SCOMM

133:7

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT

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HOUSE OF REPRESENTATIVES

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SPONSOR STATEMENT
HB 204

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

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

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

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

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

Representative_Mike_Chenault@legis.state.ak.us

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

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

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

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

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

[27] *See* T-2, Ex. EJJ-2.

Regulatory Commission of Alaska
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Contract carriage has not been previously allowed under AS 42.06. The Alaska legislature, however, recently amended AS 42.06.350[28] to allow for contract carriage for the transportation of gas on the North Slope of Alaska. This amendment raises the following legal issue: *Is contract carriage for gas pipelines elsewhere in the State of Alaska permissible?* The facts of this case also raise a policy question: *Should contract carriage be allowed when a pipeline is owned by affiliates of the producers/shippers?* These two issues are of first impression and of sufficient importance to the State of Alaska that on the limited record before us we are unwilling to resolve them at this time.

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[28]Sec. 350 of AS 42.06 provides:

> (a) Under regulations adopted by the commission, every intrastate oil or gas pipeline carrier shall file with the commission, within the time and in the form designated by the commission, all rates, tariffs, charges, classifications, rules, regulations, terms, and conditions pertaining to service provided under the certificate, and shall maintain copies on file at its principal business office and at places designated by the commission, available to, and subject to inspection by, the general public on demand.
>
> (b) The commission may reject the filing of all or part of a tariff that does not comply with the form or filing regulations of the commission or that is not consistent with this chapter or the regulations of the commission. A tariff or provision so rejected is void.
>
> (c) In its tariff filed with the commission under (a) of this section, a North Slope natural gas pipeline carrier may charge separate rates for firm transportation service and for interruptible transportation service. A North Slope natural gas pipeline carrier
>
> > (1) may, in addition, impose a reservation fee or similar charge for reservation of capacity in a North Slope natural gas pipeline as a condition of providing firm transportation service; the reservation fee or charge imposed by the carrier may not include any variable costs or fixed costs that are not attributable to the provision of firm transportation service;
> >
> > (2) may not impose a reservation fee or similar charge for reservation of capacity in a North Slope natural gas pipeline for interruptible transportation service.

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MEMORANDUM March 20, 2003

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

TO: Representative Mike Chenault

FROM: Jack Chenoweth
Assistant Revisor of Statutes

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

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

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

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

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

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

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

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

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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 204
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Natural Resources
Title: Regulation of Natural Gas Pipelines
BRU: Resource Development
Component: Oil and Gas Development

Sponsor: Chenault
Requester: House Oil and Gas
Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

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

Continued on next page.

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

(Revised 8/2002 OMB)

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 204

ANALYSIS CONTINUATION

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