteria for and timing of any open season, (2) promote competition in the exploration, development, and production of Alaska natural gas, and (3) for any open seasons for capacity exceeding the initial capacity, provide for the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

¹ Public Law 108-324, October 13, 2004, 118 Stat. 1220.

G. Rate Treatment for Expansions

111. As noted above, one of the issues that received substantial attention in the pre-NOPR comments is whether the Commission should require rolled-in rate treatment for Alaska pipeline expansions. Although the NOPR's proposed regulations are silent on this subject, the NOPR requested comment on whether, in the event the Commission issues regulations with respect to the Commission's authority to require expansion of any Alaska natural gas transportation project, those regulations should address the rate treatment (rolled-in or incremental) of any such expansion.

112. Other than the North Slope Producers and Alliance, there is much support for rolling-in the costs of both voluntary and involuntary expansions, although there is disagreement about when the issue should be resolved. ChevronTexaco states that the subject of appropriate rate treatment for expansions is a subject deserving of substantial, detailed consideration that should be addressed after dealing with the more pressing task of issuing the open season rules. Northwest Industrial Gas Users also believes that the issue can be addressed later. Alaska agrees that expansion pricing is a complex subject that should be examined thoroughly, and asserts that instead of addressing the issue in this rulemaking, the Commission should issue a notice regarding expansion rate treatment for Alaska natural gas transportation projects in early 2005. Alaska observes that the arguments in support of rolled-in pricing are strong, but suggests that rolled-in pricing might not be appropriate in all circumstances. Alliance believes that because the appropriateness of rolled-in or incremental rate treatment for any expansion should be made on a fact-specific basis, and not by rule that predetermines, before the circumstances of a given expansion are even known, how that expansion should be priced.

113. Pacific Star and Alaska Venture Capital state that the Commission should give an early indication that it will support rolled-in rates for expansions of any Alaska natural gas transportation project. Pacific Star states that it agrees with the statement at the technical conference by TransCanada, ANGDA, Anadarko, BLM, and MMS that rate uncertainty will discourage exploration and development and that expansions of the pipeline could present widely varying rate consequences. Pacific Star also states that concerns over existing shippers' subsidizing rolled-in expansions should be weighed against the facts that initial shippers are benefiting from substantial subsidies through the \$18 billion loan guarantee and a 7-year accelerated depreciation. Alaska Venture Capital/Brook Range similarly believes that the Commission should give an early indication that it will support rolled-in pricing under scenarios outside the Commission's existing policy, under which the Commission approves rolled-in rates only where the rolled-in rate is equal to or less than the existing recourse rate. According to Alaska Venture Capital/Brook Range, a policy calling for different rates for similar services

would place explorers and smaller producers at a competitive disadvantage. This would, in turn, discourage exploration and development of Alaska natural gas, contrary to the mandate of the Act.

114. TransCanada, MidAmerican/AGTA, and DOI encourage the Commission to adopt a rebuttable presumption favoring rolled-in rates. TransCanada states that any shippers concerned about the effect of such treatment can seek to avoid it through negotiated rates. MidAmerican/AGTA qualifies its support for this presumption by stating that the presumption should apply only to reasonably-engineered increments of mainline expansions supported by long-term contracts similar to those supporting the initial project. DOI states that rolled-in rate treatment is more equitable to future shippers, and that, because Canada has adopted rolled-in rates for expansions, it would provide rate consistency for the entire system.

115. Alaska Legislators, Anadarko, Shell, Calpine, Arctic Slope, and Doyon all contend that rolled-in pricing should be required for pipeline expansions. Alaska Legislators contend that incremental treatment for expansions would discriminate against expansion shippers who, merely because of the timing of their capacity needs, may pay higher rates than initial shippers. This, according to the Alaska Legislators, ignores the fact that the need for expansion is the consequence of the demands of all shippers. Alaska Legislators state that the Commission must balance the interests of the existing customers against interests of other stakeholders in determining whether or not pre-existing shippers should get the benefit of rate decreases for expansions that lower the average per unit cost of transportation, but face the possibility of rate increases that increase the average per unit cost of transportation. Alaska Legislators also note that the current Commission policy on expansion pricing was developed to address pipeline to pipeline competition, which will not arise in Alaska.

116. In addition to arguing that incremental rates operate to discriminate against expansion shippers, Alaska Legislators argue that the prospect of incremental rates will also act to reduce competition and impede the development of Alaska natural gas. Alaska Legislators state that exploration and development of Alaska reserves requires a long lead-time due to seasonal restrictions and the remoteness of the resource.³⁷ Alaska

³⁷ Alaska Legislators refers to a statement made at the technical conference by Jeff Walker, of DOI's Mineral Management Service that it takes at least nine years for an exploration project to mature into production.

Legislators contend that this long lead time makes it difficult for an explorer to judge when it is feasible to commit to capacity on the pipeline. The result, state Alaska Legislators, is that the explorers and developers may be deterred from investing the large sums required to drill for Alaska natural gas, when they are unsure whether their future capacity needs will be met at a time when inexpensive expansion through increased compression will be available, or whether the expansion they require would involve costly looping. The Alaska Legislators also argue that Canada has a long-standing policy of requiring rolled-in rates for expansions which could make exploration in Canada much more attractive to exploration and production companies.

117. Anadarko, also convinced that expansions under section 103 of the Act must be priced on a rolled-in basis, argues that this is critical to avoid a rate structure or policy that discriminates on the basis of time of entry onto the pipeline. Anadarko maintains that it is important to establish this requirement in the initial open season process in order to inform those prospective shippers that their rates might increase as expansions are rolled-in. Alaska Legislators provide a history of the Commission's expansion rate policy, varying over time in order to address different goals as deemed necessary to address changing market dynamics. In short, Alaska Legislators assert that the current Commission policy favoring incremental expansion rates seeks to address issues of competing pipelines, competitive markets, optimal construction, and protecting captive customers, all valid considerations of the market setting in the lower 48 states, but wholly inapplicable to an Alaska natural gas transportation project or the Alaska market. According to Alaska Legislators, the Act instructs the Commission, through its open season regulations, to focus on reducing barriers, not to competitive markets, but rather, to entry in exploration and development of Alaska natural gas. Alaska Legislators conclude that to achieve this mandated goal, the open season regulations must be revised to include rolled-in pricing as one of the criteria for open seasons for pipeline expansions

118. Shell and Calpine also argue that Commission's 1999 pricing policy for expansions has no application to the circumstances of an Alaska natural gas transportation project where there is no element of pipeline competition or preventing overbuilding. Shell is concerned that companies might not invest hundreds of millions in exploration and development costs if they may have to pay for expansions on an incremental basis, while competitors benefited from earlier, inexpensive expansion. Calpine stresses that since an Alaska natural gas transportation project will be called to transport all Alaska gas, not just gas from Prudhoe Bay and Point Thomson reserves, a larger picture is required in assessing any policy against subsidization. Calpine maintains that an Alaska pipeline should be viewed as a 10 Bcf/d pipeline that will be built, in phases, over time, as opposed to a 4.5 Bcf pipeline that might be expanded from time to time. Under this picture, shippers on the first phase facilities will benefit from lower initial rates due to the Act's loan guarantees, however the Act was not only concerned

with facilitating the development of a project that carries Prudhoe Bay and Point Thomson production to market, but also the development and transportation of Alaska's unproven reserves.

119. Arctic Slope is also concerned that unless rolled-in rates are mandated, there may never be an expansion of the pipeline beyond capacity created through infill compression and added compression horsepower. Arctic Slope estimates that rolled-in rates for expansions would probably be only a little higher than the initial rates since expansion costs would be borne by the entire pipeline throughput. However, the impact of incrementally-priced expansions on the incremental shippers, which would be based entirely on the incremental throughput quantities, would be very severe.

120. Alliance and the North Slope Producers assert that rates for expansion should be determined on a fact-specific, case-by-case basis, not on a pre-determined, rolled-in basis under the open season rules. The North Slope Producers stress that absent information regarding design, timing, and other project attributes, it would be inappropriate either to require or to favor rolled-in rates. In addition, the North Slope Producers point to section 105(b)(1) of the Act wherein, they state, Congress identified either rolled-in or incremental rates as appropriate for mandatory expansions. They add that if rolled-in rates were made applicable to voluntary expansions in the final open season rule, the result would be that such expansions would become involuntary and they would be discouraged.

121. Additionally, the North Slope Producers state that the Commission's existing, fact-specific policy recognizes the risks inherent in major infrastructure projects and seeks to prevent uneconomic pipeline expansions, as well as subsidization by existing customers, and should not be lightly discarded. Responding to the assertion that the NEB requires rolled-in rates for Canadian expansions, the North Slope Producers state that although the NEB has adopted rolled-in rates in expansion cases, NEB addresses the issue on a case-by-case basis.

