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before completion and commissioning of operation of the system.

The Public Service Commission of the State of New York also challenges the tariff provisions defining the billing commencement date. While New York has no objection to "appropriate" billing should Northern Border "pre-build" all or a portion of its pipeline to transport Canadian gas, New York advocates billing consumers only for actual services rendered. 123/

In reaching its conclusion, the Commission has considered these arguments as well as the requirements of the President's Decision, its legislative history 124/, and the impact of alternative resolutions upon the financeability of the project.

123/ New York, Initial Comments at 6-7.

124/ The relevant legislative history accompanying the President's Decision consists of the Report Accompanying the Decision, as well as the House and Senate Reports to H.J. Res. 621 (P.L. 95-158, 91 Stat. 1268), which approved the Decision. The Congressional debates on H.J. Res. 621 do not focus on when billing should commence.

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The Commission's resolution of the billing commencement date begins with the Commission's interpretation of the phrase "completion and commissioning of operation of the system." The Commission believes that the Decision is precise concerning the definition of the term "system." The Decision both refers to the system in its entirety and to the various segments in the United States and Canada that comprise the system. 125/ Thus, when the Decision uses the term "system," it is clear that the reference is to the entire system including all segments in the United States and Canada. The Commission concurs with Staff on their definition of the term "system."

However, neither the Decision nor the legislative history provides similar certainty in defining the phrase "completion and commissioning of operation." Thus, in specifying a billing commencement date, the Commission has had to consider the broad goals of ANGTA, principles of public

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125/ For example, the Decision defines the system as an overland pipeline from Prudhoe Bay, Alaska, through Canada, to the Midwest and Western sections of the continguous United States (Decision at 6). Also, the Decision defines each of the separate segments and specifies the companies to own and operate each segment.

utility regulation as well as the objectives of this project as identified in the Decision.

Specifically, the Commission has considered the need to (1) equitably treat all parties including the project companies, their investors, the shippers and owners of the gas, and gas consumers; (2) provide incentives to avoid delay both in the completion of construction of all segments and in the start-up of gas production; and (3) reduce the ultimate cost to consumers. Billing commencement at the time when all segments are complete, tested and proved capable of operation satisfies these goals better than the other alternatives posited by the Alaskan Delegate and discussed by the Staff, the sponsors, and other parties.

Prior to commissioning the system for operation, all pipeline segments must be been tested and proved to be capable of operation. The Commission will rely upon the Federal Inspector to certify that the system is capable of performing the services for which it was certificated. In establishing this billing commencement date, the Commission limits the rate to be charged before initiation of service to a "Minimum Bill." The Minimum Bill shall be equal to actual operation and maintenance expenses, current taxes, plus debt service including interest and scheduled retirement, if the Federal Inspector certifies that the system is capable of performing the service even though no gas has been tendered for transportation. The

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Commission concludes that this is a reasonable and fair burden to place on the various parties. First, sponsors have control over the coordination of the construction schedules of the various segments. Shippers or consumers should not be asked to bear the cost of poor coordination in the construction of the entire system. 126/ Once the system is complete, however, it would be unfair to impose a further burden on the project sponsors who are only the transporters of the gas for the shippers and who depend on shippers to tender gas to them. The Minimum Bill (equal to actual operation and maintenance expenses, current taxes, plus interest and scheduled retirement of debt) will allow the project companies to pass this portion of the total cost to the shippers. The mechanism and timing of the flow-through of the Minimum Bill is specifically reserved until such time as the proposed shipper tariffs are presented to the Commission. 127/

Finally, the Commission concludes that the specification of the date for billing commencement strikes the necessary balance between various costs to be borne by the consumer and risks to be borne by project sponsors.

This provision reduces the risk borne by investors in the project, especially debt holders, and this reduction in risk

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126/ The Commission's choice of billing commencement date is not inconsistent with our earlier interpretation of the President's Decision in Alcan Pipeline Company, Docket Nos. CP78-123, et al., "Order Dismissing Petition for Declaratory Order" (March 24, 1978). In that order the Commission stated that the Decision precludes the shifting of the risk of non-completion to gas consumers. Once the system has been constructed and is capable of rendering service, that risk will have passed. It is at just that point that we have allowed charges to commence.

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should facilitate the private financing of the project and thus the expeditious construction of this important source of natural gas. Also, this reduction of risks will tend to reduce both the rates of interest and rates of return necessary to attract private debt and equity investors. 128/ Interest charges and return on equity is a major portion of the cost of service for this pipeline. A lowering of such costs of financing could mean a substantial savings to consumers. 129/ The Minimum Bill will provide for debt service and thus reduce the finance charges to be borne by consumers (AFUDC) when service commences. 130/

This choice of a billing commencement date does create the possibility of the project companies billing shippers during a period when transportation service has not commenced. However, the Commission concludes that a long delay in the initiation of service after completion and commissioning is very unlikely. Incentives created by this definition of billing commencement, and the various controls and oversight authority granted to the Federal Inspector encourage coordination and timely commencement of service. First, insofar as most shippers are also going to be sponsors with an equity interest

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128/ See, El Paso Alaska Company, Docket Nos. CP75-96, et al., Tr. at 29,620.

129/ See, New York, Initial Comments at 1.

130/ See, El Paso Alaska Company, Docket Nos. CP75-96, et al., Tr. at 35,514.

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in the project, it would obviously be to their benefit to have the gas flowing at an early date rather than deferring cash flow to be realized from their equity share of the project. Thus, the Minimum Bill, which provides no return of or on equity, creates a cash flow incentive for the sponsors to consummate, in a timely manner, the necessary agreements with the gas producers and the transporter, as well as any new arrangements that may be required with the shippers' customers.

Additionally, it would appear to be in the producers' best interest to have producer-shipper contracts finalized at an early date and the conditioning plant ready when the system is prepared to transport gas. This is because of the expected flow of revenues to be realized by the producers from the sale of the gas and also because of the long-range planning required for efficient reservoir management of the Prudhoe Bay field.

Based upon the previous analysis and reasoning, the Commission concludes that the project companies may commence billing after the entire system is completed and tested for service. Tested for service does not require that the line be packed. The Commission's resolution also appears to be harmonious with the approach previously taken by the National Energy Board of Canada (NEB). The NEB uses the terminology

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"leave to open" as the regulatory event which signifies the NEB's judgment that construction has been completed, the facility has been tested and is ready for service. It is noteworthy that the Foothills' proposed tariff provides that billing may commence only after all nine segments in Canada have been completed and commissioned for operatio... 131/

During the period between completion of the entire system and actual transportation of gas, the Minimum Bill will equal the actual operation and maintenance expenses, current taxes, and amounts necessary to service debt, including interest and scheduled retirement of debt. This level of reduced billing will continue until gas is tendered for transportation and service commences. Upon the initial transportation of gas by the system, the project sponsors will then be allowed to charge an interim rate. The next section of this Order specifies the level and duration of the interim rate.

131/ Foothills Pipelines (Yukon) Ltd., Gas Transportation Tariff, Sheet No. 201, filed April 1, 1979 (Section (1)(1.4), General Terms and Conditions):

> The term "Billing Commencement Date" shall mean the date when all Canadian Segments required in the transportation of that U.S. Gas have been completed and commissioned for operations. . .

The continuation of regulatory consultations as provided for in Section 9 of the Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline may result in a closer coordination of billing commencement in the U.S. and Canada.

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2. <u>Interim Rate</u>

We have determined that charges should be permitted only after all segments of the system are completed and capable of rendering service. Next to be addressed are the related questions of the level of the charges to be initially imposed. At issue is whether the tariffs should provide for fixed, reduced charges during the initial operating period of the system or, alternatively, for full cost-of-service charges. For the reasons discussed below, the Commission will require that the tariffs provide for an interim rate scheme, which includes both a Minimum Bill to cover current expenses and debt service, and a fixed unit-rate to be applied to the actual gas throughput during the first year of operation or until the design throughput is attained. The rationale for requiring the interim rate scheme is that it recognizes that at the commencement of billing, either the gas throughput may be less than the design capacity, or the pipeline start-up and testing procedures may be completed prior to the ability of the shippers to tender gas for transportation.

During the proceedings in <u>El Paso Alaska Company</u>, Docket Nos. CP75-96, <u>et al</u>., two interim rate proposals were advanced. The first was a phasing proposal in which some portion of depreciation expense and return on rate base would have been deferred until full throughput capacity

was reached. The second proposal would have imposed a fixed reduced unit charge on the smaller initial volumes, with those revenues credited against the construction work in progress account. That reduced charge would have lasted for no more than one year.

The second proposal was endorsed by the Administrative Law Judge in his initial decision in El Paso Alaska Company. 132/ The President's Decision does not discuss the issue. The FPC's Comments on the Decision suggest, however, that an interim rate should be given consideration. 133/

The proposed tariffs of Northern Border and Alaskan Northwest each provide that billing would commence at the full cost-of-service charges. Although the project sponsors acknowledge that an interim rate provision can be incorporated into the tariffs, they are of the view that an interim rate would produce no material changes in the charges that would otherwise be collected under the tariffs. That view is based on the project sponsors assumption that beginning with the initial billing commencement date, their respective segments of ANGTS will be used essentially at their full design capacity.

132/ El Paso Alaska Co., Docket Nos. CP75-96, et al., "Initial Decision on Proposed Alaska Natural Gas Transportation Systems," at 409 (Feb. 1, 1977).

133/ Comments at 63.

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The Commission, however, will require an interim rate because there are no assurances about the level of throughput that will be achieved during the initial period of operation. 134/ This is true particularly in light of the fact that charges will be permitted to commence upon completion and commissioning of operations. Because of the sheer size and complexity of this project it is reasonable to expect that the system may not be able to attain its design capacity throughput during the initial months of operation. Any throughput below the design capacity would result in higher unit charges to gas consumers if charges to the shippers were based upon the full cost-of-service computations.

