

Open Seasons for Alaska Natural Gas Transportation Projects



Richard Foley, FERC Staff
Pre-filing Workshop
Anchorage, Alaska
January 12, 2010

Full Text of Current and Future Commission Orders and Regulations is the Official and Complete Explanation of the Open Season Process and Procedures For Alaska Natural Gas Transportation Projects



FERC and Alaska Project History



- 1974** Competitive Proposals filed at Fed. Power Comm.
- 1976** Congress passes the Alaska Natural Gas Transportation Act (ANGTA)
- 1977** FERC issues conditional certificates
- 1981** Western Leg of the Alaska Natural Gas Transportation System (ANGTS) – Pacific Gas Transmission – goes into service
- 1982** Eastern Leg of ANGTS – Northern Border Pipeline – goes into service

The Alaskan portion of ANGTS was not constructed.

Next Federal Actions



2001 In May, National Energy Policy recommends expedited construction of an Alaskan pipeline to deliver natural gas to the lower 48 states.

2001 Alaska Natural Gas Interagency Task Force - Members include: Energy, State, Interior (BLM, MMS), DOT (OPS), FERC (Energy Projects), Joint Pipeline Office

2004 **"Alaska Natural Gas Pipeline Act"** approved and signed by President on October 13th.

Alaska Natural Gas Pipeline Act



- Enacted on October 13, 2004
- Unique Alaska Open Season Rules issued on Feb. 9, 2005 & June 1, 2005
- Commission has responsibilities any application(s) filed for natural gas projects where gas leaves Alaska by pipeline or by LNG ship.

ANGPA - *Presumptions*



The Act presumes that :

- Public need for Alaskan project exists, no FERC finding of need required
- Adequate downstream capacity exists to move gas to markets in the Lower 48, no other pipeline applications required to be reviewed at same time

ANGPA - *Provisions*



- Clarifies legal issues so FERC can consider any application for Alaskan projects.
- FERC must issue open season regulations in 4 months
- FERC may order expansion
- FERC may allow accommodation for Alaska royalty gas
- Federal Coordinator is created
- Makes Federal loan guarantee of up to \$ 18 billion available to projects
- Only D.C. Circuit has judicial review of FERC orders for Alaskan projects

FERC Coordination



Memoranda of Understanding

- FERC and National Energy Board of Canada (5/10/04)
- FERC and Regulatory Commission of Alaska (1/24/03)
- FERC and all other federal agencies to ensure cooperation and coordination of efforts (6/06)

ANGPA

Cooperation in Processing



- FERC is designated as the lead agency for NEPA processing.
- FERC is responsible for preparation of the EIS.
- Other federal agencies conducting reviews covered by the EIS shall comply with the deadlines established by FERC.
- The EIS prepared by FERC shall be adopted by the other federal agencies.

FERC Actions

Post - ANGPA



- Meetings with agencies & stakeholders in Alaska – Office of Fed. Coordinator
- Submitted Alaska pipeline progress report to Congress, every 6 months, as required by EPLA 2005 – Public info
- Encouraged prospective project sponsors to start FERC pre-filing as soon as possible - accomplished.

ANGPA

Required Processing Timeline



- NEPA Pre-filing process is expected to take three years – *already started*
- When the formal application is filed:
 - Draft EIS issued in 12 months
 - Final EIS issued in 6 more months
 - Final order in 2 more months (total elapsed time 20 months)

Alaska Project Proposals



-
-
- **Denali Pipeline Project**
 - Pre-filing Docket No. PF08-26-000
 - Joint sponsorship - BP & ConocoPhillips
 - **TransCanada – TC Alaska**
 - Alaska Gasline Inducement Act
 - Pre-filing Docket No. PF09-11-000
 - TransCanada & ExxonMobil are jointly progressing the project
 - Other in-state projects still active in planning stages

Interstate Pipelines Open Access / Open Seasons



- Order No. 636 - Unbundling of sales and transportation leads to a general FERC policy to fairly allocate capacity – Open Access requirement for interstate pipelines.
- Open seasons part of Pricing Policy For New And Existing Facilities Constructed by Interstate Natural Gas Pipelines, (Docket No. PL94-4-000 - Issued May 31, 1995)
- Open seasons reaffirmed in Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement), (Docket No. PL99-3-001 - Issued February 9, 2000)
- Flexible commercial process by sponsor, case specific, subject to party complaints and maybe redo after the fact, if FERC requires revisions. – Recent case – RP09-1086
- Anchor shippers allowed to be signed before open season.