122. Finally, the North Slope Producers claim that explorers do not require absolute rate certainty in order to decide whether to participate in open seasons; an anticipated range that supports future economics is sufficient. On the other hand, the North Slope Producers state that initial shippers who fear that they may be called on to subsidize future shippers may not bid for initial capacity. In this connection, the North Slope

Producers contend that one of the Commission's goals is to protect captive customers from rate increases arising from costs unrelated to their service, resulting in rate uncertainty and increased contractual risk.³⁸

123. In this rule, the Commission does not adopt a firm pricing policy for future expansions of an Alaska natural gas transportation project, but we do take this opportunity to provide guidance on this important issue, as it will assist participants in the initial open season. We conclude that there should be a rebuttable presumption in favor of rolled-in pricing for project expansions. Our existing lower-48 states policy favoring incremental rates for expansions does not apply in the case of an Alaska natural gas transportation project. There is likely to be only one Alaska pipeline, so there will be little or no opportunity for competition between pipelines. Incremental pricing of expansion could put expansion shippers at a significant rate disadvantage compared with initial shippers, and accordingly could discourage exploration, development and production of Alaska natural gas. Having markedly different rates for similar service could be in conflict with one of the chief objectives of the statute, which is to encourage further exploration and development of Alaska natural gas. On the other hand, consistent with the arguments of a number of commenters, a presumption in favor of rolled-in pricing may spur investment in and development of Alaska reserves, and the ultimate delivery of that gas to the lower 48 states.

124. We cannot at this point, without a specific project proposal or the facts surrounding a proposed expansion before us, define exactly what will be required to overcome the presumption. As a general matter, we have historically not favored requiring existing shippers to subsidize the rates of new shippers. We do not intend to discard this principle, but rather to indicate that we will not lightly authorize expansion rates that would have an unduly negative impact on the exploration and development of Alaska reserves. Witnesses at the technical conference acknowledged that defining subsidization is difficult without specific facts to review, and that fact was restated in several of the comments filed. We agree. But a basic observation may be useful here. For example, a rolled-in expansion rate that is less than or equal to the rate paid by the initial shippers would not be considered a subsidy. Whether a rolled-in expansion rate that is higher than original rates is a "subsidy" is a question that necessarily would have to be reviewed in the context of a future NGA section 7 filing. At that time, Pacific

³⁸ See, e.g., *Transcontinental Gas Pipe Line Corp.* 106 FERC ¶ 61,299 (2004).

Star's arguments relating to whether the federal government's loan guarantees and accelerated depreciation amount to a "subsidy" of initial shippers' rates may be raised.

125. In conclusion, to provide guidance to potential shippers in advance of the initial open season that is the subject of this rule, the Commission intends to harmonize both objectives (rate predictability for initial shippers and reduction of barriers to future exploration and production) in designing rates for future expansions of any Alaska natural gas transportation project. It is consistent with our guiding principle that competition favors all of the Commission's customers, as well as with the objectives of the Act, to adopt rolled-in rate treatment up to the point that would cause there to be a subsidy of expansion shippers by initial shippers, if any subsidy were to be found.

126. Anadarko states that the open season regulations must prohibit pipelines from bundling ancillary services with transportation. In particular, Anadarko is concerned that sponsors might include in a tariff and an open season the bundled cost of a gas conditioning plant that would extract CO₂ despite the fact that such extraction would not be required of gas from many new Alaska gas fields which likely will be of pipeline quality. MidAmerican/AGTA and Enbridge agree that the open season process should preclude applicants from tying receipt of capacity to taking ancillary services, such as gas conditioning, treating, or processing. TransCanada simply states that it has no objection to proscription of tying.

127. DOI and MidAmerican/AGTA agree that rates for ancillary services should not be bundled with transportation rates. However, DOI contends that the State of Alaska should address the need for rules concerning non-discriminatory access to gathering and other production-related facilities, whereas MidAmerican/AGTA claims that the Commission should assert jurisdiction over gas treatment plants and require separate open seasons and cost-based tariff structures for gas processing. On the other hand, the North Slope Producers contend issues of tying or bundling of services can be dealt with through established Commission processes and policies at the appropriate time, and need not be addressed in the open season. Alliance views the tying issue in the context of requiring designated downstream capacity, and suggests that as a practical matter, that should not be prohibited.

128. The Commission is stating in the final rule at section 157.34(c)(6) that the open season notice must contain an unbundled transportation rate. Moreover, section 157.34(c)(10) prohibits a prospective applicant from requiring prospective shippers to process or treat their gas at any designated facility. The Commission is satisfied that it can address any other discriminatory conduct in connection with gas quality requirements or other ancillary services through the provisions of section 157.35 in conjunction with existing Commission policies and procedures.

Tanana Chiefs Conference AGIA Project Labor Agreement Resolution

- Whereas, Tanana Chiefs Conference represents forty two sovereign Alaska Native Tribes whose tribal lands include the majority of right of way for any and all of the proposed southern route gas line projects being presently considered, and
- Whereas, Tanana Chiefs Conference represents a large potential workforce of underutilized tribal members, both male and female, skilled and non-skilled, and
- Whereas, Tanana Chiefs Conference has a sincere desire to build the capacity and skill levels of that workforce to help address village infrastructure construction projects and bring increased economic opportunity to its tribal members both now, and in the future, and
- Whereas, Tanana Chiefs Conference and some of its sub-regions and tribes have negotiated project, tribal and other collective bargaining agreements with some of the construction unions, mainly with the Laborers Union and Operating Engineers, with very positive outcomes, and
- Whereas, As a result, Tanana Chiefs Conference has seen a marked increase in participation by its tribal members with regards to job opportunities, training programs and apprenticeship programs along with pension plan participation and medical plan participation above and beyond IHS coverage, and
- Whereas, Tanana Chiefs Conference is fully supportive of Alaska Native hire and Alaska Local hire on whatever gasline project is finally decided upon, and
- Whereas, Tanana Chiefs Conference members supports construction project agreements that along with skills training, pension plans, and medical plans will deliver enforceable Alaska Native, and local, hire language for the construction of whatever gasline project is decided upon, and
- Whereas, Tanana Chiefs Conference does not want to repeat what happened during the Trans Alaska Pipeline System Project regarding Alaska Native preference opportunities by not being a part of a comprehensive Project Labor Agreement at the project's inception, and
- Whereas, Governor Palin's AGIA bill calls for a negotiated Project Labor Agreement for whatever gasline project is finally decided upon, and
- Whereas, Tanana Chiefs Conference has recognized that in light of applicable case law, the best vehicle to define real Alaska residency and real Alaskan Native status to ensure

preference and participation for its tribal members on any proposed gasline project is through a Project Labor Agreement,

Therefore Be It Resolved;

That the Tanana Chiefs Conference supports the Governor Sarah Palin's AGIA plan amendments as long as there is a Project Labor Agreement that contains as one of its tenants, enforceable project participation preference for qualified Alaska Native employees in numbers and percentages that are generally reflective of the population demographics of the State of Alaska at the time the project begins,

A black and white aerial photograph of a natural gas pipeline stretching across a vast, flat, open landscape. The pipeline is a dark line cutting through the terrain, which appears to be a mix of fields and low-lying vegetation. The sky is bright and overcast.