To guard against that event, the Commission will require that an interim rate structure be established to be effective commencing upon completion and commissioning of operation, 135/ and terminating on the earlier of the first year of operation or upon attainment of design capacity throughput, whichever occurs earlier. 136/ The level of that interim rate is to be

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134/ *See Decision* at 145-47.

135/ It must be made clear that this discussion pertains only to the methodology of the interim rate itself. The timing of the flow-through by the shippers of any charges resulting from the interim rate and the actual mechanics of the flow-through are not addressed in this order.

136/ *See* discussion in Section VI.A.1 (Billing Commencement).

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computed on the basis of the projected cost-of-service for the first twelve months of operation divided by the system's design capacity throughput. The interim rate is to be a fixed unit charge (i.e., dollars per dekatherm) and is to be applied to the actual quantities of gas delivered through the system. The interim charge so computed will be effective commencing with the initial delivery of gas through the system. During the interim rate period, the expenses and revenues experienced by the transporter should be treated as "earnings and expenses during construction" and AFUDC should continue to be recorded in accordance with 18 C.F.R., Part 201, Gas Plant Instructions 3(17) and 3(18).

The Commission recognizes, however, that -- for some unknown and unforeseeable occurrence -- there could be a lapse between the time of completion and commissioning of operation of the system and the time when gas deliveries commence. As previously explained, 137/ such an event is unlikely because there are adequate incentives placed upon the transporters, shippers, and producers to commence gas deliveries at an early date. If, however, there were a delay in gas deliveries, no revenues would be generated from

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137/ See Section VI.A.1. (Billing Commencement).

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the interim rate described above. Additionally, if the quantity of initial gas flow were very small, the revenues might not be adequate to service debt and cover current expenses. The Commission will, therefore, permit the transporters to collect, as a "Minimum Bill," charges equal to actual operation and maintenance expenses, actual current taxes, and actual amounts necessary to service debt. It is the Commission's opinion that the tariffs should provide for a "Minimum Bill" as an aid in obtaining financing for this project.

The Commission also recognizes that a portion of the cost of service may have to be capitalized to the extent that costs exceed revenues. On balance, however, the interim rate adopted here appears preferable. It attains a reasonable balance between the need to obtain financing and protection for the consumers against excessive transportation charges during the system's start-up and testing period. Any capitalization of costs in excess of revenues would effectively be spread on a pro-rata basis to all shippers utilizing the system. An interim rate would also likely reduce the burden on those shippers utilizing the system to transport relatively small volumes of gas. Additionally, such a rate would tend to reduce inequities that may occur as a result of, possibly, different, higher charges imposed on shippers that initially use the system as compared to those that later use the system.

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The type of interim rate prescribed by the Commission will operate as an incentive to the transporters to maximize the throughput because the revenues recouped from this type of rate will be increased as throughput is increased. The Commission's formula for developing an interim rate should also encourage early utilization of the system because the unit charge would be lower during this period as compared to full cost of service charges. The interim rate adopted by the Commission is also superior to alternatives proposed in the comments of parties and Staff. Further, the Commission's interim rate fully considers the concerns expressed by the project sponsors in their comments on an interim rate.

Staff supports the interim rate concept. 138/ The essential difference between the recommendation of Staff and the interim rate adopted by the Commission is that Staff would compute the interim rate based on the projected full cost of service for the first year of operation divided by the aggregate of the maximum annual contract entitlements.

The Commission is not persuaded that the result of dividing costs by maximum contract entitlements will achieve adequate protection against a high level of transportation

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138/ Staff Initial Comments at 25-28.

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charges during the initial months of operation of the system. It is not known at this time the extent to which the capacity of the system will be contracted for during those initial months of operation. That is one of the reasons underlying the Commission's determination that the interim rate prescribed here provides a significant measure of consumer protection without impairing the financeability of the project.

The interim rate adopted here also appears superior to the proposal of the Public Service Commission of the State of New York. New York argues neither for nor against adoption of an interim rate at this time. It suggests, rather, that a final determination on this matter be postponed to the future. 139/ Postponement can be achieved, according to New York, if the Commission were to provide that an interim rate would be prescribed if circumstances at the start-up date so warrant. To assess those circumstances New York proposes that the sponsors would be required, by a date set by the Commission, to file data about the expected level of initial operation. 140/

139/ New York, Initial Comments at 7.

140/ Id.

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The Commission believes that its determination herein is more appropriate. In the Commission's view, the project sponsors and the financial community need a determination, at this time, about whether an interim rate will be required. Further, the interim rate prescribed here is sufficiently flexible so that the level of the rate will automatically adjust to the initial level of operation.

The Commission prescribed interim rate will also satisfy the concerns expressed by the State of California. California states that it has no basis for proposing implementation of a "complex" interim rate approach in the early months of operation. 141/ The interim rate described above is not complex. It strikes the necessary balance between protecting consumer interests during the initial months of operation of the system and the requirements for a revenue flow for the project sponsors.

141/ California, Initial Comments at 5.

The State of Alaska did not comment on the interim rate *per se*. Rather, Alaska's comments were directed to whether an attempt should be made to levelize the costs over the life of the project. Alaska, Reply Comments at 5-6. The interim rate issue that is addressed by the Commission should not be confused with any attempt to levelize costs over the whole life of the project. Rather, the interim rate is intended to guard against excessive transportation charges during the initial period of operation of the system.

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California also cautions that the Commission should assure itself that the design capacity throughput will be achieved within a short period after the gas begins flowing. 142/ As stated above, this Commission does not have any assurances at this time about the number of months that will be required for the system to reach its design capacity. For this reason, the Commission will require the implementation of the interim rate described above, the effect of which will be that the average charge for gas transported through the system during the initial period of operation will not be excessively high.

Finally, the interim rate adopted here will provide the project sponsors with the assurances they sought. The sponsors state that they do not deny that an interim rate can be incorporated into the project tariffs provided that the interim rate expires on a date certain. 143/ The interim rate that the Commission will impose will expire, as indicated, upon the attainment of design capacity throughput or the end of the first year of operation, whichever occurs earlier. The Commission has also provided resolution of this issue at this time so that, as the sponsors argued,

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142/ Id.

143/ Joint Comments at Tab 3, Pt. 2 at 7.

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their ability to arrange timely financing for the project would not be impeded. The interim rate structure provided for here should be an aid in securing financing for the project. Further, should the project sponsors prove correct in their assumption, that the system will be used to its then-available capacity once operations begin, the revenues generated by the interim rate will equate to the full cost-of-service.

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3. Service Interruption

The third issue identified by the Alaskan Delegate involves whether equity investors of either the Northern Border or Alaskan Northwest segment should be subject to a reduced return on equity if that segment is unable to fulfill its contract obligation to transport Alaska gas. Both the Administrative Law Judge in El Paso Alaska Company and the FPC in its Recommendation to the President endorsed such a provision.

Section 5 of Rate Schedule T-1 of each proposed tariff adopts the concept and provides for a reduction in charges should the pipeline be unable to accept and transport the contract gas tendered to it. The tariff provision reducing the charges to shippers would be applicable, however, only in those instances when the reduction in service for any one month was greater than 10 percent. 144/ In that event the adjustment to the monthly bill would reduce the return on equity and associated taxes. That reduction would be proportional to the percentage of volumes tendered but not transported. If the transporter is able subsequently to

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144/ Any failure by the pipeline to accept less than 100% but more than 90% of the gas tendered by a shipper would be accounted for in the Make-Up Gas provision of the respective tariffs. This gas -- referred to as "No Billing Adjustment Gas" -- would be transported in subsequent months at no added charge to the shipper.

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transport the volumes of gas to which a billing adjustment had previously been applied, the charge for that "Make-up Gas" transportation would be computed by using the same billing adjustment (i.e., the same $/Dekatherms). In summary, the tariffs have the effect of reducing charges to the shipper if the pipeline is unable to operate at 90 percent of the contracted transportation level, but permits the pipeline to recoup any such billing credits by transporting volumes in excess of the contract level in subsequent months.

Commission Staff argues that the service interruption provision of each of the proposed tariffs is inadequate. Staff contends that, under the proposed tariff arrangement the possibility exists that ultimate consumers may not receive gas because of the failure of one transporter to perform. Those consumers, however, would still be required to pay (1) the full costs of service of those segments able to perform; (2) a portion of the costs of that segment responsible for the service interruption; and (3) depending on the terms of the gas purchase contracts between producers and shippers (e.g., "take-or-pay clauses"), some or all of the shipper's contract obligation.

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To recognize this potential burden on consumers, Staff argues that a premium must be placed on performance. Staff, therefore, proposes that the tariff provide both a proportional reduction in return on equity for minor interruptions and a total cessation of recovery of equity investment for interruptions of 60 percent or more of the contract quantities.

In Staff's view the loss of equity investment is compatible with the President's _Decision_. The _Report_ accompanying the _Decision_ is said to establish that equity investment is to be placed at risk in all circumstances, including service interruption, and should interruption occur, only debt service would be maintained (_see Report_ at 100-101).

There is no dispute about the necessity for a tariff provision that reduces the return on equity for service interruptions, and such a provision must be included in the tariff. The Commission views this tariff provision as striking a necessary and appropriate balance between the need to provide an incentive for maintaining uninterrupted service and yet realistically appraise the operating character of the pipeline. 145/ A reduction in charges to

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145/ The Commission recognizes also the balancing of transporter/shipper interest provided through the "Tender Deficiency" provision under Section 3.1 of Rate Schedule OT-1, which permits the shippers to make up any deficiencies in the volumes of gas tendered for transportation during the same month in which the tender deficiency occurred or in the next following month.

