Report

Submitted to the

United States Congress

by the Federal Energy Regulatory Commission

Fifth Report to Congress on Progress Made in Licensing and Constructing the Alaska Natural Gas Pipeline

February 19, 2008

Fifth Report to Congress on the Alaska Pipeline

I. Executive Summary

This report by the Federal Energy Regulatory Commission (Commission or FERC) is submitted pursuant to section 1810 of the Energy Policy Act of 2005 (EPAct 2005).[1] Section 1810 of EPAct 2005 requires that the Commission shall submit to Congress semi-annual reports describing the progress made in licensing and constructing the Alaska natural gas pipeline and any impediments thereto.

This report provides an update from the Commission's Fourth Report, submitted on August 15, 2007. During the period covered by this report, the following events have occurred: 1) the State of Alaska has moved forward with the process of selecting a preferred applicant under its Alaska Gasline Inducement Act (AGIA) program; 2) the Federal Coordinator has continued discussions with project stakeholders; and 3) FERC staff held a technical conference to discuss its third-party contracting requirements and expectations with respect to preparing an environmental impact statement (EIS) on an Alaskan natural gas transportation project.

II. Status Report

A. The Alaska Gasline Inducement Act

In January 2007, Alaska's Governor Sarah Palin introduced the AGIA bill in the state legislature; it was enacted in May 2007 and is now the state's official vehicle for inducing a project sponsor to proceed with a federal application for the construction of an Alaska natural gas pipeline. Under AGIA, a qualified project sponsor will receive an exclusive and enforceable license from the State of Alaska that entitles the licensee to receive state matching contributions of up to $500 million for its expenditures for the planning and preparation of a federal application and related permits for the construction of an Alaskan natural gas pipeline project and other state administrative benefits. The AGIA process is a vehicle for the state to select a preferred applicant. However, the process is a not a prerequisite to obtaining federal authorization. Thus, a project proponent could file a certificate application with the Commission regardless of whether it participated in, or was the project selected as a result of, the AGIA process.

On July 2, 2007, Alaska released its detailed Request for Applications which included the purpose, instructions, requirements, evaluative criteria, and other information about submitting an application for the competitive AGIA license selection process. All applications for an AGIA license were due by November 30, 2007, and five

[1] P.L. 109-58, 119 Stat. 594 (2005), 42 U.S.C § 15801 *et seq*.

applications were filed. In addition, one application was filed with the state outside of the AGIA process. These proposals are summarized below.

B. Applications Filed in Response to AGIA

1. TransCanada Pipelines Ltd. (TransCanada) submitted an AGIA application for a pipeline to run from the Alaska North Slope to connect with its Alberta hub.[2] TransCanada owns and operates a major North American network of more than 36,500 miles of pipeline which taps into virtually all major gas supply basins in North America. TransCanada currently holds the Alaska Natural Gas Transportation Act (ANGTA) certificate issued by the Commission in 1977 and the state and federal rights-of-way in Alaska, but stated that it formed its new subsidiary to proceed with its AGIA proposal without reliance on the ANGTA certificate. As part of its proposal, TransCanada is contemplating additional financing options which would likely require further legislative actions by Congress and favorable regulatory rulings by federal agencies. TransCanada's schedule provides for an initiation of field work in 2008 and the commencement of commercial operations near the end of 2017.

2. The Little Susitna Construction Company (Little Susitna), a local Alaskan firm, submitted an AGIA application with a subsidiary of the Chinese energy conglomerate, China Petroleum and Chemical Corporation (Sinopec), as its prime sub-contractor. Its AGIA application proposed a project which includes a pipeline to Valdez, where the gas would be liquefied for shipment to Pacific Rim buyers using a dedicated fleet of tankers associated with the project. Sinopec has a very large global energy development footprint, including oil-services company subsidiaries with worldwide operations.

3. The Alaska Natural Gasline Development Authority, a public corporation created by the citizens of Alaska, proposed to build a lateral "spur line" link off a major pipeline project, which it assumes will be built by another entity. The spur line would run into South Central Alaska and serve local needs.

4. The Alaska Gasline Port Authority (Port Authority) a municipal entity, created by the City of Valdez, Fairbanks North Star Borough, and the North Slope Borough, proposed a natural gas pipeline project from Prudhoe Bay to Valdez, where gas would be liquefied and exported.