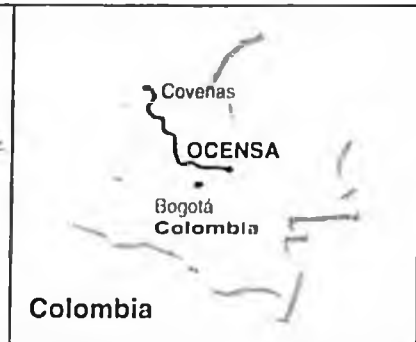
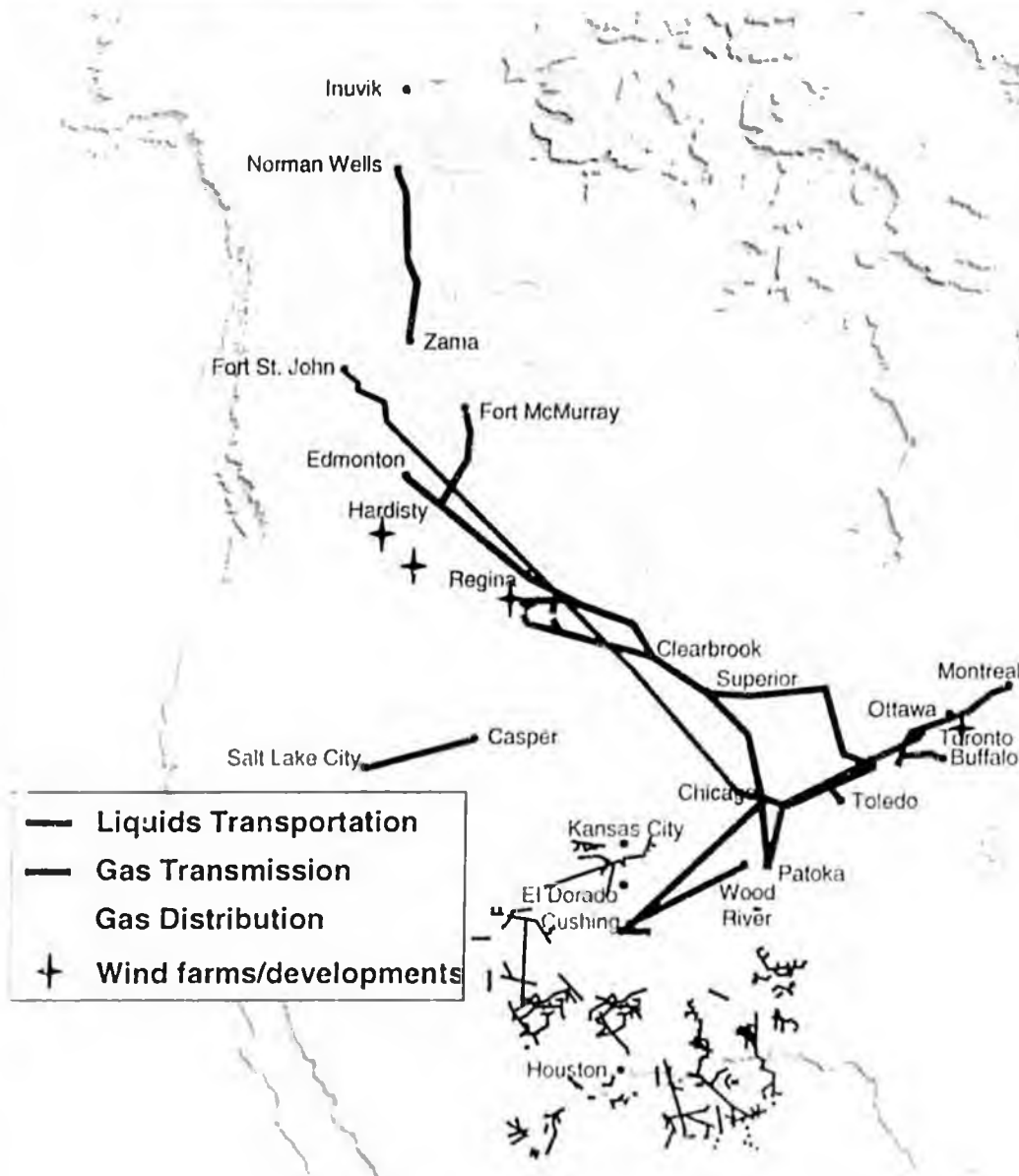
Alaska Natural Gas Pipeline House Finance Committee

May 1, 2007

Ron Brintnell

Director, Gas Development

Enbridge Overview

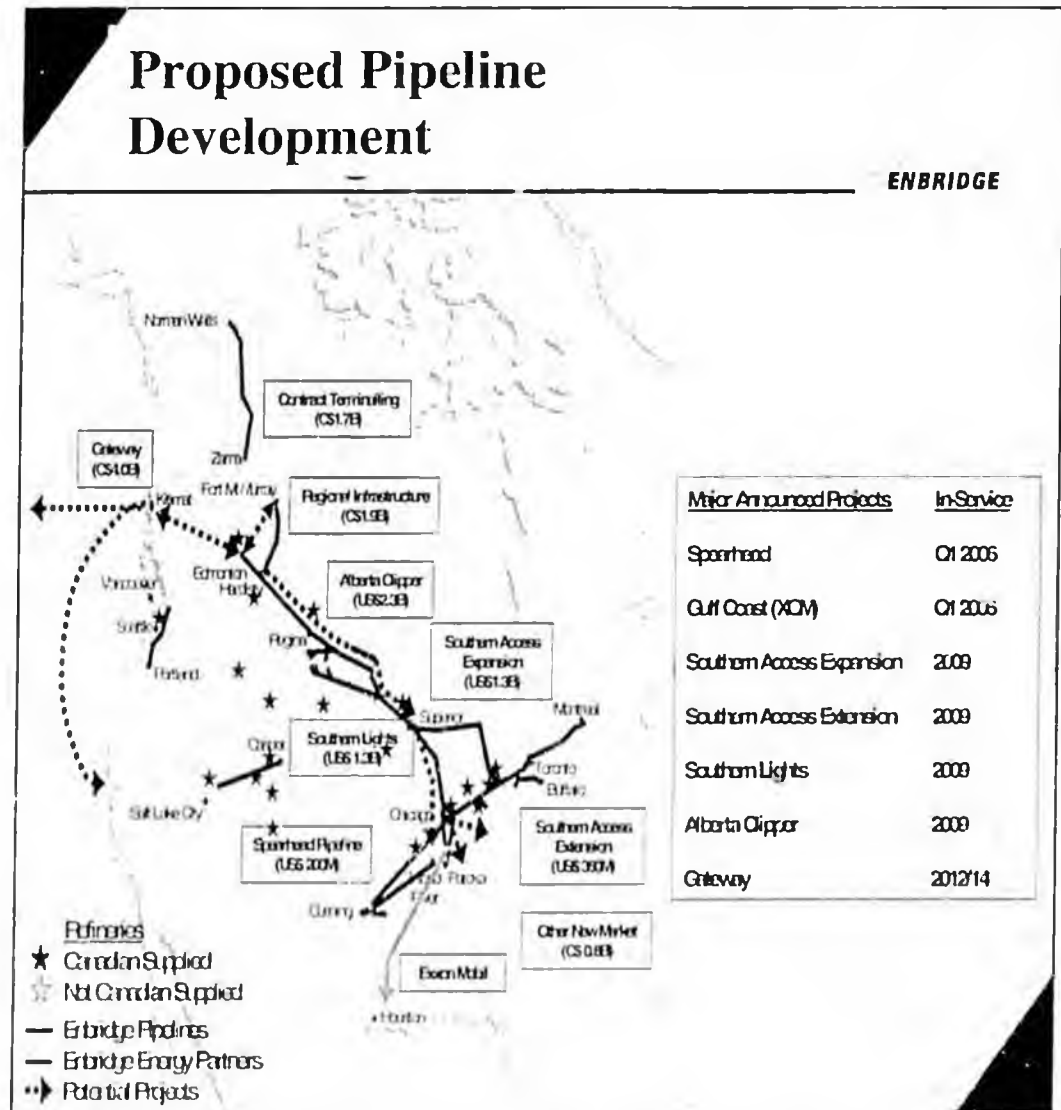


- Interest in 50,000 miles of pipelines
- Own and operate world's longest liquid petroleum pipeline
- Deliver 70% of WCSB crude oil production
- Deliver half of deep water Gulf of Mexico natural gas production
- Canada's largest natural gas local distribution company
- Employ 4,900 people
- One of the *Global 100 Most Sustainable Corporations in the World*

