

Report  
Submitted to the  
United States Congress  
by the Federal Energy Regulatory Commission

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

August 29, 2008

# Sixth 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 (EPAAct 2005).<sup>1</sup> Section 1810 of EPAAct 2005 requires that the Commission submit to Congress semi-annual reports describing the progress made in licensing and constructing an Alaska natural gas pipeline and any impediments thereto. There has been substantial progress towards development of an Alaska natural gas pipeline over this reporting period, more than any previous period covered by these status reports.

This report provides an update from the Commission's Fifth Report, submitted on February 19, 2008. During the period covered by this report, the following major events have occurred: 1) Denali – The Alaska Gas Pipeline LLC (Denali), a partnership of BP and ConocoPhillips, was announced and began the pre-filing process for its project with the Commission and has begun field work; and, 2) the State of Alaska has moved forward and completed the process of selecting TransCanada Alaska Company, LLC and Foothills Pipe Lines, Ltd. (TC Alaska), affiliates of TransCanada Corporation, as the preferred applicant under its Alaska Gasline Inducement Act (AGIA) program.

## II. Status Report

### A. The Commission's Activities

#### 1. Chairman and Commissioner Moeller's Visit to Alaska

Chairman Kelliher and Commissioner Moeller, accompanied by senior FERC staff, traveled to Alaska in July 2008 to tour energy projects within the state. The focus of this trip was the progress being made in developing and building an Alaska natural gas pipeline.<sup>2</sup> The group met with state officials, toured the gas production area in Prudhoe Bay, and met with sponsors of the two competing pipeline projects.

The Chairman's group met with the Governor and leaders of the Alaskan Senate and House of Representatives which at the time were considering TC Alaska's AGIA license application. They met with Senate President Lyda Green, Senator Charlie

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<sup>1</sup> P.L. 109-58, 119 Stat. 594 (2005), 42 U.S.C § 15801 *et seq.*

<sup>2</sup> The group also toured the Terror Lake Hydroelectric Project on Kodiak Island and the Kenai LNG Export Terminal.

Huggins, Senate Minority Leader Gene Therriault, and House Minority Leader Beth Kerrtula (conference phone call). The FERC role and procedures for reviewing and deciding upon a certificate for an Alaska natural gas pipeline were discussed at these meetings.

The Chairman's group then traveled to Prudhoe Bay to view the existing natural gas production area and gas treatment facilities on the North Slope and the potential route for an Alaska natural gas pipeline. Of particular interest were the gas treatment facilities because a new plant would have to be built to produce pipeline quality natural gas for eventual pipeline transportation. The Chairman's group observed the challenging terrain, wildlife habitat, and environment where the gas treatment plant and pipeline are planned to be located, the specific sites for which would have to be approved by the Commission.

After returning from the North Slope, the Chairman's group met with senior executives of ExxonMobil, which has control over the majority of the proven natural gas reserves at Prudhoe Bay. They also met separately with senior executives of Denali and TC Alaska to discuss each company's plan and FERC's role and procedures for reviewing and deciding upon a certificate for any proposed Alaska natural gas pipeline.

## **2. Denali Begins FERC Pre-Filing Process**

On April 8, 2008, BP and ConocoPhillips announced they have combined resources to form Denali, a pipeline project proposal to construct and operate an Alaska natural gas transportation system as defined by section 103 of the Alaska Natural Gas Pipeline Act of 2004 (ANGPA).

On June 16, 2008, Denali filed a request in Docket No. PF08-26-000 for the FERC staff to start the pre-filing process for Denali's project. On June 25, 2008, FERC's Director of the Office of Energy Projects (OEP) granted Denali's request and instructed the staff to begin pre-filing activities with Denali. This approval has enabled Denali and the Commission staff to immediately begin exchanging information and coordinating activities to ensure a timely and efficient application development and review process. All items related to Denali's proposal are now being placed in FERC's eLibrary under Denali's PF docket.

In his approval letter, the Director of OEP determined that use of the pre-filing process on such a complex project is necessary to ensure completion of the environmental impact statement (EIS) within the legislated timeframe. The early initiation of the pre-filing process enables the Commission staff, cooperating agencies, and other stakeholders to be involved in the development of an application as soon as

possible. To this end, the Director of OEP waived a number of the filing requirements and timelines stipulated in the Commission's regulations at section 157.21(d) and (f).<sup>3</sup>

### **3. Denali's Proposal**

Denali plans to construct and operate a 48- to 52-inch-diameter pipeline to move 4 billion cubic feet of natural gas per day (Bcf/d) from the Alaska North Slope to the Alberta Hub for North American consumers. Denali's Alaska segment would be about 750 miles in length and would generally follow the Trans Alaska Pipeline System from Prudhoe Bay to Fairbanks and then follow the Alaska Highway to the Alaska/Yukon Border. Denali also plans to provide at least five Alaska off-take points for in-state gas distribution. At the Canadian border, the pipeline would connect to a new pipeline, to be constructed by Denali affiliates in Canada that would be about 1,000 miles long from the international border to Alberta.

