

**TESTIMONY OF THOMAS IRWIN, COMMISSIONER**  
**DEPARTMENT OF NATURAL RESOURCES**  
**STATE OF ALASKA**  
**TO THE**  
**FERC OPEN SEASON TECHNICAL CONFERENCE**  
**Anchorage, Alaska**

**December 3, 2004**

Thank you for the opportunity to address the Commission today regarding the proposed open season rule for an Alaska gas pipeline. [With me is our FERC Counsel, Bob Loeffler of Morrison & Foerster.] This project represents an unprecedented opportunity for the nation, its gas consumers and the State of Alaska—an opportunity 25 years in the making. This pipeline will be unique in several respects—it will be one of a kind with respect to costs, distance traversed, international nature and environment affected. The State is eager to move the project forward. We believe now is the time to begin the formal processes that will lead to construction.

Together, all affected parties must create a sound foundation from which to launch the project. Prudhoe Bay and Point Thomson gas reserves will anchor the effort. These known gas volumes are more than sufficient to kick start the project. In addition, the

pipeline needs to be cost effective and efficient to operate. But we also need to plan from the start for a pipeline with a minimum 50 year life and one or more pipeline capacity expansions to accommodate the huge resource potential of the State. As Commissioner of Natural Resources, I talk to companies every week that are interested in exploring for natural gas and oil in Alaska and I know their concerns. One of their concerns is access.

Given our resource potential, we need a pipeline design, expansion rules and tariff designs that will promote competition in exploration, development and production of Alaska natural gas. I can not stress enough that Prudhoe Bay and Point Thomson gas are only the tip of the iceberg with respect to future gas supplies from Alaska. North Slope and arctic offshore conventional mean technically recoverable undiscovered resource potential exceeds 225 TCF. In addition, North Slope gas hydrate resource potential in the Prudhoe Bay/ Kuparuk River/Milne Point area alone exceeds 100 TCF. Further, our Interior basins are for the most part unexplored but the data we have at hand indicates that they have significant gas resource potential. The pipeline will pass very near some of these basins. In order to motivate explorers to drill for and develop at least some of the yet to be discovered gas sooner rather than much later, the pipeline likely will have to be expanded early in its life. Explorers will not explore today if the pipeline can not be expanded early and they have to wait for the decline in gas production at Prudhoe Bay and Point Thomson in order to monetize their gas—that decline in pipeline throughput

from Prudhoe Bay and Point Thomson may not occur until some 15 years after startup of the flow of gas.

In all likelihood, given the very nature of the Alaska pipeline project, and like its cousin, the Trans Alaska Oil Pipeline, there will be one and only one pipeline built. Planning today for a pipeline that flows gas for many decades to come and for the likely expansion of capacity on the gas pipeline only makes good sense for the nation and for Alaska.

The rules governing the gas pipeline must help unlock this resource potential. Congress recognized this by directing the Commission to adopt open season rules that “promote competition in the exploration, development and production of Alaska natural gas. Explorers will risk exploration capital in Alaska sooner rather than much later if they believe they have reasonable access to expansion capacity in the gas pipeline. Individual companies or individual producers may not benefit or may benefit differently from early expansion of the pipeline but collectively the nation will benefit from more gas from Alaska. This is why Congress for the first time gave FERC the power to order mandatory pipeline expansion and also required the adoption of open season regulations that are designed to promote competition in exploration, development and production of Alaska gas. Firm regulatory oversight is needed to secure the assurance of timely access for gas yet to be discovered, open season rules that are fair and reasonable and tariff rules that promote competition.

Let me address a question the Commission has posed: whether it should address expansion and the very important issue of rolled in versus incremental pricing for expansions. The answer is yes, but not in this rulemaking. While Section 103 (c) of the Act requires the Commission to expedite and promulgate within 120 days its open season rule, its mandate to promulgate a rule governing expansions flows from Section 105 (e) of the Act and Section 105 does not require the issuance of this rule within a defined time period. Section 103 (e) (3) also provides that the open season regulations do not apply to Section 105 expansions.