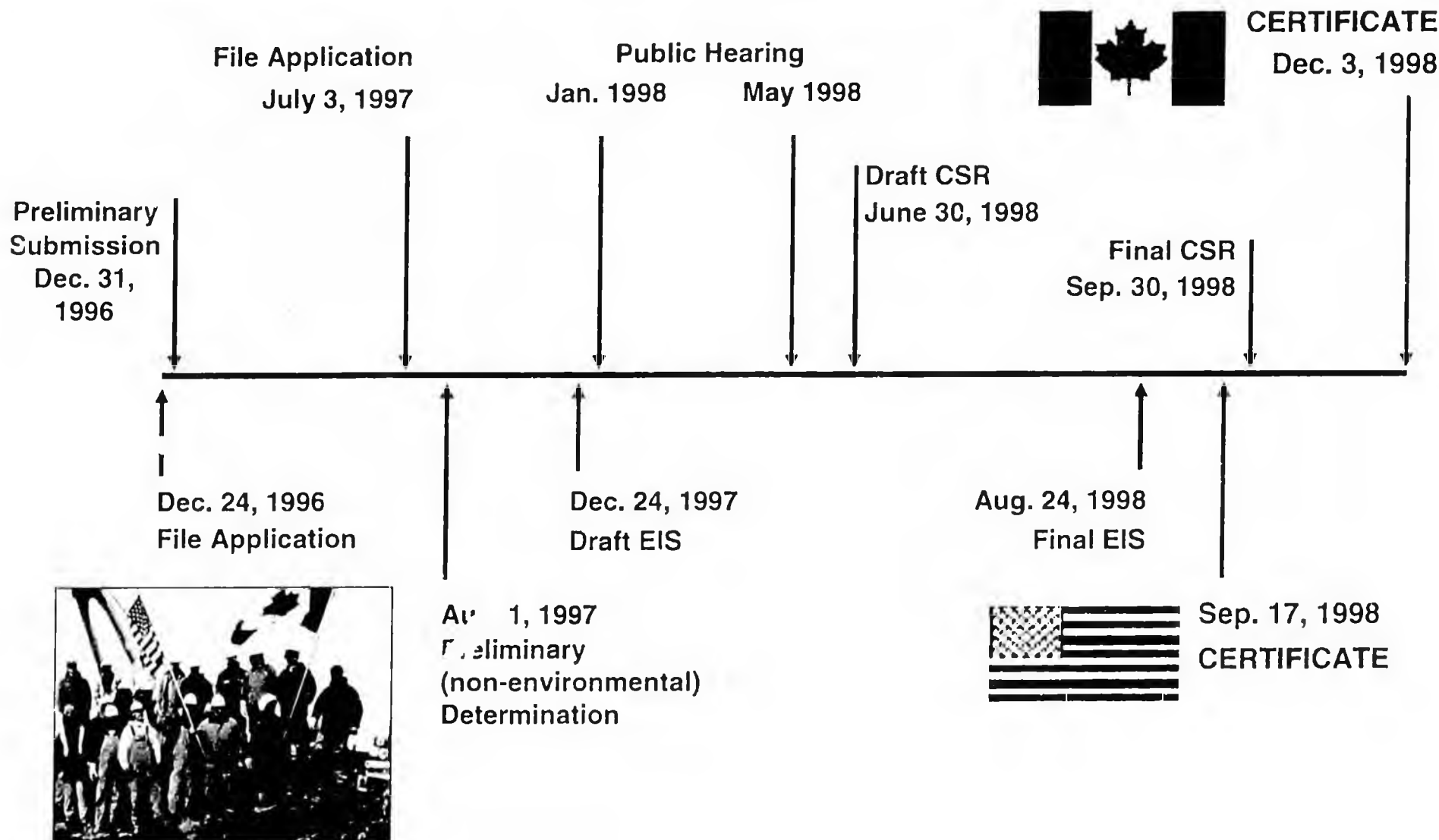
Unparalleled Experience in Recent Pipeline Development



- \$15 billion over the next 10 years
 - Unmatched recent experience managing labor, construction, procurement, environment, regulatory and cost-control challenges
 - Today's development environment is substantially different than 10 years ago
- Alliance Pipeline
 - Technical and commercial similarities



Alliance Pipeline



Moving the Project Forward Requires Producer Alignment



- **No producers No pipeline !**
- **Project is too risky - too big, too complex, too expensive - to move forward without producers**
- **Potential gas buyers see *no producers as no progress***
 - Buyers' dilemma, switch to coal, go off-shore or wait for Alaska?

Moving the Project Forward Don't Just Focus On The Pipeline



- **As drafted, AGIA is unlikely to produce significant commercial results.**
- **AGIA introduced as a catalyst to expedite the construction of a natural gas pipeline**
- **AGIA focus is on the pipeline and not entire project which requires Producer alignment**
- **AGIA adds unnecessary regulatory complexity**
 - **FERC process well defined and effective**

Moving the Project Forward Promote, Don't Stymie Innovation



- **Absolute requirements may result in not having the opportunity to evaluate creative solutions that add value in different ways**
- **This is not a standard RFP project**



Canadian Oil Sands Development Valuable Lessons

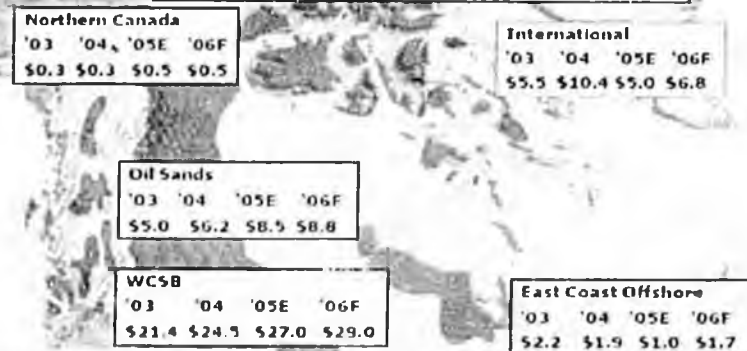


- Investment of \$125 billion
 - Significant new employment, tax revenue, long term growth
 - Extensive new pipeline development

Industry Capital Spending Cdn \$billions



The oil & gas industry will invest over \$40 billion in capital in Canada in 2006



- Resulted from proactive progressive political vision that facilitated development
 - Worked cooperatively with industry
 - Generating greater returns for all

Canadian and U.S. Crude Oil Pipeline Alternatives



Moving the Project Forward Understand What Is Achievable



- Binding shipper commitment is required prior to spending significant \$'s on regulatory applications
 - Not commercially prudent to assume producers will show, or that gas can be “acquired”
 - Risk too high even with government cost sharing
- Even binding shipper/pipeline agreements will have conditions including:
 - An acceptable FERC Certificate
 - Acceptable Financing
 - Shipper resolution of Alaska state taxation issues
 - Defined project milestones / timing
- An unconditional commitment to proceed will not happen
 - Regulatory certificates may have conditions making project uneconomic
 - Events between application and certificate could make project uneconomic

Moving the Project Forward Understand Canada



No company has the exclusive right to build a pipeline to ship Alaskan gas in Canada

- 2 Options to Permit the Project Through Canada

NPA

Northern Pipeline Act passed in 1977

Socio-economic baseline impact developed late 1970s

Certificates of Public Convenience and Necessity issued to Foothills Pipeline to build the Can portion of the Alaska Natural Gas Transportation System proposal.

Enshrines a 30-year old project never undertaken that has now significantly changed

NEB – CEAA

Modern, efficient and transparent regulatory process

Dove-tails with FERC

Consistent with NAFTA

Contemporary, well understood processes:

First Nations participation

Environmental assessments and practices

Economic benefits through open competition

Moving the Project Forward Understand Canada



“As we move forward, I am guided by **five principles** that I believe can be **applied to all pipeline decisions:**

- First, they **must not interfere with market forces.** We will **let the market decide.**
- Second, our decisions must be **supportive of a modern regulatory regime**
- Third there must be a **project management approach**
- Fourth, the **pipelines must support Aboriginal economic development**
- Finally, decisions **must ensure that Canadian benefits are realized**”

Honourable Jim Prentice

Minister of Indian Affairs and Northern Development

Presentation to Canadian Energy Pipeline Association Annual Dinner

May 2006

Moving the Project Forward

Final Thoughts



Enbridge believes:

- Outstanding fiscal issues are the project's "elephant in the living room."
- An unconditional commitment to advance the project is not achievable
- AGIA will best serve Alaskans if it allows for the creativity and innovation that drives the market place.
- Government financial assistance is not essential
- Government can achieve key goals without adding to regulatory process
- Canada will be ready for this project
- Alaska should ensure that it does not create a process that is all about process

Alaska Natural Gas Pipeline

Enbridge Inc.'s assessment of issues pertaining to the Canadian portion of the Alaska Pipeline

Background Of The Northern Pipeline Act ("NPA")

In the mid-1970's the United States and Canada suffered from significant energy shortages and security concerns. The two countries agreed that greater energy supply and security could be achieved through the development and construction of a pipeline that would transport natural gas from Alaska's North Slope through Canada to the lower 48 states. This agreement was embodied in an exchange of diplomatic letters between Canada and the United States (collectively, the "Treaty"), which set out the size and pressure of the pipeline, the fiscal regime that was to apply and the route along which the pipeline was to be built.

In 1978 the Government of Canada passed the NPA in order to facilitate the planning and construction of the pipeline that Canada and the United States had agreed to in the Treaty; in fact, the Treaty is included as Annex I to the NPA.

In Enbridge's view, the NPA is specific to the pipeline contemplated in the agreement between Canada and the U.S. set out in the Treaty; indeed, the definition of "pipeline" in the NPA means "the pipeline for the transmission of natural gas from Alaska across Canada along the route set out in Annex I [the Treaty] to the Agreement..." Accordingly, the definition of "pipeline" in the NPA cannot be separated from the pipeline referred to in the Canada-U.S. agreement. They are one and the same.

