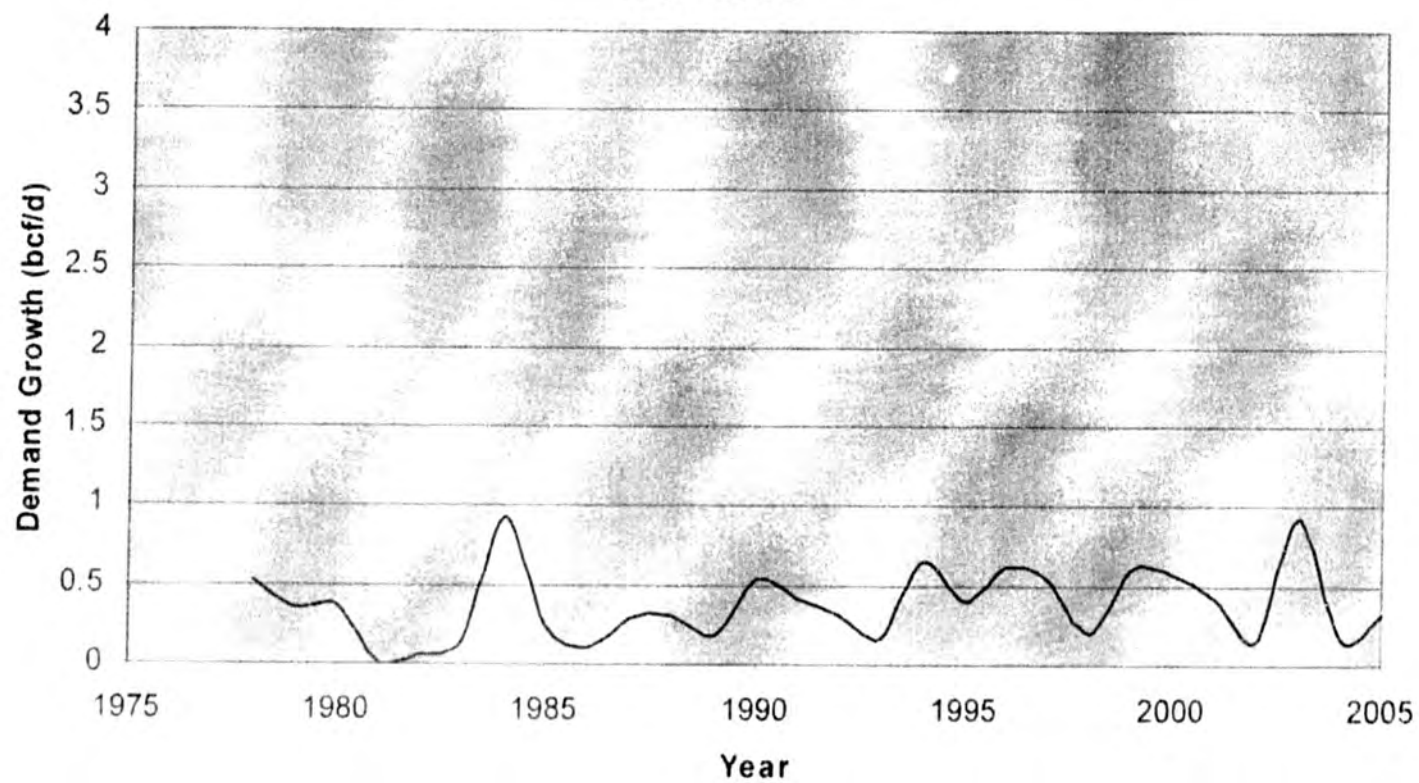


ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

3105 SCOMM 143: SENATE SPEC. COMM. ON NATURAL GAS DEV. 2005-2006

Yearly Increase in Asia LNG Demand 1977-2005



Source: Cedigaz

Asia as an LNG Market

- Cannot compete with large reserves of LNG supply that has access to gas at tidewater and foreign tankers:
 - Qatar
 - Indonesia
 - Australia
 - Sakhalin

Outline

- Markets
 - Demand
 - Supply
 - Siting Issues
- Costs
 - LNG Issues
 - Y-line Economics
 - Jones Act Tankers
 - Value of Tax Exemption