Denali's proposal also includes (1) transmission pipelines to transport gas from production areas to connections with other portions of its system, and (2) a gas treatment plant on the Alaska North Slope where gas would be processed to remove impurities, as appropriate, and the residue gas would be chilled. Denali has stated that if additional capacity is needed to transport these volumes to the lower 48 states, its Canadian affiliates may construct an extension of the pipeline from Alberta to the United States border. In such a case, Denali would also construct a pipeline in the Lower 48 across parts of North Dakota, Minnesota, Iowa, and Illinois to the Chicago area.

Denali has opened a main office in Anchorage and a field office in Tok near the Alaska – Yukon, Canada border. Denali has begun conducting initial pipeline routing surveys and environmental resource studies this summer. Denali has reported in press releases that it intends to spend \$600 million over the 36 months preceding its submission of a complete application to the FERC. Denali currently proposes to hold its open season before year-end 2010. Assuming a successful open season, Denali expects to submit its complete application to the FERC in August 2011. Denali's schedule indicates that it would bring gas to market by mid-2018.

### **4. Staff's Environmental Review of Denali's Proposal**

Since its Fifth Report, the Commission has continued to progress towards fulfilling its National Environmental Policy Act (NEPA) and Natural Gas Act certificate

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<sup>3</sup> Under section 375.308(z) of the Commission's regulations, the Director of OEP can make modifications to and grant waivers of the pre-filing procedures on a case-specific basis.

application responsibilities. In addition to issuing an approval for Denali to enter the pre-filing process, the Commission staff has engaged in several other significant activities.

First, on June 18, the staff presented to the federal interagency team<sup>4</sup> an overview briefing of the pre-filing process and the contents of the Commission's application and environmental resource reports. The briefing was conducted at the Commission's offices with local agency representatives and simultaneously by teleconference with agency representatives in Alaska. The staff discussed the goals and regulatory basis for pre-filing, the activities to be undertaken during the pre-filing review period, and emphasized the benefits to both an applicant and the other stakeholders (especially the federal interagency team) of early issue identification. The staff described the broad range of data and information that is required to develop complete environmental resource reports and the value of the resource reports to cooperating agencies that have specialized information needs.

On July 25, the staff issued a data request to Denali. In this request, staff sought information on the content, timing, and results of Denali's ongoing resource data-gap analysis. The purpose of the analysis is to assess the relevant existing information in order to identify environmental resource data gaps and determine which studies, tasks, and other work are needed to enable Denali to submit complete environmental resource reports to the Commission in support of its certificate application. Specifically, the request directed Denali to identify the start and completion timeframes for each study, and highlight those elements/studies that are expected to require multiple field seasons to complete.

Denali's data-gap analysis began on August 1 and is expected to conclude by December 1, 2008, with the development of a summary report. The staff will review Denali's summary report to provide direction and guidance so that data collection activities accurately target the requirements of the environmental resource reports needed for Denali's FERC application.

During the last week of July, the staff visited Alaska to conduct pipeline route reconnaissance and meet with agencies and Denali. Discussions with the Department of the Interior's Bureau of Land Management (BLM) and the Federal/State Joint Pipeline Office in Anchorage included (1) details of the planned NEPA process and scope of the alternatives analysis; (2) data specifications of the environmental resource reports; (3) strategies for engaging Native Alaskans during and after pre-filing; and (4) the pipeline

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<sup>4</sup> In June 2006, 15 federal agencies signed a *Memorandum of Understanding Related to an Alaska Natural Gas Transportation Project*. This MOU established a project management framework for cooperation among participating federal agencies with responsibilities related to the approval of an Alaska natural gas transportation project.

design review process. The staff and a BLM representative met with Denali representatives to discuss Denali's field study plans and survey details (approaches, presentation of findings).

Staff visited segments of the route and observed field studies underway near Tok, Alaska. Discussions with Denali field staff focused on ensuring that the scope and timing of the surveys will facilitate an expedited development of the FERC application. Other topics of discussion included the scope of infrastructure (e.g., roads and bridges) needs to support project construction, the status of Denali's application to the BLM, and staff's July data request.