It is important to recognize that this is all that the NPA does. It is not an omnibus statute dealing with the development of northern pipelines generally or even a general statute dealing with the transportation of Alaskan gas through Canada. Equally importantly, the NPA does not make any changes to the powers of Canada's National Energy Board ("NEB") to consider alternative international pipelines from Alaska into or through Canada.

In 1978, in contemplation of the construction of "the pipeline", several Certificates of Public Convenience and Necessity ("CPCNs") were issued pursuant to the NPA. Under the terms of the Treaty the pipeline was to be finished by 1983. However, because of changing economic circumstances, only the "Pre-build" portions of the project defined in the Treaty were built.

No Party Has Exclusive Rights To Build A Pipeline In Canada To Transport Alaskan Gas

There is no reference in the NPA (or in any other piece of Canadian legislation that we are aware of) that prohibits the development of an alternative pipeline to ship Alaskan gas through Canada.

Enbridge does not dispute that the rights granted under the NPA are exclusive, but those rights do not preclude progressing another project under the National Energy Board / Canadian Environmental Assessment Act.

The NPA Is Project Specific

The NPA was passed in order to give effect to the Treaty. The Treaty contemplates a very specific pipeline project, right down to specifying the fiscal regime, the route to be followed and the operating pressures and the diameter of pipe to be used. Reference to the pipeline specified in the Treaty is then used in the NPA to define the term "pipeline" for the purposes of the NPA. In Enbridge's view, the CPCNs are not a general authorization for the construction of "a" pipeline

from Alaska through Canada - the CPCNs are at most a partial authorization for the construction of the pipeline specified in the Treaty.

The project currently envisioned is not the pipeline specified in the Treaty. For example, the Treaty specifies a pipeline with an initial capacity of 2.4 bcf/d, while current proposals contemplate an initial capacity of about 4.5 bcf/d. The Treaty specifies 54" diameter pipe while current proposals contemplate 48" or 52" diameter pipe. The Treaty specifies 1120 psi pressure. Current proposals contemplate 2500 psi. In addition current proposals contemplate a different termination point and include liquids in the gas stream. In short, the current proposal is significantly different than the pipeline approved in the CPCNs.

Absent formal amendments, it is questionable whether variations could occur under the Treaty. History supports this view. For example in 1978 the Governments of Canada and the United States believed it necessary to execute an amendment to the Treaty when they decided to change the pipe diameter from 56" to 54".

In addition it should be noted that historically the NPA has not covered all necessary facilities. For example, the NPA did not apply to the decompression / recompression facility that was installed in the late 1990's at Empress Alberta, as part of the Pre-build system. That facility was approved under the NEB process.

CPCNs

While there is no "sunset clause" or expiry date in the NPA, it should be noted that such legislation in Canada rarely includes expiry dates.

CPCNs can lapse if not exercised in a timely fashion, or if other factors have intervened.

In this particular case:

- (i) The CPCNs are subject to conditions, including Schedule III of the NPA

Construction of the project cannot start tomorrow. Under Schedule III of the NPA, a number of conditions need to be satisfied before the CPCNs can be relied upon.

One of the conditions (s.13) of Schedule III requires the filing of contracts between producers and shippers and between shippers and the company (the holder of the CPCNs). This makes shipper support critical to the holder of the CPCNs.

The conditions in Schedule III also include the requirement to apply for and receive all necessary regulatory approvals required for the work (s.17). Such approvals would include, for example, land use permits, water use permits, fisheries authorizations, navigable waters authorizations and timber cutting permits in the Yukon, British Columbia and Alberta.

The Northern Pipeline Agency, which administers the NPA, does not issue these necessary regulatory approvals; they are issued under any number of other Canadian Acts, including the Canadian Environmental Assessment Act and the Yukon Environmental and Socio-economic Assessment Act. Under the NPA, each approval would require its own panel. Unlike a modern NEB process, the NPA offers no opportunity to coordinate federal and provincial environmental reviews and does not include the statutory advantages of modern regulatory schemes. The NPA and the Northern Pipeline Agency have no authority to override provincial jurisdiction in environmental matters.

- (ii) The CPCNs were granted in an era of limited environmental review

The environmental review that was completed when the CPCNs were originally granted would not, in Enbridge's view, meet current standards for environmental reviews. Indeed, when the original environmental review was done it was completed under an Environmental Assessment Review Panel ("EARP"), a process that has since been replaced by processes under the Canadian Environmental Assessment Act. At the time, the EARP panel recommended rejection of certain routes and concluded that it did not have enough information on which to make a decision. As Enbridge understands it, it was only when the federal government finally overrode the panel and ordered it to reconsider its rejection of certain routes that approval was achieved.

Stricter standards are in place today.

- (iii) The CPCNs were granted prior to Canadian courts establishing rules requiring consultation with First Nations whenever activities take place in their traditional or treaty lands.

Canada's recognition and protection of the rights of its aboriginal people has changed. From the early 1980's a series of court decisions have recognized and upheld the constitutional rights of Canada's First Nations to be consulted in a comprehensive manner whenever development activities are proposed within their traditional lands or treaty areas.

- (iv) The NPA and the CPCNs are inconsistent with modern international trade agreements

The NPA pre-dates the North American Free Trade Agreement ("NAFTA") and was not exempted from the application of NAFTA when NAFTA was brought into force in 1994.

Schedule III of the NPA, which sets out the conditions which must be met prior to being able to rely on the CPCNs, requires (in Article 10) that Canadian content be maximized as far as practicable and that maximum advantage be taken of opportunities provided by the pipeline to establish and expand suppliers in Canada that can make a long term contribution to the Canadian industrial base. A report must be submitted specifying how the requirement will be complied with. This requirement is not discretionary, but mandatory.

Enbridge is advised that preferential requirements for Canadian products and services are contrary to NAFTA. In addition, Enbridge understands that the Canadian content preferences specified under the NPA could violate Canada's World Trade Organization obligations under Article III of the General Agreement on Tariffs and Trade ("GATT").

The pipeline will be the largest infrastructure project in North America. Accordingly, the economic stakes for suppliers are huge. If one were to accept the position that the NPA provides an exclusive opportunity to the holder of the CPCNs that is not available to other NAFTA investors, it could be argued that the NPA violates the provisions under Article 1102 of NAFTA. This opens the door for claims by other NAFTA investors.

Enbridge believes the Canadian Government would need to seek an exemption from the United States for the NPA to avoid the potential for litigation under NAFTA, but disputes under GATT may be unavoidable.

Rights-of-way ("ROW")

In B.C. and Alberta, right-of-way acquisition under either the NPA or an NEB process would start from the same point in the process. While there are existing map notations in B.C. and Alberta, map notations are not interests in land and allow no automatic right to be converted into a ROW.

To Enbridge's knowledge, the only ROW which exists is in the Yukon. That ROW only allows for investigatory activities such as geological investigations and surveying; it does not allow for construction. Construction cannot occur without prior written consent of the Canadian Federal Cabinet Minister designated for that purpose by the Canadian cabinet. It is unlikely that the Minister would approve construction prior to all the requirements set out in Part III of the NPA being met.

AGIA Testimony May 1st & 2nd, 2007. Prepared by David Gottstein

Hello Mr. Chairman and members of the committee, my name is David Gottstein, and I along with Former Governor Walter Hickel, Co-Chair the group Backbone. Thank you for the opportunity to testify before you today.

I also thank you for your efforts in working through the details of AGIA. What I would like to focus on today is perhaps the broad issues that sometimes get lost in the details.

Backbone is in support of AGIA and its major components because it provides for a competitive process, creates material incentives, and attempts to provide for the maximum benefit to the residents of Alaska. Even a recent Dittman poll indicates that the public, by more than two to one, believe the \$500 million incentive package is worthwhile.

My biggest caution to you today is to be very very careful as to who you listen to. What we know undeniably is that the representatives of the North Slope producers are paid to persuade and convince you that what is good for them is good for the State. It is simply paid advertising without any checks and balances. As a result, much of what they say must be challenged.

Let me offer some examples. They say that only the producers are capable of financing and building a pipeline of this magnitude. That couldn't be further from the truth, and we trust that Alaska's leaders are smart enough not to believe it.

Even if the likes of TransCanada, Mid-America and Sempra weren't already at our doorsteps, each fully capable and experienced enough to bring the appropriate parties to the table with a bona-fida bid, the private equity markets alone have over a trillion, yes that is a trillion dollars of money under management constantly looking for deals.