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shippers would provide an economic incentive for the project sponsors to maintain uninterrupted service to the maximum extent possible. The provision would simultaneously recognize that a pipeline cannot transport 100 percent of its contract gas every day. It would thus afford some measure of operating flexibility to the transporter through use of the 90 percent billing adjustment "ratchet" without any apparent long-term operating or economic hardship on the shippers.

As proposed by the project sponsors, another feature of the 90 percent billing adjustment ratchet is that there would be no limit imposed on the time available to transport the make-up volumes. Staff objects to that provision, arguing that the period for transporting make-up volumes should be limited to one year. According to Staff, the make-up volumes can be obtained only from "storage, reinjection, improved field deliverability or new discoveries." Each of these sources of increased gas supply will impose additional costs on shippers and producers. In such circumstances, Staff argues, the transporters should not be entitled to an unlimited make-up period because it would be contrary to the intent of a Minimum Bill provision and would also shift risks of interruption to the consumer.

Contrary to Staff's argument, the Commission concludes that a time limit for transporting make-up volumes should not be included in either of the tariffs. If the transportation

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of make-up gas has no time limitations, a transporter will be required to discharge all obligations under the make-up gas provision of Rate Schedule T-1 before a charge can be assessed pursuant to Rate Schedule OT-1. The make-up gas provision of the Rate Schedule T-1 is to the consumer's benefit since the OT-1 charge would be higher than the make-up gas charge for "Billing Adjustment Gas" (i.e., gas which had been tendered but not transported, and for which an adjustment had been provided, equal to a proportional reduction in return on equity and associated taxes). Further, a transporter operating under an indefinite make-up period will be under a continuing obligation to ship "no billing adjustment gas" which had previously been tendered by a shipper. A shipper is not charged for the transport of this gas, because no credit was received by the shipper at the time these volumes were tendered but not transported.

Consumers may also benefit from an indefinite make-up period. To the extent that make-up gas can be transported at a lower charge than other volumes of Prudhoe Bay gas, the lower costs and increased volumes would lower the average cost of all gas. That possibility would be cut off, however, were a one-year limit imposed on transporting make-up gas.

Finally, the Commission disagrees that the indefinite make-up period now provided in the pro forma tariffs will not put a premium on performance. Transporters are not

likely to delay the transportation of make-up gas, because such delay prevents recovery of the return on equity. Thus, any make-up provision is self-enforcing. Further, since there is a time value of money, the indefinite make-up provisions of the tariffs might provide a continuing incentive for transporters to perform make-up activities as quickly as possible, so that revenues will be forthcoming for their use sooner rather than later. That continuing obligation would not exist, however, if after one year from the service interruption the transporter, although permanently losing a portion of the return on equity, was also discharged from his make-up obligation and could charge at the then current transportation rates.

For the reasons set forth above, the Commission therefore approves the _pro forma_ tariff provisions regarding the reduction in return on equity. Except for the period of time permitted to transport make-up volumes, there is unanimous agreement among participants that such a tariff provision is both fair and necessary.

There is substantial disagreement among participants, however, about whether there should be a loss of equity investment for major service interruptions. As discussed above, Staff would require a permanent reduction in the return of equity whenever transporters fail to transport 60 percent or more of their contract volumes. Tariff provisions similar to that proposed

by Staff were discussed in the initial decision in El Paso Alaska Company 146/ and in the FPC's Recommendation. 147/

The Commission has carefully examined this issue and concludes that in the event of an extended, total service interruption, the public convenience and necessity may require a reduction of, not only the return on equity, but also a disallowance of the return of equity. A tariff provision of this nature was before the President 148/ and complies with the conditions under which private financing was expected to occur:

> 1. The equity investment in the project would be placed at risk under all circumstances and the budgeted equity investment be considered the first funds spent. The rate of return on equity would compensate sponsors for bearing this risk.
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> * * *
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> 4. Provision of debt service in the event of service interruption would be borne by consumers through a tariff that becomes effective only after service commences. 149/

Unlike the Staff's proposal to reduce charges whenever the level of gas throughput falls below 60 percent of contract amounts, the reduction in charges described below will

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146/ Docket Nos. CP75-96, et al., Initial Decision at 404 (Feb. 1, 1977).

147/ Recommendation at XII, 43.

148/ The private financing model discussed in the Recommendation would have reduced debt service.

149/ Recommendation at XII, 43.

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become effective only in the event of an extended total cessation of service. As already discussed, the 90 percent billing adjustment ratchet for any service diminution below 90 percent of tendered gas will reduce charges to eliminate return on equity. However, once the transporters wholly fail to provide any service, it is appropriate that return of equity be subject to forfeiture.

The provision adopted here will be activated only in the event of the failure of the Alaskan segment or Northern Border segment to transport tendered volumes, and only when there is a total cessation of service for thirty consecutive calendar days. The provision would apply prospectively from the thirty-first day of service interruption, and would continue until such time as gas is again transported. Further, this provision will apply solely to that segment directly responsible for the service interruption. 150/ Specifically, the Commission will require that commencing with the thirty-first day of total service interruption, that portion of the transporters' charges attributable to equity costs (that

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150/ For example, if the Alaskan segment of the system were inoperable but the Northern Border segment were operational, no adjustment would be made to the charges by Northern Border. Likewise, if one or more of the Canadian segments of the system were inoperable but the Alaskan segment and the Northern Border segment were operational, no adjustment would be made to the charges by either Alaskan Northwest or Northern Border.

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portion of depreciation expense not necessary for debt service and associated taxes) shall be collected, subject to refund. Under no circumstance would debt service be impaired.

A Commission hearing will be convened as soon as practicable after the end of the first month of total cessation of service. At that time, the transporter will be provided the opportunity to demonstrate that the extremity of the circumstances surrounding the service interruption warrants retention of equity costs by the transporter. If the transporter can demonstrate that the failure to provide service was beyond the control of prudent management, the revenues collected subject to refund will be retained by the transporter. If such a showing is not made, the revenues collected subject to refund must be returned to the shippers together with appropriate interest.

While the Commission recognizes that consumers will be required to pay a portion of the transportation charges during the period that the Commission is considering whether equity costs should be refunded, that period should not be long. The ANGTA mandate to expedite will continue in force. The continued collection of equity costs by the transporter may also assist it in having revenues available to make necessary, and perhaps expensive, repairs to restore service.

Consumers, on the other hand, will have the assurance that refunds, with interest, will be provided should the transporter fail to demonstrate that the total cessation of service was not the result of management imprudence.

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In that event, fairness requires that the appropriate transportation charge only recover actual operation and maintenance expenses, current taxes, and debt service. This reduced level of charges would continue until service is restored.

This procedure provides the assurance to investors that debt service will be covered in all events as was contemplated in the President's Decision. 151/ It also provides that shippers and consumers would not bear equity costs when management is unable to demonstrate that events surrounding the service interruption justify the retention of such equity costs by the transporter.

151/ Decision at 100-101.

4. Billing Procedure

The selection of the period and method to calculate shippers' transportation charges is the fourth issue affecting risk allocation for the Northern Border and Alaskan segments of the ANGTS project. 152/ According to the Alaskan Delegate, two alternative procedures were presented during the hearings in El Paso Alaska Company, Docket No. CP75-96, et al.

> The first would be to estimate the cost of service of the pipeline over a future six month period and then fix a constant monthly charge to recover this estimated six month cost of service. In the event that the estimate deviated from the actual cost of service, any accumulated undercharge would be added to, or any overcharge subtracted from the charge levied over the following six month period.
>
> The second approach . . . would be to simply bill shippers monthly for the actual costs of service incurred during the previous month. . . . This could result in charges changing from month to month but would avoid any overcharging or undercharging. (Delegate's Report at 13)

The Initial Decision in that proceeding recommended adoption of the six-month billing procedure. 153/ The Presiding Judge found that the six-month billing affected only the timing of recovery of the charged rates and, therefore, no adequate justification had been presented

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152/ See Delegate Report at 13.

153/ Initial decision at 407-408.

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for rejecting the proposal. He further postulated, however, that the monthly billing procedure would have also been acceptable. 154/

Each of the proposed tariffs before the Commission provides for a six-month billing procedure (see Section 6.8 of the General Terms and Conditions of the tariffs of Northern Border Pipeline and Alaskan Northwest Natural Gas Transportation Company). Commission approval of each of the tariff provisions is urged by the project sponsors as providing a mechanism to permit shipper tariff tracking provisions with transportation costs attributable to ANGTS. The proposal is also tentatively supported by New York. 155/

Staff acknowledges that the six-month billing procedure is neither unfair nor illegal. Staff contends, however, that billing shippers for the previous month's actual costs provides certain advantages: (1) it would simplify the tariff by eliminating the surcharges and carrying charges which occur with a six-month billing procedure; (2) it would reduce billing controversies regarding methods of estimation; and (3) it would simplify review of transporters' rates.

154/ Id.

155/ New York, Initial Comment, at 8.

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Initially, the Commission agrees that the project sponsors' proposed method of billing is neither illegal nor unfair. Each transporter will determine monthly the difference between its actual cost of service and the total charges collected. That difference will be accounted for in the transporter's working capital allowance in rate base and, therefore, carrying charges will be recovered by the transporter when there have been undercollections or by the shipper when there have been overcollections.

Moreover, while Staff's arguments in favor of a monthly billing procedure are credible, the Commission finds that on balance the six-month billing procedure will be adopted. Although cost-of-service billing is typically done on an actual basis, a six-month billing procedure here would provide the transporter with a relatively stable flow of revenues. It would also enable the shippers to more accurately estimate their revenue requirements for the immediate future. 156/

The six-month billing procedure would also benefit the consumer by reducing the possibility of wide variations in monthly transportation charges. Such variations

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156/ This feature may have significance in the Commission's consideration of the mechanics of flow through of the systems' charges by the shippers. The question of shipper tracking is discussed above. See Introduction to Section VI.