ANGPA

Section 103(e) - Open Season



Rulemaking Milestones

- 11/18/04 – Commission issues NOPR
- 12/03/04 – Public technical conference in Anchorage, Alaska before all FERC Commissioners
- 12/17/04 – Written comments due on NOPR
- 2/09/05 – Commission final rule - Order 2005
- 6/01/05 – Rehearing issued – Order 2005-A
- 7/27/07 – Appeals Court Confirms Rules

Open Season Orders & Rules



- May help to read the 6/1/05 Rehearing Order first and then the 2/9/05 Main Order and then the 11/18/04 NOPR for context.
- The Orders, Rehearing requests & rulemaking comments, transcripts are in FERC's eLibrary Docket No. RM05-1.
- Regulations are in 18 CFR Subpart B, Sections 157.30 to 157.39; online Government Printing Office - www.gpoaccess.gov – FERC redirect

ANGPA

Open Season Goals



- Promote competition in the exploration, development, and production of Alaska natural gas; and
- Provide the opportunity for the transportation of future natural gas supplies with open seasons for voluntary expansions when needed capacity exceeds the initial capacity.

ANGPA *Open Season Process*



- Open season flexible enough to allow project sponsors to market the project, yet allow for fair competition among prospective shippers
- Regulatory compliance step, an intermediate ruling, not subject to legal intervention or rehearing. COMMENTS filed now will help.
- Participants in an open season will have the opportunity to legally challenge the conduct of the open season after a certificate application is filed, as is FERC's current practice.



Open Season Process for Alaska

- Regulations apply to any initial capacity or (voluntary) expansion capacity.
- Does not apply to involuntary expansion if one is ordered under ANGPA Sec. 105
- Capacity for in-state market segregated for independent bidding based on in-state needs study required by ANGPA Sec. 103(g) and priced at an in-state rate.



Open Season Process for Alaska

- Plan submitted and reviewed by FERC
- Notice of Open Season has list of required design and rate elements
- Open Season held for at least 90 days
- Bid evaluated, winners announced and precedent agreements negotiated

Open Season Process for Alaska Special Features



- Anchors shippers (pre-subscription agreements) are allowed, but bidders are allowed to get matching terms. 157.33(b)
- No bid can be rejected solely because a bidder has a bid pending in another open season. 157.34(d)(1)
- Second chance bids after the initial due date must be considered as long as the projects' progress does not prohibit capacity changes. 157.34(d)(2)

Contents of Open Season Notice

18 CFR 157.34(c)(1-21)



Good Faith Estimates, Unknowns Explained

- Items 1-5 Descriptive - Route, Size, Design, Delivery Points, Pressure, etc.
- Item 6 Estimated Rate for each service
- Item 7 Estimated Cost-of-Service
- Item 8 Estimated In-state delivery rate
- Item 9 Negotiated rate options, if any

Contents of Open Season Notice

18 CFR 157.34(c)(1-21)



-
- Item 10-12 General tariff terms, gas quality, creditworthiness – Outline or proposed Draft
 - Item 13 Expectation for precedent agreement follow-up and negotiations
 - Item 14 Methodology for bid evaluation
 - Item 15 Oversubscription & tiebreakers
 - Item 16 Required bidder info & other precedent agreement options

Contents of Open Season Notice

18 CFR 157.34(c)(1-21)



-
- Item 17 Expected FERC Certificate Application filing date – Oct. 2012
 - Item 18 Access to prior data – Reading Room availability procedures
 - Items 19-21 Compliance with FERC's affiliate rules

Goal * Precedent Agreements



- Precedent Agreement (PA) is a contract
- Best suited shippers identified in the open season for further negotiations for PA's
- Pipeline - WE will build this pipeline, IF ...
- Shipper - WE will pay you for capacity to move our gas, IF ...
- PA is not yet the final FERC tariff regulated firm transportation service agreement.

IF – the precedent events; a recipe for negotiations



- Each party is sympathetic to the issues of the other party, yet most concerned about its own issues.
- No “easy” issue is really a given
- Timeline for progress matters to both
- Sensitive commercial and legal negotiations – risks and rewards.



Recent Example – Ruby Pipeline

- Comparable - 675 miles, cost \$1.3 billion, 1.5 Bcf per day & multiple shippers
- Project Details in FERC's Preliminary Determination On Non-Environmental Issues, issued on September 4, 2009
- Anchor shipper, open seasons
- Precedent agreements in FERC eLibrary under Docket No. CP09-54 filed 1/26/09



Timeline for Ruby Pipeline

- Early 2007 – Negotiations with anchor
- Dec 2007 – PA with anchor shipper
- Jan 2008 – Begin pre-filing at FERC
- Feb/April 2008 – First open season
- Sept/Oct 2008 – Second open season
- June 2008/Jan 2009 – Precedent Agreements signed (1 modified May 09)