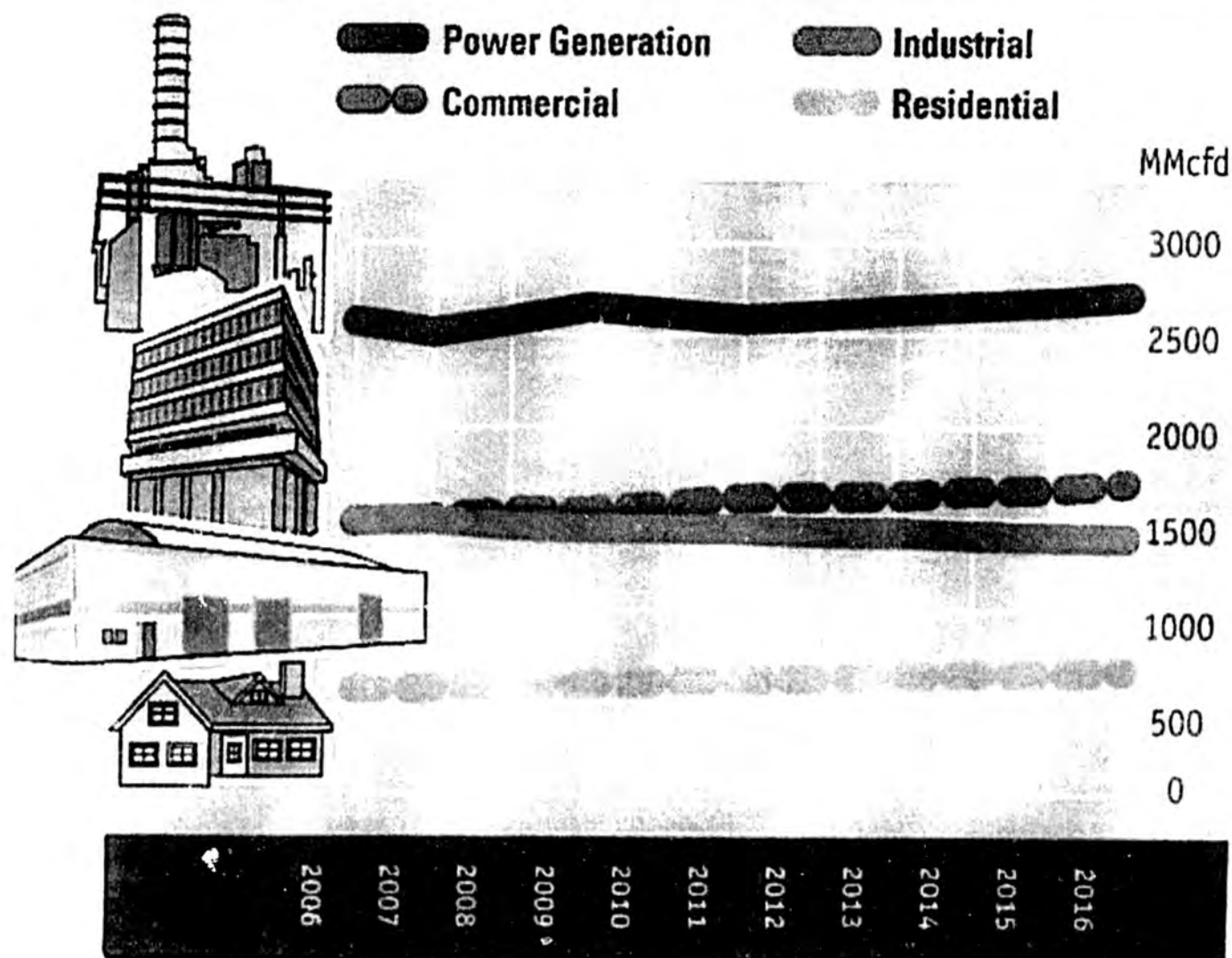
Options: Pipeline and LNG Economics

State of Alaska
August 4, 2006

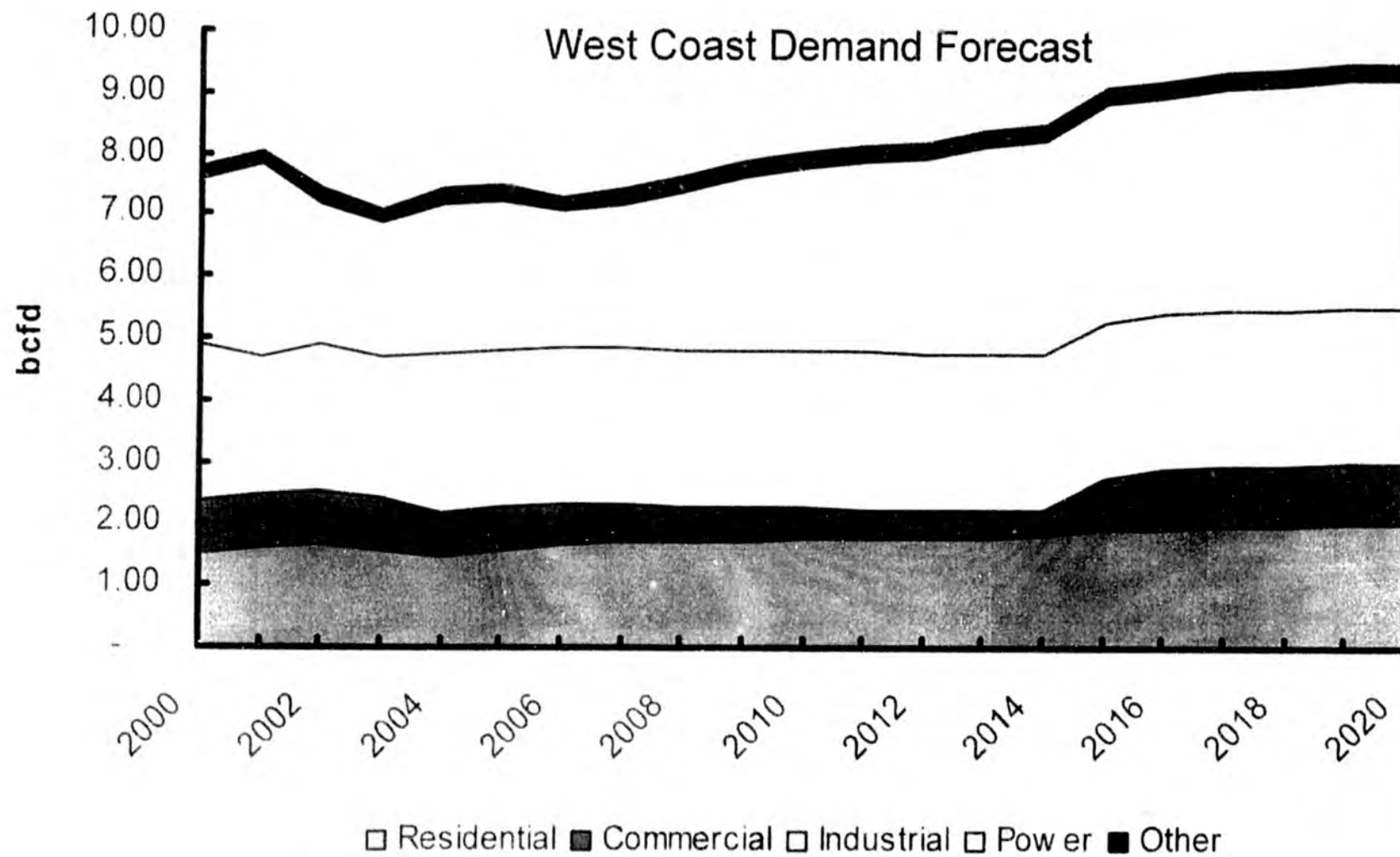
Price – West Coast Demand

- Small market (9 bcf/d) (U.S. = 65 bcf/d)
- Expected to grow 2%/year with population
- Plus 2 bcf/d over next 10-15 years (see next slides)
- Locked up by Sempra
- Reversing the flow of the pipelines would cause gas to back up in low demand areas

Figure 19: California Natural Gas Sector Demand Projection (by MMcfd)

