

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

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

August 2010

Tenth 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 submit to Congress semi-annual reports describing the progress made in licensing and constructing an Alaska natural gas pipeline and any impediments thereto.

This report provides an update from the Commission's Ninth Report, submitted on February 25, 2010. During the period covered by this report: 1) TransCanada Alaska Company, LLC (TC Alaska) obtained Commission approval of its Open Season Plan, and conducted its Open Season between April 29 and July 30, 2010; 2) Denali – The Alaska Gas Pipeline LLC (Denali) obtained Commission approval of its Open Season Plan and began its 90-day Open Season on July 2, 2010; and 3) development continued on certain other natural gas transportation projects in Alaska that would not be subject to the Commission's jurisdiction.

TC Alaska announced that its Open Season resulted in “multiple bids from major industry players and others for significant volumes.” In accordance with TC Alaska's stated intentions, bidders on the TC Alaska Open Season must execute precedent agreements by December 31, 2010. Denali's Open Season is scheduled to close October 4, 2010 and bidders on its Open Season must execute precedent agreements by February 1, 2011.

II. Status Report

A. The Commission's Activities

The Commission continues to execute its National Environmental Policy Act (NEPA) and Natural Gas Act certificate application responsibilities for both the Denali and TC Alaska proposals. Staff remains focused on taking the steps necessary to produce environmental impact statements (EIS) for the projects and to act on project applications on the timeline defined by the Alaska Natural Gas Pipeline Act of 2004 (ANGPA).

As the lead agency for purposes of compliance with the NEPA, the Commission staff also continues to coordinate with the federal interagency team in accomplishing the early-on work necessary for each agency to successfully execute their responsibilities on the projects. For example, in April 2010 the Commission staff distributed to the

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

cooperating agencies its *Plan for Consultation with Alaska Native Tribal Governments for Alaska Pipeline Projects*. The document was developed with the input of the participating agencies and revised after interagency review.

In July, the Commission staff travelled the planned pipeline corridors, meeting with agencies and individuals from several Alaska Native communities. Staff participated in Alaska Native cultural awareness training and in a series of briefings and discussions with federal and state agencies and Alaska Natives. A series of presentations from Department of the Interior agencies provided an overview of their NEPA requirements specific to analyzing the effects of a pipeline project on subsistence ways of life and subsistence resources². Presentations from the Tanana Chiefs Conference and the Alaska Department of Fish and Game provided additional information and perspectives on subsistence management.

Since the summer of 2009, both Denali and TC Alaska have directed the majority of their resources towards completing the preliminary engineering and cost estimating tasks necessary to support their respective Open Seasons. Both project sponsors have deferred the rigorous gathering of environmental data until project certainty is confirmed by the results of the respective Open Seasons.

B. Denali's Proposal

Denali, a partnership of BP and ConocoPhillips, plans to construct and operate a gas treatment plant (GTP) near Prudhoe Bay and a 48-inch-diameter pipeline to transport up to 4.5 billion cubic feet of natural gas per day (Bcf/d) from the Alaska North Slope to the Alberta Hub for North American consumers. In 2008, under the Commission's pre-filing process, the Commission staff began working with Denali and the federal interagency team, exchanging information and coordinating activities to ensure a timely and efficient application development and review process. All items related to Denali's proposal are available to the public in the FERC's eLibrary under Denali's pre-filing docket (Docket No. PF08-26-000).

In January 2010, Denali announced that it would adjust its schedule to target the fourth quarter of 2013 for filing its application to the FERC for a Certificate of Public Convenience and Necessity. Denali stated that this schedule adjustment was necessary to conduct (in 2011 and 2012) the two full seasons of field work still needed to complete its

² In Alaska, subsistence refers to customary and traditional uses by rural residents of fish, wildlife, and other wild resources for food, shelter, or other personal or family needs. Subsistence continues to be a way of life for Alaska Natives and is an integral part of their cultures.

application. On March 22, 2010, Denali contracted with Argonne National Laboratory (Argonne) to act as the Commission's third-party contractor to prepare the EIS for its planned project and satisfy NEPA compliance requirements.