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could be a result of the planned maintenance and scheduled down time proposed in the tariffs. Section 1.14 of the General Terms and Conditions of the Alaskan Northwest tariff and section 1.15 of the General Terms and Conditions of the Northern Border tariff show how the planned maintenance and scheduled down-time factors vary from month to month for the pipelines. Notwithstanding those monthly down-time variances, the January-June billing period contemplates effective operating days 157/ that are essentially identical to the effective operating days for the July-December billing period. Thus, the proposed six-month billing period -- which uses an estimating and subsequent balancing approach -- would tend to level off the monthly bills, and would appear to be consistent with and a desirable accompaniment to the planned operation of the pipeline.

The Commission will permit the billing procedures proposed by the transporters. However, the proposal to compute working capital allowance on the accumulated differences between the estimated cost-of-service and the

157/ Effective operating days are determined by multiplying calendar days for each month by the corresponding maintenance and down time factor. Effective operating days should translate, essentially, into relative volume throughput in each month.

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actual cost-of-service will not be approved. Rather, carrying charges on such differences will be permitted in accordance with the Commission's Regulations. This approach is the normal treatment for similar amounts.

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B. Other Tariff Issues

As noted at the outset of this discussion, several tariff issues have been identified through the comment procedure of this rulemaking, and as a result of the Commission's analysis of the proposed tariffs. Those issues are considered below.

1. Availability of Transportation Services

The Alaska Natural Gas Transportation Act states at Section 13(a) that "no person seeking to transport natural gas in the Alaska natural gas system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of the degree of ownership, or lack thereof, of the Alaska natural gas transportation system." A question has arisen about whether the availability clauses of the pro forma tariffs (§ 1 of Rate Schedule T-1 and § 1 of Rate Schedule OT-1) comply with this provision of ANGTA.

The pro forma tariffs each indicate that services will be available to any shipper under its service agreement. The tariffs do not specifically indicate, however, whether a service agreement will be available on a non-discriminatory basis. It is thus possible that the availability provisions of the pro forma tariffs do not comply with Section 13(a) of ANGTA.

In their joint comments, Alaskan Northwest and Northern Border state that the intent of each of the

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tariff provisions was not to deny access to any person seeking to transport natural gas. 158/ Rather, the intent was to recognize that each transporter is a contract carrier.

Staff expresses its belief that the availability provisions were not intended to deny access to the pipeline but suggests that as now drafted the tariff provisions are ambiguous. Staff, therefore, proposes alternative language. 159/ For Rate Schedule T-1, Staff proposes:

> 1. Availability
>
> This Rate Schedule is available to any person desiring service as provided for by Section 13(a) of the Alaskan Natural Gas Transportation Act of 1976 after execution of a service agreement with the Company.

And for Rate Schedule OT-1, Staff further proposes:

> 1. Availability
>
> This Rate Schedule is available to any Shipper that is receiving service and has executed a service agreement under Rate Schedule T-1.

The Commission has reviewed the proposed changes offered by Staff. These changes better reflect the intention that the services should be made available on a nondiscriminatory basis. The proposed changes of Staff

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158/ Joint Comments, Tab 3, Pt. 2 at 1-2.

159/ Staff Initial Comments at 42-43.

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should be substituted for the availability provisions now contained in each of the prc forma tariffs.

2. Cost Allocation

Several cost allocation issues have been raised by the filing of the transporters' tariffs and the comments thereon. The central issues to be decided are:

a) Should costs be allocated to various shippers on the basis of the relative volume units (Mcf) transported through the system or, alternatively, on the basis of relative energy units (Dekatherms) transported through the system?

b) Should Alaskan Northwest's system be segregated into two zones for rate purposes, or should the costs be composited and allocated to various shippers on the basis of the number of miles of system used by each shipper?

The determination of each of these issues has a greater impact upon the State of Alaska than any other party. The issues are created, in the first instance, by the expected delivery of Prudhoe Bay gas within Alaska. As Alaska stated in its initial comments:

> Alaska has been pursuing and evaluating proposal to utilize natural gas liquids from Prudhoe Bay in Alaska as a feedstock for a new petrochemical facility. 160/

160/ Alaska, Initial Comments at 7; see also Alaska, Initial Comments at 10.

The Commission agrees with the statements included in Alaska's initial comments to the effect that the Alaskan Northwest portion of ANGTS is not contemplated to be a "dual-phase transportation facility" and that Alaskan Northwest's tariff is "constructed on the assumption that there would not be a separate transport of liquids." 161/ It is the Commission's understanding that all of the fluids moving through the Alaskan Northwest pipeline will be in a gaseous state. There will be no droplets, slugs, or phases (or any portion of the fluid to which any similar term can properly be applied) in the pipeline whic[illegible] be in liquid form.

What must be considered, however, is that certain portions of the gaseous stream being transported are liquefiable in a hydrocarbon extraction plant. It seems apparent from Alaska's statements that it intends to extract, or cause to be extracted, certain liquefiable hydrocarbons from the total gas stream passing from Prudhoe Bay through the State of Alaska. The central question that must be addressed is how should transportation costs be allocated to any "off-take" of gas within

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161/ Id. at 7 (statement attributed to Alaskan Northwest).

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Alaska 162/ if the composition of the gas is changed by changed by extraction operations occuring after the gas has entered ANGTS. 163/ Alaska states in its reply comments:

> The cost allocation methodology is of no great consequence because whatever the cost allocation methodology, the bottom line will be that the entire cost of service is recovered. 164/

Alaska goes on to state:

> There is no question that Alaska must be charged a just and reasonable rate for its shipment. 165/

The Commission agrees with the latter statement but cannot accept the former assertion. The tariffs must provide a mechanism for allocating ANGTS's costs that gives proper recognition to the planned utilization of the project and the attendant cost responsibility. The consequence of an improper cost allocation method would be that certain shippers would be effectively subsidizing the operations of other shippers. Furthermore, it is important that guidance be given to the potential users of Alaskan gas so that they may evaluate their participation in this project.

162/ See Alaska, Initial Comments at 8-9 for detailed discussion of "Off-Take" considerations and legal requirement to permit in-state withdrawal of royalty gas.

163/ The determination of this question does not require the establishment of a "separate liquids rate," which was suggested as a possibility by Alaska.

164/ Alaska, Reply Comments at 4.

165/ Id.

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For the reasons explained below, the Commission determines that energy units (Dekatherms) rather than volume units (Mcf) should be used as the basic allocation units for apportioning Alaskan Northwest's cost-of-service. Additionally, the Commission will require that distance (miles) be factored into the cost allocation procedures. Finally, the Commission will require that Northern Border's cost-of-service also be allocated on a Dekatherm-mile basis.

Consideration of the essential purpose of ANGTS and certain elementary chemical facts is basic to properly resolving the issue of cost allocation. The ANGTS is being constructed as a transportation system to deliver energy to Alaska and the contiguous forty-eight States. The value of the system to most of the gas consumers is the amount of energy that will be made available through the system. Various industrial customers could benefit more by extracting certain of the constituents from the gas stream because of the chemical and physical properties peculiar to those constituents. Therefore, the value of the ANGTS to certain industrial customers is derived more from the discrete chemical and physical properties of the components that can be extracted from the gas stream rather than from the heat energy value of the total gas stream being transported.

Products that normally would be removed in a hydrocarbon extraction process (ethane, propane, butanes and pentanes-plus) have a higher heat value per unit of volume than the principal constituent remaining after processing (methane). 166/ This is obvious from the following:

Gas Component	Heating Value (Dekatherms per Mcf)
Methane	1.0
Ethane	1.8
Propane	2.5
Butanes	3.3
Pentanes-plus	5.0±

Based upon the information presented in the proceedings before the FPC involving the competitive applications to construct an Alaska gas transportation system, 167/ the gas available at a gas processing and conditioning plant could have the following composition of hydrocarbons:

Gas Component	Percent 168/
Methane	85.1
Ethane	7.8
Propane	4.0
Butanes	1.2
Pentanes-plus	0.2

166/ Substantial amounts of methane could also be required in a fertilizer manufacturing complex.

167/ Docket Nos. CP75-96, et al.

168/ Docket No. CP75-96, et al., transcript at 19,496 (testimony of Exxon Corp.). Percentages do not add to 100% because carbon dioxide and nitrogen, which do not have any heating value, have been omitted.

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The gas leaving Prudhoe Bay is sufficiently rich in liquefiable hydrocarbons (ethane and heavier hydrocarbons) to make extraction somewhere on ANGTS attractive. Alaska indicates that it may be economical to extract certain of the hydrocarbons within the State of Alaska. 169/ It is quite obvious from comparing the heating value of the various gas components with the indicated composition of gas leaving Prudhoe Bay, that removal of all or any portion of the components other than methane would significantly affect the heating value of the remaining gas stream. For example, the gas stream after processing at a hydrocarbon extraction plant could essentially have the following hydrocarbon composition:

Gas Component	Percent 170/
Methane	93.5
Ethane	3.0
Propane	1.0
Butanes	0.5
Pentanes-plus	0

The heating value of gas leaving a hydrocarbon extraction plant with the above illustrative composition would have a heating value of approximately 1054 Btu per cubic foot (1.054 Dekatherms/Mcf). The gas leaving Prudhoe Bay with the composition shown at page 195

169/ Alaska, Initial Comments at 7.

170/ As before, the percentages do not add to 100% because of the omission of carbon dioxide and nitrogen.

would have a heating value of 1148 Btu per cubic foot. The extraction operation depicted by this example results in a loss in heating value of 94 Btu per cubic foot, or eight percent.