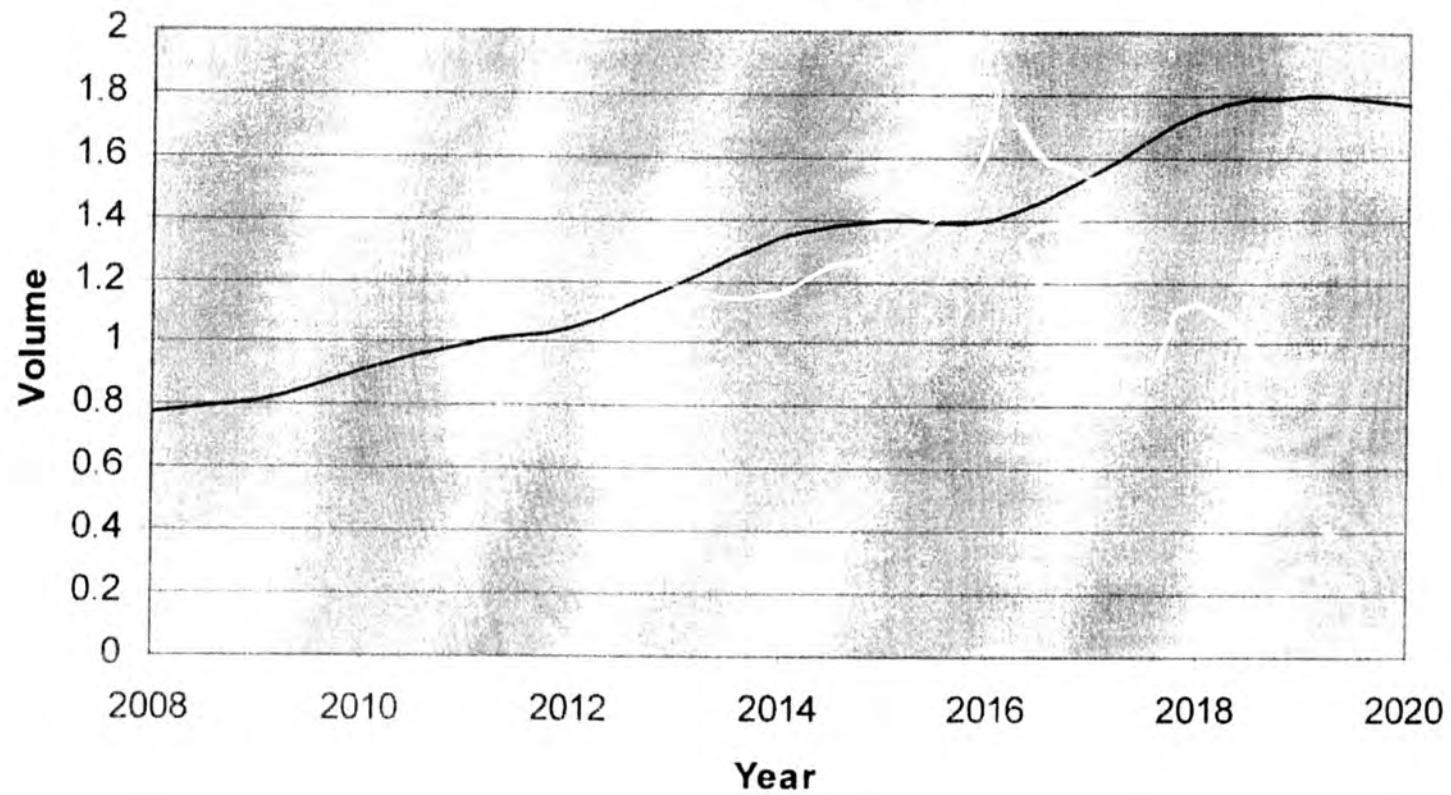


Source: California Energy Commission



Source: Wood Mackenzie

**Baha Imports
2008-2020 (bcf/d)**

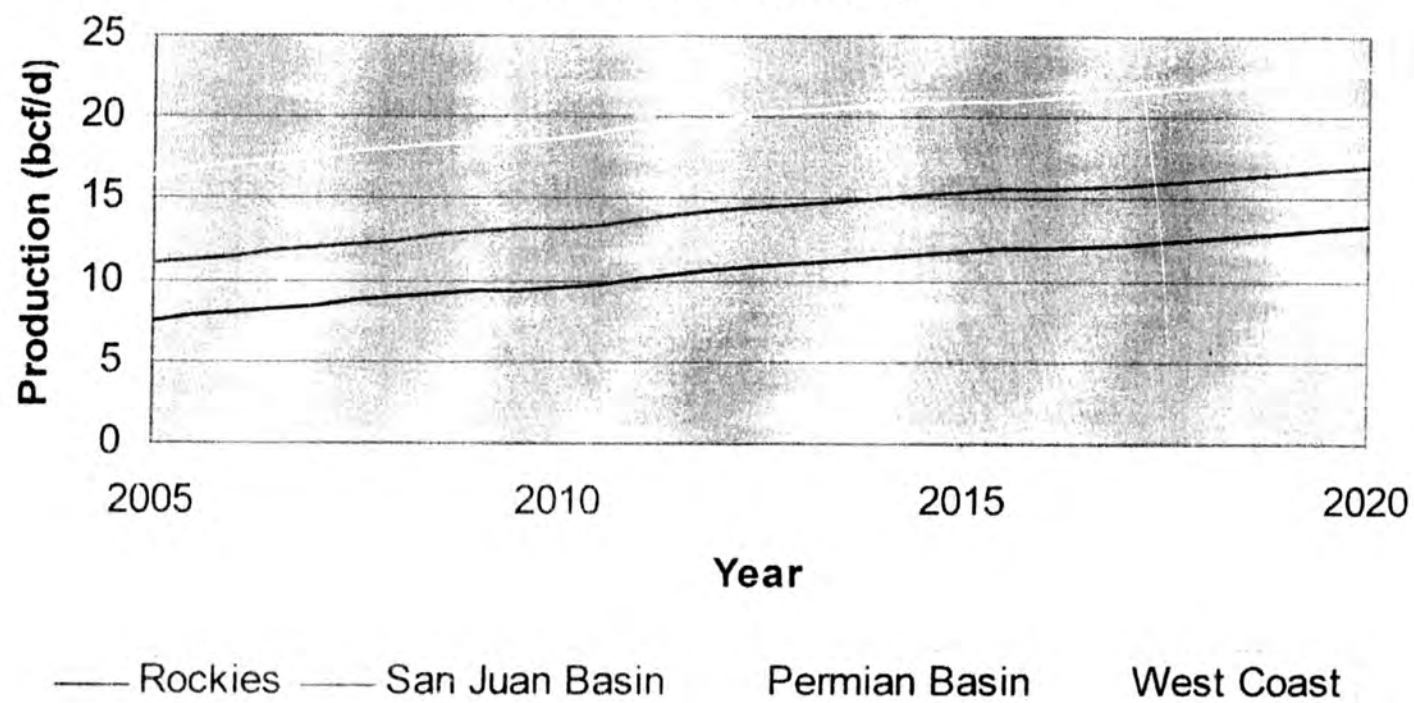


Source: Wood Mackenzie

Price – West Coast Supply

- West Coast is isolated market
- Gas from pipelines going East-West from the Rockies and Southwest, plus Canadian imports
- Also served by nuclear, hydro, coal, oil-fired power plants
- Supply areas expected to grow (see next 2 slides)
- Rockies Express pipeline
- Chicago is a very large very liquid market with access to many pipelines
- The West Coast has lower gas prices than Chicago (about 50 cents)
- AECO has lower price but lower cost

Production of West Coast Supply Areas 2005-2020 (bcf/d)

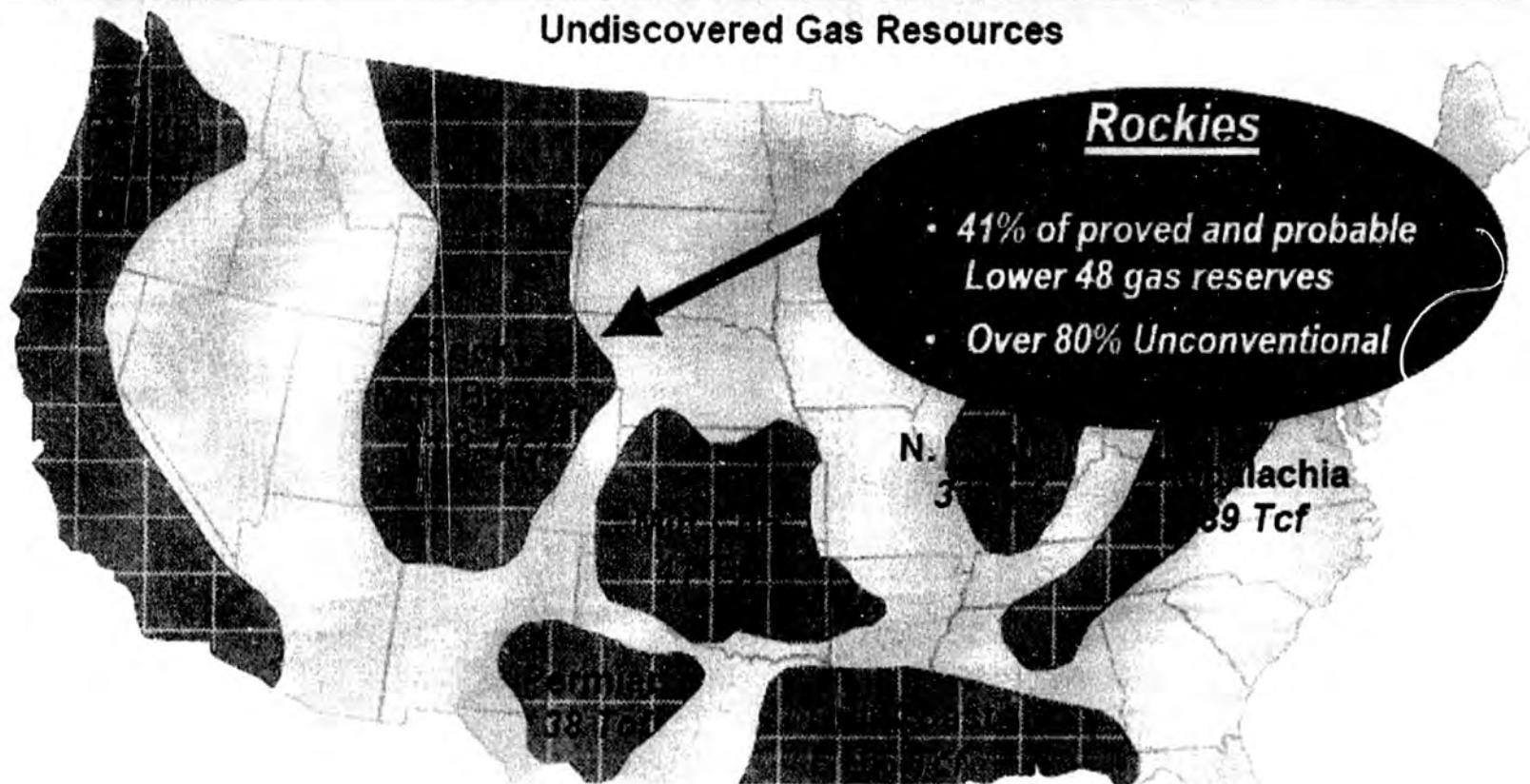


Source: Wood Mackenzie

Largest U.S. Gas Resource Opportunities

UCR Gas from Rockies – Our Principal Focus

Undiscovered Gas Resources



Source: USGS

Siting Issues for LNG Receiving Terminals

- Permitting
- Financing (underscores weak market)
- Marketing (underscores weak market)
- Community Resistance
- Environmental
- Safety

PFC Assessment

Likelihood of Construction in Next 10 Years*

- Kitimat (B.C.) Poor
- Northern Star (Bradford, OR) Poor
- Clearwater (Oxnard, CA) Poor
- Pt. Penguin (Pendleton, CA) Negligible

* Poor is less than 20% probability; negligible is less than 5% probability

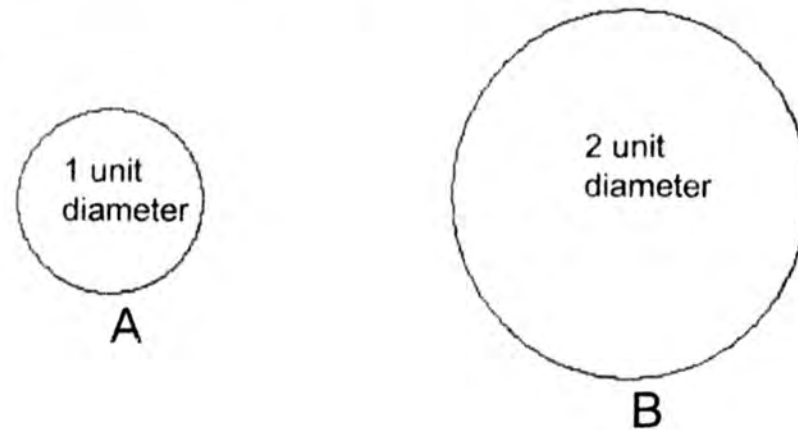
Cost – Pipe vs. LNG

- Conditioning
- Pipeline
- Liquefaction facilities
- Shipping
- Regasification
- Inland pipelines
- Operating costs
- Losses in transit
- Storage issues on West Coast

