COMM-OPINION-ORDER, 3 FERC ¶61,226, **Northwest Alaskan Pipeline Company, Docket Nos. CP78-123, et al.**, (June 07, 1978)

Northwest Alaskan Pipeline Company, Docket Nos. CP78-123, et al.

[61,602]

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Northwest Alaskan Pipeline Company, Docket Nos. CP78-123, et al.

Order Granting Intervention, Establishing Intervention Procedures For The Overall Alaska Gas Proceeding, And Granting Conditional Import Authorizations

(Issued June 7, 1978)

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon and George R. Hall.

[Note: Order denying petitions for reconsideration and clarification but granting intervention issued August 4, 1978, 4 FERC ¶61,121 . Affirmed, *sub nom. Midwestern Gas Transmission Co. v. F.E.R.C.*, 589 F. 2d 603 (D.C. Cir. 1978).]

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan), formerly Alcan Pipeline Company, filed two applications pursuant to Section 3 of the Natural Gas Act and Sections 5(a)(2) and 9 of the Alaska Natural Gas Transportation Act (ANGTA). The applications requested that the Commission grant conditional authorization, pending appropriate authorization under Section 7 of the Natural Gas Act, for the importation of natural gas from Canada.

The Commission grants herein the conditional import authorizations applied for by Northwest Alaska. We do, however, expressly reserve for subsequent adjudication and deliberation numerous related matters as more fully enumerated in the body of this order, *infra* pp. 5 and 6.

The Commission publicly noticed these import applications on April 12, 1978. Petitions to intervene and protests were scheduled to be filed by April 21, 1978. Petitions to intervene have been received from natural gas pipelines or their affiliates, [1] gas distributors and/or electric utilities, [2] Alaskan gas producers, [3] Canadian gas companies, [4] and others. [5] In addition, several states or state commissions have either petitioned for or given notice of intervention. [6] All petitions mentioned above, including those untimely filed, will be hereinafter granted.

Before proceeding to consider Northwest Alaskan's applications, it is appropriate to resolve the question of interventions generally. The service list for the *El Paso Alaska, et al*, proceeding before the FPC, vacated by our order of December 16, 1977, 1 FERC ¶61,248 , in the instant dockets, had become so large as to constitute a burden on the Commission and filing parties. It is our present intention that any person, including those who were parties to the prior FPC proceeding, who desires to participate in any phase of this proceeding involving the Alaska Natural Gas Transportation System (ANGTS) should petition to intervene anew. This order will be published in the *Federal Register* and mailed to all those on the old service list. Thereafter, only the new superseding service list will be employed. This overall proceeding, Docket No. CP78-123 , *et al.*, will develop to encompass numerous elements, such as the instant applications for import authorization, certification of the predelivery facilities and the remaining segments of the system, and certification of gas purchase arrangements. While petitions to intervene related to these specific elements will of course be entertained by

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the Commission at the appropriate time, once a person has intervened it will retain party status for all phases of this overall proceeding. This should avoid any unnecessary fragmentation of the public notice process. Of course, those who have already petitioned to intervene, *supra* notes 1-6, will remain parties throughout the overall proceeding.

We now turn to the positions of those who have intervened. Of the numerous petitions received, *supra* notes 1-6, only one party presently requests a hearing on these applications for conditional import authorization, that being Pacific Refining Company. [7] Pacific Refining advances no basis for holding a hearing. Pacific Refining's statement that these imports could ultimately "displace the fuel oil which such companies [electric utilities] currently purchase from Pacific" provides no basis for a hearing: Apart from the fact that this statement appears to have been made primarily as a basis for "standing," the basic merit of such increased imports, as will be explained *infra*, has already been found, and no hearing is therefore warranted to consider inter-fuel competition.