The implied results of any extraction operation that removes any "heavy" hydrocarbons (ethane, propane, etc.) are quite clear. Those customers purchasing gas downstream from the extraction operation must purchase greater volumes of processed gas to produce the same amount of heat energy that lesser volumes of unprocessed gas would produce. The type of extraction operations described above would effectively deprive other gas consumers of useable amounts of heat energy. As has been shown, the magnitude of deprivation of usable heat energy is not in proportion to volumes of liquefiable components removed in the extraction operation but is related to the heating value of the components removed. Therefore, allocation of the ANGTS costs on a volumetric basis would not be proper if extraction operations change the composition of the gas received into the system.

Recognizing the potential that some processing of Alaska gas to remove liquefiable hydrocarbons will likely occur at some place along the ANGTS, 171/ the Commission

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171/ See, e.g., Alaska, Initial Comments; see also proposed gas purchase contract between Northern Natural Gas Company and Exxon Corporation filed with the Commission May 2[illegible], 1979.

decided to address the cost allocation issue in that context in this Order. 172/ The Commission's goal is to require a cost allocation method that most equitably apportions ANGTS costs to all shippers. Failure to resolve the issue at this time would result in uncertainties of cost allocation and could result in the institution of another proceeding to deal with the issue.

This Commission does not know what form or to what extent extraction operations may eventually be conducted along the ANGTS, either in Alaska or at other locations. If the State of Alaska, or others, conduct hydrocarbon extraction operations similar to those illustrated above, equity and sound regulatory policy require that ANGTS costs be allocated on a heat energy or thermal (Dekatherm) basis rather than a volumetric basis. To guard against any inequitable apportionment of ANGTS costs which

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172/ The Commission is also aware that cost allocation may be sensitive to the carbon dioxide content of the gas being transported. If gas were injected into the pipeline with a carbon dioxide content above that now contemplated by Alaskan Northwest's Tariff (1%), the system would have a greater capacity to transport liquefiable hydrocarbons. The system would then, however, be transporting a larger quantity of inert gases.

The Commission also recognizes that resolution of the cost allocation issue could impact the economic considerations of the carbon dioxide issue. Interested parties are invited to address this interrelationship in their reply comments on this issue pursuant to the Notice issued May 16, 1979, in this docket.

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could be attendant with a volumetric cost allocation approach, the Commission will require that the costs of Alaskan Northwest and Northern Border be allocated on a ermal (Dekatherm) basis.

The Commission's determination to require that ANGTS costs be allocated on a heat energy (Dekatherm) basis rather than a volumetric (Mcf) basis is not reached based on an extensive review of incremental costs of transporting liquefiable hydrocarbons. Rather, the Commission views the heat energy basis as the most equitable method of allocating costs incurred by this system in rendering the services permitted under the pro forma tariffs. It may be argued, for example, that there is no substantial increase in the cost of transporting the various constituents of natural gas. What must be considered, however, is that the tariffs now proposed by the transporters are for the transportation of a common supply of natural gas. 173/ There are no announced plans for any shipper to tender discrete hydrocarbons or other gases for movement through the system. Therefore, any upstream off-take of liquefiable hydrocarbons would effectively mean that shippers with delivery points downstream of the extraction operations would have to contract for the delivery of a greater volume of gas to produce the same amount of heat energy that a

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173/ Joint Comments Tab 3, Pt. 2 at 4-5.

lesser volume of unprocessed gas would produce. This feature is the basis for the Commission determination that energy units rather than volume units should serve as the basic cost allocation unit for the ANGTS.

Having determined that energy units (Dekatherm) rather than volume units (Mcf) should be used for cost allocation, the "zones versus mileage" issue must be decided. Three of the most commonly used methods of allocating an interstate gas pipeline's cost-of-service to sales and services performed in different geographical areas are (a) zone-gate method, (b) system-wide method, and (c) Mcf-mile or Dekatherm-mile method.

The zone-gate method allocates costs attributed to the first upstream zone between sales and services performed in that zone and sales and services performed in all downstream zones. The costs incurred in the second upstream zone, together with costs allocated to that zone from the first upstream zone, are composited and allocated between sales and services performed in the second upstream zone and sales and services performed in all zones downstream of that zone. The process is continued, sequentially, for all zones, resulting in the last downstream zone being assigned all costs incurred within that zone plus costs allocated to that zone from all upstream zones. This Commission has approved the zone-gate method in the past for a very limited number of interstate

gas pipelines based upon the peculiar circumstances surrounding their operations and expansion. 174/ This method would typically allocate more costs to downstream customers than other methods.

The system-wide method of cost allocation makes no distinction between the geographical locations where sales and services are performed. This method has been approved by the Commission for those pipelines whose diverse sources of gas supplies and whose operations are of such an integrated nature as to effectively reduce or greatly minimize any differences in the cost of providing sales and services in different geographical locations. 175/

The most commonly used cost allocation method for long-distance interstate gas pipelines is the Mcf-mile or Dekatherm-mile method. This method is premised on two essential principles: (1) the pipeline is a system designed to provide sales and services over a long distance, and (2) the costs of providing sales and services vary in relation to distance or the length of the system required to provide the particular sales or services.

174/ See, e.g. United Gas Pipe Line Company, Docket No. G-9547, 25 FPC 26 (Jan. 4, 1961).

175/ See, e.g., Consolidated Gas Supply Corporation, Opinion No. 819 (Aug. 12, 1977).

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Alaskan Northwest proposes to allocate costs between its proposed two zones essentially on a zone-gate method. For the reasons set forth below, the Commission does not approve Alaskan Northwest's proposed zone-gate approach but will require that Alaskan Northwest's total cost-of-service be allocated on an energy-distance basis (Dekatherm-miles) between any gas delivered in Alaska and gas delivered to the Foothills system at the Alaska-Yukon border. There are not sufficient reasons at this time supporting the establishment of rate zones on any basis (zone-gate or otherwise) within the State of Alaska. Separate rate zones are normally supported by recognizing that precise allocation of costs cannot be made for a large number of delivery points over a relatively short distance, and by recognizing the administrative advantage (for both the seller and purchasers) of billing a particular customer or group of customers at the same rate for as much gas as possible. 176/ The gas delivery points in Alaska will likely be small in number; 177/ therefore, no administrative advantages

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176/ The feature recognizes the intergrated nature of many distributor customer who have multiple gas receipt points.

177/ Alaska, Reply Comments at 3.

of separate rate zones are apparent. Additionally, it is reasonable to expect that proper cost responsibility can be ascertained for each gas delivery point in Alaska under the Dekatherm-miles basis. In summary, the circumstances of Alaskan Northwest do not conform to criteria historically utilized by the Commission for establishing zones.

The justifications offered by Alaskan Northwest for establishing two rate zones within the State of Alaska are generally as follows: 178/

(1) The cost of providing transportation service for gas delivered in Alaska can be more accurately ascertained by attributing the costs incurred within each zone to the shippers using the facilities in each zone;

(2) Alaskan Northwest will likely provide two categories of transportation service: gas transported for use in Alaska, and gas that completely transits the state;

(3) Substantial variations are expected in costs associated with the northern and southern portions of the Alaskan pipeline, with the portion north of

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178/ "Responses to Data Requests by Alaskan Northwest and Northern Border" in response to a letter from the Commission's Director of the Alaska Gas Project Office, dated April 20, 1979; Joint Comments, Tab A, Pt. 2.

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Delta Junction being the highest cost in terms of investment per mile or investment per unit of capacity.

The Commission is not persuaded that Alaskan Northwest's proposed zones will result in an equitable distribution of costs. Alaskan Northwest's suggestion that its proposed method of cost allocation may produce more accurate results is not totally convincing, because as Alaskan Northwest indicates, even under its proposed method, certain types of costs are not directly assignable to each zone and will have to be allocated. The company has proposed that such costs be assigned to each zone "in proportion to plant in service or the levels of contract service," without showing that the method would result in a fair and proper distribution of costs.

More important, however, is the fact that Alaskan Northwest's proposed cost allocation method does not adequately recognize the conditions under which the system will be designed, constructed and operated. During at least the initial operation of the system, it is anticipated that Alaska's share of gas will be shipped to the contiguous forty-eight States. Capacity will be provided for Alaskan royalty gas in not only the northern portion of Alaskan Northwest's pipeline but also in the southern portion. The extent to which Alaska may continue to utilize the southern portion of the system will obviously depend upon how much of its royalty gas entitlement it chooses

to "off-take" from the northern portion of Alaskan Northwest's pipeline. 179/ Alaska could very well choose to continue to ship a portion of its royalty gas through the southern portion of Alaskan Northwest's pipeline, either for use within the portion of the state south of Delta Junction 180/ or for shipment to the Alaska-Yukon border for delivery into the Foothills system.

Alaskan Northwest's characterization of two categories of transportation service is not adopted. The transportation services are essentially the same. Any differences in the services pertain only to the portion of the system (miles) used to provide the services, and the cost allocation method required by the Commission is intended to fully compensate for any such differences.

Differences in the costs of constructing and operating the northern portion versus the southern portion of the Alaskan Northwest pipeline do not, in themselves, require the establishment of zones. The higher costs of the northern portion (in terms of investment per mile or investment per unit of capacity) results from the planned long-term operation of ANGTS, and not because of discrete considerations relative to any "off-take" of gas by Alaska. Alaskan Northwest's proposed zones would likely mean higher cost

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179/ See Alaska, Initial Comments at 8-9.

180/ Delta Junction is the point selected by Alaskan Northwest as the division between the two proposed zones.

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assignment to Alaska over the long-term than would a distance-of-transportation allocation method. The likely results of Alaskan Northwest's proposed cost allocation method have not been justified.

Weighing all of the considerations, it is the Commission's judgment that Alaskan Northwest's proposed zone-gate method of cost allocation should not be approved. The Commission concludes that the most equitable procedure for allocating Alaskan Northwest's cost-of-service is embodied in an energy-distance basis (i.e., Dekatherm-miles), without the establishment of separate rate zones.