And with the forecasted price of gas and the Federal loan guarantees, they, along with the investment banking community will be chomping at the bit to get a piece of such an investment grade investment opportunity. So don't let the Producer's spin doctors convince you otherwise. The only thing that is necessary to get a pipeline financed and going is access to a sufficient quantity of gas to make it economical. Pt. Thomson and our royalty gas alone does that.

In football it's touchdowns, in baseball it's runs, in the North Slope producers attempt to control the process, maintain a monopoly grip, and own the pipeline, it's propaganda and influence peddling. This is a standard practice all over the world when it comes to big companies and big profit opportunities. If they can't control it, they want to stop the process, or at least slow it down as much as possible.

Let's dispel another fabrication; That the AGIA process is an exclusive one. As I read it, it is come one come all, and is not exclusive at all. The main beauty of AGIA is that it is a defined competitive process that will result in a pipeline sooner rather than later. It will provide more to our residents, as it will attract a more vibrant bidding pool that by definition will require more from the winning participants. AGIA doesn't preclude the chosen licensee from enriching their pipeline proposal by adding additional participants and aspects after a successful bid, as long as it doesn't mean less for the State.

The State has so much at stake, and is in a powerful position to choose what is in the best interests of our state, that it would be a shame to abdicate that in favor of what is truly an exclusive non-competitive process of dealing just with the producers just because the foxes say they know what is best for the henhouse.

Do we really want to repeat the mistake of putting our fiscal future in the hands of those with a long and proven history of

overcharging on the oil pipeline, and only paying up when the court of last resort rules so, or after a successful negotiation for a fraction of the dollars at stake, as a result of a political settlement? Can we really take what the Producers say seriously when they won't even attempt to engage in any truly honest and meaningful dialogue?

But it gets worse. They keep saying they own the gas. They don't. They have strong economic rights to produce the gas conditioned upon certain performance requirements. All you have to do is reference our constitution and the Mineral Leasing Act setting forth our rights and obligations to understand that.

The sincerity in which these hyperboles are put forward has me believe that the presenters believe it, because their bosses want them to believe it. When in fact, we own the resources, and when our tenant violates the lease, we not only have a right, but a duty to wrestle control back of our vast gas resources and make them available to a hungry nation.

But there's more; The North Slope producers, through a slight of hand amendment gimmickry are attempting to accomplish with amendments what they are failing to accomplish with their aforementioned propaganda, by asking you to provide for non-conforming bids and or to require their upstream participation. This would put them right back in control of our destiny.

I think your esteemed colleague Representative Doogan might have said it best about the Producer's attempt to build a pipeline when he said "If they wanted to build one, they'd be building one. They are immensely profitable companies. The federal government is offering loan guarantees. And they control the most important chip in the entire game, the North Slope gas that makes a pipeline possible. They have everything

they need to build a pipeline. They aren't building one. The only logical conclusion is that they don't want to build one."

I believe Representative Doogan is right, or at least the three producers won't be able to get together and agree to a project to move forward anytime in the foreseeable future. The North Slope producers were offered everything imaginable under the Stranded Gas Act, and still chose defiance. The people spoke in the last election, recognizing the Murkowski plan represented a huge giveaway. Why should we think if we offer them less, they will do more now?

We are in a game of chicken with the North Slope Producers, and we lose if we don't have the backbone to secure access to our gas and offer it in a free market and open process. The nanosecond that a line is approved, I believe the producers will participate, rather than being left out of one of the biggest investment opportunities in U.S. history, risk losing their leases due to obvious non-performance, or face the wrath of Congress for their intransigence. We urge you to limit amendments to ones that increase the likelihood of a successful open season process rather than ones that tilt in favor of Producer control.

The sad thing is that the corporate heads of the North Slope producers are spending all their time trying to lean us back to their own exclusive sole-source process, instead of trying to be competitive. They are gambling that propaganda is a cheaper way to get what they want than the cost of being competitive. In a time when our legislative and public processes are subject to heightened Federal judicial scrutiny due to the potential of conflicts of interest, let's prove them wrong. Let's pass AGIA with the few meaningful amendments that in your wisdom will increase the chances of a good pipeline and route sooner than later. Don't force a special session, and thereby increase the risk of failure to act. Thank you for your time and the opportunity to comment.

**Testimony by the Honorable Walter J. Hickel, House and Senate
Finance Committees, May 1, 2007 - Juneau**

Thank you for inviting us to testify here today.

Our North Slope natural gas is Alaska's greatest opportunity to guarantee the long-term viability of our state.

And Alaska is on the right course to make a gasline a reality in this generation.

It's a large project worthy of our great state.

I am just back from Moscow where I have been working with Russian leaders on two other great projects.

The opening of the Northern Sea Route to the worlda decision that will link the Pacific and the Atlantic oceans.

It will be a breakthrough of the same dimension as the Panama Canal.

And we don't have to build a canal!

The second great project is a tunnel beneath the Bering Strait, linking the U.S. and Russia.

Those who attended the Conference last Tuesday in Moscow realize how serious the Russians are about this visionary concept.

This link between the United States and Russia is going to happen.

And it's going to change the world.

Alaska's immediate opportunity, however, is our North Slope natural gas.

And it is up to our Governor and this legislature to make sure it is used for the maximum benefit of our people, as mandated by our constitution.

Keep in mind that the people of Alaska...the voters who elected you...are the owners of this gas.

You and Governor Palin are the trustees of their inheritance...

...won in our statehood battle and our Statehood Act.

The companies who hold Prudhoe Bay leases have purchased the right to "produce" our gas.

That's why we call them the "producers."

But they don't own the gas.

And they are required, through the leases they hold, to sell our gas if they can earn a "reasonable profit."

So let's get started.

Governor Sarah Palin's plan is a good one.

She has thrown open the process to make sure that the State finds the very best and most timely project.

Her team has designed legislation to put the needs of Alaskans first.

It means revenues for state government.

...gas for our homes...

...gas for our businesses...

...and gas for our remote villages that are in desperate need of affordable energy.

It means making sure that the valuable gas liquids...

...are available for in-state processing to create high-paying legacy jobs for generations of Alaskans.

It means a pipeline that encourages exploration...by the producers and by other companies, large or small, that believe they can find more gas.

Belief is the key to prospecting...and it is the key to life.

Believe me; we haven't begun to explore the natural gas potential of our state.

And we need a pipeline that will accommodate the discoveries of those believers.

In my view, this does NOT mean shipping our gas through Canada.

Any Canadian route has to resolve...

... "First Nation" land claims.

Treaty problems.

A long, expensive route.

Legal issues among competing Canadian interests.

And one bidder who wants to use our gas in the Alberta tar sands to produce oil...

...an outrageous plan for trillions of cubic feet of clean Alaska gas so needed by our nation and the world.

In my view and in the view of the majority of Alaskans...

... "maximum benefit" means an All Alaska Gasline....from Prudhoe to Valdez.

It means a pipeline started sooner and completed several years sooner.

It means an energy source for our villages and cities.

It means feedstock for value-added industries and jobs in Alaska.

We addressed the same issue in the 1960s and 1970s over North Slope oil.

We had to force the oil companies to drill at Prudhoe.

When I was elected Governor in 1966, BP had already given up.

So had all the others except Atlantic Richfield.

In early 1967, I flew to Prudhoe to meet with their head geologist Harry Jamison.

And he announced that they, too, were going to pull out.

(Ad lib: "You drill, or I will.")

In 1968, that rig discovered the biggest oil field in the history of North America.

But two years later as Interior Secretary I had to take Exxon to the mat, or there wouldn't have been a trans-Alaska oil pipeline.

(Ad lib: "Or I'm going public!")

Now we have another Governor who is ready to stand up for Alaska and Alaskans.

And the people are behind her.

Ladies and gentlemen of the State Legislature, this is your moment to step forward and stand with her.

The people of Alaska want a gasline now.

Together you can make history, and Alaska will long remember this generation of leadership.

Thank you.