C. TC Alaska's Proposal

TC Alaska proposes to construct and operate facilities similar to those planned by Denali accommodating up to 4.5 Bcf/d of throughput. The Commission staff has been working with TC Alaska following its entrance into the pre-filing process on May 1, 2009. As with Denali, this work includes the exchange of information and the coordination of activities to ensure a timely and efficient application development and review process. All items related to TC Alaska's proposal are available to the public in FERC's eLibrary under TC Alaska's pre-filing docket (Docket No. PF09-11-000).

TC Alaska is reviewing and refining its routing options and plans to conduct field survey work during 2010 and 2011. Commission staff has notified TC Alaska that it selected Argonne to act as the Commission's third-party contractor to prepare the EIS. At the time of the preparation of this report, a contract between TC Alaska and Argonne has not been completed.

D. Open Seasons for Capacity on Alaskan Natural Gas Pipelines

As described in the previous Report to Congress, the Commission established rules and standards for conducting open seasons for capacity on proposals for Alaska natural gas pipeline projects in Order No. 2005.³ In January, 2010, TC Alaska filed a Request for Commission Approval of its Plan for Conducting an Open Season. TC Alaska's Open Season Plan offered shippers the option of a mainline pipeline from the gas treatment plant near Prudhoe Bay to either (1) the Alaska/Canada border for onward delivery to Alberta, Canada, or (2) to Valdez, Alaska, for connection to a liquefied natural gas facility to be constructed by a third party. On March 31, 2010, the Commission issued an Order Approving TC Alaska's Open Season Plan with minor modifications.

³ The Commission's Orders regarding the Alaska Open Season, Order Nos. 2005, 2005-A, and 2005-B and related information can be found on the FERC website at www.ferc.gov/industries/gas/indus-act/angtp.asp. On March 18, 2010, the Commission issued Order No. 2005-B, for the purpose of clarifying and reconciling the Commission's Open Season regulations in response to the changes to the Standards of Conduct resulting from Order No. 717. On April 19, 2010, the State of Alaska filed a request for clarification, or in the alternative, rehearing of Order No. 2005-B; this request is pending Commission review. This request was denied on August 26, 2010.

On April 29, 2010, TC Alaska issued its Notice of Commencement of the Alaska Pipeline Project (APP) Open Season. Its Open Season closed on July 29, 2010 and TC Alaska plans to notify potential shippers of project details on September 1, 2010. These details will include the specific pipeline route, any redesigned pipeline specifications, and adjusted contract quantities, if necessary. On October 31, 2010, the company will notify conforming bidders of capacity implications, and on November 30, 2010, it will provide conforming bidders with the final Precedent Agreements (PA), which bidders must execute by December 31, 2010. Finally, within ten days of executing the final PAs, TC Alaska will publicize the results of its Open Season.

On April 7, 2010, Denali filed a Request for Commission Approval of its Plan for Conducting an Open Season. Denali's Open Season Plan offers prospective shippers the opportunity to bid for service on the following FERC jurisdictional facilities: 1) two Transmission Lines, one beginning in the Point Thompson area and the other beginning at the Central Gas Facility in the Prudhoe Bay Unit, both of which will transport natural gas to the GTP; 2) a GTP to be located in the Prudhoe Bay Unit on the Arctic North Slope (ANS) that will treat and condition the gas for delivery to the Alaska Mainline; and 3) the Alaska Mainline, a 730-mile-long, 48-inch-diameter pipeline originating at the outlet of the GTP and extending to the international border between Alaska and Canada, having at least five in-state delivery points along the pipeline route. On June 7, 2010, the Commission issued an Order Approving Denali's Open Season Plan with minor modifications.

On July 2, 2010, Denali issued its Notice of Commencement of the Alaska Gas Pipeline Open Season. Denali's Open Season is scheduled to close on October 4, 2010. Any shipper awarded capacity as a result of the Open Season must sign a binding PA before the close of the Open Season and must perform its obligations under the PA by February 1, 2011. For all signed PAs for which shippers have satisfied their obligations under the PAs, Denali intends to execute the PAs within 30 days.