Northern Border proposes to allocate costs on an Mcf-mile basis. The Commission adopts the distance-weighing portion of Northern Border's proposal (i.e., miles), but, for the reasons already explained with respect to the effects of any hydrocarbon extraction operations, will require that energy units (Dekatherms) rather than volume units (Mcf) be used as the basic allocation unit. The Commission is not aware of any extraction operation plans on the Northern Border system. If gas entering and leaving the Northern Border system is not processed and remains of the same chemical composition, it would not matter whether volume units or energy units were used for cost allocation, because the results would be the same. However, the cost allocation method required by the Commission puts all parties

on notice of the economic context in which any contemplated extraction operations must be evaluated.

As a final point on cost allocation, it must be made clear that the Commission views the cost allocation requirements for the Alaskan Northwest and Northern Border segments of ANGTS to be quite distinct from the cost allocation requirements for the Foothills system. The Commission's determination that Alaskan Northwest's and Northern Border's costs-of-service should be allocated on an energy-distance basis (Dekatherm-miles) is dictated by the fact that there will likely be some extraction of various components of Prudhoe Bay gas. Even with extraction operations occuring in Alaska, the gas delivered to the Foothills system at the Alaska-Yukon border would probably have a higher heating value than any gas originating in the Mackenzie Delta area and introduced into the ANGTS at Whitehorse, Yukon Territory. The same heating value disparity could also be attendant with any other gas originating in other areas of Canada and introduced into the Foothills system. The reverse could also conceivably occur if gas input in Canada had a heating value higher than Alaska gas delivered at the Alaska-Yukon border.

In any event, the Agreement Between the United States of America and Canada on Principles Applicable to

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a Northern Gas Pipeline (Agreement on Principles) has a firm mechanism established to give full recognition to any difference in the composition and quality of gas received by the system. 181/ If Canadian gas entered the pipeline system with a heating value less than the heating value of Alaska gas entering the pipeline system at the Alaska/Yukon border, the Agreement on Principles requires that any dilution in the heating value of Alaska gas would be fully recognized in the allocation of Foothills' cost-of-service and in gas deliveries. This adjustment would be necessary so that a disproportionate share of Foothills' cost-of-service would not be imposed on the American consumers. Specifically, the Agreement on Principles provides in pertinent part:

> It is agreed that the following principles will apply for purposes of cost allocation used in determining the cost of service applicable to each shipper on the Pipeline in Canada:
>
> a) The Pipeline in Canada and the Dempster Line will be divided into zones as set forth in Annex II. Except for fuel and except for Zone 11 (the Dawson-Whitehorse portion of the Dempster Line), the cost of service to each shipper in each zone will be determined on the basis of volumes as set forth in transportation contracts. The volumes used to assign these costs will reflect the original BTU content of Alaskan gas for U.S. shippers and Northern Canadian gas for Canadian shippers, and will make allowance for the change in heat content as the result of commingling. Each shipper will provide volumes for line losses and line pack in proportion to the contracted

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181/ Decision at 47-66.

> volumes transported in the zone. Each shipper will provide fuel requirements in relation to the volume of his gas being carried and to the content of the gas as it affects fuel consumption. 182/

The Commission's determination with respect to cost allocation for the Alaskan Northwest and Northern Border segments of the ANGTS does not in any way change the interpretations, or the application thereof, of the cost allocation methods defined and agreed to by the United States and Canada. The cost allocation procedures set forth in the Agreement on Principles for the Foothills segment are required because of the potential dilution of Alaska gas caused by commingling of that gas and Canadian gas that will likely have a lower heating value. While the cost allocation procedures required by the Commission for the Alaskan Northwest and Northern Border segments of ANGTS are necessary to properly allocate costs to any extraction operations that may be conducted on those two segments, it is the Commission's understanding that no extraction operations will be conducted on any ANGTS gas in transit through Canada. If any extraction operations were conducted, however, the allocation of Foothills' cost-of-service should fully account for any such operations.

182/ Id. at 57-58.

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3. Accounting and Rate Treatment for Line Pack

The Staff's initial comments raised an issue related to line pack. The issue is succinctly described in the Staff's example:

> Suppose shippers A & B initially hold title to 100% of the line pack worth $10,000,000. Each files a rate application with the Commission to include $5,000,000 in rate base to recover carrying charges (return & taxes) on their line pack investment. Three months later, Shipper C, a new user of the system, begins transporting gas, and is assigned one-third of the existing line pack. Shipper C files a rate case and claims $3.3 million in rate base attributable to line pack. Unless Shippers A & B voluntarily reduce rates under Section 4 of the Act, the Commission, under current law would be required to approve the rate treatment sought by Shipper C without legal right to automatically lower the rates of Shippers A and B. 1/ Thus consumers would bear carrying charges on $13.3 million in total jurisdictional rate bases when the aggregate line pack investment is only $10 million.
>
> 1/ The Commission's only recourse would be to establish an investigation under Section 5 of the Natural Gas Act and order any resulting rate reduction to become effective prospectively after hearing. The hearing may involve a lengthy inquiry into all aspects of the Shippers' costs of service. 183/

The Staff's initial comments suggested two different approaches for handling the costs of line pack:

> . . . Either require ANGTS sponsors to pay 'rent' or carrying charges on line pack used by the system (these carrying charges would then be an operating expense for the pipeline and recoverable through the cost of service tariff) or require ANGTS shippers to automatically 'track' changes in line pack. 184/

183/ Staff, Initial Comments at 28-29.

184/ Id. at 29.

The reply comments of Northern Border and Alaskan Northwest assert that this issue should not be considered in this rulemaking. Instead, the project sponsors argue the matter should be decided in the proceeding that addresses the shipper tracking issue. 185/

Shippers will incur substantial costs in providing natural gas for line pack in order for their gas to be transported through the ANGTS. It is important that the shippers be able to recover the costs actually incurred. Therefore, any method for recovery should provide for adjustment when a shipper's line pack obligation changes (either increases or decreases) with attendant changes in cost. Staff has presented an alternative which would have the transporters compensate the individual shippers for the carrying costs on their separate line pack contributions and recover the amounts through the transportation tariffs. This would have the advantage of facilitating recovery of the actual costs borne by the shippers, but it would impose an unnecessary added cost recovery burden upon the transporters.

In the discussion on tracking of costs by shippers, the Commission expressed a receptiveness to proposals for automatic flow-through of ANGTS charges for shippers subject to the Commission's jurisdiction, provided such shippers make an appropriate showing that the flow-through

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185/ Joint Reply Comments at 38.

mechanism will result in a matching of costs and revenues. The mechanism could also provide for recovery of actual costs attributable to line pack. 186/ The Commission will, therefore, defer the specification of any particular recovery mechanism pending receipt of the ANGTS cost flow-through proposals by individual shippers based upon their particular circumstances. Such proposals should include methods for recovery of line pack costs that will reflect actual cost incurrence based upon actual line pack obligations.

4. Lateral Line Policy

The *pro forma* tariff of Alaskan Northwest contains the following provision:

> Company will construct, operate and maintain lateral delivery lines on a nondiscriminatory basis and render related service under an appropriate Rate Schedule. Nothing in this policy statement shall require Company to file an application for a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act. . . . (Section 19.2 of the General Terms and Conditions)

By letter dated April 27, 1979, the Director of the Commission's Alaska Gas Project Office requested Alaskan Northwest to explain this provision. The primary concern was that the proposed tariff language could be interpreted as establishing a waiver of Alaskan Northwest's obligation to file for a certificate of public convenience and necessity if lateral delivery lines were constructed.

186/ *See* Section VI, Introduction.

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The joint reply comments of Alaskan Northwest and Northern Border responded to the inquiry, indicating that the referenced language was only intended to clarify that Alaskan Northwest was under no obligation to file for a § 7(c) application at the request of a shipper or other party. If the company were to choose to construct lateral delivery lines, the comments assure the Commission that appropriate certificates of public convenience and necessity would first be sought. 187/

The Commission accepts the explanation set forth in the comments of the project sponsors. In order to avoid any subsequent confusion or controversy however, Alaskan Northwest should revise its tariff in accordance with the explanation provided in the comments and accepted by the Commission.

5. Certain Quality Standards Other Than CO_2 Content

The Commission indicated at the outset of this discussion of tariff issues that it would defer resolution of the issue of the permissible level of CO_2 content in the gas stream. Other issues related to quality standards can, however, now be addressed.

Questions have been raised by Sohio related to the quality standards for water content and sulfur (hydrogen sulfide, mercaptan sulfur, and total sulfur). Sohio contends that the tariff standards are excessive and

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187/ Joint Reply Comment at 51.

not justified. Further, Sohio objects to the water quality standard being stated on a volume basis (pounds per Mcf) rather than on a dew-point temperature basis (degrees Fahrenheit), and the mercaptan sulfur standard being stated on a mass basis (grains per 100 cubic feet of gas) rather than a volume basis (parts per million). 188/ The quality standards stated in the *pro forma* tariffs are the standards that have been known to the parties for the past several years, and no other quality standards have been advanced and supported by any party.

The joint reply comments of Alaskan Northwest and Northern Border state:

> The project company tariffs have proposed stringent quality requirements because we believe it the obligation of the ANGTS project to provide the lowest possible reasonable cost of transportation. If producers such as Sohio have a proposal which would be consistent with the public interest which would demonstrate some benefit to the consuming public by relaxation of ANGTS quality standards, certainly Alaskan Northwest and Northern Border would be willing to consider such a proposal. 189/

The exact quality standards required for gas to be transported through ANGTS will, of course, depend upon the final design of the system. Absent a showing that the quality standards stated in the *pro forma* tariffs are not compatible with the approved final design of ANGTS,

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188/ Sohio, Initial Comments at 1-3.