The threshold question of the desirability of importing 1.04 Bcf/d of gas from Alberta has already been answered in the affirmative and needs no relitigation. Of greatest relevance is the holding in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, pp. 92-93, that such pre-deliveries from Alberta "would make gas available over the next few years when the Nation faces serious and immediate natural gas shortages: * * *" This conclusion is completely consistent with the President's assessment of the natural gas shortage through 1990. *Id.* at 87-91. Such supply and demand conclusions echo those in the *El Paso Alaska* initial decision, 58 FPC 1127 at 1366-1369, which were not changed in the FPC's subsequent *Recommendation to the President.* Subsequent events have, if anything, supported the President's conclusion. On this basis, the Commission is fully justified in finding that the importation of this additional gas from Alberta through the pre-built portions of ANGTS is in the public interest. Conditional import authorization is therefore granted. [8]

The Commission at this time lacks sufficient documentation to go beyond such a conditional authorization. Northwest Alaskan's applications recognize this fact, stating that certain information required by the applicable filing requirements, 18 CFR §153 , is not currently available. Moreover, complete applications for related Section 7 certification are normally necessary before final approval of an import authorization. In the instant proceeding, however, we find that compliance with the mandate to expedite under Sections 9(a) and (b) of the Alaska Natural Gas Transportation Act (ANGTA) 15 U.S.C. §§ 719 g (a) and (b), requires the present consideration of and conditional ruling upon these import applications which are tied to the overall Alaska gas project. In light of the numerous governmental approvals which all parties associated with this transaction will have to obtain both in this country and Canada, the issuance of these conditional import authorizations in support of the overall project, representing a basic U.S. decision favoring such imports, generates the salutary effect of stimulating the expeditious processing of all government approvals, not only for the gas imports which are the subject of the instant applications, but also for the remainder of ANGTS as other approvals become timely.

The applications presently before the Commission include a contract for the sale of gas to Northwest Alaskan, the provisions of which appear to be generally acceptable, as discussed more fully below. The import applications are also clearly intended to be in aid of the overall Alaska gas project, which we also support.

It is necessary to also delineate what these conditional import authorizations do not accomplish. They do not constitute any ruling upon the following matters.

-- Footnotes --

[1]. any questions relating to the specific arrangements and facilities which must be certificated under Section 7 of the Natural Gas Act for when Northwest Alaskan resells this imported gas to U.S. shippers; [9]

[2]. any possible future change by Canada of the present border price of $ 2.16 per Mcf at which this gas would be sold to Northwest Alaskan, as well as the terms and conditions attached to any Canadian authorizations;

[3]. the method for shippers pricing this imported gas for resale, such as rolled-in or incremental pricing; [10]

[4]. any matters related to the import authorization applications other than the basic question of whether in general such imports are in the public interest.

As a general proposition, the Commission agrees with Northwest Alaskan (Application, p. 3) that these early deliveries of Alberta gas through the pre-building of the southern portions of the overall project, both in Canada and the U.S., should be of assistance in realizing successful completion of the overall project. Nevertheless, before a final decision can be made, many questions related to the specific relationship between these pre-built facilities and the overall project must be answered by the Commission both independently and in consultation with the National Energy Board of Canada pursuant to paragraph 9 of the "Agreement on Principles Between States and Canada," which is Section 7 of the President's *Decision.*

Only one substantive challenge was leveled at these applications in the petitions to intervene. It was made by Arizona Public Service Company, and, while Arizona subsequently withdrew it on April 27, 1978, the Commission finds that this challenge should nonetheless be addressed and

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refuted. Section 2.8 of the gas sales contract between Pan-Alberta Gas Ltd. and Northwest Alaskan (Exh. E of the applications) is at issue. It provides Pan Alberta the right to terminate the contract any time prior to commencement of construction if Northwest were to resell this Alberta gas to other than Alaska project partners (this includes partners which withdraw from the partnership). Arizona reasoned that this contract provision might contravene three separate legal principles. As will be discussed below, we find that Section 2.8 of gas supply contract is not infirm in any of these three regards.

To begin with, it was asserted that Section 13(a) of ANGTA, 15 U.S.C. 719 k, which requires equal access to ANGTS not dependent upon ownership therein, might require denial of authorization of exports conditioned by Section 2.8 of the contract. We reject this position. Our ruling is predicated upon and limited to the facts of this specific situation, to wit, a resale restriction on Canadian gas based upon what we assume to be a Canadian governmental policy: We reserve to possible future deliberation any similar ruling as related to the sale of Prudhoe Bay gas. The resale condition does not deny equal access to ANGTS on the basis of ownership. Instead, it relates ownership to the purchase of this Alberta gas. Access to ANGTS, even access to the pre-built portions thereof, is not restricted by Section 2.8 of the contract. Non-owner shippers of other volumes of gas are not precluded from tendering that gas for transportation through the pre-built portions of ANGTS.

