

RM05-01

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, DC 20426

OFFICE OF THE CHAIRMAN

January 28, 2005

The Honorable Ethan Berkowitz
Minority Leader
House of Representatives
Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative Berkowitz:

Thank you for your January 4, 2005 letter expressing concerns regarding the ownership and operation of a future Alaskan natural gas pipeline. The successful licensing and completion of such a project is of primary national importance.

In your letter, you observe the three largest producers of Alaskan oil – BP, ConocoPhillips, and ExxonMobil – also hold more than 90 percent of the proven North Slope natural gas reserves. These three parties own the existing Trans Alaska Pipeline System (TAPS) oil transportation pipeline, and you express the concern that if they are permitted to also own a new gas transportation pipeline, they could act to frustrate the development of Alaska's energy resources. You ask whether an Alaskan gas pipeline project proposed pursuant to the Alaska Natural Gas Transportation Act (ANGTA), will be subject to regulatory oversight sufficient to identify and remedy practices prohibited under antitrust provisions. You also similarly question whether an Alaskan gas pipeline developed outside of ANGTA's authority will conform to the antitrust laws.

An Alaskan gas pipeline proposed pursuant to ANGTA, or developed outside of ANGTA to bring Alaskan gas to other states, will be subject to the Commission's jurisdiction under the Natural Gas Act (NGA). The Commission has acted under its NGA authority to promote competition in natural gas transportation by requiring open access, nondiscriminatory treatment, and the timely construction of new gas facilities. In authorizing an Alaskan gas pipeline under the NGA, the Commission will seek to promote investment in and the development of Alaskan gas reserves to expedite the delivery of these reserves to markets in and out of Alaska, in conformity with antitrust laws. In doing so, we will be mindful of the congressional and presidential pronouncements you referenced in your letter.

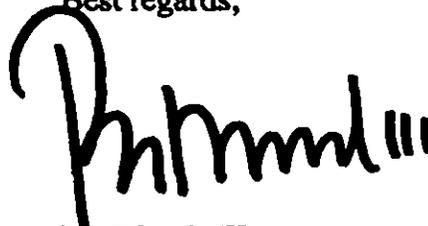
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In the Alaska Natural Gas Pipeline Act of 2004 (ANGPA), Congress directed the Commission to prescribe open season and other rules applicable to any new Alaskan pipeline intended to transport gas from the North Slope to the contiguous states. The Commission has initiated a proceeding in RM05-1-000 to address the open season rules and is currently considering comments from the public on how to manage requests for pipeline capacity, how to price mandated capacity expansion on a new pipeline, and the issue of tying capacity allocations to other gas services. Comments submitted by prospective pipeline sponsors and shippers, and by other interested parties, identify means by which market power might be exercised, and suggest how the industry and the Commission might prevent and respond to such abuses. These comments, as well as the concerns you raise regarding the potential for gas producers to exert undue control in the event they build a producer-owned gas pipeline, will be discussed and addressed in the rulemaking proceeding.

Currently, the Commission does not have before it any application for authority to construct an Alaskan natural gas transportation pipeline. Thus, it is not possible to respond specifically to issues, including antitrust matters, which may arise once such an application is filed. However, all such issues will be carefully assessed by the Commission when an application is submitted for a pipeline project, and the Commission will do everything it can to preclude antitrust abuses and promote competition in the authorization, construction, and operation of a future Alaskan natural gas pipeline. In response to your immediate concern, it would be prudent to conclude that the antitrust issues which concerned Congress and the President over twenty years ago are still valid and will be addressed by our Commission in our proceedings.

I will place your letter and my response in our open access rulemaking docket (RM05-01). If I can be of further assistance in this matter, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read 'Pat Wood, III'. The signature is written in a cursive style with a large initial 'P' and several loops.

Pat Wood, III
Chairman