189/ Joint Reply Comments at 22.

the Commission has no basis for ordering different standards. Accordingly, the water and sulfur standards proposed by the transporters will be permitted to be included in the tariffs subject to any revisions that may be required to comport with the final pipeline system design.

6. Modification of Article 4 of the Service Agreement

Article 4 of the service agreement of each *pro forma* tariff contains language that has generated comments from the Staff and the States of Alaska and California. Article 4 in each agreement obligates a shipper to make payments to a transporter in accordance with the tariff "Rate Schedules, the General Terms and Conditions and the other applicable provisions of [the] Agreement".

The State of Alaska is concerned that there is no express recognition in Article 4 that a shipper's obligation to pay is qualified by the adjustments set forth in Section 5 of Rate Schedule T-1. Alaska, therefore, proposes that each service agreement be modified to state that the obligation of a shipper to pay is subject to the adjustments provided in Section 5 of Rate Schedule T-1 of each tariff. 190/

190/ Alask[illegible] nitial Comments at 9-10.

The reply comments of the project sponsors indicate that Section 5 billing adjustments are recognized in the service agreements because of the reference in each agreement to "Rate Schedules." The sponsors state that Article 4 of each agreement is neither intended to override nor qualify in any way the billing adjustments provided in Section 5 of Rate Schedule T-1. 191/

If the Commission determines, however, that explicit reference should be given to the relationship between the two provisions, then the project sponsors agree with Alaska that the relationship should be recognized in Article 4 of each service agreement. However, the sponsors disagree with Alaska about where the modification should appear.

The modification proposed by the State of Alaska provides:

> Shipper shall make payments to company in accordance with the rate schedules, the general terms and conditions and the other applicable terms and provisions of this agreement. Shippers obligation to pay its allocable share of company's cost of service shall be absolute and unconditional under any and all circumstances (subject only to the adjustments expressly provided for in Section 5 of Rate Schedule T-1). . . . 192/

191/ Joint Reply Comments at 32-35.

192/ Alaska, Initial Comments at Attachment B.

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The project sponsors' alternative states:

> Shipper shall make payments to Company in accordance with the Rate Schedules (including Section 5 of Rate Schedule T-1), the General Terms and Conditions, and the other applicable terms and provisions of this Agreement. 193/

The sponsors argue that their proposed alternative is preferable. In their view, the language proposed by Alaska will not recognize that a shipper's payment obligation can be affected by tariff provisions other than Section 5. They cite Section 6 of the General Terms and Conditions -- which also addresses billing and payment matters -- as an example of a tariff provision that also affects a shipper's payment obligation. 194/

The Commission views modifications of the type proposed by Alaska to be beneficial when ambiguities can be clarified and possible disputes thereby avoided. On that basis, it appears appropriate to provide express recognition of the relationship between Article 4 of the service agreement and Section 5 of Rate Schedule T-1. However, because the method of clarification proposed by Alaska may itself create ambiguities, the alternative modification proposed by the project sponsors will be accepted.

193/ Joint Reply Comments at 33.

194/ Joint Reply Comments at 33.

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Staff also voices concern with Article 4. Staff argues that Article 4 is duplicative of other provisions in the pro forma tariffs, e.g. § 6.3 of the General Terms and Conditions. Staff further argues that Article 4 should expressly release a shipper from his obligation to pay if there is a willful refusal on the part of a transporter to perform. 195/

The project sponsors respond that Article 4 is necessary to explicitly recognize that the obligation of a shipper to pay will be absolute and unconditional. The sponsors assert that the provision was insisted upon by the sponsors' financial advisors as a means of aiding the financing of the project.

Staff may be correct that Article 4 is duplicative of other provisions in the tariff. However, when that is the sole objection and there is no contention that Article 4 is contradictory of other tariff provisions or that it creates ambiguities, then the Commission is not inclined to order the deletion of the provision in the circumstances presented here. To the extent that Article 4 will aid the financing of the project and is merely duplicative of other provisions, the Commission will permit its retention in the tariffs.

195/ Staff Initial Comments at 17-19.

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The sponsors also respond to the proposal of Staff that a release of payment obligations should occur if there is a willful refusal to transport gas. The sponsors argue that explicit recognition of a willful refusal to perform will not affect the reliability of service, since it is unlikely that a willful refusal would occur. That is so, according to the sponsors, because there could be private actions for damages and there is already included in the tariffs a provision that reduces the return on equity should a transporter fail to accept tendered gas. Finally, should there be a willful refusal to perform, the sponsors assert that the Commission can institute an investigation and issue a remedial order, if necessary. 196/

Although the Commission agrees that shippers should not be subject to a payment obligation where there is a willful refusal by a transporter to perform, the Commission cannot endorse the proposal of Staff. In the Commission's analysis, the unlikelihood of a willful refusal, together with the potential problems that may result from adoption of Staff's proposal, adequately argue against the proposal.

As stated by the project sponsors, the likelihood is small that transporters would willfully refuse

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196/ Joint Reply comments at 34-35.

to perform. More importantly, however, the prospective definition of a "willful" failure to perform, and an appropriate remedy, is difficult, if not impossible.

In light of these considerations, the Commission is of the view that the better course of action would be to recognize that any shipper contending there was a willful failure to perform can seek appropriate relief through the Commission.

The State of California argues that Article 4 of the service agreement should not be construed to limit the Commission's authority to review recovery of equity investment in the event of project failure after operations commence. 197/ The Commission's review obligations under the Natural Gas Act, however, shall continue. California's concerns, therefore, are unnecessary.

7. Failure to Deliver Gas

Another issue identified by Staff concerns whether equity costs should be reduced because of a failure by a transporter to deliver gas, rather than a failure to take receipt of tendered gas. Staff argues that the shippers should be given "explicit protection against diversion or loss of gas supply after it enters the control of transporters." 198/

197/ California, Initial Comments at 6.

198/ Staff, Initial Comments at 17.

In their reply comments the project sponsors contend that this provision is unnecessary. They assert that no gas will knowingly be accepted that cannot be delivered. Further, the sponsors argue that a billing adjustment keyed to gas receipt rather than gas delivery would be easier to administer. If the billing adjustment were keyed to gas deliveries rather than gas receipts, the sponsors itemize three considerations that would complicate billing adjustments: "(i) the possibility of multiple delivery points, (ii) variations in fuel use and losses, and (iii) variations in seasonal capacity." 199/

The Commission agrees with the project sponsors. The billing adjustment procedure for failure to accept tendered gas presents a relatively simple approach to protect the shipper, and any modifications to the tariff that complicate that mechanism are not desirable. That factor, taken together with the unlikelihood that the transporters would accept gas when there is an anticipation that it cannot be delivered, is sufficient reason to reject Staff's proposal.

199/ Joint Reply Comments at 30-31.

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8. Review of Equity Rate of Return

After completion and commissioning of operation, the rate of return on equity allowed by the Commission is termed the Operation Phase Rate. The value of this rate should be comparable to rates of return allowed for other pipelines with similar operating risks. Once in operation this rate should be altered to reflect any changes in rates allowed for other pipelines with similar risks or if risk factors for this project change. The issue first raised in the letter to the project sponsors from the Director of Alaska Gas Project Office (April 27, 1979) is what procedure should be used to review this rate of return and determine if a change is reasonable.

The Staff's initial comments argue that the Operation Phase Rate should automatically be adjusted through a formula tied to changes in capitalization. 200/ Though capitalization is an important factor in determining rates of return, this procedure would ignore other equally important factors such as overall changes in required rates of return in the nation's economy due to changes in inflationary expectations or changes in risk factors. 201/

200/ Staff, Initial Comments at 36-41.

201/ At the time of the submission of a financing plan the Commission will also review the proposed capitalization over the life of the project.

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The project sponsors argue that the only review of the Operation Phase Rate should be by Commission action under Section 5 of the Natural Gas Act. 202/ The disadvantage of this approach is that the burden of proof would be placed upon the Commission and any redetermination of rate of return would have prospective effect only.

A third approach, discussed in more detail in Section II.B.3, is suggested in a paper prepared for the Alaska Gas Project Office by Professor Jerome Hass. 203/ This approach would tie or index the Operation Phase Rate to interest rates. As interest rates change, the Operation Phase Rate would adjust automatically. Though interest rates are an important guide to equity rates of return, this indexing would still not adjust for many other important factors affecting rates of return. Thus, an additional review of some sort would be necessary in addition to this formula which would tie the Operation Phase Rate to interest rates.

After evaluating the above three approaches, the Commission has determined that a periodic rate of return review is a superior approach. On a periodic basis, the project companies shall submit a Section 4 application

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202/ Joint Initial Comments, Tab 3, Pt. 3.

203/ Hass Report at 14-16.

which shall justify the appropriate Operation Phase Rate to be applied during that prospective period. A portion of revenues collected during the period prior to a Commission determination of the appropriate rate of return for that period will be subject to refund pending a final disposition of the rate of return issue. The revenues subject to refund will be only those attributable to the rate of return on equity and associated taxes.

Though the Commission has determined that the tariffs shall provide for a periodic rate of return review, the Commission will not specify at this time the length of the period but will defer that decision to the final project certification proceeding after the submittal of a financing plan. The financing plan may contain information that is relevant to this determination. 204/

The Commission's disposition of this issue reflects a reasoned balancing of consumer protection and financing considerations. In their analysis of this issue, the project sponsors argued that three principles are critical in any future review of the Operation Phase Rate:

204/ A relevant precedent is the three-year review required in purchased gas adjustment clauses. A similar period does not seem unreasonable for this cost-of-service tariff but a final decision will not be made at this time.

(a) All matters affecting the rate should be considered not just capitalization as suggested by Staff.

(b) Any review must be limited to the Operation Phase Rate without express or implied review or reconsideration of the tariff or service agreement.

(c) Any review must not result in impairment of the project economics which formed the basis for investment.