Y-Line

- Pipelines live and die with economies of scale
- Volume increases with square of diameter

How Volume Increases Proportionally With Diameter



Think of diameter as amount of steel (cost)
Think of area as volume of gas

$$\text{Area of circle} = \pi (d/2)^2$$

$$1 \text{ unit diameter} = 3.14 \times 1/2 \times 1/2 = 0.785$$

$$2 \text{ unit diameter} = 3.14 \times 2/2 \times 2/2 @ = 3.14$$

Diameter goes up **2-fold**; area goes up **4-fold**
(a little more steel, a lot more volume)

Y-Line

- The same thing works in reverse
 - Reduce the volume and the diameter decreases proportionally much less
- A 4 bcf/d line would be 48 inches
- A 3 bcf/d line would be 42 inches
 - Volume decreases 25%; cost decreases only 12%
 - **Tariff increases by 40 cents/mmbtu**
- A 1 bcf/d line would be 24 inches
 - Volume decreases 75%; cost decreases only 50%
 - **Tariff increases by 20 cents/mmbtu**
- **Together this raises the cost of 4 bcf/d by 20% (\$5B): Two pipelines cost more than one**

Jones Act

- Any vessels engaged in shipping from one U.S. location to another U.S. location must be in a ship which is U.S. built, U.S. flagged, and U.S. owned and operated
- Must be entirely assembled and fabricated in U.S.
- Required if gas goes to foreign port but gas ultimately goes to U.S.
- Once a ship re-flags it is ineligible for Jones Act service
- Potential temporary waivers available only for issues of national defense and passenger ships
- Very unlikely Congress would amend

Cost of Jones Act Ships

- No U.S shipyard has built an LNG tanker for several decades
- Steep learning curve
- High labor costs
- Low competition between yards
- Estimated costs 2 times greater than foreign built LNG tankers (3 - 4 ships @ \$400 million each)

Value of Tax Exemption

- Tariff is pass-through of costs – capital (deprec., r.o.d., r.o.e.), operating, property taxes, income taxes
- Taxes are only paid on income
- Only income element is return on equity (\$7 B)
- Unrecovered equity is higher in early years
- But volumes are lower in early years
- FERC usually levelizes tariffs to offset this

Value of Tax Exemption (con't.)

- Levelization defers recovery – carrier is made whole on a net present value basis
- Events that occur earlier carry more weight
- Accelerated tax depreciation much faster than book depreciation
- Difference between tax and book depreciation is a negative cost (\$6 B)
- It is very large and it occurs early on
- The benefits of tax depreciation reduce the tariff drastically
- With levelization, the tariff is actually lower with income taxes
- The income tax exemption has small value

Conclusion

- West Coast prices at least 50 cents less
- PFC Energy concluded that LNG based on 4 bcf/d would cost \$1.13 / mcf more using consistent assumptions
- The Y-Line approach leads to a directionally similar outcome
- Maximize value

AGPA Project Comments

August 4, 2006

Presentation to
The Senate Special Committee on
Natural Gas Development

Pedro van Meurs

Tax Comments

Reference was made to my comments on Federal taxation and aide-memoire for AGPA.

Federal income tax plays indeed a very important role in the overall government take distribution and project economics.

Tax Comments

Take Distribution

\$ 5.50 - Project to Alberta

	(\$ billion)
Corporate Income	93.7
Total Alaska	44.8
Canadian Gov	4.5
US Fed Tax Midstrear	2.0
US Fed Tax Upstream	47.8
Financial Inst	6.8
Total	199.6

Tax Comments

Under the Stranded Gas Contract proposal the State of Alaska will participate for 20%. It is assumed that the State will not be subject to corporate income tax. The saving in Federal CIT is about \$ 0.5 billion. If the State would own 100% of the pipeline system in Alaska the tax savings would be \$ 2.5 billion.

Tax Comments

In my aide memoire to AGPA I repeated the importance of these tax issues. I also indicated that AGPA could play a role in reducing tax under the following conditions:

- finds a way to lower the overall costs of the project,
- is able to create with other parties a financial and organizational configuration in which the project can proceed, and
- is able to create conditions under which this exemption can be effectively used to the benefit of the total project.

High Risk Nature of the Project

The AGPA presentation provided good background to illustrate the extreme gas price volatility in the North American market compared other gas markets and the significant cost escalation that has already occurred during the last five years. These are points which I have also emphasized repeatedly.

This is the reason for the stranded gas contract and the related fiscal stability provisions for the Sponsors.

Incremental Benefit of gas line to Alberta

The AGPA presentation illustrated how the AGPA project would greatly benefit from the gas line to Canada proposed by the Sponsors irrespective of whether 3.1 of 4.3 Bcf would be exported to Alberta.

Given this fact, one would expect AGPA to support the stranded gas contract with the Sponsors.

Time Line

AGPA claims that their project can deliver first gas based on Jan 2012 based on a start-up date of January 1, 2006.

The Sponsors plan provides for first gas Jan 2016 with a start up date of Jan 1, 2007.

So it seems that there is a **three year** difference in start up date rather than the **four years** claimed by AGPA.

Time Line

AGPA suggests that the GTP would be constructed by the producers. This seems rational.

The main function of the GTP is to eliminate CO₂ from the gas. However, this CO₂ would have to be re-injected. AGPA would not own suitable leases and fields to re-inject the gas. CO₂ also could play an increasingly important role in enhanced recovery of existing oil fields of the producers.

Time Line

The AGPA project therefore depends on a GTP to be constructed by the producers. This GTP is more costly and would have to have higher specifications because all CO₂ would have to be removed.

The producers have provided a rational and well documented time line why they believe that the preparatory front end engineering and the FERC process would take about four years. They contemplate the GTP FERC certificate to be granted January 2011.

How could AGPA have a project start up of 2013 when their own plan contemplates four years for construction?

Time Line

Alternatively, how does AGPA intend to do all the project engineering, the open season, the regulatory process, the preparation and leases for CO₂ injection for the GTP in two years in order to meet a Jan 2013 start up deadline?

Time Line

It is highly questionable that AGPA would have first gas by 2013 based on a Jan 2007 start up of activities.

First gas would be more likely by 2015 or 2016.

Gas Sales in California

AGPA did not provide any evidence that they would be capable of offering the lowest price in California compared to other LNG exporters.

Gas Sales in California

Most existing LNG export facilities in the Pacific are on tide water. This includes Australia, Indonesia, Malaysia and Brunei.

All countries have LNG expansion plans under way. Most projects relate to fields that have low production costs. Mr. Shipkoff indicated yesterday how easy it is to put in another "train" in Valdez if there would be more LNG demand and if the LNG export facilities already exist. This is easy for all competitors on tide water.

Gas Sales in California

Page 41 of the AGPA presentation illustrates the following capital cost estimates required just to get to Valdez:

- \$ 5.3 Billion for the pipeline
- a GTP aimed at removing all CO₂.

Given these conditions it would be extremely difficult for AGPA to compete on price with their competitors.

Gas Sales in California

AGPA claims that a benefit of their project is that it would diversify access for Alaska to both the East Coast and the West Coast markets.

This is incorrect.

The great advantage of building a gas line to the Alberta Hub is that this hub has access to both the East Coast and West Coast markets.

Financing of the Project

FERC would never approve the entire capital expenditure for a 48 inch line from Prudhoe Bay to Delta Junction in the rate base with an initial capability of 4.3 Bcf if such facilities is only used to transport 1.2 Bcf.

It is highly unlikely that the RCA would.

Financing of the Project

Therefore, about \$ 2 – 3 billion would have to be invested on pure speculation that a future project extension will occur.

This part can not be financed because FERC/RCA would not allocate the corresponding revenue stream. This amount has to be 100% equity.

It is highly unlikely that any investor in the world would be prepared to make such an investment.

Financing of the Project

AGPA claims that they can benefit from Federal Loan guarantees.