Alaska Natural Gas Pipeline Project

Testimony on AGIA

House Finance Committee

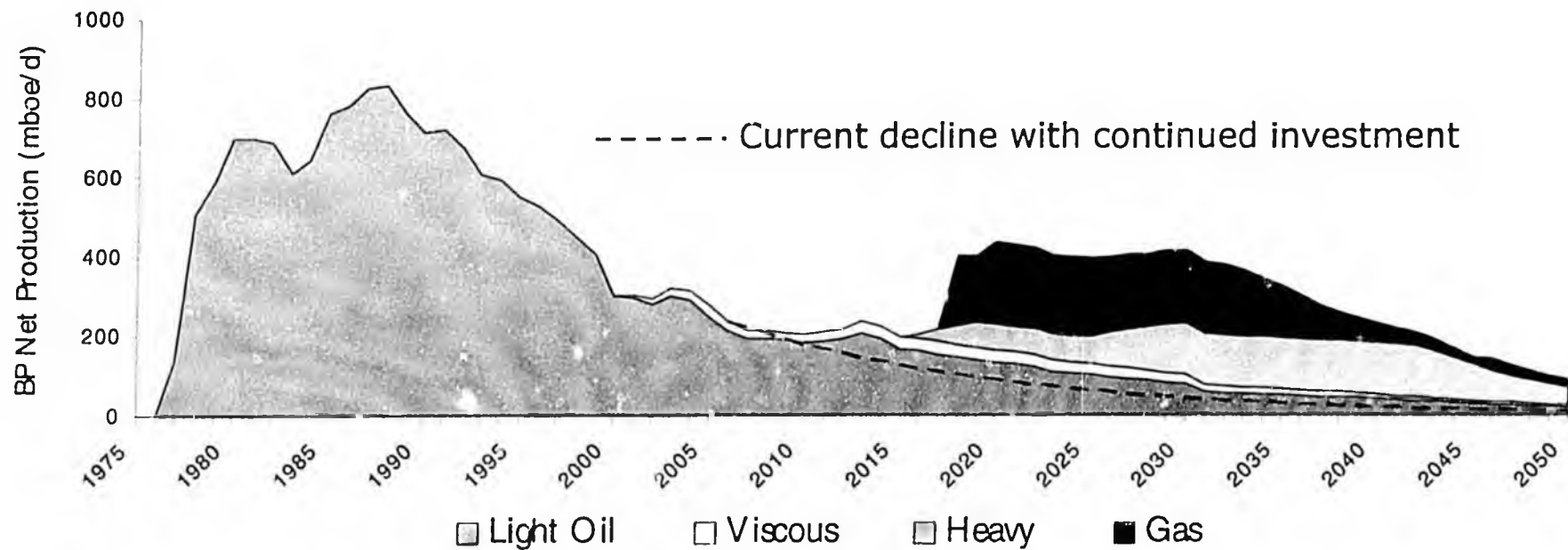
May 1, 2007





An Opportunity...and a Challenge

- BP wants and needs a successful gas pipeline



- Project remains commercially challenged

BP Disagrees with Administration's Economics



- Project is not "wildly profitable"
 - Can't separate upstream economics from midstream commitments
 - Economics must be based on the complete project

- Firm transportation commitments must be accounted for in project economics
 - Upstream pays for the midstream
 - Without FT there is no project

- Long-term cash generation is highly important
 - Cash flow well beyond 10 years remains vital

- Need common understanding of project to determine best way forward



What is so important about FT?

- Firm Transportation commitments (FT) by the resource owners are needed for a gas pipeline company to get financing
 - "No customers, no credit, no pipeline" (TransCanada)
 - "No producers, no pipeline" (Enbridge)

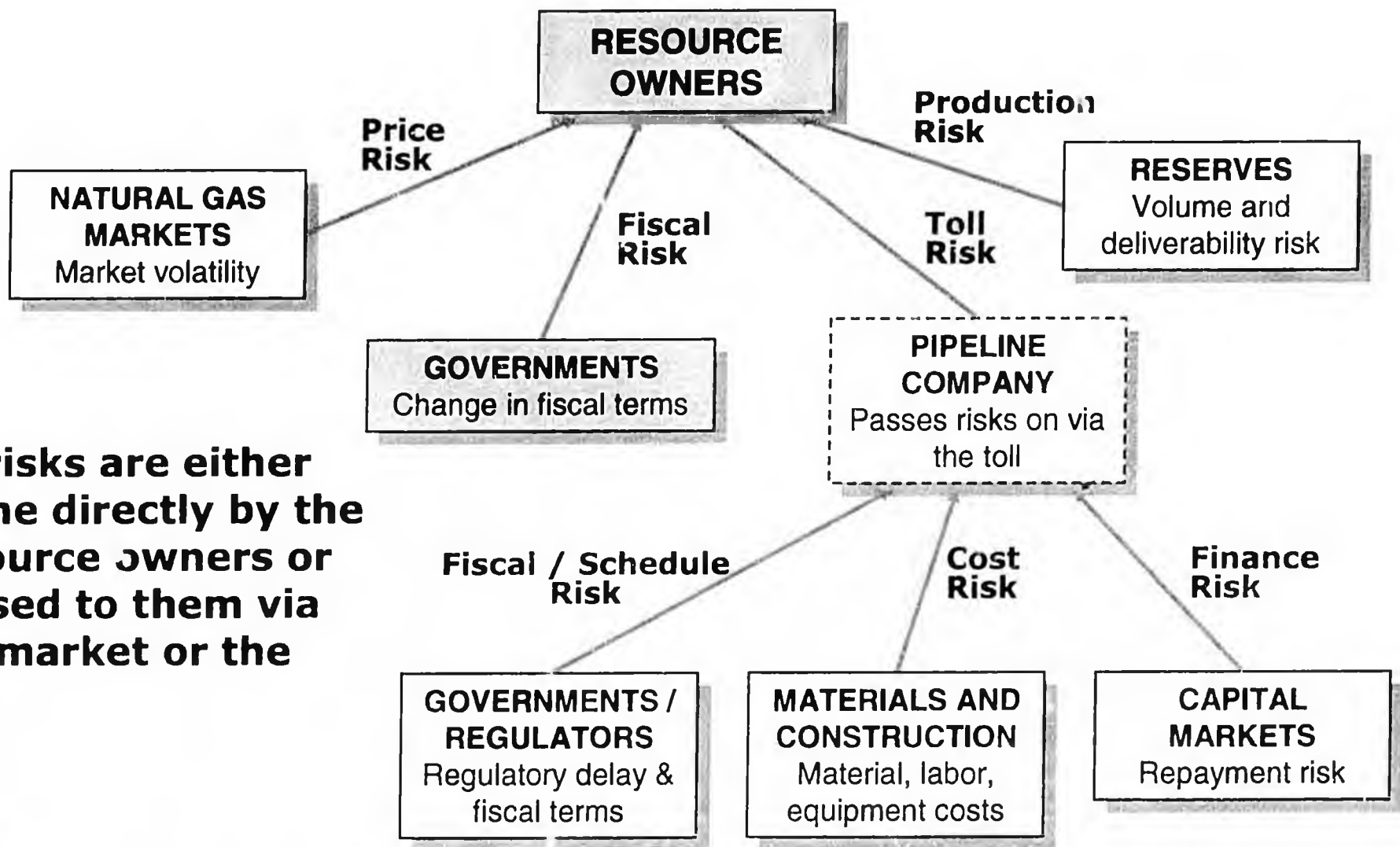
- FT is a binding financial obligation
 - not simply "committing gas to a pipeline"

- Requires multi-billion dollar commitments by resource owners
 - Assuming 4.5 bcfd, \$3.50/mcf, 25 year term.....**\$144 billion**

- Long term commitments represent real risk
 - Two risks:
 - Price risk (over time, market price will not cover FT cost *and* produce an acceptable return on the investment)
 - Supply risk (will not have sufficient gas to use the FT commitment over time)
 - Risk is borne by those making the commitments



Project Risk Resides with the Resource Owners



All risks are either borne directly by the resource owners or passed to them via the market or the toll.

➔ Those bearing a risk are commercially motivated to manage that risk



BP Messages on AGIA

- AGIA needs significant modification to result in a successful project
- As drafted, BP will not be able to submit a bid under AGIA
- As drafted, it is difficult to envision circumstances that would allow BP to make a firm transportation commitment to a licensed project under AGIA

Why?...