Within ten days of execution of a PA, Denali will publicly announce the name, term, and capacity awarded each shipper. Within twenty days after PAs have been signed, Denali will submit to the Commission copies of all executed PAs.

Denali states that if executed PAs result in capacity reservations at the inlet of the Alaska Mainline greater than or equal to 85 percent of the design capacity of the Alaska Mainline, Denali may reconfigure the current design to meet the aggregate capacity reserved and will inform shippers of revised rate estimates.

If executed PAs result in capacity reservations on the Alaska Mainline of less than 85 percent, the obligations of both the shippers and Denali will be suspended and Denali will consult with shippers to determine if shippers are willing to make additional firm

commitments to meet project requirements, or if shippers are interested in a modified project designed to deliver gas to North America, or to a gas liquefaction facility at a location specified by interested shippers.

E. Other Projects

The Alaska Gasline Port Authority is the sponsor of an Alaskan liquefied natural gas (LNG) proposal which contemplates delivering North Slope gas to Valdez by pipeline, where it would be liquefied and shipped on tankers at an LNG terminal to the Asian market, the West Coast of the U.S. and Mexico, and/or Hawaii. TC Alaska has included in its Open Season the option of transporting natural gas for this or any proposed LNG project along with the option for a mainline pipeline from the Alaska North Slope to Alberta, Canada. The Commission would have regulatory jurisdiction over any Alaska LNG terminal and over any pipeline or pipeline lateral that is dedicated solely to serving an Alaskan LNG terminal.

On March 19, 2010, the Commission responded to questions raised by the State of Alaska concerning the jurisdiction of an in-state pipeline. The Commission's response and staff analysis concluded that under most circumstances the Commission would likely not have jurisdiction over an in-state pipeline. However, the response emphasized that the Commission would not be able to rule on the question of jurisdiction until it is presented with a specific. Alternatively, a party could request that the Commission make a determination via a declaratory order.

In April, Alaska HB 369, created the Joint In-State Gasline Development Team, requiring the development of an in-state natural gas pipeline plan to be submitted to the Legislature by July 1, 2011, that provides for a natural gas pipeline that is operational by December 31, 2015. HB 369 directs the Alaska Housing Finance Corporation to oversee the in-state gasline project plan established in the bill and also sets up an advisory council. The Housing Finance Corporation has created the Alaska Gas Development Corporation (AGDC) to carry-out or aid others in the planning, constructing, and financing in-state natural gas pipeline projects. In response to HB 369, the Alaska Natural Gas Development Authority (ANGDA) decided to cease activity on the 460-mile "Beluga to Fairbanks" pipeline proposal, saying it would defer to the Joint In-State Gasline Development Team.

On April 16, 2010, Yukon Pacific Company, L.P. (Yukon Pacific), requested that the Commission extend the timeframe within which Yukon Pacific must commence construction of the Anderson Bay LNG facilities for an additional three years. On May 22, 1995, the Commission approved the construction and operation of the facilities for Yukon Pacific's LNG export terminal, giving Yukon Pacific three years from the date of the order to commence construction. Previously, Yukon Pacific had sought and received four 3-year extensions of the construction time frame.

On May 14, 2010, the Commission issued a letter order from the Director of the Office of Energy Projects finding that the analysis and findings of the March 1995 Final EIS, adopted in the Commission's May 22, 1995 Order, were outdated and can no longer be used to support the authorization of Yukon Pacific's Anderson Bay LNG project. Thus, Yukon Pacific's request to extend the time to commence for construction was denied. The letter order further stated that after May 22, 2010, Yukon Pacific's authority to construct and operate the LNG export terminal at the Anderson Bay site is no longer valid. The letter order stated the findings therein will not have any direct bearing on any future consideration of an LNG export terminal option for the eventual marketing of Alaskan natural gas outside of the state, including the refilling of an application for Yukon Pacific's project.