It are actually the lenders to AGPA that would receive the benefits under the loan guarantee in case AGPA defaults.

Under Federal Loan guarantees, however, the Federal Government would subsequently claim the money back from the borrower. The borrower therefore needs to have a credible financial position in order to be able to negotiate such a loan guarantee.

It is highly unlikely that the US Federal Government would provide a loan guarantee of \$ 18 billion to AGPA.

How would they ever get their money back if AGPA defaults?

Financing of the Project

The Federal loan guarantee would not cover completion risk. Nor would the lenders to AGPA be prepared to assume completion risk.

How would AGPA handle a situation where after having invested about \$ 5 billion a force majeure event occurs that stops the project and the lenders want their money back?

How is AGPA going to guarantee them their money back?

It is highly unlikely that construction firms would be willing to assume the full completion risk.

Financing of the Project

Conclusion

About \$ 2 -3 billion of excess capacity in the 48 inch line cannot be financed.

Without a Federal Loan guarantee and completion guarantee, AGPA will be unable to finance the project, even if AGPA has ship or pay contracts for all the gas with parties that have a strong balance sheet.

Ship or Pay commitment

Assume AGPA can overcome all financing problems.

In order to finance the project between PB and the LNG export point, AGPA needs a ship or pay contract from one or more parties. This could be a producer that is interested in using the project or it could be a buyer.

One would need a contract for about 8 Bcf over 20 years. Depending on the tariff this would be a \$ 10 - \$ 20 billion contract.

Who would be interested in concluding such a contract?

Ship or Pay commitment

The information provided by AGPA on page 44 of their presentation makes it clear that producers would very likely evaluate that the net back from the AGPA project is lower than the net back from their own project.

Why would the producers be interested in selling for a lower value to a 1.2 Bcf/day project?

At the same time they would increase the risk that their own 3.1 Bcf/day project would be more costly and would have a higher reserve risk.

It is highly unlikely that such a deal would come together.

Stranded Gas Contract

Even in the highly unlikely case that a producer would be interested in selling a share of their production as LNG, they would be unable to sign a contract with AGPA for ship or pay without a stranded gas contract.

The fiscal uncertainty would make it impossible to incur the risk of the ship or pay contracts. The lower net back would make the risk even higher.

Stranded Gas Contract

Therefore, no matter what:

The first step in either the AGPA project or the gas line to Alberta or any combination of the two is always a stranded gas contract.

Therefore, it is completely irrational for AGPA to oppose such a contract.

Stranded Gas Contract

From an economic perspective it is not sensible to consider the Alberta project incremental to the AGPA project because of the fact that such an option cannot be financed.

It is rational to potentially consider an AGPA project incremental to the Alberta project. This is the option included in the stranded gas contract.

Upstream economics

The upstream economics of the project on pages 65 and 67 of the AGPA presentation assume that a buyer would buy gas at the inlet of the pipeline.

These evaluations are not correct if the producers would have to assume the ship or pay commitments. The capitalized value of such commitments needs to be included in the evaluation.



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TITLE 15 > CHAPTER 15B > § 717a

§ 717a. Definitions

Prev | Next

Release date: 2005-08-01

When used in this chapter, unless the context otherwise requires—

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authorities
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comments

- ② (1) "Person" includes an individual or a corporation.
- ③ (2) "Corporation" includes any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.
- ④ (3) "Municipality" means a city, county, or other political subdivision or agency of a State.
- (4) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.
- (5) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.
- ① (6) "Natural-gas company" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.
- (7) "Interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, but only insofar as such commerce takes place within the United States.
- (8) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the State or municipality.
- (9) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively.
- (10) "Vehicular natural gas" means natural gas that is ultimately used as a fuel in a self-propelled vehicle.

Prev | Next

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TITLE 15 > CHAPTER 15B > § 717f

§ 717f. Construction, extension, or abandonment of facilities

Release date: 2005-08-01

[Prev](#) | [Next](#)**(a) Extension or improvement of facilities on order of court; notice and hearing**

Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural-gas company thereby: Provided, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas company to establish physical connection or sell natural gas when to do so would impair its ability to render adequate service to its customers.

(b) Abandonment of facilities or services; approval of Commission

No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

(c) Certificate of public convenience and necessity**(1)**

(A) No natural-gas company or person which will be a natural-gas company upon completion of any proposed construction or extension shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extensions thereof, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations: Provided, however, That if any such natural-gas company or predecessor in interest was bona fide engaged in transportation or sale of natural gas, subject to the jurisdiction of the Commission, on February 7, 1942, over the route or routes or within the area for which application is made and has so operated since that time, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is

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made to the Commission within ninety days after February 7, 1942. Pending the determination of any such application, the continuance of such operation shall be lawful.

(B) In all other cases the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission; and the application shall be decided in accordance with the procedure provided in subsection (e) of this section and such certificate shall be issued or denied accordingly: Provided, however, That the Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

(2) The Commission may issue a certificate of public convenience and necessity to a natural-gas company for the transportation in interstate commerce of natural gas used by any person for one or more high-priority uses, as defined, by rule, by the Commission, in the case of—

(A) natural gas sold by the producer to such person; and

(B) natural gas produced by such person.

(d) Application for certificate of public convenience and necessity

Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form, contain such information, and notice thereof shall be served upon such interested parties and in such manner as the Commission shall, by regulation, require.

(e) Granting of certificate of public convenience and necessity

Except in the cases governed by the provisos contained in subsection (c)(1) of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. The Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require.

(f) Determination of service area; jurisdiction of transportation to ultimate consumers

(1) The Commission, after a hearing had upon its own motion or upon application, may determine the service area to which each authorization under this section is to be limited. Within such service area as determined by the Commission a natural-gas company may enlarge or extend its facilities for the purpose of supplying increased market demands in such service area without further authorization; and

(2) If the Commission has determined a service area pursuant to this subsection, transportation to ultimate consumers in such service area by the holder of such service area determination, even if across State lines, shall be

subject to the exclusive jurisdiction of the State commission in the State in which the gas is consumed. This section shall not apply to the transportation of natural gas to another natural gas company.

(g) Certificate of public convenience and necessity for service of area already being served

Nothing contained in this section shall be construed as a limitation upon the power of the Commission to grant certificates of public convenience and necessity for service of an area already being served by another natural-gas company.

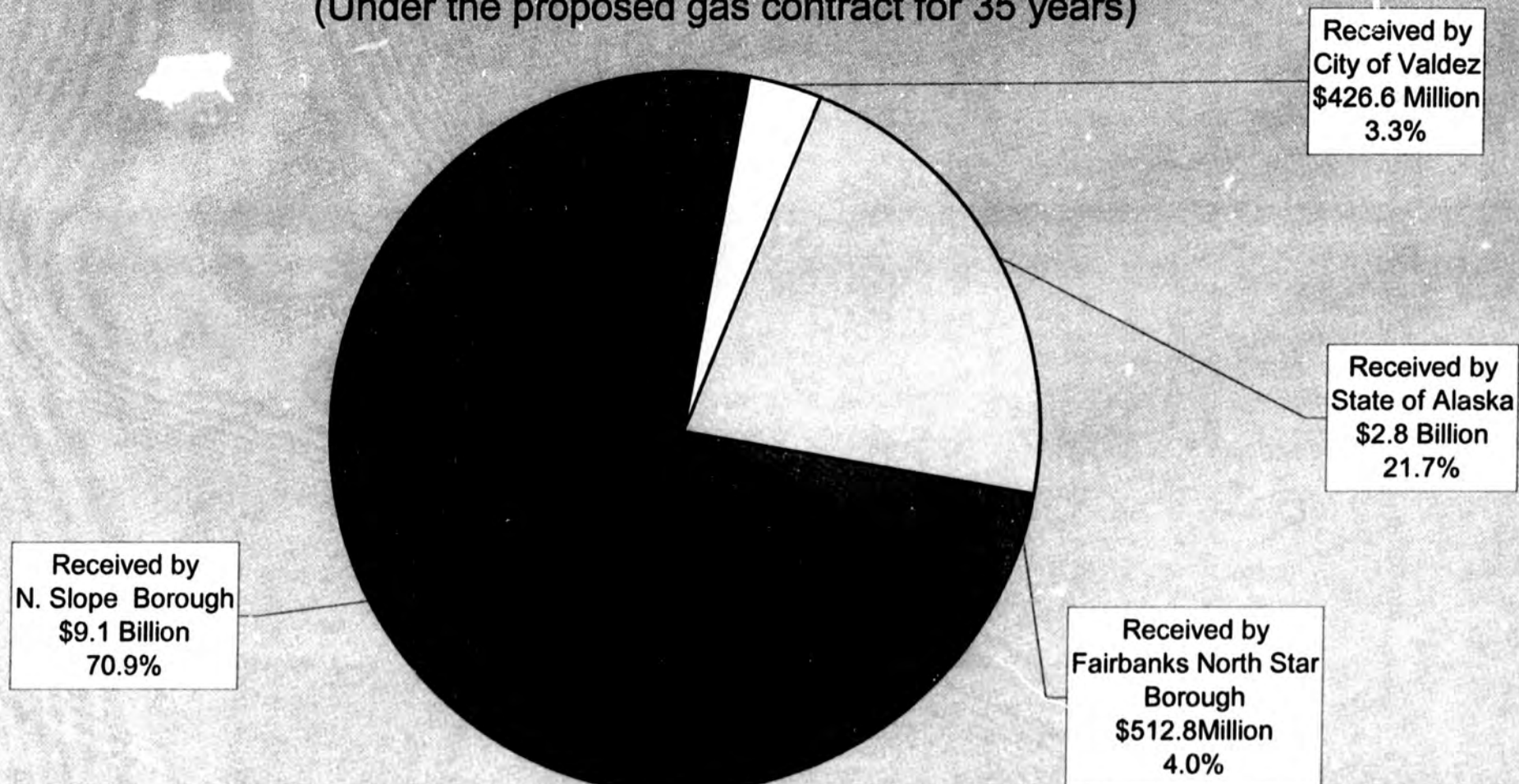
(h) Right of eminent domain for construction of pipelines, etc.