Pursuant to the terms of Section 13(a) of ANGTA, we shall include as a condition to this conditional import authorization the requirement that the application comply with Section 13(a). However, since Section 13(a) has engendered some confusion since its enactment, it is appropriate at this time to delineate its scope. Attached to this order as Appendix A is the legal interpretation of Section 13(a) with which we concur.

In addition, it was asserted that Section 2.8 of the gas supply contract might conflict with the President's *Decision and Report*, pp. 13, 219-220, wherein the regional distribution of Alaskan gas would be accomplished in the first instance by the traditional vehicle of gas sales contracts with Alaska gas producers. We reject this assertion. The distribution of this Alberta gas through Northwest Alaska's resale contracts with U.S. shippers will not dictate the distribution of the actual Prudhoe Bay gas. Final pipeline design should ensure that the operation of the contracts for this Alberta gas does not preempt capacity for deliveries of Alaskan gas commencing subsequently.

Finally, it was argued that Section 2.8 might violate Section 1 of the Sherman Act, 15 U.S.C. §1, as being in restraint of trade (possible boycott or division of markets). We likewise reject this argument. In reaching this result, we assume that this resale condition at issue represents official Canadian federal and/or

provincial governmental policy to assure that these imports, which clearly are intended to support ANGTS, are not made if ANGTS is not to be realized. Under the contract these imports are related to ANGTS. In this regard the President concluded in the *Decision and Report*, p. 208, that "the Alcan project will have no harmful effect on regional or national competition in the natural gas industry, and that any potential of competitive abuse can be cured by proper Federal regulation." The Commission finds nothing in Section 2.8 of the gas sales contract which would undermine the current validity of this Presidential finding that the antitrust laws are not contravened by ANGTS as structured in the *Decision and Report.* The reinforce this finding, we have transmitted the publicly noticed import applications to the Justice Department for antitrust review, and on May 15, 1978, the Justice Department responded that it found no anticompetitive potential in this resale condition:

Further, the decision of the Canadian government to restrict the export and sale of Canadian gas to participants in the sponsoring company consortium appears to be a reasonable method of insuring that Canadian gas will be used to support the construction of the pipeline which will ultimately be of benefit to the Canadian people. Moreover, since participation in the partnership, and, thus, access to this gas, would be accessible to all interested parties, this form of incentive also does not appear to present competitive problems.

This Justice Department letter was directed to our Alaska Delegate, and accordingly, pursuant to our December 16, 1977 order in this proceeding, it is in the Delegate's public file.

The Commission further finds:

(1) It will not be inconsistent with the public interest under Section 3 of the Natural Gas Act that conditional import authorizations, as structured in the body of this order, should be granted.

(2) The petitioners mentioned in footnotes 1-6 in the the body of this order, whether having filed in a timely or untimely manner, should be granted intervention in this and every phase of Docket Nos. CP78-123 , CP78-124, and CP78-125.

The Commission orders:

(A) Conditional import authorizations are hereby granted, as more fully detailed in the body of this order.

(B) The petitioners named or referenced above are hereby permitted to intervene as requested subject to the Rules of the Commission, provided that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene, and that the admission of such intervenors shall not

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be construed as recognition by the Commission that they or any of them might be aggrieved because of any order issued by the Commission in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the *Federal Register.*

[1] Panhandle Eastern Pipe Line Company, Southern Natural Gas Company, United Gas Pipe Line Company, Texas Eastern Transmission Company, Mississippi River Transmission Corporation, Michigan Wisconsin Pipe Line Company, Northwest Pipeline Corporation, Colorado Interstate Gas Company, Natural Gas Pipeline Company of America, Columbia Gas Transmission Corporation, Tennessee Gas Pipeline Company, Tenneco Alaska, Inc., Midwestern Gas Transmission Company, Transcontinental Gas Pipe Line Corporation, Northern Border Pipeline Company, Northern Natural Gas Company, Algonquin Gas Transmission Company (filed out of time), Michigan Consolidated Gas Company (filed out of time), and Texas Gas Transmission Corporation (filed out of time).