Accordingly, the Commission need not address expansion pricing in this rulemaking or on the 120 day schedule for a rule governing the open season process. The expansion pricing issue is multi-faceted and complex and includes the question of not only how to price the expansion, but how to price the associated fuel costs. While it is certainly desirable to have answers at an early date to any questions regarding how expansion capacity will be priced, we believe a separate proceeding early next year, completed on a deliberate but aggressive schedule, would be timely in meeting the needs of all potential participants while not unduly burdening this proceeding with this additional major issue. In an expansion rules proceeding, the Commission should consider the issues that have been identified by Commissioner Corbus.

From what we know today, my view is that a strong case can be made for rolling in the expansion costs. This will be one system operationally. Added throughput benefits everyone, and the best incentives for both the pipeline and the explorers may

result. Those are my thoughts today, but the State needs to know more before it can take a final position. For this reason, we think that before this issue is decided, a public record should be compiled, and the expansion issues carefully and publicly explored. For these reasons we have proposed that the Commission launch an inquiry into this subject as soon as the open-season rulemaking is completed.

Commissioner Corbus described our proposal for ensuring that the pipeline is sized large enough from the outset. With correct sizing, capacity allocation issues may be alleviated or at least reduced. Nonetheless, there should be a well understood methodology for allocating capacity in the event the pipeline is oversubscribed. The proposed rule should direct that in the case of bids exceeding pipe capacity, all bids of 20 or more years at maximum intrastate or interstate rate are treated equally, and prorated if necessary. This helps prevent the early shippers from tying up capacity with overly long transportation agreements. On the other hand, if all intrastate and interstate bids of 20 or more years at maximum rate can be accommodated, but all bids less than 20 years cannot, then those latter bids should be awarded on a net present value (NPV) basis.

Let me turn next to royalty gas issues. Section 103 (h) gives the State rights to access the pipeline for shipment of royalty gas for in-State use. If the State wants early access for royalty gas shipment, then once again to be useful in the planning cycle for the project and useful to you in your review process I would propose that the State have the option that such a hearing be held prior to completion of the Alaska Pipeline's open

season. Resolution of the issue of use of royalty gas in-State prior to conduct of an initial open season would provide all affected parties with the certainty necessary to respond appropriately in the open season process. Alaska's Stranded Gas Development Act requires that part of the consideration the State must receive in return for the financial stability concessions it is allowed to make is the assurance of gas supplies for in-State use. Because this issue is so central to the participation of the State in the development of any Project, it must be resolved early in the process. I will add that the royalty gas issue may be resolved in the ongoing negotiations between the State and project sponsors.

Still on the subject of in-State access but at a somewhat more detailed level, I recommend that in its open season process the Alaska Pipeline should be required to consider all requests for the establishment of delivery points on a non-discriminatory basis, including requests for in-State delivery points, whether on the Pipeline's mainline or on a spur line. Further, the regulations should provide that the terms, conditions and costs associated with establishing delivery points will be afforded similar treatment by the Pipeline, irrespective of the location of any delivery point.

Likewise, your regulations should provide that in its open season, the Alaska Pipeline should allocate capacity on a non-discriminatory basis, including requests for capacity for receipt and delivery wholly within the State and should further explicitly provide that capacity nominations for in-State delivery at maximum in-State rates for contract terms of at least 20 years shall be afforded the same weight as capacity

nominations for the export of gas at maximum rates for contract terms of at least 20 years.

Finally, let me address one question raised in the supplemental notice of the conference—when should the FERC involve itself in the open season process. We think the answer is early. Specifically, we think the Alaska Pipeline’s proposed open season notice package should be submitted to the FERC six months or so prior to the date of the proposed open season. FERC should call for comments on the package and should then decide whether the open season package complies with the Alaska gas open season regulations. We recognize that this is a reversal of the ordinary process where complaints about open season procedures are made during or after an open season. But we believe the special circumstances of the Alaska gas pipeline warrant different treatment. By requiring pre-open season public submission of the open season package, interested parties will see the relevant information earlier than its official release and will have the opportunity to raise issues about the adequacy of the disclosure before the open season begins. This will help avoid post open season disputes and will also give parties a longer time to plan for the open season. It will also avoid extending the open season beyond a customary length, say, of 90 days.

In conclusion, allow me to thank you for the opportunity to speak. We are happy to answer any questions.