When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain a pipe line or pipe lines for the transportation of natural gas, and the necessary land or other property, in addition to right-of-way, for the location of compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of such pipe line or pipe lines, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: Provided, That the United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000.

Prev | Next

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Proposed State Take
PILT Payments for Oil and Gas Pipeline & Facilities
(Under the proposed gas contract for 35 years)



Total - \$12.8 Billion

DRAFT - DRAFT

**Summary of Status Quo and PILT Payments
Negotiated under the Alaska Stranded Gas Act**
(The following amounts represent the total dollars paid over 35 years)

DRAFT - DRAFT**Oil Pipeline & Facilities** (Status Quo is based on actual property value)

	Total Amount			Pop	Per Capita		
	Status Quo* (20 mills)	PILT	Diff from Status Quo		Status Quo* (20 mills)	PILT	Diff from Status Quo
State of Alaska	\$ 1,196,512,439	\$ 1,278,881,152	\$ 82,368,713	626,932	\$ 1,909	\$ 2,040	\$ 131
North Slope Borough	\$ 3,940,177,114	\$ 5,386,487,413	\$ 1,446,310,299	6,894	\$ 571,537	\$ 781,330	\$ 209,793
Fairbanks North Star Borough	\$ 121,118,534	\$ 121,883,488	\$ 764,953	87,650	\$ 1,382	\$ 1,391	\$ 9
City of Valdez	\$ 423,914,870	\$ 426,592,206	\$ 2,677,337	4,454	\$ 95,176	\$ 95,777	\$ 601
TOTAL	\$ 5,631,722,958	\$ 7,213,844,260	\$ 1,532,121,302				

Gas Pipeline & Facilities (Status Quo is based on estimated property value)

	Total Amount			Pop	Per Capita		
	Status Quo* (20 mills)	PILT	Diff from Status Quo		Status Quo* (20 mills)	PILT	Diff from Status Quo
State of Alaska	\$ 2,178,996,801	\$ 1,490,903,791	\$ (688,093,009)	626,932	\$ 3,476	\$ 2,378	\$ (1,098)
North Slope Borough	\$ 2,174,462,468	\$ 3,671,669,328	\$ 1,497,206,861	6,894	\$ 315,414	\$ 332,589	\$ 217,175
Fairbanks North Star Borough	\$ 244,194,253	\$ 390,886,012	\$ 146,691,760	87,650	\$ 2,786	\$ 4,460	\$ 1,674
TOTAL	\$ 4,597,653,521	\$ 5,553,459,132	\$ 955,805,611				

Total Oil & Gas Pipeline & Facilities

	Total Amount			Pop	Per Capita		
	Status Quo* (20 mills)	PILT	Diff from Status Quo		Status Quo* (20 mills)	PILT	Diff from Status Quo
State of Alaska	\$ 3,375,509,240	\$ 2,769,784,944	\$ (605,724,296)	626,932	\$ 5,384	\$ 4,418	\$ (966)
North Slope Borough	\$ 6,114,639,582	\$ 9,058,156,742	\$ 2,943,517,159	6,894	\$ 886,951	\$ 1,313,919	\$ 426,968
Fairbanks North Star Borough	\$ 365,312,787	\$ 512,769,500	\$ 147,456,713	87,650	\$ 4,168	\$ 5,850	\$ 1,682
City of Valdez	\$ 423,914,870	\$ 426,592,206	\$ 2,677,336	4,454	\$ 95,176	\$ 95,777	\$ 601
TOTAL	\$ 10,279,376,479	\$ 12,767,303,392	\$ 2,487,926,912				

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

August 3, 2006

SUBJECT: Issues related to new CS (CSSB 3002(NGD), Draft version "F";
Work Order No. 24-GS2095\F)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

Please note the following.

Please review sec. 3 to make sure it expresses the committee's intent. It is in a slightly different format than the amendment.

In sec. 10 the meaning of "as may be modified as a result of the development of a contract under this chapter" is not clear to me. Does this refer to the implementation provisions or the plan approval under AS 43.82.140? And when would the modification occur?

Because of the addition of the last two lines of AS 43.82.270 in sec. 10, it appears that all future contracts under AS 43.82.020 will have to be with the sponsors of the project identified in AS 43.82.270(b), added by sec. 11. Should "applicable" be added before "requirements" in the last sentence of AS 43.82.270 in sec. 10? Also, sec. 11 may be challenged as local and special legislation, though the nature of this project is such that a law of general applicability may not be possible.

I did not know whether to make new secs. 3, 8, 9, 10 and 11 retroactive. I chose to treat them as retroactive. Let me know if you want something different.

In sec. 7 we substituted "(a)" for "(a)(1)(A)-(C)" because the section creating AS 43.82.220(a)(1)(A)-(C) was deleted. Please be sure that is what you intend.

Sec. 15 is modified to remove the reference to (c), which was deleted.

Sec. 16 is modified to conform with the deletion of former sec. 16 by removing the reference to grants.

If I may be of further assistance, please advise.

Senator Ralph Seekins
August 3, 2006
Page 2

DCB:ljw
06-289.ljw

Enclosure

Member Information



SENATE SPECIAL COMMITTEE ON NATURAL GAS DEV

No Time available

Special Committee

CHAIR: Senator Seekins

MEMBER: Senator Green
MEMBER: Senator Wilken
MEMBER: Senator Bunde
MEMBER: Senator Dyson
MEMBER: Senator Stedman
MEMBER: Senator Hoffman
MEMBER: Senator Olson
MEMBER: Senator Wagoner
MEMBER: Senator Stevens B
MEMBER: Senator Elton
MEMBER: Senator Kookesh

Bill Root:

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[Return to Legislature Home Page](#)

Internal Revenue Service

Department of the Treasury

Index Number: 103.02-01

Washington, DC 20224

Travis C. Gibbs
c/o O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071-2899

Person to Contact:
David E. White I.D. #50-07793
Telephone Number:
(202) 622-3980
Refer Reply To:
CC:DOM:FI&P:5/PLR-118656-99
Date:

FEB 16 2000

FEB 16 2000

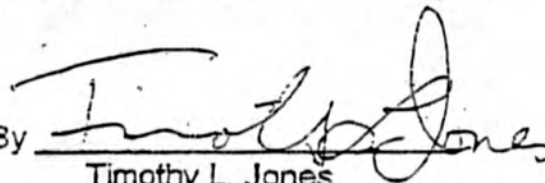
Dear Mr. Gibbs:

Attached is the corrected version of our letter in reply to your request for a ruling that the Authority qualifies as a political subdivision of the State under § 1.103-1(b) of the Income Tax Regulations, and is therefore exempt from federal income taxation. Please destroy the prior letter.