PA If's for Ruby Pipeline

- Pipeline files and get all approvals with agreeable terms and conditions
- Pipeline starts/completes construction
- Shipper can't terminate if pipeline is ready in 16 month construction time, clock stops if government stops work
- Options for Carbon/Greenhouse taxes
- Creditworthiness requirements satisfied
- Anchor's PA approved by state Commission

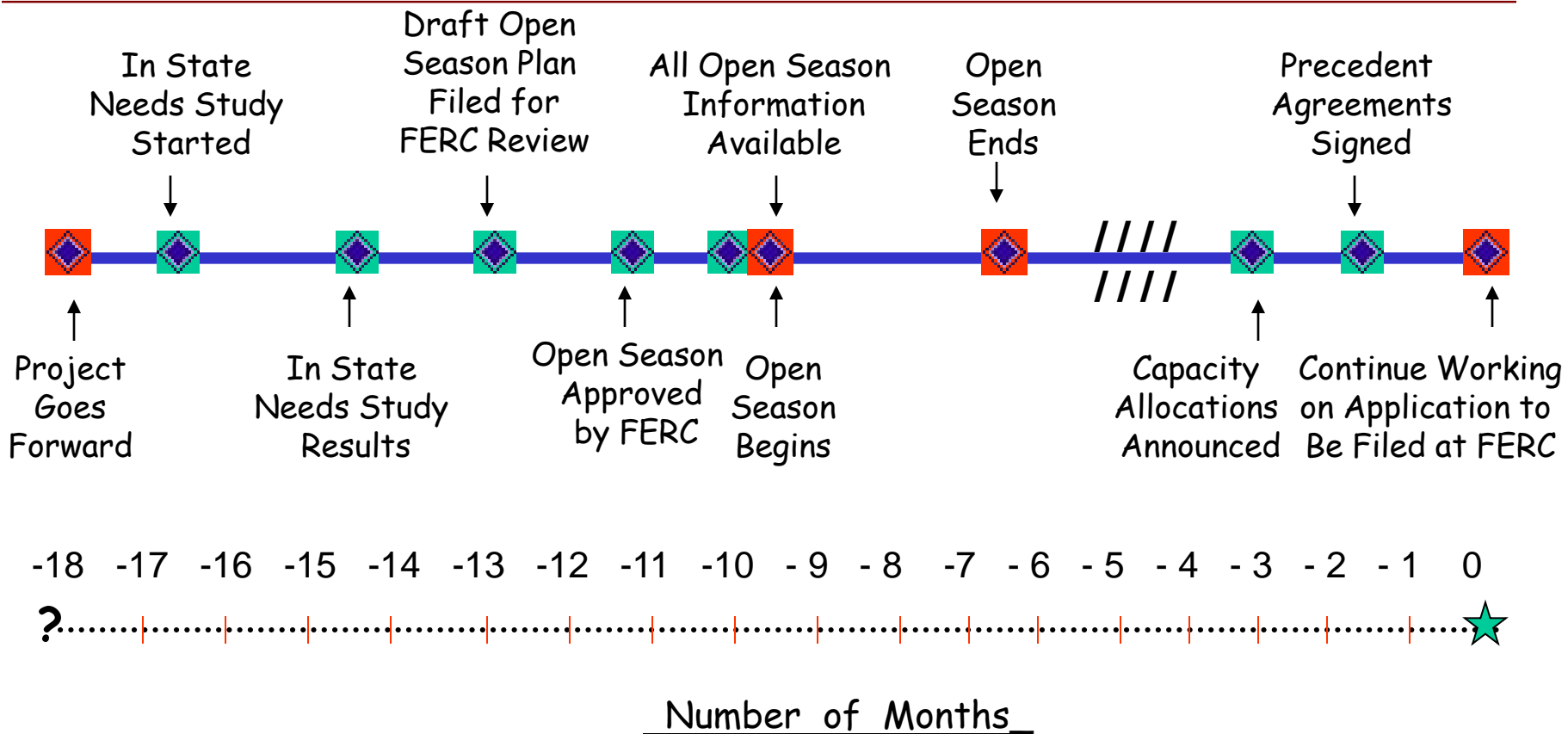


PA Agrees for Ruby Pipeline

- Shipper will not oppose filings (caveat)
- Tariff modeled after existing pipeline
- Downward rate adjustments possible
- Future contract extension options
- Shipper may assign PA capacity rights
- PA in effect unless terminated only for the reasons agreed to in the PA.

Alaska Pipeline Capacity Allocation

(FERC Staff Illustration – January 2010)



Help & Questions



Richard Foley
Division of Pipeline Certificates
Federal Energy Regulatory Commission
888 First Street, N.E. – Rm. 6N-07
Washington, DC 20426
202-502-8955
richard.foley@ferc.gov