5. AEnergia LLC (AEnergia), a start-up company formed by individuals with personal experience and knowledge about large geo-technical and engineering projects, proposed to be the project manager for a natural gas pipeline project which would go

[2] Application officially filed by TransCanada Alaska Company, LLC and Foothills Pipe Lines Ltd, as joint applicants.

from the North Slope to Alberta and would be jointly owned 74 percent by the natural gas producers, 25 percent by the State of Alaska, and 1 percent by AEnergia.

In addition to the above five AGIA proposals received by Alaska, on November 30, 2007, ConocoPhillips Company (Conoco), one of the world's largest energy companies, submitted a proposal for a North Slope gas treatment plant and a pipeline to run from Alaska North Slope to Alberta, and possibly on to Chicago, Illinois. Conoco stated that its proposal did not meet the requirements of AGIA in some respects, but that it hoped the state would nonetheless consider it. Conoco suggested that it would begin field work in 2008 and bring initial gas to market in mid-2018.

C. State Review of the Applications

During December 2007, state officials sought further information from the five applicants, and on January 4, 2008, the state announced that it had finished the application completeness review of the five applications and determined that only TransCanada's proposal meets the requirements of the AGIA program and would be considered as a conforming bid for an AGIA License. The state also rejected Conoco's proposal as not conforming to AGIA. Concurrent with the state's announcement that its initial review was complete, all of the AGIA documents, applications and correspondence regarding all five applications were made public on the State of Alaska's AGIA webpage(s).[3]

There have been further developments with respect to two of the proposals that were not selected. In an exchange of letters between Governor Palin and Conoco, the state took the position that the objectives of AGIA process had to be firmly adhered to, and Conoco indicated its disappointment that the state would not consider its proposal. The Port Authority, the sponsors of a pipeline solely within the State of Alaska to supply a liquefied natural gas (LNG) export terminal and southern Alaskan markets, has asked Alaskan officials for reconsideration of their determination that its proposal was incomplete, but this request was not granted. However, in announcing their decision, state officials said that they would make a thorough evaluation of LNG project options as part of their determination of whether a natural gas pipeline that goes through Canada (TransCanada's proposal) will sufficiently maximize the benefits to the people of Alaska and merits issuance of an AGIA license.

A 60-day public comment period required under AGIA began on January 4, 2008, and is to conclude on March 6, 2008. During this comment period, the state is conducting a series of town hall meetings about AGIA and TransCanada's proposal throughout the state. The public was invited to review all five applications received and

[3] All ongoing AGIA documents and official correspondence are available on http://www.gov.state.ak.us/agia/.

provide comments to assist the state officials in making their determination of whether TransCanada's application proposes a project that will sufficiently maximize the benefits to Alaskans and merits issuance of the exclusive AGIA license. If TransCanada's proposal is found to satisfy this goal, then the Governor of Alaska will submit TransCanada's proposal to the state legislature for confirmation that an AGIA License should be granted to TransCanada.

In addition, the Alaska legislature is conducting hearings independent of the AGIA process to examine all of the proposals submitted under AGIA. The legislature has also invited public testimony from companies that did not submit AGIA applications.

E. AGIA Process – as anticipated in Alaska's Request for Applications

Action by State of Alaska	Status as of this Report	Actual Dates
AGIA Bid Applications Filed	Completed	November 30
Completeness Review of Conforming Bids	Completed	January 4

Action by State of Alaska	Status as of this Report	*Estimated Target Dates*
60-day public comment period	Begins upon public notice after Completeness Review	*thru March 6*
Commissioners' Notice of Intent To Issue License – public notice and submission to Alaska State Legislature for review	On completion of the evaluation of public comments and the written findings of the Commissioners	*April 2008*
Legislative action to approve the AGIA License	Within 60 days after receipt of Notice of Intent to Issue License	*June 2008*
AGIA License issuance	As soon as practicable after effective date of a legislative act approving the AGIA License	*June 2008*

While it is not necessary that the ultimate sponsors of an Alaskan project participate in the AGIA process as a prerequisite to filing an application with the Commission, to the extent that AGIA requires the holding of an open season within 36 months of the issuance of an AGIA license, and that the licensee commits to using the

Commission's pre-filing process and to filing an application with the Commission by a time certain, AGIA could provide incentives for the timely development of an Alaska project.