Sincerely yours,

Assistant Chief Counsel
(Financial Institutions & Products)

By



Timothy L. Jones
Assistant to the Chief, Branch 5

Internal Revenue Service

Department of the Treasury

Index Number: 103.02-01

Washington, DC 20224

Travis C. Gibbs
c/o O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071-2899

Person to Contact
David E. White I.D. #50-07793
Telephone Number:
(202)622-3980
Refer Reply To:
CC:DOM:FI&P:5/PLR-118656-99
Date: JAN 24 2000

LEGEND:

Authority = Alaska Gasline Port Authority
State = Alaska
Date 1 = October 5, 1999
A = Fairbanks North Star Borough
B = North Slope Borough
C = City of Valdez
Port = Port of Valdez, Alaska
Location = North Slope of Alaska

Dear Mr. Gibbs:

This letter is in response to your request for a ruling that based on the definition of the term "political subdivision" in § 1.103-1(b) of the Income Tax Regulations, the Authority qualifies as a political subdivision of the State.

Facts and Representations

You make the following factual representations. The Authority was created on Date 1 pursuant to State law by the local governmental units A, B, and C. The Authority was created to provide for the development of ports in the State for transportation-related commerce. In accordance with this purpose, the Authority will

undertake various improvements and additions to certain existing port facilities located, and will construct new port facilities to be located, at the Port, and will acquire and develop the facilities necessary for the transportation, in state use, and sale of natural gas that is currently stranded at the Location (the "Project").

As a result of the availability of natural gas through the Project, the cost of electricity to the State's residents will be substantially reduced. Excess gas not used in-state will be available for other uses.

The Authority is governed by a board of directors appointed by its member governmental units A, B, and C. The Authority has the power to acquire, by purchase, lease, contribution, condemnation, or otherwise, real and personal property for the Project. State law provides that the Authority has the same power of eminent domain as that possessed by A, B, and C. Specifically, the Authority may commence eminent domain actions, in its own name, in the appropriate court of the State to acquire land or materials within its physical boundaries for Authority purposes, and may take possession of the property upon commencement of the proceedings.

The Authority's revenues will be derived primarily from the sale of natural gas to municipalities within the State and to other purchasers, which are expected to include governmental and private entities. These revenues will be used first generally to pay operating expenses and debt service and to fund necessary reserves for operation of the Project. Any net income will be shared with the State and all of its municipalities for use in their respective governmental purposes. Upon dissolution of the Authority, its assets will be distributed to its member governmental units.

In addition to contributions from the participating governmental units, the Authority is authorized to issue bonds or any other form of indebtedness to raise funds to finance the Project.

Law and Analysis

Section 103(a) of the Internal Revenue Code provides, in part, that except as provided in subsection (b), gross income does not include interest on any state or local bond. Section 103(c)(1) provides that the term "state or local bond" means an obligation of a state or political subdivision thereof.

Section 1.103-1(b) provides that the term "political subdivision" denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any state or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such

as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of these units. Rev. Rul. 78-276, 1978-2 C.B. 256, states that the term "political subdivision" has been defined consistently for all federal tax purposes as denoting either (1) a division of a state or local government that is a municipal corporation, or (2) a division of such state or local government that has been delegated the right to exercise sovereign power.

In determining whether an entity is a division of a state or local governmental unit, important considerations are the extent the entity is (1) controlled by the state or local government unit, and (2) motivated by a wholly public purpose. Revenue Ruling 83-131, 1983-2 C.B. 184.

The three generally acknowledged sovereign powers are the power to tax, the power of eminent domain, and the police power. See *Commissioner v. Estate of Alexander J. Shamburg*, 3 T.C. 131, (1944) *acq.*, 1945 C.B. 6, *aff'd* 144 F.2d 998 (2d Cir. 1944), *cert. denied*, 323 U.S. 792 (1945). It is not necessary that all three powers enumerated in *Shamburg* be delegated. Rev. Rul. 77-164, 1977-1 C.B. 20; Rev. Rul. 77-165, 1977-1 C.B. 21. However, possession of only an insubstantial amount of any or all sovereign powers is not sufficient. All of the facts and circumstances must be taken into consideration including the public purposes of the entity and its control by a government.

Indicia that the Authority is governmentally controlled are: (1) the Authority is governed by a board of directors appointed by its member governmental units A, B, and C; (2) the Authority's net revenues inure to the benefit of the State and its municipalities; and (3) the Authority's assets will be distributed to its member governmental units upon dissolution. The Authority is motivated by a wholly public purpose.

Under State law the Authority is granted broad powers of eminent domain within its physical boundaries. The Authority is authorized to commence actions in the appropriate court of the State to enforce this right and will be able to take possession of property upon commencement of the condemnation proceedings rather than after judgment. These exercises of the power of eminent domain are commensurate with a substantial exercise of that power.

Conclusion

Based solely on the representations made and the definition of the term "political subdivision" in § 1.103-1(b), we conclude that the Authority is a political subdivision. Accordingly, the Authority is not required to file federal income tax returns or pay federal income tax on its income.

4

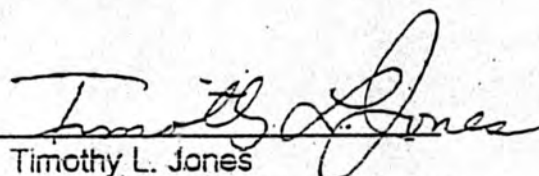
Except as specifically stated above, no opinion is expressed regarding the consequences of this transaction under any provision of the Code or regulations thereunder.

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,

Assistant Chief Counsel
(Financial Institutions & Products)

By:



Timothy L. Jones
Assistant to the Chief, Branch 5

Enclosure:

Copy of § 6110 purposes

cc: District Director, Pacific - Northwest District (Seattle)
Attn: Chief, Examination Division

Employee Plans & Exempt Organizations
Field Compliance Division
Attn: Joseph P. Grabowski, CP:E:EO:T:4
Room 6236

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HONG KONG
LONDON
SHANGHAI
TOKYO

November 19, 1999

OUR FILE NUMBER
11,148-001

WRITER'S DIRECT DIAL
213-430-7402

Internal Revenue Service
Assistant Chief Counsel
Financial Institutions & Products
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

WRITER'S E-MAIL ADDRESS
tgibbs@omm.com

Attn: CC:DOM:CORP:TSS, Room 6561

Re: Alaska Gasline Port Authority

Ladies and Gentlemen:

This letter ruling request is respectfully submitted on behalf of the Alaska Gasline Port Authority (the "Authority" or the "Alaska Gasline Port Authority").

In brief, a ruling is requested to the effect that, under the facts set forth herein, the Authority is a political subdivision of the State of Alaska (the "State"), and therefore, the Authority's income is exempt from federal income taxation.

Section I of this request outlines certain facts relating to the organization, operation and purpose of the Authority. Section II sets forth the specific ruling requested. Section III summarizes the authorities supporting such a ruling, analyzes their application to the relevant facts and sets forth the conclusion of that analysis. Section IV discusses certain taxpayer information and procedural matters.

By a separate letter attached hereto, the Authority is requesting expeditious handling of this request pursuant to Section 8.02(4) of *Revenue Procedure 99-1*.

ALASKA GASLINE PORT AUTHORITY
LETTER RULING REQUEST

I. STATEMENT OF FACTS

A. Information About the Authority

1. Creation and Legal Status of the Authority

The Authority is a port authority, which was established on October 5, 1999, in accordance with the Municipal Port Authority Act¹ of the Alaska Statutes (the "Act"). Pursuant to Section 29.35.605 of the Act,² the Fairbanks North Star Borough, the North Slope Borough and the City of Valdez (each an "Original Municipality") adopted parallel ordinances³ (each an "Ordinance," and together the "Ordinances") creating the Authority. Each of the Ordinances was approved by the respective voters of each Original Municipality on October 5, 1999. The Authority has been created pursuant to each of the Original Municipality's transportation system powers.⁴

2. Purpose of the Authority

The primary purpose of an authority created pursuant to the Act is to provide for the development of ports for transportation-related commerce.⁵ In accordance with this purpose and the State's constitutional mandate to utilize, develop and conserve its natural resources for the maximum benefit of its people,⁶ the Authority will undertake various improvements and additions to certain existing port facilities located, and will construct new port facilities to be located, at the Port of Valdez, Alaska, and acquire and develop the facilities necessary for the transportation, in state use, and sale of natural gas that is stranded on the North Slope of the State (the "Project"). See map attached hereto as Exhibit F.