This site visit also allowed the staff to conduct an investigation of Denali's planned route between Delta Junction and the Canadian border. Staff viewed areas where Denali's planned route departed from the existing Haines-Fairbanks Pipeline right-of-way and looked at some possible alternative routes.

On August 19, the staff sent letters to almost 500 Native Alaskan tribes, villages, corporations, and other organizations in Alaska to establish contact and open a dialogue regarding the pre-filing process for the Denali Pipeline Project. This letter will serve a number of functions, including (1) alerting Native Alaskans that Denali has proposed construction of a large-diameter natural gas pipeline and related facilities between the North Slope and the Alaska-Yukon border; (2) explaining that the pre-filing process is designed to encourage the early involvement of interested stakeholders, facilitate interagency cooperation, and identify and resolve issues before an application is filed with the Commission; (3) introducing the Commission as the lead federal agency for compliance with NEPA and the National Historic Preservation Act (NHPA); and (4) noting that the Commission will be conducting a tribal consultation process that will address Native Alaskan concerns and meet all of the federal agency consultation needs. The letter also informs the parties that the Commission is authorizing Denali and its consultants to act on the Commission's behalf in contacting tribes and other affected parties as part of its compliance with section 106 of the NHPA.

In addition, the Commission staff and the federal interagency team have continued working together in a streamlined and coordinated fashion. For example, the staff recently drafted the scope of project alternatives to be considered in the EIS, as well as the project's statement of purpose and need. Both of these items, contemplated in the June 2006 *Memorandum of Understanding Related to an Alaska Natural Gas Transportation Project*, are currently under review by the federal interagency team.

## **B. TC Alaska's Proposal under AGIA**

### **1. The Alaska Gasline Inducement Act**

AGIA is the state's official vehicle for encouraging a project sponsor to proceed with a federal application for the construction of an Alaska natural gas pipeline. Under AGIA, a qualified project sponsor receives an exclusive and enforceable license from the State of Alaska that entitles the licensee to receive matching contributions from the state 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 Alaska natural gas pipeline project and other state permitting administrative benefits. An AGIA license also represents an agreement or a "settlement" of various project issues between the State of Alaska and the licensee.

On May 22, 2008, the Governor of Alaska announced that the proposal by TC Alaska was found to satisfy the state's goals of protecting Alaska's interests through reasonable commercial terms and meeting the needs of Alaskans. The Governor also announced that she would submit TC Alaska's proposal to the state legislature seeking confirmation that an AGIA License should be granted to TC Alaska. In the ensuing two months, the Alaska legislature held numerous hearings on AGIA and TC Alaska's proposal and other alternatives. The Alaska House of Representatives voted on July 22, 2008 to approve the issuance of an AGIA License to TC Alaska; on August 1, 2008, the Alaska Senate also voted to approve the issuance of an AGIA License to TC Alaska.<sup>5</sup> On August 27, 2008, the Governor signed the approved legislation to issue the AGIA license to TC Alaska.

FERC staff participated in several sessions of the Alaska Legislature's hearings, and responded to questions for several hours (both in person and by the phone) regarding, among other things: 1) the Commission's role in reviewing any applications for pipeline or LNG proposals; 2) future regulation of an Alaska pipeline; and 3) the effect, if any, of AGIA upon the Commission's decision-making process.

One topic examined at these hearings was how future pipeline expansions might be treated by TC Alaska and Denali, and how future pipeline expansion proposals would be reviewed by FERC. Under AGIA, TC Alaska has put forth a specific process for voluntary expansions which it would initiate every two years. However, under section 105 of the ANSPA, FERC policy would govern voluntary expansions and, if necessary,

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<sup>5</sup> All ongoing AGIA documents and official correspondence for the state government are available at <http://www.gov.state.ak.us/agia/>; the Alaska legislature's documents regarding AGIA are available at <http://www.legis.state.ak.us/specdocs.asp> and [http://lba.legis.state.ak.us/proposals-doc\\_log.htm](http://lba.legis.state.ak.us/proposals-doc_log.htm).

FERC would administer the process for involuntary expansions prescribed in section 105 of ANGPA, as discussed in the FERC's Open Season Rule, Order No. 2005.

The perceived differences in the details of rolled-in pricing for expansions between AGIA and FERC were also discussed. AGIA provides that the cost of an expansion would be rolled-in to a pipeline's rates if the expansion costs do not raise existing rates by more than 15 percent. If FERC orders an expansion pursuant to section 105 of ANGPA, Order No. 2005 noted that there is a rebuttable presumption in favor of rolled-in pricing but also that FERC has a present policy against existing shippers subsidizing pipeline expansions. The Commission will not be bound to accept the AGIA rate methodology regarding expansions, but rather will independently consider any such proposals on their merits.