[2] Arizona Public Service Company, New Jersey Natural Gas Company, Iowa Power and Light Company, Pacific Interstate Transmission Company, Southern California Gas Company, Cascade Natural Gas Corporation, Northwest Natural Gas Company, Southern California Edison Company (filed out of time), San Diego Gas and Electric Company (filed out of time), Wisconsin Fuel and Light Company (filed out of time), Wisconsin Gas Company (filed out of time); Public Service Electric and Gas Company (filed out of time); Southwest Gas Corporation (filed out of time), and Iowa-Illinois Gas and Electric Company (filed out of time).

[3] Atlantic Richfield Company, Exxon Corporation, Phillips Petroleum Company (filed out of time), and Marathon Oil Company (filed out of time).

[4] Pan-Alberta Gas Ltd., Foothills Pipe Lines (Yukon) Ltd., and TransCanada Pipelines Ltd.

[5] Pacific Refining Company, and the California Gas Producers Association (filed out of time).

[6] Public Service Commission of the State of New York, Arizona Corporation Commission, State of Alaska, State of California and Public Utilities Commission of the State of California (filed out of time), and Public Service Commission of Maryland (filed out of time).

[7] While Arizona public Service Company initially requested a hearing, subsequently on April 27, 1978, it amended its petition by *inter alia*, withdrawing its request for a hearing. In addition on May 5, 1978, Southern California Edison amended its petition to withdraw its request for a hearing.

[8] The Commission's authority to take this action devolves from Department of Energy Delegation Order No. 0204-8 (42 F.R. 61491). This authorization of these imports of gas from Alberta, recognized in the President's *Decision and Report* to be a material element in the overall desirability of the Alcan system, is a function to be "exercised with respect to any approved transportation system within the meaning of Section 4 of the Alaska Natural Gas Transportation Act of 1976;" *Id.*, p. 1, because this gas will flow through the pre-built portions of ANGTS as provided for in the President's *Decision and Report.*

[9] This order authorizes the importation of gas from Canada through ANGTS facilities certificated by order issued by this Commission on December 16, 1977, 1 FERC ¶61,248 . It is expressly conditioned upon future certification of ANGTS facilities needed for importation and their subsequent construction by those who hold the conditional certificates, or their duly authorized successors. Timely completion of applications and Commission rulings thereon, expedition of which is required by Sections 9(a) and 9(b) of ANGTA, are essential as part of the implementation of ANGTS. The Commission expects the certificate holders to file for facilities authorizations according to schedules which are consistent with the objectives of ANGTA.

[10] Although the applicant requested rolled-in pricing treatment, we defer a ruling on this matter because Congress is presently considering the question. In any event these applications do not offer sufficient evidence, at this preliminary stage, on which a decision could be made.

APPENDIX A

MEMORANDUM TO: The Commission

FROM: Office of the General Counsel, Alaska Gas Project Office

SUBJECT: Statutory Interpretation of Section 13 (a) of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) PL. 94-586 and Section 28 (r) fo the Mineral Leasing Act. PL. 93-153

The Office of the General Counsel and the Alaska Gas Project Office, have jointly prepared the following legal memorandum to assist the Commission in interpreting the obligation which has been imposed by the condition required by Section 13(a) of ANGTA. The meaning of Section 13(a) was raised in relation to the applications for conditional import authorization currently before the Commission, and the

timely clarification of Section 13(a), along with the related provision of the Mineral Leasing Act, Section 28(r), should assist in the expeditious processing of the applications for final certification of ANGTS, a goal which is required by Sections 9(a) and (b) of ANGTA, 15 U.S.C. §§ 719 g (a) and (b).

As will be discussed in detail below, Section 13(a) of ANGTA imposes an obligation not to discriminate in conditions of service between owners and non-owners of ANGTS. Section 28(r) authorizes the Secretary of the Interior to prorate capacity for gas produced from Federal lands in the vicinity of ANGTS, but there is no requirement under Section 13(a) that existing capacity be prorated. The objectives of Section 13(a) and Section 28(r) are best realized, not by imposition of common carrier status or a prorationing requirement, but by provision of adequate capacity to accommodate not only gas from the Prudhoe Bay Field, but additional volumes reasonably anticipated to be available for shipment (including those from Federal lands in the vicinity of ANGTS).