The Commission's pre-filing process is not an additional step in the project; it is designed to facilitate the development of a FERC application that is complete and that identifies all stakeholders and issues. In this connection, the pre-filing process could begin as soon as possible after an AGIA license is issued. Beginning the pre-filing process need not await the open season process or its completion as two summer seasons likely will be necessary to obtain natural resource data.

III. Related Federal and Canadian Activities

A. Operations of the Federal Coordinator

In accordance with section 106 of the Alaska Natural Gas Pipeline Act of 2004 (ANGPA), the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects (OFC) is responsible for: (1) coordinating the expeditious actions of all federal agencies regarding an Alaska natural gas transportation project; and (2) ensuring the compliance of federal agencies with the provisions and deadlines of ANGPA.

The OFC is currently staffed by three permanent employees, the Federal Coordinator, a Director of Administration and a Director of Communications and Policy Support. Additional staff includes a detailee from the Minerals Management Service and a student intern. Two new positions, for a General Counsel and a Director of Permits, Scheduling and Compliance, will be advertised in the coming weeks. Additional staff will be hired as federal activity increases.

The OFC was awarded its first direct appropriation in FY 2008. In addition to providing funding for additional staff, the appropriation will fund planned activities to include coordinating federal agency comments to Alaska regarding its AGIA process, designing a data management system and completing an analysis of potential legal and regulatory gaps. Contracts have been awarded to Michael Baker Jr, Inc (Baker) and Argonne National Laboratory (Argonne) to aid the OFC in completing the latter two projects. The OFC's FY 2009 budget is now before Congress.

In December 2007 Congress passed the Energy Independence and Security Act of 2007 (P.L. 110-140) which included technical amendments to the ANGPA. The amendments allow the OFC flexibility in its hiring practices by granting a Title V exemption for competitive service employees and provide the OFC cost reimbursement authority. This authority is identical to that provided by the Federal Land Policy and Management Act (section 304) which allows the Bureau of Land Management (BLM) to charge for reviews of permits and plans under oil and gas leases.

The Federal Coordinator meets monthly with a federal interagency team representing all the agencies that have a role in the permitting of a natural gas project. The Federal Coordinator also meets regularly with the State of Alaska pipeline team and Canadian federal and provincial officials. In July 2007, the OFC established a Senior Intergovernmental Management Team to address intergovernmental and stakeholder coordination issues. The team comprises the Federal Coordinator, the Alaska Deputy Commissioner for Natural Resources, and the official designee of the Canadian Minister of Industry who is handling the “North of 60” gasline files. They meet when issues dictate.

During the next six months, the OFC expects at least one potential applicant to engage federal agencies as part of the pre-filing stakeholder process. Baker will make a recommendation for design of the data management system in May 2008; and the OFC expects to initiate the process to let a contract for the development of the data management system in September 2008. By June 2008, Argonne will provide its initial analysis regarding gaps, specifically looking at potential legal and regulatory gaps and/or bottlenecks for key action items. The Federal Coordinator plans to establish an Anchorage office when warranted by the level of federal project activity.

B. U.S. Department of Energy

The U.S. Department of Energy's (DOE) program office for the federal loan guarantee process for the Alaskan natural gas transportation project is monitoring the progress of Alaska's AGIA process, and when a commercial project emerges from the AGIA process or otherwise, DOE will proceed with structuring the loan guarantee program.

On January 29, 2008, the DOE's Office of Fossil Energy issued a very comprehensive new report entitled, “Alaska North Slope Oil and Gas: A Promising Future or an Area in Decline? ” [4] This report examines the potential for Arctic Alaska to remain a major contributor to the Nation's domestic energy supply under different development scenarios. The report evaluates potential oil and natural gas resources on the all of Arctic Alaska, including the North Slope, regardless of whether certain areas are currently available for exploration and development. Science Application International Corporation performed the study under contract to DOE's National Energy Technology Laboratory. The study was jointly funded by DOE and the Department of the Interior’s - Minerals Management Service and BLM. The Report concludes that the future for Alaska North Slope oil and gas ranges from very promising to limited depending on whether exploration and development was allowed in all areas of Arctic Alaska and other favorable assumptions, such as high energy prices, were realized. The

[4] This report is available at: http://fossil.energy.gov/news/ techlines/2008/08002-DOE_Releases_Alaska_Report.html

Report states that an additional 36 billion barrels of oil and 137 trillion cubic feet of natural gas over current reserve estimates could be found and produced in Arctic Alaska.