A significant point confirmed by the staff was that a project proponent could enter into the pre-filing process and 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. Staff noted that while the provisions of AGIA may be taken into consideration, such provisions are not binding upon the Commission. Further, while AGIA may bind the State of Alaska and TC Alaska in certain aspects of a future application to the Commission, it does not limit Commission discretion in its disposition of an application.

## **2. TC Alaska's Proposal**

TC Alaska proposes to construct and operate a 48-inch-diameter pipeline with 5 Bcf/d throughput to transport natural gas from the North Slope of Alaska to all major markets in North America via the existing Alberta Hub. The total pipe length would be about 1,750 miles from a gas treatment plant near Prudhoe Bay on Alaska's North Slope to Alberta, Canada. Similar to Denali's plan, TC Alaska's Alaska segment would be approximately 750 miles in length. It would generally follow the Trans Alaska Pipeline System from Prudhoe Bay to Fairbanks and then the Alaska Highway to the Alaska/Yukon Border. The Canadian segment would be approximately 1,000 miles from the international border to Alberta. For the Alaska segment of its project, TC Alaska stated in its AGIA application that it is utilizing section 103 of the ANGPA, (which authorizes the Commission to consider and approve an Alaska natural gas pipeline system other than the project authorized under the Alaska Natural Gas Transportation Act of 1976). TC Alaska also stated that it does not intend to develop, own, and operate a gas treatment plant on the Alaska North Slope, but it is prepared to do so if necessary.

TC Alaska has not yet begun the pre-filing process at FERC, but has briefed the FERC staff on its AGIA proposal. Before beginning any substantial field work, FERC staff believes that TC Alaska should request that the Commission accept its project in the pre-filing process to ensure that the field work is performed in a manner to meet the



Commission's environmental requirements.<sup>6</sup> TC Alaska initially planned to conduct its open season in 2009 (for completion by September 2009), request FERC to begin the pre-filing process in June 2010, and file an application at FERC by December 2011. TC Alaska says it could be in-service by November 2017. However, these dates were based on an AGIA License being issued by April 2008 and may slip forward to account for the later issuance of the AGIA license.

Under AGIA, TC Alaska would hold an additional open season every two years and has designed its project to be expandable to 5.9 Bcf/d with compression only. Its project's expansions would have rolled-in rates in Alaska for up to 115 percent of initial rates and fully rolled-in tolls (rates) in Canada. The project would have debt-equity ratios with a minimum ratio of 70/30 during construction and 75/25 during operation. TC Alaska would have in-state deliveries at a minimum of five points and in-state delivery rates which are distance-sensitive. The FERC would have to consider and approve these proposals before they would be effective.

### **C. Other Projects**

The Alaska Gasline Port Authority (AGPA) is the sponsor of an Alaskan LNG project which contemplates delivering Prudhoe Bay gas to Valdez by pipeline, where it could be liquefied and shipped on tankers to the Asian market, the West Coast of the U.S. and Mexico, and Hawaii. On June 20, 2008, AGPA announced that Japan's largest general trading company, Mitsubishi Corporation, became a co-sponsor. Then, on July 9, 2008, AGPA announced that Sempra LNG, a unit of Sempra Energy, had joined the AGPA and Mitsubishi to keep the project plans moving forward. On August 20, 2008, Governor Palin issued an Administrative Order directing state agencies to continue assisting the LNG project sponsors such as AGPA in the feasibility and permitting process for an LNG project that would be consistent with TC Alaska's mainline project under AGIA.<sup>7</sup> FERC would have regulatory jurisdiction over any Alaska LNG project.

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<sup>6</sup> Such a pre-filing request would be given its own pre-filing docket number, but many of the staff's pre-filing activities for TC Alaska could be combined with the existing pre-filing activities for Denali. The proponents of the two projects also might benefit by coordinating some of their pre-filing activities.

<sup>7</sup> On July 7, 2008, Governor Palin announced the formation of a public/private partnership among the Alaska Natural Gas Development Authority, ENSTAR Natural Gas Company, and the State of Alaska to consider building the first phase of an intrastate pipeline to move Alaska gas to Alaskans within the next five years.