Section 13(a) of ANGTA provides as follows:

> There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the

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> directions contained in section 719g of this title, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

The threshold question is whether ANGTS is a common carrier. A common carrier incurs numerous duties, among them the duty to carry for all to the extent of its capacity at a reasonable charge and with substantial impartiality. Unreasonable discrimination by a common carrier, both with respect to rates and availability of service, are prohibited. In addition, common carrier status gives rise to strict liability for damage to persons and property transported, as well as other responsibilities imposed by common law and statute. The fully panoply of these duties is imposed upon each common carrier. Although Section 13(a) of ANGTA on its face makes no mention of common carrier status, conflicting interpretations of this statutory language have been made by government agencies close to the matter.

In its *Recommendation to the President,* 58 FPC 810 at 1046-1047 the FPC interpreted Section 13(a) "* * * to mean that Congress wants the Alaskan gas transportation system operated as a common carrier." However, the FPC added that "* * * common carrier status is incompatible with our goal to effect a private financing," *Id.,* the FPC recognizing the "free rider" effect of common carrier status and its disincentive effect on project equity investment.

In the July, 1977, *Report of the Attorney General* to Congress on the antitrust implications of ANGTS, made pursuant to Section 19 of ANGTA, the Department of Justice noted this FPC interpretation but, concluded that "It is not clear to us, however, that the language of Section 13(a) clearly imposes common carrier obligations upon the pipeline." *Id.,* p. 60. The Department of Justice reemphasized its view that Section 13(a) does not render ANGTS a common carrier by recommending additional legislation to empower the FPC to enforce the common carrier remedy of proration of pipeline capacity. *Id.* p. 64.

These conflicting interpretations lead us to the legislative history upon which Section 13(a) rests. The Joint Report of the Senate Committees on Commerce and Interior and Insular Affairs [1] elaborates upon what "equal access" entails:

> Section 13 requires that there shall be included in the terms of any certificate issued pursuant to this Act a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system approved by enactment of a joint resolution of the Congress may be prevented from doing so or discriminated against in the terms and conditions of service on the basis of his degree of ownership or lack thereof of the Alaska natural gas transportation system. This provision requires that tariffs shall be

equal to shippers who are owners or non-owners of the system for the shipment of similar quantities of natural gas for similar distances. This is to assure that pipelines or distributors who are able to purchase additional quantities of Alaska natural gas are able to transport such natural gas to their own system upon non-discriminatory terms.

This language makes clear that the intent of Section 13(a) is to assure that all shippers of gas, whether or not they are owners of ANGTS, should have equal access to ANGTS, and under equal tariff terms.

This Joint Report goes on to reference Section 28(r)(2) (B) of the Mineral Leasing Act of 1920 (as amended by the Trans-Alaska Pipeline Authorization Act of 1973), 30 U.S.C. Sec. 185(r)(2)(B), as regards the history of Section 13(a) of ANGTA. This reference may explain the FPC's position regarding common carrier status. Section 28(r)(2)(B) provides that:

> * * * in the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary (of the Interior) may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

The Joint Report interprets this provision as authorizing the Secretary of Interior "in the event adequate capacity is not available, to apportion shipments of other shippers in order to accommodate the production from Federal lands (in the vicinity of ANGTS)." *Id.*

Apart from Section 28(r)(2)(B) of the Mineral Leasing Act, under which ANGTS would have to accept gas from Federal lands in the vicinity of the pipeline when required by the Secretary of Interior, Section 28(r)(3)(A) expressly excludes gas pipelines, such as ANGTS, from common carrier status under Section 28(r). Specifically, the common carrier provisions of Sections 28(r)(1) and 28(r)(2)(A) [2] are explicitly limited in Section 28(r)(3)(A) to not apply "to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act * * *."

The Report of the House Committee on Interstate and Foreign Commerce [3] states:

> Section 13 provides that no person seeking to transport gas in the approved system would be prevented from doing so or discriminated against in the terms and conditions of service, on the basis of ownership or lack thereof. This section would work to assure that any tariffs applied to the transportation of gas through the system would be equal for owners and non-owners alike.