- Negotiated rate protection unavailable upon expansion
 - Subsidization of competitors is commercially unreasonable
 - Resource terms insufficient to justify FT commitment
- BP intends to bid if AGIA is appropriately modified

Key Concerns Preventing BP Bid Under AGIA

In the order they appear in HB-177



- .130(2)(B) / .210 – “Detailed” description of design requires substantial customer consultation, engineering
 - FERC Order 2005 requires “good faith estimate”
- .130(2)(C-D) – Can’t “demonstrate” economic viability
 - “nobody can say today whether this project is economic or not” (Mid-American Energy); need bottoms-up cost and revenue estimate
- .130(7) - Requires subsidization of competitors & eliminates negotiated rate protections
 - contrary to ANGPA & FERC rules
 - imposes unreasonable commercial risk
- .130(13) - Commitment to reserve capacity for in-state delivery points, regardless of open season outcome
 - imposes unreasonable commercial risk
 - not consistent with FERC Order 2005 [157.34(c)(8)]
- .150(a) - Release of proprietary information to competitors after license award creates huge exposure

Key Concerns Preventing BP Bid Under AGIA

In the order they appear in HB-177



- .200(a) - Must accept FERC certificate despite conditions
 - could add significantly to project cost
- .200(b) - Must sanction project within one year of FERC certification, regardless of cost
 - failure to sanction results in loss of all data to state (engineering, design, contracts, permits, etc.)
- .230(a)(2) / .210 - In breach if substantial deviation from plan set out in application
 - Unless it increases NPV, is ordered by AOGCC or isn't foreseeable
 - FERC, BLM, municipal agencies, Canada, etc. could require changes to project specs outside state control
- .240(c) - Effectively no way to abandon an uneconomic project; licensee subject to damages
- .310 - .320 - Fiscal terms insufficient; risk of no FT customers
 - "no customers, no credit, no pipeline" (TransCanada)



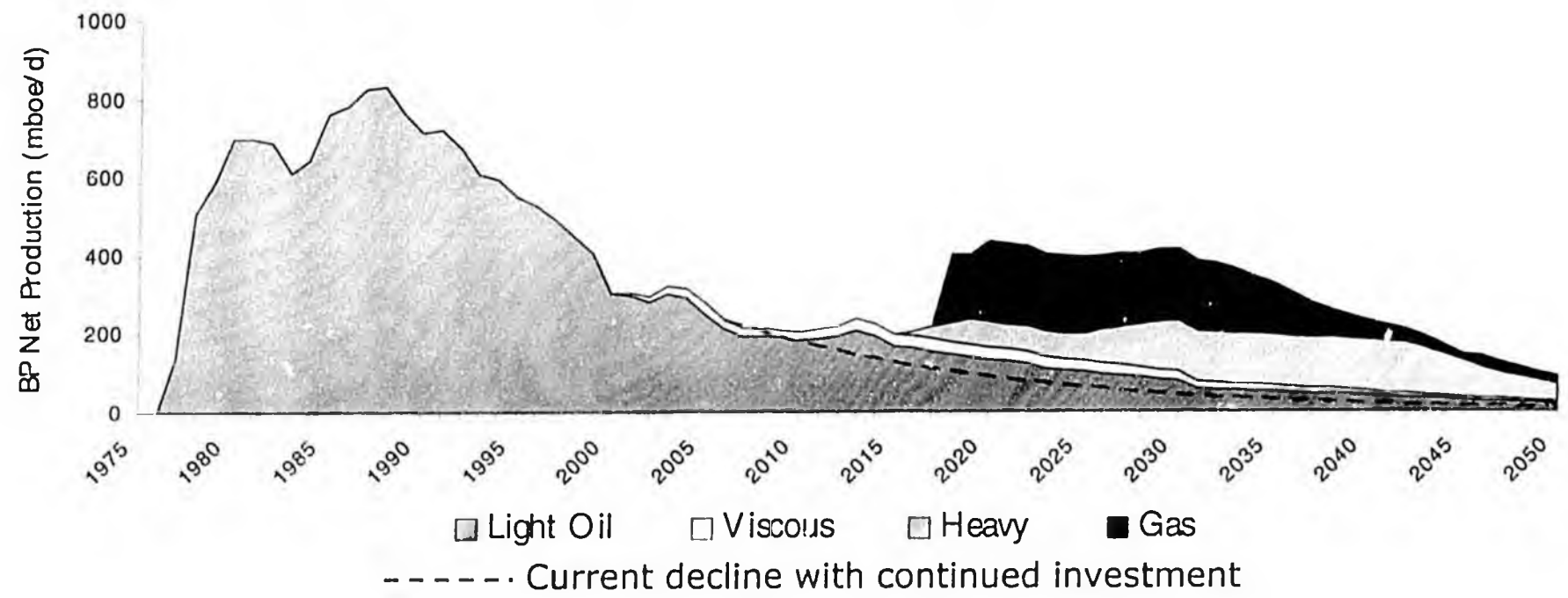
How AGIA can help deliver a successful project

- Address areas of key concern listed on prior slides
- Allow applicants to respond to State's objectives
 - Prescribing solutions up front will not result in the best project
- Avoid exclusivity to ensure a pipeline gets built
 - Even as amended, AGIA creates exclusivity
 - Federal model encourages competition in the marketplace
- Address fiscal terms to encourage FT commitments needed for a successful project
 - Allow resource owners to make offer in bid
- Allow due process of appeal, remove potential Order 2004 conflict, other clarifying edits



BP's Vision for Alaska

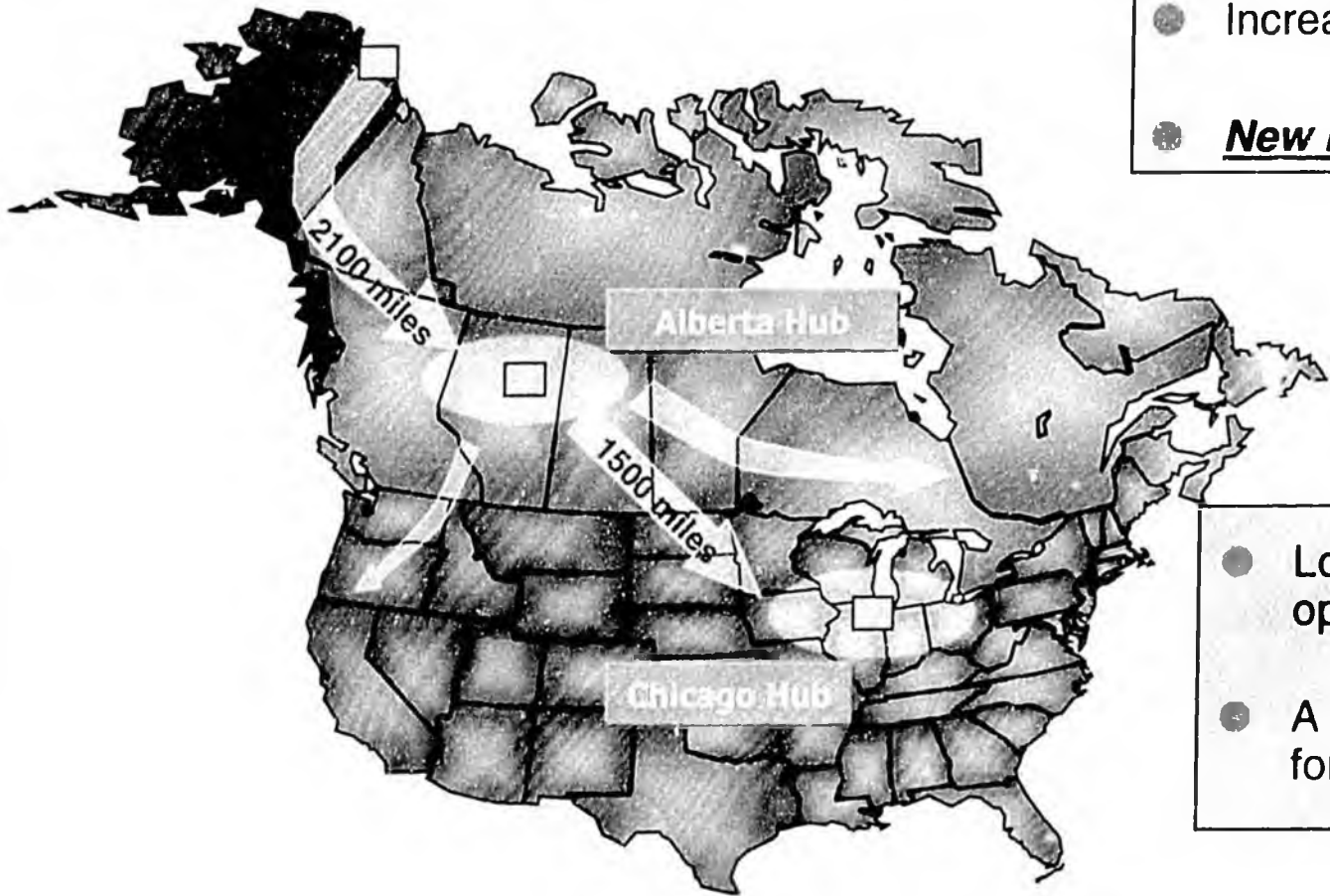
- BP has a long history in Alaska....
-and we look forward to a 50-year future
- That future is only possible with a gas pipeline
- BP wants to bid under AGIA and hopes it will be modified appropriately



What A Successful Gasline Means

- **Jobs** for Alaskans
- Additional **revenue** for future generations

- Increased **economic activity**
- **New businesses** created



- Long term **gas supply** opportunity for Alaskans
- A more diversified economy for **decades**