### **III. Related Federal and Canadian Activities**

#### **A. Operations of the Federal Coordinator**

In accordance with section 106 of 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 projects, and (2) ensuring the compliance of federal agencies with the provisions of ANGPA. The OFC plans to establish permanent offices in Washington, D.C. and Anchorage before the end of the first quarter FY09.

OFC meets regularly with the federal interagency team and with the Senior Intergovernmental Management Team (SIMT), comprised of the Federal Coordinator and senior government officials for the State of Alaska and the Canadian federal government. The next SIMT meeting will be held during September 2008 to focus on the coordination needs of the governments. The OFC also contracted for a data management system and for an analysis of potential legal and regulatory gaps for the project. The OFC expects both reports to be finalized by September 2008.

As part of the OFC outreach activities, it met with the President of the Alaska Federation of Natives, the Alaska Native Regional Corporation CEOs group and various Alaska-based environmental groups. Alaskans are generally in favor of the gas pipeline project being constructed expeditiously. In addition to these meetings, the OFC helped coordinate the federal agencies' efforts to provide the required federal government permits and authorizations to allow Denali to conduct field studies this summer that are necessary for the preparation of Denali's FERC application.

In May 2008, OFC staff traveled to Whitehorse in the Yukon Territory of Canada to observe a workshop hosted by the Alaska Highway Aboriginal Pipeline Coalition (APC) with a focus on First Nation issues. The APC is a voluntary initiative formed specifically to assess the implications of and communicate information to Yukon First Nations on the proposed gas pipeline along the Alaska Highway. The May workshop focused on the Canadian equivalent to the NEPA process.

The OFC also participated in a State Department-hosted Energy Consultative Mechanism meeting with the Canadian federal government. At the meeting, the Canadian government expressed its desire to see a gas pipeline project move forward and its intention to meet the schedule set by the U.S. regulatory agencies.

#### **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 also monitored the

progress of Alaska's AGIA process, and when a more complete commercial project emerges from the TC Alaska, Denali or otherwise, DOE will proceed with structuring the loan guarantee program.

### **C. Developments in Canada**

The Mackenzie Gas Project has continued to be under consideration by the government of Canada but the original in-service date has been delayed. 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 Bcf/d of new Arctic gas to market. The estimated capital cost of this project has risen to \$16 billion, and it is now planned to be in operation by 2016.

### **IV. Conclusion**

Two proposals for a mainline Alaskan natural gas pipeline from Alaska into Canada have emerged and advanced into the early, but detailed, planning and project development process. A possible related secondary project to move some of Alaska's gas to an LNG export terminal is still under consideration. Given the magnitude of an Alaska gas pipeline, it is very unlikely that more than only one of these mainline projects would ever be built. However, it is not unusual or detrimental at this stage that two projects are preceding forward. Both Denali and TC Alaska estimate filing a FERC application in 2011 and both seek a Commission order in 2013 (although their project planning paths to that point differ). This timeline also assumes Canada begins and completes its permitting of the Canadian segment of the project within the same timeframe.

The competition among Denali and TC Alaska and a potential LNG project is a positive indication of serious interest by major industry players, which should be resolved ultimately in the energy and financial marketplaces. At this juncture, the FERC, as the neutral siting agency has no basis to prefer one project over another. The Commission's pre-filing process, which has now begun, may be the best forum for Denali, TC Alaska, the LNG sponsors and all other stakeholders to work together under the FERC staff's guidance to move forward with a project of this magnitude.

Since ANGPA imposed statutory deadlines for the Commission review of an Alaska natural gas pipeline application, we continue to seriously caution that reviewing multiple projects throughout the complete federal regulatory process would greatly challenge the Commission staff, the other agencies on the federal interagency team, and state agencies. We believe it to be in the public interest to avoid the consequences of a prolonged, duplicative regulatory review in a competitive situation, especially during the

application phase. We understand and accept that both Denali and TC Alaska each desire to move forward and complete their open seasons, however, in the event that multiple projects continue to move forward after that, the Commission may have to consider unique and unusual procedures to meet ANGPA's deadlines. It should be abundantly clear that all stakeholders involved must work together with the shared objective of getting a project built. The Commission stands ready to do its part and reminds all stakeholders that construction and operation of an Alaska natural gas pipeline is the ultimate goal.<sup>8</sup>

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<sup>8</sup> Congress recently considered legislation to give the President the charge of persuading the various project stakeholders to join together in a single effort. See HR 6515, introduced in the House on July 16, 2008, 110th CONGRESS, 2d Session; the "Drill Responsibly in Leased Lands Act of 2008" - SEC. 4. Alaska Natural Gas Pipeline Project Facilitation.