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The floor debates relative to ANGTA contain no specific mention of Section 13(a).

In summary, Section 13(a) of ANGTA gives no explicit or implicit reference to common carrier status; relevant legislative history of this provision, the aforementioned Joint Report, specifically relies upon Section 28(r)(2)(B) of the Mineral Leasing Act, which, when considered with the related subsections of Section 28(r), states unequivocally that natural gas pipelines under the Natural Gas Act, to-wit ANGTS, are not common carriers as would otherwise be required by Section 28(r). Accordingly, it does not appear that Congress intended that ANGTS operate as a common carrier.

What Section 13(a) does provide is an obligation on the certificated system not to discriminate against shippers of Alaskan gas on the basis of ANGTS ownership. The prohibition against discrimination based on ownership applies both to rate treatment and allocation of system capacity. However, the clear implication is that capacity can be allocated on a first come, first served basis so long as non-owners are not discriminated against in terms of access and tariffs. If pipeline capacity were allocated on such a basis and its limits were reached, the only statutory requirement for prorationing would be to accommodate any additional gas volumes produced from Federal lands in the vicinity of ANGTS. [4]

We believe the possibility of prorationing under Section 28(r) of the Mineral Leasing Act can be greatly reduced through proper pipeline design. The key issue is sufficient capacity to move all potential shipments of gas. The ability to expand the capacity of a high-pressure gas pipeline through the addition of compression provides the necessary capacity. ANGTS, with a basic configuration as recommended by the FPC and as selected by the President, will be able to be expanded by adding compression to a point; the marginal costs involved will be such that the unit transportation cost will decline as through-put increases. This feature actually provides an incentive to expand capacity as additional volumes of gas are made available. While the Commission under Section 7(a) of the Natural Gas Act cannot order extension of transportation facilities to serve local distributors if to do so would "impair [the pipeline's] ability to render adequate service to its customers," it does have the authority under Section 7(e) to condition any certificate of public convenience and necessity to require the certificate holder to add compression and utilize this low cost expansibility in order to serve future shippers.

Section 5(c)(11) of ANGTA directed the FPC to discuss in its *Recommendation to the President* "capability and cost of expanding the system to transport additional volumes of natural gas in excess of initial system capacity." In response to this expression of Congressional concern, the FPC in its *Recommendation to the President*, p. 838, found that the Alcan system was capable of such low cost expansibility through additional compression up to throughput of 3.4 Bcf/d:

> The Alcan system can be expanded at low cost from 2.40 Bcfd to 3.4 Bcfd for Alaskan gas by slightly more than doubling compression, which would add about 12 percent to total capital costs and increase fuel cost requirements. Such an expansion would actually lower unit costs since the expansion adds more than 50 percent to the flow rate. Expansion beyond this extent would require looping.

Thereafter, the President in his *Decision and Report*, p. 194, emphasized the necessity of initially constructing sufficient pipeline capacity in order to subsequently avoid pipeline looping:

> Overall, considering the arctic construction, inflationary impacts, and environmental impacts, the ultimate cost to consumers of providing capacity for increased gas throughput would be much lower if the capacity is provided initially by increasing the diameter or working pressure of the pipe, than if it is provided later by adding compressor horsepower or looping the pipeline.

As an integral part of the Commission's final certification process for ANGTS, an assessment commenced before the FPC of reasonable estimates of proved and possible gas reserves, not only in the Prudhoe Bay Field but also across the North Slope and throughout Alaska, will be continued in order to assure that the final pipeline design optimizes the low cost expansibility without any need not prorate capacity under Section 28(r).

--Footnotes--

[1] Sen. Rept. No. 93-1020, 94th Cong., 2d Sess. (1976), p. 23.

[2] Section 28(r)(1) applies common carrier status to "pipelines and related facilities authorized under this section" and Section 28(r)(2)(A) requires such pipelines, operated as common carriers, to "accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands."

[3] House Rep. No. 94-1658 Part 1, 94th Cong., 2d Sess. (1976), p. 32.

[4] Prorationing is a requirement that if tendered shipments exceed available capacity, a pro rata reduction must be made in the amount of gas accepted for shipment from each shipper.