C. Commission's Activities - Environmental Review

The Commission has continued its preparation to fulfill its National Environmental Policy Act of 1969 (NEPA) and Natural Gas Act certificate application responsibilities. Since the Commission's fourth report, FERC staff visited the pipeline project area in Alaska and continued discussion with the Department of the Interior's BLM concerning the eventual EIS and project permitting. Commission staff has actively participated with the OFC and the other federal agencies in planning and preparing for a pre-filing request to be followed by a project application.

On January 29, 2008, FERC staff held a technical conference to discuss its third-party contracting requirements and resource expectations with respect to preparing an EIS on an Alaska natural gas transportation project. The staff invited contracting companies with the relevant expertise and interest in providing third-party contractor services to assist FERC environmental staff with the review of the application(s) for an Alaskan natural gas pipeline and the design and preparation of an EIS for the anticipated project.

FERC's Office of Energy Projects has a long-standing, third-party contracting program which enables applicants seeking certificates for natural gas facilities to fund a contractor to assist the staff in meeting its responsibilities under NEPA. The third-party contracting program involves the use of independent contractors to assist FERC staff in its environmental review and preparation of environmental documents. A third-party contractor is selected by, and works under the direct supervision and control of FERC staff, but is paid by the applicant. The use of a third-party contracting program for an Alaskan natural gas pipeline proposal is imperative.

The January 29, 2008, Technical Conference was well attended by environmental and engineering analysis firms, prospective project sponsors, other project stakeholders and the OFC.[5] FERC staff presented an overview of its third-party contracting program. They also described how an Alaskan natural gas pipeline EIS might be different than other pipeline EISs because of the unique nature of project, the unusual public and governmental participation and interest, and the expectation and requirements for conducting the Commission's environmental review within a particular timeframe.

[5] The public notice and attendance list for the Technical Conference is available in the Commission's E-Library under Docket No. AD08-3-000, Conference on Alaska Natural Gas Transportation Project. http://elibrary.ferc.gov/idmws/search/fercgensearch.asp

Participants at the Technical Conference made some general suggestions concerning how environmental consultants could participate in the environmental review of the project. FERC staff responded to several questions about what the Commission's environmental review might include and described its intention to closely coordinate with other participating agencies. Finally, FERC staff received from several consulting firms Statements of Interest and Capability Statements, along with Organizational Conflict of Interest Statements, which will be useful in the eventual selection of a third-party contractor.

D. Developments in Canada

The Mackenzie Gas Project continues to be under consideration by the government of Canada. This project includes development of natural gas fields, gathering lines, and processing facilities in the Mackenzie River Delta of Canada's Northwest Territories, and a transportation pipeline along the Mackenzie River Valley to deliver the natural gas to market. This major pipeline project consists of over 750 miles of 30-inch diameter natural gas transmission pipeline that would transport 1.2 billion cubic feet (Bcf) per day of new Arctic gas to market. The estimated capital cost of this project has risen to $16.2 billion, and it is now planned to be in operation by 2015.

IV. Conclusion

The certainty of Alaska supply makes it an attractive long-term source of natural gas to meet growing U.S. demand while enhancing economic development in the state. The State of Alaska has made progress completing the initial phase and entering the application evaluation phase of AGIA, and Conoco has shown an interest in developing a project outside of AGIA.

The long lead time required for an Alaskan natural gas transportation project makes it critical that an AGIA licensee or any other project sponsor begin our pre-filing/application development process as soon as possible. Meanwhile, the Commission, OFC, and other federal agencies are continuing to prepare for the efficient and timely processing of the eventual pre-filing request and application for an Alaskan natural gas transportation project. FERC staff and the OFC are in contact with the various potential project sponsors, participants and stakeholders, and urging them to work together and move as swiftly as possible to advance the project.

Based upon the statutory finding of public need in ANGPA[6], any project sponsor could conceivably proceed with a pre-filing request at the Commission, conduct an open season to obtain prospective customers, and file a certificate application for an Alaskan natural gas transportation project without actual commitments for the transportation of natural gas from the North Slope. However, this would be a less than desirable situation, given the considerable expenditures of financial and human resources required to complete the permitting process. Clearly, a proposed project which is backed by firm shipper commitments to transport natural gas supplies will have a greater chance of ultimate success.

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[6] Section 103(b)(2) of ANGPA states that :

> "In considering an application under this section, the Commission shall presume that--
> (A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and
> (B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through the project to markets in the contiguous United States."