3. Powers of the Authority

a. In General. The Authority has the power to acquire, by purchase, lease, contribution, condemnation or otherwise, real and personal property for the Project, and to construct, improve, maintain and operate, or to cause to be constructed, improved, maintained and operated, all or part of the Project.⁷

¹ ALASKA STAT. §§ 29.35.600 to 29.35.730. The Act is attached hereto as Exhibit D.

² ALASKA STAT. § 29.35.605(a)(2).

³ Fairbanks North Star Borough, Alaska, Ordinance, 99-059 (August 12, 1999) (attached hereto as Exhibit A); North Slope Borough, Alaska, Ordinance, 99-06 (August 3, 1999) (attached hereto as Exhibit B); Valdez, Alaska, Ordinance, 99-11 (July 19, 1999) (attached hereto as Exhibit C).

⁴ ALASKA STAT. § 29.35.605(d).

⁵ ALASKA STAT. § 29.35.600.

⁶ ALASKA CONST. art. VIII, § 2.

⁷ Ordinances, § 6.

b. **Eminent Domain.** The Authority is authorized to exercise the powers of eminent domain and declaration of taking to the same extent as such powers exists in the Participating Municipalities (as defined herein). Specifically, the Ordinances provide that the Authority may "exercise the powers of eminent domain and declaration of taking within its physical boundaries under [Section 29.35.030 of the Alaska Statutes] to acquire land or materials for [A]uthority purposes."⁸

c. **Additional Powers.** Additionally, the Authority is expressly authorized, in its own name, to do all acts necessary or convenient for the exercise of its power to achieve its purpose, including, but not limited to:

1. sue and be sued;
2. have a seal and alter it at pleasure;
3. acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift or lease;
4. lease to others a project acquired by it upon the terms and conditions the Authority considers advisable, including, without limitation, provisions for purchase or renewal;
5. sell, by installment sale or otherwise, exchange, donate, convey or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the Authority, the action is in furtherance of its purpose;
6. accept gifts, grants or loans, under the terms and conditions imposed under the gift, grant or loan, and enter into contracts, conveyances or other transactions with a federal agency or an agency or instrumentality of the State, a municipality, private organization or other person;
7. deposit or invest its funds, subject to agreements with bondholders;
8. purchase or insure loans to finance the costs of projects;
9. provide for security within the boundaries of the Authority;

⁸ *Id.* The boundaries of the Authority are coterminous with the boundaries of the Participating Municipalities. Ordinances, § 3.

Section 29.35.030 of the Alaska Statute provides municipalities with the power of eminent domain. The extent of the Participating Municipalities' and the Authority's eminent domain powers is set forth in Section 09.55.250 of the Alaska Statutes, which is attached hereto as Exhibit E.

10. enter into loan agreements with respect to one or more projects upon the terms and conditions the Authority considers advisable;
11. acquire, manage and operate projects as the Authority considers necessary or appropriate to serve its purposes;
12. assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing or otherwise;
13. charge fees or other forms of remuneration for the use or possession of projects;
14. defend and indemnify a current or former member of the Board (as defined herein), employee or agent of the Authority against all costs, expenses, judgments and liabilities, including attorney fees, incurred by or imposed upon that person in connection with civil or criminal action in which the person is involved as a result of the person's affiliation with the Authority if the person acted in good faith on behalf of the Authority and within the scope of the person's official duties and powers;
15. purchase insurance to protect and hold harmless its employees, agents and Board members from any action, claim or proceeding arising out of the performance, purported performance or failure to perform in good faith, of duties for, or employment with, the Authority and to hold them harmless from expenses connected with the defense, settlement or monetary judgments from that action, claim or proceeding; and
16. protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions.⁹

4. Membership in the Authority

The Authority's members currently consist of the Fairbanks North Star Borough, the North Slope Borough and the City of Valdez, each a political subdivision of the State. Additional municipalities may join and become members of the Authority at a later date. The Fairbanks North Star Borough, the North Slope Borough and the City of Valdez, together with all municipalities that join the Authority prior to December 31, 1999, are hereinafter referred to as the "Original Municipalities." The Original Municipalities together with the municipalities that join the Authority after December 31, 1999, are hereinafter collectively referred to as the "Participating Municipalities."¹⁰

⁹ Ordinances, § 6.

¹⁰ Ordinances, § 5.

Prior to becoming a member in the Authority, the governing body of each existing Participating Municipality and the governing body of the new Participating Municipality must adopt parallel ordinances.¹¹ Pursuant to the Act, all municipalities that become members of the Authority must be political subdivisions of the State.¹²

5. Governance of the Authority

A governing board (the "Board") exercises the powers of the Authority.¹³ The Board is comprised of three members selected by each of the Original Municipalities. Board members were appointed by their respective municipalities; each serves a four-year term. The Original Municipalities selected their representatives pursuant to their own respective local procedures.

Each Board member must be a registered voter residing within the State and serves on the Board solely in his individual capacity at the pleasure of the governing body of the Original Municipality by which the member was appointed. A majority of the Board members constitutes a quorum of the Board for the transaction of business. A majority of Board members present at a meeting at which a quorum is present may act on behalf of the Board.¹⁴

6. Revenues of the Authority

The Authority's revenues will be derived primarily from the sale of natural gas to municipalities within the State and to other purchasers, which are expected to include governmental and private domestic and foreign entities. The Authority's revenues will be used first generally to pay operating expenses and debt service and to fund necessary reserves for operation of the Project. Any net income will be shared with the State and all its municipalities as described below for use in their respective governmental purposes.¹⁵ The funds will be distributed to the general funds of the State and each of the municipalities within the State in accordance with the following formula set forth in the Ordinances¹⁶:

1. Payment in Lieu of Tax. Each municipality that has Project facilities within its jurisdiction will receive a payment in lieu of tax to compensate the municipality for property taxes it would have received if the Authority were not tax exempt under the laws of the State. Such payment will be equal to 2 percent of the original cost of construction of the Project facility within its jurisdiction plus any subsequent capital costs added to the facilities within its jurisdiction.

2. Remaining Distribution. The remaining net income, if any, will be distributed as follows:

¹¹ ALASKA STAT. § 29.35.605(b); Ordinances, § 5.

¹² ALASKA STAT. § 29.35.605.

¹³ Ordinances, § 7.

¹⁴ By-laws of the Alaska Gasline Port Authority, art. 3, § 9 (August 11, 1999) (attached hereto as Exhibit G).

¹⁵ Ordinances, § 17.

¹⁶ Ordinances, § 17.

a. Sixty percent to the State.

b. Thirty percent to all municipalities within the State. A municipality's share will be calculated based on its population or, if it is a municipality within a borough, the ratio of its operating budget to the operating fund of the borough. Each municipality will receive a minimum annual payment of \$50,000.

c. Ten percent equally to the Original Municipalities.

7. Dissolution of the Authority

Upon dissolution of the Authority, all of its assets remaining after its debt is retired will be distributed to all the Participating Municipalities in proportion to their respective investment in the Authority at that time.¹⁷ Such proportion will be calculated "in proportion to the difference between their contributions to the [A]uthority and any outstanding debt or obligation of that municipality to the [A]uthority, provided that any obligation to bondholders then outstanding shall first be satisfied in full."¹⁸

B. Information About the Project

Approximately 35 trillion cubic feet of natural gas remains stranded on the North Slope of the State (the "Gas"). The Gas is not being commercially produced but is instead being used solely for purposes of reinjection into the ground, a process that facilitates the recovery of crude oil. While the Gas is stranded on the North Slope it is not available to the residents of the State without an 800-mile pipeline from the North Slope to Valdez.

Due to the State's small population, the in-state natural gas consumption alone could not financially support the Project. Therefore, a consequence of making the Gas available for use by Alaska residents is that excess Gas will be available for other uses. Accordingly, the Authority intends to provide facilities to condition the Gas in excess of Alaska's anticipated in-state use for export.

1. Benefits of the Project

The Project will help the State's residents to reduce their heating and electrical bills. Alaska has one of the nation's harshest climates and, therefore, a corresponding high cost of heating. This Project will enable the State's residents who are currently heating their homes with wood, coal or diesel fuel to use the State's own Gas for heating and power generation. Alaska residents also have among the highest, if not the highest, electric rates in the nation. The cost of electricity will be substantially reduced as a result of the availability of the Gas through this Project.

¹⁷ Ordinances, § 16. Cf. Ordinances, § 4.

¹⁸ ALASKA STAT. § 29.35.610(b).