The Commission agrees that any future review should generally abide by these principles, and that it should conduct its review specifically subject to (a) and (b). It is the Commission's intention that during any future rate of return review the proper impact of all matters that affect the return on equity would be considered. Further, it is the Commission's intention that any review of the Operation Phase Rate would be limited to establishing the proper level of that rate.

The Commission determination here to require review of the project's Operation Phase Rate is not a new

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concept. 205/ The review procedure should in no way "result in impairment of the project economics which the basis for the investment," because there no inference or intent in the review of the Operation Phase Rate to disallow from the project's cost of service any actual and proper expenses. 206/

205/ See, e.g., Southern Energy Company, Docket No. CP71-264, "Order Amending Prior Order" (February 13, 1978). In that case, the event that "triggered" a rate of return review was any change in equity capitalization in excess of two and one-half percentage points.

206/ While this Order sets out the Commission's position on matters which can currently be resolved, other details of regulatory oversight remain to be determined. For example, review of certain cost of service expenditures are of this nature. In this regard, the Commission may benefit from Canadian resolution of this common regulatory problem. As previously indicated, the Commission has conducted regulatory consultations with the NEB pursuant to Section 9 of the Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline. (See, Incentive Rate of Return for the Alaska Natural Gas Transportation System, Docket No. RM78-12, Revised Notice of Proposed Rulemaking, 5 n.1a (Sept. 15, 1978) (Erratum Notice, Oct. 6, 1978). The NEB is currently proposing that estimates of certain costs, such as operation and maintenance expenses, be submitted annually for review and approval prior to being incorporated in the transportation charge. (See, National Energy Board of Canada's "Proposed Method for the Regulation of the Tolls and Tariffs of the Foothills Pipeline," 7-8 (issued April 18, 1979)).

Pending further consideration of this matter, the Commission presently contemplates utilizing auditing procedures to determine proper accounting classification of costs in accordance with the requirements of

(Footnote continued on next page)

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9. Certain Issues Raised by California

California questioned whether a payment delinquency charge under Section 6.4 of the tariffs would be computed at 125 percent of the interest rate applicable to delinquencies but any repayments to the shippers would be at 100 percent of the same interest rate. 207/ Alaskan Northwest and Northern Border answered in their reply comments that "the shipper would recover, with interest, any amounts paid to the transporter, including the penalty interest itself if the non-payment is excused by order or otherwise." 208/ No other party commented on the provision. The Commission accepts the clarification offered by the transporters.

206/ (Footnote cont'd).

the Uniform System of Accounts. General instruction (2)(e) thereof prescribes that only just and reasonable amounts may be included in the accounts. This audit effort, coupled with the Commission's remedial powers under the Natural Gas Act, may be sufficient to satisfy the requirement that all costs, including operation and maintenance expenses, be prudently incurred.

207/ California, Initial Comments at 7.

208/ Joint Reply Comments at 48 (emphasis in original).

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Two other issues raised by California relate to whether the operation and maintenance expenses and company use gas claimed by the transporters will be subject to audit and verification. 209/ The Commission has addressed this matter in the lengthy footnote above, note 206, *supra*, and will not reiterate its reasoning here.

209/ California, Initial Comments at 6-7.

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VII. PROCEDURAL MATTERS

This section considers certain procedural issues which have been raised in the course of this rulemaking. These include the relationship of this rulemaking to proceedings now underway to consider issues on construction of the Northern Border segment, the rationale for use of rulemaking procedures, and future Commission action under this Order.

A. Relation to Pre-Building

The purpose of this rulemaking is to (1) resolve outstanding issues concerning the Incentive Rate of Return mechanism for the Alaskan and Northern Border segments of ANGTS, and (2) resolve certain issues attendant to the Commission's approval of the tariffs submitted by Alaskan Northwest and Northern Border pursuant to the Commission's Order of February 22, 1979.

In Order No. 17, the Commission specified certain terms and conditions on a finding that both the Alaskan Northwest and Northern Border projects should be subject to an IROR mechanism. The Commission recognized that the specific values to be included in the IROR mechanism would be established in future proceedings.

By Order of February 22, 1979, the Commission required that the sponsors of the Alaskan and Northern Border segments of the ANGTS file proposed tariffs, to

facilitate a thorough evaluation of risk for financing purposes. The Alaskan Delegate's Report attached to the that Order recognized the possibility that certain of the southern segments of the ANGTS may be "pre-built" to transport Alberta gas, as well as the possibility that "charges may begin for these segments in advance of completion of the other segments." On March 12, 1979, Alaskan Northwest and Northern Border filed pro forma tariffs, pursuant to the Commission's Order. The tariff filed by Alaskan Northwest would apply to the transportation of Alaskan natural gas, whereas the Northern Border tariff would initially apply to the transportation of Canadian gas (if made available by the Canadian Government through approval of applications presently before the National Energy Board of Canada), and would undoubtedly require some modification once the transportation of Alaskan gas commenced.

The April 6 Notice indicated that the Commission would address each of the issues presented by the two filed tariffs with the exception that the depreciation rate reflected in Northern Border's tariff would be reserved for separate consideration in the "pre-build" proceeding in Docket Nos. CP78-123, et al. The Notice recognized the relationship between the depreciation rate and the financing of the prebuild facilities. In its initial comments,

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Staff raises questions regarding the pre-building of certain Northern Border facilities to transport Canadian "bubble" gas. More particularly, Staff questions the need for the particular facilities contemplated, and raises a question as to whether the construction of temporarily excessive capacity or unnecessary facilities constitutes a fee or surcharge in violation of the President's Decision.

This rulemaking is not the appropriate place to determine the nature and size of facilities to transport Canadian gas. That is an issue to be addressed in Docket Nos. CP78-123, et al. The facilities authorized in that proceeding will have to be found to be necessary and required by the public interest. The depreciation rate found appropriate in Docket Nos. CP78-123, et al., will apply until modified by the Commission. In this rulemaking, we establish the tariff provisions applicable to the transportation of Alaskan and Canadian gas. While the issue of whether Canadian gas will be transported through certain "pre-build" facilities is still pending before both the NEB and this Commission, it is clear that before Alaskan gas can be transported through the Northern Border facilities the project sponsors will be required to show that the tariff provisions approved herein are appropriate for the transportation of Alaskan gas.

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B. Rulemaking Procedures

This proceeding implements certain financial conditions stipulated in the President's Decision, and is necessary for, and related to, the construction and initial operation of the transportation system approved by the President's Decision. The proceeding, therefore, comes within the scope of the Alaska Natural Gas Transportation Act (ANGTA) (15 U.S.C. §§ 719-719m). For this reason, it is incumbent upon the Commission to proceed as expeditiously as possible.

Section 403(c) of the Department of Energy Organization Act (DOE Act) authorizes the Commission to utilize rulemaking procedures to establish rates and charges under the Natural Gas Act. The setting of the incentive rate, as well as the consideration of pro forma tariffs for the ANGTS, is an establishment of a "rate or charge" within Section 7 of the Natural Gas Act and, per force, Section 403(c) of the DOE Act. Rulemaking provides, in this instance, an expeditious procedure for resolving the issues. Accordingly, in performing its functions under ANGTA, pursuant to ANGTA's mandate for expedition, the Commission chose the rulemaking process authorized by Section 403(c) of the DOE Act.

We recognize that Section 403(c) is not without some limits. On its face, it requires "full consideration of the issues and an opportunity for interested persons to present their views." While this proceeding has been the focal point of numerous rounds of comments, reply comments and special studies, we recognize that the issues are both serious and complex. For that reason, the Commission is staying the effective date of this Order for a period of 60 days, to afford interested parties the opportunity to apply for rehearing. Such applications must be filed within 30 days of the date of issuance of this Order.

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The Commission Finds:

(1) For the reasons set forth above, the Commission finds it necessary and appropriate and in the public interest, in administering the Natural Gas Act and the Alaska Natural Gas Transportation Act, to adopt and incorporate into the conditional certificates of public convenience and necessity issued by the Order of December 16, 1977 (Docket Nos. CP78-123, et al.), the terms and conditions set forth in the attachment to this Order.

(2) For the reasons set forth above, the Commission finds it necessary and appropriate and in the public interest, in administering the Natural Gas Act and the Alaska Natural Gas Transportation Act, to require the tariffs under which Alaskan Northwest Natural Gas Transportation Company and the Northern Border Pipeline Company will render service to conform to the conditions and requirements set forth and discussed above in this Order.

The Commission Orders:

(A) The terms and conditions set forth in the attachment to this Order shall be incorporated into the conditional certificates of public convenience and necessity issued by the Commission on December 16, 1977 in Docket Nos. CP78-123,

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et al., to become effective 60 days from the date of issuance of this Order. These terms and conditions supplement and supersede the terms and conditions incorporated in the conditional certificates by the Commission's Order No. 17, issued in this Docket on December 1, 1978.

(B) No later than twelve months prior to initiating service, Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company shall submit for Commission approval, tariffs modified to conform with the requirements set forth in this Order. This ordering paragraph number (2) shall become effective 60 days from the date of issuance of this Order.

(C) Parties to Docket No. RM78-12 may file petitions for rehearing of this Order within 30 days of the date of issuance of this Order, pursuant to the procedures set forth in section 1.34 of the Commission's Rules of Practice and Procedure.

(Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565, E.O. 12009, 42 Fed. Reg. 46267 (Sept. 15, 1977); Natural Gas Act, 15 US §§ 717, et seq.; Alaska Natural Gas Transportation Act, 15 USC § 719(g); President's Decision and Report to Congress on the Alaska Natural Gas Transportation System, H.J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268 (1977).)

By the Commission.

INITIALS

CHAIRMAN CBC 6-8-79

Secretary SMITH DSS

COMMR SHELDON GHS 6/8/79

COMMR HOLDEN

COMMR HALL

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