III. Related Federal and Canadian Activities

A. Operations of the Federal Coordinator

The Office of the Federal Coordinator (OFC), pursuant to Section 106 of ANGPA, continues to coordinate the actions of federal agencies regarding Alaska natural gas transportation projects and to provide a liaison function to ensure communication with Congress, the State of Alaska, and federal U.S. and Canadian agencies. The OFC meets regularly with the federal interagency team and with the Senior Intergovernmental Management Team, comprised of the Federal Coordinator and senior government officials for the State of Alaska and the Canadian federal government, as well as representatives from Denali and the TC Alaska.

On May 26, 2010, the OFC issued the First Phase Consolidated Implementation Plan – Alaska Pipeline Project pursuant to section IV(B)(3) of the Memorandum of Understanding Related to an Alaska Natural Gas Transportation Project.⁴ The Implementation Plan provides details of federal agency activities, roles and responsibilities for the APP undertaken by TC Alaska. This federal regulatory review process will help expedite the regulatory activities of affected agencies regarding the project. Previously, on June 9, 2009, the OFC completed and issued the First Phase Consolidated Implementation Plan for Denali.

⁴ In June 2006, 15 federal agencies signed a *Memorandum of Understanding Related to an Alaska Natural Gas Transportation Project* (MOU). 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.

The OFC, in coordination with the Commission, prepared a matrix of major federal permits and authorizations required for an Alaska natural gas pipeline. The permit matrix will identify and describe the major authorizations required by participating federal agencies, with an emphasis on those requiring early attention during the Commission's pre-filing review and necessary for the preparation of the EIS. State of Alaska authorizations that require environmental analysis will be noted. The matrix will identify data sets each federal agency will require from applicants and when the information must be submitted (such as for a complete application, prior to construction, after construction, etc.). The federal agencies will use the matrix to reduce overlapping and redundant data collection.

C. Developments in Canada

TransCanada Corporation (TransCanada) recently completed its Open Season in Canada to solicit shipper bids for transportation capacity. Denali Canada – The Alaska Gas Pipeline (West), Inc. (Denali Canada) is conducting its Open Season in Canada from July 6 to October 4, 2010. The open season process in Canada is very similar to that in the United States, providing potential shippers with the information they need to consider making shipping commitments, and providing information to TransCanada and Denali Canada on the viability and design of the projects.

A different permitting process would apply to the Canadian portions of the TransCanada project than with the Denali Canada project. However, Canadian officials expect permitting timelines for both projects to coincide with permitting and regulatory activity in the United States.

- The Canadian portion of TransCanada's project (also known as the Foothills Project) received National Energy Board (NEB) certificates of public convenience in the late 1970's. These certificates have terms and conditions that must be complied with, and which will require further approvals from the Northern Pipeline Agency (NPA) and the NEB. The Northern Pipeline Act (1978) established the NPA as a project-specific agency to act as a single window between the Foothills Project and the Canadian Federal Authorities.
- The Denali Canada project does not hold any authorizations in Canada. It requires a review and hearings by the NEB pursuant to the *Canadian Environmental Assessment Act* and *National Energy Board Act*. The Major Projects Management Office (MPMO) will coordinate the involvement of all Canadian Federal departments during that process.

IV. Conclusion

During this last reporting period, both Denali and TC Alaska concentrated their efforts on preparing for and holding their respective Open Seasons. The Open Season Plan for TC Alaska concluded on July 30, 2010. Denali began its Open Season on July 2, 2010, and it will close on October 4, 2010. As stated above, both project sponsors are deferring much of the field work necessary to gather environmental data until project certainty is confirmed by the results of their respective Open Seasons. For those studies that require more than one year of data gathering and analysis (such as updating the subsistence databases), delaying the initiation of this work could also delay the filing of a complete application with the Commission. This is most problematic for the TC Alaska proposal because of its commitment under the State of Alaska's Gasline Inducement Act Program to file with the Commission in October 2012.

While project development is continuing, there are major impediments to the successful completion of an Alaska pipeline (*i.e.*, long lead time for approvals and construction, high cost, unique environment, and international scope). Because it is very unlikely that more than one Alaska gas pipeline would ever be built, the project sponsors are being encouraged at the federal and state level to join together in a single effort, thereby avoiding the consequences of a prolonged, duplicative regulatory review.